**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator: Cliff Strong</td>
<td>03</td>
<td>1/14/15</td>
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<tr>
<td>Division Head: Mark Personius</td>
<td>306</td>
<td>1-14-15</td>
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<tr>
<td>Dept. Head: JE “Sam” Ryan</td>
<td>987</td>
<td>1-15-15</td>
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<td>Prosecutor: Royce Buckingham</td>
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<td>6-13-15</td>
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<td>Purchasing/Budget: Brad Bennett</td>
<td>8</td>
<td>1/16/15</td>
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<td>Executive: Jack Louws</td>
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**RECEIVED**
JAN 20 2015
WHATCOM COUNTY COUNCIL

**TITLE OF DOCUMENT:**
2016 Critical Areas Regulations Update Status Report

**ATTACHMENTS:**
A. Memo to County Council, dated 1/27/15, regarding proposed critical areas regulations update process.
B. List of Potential Issues

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) NO</td>
<td>Requested Date:</td>
<td></td>
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</tbody>
</table>

**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.)

Status briefing regarding the 2016 Critical Areas Regulations Update process and schedule.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
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<tbody>
<tr>
<td>AB2014-150</td>
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</table>

**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](http://www.co.whatcom.wa.us/council).
Memorandum

TO: County Council
FROM: Cliff Strong, Senior Planner, PDS
THROUGH: Mark Personius, Long Range Planning Manager
DATE: January 27, 2015
SUBJECT: 2016 Critical Areas Regulations Update

Background
As you know, we are underway in reviewing and updating the County’s Critical Areas Ordinance, which has to be completed by June 2016.

Committee Work
Last year, the County Executive appointed a Critical Areas Citizens Advisory Committee, and the PDS Director appointed a Critical Areas Technical Advisory Committee to assist with the update.

Citizens Advisory Committee (CACAC)
The CACAC is comprised of 8 members representing various constituencies, including agriculture, shoreline property owners, business, and environment. They have been meeting since May.

- Members include:
  - Audrey Borders
  - David Haggith
  - Kate Blystone
  - Laura Sachs
  - Roger Almskaar
  - Virginia Watson
  - Wendy Harris
  - Wes Ketch

- They have heard presentations from various staff (and others) covering wetlands, critical aquifer recharge areas, frequently flooded areas, geohazards, fish and wildlife conservation areas, and Conservation Program on Agriculture Lands (CPAL). Staff explained how they do their review, how they implement the code, and their suggestions for improvement.

- They have helped develop the list of potential issues (attached), and given a general sense of what’s most important to address.

- Next month they start reviewing proposed code amendment language staff has been working on (based on what’s been said so far by the two committees).

Technical Advisory Committee (CATAC)
The CATAC is comprised of 9 members representing state, tribal, consultant, shoreline, and industrial constituencies. The have been meeting since August.
• Members include:
  o Bert Rubash, Marine Resources Committee
  o Dan McShane
  o Joel Ingram, WDFW
  o Kara Kuhlman, Lummi Nation
  o Oliver Grah, Nooksack Tribe
  o Pete Sim, BP Cherry Point Refinery
  o Ryan Ericson, Futurewise
  o Susan Meyer, Department of Ecology
  o Wendy Steffensen, RE Sources
• They have helped develop the list of potential issues (attached), and given a general sense of what’s most important to address.
• Members of the TAC are each taking on sections of the code (that within their area of expertise) and reviewing suggested amendments with the committee.

Issues That Have Arisen So Far

Code Issues
In reviewing the code, the CACAC and CATAC have raised numerous issues to be looked into. These are shown in the attached “List of Potential Issues.”

Non-Code Issues
Some issues that have arisen don’t fall within the CAO’s jurisdiction, but will undoubtedly be presented as a list of follow-up activities for the Council to consider (also shown in the attached list). Such issues include (so far):
  • Explore developing a landscape-based method of environmental and land use planning.
  • Develop a better method to monitor and track effectiveness of the Critical Areas Ordinance.
  • Several internal, departmental administrative functions should be updated.
    o Update the critical area maps regularly, adding new delineations to the GIS system as properties develop.
    o Work out a better system of adding, and removing, names to the qualified consultant list.
    o Produce an annual mitigation monitoring report.

Budget
We have not yet used the $70,000 budgeted for a consultant. Some have suggested we use it to hire someone to try to determine effectiveness of the CAO. However, this is probably a bigger project than what we can get done by the time we start the Planning Commission review process; perhaps a project that ought to start in 2016 or 2017.
**Schedule**

The update process has been moving along well, and we are on schedule for a June 2016 adoption.

<table>
<thead>
<tr>
<th>Task</th>
<th>2015</th>
<th>2016</th>
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<tbody>
<tr>
<td></td>
<td>Jan</td>
<td>Feb</td>
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<td>TAC (2 mtgs/mo)</td>
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<tr>
<td>• Code Review – Admin section (Wendy S)</td>
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<td>• Code Review – Geohazard section (Dan M)</td>
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<td>• Code Review – Habitat Conservation Areas section (Joel I)</td>
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<tr>
<td>• High Resolution Change Detection Presentation (Cliff S)</td>
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<td>• Code Review – Frequently Flooded Areas section</td>
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<td>• Code Review – Definitions &amp; Miscellaneous</td>
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<td>• Code Review – Appendices</td>
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<td>• BAS Review</td>
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<tr>
<td>CAC (1 mtg/mo)</td>
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<tr>
<td>• Flood Presentation (Travis B)</td>
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<td>• Code Review – Wetlands section</td>
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<td>• Code Review – Admin section</td>
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<td>• BAS Review</td>
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<tr>
<td>SEPA Review</td>
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<td>• Prepare SEPA Checklist/Issue Determination</td>
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<td>• Public review period</td>
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<tr>
<td>Public Review</td>
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<td>• Public Notice</td>
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<td>• Open House (?)</td>
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<td>• Department of Commerce Notification</td>
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<tr>
<td>Boards &amp; Council Process</td>
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<td>• P/C Review &amp; Public Hearing</td>
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<td>• Co/C committee Review</td>
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<td>• Co/C Review &amp; Public Hearing</td>
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<tr>
<td>• Co/C Adoption</td>
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</table>
### Frequently Flooded Areas

<table>
<thead>
<tr>
<th>Issue No.</th>
<th>Code Section</th>
<th>Comment/Issue</th>
<th>Primary Topic</th>
<th>Secondary Topics</th>
</tr>
</thead>
<tbody>
<tr>
<td>23</td>
<td>15.19.410.22</td>
<td>should be some language in the flood section that takes about mitigation ratios for new impervious surfaces in the flood zone.</td>
<td><strong>I</strong></td>
<td><strong>I</strong></td>
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<tr>
<td>78</td>
<td>15.19.410.22</td>
<td>The OAC contains the minimum requirements discussed at WAC 365-190-110(1). The OAC also contains requirements to further analyze development in areas of known flood risk based on historical data. The Ordinance also incorporates the regulatory flood damage prevention requirements of WCC Title 17.</td>
<td><strong>I</strong></td>
<td><strong>I</strong></td>
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<tr>
<td>79</td>
<td>15.19.410.22</td>
<td>As such, the Ordinance addresses the basic requirements for frequently flooded areas.</td>
<td><strong>I</strong></td>
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<tr>
<td>80</td>
<td>15.19.410.22</td>
<td>If there are areas where the flood of record is higher than the base flood elevation, the County may also want to consider incorporating the flood of record as a regulatory standard for such areas. Note that the minimum National Flood Insurance Program standards regulate to the base (1 percent or 100-year) flood.</td>
<td><strong>I</strong></td>
<td><strong>I</strong></td>
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</table>

### Geologic Hazard Areas

<table>
<thead>
<tr>
<th>Issue No.</th>
<th>Code Section</th>
<th>Comment/Issue</th>
<th>Primary Topic</th>
<th>Secondary Topics</th>
</tr>
</thead>
<tbody>
<tr>
<td>65</td>
<td>15.19.320.22</td>
<td>Under §15.19.320.22 Conservation Areas - critical areas and their buffers are required to be established specifically for lands.</td>
<td><strong>I</strong></td>
<td><strong>I</strong></td>
</tr>
<tr>
<td>69</td>
<td>15.19.320.22</td>
<td>Notice on Title for parcels assessed to contain critical areas, should be revised specifically clarification defining which of the geologically hazardous areas require notice would be useful. However, crafting codes that meets all geologic conditions may be difficult. Alternatively, it could be stated that the requirement for Notice on Title shall be determined by the technical administrator.</td>
<td><strong>I</strong></td>
<td><strong>I</strong></td>
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</table>

### Habitat Conservation Areas

<table>
<thead>
<tr>
<th>Issue No.</th>
<th>Code Section</th>
<th>Comment/Issue</th>
<th>Primary Topic</th>
<th>Secondary Topics</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>15.19.010</td>
<td>Most buffers on wetlands and HCAs are biologic and effective. The several basic factors of buffer effectiveness (vegetation, slope, soil/geomorphology, land use type) are disregarded. Also, the arbitrary, unscientific “development intensity scale” requires the same wetland buffer for a house on a % acre lot, a regional mall, or an oil refinery</td>
<td><strong>I</strong></td>
<td><strong>I</strong></td>
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<tr>
<td>30</td>
<td>15.19.010.22</td>
<td>Ag exemptions and GRIP - Beaver exemption for those less than 2 years old should be revocable (in HCA also, how address new beavers in non-ag areas) - Standards for Notices of Violations are ambiguous. Can only be a violation if one has a farm plan, otherwise they’re exempt.</td>
<td><strong>I</strong></td>
<td><strong>I</strong></td>
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<tr>
<td>40</td>
<td>15.19.010.22</td>
<td>Should limit speculative clearing, e.g., in HCAs. Should have to show that one can actually do what one says they’re going to do. i.e., shouldn’t be able to clear land saying you’re going to farm it, then turns out they can’t do the land just ends up cleared.</td>
<td><strong>I</strong></td>
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<tr>
<td>41</td>
<td>15.19.010.22</td>
<td>Stream buffers aren't based on the latest BAS. The BAS requires buffers of 200 feet for fish-bearing streams.</td>
<td><strong>I</strong></td>
<td><strong>I</strong></td>
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<tr>
<td>46</td>
<td>15.19.010.22</td>
<td>For help and erects buffers, need to use nesting, not bed, as boundary</td>
<td><strong>I</strong></td>
<td><strong>I</strong></td>
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<tr>
<td>21</td>
<td>15.19.010.22</td>
<td>15.16.150 should clearly state that the mitigation ratio for HCA buffer impacts is 1:1, same as a wetland buffer</td>
<td><strong>I</strong></td>
<td><strong>I</strong></td>
</tr>
<tr>
<td>56</td>
<td>15.19.010.22</td>
<td>HCA buffers seem arbitrary</td>
<td><strong>I</strong></td>
<td><strong>I</strong></td>
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<tr>
<td>6</td>
<td>15.19.190.22</td>
<td>The OAC definition of WCA differs substantially from the controlling DCC rules, WAC 365-150-030(a). Also, no sources are cited, such as a rule or manual for, almost all of the 83 scientific terms, and many other key legal and administrative words.</td>
<td><strong>I</strong></td>
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<tr>
<td>40</td>
<td>15.19.010.22</td>
<td>Stream types need to be updated to the latest DNR definitions</td>
<td><strong>I</strong></td>
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<tr>
<td>3</td>
<td>15.19.010.22</td>
<td>Ditches are often wrongly called fast natural streams, even ditches and swales called “non-fast” streams require a 50’ buffer. The OAC’s definition of stream is not scientifically sound. Work on definition.</td>
<td><strong>I</strong></td>
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<td>Issue No</td>
<td>Code Section</td>
<td>Comment/Issue</td>
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<td>50</td>
<td>61</td>
<td>Whidbey County's stream definition is different from the Department of Ecology's.</td>
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<tr>
<td>24</td>
<td>16.16.750(B)</td>
<td>Given the changed status of bald eagles (no longer endangered, but threatened), need to work with WDFW to better the system for figuring out when a habitat plan is needed.</td>
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<td>39</td>
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<td>Need more guidance for various spp. in the habitat section.</td>
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<td>58</td>
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<td>Wants better rules for HCAs.</td>
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<td></td>
<td></td>
<td>a. Better promote connectivity</td>
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<td>b. Manage wetlands</td>
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<td>c. Need buffers for activities other than development</td>
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<td>d. Establish larger buffers for higher intensity land uses, as with wetlands.</td>
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<td>e. Need to have a program to establish baseline data on species to better determine how well we're protecting them.</td>
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<td>f. Wants to explore how citizen scientists can be used to gather data</td>
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<td>g. Biodiversity</td>
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<td>CAC</td>
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<tr>
<td>Wetlands</td>
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<td>Need to address discrepancies in the land use intensity scale used in determining buffer widths. Buffer standards do not incorporate soil type, land cover, topography, etc., that may influence buffer effectiveness.</td>
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<tr>
<td>74</td>
<td>16.16.265</td>
<td>What is the purpose of the building setback? Depending on the purpose, perhaps pervious materials are more reasonable than impervious within this area.</td>
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<tr>
<td>10</td>
<td>16.16.5(2)</td>
<td>Staff needs to be better able to track hydrological impacts to existing on-site wetlands at the project design stage. In addition, check whether the regs are consistent with new regulations in Ecology's Stormwater manual; Volume 1 Section 2.5.9, Appendix 1-D Guidelines for Wetlands when managing stormwater.</td>
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<td>38</td>
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<td>Mitigation ratios for Cat I wetlands not provided. Generally one can't impact them, though some public projects might.</td>
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<tr>
<td>4</td>
<td></td>
<td>Delinestore of wetland boundaries required by county staff are often subjective and not based on accurate and sound scientific analysis. Scientists often disagree in the field on delineations. Should use Corps guidance.</td>
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<tr>
<td>16</td>
<td>16.16.670(A) and 16.16.250(D)</td>
<td>Should require field flagging of the critical area boundaries and delineation pitt markers so that the Technical Administrator is able to verify wetland delineations. (This is in Corps guidelines)</td>
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<td>14</td>
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<td>Should we allow the creation of ponds in Class 4 wetlands (e.g., Ramesar Pond)?</td>
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<tr>
<td>17</td>
<td>16.16.510</td>
<td>WA State Wetlands Identification and Delineation Manual is no longer valid</td>
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<tr>
<td>70</td>
<td>16.16.220</td>
<td>We don't understand the reasoning behind requiring wells be deeper than 75 feet. Many wetlands are fed by a perched water table less than 18 inches below the surface.</td>
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<td>71</td>
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<td>Why require stormwater discharge away from wetland edge? It might be more appropriate to discharge close to the wetland to avoid creating additional wetland and flooding existing upland vegetation.</td>
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<td>75</td>
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<td>Update code to require wetland rating be based on new 2014 Ecology Wetland Rating System. Adjust buffer points to be consistent with this methodology.</td>
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<td>23</td>
<td>16.16.290(C)</td>
<td>Incorporate dept ag policies into code, including, but not limited to:</td>
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<td></td>
<td>16.16.290(G)</td>
<td>PL 1-85-002 Farm Plan Monitoring &amp; Compliance</td>
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<td>PL 1-85-002 Farm Plan Compliance</td>
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<td>PL 2-85-004B CPAL Animal Threshold</td>
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<td>PL 2-85-005A Fill &amp; Grav in Ag Fields</td>
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<tr>
<td>26</td>
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<td>A cumulative impacts analysis should be added to the mitigation sequence and the requirement for an alternatives analysis. The current system isn't doing this well. CAC doesn't of alternatives analysis, but other WCID who do.</td>
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<td>36</td>
<td></td>
<td>Adequacy of functional assessments in reports is not very good</td>
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<td>16.16.700 and 16.16.420</td>
<td>Define how critical area assessments (CAA) relate to the Federal Emergency Management Agency (FEMA) biogeochemical habitat assessments (HABAS). Difficult to combine a CAA and HABAS into one report because they are focused on different regulations, different protocol, and use different language.</td>
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<td>TAC</td>
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</tbody>
</table>

Who Raised the Issue: 
- CAC
- Consultant
- Staff
- TAC
<table>
<thead>
<tr>
<th>Issue No.</th>
<th>Code Section</th>
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<tbody>
<tr>
<td>7</td>
<td></td>
<td>Consider a less intensive CAA report/mitigation report for minor activities (including single family and projects with small acreage of impacts). Perhaps a form?</td>
<td>Consultant</td>
<td></td>
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<tr>
<td>76</td>
<td></td>
<td>Climate change should be addressed in BAS</td>
<td>TAC</td>
<td></td>
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<tr>
<td>33</td>
<td></td>
<td>Need to add FEMA BEO to the BAS. &quot;Appendix 4 strictly adhered to.&quot;</td>
<td>TAC</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td></td>
<td>Should mitigation be required for buffer reduction?</td>
<td>Staff</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
<td>Should we require fences on reductions and mitigation sites?</td>
<td>Staff</td>
<td></td>
</tr>
<tr>
<td>6 16.16.320, 16.16.335, 16.16.345</td>
<td>There should be a note in the wetland buffer, habitat and other 3 critical area sections referring the reader to the 10-foot building setback from buffer rule 16.16.265(B). Many will miss it.</td>
<td>TAC</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6 16.16.359(F)</td>
<td>Currently we allow the use of herbicides in buffers. Should we? Perhaps it's to get rid of blackberries, etc. or other invasive spp., but it would also kill native plants.</td>
<td>TAC</td>
<td>CAPR</td>
<td></td>
</tr>
<tr>
<td>6 16.16.359(F)</td>
<td>Class 4 Forest Practices are exempt except when converting, yet Class 4 is converting by definition. This is contradictory.</td>
<td>TAC</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11 16.16.230(F)</td>
<td>Hazard tree definition may be too subjective. Many jurisdictions require an arborist evaluate and write a report to show they're danger trees. Do we want that? Or should applicators at least have to use an arborist rating form? And should we require mitigation for trees cut (e.g., plant 2 for mitigation and leave sap)?</td>
<td>TAC</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18 16.16.610(A)</td>
<td>Wetlands are already defined in 16.16.600, yet this is a definition as well. It differs from that in 16.16.600. This subsection should just refer to the definition.</td>
<td>TAC</td>
<td></td>
<td></td>
</tr>
<tr>
<td>50 16.16.270</td>
<td>Need to define &quot;reasonable use.&quot; It currently reads like there's more flexibility than there should be.</td>
<td>TAC</td>
<td></td>
<td></td>
</tr>
<tr>
<td>54</td>
<td></td>
<td>Explained that there are waterbodies in old plots that had been a pond, but was converted to a stormwater facilities (back when such was allowed), and (does) now what to consider them (code-owners) apply to manmade facilities.</td>
<td>TAC</td>
<td></td>
</tr>
<tr>
<td>27</td>
<td></td>
<td>IMPROSE assumes forest practices to be phosphorus neutral, when we know they're not. Lake Whatcom phosphorus loading is mostly by forest practices.</td>
<td>TAC</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td></td>
<td>Currently we require monitoring for all mitigation. However, there's a lot of small buffer mitigation sites, as small as 200 ft. It is probably not cost effective on these small projects. Should there be a minimum size for when monitoring is required? Perhaps we should have a minimum threshold, with conditions in the CAR that keep mitigation successful, but don't overwhelm it if it is a minimal impact to a buffer (wetlands should always have full monitoring).</td>
<td>TAC</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td></td>
<td>Currently we require an Assessment of Savings (AOS) to ensure mitigation is carried out and adhered to. However, it is probably not cost effective on very small projects. Should we have minimum square footage for AOS requirements? E.g., if it's less than 250 ft, no AOS required, but still need monitoring reports for at least 3 years.</td>
<td>TAC</td>
<td></td>
</tr>
<tr>
<td>64</td>
<td></td>
<td>Investigate starting an in lieu fee program for minor impacts.</td>
<td>TAC</td>
<td></td>
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<tr>
<td>5</td>
<td></td>
<td>Many owners are required to put negative notions on their titles, which may be inaccurate in the future as science evolves. The often required conservation easements are an unneeded, severe, and perpetual limitation on land use, most of which are already strictly controlled by the CAR.</td>
<td>CAPR</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td></td>
<td>Conservation easements are required for buffer reduction but not for other impacts. Many jurisdictions require that protective easements be placed over all critical areas when development occurs. Should we also do that?</td>
<td>TAC</td>
<td></td>
</tr>
<tr>
<td>17 16.16.270(C)</td>
<td>Refers to an ordinance, but which ordinance? The first? Or one of the amendments? (It's been amended several times since.) Perhaps we need a date?</td>
<td>TAC</td>
<td></td>
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<tr>
<td>43</td>
<td></td>
<td>Should we limit the Technical Administrator's ability to waive? This could help staff as well. Need to clarify that there's no flexibility except where explicitly given.</td>
<td>TAC</td>
<td></td>
</tr>
<tr>
<td>58</td>
<td></td>
<td>Need to better explain why CA's are important in the CAR. Should have an explanation of the purpose and role of the CAR and each CA, and what it means to protect 'function and value.'</td>
<td>TAC</td>
<td></td>
</tr>
<tr>
<td>52</td>
<td></td>
<td>More effective tracking with nosy weed regulations/guidelines needs to be made in the CAC.</td>
<td>TAC</td>
<td></td>
</tr>
</tbody>
</table>

5 4 14 13 7 4 4 5 11 4 11 2 7 3 6 4 0

Page 3
## Critical Areas Regulations Update 2016 - List of Potential Issues

<table>
<thead>
<tr>
<th>Issue No.</th>
<th>Code Section</th>
<th>Comment/Issue</th>
<th>Primary Topic</th>
<th>Secondary Topics</th>
</tr>
</thead>
<tbody>
<tr>
<td>28</td>
<td></td>
<td>More specific references to other environmental laws (e.g., Clean Water Act, ESA, Shoreline, ESA, Watershed Planning Act, etc.) need to be made in the report. Should put them in the report criteria in the procedures manual.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>31</td>
<td>16.16.220</td>
<td>Accuracy of existing mapping, esp. regulated influx and wetlands, is based on best available info at the time. Should be a disclaimer of accuracy; doesn't undergo review. Maps should be updated with each new delineation or removed with any wetlands filled. Require electronic versions that can be added to GIS easily.</td>
<td></td>
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<tr>
<td>19</td>
<td></td>
<td>Should PDS require that prior to adding consultants to the qualified consultant list, the county receive and approve a CA assessment in an area of expertise demonstrating that the consultant correctly uses federal, state, and local laws governing critical area identification (e.g., US Army Corps of Engineers Wetlands Delineation Manual, Washington State Wetlands Identification and Manual, and corresponding guidance letters, etc.). Conversely, should staff be able to remove a consultant from the &quot;qualified consultant list&quot; if they submit assessments that are rejected for failure to correctly apply federal, state, and local laws or result in removal from the list at the discretion of the Natural Resources supervisor.</td>
<td></td>
<td>Staff</td>
</tr>
<tr>
<td>40</td>
<td></td>
<td>Need to clarify what the rules of final platting are in substantial conformance with a preliminary plat means. Spoke about a case where a final plat changed its road layout and affected a stream, but staff said it had been &quot;vested.&quot;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>66</td>
<td></td>
<td>CAO maps a) Wetland map is difficult to read and interpreted, especially at a site-specific scale. Increased resolution would be extremely helpful. b) All maps would be easier to use if they had parcel boundaries and roads shown, ideally the map would be an interactive map.</td>
<td>Consultant</td>
<td></td>
</tr>
<tr>
<td>77</td>
<td></td>
<td>Consider including minimum qualifications for staff reviewing CAO. In order for them to adequately evaluate a &quot;qualified professional's&quot; work, the reviewer should at least have the same qualifications as the &quot;qualified professional.&quot; If this is not possible, consider contracting with a qualified third-party for review.</td>
<td></td>
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</tr>
<tr>
<td>53</td>
<td></td>
<td>Wildlife corridors and open space should be mapped and protected. Perhaps use biodiversity report. See WAC</td>
<td></td>
<td>TAC</td>
</tr>
<tr>
<td>65</td>
<td></td>
<td>Should the County produce an annual mitigation monitoring report, documenting the efficacy of our mitigation strategy?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### TITLE OF DOCUMENT:
An Ordinance Amending the Whatcom County Code to Properly Designate the Director of Public Works as the Administrator of the Western Washington Phase II Municipal Stormwater Permit

### ATTACHMENTS:
1. Proposed Ordinance (including Findings of the Planning Commission)
2. Staff Memorandum
3. Staff Report

### SEPA review required? ( ) Yes ( ) NO
SEPA review completed? ( ) Yes ( ) NO

| Should Clerk schedule a hearing? ( ) Yes ( ) NO |
| Requested Date |

The Council must hold a hearing if they want to take action that differs from the Planning Commission’s recommendation (WCC 2.160.100(2)).

### 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.)

A proposed ordinance to amend the Whatcom County Code to Properly Designate the Director of Public Works as the Administrator of the Western Washington Phase II Municipal Stormwater Permit.

### COMMITTEE ACTION:

### COUNCIL ACTION:
1/13/2015: Introduced

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLN2014-00021</td>
<td></td>
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</tbody>
</table>

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.
Memorandum

TO: The Honorable Whatcom County Council
FROM: Cliff Strong, Senior Planner
THROUGH: Mark Personius, Long Range Planning Division Manager
DATE: December 29, 2014
SUBJECT: PLN 2014-00021 NPDES Code Amendments

Attached is a proposed code amendment aimed at furthering the County’s ability to implement the National Pollution and Discharge Elimination System (NPDES) Phase II stormwater permit, by clarifying that the Director of Public Works is responsible for implementing the program (with assistance from other departments on some enforcement provisions).

A representative of Department of Public Works will provide an overview presentation on the NDPES permit and actions associated with it.
AN ORDINANCE AMENDING THE WHATCOM COUNTY CODE TO PROPERLY DESIGNATE THE DIRECTOR OF PUBLIC WORKS AS THE ADMINISTRATOR OF THE WESTERN WASHINGTON PHASE II MUNICIPAL STORMWATER PERMIT

WHEREAS, the proposed amendments have been considered by the Whatcom County Planning Commission, the Whatcom County Council Natural Resources Committee, and the Whatcom County Council; and

WHEREAS, legal notice requirements have been met; and

WHEREAS, the County Council finds the amendments in the interest of the public health, safety, and welfare, based on the following findings and conclusions:

FINDINGS OF FACT

1. Whatcom County is subject to a Western Washington Phase II Municipal Stormwater Permit issued by the Washington State Department of Ecology in February 2007. This permit regulates discharges from Small Municipal Separate Storm Sewers, and is part of the National Pollutant Discharge and Elimination System (NPDES) and State Waste Discharge General Permit. It sets forth requirements of municipalities to address stormwater runoff in certain areas of the County. Whatcom County is required to implement various stormwater management strategies to comply with this State permit.

2. Under current code, the Director of Planning and Development Services is the implied responsible party for implementing the permit, given that the authorizing code appears in WCC Title 20 (Land Use). In actuality, it is the Director of Public Works who carries out this work and is responsible for its implementation (with the enforcement provisions overseen by the Director of Planning and Development Services, the Director of Health, and the County Sheriff). These amendments clarify this.

3. Notice of the proposed amendment was sent to the Department of Commerce and other state agencies on October 24, 2014. On October 29, 2014 Commerce notified Whatcom County that notice of the proposed amendment had been received and had been forwarded to other interested parties as required. No comments regarding the proposed amendment have been received from Commerce to date.

4. On October 13, 2014 the Whatcom County State Environmental Policy Act (SEPA) Responsible Official determined that this code amendment is Categorically Exempt from SEPA review, pursuant to WAC 197-11-
5. The Planning Commission held a properly-noticed public hearing on November 13, 2014, and recommended approval of the proposed amendments.

6. Pursuant to Whatcom County Code (WCC) 20.90.050, Whatcom County Planning and Development Services has: evaluated the proposed amendment in relationship to the goals, objectives and policies of the Whatcom County Comprehensive Plan as authorized by the Washington State Growth Management Act (GMA) – RCW 36.70A; and considered possible environmental impacts that have been identified by the lead agency designated SEPA official through the State Environmental Policy Act (SEPA) threshold determination process.

CONCLUSIONS

1. The proposed amendments are consistent with the Comprehensive Plan, and are in the public interest.

2. The proposed amendments will result in no significant environmental impacts, and are intended to result in better implementation of the Western Washington Phase II Municipal Stormwater Permit.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County Code is hereby amended as shown on Exhibit A.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this Ordinance shall not affect or impair the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this ___ day of _________________ 2015.

WHATCOM COUNTY COUNCIL

ATTEST: WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

APPROVED as to form:

Carl Weimer, Council Chair

( ) Approved ( ) Denied

Jack Louws, Executive

Date:
EXHIBIT A

The following text is proposed to be deleted from WCC Title 20

20.04.076 National Pollutant Discharge and Elimination System (NPDES) Phase II Area boundary:

Where provisions of this title refer to NPDES Phase II area boundaries, the location and extent of such boundaries shall include urbanized areas determined by the latest decennial census conducted by the U.S. Bureau of the Census, or designated by the Department of Ecology pursuant to 40 CFR 123.35(b) or 40 CFR 122.26(f), and Bellingham and Ferndale urban growth areas as defined in the Whatcom County Comprehensive Plan (UGA Map Nos. 1 and 4), as referenced in the Western Washington Phase II Municipal Stormwater Permit. The county shall update the maps on a regular and consistent basis as new information becomes available. (Ord. 2010-003 Exh. A, 2010).

The following text is proposed to be added to WCC Chapter 16.40:

WCC 16.40 National Pollutant Discharge Elimination System (NPDES)

16.40.010 Authority.

This chapter is adopted under the authority of the police power granted to political subdivisions of the state by Article XI, Section 11 of the Washington State Constitution. (Ord. 2010-002 Exh. A).

16.40.020 Purpose and intent.

A. The purpose of this chapter is to comply with provisions of the State of Washington Water Pollution Control Law (Chapter 90.48 RCW) and the Federal Water Pollution Control Act (also known as the Clean Water Act, Title 33 United States Code, Section 1251 et seq.).

16.40.030 Applicability.

This chapter applies to the unincorporated areas of Whatcom County within the Department of Ecology’s designated Western Washington Phase II Municipal Stormwater Permit. (Ord. 2010-002 Exh. A).

16.40.050 Administrative provisions.

A. The administrative portions of this chapter shall be overseen by the director of public works or his/her designee. The enforcement provisions of this chapter shall be overseen by the director of planning and development services pursuant to WCC 2.32.030, the director of the department of health pursuant to WCC Title 8, Health and Safety, and Title 24, Health Code, and the county sheriff, or their respective designees.
16.40.060 Penalties and enforcement.

A. Any person who violates any of the provisions of this chapter shall be guilty of a civil offense and may be fined a sum not to exceed $1,000 for each offense. After a notice of violation has been given, each day of site work in conjunction with the notice of violation shall constitute a separate offense.

B. The penalty provided in subsection A of this section shall be assessed and may be imposed by a notice in writing either by certified mail with return receipt requested or by personal service to the person incurring the same. The notice shall include the amount of the penalty imposed and shall describe the violation with reasonable particularity. In appropriate cases, corrective action shall be taken within a specific and reasonable time.

C. Within 30 calendar days after the notice is received, the person incurring the penalty may apply in writing to the county for remission or mitigation of such penalty. Upon receipt of the application, the county may remit or mitigate the penalty upon whatever terms the county in its discretion deems proper. The county’s final decision on mitigation or revision shall be reviewed by the hearing examiner if the aggrieved party files a written appeal therewith of said decision within 10 calendar days of its issuance.

D. If work activity has occurred on a site in violation of this chapter, prompt corrective action, restoration or mitigation of the site will be required when appropriate. If this provision is not complied with, the county may restore or mitigate the site and charge the responsible person for the full cost of such an activity. Additionally, any and all permits or approvals issued by the county may be denied for that site for a period of up to six years.

E. In the event any person violates any of the provisions of this chapter, the county may issue a correction notice to be delivered to the owner or operator, or to be conspicuously posted at the site. In a nonemergency situation, such notice may include notice of the intent to issue a stop work order no less than 10 calendar days following the receipt of the correction notice, and provide for an administrative predeprivation hearing within 10 calendar days of the notice. In an emergency situation where there is a significant threat to public safety or the environment, the county may issue a stop work order. The stop work order shall include, in writing, the right to request an administrative predeprivation hearing within 72 hours following receipt of the stop work order. Failure to comply with the order to stop work shall be a gross misdemeanor punishable upon conviction by a minimum fine of $500.00 up to a maximum fine of $1,000 or one year in jail, or both. Under no circumstance may the court defer or suspend any portion of the minimum $500.00 fine for any conviction under this section. Each
day or part thereof of noncompliance with said order to stop work shall constitute a separate offense.

F. The county may suspend or revoke a permit if the applicant violates the conditions or limitations set forth in the permit or exceeds the scope of the work set forth in the permit.

G. The prosecuting attorney may enforce compliance with this chapter by such injunctive, declaratory or other actions as deemed necessary to ensure that violations are prevented, ceased, or abated.

H. Any person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty. (Ord. 2010-002 Exh. A; Ord. 2009-067 Exh. A §4; Ord. 2009-057 Exh. A §4. Formerly 16.36.040).

20.95.010 Severability.

Should any chapter, section, clause or provision of this title be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this title as a whole or any part thereof, other than the part so declared to be invalid.
I. Background Information

File #PLN2014-00021

File Name: National Pollutant Discharge and Elimination System (NPDES) Zoning Code Amendment

Applicant: Whatcom County

Summary:
In February of 2007, the Washington State Department of Ecology issued Whatcom County’s Western Washington Phase II Municipal Stormwater Permit. This permit regulates discharges from Small Municipal Separate Storm Sewers, and is part of the National Pollutant Discharge and Elimination System (NPDES) and State Waste Discharge General Permit. It sets forth requirements of municipalities to address stormwater runoff in areas determined to have population densities reaching urban standards. Whatcom County is required to implement various stormwater management strategies to comply with this State permit.

The current Permit is effective from August 1, 2013 through July 31, 2018. The Permit boundary covers approximately 15,000 acres and generally includes the following areas (Figure 1):

- Bellingham Urban Growth Area
- Sudden Valley
- Portions of the Hillsdale and Emerald Lake area
- Portions along North Shore Drive on Lake Whatcom and Lake Whatcom Boulevard
- Ferndale Urban Growth Area
- Portions along Chuckanut Drive and Chuckanut Bay
- Birch Bay Urban Growth Area (Beginning August 1, 2013)
- The entire Lake Whatcom watershed is subject to illicit discharge detection and elimination requirements of the Permit.

The NPDES Phase II Permit can viewed be on the Department of Ecology’s website at:
Figure 1. NPDES Phase II Boundaries
II. **Zoning Code Amendment**

The purpose of these proposed amendments is to properly designate the Director of Public Works, or his/her designee, as the administrator of the Western Washington Phase II Municipal Stormwater Permit, with the enforcement provisions overseen by the Director of Planning and Development Services, the Director of Health, the County Sheriff, or their respective designees.

Since the current reference to the Permit is in WCC 20.04.076 National Pollution Discharge and Elimination System (NPDES) Phase II Boundary, it is implied that the Director of Planning & Development Services administers the Permit because it resides in Title 20 Zoning. By amending Title 16 Environment with proposed WCC 16.40 National Pollutant Discharge and Elimination System, it is accurately reflected that Public Works administers the Permit, and Planning and Health are given enforcement authority of the Permit.

These amendments do not create new duties and responsibilities; it just places the authorizing code in the appropriate WCC title and clarifies who's responsible for implementation.

A. **Proposed Amendment Text**

The following text is proposed to be deleted from WCC Title 20

**20.04.076 National Pollution Discharge and Elimination System (NPDES) Phase II Area boundary.**

Where provisions of this title refer to NPDES Phase II area boundaries, the location and extent of such boundaries shall include urbanized areas determined by the latest decennial census conducted by the U.S. Bureau of the Census, or designated by the Department of Ecology pursuant to 40 CFR 123.35(b) or 40 CFR 122.26(f), and Bellingham and Ferndale urban growth areas as defined in the Whatcom County Comprehensive Plan (UGA Map Nos. 1 and 4), as referenced in the Western Washington Phase II Municipal Stormwater Permit. The county shall update the maps on a regular and consistent basis as new information becomes available. (Ord. 2010-003 Exh. A, 2010).

The following text is proposed to be added to WCC Chapter 16.40:

**WCC 16.40 National Pollutant Discharge Elimination System (NPDES)**

**16.40.010 Authority.**

This chapter is adopted under the authority of the police power granted to political subdivisions of the state by Article XI, Section 11 of the Washington State Constitution. (Ord. 2010-002 Exh. A).
16.40.020 Purpose and intent.
A. The purpose of this chapter is to comply with provisions of the State of Washington Water Pollution Control Law (Chapter 90.48 RCW) and the Federal Water Pollution Control Act (also known as the Clean Water Act, Title 33 United States Code, Section 1251 et seq.).

16.40.030 Applicability.
This chapter applies to the unincorporated areas of Whatcom County within the Department of Ecology’s designated Western Washington Phase II Municipal Stormwater Permit. (Ord. 2010-002 Exh. A).

16.40.050 Administrative provisions.
A. The administrative portions of this chapter shall be overseen by the director of public works or his/her designee. The enforcement provisions of this chapter shall be overseen by the director of planning and development services pursuant to WCC 2.32.030, the director of the department of health pursuant to WCC Title 8, Health and Safety, and Title 24, Health Code, and the county sheriff, or their respective designees.

16.40.060 Penalties and enforcement.
A. Any person who violates any of the provisions of this chapter shall be guilty of a civil offense and may be fined a sum not to exceed $1,000 for each offense. After a notice of violation has been given, each day of site work in conjunction with the notice of violation shall constitute a separate offense.

B. The penalty provided in subsection A of this section shall be assessed and may be imposed by a notice in writing either by certified mail with return receipt requested or by personal service to the person incurring the same. The notice shall include the amount of the penalty imposed and shall describe the violation with reasonable particularity. In appropriate cases, corrective action shall be taken within a specific and reasonable time.

C. Within 30 calendar days after the notice is received, the person incurring the penalty may apply in writing to the county for remission or mitigation of such penalty. Upon receipt of the application, the county may remit or mitigate the penalty upon whatever terms the county in its discretion deems proper. The county’s final decision on mitigation or revision shall be reviewed by the hearing examiner if the aggrieved party files a written appeal therewith of said decision within 10 calendar days of its issuance.
D. If work activity has occurred on a site in violation of this chapter, prompt corrective action, restoration or mitigation of the site will be required when appropriate. If this provision is not complied with, the county may restore or mitigate the site and charge the responsible person for the full cost of such an activity. Additionally, any and all permits or approvals issued by the county may be denied for that site for a period of up to six years.

E. In the event any person violates any of the provisions of this chapter, the county may issue a correction notice to be delivered to the owner or operator, or to be conspicuously posted at the site. In a nonemergency situation, such notice may include notice of the intent to issue a stop work order no less than 10 calendar days following the receipt of the correction notice, and provide for an administrative predeprivation hearing within 10 calendar days of the notice. In an emergency situation where there is a significant threat to public safety or the environment, the county may issue a stop work order. The stop work order shall include, in writing, the right to request an administrative predeprivation hearing within 72 hours following receipt of the stop work order. Failure to comply with the order to stop work shall be a gross misdemeanor punishable upon conviction by a minimum fine of $500.00 up to a maximum fine of $1,000 or one year in jail, or both. Under no circumstance may the court defer or suspend any portion of the minimum $500.00 fine for any conviction under this section. Each day or part thereof of noncompliance with said order to stop work shall constitute a separate offense.

F. The county may suspend or revoke a permit if the applicant violates the conditions or limitations set forth in the permit or exceeds the scope of the work set forth in the permit.

G. The prosecuting attorney may enforce compliance with this chapter by such injunctive, declaratory or other actions as deemed necessary to ensure that violations are prevented, ceased, or abated.

H. Any person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty. (Ord. 2010-002 Exh. A; Ord. 2009-067 Exh. A §4; Ord. 2009-057 Exh. A §4. Formerly 16.36.040).

20.95.010 Severability.

Should any chapter, section, clause or provision of this title be declared by a court of competent jurisdiction to be invalid, such
decision shall not affect the validity of this title as a whole or any part thereof, other than the part so declared to be invalid.

III. Comprehensive Plan Evaluation

The Comprehensive Plan contains the following goal and policy, which requires the County to continue all actions to complete and implement the NPDES Phase II permit. The proposed amendment supports this policy by designating the proper Department Director as the one responsible for doing so.

**Goal 11F:** Protect and enhance Whatcom County's surface water and groundwater quality and quantity for current and future generations.

**Policy 11F-4:** Support the completion and implementation of local/state Watershed Action Plans, the Lake Whatcom Management Program, NPDES Phase II Permitting, and the WRIA Watershed Management Projects as some of the means of addressing non-point source pollution.

There are no goals or policies with which this amendment would be inconsistent.

IV. Proposed Findings of Fact and Reasons for Action

Staff recommends the Planning Commission adopt the following findings of fact and reasons for action:

1. Whatcom County is subject to a Western Washington Phase II Municipal Stormwater Permit issued by the Washington State Department of Ecology in February 2007. This permit regulates discharges from Small Municipal Separate Storm Sewers, and is part of the National Pollutant Discharge and Elimination System (NPDES) and State Waste Discharge General Permit. It sets forth requirements of municipalities to address stormwater runoff in certain areas of the County. Whatcom County is required to implement various stormwater management strategies to comply with this State permit.

2. Under current code, the Director of Planning and Development Services is the implied responsible party for implementing the permit, given that the authorizing code appears in WCC Title 20 (Land Use). In actuality, it is the Director of Public Works who carries out this work and is responsible for its implementation (with the enforcement provisions overseen by the Director of Planning and Development Services, the Director of Health, and the County Sheriff). These amendments clarify this.

3. Notice of the proposed amendment was sent to the Department of Commerce and other state agencies on October 24, 2014. On October 29, 2014 Commerce notified Whatcom County that notice of the proposed
amendment had been received and had been forwarded to other interested parties as required. No comments regarding the proposed amendment have been received from Commerce to date.

4. On October 13, 2014 the Whatcom County State Environmental Policy Act (SEPA) Responsible Official determined that this code amendment is Categorically Exempt from SEPA review, pursuant to WAC 197-11-800(19)(a)&(b) (Procedural Actions).

5. Notice of the Planning Commission hearing for the proposed text amendment was published in the Bellingham Herald on November October 31, 2014.

6. Pursuant to Whatcom County Code (WCC) 20.90.050, Whatcom County Planning and Development Services has: evaluated the proposed amendment in relationship to the goals, objectives and policies of the Whatcom County Comprehensive Plan as authorized by the Washington State Growth Management Act (GMA) – RCW 36.70A; and considered possible environmental impacts that have been identified by the lead agency designated SEPA official through the State Environmental Policy Act (SEPA) threshold determination process.

V. Proposed Conclusions

1. The proposed amendments are consistent with the Comprehensive Plan, and are in the public interest.

2. The proposed amendments will result in no significant environmental impacts, and are intended to result in better implementation of the Western Washington Phase II Municipal Stormwater Permit.

VI. Recommendation

Planning and Development Services recommends the Planning Commission forward the proposed amendments to the County Council with a recommendation of approval.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<table>
<thead>
<tr>
<th>Originator:</th>
<th>Initial</th>
<th>Date</th>
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<tbody>
<tr>
<td>Gary Stoyka</td>
<td>GSS</td>
<td>1/12/15</td>
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<td>Dept. Head:</td>
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<tr>
<td>Frank Abart</td>
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<td>Prosecutor:</td>
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<tr>
<td>Dan Gibson</td>
<td>1/14/15</td>
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<td>Purchasing/Budget</td>
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<td>Brad Bennett</td>
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<tr>
<td>Executive:</td>
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TITLE OF DOCUMENT:
WRIA 1 Planning Unit presentation of Work Plan and Budget

ATTACHMENTS:
Memorandum
WRIA 1 Planning Unit Work Plan
Resolution 2013-025
Minutes of the June 26, 2013 WRIA 1 Joint Board Meeting
WHATCOM COUNTY COUNCIL ACTION TAKEN – MARCH 11, 2014

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( X ) NO
Should Clerk schedule a hearing? ( ) Yes ( X ) 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.)

A representative of the WRIA 1 Planning Unit will present the Planning Unit Work Plan and Budget.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:
AB2014-365

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.

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TO: Honorable Members of the Whatcom County Council, and
   The Honorable Jack Louws, County Executive

THROUGH: Frank M. Abart, Director

FROM: Gary S. Stoyka, Natural Resources Program Manager

RE: Presentation of WRIA 1 Planning Unit Work Plan and Budget

DATE: January 13, 2015

Requested Action
At the January 27, 2015 Natural Resources Committee meeting, a representative of the WRIA 1 Planning Unit will present the Planning Unit’s work plan and budget. County staff is requesting guidance from the County Council on how to proceed with Planning Unit work.

Background and Purpose

The WRIA 1 Planning Unit was established by the WRIA 1 Initiating Governments (Whatcom County, Whatcom PUD, City of Bellingham, Lummi Nation, and Nooksack Tribe) in 1999 under the Watershed Planning Act (RCW 90.82) framework. The Planning Unit met from approximately 2000 through 2009 during which time they approved the WRIA 1 Watershed Management Plan (2005) and Detailed Implementation Plan (2007) which are the blueprints for watershed planning in WRIA 1. The Planning Unit was inactive from 2009 to 2013. In 2013, the Whatcom County Council passed Resolution 2013-025 calling for reconvening the Planning Unit and for the Planning Unit to act as an advisory body to the council on water issues and to provide regular reports to the council. Also in 2013, the WRIA 1 Joint Board (consisting of the WRIA 1 Initiating Governments) provided $22,000 in funding (in two separate requests) to hire a facilitator to facilitate four Planning Unit meetings in which the Planning Unit was to develop a work plan and budget for their activities. The Joint Board also requested that the Planning Unit caucus members provide justification for how their members were selected. Public Works staff, acting as fiscal agent for the Joint Board, hired Eldred and Associates to facilitate the Planning Unit meetings. The Planning Unit met for four meetings from September through December 2013, but did not complete a work plan or budget.

In early 2014, the Planning Unit requested $20,000 from the County Council to facilitate an additional six meetings to finish the work plan and budget. The County Council approved that request on March 11, 2014. The Council also requested that the Planning Unit develop an operating process within the group to make decisions more quickly. An amendment to the Eldred and Associates contract was approved by the Council in May 2014. From January through April 2014 the Planning Unit continued to meet on a monthly basis with Eldred and Associates providing facilitation services on a pro bono basis.
In April 2014, the Planning Unit approved a framework for a work plan. In May 2014, the Planning Unit modified their Process and Procedural Agreement (PPA) to allow simple majority votes for all decisions in which the Watershed Planning Act does not require consensus approval.

In July 2014, the Planning Unit used the April 2014 work plan framework as the basis of their comments and proposal on the Council's Water Action Plan. The Planning Unit’s Water Action Plan proposal was submitted to the County Council in August 2014. In October 2014, the Planning Unit approved a modified version of the April 2014 work plan and approved a budget. (During the ensuing weeks, there was controversy over whether the work plan approval followed required procedures.) The Planning Unit voted to request a total of $60,000 from the County Council for facilitation services ($30,000) and caucus support ($30,000) and to request that the Council work with County administration to prepare the remainder of the budget necessary to implement the Planning Unit Work Plan as the Planning Unit believed it did not have the expertise to do that. In November 2014, after facilitating 6 paid meetings and 4 pro bono meetings, the contract with Eldred and Associates was exhausted; however, Eldred and Associates continued to facilitate monthly Planning Unit meetings through the end of 2014.

On November 25th, 2014 the Whatcom County Council (acting as the Flood Control District Board of Supervisors) approved a budget that includes $30,000 for facilitation services and $10,000 for caucus support.

On January 7, 2015 at a special unfacilitated meeting, the Planning Unit provisionally approved the attached work plan. Per the PPA, this vote must be confirmed by an affirmative vote at a regular Planning Unit Meeting to become final. Approval of the work plan is on the agenda for the regular Planning Unit meeting on January 28, 2015. At this same meeting, the Planning Unit voted to have Sylvia Goodwin, a Planning Unit member representing the Port of Bellingham, present the work plan and budget to the County Council.

Please contact Gary Stoyka at extension 50618, if you have any questions or concerns regarding the terms of this agreement.

Encl.
WRIA 1 Planning Unit Work Plan Iteration 2015-1

Working Draft Adopted by Consensus April 23, 2014

Amended October 22, 2014

Corrected and Re-issued December 19 2014

Affirmed at Special Meeting January 7 2015

Introduction

After several years of inactivity the Water Resources Inventory Area (WRIA) 1 Planning Unit has taken steps to reform and reengage in the issues addressed in the WRIA 1 Watershed Management Plan, adopted in 2005.

The reconstituted Planning Unit’s initial task has been to develop a 2014 Work Plan and budget. The process of identifying Work Plan objectives included discussions of caucus representation, Planning Unit Protocols and Procedures and the Planning Unit’s authority and role in the WRIA 1 management structure. These items are included in the Work Plan along with objectives that will familiarize caucus representatives with the adopted work of the WRIA process, i.e. by review of the 2005 WRIA 1 Watershed Management Plan (WMP) and 2007 Detailed Implementation Plan (DIP), and other relevant local and state initiatives. Another theme of the discussions was to include objectives that assisted members’ efforts to understand the current state of management elements.

Pursuit of these objectives will be directed by a Method of Proceeding which outlines a process by which the Planning Unit can undertake or recommend actions.

Key objectives the Work Plan will address include: 1) What policies, programs and projects have been undertaken in furtherance of the 2005 WMP? 2) What have those efforts achieved? 3) Are the goals of the 2005 WMP acceptable as stated, or do they require amendment? 4) How much more needs to be done to achieve the goals and what specific steps should be taken to do so?

In order to address these questions, the Planning Unit agrees that the focus of their 2014 Work Plan must include a review of the primary 2005 WMP goals, and a concerted review of the following issues: water quantity; water quality; instream flows; habitat; public participation and public education, and the statutory and other roles of the Planning Unit.
Management

Whatcom County is the Lead Agency for the WRIA 1 Watershed Management Project, and will continue leading the watershed planning efforts accordingly.

Guiding principles: Transparency, Accountability, Effectiveness and Efficiency

The WRIA 1 Watershed Management Project, its various participating entities, and its policies, plans, programs and projects shall be guided by the principles adopted by Office of the governor, in the Results Washington program.

Source: www.results.wa.gov

Transparency: make goals, policies, plans, programs, projects and actions accessible to stakeholders and general public in a timely manner

Accountability: ensure actions follow the chosen pathway(s)

Effectiveness: ensure goals are being achieved

Efficiency: effectiveness achieved at least total cost

Method of Proceeding:

Some WRIA 1 Planning Unit members have considerable experience with the Project while others have little or none. To enable all Planning Unit members to arrive at a common understanding in an expeditious manner, and to better inform the County Council and other bodies to which its work might be submitted, the Planning Unit will address each of its tasks using a time-honored method common to both legislative and judicial bodies, as follows:

Conduct Investigations, intended to arrive at defensible Findings of Fact.

Draw Conclusions, based upon the Findings of Fact

Make Recommendations for action, based upon Conclusions. Such recommendations may include, but not necessarily be limited to:

Further investigations;
WRIA 1 Watershed Management Plan revisions;
Direction actions on the ground by identified actors for specific purposes;
State and local policy initiatives, amendments;
Changes in state legislation and local ordinances.

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Summary of Objectives and Cost Estimates

Objective 1: Planning Unit Process and Procedural Agreement

Objective 2: Address Instream Flow
**Objective 3:** Review 2005 WRIA 1 Watershed Management Plan Phase 1

**Objective 4:** Review Technical Assessment

**Objective 5:** Provide Input on WRIA 1 Watershed Issues

**Objective 6:** Governance, Funding, Administration

### Summary of Objectives and Cost Estimates

<table>
<thead>
<tr>
<th>Objective</th>
<th>Years 1-2</th>
<th>Years 3-5</th>
<th>Total for 5-years Strategy</th>
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<tbody>
<tr>
<td>1. Amend Process and Procedural Agreement</td>
<td>TBD</td>
<td>TBD</td>
<td></td>
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<tr>
<td>2. Address Instream Flow</td>
<td>TBD</td>
<td>TBD</td>
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<tr>
<td>3. Update the WRIA 1 WMP</td>
<td>TBD</td>
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<td>4. Review Technical Assessment</td>
<td>TBD</td>
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<td>5. Provide Ongoing Input on WRIA 1 Watershed Issues</td>
<td>$ TBD</td>
<td>TBD</td>
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<td>6. Governance, Administration</td>
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<td>To Be Determined</td>
<td></td>
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</tbody>
</table>

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**Objectives, Tasks, and 2014-2015 Budget Estimates (Years 1-2)**

PROCEDURAL NOTE: These Objectives are set forth without order of priority. Tasks with each Objective might take place simultaneously with other tasks in other Objectives. Task 6.0 provides for prioritization and sequencing of the tasks within each Objective of this Work Plan.

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**Objective 1: Review and Consider Amendments to Process and Procedural Agreement (PPA)**

Justification: Planning Unit operating procedures and membership are addressed through the PPA. This document has not been changed since it was originally adopted in December of 1999 and thus should be reviewed and revisions considered, where appropriate, to reflect current conditions.

Objective 1 Work Product: Planning Unit will either affirm PPA as is, or issue amended PPA.

**Task 1.1: Review the state Open Public Meeting Act (OPMA)**

The Planning Unit is subject to the OPMA, which requires that all meetings of the subject entity be open and accessible to the public. The OPMA also contains specific provisions including, but not limited to, regular and special meetings, notice
requirements, conduct of meetings and penalties, and remedies for violations. The Planning Unit has requested guidance from the Whatcom County Prosecuting Attorney to assist with drafting the PPA in compliance with OPMA requirements. A response is pending. Upon its receipt, Planning Unit will deliberate changes to the PPA that might be required to bring its operations into compliance with OPMA.

Task 1.2: Consider Explicit Enabling of Committees within PPA

The Planning Unit has had committees, which allowed for more work to be completed than in regular or special Planning Unit meetings. Committees can be useful in detailed analysis and study and more in-depth discussion. No decisions should be made by committees. How committees would function under the OPMA would be clarified as part of Task 1.1.

Task 1.3: Review Governance and Decision Making Protocol

At present, consensus decision-making is applied to all issues that come before the Planning Unit. The Watershed Planning Act only requires consensus decision-making in the limited circumstances of final plan approval and recommending amended instream flows to Ecology. It may be more efficient to use parliamentary procedures, except where consensus is legally mandated.

A first iteration of Tasks 1.1, 1.2, and 1.3 has been completed.

Future work:
Timeline: ongoing, as needed.
Budget: no additional funds requested beyond standard Planning Unit facilitation and support.

[Moved to Objective 6] Task 1.4: Review Planning Unit Membership

It has been over fourteen years since the Planning Unit was formed in 1999. Altered conditions may warrant consideration of changes to Planning Unit membership. The PPA does not currently include any procedures for addressing such changes. This element of the work plan requires consultation with the Prosecuting Attorney.
Objective 2: Review WRIA 1 Instream Flow Rule and Out of Stream (OOS) Water Needs

Justification:

The proposed Whatcom County Council Water Action Plan, Appendix A, calls for the WRIA 1 Planning Unit to provide input on water quantity and availability issues.

The Washington State Department of Ecology (Ecology) recently circulated information documenting their rejection of the Bertrand Creek Water Improvement District’s request to modify instream flow rules for the Nooksack Basin as stated in WAC 173-501. Ecology justified this action on technical and programmatic grounds. In addition, Ecology referred to the Instream Flow Action Plan, an element of the WMP calling for negotiations with the Tribes as the means to address instream flows. These negotiations are at an impasse and the tribes have requested adjudication of their water right claims in federal court. Ecology cited these facts as further reasons not to move forward with the WID request.

The Planning Unit’s statutory powers include the ability to request modification of instream flow rules by a unanimous recorded vote of the local government members of the Planning Unit. RCW 90.82.080(1)(a)(i). Following such a vote, “The department shall undertake rule making...” to adopt flows. RCW 90.82.080(1)(b).

The WRIA 1 Watershed Management Project previously issued a 2005 Instream Flow Selection and Adoption Plan, which established a process designed to achieve a negotiated settlement enforced through a federal court consent decree. The negotiations were suspended in late 2010.

It is not clear if data and modeling of surface and ground water systems are adequate to address key empirical questions, such as: minimum flows required in the stream, water actually in the stream, effect of groundwater systems on stream flow, and mitigation required to support additional groundwater withdrawals.

Minimum stream flows were adopted under the rule-making procedures of the Administrative Procedures Act. RCW 34.05. This differs from the existing Instream Flow Action Plan, which is based on optimal fish flows or ecological flows (rather than minimum flows), which were to be incorporated into the negotiated settlement. To accommodate these differences, a WMP amendment could update the Instream Flow Action Plan and could be coordinated with ESA elements.

Outside consulting services may be required for some tasks within this Objective.

Goal: Objective 2 is intended to gather the necessary information required to bring the WRIA 1 Planning Unit to a point of decision whether to expend additional resources in the task of studying and recommending amendments to the existing rule (WAC 173-501).
Budget: $40,000 requested as a placeholder to be allocated to the tasks in this Objective, as needed.

Task 2.1: Review WRIA 1 existing stream and closure rule (WAC 173-501)

Timeline: complete by March 31 2015
Budget: TBD

Work product(s): A written report of findings, conclusions, and recommendations.

Task 2.2: Review methodology used to set flows: Instream Flow Incremental Methodology (IFIM) studies, including controversies arising from that work.

Timeline: complete by March 31 2015
Budget: TBD

Work product(s) 1) Report on findings, conclusions, and recommendations

Status:
DOE presentation on WRIA 1 ISF rule to PU expected on or before end of December 2014.
Major public workshop on ISF scheduled for some time in February 2015.
Budget may be substantially reduced with APA support provided via Jennifer Aylor of Eldred Associates, president of the Northwest Chapter of APA.

Task 2.3: Review May 2002 Instream Flow Selection Methodology Symposium
Link to aforementioned provided herein below:

Status: no formal action taken by PU as of 141001.
Timeline: none set; presumably should be completed prior to decision regarding embarking on attempt to recommend flow rule amendment.
Budget: no additional funds requested

Work Product: Written Summary of key technical, legal and policy issues to guide further work
Task 2.4: Review 2005 Instream Flow Selection and Adoption Action Plan

Status: no formal action taken by PU as of 141001. This task might be the final action taken prior to reaching a decision whether to proceed with the effort to work on recommendation of flow rule modification.

Timeline: TBD

Budget: TBD

Work Product: 1) Report on findings, conclusions, and recommendations
Written Summary of key technical, legal, and policy issues to guide further work

Task 2.5: Review previous WRIA 1 modeling work including instream flows and OOS supply and demand.

Review the 2012 Lower Nooksack Sub-basin Water Budget and the proposed approach of the currently proposed ground water modeling effort, as described in the 2013 Groundwater Data Assessment document (possible peer review). Link to the aforementioned provided herein below:


Timeline: to be completed prior to decision whether to work on recommending flow rule amendment

Budget: TBD

Work product(s): 1) Report on findings, conclusions, and recommendations
Provide written recommendation on specific model domain (may include credible peer review); and a 2) Letter documenting the Planning Unit recommendations, thus providing the desired public opinion on decisions.

Task 2.6: Review Current and Future Planned Data Collection and Modeling Work, with a special focus on integrating instream and OOS supply and needs.

Timeline: ongoing, as needed

Budget: TBD.
Objective 3: Review and Consider Update or Amendments to the 2005 Watershed Management Plan – Phase 1 (WMP).

Justification: It is approaching a decade since the 2005 Watershed Management Plan – Phase 1 was completed. There have been many changes in the watershed since that time. It may well be, then, that a review of the 2005 WMP will result in recommendations for a WMP update or amendments to the existing WMP.


3.1.1. Determine Implementation Status of Each Element of the 2005 WMP

Timeline: complete by June 2015

Budget: no funds requested beyond standard Planning Unit facilitation and support

Status: No formal PU action taken on Task 3.1. NGWS Caucus has previously submitted a draft detailed review of both the 05 WMP and 07 DIP, along with supporting documents. No action has been taken on said document.

Work product(s): 1) Written review of the 2005 WMP, 2007 DIP, and supporting and succeeding documents and plans, including implementation status of each Plan element.

Task 3.2: Review the 2010 Lower Nooksack Strategy (2010 LNS).

Planning Unit approved 140724 Water Action Plan (WAP) memo to council in which Items 1 through 5 recommended support of key substantive elements of the 2010 LNS, and added an additional related Item 6 regarding Adaptive Management. Planning Unit has deferred consideration of the “governance actions” policy issues raised by the manner in which the LNS was promulgated.

Task 3.2.1. Investigate current implementation status of each Objective and Task of the 2010 LNS. Status: Presentation have been made by Lummi Nation staff and reiterated by County staff that addresses this task. What remains is for Planning Unit to determine if the Task is complete.

In examination of Objective 3 of the LNS, which included updating the Coordinated Water System Plan and a water supply plan, Council Resolution Item 9 reads as follows: “Coordination, including identification of and provision for specific linkages, with other water resource management efforts, including but not necessarily limited to the WRIA 1 Watershed Management Project, in order to assure efficient use of
time and funding, to avoid overlap and duplication of effort and consistency of use of
parameters such as per capita water use rates." The Planning Unit supports this
item and incorporates it into Task 3.2 of this Work Plan.

NOTE: A post-meeting revision to scope of the item has been suggested:
“Coordination, including identification of and provision for specific linkages, with
other water resource management efforts, including but not necessarily limited to
the WRIA 1 Watershed Management Project, land use planning including but not
necessarily limited to the GMA Comp Plan update, OOS water users supply
planning, and salmon recovery, in order to assure efficient use of time and
funding, to avoid overlap and duplication of effort and consistency of use of
parameters such as per capita water use rates.”

Timeline: complete by June 2015 Budget: TBD: Amended Task likely to
require additional staff time from Public Works, Planning, and Health. No direct
expenditures requested by Planning Unit at this time.

Work product(s): 1) Report on findings, conclusions, and recommendations

Task 3.3: Review other WRIA 1 policies, plans, programs, and projects undertaken
since June 2009.

Timeline: complete by end of 2015

Budget: no additional funds requested

Work product(s): 1) Report on findings, conclusions, and recommendations

Task 3.4 Review Salmon Recovery efforts and results to date.

Like land use planning, salmon recovery planning requires water in certain amounts
and of specific quality to support planning decisions. Hence, salmon recovery and
instream flow decisions are mutually interdependent, but the status of WRIA 1
salmon recovery efforts is not known to the Planning Unit. The Planning Unit
should review Salmon Recovery status reports to ascertain that stream flow
assumptions are consistent with other watershed planning documents. Specifically,
the Planning Unit should review the ESA sections related to goals and attainment,
de-listing requirements for wild fish, harvestable surplus, and meaningful exercise
of Tribal fishing rights.

Review of WRIA 1 Salmon Recovery Program will provide the Planning Unit with
insight into the WRIA 1 watershed. Its review should include the limiting factors
analysis and programs to address those factors, and the following WRIA-wide
programs: natural resource policy integration, low impact development, water use efficiency and compliance.

Other watershed issues affecting salmon recovery include surface and ground water quality should be considered by reviewing Clean Water Act standards and Safe Drinking Water Act standards. WRIA-wide programs to be reviewed include low impact development, impervious surface limits, drainage based management compliance, and natural resource policy integration. The Planning Unit should include a brief review of these standards.

Additionally, Section 10 of ESA provides for development of a Habitat Conservation Plan (HCP) that can allow economically important activities to continue within designated areas of a recovery plan. The HCP is intended to allow relaxation of requirements within such areas, while specifying mitigation actions and an emphasis on priority habitat designed to ensure that the overall recovery effort is effective. Section 10 provides for issuance of an Incidental Take Permit that provides protection from the liabilities for "take" called out in ESA Section 9.

The proposed Whatcom County Council Water Action Plan, Appendix A, calls for the WRIA 1 Planning Unit to provide input on habitat issues.

Timeline: complete by end of 2015

Budget: no additional funds requested at this time

Work product(s): 1) 1) Report on findings, conclusions, and recommendations; 2) Matrix of related programs exploring such matters as dependence of habitat upon instream flow levels and identification of potential or actual linkages and potential synergies between salmon recovery and watershed planning; 3) Exploration of the potential benefits of a Habitat Conservation Plan centered on Agriculture. Agriculture

Task 3.5: Issue report on findings, conclusions, and recommendations for consideration regarding WMP amendments or updates.

Rationale: This Task was pulled from the Work Products section of Task 3.1, since it is unreasonable for the Planning Unit to take action on a Plan amendment until relevant tasks in Objectives 2, 3, 4 and even 5 and 6, upon which Plan amendments would presumably be dependent, be completed.

Timeline: To be completed by end of 2015

Budget: no additional funds requested at this time; supplemental requests may be forthcoming, including possibly consultant contracts, depending upon outcome of related tasks.
Objective 4: Review Status of WRIA 1 Technical Assessment Programs

Justification: The Planning Unit should have easy access to a comprehensive set of technical data, current activities, and results of work conducted in WRIA 1. The Planning Unit should also be familiar with the standards by which scientific data is developed in order to have a solid understanding by which to review technical studies. The Planning Unit can and should participate in oversight of current and future technical assessment programs and projects.

Task 4.1. Review scope, availability, and access to existing reports and data repositories for all elements of the WRIA 1 Watershed Management Project.

Status: PU included this task as Item 8 of its 140724 memo to council on WAP. Since then, county staff informed PU that the hardcopy library had been electronically cataloged already, and that what remained was to review all of that material to determine if more of it should be posted on the WRIA 1 website. The PU generally accepted that explanation, but wants to follow through to ensure task is completed.

Timeline: completed by end of 2014

Budget: revised downward to $5,000, plus $10,000 contingency in case more materials have to be scanned, rendered and posted on website.

Work Products: 1) Report on findings, conclusions, and recommendations

Task 4.2: Evaluate the need to develop and host a large on-line data repository

The Planning Unit should consider whether the scope and quantity of data and reports warrants development and hosting of a centralized data repository where any and all WRIA 1 data is deposited, and any WRIA 1 activity can be posted. This site should be easily accessible by all. Consider a substitute for some elements of DSS, such as Data Viewer.

Status: Planning Unit included this task as Item 9 of its 140724 memo to council on WAP.

Timelines: Scope project and complete coding: First quarter, 2015.

First rollout loaded with all available data compiled: First quarter 2016.
Budget: $30,000. Proponent of this task explained that county’s acquisition
methods and requirements might cause this task to cost more than comparative
activities in the private sector, where whence the budget estimate was derived. It is
thus more appropriate for the county to look at the functions involved in the task
and make its own estimate of the costs of each function.

County Admin response: more clarification on this item is needed.

Work Products: 1) Report on findings, conclusions, and recommendations

Task 4.3: Review existing data and monitoring
Review key data collection, methodologies, techniques, and reporting practices
including stream gauging, precipitation, evapotranspiration, groundwater static
water levels, possible other issues, consumptive uses including surface groundwater
and return flow. The Planning Unit will review the current status of the modeling
efforts in WRIA 1 for surface and groundwater data collection methods, including
conceptual and numerical (algorithms, computer simulations) data collection. The
Planning Unit will identify for correction any data inadequacies, incomplete
modeling, results, and provide peer review.

Timeline: ongoing as needed
Budget: no additional funds requested at this time
Work product(s): 1) Written Report on findings, conclusions, and
recommendations identifying data gaps, issues and corrective actions. The report
will also include a funding plan.

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Objective 5: Provide Ongoing Input on Related Watershed Issues

Justification: Planning Unit provides public input together with a broad depth of
technical expertise on watershed related issues. Therefore, it may be asked from
time to time to provide input on watershed related issues that are not specific to
WRIA 1 Watershed Management Project, but which may have implications for other
WRIA 1 efforts. Additionally the WMP calls out consideration of legislative changes
as one of the continuing duties of the Planning Unit. To take one example, the recent
Supreme Court decision in Swinomish Indian Tribal Community v. Ecology has
produced calls for developing legislative solutions. Per the adopted WMP, the
Planning Unit should serve as a forum for reviewing significant water-related
legislation, and a sounding board for other watershed related issues.
Task 5.1: Review pending and newly adopted state legislation relevant to WRIA 1

Timeline: ongoing, as needed.

Budget: no additional funds requested at this time

Agency: County’s contact/lobbyist in Olympia would be logical first choice for conduit of the information related to this Task.

Work product(s): 1) A written Report on findings, conclusions, and recommendations regarding legislation and watershed related issues on an ongoing basis.

Task 5.2. Review local policies, plans, programs, projects and ordinances, such as the Whatcom County Council Water Action Plan, the Puget Sound Partnership Whatcom Action Agenda, and implementation of measures designed to address water quantity and quality issues pertaining to the Growth Management Hearings Board Final Decision and Order (Hirst et al., v. Whatcom County, (Case No. 12-2-0013 Final Decision and Order June 7, 2013) and related litigation.

Timeline: ongoing, as needed

Budget: no additional funds requested at this time

Work products: 1) Written Report of findings, conclusions, and recommendations on local policies, plans, programs, projects and ordinances, including those issue areas called out in Whatcom County Council Water Action Plan.

Task 5.3. Review other WRIA 1 activities as needed

Timeline: ongoing, as needed

Budget: no additional funds requested at this time

Work products: 1) Written Report on findings, conclusions, and recommendations

Objective 6: Governance, Funding, Administration

Task 6.0. Determine Prioritization and Sequencing of the other Tasks within this Work Plan

Status: Planning Unit engaged in preliminary task prioritization and sequencing exercise in mid-2014. Further iterations may be needed.

Timeline: ongoing, as needed.
Budget: no additional funds requested.

Task 6.1. Determine Planning Unit annual budget for facilitation and caucus support

Status:

Planning Unit’s WAP Memo to council, Item 10.0. Planning Unit Caucus re-development and member education and communication funding

Budget: one-time lump sum amount of $100,000; amended Nov 19 2014 to be $30,000 for 2015.

County Admin response: included $10,000 in Planning Unit budget for "caucus outreach."

Task 6.2. Review Planning Unit Annual Work Plan and Annual Budget

In August of each year the Planning Unit should review the Annual Work Plan and make necessary adjustments to the proposed budget and schedule for the following year. This allows the funding agencies to include the Planning Unit funding requests to be included in the fall budgeting process.

Work product(s): (1) An outline of Planning Unit meetings, agenda items to be discussed at each meeting, and a detailed budget for the following year.

Timeline: next iteration, August 2015

Budget: no additional funds requested as this time.

Task 6.3. Review WRIA 1 Planning Unit Membership, Relationships with Other Entities

Task 6.3.0 The Planning Unit should clarify the current status of the WRIA 1 Watershed Management Project now that it has an adopted WMP, and clarify the Planning Unit's relationship with and define how it intends to interact with other agencies and groups such as the Whatcom County Council, the Joint Board, the Salmon Recovery Board and the Department of Ecology.

Work product(s): (1) A defined list of other entities and a written plan of how the Planning Unit intends to relate to these other entities.

Task 6.3.1 Review Planning Unit Membership

Timeline: TBD
Task 6.3.2 Review the 2010 Lower Nooksack Strategy (2010 LNS) governance issues.

Timeline: TBD

Budget: TBD

Task 6.3.3. Review other WRIA 1 policies undertaken since June 2009, including the Whatcom Integration Team and the designation of the WRIA 1 Joint Board and Salmon Recovery Board as the Puget Sound Partnership Local Implementing Organization.

Timeline: TBD

Budget: TBD

Task 6.4. Develop an Ongoing Funding Plan for the Implementation of the WRIA 1 Watershed Plan

What should the WRIA Watershed Management Plan long-term funding mechanism be? The Planning Unit should address this issue.

Timeline: TBD

Budget: TBD

Work product(s): (1) A five year budget to support the implementation of the WIRA 1 Watershed Plan, with clearly identified funding sources for each budget line item.

Task 6.5. Adaptively manage each task within each objective by frequent periodic review of goals, actions to measure accountability, effectiveness and results.

Timeline: ongoing, as needed

Budget: no additional funds requested at this time

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**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<td>5/22/2013</td>
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**TITLE OF DOCUMENT:**
Resolution restoring the WRRA 1 Planning Unit

**ATTACHMENTS:**

<table>
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<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
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<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
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Should Clerk schedule a hearing? | ( ) Yes | ( ) 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.)*

Resolution restoring the WRRA 1 Planning Unit to assist the Whatcom County Council regarding water resources

**COMMITTEE ACTION:**
7/09/2013: Discussed. Committee wants Council to hold in Council for two weeks. Changes from Dan Gibson & Committee. Dan will present amended substitute tonight for Council staff to make available to the public tonight. This amended substitute will be the version in Council in two weeks.

**COUNCIL ACTION:**
5/21/2013: Introduced
6/04/2013: Referred to Public Works Committee on July 9.
7/23/2013: Council Amended & Approved 6-0, Kershner absent Res. 2013-025

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:** Res. 2013-025

**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](http://www.co.whatcom.wa.us/council).
RESOLUTION NO. 2013-025

RECOGNIZING THE ROLE OF THE WRIA 1 PLANNING UNIT TO ASSIST THE WHATCOM COUNTY COUNCIL REGARDING WATER RESOURCES

WHEREAS, in 1998, the Washington State Legislature adopted ESHB 2514, 90.82 RCW, the Washington State Watershed Planning Act (WPA); and

WHEREAS, the RCW 90.82.005 states, "The purpose of this chapter is to develop a more thorough and cooperative method of determining what the current water resource situation is in each water resource inventory area of the state and to provide local citizens with the maximum possible input concerning their goals and objectives for water resource management and development"; and

WHEREAS, RCW 90.82.005 states, "The legislature finds that the local development of watershed plans for managing water resources and for protecting existing water rights is vital to both state and local interests. The local development of these plans serves vital local interests by placing it in the hands of people: Who have the greatest knowledge of both the resources and the aspirations of those who live and work in the watershed; and who have the greatest stake in the proper, long-term management of the resources. The development of such plans serves the state's vital interests by ensuring that the state's water resources are used wisely, by protecting existing water rights, by protecting instream flows for fish, and by providing for the economic well-being of the state's citizenry and communities. Therefore, the legislature believes it necessary for units of local government throughout the state to engage in the orderly development of these watershed plans"; and

WHEREAS, RCW 90.82.030 (1) states, "All WRIA planning units established under this chapter shall develop a process to assure that water resource user interests and directly involved interest groups at the local level have the opportunity, in a fair and equitable manner, to give input and direction to the process"; and

WHEREAS, on May 5, 1998, Whatcom County Council unanimously adopted Resolution 1998-024 whereby Whatcom County affirmed its duty under RCW 90.82 to serve as "watershed planning lead agency" among the initiating governments; and

WHEREAS, on December 22, 1999, the WRIA 1 Planning Unit ("Planning Unit") was formed through adoption of the Watershed Management Project Planning Unit Process and Procedural Agreement. The Planning Unit included a broad range of water resource user interests and directly involved interest groups. Governmental participants included Whatcom County, PUD No. 1 of Whatcom County, the City of Bellingham, the State Department of Ecology, the Small Cities Caucus, the Water Districts Caucus, the Diking and Drainage Districts Caucus and the Port of Bellingham. Non-governmental participants included the following caucuses: agriculture, fishers, forestry, land development, environmental, private well owners, and non-municipal water systems; and

WHEREAS, in 2005 the Planning Unit approved and Whatcom County adopted the WRIA 1 Watershed Management Plan (WMP); and

WHEREAS, in 2007 the Planning Unit approved and Whatcom County adopted the WRIA 1 Detailed Implementation Plan (DIP), which was required pursuant to RCW 90.82.043; and
WHEREAS, both the WMP and DIP called for the Planning Unit to continue functioning to address instream flows and WMP updates; and

WHEREAS, Whatcom County Council has consistently recognized that review and approval of watershed plans and plan amendments shall be conducted by the Planning Unit in a continuous improvement process in the manner provided for by the Council-adopted WMP and DIP; and

WHEREAS, the Planning Unit has not met since June 30, 2009 and thus has not functioned to carry out its role as contemplated in the adopted WMP and DIP; and

WHEREAS, Whatcom County Charter states in Section 2.20 (c) that the County Council has the power to “establish, abolish, combine and divide by ordinance, non-elective administrative offices and executive departments and to establish their powers and responsibilities”; and

WHEREAS, Whatcom County Charter states in Section 2.20 (d) that the County Council has the power to “adopt by ordinance comprehensive plans, including improvement plans for the present and future development of the county,” and further, that “The enumeration of particular legislative powers shall not be construed as limiting the legislative powers of the County Council.”

NOW, THEREFORE BE IT RESOLVED:

Section 1: Finding. The Council finds that the Planning Unit is the advisory board established and responsible for recommending WRIA 1 water resource plans under RCW 90.82, including development of instream flow recommendations, and which is fully representative of the interests of local citizens in WRIA 1.

Section 2: Council Authority. The County Council has sole authority under Chapter 90.82 to finally approve and adopt by ordinance WRIA 1 water resource plans and plans necessary for implementation thereof.

Section 3: Request for Information. The County Council requests that the Planning Unit report regularly to the Whatcom County Council, the legislative branch of the WRIA 1 Lead Agency, on the status of its work. The Council further requests that the County Executive facilitate this reporting function.

Section 4: Cooperation of County Officials. It is the policy of the County Council that Whatcom County shall support the Planning Unit as the Council deems necessary to fulfill all its functions and obligations.

Section 5: Governance and Structure. The County Council supports a Planning Unit that meets as needed to discharge its responsibilities and conducts all meetings under the Open Public Meetings Act. It is the policy of the County Council that the Planning Unit shall review its adopted governance structure and operating rules as it deems necessary, so as to maintain a process to assure that water resource user interests, and directly involved interest groups at the local level have the opportunity, in a fair and equitable manner, to give input and direction to the process.

Section 6: Review and Approval of Watershed Plans. The County Council requests that the Planning Unit regularly review and approve and provide recommendations as appropriate on any on-going assessments of the current water resource situation, including, but not limited to water availability, instream flow, water quality, and habitat. As provided in the Watershed Planning Act, amendments to the WMP will be submitted to Whatcom County Council for approval.
Section 7: Coordinate with salmon recovery board. The County Council requests that the Planning Unit review the progress of salmon recovery efforts and provide input to the County to inform its participation on the salmon recovery board.

Section 8: Review and Comment on Water Resource Issues. The Whatcom County Council finds that the Planning Unit, by virtue of its expertise, experience, and inclusiveness, can add significant value for the Council and Executive by providing review and recommendations of water resources issues that come before the Council. The Council requests that the Planning Unit provide such review within the parameters established in RCW 90.82.

APPROVED this 23rd day of July, 2013.

Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Bill Smutny, For
Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Daniel J. Gibson
Civil Deputy Prosecutor
CONSOLIDATED MEETING OF THE WRIA 1 POLICY BOARDS

MEETING SUMMARY

Date:       June 26, 2013
Time:       3:00 p.m. – 4:30 p.m.
Place:      Whatcom County Civic Building, Garden Room, 322 N. Commercial, Bellingham

1. Call to Order/Introductions
2. Public Comment
3. Review Agenda/Additional Business
4. WRIA 1 Joint Board Budget Amendment for Planning Unit Proposal
5. Approach for Whatcom Area Update to 2014 Puget Sound Action Agenda
6. Other Business
7. Adjourn

MEETING ATTENDANCE

WRIA 1 Policy Boards' Members:
Bob Bromley, Mayor City of Sumas – WRIA 1 Salmon Recovery Board
Merle Jefferson, Lummi Nation – WRIA 1 Watershed Joint Board/WRIA 1 Salmon Recovery Board
Gary Jensen, Mayor City of Ferndale- WRIA 1 Salmon Recovery Board
Kelli Linville, Mayor City of Bellingham- WRIA 1 Watershed Joint Board/WRIA 1 Salmon Recovery Board
Jack Louws, Whatcom County Executive- WRIA 1 Watershed Joint Board/WRIA 1 Salmon Recovery Board
Jeff McClure, Commissioner Whatcom PUD – WRIA 1 Watershed Joint Board
Bob Warinner, WDFW (designated by Bob Everitt) - WRIA 1 Salmon Recovery Board

WRIA 1 Management Team Members:
Chris Brueske – Whatcom County
Clare Fogelsong – City of Bellingham
Jon Hutchings – City of Bellingham
Steve Jilk - PUD No. 1
Mark Personius- Whatcom County
Bill Verwolf – Small Cities Representative/City of Lynden

Staff Team Members:
Alan Chapman- Lummi Nation Natural Resources
Barbara Fisher, Lummi Nation Natural Resources
Peter Gill, Whatcom County PDS
Oliver Grah, Nooksack Tribe Natural Resources
Rebecca Schlotterback, Whatcom PUD
John Thompson, Whatcom County Public Works

June 26, 2013
CONSOLIDATED MEETING OF THE WRIA 1 POLICY BOARDS
MEETING SUMMARY

Other Attendees:
Becky Peterson, Geneva Consulting
Scott Williamson, Puget Sound Partnership
Brian Heinrich, City of Bellingham
Dan Eissers, Birch Bay Water and Sewer District
Marian Beddill, Citizen
Henry Bierlink, Farm Friends
Roger Almskaar, Whatcom Chapter Citizen’s Alliance Property Rights
Bert Rubash, Marine Resource Committee
Elizabeth Kilanowski, Marine Resources Committee
Chet Dow, Citizen
Dave Onkels, Whatcom County Planning Commission
Kris Halderman, Citizen
Peggy Lippiano, Citizen
Greg and Karen Brown, Citizens
Skip Richards, NGWS Caucus
Marlene Dawson, Citizen

DOCUMENTS DISTRIBUTED
• Meeting Agenda <e-mailed: Agenda_WRIA 1 Policy Boards_Jun 26 2013.pdf>
• Planning Unit Support Scope of Work <e-mailed: SOW_Planning Unit Support_dft20130503Policy.pdf>

MEETING CONTENTS
1. Call to Order/Introductions
   • The meeting was called to order by Whatcom County Executive Jack Louws.

2. Public Comment
   • None provided

3. Review Agenda/Additional Business
   • Executive Louws reviewed the agenda and asked if there were additions. Lummi Nation requested an addition to the agenda that involves nomination of a local representative to the Puget Sound Partnership’s Ecosystem Recovery Board. Lummi Nation recommended that the WRIA 1 Joint Board and WRIA 1 Salmon Recovery Board nominate Bill Knutzen to fill a vacancy on the Puget Sound Partnership’s Ecosystem Coordination Board, and that the vacant position be split with the San Juan Action Area. If it is not possible to split the position, then Bill Knutzen should be recognized at the table with the San Juan representative as their alternate and that Councilman Knutzen have full voting rights. Jon Hutchings recommends that it be added to the agenda but action not be taken.

June 26, 2013
because it has not been fully vetted by the Boards and public. Merle explained that the nominations for the Ecosystem Coordination Board are due today (June 26). Jon reviewed that the WRIA 1 Board sent a letter in 2012 recommending Bill Knutzen be appointed to the Ecosystem Coordination Board but that the other elements of the Lummi Nation’s recommendation have not been discussed previously. Therefore it may be possible to discuss re-affirming of the 2012 letter. Executive Louws called for a motion to add the item to the agenda. Motion made by Commissioner McClure to add the agenda item recommended by the Lummi Nation to the agenda. Motion seconded by Bob Bromley. Motion carried.

4. WRIA 1 Joint Board Budget Amendment for Planning Unit Proposal
   
   - Chris Brueseke reviewed that a scope of work for Planning Unit Support has been reviewed by Watershed Staff Team and Management Team, and is being presented to the WRIA 1 Joint Board for approval. The proposal requests $14,000 from the WRIA 1 Joint Board fund facilitation of up to four Planning Unit meetings. The scope of work outlines the anticipated purpose of each of the meetings:
     
     - Meeting 1 informal open meeting to review and discuss the Planning Unit process and procedure documents.
     - Meeting 2 formal meeting to discuss planning unit role, review implementation plan and work completed, and discuss work plan for 2014.
     - Meeting 3 formal meeting to discuss work plan and budget.
     - Meeting 4 formal meeting to finalize work plan and financing plan.
   
   Chris noted that since the Planning Unit is autonomous, the outline of the meeting purposes is the vision of how those meetings would proceed. The proposal is really for $14,000 for the facilitation of up to four Planning Unit meetings.
   
   - Executive Louws asked if there is a motion to approve the expenditure of $14,000 for the Planning Unit proposal. Motion by Jon Hutchings on behalf of the City of Bellingham¹; second from Merle Jefferson. Executive opened the item for discussion.
   
   - Merle asked if there was something in writing that explains what the role of the Planning Unit will be. Chris reviewed that the Planning Unit role as it is currently written is to review and approve updates to the Watershed Management Plan. They will have some ability to self-direct since they are recognized an autonomous group. Merle wanted to clarify for the record that the Planning Unit recommendations are to the County.
   
   - Commissioner McClure asked for clarification on whether the Planning Unit is approving plans or are they making recommendations to the County Council. Executive Louws indicated his understanding is that if there are changes to the Watershed Management Plan that the Planning Unit approves those changes. Commissioner McClure asked if the final work product for the scope – the Planning Unit work plan – will be presented to the Joint Board upon completion of the four meetings in the scope. Executive Louws felt it was appropriate for there to be communication between the Planning Unit and Joint Board.

¹ Mayor Linville experienced a late arrival to the meeting, and Jon Hutchings acted on behalf of the City until the Mayor arrived.

June 26, 2013
Being no further discussion, Executive Louws asked WRIA 1 Joint Board members present (representatives of the City of Bellingham, Lummi Nation, and Public Utility District No. 1) if they support expending $14,000 of WRIA 1 Joint Board funds as moved by Jon Hutchings and seconded by Merle Jefferson. The expenditure of the Joint Board funds was unanimously agreed to under their consensus decision-making process.

5. Approach for Whatcom Area Update to 2014 Puget Sound Action Agenda

- Becky Peterson reviewed that the WRIA 1 Salmon Recovery Board and WRIA 1 Watershed Joint Board was designated by the Puget Sound Partnership’s Leadership Council as the Whatcom Action Area local integrating organization (LIO). One function of the LIO is to submit local updates to the Puget Sound Action Agenda every two years. The next update to the Action Agenda is 2014. The intent of the Action Agenda update is to refine local priorities and identify near term actions.

- The agenda item is to receive direction from the Boards for proceeding locally. The Whatcom Integration Team, which was an ad hoc work group that sunset June 30, identified options for moving forward locally for the purpose of integrating local priorities into the regional work. One of the options identified by the Whatcom Integration Team is a staff team option that interacts with existing advisory committees. The Integration Team referred to it as a hybrid option. This hybrid option was further reviewed by the WRIA 1 Management Team and is the recommended approach for preparing a local update to the 2014 Puget Sound Action Agenda. Jon Hutchings explained that the hybrid option is consistent with local needs and involves existing committees in the process without creating new committees or processes.

- Executive Louws recapped that the recommended action for the two WRIA 1 Boards is approval of the hybrid option, which is a staff-based approach, for preparing an update to the 2014 Action Agenda. He requested that Becky review the decision-making process for the two Boards should they choose to take action. Becky explained that each of the two Boards would act separately according to their decision-making process — the WRIA 1 Joint Board would decide by consensus and the WRIA 1 Salmon Recovery Board would decide with a consensus of the two caucuses- the Local Government Caucus and the Salmon Co-Manager Caucus.

- Executive Louws called for a motion from a WRIA 1 Joint Board member to approve the hybrid approach using Option A (existing staff teams). Mayor Linville moved approval with Commissioner McClure seconding. Executive Louws then called for the same motion from a WRIA 1 Salmon Recovery Board member. Bob Warinner moved on behalf of the Co-Manager caucus with a second from Bob Bromley on behalf of the Local Government caucus. Executive Louws called for discussion from both Boards.

- Mayor Linville asked who will be responsible for working with the small cities since they are not represented in Option A as a staff team member. Mayor Bromley expressed a similar question. Bill Verwolf indicated that the small cities have not had a representative on the staff team; they have been represented on the Planning Unit, the Management Team, and the Combined Review Team. It may be appropriate for the LIO Staff Team to have a representative for the small cities. Mayor
Linville offered an amendment to the motion to add a small cities representative to the Option A staff team.

- Executive Louws called for a decision by the two Boards. Starting with the WRIA 1 Joint Board, Executive Louws asked if there was consensus to approve the motion as amended. The WRIA 1 Joint Board members signified their approval. The Executive then asked the members of the WRIA 1 Salmon Recovery Board’s Local Government Caucus if they supported the motion as amended, and Bob Warinner asked the present member of the Co-Manager caucus if they supported the motion as amended. The Local Government Caucus and the Co-Manager Caucus were in agreement and signified approval of the motion as presented.

- Executive Louws expressed a desire to have a more in-depth presentation on the Puget Sound Action Agenda and the regional framework at a future meeting.

6. Other Business

   Added Agenda Item – Ecosystem Coordination Board Nomination

   • Lummi Nation requested the addition of this agenda item at the start of the meeting. They expressed their desire to have Whatcom County represented at the regional level. They noted that they participate but are only able to represent the tribal position. In 2012, WRIA 1 sent a letter to the Puget Sound Partnership requesting that Bill Knutzen participate on the Ecosystem Coordination Board. The placement did not occur at the time since there was not a vacant position. The current situation is that the position for the San Juan Action Area, which includes Whatcom County, will expire June 30. Nominations to fill that position close today.

   • Executive Louws recapped the conversation that occurred at the beginning of the meeting noting that the requested action originally presented by Lummi Nation for the Boards’ consideration had multiple facets. Only one of the elements of the recommendation- nominating Bill Knutzen for the Ecosystem Coordination Board position- was on the table for discussion and action. The WRIA 1 Boards re-affirmed their 2012 support for Bill Knutzen’s placement on the Ecosystem Coordination Board.

   • Scott Williamson, Puget Sound Partnership, reviewed that the San Juan Area is also putting forward a nomination and that they are also discussing the approach of having both nominees sitting at the table with equal voting rights.

   • Jon Hutchings clarified that there is not new action requested; it is affirming that the Boards’ still support having Bill Knutzen serve on the ECB and sending the message that the WRIA 1 Boards are supportive of the San Juan’s expressed interest of dual membership of San Juan and Whatcom County areas in the same ECB position.

   • Executive Louws asked if there was a motion to reaffirm the nomination of Bill Knutzen to the Ecosystem Coordination Board. Commissioner McClure so moved as a member of the WRIA 1 Joint Board and seconded by Mayor Linville. For the WRIA 1 Salmon Recovery Board, the motion was made by Bob Warinner and seconded by Mayor Linville. There was no further discussion. The WRIA 1 Joint Board was in consensus of the motion as presented and the WRIA 1 Salmon Recovery Board
Local Government and Co-Manager Caucuses were in consensus of the motion presented. The motion passed as presented.

Updates

- Water Supply Symposium – Becky Peterson reported that the feedback received from the May 30-31 Water Supply Symposium was positive, and thanked the WRIA 1 Joint Board for their support. A summary of the response and comments obtained from the evaluation forms will be prepared. The slides from the presentation will be posted to the WRIA 1 website.

7. Meeting was adjourned at 4:30pm.
### CONSOLIDATED MEETING OF THE WRIA 1 POLICY BOARDS

#### MEETING SUMMARY

**Action Summary**

<table>
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<tr>
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| 4           | • WRIA 1 Joint Board approved $14,000 of Joint Board funds to support facilitation of up to four meetings of the Planning Unit.  
• Upon completion of the four meetings, the Joint Board will receive a report on the work plan that will be the outcome of the meetings. |
| 5           | • The WRIA 1 Watershed Joint Board and WRIA 1 Salmon Recovery Board approve the hybrid approach for updating the 2014 Puget Sound Action Agenda using Option A with the addition of a small cities representative. |
| 6           | • The WRIA 1 Watershed Joint Board and WRIA 1 Salmon Recovery Board approve re-affirm their 2012 endorsement of Bill Knutzen to the Puget Sound Partnership’s Ecosystem Coordination Board. |
WHATCOM COUNTY COUNCIL ACTION TAKEN – MARCH 11, 2014

CALL TO ORDER

Councilmembers Present: Weimer, Buchanan, Mann, Browne, Brenner, Crawford, Kremen
Absent: None

FLAG SALUTE

ANNOUNCEMENTS

MINUTES CONSENT

1. Committee of the Whole for January 28, 2014 - Approved Consent 7-0
2. Regular County Council for January 28, 2014 - Approved Consent 7-0
3. Committee of the Whole for February 11, 2014 - Approved Consent 7-0
4. Regular County Council for February 11, 2014 - Approved Consent 7-0

PUBLIC HEARINGS

1. Ordinance amending Whatcom County 2014 Unified Fee Schedule to authorize the ferry fund to absorb credit/debit card convenience fees on single-ride ferry fares and incorporate credit/debit card convenience fees on multi-ride ferry passes (AB2014-091) (continued from February 25)
   Adopted 6-1, Brenner opposed, Ordinance 2014-017

2. Resolution relating to multi-jurisdictional population and employment growth allocations (AB2014-056B)
   Approved 6-1, Crawford opposed, Resolution 2014-013

3. Ordinance adopting the current state building code and repealing existing Title 15 of the Whatcom County Code (AB2013-271)
   Held in Public Works Committee

4. Resolution to adopt the Lake Samish Basin Comprehensive Stormwater Plan (AB2012-227)
   Approved 5-2, Brenner and Mann opposed, Resolution 2014-014

OPEN SESSION

CONSENT AGENDA

1. Request approval for the County Executive to enter into a contract between Whatcom County (as their grant administrator) and Jefferson County to fund the adoption and implementation of specific policies within Jefferson County related to smoke free venues, school district wellness, and safe routes to school, in an amount not to exceed $25,000 (AB2014-106)
   Approved Consent 7-0

2. Request approval for the County Executive to enter into a contract between Whatcom County (as their grant administrator) and Island County to improve health of Island County communities, reduce chronic diseases and reduce health disparities in Island County, in an amount not to exceed $35,000 (AB2014-107)
   Approved Consent 7-0

3. Request approval for the County Executive to enter into a contract between Whatcom County and Northwest Educational Service District #189 for mental health treatment services, in an estimated amount of $30,000 (AB2014-108)
   Approved Consent 7-0
WHATCOM COUNTY COUNCIL ACTION TAKEN – MARCH 11, 2014

4. Request approval for the County Executive to enter into a contract between Whatcom County and New World Systems Corporation for continuation of the software maintenance for the Aegis Public Safety Interface Software, in the amount of $60,150 (AB2014-109)
   Approved Consent 7-0

5. Request approval for the County Executive to enter into a contract between Whatcom County and sole source provider, Birch Bay Chamber of Commerce, to provide funding for operational expenses incurred in the promotion of tourism in Whatcom County, in the amount of $32,500 (AB2014-110)
   Approved Consent 7-0

6. Request approval for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham for management and operation of the joint City-County aquatic invasive species boat inspection program at Lake Whatcom and Lake Samish, in the amount of $70,000 (AB2014-075A)
   Approved Consent 7-0

7. Request approval for the County Executive to enter into a contract between Whatcom County and GeoEngineers for Silver Beach watershed infiltration mapping, in the amount of $49,986.20 (AB2014-112)
   Approved Consent 7-0

OTHER ITEMS
(From Natural Resources Committee)

1. Resolution declaring the Council's intent to create a Water Action Plan, spelling out the various water quality, quantity, and habitat issues to address in the 2015-2016 budget discussions (AB2014-067) (from 2/25)
   Approved 7-0, Resolution 2014-015

(From Finance and Administrative Services Committee)

2. Ordinance amending the 2014 Whatcom County Budget, seventh request, in the amount of $95,000 (AB2014-099)
   Adopted 5-2, Brenner and Mann opposed, Ordinance 2014-018

3. Request approval for the County Executive, on behalf of the WCFCZD Board of Supervisors, to enter into a contract between Whatcom County and Watershed Science and Engineering for development of the High Creek Management Plan in the amount of $69,758 (AB2014-105) (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
   Approved 7-0

4. Request approval for the County Executive to enter into a contract amendment between Whatcom County and Shannon and Wilson, Inc. for additional engineering and technical support and writing of the System-Wide Improvement Framework plan, in the amount of $180,000, for a total amended contract in the amount of $199,955 (AB2014-111) (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
   Approved 7-0

(No Committee Assignment)

5. Consideration of request to waive initiation fee - File # PLN2014-00006, application to prohibit radio towers with signal strength of greater than 1,500 watts in the Point Roberts Special District (AB2014-098A)
   Approved 7-0

   Approved 7-0, Resolution 2014-016
# WHATCOM COUNTY COUNCIL ACTION TAKEN – MARCH 11, 2014

## COMMITTEE REPORTS

Presentation of a WRIA 1 Watershed Planning Unit funding proposal (AB2014-118)
From Natural Resources Committee: Council acting as the Whatcom County Flood Control Zone District Board of Supervisors. Motion carried 7-0 to request that the administration prepare a budget resolution to approve an additional $20,000 from the flood fund to continue Planning Unit efforts for at least six months, finalize the work plan, and develop an operating process within the group to make decisions more quickly.

Presentation regarding Lake Whatcom Reconveyance financing options (AB2014-103)
From Finance and Administrative Services Committee: Motion carried 5-2, Brenner and Mann opposed, to request the administration bring forward an ordinance to replace the $1.5 million from the conservation futures fund into the parks improvement fund to establish a fund for the future maintenance of park properties.

Discussion of WRIA Joint Board concerns (AB2014-120)
From Public Works, Health, and Safety Committee: Motion carried 7-0 to make a recommendation to the Planning Unit to use a system of majority rule and to allow the Planning Unit to produce a minority report in addition to the majority position.

## INTRODUCTION ITEMS

1. Ordinance amending the Whatcom County Code regarding lot clustering standards in the Rural (R) District (AB2014-113)
   Introduced 7-0 (proposed schedule – March 25 Council)

2. Ordinance amending the 2014 Whatcom County Budget, eighth request, in the amount of $9,053,575 (AB2014-114)
   Introduced 7-0 (proposed schedule – March 25 Finance and Administrative Services Committee and Council)

3. Resolution amending the Whatcom County Flood Control Zone District 2014 budget, second request, in the amount of $42,700 (AB2014-115) (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
   Introduced 7-0 (proposed schedule - March 25 Finance and Administrative Services Committee and Council)

4. Resolution regarding an application for a Community Development Block Grant Public Services Grant (AB2014-116)
   Substitute Introduced 7-0 (proposed schedule – March 25 public hearing)

5. Ordinance amending the Whatcom County Unified Fee Schedule Ordinance 2012-043 to accommodate changes to the Aquatic Invasive Species WCC 2.27A (AB2014-117)
   Introduced 7-0 (proposed schedule – March 25 public hearing)

6. Ordinance allowing, on an interim basis, marijuana production, processing and retailing as authorized by Washington State Initiative 502 and medical marijuana facilities as authorized under Chapter 69.51A RCW (AB2014-074B)
   Substitute amended and introduced 7-0 (proposed schedule to be announced)

7. Ordinance establishing charges/fees for providing advanced life support (ALS) ambulance transport services in Whatcom County (AB2014-121)
   Introduced 7-0

## OTHER BUSINESS

Motion carried 6-0-1, Crawford abstaining, to request the County Executive to direct staff to explore the purchase of park property in Birch Bay for the creation of a park and community center that would include evaluating a package of funding options and possibly even in the short term appraisal of properties that are up there and available, and to specify that the Executive move as soon as possible to appropriate up to $3,000 for an appraisal to tie up a specific piece of property.

## REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS

### ADJOURN

The next regular Council meeting is scheduled for 7:00 p.m. Tuesday, March 25, 2014 in the Council Chambers, 311 Grand Avenue, Bellingham
TITLE OF DOCUMENT: Presentation to update Council on Jail Construction Project

ATTACHMENTS: powerpoint outline

SEPA review required? ( ) Yes ( ) NO
SEPA review completed? ( ) Yes ( ) NO
Should Clerk schedule a hearing? ( ) Yes ( ) 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.)

Presentation to update Council on jail construction project.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: AB2014-306

Ordinance or Resolution Number:

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.
**Whatcom County Council Agenda Bill**

**Clearances:**
- **Originator:**
  - Initial: ◼
  - Date: 1/13/15
- **Division Head:**
  - Initial: Ø
  - Date: 1/15/2015
- **Dept. Head:**
- **Prosecutor:**
- **Purchasing/Budget:**
- **Executive:**

**Title of Document:**
Presentation – Courthouse Building Envelope

**Attachments:**

**SEPA Review Required?**
- ( ) Yes
- (X) No

**SEPA Review Completed?**
- ( ) Yes
- (X) No

**Should Clerk Schedule a Hearing?**
- ( ) Yes
- (X) 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.)

Presentation – Courthouse Building Envelope

Introduction from Executive
  - Overview of the Courthouse Building Envelope
  - HKP and Weatherholt presentation of work done to date.

**Committee Action:**

**Council Action:**

**Related County Contract #:**
- AB2014-362

**Related File Numbers:**

**Ordinance or Resolution Number:**

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](http://www.co.whatcom.wa.us/council).
## WHATCOM COUNTY COUNCIL AGENDA BILL

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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</thead>
<tbody>
<tr>
<td>Originator:</td>
<td>MRC</td>
<td>1/5/15</td>
<td>RECEIVED JAN 06 2015 WHATCOM COUNTY COUNCIL</td>
<td>01/13/15</td>
<td>Intro</td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
<td>01/27/15</td>
<td>Finance Committee; Council</td>
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<td>Dept. Head:</td>
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<td>Purchasing/Budget:</td>
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<td>Executive:</td>
<td></td>
<td>1/4/15</td>
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</table>

### TITLE OF DOCUMENT: 2015 Supplemental Budget Request #1

### ATTACHMENTS: Ordinance, Memoranda & Budget Modification Requests

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( X ) No</th>
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<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( X ) No</td>
</tr>
</tbody>
</table>

Should Clerk schedule a hearing? ( ) Yes ( X ) 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.)

Supplemental #1 requests funding from the Emergency Management Fund:

1. To appropriate $58,662 in the Sheriff’s Office- Emergency Management to fund State Homeland Security Program FFY 2014 from grant proceeds.

From the Real Estate Excise Tax II Fund:

2. To appropriate $30,000 in Parks to fund Birch Bay Community Park building demolition.

From the Public Utilities Improvement Fund:

3. To re-appropriate $780,000 in Non-Departmental to fund Nooksack Water Treatment Plant upgrade.

### COMMITTEE ACTION:

### COUNCIL ACTION:

1/13/2015: Introduced 7-0

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
</tr>
</thead>
</table>
ORDINANCE NO.
AMENDMENT NO. 1 OF THE 2015 BUDGET

WHEREAS, the 2015-2016 budget was adopted November 25, 2014; and,
WHEREAS, changing circumstances require modifications to the approved 2015-2016 budget; and,
WHEREAS, the modifications to the budget have been assembled here for deliberation by the Whatcom County Council.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2015-2016 Whatcom County Budget Ordinance #2014-065 is hereby amended by adding the following additional amounts to the 2015 budget included therein:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emergency Management</td>
<td>58,662</td>
<td>(58,662)</td>
<td>-</td>
</tr>
<tr>
<td>Real Estate Excise Tax II</td>
<td>30,000</td>
<td>-</td>
<td>30,000</td>
</tr>
<tr>
<td>Public Utilities Improvement</td>
<td>780,000</td>
<td>-</td>
<td>780,000</td>
</tr>
<tr>
<td><strong>Total Supplemental</strong></td>
<td><strong>868,662</strong></td>
<td>(58,662)</td>
<td><strong>810,000</strong></td>
</tr>
</tbody>
</table>

ADOPTED this ___ day of _________________, 2015.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk
Chair of the Council

APPROVED AS TO FORM:

Jack Louws, County Executive
Date: _________________________

( ) Approved  ( ) Denied
## Summary of the 2015 Supplemental Budget Ordinance No. 1

<table>
<thead>
<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased (Decreased) Expenditure</th>
<th>(Increased) Decreased Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emergency Management Fund - Sheriff</td>
<td>To fund State Homeland Security Program FFY 2014 from grant proceeds.</td>
<td>58,662</td>
<td>(58,662)</td>
<td>-</td>
</tr>
<tr>
<td>Real Estate Excise Tax II Fund - Parks</td>
<td>To fund Birch Bay Community Park building demolition.</td>
<td>30,000</td>
<td>-</td>
<td>30,000</td>
</tr>
<tr>
<td>Public Utilities Improvement Fund - Non Dept’I</td>
<td>To re-appropriate funding for Nooksack Water Treatment Plant upgrade.</td>
<td>780,000</td>
<td>-</td>
<td>780,000</td>
</tr>
<tr>
<td><strong>Total Supplemental</strong></td>
<td></td>
<td><strong>868,662</strong></td>
<td><strong>(58,662)</strong></td>
<td><strong>810,000</strong></td>
</tr>
</tbody>
</table>
MEMORANDUM

TO: Jack Louws, Executive
FROM: Michael McFarlane, Director
DATE: January 2nd, 2015
RE: Budget Supplemental- Birch Bay Community Park Building Demolition

Enclosed find a Budget Supplemental Request in the amount of $30,000 for the removal of the buildings on the recently acquired Birch Bay Community Park site. These are in very poor condition and are an attractice nuisance to area youth and homeless. I am recommending removal of these structures prior to the beginning of the summer season from both a public safety and maintenance standpoint. In the interim, we have boarded the doors and windows and installed fencing around the structures. Please let me know if you have any questions or require additional information.

Thank you.
Supplemental Budget Request

Parks & Recreation

Suppl ID # 1290  Fund 324  Cost Center 6003  Originator: Michael McFarlane

Expenditure Type: One-Time  Year 1  2015  Add'l FTE ☐  Add'l Space ☐  Priority 1

Name of Request: Birch Bay Community Park Demolition

X  /2/ 15

Department Head Signature (Required on Hard Copy Submission)  Date

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>7060</td>
<td>Repairs &amp; Maintenance</td>
<td>$30,000</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$30,000</td>
</tr>
</tbody>
</table>

1a. Description of request:
Funding is being requested to remove two dilapidated buildings on the recently acquired Birch Bay Community Park property. Funding will be used for permitting, building demolition, asbestos abatement, disposal costs and restoration of the building sites. These buildings are currently secured by boards and fencing to restrict public access. The age, location and condition make these buildings hazardous and removal is recommended to reduce risk exposure for the County. Upon removal the area can be repurposed for other public activities and functions.

1b. Primary customers:
These buildings are being removed to reduce risk exposure to the County and accommodate public use of the site for community events and parking.

2. Problem to be solved:
The County acquired this property in November of 2014 which included two old buildings in very poor condition. These are not salvageable and need to be removed to eliminate a hazard and attractive nuisance. These buildings have been heavily vandalized in the past and are currently secured by board and temporary fencing. It is desired that removal occur prior to the 2015 summer tourist season for public safety and use for other purposes.

3a. Options / Advantages:
The buildings have been boarded and fenced to prevent any public access. While temporary secured at this time, the structures will continue to be an attractive nuisance as long as they stand. It is not feasible to repurpose these for other uses due to the poor condition, design and age of the structures. We are requesting funding for removal so work can be completed before the summer tourist season begins. If the buildings are not removed, they will remain boarded and fenced and park staff will continue to monitor the situation. The location of the buildings also limit use of the site for other purposes.

3b. Cost savings:
Removing the structures reduces potential risk for the County and will be a necessary expense in any future development of the site.

4a. Outcomes:
Once removed the site will be available and able to better accommodate other activities.

4b. Measures:
N/A

5a. Other Departments/Agencies:
Permits will be required from Whatcom County Planning and Development Services.

5b. Name the person in charge of implementation and what they are responsible for:
N/A
Supplemental Budget Request

Parks & Recreation

<table>
<thead>
<tr>
<th>Supp'1 ID #</th>
<th>Fund</th>
<th>Cost Center</th>
<th>Originator</th>
</tr>
</thead>
<tbody>
<tr>
<td>1929</td>
<td>324</td>
<td>6003</td>
<td>Michael McFarlane</td>
</tr>
</tbody>
</table>

6. Funding Source:
   Requesting REET II funding be used.
MEMORANDUM

To: Whatcom County Council Members
From: Jack Louws, Whatcom County Executive
Subject: Supplemental Budget Request for EDI Program funding
Date: December 23, 2014

In July of 2013 County Council approved the EDI Board’s recommendation to fund a grant and loan from the EDI Program for the City of Nooksack’s Water Treatment Plant upgrade. The Interlocal Agreement that was signed allowed for a $260,000 grant and a $520,000 loan. The contract was budgeted for in 2013, with a continuing appropriation in 2014.

Due to some project delays, the funds have not yet been utilized, and we are told that funding will be requested in early 2015. Accordingly it is necessary for us to re-budget this contract/funding for the 2015-16 budget, thus we are attaching a new Supplemental Budget request.

The funding source is the Public Utilities Improvement Fund.

If you have any questions on this matter, please feel free to contact me.

/Attachment
Supplemental Budget Request

Executive

Supp1ID # 1925  Fund 332  Cost Center 332226  Originator: Suzanne Milner

Expenditure Type: One-Time  Year 1 2015  Add'l FTE  Add'l Space  Priority 1

Name of Request: Nooksack Water Treatment Upgrade EDI

X

Department Head Signature (Required on Hard Copy Submission)  Date

12/26/14

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
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<tbody>
<tr>
<td>7220</td>
<td>Intergov Subsidies-Loans</td>
<td>$520,000</td>
</tr>
<tr>
<td>7221</td>
<td>Intergov Subsidies-Grants</td>
<td>$260,000</td>
</tr>
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</table>

Request Total  $780,000

1a. Description of request:

This request is for budget authority on an EDI Program Grant and Loan contract that was initially approved and budgeted for in 2013, with continuing appropriation to 2014. It is for the City of Nooksack in support of their Water Treatment Plant upgrade. Fund use is expected in early 2015.

1b. Primary customers:

Residents of the Cities of Nooksack and Everson

2. Problem to be solved:

The current wastewater treatment plant in Nooksack has reached its capacity. This proposed WWTP upgrade will make additional capacity available to new commercial and industrial businesses wanting to locate within Nooksack; it will also support expansion of existing businesses. Project delays have resulted in this EDI funding not been utilized during the 2013-14 budget period. New budget authority is now being requested.

3a. Options / Advantages:

N/A

3b. Cost savings:

N/A

4a. Outcomes:

Increased capacity for the WWTP which will result in an updated NPDES permit issued by the Department of Ecology once the project has been complete. Completion of the project is estimated to be in the first quarter of 2015.

4b. Measures:

Written report from the City of Nooksack on project completion

5a. Other Departments/Agencies:

None

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Public Utilities Improvement Fund
MEMO

JACK LOUWS
COUNTY EXECUTIVE

To: Jack Louws, County Executive

From: Sheriff Bill Elfo, Director of Emergency Management

Subject: Supplemental Budget Request ID # 1923

Date: December 22, 2014

The attached Supplemental Budget Request seeks authority to expend $58,662 to be reimbursed from the US Department of Homeland Security State Homeland Security Program Grant for Federal Fiscal Year 2014.

- Background and Purpose
Whatcom County Sheriff's Office Division of Emergency Management (DEM) was awarded $79,998 from the US Department of Homeland Security (DHS) State Homeland Security Program for Federal Fiscal Year 2014 (SHSP-2014). This grant flows from DHS through the Washington State Military Department – Emergency Management Division and Snohomish County to Whatcom County. This is the twelfth year that Whatcom County has received an SHSP award.

DSH provides SHSP funds for projects supporting efforts to build, sustain, and deliver core capabilities across the Prevention, Protection, Mitigation, Response, and Recovery mission areas to achieve the National Preparedness Goal of a secure and resilient Nation.

SHSP-14 funds will be used to support planning, training, and exercise activities, public education and outreach efforts, and supplies and small tools/equipment acquisition.

The performance period for this grant runs from September 1, 2014 through June 30, 2016.

- Funding Amount and Source
$58,662 from a Federal Grant: DHS, SHSP-2014, CFDA# 97.067, per Whatcom County Contract # 201411010.

Please contact Undersheriff Jeff Parks or Frances Burkhart if you have any questions.
Supplemental Budget Request

Sheriff

Expenditure Type: One-Time
Year 1 2013
Add'l FTE □ Add'l Space □ Priority 1

Name of Request: SHSP-2014

Department Head Signature (Required on Hard Copy Submission) 12/22/2014

<table>
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<th>Costs:</th>
<th>Object</th>
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<th>Amount Requested</th>
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<tbody>
<tr>
<td>4333.8705</td>
<td>St Homeland Sec Grt Prg</td>
<td>($58,662)</td>
<td></td>
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<tr>
<td>6120</td>
<td>Extra Help</td>
<td>$12,536</td>
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<td>6230</td>
<td>Social Security</td>
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<td>6259</td>
<td>Worker's Comp-Interfund</td>
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<td>Office &amp; Op Supplies</td>
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<td>Printing</td>
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<tr>
<td>6510</td>
<td>Tools &amp; Equip</td>
<td>$32,000</td>
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<tr>
<td>6760</td>
<td>Miscellaneous Communicat</td>
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<td>6780</td>
<td>Travel-Educ/Training</td>
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<td>Registration/Tuition</td>
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<tr>
<td>7140</td>
<td>Meeting Refreshments</td>
<td>$250</td>
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</tr>
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</table>

Request Total: $0

1a. Description of request:
The US Department of Homeland Security (DHS) FFY2014 State Homeland Security Program (SHSP-2014) grant awarded $79,998 to Whatcom County to support efforts to build, sustain, and deliver core capabilities across the five mission areas of Prevention, Protection, Mitigation, Response, and Recovery to achieve the National Preparedness Goal of a secure and resilient Nation (Whatcom County Contract # 201411010). DEM anticipates expending $58,662 of this award in 2015, with the balance to be fully expended in 2016. This is the 12th year that Whatcom County has received an SHSP award.

1b. Primary customers:
Local emergency management, partner agencies, and the residents of Whatcom County.

2. Problem to be solved:
Whatcom County is at risk from a number of natural and man-made hazards, including floods, earthquakes, volcanoes, tsunamis, severe weather, power outages, hazardous materials releases, epidemics, and terrorist activities. Catastrophic events that are not prevented, prepared for, or responded to quickly and effectively have the potential to inflict great harm on the people, property, economy, and environment of Whatcom County.

3a. Options / Advantages:
SHSP funds are awarded specifically for projects that would otherwise have to be funded with local monies or eliminated.

3b. Cost savings:
$58,662
Supplemental Budget Request

Status: Pending

<table>
<thead>
<tr>
<th>Sheriff</th>
<th>Emergency Management</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supp1.ID # 1923</td>
<td>Fund 167</td>
</tr>
</tbody>
</table>

4a. Outcomes:
SHSP-2014 funds will support planning activities (including salaries and benefits for two part-time employees), training and exercise, public information and outreach, and purchase of supplies and small tools/equipment (including additional resources for the Whatcom Unified Emergency Coordination Center EOC and combined hearing protection/two-way radio communication headsets for the Sheriff’s Office Special Response Team).

4b. Measures:
DEM will monitor program projects and expenditures against contract deliverables.

5a. Other Departments/Agencies:
In developing plans, training, exercises, and project priorities, DEM works with a number of partner agencies, including municipal jurisdictions, tribes, law enforcement, fire services, public works, health/medical field, transit agencies, schools and colleges, American Red Cross, Volunteer Center, and private industry. This coordination provides a whole community approach to emergency management.

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
Federal Grant: DHS, SHSP-2014, CFDA #97.067
### TITLE OF DOCUMENT:
Resolution requesting approval to remove LEED Silver requirement for the construction of the new jail and Sheriff’s Headquarters.

### ATTACHMENTS:
Resolution, memo, LEED v2009 opportunity matrix

---

**SEPA review required?**  ( ) Yes  ( ) No
**SEPA review completed?**  ( ) Yes  ( ) No

**Should Clerk schedule a hearing?**  ( ) Yes  ( ) 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.

Executive Lewes respectfully requests Council approval of the removal of the LEED Silver requirement for the construction of the new jail and Sheriff’s Headquarters because it is simply not feasible.

---

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

---

Related County Contract #:  
Related File Numbers:  
Ordinance or Resolution Number:

**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](http://www.co.whatcom.wa.us/council)

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**CLEARANCES**

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<th>Originator:</th>
<th>Initial</th>
<th>Date</th>
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<tbody>
<tr>
<td>TWH</td>
<td>01.13.15</td>
<td></td>
</tr>
</tbody>
</table>

**Division Head:**

**Dept. Head:**

**Prosecutor:**

**Purchasing/Budget:**

**Executive:** 1/16/15

**Agenda Date:** 01.27.05

**Assigned to:** Finance Council
MEMORANDUM

TO: Whatcom County Council Members

FROM: Tyler Schroeder, Executive Special Projects Manager

THROUGH: Jack Louws, County Executive

DATE: January 16, 2015

SUBJECT: Requesting the removal of LEED Silver requirement for jail construction

Whatcom County is actively planning for the construction of the new jail and an adjacent facility for the Sheriff’s Headquarters. Through this process there have been project goals that strive to make the facilities safe, responsible, efficient and flexible to allow for current and future needs. The goals of efficient and responsible have been established to meet Whatcom County Council Resolution 2005-233 -- Resolution promoting the use of LEED (Leadership in Energy and Environmental Design) Standards in the construction and renovation of County Buildings -- and in the construction practices of the private sector. To achieve the goal of making an efficient facility the design team has thought about value, operations and technology of the facility in every decision that has been made thus far. In line with the goal of a responsible facility, the team has continued to study overall environmental responsibility of the public facility.

