CALL TO ORDER

Council Chair Kathy Kershner called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Sam Crawford, Kathy Kershner, Bill Knutzen, Ken Mann, Pete Kremen and Carl Weimer
Absent: None

FLAG SALUTE

ANNOUNCEMENTS (7:03:08 PM)

Kershner announced there was a STRATEGY PLANNING DISCUSSION AND POSITIONS TO BE TAKEN REGARDING COLLECTIVE BARGAINING (AB2012-018) in executive session during the Committee of the Whole meeting.

Kershner also announced there was DISCUSSION REGARDING POTENTIAL PROPERTY ACQUISITION FOR THE FLOOD CONTROL ZONE DISTRICT (AB2012-018) in executive session during the Committee of the Whole meeting.

(Clerk’s Note: Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.)

Knutzen moved to authorize the County Executive, acting on behalf of the Whatcom County Flood Control Zone District Board of Supervisors, to move forward and complete acquisition of one property in the Glacier Springs subdivision, as long as the purchase price does not exceed the amount discussed in executive session.

The motion carried by the following vote:
Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

Kershner finally announced there was DISCUSSION WITH SENIOR DEPUTY PROSECUTOR KAREN FRAKES REGARDING PENDING LITIGATION (AB2012-018) in executive session during the Committee of the Whole meeting.
PUBLIC HEARINGS

1. ORDINANCE AMENDING WHATCOM COUNTY CODE 20.14 WIND ENERGY SYSTEMS (AB2011-223) (7:07:02 PM)

Wain Harrison, Planning and Development Services, gave a staff report. He gave a history of the issue.

Kershner opened the public hearing and the following people spoke:

William Cox stated this ordinance must be improved to further protect public health and welfare. Extend the moratorium and include all zoning areas, including the commercial forestry zone, in the moratorium. His main areas of concern are noise, property value reduction, esthetics, bird migration, and the financial surety provision.

Abe Jacobson submitted and read from a handout (on file). He is concerned about the half-mile setback, which should be twice the tip height. Twenty decibels is far below the background of sound in which they live. No health hazards, other than psychosomatic complaints, have been demonstrated. Reject the ordinance or removed the offensive features.

James Loucky stated he supports use of wind energy. Humans have used wind energy for centuries. There are many examples in other countries of systems that are aesthetically pleasing and economically progressive. Make the shift from an obsolete and dangerous technology to wind energy, they could rebuild old growth forests.

Alex Ramel, Sustainable Connections, stated he helped draft this ordinance and has worked on this issue for a long time. Develop an ordinance that works for both neighbors and system developers, allows the county to benefit from the system, moves them toward a future powered by clean, local energy. The proposed ordinance includes a lot of compromises. The setback of 2,500 feet in rural forestry and agricultural zones is a deal-killer. He is ready to give up rural forestry zones. Eliminate rural forestry zoning as areas where large energy wind systems are allowed. Amend setbacks in agricultural zones based on two times the total height of the tower.

Cary Kaufman stated the ordinance is reasonable and pays attention to both groups. The complaint process can be improved. Limit complaints for one year, not forever. When decommissioning, the business should have to clear concrete beneath the ground.

Brooks Anderson spoke on issues not related to the wind energy ordinance. She was asked to make her comments during open session.

Josh Bow stated develop new, renewable technology for energy. He supports the use of wind energy.

Terry Meyer, Cascade Community Wind Company, stated he is a proponent of wind energy. Resource lands are for making the county economically viable. They must be able to use those lands. Reasonable setbacks are appropriate. Systems can’t always be sited at the middle of a property. They need to be sited at the ridgeline. Change the setback from 1.5 to 1.2 times the total height of the system.

Neil Baunsgard, Western Washington University Students for Renewable Energy, stated the students support wind power.
David Stalheim stated they need to be able to produce power on resource lands. Setback of 2,500 feet will prohibit the systems in the agricultural zones. The setback in agricultural zones should be two times the total tower height. Getting an easement from a neighbor wouldn’t work. There are performance standards for every concern raised. The setbacks are only secondary precautions. The projects will employ people during construction and help farmers with their lease payments.