Whatcom County is dedicated to promoting sustainability with high performance buildings and green building construction practices. The 2005 resolution resolved that where feasible, the County should commit to meeting the LEED “Silver” certification for the construction of all new and County buildings over 5,000 square feet where the County provides the majority of funding. Throughout the design process, it has been the intent of the design decisions to be able to meet the LEED “Silver” certification through initial selection of mechanical systems, light fixtures, site landscaping, on site water detention and reuse, and many more conceptual opportunities. Often it was realized the security and functionality of the jail services are not conducive to the LEED process. Researching for other facilities to use as precedents for implementing design strategies in other regions and states has difficult because jail facilities do not typically receive LEED certification. US Green Building Council (USGBC) and the Green Building Council Institute (GBCI), the organizations that review and award certification, has listed approximately 26 jail facilities within the 68,000 documented on their registry as registering for LEED review. Of those facilities, only ten have received certification. Through this review, it has become clear to the design team that the LEED “Silver” certification was not created for these types of Essential Public Facilities.
DLR Group, the architect and engineer for this project, has done extensive review of 
how the campus could be designed to meet LEED “Silver” certification. Through this 
review, it does not look reasonably feasible to achieve LEED “Silver” for the new jail 
facility without adding substantial costs. Please see Attachment A for more information 
on the specific LEED opportunity matrix. This document walks through the point system 
for LEED certification and shows where the project would have to incur substantial 
additional costs to attempt LEED “Silver” certification. Based on the goals and design 
strategies of the project, the matrix includes 41 points that would be achievable if we 
had the ability to add this cost premium to the project. Providing 41 points is just above 
the threshold for LEED Certified certification, and does not provide the anticipated buffer 
of credits to ensure that this rating would be granted upon review by the LEED panel. 
The panel is randomly selected from a national team of reviewers employed by GBCI. 
These reviewers evaluate criteria based on a pass or fail basis without considering the 
implications of the unique facility. Without this more detailed dialog, it is hard to impress 
upon the reviewer the benefit the strategies are taking to make this building as 
sustainable as possible. There is a brief opportunity to share the story in extended 
detail, but the reviewer holds the discretion to approve or deny points, and typically 
does not have a direct understanding of this project type.

It is very common for public and government agencies to use LEED certification 
because of the public’s recognition of the effort and language of the strategies. By 
achieving a certification level, people and agencies of the community can assume the 
project has provided efforts to prioritize efficiencies throughout the facility without 
knowing the specifics of how the owner achieved the certification. As LEED was the 
first rating system popular in the market, many local, State and Federal agencies have 
adopted resolutions or have LEED requirements for public buildings. Since the 
resolutions became common for agencies to require LEED, new certification products 
have entered the market and are gaining in acceptance and recognition in the county.

These organizations include Green Globes, EnergyStar, Living Building Challenge, 
Architecture 2030 and various localized or regional systems centered in the jurisdictions 
of the project. Jurisdictions have also better defined where LEED certification is 
considered feasible through the verbiage of their resolutions. The Federal government 
(operated by GSA) has language that requires LEED certification where possible, after 
considering budget and schedule constraints on the design and construction contracts. 
In 2013, King County modified their LEED certification to state “as long as there is no 
cost impact to the Current Expense fund and no more than a two-percent cost impact to 
other funds, as compared to projects not seeking certification.” It has been determined 
that design strategies most likely required for the project to reach LEED “Silver” 
certification point minimums will impose a cost impact substantially larger than two-
percent of the anticipated cost.

The current estimated construction cost for the Whatcom County new jail and Sheriff’s 
Headquarters is $82 million. Using the 2% test, as other jurisdictions do, LEED is only 
feasible if the costs for such certification are less than $1,640,000. Our design team 
has worked to make appropriate decisions leading to an efficient facility, with LEED
certification in mind, to optimize energy performance as it is the most prevalent and beneficial criteria to fund for sustainability. Energy efficiency provides long-term paybacks directly to the County through utility costs. Currently the system design for the facility will provide an efficient and maintainable system. For the new jail departments, this system would be a central heating plant approach with high efficient boilers and chillers that will be staged to only use the energy when needed. The new Sheriff's Headquarters is proposed to use a variable refrigerant flow system common in modern office design with a system that allows occupant control to temperatures and lighting and meet the reduced energy requirements consistent with good efficient design and exceed Washington State Energy Code (one of the most stringent codes in the country).

One option that has been discussed and would likely be required to reach the LEED points is an onsite geo-thermal system. This system is above and beyond the efficient design described above that already provides good benefits to energy efficiency of the project. By needing to supplement with the geothermal system, it is estimated to gain 5-8 points while adding approximately $2.2 million dollars to the project estimated budget. If chosen, this strategy alone would exceed the 2% test in LEED feasibility. This is only one example but recognizes the hardship of making LEED certification for a jail facility, where security and safety are very high design requirements and cannot be compromised for the implication of sustainable features. Strategies in addition to the geothermal field would also be required to meet LEED “Silver” point thresholds.

By revising the resolution for LEED certification of this project, it is important to understand that energy efficiency and sustainable design will remain an important goal for the value it brings to the County. Through the Conditional Use Permit for Essential Public Facilities with City of Ferndale, they have required the project meets the City of Ferndale’s EAGLE Standards for Platinum certification. The EAGLE program was developed by the City of Ferndale specifically for the commercial development within the city. It provides goals to address primary elements specifically important to the City of Ferndale through environmental efficiency, advanced technology, greater good, low impact development and economic development. When using the EAGLE criteria for a project that is able to achieve LEED “Silver” certified, the points in the categories for Environmental Efficiency and Greater Good are exempt from consideration because they were developed with close reference to the LEED criteria, and share similar calculations and design strategies. The EAGLE Standards is a very good local test of similar standards outlined in LEED certification. Throughout the process of documenting the EAGLE criteria, we are able to discuss first hand with the EAGLE board, which is also the entity that awards points, the strategies we are providing. This provides an opportunity to educate the board on why the strategies are making this building the most sustainable for the community it resides. The board allows and encourages interpretations of the design criteria to ensure a facility such as the jail is not hindered in meeting the strategies because it is not a commercial development that the criteria were based upon.
We can also work with the board to ensure the strategies and conditions meet their intentions and preferences for a good community building, while not compromising the security and operations of the jail. For example, many topics in the EAGLE strategy are centered on community open spaces and areas for public to congregate. While the security and operations of the jail deter people from loitering on the site it does open the question of how the campus can be used in a safe manner at designated times for the public to meet. Provisions for a community meeting room are being developed for feasibility within the building, and will be considered. Discussions with the Board will confirm the impact and desirability for them to have these resources. This relationship with City of Ferndale is desired by Whatcom County in the development of this campus in Ferndale, and all opportunities to reach EAGLE platinum will be reviewed together with the Board.

Whatcom County is committed to designing and constructing the most sustainable, energy efficient facility for the new jail and Sheriff’s Headquarters as feasible. The Administration asks that the Council adopt a resolution that recognizes the County is dedicated to building County facilities that are sustainable, energy efficient and high performance buildings, and recognizes that LEED “Silver” Certification is simply not feasible for the new Jail and Sheriff’s Headquarters due to the unique characteristics of the facility type.
Resolution 2015-____________________

RESOLUTION RECOGNIZING THAT LEED (LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN) “SILVER” CERTIFICATION FOR THE NEW JAIL AND SHERIFF’S HEADQUARTERS IS NOT FEASIBLE

WHEREAS, in 2005 the Whatcom County Council passed a resolution promoting the use of LEED standards in the construction and renovation of County buildings and in the construction practices of the private sector; and

WHEREAS, Resolution 2005-028 commits the County to meeting, where feasible, the LEED “Silver” rating for the construction of all new and renovated County buildings over 5,000 square feet where the County provides the majority of funding; and

WHEREAS, sustainable, energy efficient, high performance buildings and green building practices can be defined as building practices that conserve resources, use recycled materials, maximize energy efficiency, reduce waste, prevent pollution, improve indoor air quality, and consider lifecycle analysis to promote environmental, economic and social benefits in the design and construction of a building project; and

WHEREAS, the term "Green Building" has become synonymous with other terms and trade names such as "high performance building", "smart building", "BuiltGreen", "sustainable design and construction", "healthy building", "eco building"; and

WHEREAS, Whatcom County recognizes that the principles of LEED and high performance buildings and green building practices are supported by a variety of goals and policies in the Whatcom County Comprehensive Plan; and

WHEREAS, the County encourages, and is presently considering, Low Impact Development (LID) strategies in the public and private sector and that these are integral components of LEED and high performance buildings and green building practices; and
WHEREAS, the United States Green Building Council has created a variety of rating systems to address multiple areas of construction, such as existing buildings and commercial interiors, collectively referred to as the LEED Rating System TM that identifies a range of actions and performance measures that define high performance buildings and green building practices through quantification criteria and provide a third party certification process for such buildings; and

WHEREAS, the County Council and County Administration support sustainable economic development by encouraging the expansion of the environmental services and products sector, that includes high performance buildings and green building practices, products, and technologies; and

WHEREAS, the State of Washington has adopted legislation requiring all new public buildings to meet LEED standards, many local jurisdictions have adopted legislation or passed resolutions recognizing the importance of meeting LEED standards for new public buildings; and

WHEREAS, the General Services Administration (GSA) of the Federal Government requires LEED “Gold” be incorporated into ongoing designs where possible, after considering budget and schedule constraints on the current designs, and in 2013 King County passed an ordinance requiring LEED “Platinum” certification “as long as there is no cost impact to the Current Expense fund and no more than a two-percent cost impact to other funds, as compared to projects not seeking certification”; and

WHEREAS, Resolution 2005-028 does not define “where feasible” when it commits the County to meet LEED “Silver” certification for new and renovated buildings over 5,000 square feet built and funded by Whatcom County, and numerous jurisdictions with LEED ordinances or resolutions have defined “feasible” with cost impact to the project in mind; and

WHEREAS, the new jail and Sheriff’s Headquarters has project design goals to make the facility safe, responsible, efficient and allow for current and future needs and is committed to overall environmental responsibility, value, operations and technology to design a facility that is sustainable, energy efficient and high performance; and
WHEREAS, DLR Group, the architect for the new jail and Sheriff’s Headquarters has done extensive review of how the jail and Sheriff’s Headquarters can be designed to meet LEED “Silver” certifications and has determined that for this project to meet LEED “Silver” the cost impact will be substantially greater than two-percent of the anticipated cost;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the County is dedicated to building facilities that are sustainable, energy efficient and high performance and recognizes that LEED “Silver” Certification for the new jail and Sheriff’s Headquarters is not feasible.

BE IT FURTHER RESOLVED that the Whatcom County Council supports the incorporation of other appropriate and feasible actions into the design elements of the new jail and Sheriff’s Headquarters particularly the use of the City of Ferndale’s “Eagle Standards”, key design and building factors that are part of the LEED Standards, including protection and restoration of habitat, maximization of open space, LID stormwater design, light pollution reduction, water use reduction, water efficient landscaping, optimizing energy performance, low emitting materials, and indoor chemical and pollutant source control.

APPROVED this _______ day of ____________, 2015

ATTEST: ______________________________

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________
Dana Brown-Davis,
Clerk of the Council

______________________________
Carl Weimer,
Council Chair

APPROVED AS TO FORM:

______________________________
Civil Deputy Prosecutor
LEED v2009 Compliance
This is the initial review of the LEED v2009 opportunity matrix. Per these comments, the opportunity matrix is providing a total of 41 points attempted, 25 points may be attempted depending on the final design strategies, and 44 points not attempted. Fifty points is the minimum required points for Silver Certification. To ensure a Silver rating, it is recommended to have approximately 8-10 points over the goal to ensure some points that are not granted do not compromise the certification level. From this review, with 41 points we are barely achieving certification. It is unlikely the facility will achieve LEED Silver without providing additional points, and therefore incurring added cost to the project MACC.

Items underlined indicate credits which require additional up front capital costs to complete the criteria associated.

I. Sustainable Sites
(Total Points Submitted = 10 points; 26 points available)

1. Prerequisite 1 – Construction Activity Pollution Prevention – (Required)
   a. This credit monitors on site activities by the contractor. This is considered standard practice and contractor selected will follow criteria to keep a clean site. This credit is not an additional cost to the project.

2. Prerequisite 2 – Environmental Site Assessment – (Required)

3. Credit 1 – Site Selection – (No point submitted)
   a. This credit requires the project to be developed in areas that are not farmland, on the FEMA floodplain, endangered species land, land within wetlands, or parkland. Our site has many wetlands, and some of the property may be within the 100 year floodplain.

4. Credit 2 – Development Density and Community Connectivity – (No points submitted)
   a. The area around the site does not provide the criteria within the required radius. Some of the organizations that provide the community connectivity were specifically avoided to place the jail such as a daycare or a school due to the nature of the jail and people required to check in at the jail.

5. Credit 3 – Brownfield Redevelopment – (No points submitted)
   a. The site is an undeveloped greenfield site and cannot qualify for brownfield points.

6. Credit 4 – Alternative Transportation – (Total Points Submitted = 4 Points)
   a. 4.1 Public Transportation – Three points will be attempted. There is currently no transportation at to the site that meets the frequency of route. It is noted that Whatcom Transit does locate routes when facilities are planned. We can coordinate with the transit system during design to provide proof for the submittal that we will have transit. This route will require two bus routes which may be accomplished by providing one route to Bellingham and one to Ferndale. There is
nominal cost associated with the building to add infrastructure such as a bus stop at the new street improvements for the route, but this would be a positive add for the community, and will be recommended as base scope. Adding toilet rooms designated for the drivers will provide additional points, but are an added cost to the facility beyond the base scope.

b. 4.2 Bicycle Storage and Changing Rooms – One point will be attempted to include bike racks. Staff locker rooms have showers for staff to use to meet the criteria of the point. This credit is not an additional cost to the project.

c. 4.3 Low Emitting and Fuel Efficient Vehicles – Three points may be attempted but are not calculated in the total at this time. Approximately 8 staff parking stalls and 2 public parking stalls shall be designated for fuel efficient cars. Owner shall confirm if it is appropriate to assume 8 staff people will have fuel efficient vehicles. It is not recommended to provide electric charging stations on site because this is an added expense. Implementing this credit is not an additional cost to the project.

d. 4.4 Parking Capacity – No points are attempted for this credit because staff and officer parking is required for all employees. This capacity will be confirmed with the minimum local zoning codes, but it is likely not at the minimum required stalls. This credit would be a cost saving to the project because parking lots would be minimized in size, but the implications affect the feasibility of the facility for the staff.

7. Credit 5 – Site Development – (Total Points Submitted = 2 Points)
   a. 5.1 Protect or Restore Habitat – One point will be attempted. The site strategy is driven by the constraints of the wetland and the criteria protects construction development around the wetlands. This credit is not an additional cost to the project, but sets guidelines for the contractor to assist in protecting the site.

   b. 5.2 Maximize Open Space – One point will be attempted. This point requires open space on the site, and the wetland areas may be included. If using the wetlands, there are requirements for slop of the sides of the wetlands that should be considered. The area of wetlands is more than the footprint of the building and should comply. This credit is a hard credit to achieve with the tight constraints of our site. This credit is not an additional cost to the project but will impact the design criteria of the wetland mitigation strategies.

8. Credit 6 – Stormwater Design – (Total Points Submitted = 1 Points)
   a. 6.1 Quantity Control – One point will be attempted for quantity control of stormwater, however this credit is complicated with the site restrictions for area on our site. Criteria will dictate the locations and sizes of stormwater detention ponds, and the full quantity may not be able to fit on the site. We are proposing an aggressive drainage approach to the site design. This aggressive approach will require additional cost in the stormwater detention pond construction than standard to meet the design criteria of the point.

   b. 6.2 Quality Control – One point may be attempted for quality control. It is a site design strategy to protect the wetlands from water runoff.
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contaminates, but the criteria of this point may not be appropriate for our site conditions. By implementing distributed LID approach (multiple small rain gardens and ponds) we should be able to achieve this credit. **To provide this point will require additional cost in the stormwater detention pond construction than standard to meet the design criteria of the point.**

9. Credit 7 – Heat Island Effect – (Total Points Submitted = 2 Points)
   a. 7.1 Non-Roof – One point will be attempted. This point does not require additional cost.
   b. 7.2 Roof – One point will be attempted. This point does not require additional cost, but it may limit the roofing options and manufacturers. Facilities department will need to confirm all manufacturers are acceptable regardless if it is the standard for the County.

10. Credit 8 – Light Pollution Reduction – (Total Points Submitted = 1 Points)
    a. One point will be attempted. Criteria is in line with the goals of EAGLE. City of Ferndale and Department of Ecology have set requirements that the intent of this credit is met in this facility. This credit is not an additional cost to the project.

II. **Water Efficiency**
    *(Total Points Submitted = 4 points, 10 points possible)*

1. Prerequisite 1 – Water Use Reduction – (Required)
   a. This point is required and can be implemented throughout the facility. Security fixtures should be sourced to meet these requirements, but will also be provided as a variance if they don’t meet the criteria. This credit is not an additional cost to the project.

2. Credit 1 – Water Efficient Landscaping – (Total Points Submitted = 4 Points)
   a. Two points will be attempted. Landscaping design strategy is based on water efficient landscaping. It is intended to not require irrigation on the site, so may achieve an additional two points. This credit is not an additional cost to the project.

3. Credit 2 – Innovative Wastewater Technologies – (No Points Submitted)
   a. One strategy that may be implemented is graywater system for toilet flushing, which is costly to implement for the entire jail and may not be suitable for inmate areas. We would initially size for the Sheriff HQ and support buildings. *This credit is not attempted because of the cost to the infrastructure for this credit. All technologies are an additional cost to the facility and may not meet the security requirements of the facility.*

4. Credit 3 – Water Use Reduction (Total Points Submitted = 2 points)
   a. Two points will be attempted. Water use reduction may be provided for all non-security fixtures to meet the criteria of this point. A variance for security fixtures is likely required and will be issued. Time control flush valves may provide additional potential for more water reduction, but the impact would need to be confirmed through a variance with LEED
reviewers. *This credit is not an additional cost to the project, but it does require LEED reviewers to understand the complexity of security fixtures to meet the criteria.*

III. Energy and Atmosphere  
*(Total Points Submitted = 10 points; 35 points possible)*

1. Prerequisite 1 – Fundamental Commissioning (Required)  
   a. This point is a cost, but it is considered standard practice and included in the soft costs anticipated for the project. It is not considered an additional cost due to LEED certification.

2. Prerequisite 2 – Minimum Energy Performance (Required)  
   a. Washington State Energy codes exceed the requirements of this point. This credit is not an additional cost to the project.

3. Prerequisite 3 – Fundamental Refrigerant Management (Required)  
   a. Refrigerant will be provided in the facility, but the baseline design criteria will meet the intent of this point. This credit is not an additional cost to the project.

4. Credit 1 – Optimize Energy Performance (Total Points Submitted = 5)  
   a. Five points will be attempted. The system design for the facility is designed to provide an efficient and maintainable system for the facilities department. To achieve more points, the implementation of the Variable Refrigerant Flow (VRF) system would provide a potential of 3 additional points.  
   b. *The importance of this credit for the long term pay backs to the facility makes this point advantageous to direct more budget of the project to the mechanical system. Providing additional Energy Conservation Measures (ECM’s) will be an additional cost to the project, but is recommended due to the overall benefit it provides.*  
   c. One significant ECM would be an added Geothermal System to the site. This system is estimated to add approximately $2.2 million dollars to the project, but will provide an additional 5 points and long term payback in utility costs. The payback for this system may be close to 30 years, but as the facility is designed to operate for 50-75 years, the payback scale is tangible and should be installed during this phase of construction.

5. Credit 2 – On-site Renewable Energy – (No Points Submitted)  
   a. *All on-site renewables are an added cost to the project, and have not been budgeted in the cost estimates of the project.* Though renewable energy resources provide a great benefit to the community and facility, it is not recommended to use capital costs for these features at this time.  
   b. *For small additional costs to the project, some areas of the building may be made ready for future installations as the cost of the system continue to decline.* These features may include including the structural impacts to the roof structure for roof mounted PV systems. This would also require a small area designated for future electrical connection near the existing connection to the power grid.
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6. Credit 3 – Enhanced Commissioning – (Total Points Submitted = 2 points)
   a. Two points will be attempted. Enhanced commissioning provides a verification of all systems operation and education to the facilities department to ensure the building is operating as required. It is understood Whatcom County implements Enhanced Commissioning on projects throughout the facility, and should be used on this project. Enhanced Commissioning is an additional cost for LEED certified buildings but has been allocated in the soft costs of the project.

7. Credit 4 – Enhanced Refrigerant Maintenance – (No Points Submitted)
   a. Variable Refrigerant Flow (VRF) system has been provided throughout the office areas outside the secure perimeter. This system does not meet the criteria of this credit and therefore is not attempted. This point is not attempted because the VRF system will provide significant energy optimization and is preferred in EA Credit 1. This credit is not an additional cost to the project.

8. Credit 5 – Measurement and Verification – (Total Points Submitted = 3 points)
   a. Three points will be attempted. This credit is a benefit to the facilities department because it provides a resource to monitor how the building is responding once occupied. This credit is not an additional cost to the project, but does have requirements to be implemented by the owner throughout the first year of occupancy.

9. Credit 6 – Green Power – (No Point Submitted)
   a. This credit requires a contract of the owner with a provider of Green Power for a minimum of two years to provide a minimum of 35% of the annual electricity from renewable resources. This credit is 100% an additional cost to the project and should only be implemented as a last resort. PSE's Green Power program is estimated at $2.00 per 160kW. Estimated usage for this facility is XXXX. Total cost of Green Power should be confirmed prior to agreeing for this point.

IV. Materials & Resources
(Total Points Submitted = 6 points; 14 points possible)

1. Prerequisite 1 – Storage and Collection of Recyclables – (Required)
   a. Standard operations require space for collection of recyclables. This credit is not an additional cost to the project.

2. Credit 1 – Building Reuse – (No Points Submitted)
   a. 1.1 Maintain Existing Walls, Floor & Roof – There are no existing facilities on the site, therefore this point is not applicable to our project.
   b. 1.2 Maintain 50% of Interior Non-Structural Elements – There are no existing facilities on the site, therefore this point is not applicable to our project.

3. Credit 2 – Construction Waste Management – (Total Points Submitted = 2 points)
   a. Two points will be attempted. This credit monitors on site waste by the contractor. This is considered standard practice and contractor selected
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will follow criteria to keep separate waste accordingly. This credit is not
an additional cost to the project.

4. Credit 3 – Materials Reuse – (No Points Submitted)
a. There are no existing facilities on the site and the existing buildings will
not be demolished prior to occupancy of the new building. To ensure
the materials or equipment is viable for the next 50-75 years of this
building, reusing existing materials is not recommended unless
structurally viable. Therefore this point is not applicable to our project.

5. Credit 4 – Recycled Content – (Total Points Submitted = 1 points)
a. One point will be attempted. Materials throughout the facility will have
recycled concrete, but materials required for security features such as
wall construction cannot be compromised for recycled content.
Materials that meet the criteria will be used wherever possible, but may
not exceed 20%. This credit is not an additional cost to the project.

6. Credit 5 – Regional Materials – (Total Points Submitted = 1 points)
a. One point will be attempted. The most predominant material on the
facility is the concrete cell construction, which is manufactured in
Auburn, WA, which is within the 500 mile radius from the project site.
This credit is not an additional cost to the project.

7. Credit 6 – Rapidly Renewable Materials – (No Points Submitted)
a. One point may be attempted, but locations of rapidly renewable
materials are limited to the Sheriff HQ. These products are made from
materials that are more common in office environments such as
bamboo or cork. Materials that meet the criteria will be used wherever
possible, but may not meet the threshold compared to the other
products throughout the facility 20%. Due to the large quantity of
available materials where they are applicable, this credit is not an
additional cost to the project.

8. Credit 7 – Certified Wood – (Total Points Submitted = 1 Point)
a. One point will be attempted. Where applicable, all wood remaining in
the facility will be FSC labeled. As this is common in wood industry, this
is not considered an additional cost to the facility.

V. Indoor Environmental Quality
(Total Points Submitted = 8 points; 15 points possible)

1. Prerequisite 1 – Minimum IAQ Performance – (Required)
a. Washington State Energy codes exceed the requirements of this point.
This credit is not an additional cost to the project.

2. Prerequisite 2 – Environmental Tobacco Smoke (ETS) Control – (Required)
a. Washington State laws exceed the requirements of this point. This
credit is not an additional cost to the project.

3. Credit 1 – Outdoor Air Delivery Monitoring – (Total Points Submitted = 1 Point)
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a. One point will be attempted. This point requires monitoring,  
   notifications, and connection to the BMS. These devices would be  
   provided throughout the facility to meet these needs. This credit is not  
   an additional cost to the project.

4. Credit 2 – Increased Ventilation – (No Points Submitted)  
a. Due to the requirements at the cells throughout the facility, this credit  
   may be designed into the system to meet the criteria. This credit is not  
   an additional cost to the project, but the thresholds are difficult to  
   achieve based on the LEED criteria.

5. Credit 3 – Construction IAQ Management Plan – (Total Points Submitted = 2 Points)  
a. 3.1 During Construction – One point will be attempted. This is  
   considered standard practice and contractor selected will follow criteria  
   to ensure the materials are dry and clean. There are minimal costs for  
   filters and monitoring associated with this credit, but is not considered  
   an additional cost to the project.

b. 3.2 Before Occupancy – One point will be attempted. This credit  
   requires specific guidelines on flushing the building prior to occupancy.  
   At the time of flushing, construction schedule may be impacted as the  
   contractor is required to be complete with many construction activities  
   and allow time in the schedule for flushing (approximately 10 days).  
   Due to the end of construction scheduled in mid-winter 2019, keeping  
   the parameters consistent during the flush may add time to the  
   schedule. The impact of this criteria is an impact to schedule, but not  
   determined to be an additional cost to the project.

6. Credit 4 – Low Emitting Materials – (Total Points Submitted = 4 Points)  
a. 4.1 Adhesives and Sealants – One point will be attempted. Whatcom  
   County policy requires low emitting materials and products throughout  
   to ensure chemical impacts are minimized for the life of the facility. Due  
   to the basis of design for low emitting materials, this credit is not an  
   additional cost to the project.

b. 4.2 Paints and Coatings – One point will be attempted. Whatcom  
   County policy requires low emitting materials and products throughout  
   to ensure chemical impacts are minimized for the life of the facility. Due  
   to the basis of design for low emitting materials, this credit is not an  
   additional cost to the project.

c. 4.3 Flooring Systems – One point will be attempted. Whatcom County  
   policy requires low emitting materials and products throughout to ensure  
   chemical impacts are minimized for the life of the facility. Due to the  
   basis of design for low emitting materials, this credit is not an additional  
   cost to the project.

d. 4.4 Composite Wood and Agrifiber Products – One point will be  
   attempted. Whatcom County policy requires low emitting materials and  
   products throughout to ensure chemical impacts are minimized for the  
   life of the facility. Due to the basis of design for low emitting materials,  
   this credit is not an additional cost to the project.
7. Credit 5 – Indoor Chemical and Pollutant Source Control – (Total Points Submitted = 1 points)
   a. One point will be attempted. The criteria of these requirements comply with the goals set by entry systems for the facility. Additionally, due to the neighboring industrial uses to the site, filters and pollutant control will be required as standard throughout the facility. This credit is not an additional cost to the facility.

8. Credit 6 – Controllability of Systems – (No Points Submitted)
   a. 6.1 Lighting – Inmates constitute most of the facility and will not have access to control their lighting or thermal comfort directly. Therefore, this credit is not applicable to this project. It may be attempted for a variance of control provided through CCR, but this is an operational change that must be considered by the owner. Implementing a remote or direct control to every cell will be considered an additional cost to the project.
   b. 6.2 Thermal Comfort – Inmates constitute most of the facility and will not have access to control their lighting or thermal comfort directly. Therefore, this credit is not applicable to this project. It may be attempted for a variance of control provided through CCR, but this is an operational change that must be considered by the owner. Implementing a remote or direct control to every cell will be considered an additional cost to the project.

9. Credit 7 – Thermal Comfort – (No Points Submitted)
   a. 7.1 Design – Due to the nature of the jail facility and how thermal comfort is regulated throughout, it is unlikely the criteria of the point will be met for this facility.
   b. 7.2 Verification – Due to the nature of the jail facility and how thermal comfort is regulated throughout, it is unlikely the criteria of the point will be met for this facility.

10. Credit 8 – Daylight and Views – (No Points Submitted)
    a. 8.1 Daylight 75% of Spaces – Due to the requirements that rooms within the jail cannot have windows, it is unlikely the criteria of this point will be met. Though it is a priority to provide natural daylighting wherever possible, the hours and times where daylight modelling is conducted will not meet the criteria. Additionally, daylighting within the dayrooms is provided above required levels to allow borrowed light into the cells. This over-daylighting does not meet the criteria.
    b. 8.2 Views for 90% of Spaces - Due to the requirements that rooms within the jail cannot have windows, it is unlikely the criteria of this point will be met.

VI. Innovation & Design Process – Innovation points will be attempted and determined at the time of submission.
(Total Points Submitted = 3 points; 6 points possible)

1. Innovation points are complicated points to achieve because the LEED reviewer may not believe in the points that are submitted. It is a strategy to show the

12/17/2014
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building is achieving goals above and beyond, and is completely at the discretion of the reviewer. Innovation points may include:

a. Mercury free fixtures
b. Integrated Design Process (per criteria of LEED v4)
c. More advanced wetland mitigation strategies
d. Exemplary performance in previous criteria

2. Credit 2 – LEED AP – (Total Points Submitted = 1 Point)

VII. Regional Bonus Credits
(Total Points Submitted = 0 points; 4 points possible)

1. All regional points for 98225 are not applicable to our project. They include optimizing energy beyond the points provided, on site renewables, brownfield development, and building reuse.
LEED v2009 Registered Project Checklist - New Construction & Major Renovation

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<tr>
<td>1</td>
<td>Credit 6.2</td>
</tr>
<tr>
<td>1</td>
<td>Credit 7.1</td>
</tr>
<tr>
<td>1</td>
<td>Credit 7.2</td>
</tr>
<tr>
<td>1</td>
<td>Credit 8</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Water Efficiency</th>
<th>10 Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prereq 1</td>
<td>Water Use Reduction, 20% Reduction</td>
</tr>
<tr>
<td>2 2</td>
<td>Credit 1</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Credit 2</td>
</tr>
<tr>
<td>2 1 1</td>
<td>Credit 3</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Prereq 1</td>
<td>Fundamental Commissioning of the Building Energy Systems</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Prereq 2</td>
<td>Minimum Energy Performance (10% New Blds or 5% Existing Bldg Renovations)</td>
</tr>
<tr>
<td>Prereq 3</td>
<td>Fundamental Refrigerant Management</td>
</tr>
</tbody>
</table>

Credit 1  Optimize Energy Performance

- Improve by 12% for New Buildings or 8% for Existing Building Renovations 1
- Improve by 14% for New Buildings or 10% for Existing Building Renovations 2
- Improve by 16% for New Buildings or 12% for Existing Building Renovations 3
- Improve by 18% for New Buildings or 14% for Existing Building Renovations 4
- Improve by 20% for New Buildings or 16% for Existing Building Renovations 5
- Improve by 22% for New Buildings or 18% for Existing Building Renovations 6
- Improve by 24% for New Buildings or 20% for Existing Building Renovations 7
- Improve by 26% for New Buildings or 22% for Existing Building Renovations 8
- Improve by 28% for New Buildings or 24% for Existing Building Renovations 9
- Improve by 30% for New Buildings or 26% for Existing Building Renovations 10
- Improve by 32% for New Buildings or 28% for Existing Building Renovations 11
- Improve by 34% for New Buildings or 30% for Existing Building Renovations 12
- Improve by 36% for New Buildings or 32% for Existing Building Renovations 13
- Improve by 38% for New Buildings or 34% for Existing Building Renovations 14
- Improve by 40% for New Buildings or 36% for Existing Building Renovations 15
- Improve by 42% for New Buildings or 38% for Existing Building Renovations 16
- Improve by 44% for New Buildings or 40% for Existing Building Renovations 17
- Improve by 46% for New Buildings or 42% for Existing Building Renovations 18
- Improve by 48% for New Buildings or 44% for Existing Building Renovations 19

Credit 2  On-Site Renewable Energy

- 1% Renewable Energy 1
- 3% Renewable Energy 2
- 5% Renewable Energy 3
- 7% Renewable Energy 4
- 9% Renewable Energy 5
- 11% Renewable Energy 6
- 13% Renewable Energy 7

Credit 3  Enhanced Commissioning

- 2

Credit 4  Enhanced Refrigerant Management

- 2

Credit 5  Measurement & Verification

- 3

Credit 6  Green Power

- 2
## Materials & Resources

<table>
<thead>
<tr>
<th>Prereq</th>
<th>Storage &amp; Collection of Recyclables</th>
<th>Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Building Reuse, Maintain Existing Walls, Floors &amp; Roof</td>
<td>1 to 3</td>
</tr>
<tr>
<td></td>
<td>Reuse 55%</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Reuse 75%</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Reuse 95%</td>
<td>3</td>
</tr>
</tbody>
</table>

| Credit 1.2 | Building Reuse, Maintain 50% of Interior Non-Structural Elements | 1        |
| Credit 2    | Construction Waste Management | 1 to 2  |
|            | 50% Recycled or Salvaged      | 1        |
|            | 75% Recycled or Salvaged      | 2        |

| Credit 3    | Materials Reuse | 1 to 2 |
|            | Reuse 5%       | 1      |
|            | Reuse 10%      | 2      |

| Credit 4    | Recycled Content | 1 to 2 |
|            | 10% of Content   | 1      |
|            | 20% of Content   | 2      |

| Credit 5    | Regional Materials | 1 to 2 |
|            | 10% of Materials   | 1      |
|            | 20% of Materials   | 2      |

| Credit 6    | Rapidly Renewable Materials | 1      |
| Credit 7    | Certified Wood | 1      |

## Indoor Environmental Quality

<table>
<thead>
<tr>
<th>Prereq 1</th>
<th>Minimum IAQ Performance</th>
<th>Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Y</td>
<td>Environmental Tobacco Smoke (ETS) Control</td>
<td>Required</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Prereq 2</th>
<th>Required</th>
</tr>
</thead>
</table>

| Credit 1 | Outdoor Air Delivery Monitoring | 1      |
| Credit 2 | Increased Ventilation | 1      |
| Credit 3.1 | Construction IAQ Management Plan, During Construction | 1      |
| Credit 3.2 | Construction IAQ Management Plan, Before Occupancy | 1      |
| Credit 4.1 | Low-Emitting Materials, Adhesives & Sealants | 1      |
| Credit 4.2 | Low-Emitting Materials, Paints & Coatings | 1      |
| Credit 4.3 | Low-Emitting Materials, Flooring Systems | 1      |
| Credit 4.4 | Low-Emitting Materials, Composite Wood & Agrifiber Products | 1      |
| Credit 5 | Indoor Chemical & Pollutant Source Control | 1      |
| Credit 6.1 | Controlliability of Systems, Lighting | 1      |
| Credit 6.2 | Controlliability of Systems, Thermal Comfort | 1      |
| Credit 7.1 | Thermal Comfort, Design | 1      |
| Credit 7.2 | Thermal Comfort, Verification | 1      |
| Credit 8.1 | Daylight & Views, Daylight 75% of Spaces | 1      |
| Credit 8.2 | Daylight & Views, Views for 90% of Spaces | 1      |

## Innovation & Design Process

| Credit 1.1 | Innovation in Design | 1      |
| Credit 1.2 | Innovation in Design | 1      |
| Credit 1.3 | Innovation in Design | 1      |
| Credit 1.4 | Innovation in Design | 1      |
| Credit 1.5 | Innovation in Design | 1      |
| Credit 2 | LEED® Accredited Professional | 1      |
### Regional Bonus Credits (4)

<table>
<thead>
<tr>
<th>Credit</th>
<th>Description</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Regional Priority: Optimize Energy</td>
<td>1</td>
</tr>
<tr>
<td>1</td>
<td>Regional Priority: On site Renewables</td>
<td>1</td>
</tr>
<tr>
<td>1</td>
<td>Regional Priority: Brownfield</td>
<td>1</td>
</tr>
<tr>
<td>1</td>
<td>Regional Priority: Building Reuse</td>
<td>1</td>
</tr>
</tbody>
</table>

### Project Totals (pre-certification estimates)

<table>
<thead>
<tr>
<th>Total</th>
<th>110 Points</th>
</tr>
</thead>
</table>

#### Footnotes

1. These Basic Opportunities are strong sustainability issues but may not contribute to LEED credits. However, if these strategies are firmly innovative they may qualify for credits under Innovation & Design Process.

2. Level 1 - Easier to attain; Level 2 - Moderate to attain; Level 3 - More elaborate to attain.

3. Items listed as 'Required' must be attained before any other credits in that category can be attained for LEED certification.

4. Refer to [www.usgbc.org](http://www.usgbc.org) for regional priorities credits based on local project zip code.

5. CL - Civil, LS - Landscape, AR - Architectural, ST - Structural, ME - Mechanical, EL - Electrical.

6. Time Line: Implement credit requirements as early as corresponding phases listed and continue implementation if more than one phase is listed. Project Phases are as below.

   - (P) Planning Phase - Includes Site Selection, Programming and Conceptual Design
   - (D) Design Phase - Includes Schematic, Design Development and Construction Documents
   - (C) Construction Phase - Includes Bid Negotiation, Substantial Completion and Final Project Closeout
   - (O) Operation Phase - Includes Post-Occupancy Period of Warranty and On-Going Use

7. Cost Implication above a minimum code compliant base project design. Budget Totals per category includes only achievable credits.
Microsoft Enterprise Agreement – Three Year Software Maintenance

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.)

Request authorization for the County Executive to enter into a contract with CompuCom Systems, Inc. pursuant to State of Washington contract T11-MST-579 for the renewal of our Microsoft Enterprise Agreement in the amount of $154,146.53 per year.

Related County Contract #: | Related File Numbers: | Ordinance or Resolution Number:
--- | --- | ---

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.
MEMORANDUM

TO: Whatcom County Council
   Jack Louws, County Executive

FROM: Perry Rice, IT Manager

RE: Microsoft Enterprise Agreement Renewal – Three Year Software Maintenance

DATE: January 16, 2015

Enclosed is a proposed contract between CompuCom Systems Inc. (CompuCom) and Whatcom County to renew our Microsoft Enterprise Agreement for your review and signature. This is a revised contract to the one that Council approved on 12/09/2014 in the amount of $134,444.49. On 12/22/2014 CompuCom notified the County that a significant pricing error had been made on their part and the contract could not be executed. The current agreement expired on 12/31/2014 and Microsoft has provided the County with a grace period.

- **Background and Purpose**
Whatcom County currently has a Microsoft Enterprise Agreement that provides organization-wide software licensing for various Microsoft products such as Microsoft Office Professional Pro, Microsoft networking and other components. The agreement was amended in 2013 to include promotional pricing for Microsoft Exchange Online (e-mail).

Whatcom County receives discounted pricing from Microsoft pursuant to State of Washington contract # T11-MST-579 with CompuCom Systems Inc. The purpose of this agreement is to renew the Microsoft Enterprise Agreement for a new 3-year term.

- **Funding Amount and Source**
This agreement is to pay software maintenance in the amount of $154,146.53 per year for 2015, 2016 and 2017. The annual sources of funding are the IT Base Budget and the Technology Replacement & Revolving Fund.

- **Differences from Previous Contract**
This agreement represents an increase of $29,659 per year over the prior agreement primarily due to the addition of Microsoft Exchange Online (e-mail) to our base Microsoft Enterprise Agreement along with pricing increases for existing products. Our e-mail plan changes from Exchange Online Plan 1 to Office 365 Enterprise E3 which provides additional features such as instant messaging, document sharing and storage.

Please contact Perry Rice at x 52511 or Denise Toth Banyan at x 50639, if you have any questions or concerns regarding the terms of this agreement.
### WHATCOM COUNTY CONTRACT INFORMATION SHEET

**Contractor’s / Agency Name:** CompuCom Systems, Inc.

**Contract or Grant Administrator:** Perry L. Rice

**Originating Department:** AS-Information Technology

<table>
<thead>
<tr>
<th>Is this a New Contract?</th>
<th>Yes ☒ No ☐</th>
<th>If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: 201203004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does contract require Council Approval?</td>
<td>Yes ☒ No ☐</td>
<td>If No, include WCC: (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</td>
</tr>
<tr>
<td>Is this a grant agreement?</td>
<td>Yes ☐ No ☒</td>
<td>If yes, grantor agency contract number(s): CFDA#:</td>
</tr>
<tr>
<td>Is this contract grant funded?</td>
<td>Yes ☐ No ☒</td>
<td>If yes, Whatcom County grant contract number(s):</td>
</tr>
<tr>
<td>Is this contract the result of a RFP or Bid process?</td>
<td>Yes ☒ No ☐</td>
<td>State of WA Contract: T11-MST-579 Contract:</td>
</tr>
<tr>
<td>Is this agreement excluded from E-Verify?</td>
<td>No ☐ Yes ☒</td>
<td>Cost Center: 507111 &amp; 507700</td>
</tr>
</tbody>
</table>

If YES, indicate exclusion(s) below:
- Professional services agreement for certified/licensed professional.
- Contract work is for less than $100,000.
- Contract work is for less than 120 days.
- Interlocal Agreement (between Governments).
- Contract for Commercial off the shelf items (COTS).
- Work related subcontract less than $25,000.
- Public Works - Local Agency/Federally Funded FHWA.

**Contract Amount:** sum of original contract amount and any prior amendments:
- $154,146.53 per Year

**This Amendment Amount:**

**Total Amended Amount:**

**Summary of Scope:**

Renewal of three year Microsoft Enterprise Agreement that provides software maintenance for organization-wide use of select Microsoft products. These products include Microsoft Office, Microsoft Exchange Online (e-mail) and Microsoft networking (client access licenses).

**Term of Contract:** 3-Year

<table>
<thead>
<tr>
<th>Expiration Date:</th>
<th>December 31, 2017</th>
</tr>
</thead>
</table>

**Contract Routing:**
1. Prepared by: TGH Date: 1/14/2015
2. Attorney signoff: Date: 1/14/15
3. AS Finance reviewed: Date: 1/14/15
4. IT reviewed (if IT related): Date: 1/14/15
5. Contractor signed: Date: 1/16/15
6. Submitted to Exec.: Date: 1/16/15
7. Council approved (if necessary): Date: 1/16/15
8. Executive signed: Date: 1/16/15
9. Original to Council: Date: 1/16/15

**Last Edited:** 060414
This Microsoft Enterprise Enrollment is entered into between the entities as identified in the signature form as of the effective date. Enrolled Affiliate represents and warrants it is the same Customer, or an Affiliate of the Customer, that entered into the Enterprise Agreement identified on the program signature form.

This Enrollment consists of: (1) these terms and conditions, (2) the terms of the Enterprise Agreement identified on the signature form, (3) the Product Selection Form, (4) any supplemental contact information form or Previous Agreement/Enrollment form that may be required, (5) any order submitted under this Enrollment. This Enrollment may only be entered into under a 2011 or later Enterprise Agreement.

All terms used but not defined are located at http://www.microsoft.com/licensing/contracts. In the event of any conflict the terms of this Agreement control.

Effective date. If Enrolled Affiliate is renewing Software Assurance or Subscription Licenses from one or more previous Enrollments or agreements, then the effective date will be the day after the first prior Enrollment or agreement expires or terminates. Otherwise, the effective date will be the date this Enrollment is accepted by Microsoft. Any reference to “anniversary date” refers to the anniversary of the effective date each year this Enrollment is in effect.

Term. The initial term of this Enrollment will expire on the last day of the month, 36 full calendar months from the effective date of the initial term. If the Enrollment is renewed, the renewal term will expire 36 full calendar months after the effective date of the renewal term. Any reference in this Enrollment to “day” will be a calendar day.

Product order. The Reseller will provide Enrolled Affiliate with Enrolled Affiliate’s Product pricing and order. Prices and billing terms for all Products ordered will be determined by agreement between Enrolled Affiliate and the Reseller. The Reseller will provide Microsoft with the order separately from this Enrollment.

Terms and Conditions

1. Definitions.

Terms used but not defined in this Enrollment will have the definition in the Enterprise Agreement. The following definitions are used in this Enrollment:

“Additional Product” means any Product identified as such in the Product List and chosen by Enrolled Affiliate under this Enrollment.

“Enterprise Online Service” means any Online Service designated as an Enterprise Online Service in the Product List and chosen by Enrolled Affiliate under this Enrollment. Enterprise Online Services are treated as Online Services, except as noted.

"Enterprise Product" means any Desktop Platform Product that Microsoft designates as an Enterprise Product in the Product List and chosen by Enrolled Affiliate under this Enrollment. Enterprise
Products must be licensed for all Qualified Devices and Qualified Users on an Enterprise-wide basis under this program.

"Expiration Date" means the date upon which the Enrollment expires.

"Industry Device" (also known as line of business device) means any device that: (1) is not useable in its deployed configuration as a general purpose personal computing device (such as a personal computer), a multi-function server, or a commercially viable substitute for one of these systems; and (2) only employs an industry or task-specific software program (e.g. a computer-aided design program used by an architect or a point of sale program) ("Industry Program"). The device may include features and functions derived from Microsoft software or third-party software. If the device performs desktop functions (such as email, word processing, spreadsheets, database, network or Internet browsing, or scheduling, or personal finance), then the desktop functions: (1) may only be used for the purpose of supporting the Industry Program functionality; and (2) must be technically integrated with the Industry Program or employ technically enforced policies or architecture to operate only when used with the Industry Program functionality.

"L&SA" means a License with Software Assurance for any Product ordered.

"Qualified Device" means any device that is used by or for the benefit of Enrolled Affiliate’s Enterprise and is: (1) a personal desktop computer, portable computer, workstation, or similar device capable of running Windows Professional locally (in a physical or virtual operating system environment), OR (2) a device used to access a virtual desktop infrastructure ("VDI"). Qualified Devices do not include any device that is: (1) designated as a server and not used as a personal computer, OR (2) an Industry Device, OR (3) not managed (as defined in the Product List at the start of the applicable initial or renewal term of the Enrollment) as part of Enrolled Affiliate’s Enterprise. At its option, the Enrolled Affiliate may designate any device excluded above (e.g., Industry Device) that is used by or for the benefit of the Enrolled Affiliate’s Enterprise as a Qualified Device for all or a subset of Enterprise Products or Online Services the Enrolled Affiliate has selected.

"Qualified User" means a person (e.g., employee, consultant, contingent staff) who: (1) is a user of a Qualified Device, or (2) accesses any server software requiring an Enterprise Product Client Access License or any Enterprise Online Service. It does not include a person who accesses server software or an Online Service solely under a License identified in the Qualified User exemptions in the Product List.

"Reserved License" means for an Online Service identified as eligible for true-ups in the Product List, the license reserved by Enrolled Affiliate prior to use and for which Microsoft will make the Online Service available for activation.

"Transition" means the conversion of one or more License to or from another License(s). Products eligible for Transition and permitted Transitions are identified in the Product List.

"Transition Period" means the time between the Transition and the next Enrollment anniversary date for which the Transition is reported.

2. Order requirements.

a. Minimum Order requirements. Enrolled Affiliate’s Enterprise must have a minimum of 250 Qualified Users or Qualified Devices. The initial order must include at least 250 Licenses for Enterprise Products or Enterprise Online Services.

   (i) Enterprise Commitment. If ordering any Enterprise Products, Enrolled Affiliate’s order must include coverage for all Qualified Users or Qualified Devices, depending on the License Type, of one or more Enterprise Products or a mix of Enterprise Products and the corresponding Enterprise Online Services.

   (ii) Enterprise Online Services. If ordering Enterprise Online Services only, then Enrolled Affiliate must maintain at least 250 Subscription Licenses.

b. Additional Products. Upon satisfying the minimum order requirements above, Enrolled Affiliate may order Additional Products and Services.

c. Product Use Rights for Enterprise Products. For Enterprise Products, if a new Product version has more restrictive use rights than the version that is current at the start of the
applicable initial or renewal term of the Enrollment, those more restrictive use rights will not apply to Enrolled Affiliate's use of that Product during that term.

d. **Country of usage.** Enrolled Affiliate must specify the countries where Licenses will be used on its initial order and on any additional orders.

e. **Adding Products.**

(i) **Adding new Products not previously ordered.** Enrolled Affiliate may add new Enterprise Products by entering into a new Enrollment or as part of a renewal. New Enterprise Online Services may be added by contacting a Microsoft Account Manager or Reseller. New Additional Products, other than Online Services, may be used if an order is placed in the month the Product is first used. For Additional Products that are Online Services, an initial order for the Online Service is required prior to use.

(ii) **Adding Licenses for previously ordered Products.** Additional Licenses for previously ordered Products must be included in the next true-up order. Enrolled Affiliate must purchase Services and Licenses for Online Services prior to use, unless the Online Services are (1) identified as eligible for true-up in the Product List or (2) included as part of other Licenses (e.g., Enterprise CAL).

f. **True-up requirements.**

(i) **True-up order.** Enrolled Affiliate must submit an annual true-up order that accounts for changes since the initial order or last true-up order, including: (1) any increase in Licenses, including any increase in Qualified Devices or Qualified Users and Reserved Licenses; (2) Transitions (if permitted); or (3) Subscription License quantity reductions (if permitted). Microsoft, at its discretion, may validate the customer true-up data submitted through a formal product deployment assessment using an approved Microsoft partner.

(ii) **Enterprise Products.** Enrolled Affiliate must determine the number of Qualified Devices and Qualified Users (if ordering user-based Licenses) at the time the true-up order is placed and must order additional Licenses for all Qualified Devices and Qualified Users that are not already covered by existing Licenses, including any Enterprise Online Services.

(iii) **Additional Products.** For Products that have been previously ordered, Enrolled Affiliate must determine the Additional Products used and order the License difference (if any).

(iv) **Online Services.** For Online Services identified as eligible for true-up orders in the Product List, Enrolled Affiliate may first reserve the additional Licenses prior to use. Microsoft will provide a report of Reserved Licenses in excess of existing orders to Enrolled Affiliate and its Reseller. Reserved Licenses will be invoiced retroactively for the prior year based upon the month in which they were reserved.

(v) **Transitions.** Enrolled Affiliate must report all Transitions. Transitions may result in an increase in Licenses to be included on the true-up order and a reduction of Licenses for prior orders. Reductions in Licenses will be effective at end of the Transition Period. Associated invoices will also reflect this change. For Licenses paid upfront, Microsoft will issue a credit for the remaining months of Software Assurance or Subscription Licenses that were reduced as part of the Transition.

(vi) **True-up due date.** The true-up order must be received by Microsoft between 60 and 30 days prior to the Enrollment anniversary date. The third-year anniversary true-up order is due within 30 days prior to the Expiration Date. Enrolled Affiliate may true-up more often than at each Enrollment anniversary date except for Subscription License reductions.

(vii) **Late true-up order.** If the true-up order is not received when due:

1) Microsoft will invoice Reseller for all Reserved Licenses not previously ordered.

2) Transitions and Subscription License reductions cannot be reported until the following Enrollment anniversary date (or at Enrollment renewal, as applicable).
(viii) **Subscription License reductions.** Enrolled Affiliate may reduce the quantity of Subscription Licenses on a prospective basis if permitted in the Product List as follows:

1) For Subscription Licenses part of an Enterprise-wide purchase, Licenses may be reduced if the total quantity of Licenses and Software Assurance for an applicable group meets or exceeds the quantity of Qualified Devices identified on the Product Selection Form. Step-up Licenses do not count towards this total count.

2) For Enterprise Online Services not a part of an Enterprise-wide purchase, Licenses can be reduced as long as the initial order minimum requirements are maintained.

3) For Additional Products available as Subscription Licenses, Enrolled Affiliate may reduce the Licenses. If the License count is reduced to zero, then Enrolled Affiliate’s use of the applicable Subscription License will be cancelled. Invoices will be adjusted to reflect any reductions in Subscription Licenses at the true-up order Enrollment anniversary date and effective as of such date.

(ix) **Update statement.** An update statement must be submitted instead of a true-up order if, as of the initial order or last true-up order, Enrolled Affiliate’s Enterprise has not: (1) changed the number of Qualified Devices and Qualified Users licensed with Enterprise Products or Enterprise Online Services; and (2) increased its usage of Additional Products. This update statement must be signed by Enrolled Affiliate’s authorized representative. The update statement must be received by Microsoft between 60 and 30 days prior to the Enrollment anniversary date. The last update statement is due within 30 days prior to the Expiration Date.

g. **Step-up Licenses.** For Licenses eligible for a step-up under this Enrollment, Enrolled Affiliate may step-up to a higher edition or suite as follows:

(i) For step-up Licenses included on an initial order, Enrolled Affiliate may order according to the true-up process.

(ii) If step-up Licenses are not included on an initial order, Enrolled Affiliate may step-up initially by following the process described in the Section titled "Adding new Products not previously ordered," then for additional step-up Licenses, by following the true-up order process.

(iii) If Enrolled Affiliate has previously ordered an Online Service as an Additional Product and wants to step-up to an Enterprise Online Service eligible for a Transition, the step-up may be reported as a Transition.

(iv) If Enrolled Affiliate Transitions a License, it may be able to further step-up the Transitioned License. If Enrolled Affiliate chooses to step-up and the step-up License is separately eligible to be Transitioned, such step-up Licenses may result in a License reduction at the Enrollment anniversary date following the step-up.

h. **Clerical errors.** Microsoft may correct clerical errors in this Enrollment, and any documents submitted with or under this Enrollment, by providing notice by email and a reasonable opportunity for Enrolled Affiliate to object to the correction. Clerical errors include minor mistakes, unintentional additions and omissions. This provision does not apply to material terms, such as the identity, quantity or price of a Product ordered.

3. **Pricing.**

   a. **Price Levels.** For both the initial and any renewal term Enrolled Affiliate’s Price Level for all Products ordered under this Enrollment will be Level “D” throughout the term of the Enrollment. Price Level’s will be captured in the Product Selection Form.

   b. **Setting Prices.** Enrolled Affiliate’s prices for each Product will be established by its Reseller. As long as Enrolled Affiliate continues to qualify for the same price level, Microsoft’s prices for Resellers for each Product or Service will be fixed throughout the applicable initial or renewal Enrollment term. However, if Enrolled Affiliate qualifies for a different price level, Microsoft will establish a new price level for future new orders either
upon Enrolled Affiliate’s request or on its own initiative. Any changes will be based upon price level rules in the Product Selection Form.

4. **Payment terms.**

For the initial or renewal order, Enrolled Affiliate may pay upfront or elect to spread its payments over the applicable Enrollment term. If spread payments are elected, unless indicated otherwise, Microsoft will invoice Enrolled Affiliate’s Reseller in three equal annual installments. The first installment will be invoiced upon Microsoft’s acceptance of this Enrollment and on each Enrollment anniversary date. Subsequent orders are invoiced upon acceptance of the order and Enrolled Affiliate may elect to pay annually or upfront for Online Services and upfront for all other Licenses.

5. **Transitions.**

a. **Transition requirements.**

(i) Licenses with active Software Assurance or Subscription Licenses may be Transitioned at any time if permitted in the Product List. Enrolled Affiliate may not, however, reduce the quantity of Licenses or associated Software Assurance prior to the end of the Transition Period.

(ii) Enrolled Affiliate must order the Licenses to which it is transitioning for the year(s) following the Transition Period.

(iii) If a Transition is made back to a License that had active Software Assurance as of the date of Transition, then Software Assurance must be re-ordered for all such Licenses on a prospective basis following the Transition Period. Software Assurance coverage may not exceed the quantity of perpetual Licenses for which Software Assurance was current at the time of any prior Transition. Software Assurance may not be applied to Licenses transferred by Enrolled Affiliate.

(iv) If a device-based License is Transitioned to a user-based License, all users of the device must be licensed as part of the Transition.

(v) If a user-based License is Transitioned to a device-based License, all devices accessed by the user must be licensed as part of the Transition.

b. **Effect of Transition on Licenses.**

(i) Transition will not affect Enrolled Affiliate’s rights in perpetual Licenses paid in full.

(ii) New version rights will be granted for perpetual Licenses covered by Software Assurance up to the end of the Transition Period.

(iii) For L&SA not paid in full at the end of the Transition Period, Enrolled Affiliate will have perpetual Licenses for a proportional amount equal to the amounts paid for the Transitioned Product as of the end of the Transition Period.

(iv) For L&SA not paid in full or granted a perpetual License in accordance with the above or Subscription Licenses, all rights to Transitioned Licenses cease at the end of the Transition Period.

6. **End of Enrollment term and termination.**

a. **General.** At the Expiration Date, Enrolled Affiliate must immediately order and pay for Licenses for Products it has used but has not previously submitted an order, except as otherwise provided in this Enrollment.

b. **Renewal Option.** At the Expiration Date of the initial term, Enrolled Affiliate can renew Products by renewing the Enrollment for one additional 36 full calendar month term or signing a new Enrollment. Microsoft must receive a Product Selection Form and renewal order prior to or at the Expiration Date. The renewal term will start on the day following the Expiration Date. Microsoft will not unreasonably reject any renewal. Microsoft may
make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at renewal.

c. If Enrolled Affiliate elects not to renew.

(i) **Software Assurance.** If Enrolled Affiliate elects not to renew Software Assurance for any Product under its Enrollment, then Enrolled Affiliate will not be permitted to order Software Assurance later without first acquiring L&SA.

(ii) **Online Services eligible for an Extended Term.** For Online Services identified as eligible for an Extended Term in the Product List, the following options are available at the end of the Enrollment initial or renewal term.

1) **Extended Term.** Licenses for Online Services will automatically expire in accordance with the terms of the Enrollment. An extended term feature that allows Online Services to continue month-to-month ("Extended Term") is available. During the Extended Term, Online Services will be invoiced monthly at the then-current published price for Enrolled Affiliate's price level as of the Expiration Date plus a 3% administrative fee for up to one year. If Enrolled Affiliate does not want an Extended Term, Reseller must submit a request to Microsoft. Microsoft must receive the request not less than 30 days prior to the Expiration Date.

2) **Cancellation during Extended Term.** If Enrolled Affiliate has opted for the Extended Term and later determines not to continue with the Extended Term, Reseller must submit a notice of cancellation for each Online Service. Cancellation will be effective at the end of the month following 30 days after Microsoft has received the notice.

(iii) **Subscription Licenses and Online Services not eligible for an Extended Term.** If Enrolled Affiliate elects not to renew, the Licenses will be cancelled and will terminate as of the Expiration Date. Any associated media must be uninstalled and destroyed and Enrolled Affiliate's Enterprise must discontinue use. Microsoft may request written certification to verify compliance.

(iv) **Customer Data.** Upon expiration or termination of a License for Online Services, Microsoft will keep Customer's Data in a limited function account for 90 days so that Customer may extract it. Enrolled Affiliate will reimburse Microsoft if there are any associated costs. After 90 days Microsoft will disable Enrolled Affiliate's account and will delete its Customer Data. Enrolled Affiliate agrees that, other than as described above, Microsoft has no obligation to continue to hold, export or return Enrolled Affiliate's Customer Data and that Microsoft has no liability whatsoever for deletion of Enrolled Affiliate's Customer Data pursuant to these terms.

d. **Termination for cause.** Any termination for cause of this Enrollment will be subject to the "Termination for cause" section of the Agreement.

e. **Early termination.** Any Early termination of this Enrollment will be subject to the "Early Termination" Section of the Enterprise Agreement.

For Subscription Licenses, in the event of a breach by Microsoft, Microsoft will issue Reseller a credit for any amount paid in advance that would apply after the date of termination.
Enrollment Details

1. **Enrolled Affiliate’s Enterprise.**
   a. Identify which Agency Affiliates are included in the Enterprise. (Required) Enrolled Affiliate’s Enterprise must consist of entire offices, bureaus, agencies, departments or other entities of Enrolled Affiliate, not partial offices, bureaus, agencies, or departments, or other partial entities. Enrolled Affiliate’s organization includes:
   Check only one box in this section. If no boxes are checked, Microsoft will deem the Enterprise to include the Enrolled Affiliate only. If more than one box is checked, Microsoft will deem the Enterprise to include the largest number of Affiliates:
   - [x] Enrolled Affiliate only
   - [ ] Enrolled Affiliate and the following Affiliate(s) (Only identify specific affiliates to be included if fewer than all Affiliates are to be included in the Enterprise):
   - [ ] Enrolled Affiliate and all Affiliates, with following Affiliate(s) excluded:
   
   b. Please indicate whether the Enrolled Affiliate’s Enterprise will include all new Affiliates acquired after the start of this Enrollment. Check only one box in this section:
   - [x] Enrolled Affiliate’s Enterprise will include all new Affiliates acquired after the start of this Enrollment
   - [ ] Enrolled Affiliate’s Enterprise will **not** include all new Affiliates acquired after the start of this Enrollment
   If no selection is made, or if both boxes are checked, Microsoft will deem the Enterprise to include all future Affiliates.

2. **Contact information.**

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields. By providing contact information, Enrolled Affiliate consents to its use for purposes of administering this Enrollment by Microsoft, its Affiliates, and other parties that help administer this Enrollment. The personal information provided in connection with this Enrollment will be used and protected in accordance with the privacy statement available at [https://www.microsoft.com/licensing/servicecenter](https://www.microsoft.com/licensing/servicecenter).

   a. **Primary contact.** This contact is the primary contact for the Enrollment from within Enrolled Affiliate’s Enterprise. This contact is also an Online Administrator for the Volume Licensing Service Center and may grant online access to others. The primary contact will be the default contact for all purposes unless separate contacts are identified for specific purposes.

   - Name of entity (must be legal entity name)* Whatcom County
   - Contact name* First Perry  Last Rice
   - Contact email address* price@co.whatcom.wa.us
   - Street address* 311 Grand Ave., Suite 305
b. Notices contact and Online Administrator. This contact (1) receives the contractual notices, (2) is the Online Administrator for the Volume Licensing Service Center and may grant online access to others, and (3) is authorized for applicable Online Services to add or reassign Licenses, step-up, and initiate Transitions prior to a true-up order.

☐ Same as primary contact (default if no information is provided below, even if the box is not checked).

Contact name* First Denise Last Toth Banyan
Contact email address* dtothban@co.whatcom.wa.us
Street address* 311 Grand Ave., Suite 305
City* Bellingham
State/Province* WA
Postal code* 98225-4038
(For U.S. addresses, please provide the zip + 4, e.g. xxxx-xxxx)
Country* USA
Phone* 360.676.7684

Language preference. Choose the language for notices. English
☐ This contact is a third party (not the Enrolled Affiliate). Warning: This contact receives personally identifiable information of the Customer and its Affiliates.
* indicates required fields

c. Online Services Manager. This contact is authorized to manage the Online Services ordered under the Enrollment and (for applicable Online Services) to add or reassign Licenses, step-up, and initiate Transitions prior to a true-up order.

☐ Same as notices contact and Online Administrator (default if no information is provided below, even if box is not checked)

Contact name*: First Last
Contact email address*
Phone*
☐ This contact is from a third party organization (not the entity). Warning: This contact receives personally identifiable information of the entity.
* indicates required fields

d. Reseller information. Reseller contact for this Enrollment is:

Reseller company name* CompuCom Systems, Inc.
Street address (PO boxes will not be accepted)* 7171 Forest Lane
City* Dallas
State/Province* TX
Postal code* 75230-2306
Country* USA
Contact name* Bruce Valentin
Phone* 972-856-4617
Contact email address* msadmin@compucom.com
* indicates required fields
By signing below, the Reseller identified above confirms that all information provided in this Enrollment is correct.

<table>
<thead>
<tr>
<th>Signature*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Printed name*</td>
</tr>
<tr>
<td>Printed title*</td>
</tr>
<tr>
<td>Date*</td>
</tr>
</tbody>
</table>

* indicates required fields

Changing a Reseller. If Microsoft or the Reseller chooses to discontinue doing business with each other, Enrolled Affiliate must choose a replacement Reseller. If Enrolled Affiliate or the Reseller intends to terminate their relationship, the initiating party must notify Microsoft and the other party using a form provided by Microsoft at least 90 days prior to the date on which the change is to take effect.

e. If Enrolled Affiliate requires a separate contact for any of the following, attach the Supplemental Contact Information form. Otherwise, the notices contact and Online Administrator remains the default.

(i) Additional notices contact
(ii) Software Assurance manager
(iii) Subscriptions manager
(iv) Customer Support Manager (CSM) contact

3. Financing elections.

Is a purchase under this Enrollment being financed through MS Financing? No

If a purchase under this Enrollment is financed through MS Financing, and Enrolled Affiliate chooses not to finance any associated taxes, it must pay these taxes directly to Microsoft Corporation.
Enterprise Enrollment Product Selection Form

<table>
<thead>
<tr>
<th>Proposal ID</th>
<th>Enrollment Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>0294797.001</td>
<td></td>
</tr>
</tbody>
</table>

Language: English (United States)

Enrolled Affiliate's Enterprise Products and Enterprise Online Services summary for the initial order:

<table>
<thead>
<tr>
<th>Profile</th>
<th>Qualified Devices</th>
<th>Qualified Users</th>
<th>Device / User Ratio</th>
<th>Enterprise Product Platform</th>
<th>CAL Licensing Model</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enterprise</td>
<td>827</td>
<td>827</td>
<td>1.0</td>
<td>No</td>
<td>User Licenses</td>
</tr>
</tbody>
</table>

Products

Office 365 Plans

<table>
<thead>
<tr>
<th>Product</th>
<th>Enterprise Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office 365 (Plan E3)</td>
<td>827</td>
</tr>
</tbody>
</table>

Client Access License (CAL)

Core CAL, including Bridge CAL's (if applicable)

<table>
<thead>
<tr>
<th>Product</th>
<th>Enterprise Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Core CAL Bridge for Office 365</td>
<td>827</td>
</tr>
</tbody>
</table>

Enrolled Affiliate's Product Quantities:

<table>
<thead>
<tr>
<th>Price Group</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
</tr>
</thead>
</table>

| Quantity | 827 | 827 | 0   | 0   |

Enrolled Affiliate's Price Level:

<table>
<thead>
<tr>
<th>Product Offering / Pool</th>
<th>Price Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enterprise Products and Enterprise Online Services USLs: Unless otherwise indicated in associated contract documents, Price level set using the highest quantity from Groups 1 through 4.</td>
<td>D</td>
</tr>
<tr>
<td>Additional Product Application Pool: Unless otherwise indicated in associated contract documents, Price level set using quantity from Group 1.</td>
<td>D</td>
</tr>
<tr>
<td>Additional Product Server Pool: Unless otherwise indicated in associated contract documents, Price level set using the highest quantity from Group 2 or 3.</td>
<td>D</td>
</tr>
<tr>
<td>Additional Product Systems Pool: Unless otherwise indicated in associated contract documents, Price level set using quantity from Group 4.</td>
<td>D</td>
</tr>
</tbody>
</table>

NOTES

EA-EASProdSelForm(WW)(ENG) 101
Unless otherwise indicated in the associated contract documents, the price level for each Product offering / pool is set as described above, based upon the quantity to price level mapping below:

<table>
<thead>
<tr>
<th>Quantity of Licenses and Software Assurance</th>
<th>Price Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,399 and below</td>
<td>A</td>
</tr>
<tr>
<td>2,400 to 5,999</td>
<td>B</td>
</tr>
<tr>
<td>6,000 to 14,999</td>
<td>C</td>
</tr>
<tr>
<td>15,000 and above</td>
<td>D</td>
</tr>
</tbody>
</table>

**Note 1:** Enterprise Online Services may not be available in all locations. Please see the Product List for a list of locations where these may be purchased.

**Note 2:** If Enrolled Affiliate does not order an Enterprise Product or Enterprise Online Service associated with an applicable Product pool, the price level for Additional Products in the same pool will be price level "A" throughout the term of the Enrollment. Refer to the Qualifying Government Entity Addendum pricing provision for more details on price leveling.

**Note 3:** Bridge CAL, Office 365 Plan E3 Add Ons, EMS Add Ons, Windows Ent SA Per User Add Ons, and Enterprise Cloud Suite Add On quantities are not included for Price Leveling, as License quantities are determined by the corresponding Enterprise Online Service(s).
Program Signature Form

MBA/MBSA number

Agreement number 01E73529

6-EMSK7E5TN

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, “Customer” can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

<table>
<thead>
<tr>
<th>Contract Document</th>
<th>Number or Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;Choose Agreement&gt;</td>
<td></td>
</tr>
<tr>
<td>&lt;Choose Agreement&gt;</td>
<td></td>
</tr>
<tr>
<td>&lt;Choose Agreement&gt;</td>
<td></td>
</tr>
<tr>
<td>&lt;Choose Agreement&gt;</td>
<td></td>
</tr>
<tr>
<td>&lt;Choose Agreement&gt;</td>
<td></td>
</tr>
<tr>
<td>Enterprise Enrollment</td>
<td>X20-10631</td>
</tr>
<tr>
<td>&lt;Choose Enrollment/Registration&gt;</td>
<td></td>
</tr>
<tr>
<td>&lt;Choose Enrollment/Registration&gt;</td>
<td></td>
</tr>
<tr>
<td>&lt;Choose Enrollment/Registration&gt;</td>
<td></td>
</tr>
<tr>
<td>&lt;Choose Enrollment/Registration&gt;</td>
<td></td>
</tr>
<tr>
<td>EA Product Selection Form</td>
<td>0294797.001_PSF</td>
</tr>
<tr>
<td>Amendment</td>
<td>M97 (NEW)</td>
</tr>
<tr>
<td>Discount Transparency Disclosure Form</td>
<td>X20-12769</td>
</tr>
</tbody>
</table>

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer

Name of Entity (must be legal entity name)* Whatcom County

Signature* ____________________________

Printed First and Last Name* Jack Louws

Printed Title County Executive

Signature Date* January 28, 2015

Tax ID 91-6001383

* Indicates required field
#### Microsoft Affiliate

**Microsoft Corporation**

<table>
<thead>
<tr>
<th>Signature</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Printed First and Last Name</td>
<td></td>
</tr>
<tr>
<td>Printed Title</td>
<td></td>
</tr>
<tr>
<td><strong>Signature Date</strong></td>
<td>(date Microsoft Affiliate countersigns)</td>
</tr>
<tr>
<td><strong>Agreement Effective Date</strong></td>
<td>(may be different than Microsoft's signature date)</td>
</tr>
</tbody>
</table>

---

**Optional 2nd Customer signature or Outsourcer signature (if applicable)**

#### Customer

<table>
<thead>
<tr>
<th>Name of Entity (must be legal entity name)*</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Signature</strong></td>
<td></td>
</tr>
<tr>
<td>Printed First and Last Name*</td>
<td></td>
</tr>
<tr>
<td>Printed Title</td>
<td></td>
</tr>
<tr>
<td><strong>Signature Date</strong></td>
<td></td>
</tr>
</tbody>
</table>

* indicates required field

#### Outsourcer

<table>
<thead>
<tr>
<th>Name of Entity (must be legal entity name)*</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Signature</strong></td>
<td></td>
</tr>
<tr>
<td>Printed First and Last Name*</td>
<td></td>
</tr>
<tr>
<td>Printed Title</td>
<td></td>
</tr>
<tr>
<td><strong>Signature Date</strong></td>
<td></td>
</tr>
</tbody>
</table>

* indicates required field

---

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

**Microsoft Corporation**  
Dept. 551, Volume Licensing  
6100 Neil Road, Suite 210  
Reno, Nevada 89511-1137  
USA
Enterprise Enrollment (Indirect)  
Invoice for Quoted Price  
Amendment ID M97

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Notwithstanding anything to the contrary or in addition to any terms in the Enrollment, the Enrollment new is hereby amended to add the following paragraph:

The price quoted to Enrolled Affiliate's Reseller is a fixed price based on an estimated order submission date. Microsoft will invoice Enrolled Affiliate's Reseller based on this fixed price quote. If this order is submitted later than the estimated order submission date, Enrolled Affiliate's Reseller will be charged for net new Online Services subscriptions for the period during which these services were not provided. Pricing to Enrolled Affiliate is agreed between Enrolled Affiliate and Enrolled Affiliate's Reseller.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.
Enterprise Enrollment
Discount Transparency Disclosure Form

Discount Details

Reseller will place an order on behalf of Enrolled Affiliate with the Total ERP Deal Value as listed below. The "Total ERP Deal Value" is the sum of the Estimated Retail Price (ERP) for all products ordered, listed in the currency in which your Reseller transacts with Microsoft. Resellers pay a net price to purchase products from Microsoft; that price may be lower than ERP. For this Enrollment, Microsoft provided Enrolled Affiliate's Reseller an additional discount off the Reseller's net price, and that additional discount is shown in the "% Discount to Reseller Net Price Total Deal Value" column in the table below. Enrolled Affiliate's actual final price and currency will be established by a separate agreement between Enrolled Affiliate and its Reseller.

Step 1. Complete all fields in the table below (required)

<table>
<thead>
<tr>
<th>Currency</th>
<th>Total ERP Deal Value</th>
<th>% Discount to Reseller Net Price Total Deal Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>US Dollar</td>
<td>$513132.00</td>
<td>11.22 %</td>
</tr>
</tbody>
</table>

This disclosure is valid only for the duration of the Enrollment.

Reseller acknowledgement

Name of Reseller
Printed Name
Printed Title

This form must be attached to a signature form to be valid.
WHATCOM COUNTY:
Recommended for Approval:

IT Manager Date

Approved as to form:

Prosecuting Attorney Date
CompuCom - software quote
Quoted by Jan Edwards, CompuCom 7171 Forest Lane Dallas, TX 75230
Phone 406-295-4548, jedwards@compucom.com

Quoted to: Whatcom County

Date 01/16/2015 MS EA Renewal O365 E3

Important: Please provide the email address of the recipient designated to receive a CompuCom "order confirmation"

<table>
<thead>
<tr>
<th>Quantity</th>
<th>Part #</th>
<th>Description</th>
<th>Unit Price</th>
<th>Ext. Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>827</td>
<td>U3J-00028</td>
<td>CoreCALBridgeOff365 ALNG SA MVL UsrCAL</td>
<td>$ 13.98</td>
<td>$ 11,561.46</td>
</tr>
<tr>
<td>827</td>
<td>7R3-00002</td>
<td>Off365PlanE3FromSA ShrdSvr ALNG SubsVL MVL PerUsr</td>
<td>$ 142.70</td>
<td>$ 118,012.90</td>
</tr>
<tr>
<td>100</td>
<td>7TC-00001</td>
<td>ExchgOnlnKsk ShrdSvr ALNG SubsVL MVL PerUsr</td>
<td>$ 18.75</td>
<td>$ 1,875.00</td>
</tr>
<tr>
<td>1</td>
<td>395-02504</td>
<td>ExchgSvrEnt ALNG SA MVL</td>
<td>$ 653.81</td>
<td>$ 653.81</td>
</tr>
<tr>
<td>2</td>
<td>312-02257</td>
<td>ExchgSvrStd ALNG SA MVL</td>
<td>$ 114.31</td>
<td>$ 228.63</td>
</tr>
<tr>
<td>1</td>
<td>H04-00268</td>
<td>SharePointSvr ALNG SA MVL</td>
<td>$ 1,097.08</td>
<td>$ 1,097.08</td>
</tr>
<tr>
<td>10</td>
<td>YJD-01077</td>
<td>CISSStd ALNG SA MVL 2Proc</td>
<td>$ 270.57</td>
<td>$ 2,705.70</td>
</tr>
<tr>
<td>300</td>
<td>6VC-01254</td>
<td>WinRmtDsktpSrvcsCAL ALNG SA MVL UsrCAL</td>
<td>$ 18.92</td>
<td>$ 5,674.56</td>
</tr>
</tbody>
</table>

Product-total $ 141,809.13
Sub-Total $ 141,809.13
Tax $ 12,337.39
Shipping No Charge
Total $ 154,146.53

Prices good for 30 days

Pass-Through Warranty and Other Rights. As a reseller, end-user warranties and liabilities (with respect to any third party hardware and software products provided by CompuCom) shall be provided as a pass-through from the manufacturer of such products. All software products are subject to the license agreement of the applicable software supplier, as well as with the software packaging or in the software at time of shipment. CompuCom provides no independent warranties, indemnities or liabilities. Public Sector Disclosure: CompuCom may receive incentive fees for public sector EA transactio

y d ns.
**WHATCOM COUNTY COUNCIL AGENDA BILL NO.** 2015-047B

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
<td>twh</td>
<td>01.16.15</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td>01/16/15</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td>BB</td>
<td>11/16/15</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td>12/19/15</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT**: Contract for Services Agreement with Public Financial Management, Inc.

**ATTACHMENTS**: Contract

**Memo**

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) NO</td>
<td>Requested Date:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**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.)

Executive Louws respectfully requests Council approval of the contract for services agreement between Whatcom County and the Public Financial Management, Inc. for assisting with the preparation of developing a financing plan for the construction of a new jail and Sheriff’s Headquarters.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**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.
MEMORANDUM

TO: Whatcom County Council
FROM: Dewey Desler, Executive Special Projects Manager
RE: Financial Analyst and Consulting Services agreement
DATE: December 5, 2014

Enclosed are two (2) originals of a professional services agreement between The PFM Group and Whatcom County for your review and signature.

- **Background and Purpose**
  The purpose of this agreement is to assist in the development of a financing plan for the construction of a new jail and Sheriff’s headquarters. Assistance will include financial projections, preparation of public materials, analyzing taxing options and ensuring equitable contributions from all jurisdictions.

- **Funding Amount and Source**
  This contract for services is in the amount of $60,000. Funding for this agreement will come from the New Jail Project Fund.

- **Differences from Previous Contract**
  Previous contract included only preliminary analysis. This contract has a more extensive scope and deliverables.

Please contact Tawni Helms at extension 50124, if you have any questions or concerns regarding the terms of this agreement,

Encl.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Executive Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Tawni Helms, Administrative Coordinator</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>The PFM Group</td>
</tr>
</tbody>
</table>

**Is this a New Contract?**
- Yes _x_  No _____
- If not, is this an Amendment or Renewal to an Existing Contract?  Yes ____ No _____
- If Amendment or Renewal, Original Contract # ____________
- Does contract require Council Approval?  Yes ____ No _____

**Is this a grant agreement?**
- Yes ___ No _x__
- If yes, grantor agency contract number(s) ____________ CFDA # ____________

**Is this contract grant funded?**
- Yes ___ No _x__
- If yes, associated Whatcom County grant contract number(s) ____________

**Is this contract the result of a RFP or Bid process?**
- Yes _x_  No _____
- If yes, RFP and Bid number(s) __14-50__
- Cost Center: ____________

*If yes, indicate exclusion(s) below:*
- X Professional services agreement for certified/licensed professional
- □ Contract work is for less than 120 days
- □ Contract less than $100,000.
- □ Contract for Commercial off the shelf items (COTS)
- □ Contract work is all performed outside U.S.
- □ Work related subcontract less than $25,000.
- □ Interlocal Agreement (between Govt’s)
- □ Public Works - Local Agency/Federally Funded FHWA

**Contract Amount:(sum of original contract amount and any prior amendments)**
- $__0,000______

**This Amendment Amount:**
- $________________

**Total Amended Amount:**
- $________________

**Summary of Scope:**
To assist in the development of a financing plan for the construction of a new jail and Sheriff's headquarters. Assistance will include financial projections, preparation of public materials, analyzing taxing options and ensuring equitable contributions from all jurisdictions.

**Term of Contract:**

**Expiration Date:**

**Contract Routing Steps & Signoff:** [sign or initial][indicate date transmitted]

1. Prepared by:  Tawni H  Date 12/5/14  [electronic]
2. Attorney reviewed:  Donald L. Dickson  Date 01/16/15  [electronic]
3. AS Finance reviewed:  ______________  Date ______________  [electronic]
4. IT reviewed if IT related:  ______________  Date ______________  [electronic]
5. Corrections made:  ______________  Date ______________  [electronic]  hard copy printed
6. Attorney signoff:  Donald L. Dickson  Date 01/16/15  [electronic]
7. Contractor signed:  ______________  Date ______________  [summary via electronic; hardcopies]
8. Submitted to Exec Office  ______________  Date ______________
9. Council approved (if necessary)  ______________  Date ______________
10. Executive signed:  ______________  Date ______________
11. Contractor Original Returned to dept:  ______________  Date ______________
12. County Original to Council  ______________  Date ______________
Public Financial Management, Inc., hereinafter called **Contractor**, and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

- General Conditions, pp. 3 to 7,
- Exhibit A (Scope of Work), p. 8,
- Exhibit B (Compensation), p. 9,
- Exhibit C (Certificate of Insurance).

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of February, 2015, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2016.

The general purpose or objective of this Agreement is to provide financial analysis and consulting service in the development of a financing plan for the construction of the new jail and sheriff's headquarters, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed $60,000. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

**IN WITNESS WHEREOF**, the parties have executed this Agreement this ___ day of _____________, 20__.

**CONTRACTOR:**

Public Financial Management, Inc.

__________________________

Susan Musselman, Director

STATE OF WASHINGTON

) ss.

COUNTY OF ________________

On this ___ day of __________, 20__, before me personally appeared ________________ to me known to be the ________________ (title) of ________________ (Company) and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

[Signature]

**NOTARY PUBLIC** in and for the State of Washington, residing at __________________. My commission expires __________________.
Approved as to form:

Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: ______________________
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON  )
                        ) ss
COUNTY OF WHATCOM    )

On this _____ day of __________, 20 __, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

______________________
NOTARY PUBLIC in and for the State of Washington, residing at
_______________________. My commission expires ________________.

CONTRACTOR INFORMATION:

The PFM Group

Address:
1200 Fifth Avenue
Suite 1220
Seattle, WA 98101

Mailing Address:
Same

Contact Name: Susan Musselman

Contact Phone: 360.445.0238

Contact Email: musselman@pfm.com
GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:
The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:
Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:
The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year, and for a total of no longer than three years.

11.1 Termination for Default:
If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County’s option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor’s receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding: Not Applicable

11.3 Termination for Public Convenience: Not Applicable

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:
Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the “Administrative Officer”) the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County’s customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:
The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor’s performance of this Agreement.
The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:
In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards: Not Applicable

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:
The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

30.2 Assignment and Subcontracting:
The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:
The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced:
When the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.
31.2 **Patent/Copyright Infringement:** Not Applicable

32.1 **Confidentiality:**
The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 **Right to Review:**
This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 **Proof of Insurance:**
The Contractor shall carry for the duration of this Agreement insurance with the following minimums:

Commercial General Liability

- Property Damage - $500,000.00 per occurrence;
- Bodily injury- $1,000,000.00 per occurrence.

A Certificate of insurance that also identifies the County as an additional insured on the commercial general liability policy is attached hereto as Exhibit "C". This insurance shall be considered as primary and non-contributory, and shall waive all rights of subrogation. The County insurance shall not serve as a source of contribution.

Professional Liability - $1,000,000 per occurrence:
If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

34.2 **Industrial Insurance Waiver:** Not Applicable

34.3 **Defense & Indemnity Agreement:**
The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 **Non-Discrimination in Employment:**

Contract for Services Agreement
Public Financial Management, Inc.
The County’s policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services: Not Applicable

36.1 Waiver of Noncompetition: Not Applicable

36.2 Conflict of Interest:
If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County’s interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County’s interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:
This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County’s representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County’s right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Tyler Schroeder, Executive Special Projects Manager
311 Grand Avenue, Suite 108
Bellingham, WA 98225
(360) 676-6717

37.2 Notice:
Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County’s Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the “Contractor Information” section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.1 Certification of Public Works Contractor’s Status under State Law: Not Applicable

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions: Not Applicable

38.3 E-Verify: Not Applicable

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes
Contract for Services Agreement
Public Financial Management, Inc.
40.1 Modifications:
Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations: Not Applicable

41.1 Severability:
If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:
Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:
Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:
The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:
The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration: Not Applicable

43.1 Venue and Choice of Law:
In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:
The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:
This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.
EXHIBIT "A"
(SCOPE OF WORK)

Whatcom County will reimburse the PFM Group for services as outlined below.

Financial Analyst.

The PFM Group will:
1) Work with the County Administration to prepare a financing plan for the construction of a new jail and Sheriff's Headquarters.
2) Provide analysis on County financial projections, including revenues, operating costs and financing of the construction and operation of the Whatcom County Jail.
3) Work with the County Administration to develop financial policies regarding participation of cities and other community partners in the construction and operation costs of the jail.
4) Prepare and present public information materials.
5) Analyze taxing options, inclusive of equitable contributions from all jurisdictions and allocation of taxes between jail financing and jail operations.
6) Provide assistance with interlocal agreements for jail construction and usage.
7) Prepare and provide presentations to the County Council and other groups as required.
8) Provide assistance in the preparations for bond rating evaluation.
General Consulting Services will be billed on an hourly basis.

Allowable Expenditures Include:

Staff Rates:
Director $295/hour
Senior Managing Consultant $275/hour
Analyst $195/hour
Associate $175/hour

The County will reimburse the firm for costs of travel and direct expenses related to the services provided, including conference calling services, parking and lodging as may be required. Additionally, the County will be responsible for payment of costs of any third-party services requested on behalf of the County (i.e. bond ratings, official statement printing, electronic dissemination of official statements and bond counsel).

Required travel expenses will be reimbursed at actual cost, up to rates allowed under federal guidelines, receipts must be included with invoice. At no time will reimbursable expenses include alcoholic beverages.

The maximum consideration for this 2015-2016 agreement including expenses and fees is $50,000.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

Initial  Date  Date Received in Council Office  Agenda Date  Assigned to:

Originator:  GPK  1-07-15  1/27/15  Finance

Division Head:  1-8-15

Dept. Head:  1/9/2015  1/27/15  Council

Prosecutor:  1/14/15

Purchasing/Budget:  1/15/15

Executive:  1/16/15

TITLE OF DOCUMENT:
Signal Maintenance Interlocal Agreement – Amendment No. 2, WCC No. 9607013-1

ATTACHMENTS:
- Memorandum
- Contract Information Sheet
- Two (2) originals of the Signal Maintenance Interlocal Agreement – Amendment No. 2

SEPA review required?  ( ) Yes  (x) NO  Should Clerk schedule a hearing?  ( ) Yes  (x) NO
SEPA review completed?  ( ) Yes  ( ) 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.)
This Signal Maintenance Interlocal Agreement - Amendment No. 2 updates the existing signal list that the City of Bellingham currently maintains for Whatcom County. Several signals have been added to the list from recent Whatcom County construction projects.

COMMITTEE ACTION:  

COUNCIL ACTION:

Related County Contract #:  WCC No. 9607013-1
Related File Numbers:  N/A
Ordinance or Resolution Number:  N/A

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.
Memorandum

To: The Honorable Jack Louws, Whatcom County Executive and The Honorable Members of the Whatcom County Council

Through: Frank M. Abart, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director
       James P. Karcher, P.E., Engineering Manager

Date: January 7, 2014

Re: City of Bellingham and Whatcom County
    WCC No. 9607013-1
    Signal Maintenance Interlocal Agreement - Amendment No. 2

Attached for your review and signature are two (2) originals of the Signal Maintenance Interlocal Agreement - Amendment No. 2 between the City of Bellingham and Whatcom County.

Requested Action
Public Works respectfully requests that the County Council authorize the County Executive to execute the attached two (2) originals of the Signal Maintenance Agreement – Amendment No. 2.

Background and Purpose
This Signal Maintenance Interlocal Agreement - Amendment No. 2 updates the existing signal list that the City of Bellingham currently maintains for Whatcom County. Several signals have been added to the list from recent Whatcom County construction projects.

Funding Amount and Source
The signal maintenance costs for this interlocal, covered by Whatcom County road funds, consist of City of Bellingham actual cost expenditures without markup or profit added.

Please contact Kevin Thompson at extension 50690 if you have any questions or concerns regarding this contract.
### Whatcom County Contract Information Sheet

**Originating Department:** Whatcom County Public Works  
**Contract or Grant Administrator:** James P. Karcher, P.E., Engineering Manager  
**Contractor's / Agency Name:** City of Bellingham / Whatcom County

<table>
<thead>
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<th>Question</th>
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<td>If No, include WCC:</td>
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<td>(see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</td>
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<td>Is this a grant agreement?</td>
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<td>No</td>
<td></td>
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<tr>
<td>CFDA#:</td>
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<tr>
<td>Is this contract grant funded?</td>
<td>Yes</td>
<td>No</td>
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<td>If yes, Whatcom County grant contract number(s):</td>
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<td>Is this contract the result of a RFP or Bid process?</td>
<td>Yes</td>
<td>No</td>
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<td>If yes, RFP and Bid number(s):</td>
<td>Contract</td>
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<td>Is this agreement excluded from E-Verify?</td>
<td>No</td>
<td>Yes</td>
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<td></td>
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</table>

If YES, indicate exclusion(s) below:
- Professional services agreement for certified/licensed professional.  
- Contract work is for less than $100,000.  
- Contract work is for less than 120 days.  
- Interlocal Agreement (between Governments).  
- Contract for Commercial off the shelf items (COTS).  
- Work related subcontract less than $25,000.  
- Public Works - Local Agency/Federally Funded FHWA.

| Contract Amount: (sum of original contract amount and any prior amendments): | This Amendment Amount: | Total Amended Amount: | |  
|---|---|---|  
| $ N/A | $ N/A | $ N/A |  

Contracts that require Council Approval (incl. agenda bill & memo):
- Professional Services Agreement above $20,000.  
- Bid is more than $50,000.  
- Amendments that have either an increase greater than 10% or provide a $10,000 increase in amount (whichever is greater)

RENEWALS: Council approval is not required when exercising an option to renew that is provided in the original contract.

**Summary of Scope:** This Signal Maintenance Interlocal Agreement - Amendment No. 2 updates the existing signal list that the City of Bellingham currently maintains for Whatcom County. Several signals have been added to the list from recent Whatcom County construction projects.

| Term of Contract: | Expiration Date: |  |  
| N/A | N/A | |  

**Contract Routing:**
1. Prepared by: K. Thompson  
2. Attorney signoff: Daniel L. Gibson  
3. AS Finance reviewed: bbrabham  
4. IT reviewed (if IT related):  
5. Contractor signed:  
6. Submitted to Exec.:  
7. Council approved (if necessary):  
8. Executive signed:  
9. Original to Council:  

Date: January 2, 2015  
Date: January 8, 2015  
Date: January 8, 2015  
Date:  
Date:  
Date: 1/15/15
WHEREAS, the City of Bellingham and Whatcom County previously entered into an interlocal agreement for traffic signal maintenance work, dated July 26, 1996, and amended on December 13, 2000;

WHEREAS, the original agreement was for maintenance of the two traffic signal systems owned by Whatcom County, located at the Airport Drive/Bennett Drive/West Bakerview Road intersections and the Slater Road/Haxton Way intersection; and

WHEREAS, the title of this Interlocal Agreement is hereby changed from “Airport/Bennett/Bakerview and Slater/Haxton Signal Maintenance Agreement” to “Signal Maintenance Agreement”; and

WHEREAS, Amendment No. 1 added two (2) additional traffic signals at the intersection of Hannegan Road/East Smith Road and West Bakerview Road/James Street Road; and

WHEREAS, the traffic signal at the West Bakerview Road/James Street Road traffic signal is now part of the City of Bellingham’s jurisdiction; and

WHEREAS, Whatcom County has five (5) additional signals which require routine maintenance work; and

NOW, THEREFORE, the original interlocal agreement dated July 26, 1996, amended on December 13, 2000, is hereby amended again as follows:

The traffic signal at West Bakerview Road/James Street Road is hereby removed from this interlocal agreement.

The City of Bellingham agrees to perform maintenance work on five (5) additional signal systems owned by Whatcom County:
- Pedestrian Crossing Signal and Beacons: intersection of Yew Street Road/Kingsmill Street
- Pedestrian Crossing Signal and Beacons: Cable Street mid-block crossing
- Pedestrian Crossing Signal: two (2) separate signals, Kwina Road mid-block crossings
- Traffic Signal: intersection of Birch Bay Lynden Road/Portal Way
Any maintenance of the Birch Bay Lynden Road/Portal Way Traffic Signal requires mandatory coordination with both the Burlington Northern Santa Fe Railway’s Roadmaster and the City of Bellingham’s signal group.

The maintenance schedule for all of the signal systems is revised to match the City of Bellingham’s routine maintenance schedule.

A final list of all current locations is included as part of this agreement as Exhibit “A”.

This amendment is entered into by the undersigned parties for mutual benefits received and shall be made a part of the original Agreement. Unless specifically stated herein, all other terms and conditions of the original agreement shall remain in full force and effect.

DATED this __________ day of ________________________, 2015.

WHATCOM COUNTY

________________________
Jack Louws, County Executive

________________________
Kelli Linville, Mayor

Departmental Approval

Departmental Approval

Approved as to Form:

________________________
Dan Gibson, Chief Civil Deputy Prosecutor

________________________
City Attorney’s Office

STATE OF WASHINGTON  )
 ) SS.
COUNTY OF WHATCOM  )

On this __________ day of ________________________, 2015, before me personally appeared Jack Louws, to me known to be the Whatcom County Executive, and who executed the above instrument and who acknowledged to be the act of signing and sealing thereof.

________________________
NOTARY PUBLIC in and for the State of Washington
Residing at ______________________.
STATE OF WASHINGTON

COUNTY OF WHATCOM

On this _______ day of _____________________, 2015, before me personally appeared Kelli Linville, to me known to be the Mayor of the City of Bellingham, and who executed the above instrument and who acknowledged to be the act of signing and sealing thereof.

______________________________
NOTARY PUBLIC in and for the State of Washington
Residing at _______________________.

EXHIBIT “A”
INTERLOCAL AGREEMENT
CITY OF BELLINGHAM – WHATCOM COUNTY
SIGNAL MAINTENANCE AGREEMENT

SIGNAL LIST

TRAFFIC SIGNALS
1. Birch Bay Lynden Road/Portal Way
2. Slater Road/Haxton Way
3. Airport Road/Bennett Road/Bakerview Road
4. Hannegan Road/E. Smith Road

PEDESTRIAN CROSSING SIGNALS
1. Yew Street Road/Kingsmill Street
2. Cable Street
3. Kwina Road (2 signals)
Public Use Scheduling Agreement for the Ferndale Senior Activity Center with the Jet Oldsters Association of Ferndale.

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.)

To allow the County Executive to renew the Public Use Scheduling Agreement for the Ferndale Senior Activity Center between the Jet Oldsters Association of Ferndale and the Parks & Recreation Department (201211021).
MEMORANDUM

TO: Jack Louws, County Executive

FROM: Michael McFarlane, Director
       Parks & Recreation Department

RE: Contract for Services
    Ferndale Senior Activity Center Staffing and Operations Agreement

DATE: December 30, 2014

Enclosed are two (2) Contracts for Service Agreement originals between Whatcom County Parks & Recreation Department and the Jet Oldsters Association of Ferndale for your review and signature.

- **Background and Purpose**
  The renewal of this contract will outline scheduling and rental responsibilities for the Ferndale Senior Activity Center facility. Whatcom County Parks and Recreation will handle facility reservations and collections. The Jet Oldsters Association will supervise all facility rentals.

- **Funding Amount and Source**
  The fees are established in the 2015 Unified Fee Schedule. Whatcom County Parks and Recreation will retain 25% of the collected fees after expenses. The remaining 75% will be provided to the Jet Oldsters Association in return for on-site supervision of all rentals.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Parks &amp; Recreation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Mike McFarlane</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Jet Oldsters</td>
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<tr>
<td>If yes, RFP and Bid number(s): #11-07</td>
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**Summary of Scope:** The renewal of this contract will outline scheduling and rental responsibilities for the Ferndale Senior Activity Center. Whatcom County Parks & Recreation will handle facility reservations and collections. The Jet Oldsters Association will supervise all facility rentals which they will be reimbursed 75% of collected fees after expenses.

<table>
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<th>Term of Contract:</th>
<th>January 1, 2015</th>
<th>Expiration Date:</th>
<th>December 31, 2016</th>
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**Contract Routing:**
1. Prepared by: DKS  Date: 12/30/14
2. Attorney signoff:  Date: 1/9/15
3. AS Finance reviewed:  Date: 1/9/15
4. IT reviewed (if IT related):  Date:  
5. Contractor signed:  Date: 10/28/14
6. Submitted to Exec.:  Date: 1/12/15
7. Council approved (if necessary):  Date: 
8. Executive signed:  Date: 
9. Original to Council:  Date: 

Last Edited 060414
PUBLIC USE SCHEDULING AGREEMENT
FERNADE SENIOR ACTIVITY CENTER

BETWEEN

JET OLDSTERS ASSOCIATION OF FERNADE

AND

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT

This Agreement is made entered into by Whatcom County Parks & Recreation Department (Parks) and the Jet Oldsters Association of Ferndale (Jet Oldsters) a not-for-profit organization operating in the State of Washington. Parks and Jet Oldsters have maintained a long standing partnership to jointly maintain and operate the Ferndale Senior Activity Center. Parks owns the facility and covers major maintenance, repairs and most utility expenses. Jet Oldsters staff members and volunteers provide custodial services, supervise the reception desk and oversee program activities that take place at the Center.

1. PURPOSE
This Agreement outlines the responsibilities of both parties in regards to the scheduling and supervision of Public Rentals at Ferndale Senior Activity Center located at 1998 Cherry Street, Ferndale, WA 98264. These rentals may be scheduled when the facility is not used for senior citizen activities including evenings, weekends and occasional weekdays.

2. PARKS RESPONSIBILITIES
Parks will be responsible for the following functions related to Public Rentals of the Ferndale Senior Activity Center.

A. Establish Fees & Charges for the Ferndale Senior Activity Center.
B. Post Ferndale Senior Activity Center rental information and room availability on the RecNet online reservation system.
C. Take all Ferndale Senior Activity Center after hour reservations and payments.
D. Account for all receipts and disbursements related to after hour rentals.
E. Reimburse the Ferndale Jet Oldsters on a quarterly basis at the rate of 75% of all receipts minus expenses including convenience fees, taxes, alarm response, and other charges.

3. JET OLDSTERS RESPONSIBILITIES
Jet Oldsters will be responsible for the following duties related to the Public Rentals of the Ferndale Senior Activity Center.

A. Show prospective renters the facility and available equipment.
B. Check out and return keys prior to each rental.
C. Provide orientation on open and closing procedures including deactivating and activating the alarm system.
D. If necessary set up the facility for each rental and make sure that the building is adequately cleaned after each event. All furniture and equipment is to be returned where it was found.
E. Provide a current list of Jet Oldsters members to be on the After Hours Callout List to respond to Security Alarms. A copy of this Callout List will be provided to Parks and kept current by the Jet Oldsters.
F. Cover the cost of any after hour’s false alarm response charges, not due to system failures, at the Ferndale Senior Activity Center. These charges will be deducted from the Parks reimbursements outlined in Section 2 E.
G. Immediately notify Parks of any damage to the facility or equipment, alarm calls, accidents, incidents or injuries related to building rentals.

Jet Oldsters Agreement
Page 1
4. TERM OF THE AGREEMENT
This agreement shall run from January 1, 2015 through December 31, 2016.

5. ADMINISTRATION
The following individuals are designated as representatives of the respective parties. The representative shall be responsible for the administration of this Agreement. In the event such representatives are changed, the party making the change shall notify the other party. The Jet Oldsters representative shall be the Jet Oldsters Manager. The Parks representative shall be Darla Smith, Administrative Assistant.

6. INDEMNIFICATION To the extent of its comparative liability, each party agrees to indemnify, defend and hold the other party, its elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which are alleged or proven to be caused by an act or omission, negligent or otherwise, of its elected and appointed officials, employees, agents or volunteers.

A Party shall not be required to indemnify, defend, or hold the other Party harmless if the claim, damage, loss or expense for personal injury, for any bodily injury, sickness, disease or death or for any damage to or destruction of any property (including the loss of use resulting therefrom) is caused by the sole act or omission of the other Party.

In the event of any concurrent act or omission of the parties, negligent or otherwise, each party shall pay its proportionate share of any damages awarded based upon comparative liability. The parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after liability to the claimant and damages, if any, are adjudicated. If any claim is resolved by voluntary settlement and the parties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration.

Survival of Indemnity Obligations. The parties agree all indemnity obligations shall survive the completion, expiration or termination of this Agreement.

The Jet Oldsters are required to provide proof of insurance for the following minimum coverage’s.

A. General Liability Coverage @ $1,000,000 per occurrence

B. Workers Compensation Coverage and listed amounts for bodily injury by accident, bodily injury by disease, policy limits.

7. TERMINATION
Any party hereto may terminate this Agreement upon thirty (30) days notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party’s last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

8. NONDISCRIMINATION
During the term of this Agreement, the Jet Oldsters shall comply with all applicable Federal, State and local provisions with regard to hiring and employment practices, and providing program services. In the event of the Jet Oldsters noncompliance or refusal to comply with the above provisions, this Agreement may be rescinded, cancelled, or terminated in whole or in part without penalty to Parks. The Jet Oldsters shall, however, be given a reasonable time in which to cure such noncompliance.

9. CHANGES, MODIFICATION, AMENDMENTS AND WAIVERS
This Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of the Agreement shall not be considered a waiver of any prior or subsequent breach.

Jet Oldsters Agreement
Page 2
10. SEVERABILITY
In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

11. ENTIRE AGREEMENT
This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto.

IN WITNESS WHEREOR, the parties have executed this Agreement this 28th day of October, 2014.

APPROVED

JET OLDSTERS ASSOCIATION OF FERNDALE

Teresa Quinn, President
Sr. Center phone no: 360-384-6244
Personal Contact phone: 360-820-3313

STATE OF WASHINGTON) )ss
COUNTY OF WHATCOM

On this 28th day of October, 2014, before me personally appeared President, authorized to sign for the Jet Oldsters Association of Ferndale and who executed the above instrument and acknowledged to me the act of signing and sealing thereof.

LAWANA KAY CHAPMAN
Notary Public in and for the State of Washington, residing at FERNDALE

My Commission expires: 4/30/2016
WHATCOM COUNTY

Jack Louws, County Executive

STATE OF WASHINGTON) )ss

COUNTY OF WHATCOM

On this ___ day of __________, 2014, before me personally appeared Jack Louws, to be known to be County Executive of Whatcom County and who executed the above instrument and acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this ___ day of __________, 2012.

______________________________________________________________
Notary Public in and for the State of Washington,
Residing in __________________
My Commission expires: ________________

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT

________________________
Michael McFarlane, Director

APPROVED AS TO FORM

________________________
Deputy Prosecuting Attorney

Jet Oldsters Agreement
Page 4
Non Profit Insurance Program
CERTIFICATE OF INSURANCE

Issue Date: 01/14/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONVEYS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain coverage may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Canfield
451 Diamond Drive
Ephrata, WA 98823

COMPANIES AFFORDING COVERAGE

GENERAL LIABILITY
American Alternative Insurance Corporation

AUTOMOBILE LIABILITY
American Alternative Insurance Corporation

PROPERTY
American Alternative Insurance Corporation
RSUI Group, Inc.

MISCELLANEOUS PROFESSIONAL LIABILITY

INSURED
Jet Oldsters Assoc. of Ferndale, The
1999 Cherry St.
Ferndale, WA 98248

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE COVERAGE PERIOD INDICATED, NOTwithstanding ANY REQUIREMENT, TERM OR CONDITION OF CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / SPECIAL ITEMS

Regarding onsite staffing to assist in operation of the Ferndale Senior Activity Center, Whatcom County, its officials, employees, agents and volunteers are named as Additional Insured regarding this staffing only and are subject to policy terms, conditions and exclusions. NP1P's retained limit is primary and non contributory. Waiver of Subrogation is attached.

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

CERTIFICATE HOLDER
Whatcom County Parks and Recreation Department
3373 Mt. Baker Hwy
Bellingham, WA 98226

AUTHORIZED REPRESENTATIVE

Cheryl Smith

2914100

135
AMERICAN ALTERNATIVE
INSURANCE COMPANY

WAIVER OF TRANSFER OR RIGHTS AND RECOVERY
AGAINST OTHERS TO US

<table>
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<td>Non Profit Insurance Program (NPIP)</td>
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<td>Endorsement Effective</td>
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<td>N1-A2-RL-0000013-06</td>
<td>06/01/2014</td>
</tr>
</tbody>
</table>

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

This endorsement modifies insurance provided under the following:

GENERAL LIABILITY COVERAGE PART

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated above.

Schedule

Name of Person or Organization: As Per Schedule on file with Canfield, Underwriting Administrator

The Our Right To Recovery Condition in the Liability Conditions, Definitions and Exclusions form is amended by addition of the following:

We waive any rights of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or Your Work done under contract with that person or organization. This waiver only applies to the person or organization shown in the Schedule above; however, this waiver does not apply if the injury or damage is due to the sole negligence of such scheduled person or organization.

All other terms and conditions remain unchanged.

Includes copyrighted material of the Insurance Services Office, Inc., with its permission.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<table>
<thead>
<tr>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to</th>
</tr>
</thead>
<tbody>
<tr>
<td>DKS</td>
<td>12/30/14</td>
<td></td>
<td>1/27/15</td>
<td>Finance</td>
</tr>
</tbody>
</table>

Division Head:

Dept. Head:

Protractor:

Purchasing/Budget:

Executive:

TITLE OF DOCUMENT:

Contract for Services with the Jet Oldsters Association of Ferndale for Ferndale Senior Activity Center Staffing and Operations.

ATTACHMENTS:

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes ( X ) 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.)

To allow the County Executive to renew the Contract for Services with the Jet Oldsters Association of Ferndale to provided staffing and operational support at the Ferndale Senior Activity Center (Current Contract Number: 201211020).

COMMITTEE ACTION: COUNCIL ACTION:

Related County Contract #: 201104008 Related File Numbers: Ordinance or Resolution Number:

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.
Enclosed are two (2) Contracts for Service Agreement originals between Whatcom County Parks & Recreation Department and the Jet Oldsters Association of Ferndale for your review and signature.

- **Background and Purpose**
  The renewal of this contract will provide funding to the Jet Oldsters Association of Ferndale to staff and operate the Ferndale Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

- **Funding Amount and Source**
  The Agreement will be funded by the General Fund in the amount of $58,750 for 2015 $58,750 in 2016.
## WHATCOM COUNTY CONTRACT INFORMATION SHEET

### Originating Department:
Parks & Recreation

### Contract Administrator:
Mike McFarlane

### Contractor's / Agency Name:
Jet Oldsters Association of Ferndale

<table>
<thead>
<tr>
<th>Is this a New Contract?</th>
<th>If not, is this an Amendment or Renewal to an Existing Contract?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes _ No _ X_</td>
<td>Yes _ No _ --- If yes, previous number(s): <em>201211020</em></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this a grant agreement?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes _ No _ X__</td>
</tr>
<tr>
<td>If yes, grantor agency contract number(s)</td>
</tr>
<tr>
<td>CFDA number</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this contract grant funded?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes _ No _ X__</td>
</tr>
<tr>
<td>If yes, associated Whatcom County grant contract number(s)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this contract the result of a RFP or Bid process?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes _ No _ X__</td>
</tr>
<tr>
<td>If yes, RFP and Bid number(s) RFP <em>#11-07</em></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Contract Amount: (sum of orig contract amount and any prior amendments)</th>
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</thead>
<tbody>
<tr>
<td>$177,500.00</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>This Amendment Amount:</th>
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<tbody>
<tr>
<td>$</td>
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<table>
<thead>
<tr>
<th>Total Amended Amount:</th>
</tr>
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<tbody>
<tr>
<td>$</td>
</tr>
</tbody>
</table>

### Scope of Services
The renewal of this contract will provide funding to the Jet Oldsters Association of Ferndale to staff and operate the Ferndale Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

### Term of Contract: January 1, 2015
### Expiration Date: December 31, 2016

### Contract Routing Steps & Signoff:

<table>
<thead>
<tr>
<th>Step</th>
<th>Signoff</th>
<th>Date</th>
<th>Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Prepared by: DKS</td>
<td>08/08/14</td>
<td>Electronic</td>
</tr>
<tr>
<td>2.</td>
<td>Attorney reviewed:</td>
<td>03/15</td>
<td>Electronic</td>
</tr>
<tr>
<td>3.</td>
<td>AS Finance reviewed:</td>
<td>12/15</td>
<td>Electronic</td>
</tr>
<tr>
<td>4.</td>
<td>IT reviewed if IT related</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Corrections made:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Attorney signoff:</td>
<td>03/15</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Contractor signed:</td>
<td>10/28/14</td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Submitted to Exec Office</td>
<td>01/15</td>
<td>Summary via electronic; hardcopies</td>
</tr>
<tr>
<td>9.</td>
<td>Reviewed by DCA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10.</td>
<td>Council approved (if necessary)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.</td>
<td>Executive signed:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12.</td>
<td>Contractor Original</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13.</td>
<td>Returned to dept:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14.</td>
<td>County Original to Council</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*this form may need to expand to more than one page*
CONTRACT FOR SERVICES AGREEMENT
FERNDALE SENIOR ACTIVITY CENTER STAFFING AND OPERATIONS

Jet Oldsters Association of Ferndale, hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

General Conditions, pp.3 to 6,
Exhibit A (Scope of Work), pp. 7,
Exhibit B (Compensation), pp. 8,
Exhibit C (Certificate of Insurance).

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of January, 2015, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2016.

The general purpose or objective of this Agreement is to: provide onsite staffing to assist in the operation of the Ferndale Senior Activity Center facility, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed $117,500.00. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 30.2 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this 28th day of October, 2014.

CONTRACTOR:

JET OLDSTERS ASSOCIATION OF FERNDALE

Teresa Quinn, President

STATE OF WASHINGTON )
COUNTY OF WHATCOM ) ss.
On this 28th day of October, 2014, before me personally appeared Pete Halley, to me known to be the President of the Jet Oldsters Association of and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington, residing at Ferndale. My commission expires 4/30/2016

Teresa Quinn
Commissioner
State of Washington

NOTARY PUBLIC in and for the State of Washington, residing at Ferndale. My commission expires 4/30/2016

Teresa Quinn
Commissioner
State of Washington
WHATCOM COUNTY:
Recommended for Approval:

Department Director Date

Approved as to form:

Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: ____________________________
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON )
COUNTY OF WHATCOM ) ss

On this _____ day of __________, 2014, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington, residing at __________________. My commission expires __________________.

CONTRACTOR INFORMATION:

Jet Oldsters Association of Ferndale

Address:
1998 Cherry Street
Ferndale, WA 98248

Contact Name: Pete Harksell, President

Contact Phone: (360) 384-5113

Contact FAX: (360) 384-5113
GENERAL CONDITIONS

Series 30-39: Provisions Related to Administration of Agreement

0.1 Scope of Services:
The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:
Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

11.1 Termination for Default:
If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated by default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed.

11.2 Termination for Reduction in Funding:
In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems continuation of the programs covered by this Agreement is no longer in the best interests of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provision of this Agreement. Termination under this section shall be effective upon written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:
Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:
The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.
The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:
In the event of the County's Administrative Officer determines that the Contractor has failed to perform any obligations under this Agreement within the times set forth in this Agreement, then the County may withhold from amount otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amount otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Dispute clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from the amounts due or to become due to the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to the Contractor by reason of the good faith withholding by the County under this clause.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:
The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service on a Schedule C, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

30.2 Assignment and Subcontracting:
The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:
The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

32.1 Confidentiality:
The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:
This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection
by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after the contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request.

34.1 Proof of Insurance:

The Contractor is required to meet the following insurance requirements:

General Liability Insurance at $1,000,000 per occurrence

Workers Compensation Insurance and listed amounts for bodily injury by accident, bodily injury by disease, policy limits

Fraud insurance covering employees

A certificate of such insurance, with attached endorsement providing proof of all required insurance provisions, including Contractor's insurance must name the County, officials, employees, agents and volunteers, as additional insureds on this contract; Contractor's insurance is primary and County's insurance in non-contributory, and the Contractor waives all rights of subrogation; proof of said insurance is attached hereto as Exhibit "C".

34.3 Defense & Indemnity Agreement: To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold the County and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which (1) are caused in whole or in part by any act or omission, negligent or otherwise, of the Contractor, its employees, agents or volunteers or Contractor's subcontractors and their employees, agents or volunteers; or (2) are directly or indirectly arising out of, resulting from, or in connection with performance of this Agreement; or (3) are based upon the Contractor's or its subcontractors' use of, presence upon or proximity to the property of the County. This indemnification obligation of the Contractor shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the County. This indemnification obligation of the Contractor shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Contractor hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement, are reflected in the Contractor's compensation, and have been mutually negotiated by the parties.

The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of Contractor's indemnity obligations under this Agreement.

The Contractor agrees all Contractor's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.
35.2 **Non-Discrimination in Client Services:**
The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

36.2 **Conflict of Interest:**
If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 **Administration of Contract:**
This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Darla Smith, Administrative Assistant

38.3 **E-Verify:**
The E-Verify contractor program for Whatcom County applies to contracts of $100,000 or more and sub contracts for $25,000 or more if the primary contract is for $100,000 or more. Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term “employee” as used herein means any person that is hired to perform work for Whatcom County. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit. Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

**Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes**

40.1 **Modifications:**
Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

41.1 **Severability:**
If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 **Waiver:**
Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to
exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:
Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:
The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:
The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration: Not Applicable

43.1 Venue and Choice of Law:
In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:
The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:
This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.
**EXHIBIT “A”**
**SCOPE OF WORK**

Contractor will be required to staff the Ferndale Senior Activity Center at a minimum of Monday through Friday 8:00 a.m. to 4:00 p.m. Any change in these hours of operation will need to be coordinated with the County Parks & Recreation Department.

Contractor may offer additional hours of operation and duties that they feel are necessary to effectively operate the Ferndale Senior Activity Center. Additional hours of operation will need to be coordinated with the County Parks & Recreation Department so as not to interfere with other scheduled events.

Contractor will be expected to fulfill the following duties and responsibilities.

A. Daily On-site Operations
   - Open and close the facility
   - Schedule the use of the Center space for all programs
   - Set-up and take-down of furniture and equipment for daily programs and special events
   - Perform custodial duties when the county provided staff person is not available
   - Report building and grounds maintenance problems or unsafe conditions to the County Parks & Recreation Department
   - Oversee use of the building and ensure activities are conducted in a safe organized manner

B. Assist with Center programming in the following areas
   - Develop a variety of healthy lifestyle and educational programs, along with other activities of interest to older adults
   - Help with creating, and running fund raising events used to cover Center operating costs
   - Provide daily dining room assistance for the Council on Aging Nutrition Program
   - Prepare and distribute a monthly Schedule of Center Programs and Activities that also promotes the Ferndale Senior Activity Center
   - Establish a process whereby participants provide input on desire programming and feedback regarding existing programming at the Ferndale Senior Activity Center

C. Implement and enforce safety procedures for:
   - Inclement weather
   - Unsafe conditions on the center grounds and parking lot
   - Closing the facility when necessary in conjunction with the County Parks & Recreation Department
   - Fire Department evacuation plans
   - Conducting evacuation drills as recommended by the Fire Department A code of Conduct for the Center
   - Resolving staff and participant behavior issues
   - Responding to accidents and medical emergencies

D. Coordinate volunteer activities in support of Center operations. This includes the following:
   - Maintaining existing volunteer programs and actively involve participants in the operation of the Ferndale Senior Activity Center
   - Developing volunteer job descriptions to accommodate programming needs
   - Recruit, train, schedule and supervise volunteers
   - Conduct Criminal Background Checks on prospective volunteers using the State of Washington WATCH Program
   - Ensure that employees are properly screened and trained

E. Submit the following reports to the County Parks & Recreation Department:
   - Monthly attendance Reports
   - Monthly Volunteer Reports
   - Monthly Financial Reports documenting the expenditure of Whatcom county contracted funds
   - Meet with the County Parks & Recreation Department on a quarterly basis to evaluate how the service contract is working

F. Contractor is responsible for paying their employee payroll and benefits as well as maintaining proper records. The contractor is also responsible for payment of State Labor & Industries cost for volunteers

G. Contractor will maintain the insurance coverage required in section 34.1 Proof of Insurance and provide a Certificate of Insurance to the County Parks & Recreation Department covering the term of this agreement.
EXHIBIT "B"
COMPENSATION

Whatcom County Parks & Recreation Department will provide $58,750 for the twelve (12) month period January 1, 2015 through December 31, 2015 and $58,750 for the twelve (12) month period January 1, 2016 through December 31, 2016.

Jet Oldsters Association of Ferndale shall invoice Whatcom County Parks & Recreation Department by the last working day of each month during the term of this Agreement for services rendered as outlined in Exhibit “A” Scope of Work. Whatcom County Parks & Recreation Department shall reimburse the Ferndale Jet Oldsters for twelve (12) equal payments in 2015 and 2016. Reimbursements may be reduced on a pro-rated basis if the Senior Center programming is discontinued for an extended period due to emergencies or natural disasters.

EXHIBIT "C"
CERTIFICATE OF INSURANCE
## Non Profit Insurance Program

### CERTIFICATE OF INSURANCE

**Issue Date:** 01/14/2015

---

**PRODUCER**
Canfield 451 Diamond Drive Ephrata, WA 98823

**COMPANIES AFFORDING COVERAGE**

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>COMPANY</th>
</tr>
</thead>
<tbody>
<tr>
<td>GENERAL LIABILITY</td>
<td>American Alternative Insurance Corporation</td>
</tr>
<tr>
<td>AUTOMOBILE LIABILITY</td>
<td>American Alternative Insurance Corporation</td>
</tr>
</tbody>
</table>

**INSURE**
Jet Oldstes Assoc. of Ferndale, The 1999 Cherry St. Ferndale, WA 98248

**PROPERTY**
American Alternative Insurance Corporation RSUI Group, Inc.

**MISCELLANEOUS PROFESSIONAL LIABILITY**

---

### COVERAGES

This is to certify that the policies of insurance listed below have been issued to the insured named above for the coverage period indicated, notwithstanding any requirement, term or condition of contract or other document with respect to which this certificate may be issued or may pertain. The insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies. Limits shown may have been reduced by paid claims.

<table>
<thead>
<tr>
<th>TYPE OF INSURANCE</th>
<th>POLICY NUMBER</th>
<th>POLICY EFF DATE</th>
<th>POLICY EXP DATE</th>
<th>DESCRIPTION</th>
<th>LIMITS</th>
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<tr>
<td>GENERAL LIABILITY</td>
<td>N1-A2-RL-0000013-06</td>
<td>06/01/2014</td>
<td>06/01/2015</td>
<td>PER OCCURRENCE</td>
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<td>PER MEMBER AGGREGATE</td>
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<td>PRODUCT-COMP/OP</td>
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<td>PERSONAL &amp; ADV. INJURY</td>
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<td>AUTOMOBILE LIABILITY</td>
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<td>PROPERTY</td>
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<td>06/01/2015</td>
<td>ALL RISK PER OCC EXCL EQ &amp; FL</td>
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<td>EARTHQUAKE PER OCC</td>
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<td></td>
<td></td>
<td>FLOOD PER OCC</td>
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<td></td>
<td>ANNUAL POOL AGGREGATE</td>
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<tr>
<td>MISCELLANEOUS PROFESSIONAL LIABILITY</td>
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<td>06/01/2014</td>
<td>06/01/2015</td>
<td>PER CLAIM</td>
<td>ANNUAL POOL AGGREGATE</td>
</tr>
</tbody>
</table>

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / SPECIAL ITEMS**

Regarding onsite staffing to assist in operation of the Ferndale Senior Activity Center. Whatcom County, its officials, employees, agents and volunteers are named as Additional Insured regarding this staffing only and are subject to policy terms, conditions and exclusions. NPIP’s retained limit is primary and non contributory. Waiver of Subrogation is attached.

---

**CANCELLATION**

Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**CERTIFICATE HOLDER**
Whatcom County Parks and Recreation Department 3373 Mt. Baker Hwy Bellingham, WA 98226

**AUTHORIZED REPRESENTATIVE**

---

2914100

149
AMERICAN ALTERNATIVE
INSURANCE COMPANY

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION
(GENERAL LIABILITY)

<table>
<thead>
<tr>
<th>Named Insured</th>
<th>Endorsement Effective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non Profit Insurance Program (NPIP)</td>
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<tr>
<td>Policy Number</td>
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</tr>
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<td>N1-A2-RL-0000013-06</td>
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</tr>
</tbody>
</table>

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

This endorsement modifies insurance provided under the following:

GENERAL LIABILITY COVERAGE PART

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated above.

Person or Organization (Additional Insured): As Per Schedule on file with Canfield, Underwriting Administrator

Whatcom County Parks and Recreation Department
3373 Mt. Baker Hwy
Bellingham, WA 98226

Regarding onsite staffing to assist in operation of the Ferndale Senior Activity Center. Whatcom County, its officials, employees, agents and volunteers are named as Additional Insured regarding this staffing only and are subject to policy terms, conditions and exclusions. NPIP’s retained limit is primary and non contributory. Waiver of Subrogation is attached.

A. With respects to the General Liability Coverage Part only, the definition of Insured in the Liability Conditions, Definitions and Exclusions section of this policy is amended to include as an Insured the Person or Organization shown in the above Schedule. Such Person or Organization is an Insured only with respect to liability for Bodily Injury, Property Damage, or Personal and Advertising Injury caused in whole or in part by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In performance of your ongoing operations; or
2. In connection with your premises owned or rented to you.

B. The Limits of Insurance applicable to the additional Insured are those specified in either the:

1. Written contract or written agreement; or

2. Declarations for this policy,

whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits Of Insurance shown in the Declarations.

All other terms and conditions remain unchanged.

Includes copyrighted material of the Insurance Services Office, Inc., with its permission.
AMERICAN ALTERNATIVE
INSURANCE COMPANY

WAIVER OF TRANSFER OR RIGHTS AND RECOVERY
AGAINST OTHERS TO US

<table>
<thead>
<tr>
<th>Named Insured</th>
<th>Non Profit Insurance Program (NPIP)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Policy Number</th>
<th>N1-A2-RL-0000013-06</th>
</tr>
</thead>
<tbody>
<tr>
<td>Endorsement Effective</td>
<td>06/01/2014</td>
</tr>
</tbody>
</table>

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

This endorsement modifies insurance provided under the following:

GENERAL LIABILITY COVERAGE PART

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated above.

Schedule

Name of Person or Organization: As Per Schedule on file with Canfield, Underwriting Administrator

2914102

The Our Right To Recovery Condition in the Liability Conditions, Definitions and Exclusions form is amended by addition of the following:

We waive any rights of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or Your Work done under contract with that person or organization. This waiver only applies to the person or organization shown in the Schedule above; however, this waiver does not apply if the injury or damage is due to the sole negligence of such scheduled person or organization.

All other terms and conditions remain unchanged.

Includes copyrighted material of the Insurance Services Office, Inc., with its permission.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
<td>DKS</td>
<td>12/30/14</td>
<td></td>
<td></td>
<td>Finance</td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td>1/27/15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td></td>
<td></td>
<td>12/15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
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<td></td>
<td>1/31/15</td>
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<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
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<td>1/21/15</td>
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</tr>
<tr>
<td>Executive:</td>
<td></td>
<td></td>
<td>11/16/15</td>
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<td></td>
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</tbody>
</table>

**TITLE OF DOCUMENT:**

Contract for Services with the Council on Aging for the Bellingham Senior Activity Center Staffing and Operations.

**ATTACHMENTS:**

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>Yes</th>
<th>No</th>
<th>Should Clerk schedule a hearing?</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

**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.)

To allow the County Executive to renew the Contract for Services with the Council on Aging to provide staffing and operational support at the Bellingham Senior Activity Center (Current Contract Number: 201211022).

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td>201104008</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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.
MEMORANDUM

TO: Jack Louws, County Executive

FROM: Michael McFarlane, Director
       Parks & Recreation Department

RE: Contract for Services
    Bellingham Senior Activity Center Staffing and Operations Agreement

DATE: December 30, 2014

Enclosed are two (2) Contract for Service Agreement originals between Whatcom County Parks & Recreation Department and the Council on Aging for your review and signature.

- **Background and Purpose**
  The renewal of this contract will provide funding to the Council on Aging to staff and operate the Bellingham Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

- **Funding Amount and Source**
  The Agreement will be funded by the General Fund in the amount of $58,750 for 2015
  $58,750 in 2016.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Parks &amp; Recreation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Mike McFarlane</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Council On Aging</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this a New Contract?</th>
<th>Yes ☒ No ☐</th>
<th>If not, is this an Amendment or Renewal to an Existing Contract?</th>
<th>Yes ☒ No ☐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes ☒ No ☐</td>
<td>If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:</td>
<td>20121022</td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Does contract require Council Approval?</th>
<th>Yes ☒ No ☐</th>
<th>If No, include WCC:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes ☒ No ☐</td>
<td>(see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this a grant agreement?</th>
<th>Yes ☒ No ☐</th>
<th>If yes, grantor agency contract number(s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes ☒ No ☐</td>
<td>CFDA#:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this contract grant funded?</th>
<th>Yes ☒ No ☐</th>
<th>If yes, Whatcom County grant contract number(s):</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Is this the result of a RFP or Bid process?</th>
<th>Contract</th>
<th>Cost Center:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes ☒ No ☐</td>
<td>#11-07</td>
<td>6002</td>
</tr>
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<table>
<thead>
<tr>
<th>Is this agreement excluded from E-Verify?</th>
<th>No ☒ Yes ☐</th>
<th>If no, include Attachment D Contractor Declaration form.</th>
</tr>
</thead>
</table>

If YES, indicate exclusion(s) below:

- ☐ Professional services agreement for certified/licensed professional.
- ☐ Contract work is for less than $100,000.
- ☐ Contract work is for less than 120 days.
- ☐ Interlocal Agreement (between Governments).
- ☐ Contract for Commercial off the shelf items (COTS).
- ☐ Work related subcontract less than $25,000.
- ☐ Public Works - Local Agency/Federally Funded FHWA.

<table>
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<tr>
<th>Contract Amount: (sum of original contract amount and any prior amendments):</th>
<th>$ 117,500</th>
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</table>

<table>
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<tr>
<th>This Amendment Amount:</th>
<th>$</th>
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</table>

<table>
<thead>
<tr>
<th>Total Amended Amount:</th>
<th>$</th>
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</thead>
</table>

**Summary of Scope:** The renewal of this contract will provide funding to the Council on Aging to staff and operate the Bellingham Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

<table>
<thead>
<tr>
<th>Term of Contract:</th>
<th>January 1, 2015</th>
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</thead>
<tbody>
<tr>
<td>Expiration Date:</td>
<td>December 31, 2016</td>
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</table>

**Contract Routing:**

1. Prepared by: DKS
2. Attorney signoff: 
3. AS Finance reviewed: 
4. IT reviewed (if IT related): 
5. Contractor signed: 
6. Submitted to Exec.: 
7. Council approved (if necessary): 
8. Executive signed: 
9. Original to Council: 

**Date:**

- 12/30/14
- 1/31/15
- 1/2/15
- 12/30/14
- 1/2/15

**Last Edited:** 060414

<table>
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<td>1/31/15</td>
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<table>
<thead>
<tr>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>154</td>
</tr>
</tbody>
</table>
Whatcom County Council on Aging, hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

   General Conditions, pp. 2 to 7,
   Exhibit A (Scope of Work), pp. 8 to 9,
   Exhibit B (Compensation), pp. 10,
   Exhibit C (Certificate of Insurance).

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of January 1, 2015, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2016.

The general purpose or objective of this Agreement is to: provide onsite staffing to assist in the operation of the Whatcom County Council on Aging’s Bellingham Senior Activity Program housed in the County owned Bellingham Senior Activity Center facility, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed $117,500. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 30.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this 3rd day of December, 2014.

CONTRACTOR:

COUNCIL ON AGING

Mary Carlson, Executive Director

STATE OF WASHINGTON )
COUNTY OF WHATCOM ) ss.

On this 3rd day of December, 2014, before me personally appeared Mary Carlson to me known to be the Executive Director of Council on Aging and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

DARCY OWINGS MARTIN
Notary Public, State of Washington
My Commission Expires August 14, 2018

NOTARY PUBLIC in and for the State of Washington, residing at Bellingham. My commission expires 8-14-18.
WHATCOM COUNTY:
Recommended for Approval:

\[1-2-15\]
Department Director \[\text{Date}\]

Approved as to form:

\[1-7-15\]
Prosecuting Attorney \[\text{Date}\]

Approved:
Accepted for Whatcom County:

By: ____________________
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON   
) ss 
COUNTY OF WHATCOM   

On this _____ day of _______, 20 __ before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington, residing at

__________________ . My commission expires ________________.

CONTRACTOR INFORMATION:

Council on Aging
Mary Carlson, Executive Director

Address:
315 Halleck Street
Bellingham, Washington, 98225

Mailing Address:
315 Halleck Street
Bellingham, Washington 98225

Contact Name: Mary Carlson
Contact Phone: 360.360.733.4030 ext. 1026
Contact Email: mcarlson@wccoac.org

Contract for Services Agreement
Bellingham Senior Activity Center Staffing and Operations
GENERAL CONDITIONS

0.1 Scope of Services:
The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, beyond county supplied custodian and/or work crews, or facilities, other than the Bellingham Senior Activity Center building and grounds will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:
Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

11.1 Termination for Default:
If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within thirty (30) days of the mailing of the notice, whichever occurs first. If the contract is terminated by default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed.

11.2 Termination for Reduction in Funding:
In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems continuation of the programs covered by this Agreement is no longer in the best interests of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provision of this Agreement. Termination under this section shall be effective upon written notice as specified herein, or within thirty (30) days of the mailing of the notice, whichever occurs first.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:
Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed according to the Scope of Work in Exhibit A, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:
The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.
22.1 **Withholding Payment:**
In the event of the County’s Administrative Officer determines that the Contractor has failed to perform any obligations under this Agreement within the times set forth in this Agreement, then the County may withhold from amount otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amount otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Dispute clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from the amounts due or to become due to the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to the Contractor by reason of the good faith withholding by the County under this clause.

**Series 30-39: Provisions Related to Administration of Agreement**

30.1 **Independent Contractor:**
The Contractor’s services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service on an IRS Form 990, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys’ fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

30.2 **Assignment and Subcontracting:**
The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 **No Guarantee of Employment:**
The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

32.1 **Confidentiality:**
The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys’ fees and costs resulting from Contractor’s breach of this provision.

33.1 **Right to Review:**
This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor’s Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years.
after the contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request.

34.1 Proof of Insurance:

The Contractor is required to meet the following Insurance Requirements.

General Liability Insurance at $1,000,000 per occurrence

Professional Liability Insurance at $500,000 per occurrence

Workers Compensation Insurance and listed amounts for bodily injury by accident, bodily injury by disease, policy limits

Fraud Insurance covering employees

A certificate of such insurance, with attached endorsement providing proof of all required insurance provisions, including Contractor’s insurance must name the County, officials, employees, and agents as additional insureds on this contract. Contractor’s insurance is primary and County’s insurance in non-contributory, and the Contractor waives all rights of subrogation; proof of said insurance is attached hereto as Exhibit “C”

34.3 Defense & Indemnity Agreement:

To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold the County and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney’s fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death, and for any damage to or destruction of any property (including the loss of use resulting therefrom) which 1) are caused in whole or in part by any act or omission, negligent or otherwise, of the Contractor, its employees, agents or volunteers or Contractor’s subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with performance of this Agreement; or 3) are based upon the Contractor’s or its subcontractors’ use of, presence upon or proximity to the property of the County. This indemnification obligation of the Contractor shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the County. This indemnification obligation of the Contractor shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen’s compensation act, disability benefit act or other employee benefit act, and the Contractor hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement, are reflected in the Contractor’s compensation, and have been mutually negotiated by the parties.

The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of Contractor’s indemnity obligations under this Agreement.

The Contractor agrees all Contractor’s indemnity obligations shall survive the completion, expiration or termination of this Agreement.

35.1 Non-Discrimination in Employment:

The County’s policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontracts for standard commercial supplies or raw materials, or to sole proprietorships with no employees.
35.2 Non-Discrimination in Client Services:
The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement; or deny an individual or business an opportunity to participate in any program provided by this Agreement based on color, creed, religion, natural origin, sex, age, marital status, sexual orientation, disability, or veterans status.

36.2 Conflict of Interest:
If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County’s interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County’s interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:
This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County’s representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County’s right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Michael McFarlane, Director

38.3 E-Verify:
The E-Verify contractor program for Whatcom County applies to contracts of $100,000 or more and sub contracts for $25,000 or more if the primary contract is for $100,000 or more. Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit. Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:
Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

41.1 Severability:
If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:
Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to
exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:
Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:
The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:
The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration: Not Applicable

43.1 Venue and Choice of Law:
In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:
The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:
This written Agreement, comprised of the writings signed or otherwise identified and attached hereeto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.
General Conditions

Scope of Services:
The contractor agrees to provide to the County services and any materials as set forth in this project narrative identified as Exhibit "A", during this agreement period. No material, labor, beyond county supplied custodian and/or work crews, or facilities other than the Bellingham Senior Activity Center building, grounds, and parking lot maintenance will be furnished by the County, unless otherwise provided for in the agreement.
EXHIBIT "A"
SCOPE OF WORK

Contractor will be required to staff and open the Bellingham Senior Activity Center at a minimum of Monday through Friday 8:00 a.m. to 4:30 p.m., except for holidays and during inclement weather. Any change in these hours of operation will need to be coordinated with the County Parks & Recreation Department. Contractor will have building access on Mondays, Wednesdays, Thursdays and Fridays from 7:00 a.m. to 6:00 p.m. and on Tuesdays from 7:00 a.m. to 9:00 p.m. for programs that occur outside of normal operating hours. Contractor will also have building access on Saturdays from 5:00 a.m. to 3:00 p.m. for programs and activities. In addition Contractor may offer additional hours of operation and duties that they feel are necessary to effectively operate the Bellingham Senior Activity Center. Additional hours of operation will need to be coordinated with the County Parks & Recreation Department so as not to interfere with other scheduled events.

Contractor will be expected to fulfill the following duties and responsibilities.

A. Daily On-site Operations during the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday
   - Open and close the facility
   - Schedule the use of the Center space for all programs
   - Perform set-up and take-down of furniture and equipment for daily programs and special events, except for the daily set-up and take-down of the furniture for lunch in the auditorium, which will be performed by the County Parks and Recreation Department staff when available
   - Perform custodial duties when the county provided staff person is not available
   - Report building and grounds maintenance problems or unsafe conditions to the County Parks & Recreation Department
   - Oversee use of the building and ensure activities are conducted in a safe organized manner

B. Develop and conduct center programming
   - Develop a variety of healthy lifestyle and educational programs, along with other activities of interest to older adults
   - Provide daily dining room assistance for the Council on Aging Nutrition Program
   - Prepare and distribute a monthly schedule of center programs and activities that also promotes the Bellingham Senior Activity Center
   - Establish a process whereby participants provide input on desire programming and feedback regarding existing programming at the Bellingham Senior Activity Center

C. Implement and enforce safety procedures for:
   - Inclement weather
   - Unsafe conditions on the center grounds and parking lot
   - Closing the facility when necessary in conjunction with other Council on Aging Programs. Notify the County Parks & Recreation Department
   - Fire and emergency evacuation plans
   - Conducting evacuation drills as recommended by the Fire Department and in conjunction with other Council on Aging Programs.
   - A code of Conduct for the Center
   - Resolving participant behavior issues
   - Responding to accidents and medical emergencies
   - Reporting and documenting accidents and incidents and providing copies of such to the County Parks & Recreation Department

D. Coordinate volunteer activities in support of Center operations. This includes the following:
   - Maintaining existing and develop new volunteer programs as appropriate and actively involve participants in the operation of the Bellingham Senior Activity Center
   - Developing volunteer job descriptions to accommodate programming needs
   - Recruit, train, schedule and supervise volunteers
   - Conduct Criminal Background Checks on prospective volunteers using the State of Washington WATCH Program
   - The contractor will also arrange for volunteer insurance coverage

E. Submit the following reports to the County Parks & Recreation Department:
   - Monthly attendance Reports
   - Monthly Volunteer Reports
   - Annual Financial Reports documenting the expenditure of Whatcom County contracted funds
• Meet with the County Parks & Recreation Department on a semi-annual basis to evaluate how the service contract is working
• Regularly review and respond to any County incident reports regarding participants or Contractor staff
• Work cooperatively with County staff and report any staff behavior issues to the County Parks & Recreation Operations Manager.

F. Contractor is responsible for managing Contractor personnel and for:
• Paying employee payroll and benefits as well as maintaining proper records
• Ensuring that employees are properly screened through the State of Washington WATCH program and trained
• Resolving staff behavior issues.

G. Contractor will maintain the insurance coverage required in section 34.1 Proof of Insurance and provide a Certificate of Insurance to the County Parks & Recreation Department covering the term of this agreement.
EXHIBIT "B"
COMPENSATION

Whatcom County Parks & Recreation Department will provide $58,750 for the nine (12) month period January 1, 2015 through December 31, 2015, and $58,750 for the twelve (12) month period January 1, 2016 through December 31, 2016.

Whatcom County Council on Aging shall invoice Whatcom County Parks & Recreation Department by the last working day of each month during the term of this Agreement for services rendered as outlined in Exhibit "A" Scope of Work. Whatcom County Parks & Recreation Department shall reimburse the Whatcom County Council on Aging for twelve (12) equal payments in 2015 and twelve (12) equal payments in 2016. Reimbursements may be reduced on a pro-rated basis if the Senior Center programming is discontinued for an extended period due to emergencies or natural disasters.

EXHIBIT "C"
CERTIFICATE OF INSURANCE
**Title of Document:**
Inter Local Cooperative Agreement between the City of Lynden and Whatcom County Parks & Recreation.

**Attachments:**
Memorandum, Information sheet, and Interlocal Cooperative Agreement

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>Yes</th>
<th>NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>Yes</th>
<th>NO</th>
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<tr>
<td>SEPA review completed?</td>
<td>Yes</td>
<td>NO</td>
<td>Requested Date:</td>
<td></td>
<td></td>
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**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.)

To allow the County Executive to renew an Inter Local Cooperative Agreement with the City of Lynden to provide funding for staffing and operational support, including minor custodial supplies for the Lynden Senior Center in 2015 and 2016.

**Committee Action:**

**Council Action:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**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.
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Michael McFarlane, Director
RE: Inter Local Cooperative Agreement with the City of Lynden
DATE: December 30, 2014

Enclosed are two (2) Inter Local Cooperative Agreement originals between the City of Lynden and Whatcom County Parks & Recreation for your review and signature.

- **Background and Purpose**
  The renewal of this contract will provide funding to the City of Lynden to staff and operate the Lynden Senior Center. The Scope of work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

- **Funding Amount and Source**
  The agreement will be funded by the General Fund in the amount of $58,750 in 2015 and $58,750 in 2016.
# WHATCOM COUNTY CONTRACT
## INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Parks &amp; Recreation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Mike McFarlane</td>
</tr>
<tr>
<td>Contractor's/Agency Name:</td>
<td>City of Lynden</td>
</tr>
</tbody>
</table>

Is this a New Contract?  Yes ☒ No ☐  If not, is this an Amendment or Renewal to an Existing Contract?  Yes ☒ No ☐  Original Contract #: 201211018

Does contract require Council Approval?  Yes ☒ No ☐  If No, include WCC: (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement?  Yes ☐ No ☒  If yes, grantor agency contract number(s): CFDA#: 

Is this contract grant funded?  Yes ☐ No ☒  If yes, Whatcom County grant contract number(s):

Is this contract the result of a RFP or Bid process?  Yes ☒ No ☐  If yes, RFP and Bid number(s): Contract #11-07  Cost Center: 6002

Is this agreement excluded from E-Verify?  No ☐ Yes ☒  If no, include Attachment D Contractor Declaration form.

If YES, indicate exclusion(s) below:
- Professional services agreement for certified/licensed professional.
- Contract work is for less than $100,000.
- Contract work is for less than 120 days.
- Interlocal Agreement (between Governments).
- Contract for Commercial off the shelf items (COTS).
- Work related subcontract less than $25,000.
- Public Works - Local Agency/Federally Funded FHWA.

Contract Amount: (sum of original contract amount and any prior amendments): $117,500

This Amendment Amount:

Total Amended Amount: $23,800

Contracts that require Council Approval (incl. agenda bill & memo):
- Professional Services Agreement above $20,000.
- Bid is more than $50,000.
- Amendments that have either an increase greater than 10% or provide a $10,000 increase in amount (whichever is greater)

RENEWALS: Council approval is not required when exercising an option to renew that is provided in the original contract.

Summary of Scope: The renewal of this contract will provide funding to the City of Lynden to staff and operate the Lynden Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

<table>
<thead>
<tr>
<th>Term of Contract: January 1, 2015</th>
<th>Expiration Date: December 31, 2016</th>
</tr>
</thead>
</table>

Contract Routing:
1. Prepared by: DKS Date: 12/30/14
2. Attorney signoff: 1/9/15
3. AS Finance reviewed: 2/15/16
4. IT reviewed (if IT related):
5. Contractor signed: 9/15/14
6. Submitted to Exec.: 1/12/15
7. Council approved (if necessary):
8. Executive signed:
9. Original to Council:

Last Edited 060414
INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN

CITY OF LYNDEN

AND

WHATCOM COUNTY PARKS & RECREATION

THIS AGREEMENT is made and entered into by Whatcom County Parks & Recreation Department (County) and the City of Lynden, Washington (City) pursuant to the authority granted by chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

1. PURPOSE:
The County will provide funding to the City to assist with the provision of Senior Services at the Lynden Community Center. This funding is intended to provide on-site staffing to assist with the operation of the Lynden Community Center. Individual/s hired may be employed by the Lynden Council on Aging, a local not-for-profit organization that is currently under contract with the City.

2. RESPONSIBILITIES:
WHATCOM COUNTY PARKS & RECREATION RESPONSIBILITIES
The County will provide funding in 2015 and 2016 for the City to contract with the Lynden Council on Aging for provision of staff assigned to the Lynden Community Center. This funding is intended to provide staffing and operational support for Senior Services at the Lynden Senior Center.

CITY OF LYNDEN RESPONSIBILITIES
The City contracts by separate agreement with the Lynden Council on Aging to operate and maintain the Lynden Senior Center and its programs at the Lynden Community Center. “Senior Center management”, “Senior Center employees”, or “Senior Center staff” referred to herein are employees of the Lynden Council on Aging. The City will utilize the funds provided for in this Agreement to contract with the Lynden Council on Aging to continue to provide Senior Services Monday through Friday of each week from 8:00 a.m. to 4:30 p.m. at the Lynden Community Center, except holidays. At a minimum, the City and/or the Lynden Council on Aging will be expected to provide the following services:
A. Daily On-Site Operations
B. Assistance to Senior Center management and staff in order to provide a variety of healthy lifestyle programs and activities of interest to older adults
C. Develop safety policies and monitor procedures
D. Employee and volunteer opportunities to support Senior Center operations.
E. Progress reports to the County

In addition the City will continue to provide support to the Senior Center including use of the city owned facility located at 401 Grover Street, Lynden, Washington, 98264 and/or continued funding to cover programming and utilities expenses at the facility.

3. TERM OF AGREEMENT:
The term of this Agreement shall be from January 1, 2015 through December 31, 2016.

4. AVAILABLE FUNDING AND MANNER OF FINANCING:
The County will provide a total of $58,750 for the twelve (12) month period of January 1, 2015 through December 31, 2015, and $58,750 for the twelve (12) month period of January 1, 2016 through December 31, 2016.

The City shall invoice the County by the last working day of each month during the term of this agreement for services rendered as outlined in Section 2. The County shall reimburse the City for twelve (12) equal payments in 2015 and twelve (12) equal payments in 2016.

The County shall pay the City $500 in January 2015, and $500 in January 2015, for the purchase of custodial and maintenance supplies.

5. ADMINISTRATION:
The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordination and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

A. The City of Lynden representative shall be the City Administrator
B. Whatcom County's representative shall be Darla Smith

6. INDEMNIFICATION:
Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agree to save, indemnify, defend, and hold the other party

City of Lynden - Interlocal Agreement

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harmless from such liability.

The City or the non-profit Lynden Council on Aging is required to provide proof of insurance for the following minimum coverage’s.

A. General Liability coverage @ $1,000,000 per occurrence  
B. Workers Compensation Coverage and listed amounts for bodily injury by accident, bodily injury by disease, policy limits  
C. Directors and Officers coverage if applicable  
D. Fraud coverage for employees

7. TERMINATION:
This Agreement may be terminated by either party upon one-hundred and twenty (120) days written notice, mailed postage-prepaid by certified mail, return receipt requested, to the party’s last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

8. INDEPENDENCE OF PARTIES AND EMPLOYEES:
The CITY shall be deemed to be the sole operator of the Lynden Community Center. All employees and volunteers engaged with or serving in the operation of the Lynden Community Center shall not by this Agreement be construed to be employees, agents or volunteers serving the County.

9. NONDISCRIMINATION:
During the term of the Agreement, the CITY, or designated contractor, shall comply with all applicable Federal, State and local provisions with regard to hiring and employment practices, and providing program services.

In the event of the CITY’S noncompliance or refusal to comply with the above provisions, this Agreement may be rescinded, cancelled, or terminated in whole or in part without penalty to the COUNTY. The CITY shall, however, be given a reasonable time in which to cure such noncompliance.

10. NEW CONTRACTOR
Nothing herein shall prevent the City from entering into a contract with a different qualified contractor to perform the services described herein by the Lynden Council on Aging, or from performing said services itself.

11. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:
This Agreement may be changed, modified, amended or waived only by
written agreement executed by the parties hereto. Waiver or breach of any term or condition of the Agreement shall not be considered a waiver of any prior or subsequent breach.

12. SEVERABILITY:
In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

13. ENTIRE AGREEMENT:
This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement this ________
day of ________________, 2014.

APPROVED:
CITY OF LYNDEN

Dated this 15 day of September 2014

By: Scott Korthuis, Mayor

STATE OF WASHINGTON
COUNTY OF WHATCOM

On this 15 day of September 2014, before me personally appeared Scott Korthuis to me known to be the Mayor of the CITY OF LYNDEN and who executed the above instrument and acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this 15 day of September 2014

Pamela D. Brown
NOTARY PUBLIC in and for the State of Washington
Residing in Whatcom County
My Commission expires: 9/14/2017
WHATCOM COUNTY

Jack Louws, County Executive

STATE OF WASHINGTON

COUNTY OF WHATCOM

) ss.

On this ___ day of __________ 2014, before me personally appeared Jack Louws to me known to be County Executive of WHATCOM COUNTY and who executed the above instrument and acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this ___ day of __________, _____.

__________________________
NOTARY PUBLIC in and for the State of Washington

Residing in ______________________

My Commission expires: __________

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT

Michael McFarlane, Director

APPROVED AS TO FORM:

__________________________
Deputy Prosecuting Attorney
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Snapper Shuler Kenner Ins
Brown & Brown of WA Inc dba
P.O. Box 551
Lynden, WA 98264
Paul D Kenner

CONTACT NAME: Paul D. Kenner
PHONE: 360-354-4488 FAX: 360-354-1946
EMAIL:

INSURER(S) AFFORDING COVERAGE NAIC #
INSURER A: American States Insurance Co. 19704
INSURER B: American Economy Insurance 19690
INSURER C: 
INSURER D: 
INSURER E: 
INSURER F: 

INSURED
Lynden Community Senior Center
Alice Fairall
401 Grover Street
Lynden, WA 98264

COVERAGES

COVERAGE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

<table>
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<tr>
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<th>TYPE OF INSURANCE</th>
<th>ADDL/SUBR</th>
<th>POLICY NUMBER</th>
<th>POLICY EFF</th>
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AUTOMOBILE LIABILITY

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WORKERS COMPENSATION AND EMPLOYERS' LIABILITY

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<th>POLICY EXP</th>
<th>LIMITS</th>
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<tbody>
<tr>
<td></td>
<td>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?</td>
<td>Y/N</td>
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<td>(Mandatory in RH)</td>
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</table>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

Whatcom County Parks and Recreation
3373 Mt Baker Hwy
Bellingham, WA 98226

CANCELLATION

WHAC011

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to</th>
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<td>DKS</td>
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<tr>
<td>Division Head:</td>
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<tr>
<td>Dept. Head:</td>
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<td>1/27/15</td>
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<td>Prosecutor:</td>
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<td>Purchasing/Budget:</td>
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<tr>
<td>Executive:</td>
<td></td>
<td>1/16/15</td>
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</tbody>
</table>

**TITLE OF DOCUMENT:**

Interlocal Agreement with the City of Blaine for the Blaine Senior Activity Center Staffing and Operations.

**ATTACHMENTS:**

Memorandum, Information Sheet, and Interlocal Cooperative Agreement

**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.)

To allow the County Executive to renew the Contract for Services with the City of Blaine to provided staffing and operational support at the Blaine Senior Activity Center (Current Contract Number: 201211019).

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**
201104008

**Related File Numbers:**

**Ordinance or Resolution Number:**

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](http://www.co.whatcom.wa.us/council)
MEMORANDUM

TO: Jack Louws, County Executive

FROM: Michael McFarlane, Director
Parks & Recreation Department

RE: Contract for Services
Blaine Senior Activity Center Staffing and Operations Agreement

DATE: December 30, 2014

Enclosed are two (2) Contract for Service Agreement originals between Whatcom County Parks & Recreation Department and the City of Blaine for your review and signature.

- **Background and Purpose**
The renewal of this contract will provide funding to the City of Blaine to staff and operate the Blaine Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

- **Funding Amount and Source**
The Agreement will be funded by the General Fund in the amount of $58,750 for 2015 $58,750 in 2016.
### WHATCOM COUNTY CONTRACT INFORMATION SHEET

**Originating Department:** Parks & Recreation  
**Contract or Grant Administrator:** Mike McFarlane  
**Contractor's / Agency Name:** City of Blaine

<table>
<thead>
<tr>
<th>Question</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is this a New Contract?</td>
</tr>
<tr>
<td>If not, is this an Amendment or Renewal to an Existing Contract?</td>
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<tr>
<td>If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:</td>
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<tr>
<td>Does contract require Council Approval?</td>
</tr>
<tr>
<td>If No, include WCC:</td>
</tr>
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<td>Is this a grant agreement?</td>
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<td>If yes, grantor agency contract number(s):</td>
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<td>Is this contract grant funded?</td>
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</tr>
<tr>
<td>Is this contract the result of a RFP or Bid process?</td>
</tr>
<tr>
<td>If yes, RFP and Bid number(s):</td>
</tr>
<tr>
<td>Contract</td>
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<tr>
<td>Is this agreement excluded from E-Verify?</td>
</tr>
<tr>
<td>If no, include Attachment D Contractor Declaration form.</td>
</tr>
</tbody>
</table>

If YES, indicate exclusion(s) below:
- [ ] Professional services agreement for certified/licensed professional.
- [ ] Contract work is for less than $100,000.
- [ ] Contract work is for less than 120 days.
- [ ] Interlocal Agreement (between Governments).
- [ ] Contract for Commercial off the shelf items (COTS).
- [ ] Work related subcontract less than $25,000.
- [ ] Public Works - Local Agency/Federally Funded FHWA.

**Contract Amount:** (sum of original contract amount and any prior amendments): 117,500  
**This Amendment Amount:**  
**Total Amended Amount:**

**Summary of Scope:** The renewal of this contract will provide funding to the City of Blaine to staff and operate the Blaine Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

**Term of Contract:** January 1, 2015  
**Expiration Date:** December 31, 2016

**Contract Routing:**
1. Prepared by: DKS  
2. Attorney signoff:  
3. AS Finance reviewed:  
4. IT reviewed (if IT related):  
5. Contractor signed:  
6. Submitted to Exec.:  
7. Council approved (if necessary):  
8. Executive signed:  
9. Original to Council:  

**Dates:**
- Prepared by: Date: 12/30/14
- Attorney signoff: Date: 1/17/15
- AS Finance reviewed: Date: 1/12/15
- IT reviewed: Date: 10/17/14
- Contractor signed: Date: 1/12/15
- Submitted to Exec.:  
- Council approved:  
- Executive signed:  
- Original to Council:  

**Last Edited:** 060414
INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN

CITY OF BLAINE

AND

WHATCOM COUNTY PARKS & RECREATION

THIS AGREEMENT is made and entered into by Whatcom County Parks & Recreation Department (County) and the City of Blaine, Washington (City) pursuant to the authority granted by chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

1. DEFINITION / REFERENCES:

1.1 The Blaine Senior Center, a not-for-profit organization, is referred to as “local not-for-profit organization” for the purposes of this agreement.

1.2 The Blaine Facilities, located at 763 G Street, Blaine, WA, is referred to as “Blaine Community/Senior Center” for the purposes of this agreement.

2. PURPOSE:
The County will provide funding to the City to assist with the provision of Senior Services at the Blaine Community/Senior Center. This funding is intended to provide on-site staffing to assist with the operation of senior activities by the local not-for-profit organization.

3. RESPONSIBILITIES:
WHATCOM COUNTY PARKS & RECREATION RESPONSIBILITIES
The County will provide funding in 2015 and 2016 for the City to provide staffing and operational support at the Blaine Senior Center.

CITY OF BLAINE RESPONSIBILITIES
The City will contract with the local not-for-profit organization to provide senior services Monday through Saturday of each week at the Blaine Community/Senior Center. At a minimum, the City will be expected to insure that the local not-for-profit organization provides the following services:

A. Daily On-Site Operations
B. Assistance to the local not-for-profit organization management and staff in order to provide a variety of healthy lifestyle programs and activities of interest to older adults

C. Develop safety policies and monitor procedures

D. Employee and volunteer opportunities to support Senior Center operations.

E. Provide progress reports to the County

The City will provide the local not-for-profit organization with the use of the City owned facility located at 763 G Street, Blaine Washington 98230 and pay utilities expenses at the facility, subject to availability of funds.

4. TERM OF AGREEMENT:
The term of this Agreement shall be from January 1, 2015 through December 31, 2016.

5. AVAILABLE FUNDING AND MANNER OF FINANCING:
Whatcom County Parks & Recreation will provide a total of $58,750 for the twelve (12) month period of January 1, 2015 through December 31, 2015, and $58,750 for the twelve (12) month period of January 1, 2016 through December 31, 2016.

The City shall invoice the County by the last working day of each month during the term of this agreement for services rendered as outlined in Section 2. The County shall reimburse the City for twelve (12) equal payments in 2015 and twelve (12) equal payments in 2016.

The County shall pay the City $700 in January 2015, and $700 in January 2016, for the purchase of supplies for the Blaine Community/Senior Center.

6. ADMINISTRATION:
The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordination and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

A. The City representative shall be Jeffrey Lazenby, or successor

B. The County representative shall be Darla Smith, or successor

7. INDEMNIFICATION: The Provider agrees to indemnify, defend and hold the County and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any

2 City of Blaine - Interlocal Agreement
personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) to the extent caused by any act or omission, negligent or otherwise, of the Provider, its employees, agents or volunteers. This indemnification obligation of the Provider shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Provider hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Provider are a material inducement to County to enter into this Agreement, are reflected in the Provider's compensation, and have been mutually negotiated by the parties.

The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of Provider's indemnity obligations under this Agreement.

The Provider agrees all Provider's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

The City is required to provide proof of insurance for the following minimum coverage:

A. General Liability coverage @ $1,000,000 per occurrence
B. Workers Compensation Coverage and listed amounts for bodily injury by accident, bodily injury by disease, policy limits.
C. Directors and Officers coverage if applicable.
D. Fraud coverage for employees.

The City waives all rights of Subrogation against the County.

8. TERMINATION:
This Agreement may be terminated by either party upon one-hundred and twenty (120) days written notice, mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

9. INDEPENDENCE OF PARTIES AND EMPLOYEES:
The CITY shall be deemed to be the sole operator of the Blaine Community/Senior Center. All employees and volunteers engaged with or serving in the operation of the Blaine Community/Senior Center shall not
by this Agreement be construed to be employees, agents or volunteers serving the COUNTY.

10. NONDISCRIMINATION:
During the term of the Agreement, the CITY, or designated contractor, shall comply with all applicable Federal, State and local provisions with regard to hiring and employment practices, and providing program services.

In the event of the CITY'S noncompliance or refusal to comply with the above provisions, this Agreement may be rescinded, cancelled, or terminated in whole or in part without penalty to the COUNTY. The CITY shall, however, be given a reasonable time in which to cure such noncompliance.

11. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:
This Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of the Agreement shall not be considered a waiver of any prior or subsequent breach.

12. SEVERABILITY:
In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this Agreement are declared severable.

13. ENTIRE AGREEMENT:
This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.
IN WITNESS WHEREOF, the parties have executed this Agreement this 17th
day of October, 2014.

APPROVED:

CITY OF BLAINE

David Wilbrecht, City Manager

ATTEST:

Sheri Sanchez, City Clerk

DEPARTMENTAL APPROVAL:

Jeffrey Lazenby, Finance Director

Executed as of the date first written above.
STATE OF WASHINGTON

COUNTY OF WHATCOM

) ss.

On this 17th day of October, 2014, personally appeared before me, David Wilbrecht, to be known to be the City Manager of the City of Blaine and who executed the above instrument, and who acknowledged that to me the act of signing and sealing thereof:

Given under my hand and official seal this 17th day of October, 2014.

Cheryl L. Fischer
NOTARY PUBLIC in and for the State of Washington, residing at Blaine.
My Commission expires: 7-12-2015
WHATCOM COUNTY

Jack Louws, County Executive

STATE OF WASHINGTON) ) ss.
COUNTY OF WHATCOM )

On this ___ day of __________, 2014, before me personally appeared Jack Louws to me known to be County Executive of WHATCOM COUNTY and who executed the above instrument and acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this ___ day of __________, ___.

NOTARY PUBLIC in and for the State of Washington
Residing in Bellingham.
My Commission expires: __________

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT

Michael McFarlane, Director

APPROVED AS TO FORM:

Deputy Prosecuting Attorney

6 City of Blaine - Interlocal Agreement
TITLE OF DOCUMENT: Contract for services agreement with Domestic Violence & Sexual Assault Services.

ATTACHMENTS: memo, contract

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.)

Executive Louws respectfully requests that the Council approve the contract for services agreement with Domestic Violence and Sexual Assault to support their efforts to reduce and prevent domestic violence in Whatcom County.

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.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Executive Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Tawni Helms, Admin. Coord.</td>
</tr>
<tr>
<td>Contractor’s / Agency Name:</td>
<td>Domestive Violence &amp; Sexual Assault Svs.</td>
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| Is this a New Contract? | If not, is this an Amendment or Renewal to an Existing Contract? | Yes ☒ No ☐ |
|------------------------|------------------------------------------------------------------|
| If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: | | |

| Does contract require Council Approval? | Yes ☒ No ☐ | If No, include WCC: | | |
|----------------------------------------|-------------|---------------------|-----------------|
| (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100) | | |

<table>
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<tr>
<th>Is this a grant agreement?</th>
<th>Yes ☐ No ☒</th>
<th>If yes, grantor agency contract number(s):</th>
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<th>Yes ☐ No ☒</th>
<th>If yes, Whatcom County grant contract number(s):</th>
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<th>Is this contract the result of a RFP or Bid process?</th>
<th>Contract</th>
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<td>Yes ☐ No ☒ If yes, RFP and Bid number(s):</td>
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<tr>
<th>Is this agreement excluded from E-Verify?</th>
<th>No ☐ Yes ☒</th>
<th>If no, include Attachment D Contractor Declaration form.</th>
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</table>

If YES, indicate exclusion(s) below: |

- Professional services agreement for certified/licensed professional.
- Contract work is for less than $100,000.
- Contract work is for less than 120 days.
- Interlocal Agreement (between Governments).
- Contract for Commercial off the shelf items (COTS).
- Work related subcontract less than $25,000.
- Public Works - Local Agency/Federally Funded FHWA.

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<table>
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<tr>
<th>Total Amended Amount:</th>
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**Contracts that require Council Approval (incl. agenda bill & memo)**

- Professional Services Agreement above $20,000.
- Bid is more than $50,000.
- Amendments that have either an increase greater than 10% or provide a $10,000 increase in amount (whichever is greater)

**RENEWALS:** Council approval is not required when exercising an option to renew that is provided in the original contract.

**Summary of Scope:** The purpose of the Bellingham-Whatcom Commission Against Domestic Violence is to provide leadership in the community's effort to reduce and prevent domestic violence. This contract for services supports that mission. The contract will work with community and promote outreach, educational presentations, develop and publicize reports, work with schools, facilitate child witness response team and many other activities outlined in the scope of work.

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<tr>
<th>Term of Contract:</th>
<th>2 years</th>
<th>Expiration Date:</th>
<th>12/31/16</th>
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<tr>
<th>Contract Routing:</th>
<th>1. Prepared by: twh</th>
<th>Date:</th>
<th>01.02.15</th>
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<tbody>
<tr>
<td>2. Attorney signoff:</td>
<td>Daniel J. Higgin</td>
<td>Date:</td>
<td>01/20/15</td>
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<td>3. AS Finance reviewed:</td>
<td>benson</td>
<td>Date:</td>
<td>1/20/15</td>
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<td>4. IT reviewed (if IT related):</td>
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<td>Date:</td>
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<td>5. Contractor signed:</td>
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<td>6. Submitted to Exec.:</td>
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<td>Date:</td>
<td>1/20/15</td>
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<td>7. Council approved (if necessary):</td>
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<td>8. Executive signed:</td>
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<td>9. Original to Council:</td>
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<td>Date:</td>
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</tbody>
</table>

Last Edited 060414
MEMO:

TO: Whatcom County Council
DATE: January 5, 2015
FROM: Tawni Helms, Administrative Coordinator
RE: Domestic Violence and Sexual Assault Services Contract

Background and Purpose:
The Bellingham-Whatcom County Commission Against Domestic Violence was established under Whatcom County Code 2.108. The purpose of the Commission is to provide leadership in the community’s effort to reduce and prevent domestic violence.

This contract for services helps fund the administrative, management and support services of the Domestic Violence and Sexual Assault Services. The Domestic Violence Commission will cultivate strong relationships with agencies, institutions, individuals and the community as a whole. Host trainings and conferences, conduct focus groups and utilize research and data to identify new and effective approaches to evaluate project outcomes. They will coordinate public outreach and education. They will work with schools and support community efforts to for effective and accessible domestic violence perpetrator treatment.

Funding Amount and Source:
The 2015-2016 4 budget has allocated $35,000 for each year for a total of $70,000 for the biennium budget term. Funding source is the General Fund.

Requested Action:
Seeking Council approval for the 2 year agreement with the Domestic Violence and Sexual Assault Services.
CONTRACT FOR SERVICES
DOMESTIC VIOLENCE & SEXUAL ASSAULT SERVICES

Domestic Violence & Sexual Assault Services, hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 10.
Exhibit A (Scope of Work), pp. 11 to 12.
Exhibit B (Compensation), pp. 13.

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of January, 2015, regardless the date of signature and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2016.

The general purpose or objective of this Agreement is to support the Whatcom County Commission Against Domestic Violence, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement shall not exceed $35,000 for year one (2015) and $35,000 for year two (2016) for a total of $70,000. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this ___ day of ______________, 20__.

CONTRACTOR:

Domestic Violence & Sexual Assault Services

Karen Burke, Executive Director, DVSAS

STATE OF WASHINGTON )
) ss.
COUNTY OF ______________________________

On this ___ day of ____________, 20___, before me personally appeared Karen Burke, to me known to be the Executive Director of Domestic Violence & Sexual Assault Services and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

__________________________
NOTARY PUBLIC in and for the State of Washington, residing at __________________. My commission expires __________________.
AND:
Domestic Violence Commission

______________________________________
Susan Marks, Director, DV Commission

STATE OF WASHINGTON                     )
    ss.                                   )
COUNTY OF ___________________________  )

On this ______ day of __________, 20____, before me personally appeared Susan Marks, to me known to be the Director of Domestic Violence Commission and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

______________________________
NOTARY PUBLIC in and for the State of Washington, residing at __________________________. My commission expires __________________________.

Approved as to form:

[Signature] 4/12/15
Prosecuting Attorney  Date

Approved:
Accepted for Whatcom County:

By: __________________________
       Jack Louws, Whatcom County Executive

STATE OF WASHINGTON                     )
    ss                                    )
COUNTY OF WHATCOM                        )

On this ______ day of __________, 20____, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

______________________________
NOTARY PUBLIC in and for the State of Washington, residing at __________________________. My commission expires __________________________.

CONTRACTOR INFORMATION:
Domestic Violence Commission
Susan Marks, Director
1407 Commercial St.
Bellingham, WA  98225
Contact Phone:  312-5700 Ext. 202
Contact FAX:    312-5770
Contact Email:  smarks@dvcmission.org
Contract for Services
Domestic Violence & Sexual Assault Services
GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:
The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:
Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties, provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:
The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year, and for a total of no longer than three years.

11.1 Termination for Default:
If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:
In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:
The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Contract for Services
Domestic Violence & Sexual Assault Services
Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:
Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:
The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:
In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:
The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.
Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:
The Contractor’s services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit “B” and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys’ fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

30.2 Assignment and Subcontracting:
The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:
The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced:
When the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

31.2 Patent/Copyright Infringement:
Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:
A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.
B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:
The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys’ fees and costs resulting from Contractor’s breach of this provision.
33.1 Right to Review:
This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor’s Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Proof of Insurance:
The Contractor shall carry for the duration of this Agreement commercial general liability insurance with the following minimums:
Property Damage - $500,000.00 per occurrence;
Bodily injury- $1,000,000.00 per occurrence.
A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and non-contributory, and shall waive all rights of subrogation. The County insurance shall not serve as a source of contribution.

34.2 Industrial Insurance Waiver:
With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

34.3 Defense & Indemnity Agreement:
The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.
It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 Non-Discrimination in Employment:
The County’s policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age,
marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:
The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

36.1 Waiver of Noncompetition:
Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:
If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County’s interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County’s interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:
This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County’s representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County’s right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Tawni Helms, Administrative Coordinator
Whatcom County Executive’s Office
311 Grand Avenue, Suite 108
37.2 Notice:
Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County’s Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the “Contractor Information” section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.1 Certification of Public Works Contractor’s Status under State Law:
Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW, and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:
The Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled “Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction” without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The “General Service Administration List of Parties Excluded from Federal Procurement or Non-procurement Programs” is available to research this information at http://epis.gsa.gov/.

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:
Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations:
Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:
If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:
Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing.
signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:
Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:
The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:
The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration:
Other than claims for injunctive relief brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinafter, any claim, dispute or controversy between the parties under, arising out of, or related to this Agreement or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Agreement shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge, including expenses, costs and attorney fees to the prevailing party and pre-award interest, but shall not have the power to award punitive damages. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Unless otherwise specified herein, this Agreement shall be governed by the laws of Whatcom County and the State of Washington.

43.1 Venue and Choice of Law:

Contract for Services
Domestic Violence & Sexual Assault Services

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In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:
The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:
This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.
EXHIBIT "A"
(SCOPE OF WORK)

Whatcom County will reimburse Domestic Violence & Sexual Assault Services for services provided in support of the Bellingham-Whatcom County Commission Against Domestic Violence. Domestic Violence & Sexual Assault Services will provide administrative, management, space, personnel and support services to the Commission. The Bellingham-Whatcom County Commission Against Domestic Violence was established under Whatcom County Code (2.108). The purpose of the Commission is to provide leadership in the community's effort to reduce and prevent domestic violence.

The scope of work includes:

Core Activities:
- Cultivate strong partnerships with agencies, institutions, individuals, and the community as a whole to achieve change.
- Utilize research and data to identify new, effective approaches and to evaluate project outcomes.
- Host trainings and conferences to ensure community professionals have the information, resources, and skills they need to provide best-practice responses.
- Conduct focus groups annually with victim-survivors of domestic violence to solicit input and ideas on DV Commission projects as well as areas that need improvement in the community response to domestic violence.

Strategies:
- Coordinate and promote outreach and engagement activities during Domestic Violence Awareness Month each October.
- Conduct annual educational presentations for the Whatcom County Council.
- Develop and implement an on-going community-wide consciousness-raising campaign, with monthly outreach activities using social and traditional media.
- Develop and publicize the twelfth and thirteenth annual data reports, Domestic Violence in Whatcom County: Trends in Our Community Response to Domestic Violence, for 2015 and 2015, respectively.
- Work with media and local law enforcement to provide domestic violence education and coverage during major domestic violence incidents.
- Pilot a toolkit, with accompanying training, resources, and evaluation, for faith communities to provide a best-practice response to domestic violence within their congregations.
- Lead efforts to implement best-practice risk assessment and management tools within the legal, child protection, health care, and other systems. Specifically, work with law enforcement, advocacy, prosecution, medical, perpetrator treatment, courts, probation, and other systems to ensure successful and sustainable implementation of the Lethality Assessment Program and the Domestic Violence High Risk Response Team.
- Develop and implement a community plan to ensure best-practice responses to domestic violence cases involving strangulation.
- Support community efforts for the provision of effective and accessible domestic violence perpetrator treatment.
- Research and consider other areas to improve the community response to domestic violence based on identified need, opportunity, and organizational capacity.
- Expand efforts to address the response to and prevention of domestic violence, dating violence, sexual assault, and stalking in local schools and school districts. Specifically, work to replicate the response and prevention model that has been piloted in the Ferndale School District with other Districts in Whatcom County.
- Provide education, training, and resources for community professionals on responding to and serving children who are impacted by domestic violence.
- Facilitate the Child Witness Response Team to support best-practice responses to children and families experiencing domestic violence, and to identify and resolve systemic barriers to providing those responses.
- Explore an expansion of the mission to include sexual violence that occurs outside of an intimate partner relationship. Specifically, conduct research about the issue, lead the full DV Commission membership in a discussion and decision-making process related to the expansion, and provide recommendations to the Whatcom County Council and Executive, and Bellingham City Council and Mayor, for final decisions.
Operational Activities:

• Recruit and train new Commission members as needed.
• Serve as a member of Lummi Domestic Violence Task Force, Whatcom County Housing Advisory Committee, Project Safer, Whatcom County Triple Play, and other related community efforts.
• Expand the Commission’s basic operating funding base to secure funding to implement projects identified in the Commission’s strategic plan.
• Maintain Commission website, Facebook page, and twitter account.
• Provide staff support to all Commission meetings and work committees in order to achieve the outcomes and activities listed above.
EXHIBIT B  
(COMPENSATION)

The Contract Number shall be included on all billings or correspondence. The maximum consideration for this contract is $35,000.00 for year one (2015) and $35,000.00 for year two (2016).

Allowable expenses include reimbursement for items listed below that can be directly linked to Domestic Violence Commission services:

1. **Actual** personnel costs for dedicated Domestic Violence Commission staff (payroll records required)
2. Overhead expenses incurred by the Domestic Violence & Sexual Abuse Services as outlined in Exhibit D Budget (to be billed at 10% of the Overhead Expenses)
3. Printing Costs incurred by Domestic Violence Commission (receipts required)
4. Travel/Training incurred by Domestic Violence Commission staff (receipts required)
5. Meeting Expenses incurred by Domestic Violence Commission staff (receipts required)
6. Postage incurred by Domestic Violence Commission (receipts required)
7. Professional Services acquired by Domestic Violence Commission (receipts required)
8. Promotional Materials purchased by Domestic Violence Commission (receipts required)
9. Direct Telephone Costs incurred by Domestic Violence Commission (receipts required)
10. Maintenance on Domestic Violence Commission Owned Equipment (receipts required)

The maximum consideration for this contract is $35,000 for year one (2015) and $35,000 for year two (2016).

Compensation will be paid as reimbursement only upon receipt of invoice sent to the Whatcom County Executive, 311 Grand Avenue, Suite 108, Bellingham, WA 98225 detailing allowable expenditures as outlined in Exhibit A. Invoices will include documentation and receipts as appropriate. Domestic Violence and Sexual Assault Services will provide the Whatcom County Executive Office with quarterly financial and activity reports performed to support the Commission.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Formula</th>
<th>Total Projected</th>
</tr>
</thead>
<tbody>
<tr>
<td>DVSAS Administrative Support</td>
<td>Reception, human resources, accounting, payroll, personnel policies, financial oversight</td>
<td>10% of DV Commission's personnel budget</td>
<td>$14,897</td>
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<tr>
<td>Equipment</td>
<td>Rental and maintenance of copier, printers, fax machine</td>
<td>5% of total, based on FTEs</td>
<td>$1,242</td>
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<tr>
<td>Occupancy</td>
<td>Offices, shared work spaces, utilities</td>
<td>$22.16/square foot</td>
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<tr>
<td>Telecommunications</td>
<td>Telephone, internet, network services</td>
<td>5% of total, based on FTEs</td>
<td>$1,777</td>
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<tr>
<td>Office Supplies</td>
<td>Printer and copier paper, files and folders, writing utensils, etc</td>
<td>5% of total, based on FTEs</td>
<td>$1,533</td>
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<tr>
<td>Postage</td>
<td>Shared mailings</td>
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<td>$150</td>
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<td>Directors and Officers</td>
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<tr>
<td>Insurance</td>
<td>Coverage of DV Commission staff &amp; members</td>
<td>5% of total, based on FTEs</td>
<td>$1,777</td>
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<tr>
<td><strong>TOTAL</strong></td>
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<td>$28,907</td>
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Funding sources: Proportions (Calculated based on FTEs funded by the source):

- City of Bellingham: 32%
- Whatcom County: 20%
- STEP Grant: 15%
- GTEA Grant: 33%
WHATCOM COUNTY COUNCIL  
Committee Of The Whole  

October 28, 2014  

CALL TO ORDER  

Council Chair Carl Weimer called the meeting to order at 6:30 p.m. in the Council Conference Room, 311 Grand Avenue, Bellingham, Washington.  

ROLL CALL  

Present: Barbara Brenner, Sam Crawford, Rud Browne, Barry Buchanan, Ken Mann, Pete Kremen and Carl Weimer  

Absent: None  

COMMITTEE DISCUSSION  

1. DISCUSSION REGARDING POTENTIAL PROPERTY ACQUISITION FOR THE FLOOD CONTROL ZONE DISTRICT (AB2014-018)  

Attorney Present: None  

Weimer stated that discussion of agenda item one may take place in executive session pursuant to RCW42.30.140 (1)(b). Executive session will conclude no later than 7:00 p.m. If the meeting extends beyond the stated conclusion time, he will step out of the meeting to make a public announcement.  

Kremen moved to go into executive session until no later than 7:00 p.m. to discuss the agenda items pursuant to RCW citations as announced by the Council Chair.  

The motion carried by the following vote:  

Ayes: Crawford, Brenner, Browne, Buchanan, Mann, Kremen and Weimer (7)  

Nays: None (0)  

OTHER BUSINESS  

ADJOURN  

The meeting adjourned at 6:45 p.m.  

The Council approved these minutes on ______ 2015.  

ATTEST: WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON  

______________________________  ______________________________  
Dana Brown-Davis, Council Clerk   Carl Weimer, Council Chair
Nays: None (0)
Absent: Brenner (out of the room) (1)

OTHER BUSINESS

ADJOURN

The meeting adjourned at 6:49 p.m.

The Council approved these minutes on ______ 2015.

ATTEST:
WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk
Carl Weimer, Council Chair

Jill Nixon, Minutes Transcription
CALL TO ORDER

Council Chair Carl Weimer called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Ken Mann, Sam Crawford, Carl Weimer, Pete Kremen, Rud Browne and Barry Buchanan.

Absent: None.

FLAG SALUTE

ANNOUNCEMENTS

From Committee of the Whole

Discussion regarding potential property acquisition for the Flood Control Zone District (AB2014-018)

Crawford moved to authorize the County Executive, acting on behalf of the Whatcom County Flood Control Zone District Board of Supervisors, to move forward with and complete acquisition of the property, as long as the purchase price of the parcel does not exceed the amount discussed in executive session.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

MINUTES CONSENT

Mann moved to approve the Minutes Consent items.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

1. SURFACE WATER WORK SESSION FOR SEPTEMBER 23, 2014

2. COMMITTEE OF THE WHOLE FOR SEPTEMBER 30, 2014
3. COMMITTEE OF THE WHOLE FOR OCTOBER 14, 2014

PUBLIC HEARINGS

1. RESOLUTION APPROVING THE WHATCOM COUNTY 2015 ANNUAL CONSTRUCTION PROGRAM (AB2014-329)

Weimer opened the public hearing and, hearing no one, closed the public hearing.

Crawford moved to approve the resolution.

Brenner reported for the Public Works, Health, and Safety Committee and moved to amend the resolution to add a new item between the current items 20 and 21 for the Lakeway Drive/Parkstone Lane area crosswalk for a total amount of $300,000.

Mann stated he supports the amendment.

Browne submitted a handout and stated he has concerns. He supports pedestrian and bicycle safety in all parts of the county. However, they must study the whole corridor before adding the crosswalk. The Public Works Department staff has expressed concerns about whether a crosswalk is appropriate, about what type of crosswalk is appropriate, and whether they need to do a comprehensive review of Lakeway Drive.

Brenner stated the Committee addressed this concern. Councilmember Kremen requested specifically that any crosswalk they create will be safe. The Executive assured that their design will be as safe as it can be.

Kremen stated the handout from Councilmember Browne concerns him. The Council, including Councilmember Browne, voted earlier this year to approve another project that also didn’t meet warrants. These concerns were not mentioned at that time. He told staff that any proposal must be a safe proposal. The Council wouldn’t approve an unsafe proposal.

Browne stated a study is necessary to make sure the crosswalk is in the right place and is adequate for the job.

Mann stated adding a crosswalk to the resolution doesn’t designate a specific location or style of crosswalk. Staff will suggest the safest location and design. That will be part of the decision to be made later.

Weimer stated putting a crosswalk on the annual construction program list does not approve the crosswalk design. The actual crosswalk will come before the Council at a later date. He’s impressed with a new crosswalk on Northwest Road that includes flashing lights and rumble strips. Staff can build a safe crosswalk. He supports adding it to the list. That doesn’t guarantee his support when the project comes forward.

Brenner stated everyone on the Council puts safety first. Comprehensive studies take forever. A crosswalk can be designed safely.
Kremen stated he has serious concerns now about the handout from Councilmember Browne. It’s problematic. It’s a public record. The response from legal staff prevents the Council from moving forward at this time. It makes the County vulnerable no matter what happens.

Browne stated any potential liability was already there. He didn’t create it. Mr. Rutan, a certified engineer, already spoke on the record.

Weimer stated the decision for the four-way stop in the Ferndale area involved a very different kind of risk. They don’t incur any liability by adding it to the list. He wants better analysis before he votes to approve any project.

Browne stated he wants a proper analysis of that section of the road, so they have a comprehensive approach for safety. He would like an amendment that council would only approve a crosswalk that would be safe.

Karen Frakes, Prosecutor’s Office, stated the handout from Councilmember Browne contains attorney-client advice, which is exempt from public disclosure, regardless of whether or not it was sent via email.

Kremen stated he wants to move forward, but not spend a lot of staff time or consultant time for something they’re never going to do. There is specific, final language in the communication from legal counsel. There is no room to ever build the crosswalk in the future. Frakes stated adding the project to the list doesn’t approve the project. There isn’t liability to putting it on the list.

Weimer stated the Council can have a discussion with the attorney before they spend any more staff time on this effort.

**Browne suggested a friendly amendment** that the Council is willing to approve a solution that the County engineer is willing to deem safe.

**Brenner did not accept** the friendly amendment. Any project they approve will be safe. She restated the proposed amendment to amend the resolution to add a new item between the current items 20 and 21 for the Lakeway Drive/Parkstone Lane area crosswalk for a total amount of $300,000. The final crosswalk analysis and design would be safe.

Kremen stated any proposal brought to the Council would have to be safe.

Crawford stated he is against the motion to amend. The County engineers have studied this location and all the intersections in the area. There are 8,000 to 12,000 vehicles per day. It is the thoroughfare for all of the Sudden Valley community to get in and out of town every day. The curves in the road limit sight distance. It will be difficult or impossible to create a pedestrian intersection that won’t have problems. Per the County engineer, they should put something that completely stops traffic if they are going to put anything out there. This intersection has no history of traffic accidents. Any type of traffic control measure with the curves and limited sight distance will create traffic accidents. They will create a tremendous liability for the County. He respects pedestrian uses on the road. In this location, they must understand they are creating a bigger problem for vehicles.
than they are solving for pedestrians. It doesn’t warrant this type of traffic control. Because this doesn’t come close to meeting commonly accepted standards, the County won’t get any funding for this project. They will have to use County road fund dollars and make an investment in an intersection that will become more dangerous for the vast majority of users, which are vehicle drivers, not pedestrians.

Only the people on Lakeway have to go across the street to get their mail, not the people on Parkstone. The people on Lakeway have always had to cross the street to get the mail. The Birch Street development residents will be able to go toward town on the new road being built through to Parkstone. It is being built to a residential standard, with curbed gutters, sidewalks, and street lights. Given all those factors, it’s clear that this project is uncalled for.

Brenner stated the sight distance at Parkstone is excellent.

The motion to amend carried by the following vote:

Ayes: Brenner, Mann, Buchanan and Kremen (4)
Nays: Crawford, Weimer, and Browne (3)

The motion to approve as amended carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

2. ORDINANCE TERMINATING OPEN SPACE TIMBER LAND CLASSIFICATION AND CONSOLIDATING TIMBER LAND CLASSIFICATION WITH DESIGNATED FOREST LAND CLASSIFICATION AND DECLARING LAND PREVIOUSLY CLASSIFIED AS TIMBER LAND TO BE DESIGNATED FOREST LAND (AB2014-300)

Weimer opened the public hearing and, hearing no one, closed the public hearing.

Brenner moved to adopt the ordinance. She stated the ordinance is a change in efficiency, but it won’t make a big difference for applicants.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

OPEN SESSION

The following people spoke:

- Alan Friedlob submitted a handout (on file) and spoke about the property acquisition in Birch Bay.
- Nora Short spoke about the real estate purchase agreement between Whatcom County and Mt. Baker School District for the acquisition of approximately 4.2 acres for park purposes in Maple Falls (AB2014-335).
DISCLAIMER: This document is a draft and is provided as a courtesy. This document is not to be considered as the final minutes. All information contained herein is subject to change upon further review and approval by the Whatcom County Council.

- Joelle Adams spoke about the real estate purchase agreement between Whatcom County and Mt. Baker School District for the acquisition of approximately 4.2 acres for park purposes in Maple Falls (AB2014-335).
- Steven Bowden spoke about the real estate purchase agreement between Whatcom County and Mt. Baker School District for the acquisition of approximately 4.2 acres for park purposes in Maple Falls (AB2014-335).
- Daniel Probst submitted a handout (on file) and spoke about the real estate purchase agreement between Whatcom County and Mt. Baker School District for the acquisition of approximately 4.2 acres for park purposes in Maple Falls (AB2014-335).
- Larry Helm spoke about the flood fund and packinghouses.
- Sam Taylor spoke about his application for appointment to the Planning Commission.
- Rebecca Baker spoke about the real estate purchase agreement between Whatcom County and Mt. Baker School District for the acquisition of approximately 4.2 acres for park purposes in Maple Falls (AB2014-335).
- Laurel Waldren-Hanson spoke about the real estate purchase agreement between Whatcom County and Mt. Baker School District for the acquisition of approximately 4.2 acres for park purposes in Maple Falls (AB2014-335).
- Dean Prather spoke about his application for appointment to the Planning Commission.
- Michael Bersch spoke about his application for appointment to the Planning Commission.
- Carol McDonald spoke about the real estate purchase agreement between Whatcom County and Mt. Baker School District for the acquisition of approximately 4.2 acres for park purposes in Maple Falls (AB2014-335).

CONSENT AGENDA

Crawford reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one through five.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

1. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND FLEX-PLAN SERVICES FOR ADMINISTRATIVE AND CLAIMS PROCESSING SERVICES FOR THE DIRECT REIMBURSEMENT DENTAL PROGRAM EFFECTIVE JANUARY 1, 2015, IN THE AMOUNT OF $3 PER PARTICIPANT PER MONTH, OR $27,540/YEAR MAXIMUM AT CURRENT ENROLLMENT (AB2014-336)

2. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND SHEARER DESIGN LLC FOR DESIGN OF THE SOUTH PASS ROAD/SAAR CREEK BRIDGE 212 REPLACEMENT PROJECT, IN THE AMOUNT OF $55,868 (AB2014-337)
3. RESOLUTION ORDERING THE CANCELLATION OF WARRANTS MORE THAN A YEAR OLD (AB2014-338)

4. RESOLUTION ORDERING THE CANCELLATION OF ACCOUNTS RECEIVABLE MORE THAN A YEAR OLD (AB2014-339)

5. RESOLUTION ORDERING THE CANCELLATION OF EMPLOYEE ACCOUNTS RECEIVABLE MORE THAN A YEAR OLD (AB2014-340)

OTHER ITEMS

1. ORDINANCE AMENDING THE 2014 WHATCOM COUNTY BUDGET, SIXTEENTH REQUEST, IN THE AMOUNT OF $2,755,000 (AB2014-334)

   Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

   Brenner stated she supports the part of the ordinance regarding parks. She supports small parks in communities that have a need like this. She asked if the funding for the Lighthouse Marine Park project could have been funded by the park fund instead of the real estate excise tax (REET) fund.

   Mike McFarlane, Parks and Recreation Department Director, stated it was taken from the REET fund because they didn’t yet have the park fund. It probably could be funded from the park fund. It’s a capital project. He described the project.

   Brenner stated she would like future items like this to be funded from the park fund, so they can use the REET funds for stormwater projects. This project is important, and it’s not much money. She asked about giving money to the Northwest Parks District. McFarlane stated the County isn’t giving money to the Northwest Parks District. They have set aside money to help.

   Brenner stated other community organizations will maintain and do the work on this project, as part of a public/private partnership. Allow money to come back to the County to reimburse the conservation futures fund.

   Mann stated they aren’t giving money to the Parks District. They also aren’t giving money to the State for the State park. He supports the park with the caveat that it is up to the Parks District, Chamber, and community to operate, maintain, and develop the park.

   Weimer stated they can’t use the conservation futures money for the berm project or transfer conservation futures funds to Northwest Parks. Conservation futures funds have to be used to purchase parkland. There don’t seem to be clear plans yet for the park once it’s purchased. They would have lost the property to development if they didn’t take the opportunity to purchase it now and set it aside. They have a clear sense of some things they want to do with the property, including parking and restrooms. It’s not completely planned out yet.
Crawford stated he would love to see the Birch Bay community become a municipality. He’s not sure how that would happen.

Kremen stated the Birch Bay acquisition is long overdue. The community is one of the county’s greatest sources of tourism dollars. It’s an opportunity for the community to become even more viable in the tourism industry. It’s a small property with a high cost, but the value exists. This is an opportunity for all of Whatcom County to realize a very nice return on the investment. It’s an asset for the entire county. He encourages the community to consider a public/private partnership and community volunteerism to develop a project with the County.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

2. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A REAL ESTATE PURCHASE AGREEMENT BETWEEN WHATCOM COUNTY AND MT. BAKER SCHOOL DISTRICT FOR THE ACQUISITION OF APPROXIMATELY 4.2 ACRES FOR PARK PURPOSES IN MAPLE FALLS, IN THE AMOUNT OF $235,000 (AB2014-335)

Crawford reported for the Finance and Administrative Services Committee and moved to approve the request.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

3. RESOLUTION DECLARING THE WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT’S INTENTION TO LEASE PROPERTY ON RIVER ROAD (AB2014-298) (8:11:26 PM)

(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.)

Mann moved to approve the resolution.

Browne moved to amend to accept the substitute version of Exhibit B that he submitted (on file).

Crawford stated he supports the amendment. The family’s representative who leases the land wants to do this. He had been concerned about an added cost to the family, but they seem to support the idea of paying for it.

The motion to amend carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

The motion to approve as amended carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. NOMINATION AND APPOINTMENT TO FILL A VACANCY ON THE WHATCOM COUNTY PLANNING COMMISSION, DISTRICT 3 - APPLICANT(S): SAM TAYLOR, DEAN PRATHER, AND MICHAEL BERSCH (AB2014-318) (8:16:20 PM)

Browne nominated all three applicants.

Crawford thanked the At-Large Councilmember for nominating all applicants.

Kremen stated he’s pleased they received three talented, dedicated, and skilled applicants. It’s a difficult job that pays nothing. Each applicant is worthy of appointment. He thanked all three for being willing to serve.

Brenner stated she looks forward to getting to know all the applicants. She’s impressed by all the applicants.

Browne stated he agrees with Councilmember Kremen. He will vote for the person who has seen the Planning Commission and Council in operation. He had a good conversation with all three candidates. He encourages the other two candidates to spend time at Council meetings and Planning Commission meetings.

Crawford stated the 2016 Comprehensive Plan process is coming up. It will be a difficult process.

Councilmembers Weimer, Browne, Crawford, Brenner, Kremen, and Buchanan voted for Sam Taylor.

Councilmember Mann voted for Michael Bersch.

The Council appointed Sam Taylor.

Weimer stated the Planning Commission tends to be a polarized group. It’s nice to get three qualified applicants. He hopes they will apply for another committee in the future. There is an opening now on the Surface Mining Advisory Committee. It would be good to get some expertise on that committee.

INTRODUCTION ITEMS

1. ORDINANCE AMENDING THE 2014 WHATCOM COUNTY BUDGET, SEVENTEENTH REQUEST, IN THE AMOUNT OF $77,912 (AB2014-341)

Crawford moved to accept the Introduction Item.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

RESOLUTION APPROVING WHATCOM COUNTY/CITY OF BELLINGHAM JOINT GRANTING AUTHORITY RECOMMENDATIONS ON SIX APPLICATIONS FOR OPEN SPACE CURRENT USE ASSESSMENT ON LANDS LOCATED WITHIN CITY OF BELLINGHAM AS AUTHORIZED BY THE OPEN SPACE TAXATION ACT, CHAPTER 84.34 RCW (AB2014-319) (8:22:41 PM)

Buchanan reported for Natural Resources Committee about the City/County joint granting authority regarding six open space applications. The joint granting authority approved resolution 2014-054 with an amendment.

Brenner stated she would like to see the Comcast franchise agreement being developed. Contact the Washington Utility and Transportation Commission (WUTC). Comcast should be treated like a utility. There are rules it should follow. They must get this agreement done.

Kremen stated he would like the public to let the Council know of any issues and concerns they may have with Comcast. When entering into a long contract of 15 years, make sure they’re doing the right thing.

Weimer stated the Council must select a member to be on the Water Utility Coordinating Committee (WUCC). He suggests the Council appoint two members so there is a backup representative.

Kremen moved to nominate and appoint Councilmembers Weimer and Browne.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)

Nays: None (0)

Weimer stated there were concerns about attendance at the Planning Commission meetings. Planning staff had a discussion with the Commissioner, whose job situation is changing and will become available for meetings in 2015.

Crawford stated the Planning Commission is responsible for its own bylaws and removing absent members.

Brenner reported about the budget item and email she received from Sean Humphrey House and the open house she attended at British Petroleum (BP).

ADJOURN

The meeting adjourned at 8:31 p.m.

The Council approved these minutes on ______________, 2015.
**DISCLAIMER:** This document is a draft and is provided as a courtesy. This document is not to be considered as the final minutes. All information contained herein is subject to change upon further review and approval by the Whatcom County Council.

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<td>WHATCOM COUNTY COUNCIL</td>
<td>WHATCOM COUNTY, WASHINGTON</td>
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<td></td>
<td>Dana Brown-Davis, Council Clerk</td>
<td>Carl Weimer, Council Chair</td>
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<td>Jill Nixon, Minutes Transcription</td>
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CALL TO ORDER

Council Chair Carl Weimer called the meeting to order at 6:17 p.m. in the Council Conference Room, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Sam Crawford, Rud Browne, Barry Buchanan, Ken Mann, Pete Kremen and Carl Weimer

Absent: None

COMMITTEE DISCUSSION

1. DISCUSSION WITH PUBLIC WORKS STAFF REGARDING A POTENTIAL PROPERTY ACQUISITION FOR FLOOD CONTROL ZONE DISTRICT (AB2014-018)

This item was withdrawn from the agenda.

2. DISCUSSION WITH SENIOR DEPUTY PROSECUTOR KAREN FRAKES REGARDING PENDING LITIGATION, WHATCOM COUNTY V. WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD, SKAGIT COUNTY SUPERIOR COURT CASE NO. 13-2-00211-9. (AB2014-018)

Attorney Present: Karen Frakes

3. DISCUSSION WITH SENIOR DEPUTY PROSECUTOR KAREN FRAKES REGARDING PENDING LITIGATION, HIRST ET AL V. WHATCOM COUNTY, GMHB CASE NO. 12-2-0013 (AB2014-018)

Attorney Present: Karen Frakes

Weimer stated that discussion of agenda items two and three may take place in executive session pursuant to RCW42.30.110 (1)(i). Executive session will conclude no later than 7:00 p.m. If the meeting extends beyond the stated conclusion time, he will step out of the meeting to make a public announcement.

Buchanan moved to go into executive session until no later than 7:00 p.m. to discuss the agenda items pursuant to RCW citations as announced by the Council Chair.

The motion carried by the following vote:

Ayes: Crawford, Browne, Buchanan, Mann, Kremen and Weimer (6)
Nays:  None (0)
Absent:  Brenner (out of the room) (1)

OTHER BUSINESS

ADJOURN

The meeting adjourned at 6:49 p.m.

The Council approved these minutes on ______ 2015.

ATTEST:  WHATCOM COUNTY COUNCIL
          WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk  Carl Weimer, Council Chair

Jill Nixon, Minutes Transcription
WHATCOM COUNTY COUNCIL

Regular County Council

November 12, 2014

CALL TO ORDER

Council Chair Carl Weimer called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Ken Mann, Sam Crawford, Rud Browne, Barry Buchanan, Carl Weimer, and Pete Kremen

Absent: None

FLAG SALUTE

CITIZEN BOARD AND COMMITTEE VACANCIES

Weimer announced vacancies on the Surface Mining Advisory Committee and Marine Resources Committee.

ANNOUNCEMENTS

Weimer announced there was discussion during the Special Committee of the Whole meeting regarding formulation of recommendations related to a proposed ordinance approving the 2015-2016 Whatcom County Budget (AB2014-205C) and County staff and Executive seek input from Council on the proposed 2015 WRIA 1 Watershed Management Project Joint Board Budget (AB2014-345).

Weimer also announced there was discussion with Senior Deputy Prosecutor Karen Frakes regarding pending litigation, Whatcom County v. Western Washington Growth Management Hearings Board, Skagit County Superior Court Case No. 13-2-00211-9 (AB2014-018) in executive session during the Committee of the Whole meeting.

Weimer finally announced there was also discussion with Senior Deputy Prosecutor Karen Frakes regarding pending litigation, Hirst et al v. Whatcom County, GMHB Case No. 12-2-0013 (AB2014-018) in executive session during the Committee of the Whole meeting.

Kremen moved for the County to request the Washington Association of Counties to submit an amicus curiae brief in Hirst et al v. Whatcom County, Court of Appeals, Division 1, case number 70796-5-1 and 72132-1-1.
The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

SPECIAL PRESENTATION

1. RESOLUTION DECLARING THE MONTH OF NOVEMBER “PANCREATIC CANCER AWARENESS MONTH” IN WHATCOM COUNTY (AB2014-379)

Kremen moved to approve and read the resolution. Mr. George Harell asked him and Councilmember Brenner for this declaration. Mr. Harell is a leader in trying to foster the pancreatic cancer awareness cause.

George Harell stated he was diagnosed with pancreatic cancer in 2012. Currently, pancreatic cancer is the fourth leading cause of death. It is projected to be the second leading cause of death by 2020. However, there is hope due to getting word out about the disease. Hopefully, the Recalcitrant Cancer Research Act will help people. The National Cancer Institute is directly responsible for fostering plans and directed to raise funds. Young research workers and other healthcare professionals are entering a difficult field. Their enthusiasm and new ideas will create breakthroughs. He thanked the Council for the proclamation. Washington state has several good support organizations for people who have pancreatic cancer. It’s important to put newly-diagnosed patients in contact with these organizations.

Kremen stated he commends the efforts of all who are involved in the fight against pancreatic cancer, including Mr. Harell.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

MINUTES CONSENT

(7:11:18 PM)

Brenner moved to approve Minutes Consent items one through three.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

1. REGULAR COUNTY COUNCIL FOR SEPTEMBER 30, 2014

2. BOARD OF HEALTH FOR OCTOBER 7, 2014

3. REGULAR COUNTY COUNCIL FOR OCTOBER 14, 2014
OPEN SESSION

The following people spoke:

- Joy Gilfillan spoke about the proposed new Whatcom County jail and jail alternatives.
- John Belisle spoke about Whatcom County government key performance measures.
- Paul Akers submitted a handout (on file) and spoke about Whatcom County government key performance measures.
- Carol Perry spoke about Whatcom County government key performance measures.

CONSENT AGENDA

(7:25:03 PM)

Crawford reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one through three.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

1. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND BECKWITH CONSULTING GROUP FOR ASSISTANCE WITH THE 2016 COMPREHENSIVE PLAN UPDATE TO THE HOUSING CHAPTER, IN THE AMOUNT OF $25,000 (AB2014-346)

2. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO RENEW INSURANCE FOR THE WHATCOM CHIEF FERRY FOR POLICY YEAR 01/01/15 THROUGH 01/01/16 (AB2014-347)

3. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A GRANT AGREEMENT BETWEEN WHATCOM COUNTY AND WASHINGTON STATE DEPARTMENT OF ECOLOGY TO FUND ADMINISTRATIVE AND ACTION PROJECTS FOR THE WHATCOM COUNTY MARINE RESOURCES COMMITTEE, IN THE AMOUNT OF $74,018 (AB2014-348)

OTHER ITEMS

1. ORDINANCE AMENDING THE 2014 WHATCOM COUNTY BUDGET, SEVENTEENTH REQUEST, IN THE AMOUNT OF $77,912 (AB2014-341)

Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:
INTRODUCTION ITEMS

Crawford moved to accept Introduction Items one through 33. He stated there is a substitute ordinance for item 31, the Six-Year Capital Improvement Program (AB2014-330).

Dana Brown-Davis, Clerk of the Council stated the proposed public hearing for item 23 regarding the Slater Road rezone request (AB2014-331) is moved from November 25 to December 9, 2014.

Brenner asked about the parks and recreation level of service changes.

Mark Personius, Planning and Development Services Department, stated the number of trail miles is 70. Item 22 regarding the Comprehensive Plan mineral resource lands (AB2014-344) is withdrawn from the agenda and will be rescheduled on December 9, 2014.

Weimer read an email from Matt Aamot dated November 12, 2014 detailing a revised six-year capital improvement program (on file).

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

ORDINANCE AMENDING WHATCOM COUNTY CODE 16.20, WHATCOM COUNTY SHELLFISH PROTECTION DISTRICT (AB2014-351)

ORDINANCE AMENDING ORDINANCE 2014-011 (AMENDMENT NO. 1), ESTABLISHING THE DAKOTA CREEK BRIDGE NO. 500 PROJECT FUND AND RELATED CAPITAL BUDGET APPROPRIATION (AB2014-352)

ORDINANCE AMENDING THE 2014 WHATCOM COUNTY BUDGET, EIGHTEENTH REQUEST, IN THE AMOUNT OF $665,276 (AB2014-353)

ORDINANCE ESTABLISHING THE LAKE WHATCOM BOULEVARD RE-SURFACING FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR LAKE WHATCOM BOULEVARD RE-SURFACING CPR #913002 PROJECT (AB2014-354)

ORDINANCE ESTABLISHING THE HANNEGAN ROAD/NOOKSACK RIVER BRIDGE NO. 252 FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR HANNEGAN ROAD/NOOKSACK RIVER BRIDGE NO. 252 SCOUR MITIGATION PROJECT (AB2014-355)

ORDINANCE ESTABLISHING THE SLATER ROAD/NOOKSACK RIVER BRIDGE FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR SLATER ROAD/NOOKSACK RIVER BRIDGE PAINTING PROJECT (AB2014-356)
7. ORDINANCE ESTABLISHING THE 2015 COUNTY ROADWAY SAFETY PROGRAM FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR THE 2015 COUNTY ROADWAY SAFETY PROGRAM – CRP #915015 (AB2014-357)

8. ORDINANCE ESTABLISHING THE HANNEGAN ROAD STRUCTURAL OVERLAY FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR HANNEGAN ROAD STRUCTURAL OVERLAY CRP #915010 PROJECT (AB2014-358)

9. ORDINANCE ESTABLISHING THE 2015 COURTHOUSE IMPROVEMENT FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR COURTHOUSE IMPROVEMENTS (AB2014-359)

10. ORDINANCE ESTABLISHING THE 2015 GIRARD STREET BUILDING IMPROVEMENT FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR GIRARD STREET BUILDING IMPROVEMENTS (AB2014-361)

11. ORDINANCE ESTABLISHING THE COURTHOUSE BUILDING ENVELOPE PROJECT FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR THE COURTHOUSE BUILDING ENVELOPE PROJECT (AB2014-362)

12. ORDINANCE ESTABLISHING THE 2015 CENTRAL PLAZA IMPROVEMENT FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR CENTRAL PLAZA BUILDING IMPROVEMENTS (AB2014-363)

13. ORDINANCE ESTABLISHING THE 2015 SILVER LAKE PARK IMPROVEMENT FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR SILVER LAKE PARK IMPROVEMENTS (AB2014-364)

14. ORDINANCE ESTABLISHING THE 2015 LIGHTHOUSE MARINE PARK IMPROVEMENT FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR LIGHTHOUSE MARINE PARK IMPROVEMENTS (AB2014-365)

15. ORDINANCE ESTABLISHING THE SOUTH FORK PARK IMPROVEMENT FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR SOUTH FORK PARK IMPROVEMENTS (AB2014-366)

16. ORDINANCE ESTABLISHING THE ACADEMY ROAD STORM WATER IMPROVEMENTS FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR ACADEMY ROAD STORM WATER IMPROVEMENTS (AB2014-367)

17. ORDINANCE ESTABLISHING THE AGATE HEIGHTS ESTATE/BAY LANE STORM WATER IMPROVEMENTS FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR AGATE HEIGHTS ESTATE/BAY LANE STORM WATER IMPROVEMENTS (AB2014-368)

18. ORDINANCE ESTABLISHING THE BEAVER CREEK STORM WATER IMPROVEMENTS FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR BEAVER CREEK STORM WATER IMPROVEMENTS (AB2014-369)
19. ORDINANCE ESTABLISHING THE CEDAR HILLS/EUCLID STORM WATER IMPROVEMENTS FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR CEDAR HILLS/EUCLID STORM WATER IMPROVEMENTS (AB2014-370)

20. ORDINANCE ESTABLISHING THE CRIMINAL JUSTICE INTEGRATED CASE MANAGEMENT SYSTEMS FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR CRIMINAL JUSTICE INTEGRATED CASE MANAGEMENT SYSTEM PROJECTS (AB2014-374)

21. ORDINANCE ESTABLISHING THE INTEGRATED LAND RECORDS AND PERMIT MANAGEMENT SYSTEM FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR INTEGRATED LAND RECORDS AND PERMIT MANAGEMENT SYSTEM PROJECTS (AB2014-375)


This item was withdrawn from the agenda.

23. ORDINANCE APPROVING A REZONE REQUEST FOR FIVE ACRES AT THE INTERSECTION OF SLATER ROAD AND ELDER ROAD FROM NEIGHBORHOOD COMMERCIAL (NC) TO RURAL GENERAL COMMERCIAL (RGC) (AB2014-331)

24. RESOLUTION AUTHORIZING THE LEVY OF TAXES FOR WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT FOR 2015 (AB2014-377)

(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.)

25. RESOLUTION ADOPTING THE 2015 BUDGET FOR THE WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT AND SUBZONES (AB2014-378)

(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.)

26. ORDINANCE AUTHORIZING THE LEVY OF TAXES FOR COUNTY AND STATE PURPOSES IN WHATCOM COUNTY, WASHINGTON, FOR THE YEAR OF 2015 (AB2014-371)

27. ORDINANCE AUTHORIZING THE LEVY OF 2015 PROPERTY TAXES FOR COUNTY ROAD PURPOSES (AB2014-360)


29. ORDINANCE AUTHORIZING THE LEVY OF TAXES FOR CONSERVATION FUTURES PURPOSES FOR 2015 (AB2014-373)
30. ORDINANCE ADOPTING THE 2015 WHATCOM COUNTY UNIFIED FEE SCHEDULE (AB2014-376)


32. ORDINANCE ADOPTING THE 2015-2016 WHATCOM COUNTY BUDGET (AB2014-205C)

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

RESOLUTION ESTABLISHING A PROGRAM TO ENHANCE THE MONITORING AND REPORTING TO THE PUBLIC ON THE PERFORMANCE OF WHATCOM COUNTY GOVERNMENT (AB2014-380)

Browne gave a report on the resolution and moved to approve the resolution.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

Brenner stated she has questions about how well this kind of effort translates to government instead of business.

Browne stated this effort increases transparency to make government accountable.

Crawford reported for the Finance and Administrative Services Committee and stated the Comcast franchise agreement has expired, and the Finance Committee requested the Deputy Prosecuting Attorney make a presentation to the Council on the status of the agreement.

Brenner stated she’s contacted and talked to several experts, so the County can review what other communities have done.

Browne stated the Comcast franchise agreement is non-exclusive, so another provider can provide service. He reported on a meeting of business leaders regarding incorporating lean practices.

Mann reported he served on the canvassing board for the recent watershed improvement district (WID) elections. He commends Council Clerk Dana Brown-Davis and the Council staff who did an amazing job running the elections efficiently and accurately.

Brenner reported she attended a Veterans Day ceremony at Mt. Baker High School. There were quite a few veterans from as far back as World War II. Don’t forget how important veterans are.

Kremen reported he attended a recent veterans meeting hosted by Congressman Rick Larson. It was very enlightening. There was the largest turnout of any other meeting
with Congressman Larson. Many veterans don’t get the services they need. Whatcom County has the highest percentage of Vietnam veterans per capita in Washington State. The demand is significant, and more money is needed than the amount the federal government is willing to fund. Programs have been put in place to serve the veterans, but there has not been adequate funding for the programs. It takes up to 18 months to get in to get served.

ADJOURN

The meeting adjourned at 7:44 p.m.

The Council approved these minutes on ______________, 2015.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________
Dana Brown-Davis, Council Clerk   Carl Weimer, Council Chair

______________________________
Jill Nixon, Minutes Transcription
WHATCOM COUNTY COUNCIL
Regular County Council

November 25, 2014

CALL TO ORDER

Council Chair Carl Weimer called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(7:00:20 PM)

Present: Barbara Brenner, Ken Mann, Sam Crawford, Carl Weimer, Pete Kremen, Rud Browne and Barry Buchanan.

Absent: None.

FLAG SALUTE

ANNOUNCEMENTS

CITIZEN BOARD AND COMMITTEE VACANCIES

Weimer announced 3 vacancies on the Sumas/Everson/Nooksack Flood Control Subzone Advisory Committee

PUBLIC HEARINGS

1. ORDINANCE AMENDING WHATCOM COUNTY CODE 16.20, WHATCOM COUNTY SHELLFISH PROTECTION DISTRICT (AB2014-351)

Weimer opened the public hearing, and hearing no one, closed the public hearing.

Brenner moved to adopt the ordinance.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

Nays: None (0)

2. RESOLUTION AUTHORIZING THE LEVY OF TAXES FOR WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT FOR 2015 (AB2014-377) (7:03:25 PM)

(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.)
Weimer opened the public hearing, and the following person spoke:

Greg Brown stated don’t collect money unless it’s spent on flood projects.

Hearing no one else, Weimer closed the public hearing.

_Browne moved_ to approve the resolution.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

**Nays:** None (0)


(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.)

Weimer opened the public hearing, and the following person spoke:

Greg Brown stated don’t spend money on the water action plan items, including the pollution identification and control (PIC) and total maximum daily load (TMDL) requirements, from the flood fund. Find funding elsewhere.

Hearing no one else, Weimer closed the public hearing.

_Buchanan moved_ to approve the resolution.

Brenner asked if the PIC and TMDL programs are funded from the flood fund.

Gary Stoyka, Public Works Department, stated the PIC program is funded from the flood fund, but grant funds are also going toward the PIC program. The TMDL is funded from the stormwater fund, which gets its funding from several sources, including the flood fund, real estate excise tax, and grants.

_Brenner moved_ to pay for PIC and TMDL programs with the general fund, not the flood fund. These aren’t flood issues.

Mann stated the name of the fund indicates it’s for the Flood Control Zone District, but the State legislature allows the fund to address water in general. Instead of changing the funding structure, it is more accurate to change the name of the fund. The flood fund is really a water resources fund. He appreciates the concern, but this is the right thing to do with that money.

Brenner stated the public supported the flood fund for flooding issues, not other issues. The State broadened the allowed uses of the fund rather than providing additional funding for water resource issues. That’s not fair to the people who voted for the flood fund. She would support a ballot measure to change the use.
The motion to amend failed by the following vote:

**Ayes:** Brenner (1)

**Nays:** Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

*Brenner moved* to spend 75 percent of the flood fund on flood issues, and 25 percent on other water issues.

Crawford asked why Councilmember Brenner chose the 75/25 percentages.

Brenner stated the County would lower the fund balance a lot slower. Make sure a percentage stays in the flood fund.

The motion to amend failed by the following vote:

**Ayes:** Brenner (1)

**Nays:** Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

*Weimer moved* to add $150,000 to budget line item 169119, natural resource operations, for outreach and enforcement issues regarding pollution of the Nooksack River. He recently learned of the Ten Mile Creek project, which is an example of the best citizen outreach program. That recently got turned down for a grant program. The Conservation District said the money they are provided isn’t adequate for them to do the outreach they need to do. Prosecutor McEachran indicated that no one told him the County might increase enforcement. The $150,000 is contingent until the Council can discuss and approve it in 2015.

Crawford stated he is against the motion. The Executive is adding two planner positions, increasing a third position, adding two vehicles, and designating money for landowner incentives and code enforcement. The level of response the Executive proposed while working with the Council, given the rise in fecal coliform levels, is appropriate. They still have flood issues to deal with.

Brenner asked if the two new enforcement staff will work both with Planning Department staff and Public Works Department staff.

Tyler Schroeder, Executive’s Office, stated one position will work exclusively with the PIC program.

Weimer stated the administration has done a good job bringing forward water programs. The Council made the water action plan a priority. Ensure they will be successful. The current fecal coliform level costs the Lummi Nation $800,000 per year. They need to move forward adequately.

Kremen stated the effort is laudable. However, they must demonstrate fiscal restraint. Funding is limited and will decline due to reduced State and federal government funding. All the money is taxpayer money, regardless of what fund it comes from. The proposal has merit and the issue is valid. They can’t afford another amendment at this time.

Mann asked if this money would be set aside for outreach and enforcement.
Weimer stated it would go mostly toward outreach. The Ten Mile program is the model citizen-to-citizen outreach program. There is no money for it in the budget. Discuss with the groups whether they need more money. Mr. McEachran will be the enforcement piece. The State Department of Health and State Department of Ecology inspectors can’t get on people’s property unless they are enforcing the critical areas ordinance. Someone in the Prosecutor’s Office would have to coordinate that effort for those other agencies. There’s no money in the budget to do that.

Mann referenced a memo from the Planning Department about enforcement issues. The administration can shift personnel around when necessary. It’s not a shortage of personnel, it’s a decision about where to deploy County assets. The lack of enforcement has been a crisis. He likes the proposal, because it allocates a resource to augment the Prosecutor’s Office and for outreach. The fiscal implication is a concern.

Browne stated the issue is important. He asked if they can leave the money in the flood fund now, and move it later if necessary.

Weimer stated this is the time the Council can appropriate money. After tonight, they have to rely on the administration to bring forward the program.

Buchanan stated it’s a good idea to appropriate the money. Before spending it, he would like to see a detailed plan to use the money.

Brenner stated the Council has other opportunities to bring forward a budget amendment. They have allocated three positions to enforcement. This is an opportunity for the Council to say that these three employees should be dedicated only for enforcement.

Browne stated the County must comply with the national pollution discharge elimination system (NPDES) requirements, which has no funding allocated to it. He’s reluctant to further diminish the amount until they know how to get the balance back to where it needs to be.

Weimer stated the NPDES phase 2 requirements don’t go into effect for a couple of years. The balance estimate for the flood fund is well over the $5 million flood contingency amount for the next four or five years. They need a more equitable way to fund stormwater efforts, but that doesn’t affect this proposal.

Browne asked if the flood fund balance allows the PIC program funding. He doesn’t have those projections, and he’s not sure what they will use that money for. He would like that information to make this decision.

Schroeder stated flood fund projections include everything associated with the water action plan and projects. The starting balance is $12 million in 2015. It includes all flood projects, capital projects, additional PIC program monies, and 30 percent of the NPDES funding. At the end of 2017, the estimate is a $7.3 million ending balance. Projecting the flood fund balance is complicated. The Academy Road project for stormwater includes a projection of $50,000 from a certain fund. It’s become apparent that the Department of Ecology will have grant money the County didn’t anticipate. That’s why making projections is complicated. To the best of his knowledge today, at the end of 2017, the flood fund projection is $7.3 million.
Brenner asked how many floods per year do they plan for. Schroeder stated they have historically put money aside for large flood events. They have estimated the amount over the last seven years.

Kremen stated the flood fund was originally set up to deal with flooding. Historically, there have been some very major flood events in Whatcom County. There will be more in the future. They’ve not had a major flood event in the last seven years. They can’t predict what year they will be hit with a severe flood event. He hesitates spending down the flood fund any further. He will support the administration’s use of that fund.

The motion to amend failed by the following vote:

Ayes: Weimer, Browne and Buchanan (3)
Nays: Brenner, Mann, Crawford and Kremen (4)

The motion to adopt carried by the following vote:

Ayes: Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)
Nays: Brenner (1)

4. ORDINANCE AUTHORIZING THE LEVY OF TAXES FOR COUNTY AND STATE PURPOSES IN WHATCOM COUNTY, WASHINGTON, FOR THE YEAR OF 2015 (AB2014-371) (7:36:17 PM)

Weimer opened the public hearing, and the following person spoke:

Wendy Harris stated she can’t tell what projects are or aren’t being approved. Designate funding to meet Growth Management Act (GMA) requirements, including the critical areas ordinance. They are required to meet no net loss standards. The County doesn’t have quantifiable data and baseline standards to measure whether or not mitigation is working. The County must have standards in place to meet the no net loss requirements, including doing studies, establishing protocol for measuring performance, and imposing performance standards. There is no wildlife management program. The budget should indicate how much money is spent exterminating animals, which isn’t an appropriate wildlife policy.

Hearing no one else, Weimer closed the public hearing.

Mann moved to adopt the ordinance.

Jack Louws, County Executive, stated there is a carryover of $70,000 for professional services to develop ordinances for critical areas.

The motion to adopt carried by the following vote:

Ayes: Brenner, Mann, Crawford, Weimer, Kremen and Buchanan (6)
Nays: None (0)
Absent: Browne (out of the room)(1)

Brenner asked about the different tax levy ordinance titles, some which specify authorizing and others that specify limiting.
Brad Bennett, Administrative Services Department, stated some ordinances limit tax increases. That language is required to bank capacity. The ordinance levying taxes actually levies taxes for State and County purposes and for diking districts. The road fund and conservation futures fund have that limiting language built into the ordinance, because they are specifically levying tax for that one fund and one purpose.

Kremen moved to reconsider the previous vote.

The motion to reconsider the previous vote carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

**Nays:** None (0)

The motion to adopt the ordinance carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

**Nays:** None (0)


Weimer opened the public hearing, and hearing no one, closed the public hearing.

Kremen moved to adopt the ordinance.

Brenner asked about the limiting language in the road fund.

Brad Bennett, Administrative Services Department, stated the language in the document has the same language that says this is a zero percent increase. It’s language required by the State Department of Revenue to increase banked capacity. The other funds levy taxes, but also have language in the ordinance that allows them to bank the capacity.

The motion to adopt the ordinance carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

**Nays:** None (0)


Weimer opened the public hearing, and the following people spoke:

Wendy Harris stated include a rider to indicate that none of the funds will be used for the harm, harassment, or killing of wildlife and animals until the County adopts a wildlife management plan. Create a policy that prevents human and wildlife conflict. Killing wildlife is not a solution. Protect wildlife pursuant to obligations under the law and to the need for biodiversity for human survival. Don’t fund any program in the community that kills wildlife.

Hearing no one else, Weimer closed the public hearing.

Mann moved to adopt the ordinance. He asked what wildlife the County kills on a regular basis, besides starlings and geese.
Jack Louws, County Executive, stated the starling program is $15,000. The County hasn’t contracted with the Washington State Department of Fish and Wildlife (WDFW) to take care of geese, but there is a goose problem at Silver Lake. The County has extermination services for bugs and pests in the County facilities. The concern with the proposal is whether such an amendment applies to road projects and to what level of wildlife it applies. Continue the discussion, but don’t act on it in this document.

Kremen stated Ms. Harris has a valid issue. Eradication of geese at Silver Lake is not the preferred way to deal with the issue. He is sensitive to wildlife protection, but don’t tie the County’s hands no matter what. He agrees with the intent of the request.

Browne stated there is a WDFW program to relocate beavers to Eastern Washington. There are alternatives to killing. Farmers will be concerned that agricultural land is taken out of production.

The motion to adopt the ordinance carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

**Nays:** None (0)

**7. ORDINANCE AUTHORIZING THE LEVY OF TAXES FOR CONSERVATION FUTURES PURPOSES FOR 2015 (AB2014-373) (7:54:36 PM)**

Weimer opened the public hearing, and the following people spoke:

Wendy Harris stated the ordinance limits the levy to the level that existed in 2014. Increase the amount of the levy, or reduce the amount being used for agricultural programs. This program is supposed to preserve open space and habitat corridors, which is required by the Growth Management Act (GMA) and critical areas. There are no lands set aside for the purpose of protecting wildlife and biodiversity. Biodiversity is an indication of the health of the Earth. They aren’t doing that maintenance. A purpose of wildlife corridors is to avoid human contact and conflict. Wisely-sited corridors provide public safety. The Conservation District has a policy opposing the restoration of wolves. That is going to be a big political issue coming to Whatcom County. State law prioritizes open space with native habitat.

Greg Brown stated the Council returned $1.5 million to the parks fund instead of leaving it the conservation futures fund, which has over $5 million. Until they know what they will spend the conservation futures funds on, suspend collection of the funds. Don’t make taxpayers spend money on an account that works as a slush fund for the Parks Department.

Hearing no one else, Weimer closed the public hearing.

**Mann moved** to adopt the ordinance.

Brenner stated valid concerns were raised, but the GMA says they should protect natural resources, which include agricultural land. Leave the fund as it is, and be more careful about how it’s spent.
Crawford stated they have spent a lot of money recently from the fund. He has expressed reservations about the tax in the past, but he will support continuing it this year. The voters of Whatcom County passed the conservation futures fund.

Mann stated the people voted to approve this fund because they value protecting open space and environmentally sensitive areas. They entrust the Council to make strategic acquisitions, not spend the balance down every year. The County has recently acquired properties that will be amazing assets for the County.

The motion to adopt the ordinance carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

**Nays:** None (0)

8. **ORDINANCE ADOPTING THE 2015 WHATCOM COUNTY UNIFIED FEE SCHEDULE (AB2014-376)** (8:03:47 PM)

Weimer opened the public hearing, and hearing no one, closed the public hearing.

*Browne moved* to adopt the ordinance. A couple of the fees need work. There are 1,300 different fees in the schedule. He *moved* to amend the ordinance to allow a ferry fare waiver two times per day for a volunteer escort for the Lummi Island elementary students.

Jack Louws, County Executive, stated he supports the motion to amend. The Deputy Prosecuting Attorney is drafting an Executive Order to provide this fare waiver. He will also grant an exception for Americans with Disabilities Act (ADA) personal attendants. These two items will come forward soon.

Kremen stated he supports the motion to amend.

*Browne amended his motion and moved* to include a ferry fare waiver two times per day on school days for an escort for elementary school children and to also provide a waiver for a personal attendant for qualified Americans with Disabilities Act (ADA) clients.

The motion to amend carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

**Nays:** None (0)

Brenner stated she doesn’t support the unified fee schedule ordinance because some of the fees are increased without an explanation.

Weimer stated fees were increased in some departments to cover the real costs.

Brenner stated some of the costs are much higher. The percentages are all over the place. It’s hard to decipher.

Crawford stated he appreciates staff not increasing the Hearing Examiner fee.

Browne stated there are scriveners errors in the column about whether there are changes.
Brenner stated there have been few overturned decisions of the Hearing Examiner. If there is an overturned decision, the applicants should get their fee back.

The motion to adopt as amended carried by the following vote:

Ayes: Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)
Nays: Brenner (1)


Weimer opened the public hearing, and the following people spoke:

Greg Brown stated keep all the levels of service they way they are. It may make sense to increase the size of the senior centers.

Wendy Harris stated set aside parks for wildlife and habitat. Require capital improvement projects to specifically protect wildlife. Hire staff or a consultant that is a field biologist to assist the Parks Department and Planning Department with wildlife issues.

Hearing no one else, Weimer closed the public hearing.

Browne moved to adopt the ordinance.

Brenner stated this restored the activity centers back to the original level of service (LOS).

Mark Personius, Planning and Development Services Department, stated it is in Exhibit A of the proposed ordinance.

Mann asked if this will keep the level of service as it is today. Personius stated that’s correct.

Mann asked if the final version will include changes in Exhibit B about future needs and the number of trails per 1,000 people. Personius stated it will.

The motion to adopt carried by the following vote:

Ayes: Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)
Nays: None (0)

10. ORDINANCE ADOPTING THE 2015-2016 WHATCOM COUNTY BUDGET (AB2014-205C) (8:26:28 PM)

Weimer opened the public hearing, and the following people spoke:

Steve Harris stated there is an apparent lack of transparency. The budget message indicates there are no staff reductions. The current budget proposes no layoffs. However, it eliminates one uniformed patrol deputy from the budget. This is not an administrative position. It is a reduction in the number of deputies actually tasked with responding to 9-1-1 calls to the public. This is a mixed message to the public. On one hand, they’re saying that
unincorporated Whatcom County is safe enough to spend years not filling vacant deputy positions, and now they are actually cutting one position from the budget. On the other hand, there is increased risk to law enforcement, criminals are becoming increasingly violent, and they're actually contemplating raising taxes to fund the construction of a new jail with three times the design capacity as the current jail. A commissioned deputy can enforce any code. They can transfer funding from the flood fund or other funds to retain the position and do code enforcement.

Wendy Harris stated the County should have a public question-and-answer session next year to inform the public of budget changes. Reconsider all her comments on these matters. Consider a requirement that there be a public hearing before taking action to eliminate and destroy animals.

Roger Sefzik stated he agrees with comments from Steve Harris. He referenced ordinance 2014-027 regarding the production of marijuana leading to increased violence, which all the councilmembers agreed to. Such facilities are placed in many areas in the county. The County is allowing something that will expand violent crime and robbery, yet is reducing the number of deputies.

Hearing no one else, Weimer closed the public hearing.

**Mann moved** to adopt the ordinance.

Crawford asked if they need to budget for the Slater Road connector.

Jack Louws, County Executive, stated it is a line item in the transportation improvement plan.

Joe Rutan, Public Works Department, stated they intend to finish the subarea plan next year. That will give them information they need to develop different options and scenarios for the Slater Road connector, Horton Road connector, Smith Road, and Northwest Road roundabout. They need to sequence these projects.

**Brenner moved to amend** to set aside $50,000 for the Slater Road connector engineering. Show they are serious about the project by assigning money to it.

Mann asked if they already allocated the money and moved the project up on the annual list. Rutan stated they are looking at the entire area next year. He’s not sure what he would do to spend an additional $50,000. They already allocated funds for the Slater Road connector and subarea plan.

Crawford asked if they should allocate funding for 2016. Rutan stated the County Road Administration Board (CRAB) requires an annual construction program. They will go through the six-year and annual processes in the summer and amend the budget at that time. Adding $50,000 won’t change his program this year.

Brenner stated she’s concerned it’s not as high a priority for the Public Works Department as it is for the Council.
Kremen asked how much is already appropriated. Rutan stated it includes $50,000 in year one right now. He’s not sure what an additional $50,000 will do. It is for project six on the annual program.

Brenner withdrew her motion. She moved to amend to restore the deputy position in the same amount that was allocated in the last budget for 2015 and 2016.

Kremen asked about discussion of this issue with the Sheriff. Louws stated three deputy positions have been unfilled for quite a while. This budget proposes to add one position in the information technology division that will be dedicated to the Sheriff’s Office. The County needs to allocate an additional $145,139 to the worker’s compensation portion of the Sheriff’s Office. The Sheriff is committed to reducing accident rates and getting those deputies back on the road. If the Sheriff demonstrates that the accident rates go down, he will support restoring the position in 2016. They are adequately staffed. Get the people in the department healthy and working again. Use this approach to get all the officers back on duty. There have been more training-related accidents than there should be.

Brenner stated the deputies are the frontline defense. It is one of the most dangerous jobs in government. She appreciates wanting to get the accident rates down. She’s confident the Sheriff will do the best he can to reduce accidents. She trusts the Sheriff to make sure there aren’t more than necessary. She’s not comfortable with that kind of incentive to reduce the accident rate.

The motion to amend failed by the following vote:

Ayes: Brenner (1)
Nays: Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

Brenner moved to consolidate the Parks Department with other County departments. Reassign the senior centers to the Health Department, parks planning to the Planning Department, and parks maintenance to the Public Works Department. Not every county has a separate parks department. Many of the Parks Department functions overlap what other departments do. The number one purpose of senior centers is the well-being of seniors, which is a public health issue. Consolidate functions. She likes the Parks Department staff and hopes they can fit into the consolidation, but don’t duplicate efforts.

The motion to amend failed by the following vote:

Ayes: Brenner (1)
Nays: Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

Brenner moved to eliminate funding in the amount of $30,000 for the lobbyist in Olympia. The Executive should speak on behalf of the County.

The motion to amend failed by the following vote:

Ayes: Brenner (1)
Nays: Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

Brenner moved to eliminate the new Council policy analyst position. There’s no way the staff person who is hired won’t be political. Councilmembers can talk to the administration about questions they may have. The position is not a necessity.
Kremen asked the name of the position. He asked that the name be changed from policy analyst.

Dana Brown-Davis, Clerk of the Council, stated there wasn’t a Council vote to change the name of the position. They would change the title when they create the job description.

Kremen stated change the title of the position.

The motion to amend failed by the following vote:

Ayes: Crawford and Brenner (2)
Nays: Weimer, Kremen, Browne and Buchanan (4)
Absent: Mann (out of the room) (1)

Brenner moved to set aside $5,000 to $10,000, depending on population, for each senior center in Whatcom County, to a maximum of $80,000 total. The administration can determine the exact amount for each senior center. There was no clear process for adjusting the amount allocated to each of the senior centers. She is concerned about providing for food costs. The amount allocated for administrative costs is more than the amount allocated for food. The County provided funding to the food bank. Many seniors aren’t able to stand in line at the food bank. The Meals-On-Wheels program serves seniors who are isolated. The Executive put more money in the program, but less than half of it is actually for the food. She would like to know how much money each senior center is getting.

The motion to amend failed by the following vote:

Ayes: Brenner (1)
Nays: Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

Brenner moved to allocate $10,000 for the Sean Humphrey Hospice House for repairs and services.

Kremen stated he has voted against the past several motions to amend from Councilmember Brenner. In the past 19 years, Councilmember Brenner has voted in favor of only one budget. These amendments are for worthwhile causes, and he would like to support them. However, they have to be willing to vote for the loading up of additional revenues asked for by Councilmember Brenner. It’s irresponsible to load up a budget and then vote against it in the end. Councilmember Brenner is putting the councilmembers in the position of having to vote against issues they all would like to support. The Council is simply unable to include more expenditures in the budget. Adding all these expenses to the budget, and then voting against the budget, is unacceptable. If they vote to allocate and appropriate money, they have to be willing to vote for the revenue to go along with it. That isn’t tolerated in the State legislature. In order to keep the budget intact, they are unable to support these amendments. He’s disturbed to not be able to support these amendments, especially the Sean Humphrey House. They must take care of the unfunded and growing State mandates. The prospect of getting funding from the State is dismal.

Brenner stated she has made motions to eliminate spending and consolidate expenses, which would cover her amendments. Her proposals aren’t new. If someone thinks they’re important, they could suggest other ways to cut funding. She didn’t get any of her amendments, so she won’t support the budget. She proposed to eliminate the Parks Department, lobbyist, and Council policy analyst. She would be open to other cuts.
The motion to amend failed by the following vote:

**Ayes:** Brenner (1)

**Nays:** Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

Brenner moved to hold this ordinance in Council for two weeks, until after Thanksgiving.

Jack Louws, County Executive, stated the Charter requires the budget be adopted by the end of November.

The motion to hold failed by the following vote:

**Ayes:** Brenner (1)

**Nays:** Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

Brenner asked if the septic rebate program is funded from the septic fee instead of the flood fee.

Tyler Schroeder, Executive’s Office, stated the additional onsite septic system (OSS) inspector in the Health Department would be paid out of the $19 fee from the septic fund, not the flood fund.

Mann stated he disagrees with comments from Mr. Sefzik that all the councilmembers agreed that allowing marijuana grow operations would increase crime and violence. He doesn’t agree that will happen.

Brenner stated she forwarded Mr. Sefzik’s letter to Planning staff. There was some crime at the retail level, but they don’t allow retail in the rural areas.

The motion to adopt carried by the following vote:

**Ayes:** Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

**Nays:** Brenner (1)

Browne stated he acknowledges Mr. Rutan, who was able to convince the Washington State Department of Transportation (DOT) to pay for a permanent roundabout instead of a temporary signal. It’s a great example of saving money and keeping the budget in line.

**OPEN SESSION**

*(9:15:56 PM)*

The following people spoke:

- Bill Elfo, County Sheriff, spoke about the number of injuries deputies have sustained over the last year.
- Wyburn Bannerman spoke about the proposed marijuana business facility on the Valley View Road.
- Tom Spicher spoke about the proposed marijuana business facility on the Valley View Road.
Roger Sefzik spoke about the proposed marijuana business facility on the Valley View Road.

Corbin Warner spoke about the proposed marijuana business facility on the Valley View Road.

Karen Brown spoke about the Environmental Protection Agency (EPA) enforcing in Whatcom County, the Whatcom Land Trust, the Comprehensive Parks Plan.

David Hatton spoke about the proposed marijuana business facility on the Valley View Road.

Jennifer Sefzik spoke about the proposed marijuana business facility on the Valley View Road.

Doug Baumgart spoke about the proposed marijuana business facility on the Valley View Road.

(Clerk’s Note: The Council took a break from 9:43 p.m. to 9:51 p.m.)

OTHER ITEMS

1. ORDINANCE AMENDING ORDINANCE 2014-011 (AMENDMENT NO. 1), ESTABLISHING THE DAKOTA CREEK BRIDGE NO. 500 PROJECT FUND AND RELATED CAPITAL BUDGET APPROPRIATION (AB2014-352) (9:51:51 PM)  

Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Brenner stated she doesn’t like that these projects don’t come back to the Council for approval. She moved to require that the contracts within this fund still come back to the Council for approval. She likes the separate funds, but not the lack of Council involvement.

Crawford stated he is against the motion to amend. The Executive and administration have followed the purchasing procedure in the County Code. The Executive committed to a presentation on the purchasing and contracting procedures after the first of the year. It will be a constructive policy discussion during which they can have that discussion. In the meantime, they’ve acknowledged it’s appropriate to create these funds. Don’t alter the processes at this point.

Brenner stated separate funds have been created in the past, but the contracts still came to the Council. She was not aware of the procedure until all these came forward at once. Don’t give up Council oversight. The public won’t have opportunity for review once they pass the budget. She’d like to support some of these projects, but can’t without the clause.

Weimer stated he’s also against the motion, although he supports the idea of having the discussion. The motion needs to be clarified. Have the discussion with the administration in January.

Brenner stated contracts over $20,000 come to the Council.

The motion to amend failed by the following vote:

Ayes: Brenner (1)

Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:

Ayes: Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)
Nays: Brenner (1)

3. ORDINANCE ESTABLISHING THE LAKE WHATCOM BOULEVARD RE-SURFACING FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR LAKE WHATCOM BOULEVARD RE-SURFACING CPR #913002 PROJECT (AB2014-354) (9:59:02 PM)

Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:

Ayes: Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)
Nays: Brenner (1)


Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:

Ayes: Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)
Nays: Brenner (1)

5. ORDINANCE ESTABLISHING THE SLATER ROAD/NOOKSACK RIVER BRIDGE FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR SLATER ROAD/NOOKSACK RIVER BRIDGE PAINTING PROJECT (AB2014-356) (10:00:28 PM)

Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Brenner stated she would vote for this because it’s very specific.
The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)
Nays: None (0)


Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Brenner stated she doesn’t support the ordinance. She asked if it’s necessary to set up a separate fund to get money from the federal government. This is for very general road fund work. Every fund they set up has a maintenance cost.