Margaret Mawson stated the concerns are not about whether wind energy is good or bad. The concerns are about the benefits and detriments of siting a wind energy system. If wind energy is so great, there is an allowance in the ordinance that allow neighbors to agree to not follow the setbacks in the ordinance. Evidence will come out from studies that show it can be harmful to a certain percentage of the population.

Hearing no one else, Kershner closed the public hearing.

(7:38:49 PM)

Crawford moved to adopt the ordinance. He asked if the 2,500 setback is from a property line or from a differing zone, and if it applies to the agricultural zone.

Wain Harrison, Planning and Development Services Department, stated the setback is from a property line, for those systems that are 51 kilowatts or greater. It does apply to the agricultural zone.

Crawford asked if there are properties more than one mile wide. Harrison stated there is not.

Brenner stated there hasn’t been a moratorium on wind energy. There has been a moratorium on a certain size in certain zones. The smaller systems have been allowed in the agricultural zone all along, with much smaller setbacks. The bigger systems considered industrial sized need a bigger setback. If anyone wants to change anything regarding agricultural, send it to the Agricultural Advisory Committee for review. That shouldn’t hold up this ordinance. She isn’t concerned about changing the setback to 1.2 within an allowable zone from 1.5. She talked to farmers on the East Coast who entered into a lease that they can’t get out of because they initially wanted it. They don’t have any ulterior motive to say that the system is making them sick. Low frequency sound is difficult for some people, more than other people. Dolphins and whales have trouble with low frequency sound from submarines. They should be concerned about people, too. They can’t buffer a low frequency sound.

Mann stated there are performance standard requirements for low frequency sound and other types of sounds. If anyone is hearing noise from the wind turbines, there is a way to take action. The setbacks are a secondary protection. They removed the big wind systems from the rural forestry zone, in response to folks at Squalicum Mountain. The issue now is setbacks to other zones and whether or not they should include the agriculture zone with the commercial forestry zone and industrial lands. It’s a good idea to make setbacks based on tower height.

He moved to amend Council packet page 208, the setback requirements chart, the second category for system sizes of 51 to 500 kilowatts (kW) and the third category for system sizes of 501kW or greater, “2,500 feet= Two times the tower height or 1,000 feet from property line whichever is greater adjacent to all zones except CF, AG or HII and
except that a minimum setback of 1.5 times total height is required from property lines adjacent to other properties in CF, AG or HII zones.”

Crawford asked the reason for making the setback adjacent to all zones instead of adjacent to all property lines. Harrison stated the intent was to identify all zones that allow a residence. All the zones not included are the zones that would allow a residential structure.

Crawford stated the language is confusing, and should say that they are specifying all zones that allow residences. Harrison stated the zoning chart indicates which zones they’re allowed in, based on size. Put the two together, and the regulation can be clearly administered by staff. Not all properties have the same zoning on all sides. The setback applies to the property lines that are adjacent to zones that aren’t commercial forestry or heavy impact industrial.

Brenner stated she supports the 1.2 times the total tower height change but not the change from 2,500 feet. The systems are huge, and inappropriate for areas where people live. It will affect people who live in the rural forestry zone and rural zone. Run it through the Agricultural Advisory Committee. They shouldn’t do the agricultural thing without talking to the agricultural community.

Weimer stated Farm Friends sent a letter saying they would like to have time to comment. He asked if Councilmember Mann wants to include the agricultural zone in both sections that already specify commercial forestry and high impact industrial.

Mann stated he does. Regarding the health impacts, he searched all over for credible scientific evidence that indicates substantiated health impacts. The most serious malady attributed to the systems is a psychosomatic annoyance. Anecdotal interviews aren’t on par with peer reviewed scientific research. He read research done worldwide. There isn’t anything that persuaded him that people get sick from wind turbines. If he did, he would change his mind. A 1,000 foot buffer is reasonable. Most systems will be in commercial forestry and high impact industrial zones. A few may be in the agricultural zone. They must explore this option for energy. Outlawing it based on anecdotal research isn’t prudent.

Crawford asked if the language says that there will be no windmills within a half mile of the agricultural zone perimeter, and the only restriction is the tower height setback from adjoining property lines. Harrison stated the setback takes precedent over the tower height setback. It’s based on each individual property. All setbacks are measured from the property lines of the property on which the project is located.

Crawford asked the difference between the 2,500 foot setback and the tower height setback. Harrison stated the 2,500 foot setback doesn’t apply in the commercial forestry or heavy impact industrial zone unless the property is adjacent to a different zone. In that case, they would apply the tower height setback.

Crawford stated the intent was to have extra protection when near another zone, but a shorter setback within the zone. The setbacks are measured from the property line of the subject property.

Mann stated he proposes that the setback would be 1.2 or 1.5 times the tower height from the property line in the agricultural zone. The intent for a setback of two times the tower height, or 1,000 feet, whichever is greater, to zones that are not agriculture,
commercial forestry, or heavy impact industrial, which would have a setback of 1.2 times the tower height.

Knutzen stated he supports Councilmember Brenner’s suggestion that agricultural zone not be added. Don’t take land out of the production of food to put into wind turbines. Small farmers next door will no longer farm next door.

Brenner stated peer review on the effects of low frequency sound has never been done because studies have only been done by the wind energy industry. There aren’t any human health studies by an objective third party. Other countries and areas have bigger setbacks than 2,500 feet. No one who worked on this agreed on an extremely short setback of 1,000 feet. It’s a powerful amendment that isn’t fair.

**Mann amended his motion** to amend Council packet page 208, the setback requirements chart, the second category for system sizes of 51 to 500 kilowatts (kW) and the third category for system sizes of 501kW or greater, “2,500 feet adjacent to all zones except CF or HII and except that a the minimum setback of is 1.5 times the total height is required from property lines adjacent to other properties in CF or HII zones. Two times the tower height or 1,000 feet, whichever is greater, from a property line, unless the neighboring property is a CF, AG, or HII zone, in which case the setback is 1.2 times the total height from the property line.”

Knutzen stated he is against this in the agricultural zone. They don’t have any studies on how noise affects things. When Mt. Saint Helens blew up, he couldn’t hear or feel anything, but his Holstein cows started running around. They need an idea of how this affects people and animals in the agricultural zone. Let the Agricultural Advisory Committee look at the proposal and decide.

**Brenner moved** to amend the motion and vote on the three major changes separately.

The motion to amend Councilmember Mann’s motion failed by the following vote:

**Ayes:** Brenner and Knutzen (2)

**Nays:** Kremen, Crawford, Weimer, Mann and Kershner (5)

Crawford stated he supports the amendment. They will have at least two weeks until they have another hearing on this, during which the Council can solicit opinions from the agricultural community.

Knutzen stated the community wants to protect agriculture. This amendment puts large chunks of concrete and structures in the agricultural zone, which keeps the land from agricultural production.

Mann stated a reason for allowing the use in the agricultural zone is to allow farmers and folks in the agricultural business to supplement their income. They hear how important it is for farmers to receive financing. This would provide farmers a constant, guaranteed stream of income, and they get to continue farming other than the small area where the windmill is located. It allows farmers more stability than they have now. He does want to hear from the agricultural community.

**Brenner moved** to refer to the Planning and Development Committee.
The motion to refer to committee failed by the following vote:

**Ayes:** Crawford, Brenner and Knutzen, (3)

**Nays:** Kremen, Weimer, Mann and Kershner (4)

*Kershner moved* to postpone consideration and leave the written record open until the next meeting.

Brenner stated it won’t get through the Agricultural Advisory Committee by then.

Mann stated they still have to reschedule another public hearing if there are amendments. Aggressively get input from the Agricultural Advisory Committee.