The motion carried by the following vote:
Ayes: Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)
Nays: Brenner (1)

7. ORDINANCE ESTABLISHING THE HANNEGAN ROAD STRUCTURAL OVERLAY FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR HANNEGAN ROAD STRUCTURAL OVERLAY CRP #915010 PROJECT (AB2014-358) (10:02:57 PM)

Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)
Nays: Brenner (1)

8. ORDINANCE ESTABLISHING THE 2015 COURTHOUSE IMPROVEMENT FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR COURTHOUSE IMPROVEMENTS (AB2014-359) (10:03:38 PM)

Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Brenner moved to amend the title of the fund, “Ordinance Establishing the 2015 Courthouse Fire Alarm System and Juvenile Roof Improvement Fund and Establishing a Project Based Budget for Courthouse Fire Alarm System and Juvenile Roof Improvements.”

Kremen asked the administration’s opinion.

Jack Louws, County Executive, stated they can call it whatever they want.

Brenner stated the title is important.

Browne stated changing this amendment adds an expense with no value.

Brenner stated there is no expense to change the name in the computer.
The motion to amend carried by the following vote:

**Ayes:** Brenner, Mann, Kremen and Buchanan (4)

**Nays:** Crawford, Weimer and Browne (3)

The motion to adopt as amended carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

**Nays:** None (0)


Crawford reported for the Finance and Administrative Services Committee and decided to adopt the ordinance.

The motion carried by the following vote:

**Ayes:** Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

**Nays:** Brenner (1)


Crawford reported for the Finance and Administrative Services Committee and decided to adopt the ordinance.

Brenner stated the contracts for this should come back to the Council. The last time there was a major remodel and renovation of the Courthouse, it cost the County a fortune and it was poorly done. The public and Council should have more contact with the contracts.

The motion carried by the following vote:

**Ayes:** Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

**Nays:** Brenner (1)


Crawford reported for the Finance and Administrative Services Committee and decided to adopt the ordinance.

The motion carried by the following vote:

**Ayes:** Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

**Nays:** Brenner (1)


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Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Brenner stated she would support this ordinance because it’s a small project and is a safety issue. She asked why it’s coming from the real estate excise tax (REET) instead of the park fund. The County must pay for stormwater facility projects with the REET fund.

Jack Louws, County Executive, stated REET 2 is the appropriate fund.

Brenner stated it takes money away from stormwater facilities. The County will never have enough money for stormwater facilities. She moved to amend so that it be funded by the Park Special Revenue Fund instead of the REET 2 fund.

Louws stated they’ve identified the park special revenue fund to pay for the reconveyance operations. They don’t have the option through the REET 2 fund to use much for operations.

Browne asked what they can spend REET 2 money on.

Dewey Desler, Deputy Administrator, stated the REET 2 fund can pay for parks, stormwater, and roads.

Brenner stated it may be legal to use the REET 2 fund, but they shouldn’t. The County has to improve a lot of stormwater facilities. The County can’t pay for them from the park fund. They can pay for this project from the park fund.

Kremen asked the balance for the park fund.

Mike McFarlane, Parks and Recreation Department Director, stated the balance is about $1.4 million. The intent is to project it out over a period of years to offset operating and equipment costs of the reconveyance.

The motion to amend failed by the following vote:

**Ayes:** Brenner (1)

**Nays:** Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

The motion to adopt carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

**Nays:** None (0)


Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Brenner stated this is a safety issue, and she will support it. She moved to amend to fund it from the park improvement fund.
The motion to amend failed by the following vote:

**Ayes:** Brenner (1)

**Nays:** Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

The motion to adopt carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

**Nays:** None (0)


Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Brenner stated this is to create something new. It should be paid for from the park improvement fund. She moved that it be funded by the park improvement fund instead of the real estate excise tax (REET) 2 fund.

Mann stated improving a park is different from the capital investment to build and create a park. This is a reasonable capital expenditure that the REET 2 fund is appropriate to fund.

Brenner stated building new things on park land is an improvement. Therefore, it’s eligible to be funded from the park improvement fund. The County must, by law, fund stormwater facilities.

Kremen asked what revenue is generated annually for REET 2 and the parks special revenue fund.

Dewey Desler, Executive’s Office, stated the fund generates about $1.4 million per year. The park fund doesn’t collect any revenue.

Mike McFarlane, Parks and Recreation Department, stated there is interest income and tower revenues that will go into the parks special revenue fund. They will keep those funds to repair the roads over time.

Brenner stated they can transfer money into the park improvement fund, like the $1.5 million that was supposed to go into the conservation futures fund. The County doesn’t have enough money in its entire budget to pay for the stormwater facilities it must pay for, regardless of how much money is in the REET 2 fund.

The motion to amend failed by the following vote:

**Ayes:** Brenner (1)

**Nays:** Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

The motion to adopt carried by the following vote:

**Ayes:** Mann, Crawford, Weimer, Kremen, Browne and Buchanan (6)

**Nays:** Brenner (1)
15. **ORDINANCE ESTABLISHING THE ACADEMY ROAD STORM WATER IMPROVEMENTS FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR ACADEMY ROAD STORM WATER IMPROVEMENTS (AB2014-367) (10:24:43 PM)**

*Crawford* reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion to adopt carried by the following vote:

- **Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)
- **Nays:** None (0)


*Crawford* reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)
- **Nays:** None (0)

17. **ORDINANCE ESTABLISHING THE BEAVER CREEK STORM WATER IMPROVEMENTS FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR BEAVER CREEK STORM WATER IMPROVEMENTS (AB2014-369)**

*Crawford* reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)
- **Nays:** None (0)


*Crawford* reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)
- **Nays:** None (0)

19. **ORDINANCE ESTABLISHING THE CRIMINAL JUSTICE INTEGRATED CASE MANAGEMENT SYSTEMS FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR CRIMINAL JUSTICE INTEGRATED CASE MANAGEMENT SYSTEM PROJECTS (AB2014-374) (10:27:00 PM)**
Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Brenner stated she likes the idea of integrated project funding that involves several elected officials, rather than just one elected official. More than one person should make the decisions.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)
Nays: None (0)

20. ORDINANCE ESTABLISHING THE INTEGRATED LAND RECORDS AND PERMIT MANAGEMENT SYSTEM FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR INTEGRATED LAND RECORDS AND PERMIT MANAGEMENT SYSTEM PROJECTS (AB2014-375) (10:28:08 PM)

Crawford reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)
Nays: None (0)

INTRODUCTION ITEMS

Buchanan moved to accept the Introduction Items.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)
Nays: None (0)

1. RECEIPT OF APPEAL OF HEARING EXAMINER’S DECISION ON CUP 2013-0004, SEP 2013-0032 & APL 2014-0011, FILED BY BBC BROADCASTING, INC., REGARDING A REQUEST FOR ZONING CONDITIONAL USE APPROVAL TO INSTALL A RADIO COMMUNICATION FACILITY IN POINT ROBERTS (AB2014-343)

2. ORDINANCE AMENDING THE 2014 WHATCOM COUNTY BUDGET, NINETEENTH REQUEST, IN THE AMOUNT OF $15,987 (AB2014-382)

3. ORDINANCE AMENDING THE 2014 WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT AND SUBZONES BUDGET, FIFTH REQUEST, IN THE AMOUNT OF $70,000 (AB2014-383)

(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.)
COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Mann reported for the Planning and Development Committee regarding the update from Planning and Development staff regarding the County-wide Population Growth Monitoring Report (AB2014-349) and the discussion with Planning and Development staff regarding the Land Capacity Analysis Methodology (AB2014-350).

Jack Louws, County Executive, thanked the Council, community, and staff for everyone’s participation in building the 2015-2016 budget.

Browne reported on the recent Washington State Association of Counties (WSAC) meeting.

Brenner thanked Marianne Caldwell for answering all her questions regarding the budget. She reported on recent events with the Whatcom Food Network and the Birch Bay Chamber meeting.

Kremen reported on the Legislative Steering Committee meeting action today to partner with the Association of Cities on a proposal regarding shared revenue from recreational marijuana. He also reported on an amicus brief in support of Whatcom County.

ADJOURN

The meeting adjourned at 10:30 p.m.

The Council approved these minutes on ______________, 2015.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________
Dana Brown-Davis, Council Clerk   Carl Weimer, Council Chair

______________________________
Jill Nixon, Minutes Transcription
CALL TO ORDER

Council Chair Carl Weimer called the meeting to order at 5:45 p.m. in the Council Conference Room, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Sam Crawford, Rud Browne, Barry Buchanan, Ken Mann, Pete Kremen and Carl Weimer

Absent: None

COMMITTEE DISCUSSION

1. DISCUSSION WITH SENIOR DEPUTY PROSECUTOR ELIZABETH GALLERY REGARDING PENDING LITIGATION – GOMEZ V. WHATCOM COUNTY (AB2014-018)
   ATTORNEYS PRESENT: ELIZABETH GALLERY and DANIEL GIBSON

2. DISCUSSION WITH CHIEF CIVIL DEPUTY PROSECUTOR DANIEL GIBSON REGARDING LEGAL ISSUES RELATED TO PROPOSED LAKE WHATCOM TMDL (AB2014-018)
   ATTORNEY PRESENT: DANIEL GIBSON

Weimer stated that discussion of agenda items one and two may take place in executive session pursuant to RCW42.30.110 (1)(i). Executive session will conclude no later than 7:00 p.m. If the meeting extends beyond the stated conclusion time, he will step out of the meeting to make a public announcement.

Buchanan moved to go into executive session until no later than 7:00 p.m. to discuss the agenda items pursuant to RCW citations as announced by the Council Chair.

The motion carried by the following vote:

Ayes: Crawford, Brenner, Browne, Buchanan, Mann, Kremen and Weimer (7)
Nays: None (0)

OTHER BUSINESS

ADJOURN

The meeting adjourned at approximately 7:00 p.m.

The Council approved these minutes on ______ 2015.

ATTEST: WHATCOM COUNTY COUNCIL
CALL TO ORDER

Council Chair Carl Weimer called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(7:03:02 PM)

Present: Barbara Brenner, Ken Mann, Sam Crawford, Carl Weimer, Pete Kremen, Rud Browne and Barry Buchanan.

Absent: None.

FLAG SALUTE

ANNOUNCEMENTS

Weimer announced there was discussion with Senior Deputy Prosecutor Elizabeth Gallery regarding pending litigation – Gomez v. Whatcom County (AB2014-018) in executive session during the Committee of the Whole meeting.

Crawford stated “In Executive Session, the County Council Members have reviewed the facts of the filed civil complaint in Lawsuit Gabriel Gomez v. named County Defendants under Federal Cause Number 2:14-cv-01829-JLR. Pursuant to Whatcom County Code 2.56, section 2.56.030, the County Council does authorize the defense and indemnification of the officers, officials, agents or employees, and do make the following Findings: 1. The named defendants were acting in a matter in which the County had an interest. 2. Each defendant was acting in the discharge of a duty imposed or authorized by law. 3. Each defendant acting in good faith.” He moved to authorize defense as stated.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)

Nays: None (0)

Weimer also announced there was discussion with Chief Civil Deputy Prosecutor Daniel Gibson regarding legal issues related to proposed Lake Whatcom TMDL (AB2014-018) in executive session during the Committee of the Whole meeting.

Mann moved that Whatcom County continue with the planned commitments to cleaning up Lake Whatcom and the implementation of the National Pollution Discharge Elimination System (NPDES) Phase II requirements, and to enter into a dispute resolution
process with the Department of Ecology to provide clarity on issues regarding the total maximum daily load (TMDL) report.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)

**Nays:** None (0)

**CITIZEN BOARD AND COMMITTEE VACANCIES**

Weimer announced that the annual list of all citizen board and commission vacancies with terms ending January 31, 2015, is now available.

**PUBLIC HEARINGS**

1. **ORDINANCE APPROVING A REZONE REQUEST FOR FIVE ACRES AT THE INTERSECTION OF SLATER ROAD AND ELDER ROAD FROM NEIGHBORHOOD COMMERCIAL (NC) TO RURAL GENERAL COMMERCIAL (RGC) (AB2014-331)**

Mann reported for the Finance and Administrative Services Committee and stated the opponent and proponent have agreed to have a settlement discussion. They would like to continue the public hearing to January 13.

Weimer opened the public hearing, and the following person spoke:

Jon Sitkin, applicant attorney, stated the applicant agreed with the January 13 meeting plan. The settlement discussion will occur before January 13.

Hearing no one else, Weimer stated the Council leaves the public hearing open until January 13.

**OPEN SESSION**

*(7:09:40 PM)*

The following people spoke:

- Roger Sefzik spoke about marijuana growing in agricultural land.
- Simon Sefzik spoke about marijuana growing in agricultural land.
- Aiden Hollister spoke about marijuana growing in agricultural land.
- Jennifer Sefzik spoke about marijuana farms in residential areas.
- Tom Spiker spoke about marijuana growing in agricultural land.
- Jack Louws, County Executive, spoke about the Whatcom County Parks William Dietrich Award recently awarded to Councilmember Pete Kremen.

**CONSENT AGENDA**
**Crawford** reported for the Finance and Administrative Services Committee and *moved* to approve Consent Agenda items one through 29.

Weimer withdrew item 13.

Brenner withdrew item 27.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)

**Nays:** None (0)

1. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND BELLINGHAM WHATCOM COUNTY TOURISM FOR TOURISM PROMOTION, IN THE AMOUNT OF $250,000 (AB2014-407)

2. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND MT. BAKER FOOTHILLS CHAMBER OF COMMERCE FOR TOURISM PROMOTION, IN THE AMOUNT OF $61,167 (AB2014-408)

3. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND BIRCH BAY CHAMBER OF COMMERCE FOR TOURISM PROMOTION, IN THE AMOUNT OF $40,000 (AB2014-409)

4. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WHATCOM EVENTS FOR TOURISM PROMOTION, IN THE AMOUNT OF $35,000 (AB2014-406)

5. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND SUSTAINABLE CONNECTIONS FOR TOURISM PROMOTION, IN THE AMOUNT OF $25,000 (AB2014-405)

6. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A MASTER AGREEMENT FOR PRODUCTS AND SERVICES BETWEEN WHATCOM COUNTY AND NORSTAN COMMUNICATIONS, INC. D/B/A BLACK BOX NETWORK SERVICES (AB2014-398)

7. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND NORSTAN COMMUNICATIONS, INC. D/B/A/ BLACK BOX NETWORK SERVICES FOR THE ACQUISITION, IMPLEMENTATION AND MAINTENANCE OF A REPLACEMENT TELECOMMUNICATIONS SYSTEM, IN THE AMOUNT OF $843,759.29 (AB2014-399)

8. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND COMGROUP, INC. FOR SERVICES TO ASSIST WITH IMPLEMENTATION PREPARATION
STEPS FOR A NEW TELECOMMUNICATIONS SYSTEM, IN THE AMOUNT OF $19,770 (AB2014-400)

9. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND NORTHWEST YOUTH SERVICES FOR OPERATION OF THE EMERGENCY SHELTER PROGRAM, IN THE AMOUNT OF $65,000 (AB2014-401)

10. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND THE OPPORTUNITY COUNCIL FOR OPERATION OF TRANSITIONAL HOUSING AND ESSENTIAL NEEDS ASSISTANCE, IN THE AMOUNT OF $77,951 (AB2014-402)

11. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND THE OPPORTUNITY COUNCIL FOR LEASING SPECIALIST SERVICES, IN THE AMOUNT OF $70,025 (AB2014-403)

12. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND COMPUCOM SYSTEMS, INC. FOR RENEWAL OF THREE YEAR SOFTWARE MAINTENANCE AGREEMENT, IN THE AMOUNT OF $134,444.49 PER YEAR (AB2014-404)

13. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND MICHAEL BOBBINK LAND USE SERVICES FOR HEARING EXAMINER SERVICES, IN THE AMOUNT OF $88,783.40, FOR A TOTAL AMENDED CONTRACT IN THE AMOUNT OF $336,551.60 (AB2014-381)

Crawford reported for the Finance and Administrative Services Committee and moved to approve the request.

Weimer moved to amend Council packet page 557, the scope of work in Exhibit A, “30.2 Assignment and Subcontracting. The performance of all...authorized in writing by the County Council in advance. All terms...”

The motion to amend carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

The motion to approve as amended carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

14. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF ER&R REPLACEMENT VEHICLES FOR THE SHERIFF’S DEPARTMENT – SIX MARKED PATROL 2015 FORD POLICE INTERCEPTOR PUV’S, IN THE AMOUNT OF $204,505.06 (AB2014-410)
15. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF ER&R REPLACEMENT VEHICLES FOR THE SHERIFF’S DEPARTMENT – THREE UNMARKED 2015 FORD POLICE INTERCEPTOR PUV’S, IN THE AMOUNT OF $103,084.27 (AB2014-411)

16. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF ER&R REPLACEMENT VEHICLES FOR THE SHERIFF’S DEPARTMENT – TWO 2015 CHEVROLET TAHOE PPVB’S, IN THE AMOUNT OF $72,000.01 (AB2014-412)

17. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF ER&R REPLACEMENT VEHICLES FOR THE SHERIFF’S DEPARTMENT – TWO 2014 FORD POLICE INTERCEPTOR SEDANS, IN THE AMOUNT OF $62,335.31 (AB2014-413)

18. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO AN AMENDMENT TO A MEMORANDUM OF AGREEMENT BETWEEN WHATCOM COUNTY AND WASHINGTON STATE UNIVERSITY TO PROVIDE SALARY AND SUPPORT TO PROVIDE AN EXTENSION PROGRAM, IN THE AMOUNT OF $127,745, FOR A TOTAL AMENDED AGREEMENT IN THE AMOUNT OF $1,266,287.90 (AB2014-414)

19. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A TWO YEAR CONTRACT BETWEEN WHATCOM COUNTY AND THE BELLINGHAM FOOD BANK TO PROVIDE FOOD TO LOW INCOME PEOPLE IN NEED, IN THE AMOUNT OF $276,000 (AB2014-415)

20. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND BENNETT ENGINEERING FOR LANDFILL MONITORING SERVICES, IN THE AMOUNT OF $33,304 (AB2014-416)

21. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT BETWEEN WHATCOM COUNTY AND THE CITY OF BELLINGHAM TO FUND OPERATIONS OF A MENTAL HEALTH COURT PROGRAM IN BELLINGHAM MUNICIPAL COURT, IN THE AMOUNT OF $32,000 (AB2014-417)

22. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A RESIDENTIAL LEASE AGREEMENT BETWEEN WHATCOM COUNTY AND JAVIER LOZANO FOR THE APARTMENT AT THE TENANT LAKE INTERPRETIVE CENTER, IN THE AMOUNT OF $725 PER MONTH (AB2014-418)

23. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND THE CITY OF BELLINGHAM FOR THE JOINT USAGE OF THE VACTOR WASTE SITE FACILITY, IN THE AMOUNT OF $50,000 (AB2014-419)

24. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WHATCOM HUMANE SOCIETY
FOR ANIMAL CONTROL SERVICES BEGINNING JANUARY 1, 2015, AND
ENDING DECEMBER 31, 2016, IN THE AMOUNT OF $360,707.52 PER YEAR
(AB2014-420)

25. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE
PURCHASE OF ER&R REPLACEMENT FRONT LOADER, IN THE AMOUNT OF
$147,978.79 (AB2014-421)

26. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A
CONTRACT BETWEEN WHATCOM COUNTY AND NORTHWEST REGIONAL
COUNCIL FOR THE PROVISION OF NURSING SERVICES FOR JAIL INMATES,
IN THE AMOUNT OF $1,082,800 (AB2014-422)

27. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A
CONTRACT BETWEEN WHATCOM COUNTY AND NORTHWEST REGIONAL
COUNCIL FOR THE PROVISION OF MEALS ON WHEELS PROGRAM
BEGINNING JANUARY 1, 2015, AND ENDING DECEMBER 31, 2016, IN THE
AMOUNT OF $40,000 PER YEAR (AB2014-423)

Brenner stated this looked good when the Council went through the budget. The
administration pointed out that they increased money for the meals-on-wheels program.
However, this increase won’t take care of the increased need. This increase only restores
the amount to a previous level. The Northwest Regional Council lost funding at the federal
level. The County has decreased money for other social services programs.

Crawford reported for the Finance and Administrative Services Committee and
moved to approve the request.

Brenner moved to amend to increase the contract to $60,000 per year instead of
$40,000 per year.

Weimer stated this is a contract, not a budget amendment. He asked if the Council
has the ability to amend the amount in a contract, since it already voted for the budget amount.

Brenner stated the Council can. That’s why these items come to the Council.

Browne stated he shares Councilmember Weimer’s concern. He’s sympathetic to the
problem, but he would like to hear from the Northwest Regional Council about what their
exact need is, rather than just guess.

Crawford stated the County traditionally funded this program in the amount of
$10,000 through 2013. The funding that Councilmember Brenner is talking about was
backfilled by the Council in 2014 to $40,000. The Council continued to approve that
$40,000. The County is already replacing the federal money that the Northwest Regional
Council lost. He doesn’t see any request or explanation from the program. The Meals-on-
Wheels program scope of work specifically talks about the need for $40,000 per year, and
that amount is what the Council provided.
Brenner stated that’s the amount the program was told they could have, so that’s what they asked for. That would only keep the level of service provided for many years, but the need has grown. He made motions in other areas in the budget. She was told the County increased funding for Meals-on-Wheels, which would take care of the needs, but it won’t take care of the needs.

The motion to amend failed by the following vote:

Ayes: Brenner (1)

Nays: Mann, Crawford, Browne, Buchanan, Weimer and Kremen (6)

Kremen stated the County Council has increased by four-fold the amount of money for the Meals-on-Wheels program. The County backfilled the amount the federal money stopped providing. He’s proud that the County chose to replace those funds. He wishes the County financial position was such that they could provide more funding for the Meals-on-Wheels program and many other worthwhile programs in the community. That’s not the case.

Brenner stated she agrees with Councilmember Kremen. However, the Executive’s budget comment indicated the County was in a good financial state. The least they can do is care for people with increased needs. Meals-on-Wheels program recipients can’t get out to the food bank. The County should fulfill those extra needs. This is little compared to other major expenses.

The motion to approve the request carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)

Nays: None (0)

28. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND THE VOLUNTEER CENTER OF WHATCOM COUNTY TO PROVIDE SUPPORT SERVICES TO VOLUNTEER COORDINATORS AND VOLUNTEERS BEGINNING JANUARY 1, 2015, AND ENDING DECEMBER 31, 2016, IN THE AMOUNT OF $30,000 PER YEAR (AB2014-424)

29. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND DR. STEWART ANDREWS, MD, FOR PHYSICIAN SERVICES AT THE WHATCOM COUNTY JAIL AND WHATCOM COUNTY INTERIM WORK CENTER (AB2014-429)

OTHER ITEMS

1. RESOLUTION REQUESTING THAT THE WHATCOM COUNTY AUDITOR INCLUDE THE QUESTION OF ANNEXATION OF THE CITY OF EVERSON INTO FIRE DISTRICT #1 ON THE BALLOT AT THE NEXT SPECIAL ELECTION (AB2014-385)

Crawford reported for the Finance and Administrative Services Committee and moved to approve the resolution.
The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
**Nays:** None (0)

2. **RESOLUTION REQUESTING THAT THE WHATCOM COUNTY AUDITOR INCLUDE THE QUESTION OF ANNEXATION OF THE CITY OF NOOKSACK INTO FIRE DISTRICT #1 ON THE BALLOT AT THE NEXT SPECIAL ELECTION (AB2014-386)**

*Crawford* reported for the Finance and Administrative Services Committee and moved to approve the resolution.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
**Nays:** None (0)

3. **RESOLUTION REQUESTING THAT THE WHATCOM COUNTY AUDITOR INCLUDE THE QUESTION OF ANNEXATION OF THE CITY OF FERNDALE INTO FIRE DISTRICT #7 ON THE BALLOT AT THE NEXT SPECIAL ELECTION (AB2014-395)**

*Crawford* reported for the Finance and Administrative Services Committee and moved to approve the resolution.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
**Nays:** None (0)


*Crawford* reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
**Nays:** None (0)

5. **RESOLUTION APPROVING A SALARY SCHEDULE AND POLICIES FOR UNREPRESENTED WHATCOM COUNTY EMPLOYEES, EFFECTIVE JANUARY 1, 2015, THROUGH DECEMBER 31, 2016 (AB2014-388)**

*Crawford* reported for the Finance and Administrative Services Committee and moved to approve the resolution.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
**Nays:** None (0)
6. REQUEST COUNCIL APPROVAL FOR THE COUNCIL CHAIR TO SIGN A JOINT LETTER WITH THE COUNTY EXECUTIVE THAT WILL BE SENT TO LANDOWNERS AS PART OF THE POLLUTION IDENTIFICATION AND CORRECTION PROGRAM (PIC) COMMUNITY OUTREACH TO INTRODUCE THE PROGRAM AND EXPLAIN AVAILABLE RESOURCES (AB2014-394) (7:37:03 PM)

Crawford reported for the Finance and Administrative Services Committee and moved to approve the request.

Brenner moved to amend the fourth paragraph, “If you have livestock or a septic system you may have legal responsibilities to ensure that you are not polluting our area waters. You can learn more about…” It’s not optional, it’s a requirement. People are smart enough to understand facts. It’s not disrespectful to the public to let them know they have responsibilities to ensure they aren’t polluting area waters.

The motion to amend carried by the following vote:
Ayes: Brenner, Mann, Browne, Buchanan, Weimer and Kremen (6)
Nays: Crawford (1)

The motion to approve as amended carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

7. REQUEST COUNCIL APPROVAL OF PROPOSED LODGING TAX FUNDING FOR 2015 AS RECOMMENDED BY THE LODGING TAX ADVISORY COMMITTEE (AB2014-427)

Crawford reported for the Finance and Administrative Services Committee and moved to approve the resolution.

Kremen stated the money is spent entirely to promote local tourism, which is a good thing. Those are clean dollars bringing a lot of revenue into the community without the corresponding amount of services normally required with that kind of revenue generation. These taxes are well-spent and well-invested.

Brenner stated the businesses that pay this tax are on the committee that made these recommendations.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

8. ORDINANCE RESOLUTION AMENDING THE 2014 WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT AND SUBZONES BUDGET, FIFTH REQUEST, IN THE AMOUNT OF $70,000 (AB2014-383)

Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.
Crawford reported for the Finance and Administrative Services Committee and moved to approve the resolution.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

9. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND LARRY STEELE AND ASSOCIATES, INC. FOR ON-CALL PROFESSIONAL LAND SURVEYING SERVICES, IN THE AMOUNT OF $150,000 (AB2014-389) (7:42:34 PM)

Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.

Crawford reported for the Finance and Administrative Services Committee and moved that the Board of Supervisors approve the request.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

Council acting as the County Council.

Crawford moved that the County Council approve the request.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

10. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WASHINGTON STATE DEPARTMENT OF ECOLOGY FOR WASHINGTON CONSERVATION CORPS CREW SPONSORSHIP, IN THE AMOUNT OF $60,000 (AB2014-390) (7:43:49 PM)

Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.

Crawford reported for the Finance and Administrative Services Committee and moved to approve the request.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

11. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WASHINGTON STATE DEPARTMENT OF ECOLOGY FOR DESIGN AND CONSTRUCTION OF THE
DEMING LEVEE UPSTREAM IMPROVEMENT PLAN, IN THE AMOUNT OF $1,440,000 (AB2014-391) (7:44:19 PM)

Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.

Crawford reported for the Finance and Administrative Services Committee and moved to approve the request.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

12. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND THE WHATCOM CONSERVATION DISTRICT FOR NON-DAIRY LIVESTOCK TECHNICAL ASSISTANCE AS A COMPONENT OF THE WHATCOM COUNTY POLLUTION IDENTIFICATION AND CORRECTION PROGRAM (AB2014-392) (7:44:36 PM)

Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.

Crawford reported for the Finance and Administrative Services Committee and moved to approve the request, including the replacement page submitted earlier.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

13. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND THE WHATCOM CONSERVATION DISTRICT FOR LIVESTOCK BEST MANAGEMENT PRACTICES OUTREACH AND FINANCIAL ASSISTANCE AS PART OF THE POLLUTION IDENTIFICATION AND CORRECTION PROGRAM (AB2014-393) (7:45:46 PM)

Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.

Crawford reported for the Finance and Administrative Services Committee and moved that the Board of Supervisors approve the request.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

14. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A GRANT AGREEMENT BETWEEN WHATCOM COUNTY AND THE STATE OF WASHINGTON DEPARTMENT OF HEALTH TO SUPPORT THE POLLUTION IDENTIFICATION AND CORRECTION PROGRAM, IN THE AMOUNT OF $300,000 (AB2014-396) (7:46:26 PM)
Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.

Crawford reported for the Finance and Administrative Services Committee and moved that the Board of Supervisors approve the request.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

15. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND KULSHAN SERVICES, LLC, FOR CONSULTING SERVICES TO IMPLEMENT A STAKEHOLDER INVOLVEMENT PROCESS AND FACILITATE STAKEHOLDER MEETINGS FOR THE DEVELOPMENT OF A SYSTEM-WIDE IMPROVEMENT FRAMEWORK FOR THE NOOKSACK RIVER LEVEE SYSTEM, IN THE AMOUNT OF $33,000, FOR A TOTAL AMENDED CONTRACT IN THE AMOUNT OF $74,460 (AB2014-397) (7:47:00 PM)

Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.

Crawford reported for the Finance and Administrative Services Committee and moved that the Board of Supervisors approve the request.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

16. ORDINANCE GRANTING PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY, A WASHINGTON MUNICIPAL CORPORATION, A FRANCHISE AND THE RIGHT, PRIVILEGE, AND AUTHORITY THEREUNDER TO LOCATE, SET, ERECT, LAY, CONSTRUCT, EXTEND, SUPPORT, ATTACH, CONNECT, MAINTAIN, REPAIR, REPLACE, ENLARGE, OPERATE AND USE FACILITIES IN, UPON, OVER, UNDER, ALONG, ACROSS AND THROUGH THE FRANCHISE AREA TO ALLOW FOR THE PROVISION OF WATER SERVICES (AB2014-180)

Browne stated he would like an explanation of how this agreement changes the Council’s control over delivery of water service in the county.

Jon Sitkin, Public Utility District (PUD) 1 attorney, stated the franchise does not change the County control over the water service from the districts. The PUD can’t mandate that anyone hook up to their water service. Water purveyors in Whatcom County must have a water system plan and a designated service area. The County must approve that plan and area through its Coordinated Water System Plan. The PUD retail service areas are in the Grandview and Cherry Point areas. The PUD can’t provide retail water service outside of its County-designated service area. The PUD is able to provide water on a wholesale basis to existing purveyors countywide. The PUD can’t provide water service to individual customers within another purveyor’s service area. This franchise allows the PUD...
to construct facilities. It does not allow the PUD to provide service to retail customers. The PUD has not and does not plan to extend its utilities throughout the county. Customers may seek it, but it's often cost-prohibitive. When necessary, the PUD can administer projects, develop a facility, and lease the facility back to a water association, which can then provide service to address public health issues.

Brenner referenced Council packet page 796 and read from the franchise agreement, which says that the PUD can build facilities throughout the entire county. The agreement gives a lot of influence to the PUD on issues that should remain County issues. The process now isn’t broken. The County has allowed the PUD to get these franchises in areas to serve. The agreement includes a right to eminent domain and also obligates the County to pay the costs for increasing, expanding, or changing roadways if they interfere with the PUD water lines. She would like clarification of these issues. The Coordinated Water System Plan Committee should review this agreement.

Sitkin stated the language used in the agreement is the same language used in the PUD electrical franchise and that the County has used with various countywide telecomm agreements. The PUD used that same language. It doesn’t change where the PUD can provide water. The PUD can’t build these facilities unless the County Engineer approves the facilities. The PUD can’t provide water to a retail customer or to a wholesale customer without a request.

Jack Louws, County Executive, stated he appreciates the PUD working with the water associations on the nitrate issue in north Whatcom County. Whatcom County has a challenge with water systems, because the County must assume the responsibility of systems if those systems aren’t run correctly or fail. Having a countywide partner run by elected officials and managed appropriately to help solve these issues is a benefit. It could benefit the County in the future if the PUD can help these systems fix some of their water quality issues using their existing water rights.

Browne stated the PUD draws water a mile from the intertidal zone on the Nooksack River. By doing so, the PUD improves instream flows. It takes the freshwater just before it enters the saltwater. Otherwise, the water would have to be taken farther upstream or out of the groundwater. He supports the PUD being a wholesale water supplier to the retail purveyors.

Brenner stated have a discussion with the other purveyors. The County doesn’t have to approve a broad agreement for the PUD to help others with their water problems. She objects to the way this agreement is written, because it gives the PUD a lot of power that the County should maintain, especially regarding eminent domain and cost liability. Hold this item in Council for more discussion.

(8:00:01 PM)

Weimer asked why they would franchise entire county rather than come forward each time there is a project. The PUD wouldn’t have any trouble getting approval to solve problems for health reasons. Sitkin stated if there are several franchises, each for a different project, there will be many different franchise terms. It’s difficult to keep track of all those franchise terms, which can last 25 years. The people who initially manage them are gone, and a franchise can expire. They’ve seen that happen with three franchises that
1 have expired. A countywide agreement prohibits a lapse in franchises and allows
2 administrative efficiencies for both entities. The County can still have a process and be
3 involved in franchise approval. This is a nonexclusive franchise. Other water purveyors
4 don’t prevent anyone from seeking a similar franchise. The PUD is not opposed to other
5 purveyors wanting a franchise. It’s not a competition. Only the Port, the County, and the
6 PUD are able to solve public health issues with water districts. Only the PUD has historically
7 developed the projects to connect and provide facilities that alleviate public health concerns.
8 This allows the PUD to continue to do that with a more efficient countywide process.

9 Crawford moved to adopt the ordinance.

10 Brenner stated language in the agreement says people have to pay the PUD a fee if
11 they want their lines in the same easement as the PUD lines. Sitkin stated that language
12 applies to all franchises. If an entity wants to relocate a facility, they have to pay for the
13 relocation and the facility owner has to consent to the relocation. Because of the high
14 pressure water lines, they can’t be forced to relocate those high pressure water lines unless
15 there’s no reasonable engineering alternative. It would be very expensive for the refineries
16 to relocate those lines.

17 Brenner stated that turns the County Engineer into a politician. The Council should
18 make that decision. She doesn’t want to give Council authority to the County Engineer.
19 There’s no comparison with electric and cable franchise services. Water is about
20 development. If the water lines are extended in areas where the County doesn’t want
21 development, there would be pressure to allow development. She moved to hold in Council
22 to the next meeting.

23 The motion to hold in Council failed by the following vote:
24 Ayes: Brenner (1)
25 Nays: Mann, Crawford, Browne, Buchanan, Weimer and Kremen (6)

26 Brenner stated the agreement gives the PUD the power of eminent domain. Sitkin
27 stated the PUD has eminent domain power today. He doesn’t know how that would be
28 exercised.

29 Mann stated the eminent domain power is only for County-owned property. The PUD
30 can’t exercise eminent domain on other property.

31 Browne stated the electric and communication utilities may have similar eminent
32 domain powers.

33 Weimer stated all the private pipelines in Whatcom County have eminent domain.

34 The motion to adopt carried by the following vote:
35 Ayes: Mann, Crawford, Browne, Buchanan, Weimer and Kremen (6)
36 Nays: Brenner (1)

37 17. APPROVAL OF SPECIAL “STANDING” COUNCIL MEETING DATES FOR 2015
38 (AB2015-430)

39 Crawford moved to approve the schedule.
1. EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE’S APPOINTMENT OF LORI JUMP TO THE WHATCOM COUNTY LIBRARY SYSTEM BOARD (AB2014-425)

Browne moved to confirm the appointment.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

INTRODUCTION ITEMS


Buchanan reported for the Natural Resources Committee and stated this item was held in committee.

2. RECEIPT OF AN APPEAL OF THE HEARING EXAMINER’S DECISION ON APL 2012-0019 AND APL 2012-0020, FILED BY DAVID COTTINGHAM REGARDING PLANNING & DEVELOPMENT SERVICES DETERMINATION TO GRANT FINAL OCCUPANCY TO THE BUILDING PERMIT, SFR2006-00683 (AB2014-387)

This item was withdrawn from the agenda.

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Buchanan reported for the Natural Resources Committee on the discussion of proposal to send a letter to the Army Corp of Engineers regarding the Puget Sound Nearshore Ecosystem Restoration Project (PSNERP) (AB2014-428) and moved to approve the substitute letter as amended in committee.

Brenner moved to amend to add the following sentence anywhere in the letter, “We highly value and support protecting currently productive agriculture land.”

The motion to amend carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)
The motion to approve and send the substitute letter as amended carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)

**Nays:** None (0)

Brenner reported for Public Works, Health, and Safety Committee on the discussion regarding proposed recommendations of the Lummi Island Ferry Advisory Committee to modify select ferry rates (AB2014-426). They hope to move forward in February 2015.

She also reported on a recent forum she attended on addiction. Everyone made a commitment, and will work on committees and issues that the government doesn’t always address. She also attended a presentation on National AIDS Day.

Crawford thanked everyone for working well together and wishes all a happy holiday.

Kremen reported that he praises Puget Sound Energy for a fast response to restore power last month. Also, Whatcom County government goes out of its way to encourage public participation. That makes for good government. Holiday greetings and Merry Christmas to all.

Brenner reported she wishes everyone a very happy holiday.

Weimer reported that this is the last Council meeting this year. The Council won’t be back until January 13, 2015. There are many advisory board and committee vacancies. He wishes everyone a happy holiday.

Buchanan reported he also thanks Puget Sound Energy for restoring power quickly in his area. He also agrees with Councilmember Crawford about what a great group this is to work with. The administration did a wonderful job on the budget this year. He wishes all a great holiday.

Browne reported that he thanks all for the time and consideration given to him to help him in his first year of this new job. He wishes everyone a happy holiday.

**ADJOURN**

The meeting adjourned at 8:27 p.m.

The Council approved these minutes on ______________, 2015.

**ATTEST:**

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

____________________________  ______________________________
Dana Brown-Davis, Council Clerk   Carl Weimer, Council Chair
DISCLAIMER: This document is a draft and is provided as a courtesy. This document is not to be considered as the final minutes. All information contained herein is subject to change upon further review and approval by the Whatcom County Council.

Jill Nixon, Minutes Transcription
TITLED OF DOCUMENT: Amendments to the mineral resources portion of the comprehensive plan and zoning code

ATTACHMENTS:
1) Staff Memo to Council
2) Proposed Ordinance
3) Exhibit A – Natural Resources Committee
4) Option 2 - Surface Mining Advisory Committee and Planning Commission Proposed Amendments
5) Staff report to Planning Commission - PC Findings and Recommendation
6) Surface Mining Advisory Committee proposal for Conditional Use rather than Administrative Approval
7) Comprehensive Plan Map and Zoning Map Amendment - MRL Designation process comparison
8) Permitting process comparison for mineral extraction

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.)

Proposed amendments to the Mineral Resources portion of the Comprehensive Plan and Zoning Code. The proposed Comprehensive Plan amendments include changes to general mineral extraction policies that implement Goal 8K (adverse impacts), Goal 8Q (MRL designation), and MRL Designation Criteria. Proposed amendments to the zoning code include altering the permitting process from administrative approval use to a conditional use permit, changing the distance from rural or residential districts that surface mining activities associated with forest practices within the forestry zones trigger a discretionary permit, changing the notification distance for discretionary permits associated with surface mining, and requiring noxious weeds to not be established in buffers of surface mining operations.

COMMITTEE ACTION:
1/13/2015: Amended and approved Exhibit A

COUNCIL ACTION:
01/13/2015 Introduced
1/13/2015: Substitute Introduced 7-0

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

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.
Memorandum

TO: Whatcom County Council
FROM: Joshua Fleischmann, Planner
THROUGH: Mark Personius, Long Range Planning Manager
DATE: December 31, 2014
SUBJECT: Comprehensive Plan and Zoning text amendments for Mineral Resource Lands and surface mining; PLN2013-00008

For the December 9th Natural Resources Committee meeting, 2 exhibits were provided to the committee as part of the Agenda Packet. Exhibit A was the proposal as included in the amendment application submitted by councilmembers Weimer and Brenner, while Exhibit B (hereinafter Option 2) was the Surface Mining Advisory Committee recommendation that was forwarded to the County Council by the Planning Commission. The accompanying staff report contained an analysis of Exhibit A and Option 2 and the Planning Commission’s Findings of Fact and Reason for Action in support of Option 2.

At the meeting, the committee chose to make Exhibit A the working draft for the January 13th meeting. Included with this packet is a revised Ordinance with findings for Exhibit A.
ORDINANCE NO. 2015-
AMENDING WHATCOM COUNTY CODE TITLE 20 AND THE COMPREHENSIVE
PLAN REGARDING SURFACE MINE PERMITTING, THE MINERAL RESOURCE
LANDS DESIGNATION PROCESS AND MINERAL RESOURCE LANDS
DESIGNATION CRITERIA.

WHEREAS, an application has been submitted to amend the Rural (R), Agriculture (AG), Rural Forestry (RF), Commercial Forestry (CF) and Mineral Resource Land (MRL) Special zoning districts to require a conditional use permit for surface mining subject to Washington State's Surface Mining Act; and

WHEREAS, the proposed amendment has been reviewed under the State Environmental Policy Act (SEPA); and

WHEREAS, in accordance with RCW 36.70A.106 Whatcom County Planning and Development Services notified the Department of Commerce of the proposed zoning text and comprehensive plan amendments; and

WHEREAS, notice of the Whatcom County Planning Commission hearing on the proposed amendment was published in the Bellingham Herald; and

WHEREAS, the Whatcom County Planning Commission held a work session on the proposed amendment; and

WHEREAS, the Whatcom County Planning Commission held a public hearing on the proposed amendment and considered all testimony; and

WHEREAS, the Whatcom County Planning Commission forwarded its findings and reasons for action to the County Council; and

WHEREAS, the Whatcom County Council has reviewed the Planning Commission recommendation; and

WHEREAS, the Whatcom County Council held 2 work session in the Natural Resources Committee; and

WHEREAS, the Whatcom County Council held a public hearing on the proposed amendment and considered all testimony; and
WHEREAS, the Whatcom County Council hereby adopts the following findings of fact and conclusions:

FINDINGS

1. An application for Comprehensive Plan and related zoning amendments was received by Whatcom County on December 21, 2012.

2. A revised application for Comprehensive Plan and related zoning amendments was received by Whatcom County on January 23, 2013.

3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on July 5, 2013. The associated comment period ended July 19, 2013 and the appeal period concluded July 29, 2013.

4. The Surface Mining Advisory Committee held work sessions with Whatcom County PDS Staff on March 26, 2014; April 23, 2014; May 28, 2014, June 25, 2014; and July 23, 2014.

5. A press release of the Planning Commission briefing was published in the Bellingham Herald on 09/08/2014

6. The Planning Commission held a work session on September 11, 2014.

7. The Planning Commission held a public hearing on October 23, 2014.

8. Notice of the proposed amendment was sent to the Department of Commerce on 8/15/2014.

9. On 08/20/2014 the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.

10. The Growth Management Act (GMA) includes multiple planning goals that are relevant to the proposed comprehensive plan amendments.

11. GMA Planning Goal #7: Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

Through previous MRL designation proposals, it has been affirmed that MRL designation is not a “right-to-mine”, insomuch as upon receiving MRL designation, a permit is still required for the act of mineral extraction.

The proposed amendments to Policy 8K-2 clarify that maintenance and upgrade of public roads take place before approving mineral extraction. This
would ensure that any necessary maintenance or upgrades are in direct relationship to an impact from a specific mineral extraction permit. This policy also clarifies that all traffic, not just truck traffic, on county roads is addressed in a fair and equitable fashion.

12. GMA Planning Goal #11: Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

Proposed language as part of the zoning code WCC 20.90.045(2)(d) amends the notification requirements involving rezoning property to a Mineral Resource Land designation to 2,000 feet of the external boundaries of the subject property. The present requirement is 1,000 feet. The amendment will result in more citizens receiving notices and having the opportunity to be involved in the planning process.

13. Whatcom County's County-Wide Planning Policy A-3 states: Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral...
extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

Proposed language as part of the zoning code WCC 20.90.045(2)(d) amends the notification requirements involving rezoning property to a Mineral Resource Land designation to 2,000 feet of the external boundaries of the subject property. The present requirement is 1,000 feet. The amendment will result in more citizens receiving notices and having the opportunity to be involved in the planning process.

14. There are no interlocal agreements affecting the proposed amendments.

15. Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.

16. Proposed Policy 8K-2: Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

The underline and strikethrough represent changed conditions from the present policy. Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Consideration of maintenance and upgrade of public roads may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process. Mineral extraction permits are presently reviewed by Public Works – Engineering for potential impacts to public roads, and necessary maintenance and upgrading of the roads may be required for approval.

The proposed amendments alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be).
Through the SEPA process, impacts to public roads are considered through Checklist Item #14 – Transportation as part of the permitting process. Exhibit A proposes that all traffic, not just truck traffic, on county roads be addressed in a fair and equitable fashion.

17. Proposed Policy 8K-7: Designate site-specific mineral resource lands only after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives.

Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Anticipation and evaluation of potential adverse environmental impacts associated with mineral extraction, and mitigation and/or reasonable alternatives may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process.

18. Proposed Policy 8K-8: Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, shall require that the existing mine is in compliance with all operating permits and regulations.

In December 2010, Whatcom County PDS received an application for a Comprehensive Plan map and zoning map amendment to expand an existing MRL designation. The mine associated with the MRL designation has received stop work orders and been assessed penalties as part of a notice of violation. The operation within this MRL is now going through receivership. No work has been done on the Comprehensive Plan MRL expansion amendment for over 2 years, and there is presently no mining activity occurring. The proposed policy in attempts to clarify that non-compliance by a mineral extraction operator would not impact the ability of another landowner to expand an MRL designation.

19. Proposed Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
   (1) On-site environmental review, with county as lead agency, and
   (2) application of appropriate site specific conditions, and
   (3) notification to neighboring property owners within 2,000 feet to insure opportunity for written and oral input and/or appeal, and
(4) access to de-novo review by the Hearing Examiner if administrative approval is denied or appealed.

The underlines and strikethroughs represent changed conditions from the present policy. The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Criterion #4 of Policy 8Q-4 would be unnecessary through the conditional use process, since conditional use approval is made by the Hearing Examiner. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. However, it is worth noting that, according to former PDS geologist, Doug Goldthorp:

"Since the inception of the surface mining administrative approval use permit requirement in 1997, 24 surface mining administrative approval use applications (ADM)s, and the 3 amendment applications to those ADMs have been conditionally approved. There was either a DNS, MDNS, and one DS SEPA determination in each case. Of the 27 combined ADMs, ADM amendments and associated SEPA determinations, 3 appeals (11%) have been filed and adjudicated by the WC Hearing Examiner. In all 3 cases, the Hearing Examiner has upheld the staff determination. In a few cases, the Hearing Examiner determination has been upheld by the WC Council, and in one case, upheld by the WA Superior Court."

This information indicates that, while the sample size is relatively small, the Technical Administrator's determinations have been upheld as appropriate, when challenged. However, the purpose of the amendment is to ensure a public process that is presently absent, and this amendment would provide an avenue for a public process.

Proposed language as part of the zoning code WCC 20.90.045(2)(d) amends the notification requirements involving rezoning property to a Mineral Resource Land designation to 2,000 feet of the external boundaries of the subject property. The present requirement is 1,000 feet. The amendment will result in more citizens receiving notices and having the opportunity to be involved in the planning process.
20. There is no anticipated effect upon the rate or distribution of population growth, employment growth or development of land as envisioned in the Comprehensive Plan, as a result of the proposed Comprehensive Plan amendments. However, lands that have a proven resource may become converted to a use incompatible with surface mining if mineral resource extraction companies don't pursue designation as a result of increased costs and lack of certainty in the designation process.

21. The proposed comprehensive plan amendments may affect the ability of the county and/or other service providers to provide adequate services and public facilities including transportation facilities, though not necessarily through an increased demand for services. Recent efforts to designate lands for mineral extraction have failed. Mining companies may be hesitant to apply for designation, due to the costs associated with studies to determine potential impacts/mitigation/alternatives, if there are no reassurance that they could recoup the costs through designation and subsequent mineral extraction. Additionally, by limiting MRL designations in forest lands to 20 acres at a time, large areas of potential resources may not be efficiently extracted. This situation may result in increased costs for the resource. If mining companies decide to not apply for new designations in Whatcom County, the costs of mineral resources would likely climb as the local supply diminishes and more costly imports become a primary source of material. If the costs of capital facilities increase, there may be less money throughout the rest of the provider's budget.

22. The proposed amendments may discourage mining companies from applying for designation, due to the costs associated with studies to determine potential impacts/mitigation/alternatives, if there are no reassurances that they could recoup the costs through designation and subsequent mineral extraction. If true, the rate of conversion to mineral resource lands from agriculture and forestry would likely slow, positively impacting the protection of agriculture and forestry lands. However, the proposed amendments would then, necessarily negatively impact the availability of mineral resource lands.

23. The proposed amendment does not change the zoning of any area therefore the amendment does not include nor facilitate illegal spot zoning.

24. Goal 2G: Encourage citizen participation in the decision-making process

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral
extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

Proposed language as part of the zoning code WCC 20.90.045(2)(d) amends the notification requirements involving rezoning property to a Mineral Resource Land designation to 2,000 feet of the external boundaries of the subject property. The present requirement is 1,000 feet. The amendment will result in more citizens receiving notices and having the opportunity to be involved in the planning process.

25. Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

26. Policy 7D-7: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

27. Policy 8K-1: Avoid significant mineral extraction impacts on adjacent or nearby land uses, public health and safety, or natural resources.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral
extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

28. **Policy 8N-2:** Allow rock crushing, washing and sorting in the forest zones when appropriate as long as conflicts with other land uses can be mitigated.

Rock crushing, washing and sorting are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

29. **Policy 8N-3:** Allow commercial surface mining operations in the forest zones when appropriate as long as conflicts with other land use zones can be mitigated.

Commercial surface mining operations are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

30. **Goal 10J:** Minimize conflicts between different land uses.
The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

31. Policy 11B-5: Process the environmental review of building and development applications within an established time-frame that is predictable and expeditious.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Whatcom County Code (WCC) 2.33 – Permit Review Procedures states that unless otherwise exempted in WCC 2.33.020 or 2.33.090(C), the county shall issue a notice of final decision on an administrative approval use or conditional use within 90 days of the date of completeness if the project is exempt from SEPA review. If the project is subject to SEPA review, the county shall issue a notice of final decision within 120 days.

32. The Washington State Department of Natural Resources completed a study entitled Reconnaissance Investigation of Sand, Gravel, and Quarried Bedrock Resources in the Bellingham 1:100,000 Quadrangle, Washington (Jan. 2001). This study indicates that the working lifetime of most of the significant pits in the county is 10 to 20 years (p. 5).

33. The Whatcom County Surface Mining Advisory Committee Final Report and Recommendations (October 20, 2004) states:

   . . . Theoretically, there is enough total supply in existing MRLs to satisfy demand over the first 20 years of the planning period.
However, there is an imbalance in the demand and supply of sand and gravel. There is a greater need for gravel resources than sand and, as we approach the end of the 20-year planning period, we can anticipate a shortage of gravel. Additionally, shortly after the 20-year planning period, we will run out of sand and gravel resources if existing MRLs are not expanded. . . (p. 7).

CONCLUSIONS

1. The subject Comprehensive Plan amendments are consistent with the approval criteria of WCC 2.160.080. The subject zoning text amendments were processed in accordance with WCC 20.90.050

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Whatcom County Zoning Code is hereby amended as shown in Exhibit A.

BE IT FURTHER ORDAINED that if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

ADOPTED this _____ day of __________, 2015.

ATTEST:

Dana Brown-Davis, Clerk of the Council
Carl Weimer, Council Chair

APPROVED AS TO FORM:

Karen N. Frakes
Civil Deputy Prosecutor

Jack Louws, County Executive

(  ) Approved (  ) Denied

Date Signed:____________________

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Exhibit A

Title 20 Zoning Amendments

Chapter 20.36
RURAL (R) DISTRICT

20.36.130 Administrative approval uses
.133 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.36.150 Conditional uses.
.197 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.40
AGRICULTURE (AG) DISTRICT

20.40.130 Administrative approval uses
.136 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations. Site reclamation must be to agricultural use within any MRLs adopted after May 1, 2001. No off-site dust shall be generated from the operation.

20.40.150 Conditional uses.
.197 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations. Site reclamation must be to agricultural use within any MRLs adopted after May 1, 2001. No off-site dust shall be generated from the operation.

Chapter 20.42
RURAL FORESTRY (RF) DISTRICT
20.42.050 Permitted uses.
.058 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval a conditional use permit is required for accessory rock crushing activities located within 12,000 feet from a rural or residential district.

20.42.130 Administrative approval uses.
.133 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.42.150 Conditional uses.
.197 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.43
COMMERCIAL FORESTRY (CF) DISTRICT

20.43.050 Permitted uses.
.055 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval a conditional use permit is required for accessory rock crushing activities located within 12,000 feet from a rural or residential district.

20.43.130 Administrative approval uses.
.133 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.43.150 Conditional uses.
.189 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.73
MINERAL RESOURCE LANDS SPECIAL DISTRICT (MRL)
20.73.130 Administrative approval uses.
The following uses are permitted subject to administrative approval pursuant to WCC 20.84.235.

-131 Surface-mining subject to Washington State’s Surface-Mining Act (Chapter 78.44 RCW) and accessory washing and sorting; provided that:

(1) The notification requirements of WCC 20.84.235 shall be expanded to all property owners within 1,000 feet of the external boundaries of the subject property.

(2) At minimum, the activity adheres to the development and performance standards of WCC 20.73.650 and 20.73.700. In addition, no excavation shall occur within the five-year zone of contribution for designated well head protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water-table. If a fixed radii method is used to delineate a well head protection area, the surface mining applicant may elect to more precisely delineate the well head protection boundary using an analytical model; provided, that the delineated boundary proposed by the surface mining applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.

(3) Buffers are established of sufficient size and with sufficient vegetation or bermsing to ensure that noise, dust, and other impacts to surrounding property owners are within applicable regulations and performance standards. When completing a reclamation segment, buffer may be reduced for a three-month period to establish the final reclaimed topography.

(4) The applicant provides insurance policies or a similar type of protection as appropriate to cover potential liabilities associated with the proposed activity; renewals of bonds or insurance be submitted upon expiration of previous bonds or insurance. The bonding agent shall notify the county on any change of status in the bond.
(5) Application of additional site-specific conditions may be required to mitigate potential impacts that are not otherwise regulated through WCC 20.73.650 and 20.73.700 or through federal, state, or local regulations.

(6) Notice of the decision shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 1,000 feet of the subject property with the application to facilitate the notice.

(7) Appeal to the hearing examiner under WCC 20.84.235 of an administrative permit shall be made by de-novo review.

.132 Rock crushing within Commercial and Rural Forestry Districts when located further than 2,000 feet from a rural or residential district.

20.73.150 Conditional uses.
.152 Mineral processing facilities including rock crushing, asphalt and concrete batch plants and accessory washing and sorting.

.153 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW); provided that:

(1) The notification requirements of WCC 2.33.060.D.2.b shall be expanded to all property owners within 2,000 feet of the external boundaries of the subject property.

(2) At minimum, the activity adheres to the development and performance standards of WCC 20.73.650 and 20.73.700. In addition, no excavation shall occur within the five-year zone of contribution for designated well head protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water table. If a fixed radii method is used to delineate a well head protection area, the surface mining applicant may elect to more precisely delineate the well head protection boundary using an analytical model; provided, that the delineated boundary proposed by the surface mining applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.
(3) Buffers are established of sufficient size and with sufficient vegetation or berms to ensure that noise, dust, noxious weeds and other impacts to surrounding property owners are within applicable regulations and performance standards. When completing a reclamation segment, buffer may be reduced for a three-month period to establish the final reclaimed topography.

(4) The applicant provides insurance policies or a similar type of protection as appropriate to cover potential liabilities associated with the proposed activity. Renewals of bonds or insurance be submitted upon expiration of previous bonds or insurance. The bonding agent shall notify the county on any change of status in the bond.

(5) Application of additional site specific conditions may be required to mitigate potential impacts that are not otherwise regulated through WCC 20.73.650 and 20.73.700 or through federal, state, or local regulations.

(6) Notice of the decision shall be mailed to all property owners within 2,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 2,000 feet of the subject property with the application to facilitate the notice.

(7) Where the underlying zoning is Rural Forestry or Commercial Forestry, prior to moving on to a new phase, previously mined areas shall meet reclamation criteria as identified on an approved Department of Natural Resources Surface Mining Reclamation Permit.

Chapter 20.90
AMENDMENTS

20.90.045 Notice for quasi-judicial rezones.
(2) Notice shall be mailed to property owners as follows:
   (d) For zoning map amendments that involve rezoning property to a Mineral Resource Land designation: At least 10 days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 2,000 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit a stamped envelope with a typed address for each of the above referenced property owners.
Comprehensive Plan Amendments

MINERAL RESOURCES – ISSUES, GOALS, AND POLICIES

General Issues

GOAL 8K: Ensure that mineral extraction industries do not adversely affect the quality of life in Whatcom County, by establishing appropriate and beneficial designation and resource conservation policies, while recognizing the rights of all property owners.

Policy 8K-2: Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

Policy 8K-3: Avoid adversely impacting water quality. The protection of aquifers and recharge zones should have precedence over surface mining in the event it is determined by the county that adverse impacts cannot be avoided through the standard use of best management practices. Avoid contamination of aquifers by using uncontaminated and inert materials for reclamation or onsite storage.

Policy 8K-7: Designate site-specific mineral resource lands only after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives.

Policy 8K-8: Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, shall require that the existing mine is in compliance with all operating permits and regulations.

Goal 8Q: Designate Mineral Resource Lands (MRLs) containing commercially significant deposits throughout the county in proximity to markets in order to minimize/avoid construction aggregate shortages, higher transport costs, future land use conflicts and environmental degradation. Balance MRL designations with other competing land uses and resources.

Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
(1)on-site environmental review, with county as lead agency, and
(2)application of appropriate site specific conditions, and
(3)application for written and oral input and/or appeal, and
(4)access to de-novo review by the Hearing Examiner if administrative approval is denied is appealed.
MINERAL RESOURCE LANDS (MRL) – DESIGNATION
CRITERIA I. Non-Metallic Mineral Deposits

General Criteria
10. Site-specific MRL Designations shall only be approved after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives.

11. MRL Designations must be reviewed for internal consistency with other parts of the comprehensive plan so that the MRL designation does not preclude achievement of other parts of the comprehensive plan.

12. Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine shall require that the existing mine is in compliance with all operating permits and regulations.

Additional Criteria for Designated Urban and Rural Areas
103. Abutting parcel size density must not exceed one unit per nominal five acres for more than 25% of the perimeter of the site unless project specific mitigation is created.

Additional Criteria for Designated Forestry Areas
114. Must demonstrate higher value as mineral resource than forestry resource based upon:
   • soil conditions.
   • accessibility to market.
   • quality of mineral resource.
   • sustainable productivity of forest resource.

15. MRL Designation in forestry zones can be no greater than 20 acres. Additional areas can be added only after previously mined areas are returned to sustainable productive forest resource condition and the total MRL Designation remains no more than 20 acres.

Additional Criteria for Designated Agricultural Areas

River and Stream Gravel
137. MRL Designation status applies to river gravel bards possessing necessary permits and containing significant quality reserves.
148. MRL Designation status may apply to those upland sites located in proximity to river gravel sources and used primarily for handling and processing significant amounts of river gravel.
Metallic and Industrial Mineral Deposits

159. For metallic and rare minerals, mineral designation status extends to all patented mining claims.


1721. All other non-patented mineral deposits must meet the non-metallic MRL Designation criteria, numbers 6 through 12, as applicable.
Option 2

Title 20 Zoning Amendments

Chapter 20.36
RURAL (R) DISTRICT

20.36.130 Administrative approval uses
.133 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.36.150 Conditional uses.
.197 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.40
AGRICULTURE (AG) DISTRICT

20.40.130 Administrative approval uses
.136 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations. Site reclamation must be to agricultural use within any MRLs adopted after May 1, 2001. No off-site dust shall be generated from the operation.

20.40.150 Conditional uses.
.197 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing and sorting, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations. Site reclamation must be to agricultural use within any MRLs adopted after May 1, 2001. No off-site dust shall be generated from the operation.

Chapter 20.42
RURAL FORESTRY (RF) DISTRICT
20.42.050 Permitted uses.
.058 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval a conditional use permit is required for accessory rock crushing activities located within 1,000 feet from a rural or residential district.

20.42.130 Administrative approval uses.
.133 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.42.150 Conditional uses.
.197 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.43
COMMERCIAL FORESTRY (CF) DISTRICT

20.43.050 Permitted uses.
.055 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval a conditional use permit is required for accessory rock crushing activities located within 1,000 feet from a rural or residential district.

20.43.130 Administrative approval uses.
.133 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

20.43.150 Conditional uses.
.189 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

Chapter 20.73
MINERAL RESOURCE LANDS SPECIAL DISTRICT (MRL)
20.73.130 Administrative approval uses.
The following uses are permitted subject to administrative approval pursuant to WCC 20.84.235.

Surface mining subject to Washington State's Surface-Mining Act (Chapter 78.44 RCW) and accessory washing and sorting; provided that:

1. The notification requirements of WCC 20.84.235 shall be expanded to all property owners within 1,000 feet of the external boundaries of the subject property.

2. At minimum, the activity adheres to the development and performance standards of WCC 20.73.650 and 20.73.700. In addition, no excavation shall occur within the five-year zone of contribution for designated well head protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water table. If a fixed radii method is used to delineate a well head protection area, the surface mining applicant may elect to more precisely delineate the well head protection boundary using an analytical model; provided, that the delineated boundary proposed by the surface mining applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.

3. Buffers are established of sufficient size and with sufficient vegetation or berming to ensure that noise, dust, and other impacts to surrounding property owners are within applicable regulations and performance standards. When completing a reclamation segment, buffer may be reduced for a three-month period to establish the final reclaimed topography.

4. The applicant provides insurance policies or a similar type of protection as appropriate to cover potential liabilities associated with the proposed activity; renewals of bonds or insurance be submitted upon expiration of previous bonds or insurance. The bonding agent shall notify the county on any change of status in the bond.
(5) Application of additional site-specific conditions may be required to mitigate potential impacts that are not otherwise regulated through WCC 20.73.650 and 20.73.700 or through federal, state, or local regulations.

(6) Notice of the decision shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 1,000 feet of the subject property with the application to facilitate the notice.

(7) Appeal to the hearing examiner under WCC 20.84.235 of an administrative permit shall be made by de novo review.

.132 Rock crushing within Commercial and Rural Forestry Districts when located further than 1,000 feet from a rural or residential district.

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.152 Mineral processing facilities including rock crushing, asphalt and concrete batch plants and accessory washing and sorting.

.153 Surface mining subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW); provided that:

(1) The notification requirements of WCC 2.33.060.D.2.b shall be expanded to all property owners within 1,000 feet of the external boundaries of the subject property.

(2) At minimum, the activity adheres to the development and performance standards of WCC 20.73.650 and 20.73.700. In addition, no excavation shall occur within the five-year zone of contribution for designated well head protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water table. If a fixed radii method is used to delineate a well head protection area, the surface mining applicant may elect to more precisely delineate the well head protection boundary using an analytical model; provided, that the delineated boundary proposed by the surface mining applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.
(3) Buffers are established of sufficient size and with sufficient vegetation or berming to ensure that noise, dust, noxious weeds and other impacts to surrounding property owners are within applicable regulations and performance standards. When completing a reclamation segment, buffer may be reduced for a three-month period to establish the final reclaimed topography.

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(6) Notice of the decision shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 1,000 feet of the subject property with the application to facilitate the notice.

(7) Where the underlying zoning is Rural Forestry or Commercial Forestry, prior to moving on to a new phase, previously mined areas shall meet reclamation criteria as identified on an approved Department of Natural Resources Surface Mining Reclamation Permit.
Comprehensive Plan Amendments

MINERAL RESOURCES – ISSUES, GOALS, AND POLICIES

General Issues

GOAL 8K: Ensure that mineral extraction industries do not adversely affect the quality of life in Whatcom County, by establishing appropriate and beneficial designation and resource conservation policies, while recognizing the rights of all property owners.

Policy 8K-2: Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

Policy 8K-3: Avoid adversely impacting water quality. The protection of aquifers and recharge zones should have precedence over surface mining in the event it is determined by the county that adverse impacts cannot be avoided through the standard use of best management practices. Avoid contamination of aquifers by using uncontaminated and inert materials for reclamation or onsite storage.

Policy 8K-7 Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

Goal 8Q: Designate Mineral Resource Lands (MRLs) containing commercially significant deposits throughout the county in proximity to markets in order to minimize avoid construction aggregate shortages, higher transport costs, future land use conflicts and environmental degradation. Balance MRL designations with other competing land uses and resources.

Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
(1) on-site environmental review, with county as lead agency, and
(2) application of appropriate site specific conditions, and
(3) notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input, and/or appeal, and
(4) access to de novo review by the Hearing Examiner if administrative approval is denial is appealed.

MINERAL RESOURCE LANDS (MRL) – DESIGNATION
CRITERIA I. Non-Metallic Mineral Deposits
General Criteria
10. MRL Designations must be reviewed for internal consistency with other parts of the comprehensive plan so that the MRL designation does not preclude achievement of other parts of the comprehensive plan.

11. Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

Additional Criteria for Designated Urban and Rural Areas
12\textcopyright. Abutting parcel size density must not exceed one unit per nominal five acres for more than 25\% of the perimeter of the site unless project specific mitigation is created.

Additional Criteria for Designated Forestry Areas
13\textcopyright. Must demonstrate higher value as mineral resource than forestry resource based upon:
\begin{itemize}
  \item soil conditions.
  \item accessibility to market.
  \item quality of mineral resource.
  \item sustainable productivity of forest resource.
\end{itemize}

Additional Criteria for Designated Agricultural Areas

River and Stream Gravel
15\textcopyright. MRL Designation status applies to river gravel bards possessing necessary permits and containing significant quality reserves.
16\textcopyright. MRL Designation status may apply to those upland sites located in proximity to river gravel sources and used primarily for handling and processing significant amounts of river gravel.

Metallic and Industrial Mineral Deposits
17\textcopyright. For metallic and rare minerals, mineral designation status extends to all patented mining claims.
18\textcopyright. Mineral Resource Designation Status extends to all currently permitted industrial mineral deposits of long-term commercial significance.
19\textcopyright. All other non-patented mineral deposits must meet the non-metallic MRL Designation criteria, numbers 6 through 12, 14, as applicable.
WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES
STAFF REPORT

I. OVERVIEW

File # PLN2013-00008

File Name: MRL – Application Process

Applicant: Barbara Brenner and Carl Weimer

Summary of Request: In December 2012, an application was submitted proposing changes to the comprehensive plan and zoning code regarding mineral resource land.

There are 2 exhibits associated with this staff report. Exhibit A represents the proposed changes as provided in the application, while Exhibit B represents the proposed changes as recommended by the Surface Mining Advisory Committee (SMAC)

The proposed Comprehensive Plan amendments include changes to general mineral extraction policies that implement Goal 8K (adverse impacts), Goal 8Q (MRL designation), and MRL Designation Criteria.

Both exhibits propose designation criteria requiring internal consistency with other parts of the comprehensive plan. Both exhibits also include policies supporting their respective proposed MRL designation process, changing the permitting process from administrative approval use to conditional use and considering maintenance and upgrade of public roads before mineral extraction.

Exhibit A proposes new MRL designation criteria that provide the public and decision-makers with environmental information prior to MRL lands being designated, require that adjoining mine activities are compliant with permits and regulations prior to MRL expansion, and limit forestry zones within MRLs. Exhibit A also includes policies considering maintenance and upgrading roads prior to designation.

Exhibit B proposes new MRL designation criteria providing discretion whether existing mines must be compliant with permits and regulations prior to adjacent MRL expansion.
Both Exhibit A and Exhibit B propose amendments to the zoning code altering the permitting process from an administrative approval use (staff decision with no public hearing) to a conditional use permit (Hearing Examiner decision with a public hearing). Both exhibits also propose additional changes to include requiring noxious weeds to not be established in buffers of surface mining operations.

Exhibit A proposes changing the distance from rural or residential districts for rock crushing activities that would require a conditional use permit from 1,000 feet to 2,000 ft. Exhibit A proposes the notification requirements for surface mining be expanded to 2,000 from the external boundaries of the subject property and requires conditional use permits for mining and processing activities within forest resource zones when within 2,000 feet of a rural or Residential district.

Exhibit B proposes an additional review criterion that, within forestry zones, prior to moving on to a new phase of mining, previously mined areas shall meet reclamation criteria as approved by DNR.

The specific Comprehensive Plan and zoning code amendments are included with this report as exhibits A and B. Exhibit A shows the amendments as provided by the applicant. Exhibit B shows amendments proposed the SMAC.

**Location:** The proposed zoning text amendments affect portions of the Rural, Agriculture, Rural Forestry and Commercial Forestry zones, and the Mineral Resource Lands overlay.

**II. BACKGROUND**

One of the goals of the Growth Management Act (GMA) is to maintain and enhance resource based industries, including the aggregate and mineral resource industries, with the purpose of assuring the long-term conservation of resource lands for future use. In addition, the Act mandates that each county shall classify mineral resource lands and then designate and conserve appropriate areas that are not already characterized by urban growth and that have long-term commercial significance.

To address the mandates of the GMA, Whatcom County formed a Surface Mining Citizens’ Advisory Committee (SMAC) in the 1990s to produce the issues, goals, and policies found in the Whatcom County Comprehensive Plan. The County Council adopted the original mineral resource provisions in the 1997 Comprehensive Plan. These provisions were updated in 2004-2005 after reviewing the GMA, SMAC recommendations, and new information.

In 2004, there were 24 Mineral Resource Land (MRL) designations throughout the County, covering 4,204 acres. For planning purposes, the SMAC recommended using an annual demand for sand and gravel of 12.2 cubic yards per capita and annual demand for bedrock of 1.3 cubic yards per capita in the 2004-05 Comprehensive Plan update, consistent with the rates in the 1997 Comprehensive Plan.
While urbanization creates demand for sand and gravel resources, it may also encroach upon or build over those same resources, rendering them inaccessible. Strong community opposition to mining near residential, agricultural, or sensitive environmental areas may also limit extractive opportunities. Adequate resource protection could help to assure the long-term conservation of resource lands for future use. It may also help to ensure a competitive market and to guard against inflated land prices by allowing the supply of minerals to respond to the demand of a free market. Helping the aggregate industry and the associated businesses, trades and export markets create jobs and stimulate the economy, to the benefit of the county.

Potential conflicts with other land uses, however, may include increased noise, dust, visual blight, traffic, road wear, and neighboring property devaluation. Unreclaimed mines may affect property values while at the same time nearby residents may use the area for other activities. Controlling trespassing to surface mining may be a significant safety issue for mine operators. Property rights issues range from the right to mine and use the value of mineral resource land to the right to live in an area with a high quality of life and retain home values. Citizens may be generally unaware of the county zoning of surrounding property and the mining uses that area allowed. These and other factors may contribute to a climate of distrust and hostility between aggregate industry and adjacent property owners.

Environmental issues associated with surface mining may include groundwater contamination and disruption of fish and wildlife habitat. Surface mines may have the potential, however, to create wetlands and fish and wildlife habitat, possible productive agricultural land for a limited number of crops, and provide land for parks, housing, industrial and other uses, through mine reclamation.

Associated mining activities such as rock crushing on-site may increase the "industrial atmosphere" experience by nearby property owners. This activity, however, helps to keep material transportation costs down. In addition, accessory uses are a necessary part of most operations, and to carry them out on site is cost-effective.

In October 2006, PDS staff provided a staff report to the Planning Commission for a proposed MRL designation expansion east of the City of Nooksack, off of Breckenridge Road. The staff report recommended approval, subject to conditions, based on designation criteria within the Comprehensive Plan and review criteria within Whatcom County Code. The Planning Commission forwarded their findings for approval to the County Council. The Council Natural Resource committee recommended approval of the proposal to the County Council. At the County Council meeting, partially due to public opposition, the proposal was not adopted.

In December 2008, an application was filed to amend the Comprehensive Plan map and zoning map to expand an MRL designation off of Bowman and Doran roads, south of Acme. The SEPA threshold determination of Mitigated Determination of Non-Significance was appealed by some of the local community and the applicant.
The Hearing Examiner upheld the applicant appeal. The Hearing Examiner decision was appealed to the County Council, which upheld the Hearing Examiner's decision. In May 2011, PDS staff provided a staff report to the Planning Commission for the proposed MRL designation amendment. The staff report recommended approval based on the designation criteria within the Comprehensive Plan and review criteria within Whatcom County Code. The Planning Commission forwarded their findings for approval to the County Council. On July 26, 2011, the County Council moved to refer the proposal to committee for a work session. At the August 9, 2011 Planning and Development Committee meeting, the Committee was unable to recommend approval for the proposal. That evening, the County Council forwarded the proposal to concurrent review. On February 14, 2012, the County Council motion to adopt the proposed ordinance failed, partially due to public concerns about potential environmental impacts of future mining.

The purpose of the present proposal is to address some of the concerns that have been raised in previous years. As stated in the application for this proposal:

- "The current MRL process fails to provide sufficient information to evaluate the potential impacts of MRL designation proposal. Recent decisions of the hearing Examiner have concluded that the current process limits the initial MRL designation mainly to the value and location of mineral deposits while leaving the determination of the impacts and approval of operations to the administrative approval process that requires appeals in order to gain a public hearing. As noted by the Hearing Examiner, Whatcom County could have chosen a different process with designation criteria that included environmental review of mining impacts at the beginning of the process."

"This amendment does propose a different process – a process that provides the public and decision-makers with environmental information prior to MRL lands being designated, and then requires a public hearing on surface mining permit applications rather than having such decisions made by staff that must be appealed in order to gain a hearing."

**III. ANALYSIS OF THE PROPOSED AMENDMENT**

The proposed amendments include both Comprehensive Plan text amendments, as well as zoning text amendments.

In order to approve the proposed Comprehensive Plan amendments, pursuant to Whatcom County Code (WCC) 2.160, the planning commission and county council must find:

- The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.
- Further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the amendment.
- The public interest will be served by approving the amendment.
A. That the amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.

Growth Management Act

The Growth Management Act (GMA) includes multiple planning goals that are relevant to the proposed comprehensive plan amendments.

GMA planning goal #7 states: "Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability" (RCW 36.70A.020(7)).

Staff Comment: Through previous MRL designation proposals, it has been affirmed that MRL designation is not a "right-to-mine" (unlike agricultural and forest lands of long-term commercial significance), inasmuch as upon receiving MRL designation, a permit is still required for the act of mineral extraction. Neither Exhibit A nor B proposes to change that.

However, Exhibit A would require that a site specific environmental analysis, as well as consideration of the maintenance and upgrade of public roads, be conducted on a site prior to MRL designation. If, in keeping with recent decisions, MRL designation does not include a "right-to-mine", subject to the results of the environmental analysis, then a mineral extraction permit applicant would have no assurances that the results of their site specific environmental analysis would result in an approved MRL designation or permit. Further, if designation is predicated on an operating plan, if a mineral extraction company goes out of business or is sold, or if the property is sold, it is unclear if the new owner would be bound to the operating plan, need to complete a new environmental analysis, or risk losing MRL designation based on the lack of an environmental analysis.

Exhibit B includes proposed amendments to Policy 8K-2 that clarify that maintenance and upgrade of public roads take place before approving mineral extraction. This would ensure that any necessary maintenance or upgrades are in direct relationship to an impact from a specific mineral extraction permit. This policy also clarifies that all traffic, not just truck traffic, on county roads is addressed in a fair and equitable fashion.

GMA planning goal #11 states: "Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts" (RCW 36.70A.020(11)).

Staff Comment: In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use
County-Wide Planning Policies

County-Wide Planning Policy A-3 states that:

Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas.

Staff Comment: In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

Interlocal Agreement

Staff Comment: Staff is not aware of any interlocal agreements affecting the proposed amendments.

B. That further studies made or accepted by the department of planning and development services indicate changed conditions that show the need for the amendment.

There have been no studies made or accepted by the PDS that indicate changed conditions that show the need for the amendments. However, in recent history
there have been instances documented that may support some of the amendments.

- **Exhibit A – Proposed Policy 8K-2**: Consider the maintenance and upgrade of public roads before designing MRLs and approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

- **Exhibit B – Proposed Policy 8K-2**: Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

  **Staff Comment**: The underline represents changed conditions from the present policy. Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Consideration of maintenance and upgrade of public roads may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process. Mineral extraction permits are presently reviewed by Public Works – Engineering for potential impacts to public roads, and necessary maintenance and upgrading of the roads may be required for approval.

- **Exhibit A – Proposed Policy 8K-7**: Designate site-specific mineral resource lands only after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives.

- **Exhibit B – Proposed Policy 8K-7**: The surface Mining Advisory Committee did not recommend approval of this proposed policy.

  **Staff Comment**: Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Anticipation and evaluation of potential adverse environmental impacts associated with mineral extraction, and mitigation and/or reasonable alternatives may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process.
• **Exhibit A – Proposed Policy 8K-8:** Expansion of existing MRL designations for a mine site will require that the existing mine is in full compliance with all permits and regulations.

• **Exhibit B – Proposed Policy 8K-8:** Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

**Staff Comment:** In December 2010, Whatcom County PDS received an application for a Comprehensive Plan map and zoning map amendment to expand an existing MRL designation. The mine associated with the MRL designation has received stop work orders and been assessed penalties as part of a notice of violation. The operation within this MRL is now going through receivership. No work has been done on the Comprehensive Plan MRL expansion amendment for over 2 years, and there is presently no mining activity occurring. The proposed policy in Exhibit B attempts to clarify that non-compliance by a mineral extraction operator would not impact the ability of another landowner to expand an MRL designation.

• **Exhibit A and Exhibit B – Proposed Policy 8Q-4:** Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
  1. on-site environmental review, with county as lead agency, and
  2. application of appropriate site specific conditions, and
  3. notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
  4. access to de novo review by the Hearing Examiner if administrative approval is denied or appealed.

**Staff Comment:** The underlines and strikethroughs represent changed conditions from the present policy. In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. However, it is worth noting that, according to former PDS geologist, Doug Goldthorp:
“Since the inception of the surface mining administrative approval use permit requirement in 1997, 24 surface mining administrative approval use applications (ADMIs), and the 3 amendment applications to those ADMIs have been conditionally approved. There was either a DNS, MDNS, and one DS SEPA determination in each case. Of the 27 combined ADMIs, ADM amendments and associated SEPA determinations, 3 appeals (11%) have been filed and adjudicated by the WC Hearing Examiner. In all 3 cases, the Hearing Examiner has upheld the staff determination. In a few cases, the Hearing Examiner determination has been upheld by the WC Council, and in one case, upheld by the WA Superior Court.”

This information indicates that, while the sample size is relatively small, the Technical Administrator’s determinations have been upheld as appropriate, when challenged. However, the purpose of the amendment is to ensure a public process that is presently absent, and this amendment would provide an avenue for a public process.

C. That the public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

1. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the Comprehensive Plan.

   **Staff Comment:** There is no anticipated effect upon the rate or distribution of population growth, employment growth or development of land as envisioned in the Comprehensive Plan, as a result of the proposed Comprehensive Plan amendments under Exhibit B. However, under Exhibit A, lands that have a proven resource may become converted to a use incompatible with surface mining if mineral resource extraction companies don’t pursue designation as a result of increased costs and lack certainty in the designation process.

2. The anticipated effect upon the ability of the County and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

   **Staff Comment:** Under Exhibit A, the proposed Comprehensive Plan amendments may affect the ability of the County and/or other service providers to provide adequate services and public facilities including transportation facilities, though not necessarily through an increased demand for services. Recent efforts to designate lands for mineral extraction have failed. Mining companies may be hesitant to apply for designation, due to the costs associated with studies to determine potential impacts/mitigation/alternatives, if there are no reassurances that they could recoup the costs through designation and subsequent mineral extraction.
Additionally, by limiting MRL designations in forest lands to 20 acres at a time, large areas of potential resources may not be efficiently extracted. This situation may result in increased costs for the resource. If mining companies decide to not apply for new designations in Whatcom County, the costs of mineral resources would likely climb as the local supply diminishes and more costly imports become a primary source of material. If the costs of capital facilities increase, there may be less money throughout the rest of the provider's budget.

Staff does not anticipate Exhibit B will affect the ability of the County or other service providers to provide adequate services and public facilities.

3. Anticipated impact upon designated agricultural, forest and mineral resource lands.

Staff Comment: Under Exhibit A, the proposed amendments may discourage mining companies from applying for designation, due to the costs associated with studies to determine potential impacts/mitigation/alternatives, if there are no reassurances that they could recoup the costs through designation and subsequent mineral extraction. If true, the rate of conversion to mineral resource lands from agriculture and forestry would likely slow, positively impacting the protection of agriculture and forestry lands. However, the proposed amendments would then, necessarily, negatively impact the availability of mineral resource lands.

Staff does not anticipate Exhibit B will impact designated agricultural, forest or mineral resource lands.

D. That the amendment does not include nor facilitate illegal spot zoning.

According to the Official Whatcom County Zoning Ordinance:

“Illegal spot zoning” means a zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from, and inconsistent with, the classification of surrounding land and not in accordance with the Comprehensive Plan. Spot zoning is zoning for private gain designed to favor or benefit a particular individual or group and not the welfare of the community as a whole (WCC 20.97.186).

Staff Comment: The proposed amendments within Exhibit A and Exhibit B do not change the zoning of any area; therefore the amendment does not include nor facilitate illegal spot zoning.

For zoning text amendments, Planning and Development Services shall conduct environmental review under SEPA and prepare a staff report including recommendations and/or options for the initiated amendment. The report and
result of environmental review to the appropriate hearing body, in this case the Planning Commission. The Planning Commission shall evaluate the merits of each amendment in relationship to the goals, policies and objectives of the Comprehensive Plan and make a recommendation as to whether the amendment should be approved, approved with modifications or denied. The following goals and policies of the Comprehensive Plan apply to the subject zoning text amendments.

**Goal 2G:** Encourage citizen participation in the decision-making process  
**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

**Policy 2D-3:** Streamline development regulations to eliminate unnecessary time delays.  
**Staff Comment:** Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. In both Exhibit A and Exhibit B, by changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

**Policy 7D-7:** Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.  
**Staff Comment:** Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. In both Exhibit A and Exhibit B, by changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

**Policy 8K-1:** Avoid significant mineral extraction impacts on adjacent or nearby land uses, public health and safety, or natural resources.  
**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case
of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

**Exhibit A – Proposed Policy 8K-2:** Consider the maintenance and upgrade of public roads before designating MRLs and approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

**Exhibit B – Proposed Policy 8K-2:** Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the SEPA process, impacts to public roads are considered through Checklist Item #14 – Transportation as part of the permitting process. Exhibit B proposes that all traffic, not just truck traffic, on county roads be addressed in a fair and equitable fashion.

**Policy 8N-2:** Allow rock crushing, washing and sorting in the forest zones when appropriate as long as conflicts with other land uses can be mitigated.

**Staff Comment:** Rock crushing, washing and sorting are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Both exhibits propose amendments to Policy 8Q-4 that alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.
Policy 8N-3: Allow commercial surface mining operations in the forest zones when appropriate as long as conflicts with other land use zones can be mitigated.

Staff Comment: Commercial surface mining operations are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Both exhibits propose amendments to Policy 8Q-4 that alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:

1. on-site environmental review, with county as lead agency, and
2. application of appropriate site specific conditions, and
3. notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal; and
4. access to de novo review by the Hearing Examiner if administrative approval or denial is appealed.

Staff Comment: In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Criterion #4 of Policy 8Q-4 would be unnecessary through the conditional use process, since conditional use approval is made by the Hearing Examiner. Since conditional use permits undergo a public hearing before the Hearing Examiner, the conditional use permitting process allows for oral input, as opposed to the administrative approval process which has no associated public hearing.

Goal 10J: Minimize conflicts between different land uses.

Staff Comment: In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing
before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

**Policy 11B-5:** Process the environmental review of building and development applications within an established time-frame that is predictable and expeditious.

**Staff Comment:** In both Exhibit A and Exhibit B, the proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Whatcom County Code (WCC) 2.33 – Permit Review Procedures states that unless otherwise exempted in WCC 2.33.020 or 2.33.090(C), the county shall issue a notice of final decision on an administrative approval use or conditional use within 90 days of the date of completeness if the project is exempt from SEPA review. If the project is subject to SEPA review, the county shall issue a notice of final decision within 120 days.

**Lack of Goals or Policy:** The following are proposed amendments to the zoning code that are neither supported, nor opposed, by the goals and policies within the comprehensive plan. The present zoning code language is presented first, followed by the proposed amendments within Exhibits A and B.

**WCC 20.42.058 and 20.43.055 – Permitted uses within Rural and Commercial Forestry:** Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided that administrative approval is required for accessory rock crushing activities located within 1,000 feet from a rural or residential district.

- **Exhibit A:** Proposes changing the permitting process from administrative approval use to conditional use and extending the locational criteria to 2,000 ft.
- **Exhibit B:** Proposes changing the permitting process from administrative approval use to conditional use, but leaving the locational criteria at 1,000 ft.

**WCC 20.73.132 – Administrative Approval uses in the Mineral Resource Lands overlay:** Rock crushing within Commercial and Rural Forestry Districts.

- **Exhibit A:** Proposes adding the following language to the end of the code: "when located further than 2,000 feet from a rural or residential district."
- **Exhibit B:** Proposes adding the following language to the end of the code: "when located further than 1,000 feet from a rural or residential district."

**Proposed WCC 20.73.153(1) – Conditional uses in the Mineral Resource Lands Overlay (note: this language would replace administrative approval use language, if the permitting process is changed from administrative approval use to conditional use):** The notification requirements of WCC
2.33.060.D.2.b shall be expanded to all property owners within 1,000 ft. of the external boundaries of the subject property.

- **Exhibit A:** Proposes expanding the notification area to 2,000 ft.
- **Exhibit B:** Proposes leaving the notification area at 1,000 ft.

**Proposed WCC 20.73.153(6) – Conditional uses in the Mineral Resource Lands overlay (note: this language would replace administrative approval use language, if the permitting process is changed from administrative approval use to conditional use):** Notice of the decision shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 1,000 feet of the subject property with the application to facilitate the notice.

- **Exhibit A:** Proposes expanding the notification area to 2,000 ft.
- **Exhibit B:** Proposes leaving the notification area at 1,000 ft.

**Exhibit B - Proposed WCC 20.73.153(7) – Conditional uses in the Mineral Resources Lands overlay (note: this language is new and is not proposed in Exhibit A):** Where the underlying zoning is Rural Forestry or Commercial Forestry, prior to moving on to a new phase, previously mined areas shall meet reclamation criteria as identified on an approved Department of Natural Resources Surface Mining Reclamation Permit.

**State Environmental Policy Act**

**Staff Comment:** A SEPA Determination of Nonsignificance was issued on July 5, 2013. The associated comment period ended on July 19th, 2013 and the appeal period concluded July 29th, 2013.

**IV. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION**

1. An application for Comprehensive Plan and related zoning amendments was received by Whatcom County on December 21, 2012.

2. A revised application for Comprehensive Plan and related zoning amendments was received by Whatcom County on January 23, 2013.

3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on July 5, 2013. The associated comment period ended July 19, 2013 and the appeal period concluded July 29, 2013.

4. The Surface Mining Advisory Committee held work sessions with Whatcom County PDS Staff on March 26, 2014; April 23, 2014; May 28, 2014, June 25, 2014; and July 23, 2014.

5. A press release of the Planning Commission briefing was published in the Bellingham Herald on 09/08/2014
6. The Planning Commission held a work session on September 11, 2014.

7. The Planning Commission held a public hearing on October 23, 2014.

8. Notice of the proposed amendment was sent to the Department of Commerce on 8/15/2014.

9. On 08/20/2014 the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.

10. The Growth Management Act (GMA) includes multiple planning goals that are relevant to the proposed comprehensive plan amendments.

11. GMA Planning Goal #7: Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

   Through previous MRL designation proposals, it has been affirmed that MRL designation is not a “right-to-mine”, insomuch as upon receiving MRL designation, a permit is still required for the act of mineral extraction.

   Exhibit B includes proposed amendments to Policy 8K-2 that clarify that maintenance and upgrade of public roads take place before approving mineral extraction. This would ensure that any necessary maintenance or upgrades are in direct relationship to an impact from a specific mineral extraction permit. This policy also clarifies that all traffic, not just truck traffic, on county roads is addressed in a fair and equitable fashion.

12. GMA Planning Goal #11: Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

   Exhibit B proposes amendments to Policy 8Q-4 altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.
13. Whatcom County’s County-Wide Planning Policy A-3 states: Policy 7D-7: Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas.

Exhibit B proposes amendments to Policy 8Q-4 altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

14. There are no interlocal agreements affecting the proposed amendments.

15. Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.

16. Proposed Policy 8K-2: Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

The underline represents changed conditions from the present policy. Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Consideration of maintenance and upgrade of public roads may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process. Mineral extraction permits are presently reviewed by Public Works – Engineering for potential impacts to public roads, and necessary maintenance and upgrading of the roads may be required for approval.
Exhibit B proposes amendments altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the SEPA process, impacts to public roads are considered through Checklist Item #14 - Transportation as part of the permitting process. Exhibit B proposes that all traffic, not just truck traffic, on county roads be addressed in a fair and equitable fashion.

17. Proposed Policy 8K-8: Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

In December 2010, Whatcom County PDS received an application for a Comprehensive Plan map and zoning map amendment to expand an existing MRL designation. The mine associated with the MRL designation has received stop work orders and been assessed penalties as part of a notice of violation. The operation within this MRL is now going through receivership. No work has been done on the Comprehensive Plan MRL expansion amendment for over 2 years, and there is presently no mining activity occurring. The proposed policy in Exhibit B attempts to clarify that non-compliance by a mineral extraction operator would not impact the ability of another landowner to expand an MRL designation.

18. Proposed Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
   (1) On-site environmental review, with county as lead agency, and
   (2) application of appropriate site specific conditions, and
   (3) notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
   (4) access to de novo review by the Hearing Examiner if administrative approval is denied or appealed.

The underlines and strikethroughs represent changed conditions from the present policy. The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Criterion #4 of Policy 8Q-4 would be unnecessary through the conditional use process, since conditional use approval is made by the Hearing Examiner. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed
amendment would result in a public hearing process that is presently absent without the need for an appeal. However, it is worth noting that, according to former PDS geologist, Doug Goldthorp:

"Since the inception of the surface mining administrative approval use permit requirement in 1997, 24 surface mining administrative approval use applications (ADMs), and the 3 amendment applications to those ADMs have been conditionally approved. There was either a DNS, MDNS, and one DS SEPA determination in each case. Of the 27 combined ADMs, ADM amendments and associated SEPA determinations, 3 appeals (11%) have been filed and adjudicated by the WC Hearing Examiner. In all 3 cases, the Hearing Examiner has upheld the staff determination. In a few cases, the Hearing Examiner determination has been upheld by the WC Council, and in one case, upheld by the WA Superior Court."

This information indicates that, while the sample size is relatively small, the Technical Administrator's determinations have been upheld as appropriate, when challenged. However, the purpose of the amendment is to ensure a public process that is presently absent, and this amendment would provide an avenue for a public process.

19. There is no anticipated effect upon the rate or distribution of population growth, employment growth or development of land as envisioned in the Comprehensive Plan, as a result of the proposed Comprehensive Plan amendments under Exhibit B.

20. Staff does not anticipate Exhibit B will affect the ability of the County or other service providers to provide adequate services and public facilities.

21. Staff does not anticipate Exhibit B will impact designated agricultural, forest or mineral resource lands.

22. Goal 2G: Encourage citizen participation in the decision-making process

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.
23. Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

24. Policy 7D-7: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

25. Policy 8K-1: Avoid significant mineral extraction impacts on adjacent or nearby land uses, public health and safety, or natural resources.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

26. Policy 8N-2: Allow rock crushing, washing and sorting in the forest zones when appropriate as long as conflicts with other land uses can be mitigated.

Rock crushing, washing and sorting are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be).
Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

27. Policy 8N-3: Allow commercial surface mining operations in the forest zones when appropriate as long as conflicts with other land use zones can be mitigated.

Commercial surface mining operations are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

28. Goal 10J: Minimize conflicts between different land uses.

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

29. Policy 11B-5: Process the environmental review of building and development applications within an established time-frame that is predictable and expeditious.

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certain thresholds are met (which in the case of commercial mineral extraction they would be). Whatcom County Code (WCC) 2.33 – Permit Review Procedures states that unless otherwise exempted in WCC 2.33.020 or 2.33.090(C), the county shall issue a notice of final decision on an administrative approval use or conditional use within 90 days of the date of completeness if the project is exempt from SEPA review. If the project is subject to SEPA review, the county shall issue a notice of final decision within 120 days.

30. The Washington State Department of Natural Resources completed a study entitled *Reconnaissance Investigation of Sand, Gravel, and Quarried Bedrock Resources in the Bellingham 1:100,000 Quadrangle, Washington* (Jan. 2001). This study indicates that the working lifetime of most of the significant pits in the county is 10 to 20 years (p. 5).

31. The Whatcom County Surface Mining Advisory Committee Final Report and Recommendations (October 20, 2004) states:

... Theoretically, there is enough total supply in existing MRLs to satisfy demand over the first 20 years of the planning period. However, there is an imbalance in the demand and supply of sand and gravel. There is a greater need for gravel resources than sand and, as we approach the end of the 20-year planning period, we can anticipate a shortage of gravel. Additionally, shortly after the 20-year planning period, we will run out of sand and gravel resources if existing MRLs are not expanded... (p. 7).

V. PROPOSED CONCLUSION

The subject Comprehensive Plan amendments are consistent with the approval criteria of WCC 2.160.080. The subject zoning text amendments were processed in accordance with WCC 20.90.050.

VI. RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends approval of the proposed amendments as shown in Exhibit B. The Whatcom County Planning Commission also strongly recommends that Whatcom County take a lead role in designating mineral resource lands of long-term commercial significance in order to protect the resource from incompatible uses, as opposed to the present process of landowner initiated amendments.
PROPOSAL BY THE WHATCOM COUNTY SURFACE MINING COMMITTEE TO USE CONDITIONAL USE RATHER THAN ADMINISTRATIVE REVIEW AS THE PROCESS FOR MINE PERMITTING

Proposal

The Whatcom County Surface Mining Advisory Committee (SMAC) is proposing use of the conditional use rather than the administrative approval review process for mine permitting. The Committee is making this recommendation because the majority of Committee members believe that this will result in a more open, efficient and timely process.

Introduction

The Whatcom County Planning Commission questioned the Whatcom County Surface Mining Advisory Committee’s recommendation for using conditional use permits. Administrative review based on a staff decision without a public hearing is the current procedure for mine permitting in Whatcom County. The SMAC decision is based on a review of Comprehensive Plan amendments proposed by Whatcom County Councilman Carl Weimer and Councilwoman Barbara Brenner, and Whatcom County Planning and Development Services staff recommendations. Both sets of recommendations are intended to, “ensure that mineral extraction industries do not adversely affect the quality of life in Whatcom County...” 1 address the Mineral Resource Land (MRL) approval process 2 and identify criteria for designating MRLs 3. Membership of the SMAC includes a citizen who lives close to an existing mine, two representatives from the mining industry, two geologists, a geotechnical engineer, an ecologist, a forester, and a representative from the Whatcom Conservation District.

Discussion

A majority of the SMAC believe, as is the current practice, that public hearings should occur before an MRL designation is made by the County Council, with the understanding that an MRL designation does not constitute a right to mine nor should the impact of mining be addressed prior to an MRL designation. Because of the cost, as well as uncertainty in designation, mining impacts should be addressed in the State Environmental Policy Act (SEPA) review for a site-specific mining permit. The estimated costs for an Environmental Impact Statement through SEPA review range from $50K to $200K. In addition to the SEPA review, site-specific comments by affected citizens and any site-specific conditions should be considered by a Hearing Examiner before a decision is made to permit mining.

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1 Whatcom County Comprehensive Plan, Chapter 8 Resource Lands, Section 8K Adverse Impacts
2 Whatcom County Comprehensive Plan, Chapter 8 Resource Lands, Section 8P MRL Approval Process
The rationale for changing from an administrative review to a conditional use mine permitting process includes the following:

- Uncertainties and inconsistencies in the approach the Whatcom County Planning and Development Services staff may take when reviewing permit applications,
- Citizens should be encouraged to engage early in the decision making process,
- Citizen participation will provide applicants for mining permits with early identification of perceived as well as real pitfalls, safety concerns and impacts of mining thus enabling applicants to address mitigation before concerns spiral out of control,
- Citizen involvement will result in recognition of conflicts between competing land uses, and
- Early citizen participation in the decision making process may reduce the number of challenges through appeals, thus minimizing time delays during the mine permitting process.

Conclusion

The Whatcom County Surface Mining Advisory Committee recommends the conditional use rather than the administrative approval review process because the Committee believes the conditional use process promotes open decision making, allows citizens to consider and understand alternatives and voice their concerns before any decision is made. Open decision making and early discussion may also shorten the time between application and issuance of a permit to mine. Criteria to be used by a Hearing Officer should be clearly identified when deciding whether a mine should be permitted during the conditional use review process. It is essential that all interested parties have an early understanding of issues influencing a decision so that these can be discussed and understood before a decision is made to assure maximum efficiency.
Comprehensive Plan Map and Zoning Map Amendment - MRL Designation process

**County Council may deny amendment regardless of whether the application meets designation criteria**
Permitting process for mineral extraction

**PRESENT**
- Administrative Approval Use
- Notification to neighbors within 1,000 ft.
- SEPA (project specific action) if over 500 cu yds
- Staff Decision
- Notice posted on-site

**SMAC RECOMMENDATION**
- Conditional Use
- Notification to neighbors within 1,000 ft
- SEPA (project specific action) if over 500 cu yds
- Staff Recommendation
- Public Hearing
- Hearing Examiner Decision

**APPLICATION**
- Conditional Use
- Notification to neighbors within 2,000 ft
- SEPA (project specific action) if over 500 cu yds (completed as part of designation)
- Staff Recommendation
- Public Hearing
- Hearing Examiner Decision
WHATCOM COUNTY
PLANNING COMMISSION

Designated Mineral Resources Lands Comprehensive Plan
and Zoning Code Amendments

FINDINGS OF FACT AND REASONS FOR ACTION

1. An application for Comprehensive Plan and related zoning amendments was received by Whatcom County on December 21, 2012.

2. A revised application for Comprehensive Plan and related zoning amendments was received by Whatcom County on January 23, 2013.

3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on July 5, 2013. The associated comment period ended July 19, 2013 and the appeal period concluded July 29, 2013.

4. The Surface Mining Advisory Committee held work sessions with Whatcom County PDS Staff on March 26, 2014; April 23, 2014; May 28, 2014, June 25, 2014; and July 23, 2014.

5. A press release of the Planning Commission briefing was published in the Bellingham Herald on 09/08/2014.

6. The Planning Commission held a work session on September 11, 2014.

7. The Planning Commission held a public hearing on October 23, 2014.

8. Notice of the proposed amendment was sent to the Department of Commerce on 8/15/2014.

9. On 08/20/2014 the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.

10. The Growth Management Act (GMA) includes multiple planning goals that are relevant to the proposed comprehensive plan amendments.

11. GMA Planning Goal #7: Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

Through previous MRL designation proposals, it has been affirmed that MRL designation is not a “right-to-mine”, insomuch as upon receiving MRL
designation, a permit is still required for the act of mineral extraction.

Exhibit B includes proposed amendments to Policy 8K-2 that clarify that maintenance and upgrade of public roads take place before approving mineral extraction. This would ensure that any necessary maintenance or upgrades are in direct relationship to an impact from a specific mineral extraction permit. This policy also clarifies that all traffic, not just truck traffic, on county roads is addressed in a fair and equitable fashion.

12. GMA Planning Goal #11: Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts

Exhibit B proposes amendments to Policy 8Q-4 altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

13. Whatcom County’s County-Wide Planning Policy A-3 states: Policy 7D-7: Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas

Exhibit B proposes amendments to Policy 8Q-4 altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.
14. There are no interlocal agreements affecting the proposed amendments.

15. Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.

16. Proposed Policy 8K-2: Consider the maintenance and upgrade of public roads before approving mineral extraction. Address all truck traffic on county roads in a fair and equitable fashion.

The underline represents changed conditions from the present policy. Within the past few years, applications for MRL designation have resulted in a public process where citizens have requested that impacts from mineral extraction be considered as part of MRL designation. Proponents of MRL designation note that the purpose of designation is to protect the resource from incompatible uses, and that designation is not a right-to-mine. Twice since 2006, a Comprehensive Plan map and zoning map amendment application for the expansion of a MRL designation has reached the County Council, and both times the amendment was not approved by Council. Consideration of maintenance and upgrade of public roads may not be possible without a mineral extraction plan, which is not presently required as part of the MRL designation process. Mineral extraction permits are presently reviewed by Public Works – Engineering for potential impacts to public roads, and necessary maintenance and upgrading of the roads may be required for approval.

Exhibit B proposes amendments altering the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the SEPA process, impacts to public roads are considered through Checklist Item #14 – Transportation as part of the permitting process. Exhibit B proposes that all traffic, not just truck traffic, on county roads be addressed in a fair and equitable fashion.

17. Proposed Policy 8K-8: Expansion of MRL designations to parcels contiguous to, and in common ownership with, an existing mine, may require that the existing mine is in compliance with all operating permits and regulations.

In December 2010, Whatcom County PDS received an application for a Comprehensive Plan map and zoning map amendment to expand an existing MRL designation. The mine associated with the MRL designation has received stop work orders and been assessed penalties as part of a notice of violation. The operation within this MRL is now going through receivership. No work has been done on the Comprehensive Plan MRL expansion amendment for over 2 years, and there is presently no mining activity occurring. The proposed policy in Exhibit B attempts to clarify that non-compliance by a mineral extraction operator would not impact the ability of
another landowner to expand an MRL designation.

18. Proposed Policy 8Q-4: Allow mining within designated MRLs through an administrative approval conditional use permit process requiring:
   (1) On-site environmental review, with county as lead agency, and
   (2) application of appropriate site specific conditions, and
   (3) notification to neighboring property owners within 1,000 feet to insure opportunity for written and oral input and/or appeal, and
   (4) access to de novo review by the Hearing Examiner if administrative approval is denied or appealed.

The underlines and strikethroughs represent changed conditions from the present policy. The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Criterion #4 of Policy 8Q-4 would be unnecessary through the conditional use process, since conditional use approval is made by the Hearing Examiner. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. However, it is worth noting that, according to former PDS geologist, Doug Goldthorp:

"Since the inception of the surface mining administrative approval use permit requirement in 1997, 24 surface mining administrative approval use applications (ADMs), and the 3 amendment applications to those ADMs have been conditionally approved. There was either a DNS, MDNS, and one DS SEPA determination in each case. Of the 27 combined ADMs, ADM amendments and associated SEPA determinations, 3 appeals (11%) have been filed and adjudicated by the WC Hearing Examiner. In all 3 cases, the Hearing Examiner has upheld the staff determination. In a few cases, the Hearing Examiner determination has been upheld by the WC Council, and in one case, upheld by the WA Superior Court."

This information indicates that, while the sample size is relatively small, the Technical Administrator's determinations have been upheld as appropriate, when challenged. However, the purpose of the amendment is to ensure a public process that is presently absent, and this amendment would provide an avenue for a public process.

19. There is no anticipated effect upon the rate or distribution of population growth, employment growth or development of land as envisioned in the
Comprehensive Plan, as a result of the proposed Comprehensive Plan amendments under Exhibit B.

20. Staff does not anticipate Exhibit B will affect the ability of the County or other service providers to provide adequate services and public facilities.

21. Staff does not anticipate Exhibit B will impact designated agricultural, forest or mineral resource lands.

22. Goal 2G: Encourage citizen participation in the decision-making process

The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal.

23. Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

24. Policy 7D-7: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Surface mining can be controversial, with neighbors of mines sometimes opposed due to possible impacts of mining activities. This opposition may take the form of appealing administrative decisions made by PDS staff to the Hearing Examiner. By changing the review process to conditional use, the Hearing Examiner would make an initial determination based on a staff report, potentially resulting in one less step between an application and a final outcome.

25. Policy 8K-1: Avoid significant mineral extraction impacts on adjacent or nearby land uses, public health and safety, or natural resources.
The proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). The administrative approval use process does not include a public hearing unless a Planning and Development Services (PDS) staff decision is appealed. Presently, the fee to appeal an administrative approval is $500. Through the conditional use process, there is a public hearing before the Hearing Examiner. The proposed amendment would result in a public hearing process that is presently absent without the need for an appeal. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

26. Policy 8N-2: Allow rock crushing, washing and sorting in the forest zones when appropriate as long as conflicts with other land uses can be mitigated.

Rock crushing, washing and sorting are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.

27. Policy 8N-3: Allow commercial surface mining operations in the forest zones when appropriate as long as conflicts with other land use zones can be mitigated.

Commercial surface mining operations are presently, and will continue to be, allowed uses within the forest zones, when within a MRL. Proposed amendments to Policy 8Q-4 alter the permitting process from administrative approval to conditional use. Through the administrative approval use and conditional use processes, State Environmental Policy Act (SEPA) review (and associated public comment period) is only required if certain thresholds are met (which in the case of commercial mineral extraction they would be). Through the conditional use process, there is a public hearing before the Hearing Examiner. In addition to SEPA review and a public hearing before the Hearing Examiner, the Hearing Examiner has the authority to condition permits in order to minimize or avoid significant impacts to neighboring lands, health and safety, and natural resources.
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a shortage of gravel. Additionally, shortly after the 20-year planning period, we will run out of sand and gravel resources if existing MRLs are not expanded. . . (p. 7).

V. PROPOSED CONCLUSION

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VI. RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends approval of the proposed amendments as shown in Exhibit B. The Whatcom County Planning Commission also strongly recommends that Whatcom County take a lead role in designating mineral resource lands of long-term commercial significance in order to protect the resource from incompatible uses, as opposed to the present process of landowner initiated amendments.

WHATCOM COUNTY PLANNING COMMISSION

Mary Beth Teigrob, Vice - Chair

Becky Boxx, Secretary

Date 10/29/14

Commissioners present at the October 23, 2014 meeting when the vote was taken:
Gary Honcoop, Ben Elenbaas, Mary Beth Teigrob, Natalie McClendon, Ken Bell.

Vote: Ayes: 5, Nays: 0, Abstain: 0, Absent: 0. Motion carried to recommend approval of Exhibit B.
Regular Meeting

1 Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, David Onkels, in the Northwest Annex Conference Room at 6:30 p.m.

2 Roll Call
Present: Ben Elenbaas, Jerry Vekved, Gary Honcoop, David Onkels, Mary Beth Teigrob, Ken Bell, Natalie McClendon, David Hunter
Absent: Walter Haugen

3 Staff Present: Sam Ryan, Erin Osborn, Joshua Fleischmann, Becky Boxx

4 Department Update
Sam updated the on the following:
- Upcoming commission schedule.
- PDS updates.

5 Open Session for Public Comment

Clayton Petree, Whatcom County: Stated he was at the Growth Management Coordinating Council meeting earlier in the week. The presentation given addressed the new white paper that is going to be released soon by PDS. Part of the paper addresses growth management tools. He felt the commission would be interested in the rural protection measures. The paper discusses decreased rural densities, rural lot consolidation, a Transfer of Development Rights (TDR) update, Purchase of Development Rights (PDR), rezone of the rural study areas, require agriculture (ag) as a primary use on ag land, ag mitigation, clustering, lot reconfiguration changes, potential permit metering, moratoriums and well limitations. The council mentioned rezoning of 6,000 acres to rural zoning, adding 900 acres to ag and subtracted 3,000 potential units. The rezone rural study areas to ag is a big deal because if you look at the study done there was a lot of acreage involved. A lot of farmers are farming on rural land rather than ag because it is more affordable and easier to finance. Requiring ag as a primary use in the ag zone changes whether or not a farmer can live on his own farm. It seems weird that a farmer can’t live on his farm. There was discussion of ag mitigation which is nebulous now but should be watched at it evolves.

6 Commissioner Comments

Commissioner Elenbaas stated he spent some time in Okanogan and Douglas Counties last week and met an Okanogan County Planning Commissioner. They recently reviewed their wedding and special events ordinances.

Commissioner Bell let Sam Ryan know what a great staff she has.

7 Approval of Minutes

July 24, 2014: Commissioner Teigrob moved to approve as written. The motion failed for lack of a second. Commissioner Bell stated he wanted the minutes, regarding attendance at the meetings, to be rewritten to better reflect the discussion.
RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
September 11, 2014

Regular Meeting

August 14, 2014: Commissioner Honcoop changed page 7, lines 13-14 to read: Vote on
the motion to table the proposal until it addresses the 10 percent worst offenders, not the
90 percent best. The motion carried 8-0-1. Commissioner Bell moved to approve as
amended. Commissioner McClendon seconded. The motion carried.

File #PLN2014-00016: An amendment to the Official Whatcom County Zoning Ordinance
(Title 20), to add new specific provisions for permanent and temporary commercial ‘event
type’ uses on private property, such as weddings, receptions, recitals, business or social
retreats, fund raisers, wine/food tasting, art exhibits, and festivals. New language is
added to WCC 20.80 – Supplemental Requirements to provide for temporary event or
permanent event facility parking requirements; new definitions associated with
"Temporary Event Facility" and "Permanent Event Facility" are proposed in WCC 20.97 –
Definitions. Minor changes to Chapter 20.36 – Rural District and Chapter 20.42 – Rural
Forestry District are proposed to clarify intent in regards to occupancy of a recreational
vehicle during a "temporary special event or occasion"; and amendments to WCC
20.84.235 to update new procedures, and establish provisions for administrative approval
use permit extensions, renewal, and expiration.

Erin Osborn gave an overview of the process to date. The proposal is to amend the text of
the zoning code to create new provisions to provide a permit path to obtain approval for
commercial event and assembly type uses on private property in the Residential/Rural,
Rural/Residential Island, Rural, Agricultural and Rural Forestry districts. These types of
uses have typically been permitted as a cottage industry or part of a bed and breakfast
operation under the conditional use permit path. The uses typically approved are
weddings, receptions, fund raisers, social/business retreats, wine/food tasting, art
exhibits, farm/forestry festivals, etc. People don’t think of the cottage industry path when
they want to have an event. The process is not very transparent.

Staff has presented two versions. Exhibit C is the more streamlined version. Exhibit F is
the more prescriptive version. Exhibit D is the definitions. Exhibit E outlines Rural Forestry
and Rural district code. Staff is recommending amendments to provide clarity; amend the
administrative approval procedures and add provisions to renew a permit, extend a permit
and permit expiration.

Staff stated that zoning text amendments process requires environmental review under
the State Environmental Policy Act (SEPA) which has been done. It, and also, requires a review and analysis for consistency with the Whatcom County Comprehensive
Plan goals and policies. This has also been done and addressed in the staff report. The
goals support this type of permit path and uses.

There are two uses being proposed. One is a temporary event facility. The other is a
permanent event facility. The differences are the temporary one is renewable on an
annual basis, subject to review, public comment, public review and conditions. The
permanent facility is permitted through the conditional use permit process which is heard
and approved by the Hearing Examiner. Regarding the permanent facility there is a
requirement that the owner of the property live on site. The streamlined version of the
proposal states the applicant must outline the type of use they want and number of
events. The more prescriptive version states the applicant must submit a proposal that
outlines the traffic, buildings, sanitation, etc. Exhibit F limits the temporary events-event facility events to 250 people and 5 times per year and when camping is proposed requires it be established on a minimum parcel size of 10 gross acres. Camping would then be allowed with 7 campsites allowed per acre. Both processes require a pre-application meeting. This is very important because there are so many things the applicant may not think of. The noise provisions have been removed from the current versions. This Provisions for noise are is-addressed in other areas of the zoning code and the state code.

Regarding exemptions, through conversations and input from the public, staff found exemption Exhibit C and Exhibit F A exemptions, which stated: Private gatherings held at federal state or county parks, or on the grounds of legally established commercial or civic facilities did not address things such as garage sales which do not apply to the proposed code needed further clarification. Staff handed out a draft Exhibit C-1 and draft Exhibit F-2 with modifications to the exemption language to clarify when private or public gatherings would be exempt.

The hearing was opened to the public.

Clayton Petree, Whatcom County: Read from the rural lands findings: "The legislature finds that to retain and enhance the job base in rural areas rural counties must have flexibility to create opportunities for business development. Further the legislature finds that rural counties must have the flexibility to retain existing businesses and allow them to expand. The legislature recognizes that not all business development in rural an urban level of service and that many businesses in rural areas fit within the definition of rural character." This is part of how you identify your rural character and what type of businesses you can have. The proposals are pretty restrictive. Unless the county is able to fund some sort of enforcement there will be problems. The county is not able to enforce the rules they have now so it does not make sense to add more rules. One of the most restrictive requirements is the provisions of owner/operator living on the site. It will be very harmful to eco-tourism and lower the well-being of Whatcom County citizens. For example, a growing eco-tourism industry is the farm to table events. It is often done on a farm setting and if successful would likely be in a permanent facility. These events are a good thing. Why would the county restrict this kind of event? Nothing should be adopted that requires the owner/operator to live on the parcel. For larger events, with an unpredictable number of attendees on parking space per three attendees is not only difficult to predict but it is difficult to accommodate. Some events have people stay the entire time while other events have people coming and going. A suggestion would be to exempt any single day events from all of this. Vacation rental units should also be looked at separately. Much more work needs to be done on the proposals. Talk with the Chamber of Commerce, Tourism Bureau, realtors, etc. and form a group of stakeholders.

Mike McKenzie, Whatcom County: He has participated in various fundraising efforts on Lummi Island which were in the form of events on private property. On August 9, 2014 he and a group of stakeholders staged the Lummi Island Reef Net Festival. This has been held for numerous years and is one of the largest events on the island. They spend over $30,000 and meet people from all over the country. The island supports this event 100%. The group met with the County Sheriff, fire department, Coast Guard, etc. Two weeks before the event occurred the group received a phone call from the county stating the
event could not be held because the zoning did not allow it. The concern was the building
the event was to take place in was not permitted and over 1,000 people were expected.
He clarified the event was not taking place in the building but outside and they only
expected 600-700 people. They did get 900 people. In his conversations with the county
he could not understand what was going on. What had happened was there had been a
phone call, from a citizen on the island, complaining about the event. This was not a
formal complaint. He asked who it was but was told that information could not be given
out. A few days before the event a neighbor complained about the amount of people
expected. The issues were mitigated and the event was held but he is concerned about
being able to have the event in the future.

Eric Sundstrom, Whatcom County: He is a farmer who owns land next to Bellewood Acres.
They obtained a conditional use permit in 2011 to operate a farm store. It has morphed
into a lot of other things that has nothing to do with the farm. His main concern is the
noise.

Dick Bosch, Whatcom County: He and his wife operate Glen Echo Gardens on the Y Road.
Eight years ago they developed a seven acre botanical garden which is now considered
the most beautiful tourist attraction north of Seattle and known as Whatcom County’s
hidden secret. It was planned for the purpose of tours, family gatherings, music concerts
and church functions. All of the permits were obtained. A kitchen and restrooms were
built. There is potable water. Four years ago they decided to make the site a wedding
venue as well. They were told they needed a conditional use permit so they applied for it
and started the process. Part of the process was letting the neighbors know the intent of
the business. A good number of the neighbors wrote letters of support. A lot of the
neighbors were very unreasonable and started to complain about everything they were
doing, in particular the amplified music. The neighbor is approximately 1,000 feet away
with a solid buffer of trees to soften the sound. They also complained about the light
coming from their greenhouse. They have grown begonias in their greenhouse for the last
20 years. Every year, for about six or seven weeks they need additional light in order to
get them to bloom. One of the staff in the Planning Department really sided with that
neighbor and wrote the most negative staff report to the Hearing Examiner. As a result
they were slaughtered. First of all the amplified sound was completely banned. They chose
to appeal that restriction and got it back for one hour of amplified music per wedding.
That has cost them $10,000. They have lost a considerable amount of business for
weddings. Three or four years ago they had six or seven weddings per summer. This year
they had only one. They were categorized into three different parts of business. Tours,
small events and weddings. For small events they are only allowed 20 people in the
garden at a time. Therefore they can’t have a bus come for a tour and luncheon. They
were cut back on the hours of business. They have always been open 10 to 6 Monday
through Saturday. The Hearing Examiner cut that back to 10 to 5. This is blatant
discrimination. There is not a single botanical garden, public park or ball field in the United
States with such restrictions. They are also restricted in their religious functions by being
banned from speaking with amplified sound. They have many church functions in the
gardens with elderly people many of who have hearing disabilities. Back to back events
are not allowed. The conditional use permit allows them to expand three more acres of
garden but they are not allowed to employ more than four people. This whole picture is
designed to destroy a most beautiful endeavor. He invited the commission to a free tour
of his property.

Pat Hammell, Whatcom County: Both of the proposals sound terribly restrictive. Do these
add rules because a few people violated the rules that are already in place? She asked if
she had a garage sale, with up to 400 people, on her 20 acre property, does she have to
get a permit? (Ms. Osborn asked Ms. Hammell a number of questions including, how often
does she have these garage sales, and after considering Ms. Hammell’s response she
stated no. That that garage sales would be considered an Accessory use, as it is a use
customarily incidental to the residence/residential use of the property.)

Jeremy Spidle, Whatcom County: He has been involved in promoting outdoor music
events in the county for 10 years. In the past those uses have been allowed. In the last
couple of years the tolerance for these events has really diminished. Do we want to stifle
the growth of tourism here? There are too many restrictions. We need to look in the other
direction of how to expand outdoor gatherings and attract tourism.

Ms. Osborn clarified that there are other specific provisions in the zoning code that
provide an approval process for outdoor music festivals, and she pointed to a large map
on the wall, prepared by PDS GIS staff, to show where such uses could be permitted in
the Rural District on 10 acre parcels in the R10A zone as a conditional use permit. She
passed around a map and the specific code and conditional use permit approval criteria
that would apply to gain approval of outdoor music festivals. Staff noted that these uses
may also need to be revisited along with WCC 5.40, because WCC 5.40 also has
provisions that apply to music festivals, but is silent on the authority of Title 20 as it
applies to land use, and so project proponents often don’t understand that if the use is not
allowed per zoning, then WCC 5.40 is not going to apply.

Simi Jain, Whatcom County: Representing Triple L, LLC and Linda Haines. They own
property at 5129 and 5165 Sand Road. Her client would like to hold medieval pursuit
events on their property. They have had these events the last several years but were
contacted by the county and told they could no longer have them. Her clients were
specifically informed that her client’s medieval pursuit events would not qualify under the
cottage industry criteria. There are no provisions currently in the code that would allow
these events. The county should specifically allow for these events in the zoning code. It
is not necessary to create an entirely new regime to do this. There does not seem to be a
lot of difference between the two proposals. Is it necessary to have a permanent and
temporary use? Regarding temporary camping her client would like to commission to
consider it being exempt, under the Critical Areas Ordinance, as a passive recreational use
that is allowed. There is a provision that allows the county to deny almost any application
if the applicant continues to create any adverse effects. The criteria is pretty vague. Any
event will have noise, traffic, glare, etc. Perhaps qualify it as significant adverse effects.

Gradon Barstad, Whatcom County: Owns Good Times for Good People Productions. He has
hosted a music festival titled Worthyfest for the six years. Before this year’s festival they
got a call regarding a permit which they knew nothing about. They have never needed a
permit before. They were then shut down. They had already spent money and time on the
event which is now wasted. He wants to work with the county but they need to have their voices heard. They plan to rally all those who may be affected by this issue.

Derek Gavette, Whatcom County: One of the owners of Stoney Ridge Farm. He stated he was very confused by the rules. Do they apply to him? They sell apples and pumpkins on their farm about one month out of the year. They never know how many people they will get. The fees for the permitting process seem to be pretty astounding. Is the county going to help him get the permit at their expense or does he have to hire an attorney to try to get through the process?

Tim Herron, Whatcom County: There are times the events he organizes have music involved. What has not been discussed is the art vendors, the miscellaneous inventors, food vendors, educational setups, demonstrations, etc. What draws the line between what is a music festival and what is not? The goal of their events are to get exposure for the artists. Limiting the number of attendees to 250 is very restrictive. The events aren’t about making money, it’s about the exposure. One way to find venues is to simply drive through the rural areas to find good spots and do an impact analysis to make sure it’s possible. This proposal discourages bringing arts to the community.

Anitra Acceturo, Whatcom County: Noted the staff is trying to balance the county comprehensive plan goals, rural and agricultural land protection, private property rights, business opportunities and public safety. That is getting lost in the discussion. It is not about wanting to restrict business opportunities or expression. The restrictive elements can be both a blessing and a curse. She is wanting to start some sort of events center and the rules give her some security knowing that the investment she is making is not going to be shut down. The tricky part is not making it too restrictive. She questioned where the proposal of 7 campsites per acre came from and why the requirement for the property owner/operator. She understands neighbors concern regarding noise, etc. and it should be clear they receive notification of what is going on.

Elizabeth Gavette, Whatcom County: She was interested in the long term effects of the proposal. She and her family operate Stoney Ridge Farm. It seems the way the proposal is currently written it is not clear if the use permit will be transferred when she takes ownership. There is no stability. She does not see the financial aspect of the proposal working out for her.

Mike Boxx, Whatcom County: Has a berry farm in the area. The special events on the farms have evolved over time. They try to do what makes them some money. In the last three years he has worked with staff to get a conditional use permit for his farm to hold weddings. They already have a u-pick business so they have a lot of traffic going in and out of their farm all summer. They are set up for parking, dust, signage, etc. The largest issue he faced was the requirement that he could not have amplified music. He has 100 acres with 16 adjacent property owners. At the weddings held on the property there have usually been about 200 people and they all want to have a band. He is allowed 12 events per summer and only 3 per month. However, he does not have that many because with no amplified music no one wants to have an event there. Farm noise during the day time no one pays attention to but music at night travels far and annoys people. Regarding the farming businesses, such as Bellewood Acres, he understands the neighbors’ concerns.
regarding noise. He understands the parking concerns because of emergency/aid issues that may arise.

Staff clarification: Mr. Boxx’s conditional use permit application narrative (CUP2011-00007) contains a specific request for approval to hold 12 wedding events per year. Conditions of approval allow amplified music, voice, and instrumentation for a period of one hour during the wedding ceremony.

The hearing was closed to the public.

Commissioner Honcoop stated he was surprised this issue was back on the agenda because he thought it was made clear at the previous meeting that the commission wanted this tabled until the proposal addressed the 10 percent worst offenders, not the 90 percent best. It was stated at the meeting the focus should be on the bigger events. What they got back was two more proposals with only the sound issue removed. There is no clarity of the impact this will have to the public. Regarding parking it makes no sense. What is classified as an event? What about farm to market sales? When does that become an event? There is no clarity. Does someone selling Christmas trees need to get a permit?

Ms. Osborn clarified that farm to market and Christmas tree sales are allowed as an accessory use to the property and have nothing to do with the proposal.

Commissioner Honcoop stated there is no clear division.

Ms. Osborn pointed out provisions in the code that address the issue.

Commissioner Honcoop asked what is driving this issue. Is it because the county has been receiving more complaints? The proposal gives people a perfect opportunity to complain and get events shut down. It is amazing that one or two people can shut down an event. There is no balance. They don’t have to prove their case. Who would possibly consider investing in a temporary facility when there is zero predictability that the following year they would get to do it again? Every year the county can review the permit and can say no or set different conditions. It says the county can apply reasonable conditions but what does that mean? It makes no sense to not allow music at weddings. The motion made at the previous meeting should be respected.

Commissioner Bell found it very concerning that events that were already planned were shut down. Because the county did not have its act together they stopped others acts. That is troubling. If we don’t have regulations why are we stopping these things? We need to develop rules before stopping them. Especially those events that have taken place over the last several years and have not affected anyone. He does not see the distinction between commercial and non-commercial events. An impact is an impact. Also it makes no difference who owns or is living on the property. It does not have an impact. What matters is what happens on the day of the event, not who owns it or is making money on it. None of that is relevant yet it is still in the proposal, which is troubling. Acreage size has no relevance to the impact of the event. What is relevant is noise. He is troubled that the Hearing Examiner can tell private business what the hours of operation will be. He thinks they are starting to see a backlash of the restrictions by the Hearing Examiner and
the county. Why the limitation on the number of events? If there is no impact there
should not be a limit. Let’s address what the problems really are.

Commissioner Hunter is troubled by the Planning Commission knee-jerk reaction. What
the commission was told was the same rules are going to apply that already apply. The
function of the proposal is to try and create some clarity. Whether or not that has been
successful is a different question. What happened to the people in the county is not
because of the current regulations. It happened in a system which seems to have too
much whimsy and the ability to react to one complainer. It seems a system of regulations
could be set up to prevent that from happening again. One of the possible benefits of the
proposal is predictability. Once they have gone through the process no one can complain
when the event takes place. He stated it is not clear why some events, which have taken
place in the past, were shut down this time. Maybe people raised questions that hadn’t
been raised before and the Planning Department wasn’t ready to deal with it. This won’t
happen if the regulations are clear. He gets the sense that members of the public would
like that clarity. He has some concern about this creating more problems in enforcement
but there still needs to be clarity. He is curious why the permits don’t go with the land
rather that with the person, so if the land remains unchanged the permit continues. He
would like to know the reasoning for this. He does see a benefit to the regulations even
though they need more clarity. He is inclined to approval of Exhibit F with some changes.

Commissioner Elenbaas stated that to a lawyer or planner the regulations may make
sense but they don’t to him. He was taught that in America there is private property. He is
realizing that isn’t really true. He is baffled by the proposal. All of the different proposals
seem like false choices with a pre-determined middle ground. He does hear people asking
for a clear pathway but this does not seem clear. Anything to do with agriculture should
be taken out. Accessory uses to agriculture are stated as any use on the farm which are
ancillary to the normal primary permitted uses. It seems like it is already covered under
the code. He has a hard time planning away what his neighbor should have a right to do
on their private property.

Commissioner McClendon asked staff some clarifying questions. Were the people shut
down because they did not get the needed permits?

Ms. Osborn stated the event that got shut down on Sand Road, the medieval event, was
because they were about to do a music festival with camping. All land use in the county is
regulated. If it is not a permitted use or an accessory use or cannot be inferred to be
an accessory use, and it is not provided for as and administrative approval use or a
conditional use to the property then all other uses are prohibited. That is why the
proposal specifically includes the rural, agricultural, etc. zones so they aren’t left with
uncertainty to what the rules are. The proposal might not be the best one cure all fix all
and other jurisdictions have created an agricultural overlay district where they allow in
specific areas agricultural value added uses but it is this would certainly be one step in
the right direction forward, but again, zoning can change, zoning regulations have the
means for amendment built right into it. - Uses such as U-pick and pumpkin patches and
road side stands are a different kind of use than uses that are public gatherings where the
public congregates, celebrates, educates, in typically large numbers, and where there is
live music.
Commissioner McClendon asked on the issue of amplified sound, the reason she brought it up is because the state law is very restrictive, and she asked if the sound issue is in the state law?

Ms. Osborn said “yes” stated amplified noise has been allowed, but usually only for an hour in most cases. The state law is very restrictive and the Hearing Examiner has to follow that law. It’s a tough law to comply with.

Commissioner McClendon stated she had the idea to create thresholds that would trigger needing a permit. They included amplified sound within a certain number of feet of a neighbor’s residence; having an event more than three times a year, except for farm value added sales; more than 100 cars in a three hour period and past complaints. This looks at the impacts.

Ms. Osborn stated she drafted an Exhibit “XYZ” to outline Commissioner McClendon’s suggestions, and she discussed the options with management Long Range Planning Manager, Mark Personius. He Ms. Osborn noted she didn’t want to speak for Mark because he wasn’t in the meeting, that Mark had raised the question of where do the numbers or limits come from? What are the thresholds or triggers?

Ms. Osborn stated, this is not a one size fits all thing. Applications are reviewed through a process, and public input is considered. And Exhibit C allows a process for this application proposal to be reviewed. Going through the administrative review or to the Hearing Examiner may not be transparent enough. Exhibit C puts the use reviews all the various impacts and applies conditions for approval. Management-In short I was told told her to stick with the proposal as modified in Exhibit C and Exhibit F and to only modify it so the exemptions were clearer.

Commissioner McClendon stated stated what she is looking for is a reason that doesn’t include “because “I said so” or “we have never done it before” or that’s how we’ve always done it”.

Commissioner Onkels stated it doesn’t seem like they have successfully escaped the one complaining neighbor problem. He doesn’t know how to do that. The threshold should be higher.

Sam Ryan stated it’s usually not just one person calling,—Lummi Island is one of the worst examples of a lot of somebody calling, then somebody else people-calling. Often times one county agency says the event can be held and another county agency says no. People start complaining, the Sheriff gets involved. The fear mongering can grow until it gets out of control. And then by the time PDS gets it we are looking at the regulations, there is a realization that we don’t have a means to deal with this. So, that’s really what we are here about, is trying to find some means to provide a clear path way. Looking at the regulations there is no way to deal with what is going on which is why staff is here.

Commissioner Onkels asked Mr. Boxx how expensive the permitting process was for him.
Mr. Boxx stated he hired a consultant. The process took about three years and cost about $15,000. After a revision, and an extension, he clarified that parking was allowed on grass in his field.

Commissioner Onkels asked where the provision of three events per month came from.

Mr. Boxx stated he did not know.

Commissioner Onkels asked if that amount seemed arbitrary.

Mr. Boxx stated it did not seem to make sense. There were several people at his hearing that complained about the noise issue. Those people would have no idea if they were holding weddings or doing u-pick because they have cars coming and going all day long. The extra impact from a wedding they would never know about. He does understand the noise concerns.

Commissioner Onkels stated perhaps large events should not be held in rural areas.

Mr. Boxx stated maybe if the neighbors knew it was going to be only an occasional event they would be more accepting.

Commissioner Onkels asked Mr. Boxx if he had considered a building to reduce the noise impact.

Mr. Boxx stated he is prohibited by the Hearing Examiner from doing that now. He may be able to at some point in the future but he can’t justify it. Also when doing a commercial building there are fire flow issues which can be very expensive.

Staff clarification of the record: Mr. Boxx has approval under CUP2011-00007 to construct a Phase 2 permanent structure as part of his cottage industry.

Commissioner Bell stated he was floored by the revelation that that the code states a use is prohibited if it is not specifically specified. This means that any new idea that someone comes up with is automatically prohibited. He has a problem with the reasons for shutting something down. He understands it’s not always just one complaint. With the windmill and slaughterhouse ordinances they have been regulated to the point where there will be none of those applied for. We can shut down whatever industry we are trying to help. Our goal is to allow these things because they are a benefit to the county. He keeps hearing these regulations are overkill. Part of the commission’s job is to let staff know they are in a bubble. They keep getting the same thing from staff. He does not support the proposal. The public wants predictability. He likes Commissioner McClendon’s ideas of setting thresholds. 3 years and 15K should never happen if you want to do business in this county, and I think that is one of the biggest complaints I have about the process.

Commissioner Hunter stated setting thresholds is the whole problem. Where do they come from? If you don’t like arbitrariness then you can’t set thresholds. He stated he is tired of hearing about American exceptionalism. There are rules regarding what he can say and
how he manages his property which may impact other people. We can’t imagine that we
get to do whatever we want no matter how it affects other people. So that’s why we have
rules. The rules of the proposal might not be as easy to understand as they might be but
with some changes the public will feel safe. The only significance about the complaints are
that a system was set up and the rules weren’t followed. There is no reason for the
system to be complaint driven. Complaints should be thrown out the window, and should
not be part of the permitting process. Have they followed the rules? That is what is
important. Complaints are valid when the event is approved for 500 but the permittee
holds an event that serves 5000. There is no reason for our regulatory system to be
complaint driven. Commissioner Hunter indicated support for Exhibit “C” with some
changes. We need to figure out a way in “C” so that there is a way to figure which events
get to be approved. Why is the commission even discussing amplified music? That is a
state law that staff has been taken out of the proposal. He sees a reason for attaching the
permit to the property, being inclusive about the types of programs that can be run
under this system so that people aren’t arbitrarily left out of it and complaints need be
taken out of the system entirely. With that done he would be comfortable voting for
Exhibit C, and would be happy to talk to the County Council about it.

Commissioner Vekved stated what a commercial enterprise is is not well defined. Perhaps
a code definition would be helpful. Regarding stating the number of events a person can
have, how enforceable is that? Who is out there to check other than the neighbors? When
limiting the number of cars, campsites, etc. the site needs to be taken into consideration
and how it would affect others. In Exhibit F reasonable conditions are not defined. There is
a lot of risk with that.

Commissioner Onkels stated that in Exhibit C adverse impacts is not well defined. The
problem with these events is that they have the potential to become nuisances. The
problem is that the Hearing Examiner is sort of incentivized to impose such onerous
conditions that the business evaporates. He does not know a way around that.

Ms. Ryan suggested the commission form a subcommittee or appoint a member to work
with staff to work through the issues. She asked what the statement “Table the proposal
until it addresses the 10 percent worst offenders, not the 90 percent best.” meant.

Commissioner Elenbaas stated it means the commission is not comfortable making a
proposal that will make their neighbors criminals. What they have asked for, at all three
meetings, were stakeholders to be involved in the decision making in order to come up
with something that will work. None of them have all the answers. It is not something that
should be rushed through.

Commissioner Honcoop stated the priorities need to be identified instead of throwing
everything together. Start with the definitions. The 10 percent means the biggest
offenders. Deal with them. Maybe the commissioners can bring their thoughts and ideas
back to a future work session. Going through the conditional use process is expensive and
extremely unpredictable and in the end most likely won’t be financially viable.

Commissioner Teigrob moved to send the proposal back to staff for another
proposal. Commissioner Bell seconded.
Commissioner Honcoop proposed an amendment to the motion to compile staff recommendations and commission recommendations and hold a work session at a later date. The vote on the amendment carried.

The vote on the main motion, as amended, carried 8-0-1.

File #PLN2013-00008: A proposed amendment to the Official Whatcom County Zoning Ordinance (Title 20) and the Whatcom County Comprehensive Plan regarding surface mining permitting processes and mineral resource land (MRL) designation criteria and processes.

Joshua Fleischmann presented the staff report and exhibits. Exhibit A is the proposal as submitted by councilmembers Barbara Brenner and Carl Weimer. Exhibit B is the Surface Mining Advisory Committee (SMAC) recommendation.

Commissioner Bell asked if Exhibit A was written by Brenner and Weimer.

Mr. Fleischmann stated yes and no. The language was drafted by them then staff corrected any inconsistencies.

Commissioner Honcoop asked why this issue is being brought forward to the commission.

Mr. Fleischmann stated the council members did not state what prompted it, but his assumption is that recent MRL projects and proposals prompted the application.

Mr. Fleischmann continued the presentation by stating the proposal addresses three major topics. One is surface mining permitting, one is the designation process and the other is the designation criteria. When it comes to surface mining permitting both Exhibits A and B propose changing the permitting process from administrative approval to a conditional use permit. Exhibit A proposes expanding the distance from rural or residential districts, where a proposed conditional use permit would be required, from 1,000 feet to 2,000 feet when it exists within a Rural or Commercial Forestry zone and is subject to the Forest Practices Act. Exhibit B includes an additional conditional use approval criteria requirement that if the proposed surface mining activity is phased and within one of the forestry zones that prior to moving into the next phase of mineral extraction any reclamation criteria is identified by the Department of Natural Resources reclamation permit.

Commissioner Honcoop asked if that requires them to completely quit mining in an area and reclaim it before they move onto the next area.

Mr. Fleischmann stated the reason the language was crafted this way is so that reclamation does not need to be complete but it has to be shown to be consistent with the reclamation plan.

Commissioner Honcoop stated the most obvious thing to him is in Exhibit A there is a proposed change in distance from rural or residential districts for the rock crushing activities that would require a conditional use permit from 1,000 feet to 2,000 feet. It also
proposes the notification requirements for surface mining be expanded to 2,000 from
external boundaries of the subject property. Not from where the activity is, but from the
external boundaries and requires a conditional use permit for mining and processing
activities within forest resource zones when within 2,000 feet of a rural or residential
district. An example would be the Pole Road area which has active and reclaimed pits. If,
for example, the pit is 1,280 and you add 2,000 feet to each side that is an impact of one
mile. Nobody would be able to mine. Is it correct that the conditional use permit is at the
county level and the mining permits are at the state level?

Mr. Fleischmann referred to a letter that the County Prosecutor sent to him. All surface
mining, that is subject to the Surface Mining Act, or in this case, the Forest Practices Act
is proposed in both Exhibits to go from administrative approval to a conditional use.
When you get into within 2,000 feet of a rural or residential district that is within the
forestry zone. In the Pole Road area it would not be applicable. There are no forestry
zones nearby.

**Commissioner Bell moved to only review Exhibit B and only bring in relevant
issues from Exhibit A. Commissioner Teigrob seconded.**

Commissioner Vekved stated he was not in favor of the motion.

Commissioner Elenbaas stated he was in favor of the motion.

Commissioner Honcoop stated he would like to look at both exhibits.

**The motion failed.**

Mr. Fleischmann stated the MRL designation is a comprehensive plan designation the
purpose of which is to designate areas of long term commercial significance with the
concept that it would protect from incompatible uses. An example, commonly cited is if a
development went on top of a valuable resource then the resource would not be
accessible. Unlike agriculture or forestry it is not a renewable resource. The process for
designating MRLs involves certain criteria the land must meet. In 1993 there was a draft
comprehensive plan with the idea of meeting the requirements of the Growth
Management Act. In 1997 the plan was officially adopted with approximately 4,000 acres
identified as mineral resource lands. That number has not significantly changed in the last
17 years. In order to commercially mine it must be located within one of the designated
MRLs. Presently that requires an administrative approval permit. This proposal changes
that to a conditional use permit.

Commissioner Bell asked what needs fixed. Why is this being done?

Mr. Fleischmann stated his assumption was because of a previous proposal to expand a
MRL designation in the South Fork Valley area. The proposal met the required criteria and
approval was recommended by staff. The Planning Commission recommended approval.
The County Council did not approve the proposal. There were a number of people opposed
to it for fear of how it would impact their drinking water, quality of life, etc. People want to
know the impacts prior to designation.
Commissioner Hunter stated those were the concerns of the public which was probably a misunderstanding. Is it staff’s impression that the council members were expressing some unease about the process?

Mr. Fleischmann stated he thought so. They understand that there are two steps, designation then mining. The proposal is their attempt to address the concerns of the public.

Commissioner Honcoop asked if the difference between Exhibit A and B is related to the designation, not permitting.

Mr. Fleischmann stated yes. There are other differences but the main difference is requiring the environmental analysis at the time of designation.

Commissioner Bell asked if that would be at the company’s expense.

Mr. Fleischmann stated yes.

Commissioner Honcoop stated there is no guarantee they would be able to mine.

Commissioner Bell asked why you would do that. It will shut down the industry.

Mr. Fleischmann stated that concern is expressed in the staff report.

Lesa Starkenburg-Kroonjte stated the commission is speaking as if it’s industry’s responsibility to designate MRLs. That is Whatcom County’s responsibility. In Whatcom County it hasn’t been that way. In the last 17 years very few acres have been added. Those few additions have been because of private applications. If the county is going to make an applicant go through all this work just for a designation it should essentially be a contract permit.

Commissioner McClendon asked for clarification on MRLs. Why is the mineral protection needed? Anyone who owns mineral land won’t be putting a house on it.

Mr. Fleischmann stated that is discussions that will be held with the SMAC. Skagit County has 160,000 designated MRL. Snohomish County has 80,000 designated. Whatcom County has 4,000.

Commissioner Vekved asked when an applicant applies for a MRL designation does it only apply to their land or does it overlap surrounding land.

Mr. Fleishmann stated it would only apply to the applicants’ property.

Commissioner Bell stated is it not the county’s job to protect minerals so there is resources to draw on for future generations? This proposal solidifies that it will be on a case by case basis when a company comes in and proves to the county that they can do it
without an environmental impact and allow them to do what the county should be doing. They are deeming where it's appropriate rather than the county.

Mr. Fleischmann stated the county came up with their acreage in 1997. Snohomish County just finished theirs. It was a 12 year process. When they county designated theirs they looked at where the DNR permits were in 1993. Other counties have looked at where the resources are. We haven't started that process yet.

Commissioner Elenbaas asked why this is not deemed spot zoning when it is happening on a parcel by parcel basis.

Mr. Fleischmann said it does not fit the definition of spot zoning.

Commissioner Honcoop stated the GMA requires the county to designate land. Doesn't that need to be taken into consideration regarding the impacts it could have?

Mr. Fleischmann stated the GMA policy states the county's will "seek" to designate.

Ms. Starkenburg-Kroonjte stated the GMA states county's shall classify, designate and protect commercially significant resources. It doesn't say anything about how much it should be. County's should aim for a minimum of 20 years and at least 50 years. Whatcom County then placed 50 years as a goal in the Comprehensive Plan. After a study was done and it was determined there is a shortage the county then changed the goal to state "seek to designate a 50 year supply". Nowhere in state law does it say 50 years.

Commissioner Teigrob stated she would not be surprised if the county was sued over this issue because the county is abdicating their role to protect and designate mineral lands.

Commissioner McClendon asked staff for designation criteria in adjoining counties.

Mr. Fleischmann addressed GMA planning goal #7 which states: "Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability". He questioned whether requiring a large, expensive study to show how a site might be mined without any guarantee of designation or ability to mine would meet requirement #7 of predictability.

Commissioner Bell asked the advantage of increasing the distance to 2,000 feet, as proposed, for rural and residential districts.

Mr. Fleischmann stated the public process gets bigger, which is one of the goals to encourage public process. This could be a good or bad thing. More people usually means more people that are opposed.

Commissioner Elenbaas stated that GMA also calls for consistency in the code and 1,000 is usually what is stated.

Mr. Fleischmann stated this would be the only activity that has 2,000 feet. 1,000 would be consistent with most other permits.
Commissioner Honcoop asked what is meant by the proposal to make an ‘initial determination’. Where in the process does that happen? Does there then have to be a final determination? Why the proposal to go from an administrative to conditional use?

Mr. Fleischmann stated that administrative approvals sometimes get appealed.

Ms. Starkenburg-Kroonjte stated the administrative approval process has worked well in the past. What was good about that process is that people had to submit their comments in writing. That is proposed to be changed. The concerns could be addressed rather than going straight to the Hearing Examiner. Because staff has changed there may be a loss of constancy so the Hearing Examiner may be a more constant process. She has nothing bad to say about the administrative approval process. Before GMA it was a conditional use permit. In one instance it failed because there was no previous contact with the concerned citizens.

The commission asked for previous mining studies. Staff will provide the 2003 Geo-Engineer study, the SMAC final report and recommendations from 2004, the Mineral Resource background document from 1994 and examples of how other counties designate MRLs. One of the things the documents show is there is no shortage of resource. The problem is there are competing uses, buffers, critical areas, agriculture, etc. that prevent MRL designation.

Commissioner Honcoop asked for an estimate of current supply.

Mr. Fleischmann stated the county is going through that process right now. A contract, with Element Solutions, should be approved next week.

Commissioner Bell stated he is not a fan of the industry going through the environmental process and the permit at the same time. It is not only redundant but expensive with no guarantee that they will get to mine.

Mr. Fleischmann noted that Exhibit B states if that process is gone through then there is a land disturbance permit on the back side. You can spend the money, do the report, show how you can mine but it will still be a political decision, there is no guarantee.

Commissioner Vekved asked when forecasting estimated quantities is that as designated or as permitted?

Mr. Fleischmann stated the SMAC Final Report and Recommendations, the DNR background information and the Geo-Engineers 2003 study examined sand and gravel, versus bedrock, so it’s not one number. The highest number he has seen is a 35 year supply in designated areas. That report is 11 years old.

Commissioner Hunter asked if there has been a study which provides information about the amount of actual mineable resource. Is there a map as well?
Mr. Fleischmann stated there is. It looks at what is in the ground, not whether it is available or not. It amounts to about one billion cubic yards. Yes. Staff will provide to the commission.

Commissioner Bell moved to table the issue until the public hearing on October 23, 2014. Commissioner Teigrob seconded. The motion carried.

Other Business

Business Rules - Attendance

Commissioner Bell stated the way the business rules are currently written are fine. The commission is smart enough and there are enough reasonable people on it to determine whether someone is abusing the system. They are a volunteer body and further defining them does no service.

Commissioner Vekved stated business can occur remotely. There are resources available for video conferencing which may work for his issue which has him missing every other meeting. He would like to participate if possible.

Commissioner Bell doesn’t think that is necessary. There are three commissioners from each district so they are well represented.

Commissioner McClendon would like to see Commissioner Vekved participate in that way. This may not be allowed in the by-laws.

Commissioner Hunter stated he had concerns regarding Commissioner Vekved’s absences. It is their duty to come to the meetings, informed, participate in the discussion and vote. He was impressed by Commissioner Vekved’s willingness to participate in the stated fashion. He does not think it’s overkill. The by-laws can be changed to make it possible for him to participate.

Commissioner Vekved stated his situation should be the exception, not the rule which may happen if it’s codified.

Staff will look into the technical and legal aspects of the suggestion.

Commissioner Bell went back to the main issue by stating the attendance rules worked as they should have, the issue was brought to their attention, regarding the absences, they decided as a body is was not an issue.

Commissioner Bell moved to leave the rules as they are. Commissioner McClendon seconded. The motion carried.

The meeting was adjourned at 11:17 p.m.

Minutes prepared by B. Boxx.
Regular Meeting

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

David Onkels, Chair

Becky Boxx, Secretary
RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
October 23, 2014

Regular Meeting

Call To Order: The meeting was called to order, by Whatcom County Planning
Commission Vice-Chair, Mary Beth Teigrob, in the Northwest Annex Conference Room at
6:35 p.m.

Roll Call
Present: Ben Elenbaas, Gary Honcoop, Mary Beth Teigrob, Ken Bell, Natalie McClendon
Absent: David Hunter, Gerald Vekved, David Onkels

Staff Present: Mark Personius, Joshua Fleischmann, Becky Boxx

Department Update

Mark updated the commission on the following:
  • Upcoming commission schedule.
  • Items before the County Council.
  • PDS staff updates.
  • Conversations between staff and the commission regarding weddings, special
    events and music events.

Open Session for Public Comment

There was no public comment.

Commissioner Comments

There were no commissioner comments.

Approval of Minutes

July 24, 2014: Commissioner Bell moved to approve as written. Commissioner McClendon
seconded. The motion carried.

September 11, 2014: Commissioner Bell moved to approve as written. Commissioner
McClendon seconded. The motion carried.

September 25, 2014: Commissioner Elenbaas moved to approve as written.
Commissioner McClendon seconded. The motion carried.

File #PLN2013-00008: A proposed amendment to the Official Whatcom County Zoning
Ordinance (Title 20) and the Whatcom County Comprehensive Plan regarding surface
mining permitting processes and mineral resource land designation criteria and processes.

Joshua Fleischmann presented the staff report. The amendments address three topics.
Surface mining permitting, the designation process and designation criteria. Both Exhibits
A and B propose changing the permitting process from administrative approval to a
conditional use. Exhibit A proposes extending the distance of notification to 2,000 feet.
Exhibit B proposes keeping it at 1,000 feet. Exhibit A proposes the SEPA project specific action be reviewed as part of the designation process. Exhibit B does not propose any changes to the present designation process. Regarding the designation criteria both Exhibit A and B propose that expansion of an existing MRL designation will require that existing mines are in full compliance with permits and regulations. Exhibit B clarifies that an expansion area and the existing mine must be in contiguous and common ownership so that one mining operation will not prevent another mining operation from expanding. Exhibit A proposes that site-specific designations shall be only be approved after mineral extraction impacts are anticipated and it also proposes that designations in the forestry zones are limited to 20 acres. Additional areas can be added once previously mined areas are returned to sustainable productive forestry and that the total designated area remains no more than 20 acres.

The hearing was opened to the public.

Meredith Moench, Whatcom County: She supports Exhibit A. She has had experience with the MRL designation applications, the administrative approval permitting applications and hearings before the Hearing Examiner. She owns property on Lummi Island. She has lived there for 11 years and she lives approximately 1,850 feet north of the Lummi Island quarry. Regarding Exhibit A designation criterion #10 for site-specific MRL designations to anticipate and evaluate impacts prior to approval the current process for MRL designations has been fraught with conflict and has been difficult. In her opinion that is because of the use of the phased SEPA process. According to that process, with a so-called non-project application, the SEPA is required but not taken seriously. The only information required at that point is the environmental checklist that the applicant submits. This checklist is filled out by the applicant to the best of their knowledge. This checklist tends to be very incomplete and may include inaccurate information. It is used for a decision on potential impacts for the site. This checklist is entered into the process and a decision is made based on it. Typically a SEPA is a determination of non-significance so based on little or no information it is declared to not have any significant impacts however maybe it does. Her experience with the Lummi Island quarry shows there were significant impacts that were very obvious on the ground and yet they still received the determination of non-significance. There needs to be environmental review upfront that is substantial. This then gets passed down through the process. She supports the conditional use permitting. This is used by Skagit and Snohomish counties. It increases public participation. With the 1,000 feet notification she lives just beyond that so she has not been notified regarding the Lummi Island quarry mining process. There is only a 15 day comment period associated with the process. Legal errors have to be pointed out in the appeal process so it is intimidating to the average citizen and the process is expensive. During the 2007 permitting process she and others did not appeal because of this. Participating in front of the Hearing Examiner provides an opportunity for citizen input and it clearly impartial. The Hearing Examiner has the opportunity to keep the record open to get additional information. This is a much better and fairer process. At her property she hears noise from crushing, excavating, loading, backup alarms, and trucks going by her house. She has dust come onto her property. There is heavy metal residue in this dust. There are also groundwater and visual impacts that extend more than 1,000 feet so extending it to 2,000
feet seems reasonable. It would also help citizens feel more included. Snohomish County has a 2,000 feet notice requirement.

Leslie Dempsey, Whatcom County: She is a member of the Surface Mining Advisory Committee (SMAC). She is available for any questions the commissioners may have regarding the proposal.

The hearing was closed to the public.

Commissioner Honcoop asked Ms. Moench about the 15 day comment period. Is that related to the MRL designation or the permit to mine?

Ms. Moench stated she was referring to the permitting to mine.

Commissioner Honcoop asked Ms. Moench what process she was referring to regarding Skagit and Snohomish counties.

Ms. Moench stated she was referring to the use permit process. In 2010 the quarry applied to expand an additional 27 acres. She does not know anyone who was notified. They almost missed the comment period.

Commissioner Honcoop stated there seems to be a lot of confusion regarding the designation and mining. They are two separate issues. What is important to know is that aggregate is the foundation of every manmade structure. In 2004 Whatcom County commissioned a study on what the current reserves were at that time. The conclusion was that there was approximately a 19 year supply of resources in the existing MRLs. It also stated Whatcom County has 10 years or less of measured permit gravel resources in the MRLs. We are already starting to feel the shortage of aggregate products. For the commission it is important when evaluating the two proposals and what is currently in place that they carefully separate the discussion of designation versus permitting. It is very clear that since the report written in 2004 very little additional ground has been designated MRL. His opinion is that the MRL designation is to protect future resources, it’s not for immediate use. The sooner it gets protected the less conflict there will be. What the commission needs to encourage is the designation of the MRL lands not discourage it. The current designations occurred a long time ago. The Comprehensive Plan used to state there was to be a 50 year supply of aggregate. That is important to be stated. In some other counties the counties themselves have taken the role of doing the designation. In Whatcom County the designation occurs when private owners come to the county for a MRL designation. This is the opposite of what should be happening. He feels that the designation of MRLs need to be encouraged in any way possible in order to protect the resource. He has a hard time with some of the requirements in Exhibit A. It seems staff has some of the same concerns he has. For example on page 9, item 2 of the staff report some of the items stated have already happened and the environmental impact of trucking material from Skagit County has a very significant impact and is very inefficient. Regarding the study done in 2004 some of the sands that were designated in that study are unavailable. If a proponent has to go through the process outlined in Exhibit A they are going to mine immediately. There is no other way to recover the money they have put
out. This will raise the price of aggregate. You can’t move the resource but you can have things put on top of it. That is a critical fault in Exhibit A which fails to protect the resource.

Commissioner Bell asked if the county does have a 50 year supply.

Mr. Fleischmann stated no.

Commissioner Bell asked what is broken in the process that has to be fixed.

Carl Weimer (one of the applicants) stated there were concerns from citizens. They find out too late what is going on. In many cases designating land MRL is almost the same as permitting it. Companies don’t go for the designation if they don’t plan on mining. Citizens don’t know this upfront. There is no environmental analysis. Often times these mineral lands are on top of other protected natural resource lands. How can you protect both if the intent is to mine there? The intent is to move some of that impact analysis to earlier in the process so the impacts would be known at the time of designation.

Commissioner Bell asked why the county waits for an applicant to designate MRLs rather than the county protecting the resources.

Mr. Personius showed a map of the MRL resources in the county. Most of those areas are in the agricultural zone. Part of the designation criteria for MRLs is that they cannot be in the agricultural zones. The county made that choice between the competing resources. There is also a strong desire to maintain forest lands and not convert them to mining. What is left is the rural area. People are living out there so that creates the conflicts. What the other counties did was designate ahead of time, but a lot of what they designated was hard rock which is in the mountainous areas. They went through the same process in the sand and gravel process in the lower lands and they too favored agriculture over mining.

Commissioner Bell stated what that does is tell the current mining operations they have a cash cow because of the limited resources.

Mr. Personius stated that the SMAC, as part of the Comprehensive Plan update, are looking at the designation criteria. There was discussion and preliminary recommendations to state that the 50 year supply is not only not required by GMA it’s only supposed to look 20 years out. The county does have a consultant doing a study on what the supply is.

Commissioner Bell stated the Hearing Examiner is an adversarial environment. What is basically being said is the applicant’s attorney has to be present to fight against the citizen. That is a very unhealthy dynamic. He likes the idea of having an arbitrator of some kind. It makes sense that it would be a planning commission so issues can be worked out.
Commissioner McCleland stated it seems to her there is a problem with failure to
designate MRLs. Was there any attempt to designate MRLs after the other resource lands
were taken out?

Mr. Fleischmann stated that as part of the original designation process the county looked
at sites that had existing Department of Natural Resources (DNR) mines. Staff did not
know of any other designation attempts.
Commissioner McCleland asked if the study currently being done is to help identify new
lands to designate.

Mr. Personius stated the consultants work is to identify the supply not new areas.

Commissioner McCleland stated there needs to be a tradeoff. Lands in other resource
status need to be designated MRLs. She asked if the process for permitting was changed
from an administrative to conditional use how is a decision made by the Hearing Examiner
appealed?

Mr. Fleischmann stated it is appealed to the County Council within 10 days of the decision.

Commissioner Bell asked the appeal process for administrative approval.

Mr. Fleischmann stated it is appealed to the Hearing Examiner then further on if
necessary.

Commissioner Honcoop commented on the appeal process history outlined in the staff
report. It seems the method used is very good. All administrative approvals that have
gone through the appeal process have been upheld. If it isn’t broke don’t fix it. Regarding
the white paper put out by the SMAC when you go through the process of a conditional
use, as outlined in the rationale, the exact opposite happens of what is being encouraged
in the recommendation. With the administrative approval format all of the parties can
communicate. When it’s quasi-judicial that can’t happen. Conflicts can be dealt with
before the hearing. Before the Hearing Examiner the public can speak but they are limited
in time. They can’t have a dialog. The proponent may also bring along professionals that
the average citizen doesn’t have access to. This does not encourage participation. He
supports the current process of administrative approval.

Mr. Personius added that a third option was discussed with the SMAC. Staff suggested the
EIS be done at the time of designation which would then run with subsequent permits.
The committee did not recommend this because this is money the applicant has to put out
up front with no guarantee of approval of the designation.

Commissioner Teigrob stated that doing it that way seems to be a way to shut down
mining. The financial risk is not worth it.

Commissioner Honcoop stated that what is missing in that scenario is that the permit to
mine is not just from Whatcom County. There are also permits from the state that are
required. If the EIS is done at the time of designation and the rules change by the time
they apply for the permit they will have to go back and readdress those issues. There would be very little flexibility to meet the current requirements.

Commissioner Elenbaas stated requiring an EIS before a land is even designated seems like putting the cart before the horse. For that reason he does not support Exhibit A. It will stop all mining in the county. Designating the area is done through the council which is a political thing. Politics don’t care much about what science says. Designation of MRLs is going to happen based on the political environment. The EIS should be done at the time of permitting.

Commissioner Bell stated that upfront environmental work entrenches the people that are already in the business. They have the ability and the money to spend. It decreases the amount of competition. This is creating monopolies for the gravel industrial for the people that already have it. Huge corporations, which may have different influences, will be the only ones to benefit from that.

Commissioner Bell moved to recommend approval of Exhibit B. Commissioner Honcoop seconded.

Commissioner Elenbaas stated he does not like the size limitation, of 20 acres, in Exhibit A. He asked if Exhibit B has any size limitations.

Mr. Fleischmann stated it does not.

Commissioner Elenbaas stated that mining in the agricultural district isn’t always a bad thing for the farmer. Farming flat land is easier, safer and more productive.

Commissioner Honcoop commented on 20.73.153(7). Is a revision to the permit required before moving on to the next mining phase?

Mr. Fleischmann stated he did not know.

Commissioner Honcoop asked if reclamation of a site needs to be complete before moving on to the next phase.

Ms. Dempsey stated it is up to DNR and the specifics of the mine. The initial reclamation permit is approved before mining starts.

Mr. Fleischmann stated reclamation before moving on to the next phase may not always make sense. They just have to be consistent with the reclamation plan. The SMAC approved the language suggested in 20.73.153(7).

Commissioner Elenbaas asked if the comprehensive plan amendments, in Exhibit B, will be reviewed again in the 2016 update.

Mr. Fleischmann stated they will be reviewed in the 2016 update.
Commissioner Honcoop asked if the verbiage to have a 50 supply of aggregate is still in the comprehensive plan.

Mr. Fleischmann stated it is in the plan but it now states “seek to designate” a 50 year supply.

Roll call vote on the motion to recommend approval of Exhibit B: Ayes – Bell, Honcoop, Elenbaas, Teigrob; Nays – McClendon; Abstain – 0; Absent – Hunter, Vekved, Onkels. The motion failed.

Commissioner Honcoop moved to table the issue until the next meeting. The motion failed for lack of a second.

Commissioner Bell asked Commissioner McClendon the reason for her vote.

Commissioner McClendon stated she wished to propose something different.

Commissioner McClendon moved to recommend approval of Exhibit A with the addition of 20.73.153(7) from Exhibit B; and a statement that the requirement for the SEPA project specific action requiring an EIS is a stop gap and that the county needs to move directly on directly more MRL land and pays for any environmental assessments upfront. The motion failed for lack of a second.

 Commissioner Teigrob agrees that the county has really fallen down on their responsibility to designate MRLs. However, that is not an issue the commission can address at this time. Perhaps a suggestion the council needs to designate MRLs could be part of the findings.

Commissioner Bell stated that the idea of the SEPA and EIS being paid for by the proponent is not abhorrent to him at the time of permit application. He agrees that at some point the county needs to designate MRLs and at that time the county needs to do some type of environmental review. Is it unheard of for the county to do a SEPA on its own project?

Mr. Personius stated that in this instance it would become the county’s action so they would be obligated to do SEPA. It would be a non-project action so the review may not be at the level that the applicants are asking for. However, a lot of the issues may be dealt with up front so the proponent can then rely on that analysis.

Commissioner Bell stated he liked the idea of recommending Exhibit B with the recommendation to the council to designate MRLs and do the environmental studies.

Commissioner Elenbaas doesn’t have a problem with corporate America paying for their own EIS. He has a hard time asking the county to spend tax dollars on it. An MRL designation is basically changing a color on a map. He doesn’t see that an EIS is necessary when changing a map.
Regular Meeting

Commissioner McClendon stated the concern she sees is that they want public notice and involvement closer to the front which is why proposal in Exhibit A is to do SEPA at the beginning when the resource land is designated. It is the county’s responsibility to designate and pay for the cost of the EIS up front.

Commissioner Elenbaas agreed but it doesn’t take an EIS to designate the land because no action is taking place on the ground.

Commissioner McClendon stated there should be community input up front when the designation is being made.

Commissioner Bell stated the market will decide things. Gravel will get to be so expensive they will eat up the farm land to mine gravel at some point.

Commissioner Honcoop cited RCW 36.70A.06. It states lands next to MRL shall not interfere with the continued use of the designated MRLs. He does not see that it is practical to do an EIS at the time of designation. There are other requirements that concurrently need to be met related to the DNS and the state agencies. The county is not the entity that is going to mine the gravel so they won’t be in the position to be able to put all the pieces together. He supports the statement that the county needs to designate MRLs.

Mr. Fleischmann reminded the commission that SEPAs don’t expire. If one is done at the designation process and mining doesn’t take place for 75 years, for example, that SEPA is still valid.

Commissioner McClendon responded by saying no mine owner is going to apply for the designation if they don’t intend to mine in the near future. They won’t sit on it for 75 years. That would be a waste of their money.

Commissioner Elenbaas stated that if doing the EIS up front particular elements may be missed that should be addressed.

Commissioner Honcoop stated the most important thing is the GMA requires protection of this resource which is being missed. The longer it takes for that to happen the more loss of the resource is going to happen. He disagreed with the statement that when a SEPA is done it’s good for a long time. When you apply for the SEPA you then have to conform to it, but things change dramatically. Things may not fall under the original SEPA that was done.

Commissioner McClendon stated no new designations have occurred because of public opposition at the end of the process. She doesn’t see doing the SEPA at the beginning of the process as a road block. It’s putting the public on notice at the beginning.

Commissioner Bell stated he would like to see the county go through the MRL designation and making it a public process but not a full blown SEPA. He would like this recommendation sent to the council.
Regular Meeting

Commissioner Bell moved to recommend approval of Exhibit B and make a recommendation to the council to designate MRLs for a 50 year supply through a public process. Commissioner Honcoop seconded.

Commissioner Elenbaas asked if an EIS is done when the county designates resource lands.

Mr. Personius stated the process would go through a non-project SEPA and if necessary an EIS.

Roll Call Vote on motion to recommend approval of Exhibit B and make a recommendation to the council to designate MRLs for a 50 year supply through a public process. Ayes – Honcoop, McClendon, Elenbaas, Teigrob, Bell; Nays – 0; Abstain – 0; Absent – Onkels, Hunter, Vekved. The motion carried.

Other Business

Commissioner McClendon asked to have Old Business on the agenda so items don’t get forgotten about. The commission agreed to this.

The meeting was adjourned at 9:00 p.m.

Minutes prepared by B. Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Mary Beth Teigrob, Vice-Chair

Becky Boxx, Secretary
WHATCOM COUNTY COUNCIL AGENDA BILL

Clearances
Initial Date Date Received in Council Office
Originator: SM 1/15/15
Division Head: 
Dept. Head: 
Prosecutor: 
Purchasing/Budget: 
Executive:

R E C E I V E D
JAN 20 2015
WHATCOM COUNTY COUNCIL

1/19/15

Title of Document: Remaining appointments to Executive's Boards and Commissions for the year 2015.

Attachments: Listing of nominations for appointments and reappointments; Membership applications.

SEPA review required? ( ) Yes (X) No
SEPA review completed? ( ) Yes (X) No
Should Clerk schedule a hearing? ( ) Yes (X) 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.)

County Executive Jack Louws requests confirmation of his new appointments and reappointments to the boards and committees noted below and on the attached list. These appointments take effect on February 1, 2015.

Civil Service Commission
Development Standards Technical Advisory Committee
Point Roberts Community Advisory Committee
Veterans Advisory Board

Committee Action: 

Council Action:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

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.
The following vacancies on boards and committees are filled with appointments by the Executive and confirmed by County Council.*

**CIVIL SERVICE COMMISSION**  
Nominated for appointment is Robert F. Wilson.

**DEVELOPMENT STANDARDS TECHNICAL ADVISORY COMMITTEE**  
Nominated for appointment is Elizabeth Sterling and Dale Peterson.

**POINT ROBERTS COMMUNITY ADVISORY COMMITTEE**  
Nominated for Executive’s appointment to the At Large position is Keith E. Glading.  
- *For Council information only, the Pt. Roberts Taxpayers Association’s new representative is Ron Clark;*  
- *For Council information only, the Pt. Roberts Chamber of Commerce’s new representative is Steve Wolff.*

**VETERAN’S ADVISORY BOARD**  
Nominated for appointment is Jennifer Walters.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Robert Franklin Wilson
Street Address: 3867 Douglas Road
City: Ferndale
Mailing Address (if different from street address):
Day Telephone: 360-380-4943 Evening Telephone:
E-mail address: BLACKSHIP47@COFRONT.NET

Date: 12-29-2017
Zip Code: 98248

1. Name of board or committee-please see reverse: CIVIL SERVICE COMMISSION

2. You must specify which position you are applying for.
   Please refer to vacancy list.
   1 - Vacancy on CIVIL SERVICE COMMISSION

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.) ✗ yes ( ) no

4. Which Council district do you live in?
   ( ) One ( ) Two ( ) Three

5. Are you a US citizen? ✗ yes ( ) no

6. Are you registered to vote in Whatcom County?
   ( ) yes ( ) no

7. Have you ever been a member of this Board/Commission?
   ( ) yes ( ) no
   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any
   business or agency that does business with Whatcom County?
   ( ) yes ✗ no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

21 YEARS OF MILITARY TRAINING, 15 YEARS OF WASHINGTON STATE TROOPER, EXPERIENCE IN MANAGER

10. Please describe why you’re interested in serving on this board or commission:

I live here in Whatcom County, it is important to me and my family that we have good quality people employed here. I want to be an active part of that

References (please include daytime telephone number): Frank Cederberg 360-738-7501,
Tim Petrie Fire Dept Chief 360-380-1480, Craig Cardinal, 619, 360-676-3076

Signature of applicant: FDJFDJF

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be
available to the County Council, County Executive, and the public. All board and commission members are
expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these
expectations may result in revocation of appointment and removal from the appointive position.
December 31, 2014

Whatcom County Executive Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225

Dear Jack Louws,

I obtained your vacancy notice for the Whatcom County Civil Service Commission from you Whatcom County webpage. I am submitting my resume and background information for your review.

As you will see, I have the qualifications that would help the commission. I have over 14 years of Law Enforcement experience with the Washington State Patrol. I have knowledge of training and procedures within a government agency. I possess excellent communication skills, leadership and supervisor abilities. I have worked and interfaced with every law enforcement agency within Whatcom County and numerous state and federal agencies. I am familiar with their personnel and how they conduct business.

In addition to my time with the Washington State Patrol, I have over 20 years in the military. I functioned as upper management for the federal government including time with military police. I maintained a Top Secret (SCI) security clearance and worked with the Central Intelligence Agency, Federal Bureau of Investigation, Naval Criminal Investigative Service and the National Security Agency to mention a few. I have experience developing departmental policy, procedures and training programs. I understand the need for constant and accurate updates to the chain of command. Time management is a strong asset that I bring and I work extremely well with all types of people

I look forward to hearing from you soon to discuss my attributes for this position. Thank you for your time and consideration and enclosed you will find my resume and list of credentials.

Sincerely,

Robert Wilson
Robert Franklin Wilson

3267 Douglas Road
Ferndale, WA 98248

360-739-4316
Email: blackshoe967@comcast.net

Work Experience:

Washington State Patrol

July 1999 to Feb 2014

Served over 14 years as a dedicated Washington State Patrol Trooper. Performed duties of State Patrol Trooper and Acting Trooper in Charge during absence of Sergeant and Lieutenant. Was responsible for the smooth operation of the Whatcom County Detachments including the immediate response and supervision for any crisis situation or incident as they occurred within the area of responsibility. Responsible for the timely reporting to chain of command with accurate and detailed information including on time routine reports.

Demonstrated leadership and ability to guide diverse groups during multi-agency investigations and incidents using core leadership skills and practical experience.

A self-starter with emphasis on self-motivation. Ability to assume responsibility for a task or group and stay the course to completion possessing excellent interpersonal and multi-tasking skills, with ability to deescalate critical situations maintaining poise and a calm demeanor.

Maintain accurate investigative logs and follow up on all active cases including locating and interviewing suspects, witnesses and victims. Abilities include strong oral and written communications setting an example for others in the detachment to follow.

United State Navy

July 1977 to September 1998

Loyally served over 20 years in the United States Navy. Functioned as upper management providing leadership to both entry level and senior personnel. Provided guidance on Communications and operationally when developing programs for upcoming military events or exercises with other branches of service or other nations. Functioned as a Chief Petty Officer and responsible for the Leadership and mentoring of shipboard and shore duty personnel during tours of duty.

Primary skill set was Telecommunications, but also functioned as Officer of the Day, Command Duty Officer and Operations Officer as the need arose both on shore duty and while underway.
Tasked with evaluation and adjustment of personnel including conflict resolution and Judicial duties onboard ship. Responsible for multi-tasking numerous projects including scheduling and maintaining that schedule to end of the project. Strong computer and scheduling skills.

Worked with civilian companies in research and development of numerous Telecommunications projects developing shipboard platforms and subsequent testing of those platforms.

**Education**

Northwest Indian College – Human Services Degree in progress

Public Information Officer Training – Washington State Patrol

Advanced Collision Investigation – Washington State Patrol

Washington State Patrol – Trooper Academy training

Commercial Vehicle Safety Alliance – Washington State Patrol

Satellite Communications – Fort Gordon Georgia

Advanced Communications/Electricity and Electronics – San Diego California

High School Diploma from Madison Kansas High School

**Relevant Experience**

Developed and presented a DUI/Drug presentation designed to teach high school students and military personnel the hazards of being arrested while driving under the influence. Offered this presentation on behalf of the Washington State Patrol to numerous high schools in addition to the Naval Reserve and several tenet commands at local naval air station for Safety Stand down. Presentations were given to groups as small as 15 and as large as 500 plus with participation by local police, Fire/EMS, and students.

Researched and collated information on automobile fatalities occurring on a local Native American Indian reservation. Presented this data to the State of Washington during a Public Orientated Policing conference providing solutions to help reduce the number of fatalities occurring on reservations. Received accolades from senior executives within the Law and Justice community of Washington State for presentation.
Public Information Officer responsibilities included liaison directly with Television, Radio and Newspaper reporters providing information on behalf of the State of Washington related to high profile incidents and situations. Conducted live on camera television interviews as well as live radio spots ensuring I was available 24/7 for interviews, obtaining pertinent data and providing updates to media as requested.

Collision Tech certified. Trained to examine and identify critical evidence in large scenes, including conducting interviews, scene measurement, CAD reconstruction, Photography of scene and victims. Providing a detailed report in a concise and accurate format with final opinion as to cause. Certified by Whatcom County Courts as an expert in my field.

Responsible for accurate testimony in both courtroom and private interviews with evidence presentation and case explanations demonstrating a solid understanding of Federal, State, and local communities, laws and agencies with ability to work with each in a group setting or individually.

Responsible for conducting Felony Investigations for the State of Washington, including the preliminary investigation to final complete package and case management of all types of criminal investigations.

Functioned as Electronic Material Officer onboard Naval Air Station Whidbey Island responsible for multi-million dollar facility maintenance and operations including 30 personnel assigned.

Certifications

Advanced Roadside Impaired Driver Enforcement (ARIDE)

Public Information Officer

Advanced Collision Technician

Standardized Field Sobriety Test (SFST)

Washington State Trooper

Clearance

Top Secret (SCI) Clearance held with United States Navy including Two Person Integrity (TPI) and Positive Control Material (PCM)
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: ELIZABETH A. STERLING
Street Address: 1397 CENTRAL ROAD
City: EVerson
Mailing Address (if different from street address): P.O. BOX 5234, BELLINGHAM, WA 98227
Day Telephone: (360) 733-6100
Evening Telephone: (360) 510-8944
Cell Phone: (360) 510-8944
E-mail address: stErlingCa@yahoo.com or Sterling@wilsonengineeriNg.com

1. Name of board or committee—please see reverse:
   DEVELOPMENT STANDARDS
   TECHNICAL ADVISORY COMMITTEE
   CIVIL ENGINEER

2. You must specify which position you are applying for.
   Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.)
   Yes (X) No ( )

4. Which Council district do you live in?
   One ( ) Two (X) Three ( )

5. Are you a US citizen?
   Yes (X) No ( )

6. Are you registered to vote in Whatcom County?
   Yes ( ) No (X)

7. Have you ever been a member of this Board/Commission?
   Yes (X) No ( )

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   Yes (X) No ( )
   If yes, please explain:
   WILSON ENGINEERING (MY EMPLOYER) PERFORMS ENGINEERING WORK FOR WHATCOM COUNTY.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   SEE ATTACHED.

10. Please describe why you’re interested in serving on this board or commission.
    SEE ATTACHED.

References (please include daytime telephone number): SEE ATTACHED.

Signature of applicant: [Signature]

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
E. Sterling – Development Standards Technical Advisory Committee

Supplement Attachment

9. Please describe your occupation (or former occupation if retired), qualification, professional and/or community activities, and education.

I have a B.S. in both Civil Engineering and Environmental Science and have been working as a civil engineering since 1992, (registered PE in both Washington and California). As a regular part of my job, I deal with permitting, environmental reviews, and compliance with planning and development standards for many municipalities and jurisdictions. I have extensive experience in water and wastewater infrastructure design, as well as site development and street design. This would be my first volunteer position of this type.

10. Please describe why you’re interested in serving on this board or commission:

As indicated in my answer above, a great deal of my professional life has been spent complying with various design and development standards in the Whatcom County area. Our firm has done extensive work in and for Whatcom County, so I am well versed in the current version of the County’s development standards and feel that I could provide some applicable professional insight into the advisory committee’s work. In addition, for the past 14 years I have been a resident of the County at large, living live on nine acres situated just south of Central Road. I feel that service on this committee is a way to give back to the community by using my skills and experience to assist in the advisory committee’s work.

References:

Michael Matthes, P.E.
Wilson Engineering LLC
(360) 733-6100 x-235
mmatthes@wilsonengineering.com

Dave Carpenter, P.E.
Wilson Engineering LLC
(360) 733-6100 x-213
dcarpenter@wilsonengineering.com

Kraig Olason
Whatcom County Public Works
(360) 715-7450 X-50782
kolason@co.whatcom.wa.us

Kirk Christensen
Whatcom County Public Works
(360) 676-6876
KChriste@co.whatcom.wa.us
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Jeffrey Peterson

Street Address: 1603 E Pole Road

City: Eierson, WA

Mailing Address (if different from street address): Same as above

Day Telephone: 360-739-2384 Evening Telephone: Cell Phone:

E-mail address: lilpetey42@clearwire.net

1. Name of board or committee—please see reverse:

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying? (If applicable, please refer to vacancy list.)

4. Which Council district do you live in? 

5. Are you a US citizen? (x) yes ( ) no

6. Are you registered to vote in Whatcom County? (x) yes ( ) no

7. Have you ever been a member of this Board/Commission? (x) yes ( ) no

If yes, dates: Jan 2010 - Jan 2012 & Jan 2012 - Jan 2014

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? (x) yes ( ) no

If yes, please explain: I work for WS DOT - WHICH WORKS WITH COUNTY ROADS ON OCCASION

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

See Attached

10. Please describe why you're interested in serving on this board or commission:

See Attached

References (please include daytime telephone number): See Attached

Signature of applicant: [Signature]

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1/15/2015
Jeff Peterson
Development Standards Technical Advisory Committee

Qualifications related to position: Licensed Professional Civil Engineer in Washington - License #33787 Expires: 2/24/2016
Technical Advisory Committee Member for two terms – Jan 2010 to Jan 2012 & Jan 2012 to Jan 2014

I have been employed with the Washington State Department of Transportation (WSDOT) for 24 years (14 years in Whatcom County). I work in a Project Engineer Office, which administers highway construction contracts. I am a supervisor of an inspection staff. My duties include the following:

- Ensure that the contractor performs work that is in compliance with WSDOT Standard Specifications and Plans.
- Develop solutions to design errors and/or changes that result from discrepancies between the contract and existing field conditions.
- Review proposed changes from the contractor to ensure that they are consistent with applicable WSDOT Standards and policies.

The experience described above would enable me to perform very similar reviews on proposed changes as they are applicable to Land Use Regulations and Comprehensive Plans for Whatcom County.

Describe why you are interested in serving on this commission: I would like the County Council and County Executive to have as much information as they need to prepare them for decisions on issues. My skills and abilities as a Civil Engineer, along with the experience described above, will enable me to review the technical aspects of how Land Use Regulations and Comprehensive Plans may or may not be affected by variances/changes as a result of proposed improvements. I believe that my experience and skills will enable me to provide open perspective on issues from an engineering standpoint, which will enable the County Council and County Executive to have access to complete information on these types of issues. As a result, they will be able to continue to make informed and accurate decisions related to Land Use Regulations and Comprehensive Plans.

I am an employee of WSDOT and therefore do some business with Whatcom County: One of my tasks in my current position with WSDOT requires that I perform field reviews with County inspectors of the condition of County roads before and after traffic detours have been utilized for the construction work on State highways. We agree on whether or not any damage has been done to the County roads as a result of a given detour. If there is damage, I work with the County inspector to determine the best course of action to make repairs to the damaged areas. Final decisions from WSDOT for the agreements that are administered with our office are made by my supervisor. These reviews occur approximately once per year.

References:
Chris Damito, PE WSDOT Project Engineer - 360-788-7403
Patrick Fuller, PE WSDOT Asst Project Engineer – 206-805-2960
Debbie & Jason Vanderveen - 360-354-1194
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Keith E. Glading

Street Address: 1905 Province Road

City: Point Roberts, WA

Zip Code: 98281-9322

Day Telephone: 360.945.3436  Evening Telephone: 360.945.3436  Cell Phone: 778.886.6056

E-mail address: kgiading@alumni.uvic.ca

Name of board or committee — please see reverse:

Point Roberts Community Advisory Committee

open "At Large" member

1. Name of board or committee please see reverse: Point Roberts Community Advisory Committee

2. You must specify which position you are applying for.

Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying? (If applicable, please refer to vacancy list.) (x) yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two (x) Three

5. Are you a US citizen? (x) yes ( ) no

6. Are you registered to vote in Whatcom County? (x) yes ( ) no

7. Have you ever been a member of this Board/Commission? ( ) yes (x) no

If yes, dates: ____________________________

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes (x) no

If yes, please explain: __________________________________________

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

I am a retired computer programmer/analyst with a First Class Honours Philosophy degree from the University of Victoria.

10. Please describe why you're interested in serving on this board or commission:

I have been attending meetings for the past year and am interested in bettering Point Roberts.

References (please include daytime telephone number): Arlene Belless 360.945.5043

Judson Meraw 360.945.0533  Arthur Reber 360.945.5073

Signature of applicant: ______________________

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Ken Clark
Street Address: 2116 Whalen Drive
City: Point Roberts
Zip Code: 98281
Mailing Address (if different from street address):
Day Telephone: 360 945 3031  Evening Telephone: 604 816 5791  Cell Phone: 604 816 5791
E-mail address: Rondaleclark@gmail.com

1. Name of board or committee—please see reverse: Point Roberts Community Advisory Committee
   REPRESENTATIVE FROM PRTA

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.)  ( ) One  ( ) Two  ( ) Three
   ( ) yes  ( ) no

4. Which Council district do you live in?
   ( ) One  ( ) Two  ( ) Three
   ( ) yes  ( ) no

5. Are you a US citizen?
   ( ) yes  ( ) no

6. Are you registered to vote in Whatcom County?
   ( ) yes  ( ) no

   If yes, dates:

7. Have you ever been a member of this Board/Commission?
   ( ) yes  ( ) no

   If yes, please explain:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   ( ) yes  ( ) no

   If yes, please explain:

   You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   RETIRED, WHEN EMPLOYED HE HAD SENIOR MANAGEMENT POSITIONS WITH A LARGE CANADIAN CORPORATION
   HAD EXPERIENCE IN SALES, MARKETING, TRAINING, BUDGETING, HUMAN RESOURCES, AND TOTAL QUALITY MGT.
   BA AND MA COMMUNICATIONS PLUS POST GRADUATE STUDIES. OVER MY PROFESSIONAL CAREER SERVED ON A VARIETY
   OF COMMUNITY AND PROFESSIONAL ORGANIZATIONS

10. Please describe why you’re interested in serving on this board or commission:
    It is time for me to contribute to the community. Being relatively new to the Point, I came with
    no bias, positions or agenda.

References (please include daytime telephone number): Jennifer Urrutia 360 945 1061, Scott
Hackerman 360 945 1522; Arthur Reber 360 945 2795

Signature of applicant: Ken Clark

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available to the County Council, County Executive, and the public. All board and commission members are
expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these
expectations may result in revocation of appointment and removal from the appointive position.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: STEVEN J. WOLF
Street Address: 1900 CLIFF ROAD
City: POINT ROBERTS, WA
Zip Code: 98281

Date: 11/26/2014

Mailing Address (if different from street address):

Day Telephone: 360-945-041K
Evening Telephone: 360-945-1061
Cell Phone: 360-945-041K
E-mail address: SWOLF@INTER-125-GATEWAY.COM

1. Name of board or committee—please see reverse:
   D.J. Comm. Advisory Committee

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.)
   ( ) yes ( ) no

4. Which Council district do you live in?
   ( ) One ( ) Two ( ) Three

5. Are you a US citizen?
   ( ) yes ( ) no

6. Are you registered to vote in Whatcom County?
   ( ) yes ( ) no

7. Have you ever been a member of this Board/Commission?
   ( ) yes ( ) no

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   ( ) yes ( ) no
   If yes, please explain: ________________________________________________________________

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education:
   TECHNOLOGY EXECUTIVE, CTO/EVP, ALL CLEAR DIAGNOSTICS INC.
   MEMBER OF BELL BAY, CIVIL ENGINEERING TUNNEL, KUHL, AND HOUSES.
   MEMBER OF PRB, BAY, LOCAL, CORPORATE, CIVIL.

10. Please describe why you’re interested in serving on this board or commission:
    TO ADVISE THE COUNCIL ON PLANNING, ENGINEERING, ZONING,
    BUILDING, ARCHITECTURE, ZONING LAW (COMPLAINTS), CONSTRUCTION
    FOR ITALIAN ILLE TO STAY UNIQUENESS AND ADVANCE.

References (please include daytime telephone number):
   DONNA O’BRIEN 945-5875
   JENNIFER ULQUAN 945-1061, SUZANNE COFFEE 945-0418

Signature of applicant: __________________________

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TO: Jack Louws, County Executive  
FROM: Elizabeth Harmon-Craig, Veterans Specialist  
DATE: January 9, 2015  
RE: Nomination for Initial Appointment to the Veterans’ Advisory Board

A position on our Veterans Advisory Board (VAB) became vacant upon the resignation of a member who moved to another state. The Nominating Committee of the VAB met this week to review the applications of seven very qualified individuals who seek consideration to fill the Board vacancy. The goals of the Nominating Committee were two-fold: to identify an applicant that would bring a unique voice, passion and commitment to the Advisory Board, and to ensure balance in the representation of service era with emphasis on OIF/OEF. The vacant position was recently filled by an OIF/OEF Veteran.

After careful consideration, the Nominating Committee would like to recommend the appointment of Ms. Jennifer Walters to the VAB. Ms. Walters recently retired from a 20-year military career, serving in both the Navy and the Army. She was deployed during the OIF/OEF era, serving in both Kuwait and Afghanistan. She currently attends Huxley College at Western Washington University pursuing her Master’s degree in Environmental Education, and has made Whatcom County her permanent home.

Ms. Walters is a member of the American Legion, Post 7, and she actively participates in a number of other veteran activities in the community. She has initiated a number of local veteran events and dedicates her free time to helping local Veterans reintegrate with their community upon discharge from the military. She believes her recent personal experiences with community reintegration upon discharge from active duty will provide new perspective and guidance to the VAB in program planning for our local Veterans.

Thank you for considering this recommendation for appointment.
13 November 2014

Jennifer K Walters
M.Ed. Graduate Student
5099 Fern Street
Birch Bay, WA 98230
Jennifer_walters@ncascades.org
WalterJ@students.wwu.edu

To whom it may concern,

I am writing to express my interest in the Whatcom County Veteran’s Advisory Board Member opportunity. I am drawn to this opportunity because of my affiliation with the military and status as a veteran in Whatcom County.

As you will see in my resume, I am a 20 year military veteran. For the last three years I have been stationed in Northwest Washington. In August of this year I was released from Active Duty and relocate to Whatcom County in order to attend Western Washington University. I am currently a graduate student in the Huxley College of Environmental Studies pursuing a Masters of Environmental Education. Ultimately, I intend to merge my past experiences and knowledge with my passions and future goals of connecting veterans with outdoor expedition, employment, and environmental education opportunities.

Due to my military service, I have a vast amount of experience and connections with the military and veteran community that sets me up to be an ideal candidate for the Veteran’s Advisory Board. I’m seeking this opportunity due to the nature of the position. I am incredibly interested in lending a voice to the community and connecting veterans with available resources. I feel this position would be incredibly valuable because of all that I have to offer and all that I will gain from the experience. It is very important to me that veterans, including myself, are encouraged to be good and effective stewards of their communities. Being a member of the Whatcom County Veteran’s Advisory Board is one way I can connect veterans with their community and the community with their veterans.

I am motivated to apply my experiences, knowledge and stewardship to Whatcom County. I’m confident I’d be a great asset to the Veteran’s Advisory Board. I’m excited about this opportunity.

Very respectfully,

Jennifer Walters
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

Name: JENNIFER WALTERS  Date: 13 NOV 14

Street Address: 5099 FERN ST
City: BIRCH BAY  Zip Code: 98230
Mailing Address (if different from street address): N/A
Day Telephone: Evening Telephone: Call Phone: 467-4116-4123
E-mail address: WALTERS@SUNDAYS.WWW.EUD, JENNIFER.K.WALTERS@HOTMAIL.COM

1. Name of board or committee-please see reverse: Veterans Advisory Board

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying? (If applicable, please refer to vacancy list.)
   Yes ( ) No ( )

4. Which Council district do you live in?
   One ( ) Two ( ) Three ( )

5. Are you a US citizen?
   Yes ( ) No ( )

6. Are you registered to vote in Whatcom County?
   Yes ( ) No ( )

7. Have you ever been a member of this Board/Commission?
   Yes ( ) No ( )

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   Yes ( ) No ( )

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

   Current graduate student ( ) Law ( ) Please refer to resume attached.

10. Please describe why you're interested in serving on this board or commission: As a 20 yr Army Veteran, I am very interested in the current affairs of veterans, specifically Whatcom County veterans. I have a lot of knowledge and experience to bring to the board.

References (please include daytime telephone number): Ann Beck - 360-650-4324

Signature of applicant: [Signature]

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Jennifer K. Walters
5099 Fern Street, Birch Bay, WA 98230 (402) 416-4606

**Significant Military Experience**

**1996-Current**  **US Army, Area of Expertise: Logistics**

Subject matter expert at planning and directing logistics operations from the factory to the foxhole, across the entire spectrum of logistics functions (arm, fix, fuel, move and sustain the force). Direct experience in synchronizing and integrating the functions of supply and services, transportation, maintenance, aviation logistics, and medical service.

**2011-2014**  **Training Officer, 364 Expeditionary Sustainment Command, Marysville WA**

Responsible for the training management of 3,800 individual Soldiers (job skills, leadership education) and collective training for 48 units (tactical and combat) in accordance with Department of the Army and the United States Army Reserve Command training guidance. Advise units on proper planning techniques for a five year Armed Forces combat training cycle, analyze data from multiple systems to identify trends for areas of strengths and weaknesses, and coordinated and evaluated training management teams throughout the chain of command and provided instruction of the use of database systems. Supervised a staff of four non-commissioned officers.

**2008-2010**  **Logistics Management Officer, 354 Civil Affairs Brigade, Riverdale, MD and Kabul, AF**

Managed all logistical activities and requirements to successfully deploy 55 Soldiers and over $2 million worth of equipment to 6 different locations throughout Afghanistan. Also assigned to a Joint NATO Command, planned and coordinated all air, ground, and security logistical support for 14 Afghan ministry visits, with up to 26 Afghan ministry representatives and coalition partners to various secure and unsecured locations throughout Afghanistan. In addition, conducted research/analysis on development, corruption, security, and capabilities of afghan borders control points and airports.

**2004-2005**  **Ammunition Platoon Leader, 295 Ordnance Company, Kuwait**

Responsible for managing an ammunition platoon of 44 Soldiers in Kuwait in support of Operation Iraqi Freedom. Supervised technical and tactical training prior to deployment. Ensured that Soldiers were technically, tactically and mentally prepared for the rigors of wartime environment. Directly responsible for over 152 million dollars of ammunition across 7 storage pads, 3 separate download missions valued at over 26 million dollars, ammo retrograde mission valued at over 66 million dollars, and four separate ammo missions across 5 separate camps located throughout Kuwait in support of thousands of
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Annual appointments to Council boards and commissions

**ATTACHMENTS:**
applications

**SEPA review required?** ( ) Yes ( ) NO
**SEPA review completed?** ( ) Yes ( ) NO

**Should Clerk schedule a hearing?** ( ) Yes ( ) 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.)

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
1/13/2015: Various appointments filled. See attached. Planning Commission appointments held to January 27 Council Meeting. Application deadline extended to 10:00 a.m., January 20.

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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](http://www.co.whatcom.wa.us/council)
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: David Onkels                    Date: January 5, 2015
Street Address: 2154 E Birch St     
Cty: Bellingham, WA                Zip Code: 98229
Mailing Address (if different from street address):  
Day Telephone: 360-389-2519         Evening Telephone: 
Cell Phone: 360-296-1243           
E-mail address: david@onkels.com

1. Name of board or committee-please see reverse: Planning Commission
   Member

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) (X) yes ( ) no

4. Which Council district do you live in? (X) One ( ) Two ( ) Three

5. Are you a US citizen? (X) yes ( ) no

6. Are you registered to vote in Whatcom County? (X) yes ( ) no

7. Have you ever been a member of this Board/Commission? (X) yes ( ) no
   If yes, dates: January 2011-January 2015

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes (X) no
   If yes, please explain: I was a homebuilder in Bellingham and Whatcom County for decades prior to my retirement. My educational areas of focus were economics and chemistry. I am an enthusiastic student of geography, politics, demographic trends, and planning.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education. I was a homebuilder in Bellingham and Whatcom County for decades prior to my retirement. My educational areas of focus were economics and chemistry. I am an enthusiastic student of geography, politics, demographic trends, and planning.

10. Please describe why you’re interested in serving on this board or commission: I have served one four-year term on the Commission, the last year as Chair. I took care to invest the time to read the packet before each meeting and to conduct whatever field research was suggested by the issue before the commission. Chairman Luke and I held pre-meetings with PDS staff before each meeting when she was chair. I have continued that tradition with important issues.

References (please include daytime telephone number):  

Signature of applicant: David Onkels

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Christina Maginnis
Street Address: 2430 Henry Street
City: Bellingham
Mailing Address (if different from street address): 
Day Telephone: 360 714-8240 Evening Telephone: 360 961-8147
E-mail address: christina.maginnis@gmail.com

Date: 1/5/15
Zip Code: 98225

1. Name of board or committee—please see reverse: Planning Commission

2. You must specify which position you are applying for. Please refer to vacancy list.

   District 1

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) Yes ( ) No ( )

4. Which Council district do you live in? One ( ) Two ( ) Three ( )

5. Are you a US citizen? Yes ( ) No ( )

6. Are you registered to vote in Whatcom County? Yes ( ) No ( )

7. Have you ever been a member of this Board/Commission? Yes ( ) No ( )

If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? Employed by WA State Dept. of Ecology Yes ( ) No ( )

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education. See attached resume

10. Please describe why you’re interested in serving on this board or commission: See other side

References (please include daytime telephone number): Andrea Maclellan 360 927-3050
      John Stokman 360 510-3059

Signature of applicant: Christina Maginnis

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10. I am interested in serving on the Planning Commission because I want to improve the land use recommendations and Comprehensive Plan updates being forwarded to staff and Council over the next 4 years. My professional knowledge and local experience in environmental science & policy related to water, stormwater, and land use would be an asset, adding depth and diversity to the current Planning Commission. I bring a willingness to listen and understand other perspectives, and incorporate public feedback during hearings in a meaningful way. This open and responsive attitude would encourage citizens to fully participate in County Comprehensive Plan updates, and land use discussions at the Planning Commission meetings.
Christina M. Maginnis
2430 Henry Street Bellingham, WA 98225
(360) 961-8147
christinamaginnis@gmail.com

SKILL HIGHLIGHTS

- Sixteen years professional experience in Water Resource Management; Eight with WA state government
- Extensive knowledge and application of state and local stormwater regulations and permitting
- Water quality grant and loan negotiation and project management
- Communication of technical information to various stakeholders through public meetings, trainings, workshops, and news media releases

RELEVANT EXPERIENCE

Management
- Oversee compliance with 19 NPDES Municipal Stormwater Permits in Whatcom, Skagit, and Island counties
- Participate in statewide Municipal Stormwater Permit team to consistently implement stormwater permits
- Manage water quality grant and loan projects for local governments and non-profits
- Plan and accomplish multiple and dynamic job responsibilities within prescribed time frames and budgets
- Assist staff with watershed planning and land acquisitions
- Supervise undergraduate students and interns

Technical
- Conduct stormwater permit review and revision for re-issuance of permit in 2012 and modification in 2014
- Evaluate annual state water quality and stormwater grant and loan applications
- Negotiate contracts, budgets, and schedules with successful grant and loan recipients
- Prepare environmental field assessments for watershed properties
- Proficient with MS Office, Email, and social media

Communication
- Develop trainings, workshops, and guidance materials for stormwater permits and statewide grant programs
- Present at public meetings to communicate stormwater and water quality policy and grant guidelines
- Develop partnerships with public agencies and private sector, university researchers, and community groups
- Coordinate with environmental planning and management staff, public and private agencies, and groups involved in habitat restoration

Research
- Collect, compile, analyze, interpret and manage water quality data
- Develop methods and framework for integrating human health and ecological risk assessment models
- Research methods and summarize findings for determining barriers to fish and wildlife at road crossings
Christina M. Maginnis
2430 Henry St. Bellingham, WA 98225
(360) 961-8147
christinamaginnis@gmail.com

EDUCATION

Masters of Science, Environmental Science, Western Washington University December 2006
Bachelor of Science, Natural Resource Science, University of Massachusetts September 1998

PROFESSIONAL HISTORY

Municipal Stormwater Specialist, WA Department of Ecology, Bellingham WA, January 2007 – Present
  Compliance and technical oversight for NPDES Municipal Stormwater Permits;
  Manage Centennial Clean Water Fund grant and State Revolving Fund loan projects

  Thesis: A Screening level Integrated Ecological and Human Health Risk Assessment for Lake Whatcom

Stormwater /Watershed Intern, City of Bellingham Public Works, Bellingham WA, April 2003 – Sept. 2005
  Field inspection of construction sites to ensure compliance with stormwater policies and codes
  Sampled and analyzed dry weather stormwater flows in Padden Creek watershed.
  Conducted environmental field assessments of watershed properties and restoration sites
  Worked with citizen volunteers on Mayor’s Watershed Advisory Board

Project Coordinator, Water Resources Research Center, Amherst MA, Dec 2000–Dec 2002
  Coordinated statewide Acid Rain Monitoring project with 100 volunteers and 16 laboratories
  Program development, coordination of volunteer recruitment and training, field work, and data management
  for Stream Continuity Project which inventoried culverts for fish passage

COMMUNITY INVOLVEMENT

Mayor’s Watershed Advisory Board 2006-2014
Candidate for Whatcom County Council, District 2 2011
Community Emergency Response Team (CERT) volunteer 2010
Watershed Master/ Beach Watcher volunteer, WSU, Extension 2005
North Cascades Community Band 2003-2004
Nooksack Salmon Enhancement Association (NSEA) Stream Steward 2003-2004
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Susan Templeton
Street Address: 2327 Northshore RD
City: Bellingham, WA
Mailing Address (if different from street address): PO Box 2274 Bellingham WA 98227
Day Telephone: 360-756-2570 Evening Telephone: 
Cell Phone: 360-220-2997
E-mail address: susan@lcanetter.com

Date: 01/06/2015

1. Name of board or committee—please see reverse: Planning Commission

2. You must specify which position you are applying for. Please refer to vacancy list: District 1 Member

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)

4. Which Council district do you live in? (X) One ( ) Two ( ) Three

5. Are you a US citizen? (X) yes ( ) no

6. Are you registered to vote in Whatcom County? (X) yes ( ) no

7. Have you ever been a member of this Board/Commission? ( ) yes (X) no

If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? (X) yes ( ) no

If yes, please explain: Salaried Officer of Washington Federal

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

Currently: Assistant Branch Manager of Washington Federal/ Cornwall Ave Branch

Formerly: Mortgage Lender since 2003 in Whatcom County

Hold a Bachelor of Environmental Design/Visual from NCSU (former advertising Creative Director)

10. Please describe why you’re interested in serving on this board or commission: As an engaged business person, I am eager to assist the forward planning process to create a more balanced approach to our vast shared resource needs and assure long term socio-economic health of our region.

References (please include daytime telephone number): Bob Ross, AIA: 360-676-4443

Daniel Haygeman: 360-815-4273

Signature of applicant: Y

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Matthew Burke
Street Address: 1305 W. Clearbrook Drive #17
City: Bellingham WA
Mailing Address (if different from street address): Same
Day Telephone: 360-333-8574 Evening Telephone: 
Cell Phone: 360-333-8574
E-mail address: Matthew.Burke1@gmail.com

Date: 1/16/15

1. Name of board or committee—please see reverse:
Planning Commission

2. You must specify which position you are applying for.
Please refer to vacancy list.
Council District 1

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
(If applicable, please refer to vacancy list.)

4. Which Council district do you live in?
One ( ) Two ( ) Three ( )

5. Are you a US citizen?
Yes ( ) No ( )

6. Are you registered to vote in Whatcom County?
Yes ( ) No ( )

7. Have you ever been a member of this Board/Commission?
Yes ( ) No ( )

If yes, dates: N/A

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
Yes ( ) No ( )

If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
residential appraiser and consultant who serves on the Whatcom Watershed Advisory Board and the Whatcom County Board of Equalization as an alternate.

10. Please describe why you’re interested in serving on this board or commission:
I have worked in government for 12 years on matters relating to zoning and land use rules and have a lot to offer in this area of interest to me.

References (please include daytime telephone number):
Doug Williams 206-471-2784
Leslie Bryson 360-778-7000, John Romiker 360-676-6190

Signature of applicant: Matthew Burke

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MATTHEW WILSON BURKE
1305 W. Clearbrook Drive #17, Bellingham Washington 98229, mattburkel@gmail.com, 360.333.8574

Bellingham, WA

Real Property Consulting  Self Employment  2014-Present
- Provide technical assistance to Skagitian Preserve Farmland on; legal and title issues
- Values residential properties as an independent fee appraiser in Whatcom and Skagit County
- Working with the Skagit Watershed Council on threat/valuation studies within the watershed
- Newest member of the City of Bellingham Lake Whatcom Watershed Advisory Board
- Alternate position on the Whatcom County Board of Equalization until 2016

Property Acquisition  City of Bellingham – Parks & Recreation Dept  2007-2009
- Actively administered appraisals, acquisitions and other public works service contracts
- Lead property advisory committee on site walks and responded to technical questions
- Received local tribal agencies archaeological waivers as part of grant requirements
- Served as technical advisor to senior management on the matters of property rights
- Coordinated the acquisition record into the public multi-faceted tracking system
- Secured state and federal dollars on multiple land acquisitions for future park development

Appraiser  Whatcom County – Assessor’s Office  2003-2007
- Appraised specialized properties that included a working knowledge of and exposure to property legal descriptions, land title reports and public instruments of ownership
- Made numerous effective and persuasive oral and written communications at the Board of Equalization and State hearings on appraisal matters of a technical nature

Seattle, WA

Project Administrator  King County – Department of Natural Resources  1999-2001

Real Property Agent  King County – Facilities Management Division  2010-2014
- Purchased critical areas along the Cedar River as part of habitat/flood protection efforts
- Addressed the issue of water rights value during an acquisition along the Cedar River
- Acquired an EPA Superfund site as part of an open space habitat protection program
- Handled the relocation of a park maintenance facility as part of wastewater treatment project
- Successfully review thousands utility projects for environmental and BMP requirements

Real Property Consulting  Self Employment  2001-2003
- Clients: Whalen Co, Northern Appraisal, Kensington Apartments, Universal Field Services
- Completed several leases and permits for wireless equipment in the Seattle to Portland area
- Coordinated gas and power easement agreements for a local utility company
- Provided complete fee appraisal services to lenders in the metro Seattle market
- Property managed a large apartment complex in the Capitol Hill neighborhood of Seattle

Americorp VISTA  Seattle Habitat for Humanity  1998-1999
- Worked with local families in providing affordable housing in urban neighborhoods
- Received several grants for recycling efforts and neighborhood youth groups
- Established a warehouse and inventory tracking system for non-profit home builder

Education

John Hopkins University,  Baltimore, Maryland  1996-1998
- M.S., Masters of Science Business

Radford University,  Radford, Virginia  1988-1992
- B.B.A., Bachelors of Business Administration

Licenses
- Certified Real Estate Appraiser of Washington  2004-2014
- Real Estate Broker of Washington  2002-2015
September 26, 2007

To Whom It May Concern:

I am writing this letter to acknowledge my association with Matthew Burke. In my capacity as a Commercial Real Estate Appraiser, I have had the pleasure of working with Matthew while he was employed as a Residential Real Estate Appraiser at the Whatcom County Assessor's Office.

Matthew began his tenure as a residential appraiser in September of 2003, and was employed until April of 2007. The position that Matthew held at the Assessor's during this period required a complete knowledge of the real estate market. In order to appraise multiple and diverse property types, Matthew would have to conduct extensive market research, and data analysis on all residential, multi-family units, farms, as well as vacant Industrial and commercial zoned land. He had to become familiar with all types of applicable zoning, wetland issues, and land use regulations established by city and county government entities. After a thorough analysis of all data, his position required a physical inspection of each property. This required a complete understanding of specific improvement classifications, measuring and confirming building square footage, land use restrictions, effects of structural depreciation, and physical, functional, and economic obsolescence. The final valuation step was to make application of market driven valuation models in order to establish fair market appraisal value.

The Whatcom County Assessor employs thirteen appraisers. Prior to my promotion to a commercial appraiser, I had the responsibility of establishing a program for appraiser training. With my exposure to the appraisal staff, I observed immediately that Matthew was the most capable and professional appraiser in the office. He is knowledgeable, and highly detail oriented. The analysis of market, cost, and income data models that Matthew developed were exemplary, setting a standard of excellence for the entire appraisal staff. In addition to Matthew's professional qualifications, I found him to be very personable, and enjoyable to work with. I would not hesitate to recommend Matthew for any position that he might pursue.

Sincerely,

[Signature]

John N. Lemperes
Commercial Appraiser IV
Whatcom County Assessor's Office
September 15, 2009

RE: Letter of recommendation for Matthew Burke

To whom it may concern,

This is a letter of recommendation for Matthew Burke who served the City of Bellingham, Parks & Recreation Department, as a property acquisition specialist from April of 2007 to September of 2009. This letter was written in support of Mr. Burke's future employment and educational pursuits. Mr. Burke's position was eliminated in 2009 due to budget cuts and leaves the City of Bellingham in good standing.

During his period of service, Mr. Burke's passion and activism for providing park land to the citizens of Bellingham was second to none. He performed his tasks and job duties admirably during periods of adversity and sought common ground between departments, co-workers, property owners and consultants. Mr. Burke bridged deficits in communications with the greatest of clarification. His personality is adjustable to work styles radically different than his own, which serves him well in the project team setting. His power of common sense and deductive reasoning on several public works projects saved precious tax dollars. His work ethic helped assemble some of the most complex land acquisitions ever purchased by this department. His interpersonal skills balanced diplomacy to a level of office stability and team cohesion. He is not a person who rushes to judgment, nor is he a person who creates drama and stress for those around him. His spirit is that of cooperation, combined with his desire to uphold his end of the bargain. His motivation to learn from his peers and to receive training is extremely beneficial to any organization to which his services are engaged. For example, Mr. Burke obtained considerable new GIS mapping and Access database skills which increased his quality of work.

Whether it is in the capacity of future employment, self employment or a return back to school, Mr. Burke's strength of character and sheer determination will generate positive outcomes for all those around him. Matt has an attitude that is conducive to success. If given the opportunity to employ him again we would. It is with our fullest support and best wishes that we give him this recommendation. Should you have any questions about this letter, please contact me at 360-778-7000. Thank you.

Sincerely,

Paul Leuthold
Parks & Recreation Director
To Whom It May Concern:  September 16, 2009

I am writing to recommend Matt W. Burke as a very valuable prospective employee.


We have over 50 members and currently bring in 30 to 50 attendees at our monthly meetings regarding neighborhood growth and amenity needs.

Ever since Matt joined the Bellingham Parks and Recreation staff he has been interested in our concerns and supportive of our efforts to obtain more parks, open spaces and trails. In addition to that he has volunteered to help build our first community garden of some 50 plots and has been a great advocate for us within the Parks Dept.

I am available by phone or email if you would like to contact me regarding Matt.

Sincerely,

Julianna Guy
Juliannaguy@comcast.net
360 738 8466
4559 El Dorado Way, Unit 226
Bellingham, Wa 98226

Retired President of Alaska Public Radio Network
Past President of CBS TV and Radio Affiliate in Anchorage, Ak
Retired CPA
Certificate of Successful Completion

MATTHEW BURKE

This is to certify attendance at the "Zoning, Subdivision and Land Development Law" seminar presented November 27, 2007 in Bellingham, WA.

This course may be eligible for 6.0 hours of CE credit, subject to review and approval from APA later on this summer. Until such review is conducted, please maintain the appropriate paperwork as evidence of attendance and program content.

"Lorman Business Center, Inc." is registered with the AIA Continuing Education System (AIA/CES). This 6.00 hour program offers 6.00 Learning Unit hours, which will be reported directly to the AIA/CES for AIA members. This program qualifies for 6.00 hours of Health, Safety, Welfare (HSW). Provider Number: J2066. Program Number: 108040.

This program has been approved by the Washington State Board of Continuing Legal Education for 6.00 hours of credit. Course Number: 166419.

Approved for 7.0 real estate clock hours in Washington. Course Number: CS473.

This seminar may qualify for 6.0 PDH's required by the Department of Licensing, Engineers and Land Surveyors for land surveyors.

Lorman Business Center, Inc. is a State Bar of California approved MCLE sponsor and this course qualifies for 6.00 CLE hours. Sponsor # 1179.

Lorman Business Center, Inc. is an Authorized Provider by the International Association of Continuing Education and Training (IACET). Lorman Business Center, Inc. has awarded 0.60 CEUs to participants who successfully complete this program. Participants must complete an evaluation in order to receive CEUs.

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Kari J. Campbell
Director of Curriculum
374051
Washington State University

Certificate of Attendance

Matthew Burke

has completed the 7.5 hour course

Land Development

WSU Island County Extension  Coupeville Washington

Don Meehan, WSU/Island County Extension Agent

WASHINGTON STATE UNIVERSITY

WASHINGTON STATE UNIVERSITY

Washington State
Department of Licensing
Attorney Course Number: AP1470

March 27, 2006
Certificate of Completion

This is to certify that

Matthew Burke

has satisfactorily completed a course entitled

Real Estate Law (6928)

Summer Quarter 2003
3 Credits/30 Clock Hours

Paul A. Boyum
Vice President Workforce Development

Richard Holland
Instructor

Bellevue Community College
CONTINUING EDUCATION
BELLEVUE, WASHINGTON
The International Right of Way Association

Awards this certificate to

Matthew Wilson Burke

In recognition of satisfactory attendance and completion of

800 - Principles of Real Estate Law

16.00 Classroom Hours
01/10/2012 to 01/11/2012

Janet Walker, SR/WA, R/W/MAC Chair, International Professional Development Committee

Randy A. Williams, SR/WA, M/AR, FRICS International President
Washington State Department of Revenue
and Washington State Association of County Assessors

Certificate of Attendance

This is to certify that

Matthew Burke

Attended the

Real Estate Law

November 6, 2012

[Signature]

Mike Braaten
County Performance & Admin. Manager
Property Tax Division

6 Continuing Education Hours
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Michael T. Knapp
Street Address: 592 West Lake Samish Dr.
City: Bellingham, Wa. 98229
Mailing Address (if different from street address):
Day Telephone: 360-715-8461 Evening Telephone: 360-715-8461 Cell Phone: 360-770-2110
E-mail address: mknapp40@hotmail.com & cityplanningfutures@hotmail.com

1. Name of board or committee: please see reverse: Planning Commission
2. You must specify which position you are applying for. Please refer to vacancy list.
   District 1
3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.)
4. Which Council district do you live in? One ( ) Two ( ) Three ( )
5. Are you a US citizen? ( ) yes ( ) no
6. Are you registered to vote in Whatcom County? ( ) yes ( ) no
7. Have you ever been a member of this Board/Commission? ( ) yes ( ) no
   If yes, dates:
8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes ( ) no
   If yes, please explain: Please note that I did provide staff support (1996-2000)
9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   As an Architect/Urban Planner with more than 40 years experience in Comprehensive Planning, Land use & Transportation planning and as Director of Planning for City of Seattle, Whatcom Co. and International Planning for Parsons & The Saudi Royal Commission of Dubai, UAE. I am uniquely qualified for this position with a Bachelor Architecture, Masters in Urban Planning and Masters in Public Administration
10. Please describe why you’re interested in serving on this board or commission: The future of city & county GOVT. in Whatcom County along with its along with its urban/rural growth.

References (please include daytime telephone number):
Michael Lillquist (778-8219); Barbara Brenner (384-2162); Shawn Waters (206-850-9630); Robert Young (563-580-6210)

Signature of applicant: Michael T. Knapp

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PLANNING COMMISSION MEMBER DISTRICT #1

Profile Synopsis:

My education and experience uniquely qualifies me for this position with approximately 35-40 years of professional experience locally and internationally within Washington State and in both the UAE and Saudi Arabia as detailed below.

Key strengths for this position include strong economic and business development expertise to promote targeted sectors such as advanced manufacturing (example: Development of Industrial City of Yanbu, Saudi Arabia); Technology and Health and Wellness as well as strategies that support the efforts of the Innovation Partnership Zone (IPZ) – Value Added Agriculture;

Coordination closely to advance economic development efforts;

Network with business, commercial real estate brokers and other entities in the region;

Maintain database for planning information, including community economic data, organizations and individuals concerned about planning issues, various community resources, etc.


Recognized as a proactive individual reviewing proposals submitted for public sector projects as well as writing and submitting proposals to both public and private sector clients in challenging environments;

Translating political objectives into strategy for implementing municipal objectives;

Played strategic and visionary roles while managing capital facilities and capital infrastructure;

Proficient with various community, Industrial and resort criteria for master planning in the Middle East, Florida, California and Washington State, USA;

An effective planner in organizing and writing comprehensive Master Plans;

Extensive experience in projects pertaining to economic development, Community-Industrial Urban Development and Airport Industrial expansion;

Served as a Planning Director for small and large Cities, Counties and Private Sector Organizations to demonstrate negotiation, delegation and team building;

Developed private sector job growth framework while setting up private sector friendly Government regulations;

Mistakes in Judgement become valuable Lessons Learned and as a planner, I have at least one Lesson that I will always remember but seldom share and never will allow that to happen again.
Special Mention:
- Recognized as the 'Best Speaker' with Toastmaster International;
- Prepared Urban Design Master's Thesis on Industrial New Town Planning and Historic Town Planning;
- Chamber of Commerce Award for Community Planning and History of Area.

Key Skills:
Community and Industrial Master Planning; Capital Facilities & Infrastructure Planning & Implementation, Mixed Use Urban Design/Planning; Architectural Design; Design Review; Forecasting Industrial, Residential & Commercial Growth; Land Use Budgets & Land Use Regulations; Mixed Use Master Town Planning; Team Management; Transportation & Airport Planning, Historic Preservation & Urban Design.

Key Deliverables across Career Span:

Strategic & Visionary Roles
- Served as Planning & Community Director and Master Planner for cities, counties and private sector companies
- Recommending changes in zoning regulations with related policies, procedures & Urban Design/Industrial Planning criteria;
- Incorporating the latest Urban Design concepts, policies and procedures for community, industrial and recreational master planning and Urban Design in cities, counties and private sector projects;
- Planning and Urban Design restraints influencing planning update of the Yanbu Industrial & Community Master Plan.

Organizational Roles
- Coordinating Mixed Use Urban Design/Planning projects with other project/team leaders, city departments, private developers and community groups;
- Implemented Capital Improvement Plans (CIP) including Mixed Use Urban Design related development of facilities for parks, transportation and utilities;
- Monitoring expenditures, budgets and Administration of Policies and Programs;
- Monitoring of all activities of airport city projects within large budgets for Urban Design, Planning, parks, human services and complex airport issues for City Center Development and Airport Industrial land use;

Architectural Roles
- Served as Architect and City Planner
- Developed and reviewed mixed use master plans, urban design and layouts for large industrial developments which involve multiple process facilities;
- Reviewing applications for residential, commercial and industrial development projects;

Management Roles
- Recommended training and development requirements for master planning and urban design staff;
- Developed team and managed staff for infrastructural activities for development of facilities and urban design for parks, transportation and utilities;
- Working within the provisions and guidelines of Quality Assurance Systems;
- Writing professional proposals for Urban Design, Master Planning, Recreational Planning and Community and Industrial Master Planning;
- Providing Computer Technology improvements for better customer service.
Career Progression:

CEO, Manager/Director/Owner
City Planning Futures LLC, Bellingham, WA
Aug 2009 – Current

Project Manager (PMO)
Parsons International Ltd, Dubai, U.A.E
Mar 2007 – Aug 2008

Principal Planner/Royal Commission Planning & Budget
Saudi Arabian Parsons Ltd, Yanbu Al - Sinaiyah, Kingdom of Saudi Arabia
Sep 2001 – Feb 2007

Director of Planning & Community Development
City of Bonney Lake, Bonney Lake, WA
Oct 2000 – Sep 2001

Director of Planning & Development Services
Whatcom County, Bellingham, WA

Director of Planning & Community Development
City of SeaTac, SeaTac, WA
Mar 1990 – Mar 1996

Senior Planner, Planning & Community Development Dept
City of Bothell, Bothell, WA
Oct 1987 – Feb 1990

Consultant Sacramento Housing & Redevelopment Agency
Planning Futures, CA, NEV, WA
Sep 1985 – Sep 1987

Chief Planner, Growth Management Division
City of Orlando, Orlando, Florida
Jun 1984 – Aug 1985

Community Land Use Principal Planner
City of Bellevue, WA

Architect/Planner
NBBJ Architects, Seattle, WA
Jun 1967 – Sep 1972

Educational Qualifications:

Master Public Administration (Budget & all aspects of Public Admin)
Harvard University / Cambridge, MA
Graduated – Jun 1984

Master Urban Planning (Urban Design & Planning)
University of Washington / Seattle, WA
Graduated – Aug 1974

Bachelor in Science Geography
University of Washington / Seattle, WA
Graduated – Sep 1972

Bachelor of Architecture
University of Oregon / Eugene, OR
Graduated – Dec 1967

Hollywood Film Institute (Graduate)
Screenwriting, Pre/Post Production, Scheduling/Budget, Marketing / Dubia, UAE
Graduated – Jul 2008

Management of Design and Planning Firms
Harvard University Graduate School of Design, Cambridge, MA
Graduated – Jul 1979
Registrations

- AICP (American Institute of Certified Planners - Charter Member 1974)
- Architect, Washington (#2133) & Calif. (#C17494)
- PMP (Project Management Professional - Member #707972)

Professional Affiliations

- Member American Planning Association (APA 1974 – 2015)
- Member American Institute of Certified Planners (AICP 1974 – 2015)
- Washington Chapter APA (State Secretary 1994-96)
- Member APA Economic Development Section-International Focus
- Eastside Transportation Program (Past City Rep. 1988-90)
- Metro Transit Advisory Committee (Past Member)
- International Mobility Trade Corridor (Whatcom Co. Rep)
- SeaTac Rotary International Club Past President (1994 – 1995)
- City of Mill Creek Design Review Board (Past Member)
- Member Creative Screen Writing 2008 – 2015
- Toastmasters International (Best Speaker Award)

- Linkedin: City & Town Planning
- Linkedin: Downtown Revitalization
- Linkedin: GREEN CITIES: Smart Growth & Sustainability for DENSE URBAN context
- Linkedin: Infrastructure Planning
- Linkedin: Infrastructure Finance
- Linkedin: Les Ateliers de Cergy- International Workshop of Urban Development
- Linkedin: Planetizen
- Linkedin: Smart Growth Group
- Linkedin: The Congress of New Urbanism (CNU)
- Linkedin: ULI – The Urban Land Institute
- Linkedin: Universal Architecture
- Linkedin: Urban Design Network
- Linkedin: Urban Planning Group
- Linkedin: Urbanist

- Lake Samish Association Board Member
- Lake Samish History Co Author
- White Center Remembers (Local History)
- Cyber Planet (Screenplay Production)
- Missouri’s Best In Oregon laid to Rest (Screenplay)
- Bloody Bill Anderson Screenplay (Civil War True Story)
- Sheba from her Perspective (Screenplay)
Name: KANE C HALL
Street Address: 2870 MCKENZIE AVE.
City: BELLINGHAM
Date: 1/19/15
Zip Code: 98225

Day Telephone: 360-734-6600
Evening Telephone: 360-784-1112
Cell Phone:
E-mail address: KANEHALL@COMCAST.NET

1. Name of board or committee—please see reverse: PLANNING COMMISSION
2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.) ✔ Yes ( ) No
4. Which Council district do you live in? ✔ One ( ) Two ( ) Three
5. Are you a U.S. citizen? ✔ Yes ( ) No
6. Are you registered to vote in Whatcom County? ✔ Yes ( ) No
7. Have you ever been a member of this Board/Commission? ✔ Yes ( ) No
   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ✔ Yes ( ) No
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   MANAGER OF FAMILY BUSINESS—DAYLIGHT PROPERTIES
   COMMUNITY SOLUTIONS WORKGROUP—COB 2013-14
   TREASURER—FUTUREWISE WHATCOM 2012-2014
   2000- CURRENT

10. Please describe why you’re interested in serving on this board or commission:

References (please include daytime telephone number):

Signature of applicant:

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Nicole Oliver

Street Address: 2300 Walnut St.

City: Bellingham

Mailing Address (If different from street address):

Day Telephone: 778-8310 Evening Telephone: 

Cell Phone: 

E-mail address: nic61v38@gmail.com

Date: 1-18-15

1. Name of board or committee-please see reverse: Planning Commission

2. You must specify which position you are applying for. Please refer to vacancy list: District 1

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a US citizen? ( ) yes ( ) no

6. Are you registered to vote in Whatcom County? ( ) yes ( ) no

7. Have you ever been a member of this Board/Commission? ( ) yes ( ) no

8. Do you or your spouse have a financial interest in or are are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes ( ) no

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

Currently the new Americase System Analyst for the City's Permit System replacement project. Was the Communications Coordinator and project manager in the City's Planning Dept. for 8 years.

10. Please describe why you're interested in serving on this board or commission:

Signature of applicant: 

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Objective
Constructively apply my communications, management, and technological expertise, while
reinforcing a motivated and collaborative work environment.

Experience
Permit System Business Analyst - December 2014 - present
City of Bellingham • 210 Lottie Street, Bellingham, WA 98225

Business process manager for implementation of new permitting software.

I.T. Project and Training Manager • March 2012 - December 2014
City of Bellingham • 625 Halleck Street, Bellingham, WA 98225

Developed and oversaw City-wide Technology Training Program; managed content for
internal (SharePoint) and external City websites (www.cob.org); managed City’s Performance
Measures including data collection and outreach (www.cob.org/metrics); Project Manager
for acquisition of City-wide Enterprise Content Management System; provided video support
to BTY10; provided multi-departmental communications expertise; conducted public
presentations; supervised staff and provided technical Service Desk support.

Planning Department Communications Coordinator • May 2004 – February 2012
City of Bellingham • 210 Lottie Street, Bellingham, WA 98225

Managed high-profile land use planning and development code projects (i.e. Fairhaven
Urban Village and Infill Housing Toolkit); developed and oversaw public relations, public
participation and outreach services; supervised technical and administrative staff; managed
department website content; produced videos; acted as City Communications Manager for
early phases of Waterfront District project; staffed Tourism Commission and $1 million/year
Tourism Fund revenues; Management Team member; facilitated divisive public meetings and
legislative processes; participated in strategic budget and personnel decisions; assisted with
inter-governmental and inter-departmental relations.

Legislative Coordinator, Bellingham City Council • August 1999 – May 2004
City of Bellingham • 210 Lottie Street, Bellingham, WA 98226

Ran all aspects of City Council office including policy analysis, administration of agenda bills,
legislative history and ordinances, public relations and outreach, Inter-governmental relations,
and acted as ombudswoman for City residents and employees.

Graduate Teaching Assistant, Political Science • January 1997 – March 1999
Western Washington University, 516 High Street, Bellingham, WA 98225

Paralegal • January 1992 – October 1996
Simonarson, Visser, Zender & Thurston • 1700 D Street, Bellingham, WA 98225
Traveling volunteer and English teacher • September 1990 – November 1991
Taiwan, Holland and France

Litigation Paralegal/Document Clerk • May 1984 – August 1990
Helsell, Fetterman, Martin, Todd and Hokanson • 1325 4th Avenue, Suite 1500, Seattle, WA

Skills

- Accomplished Project Manager, Communications Manager and Trainer,
- Proficient in communication materials development, website content development and maintenance, social media, public relations, government relations, local government process, public participation and outreach, and meeting facilitation.
- Microsoft Office, SharePoint, Expressions Web, HTML, Adobe, and PIER.
- Certified in Federal Emergency Incident Response Management
- Creative writer, Francophile, hiker, gardener and cross-country skier

Education
Western Washington University, Bellingham
March 1999 • M.A. in Political Science/Environmental Studies

University of Washington, Seattle
August 1989 • B.A. in English Literature

References
- Greg Aucutt, Assistant Director, Planning & Community Development, 360.778.8344
- Gene Knutson, Bellingham City Council Member, 360.734.4686
- Richard Little, Government Relations Consultant, 360.961.2443
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Nicholas Kunkel  Date: 1/15/2015
Street Address: 801 Liberty St #16
City: Bellingham
Mailing Address (if different from street address):
Day Telephone: (360) 389-7663  Evening Telephone: Same
Cell Phone: Same
E-mail address: nicholas.kunkel@gmail.com

1. Name of board or committee—please see reverse: Planning Commission
2. You must specify which position you are applying for. Please refer to vacancy list.
   District 1
3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) (x) yes ( ) no
4. Which Council district do you live in? (x) One ( ) Two ( ) Three
5. Are you a US citizen? (x) yes ( ) no
6. Are you registered to vote in Whatcom County? (x) yes ( ) no
7. Have you ever been a member of this Board/Commission? ( ) yes (x) no
   If yes, dates: N/A
8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? (x) yes ( ) no
   If yes, please explain:
   You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.
9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   Current—Lumber Mill Quality Assurance, Former Tribal Fisheries Biologist
   Former Habitat Monitoring Coordinator, 2014 State House Candidate, LWK Whatcom Watershed Advisory Board Member, Whatcom County Noxious Weed Control Board Member.
   10. Please describe why you’re interested in serving on this board or commission:
       I would like the opportunity to bring the skillset that I have gained in a diverse employment and volunteer background to bring opposing interests together in mutually beneficial ways that sustain Whatcom County’s Character.
       References (please include daytime telephone number): Donald Kruse, Lummi Natural Resources (360) 312-2306  Bob Burr (360) 671-7813  Dana Wilson Lummi Fisheries Commission (360) 961-7445
       Signature of applicant: [Signature]

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NICHOLAS KUNKEL

nicholaspkunkel@gmail.com
801 Liberty St Apt 16, Bellingham, WA 98225
(360) 389-7603

OBJECTIVE

To offer my time and experience in natural resources management, project management, and public outreach to the Whatcom County Planning Commission.

EDUCATION

Whatcom Community College
AAS – Environmental Policy Transfer Degree

- Recipient of Trout Unlimited natural resources education scholarship
- Recipient of AmeriCorps volunteer education scholarship

EXPERIENCE

South Everson Lumber Company | Mission Rd. Everson, WA
Quality Assurance 06/2014 – current

Collaborate with lumber mill employees and technicians to produce optimal Western Red Cedar products in an environmentally sound manner that fortifies the economic and natural character of Whatcom County.

Lummi Natural Resources Department | Kwina Rd. Bellingham, WA
Salmon Harvest Sampling Biologist 08/2012 – 5/2014

Lead salmon and halibut harvest sampling program. Supervise and train 4 rotating field technicians. Data entry and statistical data analysis. Prepare data for RMIS submission. Grant writing and report drafting for grant deliverables. Maintain/audit data accuracy and survey effort continuity. Field sampling and lab prep and analysis of CWT, scale, and otolith samples. Conduct interviews with fishers to characterize fishery. Coordinate with multiple agencies including WDFW, CDFO, and IPHC. Work with FRAM coho model organizers to assemble data inputs. Assist monitoring team with spawning grounds surveys and smolt trap maintenance. Participation in oil spill drills and nearshore boom deployment.

Nooksack Salmon Enhancement Association | E. Bakerview Rd.
Bellingham, WA
Environmental Monitoring Coordinator 09/2011 – 08/2012

Coordination of monitoring projects including spawning grounds surveys, water quality monitoring, and habitat assessments. CWT, DNA, otolith, scale, FKL sampling. Summary report writing for WDFW
personnel. Assistance with WDFW steelhead spawning grounds surveys in WRIA 1. Grant writing, application and tracking. Managing projects with a combined budget of over $100K. Public relations and outreach with private landowners in WRIA 1. Managing and implementing creative methods to increase efficiency and production without regard to decreasing operating funds, primarily through volunteer recruitment. Lake Whatcom kokanee spawning grounds surveys.

Prince William Sound Aquaculture Corp. | PO Box 1110 Cordova, AK 99574

Lead Fisheries Technician, Cannery Creek Hatchery 03/2011 – 09/28/2011

Remote site employment. Pink salmon rearing, outmigration, incubation, and egg take procedures. Water quality testing (DO, salinity, pH). Plankton trawls, otolith extraction, supervisory position during outmigration and rearing.

Forklift operator. Outboard johnboat and skiff operation. General hatchery maintenance.

Nooksack Salmon Enhancement Association | E. Bakerview Rd. Bellingham, WA

Salmon monitoring intern 09/2010 – 02/2011


WORKSHOPS/PROFESSIONAL DEVELOPMENT

Lake Whatcom Watershed Advisory Board Current (2014) 3 year term

Voting Board Member. Represent the interests of Bellingham and Whatcom County residents in the management of the Lake Whatcom watershed.

Whatcom County Noxious Weed Control Board Current (2013) 4 year term

District 4 Representative. Represent the interests of District 4 constituents with regard to noxious weed infestation, methods of control of invasive species, and coordinate city and county natural resource interests in a mutually beneficial manner.

Salish Sea Marine Survival/Ecosystem Indicators Workshop 11/2012

Host: Long Live the Kings PNP, Seattle, WA. Discussion of trans-boundary research project determining causative factors in salmonid marine survival, observer. Discussion sessions indentifying ecosystem indicators of overall salmonid survival, participant.

How to Use Otoliths and Scales to Understand Fish Growth and Habitat Use 10/2012

Host: USGS Western Fisheries Research Center, Seattle, WA. Otolith and scale analysis. Scale mounting and aging. Otolith aging. Otolith processing for thermal marks, microstructure analysis for habitat use, and otolith/scale analysis with imaging software. Discussion and laboratory workshop, participant.
Community Emergency Response Team Training 03/2012


SERVES Institute Conference and Workshops 10/2011

Host: Washington Service Corps, Yakima, WA. Red Cross shelter logistics and operation. Personal disaster preparedness. Grant research and tracking workshop. Sustainability and efficiency in the workplace workshop.

GRANT APPLICATION /ADMINISTRATION

WDFW, ALEA – 2011-2012

Aquatic Lands Enhancement Account Project Grant. Applied for and leveraged $3,500 from the Washington Department of Fish and Wildlife to fund mileage and materials for a volunteer spawning grounds survey program for salmon and steelhead in Whatcom County, WA. Nooksack Salmon Enhancement Association.

NWIFC, Hatchery Reform Project – 2012

Tribal Hatchery Reform Project. Administered Northwest Indian Fisheries Commission grant funds for tribal mark sample recovery and monitoring program. Provided funds disbursal management and grant deliverables. Lummi Natural Resources Department.

PSC, Pacific Salmon Treaty Implementation – 2012

Pacific Salmon Treaty Implementation Funding. Administered Pacific Salmon Commission grant funds for CWT base year data audit, review, and analysis. Provided funds disbursal management and grant deliverables. Lummi Natural Resources Department.

PSC, CWTIT – 2013-2014

Coded Wire Tag Implementation Team Grant. Applied for and leveraged $51,830 ($12,606 secured, additional $39,220 approved, and contingent upon federal funds availability) from the Pacific Salmon Commission to fund expansion of CWT recovery program to include a larger geographic area, laboratory renovation and equipment purchases, and maintain current CWT recovery operations. Lummi Natural Resources Department.

EPA, DERA – 2013

Federal EPA Diesel Emissions Reduction Act Grant. Applied for and leveraged $272,030 from the Environmental Protection Agency to fund tribal fishing vessel engine repowers in order to reduce the carbon footprint of the local fishing fleet. Whatcom County, WA. Lummi Indian Business Council.
SKILLS

- Leadership (Supervised and mentored 40+ employees and interns)
- Grant application and administration
- Volunteer recruitment
- Board and Committee membership
- Habitat monitoring and reporting
- Salmon culture methodology
- Salmonid identification
- Intermediate level ArcGIS software training
- Incident Command System I-100 Certification
- Forklift operator
- First aid/CPR/AED
- Public outreach
- Project planning

References

Bob Burr – Community Organizer – (360) 671-7813

Dana Wilson – Lummi Fisheries Commissioner – (360) 961-7295

Donald Kruse – Fisheries Biologist, Lummi Natural Resources – (360) 312-2306

Thank you for taking the time to consider me for membership on the Whatcom County Planning Commission!
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Via Mail

Name: Justin Clary
Street Address: 100 Briza Court
City: Bellingham
Mailing Address (if different from street address):
Day Telephone: 360.594.6260 Evening Telephone: 360.393.3912 Cell Phone: 360.661.4547
E-mail address: justin.l.clary@gmail.com

1. Name of board or committee—please see reverse: Planning Commission

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) (✓) yes ( ) no

4. Which Council district do you live in? (✓) One ( ) Two ( ) Three

5. Are you a US citizen? (✓) yes ( ) no

6. Are you registered to vote in Whatcom County? (✓) yes ( ) no

7. Have you ever been a member of this Board/Commission? ( ) yes (✓) no

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? (✓) yes ( ) no

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

10. Please describe why you’re interested in serving on this board or commission: I would like to use my long-range planning and development code implementation experience to serve Whatcom County through recommendation to the County Council policies that enable smart, sustainable growth while maintaining the county’s high quality of life.

References (please include daytime telephone number): Jim Darling, Vice President, Malt Foster & Alberg (360.734.1545); Eric Eisemann, Principal, E2 Land Use Planning (360.750.0038).

Signature of applicant:

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Justin L. Clary, PE  
Puget Sound & Eastern Washington Operations Director / Principal Engineer

QUALIFICATIONS
BS, Civil Engineering with Environmental Emphasis:  
Washington State University

LICENSES/REGISTRATION
Professional Engineer (Civil):  
Washington, No. 37246

CERTIFICATIONS
American Red Cross CPR/First Aid Certification
National Incident Command/Management System Certification,  
IS100, -200, -300, -400, -700

SKILLS
Mr. Clary has over 20 years of experience in municipal management and environmental consulting.  
For eight years, he served the City of Ridgefield, Washington, initially as the public works director,  
but primarily as the city manager. As city manager, Mr. Clary served the Ridgefield City Council as the  
chief executive officer responsible for annual budget preparation, directing day-to-day operations,  
managing all municipal departments, and serving as the council’s chief policy advisor. This role  
provided Mr. Clary with an in-depth understanding of local government processes that enabled  
formation of productive public/private partnerships as well as successful completion of large-scale  
infrastructure projects and planning documents through securing over $50 million in state and federal  
grants and loans.

During his consulting career, Mr. Clary has served as lead engineer and project manager for numerous  
environmental remediation activities at a variety of Department of Defense, Department of Energy,  
and commercial sites. His responsibilities entailed development of project-wide guidance documents,  
project management, and design and implementation of complicated environmental investigation and  
remediation activities. Mr. Clary’s strong environmental engineering foundation and municipal  
experience create a unique asset supporting a variety of engineering, strategic planning, and policy  
projects.

PROJECT EXAMPLES

Executive Administration

Government Affairs, Ridgefield, WA: During his tenure with the City of Ridgefield, Mr. Clary led  
the city’s efforts in communicating its legislative priorities to both state and federal legislators and  
their staffs. Meeting legislators in one-on-one and large group settings, which included public  
testimony before legislative committees, Mr. Clary assisted in the adoption of a number of legislative  
changes benefiting Ridgefield and other local governments, as well as securing over $33 million  
supporting the Interstate-5/State Route 501 Interchange Replacement project.

Grant Writing, Ridgefield, WA: Serving as city manager, Mr. Clary oversaw, and in many cases  
woke, applications for grants and low-interest loans that resulted in award of over $50 million  
supporting a variety of city projects and programs. These grants and loans funded parkland and trail
acquisition and development, community development, street improvements, public safety services, environmental protection, and sanitary sewer infrastructure.