*Kershner withdrew her motion.*

Councilmember Mann’s motion to amend carried by the following vote:

**Ayes:** Kremen, Crawford, Weimer, Mann and Kershner (5)

**Nays:** Brenner and Knutzen (2)

Mann referenced a scrivener’s error on Council packet page 209, section 20.14.061, “1. Audible sound is not to exceed 20 dB(a) above ambient background noise or 45 dB(a), whichever is greater,...”

Harrison stated the section title for 20.14.040 was inadvertently omitted. He will include the title.

*Mann moved* to amend Council packet page 212, section 20.14.090, “To avoid frivolous complaints,...of any future complaints originating from the same household for one year, unless the WES project has expanded....”

Brenner asked how a complaint is determined to be frivolous. Harrison stated that the language is to prevent people from complaining so often that they shut down the operation, which would have to constantly be testing for the same issue.

*Brenner suggested a friendly amendment* to amend Council packet page 212, section 20.14.090, “To avoid frivolous complaint, a...of any future complaints originating from the same household for one year, unless the WES project has expanded....”

*Mann accepted* the friendly amendment “To avoid frivolous complaint, a...of any future complaints originating from the same household for one year, unless the WES project has expanded....”

Kershner stated she is against the amendment. As written, there is protection for both the business owner and neighboring landowners. If there is truly a sound issue, a sound study would detect the issue and the business owner would pay for the study. The business won’t be subject to property owners who file a new complaint every year.

*Crawford suggested a friendly amendment* to change the complaint ban to two years.

*Mann accepted* the friendly amendment “To avoid frivolous complaint, a...of any future complaints originating from the same household for two years, unless the WES project has expanded....”
Crawford stated that two neighbors could rotate complaints every year.

Mann stated his intent is to prevent people from abusing the complaint process to harass the business, similar to how agriculture is protected from complaints about farming activities.

Crawford stated that in the instance of agriculture, a complaint doesn’t result in a costly study like it does with this use.

Kremen stated he suggests that the language identify the same two households, so they wouldn’t be able to rotate annually.

Mann withdrew his amendment. He asked Mr. Harrison to write language to address his concern. He moved to amend Council packet page 213, section 20.14.103, to change the aggregate amount for a WES with a rated output 501 kW or greater from $3 million to $2 million.

Brenner stated the proponents advocated for $3 million because they said insurance doesn’t come in the amount of $2 million.

Knutzen stated the cost of insurance in the amount of $3 million isn’t that different from the cost of insurance in the amount of $2 million.

Crawford stated an email asserted that insurance is capped at $2 million for wind energy towers. He doesn’t know if that assertion is valid.

Weimer stated insurance companies insure certain aggregate amounts, such as $2 million or $5 million.

The motion to amend carried by the following vote:

Ayes: Kremen, Weimer, Mann and Kershner (4)
Nays: Knutzen, Brenner and Crawford, (3)

Mann moved to amend section 20.14.090, “To avoid frivolous complaints, any households that registers a complaint against a WES that is proven to be in compliance shall be responsible for the costs of any future complaints originating from the same households for two years unless the WES project has expanded and/or proven to be in violation of the sound performance standards. At the discretion of Whatcom County PDS, if it appears residents are abusing the complaint process, complaints may be compiled for three (3) months at a time and then a sound study conducted at all of the locations. No WES project shall be required to conduct more than two (2) sound measurements at any one adjacent property per year unless the WES project has expanded and/or proven to be in violation of the sound performance standards.”

The motion carried by the following vote:

Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

Kershner moved to amend 20.14.102, “1. Remove all wind turbines, above- and below-ground improvements, and outdoor storage.”
Brenner asked why the language doesn’t include all improvements. Harrison stated the committee decided it did not care about removing concrete or utility line infrastructure that is three feet underground.

Kershner asked if farmers could till their fields greater than three feet, if in the agricultural zone.

Kremen stated the issue is also about drainage and root systems. He supports the amendment.

The motion carried by the following vote:

Ayes: Kremen, Crawford, Brenner, Knutzen, Mann and Kershner (6)
Nays: Weimer (1)

Kershner stated the staff will prepare a new proposed ordinance. The Council will introduce the new proposed ordinance on February 14, 2012 and schedule a public hearing on February 24, 2012.

2. ORDINANCE IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS FOR DIVISIONS OF LAND RESULTING IN LOTS SMALLER THAN FIVE ACRES WITHIN THE LAKE WHATCOM WATERSHED (AB2012-040) (8:44:22 PM)

Kershner opened the public hearing, and the following people spoke:

Dan McShane stated he thanks the Council for working on Lake Whatcom. The Council could take more of a lead now regarding the potential for development in the watershed. He submitted a handout (on file) of a draft ordinance for the Council to consider. Resolve this long-standing problem and send a message to the City of Bellingham about their urban growth areas. Make it clear that the County Council is not in favor of more lots and urbanization in the part of the watershed that is most damaged. He supports the ordinance.

Shane Roth stated he supports extending the moratorium, especially given the County’s third order of invalidity from the Hearings Board. Continue doing no harm.

Hearing no one else, Kershner closed the public hearing.

Weimer moved to adopt the ordinance.

The motion carried by the following vote:

Ayes: Kremen, Brenner, Weimer, Knutzen, Mann and Kershner (6)
Nays: Crawford (1)

OPEN SESSION (8:48:52 PM)

The following people spoke:

- Bob Burr spoke about jail conditions.
- (Clerk’s Note: The speaker following Bob Burr requested that his/her testimony not be included in the minutes. The speaker’s testimony is available on the meeting’s audio recording.)
- Dick Whitmore spoke about stopping the Lake Whatcom reconveyance.
• Tom Westergreen spoke about stopping the Lake Whatcom reconveyance.
• Bruce Diele spoke about gay marriage and civil union.
• Shane Roth spoke about concerns regarding the proposed ordinance amending flood sub-zone citizen advisory boards.
• Roger Almskaar spoke about the effects of the new Growth Management Hearings Board order.
• Lesa Starkenburg-Kroontje spoke about the mineral resource land designation on Aldrich Road.
• David Stalheim spoke about the effects of the new Growth Management Hearings Board order.

CONSENT AGENDA (9:17:54 PM)

Mann reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one through seven and nine through 17. Item eight was removed from the agenda.

The motion carried by the following vote:

Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

1. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WHATCOM LAND TRUST FOR AUTHORIZATION OF PURCHASE OF A CONSERVATION EASEMENT UNDER WCC 3.25A – PURCHASE OF AGRICULTURE DEVELOPMENT RIGHTS PROGRAM, IN THE AMOUNT OF $2,000 PER EASEMENT, OR 3% FEE ON THE FIRST $150,000 OF THE EASEMENT PRICE, WHICHEVER IS GREATER, AND 2% OF THE EASEMENT PRICE IN EXCESS OF $150,000 UP TO $500,000, AND 1% OF THE EASEMENT PRICE IN EXCESS OF $500,000 (AB2012-047)

2. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WINDWARD ENVIRONMENTAL CONSULTANTS, LLC FOR ASSISTANCE WITH NPDES PHASE II STORMWATER PERMIT PUBLIC EDUCATION OUTREACH AND EVALUATION, IN THE AMOUNT OF $59,995 (AB2012-048)

3. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WILSON ENGINEERING, LLC FOR ASSISTANCE WITH NPDES PHASE II STORMWATER PERMIT COMPLIANCE IN STORMWATER ASSET MANAGEMENT PROGRAM DEVELOPMENT, IN THE AMOUNT OF $129,068 (AB2012-049)

4. 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 INCLUDING COMMUNITY EDUCATION AND OUTREACH, AND WATER QUALITY MONITORING, IN THE AMOUNT OF $36,500 (AB2012-050)

5. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND SUN COMMUNITY SERVICES TO PROVIDE FUNDING FOR SUPPORTIVE SERVICES AND OPERATING AND
MAINTENANCE EXPENSES AT THE I STREET APARTMENTS, A PERMANENT SUPPORTIVE HOUSING PROJECT FOR PEOPLE LIVING WITH MENTAL ILLNESS, IN THE AMOUNT OF $22,209 (AB2012-051)

6. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND THE PORT OF BELLINGHAM TO INSTALL A SINGLE FENDER PILE AT THE BELLINGHAM CRUISE TERMINAL TO ACCOMMODATE THE SAFE DOCKING OF THE WHATCOM CHIEF, IN THE AMOUNT OF $25,000 (AB2012-052)

7. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND THE OPPORTUNITY COUNCIL FOR SHELTER PLUS CARE ADMINISTRATIVE SUPPORT IN THE AMOUNT OF $35,960, FOR A TOTAL AMENDED CONTRACT IN THE AMOUNT OF $67,286 (AB2012-053)

8. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND COMPU-TECH, INC. FOR UPGRADE WORK TO BE DONE ON THE WNET BROWSER TO INCORPORATE NEW AND MORE EFFICIENT TECHNOLOGIES AND TO ENHANCE SYSTEM SECURITY TO PROTECT USER FILES, IN THE AMOUNT OF $73,400 (AB2012-054)

9. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF THE ANNUAL SUPPLY OF LIGNOSITE FROM MEENDERINCK, LLC, A SOLE SOURCE PROVIDER, IN THE AMOUNT NOT TO EXCEED $50,000 (AB2012-055)

10. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF THE ANNUAL SUPPLY OF GLASS BEADS FOR TRAFFIC MARKING PAINT USING THE WASHINGTON STATE CONTRACT, FROM VENDOR ALPINE PRODUCTS, INC. AND POTTER INDUSTRIES, IN AN ESTIMATED AMOUNT OF $80,000 (AB2012-056)

11. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF THE ANNUAL SUPPLY OF ASPHALT PRODUCTS USING THE WASHINGTON STATE CONTRACT, FROM VENDORS ALBINA ASPHALT, ARROW CONSTRUCTION SUPPLY, LAKESIDE INDUSTRIES, LIQUID CONCRETE, PARTNER CONSTRUCTION PRODUCTS, SPECIAL ASPHALT PRODUCTS, SOUND REFINING, WILLIAMS FORM ENGINEERING, AND CRAFCO, IN AN ESTIMATED AMOUNT OF $40,000 (AB2012-057)

12. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF THE ANNUAL AUTOBODY REPAIR SERVICES USING THE WASHINGTON STATE CONTRACT, FROM VENDOR CEI GROUP WITH GITT’S AUTOBODY OF FERNDALE DOING THE ACTUAL REPAIRS, IN AN APPROXIMATE AMOUNT OF $50,000 (AB2012-058)

13. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF ANNUAL GUARDRAIL USING THE WASHINGTON STATE CONTRACT, FROM VENDOR CORAL SALES, IN AN APPROXIMATE AMOUNT OF $40,000 (AB2012-059)
14. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF THE ANNUAL SUPPLY OF AUTO PARTS, USING THE WASHINGTON STATE CONTRACT, FROM VENDORS CARQUEST AND NAPA AUTO PARTS, IN AN ESTIMATED AMOUNT OF $50,000 (AB2012-060)

15. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF RADIO EQUIPMENT IN 2012 FOR SHERIFF’S VEHICLES USING THE WASHINGTON STATE CONTRACT, FROM VENDORS MOTOROLA FOR THE EQUIPMENT AND DAY WIRELESS FOR THE INSTALLATION, IN THE APPROXIMATE AMOUNT OF $50,000 (AB2012-061)

16. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF LIGHT BARS AND RELATED EQUIPMENT IN 2012 FOR SHERIFF’S AND PUBLIC WORKS VEHICLES USING THE WASHINGTON STATE CONTRACT, FROM VENDOR AUTO ADDITIONS, INC. IN AN AMOUNT THAT COULD EXCEED $35,000 (AB2012-062)

17. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF THE 2012 ANNUAL SUPPLY OF LUBRICANTS USING THE WASHINGTON STATE CONTRACT, FROM VENDOR CONOCO PHILLIPS 66/REISNER DISTRIBUTOR IN AN AMOUNT THAT COULD EXCEED $35,000 (AB2012-063)

OTHER ITEMS

1. ORDINANCE AMENDING THE 2012 WHATCOM COUNTY BUDGET, FOURTH REQUEST, IN THE AMOUNT OF $1,189,558 (AB2012-039) (9:19:15 PM)

Mann reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:

Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

2. RESOLUTION APPROVING POLICIES AND PROCEDURES FOR RETENTION OF WHATCOM COUNTY COUNCILMEMBER EMAILS (AB2012-043) (9:20:27 PM)

Mann reported for the Finance and Administrative Services Committee and moved to approve the substitute resolution.

Crawford stated he is concerned that item 11 isn’t clear. He moved to amend the language, “Sending emails using the blind copy feature is highly discouraged.”

Kremen stated he is against the motion to amend. It doesn’t accomplish anything. Either they will tolerate it or not tolerate it. The language doesn’t state what they’re willing to accept or not accept.

Crawford withdrew his motion to amend. He prefers that the language specifically prohibits blind copying emails.
Kremen moved to amend the resolution to reinstate the original language that prohibited using the blind copy feature.

Brenner stated the original language is discriminatory against people who don’t want to be harassed and people who don’t have technological skills to secretly send email to someone else to forward to a list of people. It will make people more sneaky, not more transparent.

Knutzen stated he is against the motion to amend. He prefers to reinstate the original language of item 12 and delete item 11. All the information necessary is in the metadata.

Dana Brown-Davis, Clerk of the Council, stated the original language from item 12 was moved to item three.

Kershner stated she is against the amendment. This is a policy that should guide Councilmember behavior. There are different ways of achieving similar results. As long as the Council is not out of compliance with the Open Public Records Act, allow room to accommodate everyone’s style of email communication.

Kremen asked the legal situation regarding the issue.

Crawford stated it’s not against the law, but it must be disclosed. If every communication and every recipient is subject to public disclosure, there is no point of using the blind copy feature, regardless of whether there is a law against it.

Brenner stated one point is that people don’t like having pages and pages of email recipients before they can get to the text of the message. Another point is that people don’t like having their lists out there for everyone. It’s one thing if someone requests the public record. Many people are getting email scams, viruses, and ID theft from their email address. She’s getting email from her own email address that isn’t really from her. People aren’t taking email addresses as seriously as street addresses, but they’re just as vulnerable. Don’t subject the public to email spam and viruses.

Perry Rice, Administrative Services Department, stated email can be spoofed. Getting false email from someone is possible.

Knutzen stated he is in favor of Councilmember Brenner’s request to allow blind copies. The information is available through any public disclosure request. She’s tried to work with staff. It’s important to her to consider the effects to the public. Honor her request. He encourages Councilmember Brenner to migrate to the County email system.

Mann stated both points have merit. They can’t make policy based on someone’s technical ability. There would be a chilling effect on the amount of information the councilmembers send to their constituents. He likes to tell people what is going on. He always tries to blind copy them because it isn’t right to share email addresses with everyone else on a list. Highly discourage the practice. Limit the use of blind copying to situations of sending a one-way transmission of information to multiple recipients. Don’t engage in dialog back and forth using the blind copy feature. Retain the freedom to use the feature to inform constituents of what is going on.

Brenner stated she sends a copy of everything she sends out to Council staff. Her service provider won’t allow her to transfer her information. She keeps a separate folder
that has everything she receives regarding County business. Anyone can take the information whenever they want.

Kremen asked staff what prompted the language about the blind copy. Brown-Davis stated there is a section in the Public Records Act pamphlet that says blind copy lists must be disclosed. She found the language in a policy from another jurisdiction.

Kremen asked if staff is comfortable with the amended version. Brown-Davis stated that if the Council is comfortable with it, she’s comfortable with it. She is comfortable, as long as they can get to the actual metadata in the original email.