**Property Acquisition, Ridgefield, WA:** Consistent with the City of Ridgefield’s Parks Capital Facilities Plan, Mr. Clary represented the city in the negotiation of purchase and sales agreements that resulted in the acquisition of multiple properties, totaling over 42 acres for future park use. Negotiation included agreements with private individuals, other local governments, and a federal agency for purchase or dedication of real property.

**Clark County Economic Development Plan, Clark County, WA:** Mr. Clary served on the Steering Committee responsible for creation of the Clark County Economic Development Plan. The plan assesses existing economic conditions and employment sectors of the county relative to the nation, and presents goals and policies aimed at improving economic conditions. Mr. Clary provided insight from a municipal perspective through policy development, as well as serving as spokesperson in presenting the plan’s recommendations to the boards and councils of a number of Clark County public agencies.

**Transportation Corridor Visioning Study, Clark County, WA:** Mr. Clary served on the Technical Steering Committee supporting an effort led by the Southwest Washington Regional Transportation Council to identify and secure principal transportation corridors necessary to serve Clark County over the 50-year planning horizon.

**Health Element, Clark County Comprehensive Plan, Clark County, WA:** Mr. Clary, as representative of Clark County cities other than Vancouver on the Clark County Public Health Advisory Council, was involved in the development of a health element chapter for future inclusion in the Clark County Comprehensive Plan, which defines land use policies for development in the county over the 20-year planning horizon.

**Interstate 5/State Route 501 Interchange Replacement Project, Ridgefield, WA:** Mr. Clary served as contract administrator for the design, right-of-way acquisition, and environmental permitting activities of the overall $34 million project.

**Land Use Planning**

**Land Use Development Code Policy Development, Ridgefield, WA:** Mr. Clary, serving as chief policy advisor to the Ridgefield City Council, oversaw development of a comprehensive rewrite of the city’s land use development code. Mr. Clary convened a group of stakeholders representing a broad spectrum of community and development interests and facilitated policy development and adoption through both the city’s planning commission and its council.

**Ridgefield Urban Area Comprehensive Plan, Ridgefield, WA:** During his tenure with the City of Ridgefield, Mr. Clary managed the development and adoption of four revisions (2004, 2005, 2008, and 2010) to the city’s comprehensive land use plan, including supporting infrastructure-specific (transportation, sewer, water, parks, and general facilities) capital facility plans. Each plan revision was developed and publicly vetted consistent with the rules and regulations of the Washington State Growth Management Act, which forms the land use policies for development in the Ridgefield urban growth area for the 20-year period succeeding the last revision.

**Ridgefield Shoreline Master Program, Ridgefield, WA:** Mr. Clary managed development and council adoption of the City of Ridgefield’s first city-specific SMP, which provides the land use and development policies and regulations for applicable shorelines in the city, consistent with the Washington State Shoreline Management Act. For two years, Mr. Clary served on a technical team of staff, representing all of the jurisdictions of Clark County, charged with developing a county-wide
shoreline program, which the planning commission and city council used as the template for the Ridgefield-specific SMP.

**Downtown-Waterfront Integration Action Plan, Ridgefield, WA:** Mr. Clary, in partnership with Port of Ridgefield staff, managed development of the Downtown-Waterfront Integration Action Plan supporting the merging of City of Ridgefield downtown revitalization planning efforts with Port of Ridgefield waterfront redevelopment plans. The action plan, which was the culmination of multiple community stakeholder meetings and open houses, provides specific implementation steps and phasing recommendations that will guide a coordinated effort to achieve the community’s unified vision.

**Comprehensive Park & Recreation Plan, Ridgefield, WA:** Under Mr. Clary’s leadership, the City of Ridgefield developed a Comprehensive Park & Recreation Plan that provides a logical, wide-ranging plan for development of the city’s park system that meets the needs of the rapidly growing community. The effort included multiple open houses and a community-wide survey, as well as multiple work sessions of the city’s parks board, planning commission, and council, to gain community input and policy direction. The plan inventories and evaluates existing park and recreation areas, assesses the need for additional parkland, establishes direction for operations and maintenance, and offers specific policies and recommendations for achieving plan goals and objectives.

**Downtown Historic Preservation Assessment, Ridgefield, WA:** Mr. Clary managed a comprehensive inventory and assessment of buildings in the City of Ridgefield’s downtown for eligibility for Clark County and Washington State heritage registers. The outcome of the effort, which included hosting a public open house, included recommendations for amendment to the city’s development review process aimed at encouraging preservation of historic structures, supplying preservation information to owners of historic structures, and identification of potential funding sources for additional preservation work.

**Abrams Park Master Plan, Ridgefield, WA:** Abrams Park, with over 37 acres of parkland adjacent to Ridgefield’s downtown, is the city’s sole community park. Mr. Clary managed an effort, including hosting multiple open houses to gain input from community user groups, to create a master plan for future park improvements that includes both active- and passive-use space and preserves Gee Creek, which runs through the park, and its state-regulated shorelines.

**Former Public Works Yard Brownfield Redevelopment, Wenatchee, WA:** Mr. Clary currently serves as project manager of the integration of a remedial action with site redevelopment as a boutique hotel and spa. Mr. Clary, representing the City of Wenatchee, has facilitated an agreement between the City, Ecology, and the prospective hotel developer that effectively caps in-place subsurface soils contaminated through historical site uses with the new development construction.

**Transit-Oriented Development Analysis, SeaTac, WA:** Mr. Clary currently serves as project manager associated with the City of SeaTac’s analysis of the redevelopment of a group of developed parcels in proximity to the Seattle Link Light Rail S. 154th Street Station. Activities conducted under the project have included environmental site characterization of the parcels contaminated by an operating dry cleaning facility, market analysis of the viability of mixed-use development, and evaluation of the integration of potential remedial actions with redevelopment.

**Former Gas Station Redevelopment Analysis, Reardan, WA:** Mr. Clary served as principal-in-charge associated with an analysis on the Town of Reardan’s behalf of the feasibility of redevelopment of a former retail gasoline station into a town hall. Activities conducted included environmental site characterization and analysis of potential remediation alternatives on the property, evaluation of existing structures and infrastructure for conversion into town hall facilities relative to a future needs analysis.
Solid and Hazardous Waste Management Plan Update, Whatcom County, WA: Mr. Clary currently serves as project manager in assisting Whatcom County update its Solid and Hazardous Waste Management Plan (SHWMP). Efforts include definition of current waste services throughout the County, evaluation of system capacity and identification of service issues relative to the 20-year planning horizon, and development of a strategic improvement program for maintaining or enhancing services over the plan’s effective period.

Remediation

Former Gas Station Interim Remedial Action, Yakima, WA: Mr. Clary currently serves as the engineer-of-record associated with remediation of a former retail gasoline station. Duties include development of the engineering design report, remedial action plan set, specifications and bid package, and oversight of the remedial action, which includes asbestos abatement and building demolition, excavation of contaminated soil with off-site disposal, in situ remediation, and installation of an infiltration treatment system.

Brownfield Soil and Woodwaste Removal Action, Former Cashmere Mill Site, Cashmere, WA: Mr. Clary served as project manager, directing design and implementation of a soil and woodwaste removal action for the Port of Chelan County. Approximately 24,000 tons of contaminated soil and woodwaste resulting from historical mill operations was excavated and disposed of off site, and the excavation backfilled with clean fill to allow for redevelopment of the property as a fruit-processing facility.

Brownfield Soil Removal Action, Former Auto Salvage Yard, Kelso, WA: Mr. Clary served as the engineer of record, overseeing design and implementation of a soil removal action for the City of Kelso. The removal action consisted of excavation and disposal of contaminated soil resulting from historical site operations, and backfill of the site with clean fill to allow for redevelopment of the property as affordable housing.

Brownfield Soil Removal Action, Former Fuel Station, Palouse, WA: Mr. Clary assisted in the design and implementation of a soil removal action for the City of Palouse. The removal action consisted of asbestos mitigation and demolition of an existing building, excavation and disposal of contaminated soil resulting from historical site operations, on-site treatment of excavated soil failing toxicity leaching criteria, and backfill of the site with clean fill to position the property for commercial redevelopment.

Soil Vapor Extraction, Former Dry Cleaner Site, Tacoma, WA: Mr. Clary served as project manager, directing design, construction, and operation of an SVE system treating vadose zone soils contaminated with volatile organic compounds.

Groundwater Remediation, Aerospace Manufacturer Sites, Kent and Renton, WA; and Portland, OR: Mr. Clary served as project manager, overseeing operation of groundwater remediation systems at each site.

Dual-Phase Extraction Remediation, Retail Petroleum Site, Chehalis, WA: Mr. Clary served as project manager, conducting operation and maintenance of a dual-phase extraction remediation system treating total petroleum hydrocarbon-gasoline contaminated groundwater at an active retail gasoline station.

Guidance Document Development, Former Blaine Naval Ammunition Depot, Hastings, NE: Mr. Clary was a technical contributor to project-wide guidance documents (i.e., sampling and analysis plan, ordnance and explosives management plan, and contractor quality control plan) for field activities conducted under the U.S. Army Corps of Engineers Kansas City District Total Environmental Restoration Contract.
Soil Removal Action, Former Blaine Naval Ammunition Depot, Hastings, NE: Mr. Clary authored a removal action work plan, addressing removal action activities to be conducted, and a removal action report, verifying that removal action objectives had been met, associated with lead-contaminated surface soil at the site’s rifle and pistol range. The work was conducted under the U.S. Army Corps of Engineers Kansas City District Total Environmental Restoration Contract.

Soil Removal Action, Former Blaine Naval Ammunition Depot, Hastings, NE: Mr. Clary served as field superintendent, coordinating all removal action activities associated with lead-contaminated soils at the site’s rifle and pistol range. The work was conducted under the U.S. Army Corps of Engineers Kansas City District Total Environmental Restoration Contract.

Soil Vapor Extraction, Former Blaine Naval Ammunition Depot, Hastings, NE: Mr. Clary authored a removal action report verifying attainment of removal action objectives for three soil vapor extraction systems. This work was conducted under the U.S. Army Corps of Engineers Kansas City District Total Environmental Restoration Contract.

Remedy Protectiveness Evaluation, Former Blaine Naval Ammunition Depot, Hastings, NE: Mr. Clary authored a five-year review report following U.S. Environmental Protection Agency guidance for evaluation of the protectiveness of an implemented remedy. The work was conducted under the U.S. Army Corps of Engineers Kansas City District Total Environmental Restoration Contract.

Soil Vapor Extraction, Former Blaine Naval Ammunition Depot, Hastings, NE: Mr. Clary oversaw operation and maintenance activities associated with four SVE remediation systems. The work was conducted under the U.S. Army Corps of Engineers Kansas City District Total Environmental Restoration Contract.

Engineering Evaluation/Cost Analysis Development, Former Blaine Naval Ammunition Depot, Hastings, NE: Mr. Clary served as task manager and lead author of an engineering evaluation/cost analysis addressing lead-contaminated surface soil at the site’s rifle and pistol range and volatile organic compound-impacted soil vapor at former production area. The work was conducted under the U.S. Army Corps of Engineers Kansas City District Total Environmental Restoration Contract.

Soil Removal Action, Former Blaine Naval Ammunition Depot, Hastings, NE: Mr. Clary authored a removal action work plan supporting excavation of explosives-contaminated surface soils at the site’s bomb and mine complex, with off-site disposal at a Resource Conservation and Recovery Act Subtitle D landfill, under the U.S. Army Corps of Engineers Kansas City District Total Environmental Restoration Contract.

Treatability Study, Former Blaine Naval Ammunition Depot, Hastings, NE: Mr. Clary served as task manager of a treatability study conducted to define the magnitude of scale/suspended solids problems associated with reinjection of treated groundwater. The effort, carried out under the U.S. Army Corps of Engineers Kansas City District Total Environmental Restoration Contract, was conducted in support of a feasibility study, which evaluated potential remediation technologies for treatment of volatile organic compound- and explosives-contaminated groundwater.

Soil Vapor Extraction, Former Blaine Naval Ammunition Depot, Hastings, NE: Mr. Clary served as field superintendent/engineer, overseeing drilling, construction, and startup of three soil vapor extraction remediation systems. The work was conducted under the U.S. Army Corps of Engineers Kansas City District Total Environmental Restoration Contract.

Construction Quality Assurance Plan Development, Private Client, Seattle, WA: Mr. Clary authored a CQA plan supporting construction of a groundwater treatment system. The document
defined all CQA testing and materials requirements associated with construction and shakedown of a groundwater treatment system consisting of a shallow tray air stripper with treatment of stripped vapor using regenerable resin adsorption.

**Quality Control/Sampling and Analysis Plan Development, Former Fort Ord, Marina, CA:** Mr. Clary authored a contractor QC/SAP for startup and operation of a groundwater remediation system, under the U.S. Army Corps of Engineers Sacramento District Total Environmental Restoration Contract.

**Landfill Cover Construction, Former Fort Ord, Marina, CA:** Mr. Clary provided field support for deployment of a low-density polyethylene geomembrane liner and a vegetative soil cover over a 52-acre landfill. The work was conducted under the U.S. Army Corps of Engineers Sacramento District Total Environmental Restoration Contract. Duties included tracking production of the liner subcontractor and the quality control field crew, and serving as a liaison between the client, subcontractor, field crew, and project management.

**Groundwater Remediation, Former Fort Ord, Marina, CA:** Mr. Clary assisted in the writing of a work plan for the installation of an ultraviolet oxidation system for the groundwater remediation of a chlorinated hydrocarbon plume. The work was conducted under the U.S. Army Corps of Engineers Sacramento District Total Environmental Restoration Contract. Duties included authoring sections regarding the installation of piping from the extraction wells and to the injection wells, and construction of the treatment system building.

**Underground Storage Tank Removal, Stead Air Force Base, Reno, NV:** Mr. Clary served as a technical contributor to a corrective action plan for petroleum-hydrocarbon-impacted sites. Duties included evaluation of remedial investigation data for 49 formerly active underground storage tank sites, identification of applicable corrective action technologies, development of corrective action alternatives, and identification of the preferred alternative for each UST site.

**Contaminated Soil Disposal, Former Hamilton Army Airfield, Novato, CA:** Mr. Clary served as technical contributor in the generation of a work plan and a contractor quality control/sampling and analysis plan for construction of a soil encapsulation berm. The work was conducted under the U.S. Army Corps of Engineers Sacramento District Total Environmental Restoration Contract. Duties included assisting in development of construction and testing specifications for building a low-permeability berm consisting of a core composed of soil with low levels of contamination encapsulated within uncontaminated soil.

**Corrective Action Plan Development, Former Hamilton Army Airfield, Novato, CA:** Mr. Clary served as technical contributor in the generation of corrective action plans for two separate petroleum-hydrocarbon-impacted sites. The work was conducted under the U.S. Army Corps of Engineers Sacramento District Total Environmental Restoration Contract. Activities included development of corrective action objectives, alternatives, costs, and alternative analyses for the removal of an abandoned offshore fuel pipeline and remediation of impacted soil and groundwater at the former petroleum, oil, and lubricant distribution area.

**Hydraulic Lift Removal Action, Automobile Maintenance Facility, SeaTac, WA:** Mr. Clary supervised the removal of underground hydraulic lifts and completed soil and groundwater sampling. Duties included supervising excavation and removal of two hydraulic hoists in an automobile maintenance shop, collection of soil samples from within the excavations, and collection of groundwater samples from monitoring wells located around the facility.

**Groundwater Containment System Construction, Former Cascade Pole Site, Port of Olympia, WA:** Mr. Clary conducted quality control activities during construction of a bentonite slurry wall
around a contaminated groundwater plume. Duties included conducting slump tests and bulk wet density tests on the backfill material; density tests using a mud balance and viscosity tests using a Marsh cone on the bentonite slurry from the mixing ponds and the trench; and filtration and sand content tests on the trench bentonite slurry; as well as ensuring general adherence to construction specifications.

**Feasibility Study Development, Mather Air Force Base, Sacramento, CA:** Mr. Clary served as technical contributor to the preparation of a focused feasibility study and a record of decision for the Basewide Operable Unit. The work was conducted under contract with the Air Force Center for Environmental Excellence. Activities included sample data analysis, defining the nature and extent of contamination, and developing remediation cost estimates at each of the operable unit sites.

**Groundwater Remediation, Mather Air Force Base, Sacramento, CA:** Mr. Clary assisted in the design and evaluation of three separate air stripper systems for three remediation scenarios pertaining to a volatile-organic-compound-contaminated groundwater plume. The work was conducted under contract with the Air Force Center for Environmental Excellence. Duties included providing the civil design of the extraction and injection conveyance pipelines, extraction well and extraction pump sizing, and development of remediation cost estimates for determination of the most cost-effective remediation scenario.

**Soil Vapor Extraction Testing, Mather Air Force Base, Sacramento, CA:** Mr. Clary provided technical and field support for SVE/bioventing testing of contaminated vadose zone soils. The work was conducted under contract with the Air Force Center for Environmental Excellence. Activities included performing active vapor removal and respiration phase testing, along with preparing a report that evaluated the pilot test data results and determined the soil air permeabilities, hydrocarbon removal rates, design radii, airflow modeling, and bioactivity analyses at each test site.

**Aquifer Testing, Mather Air Force Base, Sacramento, CA:** Mr. Clary provided field support for aquifer testing under contract with the Air Force Center for Environmental Excellence. Duties included performing constant flow rate, step drawdown, slug tests, and water sampling on extraction and monitoring wells to investigate the hydraulic conductivity, transmissivity, and storativity of the contaminated aquifers.

**Feasibility Study Development, U.S. Department of Energy Hanford Site, Richland, WA:** Mr. Clary served as technical contributor in the development of a focused FS for the 200-UP-2 Operable Unit. Activities included definition of the extent of contamination and analysis of remedial alternatives for each waste disposal site in the operable unit.

**Groundwater Remediation, U.S. Department of Energy Hanford Site, Richland, WA:** Mr. Clary served as design engineer for an air stripper system for remediation of a 4.2-square-mile carbon tetrachloride groundwater plume associated with the 200-ZP-1 Operable Unit. Duties included completing civil design for the treatment building as well as determining the plan and profiles of the extraction and injection pipelines.

**Site Investigation**

**Bulk Fuel Storage Tank Leak Source Identification, Fleet Industrial Supply Center Puget Sound, Manchester Fuel Depot, Manchester, WA:** Mr. Clary managed the plan development and field activities associated with identification of the source of petroleum hydrocarbon product releases originating from one of multiple underground bulk fuel storage facilities. The work was conducted under contract with the Air Force Center for Environmental Excellence.

Soil Stockpile Sampling, Former Hamilton Army Airfield, Novato, CA: Mr. Clary provided field support for sampling of soil stockpiles carried out under the U.S. Army Corps of Engineers Sacramento District Total Environmental Restoration Contract. Duties included supervising the field crew and coordinating the effort with the sampling subcontractor.

Quality Control and Sampling and Analysis Plan Development, Former Hamilton Army Airfield, Novato, CA: Mr. Clary served as technical contributor to a contractor QC/SAP for corrective actions implemented at an abandoned offshore JP-4 fuel pipeline in the San Francisco Bay. The work was conducted under the U.S. Army Corps of Engineers Sacramento District Total Environmental Restoration Contract.

Preliminary Site Investigation, Washington State Department of Transportation Project, Tacoma, WA: Mr. Clary managed a preliminary site investigation, which included management of project costs, schedule, and field activities; and completion of the project proposal, sampling and analysis plan, and investigation report.

Groundwater Sampling, Photograph Processing Facility, Chehalis, WA: Mr. Clary conducted groundwater sampling at an active photograph processing facility for a suite of potential and known site contaminants.

Liquid/Sludge Sampling, Fertilizer Facility, Eltopia, WA: Mr. Clary conducted sampling of unknown liquid and sludge wastes.

Stormwater

Level Three Corrective Action Engineering Report, Operating Marina, Anacortes, WA: Mr. Clary served as project manager overseeing the development of a corrective action engineering report that addressed ongoing stormwater discharge violations at a marina operating under the state boatyard stormwater general permit.

Level Three Corrective Action Engineering Report, Operating Trucking Facility, Lynden, WA: Mr. Clary served as project manager overseeing the development of a corrective action engineering report that addressed ongoing stormwater discharge violations at a trucking facility operating under the state industrial stormwater general permit.

Assistance to Port District Airport with Notice of Intent to Sue, Friday Harbor, WA: Mr. Clary assisted the port with the evaluation of stormwater runoff and development of a series of actions to improve stormwater quality without major treatment requirements, as well as overseeing the update of its facility-specific stormwater pollution prevention plan. The action settled without major financial impact to the port.

Assistance to Seafood Processing Facility with Notice of Intent to Sue, Bellingham, WA: Mr. Clary assisted the facility with the evaluation of stormwater runoff and development of a series of actions to improve stormwater quality without major treatment requirements, as well as overseeing the update of its facility-specific stormwater pollution prevention plan. The action settled without major financial impact to the facility owner.

Stormwater Utility Creation, Ridgefield, WA: Mr. Clary managed the creation of the City of Ridgefield's first stormwater utility. Following statutory requirements, Mr. Clary led the city council in adoption of a utility with a rate structure that provides for ongoing maintenance of the city's existing
stormwater collection and treatment system, as well as creating a fund to systematically complete projects prioritized in the city's stormwater capital improvement program.

Stormwater Management Program, Ridgefield, WA: Mr. Clary oversaw development of the City of Ridgefield's first stormwater management plan. The effort included mapping and analysis of the existing stormwater collection and treatment system, modeling of the existing system under various storm events, and developing a capital improvement program to address identified system deficiencies.

Stormwater Management, Former Presidio of San Francisco, CA: Mr. Clary completed the civil design of a brick-lined drainage swale. The work was conducted under the U.S. Army Corps of Engineers Sacramento District Total Environmental Restoration Contract.

AWARDS AND PUBLICATIONS

Recipient, Washington State Governor's Smart Communities Award, 2013.

Recipient, Clark County, Washington, Accomplished and Under 40 Award, 2008.

DOE Technology Development Activities Supporting Environmental Restoration at Hanford, September 1994, PNL-10177.


Nuclear Criticality Parameter Study Database, June 1990, WHC-SA-0961-S.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<th>Date Received in Council Office</th>
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<td>5/5/14</td>
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<td>5/20/2014</td>
<td>Introduction</td>
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<td>J.L.</td>
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**TITLE OF DOCUMENT:**
Repeal the Eliza Island Plan and amend provisions in the Whatcom County Comprehensive Plan and Zoning Code relating to the subarea plan.

**ATTACHMENTS:**
1. Staff Memo
2. Proposed Ordinance and Exhibits
3. Planning Commission Findings of Fact and Reasons for Action
4. Planning Commission minutes

Other background information is on file at the Council office.

**SEPA review completed?**

<table>
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<th>SEPA review required?</th>
<th>(X) Yes</th>
<th>( ) NO</th>
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Should Clerk schedule a hearing?  

| (X) Yes | (X) NO |

Requested Date

1 The Council must hold a hearing if they want to change the Planning Commission’s recommendation (WCC 2.160.100(B)).

**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.)

Repeal the Eliza Island Plan and amend provisions in the Whatcom County Comprehensive Plan and Zoning Code relating to the subarea plan. The Eliza Island Plan was adopted in 1994, prior to the first Whatcom County Comprehensive Plan that was adopted under the GMA.

**NOTE:** Final approval of these amendments would occur as part of concurrent review of comprehensive plan amendments in early 2015.

**COMMITTEE ACTION:**
6/3/2014: Committee recommended that the Council forward for concurrent review

**COUNCIL ACTION:**
5/20/2014: Introduced 6-0, Weimer absent
6/3/2014: Recommended for concurrent review 7-0

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**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](http://www.co.whatcom.wa.us/council).
May 5, 2014

To: Jack Louws, The Honorable Whatcom County Executive
   The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, Long Range Planning Division Manager

RE: Repeal the Eliza Island Plan and Related Amendments

The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080. However, the GMA also requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

The comprehensive land use plan designation in the 1994 Eliza Island Plan is not the same as the designation in the current Whatcom County Comprehensive Plan. Additionally, the Eliza Island Plan is 20 years old and contains some outdated information. Therefore, we recommend repealing the subarea plan and amending provisions in the Whatcom County Comprehensive Plan and Zoning Code relating to the subarea plan.

Planning & Development Services is requesting Council consideration of these amendments on June 3. However, the proposed Comprehensive Plan amendments are subject to concurrent review. Therefore, the Council will not render a final decision on the proposal until early 2015.

Thank you for your consideration of this matter.
ORDINANCE NO. ____________

REPEALING THE 1994 ELIZA ISLAND PLAN
AND AMENDING PROVISIONS IN THE WHATCOM COUNTY
COMPREHENSIVE PLAN AND ZONING CODE RELATING TO THE PLAN

WHEREAS, The Whatcom County Council initiated the subject amendments for review in 2014; and

WHEREAS, The Whatcom County Planning Commission held a public hearing on April 24, 2014; and

WHEREAS, The Whatcom County Planning Commission recommended the comprehensive plan amendments on April 24, 2014; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The subject proposal includes:

   a. Amending Whatcom County Comprehensive Plan provisions relating to the subarea plan.

   b. Amending Whatcom County Zoning Code Plan provisions relating to the subarea plan.

   c. Repealing the Eliza Island Plan (1994).

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on March 25, 2014.

3. Notice of the Planning Commission hearing was posted on the County website on April 8, 2014.

4. Notice of the Planning Commission hearing and that the proposal had been posted on the County website was sent to citizen, media and other groups on the County’s e-mail list on April 8, 2014.
5. Notice of the subject amendments was submitted to the Washington State Department of Commerce on April 8, 2014.

6. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on April 11, 2014.

7. The Planning Commission held a public hearing on the subject amendments on April 24, 2014.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendments the County must find all of the following:

   a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.

   b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

   c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

      i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

      ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

      iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.

   d. The amendment does not include or facilitate spot zoning.

   e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.
Growth Management Act

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 ("Comprehensive plans – Optional elements").

10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The Eliza Island Plan was adopted in 1994. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan’s land use designation is not the same as the Whatcom County Comprehensive Plan’s land use designation.

County-Wide Planning Policies

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

Interlocal Agreements

13. There are no interlocal agreements relating to the Eliza Island Plan.

Further Studies/Changed Conditions

14. The Eliza Island Plan was adopted in 1994.

15. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended.

16. Adoption of the Whatcom County Comprehensive Plan constitutes a changed condition that warrants repealing the 1994 Eliza Island Plan.

Public Interest

17. Repealing the 1994 Eliza Island Plan will serve the public interest by removing a 20 year old plan that is no longer necessary because of adoption of the Whatcom County Comprehensive Plan.

Spot Zoning

18. The subject proposal does not involve rezoning property.
CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County Comprehensive Plan Chapter 2 (Land Use) is hereby amended as shown on Exhibit A.

Section 2. The Whatcom County Zoning Code is hereby amended as shown on Exhibit B.

Section 3. The Eliza Island Plan (1994) is hereby repealed as shown on Exhibit C.

Section 4. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this ______ day of ______________, 2015.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

__________________________  ______________________________
Dana Brown-Davis, Council Clerk  Carl Weimer, Chairperson

APPROVED as to form:

__________________________  ______________________________
Civil Deputy Prosecutor  Jack Louws, Executive

Date: ____________________________

( ) Approved    ( ) Denied
Exhibit A

Amend Chapter 2 of the Whatcom County Comprehensive Plan as follows:

Policy 2L-2: Retain and periodically review the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Lake Whatcom, Urban Fringe, Birch Bay Community Plan, Foothills, Point Roberts, and South Fork Valley, and Eliza Island). Subarea Plans represent a long history of plan development in Whatcom County and provided the foundation for the county’s first Growth Management comprehensive plan adopted in 1997.

1. Utilize a process which ensures consistency between the Whatcom County Comprehensive Plan and subarea plans. The subarea plan review process should include the following steps:

   a. Consistency Analysis. The County should review subarea plans based on the priority order in subsection "b" for gaps, overlaps, or inconsistencies. Topics include, but are not limited to, plan boundaries, growth forecasts, land uses, capital facilities and services, horizon year, and other appropriate issues.

   b. Regional and Local Government Coordination. The County should consult and coordinate with cities where city-associated UGAs are included in subarea plan boundaries.

   c. Public Participation. Each subarea plan update process will be based on a public participation program that addresses citizen input on the key issues associated with the subarea plan update.

   d. Subarea Plan Amendment. Only those portions of existing subarea plans in conflict with the Comprehensive Plan are required to be amended. Local issues of concern or changed conditions may be addressed.

   e. Comprehensive Plan Revisions. Where the subarea plan process recommends growth levels, growth boundaries, or other essential features, Comprehensive Plan amendments will be considered in conjunction with the subarea plan update process.
Land capacity analysis may also be updated if appropriate.

2. Prioritize review of subarea plans. Subarea plans should be reviewed in the following order.

a. Post-GMA Subarea Plans addressing UGAs. These subarea plans should be reviewed and amended, if necessary, during Whatcom County’s periodic review of the comprehensive plan. Subarea plans addressing UGAs associated with a city should be coordinated with the city’s comprehensive plan update process.

b. Post-GMA Subarea Plans addressing Rural Areas. These subarea plans should subject to a consistency review. If significant inconsistencies are found, these should be considered for potential update during Whatcom County’s periodic review of the comprehensive plan. Minor updates may be considered through the County’s docket process in subsequent years.

c. Pre-GMA Subarea Plans. These should be repealed or updated in accordance with County department work programs or the docketing process. Priority criteria may be used to determine the order of update. Example criteria include:

i. whether update is needed for health, safety, or welfare concerns;

ii. whether there is a city-associated UGA included in the subarea plan boundaries – in which case, the subarea plan update could be timed to be developed in association with or following city comprehensive plan update process;

iii. whether the subarea plan would benefit from broader policy concepts to be completed in advance or in tandem, such as agricultural land protection measures;

iv. whether a significant policy objective would be met by amending the plan.

In the event there is an inconsistency between a Subarea Plan and the Whatcom County Comprehensive Plan, the Whatcom County Comprehensive Plan shall prevail.
NOTE: The text of Policy 2L-2 above is also being amended in association with the proposed repeal of the Lake Whatcom Subarea Plan (file # 2014-00002) and the South Fork Valley Subarea Plan (file # 2014-00003). The changes to Policy 2L-2 proposed in the subject amendment are intended to be harmonious and compatible with the changes to Policy 2L-2 proposed in these other two amendments.
Exhibit B

Amend Chapter 20.35 of the Whatcom County Zoning Code as follows:

20.35.010 Purpose.

The Eliza Island District has been formed as a separate district due to its unique character. The purpose of this district is to allow for a harmonious mixture of residential, seasonal residential, recreational, and accessory uses. In addition, the district requires that new uses complement the island character by adherence to the goals and policies of the Eliza Island Subarea Plan. When making a determination about uses, consideration will be given to the rural land use policies as outlined in the Comprehensive Plan, as well as cumulative impacts of uses in this rural area. (Ord. 2011-013 § 2 Exh. B, 2011; Ord. 94-032, 1994).
Exhibit C

(Repealing the Subarea Plan)
ELIZA ISLAND PLAN
A Component of the Whatcom County Comprehensive Plan

Whatcom County, Washington

May, 1994
ELIZA ISLAND PLAN

A Component of the Whatcom County Comprehensive Plan

WHATCOM COUNTY IS A NUCLEAR FREE ZONE
As approved by the voters of Whatcom County, County
Initiative Measure #1-84, November 6, 1984; Adopted by
Whatcom county Resolution #85-29, June 20, 1985.

Whatcom County Executive
Shirley Van Zanten

Whatcom County Council
Barbara E. Brenner
Marlene Dawson
Kenneth R. Henderson
Larry Harris
Robert A. Imhof
Ward Nelson
Alvin Starkenburg

Whatcom County Planning Commission
Emil Baijot
Rod Erickson
David Ernst
Clare Fogelson
Leslie Hamilton
Jerry Landcastle
Elaine McRory
David Simpson
Phillip Urso

Eliza Island Citizen Advisory Committee
David Boeringa
Myrna Boeringa
Linda Bothell
Theo Hames
Glenn Hawley
Jack Hovde
Lenny Hovde
Robert Littleton
Salvatore Papetti
Joan Potter
William Potter
Hal Thurston
Bert Webber
Sue Webber
Glenn Wielick
Mary Writer
Nicholas Zaferatos
Dean Peterson

Whatcom County Planning and Development Services Department
Nathan W. Brown, Director
Daniel W. Taylor, Planning Division Manager
Project Staff:
Jeffrey R. Griffin, Project Planner
Sarah Bussard Watts, Planner II
Elizabeth K. Olsen, Chief Cartographer
Carole Magner, Clerk III/Word Processor
Jane Doughty, Receptionist

Whatcom County, Washington May, 1994
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introduction
CHAPTER 1. INTRODUCTION

Land Use Planning

The following document plans for the physical development and conservation of Eliza Island. It is intended to serve as a guide for the preparation and adoption of official controls, such as zoning regulations, and to provide a basis for reviewing proposed public and private projects. Although comprehensive plans have been adopted for the majority of the County, planning for land use on Eliza Island was never effected. This has not been a serious problem, however, as the existing subdivision and Beach Club restrictions, and apparent preference for vacation use by individual lot owners, have largely dictated the kind of land use the island has experienced over the last thirty or so years. Whether or not this preference and intensity of use will continue for the next thirty years is questionable due to increasing population and increasing ownership distribution.

A comprehensive plan is a source of reference to aid in developing, correlating and coordinating official regulations and controls, and is a means for promoting the general welfare. It is also a means for anticipating and influencing the orderly and coordinated development of land and building uses. Statutory authority for county comprehensive land use planning is established in the Washington State Planning Enabling Act, which states that "each planning agency shall prepare a comprehensive plan for the orderly physical development of the county or any portion thereof..." (RCW 36.70.320). The Eliza Island Comprehensive Plan has been developed in response to statutory authority as well as in recognition of the widely accepted principle that future Whatcom County land use decisions should be made in a coordinated and responsible manner by both the public and private sectors.

Many planning elements are required by the Washington State Growth Management Act as well. These include planning for capital facilities, transportation, economic development, housing, industrial and commercial land, protecting agricultural, mineral, and forestry resource lands, and critical environmental areas. These elements are being addressed under a broad County-wide Comprehensive Plan, a separate planning process that is currently in its formulative stages of development.

Minimum requirements for the Eliza Island Plan are: (1) the plan must contain a land use element, providing policies for and showing the general distribution and location of land for various uses such as, for example, residential, recreational, commercial, and open space; and (2) a circulation element, setting policy for and outlining transportation and utility routes. The Eliza Island Comprehensive Plan contains additional elements in light of its unique qualities, which is especially important where county-wide policies are or may be too generalized.

Citizen Advisory Committee

A Citizen Advisory Committee, composed of property owners on Eliza Island, was formed on April 17, 1993 to work together with County planning staff in developing the proposed Eliza Island Comprehensive Plan and implementing zoning. Members fully participated in a consensus process throughout the course of eleven meetings over a one year period. The Committee chose to survey all property owners on Eliza Island during the summer of 1993 on land use issues important to the development of the Comprehensive Plan. The Committee also coordinated with the Eliza Island Beach Club Board, a property and homeowners association serving the island community.
Plan Implementation

Implementation of the plan will require and guide the amendment of existing zoning regulations for Eliza Island. It could also direct the County to address pertinent issues through other mechanisms, such as zoning regulations. Under the direction of the Comprehensive Plan, zoning classifies land according to allowed uses. Generally accepted rationale for zoning includes the preservation of property values or community character and the more nebulous "promotion of the general welfare." The typical zoning ordinance, by zone district, establishes uses as either outright permitted, permitted conditionally (subject to additional review, a public hearing, and the imposition of conditions), or prohibited. Current zoning regulations on Eliza Island were temporarily established in 1974. These regulations are very generalized and provide little or no assurance from the County as to future uses and character of the area. Other existing programs or land use controls are described below.

Shoreline Management Program

The Shoreline Management Program, established in 1976, contains policies and regulations for shore-front properties. The Conservancy Designation was applied to the majority of Eliza Island shorelines in 1976. The purpose of the Conservancy Designation is to obtain long-term, wise use of natural resources, encourage multiple use whenever practical, and prevent forms of development which would be unsafe or incompatible with geo-hydraulic processes. Two areas on Eliza Island received a Natural Designation in 1976, the Federal Reserve at the south end and the South Beach wetland area. The Natural Designation was applied to areas having high value in a natural condition. Development in these areas is limited to low key, compatible recreational facilities.

Beach Club Rules and Covenants

All property owners within the Eliza Island plat belong to the Eliza Island Beach Club which was incorporated in 1961. Subdivision covenants limit improvements to lots to a single family dwelling and appurtenant structures, and a guest house which may not be rented. Building plans must be submitted to the Board of Directors of the Beach Club who approve the general location and layout of proposed improvements with regard to health and nuisance.

In July 1976, Rules of the Island were adopted prohibiting private piers, mobile homes, or trailers. Private motorized vehicles, other than Beach Club owned ones, are not allowed on the island except for delivery of fuel, building materials, and for owners who require them for health reasons. Airplanes may not use trails or roads for travel to and from owners' lots.

Federal Policy for Reserves

The lighthouse reserve at the southern tip of the island is Federally owned and managed by the Bureau of Land Management in Wenatchee. This agency plans to allow the property to remain in a natural state in the public interest. Tidelands adjacent to this property are State owned.

Eliza Rock is located just southeast of Eliza Island and is a San Juan Islands National Wildlife Refuge (NWR) managed by the U.S. Fish and Wildlife Agency. Federal guidelines recommend avoidance of this area by air and water craft, and prohibit public access on the Rock.
land use
element
LEGEND

1) All tidelands are 2nd. class

2) Tracts A, B, C and D are Community Tracts.
   Tract D, not shown, denotes all 2nd. class tidelands
   in Sect. 32, Twp. 37, R.2E., W.M.

==== Walkways and Utility Easement

Depths in fathoms

Sources: 1986 Aerial Photo, Whatcom County Planning Dept.
Plat Map, Whatcom County Engineering Dept.,
NOAA Nautical Chart 18421, USGS Topoq. Map "Eliza Island"
Quadrange.
CHAPTER 2. LAND USE ELEMENT

History

For many years, the island, named by the Native Americans "Tukwitch" for its bow shape, was frequented often by members of the Lummi Nation. These people found the island’s surrounding waters attracted a healthy population of herring during the spring when the fish spawn. It was in 1791 that an early Spanish explorer, Lieutenant Francisco Eliza, came upon the San Juan Islands and provided for the island’s present name.

In the late 1880’s, the island was purchased by Illinois Senator Eugene Canfield and developed into a large chicken ranch. After smugglers depleted the poultry supply, a potato farm was started but soon abandoned. Pacific American Fisheries Incorporated (P.A.F.) purchased the island in 1899 for storage and fish trap construction, and repair of fish traps, boats, and other gear. P.A.F also put a large reduction plant into operation which produced commercial fertilizers from fish scraps from the local canneries. During this period, several hundred people lived on the island. The banning of fish traps substantially slowed all activity, and a fire in 1938 closed the site. In 1940, the Navy purchased Eliza and used it as a bombing range for military aircraft during World War II. In 1948, Oregon State University leased the island and conducted a study of pheasants. In the early 1950’s, the island was again purchased and selectively logged (mostly second growth) for timber.

Eliza Island Development Company acquired most of Eliza in 1961 and subdivided it into 139 residential parcels and five common tracts, covering all the island except for a Federal lighthouse reserve at the southern tip. The subdivision was extensively advertised as a recreational get-away and is now owned by a number of private individuals and managed by the Eliza Island Beach Club.

Current Land Use

Of the 139 residential lots on Eliza, approximately 55 structures have been built, ranging in size from small cabins to three bedroom houses. Most of the lots are owned separately and are in the 25-30,000 square footage range. Actual buildable lot area, however, is much smaller on most of the shoreline lots.

The five community tracts are owned and managed by the Eliza Island Beach Club. These tracts include the airstrip (Tract A), a community area which includes a large marsh and playground area (Tract B), an eroding "isthmus" to the south of the island (Tract C), the intertidal area encompassing the island except for the south end (Tract D), and the caretaker/equipment storage community area (Tract E). The Club allows only members and guests access to their community owned tidelands.

The lighthouse reserve at the southern tip of the island is Federally owned. Tidelands adjacent to this property are State owned. State and Federal laws allow public access to the tidelands and uplands for low intensity, recreational use.

Population Characteristics

The current population ranges from two year-round residents (the caretakers) to approximately 144 people over the Fourth of July holiday. Although there are no zoning restrictions prohibiting permanent occupancy, the islanders have chosen, thus far, to use their lots and cabins for seasonal and recreational purposes only.
The zoning adopted in the 1970s allows a density of one unit per acre, which would not allow further subdivision of the existing lots unless the islanders decided to change the use of the community tracts, or the Federal government sold the southern end, both of which are unlikely. Therefore, under existing zoning and covenant restrictions, the maximum theoretical population on the island could become 417 persons, assuming permanent occupancy of 139 lots at three persons per household. The accustomed recreational use of the lots, along with limitations on the cost of potable water, however, should limit population growth.

**Land Use Goals and Policies**

**Goals:**

1. Given the exceptional natural and wildlife resources of the island, and a strong desire by islanders to preserve these resources for future generations to enjoy, Eliza Island should maintain its unique qualities through the continued development of modest sized structures designed and located in a manner which minimizes impacts to the island's character.

2. Encourage the dedication of land for both passive and active recreation, preserve the environmental quality of the island and maintain the island character.

**Policies:**

**Physical Development**

1. Site design and building layout should take advantage of natural topography, vegetation and solar access. Vegetated buffers should be utilized between cabins and other developments.

2. Non-porous surfaces should be minimized and directed away from marine bluffs to prevent erosion.

3. Development should be limited in height and size in order to maintain the islands rural and scenic qualities, reduce cumulative environmental impacts occurring from full buildout, and encourage a recreational island lifestyle.

4. Material used for development on the island should be compatible with the islands scenic qualities. Trailers and mobile homes should be prohibited.

5. Commercial land uses on the island should be prohibited.

6. Applicants for development on Eliza Island should not be required to transport County personnel. The County should be responsible for their own transportation to the island.

**Open Space**

1. The aesthetic value and open views of the beaches and shoreline areas should be preserved.

2. Eliza Rock should continue to be utilized as a natural open space area and wildlife refuge.
3 Whatcom County and the Eliza Island Beach Club should acknowledge the lighthouse reserve at the south end of the island as publicly owned and a permanent open space area for passive recreational use.

4 The community tracts of the island subdivisions should continue to be utilized for passive recreation, natural open space, caretaker facilities, and small plane access.

Recreation

Recreational camping should be allowed on individually owned lots provided all health related concerns are addressed.

Noise

Uses on the island should not present incompatible noise nuisances to residents.

Land Use Designation

An "Island" plan designation has been formed for Eliza Island. This new designation was created because no other existing plan designation appropriately characterized the Island and its' seasonal residential, residential, and recreational mixture of land uses.
community facilities and utilities element
CHAPTER 3. COMMUNITY FACILITIES AND UTILITIES ELEMENT

Transportation/Access

Access is by private or chartered boat or plane, with the majority using private boats. The island has one boat dock and an airstrip for the residents’ use. The 25-foot long dock is located at the end of a 100-foot pier on the mid-west shore of the island and is primarily used for loading and unloading. Boats are then moored at one of the sixty personally owned buoys. During the summer months, Eliza Island may be serviced by the Island Shuttle Express, a privately operated ferry that departs daily from Bellingham with the San Juan Islands as its destination, but may stop at Eliza Island upon request.

The airstrip, located in the mid-west center of the island, is unpaved and 1510 feet long, and is suitable for small propeller plane use only. The lack of night-time lighting restricts landings to daylight hours. Several air taxis service the island with commuter planes upon request.

Eliza Rock is designated as a National Wildlife Reserve and as such is closed to the public to protect breeding colonies of seabirds, endangered and threatened species, and marine mammals. Boaters are requested to stay at least 200 yards away from these islands to avoid disturbance to these animals. In addition, Federal Aviation Authority (FAA) guidelines state all aircraft are requested to maintain a minimum altitude of 2000 feet over refuges, wilderness areas, and primitive areas (FAA Advisory Circular 91-36C). Low-flying aircraft may pose a threat to marine birds while nesting or wintering on Eliza Rock by causing stress to the birds at critical times.

Motorized vehicles on the island are restricted to various community-owned utility equipment. Other motorized vehicles are only allowed under unique situations. Dirt and gravel road easements lead to cabins, common tracts, and facilities.

Fire Protection and Emergency Services

Present fire protection for improvements consists of a tank/pump trailer with a capacity of 500 gallons, several fire extinguishers, and nine standpipes located throughout the island.

The island is not within a fire district boundary. An attempt to form a district was made in 1979, however the proponents only had two commissioners. The formation of a district requires at least three residents who are registered voters to serve as commissioners. Until Eliza Island annexes into a fire district or forms its own, it will not qualify for mutual aid from other districts nor from the Bellingham Fire Department and its water boat. The Bellingham Fire Department will, however, perform fee based emergency medical service to the islanders.

The Department of Natural Resources (DNR) is required by State law to suppress all wildfires on unimproved land regardless of parcel size. The DNR estimates that it would take at least two or three hours for the department to reach the island and coordinate boat, land, or helicopter operations. The Coast Guard might assist in these efforts by providing transport for fire fighters. The DNR is prohibited, however, from entering or leaning ladders against any improvements because the responsibility of protecting improvements is left to the local fire districts, or, in this case, the Eliza Island Beach Club.
Fire Flow Standards

Building and fire codes require certain levels of water service for each building type and use and are applied when long subdivisions are being developed. When the Eliza Island plat was approved in 1961, however, such standards were not required. Current codes exempt from fire flow standards single family houses and all secondary buildings under 2,500 square feet.

Public Safety

Law enforcement on Eliza Island is provided by the Whatcom County Sheriff’s Department. The Sheriff’s Department is located in the Whatcom County Courthouse in Bellingham and serves an area of approximately 2,087 square miles including all of Whatcom County with the exception of Bellingham, Blaine, Everson, Ferndale, Lynden, Nooksack, Sumas, and parts of the Lummi Reservation. The estimated service area population in 1991 was approximately 62,578 persons.

The department currently employs 82 full-time paid personnel assigned to the entire county and consists of four divisions: Corrections, Civil, Criminal, and Emergency Management. In addition, there are 48 full-time deputies; 36 of whom are assigned to patrolling and responding to service calls; the remaining 12 deputies perform administrative and supervisory tasks at the main station, although they are also available to respond to calls. There are 13 administrative staff and approximately 45 jail staff. Currently the Sheriff’s Department is conducting a staffing survey to determine whether the department has enough personnel to provide an adequate level of service.

The Sheriff’s Department will respond to calls from the island. It is estimated, however, that the response time for in-progress crimes would be at least one hour. Transportation would have to be arranged either by Coast Guard escort or by flight services at the Bellingham International Airport. The Sheriff’s Department does not have adequately sized boats of their own to respond to calls outside of the harbor area.

Power Supply and Communications

There is no public source of electricity supplied to Eliza Island. Some individual cabins are powered by privately owned generators and some cabins operate low voltage, 12 volt systems supplied from storage batteries which are charged by generator or solar collection arrays. Other cabins have no electricity. Heat is produced by wood burning stoves and propane heaters.

A phone CB at the caretaker’s house can be used to contact the Coast Guard in the event of an emergency. Cellular phones are also available to the caretakers and private owners. Television and radio reception are limited.

The island has the potential for wind and/or solar energy generation which might serve as an appropriate energy alternative for the islanders’ seasonal recreation usage, resulting in a reduced reliance on imported fuels.

Due to the unique nature of Eliza Island, the limited services available and the seasonal use of many structures, Whatcom County is authorized under the Uniform Building Code to allow some flexibility when issuing construction permits for projects on Eliza Island. This may include the allowance for pier and post foundations, wood stoves as the primary heating source, and reduced energy code compliance.
Solid Waste

Solid waste is either burned or packed off the island and disposed on the mainland. Most burning activities require a permit from Whatcom County Fire Division. Only burning of natural vegetation and untreated lumber materials is permissible. Any activity releasing airborne particulates must also comply with the regulations of Northwest Air Pollution Authority. In addition, activity may be suspended whenever the County or the Department of Natural Resources declare a burn ban. The Beach Club also monitors burning activity.

Sewage Disposal

Sewage disposal is by septic tank with individual drainfields. Increased use from existing drainfields designed for limited use may become problematic. New systems require full compliance with the Whatcom County Health Department standards. Some systems may require careful design to account for slow or rapid infiltration rates, depending upon soil conditions (see Appendix C for soils information.)

One of the principal criterion used to determine whether an area is urban or rural in character is the availability of a public sewer system. Development of a public sewer system would be costly and would conflict with the goals of keeping the island rural and recreational. A more appropriate solution for Eliza Island is to continue the use of septic systems, but at a level of intensity which maintains the environmental integrity of the island.

Water Supply

Up until 1993, water had been supplied to residents from a single well treated by a chlorination system and stored within five fiberglass boat molds and one steel tank with a total capacity of 100,000 gallons. Although this system provided the water necessary to the island lot owners for 30 years, it failed to meet current health standards due to limitations in both quantity and quality. During August 1991, water became unavailable because the well yield became too low during the summer to meet daily demand and sufficient quantities had not been stored in the tanks when water was available during the winter and spring months.

Amendments to the Growth Management Act were adopted in 1991 through House Bill 1025. Section 63 of the legislation, including the amendments, states that local jurisdictions shall require: "Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building..." Accordingly, in July 1991, the County established an interim policy to address this mandate. Due to the water situation on Eliza Island, the County would not issue new residential building permits until evidence of an adequate water supply is demonstrated. In this case, it must be approved by the State Department of Health because it has jurisdiction for approving public water systems.

In 1991, the Eliza Island Beach Club appointed a water committee to investigate options available to provide potable water for island lot owners. After a review of alternatives, this committee decided that turning salt water into potable water was the best alternative (see Appendix D for a discussion of ground-water resources on the island) and was the first in the State of Washington to receive state and local agency endorsement. This consent was based upon part-time, recreational use of the cabins on the island, at a water rate to be determined based upon demonstrated usage. The reverse osmosis, de-salinization plant was constructed in 1993 and began service to a portion of the lot owners that year. As a requirement of state approval, a Water Conservation Plan must be followed in order to foster water conservation practices.
Community Facilities and Utilities Goals and Policies

Goal:

Increased population on the island could necessitate improved or additional transportation systems, fire and police protection, power supplies, communication systems, solid waste disposal methods, sewage disposal, and water supply. These improvements and/or additions should be designed in keeping with the overall goal of maintaining a low intensive recreational use of the island.

Policies:

Transportation/Access

1 Shoreline accessory developments, such as piers and docks, should be limited to those that are owned by and accessible to the community.

2 Federal Aviation Administration guidelines with respect to National Wildlife Refuges should be observed by those utilizing the airstrip facilities on the island and for any future expansions to avoid impacts to sensitive marine animals on Eliza Rock.

3 The use of motorized vehicles should be minimized and in accordance with island covenants, conditions, and restrictions.

4 Transportation routes on the island should continue to be of the low intensive trails type.

Fire Protection and Emergency Services

The island is poorly equipped to handle an emergency fire situation, especially under dry weather and high wind conditions. Whatcom County should support the Islanders efforts to develop a fire protection plan.

Public Safety

Whatcom County should ensure that the necessary staff and equipment are available in the Whatcom County Sheriff's Department to provide adequate protective services for the Eliza Island population.

Power Supply - Energy Code

1 Whatcom County should encourage the physical development of passive or active solar heating and water heating, and wind power plants for residential uses on the island.

2 Whatcom County should allow code flexibility to the extent permissible for construction of cabins that will be used on a part-time recreational basis.

Solid Waste

Islanders are encouraged to follow the "carry in, carry out" rule in the handling of waste. Disposal on the island should be prohibited.
Sewer Systems

Whatcom County should discourage the siting of a public sewer system on Eliza Island. The use of individual septic systems should be encouraged in accordance with Whatcom County Health Department standards.

Water Systems

1. Whatcom County encourages the Eliza Island Water Conservation Plan.

2. Whatcom County should coordinate with Washington State Department of Health by encouraging recreational land use on the island which is consistent with the capabilities of the island's approved water system.
environmental characteristics element
CHAPTER 4. ENVIRONMENTAL CHARACTERISTICS ELEMENT

Climate

The island experiences a temperate marine climate, characterized by mild temperatures, muted extremes, and narrow diurnal fluctuations. Winters are wet and mild, with an average daily temperature of 36 degrees F in January. Summers are relatively cool and dry, with average daily temperatures in July of 63 degrees F. The Vancouver Island mountains and the Olympic Mountain Range in northwestern Washington shelter the island from major storms moving landward off the Pacific Ocean and produce a rain shadow effect. Based on the nearest available formal weather stations, Olga on Orcas Island and Bellingham Airport, average annual precipitation is estimated to be less than 32 inches per year, most of which falls between October 1 and March 31.

Topography

The irregularly shaped island has an area of 158 acres, or approximately one-quarter square mile, enclosed by approximately 3.1 miles of shoreline. The island is T-shaped with different surface features on each peninsula (see figure 3). The western bedrock knob is fairly flat with the highest elevation being twenty feet above sea level. The rocks of the southern bedrock knob have an elevation up to 87 feet with a slope of 12 percent. The central region has the highest elevation of 88 feet. The northern point of the island consists of a narrow ridge that descends northward from the high point of the island. The eastern shore consists of a marine bluff created by wave erosion and small slope failures. The eastern part of the island is connected to the western knob by a low-lying area bounded by beach berms and containing a saltwater marsh.

Shore Processes and Erosion

Rates of erosion and shoreline retreat are undocumented on Eliza Island, but based on similar shorelines in other parts of the region, the glacial bluffs might be expected to retreat at approximately one foot per decade, but will do so in an episodic fashion, losing a few feet in a small slide every several decades. It will be centuries before the south end is cut off from the rest of the island.

Two aspects of shore processes bear directly on development practices on Eliza Island. The first concerns development of the low-lying barrier beach. The berms that form portions of both the south and north beaches were built by wave action and as a result are subject to further wave action in the future. The berms have been modified by human activity as well. Although flooding does not occur frequently, it can and will occur again. Serious damage may occur if high water is accompanied by wave action. The south beach is retracting gradually over time and this will accelerate if feeder bluffs are bulk-headed. In addition, short term erosion may occur as a response to large storms. Erosion will put any structure near the berm at risk and will increase pressure to armor the shoreline. The impact of a small earthquake-generated tsunami could be devastating to structures built on or adjacent to the berm.

The second concern involves development of the bluffs. Although erosion rates are slow, small landslides can be expected to continue. Armoring of the shoreline with bulkheads or rip rap to limit erosion or stabilize bluffs will result in the loss of sediment supply to the beach and may result in greater erosion down-drift. All efforts should be made to locate structures so that the pressure to bulkhead is minimized. Clearly, bulkheading represents a significant change to the natural character of the shoreline and is accompanied by loss of important shoreline habitat.
Many of the problems property owners have with erosion and slope failure on shoreline sites can be traced to clearing of vegetation. Much of the stability of shoreline bluffs is due to the root strength created by bluff top and bluff slope vegetation. Just as importantly, vegetation controls bluff hydrology and prevents slope failures due to soil saturation. Trees prevent the infiltration of water during rainstorms and remove large amounts of water from the soil through evapotranspiration. When the vegetation is removed, the stability is weakened, increasing the natural rate of erosion. This acceleration can lead a property owner to consider protections such as bulkheads, seawalls, and rip-rap. However, because shoreline environments are a balance of large and changing forces, disruption can have unforeseen consequences. Not only is the delicate interplay between geologic, hydrologic and biologic systems easily damaged, but a structural modification at one point along a shoreline can have impacts to other areas away from the site. An alternative method of bank stabilization is to re-introduce vegetation to the area and locate improvements as far from the bluff edge as possible.

Seismic Hazards

The Uniform Building Code includes a Seismic Risk Map for the United States which considers potential earthquake intensity and resulting damage. Five zones are identified with the following relationships to potential damage: Zone 0 - no damage, Zone 1 - minor damage, Zone 2 - moderate damage, Zone 3 - major damage, and Zone 4 - areas within Zone 3 that are in proximity to major fault systems. The Puget Sound Basin lies in the Circum-Pacific earthquake belt that extends along the West Coast of North and South America. Based upon this and the geologic structure of the region, it has been categorized as within seismic risk Zone 3. There are no known faults within the island that are considered active (movement having occurred within the past 10,000 years).

Seismic vibration would be the major result from an earthquake. The degree of shaking is primarily dependent on two variables, the geologic unit involved and the degree of water saturation (see Appendix A, Geologic Conditions). The sand and gravel deposits of the Outwash and Undifferentiated Glacial deposits are susceptible to seismic shaking. Organic soils in the wetland area and any areas of artificial fill are highly susceptible to shaking, especially in thick deposits. The fine soil components of deposits within the lowland, central area of the island are highly susceptible to liquefaction when shaken because of the high water table.

Plants, Fish, and Wildlife Habitat

The habitats on Eliza Island provide plants, fish, and wildlife with their basic requirements for survival, such as food, water, and cover, as well as special seasonal requirements related to growth and reproduction. The open waters offshore provide important habitat for thousands of organisms, including phytoplankton and zooplankton, subtidal macroalgae (seaweed), benthic invertebrates, fish, and marine birds and mammals. Many species require both marine and non-marine habitats at different times in their life cycles. The physical features of the irregular shoreline including promontories, bluffs, cliffs, cobble and sandy beaches and marshes create a variety of habitat and forage opportunities for many species. Rich marine bird habitat is found in shallow bays where the birds forage on eelgrass plants, small fish, and invertebrates.

A wide variety of life inhabits the uplands of Eliza Island both seasonally and year-around. The assortment of vegetation provides habitat for many species of birds and insects as they utilize several differing types of habitat; one species may forage for a variety of insects in lowland clearings including the salt marsh and return to forested areas for shelter, while another may visit the nearshore environment from a nesting site on another island (see also Appendix E, for further discussion of habitat types).
Planning for habitat protection on Eliza Island requires that activities affecting habitat be managed in a comprehensive manner to insure that the best representation and distribution of habitats remain to preserve the natural values and functions of those habitats. Virtually every land use action affects wildlife habitat. When recognizing the dependency of wildlife on soils, vegetation, clean air and water, one can appreciate the importance of minimizing the adverse impacts on wildlife through careful land use. Incremental habitat loss results in cumulative impacts and ultimately the need for crisis management. Cumulative adverse impacts on habitat is the greatest threat to wildlife, generally, and species diversity, specifically. Potential cumulative impacts must be identified in the planning process. Further, the creation of clearly stated policies directly linking various land use elements with wildlife requirements is needed.

Environmental Goals and Policies

Goals:

1. Protect and preserve the diversity of plant and animal species on Eliza Island and the surrounding shoreline areas.

2. Protect the general health, safety and welfare by insuring that development in geological hazardous areas minimizes the danger to life and property and is environmentally sound. Prevent erosion and landslides on steep slopes.

3. Promote residential landscaping that preserves and is compatible with natural vegetation and requires low levels of water consumption.

Policies:

Shoreline Bluffs

1. Vegetation removal on eroding shoreline bluffs and banks should be prohibited to maintain bank stability. Natural vegetation should be retained along marine bluffs.

2. The dumping of any vegetation or debris over the edge of a bluff will increase the potential for landslide and should be prohibited.

3. The visual integrity of the shoreline should be protected. Encroachment on geohydraulic processes should be prohibited. Developments should be located well away from the waters edge.

4. Shore defense works should be located, designed, and maintained in a manner which preserves or enhances the quality of affected waters, and conserves or enhances fish and wildlife resources and their respective habitats.

5. Non-structural, non-obtrusive shore defense works are preferred over artificial, structural alternatives.

6. Saturating soils along bluffs should be prevented by minimizing watering and maintaining natural vegetation in order to help prevent slope failure.
Land Clearing

1. The visual integrity of the uplands should be protected. Land clearing on the island should be minimized.

2. Minor tree de-limbing and small tree thinning is emphasized as preferable to clearing for view access and to decrease shading.

3. Because of erosion problems caused by large areas of exposed soil, construction sites should not be cleared until shortly before actual construction is to begin. Land clearing, grading, and filling should be limited to the minimum amount necessary to accomplish the primary purpose of the development.

Seismic

When located within areas of high seismic risk, new construction should be reviewed to minimize damage due to earthquakes.

Flooding

1. Flood prevention activities should rely upon appropriate placement and construction of developments to minimize the necessity for artificial defense systems.

2. Maintenance of flood protection berms should minimize disruption to natural shore processes and sensitive environmental areas. Gravel used to rebuild berms should not be excavated from below the ordinary high water level.

Plants and Fish and Wildlife Habitat

1. Natural vegetation should be retained as much as possible when developing sites in order to provide a continuous wildlife habitat. Large trees and snags should be preserved.

2. Kelp and eelgrass beds and other marine plants surrounding the island should be protected and enhanced.

3. Critical habitat of threatened, rare and endangered wildlife species should be preserved and protected.

4. Whatcom County should work with the property owners of Eliza Island, citizen groups, the State of Washington, and other agencies in identifying and protecting bald eagle habitat, near shore habitat, and general environmental quality of the island.

5. Whatcom County should encourage island property owners to use the current use tax assessment provisions of RCW 84.34, and/or conservation easements to reduce taxation and retain important wildlife habitats, such as bald eagle nest areas, in open space.

Marsh/Wetland

Whatcom County should work with the property owners of Eliza Island, citizen groups, the State of Washington, and other agencies in developing management practices to restore and enhance the salt water marsh on Eliza Island.
appendices
ELIZA ISLAND PLAN

LEGEND

Qal Alluvial Deposits
Qf Fraser Drift, Undifferentiated Glacial Deposits
KJs Jurassic Sedimentary
Absolute Sector Boundary
Net High Tide Drift Direction
Natural Accretion Shore
Erosional Bluff
Rocky Shore

Source: Esterbrook, Don J., Geologic Map of Western Whatcom County, Wa., U.S.G.S. 1973
Adapted from Woll Bauer, P.E., 1975

GEOLOGIC CONDITIONS AND MARINE SHOREFORMS

Whatcom County Planning Department
April 1994
Appendix A: Geologic Conditions

Eliza Island consists of three basic geologic formations: 1) bedrock, 2) glacial deposits, and 3) alluvial deposits.

The bedrock forms the rocky knobs at the south and the west ends of the island and underlies glacial materials along portions of the northeastern shore. The bedrock consists of phyllite of Jurassic and Cretaceous Age (many tens of millions of years old). This phyllite is slightly recrystallized sandstone and shale that preserves some sedimentary characteristics but is unfossiliferous.

The glacial deposits overlie the bedrock and form most of the eastern part of the island. These poorly exposed sediments were deposited during the Fraser glaciation, approximately 15,000 years ago. The Coastal Atlas suggests (but is uncertain) that these materials consist of advance outwash, glacial till, and glacial-marine drift.

Alluvial deposits make up the central, lowland area and are composed of stratified sands, silts, and gravels. These deposits are largely the result of the building of a barrier beach system between the eastern and western portions of the island, which may have originally been separated by water. This beach building occurred during the Holocene, the last 10,000 years, and continues today.

The bedrock provides generally stable building sites and erodes extremely slowly, but may present difficulties in excavation and construction of septic systems. The glacial deposits are subject to greater rates of shoreline erosion and are less stable, particularly on steep slopes or where ground-water is abundant. The low-lying alluvial deposits may be subject to flooding and though soils may perk, the high water table may limit their application for septic systems.

Appendix B: Marine Shoreforms

South shore: The south shore of Eliza Island consists of a broad crescent-shaped barrier beach backed by a broad backshore and marsh/meadow. This beach comprises a single drift cell, contained between the rocky promontories at the southern and western ends of the island. The material that forms this beach is derived from the erosion of the glacial bluffs at the southeast end of the embayment. This beach retreats landward slowly as the bluff erodes and eventually may cut off the narrow neck of land at the south end, creating an island of the southern tip of the island. Eroded material is moved by shore-drift along the beach to the west, although reversals will occur depending on wind and wave directions.

East shore: The eastern shore consists of a north-south trending shore bluff of glacial material. This shore forms a drift cell bounded by the rocky southern point and by the sharp point at the northeastern end of the island. The bluffs are generally less than fifty feet high and a narrow beach has formed at the base of the bluffs. Eroded material is moved both north and south along the shore depending on wave conditions, but the predominant movement is toward the north as a result of the greater fetch from the south.

North shore: The western half of the north beach is an accretion beach terminating at the rocky western promontory. The bern is higher and broader than the bern on the south shore and may be older. The beach is fed by erosion of the bluff at the northern end of the island and by erosion of the low terrace between the bluff and the accretion beach. Exposure to the north is protected somewhat by Lummi and Portage Islands.
ELIZA ISLAND PLAN

LEGEND
60 Kickerville Silt Loam, 3% to 5% slopes
61 Kickerville Silt Loam, 6% to 15% slopes
111 Neptune very gravelly Sandy Loam, 0% to 3% slopes
117 Pickett - Rock outcrop complex, 5% to 30% slopes
143 Shalcar Muck, drained, 0% to 2% slopes
184 Whitehorn silt Loam, 0% to 2% slopes


SOIL UNITS

Whidbey Rock
'Light Marine' U.S.S.
San Juan Islands National Wildlife Reserve

Whidbey County Planning Department
April 1994
Appendix C: Soils

The northwest shoreline contains the Neptune soil type. It consists of very deep, excessively drained soil, on a marine terrace. Permeability of this soil is very rapid. It has a slope of 0-3 percent. The soil is subject to rare periods of flooding from tidal inundation. The rapid permeability does not allow proper filtration of septic field overflow. The absorption fields need to be surrounded by Health Department approved fill to compensate for this problem.

The south central region contains Shalcar muck. It is a very deep well drained soil common in depressional areas on outwash terraces, till plains, and stream terraces. This soil was formed from herbaceous and woody organic material that was deposited upon rock materials. Permeability is moderately slow near the surface and rapid through underlying material. It has a slope of 0-2 percent. The high water table and the low strength make this soil unsuited for homesite development.

White Horn silt loam is located in the center of the island. It is poorly drained on wave eroded, glacial marine drift plains. Slope is between 0-2 percent. Permeability is very slow and water capacity is high.

Nearly fifty percent of the island is composed of Kickerville silt loam. There are two variations of the soil depending on its slope. Kickerville with a slope of 3-8 percent is located on the tips of the north and south peninsulas. Kickerville with a slope of 8-15 percent is located in between. Both soil types are very deep, and well drained on outwash terraces. The main limitations to homesite development is the steepness of slope, especially with slope of 8-15 percent. The limitations for septic tank absorption fields is the poor filter ability of the underlying rock. Placing the drainfield in approved fill helps compensate for this problem.

On the west peninsula there is a small region of Pickett Rock soil. It is on glacially eroded backslopes and ridgetops. The soil is well-drained and moderately deep. Permeability is moderate. It has a slope of 5-30 percent.

Appendix D: Hydrogeologic Conditions

The geology has two types of water-bearing material: the bedrock of sandstone and conglomerate where water is stored principally in fractures and fissures, and the overlying glacial material, where water is stored in both the permeable sands and gravel and in the less permeable but still porous clays and tills. The storage capacity of the latter materials is judged to be at least ten times as good as the bedrock and the transmissivity (ability of the water to move through the materials) generally is judged to be higher and much less variable. A 1961 report by Leland R. Jones characterized the island’s potable water as follows:

Explorations consisted of reconnaissance, three churn drill holes, and electrical resistivity geophysical explorations. These explorations showed that there is only one potential source of potable domestic water. This area is roughly the northern half of the main body of the island. In this area, the water can be obtained from a relatively thin sand stratum confined between layers of clay. The sand stratum evidently connects with or drains overlying gravel and clay strata which collect rain water. Because of its relatively low permeability, special measures are necessary to obtain an adequate water supply in the area.
Ground Water Recharge

Precipitation falling on the land surface of the island is the only known source of recharge for which figures can be computed (estimated at 32 inches per year). The amount of this precipitation actually reaching the ground water supply varies from place to place on the island according to surface topography, extent and type of vegetation, and characteristics of the soil and geologic material.

Saltwater Intrusion

The proximity of saltwater makes island ground water resources among the most fragile and sensitive systems in nature. Beneath the surface are both fresh ground water and salt ground water with a diffusion zone in between. The fresh ground water is constantly moving seaward, “leaking out.” If fresh ground water is also removed by pumping, then, unless an equivalent amount of water is returned to the aquifer in the vicinity of the well, or, unless there is an impervious layer separating the fresh water from the saltwater, the net effect is to raise the level of the saltwater in the ground due to reduced head. To insure against saltwater intrusion, the well depth must be within the fresh water zone and recharge must be sufficient both to offset “leakage” and pumping, and to keep the saltwater a safe distance from the bottom of the well.

In 1961, Leland R. Jones conducted a ground water investigation on Eliza Island to determine what ground water supplies, in addition to the existing well, were available. Three wells were drilled at different locations and all encountered saltwater between 46-54 feet. No attempt to drill deeper was performed although there are reports that a very deep privately owned well on the island supplies freshwater.

It was determined after this study that a horizontal trench well would provide the desired quantity of water. An attempt then followed to build a trench filled with gravel that would intercept fresh ground water as it moved along the gradient from the higher areas of the island to the flat marsh area. It was estimated from salinity tests taken from the lowland ponds that "at least 40 or 50 gallons per minute (of fresh water) are flowing to the pond." The finished horizontal trench well, however, was abandoned due to high salinity levels.

Appendix E: Biologic Conditions

The greatest diversity of species occurs in "edge" areas where different habitat zones adjoin or overlap. Prime examples of edge areas are the forest/aquatic interface and the marsh/thicket/woodland interface where greater diversity of vegetation results in the presence of many insect and bird species. This island, with its forested areas, shorelines, open space areas, and marsh and estuaries, provides many areas of edge habitat. Categorized below are five habitat zones within or around Eliza Island: Forest; Field-and-Thicket; Wetlands; Shorelands; and Open Salt Water.

Forest Habitat

The dominant tree species on the island is Douglas fir. Other important constituent trees are western hemlock, western red cedar, madrone and bigleaf maple. Willow, vine maple, and western yew are also present. Shrubs commonly found in association with deciduous and mixed coniferous and deciduous forests include wild rose, ocean spray, elderberry, salmonberry, thimbleberry, wild gooseberry, chokecherry, and hazelnut. Typical herbaceous plants include deer fern, vanilla leaf, twisted stalk, trillium, false Solomon’s seal, star flower, bleeding heart, yellow violet, stinging nettle and buttercup in moderately moist areas.
Birds generally associated with forest habitats in the region include hawks, bald eagles, ospreys, grouse, owls, band-tailed pigeons, Vaux's swifts, hummingbirds, woodpeckers, flycatchers, swallows, ravens, jays, crows, chickadees, bushtits, nuthatches, brown creepers, wrens, robins, thrushes, kinglets, waxwings, starlings, vireos, wood warblers, Bullock's orioles, brown-headed cowbirds, Western tanagers, grosbeaks, finches, siskins, rufous-sided towhees, red crossbills, juncos, sparrows and the great blue heron.

Field-and-Thicket Habitat

The field and thicket habitat encompasses open space areas, yards and hedge rows, trail thickets and dense underbrush which grows along banks and cliffs above the beaches. Flora commonly includes English ivy, honeysuckle, and scotchbroom and native species such as the wild rose, salmonberry and red elderberry.

Birds commonly found in shrub and thicket habitats include California quail, ring-necked pheasants, swallows, chickadees, bushtits, wrens, wood warblers, brown-headed cowbirds, rufous-sided towhees, juncos, and sparrows.

Wetland Habitat

A relatively large salt marsh, one of the few in Whatcom County, is located in the island's south central area. The bottom of the mudflat consists of rich organic sediment while numerous amphipods, plankton, and other organisms live in the mudflat's shallow water. Along the northern perimeter of the mudflat, in a few centimeters of standing water, grow sedges. The ground immediately surrounding the mudflat is thoroughly saturated with salt water. This area is characterized by mats of pickleweed interlaced with orange dodder, salt grass, salt weed, gum weed, and various grasses, including the exotic Reed canary grass. Between the south beach and the entire grass lowland lie three meter high dunes, all of which are covered with dune grass.

Aquatic birds visiting the wetland may include great blue herons, loons, grebes, swans, geese, ducks, bald eagles, falcons, ospreys, hawks, coots, rails, plovers, killdeer, snipes, sandpipers, phalaropes, gulls, terns, kingfishers, swallows, crows, long-billed marsh wrens, water pipits, common yellowthroats, and blackbirds.

Due to a number of drainage ditches, wet meadows, the saltmarsh, and vacationers, the island supports a large number of mosquitos. Because of this, the Beach Club has maintained a practice of draining these areas and spraying with pesticides. Unfortunately, this has a detrimental effect on the habitat and aesthetic value of the wetland. The loss of open water restricts its use by a variety of birdlife and aquatic insects, and leaves the site more vulnerable to invasive noxious weeds such as Reed canary grass.

Shoreland Habitat

The shoreland habitat includes all of the beaches on Eliza Island, along with the tidelands. This area provides habitat for many species of plants and animals and serves as rearing grounds for species from other habitat areas.

Lichens and surfgrass typically grow on the marine shorelines of Eliza Island. Various algae also are found, including sea lettuce, sea staghorn, rockweed, bull kelp, and sea moss. The sea grasses and algae species, especially the kelp beds, are vital links in the marine food cycle. They provide shelter as well as feeding areas for birds and spawning areas for fish. Marine fishes inhabiting nearshore waters adjacent to shorelines include several varieties of surf perches, rockfishes, greenlings, lingcod, and sculpins. Many of these species are important
food sources for marine birds and mammals. Shellfish include crabs, shrimp, clams, mussels, and scallops which are collected along shorelines. Area tidepools host a variety of marine life including periwinkles, limpets, barnacles, rock crabs, sea anemones, chitons, sponges, tunicates, and starfish.

The tidal flats on the north and south bays of Eliza Island appear to support a rich growth of marine flora. Of these, perhaps the most important species is the eelgrass. Eelgrass typically grows on sandy or muddy substrates in the outer edge of the intertidal region of Puget Sound. Dense beds of eelgrass support a diverse assemblage of species. Several types of epiphytic plants (plants that grow on other plants) as well as animals can live on the eelgrass blades, and an array of diatoms, protozoans, worms, small crustaceans, and other organisms thrive on the food material found in or on the substrate around eelgrass communities. These organisms in turn provide food and cover for invertebrates and larger animals, such as rockfish, shellfish, and juvenile salmonids. Eelgrass also benefits larger mammals, such as orcas, seals, and sea lions, which feed on species of fish and crab that rely on eelgrass for cover of food. Black brant rely heavily on eelgrass during the winter. Additionally, eelgrass bed provide a substrate for spawning herring, and help to buffer erosional impacts from wave action.

Open Salt Water

The salt water surrounding Eliza Island provides a path for many migratory fish such as pink, sockeye, coho, chum, and chinook salmon. These waters also provide spawning and feeding grounds for herring, shrimp, Dungeness crab, and many other organisms. Anadromous as well as local fish and plankton species attract such marine mammal species as harbor seals, river otters, minke whales, and several different bird species.

There are a number of birds that use this habitat in quite different ways. Kingfishers, crows, oyster catchers, sandpipers and great blue herons are not birds of open salt water. However, they do use the edges for feeding. Eagles and osprey sometimes feed over open water. There are a number of other birds that use the open water more or less extensively. Some, like the murres, guillemots, auklets, and brants live most of their lives there. Others, such as the loons, geese, saltwater ducks, sandpipers, phalaropes, gulls, terns and cormorants may only use open salt water seasonally and may spend considerable time either in fresh water habitats or on land.

Eliza Rock

Eliza Rock is designated as a National Wildlife Reserve and as such is closed to the public to protect breeding colonies of seabirds, endangered and threatened species, and marine mammals. According to the Puget Sound Environmental Atlas, this particular area is the nesting site of black oyster catchers, glacous-winged gulls, and pigeon guillemonts. Harbor seals are also known to haul out on this small island.

Appendix F: Bald Eagle History and Management

Introduction

The bald eagle (Haliaeetus leucocephalus) is classified as a threatened species and is protected by both state and federal laws. The Washington Bald Eagle Protection Rules (WAC 23212-292) and enabling legislation (RCW 77.12.655) were enacted in 1986 to protect bald eagles and their habitat. The goal is to eventually de-list bald eagles from the threatened category. To meet this goal, criteria outlined in the Pacific Bald Eagle Recovery Plan must be met. The North Puget Sound Region has "recovered", but minimum criteria have not been met statewide or in
Location of Viable Nests and Protective Buffer on Eliza Island, 1993

Nest #5

Nest #4

Nest #6
(No Protective Buffers)

not to scale
the Pacific Recovery Region (Washington, Oregon, California, Montana, Wyoming, Idaho, and Nevada). In fact, only 49% (24 of 51) and 70% (7 of 10) of the subregions have met minimum breeding population recovery goals in the Pacific region and Washington respectively. The outlook is optimistic, but it will be well into the 21st century before bald eagles are de-listed.

It will always be important, if not required, to maintain bald eagle habitat. Currently, under Washington’s Bald Eagle Protection Rules, site-specific management plans are developed when land use changes are proposed which may affect bald eagle habitat. Landowners are often unaware of potential land use restrictions until they apply for a county or state permit to alter the landscape. Developing a management plan often involves a site visit between the landowner and eagle biologist. The process can be very time consuming and frustrating for both the landowner and biologist.

Through planning, eagle habitat can be maintained over the entire island without causing undue burden on individual landowners. Management conditions, if accepted by the landowner, will become a condition of development permits. Only landowners within 400 feet of a viable nest site and those objecting to conditions set forth in this plan will site specific plans be developed with the Washington Department of Wildlife (WDW).

Eliza Island Bald Eagle History

Residents report nesting bald eagles on Eliza Island since at least the early 1970’s, although WDW has only been documenting nesting since 1980. Of seven historic nest sites, only 3 currently contain nests (Figure 7). Three of the nests have fallen since 1989 and nest #4 recently lost a supporting branch and is partially fallen. Nest #6 is believed to have been built at least 20 years ago, although it has never been documented or reported as active. The eagles last used nest #5 during the summer of 1993. Nest #5 is in a "white" or "grand" fir which break or blow down relatively easily. Although the tree has made it through recent strong winds, it is not considered to be a good long term nest tree.

Reports of a nest on the north end of the island have not been confirmed despite aerial surveys and ground searches. The eagles have apparently tried building a new nest on lot 134 in 1993. Only a few sticks remain and it does not appear to be a preferable nest tree.

Eagle Habitat Management

The nest history on Eliza Island emphasizes the dynamic nature of forest habitat and the need for long term planning. Wind storms have removed three nest trees and numerous perch and potential nest trees. Construction and land clearing has added to the net loss in eagle habitat. Lots have also been landscaped to exclude forest regeneration. The overall result is increased wind throw and reduced recruitment of new trees. Although there may appear to be enough trees to support nesting eagles, suitable eagle trees are being lost at a rapid rate. The goal is to maintain suitable habitat 50, 100, and 200 years from now. Landowners who landscape to eliminate forest regeneration often fail to recognize the long term consequences of their actions. As eagle habitat is lost, it forces even more restrictive measures on adjacent landowners to protect remaining habitat. The key is to plan ahead and spread the responsibility over numerous landowners before the majority of the habitat disappears.

Disturbance must also be considered in eagle management. Human activity can cause a nest site to fail or be abandoned. However, determining what is "disturbing" to an individual or pair of eagles is difficult. Every eagle has a different tolerance level for a given activity. Some birds will perch next to a running bulldozer while others will flush at the sight of a kayak 1000 feet away. Some eagles may acclimate while others may completely abandon the area if an activity
is persistent. Few studies have been conducted and recommended "disturbance free" nest buffers have been "best guess" estimates.

Seasonal considerations are also important when determining the potential impact of an activity. The nesting season is generally January 1 through August 15th in Washington. The most critical time is late February through early June. From just prior to incubation until the eaglets are about 4 weeks old, adult eagles are more prone to flush from disturbance with more serious consequences. Eggs and young eaglets need persistent adult attention. Adults flushed from the nest expose the eggs and young to predation (gulls, ravens, etc.) and potential hypothermia. Once the eaglets reach about 4 weeks old (late May or early June), the importance of adult attendance diminishes and nestling mortality is generally low. However, there is still a concern that human activity may cause fewer food deliveries or premature fledgling. Reduced food or early fledgling would result in increased mortality and would not be obvious to an observer. The mortality would probably occur after fledgling, miles from the nest, leading an observer to conclude human activity had no impact on the eagles.

Since reaction to disturbance is so variable and difficult to document, the only alternative is a conservative approach. The most widely accepted disturbance free buffer recommendations for during the nesting season vary from 660 to over 1200 feet. Given the relative small scale construction that is likely to occur on Eliza Island and apparent tolerance of the eagles, it is reasonable to use the smaller buffer.
bibliography
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Publications and Documents


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Whatcom County Planning Department. Whatcom County Shoreline Management Program. 1986.


Personal Contacts

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Fischer, Jim. Area Manager, Bureau of Land Management. Wenatchee.


Reis, Bob. Fire Prevention Specialist, Department of Natural Resources Northwest Region. November 30, 1992.

Shipman, Hugh. Coastal Geologist, Department of Ecology Shorelands and Coastal Zone Management Program.

WHATCOM COUNTY
PLANNING COMMISSION

Repeal the 1994 Eliza Island Plan and
Amend Provisions in the Whatcom County Comprehensive Plan and
Zoning Code relating to the Eliza Island Plan

FINDINGS OF FACT AND REASONS FOR ACTION

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to
      the subarea plan.
   b. Amending Whatcom County Zoning Code Plan provisions relating to the
      subarea plan.
   c. Repealing the Eliza Island Plan (1994).

2. A determination of non-significance (DNS) was issued under the State
   Environmental Policy Act (SEPA) on March 25, 2014.

3. Notice of the Planning Commission hearing was posted on the County website
   on April 8, 2014.

4. Notice of the Planning Commission hearing and that the proposal had been
   posted on the County website was sent to citizen, media and other groups on the
   County’s e-mail list on April 8, 2014.

5. Notice of the subject amendments was submitted to the Washington State
   Department of Commerce on April 8, 2014.

6. Notice of the Planning Commission hearing for the subject amendments was

7. The Planning Commission held a public hearing on the subject amendments
   on April 24, 2014.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive
   plan amendments the County must find all of the following:
a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.

b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

   i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

   ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

   iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.

d. The amendment does not include or facilitate spot zoning.

e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

**Growth Management Act**

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 ("Comprehensive plans – Optional elements").

10. However, the GMA requires that subarea plans must be consistent with a county's comprehensive plan. Specifically, RCW 36.70A.080(2) states: "A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan."
11. The Eliza Island Plan was adopted in 1994. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan's land use designation is not the same as the Whatcom County Comprehensive Plan's land use designation.

**County-Wide Planning Policies**

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

**Interlocal Agreements**

13. There are no interlocal agreements relating to the Eliza Island Plan.

**Further Studies/Changed Conditions**

14. The Eliza Island Plan was adopted in 1994.

15. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended.

16. Adoption of the Whatcom County Comprehensive Plan constitutes a changed condition that warrants repealing the 1994 Eliza Island Plan.

**Public Interest**

17. Repealing the 1994 Eliza Island Plan will serve the public interest by removing a 20 year old plan that is no longer necessary because of adoption of the Whatcom County Comprehensive Plan.

**Spot Zoning**

18. The subject proposal does not involve rezoning property.
CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends the following:

1. Approval of Exhibit A, amendments to Whatcom County Comprehensive Plan Chapter 2 (Land Use); and

2. Approval of Exhibit B, amendments to Whatcom County Zoning Code; and

3. Repealing Exhibit C, the Eliza Island Plan (1994).

WHATCOM COUNTY PLANNING COMMISSION

David Onkels, Chair

Sam Ryan, Secretary

Date

Commissioners present at the April 24, 2014 meeting when the vote was taken: Ken Bell, Ben Elenbaas, Walter Haugen, Gary Honcoop, David Hunter, Natalie McClendon, David Onkels, Mary Beth Teigrob, and Gerald Vekved.

Vote: Ayes: 9, Nays: 0, Abstain: 0, Absent: 0. Motion carried to adopt the above amendments.
NOTE:

In order to avoid redundancy, Exhibits A, B and C are only attached to the proposed Ordinance that will be considered by the County Council.
Commissioner McClendon asked under what circumstances are subarea plans needed?

Mr. Aamot stated staff has thought about that. They think it may be good to retain the plans for active communities and those that stand alone from other areas.

Commissioner McClendon asked how the subarea plans relate to the Comprehensive Plan.

Mr. Aamot stated they add detail to the countywide plan.

Commissioner Bell asked if more resources were applied to the subarea plans would there be more activity? For example, Lake Whatcom is a large area which makes it difficult for people to come together as they do in a smaller area such as Birch Bay.

**Roll Call Vote:** Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.

File # PLN2014-00003: Repealing the South Fork Valley Subarea Plan, which was adopted in 1991, and amending related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot presented the staff report. (A map and aerial photo of the subarea was shown with the boundaries) The South Fork Plan was adopted in 1991; right after the GMA was adopted in 1990. The population projection for the subarea was through 2000. It had a more flexible planning period, however, that planning period has ended so it is not consistent with the current comprehensive plan period of 2029. There were five land use designations in the plan. There were two forestry zoning districts but the subarea plan only had one forestry land use designation. Some of the areas have been rezoned or now have different comprehensive plan designations. One of the policies in the plan reaffirms the 1970 comprehensive plan, which is outdated. That policy is now outdated and creates a conflict. Staff recommends repeal of the plan.

The hearing was opened to the public.

There was no public testimony.

The hearing was closed to the public.

**Commissioner Honcoop moved to recommend approval of Exhibit A-Amendments to the Whatcom County Comprehensive Plan, chapter 2; and repeal of Exhibit B-the South Fork Valley Subarea Plan. Commissioner Teigrob seconded.**

**Roll Call Vote:** Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.

File # PLN2014-00004: Repealing the Eliza Island Plan, which was adopted in 1994, and amending related provisions in the Whatcom County Comprehensive Plan and Zoning Code.
Matt Aamot presented the staff report. (A map and aerial photo was shown of Eliza Island with relationship to Lummi Island, Bellingham and the Chuckanut area. There is a U.S. Light House Reserve on the southern end of the island. The plan was adopted in 1994. When it was adopted the Eliza Island zoning district was adopted under Title 20. The Comprehensive Plan designation now rural. During the Rural Element update the zoning text was changed. It used to allow for 1/2 acre lot sizes and now it is 5 acres. In the plan there are not the inconsistencies that are in the other plans. There are some outdated things. Staff recommends repeal of the plan.

The hearing was opened to the public.

There was no public testimony.

The hearing was closed to the public.

**Commissioner Elenbaas moved to recommend approval of Exhibit A-Amendments to the Whatcom County Comprehensive Plan, chapter 2; Approval of Exhibit B-Amendments to the Whatcom County Zoning Code; and repeal of Exhibit C-the Eliza Island Plan. Commissioner Hunter seconded.**

Commissioner Bell stated Eliza Island seems perfect for a subarea plan because they are separate and have different interests from the rest of the county. Is the only reason they don’t have one because they aren’t active?

Mr. Aamot stated it gets to how many resources does staff put into a plan and they do have a unique zoning district which regulates land use. Mr. Bell’s point was well taken.

Commissioner Hunter noted that all of the lots are vested so the real issue may be water resources.

Commissioner Haugen asked if a desalinization plant was an option if more people wanted to live there.

Mr. Aamot did not know.

Commissioner Honcoop stated this was a GMA issue that was appealed so that will drive what is done.

**Roll Call Vote: Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.**

The meeting was adjourned at 7:15 p.m.

Minutes prepared by B. Boxx.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

**NO.** 2014-197

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**TITLE OF DOCUMENT:**
Repeal the South Fork Valley Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

**ATTACHMENTS:**
1. Staff Memo
2. Proposed Ordinance and Exhibits
3. Planning Commission Findings of Fact and Reasons for Action
4. Planning Commission minutes

Other background information is on file at the Council office.

**SEPA review required?** ( X ) Yes ( ) NO
**SEPA review completed?** ( X ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes ( X ) NO

Requested Date

The Council must hold a hearing if they want to change the Planning Commission’s recommendation (WCC 2.160.100(B)).

**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.)

Repeal the South Fork Valley Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans. The South Fork Valley Subarea Plan was adopted in 1991, prior to the first Whatcom County Comprehensive Plan that was adopted under the GMA.

**NOTE:** Final approval of these amendments would occur as part of concurrent review of comprehensive plan amendments in early 2015.

**COMMITTEE ACTION:**
6/3/2014: Committee recommended that the Council forward for concurrent review

**COUNCIL ACTION:**
5/20/2014: Introduced 6-0, Weimer absent
6/3/2014: Recommended for concurrent review 7-0

**Related County Contract #:**  
**Related File Numbers:**  
**Ordinance or Resolution Number:**

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.

473
May 5, 2014

To: Jack Louws, The Honorable Whatcom County Executive
    The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, Long Range Planning Division Manager

RE: Repeal the South Fork Valley Subarea Plan and Related Amendments

The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080. However, the GMA also requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

Most of the comprehensive land use plan designations in the 1991 South Fork Valley Subarea Plan are not the same as the designations utilized in the current Whatcom County Comprehensive Plan. The Subarea Plan has an “Urban Reserve” designation, but the current Comprehensive Plan does not include any urban designations in the Subarea. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The South Fork Valley Subarea Plan does not address LAMIRDs. Finally, the 1991 Subarea Plan utilized a 10 to 20 year planning period. Therefore, we recommend repealing the Subarea Plan and amending provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

Planning & Development Services is requesting Council consideration of these amendments on June 3. However, the proposed Comprehensive Plan amendments are subject to concurrent review. Therefore, the Council will not render a final decision on the proposal until early 2015.

Thank you for your consideration of this matter.
ORDINANCE NO. _____________

REPEALING THE 1991 SOUTH FORK VALLEY SUBAREA PLAN
AND AMENDING PROVISIONS IN THE WHATCOM COUNTY
COMPREHENSIVE PLAN RELATING TO SUBAREA PLANS

WHEREAS, The Whatcom County Council initiated the subject amendments for review in
2014; and

WHEREAS, The Whatcom County Planning Commission held a public hearing on April 24,
2014; and

WHEREAS, The Whatcom County Planning Commission recommended the comprehensive
plan amendments on April 24, 2014; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to subarea
      plans.

2. A determination of non-significance (DNS) was issued under the State Environmental

3. Notice of the Planning Commission hearing was posted on the County website on April
   8, 2014.

4. Notice of the Planning Commission hearing and that the proposal had been posted on the
   County website was sent to citizen, media and other groups on the County’s e-mail list on
   April 8, 2014.

5. Notice of the subject amendments was submitted to the Washington State Department of
   Commerce on April 8, 2014.
6. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on April 11, 2014.

7. The Planning Commission held a public hearing on the subject amendments on April 24, 2014.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendments the County must find all of the following:

   a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.

   b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

   c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

      i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

      ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

      iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.

   d. The amendment does not include or facilitate spot zoning.

   e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

**Growth Management Act**

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 (“Comprehensive plans – Optional elements”).
10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The South Fork Valley Subarea Plan was adopted in 1991. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.

County-Wide Planning Policies

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

Interlocal Agreements

13. There are no interlocal agreements relating to the South Fork Valley Subarea Plan.

Further Studies/Changed Conditions

14. The South Fork Valley Subarea Plan was adopted in 1991.

15. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1991 South Fork Valley Subarea Plan does not address LAMIRDs.

16. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1991 South Fork Valley Subarea Plan is not consistent with the County Comprehensive Plan.

17. The 1991 South Fork Valley Subarea Plan utilized a different planning period than the Whatcom County Comprehensive Plan.

18. Changed conditions, including adoption of the Whatcom County Comprehensive Plan and the passage of time, warrant repealing the 1991 South Fork Valley Subarea Plan.

Public Interest

19. Repealing the 1991 South Fork Valley Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.

Spot Zoning

20. The subject proposal does not involve rezoning property.
CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County Comprehensive Plan Chapter 2 (Land Use) is hereby amended as shown on Exhibit A.

Section 2. The South Fork Valley Subarea Plan (1991) is hereby repealed as shown on Exhibit B.

Section 3. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this _______ day of ____________, 2015.

ATTEST: 

__________________________  ________________________________
Dana Brown-Davis, Council Clerk  Carl Weimer, Chairperson

APPROVED as to form:

__________________________  ________________________________
Civil Deputy Prosecutor  Jack Louws, Executive

( ) Approved  ( ) Denied

Date: ________________________________
Exhibit A

Amend Chapter 2 of the Whatcom County Comprehensive Plan as follows:

Policy 2L-2: Retain and periodically review the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Lake Whatcom, Urban Fringe, Birch Bay Community Plan, Foothills, Point Roberts, South Fork Valley, and Eliza Island). Subarea Plans represent a long history of plan development in Whatcom County and provided the foundation for the county’s first Growth Management comprehensive plan adopted in 1997.

1. Utilize a process which ensures consistency between the Whatcom County Comprehensive Plan and subarea plans. The subarea plan review process should include the following steps:

   a. Consistency Analysis. The County should review subarea plans based on the priority order in subsection “b” for gaps, overlaps, or inconsistencies. Topics include, but are not limited to, plan boundaries, growth forecasts, land uses, capital facilities and services, horizon year, and other appropriate issues.

   b. Regional and Local Government Coordination. The County should consult and coordinate with cities where city-associated UGAs are included in subarea plan boundaries.

   c. Public Participation. Each subarea plan update process will be based on a public participation program that addresses citizen input on the key issues associated with the subarea plan update.

   d. Subarea Plan Amendment. Only those portions of existing subarea plans in conflict with the Comprehensive Plan are required to be amended. Local issues of concern or changed conditions may be addressed.

   e. Comprehensive Plan Revisions. Where the subarea plan process recommends growth levels, growth boundaries, or other essential features, Comprehensive Plan amendments will be considered in conjunction with the subarea plan update process.
Land capacity analysis may also be updated if appropriate.

2. Prioritize review of subarea plans. Subarea plans should be reviewed in the following order.

a. Post-GMA Subarea Plans addressing UGAs. These subarea plans should be reviewed and amended, if necessary, during Whatcom County's periodic review of the comprehensive plan. Subarea plans addressing UGAs associated with a city should be coordinated with the city's comprehensive plan update process.

b. Post-GMA Subarea Plans addressing Rural Areas. These subarea plans should subject to a consistency review. If significant inconsistencies are found, these should be considered for potential update during Whatcom County's periodic review of the comprehensive plan. Minor updates may be considered through the County's docket process in subsequent years.

c. Pre-GMA Subarea Plans. These should be repealed or updated in accordance with County department work programs or the docketing process. Priority criteria may be used to determine the order of update. Example criteria include:

i. whether update is needed for health, safety, or welfare concerns;

ii. whether there is a city-associated UGA included in the subarea plan boundaries – in which case, the subarea plan update could be timed to be developed in association with or following city comprehensive plan update process;

iii. whether the subarea plan would benefit from broader policy concepts to be completed in advance or in tandem, such as agricultural land protection measures;

iv. whether a significant policy objective would be met by amending the plan.

In the event there is an inconsistency between a Subarea Plan and the Whatcom County Comprehensive Plan, the Whatcom County Comprehensive Plan shall prevail.
Amend the Land Use Action Plan in Chapter 2 of the Whatcom County Comprehensive Plan as follows:

6. Undertake a limited planning process for exclaves and incorporate the results along with the Newhalem-Diable area plans in the Foothills and South Fork Subarea Plans.

NOTE: The text of Policy 2L-2 above is also being amended in association with the proposed repeal of the Lake Whatcom Subarea Plan (file # 2014-00002) and the proposed repeal of the Eliza Island Plan (file # 2014-00004). The changes to Policy 2L-2 proposed in the subject amendment are intended to be harmonious and compatible with the changes to Policy 2L-2 proposed in these other two amendments.
Exhibit B

(Repealing the Subarea Plan)
SOUTH FORK VALLEY SUBAREA

a component of the

Whatcom County
Comprehensive Land Use Plan

- Cherry Pt. - Ferndale Subarea
- Lake Whatcom Subarea
- Urban Fringe Subarea
- Lummi Island Subarea
- Chuckanut - Lake Samish Subarea
- Lynden - Nooksack Valley Subarea
- Birch Bay - Blaine Subarea
- Foothills Subarea
- South Fork Valley Subarea
- Pt. Roberts Subarea
SOUTH FORK VALLEY SUBAREA
COMPREHENSIVE PLAN
APRIL 1991

WHATCOM COUNTY IS A NUCLEAR FREE ZONE
As approved by the voters of Whatcom County, County
Initiative Measure #1-84, November 6, 1984; Adopted by
Whatcom County Resolution #85-29, June 20, 1985.

WHATCOM COUNTY EXECUTIVE

Shirley Van Zanten

WHATCOM COUNTY COUNCIL

Donald G. Hansey  Marvin G. Vanderpol
Robert A. Imhoff    Dennis Vander Yacht
Emily Jackson      Daniel M. Warner
Margaret M. Laidlaw

WHATCOM COUNTY PLANNING COMMISSION

Emil Baijot  Larry Harris
Lyle Balcom* Jim Heeringa
Fred Bierlink    Gerry Landcastle
David Ernst  Elaine McRory
Robert Funkhouser* John Shintaffer*
Lois Garlick  David Simpson

*Former Planning Commission Members

WHATCOM COUNTY PLANNING DEPARTMENT STAFF

Daniel W. Taylor, Director of Land Use and Economic Planning
Diane E. Harper, Assistant Director
Carl F. Batchelor, Planner III
Terry Galvin, Planner III
Craigs Mapel, Planner III
Sarah Bussard Watts, Planner I
Jeff Griffin, Planner I
Gordon Scott, Planner I
Jennifer Olson, Administrative Secretary
Elizabeth K. Olsen, Chief Cartographer
Chris Behee, Cartographer
Carole Magnier, Clerk II/Word Processor
Heidi Karl, Receptionist/Secretary I

Whatcom County Planning Department
401 Grand Ave.
Bellingham, WA 98225
(206) 676-675
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SECTION I

COMPREHENSIVE LAND USE PLANNING
COMPREHENSIVE LAND USE PLANNING

STATUTORY AUTHORITY

Statutory authority for county comprehensive land use planning is established in the Washington State Planning Enabling Act, in which it is stated that "each planning agency shall prepare a comprehensive plan for the orderly physical development of the county or any portion thereof..." (RCW 36.70.320). The South Fork Valley Subarea Comprehensive Plan has been developed in response to statutory authority as well as in recognition of the widely accepted principle that future Whatcom County land use decisions should be made in a coordinated and responsible manner by both the public and private sectors.

DEFINITION AND APPLICATION

The Whatcom County Comprehensive Plan is defined as an official public document to be used by both the public and private sectors as a policy guideline for making orderly decisions concerning the future use of land in the county. The plan has been formulated using a public review process that includes analysis and recommendations by Planning staff, community response, policy formulation by the Whatcom County Planning Commission, and final review and passage by the Whatcom County Council.

The South Fork Valley Comprehensive Plan is comprehensive, general and long-range in nature. The plan is comprehensive in that it encompasses major geographic areas of the county and the functional elements that bear on physical development. The plan is general in that it summarizes major policies and proposals and is not, by statute, a detailed regulation. The plan is long-range in application because it addresses current issues, as well as anticipated problems and possibilities of the future.

The purpose of this document is to foster a responsible process of land use decision-making. It serves to amend the 1970 Whatcom County Comprehensive Plan for the geographic area defined as the South Fork Valley Subarea. The 1970 plan served as a basic plan for the past 20 years, but as times change, people's attitudes, technologies and economies also change. Consequently, the primary decision-making document of local government must be revised to address current and anticipated issues of the future.

The County is aware that changes will continue and realizes that the policies contained herein will be subject to modification and revision over a period of time. As is discussed in the following section, this subarea plan will be reviewed on a seven to ten year basis.

SUBAREA PLANNING CONCEPT

Because of the county's diverse physical and cultural composition, the Planning Commission elected to revise the plan on an individual geographic area basis. Thus, the Commission divided the western one-third of the county into ten logical geographic areas where the planning process could be applied in a uniform and consistent manner. Denoted as "subareas", these geographic areas were delineated to address various land use related issues that appeared to be unique to particular areas of the county.

The criteria used by the Commission to delineate subarea boundaries include natural and physical features; political subdivisions such as sewer, water, fire and school districts; existing land use patterns; and the presence of a city or town to act as a nucleus for the area. Thus, subareas are planning units determined through the application of criteria and are considered as a practical means of revising the comprehensive plan in a consistent and orderly fashion.
WHATCOM COUNTY PLANNING PROCESS

The Whatcom County comprehensive planning process is defined as a continual process of evaluating goals, conducting various land-related studies, and then using the goals and studies to fashion a balanced and practical set of land use policies and proposals for future land uses in the county. Stated differently, the planning process serves as a blueprint for the logical development of the comprehensive plan, as well as the formulation of effective implementation tools.

The process describes, through a logical sequence, the various land use related factors that must be considered to effect the formulation of responsible and meaningful land use policies and proposals. These factors include the definition of county-wide goals; the inventory and analysis of land use, community facilities and utilities, transportation, economic, and environmental resource characteristics; the forecasting of population levels and the county's economic vitality; the analysis of issues both technical and citizen related; the development of policies to resolve or address the relevant issues; and the transformation of policies into the plan map and attendant implementation tools.

The planning process is continual. The implementation of the comprehensive plan, through the application and use of various regulatory tools, must be continually monitored. The effectiveness of the planning process in Whatcom County relies on the County's ability to keep the major components of the plan current through periodic review and adoption of any necessary amendments.

PLAN FORMAT

The Comprehensive Plan for the South Fork Valley Subarea includes the necessary information for the appropriate formulation of land use decisions by both the public and private sectors of Whatcom County. The components of the plan include the following:

1. **Comprehensive Land Use Planning:** To assist both the public and private sectors in understanding the development, adoption, and amendment of the comprehensive plan policies and map.

2. **Goal Statements:** To provide the overall direction for land use planning in Whatcom County.

3. **Population Forecasts:** To correlate anticipated demand for land uses with the supply of land.

4. **Subarea Description:** To generally define subarea characteristics and establish issue topics as determined by area residents, the Planning Commission, and the planning staff.

5. **Rationale and Locational Criteria:** To establish the necessity of land use designations and the spatial determinants to be used in applying land use designations.

6. **Policies:** To provide the primary decision-making tools required to address the land use, community facility and utility, transportation/circulation, parks and recreation, and the environmental resource and economic issues of the subarea.

7. **Amendment Criteria:** To assist both the public and private sectors with respect to revisions of the comprehensive plan policies and map.

8. **Comprehensive Land Use Plan Map:** To reflect the spatial distribution of the policy statements together with the policies; perhaps, the most widely used component of the comprehensive plan.
Whatcom County Planning Process

- **Goals**
- **Continuous Update**
  - **Implementation**
    - Zoning Ordinance
    - Subdivision Regs.
    - Shoreline Mgt.
    - City agreements
    - Floodplain Regs.
  - **Whatcom County Council**
  - **Proposed Subarea Comprehensive Plan**
- **Inventory and Analysis by Subarea**
  - Land Use
  - Residential
  - Commercial
  - Industrial
  - Transportation
  - Comm. Services
  - Population
  - Parks-Recreation
  - Physical Features
  - Shoreline Mgt.
- **Determination of Issues**
  - **Subarea Citizen Participation:** Phase 1
  - **Formulation of Preliminary Subarea Policies and Plan Map by Planning Commission**
  - **Subarea Citizen Participation:** Phase 2
  - **Refinement of Preliminary Subarea Policies and Plan Map by Planning Commission**
- **Preliminary Subarea Comprehensive Plan**
- **Public Hearing**

*figure 1*
COMPREHENSIVE LAND USE PLANNING

STATUTORY AUTHORITY

Statutory authority for county comprehensive land use planning is established in the Washington State Planning Enabling Act, in which it is stated that "each planning agency shall prepare a comprehensive plan for the orderly physical development of the county or any portion thereof..." (RCW 36.70.320). The South Fork Valley Subarea Comprehensive Plan has been developed in response to statutory authority as well as in recognition of the widely accepted principle that future Whatcom County land use decisions should be made in a coordinated and responsible manner by both the public and private sectors.

DEFINITION AND APPLICATION

The Whatcom County Comprehensive Plan is defined as an official public document to be used by both the public and private sectors as a policy guideline for making orderly decisions concerning the future use of land in the county. The plan has been formulated using a public review process that includes analysis and recommendations by Planning staff, community response, policy formulation by the Whatcom County Planning Commission, and final review and passage by the Whatcom County Council.

The South Fork Valley Comprehensive Plan is comprehensive, general and long-range in nature. The plan is comprehensive in that it encompasses major geographic areas of the county and the functional elements that bear on physical development. The plan is general in that it summarizes major policies and proposals and is not, by statute, a detailed regulation. The plan is long-range in application because it addresses current issues, as well as anticipated problems and possibilities of the future.

The purpose of this document is to foster a responsible process of land use decision-making. It serves to amend the 1970 Whatcom County Comprehensive Plan for the geographic area defined as the South Fork Valley Subarea. The 1970 plan served as a basic plan for the past 20 years, but as times change, people's attitudes, technologies and economies also change. Consequently, the primary decision-making document of local government must be revised to address current and anticipated issues of the future.

The County is aware that changes will continue and realizes that the policies contained herein will be subject to modification and revision over a period of time. As is discussed in the following section, this subarea plan will be reviewed on a seven to ten year basis.

SUBAREA PLANNING CONCEPT

Because of the county's diverse physical and cultural composition, the Planning Commission elected to revise the plan on an individual geographic area basis. Thus, the Commission divided the western one-third of the county into ten logical geographic areas where the planning process could be applied in a uniform and consistent manner. Denoted as "subareas", these geographic areas were delineated to address various land use related issues that appeared to be unique to particular areas of the county.

The criteria used by the Commission to delineate subarea boundaries include natural and physical features; political subdivisions such as sewer, water, fire and school districts; existing land use patterns; and the presence of a city or town to act as a nucleus for the area. Thus, subareas are planning units determined through the application of criteria and are considered as a practical means of revising the comprehensive plan in a consistent and orderly fashion.
WHATCOM COUNTY PLANNING PROCESS

The Whatcom County comprehensive planning process is defined as a continual process of evaluating goals, conducting various land-related studies, and then using the goals and studies to fashion a balanced and practical set of land use policies and proposals for future land uses in the county. Stated differently, the planning process serves as a blueprint for the logical development of the comprehensive plan, as well as the formulation of effective implementation tools.

The process describes, through a logical sequence, the various land use related factors that must be considered to effect the formulation of responsible and meaningful land use policies and proposals. These factors include the definition of county-wide goals; the inventory and analysis of land use, community facilities and utilities, transportation, economic, and environmental resource characteristics; the forecasting of population levels and the county’s economic vitality; the analysis of issues both technical and citizen related; the development of policies to resolve or address the relevant issues; and the transformation of policies into the plan map and attendant implementation tools.

The planning process is continual. The implementation of the comprehensive plan, through the application and use of various regulatory tools, must be continually monitored. The effectiveness of the planning process in Whatcom County relies on the County’s ability to keep the major components of the plan current through periodic review and adoption of any necessary amendments.

PLAN FORMAT

The Comprehensive Plan for the South Fork Valley Subarea includes the necessary information for the appropriate formulation of land use decisions by both the public and private sectors of Whatcom County. The components of the plan include the following:

1. **Comprehensive Land Use Planning**: To assist both the public and private sectors in understanding the development, adoption, and amendment of the comprehensive plan policies and map.

2. **Goal Statements**: To provide the overall direction for land use planning in Whatcom County.

3. **Population Forecasts**: To correlate anticipated demand for land uses with the supply of land.

4. **Subarea Description**: To generally define subarea characteristics and establish issue topics as determined by area residents, the Planning Commission, and the planning staff.

5. **Rationale and Locational Criteria**: To establish the necessity of land use designations and the spatial determinants to be used in applying land use designations.

6. **Policies**: To provide the primary decision-making tools required to address the land use, community facility and utility, transportation/circulation, parks and recreation, and the environmental resource and economic issues of the subarea.

7. **Amendment Criteria**: To assist both the public and private sectors with respect to revisions of the comprehensive plan policies and map.

8. **Comprehensive Land Use Plan Map**: To reflect the spatial distribution of the policy statements together with the policies; perhaps, the most widely used component of the comprehensive plan.
Figure 1
Whatcom County Planning Process Diagram
GOAL STATEMENTS

The following goals provide the general direction for making land use decisions in the subarea and
Whatcom County as a whole. They were developed and adopted by the Planning Commission and County

REGIONAL DESIGN GOALS

1. Future urban development should occur within or immediately adjacent to existing urban areas in order to
eliminate sprawl and strip development, assure the provision of an adequate range of urban services,
conserv[e] agricultural and forestry lands, optimize investments in public services and conserve energy
resources.

2. Future development in rural areas should be low density, complement existing rural character, contribute
to the conservation of agricultural and forestry land and not result in demands for urban-level services.

GROWTH MANAGEMENT GOALS

1. To promote a conscientious program designed to plan, guide, and influence the appropriate location,
timing, intensity, type, and servicing of diverse land use patterns.

2. To determine the required amounts of land anticipated to be utilized within the planning period (15 years)
while retaining options for future land use decisions beyond the planning period.

3. To encourage a predictable pattern of urban and rural development which utilizes previously committed
land areas and existing facility investments before committing new areas for development.

4. To ensure that a beneficial balance exists between the supply and demand for public services. To
encourage the cooperation among municipalities, special districts, and associations in the planning and
provision of public services. To discourage the proliferation of unnecessary special purpose districts.

5. To develop a concise, equitable, and practical set of land use regulations intended to implement the goals,
policies, and proposals of the County Comprehensive Plan in a timely and orderly fashion.

LAND USE GOALS

1. To conserve the agricultural and forestry lands of Whatcom County for the continued production of food,
forage, and timber crops while promoting the expansion and stability of the County's agricultural and
forestry economies.

2. To plan urban residential development in areas that can be economically and efficiently served with
existing or planned services, optimize energy use, function as integral neighborhood units, and can
environmentally support intensive land uses.

3. To encourage adequate community and neighborhood commercial facilities in appropriate locations while
avoiding incompatible land uses and the proliferation of unnecessary new commercial areas.

4. To encourage a balanced and diversified economy in order to assure desirable local employment opportu-
nities and to strengthen and stabilize the tax base. To accommodate anticipated economic
development in an environmentally responsible manner with due consideration for public cost, energy availability, land use compatibility, and transportation accessibility.

5. To promote the availability of economical and attractive housing for all income, age, and ethnic groups, while also enhancing the integrity and identity of existing communities.

6. To promote a functional, coordinated, and multi-mode transportation system which provides for the safe and efficient movement of people and goods, avoids undesirable environmental impacts, and optimizes public investments and the conservation of energy resources.

7. To encourage adequate facilities and services which provide diverse education, recreation, cultural, and social opportunities.

CULTURAL AND NATURAL RESOURCES

1. To identify and manage environmentally sensitive areas in such a manner as to prevent destruction of the resource base and reduce potential losses to property and human life.

2. To continue the identification of cultural and natural resources and formulate viable methods to preserve and conserve such resources in recognition of their irreplaceable character.

3. To promote a park and recreation system which is integrated with existing and planned land use patterns and is diverse, abundant, and assures maximum public access and usage.

CITIZEN INVOLVEMENT AND INTERGOVERNMENTAL COORDINATION

1. To assure opportunity for citizens to be involved in the formulation of land use goals, policies and proposals and to provide a structure for citizen participation in the planning program of federal, state, regional, and local agencies.

2. To participate in intergovernmental coordination with federal, state, provincial, regional, and local agencies, to develop a coordinated approach to problems which transcends local government bodies and to create an environment for the exchange of information and technical assistance.

SOUTH FORK SUBAREA PLAN GOALS

1. To identify and manage those environmentally sensitive areas in the South Fork planning area, including wetlands, steep slopes and other geologically hazardous areas, unstable drainage basins, critical wildlife habitat, frequently flooded areas, and shorelines.
INTRODUCTION

The purpose of population forecasting, as it relates to land use planning, is to accommodate the long-term spatial requirements of various land uses such as residential, commercial, industrial, recreational, and public facilities. Population forecasting is also of assistance in decision-making for land use related matters, such as determining the appropriate scale and location of public works facilities and land development activities. Population forecasts are subject to revision which may be accomplished in the comprehensive plan update process.

The population information contained in this section is a summary of the forecasts prepared by several agencies. Due to the large area in the East Whatcom census tract (census tract 101), much of the information available covers both the Foothills Subarea and the South Fork Subarea. Conclusions regarding the South Fork Subarea involve assumptions about the similarities and differences between the two subareas. Therefore, this information has been used in a qualitative manner or as a general guideline, rather than as a specific numerical forecast.

Table 1 indicates the historic and projected population changes of Whatcom County. The graphs in Figure 2 represents total Whatcom County and unincorporated Whatcom County population trends. Conclusions about population growth derived from Table 1 include:

- Unincorporated Whatcom County grew 43% between 1970 and 1980.
- Unincorporated Whatcom County grew 28% between 1980 and 1990.
- Total growth for the County (including incorporated cities) decade was 18%. This was slightly higher than the 1985 state Office of Financial Management projection of 16.68%.

SOUTH FORK VALLEY SUBAREA APPLICATION

To relate this information to the South Fork Valley Subarea Comprehensive Plan, the following assumptions have been made based upon the data provided in the graphs, Table 1, and Background Document.

1. **Location of population growth**: The majority of population growth will occur in the unincorporated town of Acme with scattered growth on the valley edge between the agriculture and commercial timber lands.

2. **Reasonable population growth**: The rate of population growth in the South Fork Valley Subarea should be at unincorporated Whatcom County rates. However because this subarea is located 20 to 30 minutes from the city of Bellingham and is not located between any major economic centers it may grow somewhat slower than other subareas. This slower growth may be compounded by the many environmental constraints that exist here. The state predicts a 39% growth from 1980 to 2000 for Whatcom County as a whole; however, unincorporated areas have been growing much faster than the cities. (Table 1). A realistic growth rate projection for the subarea should be from 1.0 to 2.0 percent annually during the next 10 years. That means that the subarea may grow as much as 20 to 40 percent over the next 15 to 20 years.

3. **Zoning limitations on population growth**: The zoning adopted in the 1970s would allow a growth in dwelling units, and presumably population, of over 2,100%. That means the population would increase to 26,664 assuming 3 persons per household (based on a maximum possible density of
one dwelling per acre in the General Protection zone district, excluding county, state, and tribal lands). The zoning implementing this comprehensive plan allows approximately a 200% increase over the existing number of houses for the length of the current planning period (10 to 20 years) plus any bonuses obtained through the PUD process. Assuming a 20 year planning period, the proposed zoning allows a growth rate of approximately 10% per year, well above the projected growth rate of 1.0 to 2.0 percent annually.

ASSUMPTIONS AND VARIABLES RELATING GENERALLY TO POPULATION FORECASTS

All population forecasts are based on assumptions which affect the numerical results and different population forecasting agencies do not make the same assumptions. The following items are intended to present an overview of assumptions as they relate to Whatcom County populations:

1. In-migration\(^5\) will continue to contribute substantially to population increases at the Washington State and Whatcom County levels.

2. The trend of decreasing family size and population per household will continue.

3. Labor market potential and location will affect population distribution, gross natural increase and in-migration levels.

4. The purpose of the population forecast affects assumption utilization, which in turn affects the results.

Agencies which prepare population forecasts often make revisions due to changes in the variables affecting their assumptions. The following variables are intended as an overview for potential Whatcom County population forecast revisions, and may not affect all the agencies whose forecasts are contained herein:

1. Changes in Whatcom County birth, death, and in-migration rates.

2. Changes in the level of industrial development and the related labor market potential of Whatcom County.

3. Changes in the Canadian economy and the related level of Canadian spending\(^6\) in Whatcom County.

4. Changes in the demand for the products of local resources such as agriculture, forestry, fishing and mining by local, state, national, and international markets.
FIGURE 2
POPULATION TRENDS AND FORECASTS, 1970-2000
WHATCOM COUNTY

INCORPORATED AND UNINCORPORATED

UNINCORPORATED

Mean

1990 Census

1950 Census
Footnotes for Text and Graphs

5 In-migration is equal to total population less natural increase, in which natural increase is equal to total births less total deaths.
6 The Whatcom County Council of Government's population forecast exhibits a high correlation with the Canadian Impact Study and is thus presumed to accommodate Canadian spending.

TABLE 1
POPULATION CHANGES

<table>
<thead>
<tr>
<th>Actual Year</th>
<th>Unincorp. What. County</th>
<th>% Change Over Decade</th>
<th>All of What. County</th>
<th>% Change Over Decade</th>
</tr>
</thead>
<tbody>
<tr>
<td>1910</td>
<td>20,183</td>
<td></td>
<td>49,511</td>
<td></td>
</tr>
<tr>
<td>1920</td>
<td>19,621</td>
<td>-2.8</td>
<td>50,600</td>
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<td>1930</td>
<td>23,112</td>
<td>17.8</td>
<td>59,128</td>
<td>16.9</td>
</tr>
<tr>
<td>1940</td>
<td>25,860</td>
<td>11.9</td>
<td>60,355</td>
<td>2.1</td>
</tr>
<tr>
<td>1950</td>
<td>26,462</td>
<td>2.3</td>
<td>66,733</td>
<td>10.6</td>
</tr>
<tr>
<td>1960</td>
<td>25,990</td>
<td>-1.8</td>
<td>70,317</td>
<td>5.4</td>
</tr>
<tr>
<td>1970</td>
<td>34,004</td>
<td>30.8</td>
<td>81,983</td>
<td>16.6</td>
</tr>
<tr>
<td>1980</td>
<td>48,628</td>
<td>43.0</td>
<td>106,701</td>
<td>30.2</td>
</tr>
<tr>
<td>1990</td>
<td>68,593</td>
<td>28.2</td>
<td>127,780</td>
<td>18.5</td>
</tr>
</tbody>
</table>

Projected
2000        64,451                  3.0                  148,200              17.2

SUBAREA FINDINGS, ISSUES, AND RECOMMENDATIONS

INTRODUCTION

In 1979 prior to beginning the Comprehensive Plan update process, 10 Subarea boundaries were established by the Whatcom County Planning Commission. The criteria used by the commission to delineate subarea boundaries include natural and physical features; political boundaries such as sewer, water, fire and school districts; existing land use patterns; and the presence of a city or town to act as a nucleus for the area. The boundaries for the South Fork Valley and adjacent Foothills Subareas were revised by the Planning Commission in 1987.

In November 1990, the Whatcom County Planning Department published the Draft Background Document for the South Fork Valley Subarea. The document contains descriptions of existing conditions related to land use, the physical environment, transportation, and community facilities and utilities. In addition, the document identifies specific issues for the subarea. For additional detail concerning analysis, findings and issues, the South Fork Valley Subarea Background Document can be consulted.

The following section addresses the issues identified in the background document, and develops recommendations that help formulate specific comprehensive plan policy statements found in the policy section of this document. After a general description of the South Fork Valley Subarea, a summary of Findings is presented relating to each element analyzed in the background document. Following the findings, there is a review of critical Issues relevant to the subarea with Recommendations to address these issues in a timely manner.

SUBAREA DESCRIPTION

Findings: The South Fork Valley Subarea is comprised of the South Fork Nooksack River watershed and the portion of the Samish River watershed within Whatcom County. It is located in the southeast corner of the western one third of Whatcom County and includes approximately 61,204 acres or 95 square miles of valley and mountains. The subarea is bounded on the north by the main stem of the Nooksack River, on the east by the Van Zandt Dike and the Mount Baker National Forest, on the south by Skagit County and on the west by the ridge of Stewart Mountain. Access is via Mount Baker Highway (SR542) to Highway 9 from Bellingham; via Highway 9 from the south and Mosquito Lake Road from the east; and via Park Road from the west.

The South Fork of the Nooksack River is the dominant environmental feature in the valley of the Subarea. It provides scenic beauty, recreational opportunities, wildlife habitat, water for human consumption, and hydroelectric power to the nearby community. The river is pastoral and meandering in the valley with gravel islands, channel bars, and minor braiding across point bars. Further upstream above the Saxon Bridge the river takes on the characteristics of a mountain stream with occasional presence of rocky narrow gorges and steep banks.

The river and its tributary streams contain large populations of anadromous and resident fish. These include a number of species of salmon, dolly varden, steelhead, and trout. There is one major fish production facility operating in the South Fork Valley Subarea. The Skookum Creek Fish Hatchery is located adjacent to and receives its water from Skookum Creek. The hatchery is owned and operated by the Lummi Indian Nation.

The population of this Subarea is approximately 1200 people. Most of the 404 houses are scattered along the valley floor or along the foothills of the mountains to the east or west. Much of the valley is flood prone and is used for agricultural purposes. Dairy farming and hay production are the predominate agricultural
activities. Unincorporated communities include Acme, Van Zandt and Wickersham. Acme is the only town with potential for growth. Environmental constraints which are prevalent in the subarea, hamper expansion of Van Zandt and Wickersham. The Nooksack Indian Tribe collectively own close to 500 acres in the subarea.

1. ENVIRONMENTAL FEATURES

Air and Climate

Findings: Air quality is generally quite good except for brief periods of pollution in late fall and winter under conditions of clear skies, light wind, and a sharp temperature inversion. The average rainfall in the valley is between 50 and 60 inches per year with amounts as high as 84 inches recorded east of Van Zandt. The subarea experiences approximately 25 inches more of precipitation than is experienced in the lowland areas of the County. In the more mountainous regions east of the subarea, precipitation totals have reached 120 inches per year.

Issue: The mountains on each side of the valley tend to trap pollution. Air quality degradation is a problem during slash burning or during periods of climatic inversions in conjunction with wood stove smoke and smog from regional urban areas.

Recommendation: Commercial and industrial uses that emit measurable air pollutants should be discouraged.

Topography

Findings: The South Fork Valley Subarea features a landscape of rugged forested slopes and cleared valleys. Elevations in the valley range from 240 to 400 feet above sea level. The highest point in the subarea is 4,574 feet above sea level on Bald Mountain in the extreme southeast corner of the subarea. Slopes of 15% or greater cover approximately 60% of the subarea. Slopes of 40% or greater account for 15% of the subarea.

Issue: Steep slopes on each side of this valley, many of which are over 40% in grade, pose a risk to the health, safety, and welfare of the citizens when incompatible development is located in areas of significant hazard.

Recommendation: Slopes greater than 15% in grade should be identified and the risk to development below should be assessed. Where it has been determined that an unacceptable risk to the public is present, development should be curtailed.

Geology

Findings: The upper Nooksack River area consists of ancient, uplifted, and deeply dissected erosion surfaces cut into a complex series of metamorphic rocks. These are overlain by early tertiary sandstones, shales, and coal beds which occupy the central portion of the Nooksack River Basin. All three forks of the Nooksack River flow through valleys which were initially stream-cut and later modified by glaciation. Generally the valley floors are underlain by a fill several hundred feet thick of glacial and stream sediments. There are thirteen separate geologic units identified in the South Fork Valley Subarea: alluvial deposits, Sumas Outwash, undifferentiated glacial deposits, landslide deposits, Chuckanut Formation, Huntington Formation, Chilliwack Formation, Turtleback Complex, phyllite, pre-Tertiary Serpentinite, Twin Sisters Dunite, Mesozoic sedimentary rocks, and Jurassic sediments.
The mountain regions of the subarea have a history of slope failure on each side of the South Fork Valley. This is particularly true on the Stewart Mountain. Analysis of geology, soils and drainage patterns indicate that these slopes are inherently unstable in their natural state. Further instability results when these slope are altered by human activity.

In the past year there has been an increase in the number of seismic events in the South Fork area. Reaction can be amplified on the greater slope angles that exist on over 50% of the Subarea, and on slopes with fractured bedrock. The alluvial deposits that comprise the valley floor can also amplify the seismic event.

**Issue:** The combination of steep slopes and unstable geologic units of Chuckanut and phyllite in conjunction with the large amounts of rainfall have resulted in conditions conducive to slides, mass wasting, debris flows, and other forms of erosion. These conditions pose a risk to the health, safety, and welfare of the citizens when incompatible development is located in areas of significant hazard.

**Recommendation:** Slopes of 40% or greater and other areas susceptible to erosion hazards should be altered as little as possible. This is particularly important in the Stewart Mountain and Van Zandt Dike areas which are relatively unstable in conjunction with existing development at the base of these ranges.

**Recommendation:** Geologically hazardous areas should be identified and the risk determined to development below these areas. Where it has been determined that an unacceptable risk to the public is present, development should be appropriately curtailed.

**Issue:** The Deming area has been seismically active in recent years producing numerous measurable events. If they continue, these events could produce some damage to new and existing structures in the subarea.

**Recommendation:** New development and construction should be located away from steep slopes and meet current UBC standards.

**Issue:** Mineral extraction can have long term negative effects upon the natural environment. Coal reserves are recorded in the Fall Creek headwaters above Hillside Road. Future mining of this resource could lead to erosion, mine runoff, and leachate contamination in the Nooksack River and local groundwater.

**Recommendation:** Careful consideration of all costs and benefits should be given before any extensive mining projects take place in the subarea.

**Soils**

**Findings:** There are 100 different soils identified in the subarea. These can be grouped according to landscape into five broad categories: soils on alluvium and floodplains, soils on outwash terraces, soils on glaciomarine drift plains, soils on foothills, and soils on mountains. Alluvial and flood plain soils have severe limitations for development due to their rapid permeability, unstable base and/or their susceptibility to flooding. Mountain soils are severely limited because of steep unstable slopes and unreliable groundwater supplies. The least restricted soils in this subarea are the outwash soils which are concentrated along the edges of the South Fork Valley and in the valley region along Mosquito Lake Road.

Approximately 6% of the soils in the subarea are found in the valley of the South Fork. The U.S. Department of Agriculture, Soil Conservation Service, has determined that most of the valley soils are prime agricultural soils when either drained or irrigated. Over 85% of the Subarea is comprised of soils in the mountains. Soils in these mountains are well suited for commercial timber production.
**Issue:** Limited suitability of soils for development (very rapid permeability rates and/or high seasonal water tables in lowland valleys; and steep slopes, poor permeability, and shallow depths to impermeable layer in mountains) may limit population growth and minimum parcel sizes in the subarea. Many of the soils are poorly suited for septic tank systems. The most suitable soils also have extremely rapid permeability with a potential for contaminating surface waters and ground water. The cost of developing sewer systems is generally not considered to be feasible at this time, given the low population base and dispersed settlement patterns.

**Recommendation:** Residential densities should be kept to a maximum of one dwelling unit per five acres throughout the subarea, with the exception of areas where public sewer and water services are available or where prior development at higher densities has already taken place. Lower residential densities (one dwelling per ten or twenty acres) should be maintained where soils are severely limited and steep and unstable slopes exist.

**Issue:** Whatcom County is experiencing a significant loss of prime farmland soils due to increased development pressure and changes in the agriculture industry.

**Recommendation:** Whatcom County should seek every means available to preserve prime agricultural soils for future agricultural use.

**Issue:** Soils on forested mountain regions are thin and can be susceptible to sliding and other forms of erosion. Disturbance of these soils through road development or over harvesting of timber resources can lead to slope destabilization and increased erosion, thus reducing future production and creating potential hazards in the valley below.

**Recommendation:** Whatcom County should seek to identify erodible soils and preserve their stability.

**Recommendation:** Whatcom County should encourage sustainable forestry practices. A coordinated harvesting schedule and road construction program should be developed and maintained by the members of the timber industry. Both the schedule and program should be subject to review by the community.

**Surface Water Resources**

**Findings:** There are two major watershed basins in the South Fork Valley Subarea: 1) the South Fork Nooksack River Basin and; 2) the Sarnish River Basin. The most significant surface water features in the South Fork Valley Subarea are the Nooksack River and its tributaries. The South Fork Nooksack River system provides scenic beauty, recreational opportunities, wildlife habitat, water for human consumption, and hydroelectric power. Recreational uses of the river includes floating, fishing, wildlife observation, and scenery viewing. The South Fork river also provides habitat and spawning grounds for a number of wildlife species. The salmon is highly valued among these for their commercial value.

Water quality in the South Fork River and its tributaries is good but declining. This is in part due to increased forest practices in the watershed. The increased volumes of surface water runoff during periods of heavy rainfall are contributing to stream bank and surface soil erosion, earth slides, stream sedimentation, channel silting and debris loading.

The South Fork Nooksack River is prone to flooding as is many of its tributaries. Tributary flooding has taken place on almost every creek draining Steward Mountain in recent years. Notable among these are Jones Creek and Sygitowicz Creek, where major flooding and debris deposits took place in 1983. Jones drains immediately north of the unincorporated town of Acme.
Floods generally occur during the late fall when heavy rains fall (sometimes on snowpack), and in the spring when melting snow is supplemented by rainfall. Severe flooding occurs when there is a combination of above average temperatures causing rapid snow melt and above normal precipitation.

The United States Geological Survey (U.S.G.S.) has determined that a flow rate in excess of 19,000 cubic feet per second (cfs) at Deming will result in some flood damage from the Nooksack River. Geographically the 1977 Flood Insurance Study, conducted by the Department of Housing and Urban Development, has identified approximately 70% of valley region within the boundaries of the 100 year floodplain. The U.S.G.S. currently has one active gaging station on the South Fork at river mile 14.8 which has kept annual records from 1935 to 1977.

Wetlands in the South Fork Subarea are found near the channels of the South Fork of the Nooksack River and the Samish River and comprise roughly 20% of the valley. They provide excellent hydrological utility, offering natural flood control, flood desynchronization, and flow stabilization of the South Fork of the Nooksack River during periods of high water. They also aid in ground water recharge and maintenance of stream flows.

**Issue:** Flooding occurs frequently in the South Fork Valley Subarea. Floods have been increasing both in occurrence and area in recent years causing damage to both the natural and built environments. Should a 100 year event take place, wide spread damage would occur to the community.

**Recommendation:** Whatcom County should encourage the use of land in the 100 year floodplain for low density agricultural purposes and low density recreational use.

**Issue:** Site analysis of the 1977 Floods Insurance Maps (FIRM), produced by the Department of Housing and Urban Development, indicates that some of the floodplain boundaries appear to be in error.

**Recommendation:** Whatcom County is currently updating their informational base. Changes to the FIRM floodplain maps should be made to correct errors that exist in the subarea.

**Issue:** Forest cover can enhance water quality by reducing the impact of precipitation on the ground surface and by holding the soil with tree roots. Soil erosion and sediment flow to surface waters are thereby reduced. Also, through the reduction of erosion, the quality and quantity of both surface water and groundwater are enhanced.

**Recommendation:** Whatcom County should continue to play an active role in monitoring Forest Practices Applications. The County should also continue to cooperate with federal, state, and local agencies, and tribes as appropriate, in monitoring and protecting water quality in the Nooksack drainage. Existing and future development that may have negative impacts on the water quality of the Nooksack should be closely controlled. With 86% of the subarea forested, it is important that relationships between forest practices, environmental quality, and the role that public agencies play in mitigating adverse impacts on these systems be clearly understood.

**Issue:** Preservation of a high level of water quality is extremely important to the successful maintenance of native and hatchery fish populations.

**Issue:** The U.S.G.S. currently has one active gauging station on the South Fork river located near Wickersham. Data from this station does not provide the information necessary to meet the minimum flow requirements necessary to meet the standards set forth in WAC 173-501-030 and, subsequently, to address many issues associated with river flows.

**Recommendation:** Whatcom County should work with the U.S.G.S. to immediately install one additional gaging station immediately upstream from the confluence of the South Fork and the main stem of the
Nooksack River. Gaging stations should be installed as soon as possible in those tributary creeks of the South Fork drainage that are under the jurisdiction of WAC 173-501-030.

**Recommendation:** Whatcom County should develop a Nooksack basin water resource plan with the cooperation of the Nooksack Indian Tribe, the Lummi Indian Nation, and small cities. This planning process was endorsed by the Whatcom County Council, the Lummi Tribal Business Council and the Nooksack Tribal Council in 1989. An overall Nooksack Basin Plan would investigate all three forks as well as the mainstem of the Nooksack River for water quality and quantity concerns. This should include both study and evaluation of low flow and high flow readings and standards.

**Issue:** Wetlands and reoccurring flooding offer considerable development constraints in the valley region of the subarea if preserved. By contrast, unrestricted dredging, filling, and draining of these wetlands would destroy valuable habitat for fish and wildlife and reduce the ability of the wetlands to store flood water and filter sediment and pollutants.

**Recommendation:** Many of the wetlands are a valuable natural resource and need to be protected. However, there is currently no information available that have sorted out those wetlands with high value/high function attributes from the small isolated low value/low function wetlands. A study of this kind is necessary in order to determine to what extent the wetlands in the South Fork Valley should be drained and filled. Until this is done, Whatcom County should discourage fill, drainage or alteration of wetlands.

**Issue:** Jones Creek, McCarty Creek, Standard Creek, Hardscrabble Creek, Sygitowicz Creek and Fall Creek, all located on the east side of Stewart Mountain and draining into the South Fork of the Nooksack River, have a history of instability and deposit large amounts of sediment and debris into the valley below during heavy rain periods. Jones and Sygitowicz Creeks in particular, pose a hazard to the Community. Debris torrents and flooding were recorded in 1979, 1983, 1985, and 1989. The effects of these debris torrents resulted in damage to homes, transportation routes, and loss of fish habitat.

**Recommendation:** The headwaters and mountainous upstream reaches of these creeks should be altered as little as possible. The areas affected by potential flooding from these streams should be identified and with development appropriately restricted. Whatcom County should encourage minimal use of these stream corridors, drainage swales and alluvial areas for building sites.

**Issue:** Jones Creek erodes the existing gravel berm located on the southeast bank of the creek and uphill from the Turkington Road bridge. During periods of extremely high precipitation, the stream can penetrate the berm and flow down Turkington Road and can cause damage to structures downstream.

**Recommendation:** A retention berm sufficient to contain drainage during peak flow periods should be constructed from the Turkington Road bridge and extending upstream to the private bridge located at the end of Galbraith Road. Specifications should be determined by the Whatcom County Division of Engineering.

**Ground Water Resources**

**Findings:** Ground water supplies in the subarea are generally abundant and of high quality where wells have been drilled. Since ground water tends to conform to topography, the most abundant sources are the wells that are closest to the river valleys. Supplies diminish moving uphill away from the streams and toward the areas where the bedrock is closest to the ground surface. In theory, the areas having the least potential for ground water are the mountain areas where soils are thin and glacial deposits are nonexistent. Since these areas are almost exclusively used for timber production, very few wells have been drilled and information about groundwater quantity and quality is virtually nonexistent.
Issue: Although groundwater seem to be abundant in the South Fork Valley, good groundwater information is scarce and well logs are spotty. There are no current groundwater studies for the South Fork Subarea. Detailed hydrologic studies have never been done.

Recommendation: Whatcom County should embark on a detailed study of hydrologic features in the South Fork Basin.

Issue: Areas where the water table is five feet or less from the surface, particularly along the 100 year floodplain, deserve particular consideration with respect to septic system use because of the potential for groundwater contamination.

Recommendation: Residential densities should be as discussed in the section on soils issues. Detailed studies of the groundwater resources of the South Fork Subarea are needed.

Plants and Animals

Findings: The South Fork Valley Subarea, with its mountains and streams, provides habitat for a wide diversity of plant and animal species. Foremost in importance among the plant species are the forests of Douglas fir, Cedar, and Hemlock upon which the region has been economically dependent for many years. The most significant aquatic animal species are the salmon and steelhead which inhabit the rivers and streams of the area. Equally significant is the presence of an elk herd which roams the east and southern portions of this subarea.

The South Fork Valley Subarea is valuable in a number of ways relating to plants and animals. It is the southeastern terminus of low elevation wildlife habitat, with a wide riparian zone, general food and prey base, and bio-diversity.

Issue: The fish of the Nooksack River and its tributaries are an important economic and recreational resource. The viability of fish habitat in the South Fork Nooksack River is dependent upon preservation of water quality and unobstructed access to spawning areas.

Recommendation: Whatcom County should make every effort to preserve the high level of water quality in the Nooksack system and should assure the preservation of habitat for fish.

Issue: Property damage can occur when the elk herd travels from the foothills into the valley.

Issue: Travel corridors necessary for elk habitat are severely constrained by Highway 9 and other roads, cleared and extensively managed areas, and clearcutting. Increased hunting and fishing in conjunction with decreased habitat due to overcutting, development and increased recreation activity are putting both the elk herd and salmon runs at risk. There is a need to protect sensitive salmon spawning areas and elk roaming areas from encroachment while preserving opportunities for recreational and scientific observation.

Recommendation: The County should work with the Washington State Departments of Wildlife and Fisheries and the local Indian tribes to educate residents on the importance of protecting the wildlife environment and encourage enhancement of the resource.

2. LAND USE
Findings: There are approximately 61,204 acres in the South Fork Valley Subarea. The region is largely can be described as rural with dispersed development in the valley. There are a number of environmental constraints many of which are derived from large amounts of rainfall in the region. Most notable among them are floodplain, steep and unstable slopes and wetlands. The subarea is largely a resource area with an economy based on fisheries, agriculture, and forestry.

Of the 61,204 acres in the subarea, a large portion of it is not suitable for various land uses. Soil conditions influenced by recent glaciation, limit the amount of land suitable for development. Much of the land is too steep to be built upon safely. Most of the valley region is flood prone, and is better suited for agricultural. Within the South Fork Subarea's 95 square miles, there are approximately 1,269 parcels.

There is 52,887 acres of forest land comprising 86.4% of the subarea. Approved forest practice applications in the last three and one half years amount to 6,384.50 acres or approximately 12 percent of the forest land. This means that between three and four percent (1,800 av.) is being harvested annually assuming a 50 year rotation. At a 3.5% harvest rate, to would take approximately 18 years to harvest the 32,000 acres currently in an age class over 40 years.

Agriculture is the second largest land use in the study area with 5,355 acres or 8.7% of the study area. Close to 60% of the parcels are over 40 acres in size. Another 30% average between 20 and 40 acres. There are several dairy farms in the valley. Other agricultural practices include meat production, hay, and some grain and corn growing.

Residential uses amount to 509 acres or 8% of the subarea and is largely scattered on five acre, ten acre and larger tracts of land. Commercial and industrial property add up to five acres each. Developed recreational property other than parks is nonexistent.

The Skookum Creek Fish Hatchery is the major hatchery operating in the South Fork Valley Subarea. It is located adjacent to and receives its water from Skookum Creek and is operated by the Lummi Indian Nation.

Issue: Although information is scarce or lacking in many cases, actual documentation and visual evidence suggest a general decline in fish stocks in the South Fork Valley.

Issue: Preservation of a high level of water quality is extremely important to the successful maintenance of native and hatchery fish populations.

Issue: Agriculture, forest practices, and settlement can play significant roles in the degradation of fish stocks. Altering of aquatic habitats through diking, river channelization, filling, and erosion can be a result of these practices.

Recommendation: Whatcom County should continue to work with both the Lummi Indian Nation and the Nooksack Indian Tribe to protect both the fish populations and their habitat.

Issue: Recreational uses of the river are increasing and many are extremely hard on the fisheries habitat. This is especially true with extensive tubing during the summer months.

Recommendation: The Whatcom County Parks Department has made several attempts to monitor tubing activity during the summer months. Plans are ongoing and may include limited access to only certain parts of the river, as well as timing and capacity limitations.

Issue: Forestry continues to be a major land use in the South Fork Valley Subarea, and with timber reaching harvestable age and continued population growth in Whatcom County, it will continue.
**Issue:** Commercial forests cover most of the uplands above the settled valley of the South Fork. The edge of these commercially forested lands can be a source of conflict where development exists.

**Recommendation:** Whatcom County is proposing a text amendment to Title 20 (zoning ordinance) which will split the existing forestry zone into two forestry zones; a "Commercial Forestry zone" and a "Rural Forestry zone". A Commercial Forestry zone will allow only forest practices and related activity to take place within the zone thereby precluding the presence of conflicting uses like residential development. The creation of a Rural Forestry zone will allow low density development within in it's boundaries to facilitate the stewardship of land dedicated to timber production. Its location, typically at the foothills of mountain regions, should help to buffer commercially forested land from rural and residential development.

**Issue:** Forest practices in the South Fork Subarea are not currently being practiced at a sustained yield level. Market conditions fluctuate dramatically in the timber business making it difficult for the industry to plan cutting schedules over a long period of time. Prices in the last three years have been relatively high, resulting in large amounts of timber being cut.

**Recommendation:** The State Department of Natural Resources along with many other state, federal and local agencies have made significant progress working with the industry, environmental interests and other interested parties to both encourage sustainable and environmentally sound forest practices in Washington State and Whatcom County. Whatcom County should continue to work with the forest industry to insure that future cuts are smaller in size, not adjacent to one another, adequately buffered from streams and other water courses, buffered from steep slopes subject to slope failure, and executed using best forest practice techniques available. The South Fork watershed should be logged on a sustainable yield rotation.

**Recommendation:** Economic viability of existing agricultural practices varies yearly. The introduction of new agricultural commodities, such as commercial deer stock and orchard crops, may help to provide for agricultural viability of appropriate areas of the valley.

**Issue:** Whatcom County is experiencing a significant loss of prime farmland soils due to increased development pressure, and changes in the agriculture industry. Although this has not yet taken place in the South Fork Valley Subarea, population trends indicate that development pressure will be there in the near future.

**Recommendation:** Whatcom County should pursue farmland preservation through the implementation of the Agricultural zoning district where feasible, and through the use of incentive programs to encourage the active agricultural use of arable land.

**Issue:** Although the majority of the lands in the valley are classified as prime for agricultural use, many are prone to flooding and standing water. Without adequate drainage, these areas cannot support agricultural practices.

**Recommendation:** Whatcom County should adopt and implement a comprehensive farm preservation program that seeks to preserve to the fullest extent possible, arable lands and to facilitate the best utility of these lands.

**Lands in Current Use Tax Status**

**Findings:** Current use taxation includes lands that qualify for property tax deferments for forestry, agriculture, environmentally sensitive areas or other open spaces. Since there is a liability for back taxes plus interest when withdrawn from this status, it is anticipated that these lands will remain undeveloped during the planning period. These lands comprise a total of 37,692 acres or 62% of the subarea, of which
33,034 acres, or 54% of the subarea, are designated or classified forest lands. The remainder is in Open Space Agriculture, Open Space Timber, or Open Space/Open Space.

**Issue:** Current use taxation provides an incentive for land owners to keep their land undeveloped or developed at a very low density.

**Recommendation:** Whatcom County should encourage property owners to use the current use tax assessment provisions of RCW 84.34 to retain agriculture, forested, environmentally sensitive lands, shorelines, and unique or important wildlife.

**Public and Tribal Lands**

**Findings:** The State of Washington owns and manages 18,885 acres or 30.9% of the subarea. Whatcom County owns 16.9 acres and the Nooksack Indian Tribe owns 522.5 acres, bringing the total for public and tribal lands to 19,424 or 31% of the area.

**Issue:** The Nooksack Indian Tribe owns 522.5 acres of "Trust" land in the South Fork Valley Subarea. This land does not fall under the jurisdiction of Whatcom County. Development of this land without the coordination of a comprehensive plan nor implemented by zoning regulations could create potential use conflicts in the region.

**Recommendation:** Whatcom County should work with the Nooksack Indian Tribe to insure that compatibility is achieved.

3. **HISTORY, POPULATION, AND ECONOMICS**

**Population and Characteristics**

**Findings:** The South Fork Valley Subarea has 404 dwelling units. If one were to assume an average household of three persons, that would mean a population of 1,212. Analysis of population growth resulted in three types of population forecasts:

1. **Location of population growth:** The majority of population growth will occur in the unincorporated town of Acme with scattered growth on the valley edge between the agriculture and commercial timber lands.

2. **Reasonable population growth:** Barring any major economic changes, the rate of population growth will be at unincorporated Whatcom County rates. The state predicts a 39% growth from 1980 to 2000 for Whatcom County as a whole; however, unincorporated areas have been growing much faster than the cities (Table 1). A realistic growth rate projection for the subarea should be from 1.5 to 2.5 percent annually during the next 10 years. That means that the unincorporated county is projected grow 40 to 50 percent over the next 15 to 20 years.

3. **Zoning limitations on population growth:** The zoning adopted in the 1970's would allow a growth in dwelling units, and presumably population, of over 2,100%. That would mean the population would increase to 26,664 assuming 3 persons per household (based on a maximum possible density of one dwelling per acre in the General Protection zone district, excluding county, state, and tribal lands). The zoning implementing this comprehensive plan allows approximately 200% increase over the existing number of houses for the length of the current planning period (10 to 20 years) plus any bonuses obtained through the PUD process. Assuming a 20 year planning period, that
allows a growth rate of approximately 10% per year, well above the projected growth rate of 1.5 to 2.5 percent annually.

**Issue:** Population growth brings increased opportunity for business and for development of services. It can bring new life into the community but can place increasing demand upon public facilities and natural resources areas. It can help a community's tax base, thereby making feasible certain needed local improvements. The population base of the South Fork Valley Subarea has remained stable but future growth will require increased services and amenities for residents.

**Recommendation:** The proposed zoning districts should provide for adequate growth in the South Fork Valley Subarea while preserving the character of the area and quality of life that most people in the valley seem to desire. Urban growth should take place in the unincorporated town of Acme where a full set of urban service should be provided.

**Economic Activity**

**Findings:** The subarea's economy has traditionally been based on natural resources. The quest for gold brought many of the first settlers to the area and the promise of jobs in the timber industry kept them there. This has not changed much in the ensuing years. The concern for fisheries industry is increasingly becoming a factor that impacts the economics of mineral and timber resources. Recreation and tourism unlike other parts of the county, have not taken on a large role in the subarea. The area also supports a small number of service businesses, home occupations and cottage industries.

**Issue:** Cottage industries make up a substantial portion of the businesses in the subarea and tend to be scattered throughout the Valley. Their presence is important to the economy of the subarea.

**Issue:** The economy of the valley has been primarily resource based and tied to agriculture and forestry. This may begin to shift as these industries change.

**Issue:** Although much of the valley land in the South Fork Valley is conducive to farming, many of the dairies are doing poorly and other farmers have complained that markets are to far away, the growing season to short, soils to thin and wet.

**Recommendation:** Whatcom County should seek to provide every opportunity for the farmer to utilize arable land in the most efficient manner possible and to facilitate a viable agricultural industry in the South Fork Valley.

4. **COMMUNITY FACILITIES AND UTILITIES**

Community services in the subarea include education, public safety, fire protection, energy, solid waste, water and wastewater systems, transportation systems, and parks and recreation facilities.

**Sewage Disposal**

**Findings:** Sewage disposal is provided solely by individual private septic systems. During the land use inventory of the subarea during the summer of 1990, 404 dwelling units were identified as possible year around residences.

The Federal Environmental Protection Agency recommends that a residential density of over 40 dwelling unit equivalents (three bedroom home) per square mile in areas where soils are highly permeable is a potential source of ground water contamination. This is the equivalent of one dwelling per 16 acres.
Issue: There are some unreliable sources for potable water in the subarea. Areas of obtainable ground water are sporadic.

Issue: Contamination of ground water due to inadequate soils supporting individual septic systems is possible in certain areas of the subarea.

Issue: Costs involved in installing a sewer system in Acme could be prohibitive.

Recommendation: Development in the Urban Reserve area (Acme) should be limited until public sewer is provided in order to prevent health and economic impacts from contaminated surface and ground water.

Water

Findings: There are no public water purveyors in the subarea. There are two private water systems in the subarea: Wickersham Water Association is a Class 2 systems with approximately 31 connections and no room for expansion and the Van Zandt Community Club is a Class 3 system with one connection and no additional capacity. The Van Zandt System has an unreliable spring source.

The most prevalent form of water service are the individual wells serving one to two households. It is difficult to pin down the exact number of individual groundwater withdrawals but it is estimated to be approximately 500 based on 1980 U.S. Census data and the Health Department. Surface withdrawals also serve as a water source but they are hard to account for since they are not monitored.

Solid Waste

Findings: Solid waste disposal is accomplished by residents or private haulers taking refuse to a transfer station, a sanitary land fill, or to an incineration plant. County-wide mandatory garbage collection is currently being proposed to the County Council and presently Sanitary Service Corporation is the company contracted to collect waste in the South Fork Valley. The company is certified by the Washington State Utilities and Transportation Commission and has the exclusive right to collect commercial and residential garbage in the subarea.

Issue: There is a lack of recycling facilities in the subarea. Drop-off centers located in Van Zandt and Acme have been closed.

Recommendation: Recent zoning amendments have made neighborhood recycling collection centers conditionally permitted in the Rural and Forestry zones. The South Fork Valley community should work with the County Division of Solid Waste to establish such centers as a part of the county wide curbside recycling program.

Fire Protection

Findings: The South Fork Subarea is served by Whatcom County Fire Protection District #16, with the primary Fire station located at Acme and a second station in Van Zandt. The Washington Department of Natural Resources is responsible for fire protection on state managed forest lands. The Uniform Fire Code specifies minimum flow standards for fire protection of all but single family residential structures and accessory structures under 2,500 square feet.
Issue: Some residents living along Mosquito Lake Road and upper reaches of Saxon Road are not within Fire District #16 boundaries and therefore not protected in case of fire. The Department of Natural Resources (DNR) does not have the ability to fight structure fires nor are they an emergency response agency. The DNR is responsible for all undeveloped state and private lands that are not cultivated or developed outside of fire district boundaries.

Recommendation: Development outside of Fire District boundaries should be discouraged.

Law Enforcement:

Findings: Law Enforcement in the subarea is provided by the Whatcom County Sheriff's Department. In 1988 and 1989, the type and severity of calls varied greatly. They ranged from loud parties, littering, and hot rodding to child abuse, search and rescue, and kidnapping. The most common type seem to be that of malicious mischief and burglary or suspicion of burglary. In 1988, 48 citations were issued for 342 calls for service while in 1989, 42 citations were issued for 396 calls. Calls for service in the South Fork Valley area increased by 15% from 1988 to 1989.

Issue: Response time in the Valley is perceived as being slow, especially in the summer months when use of the river is high. This is partly due to the subarea's distance from the central part of the county which can slow down response time. General rowdiness and use of alcohol associated with use of the river causes problems for residents along the river and creates driving hazards.

Recommendation: High usage of the river during the summer creates the highest need for law enforcement and magnifies the slower response time. Monitoring of river use could help alleviate this problem.

Energy

Findings: Puget Sound Power and Light Company provides energy to the South Fork Valley Subarea and has the capacity to serve additional customers. They do not, however, have any substations in the subarea nor do they own any land for use as substations. The nearest substation is located in Deming. The present peak demand in the subarea is approximately 1.5 MW (megawatts). Puget Power has no immediate plans for expansion in the area since growth has typically been slow and also because of the lack of an improved infrastructure.

Cascade Natural Gas serves the Acme area via Northwest Pipeline which runs the entire length of the subarea just east of Highway 9. Those living on Rothenbuhler, Galbraith and Hudson Roads and those along Turkington Road 3/4 mile west of Highway 9 and from Rothenbuhler Rd. to Turkington Rd. along Highway 9 are currently being served. At present there are 43 active accounts with an average use of 778 therms per year per customer.

Education

Findings: Education is provided by the Mount Baker School District which has its administrative offices at Mount Baker Junior/Senior High School in Deming. The attendance area for the South Fork Subarea utilizes Acme Elementary on Turkington Rd. and the Mount Baker Junior and Senior High School in Deming. The 1989-1990 total expenditure per student for the Mount Baker School District was $3,313.25, compared to $3,661.12 per student in 1987. The Student/Teacher ratio for the 1989-90 school year was slightly less than the previous year.

Issue: Schools serving the subarea are at capacity. Expansion of Mt. Baker Junior/Senior will alleviate some of the pressure.
Recommendation: Recent additional funding may help alleviate this problem.

Transportation

Findings: The major circulation route in the South Fork Subarea is Highway 9 also known as the Valley Highway. It begins in Woodinville, enters Whatcom County south of Wickersham, and continues to it's end in at the Canadian Border at Sumas. In the South Fork Subarea, it covers the 11 mile length of the subarea. Traffic entering Highway 9 from the Mount Baker Highway averages 2600 daily. Traffic counts at Park Rd., one mile north of the Whatcom/Skagit boundary, average 1700 vehicles daily.

The only other access points into the Subarea are via Mosquito Lake Road which feeds into Acme from the Mount Baker Highway and via Park Road which directs traffic from southern shore of Lake Whatcom to just north of Wickersham. Both of these roads are classified as Minor Collector Roads. All of the other roads in the subarea are classified as local access since they are primarily dead end roads feeding onto Highway 9 that serve local residents only.

Issue: Creating a four lane highway through the South Fork Valley to Sumas could devastate the Valley environmentally, economically, and culturally. However, Highway 9 is an existing north/south corridor that could be examined as an alternative to alleviate transportation pressures from Seattle to Vancouver.

Recommendation: If there is one thing the community in the South Fork Valley can agree on, it is that the creation of a major four lane arterial will devastate the quality of life there.

Issue: By using Highway 9, truckers travelling to Canada have been able to bypass the weigh station on Interstate 5.

Issue: Collector roads and particularly local access roads are inadequate to support increasing traffic volumes. Road widths and shoulders are narrow and their general condition is poor. The lack of adequate shoulders forces bicycle and pedestrian traffic onto the roads thus creating potential conflict and hazards.

Issue: Seasonal flooding at both ends of the Valley can restrict access on Highway 9 and isolate the Valley. This is particularly true on the north end where a dip in highway 9 approximately one half of a mile north of the intersection of Potter Road and Highway 9 is frequently inundated with one to two feet of water making the road impassable. This condition hinders emergency traffic at a time when it may be needed most.

Recommendation: The Washington State Department of Transportation should embark on a road improvement plan that would elevate that section of Highway 9 which is frequently inundated by flooding so that the road base is elevated by approximately three feet.

Parks and Recreation

Findings: The subarea's location between federal recreation lands and the population centers of Northern Puget Sound and the lower British Columbia mainland contribute to its popularity as a recreational site. The Mt. Baker District in Whatcom, Skagit, and Snohomish Counties, includes 545,246 acres. As part of these federal lands, the Mt. Baker District offers year round recreation, including hiking, climbing, camping, scenic driving, berry-picking, cross country skiing and downhill skiing. There is no formal recreational facilities in the South Fork Valley Subarea.

Within the Subarea recreational activity focuses on the South Fork of the Nooksack River. River usage, especially by "tubers" has markedly increased over the years and has created a strain on the existing
facilities as and threatens habitat and water quality. Access to the river is limited by private ownership and the rivers own geographical isolation.

**Issue:** In recent years the presence of inner tubers on the South Fork of the Nooksack during the summer months has greatly affected the natural environment and quality of life along the South Fork. Problems have included: destruction of property and farm equipment; trespassing; threatening of wildlife habitat, especially in terms of fisheries; rowdiness and drunkenness; illegal and dangerous parking; short and long term camping along Saxon Road; and lack of sanitation.

**Recommendation:** The Whatcom County Parks Department has made several attempts to monitor tubing activity during the summer months. Plans are ongoing and may include limited access to only certain parts of the river, as well as timing and capacity limitations.

**Issue:** There is a lack of public access points to the river which contributes to the tubing problems.

**Recommendation:** The Whatcom County Parks Department is currently looking for locations along the South Fork of the Nooksack River that the County can either buy or lease over a long period of time. In doing so the Parks Department hopes to better control access to the river.

**Issue:** Unsupervised motorcycle use of a Whatcom County right-of-way immediately east of Skookum Creek has resulted in damage to the natural environment (wetlands, flora, fauna). The timing and frequency of this type of activity threatens salmon spawning areas, some of which are located in the immediate area and are directly impacted by this activity.

**Recommendation:** Whatcom County should work with the Department of Natural Resources, the tribes and private land owners to restrict access to this environmentally sensitive area. A gate located at the Skookum Creek Bridge would provide the most effective access deterrent. Pedestrian access should continue to be granted to this section of the Nooksack Valley.

5. EXISTING PLANS AND LAND USE REGULATIONS

**1970 Whatcom County Comprehensive Plan Designations**

**Findings:** Approximately 45,000 acres of the South Fork Valley are designated Forestry under the 1970 Plan. This designation promotes preservation of forest lands for their timber and mineral resources, open space, wildlife habitat, and watershed values. The Rural designation applies to 7,700 acres and includes areas where there is a mixture of part time farming, forests, and rural residences. Another 8,500 acres has been designated as floodplain acknowledging the large area of the South Fork Valley that is periodically inundated by high river flows.

**1972 General Protection Zoning District**

**Findings:** In 1972, the entire subarea was zoned General Protection (GP) under the Whatcom County Interim Zoning Ordinance. Interim zoning is intended as a stopgap measure to preserve the status quo while permanent regulations are being developed. The GP district is intended as a multiple-use zone in which expansion of business, industry and concentrated residential development is restricted to the minimum extent necessary to prevent disruption of the use and value of surrounding properties and of areas which may later prove best suited for other uses; to prevent untimely or uncompensated requirements for roads, utilities or other services requiring public finance; to avoid conflicts with the policies in the Comprehensive Plan and its amendments or supplements; and to avoid detrimental effects on public health, safety and general welfare. For anything other than low intensity uses, such as single family homes,
conditional use permits are required so that a citizen review process will occur. Little guidance is given as to what types of uses are acceptable. The General Protection zone places no restrictions on building lot sizes beyond the minimums specified by the Whatcom County Department of Health.

**Issue:** The General Protection zone creates public and administrative uncertainty regarding permitted, conditional, and prohibited uses. The zone provides little or no assurance to residents as to future uses and character of their surrounding area. The zone does not establish parcel size for forestry or non-forestry uses, thereby providing no mechanism for conservation of forest resources. In addition, the zone classification is deficient in guidelines for critically evaluating conditional uses which might occur in areas designated for forestry. Finally, the General Protection zone does not establish buffer provisions which are intended to minimize impacts between forestry and non-forestry uses.

**Recommendation:** Whatcom County is currently updating the Comprehensive Plan for the South Fork Valley Subarea and implementing Comprehensive Plan Policies by bringing the subarea into conformance with the *Official Whatcom County Zoning Ordinance Title 20.*

**Shoreline Management Program Designations**

**Findings:** The Whatcom County Shoreline Management Program was adopted in 1976 pursuant to the Washington Shoreline Management Act. The Program applies to areas generally within 200 feet of the ordinary high water mark of streams and rivers with greater than 20 cubic feet per second mean annual flow, lakes larger than 20 acres in size, and Puget Sound.
LAND USE DESIGNATIONS

Land use designations are overlay districts that when applied to a geographic area, indicate where and how the goals and policies of a Comprehensive Plan will assure the orderly and efficient development that addresses or resolves land use needs in that geographic area. The Comprehensive Land Use Plan Map illustrates the location of these designations (Figure 3).

The land use designations together with the policies, represent the most appropriate uses of land in the subarea for the planning period. These land use designations have been developed as a means of addressing land use needs, resolving particular land use problems, or preserving existing land use patterns.

Whatcom County has developed sixteen land use designations to allow for the necessary flexibility and specificity in applying land use standards. Five of the land use designations are applied in this subarea, they include URBAN RESERVE, RURAL, AGRICULTURE, FORESTRY, and GENERAL COMMERCIAL.

Land use designations establish the boundaries of those zoning districts that implement the Comprehensive Plan. The following is a descriptive summary of each designation.

1. URBAN RESERVE DESIGNATION: Residential land use designations were determined according to existing ownership and density patterns, suitability for residential uses, and availability of services as described in the URBAN RESERVE, locational criteria. Before full development of the residential zone occurs, improvements should be made to water, waste water, and transportation systems. The residential land use designation are applied by balancing the densities of the prior Comprehensive Plan and the potential carrying capacity of water sources, waste water service options and feasible transportation system service levels.

2. RURAL DESIGNATION: In the South Fork Valley Subarea, the RURAL Comprehensive Plan designation overlays those rural areas that have some environmental constraints; serve as a buffer between denser residential patterns and typical commercial forestry practices; have a multiple use capability; are predominantly parcels under current use tax status; and lack public water and sewer.

3. FORESTRY DESIGNATION: The FORESTRY designation has been applied to almost all of the forested uplands of the subarea. The designation recognizes existing land use, ownership, and parcel size patterns; environmental constraints such as steep slopes, soils unsuitable for development, 100 year floodplains, and sensitive and critical resource areas; and predominance of forestry current use taxation status.

4. AGRICULTURE DESIGNATION: The AGRICULTURE designation has been applied to the valley region where soils and topography and parcel size facilitate viable farming practices.

5. COMMERCIAL DESIGNATION: The COMMERCIAL designations were applied in recognition of the character of existing commercial centers and projected future commercial needs. The COMMERCIAL designation at Van Zandt is intended to accommodate the convenience buying needs of local residents as well as transient buying patterns. The Acme commercial area, though larger in area, serves that same consumer demands. Although the potential market area for each location occasionally may be county-wide, it is anticipated that the primary market area will be a smaller, more localized area.

To be consistent in the application of the designations, the following methodology has been used for each of the designations:

- Rationale
- Objectives
- Locational Criteria
- Implementing Zoning District
South Fork Valley Subarea Location

URBAN RESERVE DESIGNATION

Rationale

It is a well established trend in the western United States for urban areas to respond to growth pressures by outward expansion of their boundaries. With this trend comes a continuing demand for land, the most fundamental of all urban resources. Although outward expansion is an accepted city planning practice, problems have typically arisen when potential urban lands have been committed to long-term “non-urban” uses. Primarily caused by the lack of coordinated public policy among governmental jurisdictions, this situation has resulted in uncoordinated and costly service systems, inefficient transportation networks and unmanageable land use patterns.

As a means of alleviating the problems associated with outward expansion, the Comprehensive Plan establishes the URBAN RESERVE land use designation. The designation is applied to urban fringe and outlying satellite areas where previous commitments to urban densities and attendant services (sewer, stormwater drainage, schools, parks, water, fire and sheriff protection) can be efficiently provided. It is also applied to outlying satellite areas where urban densities and services have been previously planned and the available level of water and sewer service and existing land use character warrant it.

Prior to the provision of public services, the URBAN RESERVE designation is intended to maintain a low density character that discourages the establishment of interim uses and subdivision patterns that may foreclose significant future alternatives pertaining to urban densities and the efficient provision of services. It does however allow reasonable uses of property by permitting compatible residential, recreational, commercial, forestry, and agricultural land uses.

When services are available, development should occur in neighborhood units with appropriate levels of densities, uses, and circulation networks that result in an orderly, economic and expeditious transition from rural to urban land use patterns.

Objectives

The application of the URBAN RESERVE designation is intended to accomplish the following objectives:
1. To reduce urbanization and encroachment pressures on lands that are most suitable for other uses;
2. To stabilize land speculation and the artificial inflation of land values in the urban fringe and outlying satellite areas by designating an adequate amount of land for urban growth and uses during the planning period;
3. To provide land owners with a reasonable expectation of future municipal and county land use policies;
4. To reduce inequitable taxing structures on non-urban land located near urbanizing areas;
5. To conserve energy resources by reducing unnecessary travel between living, shopping, and work places; and
6. To encourage the conservation of natural resources and environmentally sensitive areas, both within and outside of the area designated as URBAN RESERVE;

Locational Criteria

The criteria to be utilized for the application of the URBAN RESERVE designation include the following:

1. Satellite areas that are of sufficient size to adequately accommodate the projected demands for residential, commercial, transportation and public uses for a ten to fifteen year period;
2. Land areas where a range of urban services such as sewer, water, storm drainage, transportation improvements, fire and sheriff protection, and parks and recreation presently exist or can be economically and efficiently provided in the near future;
3. Areas that contain an adequate supply of vacant urban type land to avoid the artificial inflation of land values;
4. The boundaries of the URBAN RESERVE designation should:
a. be well defined, logical, provide a physical "sense of community," and be capable of expanding to accommodate additional urban growth as the need arises; and
b. acknowledge the existing character of land use densities and the existing or potential level of utility servicing.

Implementing Zoning District

URBAN RESIDENTIAL (UR) Zoning District: The URBAN RESERVE Comprehensive Plan Designation should be implemented by the URBAN RESIDENTIAL Zoning District.

URBAN RESIDENTIAL (UR-4 ) Density: The URBAN RESIDENTIAL Zoning District in the South Fork Valley should have a density of four dwelling units per acre. This density is based upon existing urban level of services including public sewer, public water, storm drainage, transportation, fire and police protection. Until such time that public sewer and water are provided, and stormwater drainage facilities are provided where specified by the Comprehensive Plan policies, the density should be one dwelling unit per five acres.

South Fork Valley Subarea Location

The URBAN RESIDENTIAL Zoning District for the South Fork Valley Subarea should be located within the urban area of the town of Acme within sections 37-05-06 and 37-05-07, and totalling 106 acres as follows:

<table>
<thead>
<tr>
<th>T-R-S</th>
<th>ACREAGE</th>
<th>DESCRIPTION OF AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>37-05-06</td>
<td>41 Ac.</td>
<td>N. Turkington Rd./Acme/long and short plats/public water</td>
</tr>
<tr>
<td>37-05-07</td>
<td>65 Ac.</td>
<td>S. Turkington Rd./Acme/single family/1 multi/small lots</td>
</tr>
<tr>
<td>TOTAL</td>
<td>106 Ac.</td>
<td></td>
</tr>
</tbody>
</table>

See Figure 4 for detailed location and configuration.

RURAL DESIGNATION

Rationale

The RURAL land use designation is intended to move toward attaining the Regional Design Goal of keeping residential densities low and minimizing the demand for urban level services in rural areas. It also acknowledges physical factors such as soil percolation rates, depth to ground water, steep topography, slope stability, flood plains, ground water aquifers, and sensitive wildlife habitats that are, and will continue to be, limitations to higher densities. This type of landscape can be considered suitable for multiple uses including agriculture, forestry, mining, low density residential, home occupations, and cottage industries. Dispersed settlement patterns are a function of physical conditions such as soils, water, or topography that impose constraints to higher densities of development. Dispersed settlement patterns also can be a function of the lack of public commitment for the provision of sewer, water, and roadway improvements. Very low density residential areas offer alternative residential living styles that allow preferences for increased privacy.
and aesthetic advantages of particular sites, or small scale agriculture and forestry, as compared to that of the urban or moderately dense residential setting.

These areas may contain non-renewable natural resources, such as soils which contribute to agricultural or forestry productivity; sand and gravel deposits suitable for extraction; environmentally sensitive areas such as wetlands, steep slopes, or 100-year floodplains; or natural scenic resources that form the visual identity of an area.

Existing parcel sizes generally are large and would be able to accommodate land uses such as agriculture, forestry, or low to moderate density residential uses in future planning periods. The large parcels also provide ample buffering for cottage industries that would not be appropriate in more densely developed residential areas. Employment opportunities also exist that are associated with part to full-time agriculture, forestry, home occupations, cottage industries, neighborhood grocery stores, and related activities. An example of flexibility is the potential for future commercial development in areas where appropriate public services, such as sewer and water utilities, are available and additional commercial land is needed. In order to facilitate potential future commercial development, large parcel RURAL zoning is appropriate as an interim step in the development of an industry, while still allowing immediate rural uses such as mineral resource extraction and agriculture.

Objectives

The application of the RURAL designation is intended to accomplish the following objectives:

1. To provide flexibility concerning very low density residential, forestry and agricultural land uses while retaining a range of private and public land use options for the future;
2. To retain future options for access to non-renewable natural resources (sand, gravel, coal and minerals, and soils which contribute to agricultural and forestry productivity) and the renewable timber resources;
3. To preserve options for future zone districts when economic development potential exists;
4. To retain the rural character of an area as an alternative to urban, suburban, and commercial land use patterns elsewhere in the subarea; and
5. To provide the option of clustering in the design of new rural subdivisions in order to retain productive land uses and future options for development.

Locational Criteria

In order to define those locales where the RURAL designation would be most appropriate, the following criteria are applied:

1. Those areas that possess a very low residential density and are compatible with existing land use plans;
2. Those areas where a buffer is needed between higher density population and land use practices associated with commercial agriculture and forestry;
3. Those areas where features of the physical environment, such as 100 year flood plains, lack of adequate groundwater, slow or very rapid soil permeability rates, the presence of aquifers or groundwater recharge areas, seasonal ponding, unstable slopes, or steep topography require very low densities in order to mitigate the impacts of these physical constraints;
4. Those areas where there exists the possibility of utilization of natural resources such as soils, sand/gravel, coal or timber;
5. Those areas where there are no planned capital improvements to community facilities, utilities or transportation systems; and
6. Those areas where large parcel sizes lack of residential development are desirable to assure the feasibility of future commercial or recreational development.
Implementing Zoning District

RURAL (R) Zoning Districts: The RURAL Comprehensive Plan Designation is implemented by the RURAL 2, 5, and 10 acre zoning designations.

RURAL (R) Zoning Districts Density: The RURAL Zoning District has three densities; one dwelling units per two acres, one dwelling unit per five acres, and one dwelling unit per ten acres. The following criteria define the application of each of these densities.

1. The density of one dwelling unit per two acres should be applied where:
   a. existing density is less than or equal to one dwelling unit per five acres and average parcel size is greater than or equal to two acres;
   b. physical limitations such as lack of adequate groundwater, slow or very rapid soil permeability rates, the presence of aquifers or groundwater recharge areas, seasonal ponding, unstable slopes, or steep topography prohibit increased densities;
   c. existing public services do not justify greater densities and there are no planned capital improvements; and
   d. maximum build-out at the prescribed density level will be compatible with the surrounding land use character.

2. The density of one dwelling unit per five acres should be applied where:
   a. existing density is less than or equal to one dwelling unit per ten acres and average parcel size is greater than or equal to five acres; and
   b. items "b," "c," and "d" of Section 1 above are applicable.

3. The density of one dwelling unit per ten acres should be applied where:
   a. existing density is less than or equal to one dwelling unit per twenty acres and average parcel size is greater than or equal to ten acres;
   b. the possibility of the utilization of natural resources, such as sand and gravel, coal, or timber requires low densities to facilitate their extraction;
   c. agriculture and silviculture are, or possibly could be, viable economic enterprises; d. 100-year floodplains are located; and
   e. items "b," "c," and "d" of Section 1 above are applicable.

South Fork Valley Subarea Location
The **RURAL 2, 5, and 10 acre** Zoning Districts for the South Fork Valley Subarea should be located as follows:

### RURAL 2 ACRE (R-2A)

<table>
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<tr>
<th>T-R-S</th>
<th>ACREAGE</th>
<th>DESCRIPTION OF AREA</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>37-05-31</td>
<td>27 Ac.</td>
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<tr>
<td></td>
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<td>Town of Wickersham/platted--many lots consolidated/wet</td>
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<td>TOTAL</td>
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<td>27 Ac.</td>
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### RURAL 5 ACRE (R-5A)

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<tbody>
<tr>
<td>1</td>
<td>38-05-17</td>
<td>175 Ac.</td>
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<tr>
<td></td>
<td>38-05-20</td>
<td>80 Ac.</td>
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<tr>
<td></td>
<td></td>
<td>End Nelson Rd./short plat/parcels--4-20 Ac./8 lots</td>
</tr>
<tr>
<td>2</td>
<td>38-05-02</td>
<td>80 Ac.</td>
</tr>
<tr>
<td></td>
<td>37-05-35</td>
<td>42 Ac.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mosquito Lake Rd./Avg parcel size--5 Ac./3 d.u./8 lots</td>
</tr>
<tr>
<td>3</td>
<td>37-05-06</td>
<td>132 Ac.</td>
</tr>
<tr>
<td></td>
<td>37-05-07</td>
<td>28 Ac.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Turkington Rd./2 short plats/parcels--2-30 Ac.</td>
</tr>
<tr>
<td>4</td>
<td>37-05-07</td>
<td>67 Ac.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>S. Acme-Galbraith Rd./parcels--6-20 Ac/</td>
</tr>
<tr>
<td>5</td>
<td>37-05-20</td>
<td>225 Ac.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Doren-Bowman Rd./Avg. parcel size--5-7 Ac./bench area</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>829 Ac.</td>
</tr>
</tbody>
</table>
## RURAL 10 ACRE (R-10A)

<table>
<thead>
<tr>
<th>T-R-S</th>
<th>ACREAGE</th>
<th>DESCRIPTION OF AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>37-05-32</td>
<td>57 Ac.</td>
<td>Innis Creek Rd./very wet/parcels--1-14 Ac.</td>
</tr>
<tr>
<td>37-05-29</td>
<td>19 Ac.</td>
<td></td>
</tr>
<tr>
<td>37-05-29</td>
<td>60 Ac.</td>
<td>Innis Creek Rd./two parcels/wet but some dry areas</td>
</tr>
<tr>
<td>37-05-20</td>
<td>140 Ac.</td>
<td>Doren Rd./Hwy 9/Avg. parcel size--10 Ac.</td>
</tr>
<tr>
<td>37-04-29</td>
<td>20 Ac.</td>
<td>1 parcel/Hwy 9</td>
</tr>
<tr>
<td>37-04-30</td>
<td>167 Ac.</td>
<td>Hwy 9/parcels--1-40 Ac./9 d.u./short plat</td>
</tr>
<tr>
<td>37-05-08</td>
<td>19 Ac.</td>
<td>2 parcels/Hwy 9/adjacent AG</td>
</tr>
<tr>
<td>37-05-17</td>
<td>136 Ac.</td>
<td>Hwy 9/Maleng Rd./parcels--1-25 Ac./5 d.u.</td>
</tr>
<tr>
<td>37-05-20</td>
<td>50 Ac.</td>
<td>Flanks Hwy 9/parcels--5-10 Ac.</td>
</tr>
<tr>
<td>37-05-05</td>
<td>35 Ac.</td>
<td>Adjacent Mosquito Lake Rd./one parcel</td>
</tr>
<tr>
<td>37-05-06</td>
<td>35 Ac.</td>
<td>East if Turkington Rd./two parcels</td>
</tr>
<tr>
<td>37-05-03</td>
<td>160 Ac.</td>
<td>Single ownership/bisected by Mosq. Lake Rd./8 parcels/1-75 Ac.</td>
</tr>
<tr>
<td>38-05-25</td>
<td>100 Ac.</td>
<td>Mosquito Lake Rd./avg. parcel size--10 Ac.</td>
</tr>
<tr>
<td>38-05-28</td>
<td>80 Ac.</td>
<td>E. end Strand Rd./parcels--1-26 Ac./2 d.u./cem.</td>
</tr>
<tr>
<td>38-05-29</td>
<td>78 Ac.</td>
<td>E. end Strand Rd./All 9-10 Ac. parcels/2 d.u.</td>
</tr>
<tr>
<td>38-05-20</td>
<td>109 Ac.</td>
<td>E. end Strand Rd./parcels--18-31 Ac./some D.F.</td>
</tr>
<tr>
<td>38-05-07</td>
<td>80 Ac.</td>
<td>Caron Rd./4 lots/Avg. parcel size--20-40 Ac.</td>
</tr>
<tr>
<td>38-05-08</td>
<td>193 Ac.</td>
<td>E. Van Zandt/short plat/parcels--4-9 Ac./wet/19 d.u</td>
</tr>
<tr>
<td>38-05-09</td>
<td>94 Ac.</td>
<td>Schombush Rd./3 short plats/parcels--4-9 Ac./10 d.u.</td>
</tr>
<tr>
<td>38-05-16</td>
<td>35 Ac.</td>
<td>Linnell Rd./5 lots/4 d.u./parcels--2-20 Ac.</td>
</tr>
<tr>
<td>38-05-17</td>
<td>96 Ac.</td>
<td>S. Potter-W. Hwy 9-E. Linnell/parcels--2-19 Ac./wet</td>
</tr>
<tr>
<td>38-05-05</td>
<td>44 Ac.</td>
<td>Hwy 9-Rutsatz Rd./short plat/9 lots/2 d.u./cemetery</td>
</tr>
<tr>
<td>38-05-08</td>
<td>36 Ac.</td>
<td>Hwy 9/Nooksack/short plat/3 lots</td>
</tr>
<tr>
<td>TOTAL</td>
<td>2369 Ac.</td>
<td></td>
</tr>
</tbody>
</table>
FORESTRY DESIGNATION

Rationale

Forestry and related industries historically have been significant factors in the local economy, a role that has expanded to affect state, national and international economies. Not only is forestry economically important, forest management provides a significant renewable resource base to Whatcom County. In addition, forested areas often contain non-renewable mineral and non-mineral resources, serve as wildlife habitat, and contribute to watershed management. Population increases may create pressure to irrevocably convert forest land to other uses. It is important that Whatcom County provide for the long term productivity of forests and related resources by safeguarding prime forest areas from conversion to non-forest uses.

Objectives

The application of the FORESTRY designation is intended to accomplish the following objectives:

1. To preserve the viability of Whatcom County's forest resources and industries;
2. To promote the conservation of forest lands and provide for the sustained yield management and economic vitality;
3. To identify areas which are suitable for the long-term productivity and sustained use of forest resources;
4. To discourage residential and recreational residential uses in order to minimize conflict with and encroachment by non-forest uses and to guard against conversion of forest lands to non-forest uses;
5. To accommodate other compatible and related uses such as non-renewable resource extraction, wildlife management, watershed management, and dispersed recreation; and
6. To promote uses that are conducted in accordance with applicable local, state, and federal regulations.

Locational Criteria

The criteria to be utilized for the application of the FORESTRY designation include the following:

1. Land use and ownership patterns indicate a predominance of large parcel sizes ranging from 20 to 640 acres;
2. Parcels are usually owned by major timber industries, logging companies, the State of Washington, or private individuals engaged in woodlot operations for the purpose of growing and harvesting timber;
3. The majority of parcels are classified in Forestry Current Use tax status consistent with the provisions of Washington State law;
4. There is a minimal amount of public roads and other services that generally precede and augment residential development;
5. Certain physical constraints to residential development may also exist, such as slopes in excess of 15%, soils that are not suitable for septic systems or conventional building foundations, unstable geologic units, 100 year floodplains, or important wildlife habitats; and
6. Non-renewable natural resources such as minerals, coal, sand and gravel, or soils that are useful for forest management may also be present.

Implementing Zoning District

RURAL FORESTRY (RF) Zoning District: The FORESTRY Comprehensive Plan Designation should be implemented by application of the RURAL FORESTRY Zoning District in areas that meet the criteria set forth in the 3.03.1 of the Policy section.
RURAL FORESTRY (RF) Zoning District Density: The residential density for RURAL FORESTRY should allow one dwelling unit per twenty acres. This density is based upon existing rural level of services and utilities including fire and police protection, public and private road access, and energy service.

COMMERCIAL FORESTRY (CF) Zoning District: The FORESTRY Comprehensive Plan Designation should be implemented by application of the COMMERCIAL FORESTRY Zoning District in areas that meet the criteria set forth in the 3.03.2 of the Policy section.

COMMERCIAL FORESTRY (CF) Zoning District Density: No residential development is allowed in the COMMERCIAL FORESTRY Zoning District.

AGRICULTURE DESIGNATION

Rationale

The AGRICULTURE land use designation identifies areas suitable for the practice of commercial agriculture. Commercial agriculture is a significant industry in Whatcom County and has the potential to become increasingly significant as indicated by trends related to local farm incomes. Related industries add additional dollars to the local and regional economy as a direct result of agricultural production.

As significant as agriculture is in the local economy, agricultural lands are often considered for other purposes, namely urban or rural uses. Urban and rural encroachment can raise assessed valuation, resulting in higher property taxes for the agricultural operator. In addition, encroachment of residences not associated with agriculture can create conflicts with customary agricultural operations. Premature conversion to urban or rural uses occasionally forces the operator to cease agricultural uses. This situation is especially pronounced in the fringe areas of communities where residential growth pressures are most evident. The rapid rate of farmland conversion is being recognized by federal, state and local governments. Increasingly, communities are taking steps to inventory existing farmland and agriculturally productive soils, to determine alternative locations for residential uses, and to devise techniques for preserving farmland with the assistance and cooperation of the agricultural operator.

The comprehensive plan established the AGRICULTURE designation to promote agriculture by identifying and retaining land suitable for commercial agricultural pursuits.

Objectives

The application of the AGRICULTURE designation is intended to accomplish the following objectives:

1. To maintain and encourage the conservation of agricultural lands in Whatcom County;
2. To promote the continuation of viable economic livelihoods for the agricultural operator, agricultural producer and related agricultural services;
3. To provide clear direction for nonagricultural uses to locate in other urban or rural designations; thereby minimizing potential conflicts between agricultural operators and uses that are not directly involved in agriculture;
4. To maintain open space;
5. To conserve natural resources and natural systems;
6. To minimize energy and expense through the prioritization of agricultural operations at fertile locations;
7. To sustain existing county agricultural products;
8. To encourage the development of additional agricultural products; and
9. To encourage the stewardship approach to land management.
Locational Criteria

Areas that are suitable for application of the AGRICULTURE designation conform to the following criteria:
1. The majority of area contains Prime Farmland Soils as determined by the Soil Conservation Service;
2. The area may contain 100-year floodplains as delineated by the Soil Conservation Service and the U.S. Army Corps of Engineers;
3. Existing land uses are primarily full-time agriculture intermixed with part-time agriculture and woodlots; and minimal commitment to non farm uses has been made;
4. The area is composed of agricultural operations that have historically been and continue to be economically viable;
5. Parcel sizes are generally greater than forty acres;
6. Urban utility services including public sewer and water are not planned;
7. Special purpose districts that are oriented to enhancing agricultural operations exist, including drainage improvement and flood control;
8. Areas have a pattern of landowner capital investment in agricultural operation improvements including irrigation, drainage, manure storage, barn refurbishing, enhanced livestock feeding techniques, livestock upgrading, agricultural worker housing, etc.; and
9. Areas contain a predominance of parcels that have current use tax assessment derived from the Open Space Taxation Act. RCW 84.34.

Implementing Zoning District

AGRICULTURE (AG) Zoning District: The AGRICULTURE Comprehensive Plan Designation should be implemented by AGRICULTURE Zoning District.

AGRICULTURE (AG) Zoning District Density: The residential density for AGRICULTURE allows a density of one dwelling unit per forty acres.

COMMERCIAL DESIGNATION

Rationale

The goal of the COMMERCIAL plan designation is to provide a broad range of goods and services to people living within Whatcom County, as well as other regions. The designation intends to maximize safe and efficient on and off-site transportation systems, delineate areas that are conducive to overall site planning, acknowledge existing patterns of general commercial land use forms, and promote compatibility with surrounding non-commercial uses. The Planned Unit Development (PUD) provision is an option that may be used in the development of designated commercial areas. Additional policies on PUD's are located in the section addressing Land Development Options, Guidelines and Requirements. Zoning regulations are located in the Whatcom County Official Zoning Ordinance, Title 20.

Objectives

The application of the COMMERCIAL designation is intended to accomplish the following objectives:

1. To provide a broad range of retail goods and services that will benefit a large trade area;
2. To facilitate safe and efficient circulation systems;
3. To provide methods to attain compatibility with surrounding non-commercial uses; and
4. To promote site design that will efficiently use available commercial land.
Locational Criteria

Areas that are suitable for application of the COMMERCIAL plan designation conform to the following criteria:

1. Parcels are served by principal or minor arterials, or major collectors;
2. Parcels will be provided with urban services including public sewer and water, stormwater drainage, sheriff and fire protection; except that existing concentrations of general commercial uses may be recognized based on adequate levels of waste water disposal, water, and fire flow;
3. The designation contains a minimum of ten (10) acres configured in a concentrated and consolidated arrangement;
4. The designation is located on property where ownership patterns and land parcelization are conducive to feasible land packaging for future development; and
5. The designation is located where a public need for general commercial shopping exists.

Implementing Zoning District:

GENERAL COMMERCIAL (GC) Zoning District: Whatcom County should implement the COMMERCIAL land use designation with the GENERAL COMMERCIAL zone district.

GENERAL COMMERCIAL (GC) Zoning District Density: no requirements.

South Fork Valley Subarea Location:

The GENERAL COMMERCIAL District for the South Fork Valley Subarea should be located:

<table>
<thead>
<tr>
<th>T-R-S</th>
<th>ACREAGE</th>
<th>DESCRIPTION OF AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>38-05-17</td>
<td>1.5 Ac.</td>
<td>Everybody's Store/2 adjacent lots/Van Zandt</td>
</tr>
<tr>
<td>37-05-07</td>
<td>5 Ac.</td>
<td>Groc. Store/church/etc./single family/Hwy 9/Acme</td>
</tr>
<tr>
<td>37-05-08</td>
<td>7 Ac.</td>
<td>Fire Station/Post Office etc./single family/Hwy 9/Acme</td>
</tr>
<tr>
<td>TOTAL</td>
<td>13.5 Ac.</td>
<td></td>
</tr>
</tbody>
</table>

See Figure 4 for detailed location and configuration.
LAND USE POLICY

Land use policies specify the course of action that Whatcom County should follow in meeting the Whatcom County Goal Statements listed in Section II. Policies provide direction for the most economic, environmentally sensitive and appropriate land uses for the planning period in the South Fork Valley Subarea.

1. URBAN RESERVE POLICY

1.01It is the policy of Whatcom County to promote an orderly transition from rural land uses and densities to urban uses and densities by designating a portion of the unincorporated area of Acme in the South Fork Valley Subarea as URBAN RESERVE.

1.01.1The predominant land use pattern within the URBAN RESERVE area should be residential and related forms, including neighborhood commercial, neighborhood parks and other public uses. The URBAN RESERVE policy discourages the establishment of interim uses and subdivision patterns that can foreclose significant alternatives pertaining to future urban densities and the efficient provision of services. Therefore, this policy maintains the low density character of the area while permitting compatible residential, recreational, commercial, forestry, and agricultural land uses until an urban level of water, sewer, and stormwater facilities are available.

1.01.2To implement this policy, the URBAN RESIDENTIAL zone district density of four dwelling units per acre should not be effective until such time that a full range of urban services is provided as specified in Section 1.04 below. In areas where such services do not yet exist, the applicable density should be one dwelling unit per five acres of land.

1.02The areas designated as URBAN RESERVE should be indicated as such on the Comprehensive Land Use Plan Map.

1.03Whatcom County should implement the URBAN RESERVE land use designation by application of the URBAN RESIDENTIAL zone district. The density in the Acme area is four dwelling units per acre and is applied based upon the URBAN RESERVE locational criteria.

1.04It is the policy of Whatcom County to encourage efficient land use patterns and cooperation among municipalities, special districts, associations, and other governmental agencies in the provision of a full range of urban services in the URBAN RESERVE areas.

1.04.1In the Acme URBAN RESERVE area, public sewer and water should be provided by Water District #18. Until such time that public sewer and water are provided, these areas should have a density of one dwelling unit per five acres.

1.04.2In the Acme URBAN RESERVE area stormwater drainage facilities should be subject to the regional stormwater management plan when adopted. When adopted by the County, on-site stormwater collection and retention should be required during development in accordance with the Whatcom County Engineering Development Standards and the Regional Stormwater Management Plan.

1.04.3Where urbanization occurs on the periphery of large parcels, urban residential subdivisions and other urban uses should be designed to buffer less intensively utilized parcels with adequate
landscaping, screening or fencing to prevent encroachment by vehicles, pedestrians, animals, and nuisances.

1.04.4 Where practical, subdivisions and other urban uses adjoining other zone districts should be designed so that vehicular and pedestrian networks are channelled to the internal area of the site and intersections with county roads are as few as possible.

1.04.5 Cluster subdivisions and Planned Unit Developments are permitted in URBAN RESERVE areas and are encouraged for developments on large parcels. These alternative methods of land subdivision are described more fully in the section titled "Land Development Options and Guidelines."

2. RURAL POLICY

2.01 It is the policy of Whatcom County to provide for very low density residential areas where multiple uses are suitable, or where community facility or resource constraints preclude higher densities, by designating certain portions of the South Fork Valley Subarea as RURAL.

2.01.1 Within the areas designated as RURAL, typical uses include low density residential, pasture, agriculture, woodlots, home occupations, and cottage industries.

2.01.2 To implement this policy, residential densities of one dwelling unit per two acres, one dwelling unit per five acres and one dwelling unit per ten acres are provided.

2.02 The areas designated as RURAL should be indicated as such on the Comprehensive Land Use Plan Map.

2.03 Whatcom County should implement the RURAL land use designation with the RURAL zone district. The residential densities are one dwelling unit per ten acres, one dwelling unit per five acres, and one dwelling per two acres, applied according to the Locational Criteria.

2.04 It is the policy of Whatcom County to encourage effective land use patterns and adequate provision of services for RURAL densities.

2.04.1 RURAL areas should be served by private water systems, water associations, and septic drainfields. Where water is obtained from off-site sources, written agreement must be made with all affected property owners and presented as part of subdivision or building permit review.

2.04.2 Several methods of creating residential lots and mixed use developments are established including conventional subdivision, cluster subdivision, and planned unit development. Additional policies are contained in the section addressing land development options, guidelines and requirements. Regulations concerning densities, parcel sizes and uses are contained in the RURAL zone text and the Planned Unit Development section of the Title 20 Zoning Ordinance.

2.04.3 Subdivisions should be designed so as to minimize intersections along existing county roads and to discourage lineal residential patterns adjacent to county roads.

2.04.4 New residential development adjacent to areas designated FORESTRY should require a covenant or deed restriction agreeing to refrain from any legal action against reasonable and lawful forest practices.
2.04.5 It is the policy of Whatcom County to encourage property owners to conserve forested areas by utilizing the provisions of RCW 84.34.

3. **FORESTRY POLICY**

3.01 It is the policy of Whatcom County to conserve forest lands suitable for long term productivity and sustained use of forest resources by designating certain portions of the South Fork Valley Subarea as FORESTRY.

3.01.1 To acknowledge existing forest lands and associated nonrenewable resources, portions of the South Fork Valley Subarea are designated FORESTRY. The principal use of such designated areas is the sustained yield management of forest resources, conducted in accordance with the Washington State Forest Practice Act (RCW 76.09) and the attendant regulations of WAC 222, which are administered by the Department of Natural Resources. Such uses include timber production, harvesting and reforestation; forest chemical use; logging road construction and maintenance; and fire prevention and suppression. Other compatible uses include watershed and wildlife habitat management, woodlot operations, certain forest industries, utilities, mineral extraction, and occasional outdoor recreation.

3.01.2 It is the policy of Whatcom County to establish twenty (20) acres as the minimum parcel size for sustained yield forest management and to safeguard forest lands from potential impacts generated by secondary uses.

3.02 The areas designated as FORESTRY should be indicated as such on the Comprehensive Land Use Plan Map.

3.03 Whatcom County should implement the FORESTRY land use designation by application of the RURAL FORESTRY zoning district and the COMMERCIAL FORESTRY zoning district in accordance with the following criteria:

3.03.1 **RURAL FORESTRY**

a. **Parcel Size:** The average parcel size should be 20 acres or more.

b. **Tax Status:** The property is in a tax deferred status such as in Open Space-Timber, Open Space-Open Space, Current Use Assessment. Under some circumstances the property may not be in a tax deferred status.

c. **Ownership Status:** Private non-industrial ownership predominates.

d. **Access:** The property is located close to public roads and utilities, or is served by private roads built to Whatcom County Standards.

e. **Infrastructure:** The parcel is within a public service district (water and/or sewer, Fire District).

f. **Environmental Constraints:** Soils on the property are suitable for on-site septic disposal and conventional building. Potable domestic water is available. The property is not located in areas designated "Critical Areas" or "environmentally sensitive areas".

g. **Land Use:** The predominate land use on the parcel is forestry with some low density residential development. There is some likelihood that the property may convert to non-
forestry use at some future date in conformance with Whatcom County's Comprehensive Plan.

3.03.2 COMMERCIAL FORESTRY

a. **Parcel Size:** The minimum parcel size in this zone is 40 acres.

b. **Tax Status:** The property is in a tax deferred status of Classified or Designated Timber Land.

c. **Ownership Status:** Corporate or State Forest Land ownership predominates.

d. **Access:** The parcel is accessed by private or state forest access roads.

e. **Infrastructure:** The parcel is not located within a public service district (water and/or sewer, Fire District).

f. **Environmental Constraints:** The property is located in areas generally not suitable for normal residential development.

g. **Land Use:** The land is being managed for the long term production of forest products. This includes all activities associated with the management of commercial timber land.

h. **Soil Capability:** Soils should be capable of supporting commercially viable timber products as identified by the State Soil Survey, Department of Natural Resources (Forest Land Grades 1-7).

3.04 The following policies establish appropriate service levels for designated FORESTRY areas.

3.04.1 Forest management areas generally should be served by private logging roads; fire suppression should be provided by individual property owners and the Department of Natural Resources; and law enforcement should be provided by the Sheriff Department and the Department of Natural Resources.

3.04.2 Residential or other structural uses in designated FORESTRY areas should have individual on-site wells, springs, or streams as sources of potable water; volunteer fire protection or individual structural fire suppression systems consistent with County Fire Marshall requirements; and law enforcement provided by the County Sheriff Department.

3.04.3 When residential or other structural uses are intended to be supplied with potable water from off-site sources, written permission should be obtained from the affected property owner, prior to subdivision approval or building permit issuance, as applicable.

3.05 It is the policy of Whatcom County to encourage harmony between forestry and non-forestry land uses by the following policies:

3.05.1 Whatcom County should discourage community facilities in FORESTRY areas except dispersed and low intensity recreational opportunities, private water and septic drainfields, and private roads. Subdivision for residential purposes should require a written agreement among all affected property owners concerning any off-site water sources before subdivision or building permits occur.

3.05.2 A maximum density of one dwelling unit per twenty (20) acres should be established for those areas designated by zoning district to allow single family residential development. All residential uses should be subject to the following conditions:
a. All residential and related structures should be situated a minimum of one-hundred (100) feet from parcel boundaries.

b. All potential residents should be clearly informed of the principal use of FORESTRY areas and the intensive forest practices which may reasonably and lawfully occur in the normal course of forest management, and all new subdivisions should be subject to an agreement not to take legal action against legal and reasonable forest practices.

c. Any parcel where more than one dwelling unit can be provided should be encouraged to use the cluster subdivision method as described in section on land development options, guidelines and requirements.

d. All buildings should be set back out of potential flood and debris flow areas.

3.05.3 It is the policy of Whatcom County to require local public review of secondary uses in FORESTRY areas with the intent of determining the following:

a. The use will not cause a permanent and irrevocable commitment of the forest resource to uses not related to forestry.

b. The use will not prohibit or impact the intensive operation of adjoining forest practices.

c. The use will have fire prevention and suppression plans and will not create a fire hazard for adjoining forestry operations.

d. The use is in compliance with all applicable local, state and federal regulations.

e. The use will not significantly impact or degrade surface and subsurface water quality and quantity characteristics.

3.05.4 It is the policy of Whatcom County to encourage cooperation between forest managers and residential users within a watershed in considering and implementing the use of non-chemical controls and other methods whereby impacts on water quality are lessened.

3.05.5 It is the policy of Whatcom County to encourage leaving along streams, a strip of vegetated land of sufficient quality and width to minimize surges in runoff rates and to preserve stream bank stability.

3.05.6 It is the policy of Whatcom County to encourage leaving along the Highway 9 corridor, a strip of vegetated land of sufficient width and character to preserve the scenic value of the highway corridor.

3.05.7 Pursuant to the provisions of RCW 79.68 (Multiple Use Concept in Management and Administration of State-owned Lands) it is the policy of Whatcom County to encourage continued multiple use management of state owned forest lands.

3.05.8 It is the policy of Whatcom County to encourage private forest and woodland owners to conserve the county forest resource base by utilizing the current use tax assessment provisions of RCW 84.28, RCW 84.33, and RCW 84.34.

3.05.9 It is the policy of Whatcom County to encourage the Washington State Department of Natural Resources to continue County notification of all classes of forest practice applications. In
addition, the County should encourage the DNR to conduct public information programs when jointly determined to be necessary concerning forest practices that are proposed to occur within the subarea.

3.06 Whatcom County endorses the concept of cooperative resource management as developed in the Timber, Fish and Wildlife agreement, which is an agreement among industrial timber landowners, environmental groups, state resource agencies and Indian tribes for managing the states public and private timberlands and public resources.

3.07 It is the policy of the county to encourage the continuation of commercial forest management by:

3.07.1 Supporting land trades that result in consolidated forest ownerships;

3.07.2 Working with forest managers to identify and develop other incentives for continued forestry.

3.08 Whatcom County should discourage the conversion of lands designated as FORESTRY, to a use incompatible with the long term management of forest products and other natural resources.

4. AGRICULTURE POLICY

4.01 To acknowledge existing agricultural land uses and Prime Farmland soils, and to affirm the continued applicability of the 1970 Comprehensive Plan relative to agriculture, large portions of the South Fork Valley Subarea are designated AGRICULTURE.

4.01.1 Predominant uses include the cultivation and management of field, shrub, vine, greenhouse, orchard and forest crops; dairying; livestock raising; animal husbandry; beekeeping; and uses that are accessory to agricultural operations including operator and farmhand residences, small-scale product marketing and home occupations.

4.01.2 Other uses should be subject to public review to assure maintenance of the agricultural resource and compatibility with agricultural operations.

4.02 The areas designated AGRICULTURE should be implemented with the AGRICULTURE zone district.

4.02.1 The floodplain associated with the South Fork of the Nooksack river should be designated AGRICULTURE;

4.02.2 The boundaries of designated AGRICULTURE areas acknowledge existing agricultural land uses, land in agricultural current use tax assessment, areas with Prime Farmland soils, 100-year floodplain, and areas with parcel sizes or land ownership patterns of generally greater than twenty acres. In addition, the boundaries are established to minimize periphery length and peninsular forms, and maximize consolidation and unification of agricultural areas.

4.02.3 Several minimum parcel sizes are provided as follows:

a. Variable minimum parcel size should be permitted, consistent with the generally acceptable size for an economically viable operation for the particular form of intended agricultural pursuit, subsequent to affirmative review by representatives from the Bureau of Buildings and Code Administration, the Planning Department, the Cooperative Extension Agency and the Soil Conservation Service.
b. Parcels of less than five acres in size will be permitted for the residential use of retiring farm operators, public and quasi-public uses that are necessary in agricultural areas, and for purposes of securing bank loans for farm residences.

c. Forty acres should be the minimum size for parcels used solely for residential purposes, except as described above, with the intent of minimizing the introduction of people into agricultural areas who are not associated with agriculture. In addition, one dwelling will be permitted on each legally created parcel of record existing at the time of adoption of this document of greater than one acre in size.

4.03 Whatcom County should implement the AGRICULTURE land use designation by application of the AGRICULTURE zone.

4.04 Appropriate utilities and facilities in designated AGRICULTURE areas include on-site wells or water associations for the provision of potable and irrigation water, individual on-site waste water disposal systems, volunteer fire protection and law enforcement provided by the county Sheriff's Department and the Washington State Patrol.

4.04.1 The continued efforts of drainage improvement districts are encouraged to enable improved use of agricultural lands where this activity does not conflict with the preservation of high value wetlands.

4.04.2 The continued efforts of flood control and diking districts are encouraged to enhance use of the floodplain for agriculture, as well as increase protection of existing agricultural investments in land improvements and buildings when consistent with comprehensive watershed planning.

4.05 The following policies are intended to promote the continued economic viability of agriculture in Whatcom County and conserve associated resources.

4.05.1 Consolidation of adjoining parcels in the same ownership by filing a new deed is encouraged to promote easily workable farm units.

4.05.2 Residential subdivisions and other uses not related to agriculture are discouraged from locating in designated AGRICULTURE areas.

4.05.3 The stewardship approach to land management is encouraged to foster the long-term productivity of the agricultural land base, associated industries and agricultural life styles of Whatcom County.

4.05.4 The agricultural community is supported in its efforts to diversify the types of agricultural operations in the county and to continue to incorporate techniques that will enhance agricultural productivity and efficiency.

4.05.5 To enhance economic returns to the operator, direct marketing of products to the consumer is supported. In addition, to minimize "overhead" in the conduct of farm businesses, the formation of cooperatives is supported for warehousing, processing, and providing agricultural supplies and equipment.

4.05.6 To increase direct economic benefits to Whatcom County originating with agriculture, continued local processing of agricultural products is encouraged, as well as the development of additional processing facilities.
4.05.7 In recognition of the prevailing type of agricultural operation, Whatcom County encourages the continuation of the small farm as the basic unit of farm production. In addition, Whatcom County encourages the continued efforts of citizen groups engaged in promoting agricultural education, operations and marketing.

4.05.8 Locating major transportation and utility corridors that would preclude the agricultural use of land is discouraged in designated AGRICULTURE areas.

4.06 The following policies are established to address other aspects of agricultural concerns.

4.06.1 Agriculture in its various forms is the preferred use of areas designated AGRICULTURE. Although it is anticipated that adjustments to designated AGRICULTURE areas will not be necessary during the planning period, proposed conversions should be processed consistent with the Amendment Criteria Section of this document. In addition, Whatcom County should develop a system for addressing potential conversions that uses the principles established in the "Land Evaluation System Analysis (LESA)," formulated by the Soil Conservation Service.

4.06.2 Agricultural operators are encouraged to use the information and assistance that is available from the Soil Conservation Service and the Cooperative Extension Service for building siting, manure storage, recommended agricultural uses and new technologies.

4.06.3 Agricultural operators are encouraged to fence streams and ditches to prevent the direct introduction of livestock and livestock wastes to conserve surface water quality and reduce stream bank erosion and soil loss. In addition, to minimize any potential short and long-term impacts to groundwater supplies, agricultural operators are encouraged to use only those chemicals in conservative amounts that are necessary for crop production, applied according to state and federal guidelines, and to use chemicals having low potency and residuals of short duration.

4.06.4 Whatcom County supports the acquisition of conservation easements by public land trusts, consistent with the intentions of affected property owners in AGRICULTURE designated areas to:
   a. Preserve agricultural operations;
   b. Conserve Prime Farmland soils;
   c. Conserve fish and wildlife habitats;
   d. Conserve scenic resources; or
   e. Conserve designated Critical Resource Areas.

4.06.5 Conservation of agricultural operations and Prime Farmland soils is encouraged through using the current use tax assessment opportunities of the Open Space Taxation Act (RCW 84.34).

4.06.6 Implementation of "special districts" and water association plans, and other capital improvements, should be approved or supported only when it is found that designated AGRICULTURE areas will benefit.

5. COMMERCIAL

5.01 It is the policy of Whatcom County to acknowledge existing patterns of commercial uses and to provide for additional future development by designating certain areas as concentrated centers for commercial activities. In designated areas, a broad range of goods and services should be
available including sales and servicing of vehicles, mobile homes and boats, eating and drinking establishments, professional offices; service and retail establishments, commercial indoor and outdoor recreation, commercial wholesaling, and public uses that are necessary for the function of the designation.

5.02 The areas designated as COMMERCIAL should be indicated as such on the Comprehensive Land Use Plan Map.

5.03 Whatcom County should implement the COMMERCIAL land use designation with the GENERAL COMMERCIAL zone district.

5.04 It is the policy of Whatcom County to encourage effective land use patterns and adequate provision of services for COMMERCIAL areas.

5.04.1 The COMMERCIAL area of Acme should be served with public water and sewer by Water District #18, sheriff protection, and volunteer fire protection. Until such time that public sewer service is available, individual on-site septic disposal may be used. However, such system should be designed to facilitate eventual inclusion in a public sewer system pursuant to the sewer plans of Water District #18.

5.04.2 Stormwater facilities for all designated COMMERCIAL areas should be consistent with the County Stormwater Management Plan when adopted, provided that in the interim, on-site collection and retention systems may be required.

5.04.3 Maximum use of designated COMMERCIAL areas should be commensurate with available fire flow, public health considerations and zone district requirements.

5.04.4 Ingress and egress points to state and county roads should be minimized by consolidating on-site circulation networks and by developing shared access points to county roads.

5.04.5 On-site circulation should be designed to accommodate private vehicles, delivery vehicles, bicycles and pedestrians; and potential vehicular/bicycle/pedestrian conflicts should be avoided by making provision for bicycle and pedestrian ways between commercial uses.

5.04.6A Screened and/or landscaped buffer should be established along the periphery of the COMMERCIAL district to minimize noise, glare, visual, and other intrusions into adjoining residential and rural areas.
COMMUNITY FACILITIES AND UTILITIES POLICIES

The implementation of land use designations is closely interwoven with the provision of community facilities such as utilities, roads, recreational areas, and emergency services. Land use designations also are affected by and effect the environmental and economic resources of an area. Policies were developed to address or resolve particular issues dealing with these interrelationships. The basic aim of these policies are the maintenance of attractiveness for residential population growth and economic development. The community utilities and services that are necessary in this subarea to maintain and enhance its resources, particularly sewage disposal, require upgrading prior to additional intensive development. Related issues are addressed in the sections on Transportation and Parks and Recreation that follow. The format of the these policy statements are:

.01Purpose
.02Coordination
.03Standards
.04Implementation

1. COMMUNITY UTILITIES AND SERVICES

1.01Purpose: It is the purpose of Whatcom County to ensure a beneficial balance between the demand for and supply of community utilities and services and to ensure that jurisdictional responsibility and service levels are consistent and predictable for the planned land uses. Community facilities and services typically include sewer and water systems, transportation networks, school and park systems, stormwater drainage systems, and fire/police protective services.

1.02Coordination: It is the policy of Whatcom County to encourage cooperation among municipalities, special districts, water associations, and other appropriate groups in the planning and provision of public services.

1.02.1 Whatcom County should cooperate and coordinate with Whatcom County Water Districts #18; Whatcom County Fire Protection Districts #16; Mount Baker School District, and the State of Washington in planning subarea service systems, particularly for areas designated as URBAN RESERVE and COMMERCIAL.

1.02.2 Whatcom County should recognize Puget Sound Power and Light Co. as the primary energy purveyor in the subarea; however, the use of alternative energy systems such as active and passive solar heating and water heating, small scale hydroelectric power, and wind power plants for residential, commercial, quasi-public, and public land uses should be encouraged through the favorable consideration of necessary site design variances whenever appropriate.

1.02.3 Whatcom County should ensure that the necessary staff and equipment are available in the Whatcom County Sheriff's Department to provide adequate protective services for the South Fork Valley Subarea population.

1.03Standards: It is the policy of Whatcom County to use availability and level of service standards for community facilities and utilities to maintain and enhance its natural and economic resources, land use patterns, and the safety and well-being of citizens.
1.03.1 Whatcom County should encourage the placement and extension of sewer and water lines in areas contiguous to existing development so as to discourage the occurrence of "leap frog" development.

1.03.2 Whatcom County should discourage development in areas that are inaccessible to ambulances, sheriff's vehicles and fire fighting equipment until private roads are developed that meet emergency vehicle access requirements. Development in areas inaccessible to fire district equipment should be discouraged unless adequate on-site water and fire suppression systems are available for fire fighting.

1.04 Implementation: It is the policy of Whatcom County to use the following criteria for the implementation of adequate economically feasible services in designated land use areas.

1.04.1 Urban Reserve: Land areas designated URBAN RESERVE are intended for urban type densities and should be provided with a full range of urban services including publicly provided sewer and water, fire and sheriff protection, transportation and stormwater drainage systems. On-site stormwater detention is required during development and in accordance with the regional stormwater management plan when adopted. Upon completion of the stormwater management plan, facilities and land area currently used for retention may be converted to permitted uses and densities. Whatcom County recognizes specific service purveyors for the delivery of urban services in the URBAN RESERVE areas as follows:

a. Sewer and Water: Water District #18

b. Law Enforcement: Whatcom County Sheriff's Department

c. Fire Protection: Whatcom County Fire Protection District #16

d. Transportation: Whatcom County and Washington Department of Transportation

e. Recreation: Whatcom County Parks Department

f. Stormwater Management: Whatcom County

1.04.2 Rural: Services should include on-site domestic waste water disposal systems and individual well or water associations; volunteer fire protection from a Whatcom County Fire Protection District and the Department of Natural Resources; law enforcement from the Whatcom County Sheriff's Department; transportation provided by Washington Department of Transportation; local access roads maintained by Whatcom County; private roads; and recreation provided by the Whatcom County Parks Department. The area designated RURAL immediately south of Galbraith road and west of Highway 9 should function as a reserve district for the existing URBAN RESERVE district to the north. When it can be demonstrated that the URBAN RESERVE district is reaching its buildout potential with sewer and water services available, this RURAL district should be subject to change to URBAN RESERVE.

1.04.3 Forestry: Services should include on-site domestic waste water disposal systems and individual well or water associations; volunteer fire protection from a Whatcom County Fire Protection District and the Department of Natural Resources; law enforcement from the Whatcom County Sheriff's Department; transportation provided by Washington Department of Transportation; local access roads maintained by Whatcom County; and recreation provided by the Whatcom County Parks Department.
1.04.4 AGRICULTURE: Services should include on-site domestic waste water disposal systems and individual well or water associations; volunteer fire protection from Whatcom County Fire Protection District #16 and the Department of Natural Resources; law enforcement from the Whatcom County Sheriff's Department; transportation provided by Washington Department of Transportation; local access roads maintained by Whatcom County.

1.04.5 COMMERCIAL: Services should include water association water where available; on-site wells and waste water systems; storm drainage consistent with the regional stormwater management plan when adopted; volunteer fire protection from Whatcom County Fire Protection District #16; law enforcement from the Whatcom County Sheriff's Department; transportation provided by Washington Department of Transportation; and local access roads maintained by Whatcom County. The Commercial area in the town of Acme should utilize both the sewer and water system of Water District #18 when they become available.

1.04.6 All sewer and water service should be provided in accordance with Whatcom County Health Department standards.

1.04.7 All stormwater drainage facilities should be provided in accordance with the regional stormwater management plan when adopted and the Whatcom County Development Standards.

1.04.8 All transportation service should be provided in accordance with the policies in the following transportation section, as well as all applicable state and federal standards, and the Whatcom County Development Standards.

1.04.9 All recreational services should be provided in accordance with the standards of the Whatcom County Parks Department.

2. TRANSPORTATION SYSTEM

2.01 Purpose: It is the policy of Whatcom County to ensure that land use patterns and transportation planning mutually support the safe and efficient movement of people and goods; are consistent in encouraging a predictable pattern of urban and rural development; and together conserve and enhance existing public investments and resources.

2.01.1 Whatcom County should use the development approval process of subdivision, zoning, and building permits to establish community circulation patterns including vehicular, pedestrian, and bicycle ways; and to secure rights-of-way and construction of all classifications of roads, pedestrian trails, and bicycle paths.

2.01.2 Whatcom County should use the development approval process to ensure that all residential development includes safe vehicular access for citizens and emergency vehicles.

2.01.3 Whatcom County recognizes the significant investments made in the existing transportation system and should reflect the following resources in any land use classification or zoning amendments:

a. Highway 9 as a scenic highway and the principal access route to the timber and agricultural resources of the subarea.

2.02 Coordination: It is the policy of Whatcom County to cooperate with federal, state, and municipal agencies in providing for a coordinated transportation system.
2.02.1 Whatcom County does not support the development of a major arterial freeway system to replace the present highway system in the South Fork Valley Subarea.

2.02.2 Whatcom County should promote and encourage the provision of public transit as demand increases in the South Fork Valley Subarea by incorporation when changes in the circulation system are made through the Transportation Improvement Program. For their information and review, the public transit authority should be sent copies of all major subdivisions and all PUD proposals regarding the provision of public transportation.

2.03 Standards: It is the policy of Whatcom County to maintain and enhance its natural and economic resources, land use patterns, and the safety and well-being of its citizens through the application of the following standards to its transportation system.

2.03.1 Whatcom County should approve new road construction projects or improvements to existing roads consistent with the regional stormwater management plan when adopted. Should the private or public sector begin such projects before a plan is effective, the County should implement appropriate measures to assure total containment of excess stormwater runoff for each development proposal. Upon completion of the stormwater management plan, land area currently used for retention may be converted to permitted uses and densities consistent with the applicable zone district.

2.03.2 Whatcom County should make every effort to preserve mature trees and unique wildlife habitats and other elements of the natural environment during the design and construction of road improvement projects. Where disruption of the natural environment is unavoidable, special techniques such as rounded slopes, erosion control, reseeding and revegetation should be employed to return road sides to their natural state.

2.03.3 Bikeways and/or pedestrian walkways should be included as an integral part of the transportation system. Whenever practical, bikeways proposed in new developments should connect with the planned bikeways in the Whatcom County Trails Plan or in the Parks and Recreation Plan in this document.

2.03.4 Whatcom County should pursue with the Department of Transportation, measures to improve Highway 9 to insure adequate shoulders on each side of the highway and further, request that the highway be widened, pitched, straightened and surfaced where appropriate to increase highway safety for both the community and users.

2.03.5 Whatcom County recognizes the economic importance of preserving the scenic qualities of the Highway 9 corridor and encourages the use of setbacks, visual screening, and landscaping for all development along the highway.

2.03.6 Whatcom County should encourage development design that minimizes the amount of impervious surfaces including streets, driveways, sidewalks, etc., whenever possible. In addition, Whatcom County encourages the use of “natural” engineering design methods such as the use of open, shallow, grassed swales instead of curbs and gutters in lower density residential developments.

2.04 Implementation: It is the policy of Whatcom County to implement a safe and efficient transportation system as indicated in the following text policies and transportation plan map. When necessary, the Roadway Classification Map should be amended.
2.04.1 Whatcom County should identify the need for and approximate location of new, principal and minor arterial routes in the South Fork Valley Subarea, if necessary, and should program the construction of these routes in the Whatcom County Capital Improvement Program.

2.04.2 Whatcom County should encourage the construction of new roads contiguous to existing development. Such phased road construction is intended to discourage the occurrence of "leap frog" development.

2.04.3 Whatcom County should encourage the use of shared access roads from commercial and residential developments to limit intersections with arterials.

2.04.4 Whatcom County intends to enforce standards for clear vision at intersections in accordance with the Whatcom County Development Standards and Title 20.

2.04.5 Through the development approval process, Whatcom County should identify the short and long range traffic impacts to subarea roads. This should be done by comparing the estimated number of vehicle trips generated by a project with the planned level of service for each road segment impacted by the project including intersections according to the Whatcom County Engineering Division design standards and specifications. If it is determined that a proposed development will impact traffic resulting in service level below that planned for all affected road classifications, Whatcom County should require mitigation by the developer in order to make the necessary improvements that will maintain the pre-planned level of service or to make an equivalent cash contribution to the Whatcom County Road Fund.

2.04.6 Whatcom County should pursue with the state the redesignation of Highway 9 to a "Scenic and Recreation Highway" status provided by the Scenic and Recreation Highway Acts of 1967 and 1969.

3. PARKS AND RECREATION

3.01 Purpose: It is the policy of Whatcom County to ensure that land use patterns and parks and recreation planning mutually support each other; are consistent with the adequate provision of recreational opportunities for residents; encourage tourism; and together conserve and enhance existing public investments and resources.

3.01.1 Whatcom County should use the development approval process of subdivision, zoning, and open space applications to establish community recreational paths, and in conformance to this plan, should obtain easements for public use or ownership of land for parks and recreational opportunities.

3.01.2 Whatcom County should use the development approval process to ensure that all development makes provision for recreational opportunities for residents.

3.02 Cooperation: It is the policy of Whatcom County to cooperate with federal, state, and municipal agencies in providing for a coordinated parks and recreation system.

3.02.1 Whatcom County should promote and encourage the provision of public parks as demand increases in the South Fork Valley Subarea, where warranted by potential population levels and where fragile environmental features and habitats are not threatened by such development. This should be done by coordinating with the Whatcom County Parks improvement program. For information and review, the County Parks Department should be sent copies of all major subdivisions and all PUD proposals regarding provision of public recreation opportunities.
3.03 **Standards**: It is the policy of Whatcom County to maintain and enhance its natural and economic resources, and the safety and well-being of its citizens through the application of the following standards to its parks and recreation system.

3.03.1 Whatcom County should approve new park construction projects or improvements to existing parks consistent with the subarea park plans.

3.03.2 Bikeways and pedestrian walkways should be included as integral parts of the park and recreation system, and should be implemented through public and private road construction or improvement programs. Bikeways and pedestrian ways should be provided in new developments to link residential areas, shopping areas, recreational areas, and educational facilities. Whenever practical, bikeways proposed in new developments should connect with the planned bikeways adopted herein.

3.03.3 Whatcom County should encourage the use of noise buffers and visual screens between future residential areas and high use recreational areas, and should ensure adequate access to high use areas that avoid impacts on residential areas.

3.03.4 Whatcom County should encourage the use of surfacing options such as porous asphalt pavement, precast interlocking blocks, and rolled brick or cinder chips that reduce total surface runoff, slow concentration and capture particulates in all park and recreation areas.

3.03.5 Park and Recreation development should not negatively impact fish habitat in the South Fork Valley nor diminish or threaten geographic areas designated "critical areas" by the County.

3.03.6 Whatcom County should discourage the uncoordinated and unsupervised use of the South Fork of the Nooksack as a "floating river".

3.04 **Implementation**: It is the policy of Whatcom County to implement an adequate and economically beneficial parks and recreation system as designated on the 1989 Comprehensive Park and Recreation Open Space Plan and by amending it as necessary.

3.04.1 Through the land development approval process, Whatcom County should improve public access to shorelines using such mechanisms as transfer of development rights, density bonuses, and open space property tax status.

3.04.2 Through the development approval process, Whatcom County should identify the short and long range recreational impacts to subarea parks by computing the estimated number of dwelling units generated by a project and comparing those computations against the park and recreational facility use standards and design standards. Whatcom County should request the developer to mitigate impacts of additional population.

3.04.3 Whatcom County will pursue Park and Recreation development that minimizes impacts fish habitat in the South Fork Valley and does not diminish or threaten geographic areas designated "critical areas" by the County.

3.04.4 At a future date, Whatcom County should consider conditionally allowing the development and use of a low impact camping and recreational vehicle facility located immediately north of the Acme Bridge and west of Highway 9 along the Nooksack River and within walking distance of Acme.
a. Development of such a facility will be subject to a contract rezone which will require at the minimum the following conditions:

1. The proposal will generally conform to the policies of the South Fork Valley Subarea Comprehensive Plan and the Whatcom County Comprehensive Park and Recreation Open Space Plan;

2. The proposal will conform to the provisions of the Shoreline Management Act as amended in 1991 and the State Environmental Protection Act;

3. The proposal will be limited to low impact recreational use with no utility hook-ups or permanent fixtures or structures;

4. Commercial use of the facility will be limited to the months of May through September; and

5. Public access will be provided.

3.04.5 Whatcom County should identify the need for and the approximate location of new principal sites and connecting recreational paths in the South Fork Valley Subarea, and should program the construction of these sites and routes in the Whatcom County Parks Capital Improvement Program and Transportation Improvement Program.

3.04.6 Whatcom County should recognize the unique and fragile recreational and wildlife value of:
A. The South Fork of the Nooksack upstream from Skookum Creek.
B. The Nesset Farm
C. Hardscrabble and Sygitowicz Falls
D. Dye's Canyon
ECONOMIC DEVELOPMENT POLICY

It is essential for planning the physical development of Whatcom County to consider the nature and extent of its present and probable future economic activities. These activities determine in large measure the size and income of the population, and thus the character and amount of development which will occur and which should be considered in the comprehensive plan. The activity which takes place in this subarea is part of a larger pattern of economic activities which can be properly understood only at regional, national or even international levels and must be considered with this in mind during the planning process.

5. ECONOMIC DEVELOPMENT

5.01 Purpose: It is the policy of Whatcom County to promote economic development in the South Fork Valley Subarea by;

5.01.1 Providing for new economic development relating to the natural resources; aquaculture, fisheries, recreation, tourism, and agricultural processing and promotion.

5.01.2 Recognizing forestry, agriculture and fisheries as the most significant potential generators of jobs, profits, and taxes in the subarea.

5.01.3 Recognizing cottage industries as a fourth category whose economic potential can be developed.

5.01.4 Recognizing and protecting the natural resources of the area, including fish, timber, minerals, scenic beauty, and recreational opportunities.

5.02 Coordination: It is the policy of Whatcom County to encourage cooperation among state agencies, municipalities, economic development groups, and private landowners to enhance its economic potential.

5.02.1 Whatcom County should promote cooperation with Water District #18 to coordinate land use and capital programming decisions in order to preserve natural economic resources and maximize economic development potential.

5.02.2 Whatcom County should encourage private forest and woodlot property owners to conserve the county forest resource base by utilizing the current use tax assessment provisions of RCW 84.28, RCW 84.33, and RCW 84.34.

5.02.3 Whatcom County should encourage private agricultural operators to conserve the county prime farmland soils resource by utilizing the current use tax assessment provisions of RCW 84.28, RCW 84.33, and RCW 84.34, and by working with agricultural organizations to implement best management practices.

5.03 Standards: It is the policy of Whatcom County to use the following standards to enhance and maintain its economic potential.

5.03.1 Existing uses that are not allowed in a zone district specified when the South Fork Valley Subarea Comprehensive Plan is adopted should be recognized for their economic investment and allowed to continue and expand as legal nonconforming uses.
5.03.2 Present land use codes and future comprehensive plan and zoning amendments should be examined for their enhancement of the economy of the subarea and region and be implemented so as to:

a. foster and promote the general welfare in the long run as well as the immediate future;
b. create and maintain a balanced and diversified economy sustained by a healthy environment;
c. strengthen and stabilize the tax base; and

d. fulfill the social, economic, and other requirements of present and future generations of Whatcom County citizens.

5.03.3 In reviewing development proposals, the regulations should be administered and enforced with particular concern for:

a. the water quality in the area, especially in the South Fork of the Nooksack River and its tributaries where aquaculture and fish spawning provide significant economic and recreational potential;

b. the visual appearance of the subarea and where appropriate: (1) maintain the rural character, (2) enhance the urbanized area with proper site screening, internal landscaping, view corridors and public access, and (3) provide area-wide sign control; and

c. the expeditious approval of uses that will provide jobs and enhance the tax base.

5.04 Implementation: It is the policy of Whatcom County to recognize the economic potential of capital improvement decisions and other non-land use programs, and to coordinate these efforts in a concerted approach to cost effective development of the area.

5.04.1 Whatcom County should continue to take an active role to promote implementing measures other than land use designation and zoning for the area, and to set priorities for the actions required for accomplishing the goals identified in this plan, particularly those categories related to economic development which tend to cut across all issues.

5.04.2 Cottage industries will be acknowledged and encouraged in rural zones, subject to maintaining consistency with the rural character of the area.

5.04.3 Direct economic activities should be incorporated in the annual Overall Economic Development Program.

5.04.4 Actions identified for enhancement of the subarea should be incorporated in the appropriate capital improvement programs.

5.04.5 Whatcom County should seek to provide every opportunity for the farmer to utilize arable land in the most efficient manner possible and to facilitate a viable agricultural industry in the South Fork Valley.

5.04.6 Whatcom County should work to preserve forest lands for the utilization of timber management and harvest and to facilitate a viable forest industry in the South Fork Valley.
ENVIRONMENTAL RESOURCES AND CONSTRAINTS POLICY

Environmental resources in the South Fork Valley Subarea are extensive and, in some cases, irreplaceable. Environmental resources that contribute to economy and livability in the South Fork Valley include the South Fork of the Nooksack River, timber, wildlife habitat, fish spawning streams, clean ground and surface water, and Prime Farmland soils.

Some of these same resources pose serious environmental constraints and hazards to development. Flooding in the South Fork River is frequent and impacts much of the valley floor. There are numerous wetlands and hydric soils throughout the valley that provide critical wetland functions but inhibit development. The steep gradient and geologic structure of the mountain ranges in the South Fork Valley Subarea in conjunction with heavy annual precipitation, contribute to slope instability and flood prone drainage basins (Figure 5).

4. ENVIRONMENTAL RESOURCES AND CONSTRAINTS

4.01 Purpose: It is the policy of Whatcom County to manage its natural resources by recognizing and conserving irreplaceable resources, by providing suitable protection for environmentally sensitive areas, by enhancing environmental quality, and by planning and zoning in accordance with environmental hazards.

4.02 Coordination: It is the policy of Whatcom County to encourage cooperation among federal and state agencies, municipalities, environmental groups, tribal governments, and private landowners to enhance its environmental resources.

4.02.1 Whatcom County should continue to use the public benefit rating system to evaluate applications for tax relief on open space land use pursuant to RCW 84.34 whereby granting of open space tax status should be dependent upon determination that the public benefit of retaining a parcel in open space outweighs the loss or deferral of revenue to the County.

4.02.2 Whatcom County should encourage property owners to use the current use tax assessment provisions of RCW 84.34 to retain the following areas in open space: steep or unstable slopes, stream corridors, wetlands, shoreline areas, and unique or important wildlife habitats.

4.02.3 Whatcom County should work with property owners, citizen groups, the Lummi Indian Nation and the Nooksack Indian Tribe, the State of Washington, and other agencies in protecting bald eagle habitat, fishery resources, and surface and groundwater quality of the subarea.

4.02.4 The County should cooperate with federal, state, and local agencies, as appropriate, in monitoring and protecting water quality in the Nooksack drainage. Existing and future developments or other activity that significantly deteriorate water quality or contribute excessive sedimentation should be curtailed.

4.02.5 Whatcom County should work with The United States Geological Survey to install one additional gauging station immediately upstream from the confluence of the South Fork and the main stem of the Nooksack River. Gauging stations should also be installed in
those tributary creeks of the South Fork drainage that are under the jurisdiction of WAC 173-501-030.

4.03 Standards: It is the policy of Whatcom County to enhance and maintain its environmental resources according to the following standards:

4.03.1 Whatcom County should promote the use of 100-year floodplain associated with stream corridors as open space. Residential development should be encouraged to be sited at sufficient distance from all streams to minimize potential loss or damage to property that may occur as the result of debris dam failure or increased duration and volume of stream flow. Whatcom County should encourage minimal use of stream corridors, drainage swales, and alluvial areas for development.

4.03.2 Whatcom County should promote groundwater of a quality suitable for domestic consumption by encouraging low density and intensity uses in locations with soils of poor quality for septic systems.

4.03.3 Whatcom County should recognize natural wetlands such as swamps, bogs, marshes, and ponds as natural catchment basins for stormwater run-off, flora and fauna habitat, and potential groundwater recharge areas. Run-off during development should be controlled as specified in the Whatcom County Development Standards.

4.03.4 Whatcom County should encourage utilization of steep slopes and other geologically hazardous areas for open space, very low density development or forestry. If used for development purposes, structures should comply with the provisions of the Uniform Building Code and Whatcom County's Critical Areas Ordinance. Where slopes are in excess of 10%, cluster development should be encouraged to minimize slope disturbance. Placement of residential structures on localized terraces and benches is encouraged.

4.03.5 Whatcom County should seek to protect the public from damage to life and property in drainage basins that have a history of excessive flooding, erosion, sedimentation, and debris torrents originating in the steep and unstable mountainous regions of the basin.

4.03.6 Whatcom County should encourage very low residential densities in areas of known mineral resource occurrence with the intent of retaining future access and utilization options. Subsurface mining operations should conform to Title 20, the Official Whatcom County Zoning Ordinance, as well as state and federal regulations.

4.03.7 Whatcom County should foster continued fish and wildlife habitat integrity in the South Fork Valley Subarea through identification and designation, the development approval process, and public works. Applicable habitats include eagle roosting sites and feeding areas, heron rookeries, peregrine falcon habitat, salmon and trout spawning streams and lakes, deer and elk migration routes, and wetland and waterfowl habitat.

4.03.8 Whatcom County should encourage air pollution abatement with the intent of maintaining and/or enhancing air quality, consistent with the Federal Clean Air Act, and accomplished through the coordination of local land use proposal review with the Northwest Air Pollution Authority and other environmental agencies.

4.03.9 Whatcom County should implement the necessary rules, regulations, and ordinances which are required by state law to minimize noise impacts.
4.03.10 Whatcom County should review all shoreline development proposals for adherence to the requirements of the Whatcom County Shoreline Management Program.

4.03.11 Whatcom County should insure that minimum flow standards set by the Department of Ecology under WAC173-501-030(2) are enforced.

4.03.12 Whatcom County should review and update the status of nature resource lands, and make appropriate changes to the agriculture and forestry designations in conformance with the House Bill 2929.

4.04 Implementation: It is the policy of Whatcom County to implement the enhancement of its environmental resources through the following actions.

4.04.1 Whatcom County should continue to play an active role in monitoring Forest Practices Applications. The County should closely monitor forest practices in the drainage basins of Jones Creek, McCarty Creek, Standard Creek, Hardscrabble Creek, Sygitowicz Creek, and Falls Creek.

4.04.2 Forestry and associated activities are the preferred uses in the mountainous portions of the subarea. Forested areas should be discouraged from conversion to other uses that might preclude continued forest management.

4.04.3 Whatcom County should seek funding for additional monitoring and enforcement of septic system performance in the subarea.

4.04.4 Whatcom County should encourage efforts to provide monitoring of stream and river flows in the South Fork Subarea to determine if minimum flow standards and water quality standards are being met.

4.04.5 Whatcom County should insure that all activity in the South Fork Watershed be permitted contingent upon proof that adequate water flows are available as established by the Department of Ecology under WAC 173-501-030(2).

4.04.6 Whatcom County should address any decrease in water quality that results form the application of chemical herbicides used on county roads, farm and forestry practices, and development density.

4.04.7 Whatcom County should take appropriate permanent measures to stabilize the drainage channel of Jones Creek from the private bridge on Galbraith Road to the mouth of the creek at the Nooksack River. This should include the construction of a berm between the Galbraith bridge and the Turkington bridge to protect existing development from flooding and damage caused by debris.

4.04.8 Whatcom County should address any decrease in water quality or increase in flooding capacity that results from excessive sedimentation and erosion. This should include the monitoring of agricultural practices, forestry practices, and development activity.

4.04.9 Whatcom County should maintain and enhance the public usefulness of the South Fork Valley Subarea shorelines in accordance with the Shoreline Management Program by:

a. encouraging alternative setback regulations where shared driveways, clustered buildings, and other variations from required setbacks will provide less obstructed scenic vistas for the public; and
b. using the development review process to preserve recreational access to the South Fork Valley shorelines through requiring any land development to indicate how it will avoid significant adverse impacts on or displacement of recreational uses that have no comparable, alternate sites locally.

4.04.10 Using an ecosystems approach to analyze designation and regulations of environmentally sensitive areas, Whatcom County should develop a "Critical Areas Ordinance" in conformance with the House Bill 2929. Elements of the Critical Areas Ordinance should include at the minimum:

A. Geologically Hazard Areas
B. Wetlands
C. Groundwater Recharge Areas
D. Fish and Wildlife Habitat Conservation Areas
E. Frequently Flooded Areas

F. Critical Drainage Areas

4.04.11 Until such time that a Critical Areas Ordinance has been adopted and applied to land use development, Whatcom County should review all permits in the South Fork Valley Subarea for environmental impacts that may result from development or hazards that may threaten proposed construction. The County will utilize the elements of the Critical Areas Ordinance proposed in 4.03.11 of this section and the provisions of SHB 2929, and the Minimum Guidelines to Classify Agriculture, Forest, and Mineral Lands and Critical Areas set forth in Chapter 365-190 WAC (proposed) to assist in making a determination.
LAND DEVELOPMENT OPTIONS, GUIDELINES AND REQUIREMENTS

This section provides environmentally efficient options for land development that minimize public and private utility and transportation expenditures. Also provided are general information and requirements that affect the majority of land use designations in the South Fork Valley Subarea. Guidelines and requirements that are unique are provided in the applicable zoning ordinance text.

1.01 Areas that are designated URBAN RESERVE, and RURAL have the option of creating new residential parcels using the conventional subdivision method. Parcel sizes in conventional subdivisions are uniform and are specifically established in each Implementing zone text.

1.02 Areas that are designated URBAN RESERVE, RURAL, and FORESTRY when implemented by the RURAL FORESTRY zoning district, have the option of creating new residential parcels using the cluster subdivision method. The purpose is to provide economic flexibility to the individual property owner, promote economic lot design, conserve non-renewable and renewable natural resources, minimize disturbances to environmentally fragile areas, promote compatibility with surrounding non-residential land uses, and provide options beyond the planning period for land use decisions. Cluster subdivision is defined as an alternative method of creating building parcels that are spatially efficient and economical, and that will retain options for future uses and densities by treating land as a commodity and resource. The following policies establish subdivision guidelines and implementation considerations.

1.02.1 Minimum parcel size should be established consistent with the provisions of specific Implementing zones or Health Department requirements; whichever are greater.

1.02.2 Subdivision design should be discouraged from forming lineal residential patterns adjacent to roads by minimizing ingress and egress points, and by consolidating access for several parcels.

1.02.3 When possible, it is preferred that residential structures be sited at the perimeter of fields or woodlots, in woodlots, or partially concealed by topographic features.

1.02.4 When possible, structures on open landscapes should be sited and designed to minimize view disruptions from adjacent properties and public roadways.

1.02.5 When a cluster subdivision is situated adjacent to a less intensive use, including large parcel residential, agriculture or forestry, the subdivision should be buffered at the site periphery to prevent the encroachment of vehicles, pedestrians, animals, and nuisances onto the less intensively used parcels.

1.02.6 Vehicular and pedestrian networks should be oriented to the interior of clustered subdivisions.

1.02.7 To maintain area character and settlement patterns, and to achieve visual compatibility and land carrying capacity similar with the surrounding area, the Subdivision Administrator and Hearing Examiner may request that the potential number of building sites for a particular parcel be clustered into two or more residential concentrations.