*Kremen withdrew* his motion.

*Weimer moved* to amend the motion to amend item 11, “The use of blind copying is highly discouraged, including the use of blind distribution lists.”

The motion to amend carried by the following vote:

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

**Nays:** None (0)

The motion to approve with one amendment carried by the following vote:

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

**Nays:** None (0)

3. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO AN INTERLOCAL GRANT AGREEMENT BETWEEN WHATCOM COUNTY AND BELLINGHAM TECHNICAL COLLEGE UTILIZING EDI PROGRAM FUNDING FOR USE IN THE CONSTRUCTION PROJECT KNOWN AS BTC’S NORTHWEST CENTER FOR ENVIRONMENTAL, FISHERIES AND AQUACULTURE SCIENCES, IN THE AMOUNT OF $400,000 (AB2012-046) *(9:40:25 PM)*

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

The motion carried by the following vote:

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

**Nays:** None (0)

4. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE PLAN MAP AND ZONING MAP TO REMOVE A MINERAL RESOURCE LANDS (MRL) ZONING OVERLAY FROM THE EXISTING RURAL (R10) ZONE AND CHANGE THE MRL DESIGNATION TO RURAL FOR APPROXIMATELY 90 ACRES ON ALDRICH ROAD (AB2011-435) *(9:41:20 PM)*

*Knutzen moved* to forward for concurrent review, scheduled February 14, 2012. He read the recommended amendments to the findings from Planning and Development Committee.

Dana Brown-Davis, Clerk of the Council, read the recommended amendments made during committee:

- Delete Finding 19,
- Delete Finding 13,
- Delete the second paragraph in Finding 32,
Brown-Davis stated that if the Council concurs, this item will move forward to concurrent review, and the full ordinance will go before the Council on February 14, 2012.

**Kershner restated the motion** to forward the ordinance, with the amendments recommended by committee and read into the record, to concurrent review.

The motion carried by the following vote:

- **Ayes:** Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
- **Nays:** None (0)

**5. APPROVAL OF SPECIAL “STANDING” COUNCIL MEETING DATES FOR 2012 (AB2012-065) (9:45:05 PM)**

**Crawford moved** to approve the meeting dates.

The motion carried by the following vote:

- **Ayes:** Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
- **Nays:** None (0)

**INTRODUCTION ITEMS (9:45:31 PM)**

**Crawford moved** to accept Introduction Items including the substitute version of Introduction Item 2.

The motion carried by the following vote:

- **Ayes:** Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
- **Nays:** None (0)

**1. ORDINANCE ESTABLISHING THE Lummi Island FERRY ADVISORY COMMITTEE (AB2012-044)**

**2. RESOLUTION AMENDING WHATCOM COUNTY CODE 100.06, SUBZONE ADVISORY COMMITTEES, REGARDING MEMBER REQUIREMENTS (AB2012-045)**

(Clerk’s Note: Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.)

**3. COMMUNITY DEVELOPMENT BLOCK GRANT CLOSEOUT – KULSHAN COMMUNITY LAND TRUST AFFORDABLE HOUSING GRANT (AB2012-064)**

**OTHER BUSINESS (9:46:22 PM)**

There was no other business.
Brenner reported on the Habitat for Humanity Women Build luncheon scheduled on February 24, 2012.

Kremen reported on the fundraiser for Big Brothers/Big Sisters of Northwest Washington scheduled on January 31, 2012 at the Lakeway Inn at 7:30 am. The keynote speakers will be Jamie Moyer and Karen Moyer.

Crawford reported that he is concerned about scheduling the public hearings before open session on the Council agenda. Tonight, a number of people who were here for open session left early. That may change over time as they get used to waiting until the hearings are done. However, they’ve done it that way for 12 years and the Council has been generous with allowing folks their three minutes to speak, so he is still concerned.

Crawford also reported on an article about how the Los Angeles County Board of Supervisors schedules its meeting agendas.

ADJOURN

The meeting adjourned at 9:50 p.m.

The Council approved these minutes on February 28, 2012.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

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