1.03 Areas that are designated URBAN RESERVE, RURAL, COMMERCIAL, and FORESTRY (when the FORESTRY designation is implemented by the RURAL FORESTRY zoning district), have the option of using the Planned Unit Development provision of the Title 20 Zoning Ordinance. Planned Unit
Development is defined as an official control that allows greater flexibility in density, bulk regulations, building types and land use mixture than is generally permitted in the specific implementing zone text. The option is intended to encourage creative site planning; permanent open space; variety in living, working and recreational settings; conservation of environmentally fragile areas; and mixed use developments.

1.04 A restrictive covenant should be attached to the face of any residential subdivision plat when located adjacent to the AGRICULTURE zone or a commercial agricultural operation in a zoning district that allows such a use; the intent of which is to facilitate the unhampered continuation of legal and customary operations associated with agricultural practices.

1.05 A restrictive covenant should be attach to the face of any residential subdivision plat when located adjacent to or immediately below forested lands subject to commercial forest practices which are located in a zoning district that allows such a use; the intent of which is to facilitate the unhampered continuation of legal operations such as noise, smoke and other nuisances associated with forest practices. This should not apply to physical damages to adjacent or downhill properties resulting from the interaction of land clearing and latent geologic and hydrologic conditions in the affected area."
COMPREHENSIVE PLAN AMENDMENTS

The South Fork Valley Subarea Plan is a policy document that is used to guide land use decisions affecting both the private and public sectors of the subarea. For the plan to function as an effective decision making document, it must be flexible enough to weather changes in public attitudes, developmental technologies, economic forces and legislative policy.

The plan envisions two general types of plan amendments. The first type is a review conducted approximately every seven years. This review should re-examine the entire plan, including a re-evaluation of goals, updates of land related elements, and the reaffirmation of land use policies and proposals. This review is the responsibility of land use policies and proposals. This review is the responsibility of the Whatcom County Planning Commission, the Planning Department Staff, and the people of the subarea.

The second type of amendment is that proposed and initiated by an individual or agency. The land uses illustrated on the Land Use Plan Map are the result of the application of the plan's goals and policies. However, it is reasonable to assume that an individual or agency may introduce land use proposals that conflict with the plan map or policies of the plan itself. In such instances, the individual or agency may purpose an amendment to the plan. Petitions for amendment of the Comprehensive Plan addressed to either the Planning Commission for adoption or amendment of comprehensive plans. In applying for a particular amendment to the plan or plan map, the individual or agency should conform to the following criteria:

1. The amendment request should conform with applicable Washington State laws governing Comprehensive Plan amendments;

2. The amendment request should conform with the goals of the subarea plan;

3. The amendment request should be compatible with the existing and planned surrounding land uses;

4. The amendment request should not result in unmitigated detrimental impacts to existing transportation systems;

5. The amendment request should not place uncompensated burdens upon existing or planned service capabilities; and

6. The amendment request should demonstrate a land usage need which is currently not met by this comprehensive plan.
WHATCOM COUNTY
PLANNING COMMISSION

Repeal the 1991 South Fork Valley Subarea Plan and
Amend Provisions in the Whatcom County Comprehensive Plan
relating to Subarea Plans

FINDINGS OF FACT AND REASONS FOR ACTION

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to
      subarea plans.

2. A determination of non-significance (DNS) was issued under the State
   Environmental Policy Act (SEPA) on March 25, 2014.

3. Notice of the Planning Commission hearing was posted on the County website
   on April 8, 2014.

4. Notice of the Planning Commission hearing and that the proposal had been
   posted on the County website was sent to citizen, media and other groups on the
   County’s e-mail list on April 8, 2014.

5. Notice of the subject amendments was submitted to the Washington State
   Department of Commerce on April 8, 2014.

6. Notice of the Planning Commission hearing for the subject amendments was

7. The Planning Commission held a public hearing on the subject amendments
   on April 24, 2014.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive
   plan amendments the County must find all of the following:
      a. The amendment conforms to the requirements of the Growth
         Management Act, is internally consistent with the county-wide planning
         policies and is consistent with any interlocal planning agreements.
b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.

d. The amendment does not include or facilitate spot zoning.

e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

Growth Management Act

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 (“Comprehensive plans – Optional elements”).

10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The South Fork Valley Subarea Plan was adopted in 1991. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.
County-Wide Planning Policies

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

Interlocal Agreements

13. There are no interlocal agreements relating to the South Fork Valley Subarea Plan.

Further Studies/Changed Conditions

14. The South Fork Valley Subarea Plan was adopted in 1991.

15. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1991 South Fork Valley Subarea Plan does not address LAMIRDs.

16. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1991 South Fork Valley Subarea Plan is not consistent with the County Comprehensive Plan.

17. The 1991 South Fork Valley Subarea Plan utilized a different planning period than the Whatcom County Comprehensive Plan.

18. Changed conditions, including adoption of the Whatcom County Comprehensive Plan and the passage of time, warrant repealing the 1991 South Fork Valley Subarea Plan.

Public Interest

19. Repealing the 1991 South Fork Valley Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.

Spot Zoning

20. The subject proposal does not involve rezoning property.
CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends the following:

1. Approval of Exhibit A, amendments to Whatcom County Comprehensive Plan Chapter 2 (Land Use); and


WHATCOM COUNTY PLANNING COMMISSION

David Onkels, Chair

Sam Ryan, Secretary

May 1, 2014

5 - 1 - 14

Commissioners present at the April 24, 2014 meeting when the vote was taken: Ken Bell, Ben Elenbaas, Walter Haugen, Gary Honcoop, David Hunter, Natalie McClendon, David Onkels, Mary Beth Teigrob, and Gerald Vekved.

Vote: Ayes: 9, Nays: 0, Abstain: 0, Absent: 0. Motion carried to adopt the above amendments.
NOTE:

In order to avoid redundancy, Exhibits A and B are only attached to the proposed Ordinance that will be considered by the County Council.
Commissioner McClendon asked under what circumstances are subarea plans needed?

Mr. Aamot stated staff has thought about that. They think it may be good to retain the plans for active communities and those that stand alone from other areas.

Commissioner McClendon asked how the subarea plans relate to the Comprehensive Plan.

Mr. Aamot stated they add detail to the countywide plan.

Commissioner Bell asked if more resources were applied to the subarea plans would there be more activity? For example, Lake Whatcom is a large area which makes it difficult for people to come together as they do in a smaller area such as Birch Bay.

Roll Call Vote: Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.

File # PLN2014-00003: Repealing the South Fork Valley Subarea Plan, which was adopted in 1991, and amending related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot presented the staff report. (A map and aerial photo of the subarea was shown with the boundaries) The South Fork Plan was adopted in 1991; right after the GMA was adopted in 1990. The population projection for the subarea was through 2000. It had a more flexible planning period, however, that planning period has ended so it is not consistent with the current comprehensive plan period of 2029. There were five land use designations in the plan. There were two forestry zoning districts but the subarea plan only had one forestry land use designation. Some of the areas have been rezoned or now have different comprehensive plan designations. One of the policies in the plan reaffirms the 1970 comprehensive plan, which is outdated. That policy is now outdated and creates a conflict. Staff recommends repeal of the plan.

The hearing was opened to the public.

There was no public testimony.

The hearing was closed to the public.

Commissioner Honcoop moved to recommend approval of Exhibit A-Amendments to the Whatcom County Comprehensive Plan, chapter 2; and repeal of Exhibit B-the South Fork Valley Subarea Plan. Commissioner Teigrob seconded.

Roll Call Vote: Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.

File # PLN2014-00004: Repealing the Eliza Island Plan, which was adopted in 1994, and amending related provisions in the Whatcom County Comprehensive Plan and Zoning Code.
WHATCOM COUNTY COUNCIL AGENDA BILL 

CLEARANCES 

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<tr>
<th>Originator:</th>
<th>M.A.</th>
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<td>Total:</td>
<td>5/5/2014</td>
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<tr>
<td>Division Head:</td>
<td>Mark Personius</td>
</tr>
<tr>
<td>Dept. Head:</td>
<td>Sam Ryan</td>
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<td>Prosecutor:</td>
<td>Royce Buckingham</td>
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<td>Purchasing/Budget:</td>
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<td>Executive:</td>
<td>Jack Love</td>
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TITLE OF DOCUMENT:
Repeal the Lake Whatcom Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

ATTACHMENTS:
1. Staff Memo
2. Proposed Ordinance and Exhibits
3. Planning Commission Findings of Fact and Reasons for Action
4. Planning Commission minutes

Other background information is on file at the Council office.

SEPA review required? ( X ) Yes ( ) NO
SEPA review completed? ( X ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes ( X ) 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.)

Repeal the Lake Whatcom Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans. The Lake Whatcom Subarea Plan was adopted in 1982, prior to enactment of the Growth Management Act GMA in 1990.

NOTE: Final approval of these amendments would occur as part of concurrent review of comprehensive plan amendments in early 2015.

COMMITTEE ACTION:
6/3/2014: Committee recommended that the Council forward for concurrent review

COUNCIL ACTION:
5/20/2014: Introduced 6-0, Weimer absent
6/3/2014: Recommended for concurrent review 7-0

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

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.
May 5, 2014

To: Jack Louws, The Honorable Whatcom County Executive
The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, Long Range Planning Division Manager

RE: Repeal the Lake Whatcom Subarea Plan and Related Amendments

The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080. However, the GMA also requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

Most of the comprehensive land use plan designations in the 1982 Lake Whatcom Subarea Plan are not the same as the designations utilized in the current Whatcom County Comprehensive Plan. Additionally, the requirement to designate urban growth areas was not enacted until after the Subarea Plan was adopted. The Subarea Plan has “Urban Reserve” designations, but they do not match the current UGA designations. The GMA’s rural element requirements did not exist when the Subarea Plan was adopted. Finally, the Subarea Plan utilized a 15-year planning period (which ended in 1997). Therefore, we recommend repealing the Subarea Plan and amending provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

Planning & Development Services is requesting Council consideration of these amendments on June 3. However, the proposed Comprehensive Plan amendments are subject to concurrent review. Therefore, the Council will not render a final decision on the proposal until early 2015.

Thank you for your consideration of this matter.
ORDINANCE NO. ____________

REPEALING THE 1982 LAKE WHATCOM SUBAREA PLAN
AND AMENDING PROVISIONS IN THE WHATCOM COUNTY
COMPREHENSIVE PLAN RELATING TO SUBAREA PLANS

WHEREAS, The Whatcom County Council initiated the subject amendments for review in 2014; and

WHEREAS, The Whatcom County Planning Commission held a public hearing on April 24, 2014; and

WHEREAS, The Whatcom County Planning Commission recommended the comprehensive plan amendments on April 24, 2014; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to subarea plans.
   b. Repealing the Lake Whatcom Subarea Plan (1982).

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on March 25, 2014.

3. Notice of the Planning Commission hearing was posted on the County website on April 8, 2014.

4. Notice of the Planning Commission hearing and that the proposal had been posted on the County website was sent to the City of Bellingham and citizen, media and other groups on the County’s e-mail list on April 8, 2014.

5. Notice of the subject amendments was submitted to the Washington State Department of Commerce on April 8, 2014.
6. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on April 11, 2014.

7. The Planning Commission held a public hearing on the subject amendments on April 24, 2014.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendments the County must find all of the following:

   a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.

   b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

   c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

      i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

      ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

      iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.

   d. The amendment does not include or facilitate spot zoning.

   e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

**Growth Management Act**

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 (“Comprehensive plans – Optional elements”).
10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The Lake Whatcom Subarea Plan was adopted in 1982, prior to enactment of the GMA in 1990. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan does not address urban growth areas (UGAs), contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.

County-Wide Planning Policies

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

Interlocal Agreements

13. A portion of the Bellingham UGA is included in the Lake Whatcom Subarea.

14. An Interlocal Agreement between the City of Bellingham and Whatcom County concerning Planning, Annexation and Development within the Bellingham UGA was signed in April 2012. This interlocal agreement does not require the County to retain this subarea plan.

Further Studies/Changed Conditions

15. The Lake Whatcom Subarea Plan was adopted in 1982.

16. The GMA, adopted in 1990, included a requirement to designate UGAs. The 1982 Lake Whatcom Subarea Plan does not address UGAs.

17. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1982 Lake Whatcom Subarea Plan does not address LAMIRDs.

18. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1982 Lake Whatcom Subarea Plan is not consistent with the County Comprehensive Plan.


20. The Urban Fringe Plan was adopted in 1997 and subsequently amended.
21. Changed conditions including enactment of the GMA, adoption of newer plans and the passage of time warrant repealing the 1982 Lake Whatcom Subarea Plan.

Public Interest

22. Repealing the 1982 Lake Whatcom Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.

Spot Zoning

23. The subject proposal does not involve rezoning property.

CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County Comprehensive Plan Chapter 2 (Land Use) is hereby amended as shown on Exhibit A.

Section 2. The Lake Whatcom Subarea Plan (1982) is hereby repealed as shown on Exhibit B.

Section 3. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this _______ day of ________________, 2015.

ATTEST: ________________________________

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________
Dana Brown-Davis, Council Clerk

______________________________
Carl Weimer, Chairperson

APPROVED as to form:

______________________________
Jack Louws, Executive

Date: ____________________________

() Approved    () Denied
Exhibit A

Amend Chapter 2 of the Whatcom County Comprehensive Plan as follows:

Policy 2L-2: Retain and periodically review the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Lake-Whatcom-Urban Fringe, Birch Bay Community Plan, Foothills, Point Roberts, South Fork Valley, and Eliza Island). Subarea Plans represent a long history of plan development in Whatcom County and provided the foundation for the county’s first Growth Management comprehensive plan adopted in 1997.

1. Utilize a process which ensures consistency between the Whatcom County Comprehensive Plan and subarea plans. The subarea plan review process should include the following steps:

   a. Consistency Analysis. The County should review subarea plans based on the priority order in subsection “2b” for gaps, overlaps, or inconsistencies. Topics include, but are not limited to, plan boundaries, growth forecasts, land uses, capital facilities and services, horizon year, and other appropriate issues.

   b. Regional and Local Government Coordination. The County should consult and coordinate with cities where city-associated UGAs are included in subarea plan boundaries.

   c. Public Participation. Each subarea plan update process will be based on a public participation program that addresses citizen input on the key issues associated with the subarea plan update.

   d. Subarea Plan Amendment. Only those portions of existing subarea plans in conflict with the Comprehensive Plan are required to be amended. Local issues of concern or changed conditions may be addressed.

   e. Comprehensive Plan Revisions. Where the subarea plan process recommends growth levels, growth boundaries, or other essential features, Comprehensive Plan amendments will be considered in conjunction with the subarea plan update process. Land capacity analysis may also be updated if appropriate.
2. Prioritize review of subarea plans. Subarea plans should be reviewed in the following order.

   a. Post-GMA Subarea Plans addressing UGAs. These subarea plans should be reviewed and amended, if necessary, during Whatcom County's periodic review of the comprehensive plan or repealed. Subarea plans addressing UGAs associated with a city should be coordinated with the city's comprehensive plan update process.

   b. Post-GMA Subarea Plans addressing Rural Areas. These subarea plans should be subject to a consistency review. If significant inconsistencies are found, these should be considered for potential update during Whatcom County's periodic review of the comprehensive plan or repealed. Minor updates may be considered through the County's docket process in subsequent years.

   c. Pre-GMA Subarea Plans. These should be repealed or updated in accordance with County department work programs or the docketing process. Priority criteria may be used to determine the order of update. Example criteria include:

      i. whether update is needed for health, safety, or welfare concerns;

      ii. whether there is a city-associated UGA included in the subarea plan boundaries - in which case, the subarea plan update could be timed to be developed in association with or following city comprehensive plan update process;

      iii. whether the subarea plan would benefit from broader policy concepts to be completed in advance or in tandem, such as agricultural land protection measures;

      iv. whether a significant policy objective would be met by amending the plan.

In the event there is an inconsistency between a Subarea Plan and the Whatcom County Comprehensive Plan, the Whatcom County Comprehensive Plan shall prevail.
NOTE: The text of Policy 2L-2 above is also being amended in association with the proposed repeal of the South Fork Valley Subarea Plan (file # 2014-00003) and the proposed repeal of the Eliza Island Plan (file # 2014-00004). The changes to Policy 2L-2 proposed in the subject amendment are intended to be harmonious and compatible with the changes to Policy 2L-2 proposed in these other two amendments.
Exhibit B

(Repealing the Subarea Plan)
LAKE WHATCOM SUBAREA

a component of the

Whatcom County
Comprehensive Land Use Plan

- Pt. Roberts Subarea
- Lummi Island Subarea
- Cherry Pt. - Ferndale Subarea
- Lake Whatcom Subarea
- Urban Fringe Subarea
- Lynden - Nooksack Valley Subarea
- Birch Bay - Blaine Subarea
- Chuckanut - Lake Samish Subarea
- South Fork Valley Subarea
- Foothills Subarea
LAKE WHATCOM SUBAREA
COMPREHENSIVE PLAN
AUGUST, 1982

Whatcom County Executive
John Louws

Whatcom County Council
Shirley Van Zanten
Don Hansey
Larry McIntyre
C.J. Johnson
R.W. "Bob" Muenscher
Jim Hawley
Will Roehl

Whatcom County Planning Commission
John Vanderhage, Chairman
Al Nickinbotham, Vice Chairman
Bob Andersen
Bill Clement
Emil deWilde
Joe Elenbaas
Jack Griffin
Peggy Hinton
Alvin Van Dalen

Whatcom County Planning Staff
Micheal E. Nicholson, Planning Director
William G. Trimm, Assistant Director
Jon Holan, Senior Planner
Sharon Hayes, Administrative Secretary
Steve Cornell, Planner I
Sandra Palm, Planner I
Michele Gierman, Graphics/Technical Assistant
Karen Daniels, Typist

Whatcom County Planning
401 Grand Avenue
Bellingham, WA 98225
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I. INTRODUCTION

Statutory Authority

Statutory authority for county comprehensive land use planning is established in Washington State Planning Enabling Act, in which it is stated that "each planning agency shall prepare a comprehensive plan for the orderly physical development of the county or any portion thereof..." (RCW 36.70.320). The Lake Whatcom Subarea Comprehensive Plan has been developed in response to statutory authority, as well as in recognition of the widely accepted principle that future Whatcom County land use decisions should be made in a coordinated and responsible manner by both the public and private sectors.

Definition and Application

The Whatcom County Comprehensive Plan is defined as an official public document to be utilized by both the public and private sectors as a policy guideline for making orderly and desirable decisions concerning the future use of land in the county. The plan has been formulated by the Whatcom County Planning Commission and is comprehensive, general and long-range in nature. Comprehensive, in that it encompasses major geographic areas of the county and the functional elements that bear on physical development; general, in that it summarizes major policies and proposals and is not, by statute, a detailed regulation; and long-range, in that it not only addresses current issues, but also anticipated problems and possibilities of the future.

The purpose of this document is to foster a responsible process of land use decision-making. The goals, policies and land use plan map contained herein serves to amend the 1970 Whatcom County Comprehensive Plan for the geographic area covered by the Lake Whatcom Subarea. The 1970 plan served as a good and basic plan for the 1970's, but as times change, people's attitudes, technologies and economies also change. Consequently, the primary decision-making document of local government must be revised to address current and anticipated issues of the future.

In consideration of the changes that have occurred since the existing plan was adopted, the Planning Commission resolved in December, 1978 to revise and update the 1970 Comprehensive Plan. The Commission is also aware that changes will continue through the 1980's and has realized that the policies contained herein will be subject to modification and revision over a period of time. As is discussed in the following section, this subarea plan will be revised on a five-year basis.

Subarea Planning Concept

Because of the county's diverse physical and cultural make-up, the Planning Commission elected to revise the plan on an individual geographic area basis. Thus, the Commission divided the western one-third of the county into ten logical geographic areas where the planning process could be applied in a uniform and consistent manner. Denoted as "subareas," these geographic areas were delineated to address various land use related issues that appeared to be unique to particular areas of the county.
The criteria utilized by the Commission to delineate the subarea boundaries include natural and physical features; political subdivisions, such as special purpose districts (sewer, water, fire, school, etc.); existing land use patterns; and the presence of a city or town (where applicable) to act as a nucleus for the area. Thus, subareas are planning units determined through the application of criteria and considered as a practical means of revising the comprehensive plan in a consistent orderly fashion.

Whatcom County Planning Process

The Whatcom County comprehensive planning process is defined as a continual program of evaluating goals, conducting various land-related studies, and practical set of land use policies and proposals for the future use of land in our county. Stated differently, the planning process serves as a blueprint for the logical development of the comprehensive plan, as well as the formulation of effective implementation tools.

The process describes, through a logical sequence, the various land use related factors that must be considered to effect the formulation of responsible and meaningful land use policies and proposals. These factors concern the following: the definition of county-wide goals; the inventory and analysis of land use, community facilities and utilities, transportation facilities and environmental resource characteristics; the forecasting of population levels and the county's economic vitality; the comprehension of issues, both technical and citizen related; the development of policies to resolve and/or address the relevant issues; and the transformation of policies into the plan map and attendant implementation tools.

The planning process is continual. It involves not only the formulation of the comprehensive plan document and its implementation through the application and use of various regulatory tools, but also continual monitoring and periodic updating. The success of the planning process in Whatcom County relies heavily upon the county's ability to keep the major components of the plan current. Thus, the plan should be updated every five years by the Planning Commission, and such revisions should adhere to the various sequential stages of the planning process.

Format

The Comprehensive Plan for the Lake Whatcom Subarea includes the necessary information for the appropriate formulation of land use decisions by both the public and private sectors of Whatcom County. The components of the plan include the following:

1. Subarea Description: To generally define subarea characteristics and establish issue topics, as determined by area residents, the Planning Commission and the planning staff.

2. Population Forecasts: To correlate anticipated population levels with the land use policies and map.

3. Goal Statements: To provide the overall direction for land use planning in Whatcom County.
4. **Rationale and Locational Criteria:** To establish the necessity of the land use designations and the spatial requirements to be utilized for policy application to the Comprehensive Plan Map.

5. **Policies:** To provide the primary decision-making tools required to resolve the land use, community facility and utility, transportation/circulation, and environmental issues of the subarea.

6. **Comprehensive Plan Land Use Map:** To reflect the spatial distribution of the policy statements; perhaps the most widely utilized component of the comprehensive plan.

7. **Amendment Criteria:** To assist both the public and private sectors with respect to revisions of the comprehensive plan policies and map.

8. **Adoption Certification:** To acknowledge the acceptance by the Whatcom County Planning Commission and Council, City of Bellingham, and the Boundary Review Board of the Goal Statements and the subarea policies and map.
II. SUBAREA DESCRIPTION

General

The Lake Whatcom Subarea contains over 56 square miles of land and is generally bounded on the north by Mt. Baker Highway and the northern section lines of Sections 7, 8 and 9, T38N, R4E; on the south by the Whatcom-Skagit County line; on the east by the upper reaches of the Watershed; and on the west by the upper reaches of the Watershed, the City of Bellingham corporate limits and Toad Lake Road. With the exception of a small geographic area situated north of the city limits and west of Toad Lake Road, the Subarea contains the entire Lake Whatcom Watershed. Also, approximately ten square miles in the Squalicum Creek, Silver Creek and Anderson Creek drainage basins are included in the subarea.

Findings

In March 1981, the Whatcom County Planning Department completed the Background Document for the Lake Whatcom Subarea. A portion of the study contains descriptions of existing conditions within the subarea for land use, the physical environmental setting, transportation/circulation, and utilities and community facilities. In addition, the report identified specific issues for six analysis areas (North Shore, Geneva, Sudden Valley, South Bay, Forestry and Squalicum) as well as several generalized issues for the Lake Whatcom Watershed. It is intended in the process of plan revision that issues identified by all participants (staff, Planning Commission and citizens) shall be addressed and/or resolved by adoption of specific policy statements by Whatcom County.

The dominant land use in the Lake Whatcom Subarea is forestry. In fact over 83% of the total area or 30,438 acres is devoted to forestry uses. Of this total, 17,000 acres have been recorded by the County Assessor as forest current use tax status, i.e. reduced tax assessments for land devoted to the growth and harvest of forest crops for a minimum of ten (10) years. The majority of forest land is held by major timber companies such as Scott Paper, Georgia Pacific and Bloedel Development Company. The State of Washington also owns substantial holdings, considered as trust lands, that are managed by the Department of Natural Resources for the purpose of timber and mineral rights sales to various public and private interests.

The remaining 17% or 6,000 acres of land in the subarea is distributed among the balance of other uses including agriculture, public (communication, utilities and transportation), commercial, industrial, residential and vacant land uses. Vacant land use represents seven percent (7%) of the total subarea which is a relatively large land supply or reserve to accommodate future growth demands.

The Lake Whatcom Subarea is served by a sewer and water system operated by Whatcom County Water District No. 10. As the primary purveyor of sewer and water service, the district is responsible for the operation and maintenance of both systems in the Geneva and Sudden Valley communities, while on the North Shore only the sewer utility is available. However, the district anticipates becoming the primary purveyor of water source to the North Shore Urban Reserve area.
Community fire protection is provided by three Whatcom County Fire Protection Districts (junior taxing districts): 2, 4 and 18. Fire fighters are volunteer men and women residing in the vicinity of each fire hall. Law enforcement is provided by the Whatcom County Sheriff's Department. Education is provided by the Bellingham and Mt. Baker School Districts. Fiscal and human resources are generally considered adequate for each of these community services at the current level of development. However, the cutback in state revenues (at the state level) allocated for public education may impact the quality of education and may result in more vacant or unused building space in both of these school districts.

In the Lake Whatcom Subarea, the major traffic corridors are considered substandard when compared to widely accepted standards for major, secondary and collector arterials. As a result, current peak-hour traffic volumes exceed the design capacity of specific roadway segments in the Geneva Analysis Area; and unless significant improvements are made to these roads, it is predicted that serious deficiencies will begin to occur on these roads by 1985. The steady increase in the amount of vehicle accidents on subarea roads may be related directly to the operational characteristics (narrow pavement width, narrow shoulders and horizontal curvature) of subarea roads. Thus, it is imperative that roadway improvement projects are completed if the county intends to maintain a safe and efficient transportation/circulation network.

The physical and biological factors inventoried in the Lake Whatcom Subarea have been segregated into six categories as follows: (1) Topography, (2) Soils, (3) Geology, (4) Surface Water, (5) Vegetation; and (6) Wildlife.

In addition, specific physical features of the Lake Whatcom Subarea include six lakes and eleven permanent streams (some fish spawning), and includes nearly all of Lake Whatcom Drainage Basin. Moreover, Lake Whatcom, the most significant of the six lakes, serves as a reservoir for storage of water from the Nooksack River diversion system, as well as stream runoff. Furthermore, Lake Whatcom is District No. 10's domestic, and Bellingham's domestic and industrial water source.

Citizen Participation and Subarea Issues

The issues of the Lake Whatcom Subarea are associated with land use, community facilities and utilities, transportation/circulation, and the physical environment. Issue development has its origin in the subarea background planning study, prepared by the Whatcom County Planning Department, and has been augmented by comments from the citizens residing within the subarea, "special districts," Bellingham officials and the Whatcom County Planning Commission. The Whatcom County Planning Staff presented the issues to subarea citizens at four separate meetings, and the planning staff presented proposed policies intended to resolve the issues at four separate meetings. (A detailed list of issues can be found in the Lake Whatcom Subarea Background Document). The following is a summary of issues as presented to subarea citizens.

In the Geneva and North Shore analysis areas, both adjacent to the municipal city limits of Bellingham, the issues are similar in nature since both areas have urban and nonurban development patterns.
Of particular concern to Geneva area residents is the most appropriate application of a future land use designation generally north of Fremont Avenue (extended east to Lake Whatcom and west to the municipal city limits) including appropriate land uses, densities and the level of public service. Although 33 lots of the Cedarhills Subdivision are sited south of Fremont Avenue, the area between Fremont Avenue and the southern most boundary of the analysis area existing residential low densities, steep slopes and generally has no existing services. Thus, the major issue relates to the most appropriate future land use designation densities and service levels. Other issues involve provision of a remedial stormwater drainage system to protect downstream properties from excess stormwater runoff, transportation planning, conservation of environmental features and protection of water quality.

In the North Shore Analysis Area, residents are particularly concerned with the appropriate designation of geographical areas for urban and nonurban development patterns consistent with future transportation planning, community facilities and utilities including management of excess stormwater runoff to protect downstream properties, conservation of environmental features and protection of water quality. Other issues involve the appropriate pattern for development, i.e. random or sequential (eastward from Bellingham's municipal city limits) and designation of the city or Water District No. 10 as the primary purveyor of water to the Urban Reserve area.

Of particular concern to residents of the nonurban rural South Bay and Squalicum analysis areas is the recognition of large contiguous areas which are not considered as prime land for either agriculture or urban uses. Because of soil conditions, absence of existing or planned services and an existing very low density land use pattern, the major issue for both areas relates to the most appropriate application of a future land use designation. Inherent in such land designations must be provisions for maintaining the rural character, allowing a multiplicity of uses, and acknowledging the physical and cultural limitations of the area. Other issues involve appropriate maintenance of the existing transportation networks for each analysis area as well as the protection of groundwater aquifers.

The Sudden Valley Analysis Area consists primarily of the Sudden Valley Subdivision. Of particular concern to the residents of the community is the appropriate application of a future land use designation in recognition of existing mixed land use and the range of public services. Inherent in such land designations must be provisions for promoting an urban character as a stable residential development with minimum emphasis on the commercial resort character while providing for the full range of public services necessary in the community. Other issues involve the operational efficiency of the private road network, an appropriate and cost-effective stormwater drainage system to replace the existing open-ditch system, and the appropriate application of a future land use designation for the nonurban development pattern that surrounds the subdivision.

The predominate land use pattern in the Forestry Analysis Area is associated with commercial forestry practices. Because of the ownership pattern, steep slopes, poorly drained soils, absence of existing or planned services, and a very low density land use pattern, the major issue relates to the most appropriate application of a future land use designation. Other issues of
concern to commercial forest interests and residents include appropriate methods to assure compatibility between forestry practices and residential or recreational uses located in the vicinity. An additional concern expressed by citizens includes environmentally sound logging practices to prevent damage to downstream properties, streams and lakes as a result of excess stormwater runoff.

Of particular concern to subarea residents, commercial forestry interests, Bellingham, Water District No. 10’s and Whatcom County officials is the protection of water quality and quantity not only in Lake Whatcom but also in the eleven permanent streams situated in the study area. Thus, inherent in the issue of an appropriate future land use designation for each of the six analysis areas is the provision for adequate and cost-effective methods to protect water quality. Other issues involve designating the Watershed as an Environmentally Sensitive Area, pursuant to the provisions of the State Environmental Policy Act, and the appropriate future land use designation in Basin III, the southern most lake basin. A nonurban land use designation may be the most appropriate to ensure a comparatively pure water source to which the Bellingham water intake pipe may be extended.
III. POPULATION FORECASTS

Introduction

The purpose of population forecasting, as it relates to land use planning, is to accommodate the long-term spatial requirements of various land uses such as residential, commercial, recreational and public. Population forecasting may also be of assistance in decision making for land use related matters such as determining the appropriate scale and location of public works facilities and land development activities. In addition, population forecasts are subject to revision which may be accomplished in the five-year comprehensive plan update process.

The population information contained herein is a summary of the forecasts prepared by several agencies. Because of the technical difficulties involved with current and projected population assessment on a subarea basis, the information has been presented by total county, unincorporated county and incorporated community. Furthermore, this information has been used in a qualitative manner or as a general guideline, rather than as a specific numerical forecast. To relate this information to the Lake Whatcom Subarea Comprehensive Plan, the following assumptions are established:

1. The majority of population growth will occur in the Geneva, North Shore, Southwest Shore and Sudden Valley URBAN RESERVE and RESIDENTIAL RURAL areas.

2. The remainder of population growth will occur in RURAL areas.

3. The rate of population growth will be at unincorporated Whatcom County rates (Table B).

Tables A, B and C, respectively, relate to total Whatcom County, unincorporated Whatcom County, and Bellingham population trends and forecasts. Figures 1, 2 and 3 present this information in a graphical format. The remainder of the information summarizes the various assumptions and variables which may affect the included population forecasts.
TABLE A

TOTAL WHATCOM COUNTY POPULATION TRENDS AND FORECASTS: 1970-2000
(INCORPORATED AND UNINCORPORATED)

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<td>106,701</td>
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<td>CBGI: EIS&lt;sup&gt;1&lt;/sup&gt;</td>
<td>103,941</td>
<td>119,771</td>
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<tr>
<td>WCCOG&lt;sup&gt;2&lt;/sup&gt;</td>
<td>104,876</td>
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<tr>
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<td>118,748</td>
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ANNUAL GROWTH RATES

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<td>2.67%&lt;sup&gt;5&lt;/sup&gt;</td>
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<td>2.06%&lt;sup&gt;7&lt;/sup&gt;</td>
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</table>

*Refer to page 13 for footnotes.
FIGURE 2

UNINCORPORATED WHATCOM COUNTY


(1000's)

YEAR


MEAN

TABLE B

UNINCORPORATED WHATCOM COUNTY POPULATION TRENDS AND FORECASTS: 1970-2000

<table>
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<tr>
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<td>Mean</td>
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<td>56,083</td>
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ANNUAL GROWTH RATES

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<td>3.04%</td>
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*Refer to page 13 for footnotes.
# Figure 3


![Graph showing population trends](image)

## Table C

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<td>73,210</td>
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<td>50,691</td>
<td>56,890</td>
<td>61,660</td>
<td>68,049</td>
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## Annual Growth Rates

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<th>1.52%&lt;sup&gt;5&lt;/sup&gt;</th>
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<td>1970-1980</td>
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<td>1980-1990</td>
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<td></td>
</tr>
<tr>
<td>1990-2000</td>
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<td></td>
<td></td>
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</tbody>
</table>

*Refer to page 19 for footnotes.
Assumptions Relating to Population Forecasts

All population forecasts are based on assumptions which affect the numerical results, and population forecasting agencies do not make the same assumptions. The following items are intended to present an overview of assumptions as they relate to Whatcom County populations:

1. In-migration\(^8\) will continue to substantially contribute to population increases at the Washington State and Whatcom County levels.

2. The trend of decreasing family size and population per household will continue.

3. Labor market potential and location will affect population distribution, and gross natural increase and in-migration levels.

4. The purpose of the populations forecast affects assumption utilization, which in turn affects the results.

Variables Affecting Population Forecasts

Agencies which prepare population forecasts often make revisions due to changes in the variables related to assumptions. The following variable are intended as an overview for potential Whatcom County population forecast revisions and may not affect all the agencies whose forecasts are contained herein:

1. Changes in Whatcom County birth, death and in-migration rates.

2. Changes in the level of industrial development and the related labor market potential of the Cherry Point area, as well as other locations within the county.

3. Changes in the Canadian economy and the related level of Canadian spending\(^9\) in Whatcom County.

4. Changes in the demand for local resources (agriculture, forestry, fishing and mining raw materials or products) with respect to local consumption or state, national or international export markets.
Footnotes


2 Whatcom County Council of Governments; Population Forecasts; June, 1980.


5 Annual growth rates are based upon the official 1970 and 1980 U.S. Census figures.

6 Annual growth rates are based upon the official 1980 U.S. Census figure and the 1990 mean calculation figure.

7 Annual growth rates are based upon the 1990 and 2000 mean calculation figures.

8 In-migration is equal to total population less natural increase, in which natural increase is equal to total births less total deaths.

9 The Whatcom County Council of Government's population forecast exhibits a high correlation with the Canadian Impact Study and is thus presumed to accommodate Canadian spending.
IV. GOAL STATEMENTS

The following goals provide the general direction for making land use decisions in the subarea and Whatcom County as a whole. They were developed and adopted by the Planning Commission and County Council in July 1979.

A. Regional Design Goals

1. Future urban development should occur within or immediately adjacent to existing urban areas in order to eliminate sprawl and strip development, assure the provision of an adequate range of urban services, conserve agricultural and forestry lands, optimize investments in public services, and conserve energy resources.

2. Future development in rural areas should be low density, complement existing rural character, contribute to the conservation of agricultural and forest land, and not result in demands for urban-level services.

B. Growth Management Goals

1. To promote a conscientious program designed to plan, guide and influence the appropriate location, timing, intensity, type and servicing of diverse land use patterns.

2. To determine the required amounts of land anticipated to be utilized within the planning period (15 years) while retaining options for future land use decisions beyond the planning period.

3. To encourage a predictable pattern of urban and rural development which utilizes previously committed land areas and existing facility investments before committing new areas for development.

4. To ensure that a beneficial balance exists between the supply and demand for public services. To encourage the cooperation among municipalities, special districts, and associations in the planning and provision of public services. To discourage the proliferation of unnecessary special purpose districts.

5. To develop a concise, equitable and practical set of land use regulations intended to implement the goals, policies and proposals of the County Comprehensive Plan in a timely and orderly fashion.

C. Land Use Goals

1. To conserve the agricultural and forest lands of Whatcom County for the continued production of food, forage and timber crops while promoting the expansion and stability of the county's agricultural and forestry economies.

2. Urban residential development should be planned in areas that can be economically and efficiently served with existing or planned services, optimize energy use, function as integral neighborhood units, and can environmentally support intensive land uses.
3. Adequate community and neighborhood commercial facilities should be encouraged in appropriate locations while avoiding incompatible land use and the proliferation of unnecessary new commercial areas.

4. To encourage a balanced and diversified economy in order to assure desirable local employment opportunities, and to strengthen and stabilize the tax base. To accommodate anticipated economic development in an environmentally responsible manner with due consideration for public cost, energy availability, land use compatibility and transportation accessibility.

5. To promote the availability of economical and attractive housing for all income, age and ethnic groups, while also enhancing the integrity and identity of existing communities.

6. To promote a functional, coordinated and multi-mode transportation system which provides for the safe and efficient movement of people and goods, avoids undesirable environmental impacts, and optimizes public investments and the conservation of energy resources.

7. Adequate facilities and services which provide diverse education, recreation, cultural and social opportunities should be encouraged.

D. Cultural and Natural Resources

1. To identify and manage environmentally sensitive areas in such a manner as to prevent destruction of the resource base and reduce potential losses to property and human life.

2. To continue the identification of cultural and natural resources and formulate viable methods to preserve and conserve such resources in recognition of their irreplaceable character.

3. To promote a park and recreation system which is integrated with existing and planned land use patterns and is diverse, abundant and assures maximum public access and usage.

E. Citizen Involvement and Intergovernmental Coordination

1. To assure opportunity for citizens to be involved in the formulation of land use goals, policies and proposals, and to provide a structure for citizen participation in the planning program of federal, state, regional and local agencies.

2. To participate in intergovernmental coordination with federal, state, provincial, regional and local agencies, to develop a coordinated approach to problems which transcend local government bodies, and to create an environment for the exchange of information and technical assistance.
V. RATIONALE & LOCATIONAL CRITERIA FOR LAND USE DESIGNATIONS

The comprehensive land use map, together with the policies, designates the most appropriate locations for the various land use patterns of the subarea. The land use designations as illustrated on the Comprehensive Plan Land Use Map represent the most appropriate uses of land in the subarea for the planning period. These designations have been developed as a means of addressing or resolving particular land use issues. To be consistent in the application of the designations, as well as to avoid confusion about how the land use map was drawn, the following rationale and locational criteria for each land use designation is set forth.

A. URBAN RESERVE

Rationale

It is a well established fact in the western United States that urban areas have traditionally responded to growth pressures by adhering to policies of outward expansion. As long as this trend continues, there will be an almost constant demand for land, the most fundamental of all urban resources. Although outward expansion is accepted as a common city planning practice, problems have typically arisen when potential urban lands have been committed to long-term "nonurban" uses. Primarily caused by the lack of written public policy among governmental jurisdictions, this situation has resulted in uncoordinated and costly service systems, inefficient transportation networks, and unmanageable land use patterns.

As a means of curbing this situation that is currently developing in the urban "fringe areas" of the county, the revised Comprehensive Plan establishes the URBAN RESERVE land use designation. The rationale underlying the designation is to reserve certain land in the fringe areas of cities and other satellite communities that have previously demonstrated an urban level of densities and attendant range of urban services for future urban purposes, and encourage interim uses that are complementary and compatible with future urban densities and services. When urban services are eventually provided to these areas, land use densities shall increase and result in an orderly, economic and expeditious transition from rural to urban land use patterns. Thus, the URBAN RESERVE designation is defined as those areas adjacent to municipal boundaries which may be urbanized at such time that a full range of urban services (sewer, water, storm drainage, transportation improvements and sheriff protection) can be efficiently provided, as well as those satellite areas where urban densities and services have been previously planned. In addition, land proposed for annexation to an adjacent municipality shall be evaluated by the Boundary Review Board pursuant to RCW 36.93.170.

Locational Criteria

The criteria to be utilized for the application of the URBAN RESERVE designation includes the following:

1. Land areas adjacent to the City of Bellingham, or satellite areas, that are of sufficient size to adequately accommodate the projected demands for residential, commercial, transportation and public uses for a 10- to 15-year time frame.
2. Land areas where a range of urban services, i.e. sewer, water, storm drainage, transportation improvements, fire and sheriff protection, and parks and recreation, presently exist or can be economically and efficiently provided in the near future.

3. Areas that contain an adequate supply of vacant urbanizable land to avoid the artificial inflation of land values.

4. The boundaries of the URBAN RESERVE designation should:

   (a) be well defined, logical, provide a physical "sense of community," and be capable of being expanded to accommodate additional urban growth as the need arises; and

   (b) acknowledge existing and potential land use densities as to their urban or rural character. Urban land use densities should be included within the urban service areas; whereas, rural land use densities may be grounds for excluding such areas.

A.1 URBAN RESERVE MEDIUM DENSITY

Rationale

Through the application of the locational criteria described above, lands adjacent to municipalities or satellite areas that are considered to be urbanized within the planning period and can be served with a full range of urban services should be designated as URBAN RESERVE. Within these areas, Whatcom County recognizes the need to provide a land supply where more affordable housing types, such as condominiums, apartments, townhouses and mobile home parks, can be situated. To address this need, an URBAN RESERVE MEDIUM DENSITY comprehensive plan land use designation is provided which includes two maximum density classifications: six dwelling units per acre and twelve dwelling units per acre. The following locational criteria provides direction for the placement of the respective medium density classifications:

Locational Criteria

1. The density classification of six dwelling units per acre should be applied to areas that are adjacent to low density urban reserve areas.

2. The density classifications of twelve units per acre should be applied to areas that are either adjacent to existing or planned residential developments containing similar density levels, or adjacent to existing or planned commercial or light industrial developments where such activities are considered as complementary and compatible with multi-family residential living.

B. RESIDENTIAL RURAL

Rationale

Not all citizens prefer to live in concentrated urban areas but instead prefer a setting of less density. This setting commonly implies that urban
utility services (public provision of both sewer and water) are not planned, sheriff and fire protection are provided to a lesser degree than in urban areas, roadways have not been scheduled for capital improvements to county standards and the residential landscape is visually different from urban areas. In addition, residents of such areas are usually not self-sufficient and instead rely on urban areas for amenities such as shopping, employment and entertainment. Thus, the RESIDENTIAL RURAL designation is intended to provide land areas in close proximity to urban areas where nonurban living patterns may develop with minimal public service costs.

**Locational Criteria**

The criteria to be used for the application of the RESIDENTIAL RURAL designation include the following:

1. Land currently served or planned to be served with only a partial range of urban level services, i.e. publicly provided sewer or water, fire and sheriff protection, and storm drainage (where appropriate);

2. Land areas where low density residential development currently exists and where such densities are planned to continue in the future; and

3. Lands that contain soils that are generally not considered as suitable for commercial agriculture, forestry or mineral extraction.

Because of the nonurban nature of RESIDENTIAL RURAL areas, transportation facilities are limited to a secondary arterial or lower classification, and road improvements are limited to maintenance only. In addition, the boundaries of Residential Rural areas should be well defined with physical or man-made features.

**C. RURAL**

**Rationale**

The present land use pattern in several areas of the subarea are characterized by part- to full-time farming or forestry and low density residential activity. This type of landscape can be considered as "rural," i.e. an area containing a combination of pastureland, woodlots and dispersed residential settlement land use patterns.

Dispersed settlement patterns are perhaps a function of the absence of past and future public commitments concerning the provision of sewer, water and roadway improvements, and the preference to live in a very low density rural setting. Additionally, physical conditions (soils, water or topography) may have imposed constraints to higher densities of development.

These areas may also contain nonrenewable natural resources, such as soils which contribute to agricultural or forestry productivity, or sand and gravel deposits suitable for extraction.

The rural areas of the subarea offer alternative residential living styles compared to that of the urban or moderately dense residential setting. Employment alternatives also exist that are associated with part- or full-time agriculture, forestry and home occupations. In addition, the existing
parcel sizes are sufficient to accommodate future land use disposition, beyond the planning period, as agricultural, forestry or low-to-moderate density residential areas.

Thus, the RURAL designation is important in the Subarea Plan in that it provides flexibility concerning very low density residential, forestry and agricultural land uses while retaining future private and public options pertaining to land management.

Locational Criteria

The criteria to be used for the application of the RURAL land use designation include the following:

1. Lands where the existing dwelling unit density is less than one dwelling unit per two acres, average parcel size is greater than two acres, land use history indicates a blend of part- and full-time agriculture forestry and woodlot operations;

2. Lands where sewer service is provided by on-site septic disposal and water service is provided by on-site wells, surface water supplies and water associations. In addition, future water and sewer service is not intended to be supplied by city, county or district service entities; and

3. Lands that pose physical developmental constraints such as slow soil percolation rates, seasonal ponding, the presence of aquifers or groundwater recharge areas and topography in excess of 15% slope.

D. FORESTRY

Rationale

Historically, forestry and related industries have assumed a significant role in the local economy, a role which has expanded to affect state, national and international economies. Not only is forestry economically important, it is significant in the renewable resource base afforded Whatcom County through forest management. In addition, forested areas often contain nonrenewable mineral and nonmineral resources, serve as wildlife habitats and contribute to watershed management. However, as population increases, related development may create pressure to irrevocably convert forest land. Therefore, it is imperative that Whatcom County provide for the long-term productivity of forest and related resources by safeguarding such areas from conversion to nonforest uses. Planning these areas for FORESTRY will augment the continued viability of Whatcom County’s renewable and nonrenewable resource base.

Locational Criteria

Areas which are suitable for the FORESTRY designation may be identified through analysis of the following land use, social and physical factors:

1. Land use patterns indicate a predominance of large parcel sizes ranging from 20 to 640 acres.

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2. Parcels are usually owned for the purpose of growing and harvesting timber by major timber industries, logging companies, the State of Washington and private individuals engaged in woodlot operations.

3. The majority of parcels are classified in current use tax assessment, consistent with the provisions of Washington State law.

4. There is a minimal amount of public roads and other services which are generally precursors to and augment residential development.

5. Certain physical constraints to residential development may also exist such as slopes in excess of 15%, soils which are not suitable for septic tanks or conventional building foundations, unstable geologic units or wildlife habitats.

6. Nonrenewable natural resources such as minerals, coal, gravel or soils which may augment forestry management may also be present.

E. PUBLIC

Rationale

This designation recognizes those parcels and facilities currently in or planned for public ownership where the primary function is to provide public services. The intent of this designation is to assure continuation and potential expansion of acreages, facilities and services at levels consistent with population requirements and effected in a manner that is compatible with surrounding land uses.

Locational Criteria

To identify areas which are suitable for the PUBLIC designation, the following criteria are employed:

1. Parcels are currently owned or considered for ownership by public agencies such as the Federal Government, State of Washington, Whatcom County, cities (when property is situated outside of municipal boundaries), and special purpose districts such as school, fire and water districts; and

2. The function of parcel ownership is to provide public services such as recreation, education, utilities, communications, transportation (not including roadways), solid waste disposal and health care.

F. QUASI-PUBLIC

Rationale

The QUASI-PUBLIC land use designation is necessary to distinguish those areas where public institutional uses exist which are under private control; and the scope of the institutional uses is different, both in function and attendant on- and off-site impacts, from surrounding land uses. Thus, the QUASI-PUBLIC designation intends to assure continuation of institutional
functions in a manner which will not be affected by or affect surrounding land uses.

Locational Criteria

Areas which should be designated as QUASI-PUBLIC shall conform to the following criteria:

1. Parcels are owned by institutions such as churches, universities, colleges, schools or private foundations; and

2. The purpose of parcel ownership is to provide education, religious training, meeting centers, day use recreation, summer camps or a combination thereof.
VI. POLICIES

Introduction

Many land use problems may arise through urbanization of the Lake Whatcom Watershed. A most fundamental concern is the effect that urbanization will have on the waters within the watershed and upon which the population of the greater Bellingham area will be dependent in the foreseeable future. Uncontrolled urbanization will degrade water quality and reduce water quantity during critical periods of the year, thereby further degrading water quality which will affect the appearance of Lake Whatcom, jeopardize public health and increase treatment costs, and hasten the need for development of supplementary water sources. Actions are recommended as necessary for the development of appropriate land use controls that are urgently required to avoid these unnecessary consequences in both the public and private interests.*

The policies contained herein provide the basis to guide and influence the appropriate location, type, intensity, timing and servicing of land use patterns within the Lake Whatcom Subarea. The policies have been developed in accordance with the planning process and are intended to respond to a myriad of issues identified by the public and private sectors of the Subarea. During the citizen participation stages of the planning process, a concern expressed by many residents was that the Planning Commission should adhere to a very conservative and cautious approach in developing the Lake Whatcom Subarea Plan to ensure against detrimental impacts to the quality and quantity of the lake's water supply. The Planning Commission has embraced this concern and has proposed a plan that, in general, presents a status quo approach to urbanization in the watershed until the various hydrological characteristics and the effects of urbanization on the watershed are more fully known. Whatcom County, together with the City of Bellingham and District No. 10, is currently applying to the Washington State Department of Ecology to fund a diagnostic and feasibility study to determine the hydrological characteristics of the watershed.

Therefore, the focus of the following policies is to promote the conservation of the Lake Whatcom Watershed through recognition of existing patterns of Urban, Rural and Forestry land uses while deterring major alternations of the existing land use patterns until the findings of the aforementioned study are available.

The following policies address the various land use designations illustrated on the Comprehensive Plan Land Use Map, community facility and utilities, environmental features and transportation.

*AD HOC Lake Whatcom Watershed Citizens Committee Report
A. URBAN RESERVE

Intent Statement

The primary purpose of the URBAN RESERVE policy is to promote an orderly transition from rural land uses and densities to urban uses and densities, while moving toward the attainment of the Regional Design Goal with respect to future urban development. In addition, the policy intends to encourage the responsible growth of urban areas by assuring that an adequate range of urban services (sewer, stormwater drainage, schools, parks, water, fire and sheriff protection) are available to support urban level densities. When such services are available, development should occur in neighborhood units which have appropriate levels of densities, uses and circulation networks.

To facilitate future urban growth, the URBAN RESERVE policy is intended to discourage the establishment of interim uses and subdivision patterns which may foreclose significant future alternatives pertaining to urban densities and the efficient provision of services. Moreover, this policy is intended to maintain, prior to the approval of an accepted site specific plan for the implementation of services, the low density character of the area and to allow reasonable uses of property by permitting compatible residential, recreational, commercial, forestry and agricultural land uses. Finally, the designation and application of the URBAN RESERVE policy is intended to accomplish the following objectives:

1. To reduce urbanization and encroachment pressures on lands that are most suitable to intensive agricultural or forestry operations.

2. To stabilize land speculation and the artificial inflation of land values in the "urban fringe" by designating an adequate amount of land for urban growth and uses during the planning period.

3. To provide land owners with a reasonable expectation of future municipal and county land use policies.

4. To reduce inequitable taxing structures on nonurban land located near urbanizing areas.

5. To conserve energy resources by reducing unnecessary travel between living, shopping and work places.

6. To encourage the conservation of natural resources and environmentally sensitive areas, both within and outside of the area designated as URBAN RESERVE.

Policy Statement

1.01 It is herein the policy of Whatcom County to plan for future urban development in certain portions of the Lake Whatcom Subarea by designating such lands as URBAN RESERVE on the Comprehensive Plan Land Use Map. The boundaries of the Geneva and the Sudden Valley URBAN RESERVE areas have been delineated in conformance with the Locational Criteria, as set forth in the previous section. The predominate land use pattern within these URBAN RESERVE areas shall be residential and related forms, including neighborhood parks, schools, neighborhood commercial, public and recreational uses.
1.02 Within the areas designated as URBAN RESERVE, the future land use patterns are intended to be urban. Similarly, the level of services should also be urban. Thus, future urban development shall be provided with a full-range of urban services that includes public sewer and water, fire and sheriff protection, transportation facilities, parks, schools and stormwater drainage systems.

1.03 Since urban services are currently being provided by a multiplicity of service entities, i.e. city, county and district, it is the policy of Whatcom County to coordinate the service areas and standards of each service entity to attain a uniform and appropriate level of urban service. (Refer to Community Facilities and Utilities Policies to determine the agency responsible for service).

1.04 To move toward the implementation of the county's residential land use goal and to further the intent of the URBAN RESERVE land use designation, it is the policy of Whatcom County to designate and plan for new urban neighborhoods. These neighborhoods should be based on the following commonly accepted criteria: sufficient size, utilization of man-made and natural boundaries; the manageable and efficient provision of sewer, water, transportation services, fire and sheriff protection services, and stormwater drainage; and an available supply of vacant developable land. The components of a neighborhood should include the following: an elementary school, if necessary; recreational facilities, including neighborhood parks; neighborhood commercial uses; a variety of residential structures and uses; and efficient pedestrian and vehicular circulation networks.

1.05 With the intent of acknowledging existing urban development patterns and reserving land for future urban uses, densities and service levels, it is the policy of Whatcom County to establish two (2) land use densities within the areas designated for URBAN RESERVE. Where a full range of services are available, the density shall be three (3) dwelling units per acre, and where such services are nonexistent, the density shall be one (1) dwelling unit per five (5) acres. To implement this policy for each of the URBAN RESERVE areas, the following policies are provided:

1.05.1 In the Geneva Analysis Area, Whatcom County shall amend its Zoning Map to the Urban Residential zoning district. The applicable land use density shall be three (3) dwelling units per acre where sewer, water, transportation, fire and law enforcement services currently exist.

In areas where such services do not exist, the applicable density shall be one (1) dwelling unit per five (5) acres of land area.

1.05.2 In the Sudden Valley Analysis Area, Whatcom County shall amend its Zoning Map to the Urban Residential zoning district. The applicable land use density for residential development shall be three (3) dwelling units per acre where sewer, water, transportation, fire and law enforcement services currently exist. In areas where such services do not exist, the applicable density shall be one (1) dwelling unit per five (5) acres of land area.

Whatcom County shall amend its zoning map to designate tracts of R, L, J, K, S, U, Q, N-2 and P (described in the "Protective
Covenants for Sudden Valley Condominium Tracts" dated June 9, 1977 and recorded under Whatcom County Auditor's File No. 1254476) as multi-family or condominium tracts within the Medium Density (MUR-12) zoning district with maximum densities of eight dwelling units per acre to ten (10) dwelling units per acre with a commensurate reduction in single-family lots located elsewhere in the Sudden Valley Subdivision or through a reduction of multi-family units allocated to the above described tracts including Tract Y.

Whatcom County shall amend its zoning map to designate Tract Z, W, the Byron Tract and Airport: as multiple-family or condominium tracts within the Medium Density (MUR-12) zoning district with maximum densities of three (3) dwelling units per acre. Densities may, however, be increased beyond three (3) dwelling units per acre to ten (10) dwelling units per acre with a commensurate reduction in single-family lots located elsewhere in the Sudden Valley Subdivision or through reduction in multiple-family units allocated to any parcels in Sudden Valley.

(a) Reduction of single-family lots for the purpose of increasing the density on said tracts shall be accomplished as follows: Platted single-family building lots shall be procured consistent with the provisions of Title 20.20.252 and/or 20.83.020 and .080 and designated as nondevelopable lots through the filing of an irrevocable deed restriction which has been certified by the Whatcom County Zoning Administrator. Said deed restriction shall also indicate the total number of additional units to be added to the respective area tracts resulting from the reduction of single-family lots.

(b) Reduction of multi-family units for the purposes of increasing density on said tracts shall be accomplished as follows:

Multi-family dwelling units that are allocated to said tracts may be transferred between said tracts through the filing of an irrevocable deed restriction, certified by the Whatcom County Zoning Administrator, that indicates the number of multi-family dwellings remaining on the various area tracts from which such units have been transferred and the corresponding increase in additional multi-family units to be allocated.

1.05.3 At such time that a full range of urban level services (public sewer, water, transportation, storm drainage, fire and law enforcement) can be provided to previously unserviced lands within the URBAN RESERVE area, Section 20.20.250 of the Official Whatcom County Zoning Ordinance shall be applicable.

1.06 Within the URBAN RESERVE areas, a clustering option shall be provided to the applicant for the new land subdivisions. The purpose of this option is to provide economic flexibility to the individual property owner, promote economic lot design, conserve nonrenewable natural resources and environmentally fragile areas, retain future options with respect to land use decisions, and maintain the low density Residential character of the
area. When applying the "clustering option," the URBAN RESIDENTIAL zone classification, as established in the zoning ordinance, shall be utilized to establish the overall density of the parcel of record. New land subdivisions for residential purposes shall be designed consistent with the following policies:

1.06.1 To minimize encroachments (ingress and egress) along county roads, subdivision design shall be discouraged from forming linear residential patterns adjacent to said roads.

1.06.2 When practicable, structures on open landscapes should be sited and designed to minimize disruptions of views from adjacent properties and public roadways. In addition, it is preferred that residential structures be placed at the perimeter of fields or within existing wooded areas (although the application of solar energy technology may require some departures from these preferences in specific instances).

1.06.3 When a "cluster" subdivision is situated adjacent to less intensive uses (agriculture, forestry or large parcel residential), the subdivision shall be buffered at the site periphery to prevent the encroachment of vehicles, pedestrians, animals and nuisances on to less intensively utilized parcels.

1.07 The clustering method of subdivision is defined as an alternative method of creating building parcels that involves:

(a) Concentrating spatially efficient and marketable building lots while preserving the intent of the land use district; and

(b) retaining options for future uses and densities by treating the land as both a commodity and a resource.

The density of the use district defines the number of allowable dwelling units per land area. Land area not used for building purposes is designated as "Reserve Tract." Section 20.20.300 of the Official Whatcom County Zoning Ordinance further describes the purposes and uses of Clustering and the Reserve Tract.

1.08 Existing and planned land use patterns in the Geneva and Sudden Valley URBAN RESERVE areas are intended for low density residential uses. As these areas develop, it is anticipated that a demand will exist for neighborhood commercial uses. To accommodate this anticipated demand, the following policies are provided:

1.08.1 The Sudden Valley URBAN RESERVE area should be provided with neighborhood commercial shopping complexes to accommodate the neighborhood's demands for convenience goods and services. Selection of the most appropriate site should be consistent with the following: located on a collector or secondary arterial, centrally located to the service area of the neighborhood, and be approximately five (5) acres in size.

In addition, the architectural and design should be compatible with the residential character of the neighborhood.
To acknowledge the existing marina and resort near Strawberry Point, Whatcom County shall designate such use as a legal nonconforming use which shall be administered under the applicable provisions of the zoning ordinance.

1.08.2 To acknowledge the neighborhood commercial uses in the Geneva URBAN RESERVE area, such uses shall be conditionally permitted in the Urban Residential zoning district.

1.08.3 To acknowledge the geographical area in Sudden Valley containing the restaurant, clubhouse and leased condominiums as a resort area. This commercial area shall be implemented with a new zoning district which shall be incorporated into the Official Whatcom County Zoning Ordinance.

1.09 At present, several productive, large lot residential land use forms exist within the areas designated as URBAN RESERVE. Because of their well-established nature, it is conceivable that such areas may not be converted to increased urban densities in the future. As urbanization occurs on the periphery of these areas, it is important to maintain their respective character and stability while ensuring against detrimental impacts. Thus, the following design standards shall be applied to adjacent urban development:

1.09.1 Residential subdivisions and other urban uses shall buffer themselves with adequate landscaping, screening or fencing to prevent the encroachment of vehicles, pedestrians, animals and nuisances onto less intensively utilized parcels.

1.09.2 Where practicable, subdivision and other urban uses shall be designed in such a manner as to channel their activity sources (vehicular and pedestrian networks) to the interior spaces of the site.

1.10 As part of the effort to effectively manage urban growth and so that the City of Bellingham may be aware of major subarea activities which may affect its best interests, the following policies are provided:

1.10.1 To further a joint exchange of information, Whatcom County shall send copies of applications of major land use, transportation and service entity activities proposed within the subarea to the City of Bellingham within fifteen (15) days of application receipt by the county.

1.10.2 The City of Bellingham is requested to send copies of future proposals concerning the expansion of the City’s Water Service Zone and Sewer Service Zone boundaries to the Whatcom County Planning Department. The purpose of such referral is to afford the county's input in the delineation of the boundary, as well as any related Comprehensive Plan and zone district changes.

1.11 While it is not anticipated that adjustments to the URBAN RESERVE land use designation will be necessary within the planning period, unexpected population growth of the subarea may result in a need to expand the area designated as URBAN RESERVE. If such need exists, the Comprehensive Plan should be amended consistent with the Amendment Criteria Section to include additional urbanizable land commensurate with the demand.
B. RESIDENTIAL RURAL

Intent Statement

The intent of the RESIDENTIAL RURAL land use designation is to maintain the existing low density character of an area. Densities should range from one (1) dwelling unit per acre to two (2) dwelling units per acre, depending upon the range of county approved services and existing lot sizes. If there is adequate transportation capacities, publicly provided sewer or water, and lot sizes of greater than one acre exist or are planned, the density of residential development shall be one (1) dwelling unit per acre. Where a partial range of services exist or are planned, and the average lot size is less than or equal to 18,000 square feet, the density of residential development shall be two (2) dwelling units per acre. As a means of efficiently utilizing land, maintaining the present low density residential character, and retaining options regarding increased densities and services in the future, it is the intent of the RESIDENTIAL RURAL designation to provide for the option of "clustering" in the design of new subdivision proposals.

Policy Statement

1.01 Recognizing the past public commitments that have been made for low density residential and related uses, it is the policy of Whatcom County to designate the following areas as RESIDENTIAL RURAL and to depict the areas as such on the Comprehensive Plan Land Use Map:

1.01.1 The North Shore area, which is generally bounded by the City of Bellingham on the west, the shoreline on the south, the eastern boundary of Water and Sewer District No. 10's ULD #11 on the east and north, and the Bonneville Power Administration Powerlines and boundary of the RR-2 zone line on the north.

The Squalicum Mountain area which exists north of the watershed boundary in Sections 13 and 14, Township 38 North, Range 3 East.

1.01.2 The Southwest Shore area which is generally bounded by Strawberry Point, the shoreline, the Lakewood-Sudden Valley property lines, and a portion of the State of Washington plat and the southwest quarter of Township 34, Section 38 North, Range 3 East.

1.01.3 The South Bay area, which is generally bounded by the shoreline, the Whatcom County Park Department property line and South Bay Drive.

1.02 Within the area designated as RESIDENTIAL RURAL, typical uses shall include single-family attached and detached dwellings, preferably in a "cluster" formation; public parks and recreation facilities; home occupations; and neighborhood grocery stores.

1.03 Whatcom County shall implement the RESIDENTIAL RURAL land use designation by application of the RESIDENTIAL RURAL zone district, in which the residential density ranges from one (1) dwelling unit per acre to two (2) dwelling units per acre.

1.03.1 The density of one (1) dwelling unit per acre shall apply to the following areas: The North Shore area bounded by the ULD 16
eastern boundary described as that portion of the east line of the west half of the southwest quarter of the southeast quarter of Section 24, Township 38 North, Range 3 East of W.M., Whatcom County, Washington, lying northerly of North Shore Road and southerly of the southerly line of Bonneville Power Administration transmission line easements across said southwest quarter of the southeast quarter on the west, the Bonneville Powerlines right-of-way on the north, Sewer and Water District No. 10’s ULID #1 on the east and north, and North Shore Drive on the south and the South Bay area.

1.03.2 The density of two (2) dwelling units per acre shall apply to the Southwest Shore and North Shore area (as described in Policy 1.01.1) excluding those lands described in 1.03.1 above.

1.04 Within the RESIDENTIAL RURAL zone district, new land subdivisions for residential purposes may be designed with either a conventional or cluster lot layout pattern. Whichever subdivision pattern is used, the following policies shall pertain to the subdivision design.

1.04.1 The overall density of development, pertinent to the original parcel of record, shall not exceed the density provisions addressed in Policies 1.03.1 and 1.03.2 above.

1.04.2 To minimize encroachments (ingress and egress) along existing county roads, subdivision design shall be discouraged from forming lineal residential patterns adjacent to said roads.  

1.04.3 When practical, structures should be designed to minimize disruption of views, maximize solar heating opportunities and conserve existing vegetative cover.

1.04.4 When a subdivision is situated adjacent to less intensive land use designations such as FORESTRY or RURAL, the subdivision shall be buffered at the site periphery to prevent the encroachment of vehicles, pedestrians, animals and nuisances onto other less intensively utilized areas.

1.05 The existing neighborhood commercial uses in the Agate Bay area shall be conditionally permitted within the Residential Rural zone district.

1.06 The cluster method of subdivision is defined as an alternative method of creating building parcels that involves:

(a) concentrating spatially efficient and marketable building lots while complying with the intent of the land use district; and

(b) retaining options for future uses and densities by treating the land as both a commodity and a resource.

The density of the use district defines the number of allowable dwelling units per land area and establishes a minimum lot size. Minimum lot size is intended to be consistent with Whatcom County Health Board Rules and Regulations concerning soil percolation rates for septic systems. Land area not used for building purposes is designated as a "reserve tract" and should be used for agriculture,
forestry, open space or future subdivision at such time the Comprehensive Plan is amended to allow an increase in density. The Official Whatcom County Zoning Ordinance describes the density for various land use districts where the cluster method can be utilized, the criteria to be used in designing building lots, and the provisions of the reserve tract.
C. RURAL

Intent Statement

The primary intent of the RURAL policy is to provide areas of multiple use suitability such as agriculture, forestry, mining, low density residential and home occupations. The multiple use potential of RURAL areas may be contrasted with those of other areas within which past commitments such as residential subdivisions and attendant services or resource availability, i.e. agricultural soils or timber stands, have dictated single land use suitability.

An additional intent of the policy is to move toward attainment of the Regional Design Goal with respect to future rural development in which residential density should be low, not result in a demand for urban services (publicly provided sewer and water, storm drainage, fire and sheriff protection, and transportation improvements), conserve agricultural and forest lands, and complement the existing "rural" character. The "rural" character may be defined as an area where there is a mixture of pastureland, cropland, woodlots and dispersed settlement land forms.

The RURAL policy is also intended to acknowledge physical and cultural factors which currently are and during the planning period will continue to be limitations to higher densities. Physical factors relate to soil percolation rates, depth to groundwater level, steep topography, and the presence of aquifers; whereas, cultural factors pertain to the absence of public services and circulation networks. Moreover, this policy intends to conserve environmentally fragile areas and retain future access options with respect to nonrenewable natural resources (sand, gravel, coal and minerals, and soils which contribute to agricultural and forest productivity).

To encourage the multiple land use potential, retain the "rural" character of the area, acknowledge factors which may preclude higher densities, and retain future options with respect to land use decisions and natural resource utilization, it is the intent of the RURAL policy to provide the option of "clustering" in the design of new rural subdivisions.

Policy Statement

1.01 It is herein the policy of Whatcom County to designate portions of the Lake Whatcom Subarea, which are consistent with the Rural Locational Criteria, as RURAL and depict them as such on the Comprehensive Plan Map. Applicable areas include the following:

1.01.1 The "Y" - Squalicum area which is generally bounded by the subarea boundary on the north, the topographic break between 0-15 and 15-30% slope on the east and west, and the Bonneville powerline right-of-way on the south.

1.01.2 The Toad Lake area which is generally bounded by Toad Lake Road and the subarea boundary on the west, the Bonneville powerline right-of-way on the south, and timber lands on the north and east.

1.01.3 The North Shore-Sunnyside area which is generally bounded by the Bonneville powerline right-of-way on the northeast, the Whatcom County Park Department property on the southeast, the shoreline on
the west, and Water District No. 10's ULID boundary on the northwest.

1.01.4 The Park Road valley area which is generally bounded by timber lands on the north, east and south, and South Bay Drive on the west.

1.01.5 The South Bay area which is generally bounded by the shoreline, South Bay Drive, the intersection of Cain Lake Road and South Bay Drive on the north, timber lands on the east and west, and the subarea boundary on the south.

1.01.6 The South Lake Whatcom Boulevard area which is generally bounded by Lake Whatcom Boulevard on the west, the Firs property on the north, the shoreline on the east, and the intersection of Cain Lake Road and South Bay Drive on the south.

1.01.7 The upper Geneva area which is generally bounded by the URBAN RESERVE and RESIDENTIAL RURAL plan designation on the north, FORESTRY plan designation on the south, and the RESIDENTIAL RURAL plan designation on the east and west.

1.01.8 The Blue Canyon area which is generally bounded by Park, the 420 foot contour line and the shoreline.

1.01.9 The Academy Road area bounded by the city limits on the west, the Bonneville Powerline right-of-way on the north and east, and the northern boundary of the RR-2 zone line on the south.

1.02 The RURAL land use designation shall be implemented through the use of the Rural zone district which allows a maximum land use density of one (1) dwelling unit per two (2) acres and one (1) dwelling unit per five (5) acres. Consistent with the Locational Criteria for the RURAL land use designation, the density of one (1) dwelling unit per two (2) acres shall be applied to the South Lake Whatcom Boulevard area, South Bay area, the upper Geneva area, the Blue Canyon area, the Academy Road south of Academy Road and the North Shore-Sunnyside area. The density of one (1) dwelling unit per five (5) acres shall be applied to the Toad Lake, "Y" - Squalicum, Park Road valley, and the Academy Road area north of Academy Road and upper Geneva areas.

1.03 The existing neighborhood commercial use and in the South Bay area shall be conditionally permitted within the Rural zone district.

The existing resort uses in the South Bay area shall be considered as legal nonconforming uses and thus will be administered under the applicable provisions of the zoning ordinance.

1.04 The option of clustering in the design of new subdivisions is provided as a means of maintaining the low density rural character, conserving natural and environmentally fragile areas, and encouraging site design to reflect both physical and economic conditions while retaining future options with respect to land use decisions. When applying the "clustering option," the appropriate zone classification shall be utilized to establish the overall density of development pertinent to the parcel of record. For example, a forty acre parcel situated within a Rural Five Acre (R5A) zone
classification could have a maximum of eight building lots with the minimum lot size established consistent with the Whatcom County Health Department's regulations for on-site septic disposal systems. In addition, new land subdivisions for residential purposes shall comply with the following policies:

1.04.1 To minimize encroachments (ingress and egress) along existing county roads, subdivision design shall be discouraged from forming lineal residential patterns adjacent to said roads.

1.04.2 When practical, structures on open landscapes should be sited and designed to minimize disruptions of views from adjacent properties and public roadways. In addition, it is preferred that residential structures be sited within the periphery of wooded areas to complement and further the rural character of the area.

1.04.3 When a "cluster" subdivision is situated adjacent to less intensive uses (agriculture, forestry or large parcel residential), the subdivision shall be buffered at the site periphery to prevent the encroachment of vehicles, pedestrians, animals and nuisances onto less intensively utilized parcels.

1.05 The cluster method of subdivision is defined as an alternative method of creating building parcels that involves:

(a) concentrating spatially efficient and marketable building lots while maintaining the intent of the land use district; and

(b) retaining options for future uses and densities by treating the land as both a commodity and a resource.

The density of the use district defines the number of allowable dwelling units per land area and establishes a minimum lot size. Minimum lot size is determined consistent with Whatcom County Health Board Rules and Regulations concerning soil percolation rates for on-site septic systems. Land area not used for building purposes is designated as a "reserve tract" and should be used for agriculture, forestry, open space or future subdivision at such time as the Comprehensive Plan is amended. The Official Whatcom County Zoning Ordinance describes the density for various use districts where the cluster method can be utilized, the criteria to be used in designing building lots and the provisions of the reserve tract.

1.06 It is the policy of Whatcom County to encourage property owners to conserve Prime Farmlands, Farmlands of Statewide Importance and forested areas by utilizing the provisions of RCW 84.34.
D. FORESTRY

Intent Statement

The FORESTRY designation intends to move toward attainment of the Whatcom County Goal Statements which address the conservation of forest lands and provide for the continued economic vitality of forest industries. To accomplish such, the FORESTRY designation intends to identify areas which are suitable for the long-term productivity and sustained use of forest resources. To minimize conflict with and encroachment by nonforest uses, and to guard against forest land conversion, the policies intend to discourage residential and recreation/residential uses. Moreover, the FORESTRY designation intends to accommodate other compatible and related uses such as nonrenewable resource extraction, wildlife management, watershed management and dispersed recreation. Finally, the FORESTRY designation intends that uses are conducted in accordance with applicable local, state and federal regulations.

Policy Statement

1.01 It is the policy of Whatcom County to designate those portions of the Lake Whatcom Subarea which conform to the Locational Criteria established in the previous section as FORESTRY on the Comprehensive Plan Land Use Map. To implement this policy, the existing Rural, Rural Farm, Potential Suburban and Forestry designations shall be repealed and amended to FORESTRY, consistent with the policies stated herein.

1.02 The principal use of FORESTRY areas shall be sustained yield forest management which is conducted in accordance with the Washington State Forest Practice Act (RCW 76.09) and the rules and regulations promulgated thereunder (WAC 222), as administered by the Department of Natural Resources. Forest management includes practices such as timber production, harvesting and reforestation; forest chemical use; logging road construction and maintenance; fire prevention and suppression; the protection of public resources including water quality, fish and wildlife, and seed orchards; and small, private timber production such as woodlot operations.

1.03 Secondary uses of FORESTRY areas shall include forest industries which are a necessary adjunct to forest management; utilities such as electrical transmission line corridors, micro-wave relay stations, and micro and small scale hydro-electric generation facilities; dispersed and low intensity recreational activities; mineral and nonmineral extraction; and fish, wildlife and watershed management.

1.04 It is the policy of Whatcom County to require local public review of secondary uses in FORESTRY areas with the intent of determining the following:

1.04.1 The use will not cause a permanent and irrevocable commitment of the forest resource to other uses.

1.04.2 The use will not prohibit or impact the intensive operation of adjoining forest practices.

1.04.3 The use will have fire prevention and suppression plans, and will not create a fire hazard for adjoining forestry operations.

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1.04.4 The use is in compliance with all applicable local, state and federal regulations.

1.04.5 When proposed to be situated within the Lake Whatcom Watershed, the use will not significantly impact or degrade surface and subsurface water quality and quantity characteristics.

1.05 It is the policy of Whatcom County to establish twenty (20) acres as the minimum parcel size for sustained yield forest management, as well as to safeguard forest lands from potential impacts generated by secondary uses.

1.06 It is the policy of Whatcom County to foster compatibility between forest practices and residential uses by establishing a minimum parcel size of twenty (20) acres for each residence, requiring all residential and related structures to be situated a minimum of two hundred (200) feet from parcel boundaries, and assuring that all potential residents are clearly informed of the principal use of FORESTRY areas and the intensive forest practices which may reasonably and lawfully occur in the normal course of forest management.

1.07 It is the policy of Whatcom County to implement the FORESTRY designation and policies with the Forestry zone district which shall also include provisions for the above stated Policies 1.02, 1.03, 1.04, 1.05 and 1.06.

1.08 It is the policy of Whatcom County to encourage the Department of Natural Resources to continue county notification of all classes of forest practice applications. In addition, the county shall encourage the DNR to conduct public information programs, when jointly determined to be necessary, concerning forest practices which are proposed to occur within the Lake Whatcom Watershed.

1.09 It is the policy of Whatcom County to encourage private forest and woodlot owners to conserve the county forest resource base by utilizing the current use tax assessment provisions of RCW 84.28, RCW 84.33 and RCW 84.34.

1.10 Pursuant to the provisions of RCW 79.68 (Multiple-Use Concept in Management and Administration of State-owned Lands), it is the policy of Whatcom County to encourage continued multiple-use management of state-owned forest lands.
E. PUBLIC

Intent Statement

With reference to parcels which currently are owned or planned for ownership by public agencies, the intent of the following policies is to implement the County Goal Statements relating to public facilities and services, and to assure the continued public provision of a variety of services in a manner that is commensurate with population levels and requirements. Furthermore, the policies are intended to optimize public investments and promote compatibility between public functions and surrounding land uses.

Policy Statement

1.01 It is the policy of Whatcom County to designate areas as PUBLIC on the Comprehensive Plan Land Use Map when such areas are consistent with the Locational Criteria of the previous section. Typical uses in PUBLIC planned areas include facilities and services related to the provision of recreation, education, utilities, communications, solid waste disposal, health care and water diversion works.

1.02 Within the Lake Whatcom Subarea, the following uses shall be designated PUBLIC: state and county-owned parks, wildlife reserves and fish hatcheries; schools; fire stations; health care facilities; district owned water treatment plants and storage facilities; district owned sewer transmission facilities; federally owned electrical transmission line corridors; and municipally owned water diversion corridors.

1.03 Implementation of the PUBLIC designation shall be accomplished by:

1.03.1 application of the Recreation and Open Space zone to public recreation areas; and

1.03.2 by designating all other public functions to be used by right or condition within Whatcom County zoning districts.

1.04 Pursuant to the Inter–Local Cooperation Act (RCW 39.34), it is the policy of Whatcom County to encourage public agencies to prepare and adopt long-range plans which address future land, facility and service requirements; the objective of which is to coordinate public and private activities, as well as to minimize potential future conflict between various public agencies and the private sector regarding plan implementation.

1.05 It is the policy of Whatcom County to cooperate and coordinate with the Whatcom County Parks Department in the integration of existing park plans into a Recreation and Open Space Element which will augment the County Comprehensive Plan. In addition, the County Parks Department shall be encouraged to participate in neighborhood park planning within the areas designated as URBAN RESERVE and RESIDENTIAL RURAL on the Comprehensive Plan Land Use Map.

1.06 It is the policy of Whatcom County to encourage public agencies to attain those parcels which benefit the continued operation of their function. Whenever practical, joint agreements between agencies shall be encouraged to expedite efficient public expenditure.
1.07 Whenever practical, it is the policy of Whatcom County to encourage multi-purpose use of public land facilities and services.

1.08 It is the policy of Whatcom County to minimize visual and functional impacts of PUBLIC land uses through utilization of aesthetic site design which is compatible with the character of the surrounding area.
F. QUASI-PUBLIC

Intent Statement

QUASI-PUBLIC land uses are defined as institutional uses operated for the public but under private control. The Quasi-Public uses that exist in the subarea include religions, educational, recreational and institutional facilities. These uses warrant a separate land use designation due to their distinctive character and variable impacts with surrounding uses.

Thus, the following policies serve to identify the type of use, location, and zoning of the quasi-public uses and properties within the Subarea.

Policy Statement

1.01 Whatcom County shall designate the following institutional uses and properties on the Comprehensive Land Use Plan Map as Quasi-Public: the Blue Canyon Foundation, north of Agate Bay; the Firs Bible and Missionary Conference Center property in Geneva and south of Sudden Valley; the Western Washington University Lakewood facility north of Sudden Valley; and the Bellingham School District conservation and educational site in South Bay.

1.02 Because of the relatively small size of the designated Quasi-Public areas, implementation shall be accomplished by application of the adjacent zoning district which is the most consistent with the character of each respective Quasi-Public area. In addition, because of the various impacts associated with Quasi-Public uses, such uses shall be permitted as conditional uses within the respective zoning district.
G. COMMUNITY FACILITIES AND UTILITIES

Intent Statement

One of the most important factors in comprehensive planning is the relationship between land use and the provision of public services. Proportionate with the increase in land use density and attendant population levels is the increase in demand for services such as efficient sewer and water systems, efficient and safe transportation networks, adequate school and park systems, stormwater drainage systems, and capable fire and police protective services. In areas that are currently undeveloped yet planned for future urban development, the residents of Whatcom County shall be apprised of the necessary increase not only in utility services, but also in adequately staffed and equipped sheriff and fire protective services. As growth occurs in "urban fringe" and rural areas, local governments have been typically confronted with service issues that can be summarized as follows:

What governmental jurisdiction should provide the demanded services?

What is the difference between urban and nonurban services, and where do urban services stop and nonurban begin?

Under what conditions should urban and nonurban services be provided?

What services can be economically provided to both city and county jurisdictions or by a single-service purveyor?

It is the intent of the following policies to define Whatcom County's role and responsibility concerning the above issues, and to further ensure that a beneficial balance exists between the supply and demand for services, as well as encourage the cooperation among municipalities, special districts and water associations in the planning and provision of public services.

Policy Statement

1.01 It is herein the policy of Whatcom County to cooperate and coordinate with the City of Bellingham, Whatcom County Water Districts Nos. 7 and 10, Whatcom County Fire Protection Districts Nos. 2, 4 and 18, Bellingham and Mt. Baker School Districts, "Y" - Squalicum Water Association and the State of Washington in planning subarea service systems.

1.02 As described in the URBAN RESERVE policies, land areas inside the URBAN RESERVE designation are intended for urban type densities and shall be provided with a full range of urban services including publicly provided sewer and water, fire and sheriff protection, transportation and stormwater drainage systems. Therefore, Whatcom County recognizes specific service purveyors for the delivery of urban services in each of the designated URBAN RESERVE areas as follows:

1.02.1 SUDDEN VALLEY:

Sewer and Water: Whatcom County Water District No. 10

Stormwater Management: Sudden Valley Community Association and Whatcom County
Law Enforcement: Whatcom County Sheriff's Department and S.V.C.A.

Fire Protection: Whatcom County Fire Protection District No. 2

Transportation: Whatcom County and S.V.C.A.

1.02.2 GENEVA:

Sewer and Water: Whatcom County Water District No. 10

Stormwater Management: Whatcom County

Law Enforcement: Whatcom County Sheriff's Department

Transportation: Whatcom County (roadways) and City of Bellingham (public transit)

Fire Protection: Whatcom County Fire Protection District No. 2

1.03 It is the policy of Whatcom County to encourage the placement and extension of sewer and water lines in a manner that is contiguous to existing development(s). Such phased line placement is intended to discourage the occurrence of "leapfrog" development.

1.04 Lands situated outside the URBAN RESERVE areas are planned for nonurban land use densities, and thus services are intended to be commensurate with planned uses and densities for the following land use designations:

1.04.1 RESIDENTIAL RURAL: On-site domestic waste water disposal systems and individual wells, or one public utility, i.e. sewer or water provided by District No. 10; on-site or off-site storm water detention via the regional stormwater drainage system; volunteer fire protection from a Whatcom County Fire Protection District; public service oriented law enforcement from the Whatcom County Sheriff's Department; and transportation provided by a collector arterial, maintained by Whatcom County.

Service Improvements Moratorium: Extension of existing or construction of new public facilities and private service systems to facilitate urban development in the North Shore Residential Rural designation within the watershed shall be delayed until an assessment of potential impacts to the watershed caused by the implementation of said designation is completed. Said assessment shall be one of the tasks of Phase I of the Department of Ecology funded water supply study and shall be completed no later than December 31, 1983.

As referenced above, new public facilities shall include public sewer, water, storm drainage and transportation improvements and extensions while private service systems include water associations. This policy does not apply to contracts for water service that have been executed between the City of Bellingham and Water and Sewer District No. 10 prior to the adoption of the Lake Whatcom Subarea plan, individual wells or connections to the North Shore sewer line to serve existing platted lots of record, or the
areas within two or more ULID's existing at the time of the adoption of the Lake Whatcom Subarea Comprehensive Plan.

This policy does also not apply to preliminary plat applications that have been filed prior to the adoption of this policy and the time limits that the County Council must act on the preliminary plat as described by statute have expired.

1.04.2 RURAL and FORESTRY: On-site domestic waste water disposal systems and individual well or water associations volunteer fire protection from a Whatcom County Fire Protection District and the Department of Natural Resources; public service oriented law enforcement from the Whatcom County Sheriff's Department; and transportation provided by a collector arterial maintained by Whatcom County.

1.04.3 QUASI-PUBLIC: Public sewer and water from District No. 10 or on-site domestic wells, storm drainage, volunteer fire protection from a Whatcom County Fire Protection District; public service oriented law enforcement from the Whatcom County Sheriff's Department; and transportation provided by a collector arterial maintained by Whatcom County.

1.05 It is the policy of Whatcom County to request the City of Bellingham and Water District No. 10 to amend their Comprehensive Sewer and Water plans consistent with the level of service and geographic service area as described in Policies 1.02 and 1.04 of this section, and pursuant to RCW 57.16.40 and RCW 36.70.520.

1.06 It is herein the policy of Whatcom County to require stormwater drainage facilities inside URBAN RESERVE areas and RURAL RESIDENTIAL areas where the maximum density is two (2) dwelling units per acre. To implement this policy, Whatcom County shall seek a grant from the State Department of Ecology to develop a regional stormwater management plan for the Lake Whatcom Subarea. Moreover, it is the intent of Whatcom County to facilitate a cooperative effort in development of such a plan among affected service entities. To acknowledge this policy in each of the URBAN RESERVE and appropriate RURAL RESIDENTIAL areas, the following policies are provided:

1.06.1 Geneva: On-site stormwater collection and retention shall be required for all new property development and land use modification until the county adopts and implements a regional stormwater management plan.

1.06.2 Sudden Valley: On-site stormwater collection and retention shall be required for all new property development and land use modification until the Sudden Valley Community Association implements a stormwater drainage plan.

1.06.3 North Shore: On-site stormwater collection and retention shall be required for all new property development and land use modification until the county adopts and implements a regional stormwater management plan.
1.06.4 The North Shoreline and Southwest Shore: On-site stormwater collection and retention shall be required for all new property development and land use modification until the county adopts and implements a regional stormwater management plan.

1.07 Whatcom County shall continue to recognize Puget Power and Light as the primary energy purveyor in the subarea; however, the county encourages the use of alternative energy systems for residential, commercial, quasi-public and public land uses.

1.08 It is the policy of Whatcom County to assure that the necessary staff and equipment are available in the Whatcom County Sheriff's Department to provide adequate protective services commensurate with projected population levels in the Lake Whatcom Subarea.
H. TRANSPORTATION/CIRCULATION

Intent Statement

Transportation/Circulation is one of the key elements in comprehensive land use planning since the changes in land use density and corresponding population levels often result in the need to build new roads or to improve the operational efficiency of existing roads.

Therefore, in the Lake Whatcom Subarea it is the intent of Whatcom County to plan new road construction projects in the North Shore URBAN RESERVE area while maintaining improvement projects currently designated in the county's Transportation Improvement Program (TIP), such as operational improvements to Lake Louise, Lakeway and Austin streets as well as construction of the Whatcom Connector.

Furthermore, Whatcom County intends to provide the policy framework with which the private and public sectors can make appropriate transportation decisions with respect to fiscal responsibility and the coordination of construction projects. In addition, Whatcom County intends to adopt new road design standards and specifications which will provide an appropriate road classification system which can be implemented in the Lake Whatcom Subarea.

It is also the intent of Whatcom County to cooperate with the City of Bellingham in both land use and transportation planning in order to avoid disruption of downstream traffic patterns.

The programmed sequence and coordination of road construction projects and the implementation of design standards and specifications is also intended to provide in a more efficient transportation system resulting in more efficient use of energy and enhanced environmental conditions.

In summary, it is the intent of the following policies to ensure that land use and transportation planning mutually support the safe and efficient movement of people and goods, while optimizing public investments in the existing circulation system. Furthermore, it is the intent of Whatcom County to move toward the attainment of the Whatcom County Goal Statements with respect to transportation planning.

Policy Statement

1.01 It shall be the policy of Whatcom County to coordinate and cooperate with the City of Bellingham in the planning of new arterial routes in the Lake Whatcom Subarea.

1.02 It is the policy of Whatcom County to acknowledge the currently programmed Whatcom Connector as the most important road construction project in the Subarea.

1.03 It is the policy of Whatcom County to encourage the construction of new roads in a manner that is contiguous to existing development. Such phased road construction is intended to discourage the occurrence of "leap frog" development within the areas designated as URBAN RESERVE.
1.04 It shall be county policy to implement the road classification plan as designated on the Lake Whatcom Subarea Roadway Classification Map through conformance with the following policies:

1.04.1 It shall be the policy of Whatcom County to develop Street Standards and Specifications that define the precise urban level transportation standards to be applied within the subarea. Such standards shall also include a variety of design standards for residential streets; design options for reducing imperviousness of road or pedestrian surfaces; access control plans for each functional road classification; drainage consistent with a regional stormwater management plan; standards for roadside features and pedestrian facilities; and roadway geometrics.

1.04.2 It shall be the policy of Whatcom County to reduce the amount of impervious surfaces including streets, driveways, sidewalks, etc., whenever possible, by using "natural" engineering design methods such as the use of open, shallow, grassed street swales instead of curbs and gutters. In addition, Whatcom County shall encourage the use of alternative surfacing options such as porous asphalt pavement, precast interlocking blocks, and rolled brick or cinder chips to reduce imperviousness of driveways. Natural design methods and surfacing options can aid in reducing total surface runoff, slowing of concentration and capturing particulates.

1.04.3 Whatcom County shall use the development approval process (subdivision, zoning and building permit) to establish community circulation patterns and to secure right-of-way and construction of all functional road classifications.

1.04.4 Through the development approval process (subdivision, zoning and building permit), Whatcom County shall identify the short and long-range transportation (traffic) impacts to subarea roads by computing the estimated number of vehicle trips generated by a project and comparing those computations against the planned level of service for each road segment (according to the Whatcom County Engineering Department design standards and specifications) impacted by the project including intersections. If it is determined that a proposed development will cause transportation (traffic) impacts which will result in a level of service below that planned for all affected road classifications, Whatcom County shall request the developer to make the necessary improvements to maintain the pre-planned level of service or to make an equivalent cash contribution.

1.04.5 It is herein the policy of Whatcom County to change the street name Terrace Avenue to Cable Street, which is that portion of roadway from Lakeway Drive to Cable Street.

1.05 It is herein the policy of Whatcom County to approve new road construction projects or improvements to existing roads consistent with a regional stormwater management plan for the URBAN RESERVE areas designated on the Lake Whatcom Subarea Comprehensive Land Use Plan Map. Should the private or public sector begin such projects before the plan is complete, the county shall implement appropriate measures to assure total containment of excess stormwater runoff for each development proposal. Upon completion of a
stormwater management plan, land area currently used for retention may be converted to permitted uses and densities consistent with the applicable zone district.

1.06 Where appropriate it shall be county policy to allow developers of small projects (15 lots or less) to build a half width road which will be classified below a collector arterial provided that all affected property owners agree to participate in completing the road.

1.07 It is herein the policy of Whatcom County to promote and encourage the availability of public transit as demand increases in the Lake Whatcom Subarea. The public transit system shall be designed to encourage the use of said system by providing frequent and convenient access points, and by integrating transit services with other transportation modes, such as bus systems, park and ride lots for automobiles and bicycles, and bus, railroad and airline terminal facilities.

Any major program change in the Transportation Improvement Program with respect to the circulation system shall provide accommodations for transit when warranted by the level and location of ridership.

1.08 It shall be the policy of Whatcom County to make every effort to preserve mature trees and unique wildlife habitats and other elements of the natural environment during the design and construction of road improvement projects. Where disruption of the natural environment is unavoidable, special techniques, including rounded slopes, erosion control, reseeding and revegetation shall be employed to return roadsides to their natural state.

1.09 It shall be county policy to include bikeways and pedestrian walkways as an integral part of the transportation system. Bikeways and pedestrian ways shall be provided in new developments where warranted. Bikeways shall be provided to link residential areas, shopping areas, recreational areas and educational facilities. Whenever practical, bikeways proposed in new developments shall connect with the planned bikeways in the Whatcom County Trails Plan.

1.10 It shall be the policy of Whatcom County to encourage the use of noise buffers and visual screens between high volume transportation routes and residential areas.
I. ENVIRONMENTAL POLICIES

Intent Statement

The intent of the following policies is to move toward attainment of the County Goal Statements which address the identification and management of environmentally fragile areas with the purpose of minimizing potential losses to human life and property, and the identification and conservation of natural resource areas in recognition of their irreplaceable character. In addition, the policies intend to maintain and enhance environmental quality with reference to water, air and noise.

Policy Statement

1.01 Whatcom County, in partnership with the City of Bellingham and Whatcom County Water District No. 10, shall seek a grant from the Department of Ecology to obtain the necessary funding to conduct a diagnostic and feasibility study of the Lake Whatcom Watershed. At a minimum, the purpose of said study shall be to investigate the human health aspects of continuing to use Lake Whatcom as a potable water source, to assess the potential impacts to the watershed resulting from the implementation of the Lake Whatcom Subarea Comprehensive Plan, and to recommend the appropriate restoration methods and watershed management ordinances, i.e. stormwater drainage control plan, clearing and grading regulations, amendments to the comprehensive plan and zoning ordinance, and public facilities construction specifications, deemed necessary to enhance the present and future water quality/quantity of Lake Whatcom.

Upon completion of the Lake Whatcom Restoration Study, Whatcom County shall reconsider the permitted densities and levels of projected growth in the Lake Whatcom Subarea.

1.02 It is the policy of Whatcom County to promote groundwater quality which is suitable for domestic consumption by encouraging low density and intensity uses in locations overlaying and directly adjacent to aquifers or recharge areas.

1.03 It is the policy of Whatcom County to recognize wetlands such as swamps, bogs, marshes and ponds as natural catchment basins for stormwater run-off.

1.04 It is the policy of Whatcom County to encourage utilization of steep slopes (greater than 15%) or unstable slopes as open space, very low density development or forestry. If used for development purposes, structures shall comply with the provisions of the Uniform Building Code, and their sites shall be subject to a safety confirmation by a qualified geologic engineer or a qualified geologist.

1.05 It is the policy of Whatcom County to promote the use of 100-year floodplains associated with stream corridors as open space. Furthermore, residential development which is proposed to be situated downstream from areas designated FORESTRY shall be encouraged to be sited at distances from all streams which are sufficient to minimize potential loss or damage to property that may occur as the result of debris dam failure or increased duration and volume of stream flow.
1.06 Whatcom County shall encourage very low densities in areas of known mineral resource occurrence with the intent of retaining future access and utilization options. Surface extraction shall be dependent upon compatibility with surrounding land uses and shall be accompanied by a reclamation plan which is consistent with state regulations (RCW 78.44). Subsurface mining operations shall conform with applicable federal regulations.

1.07 It is the policy of Whatcom County to foster continued fish and wildlife habitat integrity in the Lake Whatcom Subarea. Applicable habitats include the Squalicum Lake Wildlife and Bird Sanctuary, the eagle nests situated at the southeast end of Lake Whatcom, and Lake Whatcom Subarea salmon, Kokanee and cutthroat trout spawning streams. In addition, this policy intends to maintain the habitat integrity of the beaver pond which is situated on state land in Section 36, T38N, R3E preferably through the multiple-use management provisions of RCW 79.68 or through employment of sensitive logging systems, if timber is to be harvested.

1.08 It is the policy of Whatcom County to encourage property owners to use the current use tax assessment provisions of RCW 84.34 to retain the following areas in open space: steep or unstable slopes, stream corridors, wetlands and wildlife habitats.

1.09 It is the policy of Whatcom County to encourage air pollution abatement with the intent of maintaining and/or enhancing air quality, consistent with the Federal Clean Air Act, and accomplished through the coordination of local land use proposal review with the Northwest Air Pollution Authority and other environmental agencies.

1.10 It is the policy of Whatcom County to implement the necessary rules, regulations and ordinances which are required by state law to minimize noise impacts.

1.11 It is the policy of Whatcom County, pursuant to the provisions of the State Environmental Policy Act (WAC 197-10-177) and the Whatcom County SEPA Ordinance (Section 14), to identify and designate environmentally sensitive areas where certain uses should no longer be considered as categorically exempt from the SEPA checklist requirement. The Whatcom County Environmental Review Committee is herein directed to prepare a map indicating the location of ESA's and a text describing the basis for selection and intent of areas and uses which should be subject to SEPA checklist requirements. The map and text shall subsequently be recommended for adoption as part of the Whatcom County SEPA Ordinance.

1.12 It is the policy of Whatcom County to create a watershed advisory committee which is charged with determining issues and recommending public policies concerning water quality and quantity effecting the Lake Whatcom watershed. The committee shall address issues that include, but are not limited to, the effectiveness of current and future stormwater drainage techniques, the water-related impacts of chemical use within the watershed, coordination of capital improvement programs, the assessment of potential alternative water supply sources, and such other issues deemed appropriate for the management of the watershed. The committee shall be advisory to the County Council and other agencies of the county charged with policy making. Membership of the committee should consist of a mix of representatives of local government and the citizenry of the watershed.
Government members should include one appointee each by the Bellingham-Whatcom County Public Health District, Whatcom County Water District No. 10, the City of Bellingham, the Washington State Department of Natural Resources, and one representative of Whatcom County appointed by the County Executive.

Citizen members should include one representative each from the North Shore, Geneva, Sudden Valley, South Bay and Fourth Ward neighborhoods, a representative from the private forest products industry, and a representative from the Middle Fork-Nooksack River drainage basin, all appointed by the County Council.

The Planning Department shall submit to the Council, within ninety (90) days of adoption of the subarea plan, a proposed ordinance carrying forth the provisions of this section (1.12).

1.13 It is the policy of Whatcom County to discourage the discharge of unlawful concentrations of known toxicants directly into surface and groundwaters of the Lake Whatcom Watershed in such a way that public health, soils, wildlife and aquatic habitat will be endangered.

(Amended WCC Ordinance 84-105, 12/06/84)
J. ECONOMIC POLICIES

Intent Statement

The intent of the following policy is to assure that economic values are given appropriate consideration along with other goals so that Whatcom County attempts to fulfill the economic requirements of present and future generations of Whatcom County citizens. The Goal Statements of this comprehensive plan clearly indicate that future land use should recognize economic concerns in addition to environmental and social concerns to provide a balanced and diversified economy. It is therefore the policy of Whatcom County to establish a balance in its consideration of environmental and economic matters.

Policy Statement

1.01 It is the policy of Whatcom County to consider the positive and negative economic impacts in land use decisions on the general welfare of the citizens of the county.

1.02 It is the policy of Whatcom County to strengthen and stabilize the tax base through economic development.

1.03 It is the policy of Whatcom County to consider economic impacts, along with other considerations, of measures which implement this comprehensive land use plan.

1.04 It is the policy of Whatcom County to promote the wise use of both natural and man-made resources over the long run as well as in the immediate future.

1.05 It is the policy of Whatcom County to ensure that all county land use plans and zoning ordinances are considered in terms of their enhancement of the economy of the area and region and are calculated to:

(a) Foster and promote the general welfare;

(b) Create and maintain conditions under which man and nature can exist in productive harmony; and

(c) Fulfill the social, economic, and other requirements of present and future generations of Whatcom County citizens.
VII. COMPREHENSIVE PLAN AMENDMENTS

The Lake Whatcom Subarea Plan is a policy document that is used to guide the land use decisions affecting both the private and public sectors of the subarea. For the plan to function as an effective decision-making document, it must be flexible enough to weather changes in public attitudes, developmental technologies, economic forces and legislative policy.

The plan envisions two general types of plan amendments. The first type is a review conducted every five years. This review should re-examine the entire plan, including a re-evaluation of goals, updates of land-related elements, and the reaffirmation of land use policies and proposals. This review is the responsibility of the Whatcom County Planning Commission, the Planning Department staff and the people of the subarea.

The second type of amendment is that proposed and initiated by the private sector. The land uses illustrated on the Land Use Plan Map are the result of the application of the plan’s goals and policies. However, it is reasonable to assume that the private sector may introduce land use proposals that conflict with the plan map or policies of the plan itself. In such instances, the private sector may entertain an amendment to the plan. Private petitions for amendment of the Comprehensive Plan addressed to either the Planning Commission or the County Council shall be processed in accordance with statutory procedure for adoption or amendment of comprehensive plans. In applying for a particular amendment to the plan or plan map, the private sector shall conform to the following criteria:

1. The amendment request shall conform with the goals of the subarea plan;

2. The amendment request shall be compatible with the existing and planned surrounding land uses;

3. The amendment request shall not result in unmitigated detrimental impacts to existing transportation systems;

4. The amendment request shall not place uncompensated burdens upon existing or planned service capabilities; and

5. The amendment request shall demonstrate a land usage need which is consistent with the environmental and economic policies of the plan.
WHATCOM COUNTY
PLANNING COMMISSION

Repeal the 1982 Lake Whatcom Subarea Plan and
Amend Provisions in the Whatcom County Comprehensive Plan
relating to Subarea Plans

FINDINGS OF FACT AND REASONS FOR ACTION

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to
      subarea plans.
   b. Repealing the Lake Whatcom Subarea Plan (1982).

2. A determination of non-significance (DNS) was issued under the State
   Environmental Policy Act (SEPA) on March 25, 2014.

3. Notice of the Planning Commission hearing was posted on the County website
   on April 8, 2014.

4. Notice of the Planning Commission hearing and that the proposal had been
   posted on the County website was sent to the City of Bellingham and citizen,
   media and other groups on the County’s e-mail list on April 8, 2014.

5. Notice of the subject amendments was submitted to the Washington State
   Department of Commerce on April 8, 2014.

6. Notice of the Planning Commission hearing for the subject amendments was

7. The Planning Commission held a public hearing on the subject amendments
   on April 24, 2014.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive
   plan amendments the County must find all of the following:
      a. The amendment conforms to the requirements of the Growth
         Management Act, is internally consistent with the county-wide planning
         policies and is consistent with any interlocal planning agreements.
b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.

d. The amendment does not include or facilitate spot zoning.

e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

Growth Management Act

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 (“Comprehensive plans – Optional elements”).

10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The Lake Whatcom Subarea Plan was adopted in 1982, prior to enactment of the GMA in 1990. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan does not address urban growth areas (UGAs), contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.
County-Wide Planning Policies

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

Interlocal Agreements

13. A portion of the Bellingham UGA is included in the Lake Whatcom Subarea.

14. An Interlocal Agreement between the City of Bellingham and Whatcom County concerning Planning, Annexation and Development within the Bellingham UGA was signed in April 2012. This interlocal agreement does not require the County to retain this subarea plan.

Further Studies/Changed Conditions

15. The Lake Whatcom Subarea Plan was adopted in 1982.

16. The GMA, adopted in 1990, included a requirement to designate UGAs. The 1982 Lake Whatcom Subarea Plan does not address UGAs.

17. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1982 Lake Whatcom Subarea Plan does not address LAMIRDs.

18. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1982 Lake Whatcom Subarea Plan is not consistent with the County Comprehensive Plan.


20. The Urban Fringe Plan was adopted in 1997 and subsequently amended.

21. Changed conditions including enactment of the GMA, adoption of newer plans and the passage of time warrant repealing the 1982 Lake Whatcom Subarea Plan.

Public Interest

22. Repealing the 1982 Lake Whatcom Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.
Spot Zoning

23. The subject proposal does not involve rezoning property.

CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends the following:

1. Approval of Exhibit A, amendments to Whatcom County Comprehensive Plan Chapter 2 (Land Use); and

2. Repealing Exhibit B, the Lake Whatcom Subarea Plan (1982).

WHATCOM COUNTY PLANNING COMMISSION

David Onkels, Chair

Sam Ryan, Secretary

Date

Commissioners present at the April 24, 2014 meeting when the vote was taken: Ken Bell, Ben Elenbaas, Walter Haugen, Gary Honcoop, David Hunter, Natalie McClendon, David Onkels, Mary Beth Teigrob, and Gerald Vekved.

Vote: Ayes: 9, Nays: 0, Abstain: 0, Absent: 0. Motion carried to adopt the above amendments.
NOTE:

In order to avoid redundancy, Exhibits A and B are only attached to the proposed Ordinance that will be considered by the County Council.
Commissioner Teigrob moved to approve the minutes as written. Commissioner Hunter seconded. The motion carried.

Public Hearing

File # PLN2014-00002: Repealing the Lake Whatcom Subarea Plan, which was adopted in 1982, and amending related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot presented the staff report.

The first Whatcom County Comprehensive Plan was adopted in 1970. The first zoning was in 1972. The zoning at that time was intended to be temporary. The county was divided into subareas. Subarea plans were adopted beginning in the 1980’s. Several of these subarea plans are two to three decades old. Last year the county repealed the Chuckanut/Lake Samish, Lynden/Nooksack Valley and Birch Bay/Blaine plans. The GMA says “A comprehensive plan may include, where appropriate, subarea plans each of which is consistent with the comprehensive plan.” There are two elements here. Subarea plans are optional and if the county chooses to have them they must be consistent with the comprehensive plan. There is a policy in the comprehensive plan which states “If there is an inconsistency the county comprehensive plan takes precedence.”

The Lake Whatcom Subarea Plan was adopted in 1982. At that time the new Title 20 zoning replaced the interim zoning. It generally had more restrictions on land use than the previous zoning. (A map of the subarea was shown with the boundaries). The boundaries generally follow the watershed. The 1982 plan had population projections through the year 2000. The current comprehensive plan goes through 2029. The 1982 plan had a 15 year planning horizon. The plan had a variety of land use designations (shown on the map). Many of the areas have been rezoned or have different comprehensive plan designations since 1982. The plan had a forestry policy which addressed residential uses. At that time there was only forestry zone, which had a 20 acre minimum lot size. That policy is now outdated and creates a conflict. Staff recommends repeal of the plan.

The hearing was opened to the public.

Greg Brown, Whatcom County: Was discontinuing updating the subarea plans because of the GMA?

Mr. Aamot stated that in the 1990’s the county put most of its efforts into the developing and adopting the countywide Comprehensive Plan. They updated some of the subarea plans. There wasn’t the staff to update all of the plans on a continual basis. The Comprehensive Plan addresses most of the issues in the subareas.

The hearing was closed to the public.

Commissioner Teigrob moved to recommend approval of Exhibit A-Amendments to the Whatcom County Comprehensive Plan, chapter 2; and repeal of Exhibit B-the Lake Whatcom Subarea Plan. Commissioner Honcoop seconded.
Commissioner McClendon asked under what circumstances are subarea plans needed?

Mr. Aamot stated staff has thought about that. They think it may be good to retain the plans for active communities and those that stand alone from other areas.

Commissioner McClendon asked how the subarea plans relate to the Comprehensive Plan.

Mr. Aamot stated they add detail to the countywide plan.

Commissioner Bell asked if more resources were applied to the subarea plans would there be more activity? For example, Lake Whatcom is a large area which makes it difficult for people to come together as they do in a smaller area such as Birch Bay.

Roll Call Vote: Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.

File # PLN2014-00003: Repealing the South Fork Valley Subarea Plan, which was adopted in 1991, and amending related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot presented the staff report. (A map and aerial photo of the subarea was shown with the boundaries) The South Fork Plan was adopted in 1991; right after the GMA was adopted in 1990. The population projection for the subarea was through 2000. It had a more flexible planning period, however, that planning period has ended so it is not consistent with the current comprehensive plan period of 2029. There were five land use designations in the plan. There were two forestry zoning districts but the subarea plan only had one forestry land use designation. Some of the areas have been rezoned or now have different comprehensive plan designations. One of the policies in the plan reaffirms the 1970 comprehensive plan, which is outdated. That policy is now outdated and creates a conflict. Staff recommends repeal of the plan.

The hearing was opened to the public.

There was no public testimony.

The hearing was closed to the public.

Commissioner Honcoop moved to recommend approval of Exhibit A-Amendments to the Whatcom County Comprehensive Plan, chapter 2; and repeal of Exhibit B- the South Fork Valley Subarea Plan. Commissioner Teigrob seconded.

Roll Call Vote: Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.

File # PLN2014-00004: Repealing the Eliza Island Plan, which was adopted in 1994, and amending related provisions in the Whatcom County Comprehensive Plan and Zoning Code.
### WHATCOM COUNTY COUNCIL AGENDA BILL

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**TITLE OF DOCUMENT:**
Appointment to Lummi Island Ferry Advisory Committee, applicant Stu Clark

**ATTACHMENTS:**
application

**SEPA review required?** ( ) Yes ( ) NO
**SEPA review completed?** ( ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes (X) NO

**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.)

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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](http://www.co.whatcom.wa.us/council).
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Stirrat (Stu) H. Clark
Street Address: 1564 Seacrest Drive
City: Lummi Island, WA
Mailing Address (if different from street address):
Day Telephone: n/a Evening Telephone: n/a
E-mail address: stuclark@stuclark.com

Date: 13 November 2014
Zip Code: 98262-8691

1. Name of board or committee-please see reverse:
   Lummi Island Ferry Advisory Committee

2. You must specify which position you are applying for.
   Please refer to vacancy list.
   Lummi Island resident

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.)
   (x) yes ( ) no

4. Which Council district do you live in?
   ( ) One ( ) Two (x) Three

5. Are you a US citizen?
   (x) yes ( ) no

6. Are you registered to vote in Whatcom County?
   (x) yes ( ) no

7. Have you ever been a member of this Board/Commission?
   (x) yes ( ) no
   If yes, dates: 21 May 2012 (initial meeting) to date

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   ( ) yes (x) no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   Please see attached resume summary

10. Please describe why you’re interested in serving on this board or commission:
    to continue the collection and analysis of ferry operational data and to explore available options for continuing and improving ferry operations

References (please include daytime telephone number): Mel Kolstead 360-758-2015  Bill Lee 360-778-0271
    Randy Smith 360-758-2130  Tamia Sorenson 360-758-4019

Signature of applicant: [Signature]

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.
Stirrat (Stu) H. Clark
1564 Seacrest Drive
Lummi Island, WA 98262-8691
stuclark@stuclark.com

Retirement Activities:
Lummi Island Grange - Treasurer 2014-2015
Lummi Island Ferry Advisory Committee Member 2012-2014
    Vice-Mayor 1999-2000, 2002-2003
    Mayor 2003
Seward Chamber of Commerce 1992-2005
    President 1999-2000
    Vice-President 1998-1999
    Treasurer 1995-1997
Seward Planning & Zoning Commissioner 1995-1996
Seward Community Library Treasurer 1992-1996
California State Park Volunteer Ranger 1990-1992

Occupational Activities:
Sanders Assoc. Eng’g & Finance Mgmt. 1968-1983
    Mgr. Corp. MIS Development 1975-1983
    Senior Corp. Financial Analyst 1968-1970
Edgerstoune, Inc. Owner (Bldg. Dsn. & Constrn.) 1965-1968
RCA Aerospace Systems Division Program Mgmt. 1961-1965
Sylvania Data Systems Operations Project Mgmt. 1959-1961
Laboratory for Electronics Repair Depot Mgr. 1957-1959
Brook & Bridle Inn Assistant Manager (summer) 1954-1956
Franklin Inst. Labs. Computer Engineer 1953-1954
U. S. Army Transportation Corps Personnel Officer 1951-1953
Amherst College Physics Lab. Research Assistant 1948-1951

Education:
M. B. A., Harvard University 1954-1956
Candidate for M.S. in Physics 1950-1951
B.A., Amherst College, cum laude in Math. 1946-1950
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### TITLE OF DOCUMENT:

Ordinance amending WCC 3.08, Purchasing System

### ATTACHMENTS:

**SEPA review required?** ( ) Yes ( ) NO  
**SEPA review completed?** ( ) Yes ( ) NO

**Should Clerk schedule a hearing?** ( ) Yes ( ) 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 WCC 3.08, Purchasing System

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### COUNCIL ACTION:

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ORDINANCE NO. ________

AMENDING WHATCOM COUNTY CODE 3.08, PURCHASING SYSTEM

WHEREAS, the Whatcom County Council believes that open transparent government leads to the best decisions for the people of Whatcom County; and

WHEREAS, Whatcom County’s purchasing code is intended to provide the public with transparency and checks and balances regarding county expenditures; and

WHEREAS, Whatcom County Code 3.08.090 and 3.08.100 have numerous exceptions to the requirement of council approval; and

WHEREAS, parts of Whatcom County Code 3.08.090 and 3.08.100 reduce the public’s ability to be provided with transparency and adequate checks and balances regarding county expenditures;

NOW THEREFORE BE IT ORDAINED, by the Whatcom County Council that Whatcom County Code Chapter 3.08.090 and 3.08.100, are hereby amended as outlined in Exhibit A to this ordinance.

APPROVED this____day of______________, 2015.

ATTEST: WHATCOM COUNTY COUNCIL

Dana Brown Davis, Clerk of the Council Carl Weimer, Council Chair

WHATCON COUNTY, WASHINGTON

APPROVED AS TO FORM: WHATCOM COUNTY EXECUTIVE

Civil Deputy Prosecutor Jack Louws, County Executive

WHATCOM COUNTY, WASHINGTON

(  ) Approved (  ) Denied
Date Signed: ___________________
EXHIBIT A

3.08.090 Bid specifications, deposits and awards.

A. In developing specifications for bids or proposals, all reasonable efforts shall be made to ensure that a variety of vendors shall be capable of fulfilling the stated requirements of the county. Performance considerations shall be included in the specifications. However, nothing in this section shall be construed to limit the county from pursuing sole source procurement where adequate justification has been presented that such procurement is in the best interests of county operations.

B. When the acquisition of materials, supplies, purchased services, tools, equipment, rental of personal property or professional services involves amounts greater than $25,000 in a single transaction for a nonpublic work award or exceeding $40,000 for a public work award, the administrative services department shall be responsible for the review and approval of specifications and the preparation of invitations to bid pursuant to provisions set forth in this chapter.

C. All bid specifications shall be in writing and placed on file for public inspection.

D. An advertisement that written specifications are on file and available for public inspection shall be published in the official county newspaper. Advertisements shall be published at least once in each week for two consecutive weeks prior to the last date upon which bids will be received and may be published for as many additional publications as shall be considered in the county’s interest. Such advertisement shall state:

1. The date after which bids will not be received;

2. The character of the work to be done, or the materials, equipment or service to be purchased; and

3. Where the specifications may be seen.

E. No bid shall be considered for public works unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier’s check, or certified check in an amount equal to five percent of the amount of the bid proposed.

F. Should the bidder to whom the contract is awarded fail to enter into the contract or fail to furnish the contractor’s bond within 10 days (exclusive of the date of notice) after notice of the award, the amount of the bid deposit shall be forfeited to the county. Thereafter, the award shall be made to the next lowest responsive bidder. The bid deposit of an unsuccessful bidder (if his bid deposit has not been forfeited) shall be returned after the required contractor’s bond of the successful bidder has been accepted.

G. Bids received shall be opened and read in public on the date named in the advertisement for bids, or on a subsequent date established in a bid addendum.

H. After opening, all bids shall be reviewed and referred to the requisitioning department for recommendation of award. Bids will be forwarded by the director of the administrative services department or designee with a recommendation to the county executive for award.

I. After opening and award, all bids shall be filed for public inspection, and available by telephone inquiry.
J. Any or all bids may be rejected for good cause. If all bids are not rejected, the award shall be to the lowest responsive bidder. In determining which is the lowest responsive bidder, the county may take into consideration the bidder’s responsiveness to the county’s requirements, the quality of the articles to be purchased or leased, availability of parts and service, delivery time, the tax revenue the county would receive from purchasing from a supplier located within its boundaries and prior dealings with the bidder.

K. The county may issue requests for proposals for services, or for technologically complex equipment including but not limited to computers, software, or telephone systems. If all proposals are not rejected, the award shall be to the highest rated proposal, taking into account the selection criteria published in the request for proposals.

L. The county may award to multiple bidders for the same commodity or service when the bid specifications provide for special circumstances in the determination of which vendor is truly the lowest price to the county. Special circumstances may include differences in ability to deliver, delivery time, availability of material, special loading or unloading conditions, total cost including transport or labor if not included with bid item, performance of the delivered material, location of the source, and proximity to the delivery point.

M. The county executive may administratively amend and execute capital improvement project contracts within the approved capital budget appropriation.

N. Contracts entered into by the county, including those which involve externally funded pass-through moneys, may be administratively amended to a cumulative amount not to exceed $10,000 or 10 percent of the original contract, whichever is greater; larger amounts require council approval.

O. Amendments to existing contracts which involve externally-funded pass-through moneys may be approved by the county executive without council approval in any amount. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

3.08.100 Council approval required.

Contracts for professional services exceeding $20,000, bids exceeding $50,000 and all real property leases must be submitted to the county council for approval, except when:

A. Exercising an option contained in a contract or lease previously approved by the council.

B. Contract is for the design, construction, right-of-way acquisition or other capital costs for capital projects which are within the appropriation approved by the county council in a capital budget appropriation ordinance.

C. Contract is for technical support and software maintenance from the developer of proprietary software which is currently being used by Whatcom County.

D. Contract is for manufacturer’s technical support and hardware maintenance of electronic systems.

E. Pursuant to and within the scope of a declaration of emergency made by the county executive under WCC 3.08.060(B). The county executive, pursuant to a declaration of emergency, shall submit the contract to the county council for informational purposes at the council’s next regular or special meeting.

F. Contracts and interlocal agreements which do not require the use of county funds may be approved administratively by the county executive. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 2000-025; Ord. 97-034 Exh. A; Ord. 96-034; Ord. 93-042 Exh. H).