

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53

WHATCOM COUNTY COUNCIL
Special Planning and Development Committee

May 1, 2007

Committee Chair Seth Fleetwood called the meeting to order at 9:08 a.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Laurie Caskey-Schreiber
Dan McShane

Absent:

None

Also Present:

Sam Crawford
Barbara Brenner

1. DISCUSSION REGARDING BELLINGHAM'S URBAN FRINGE SUBAREA PLAN (AB2006-309)

Cathy Craver, Planning and Development Services Department, stated staff reviewed the intention of the overlay zones for Lake Padden. Addressing water quality protection through density reduction may not be appropriate using an overlay tool. It would be best served with a Comprehensive Plan amendment or rezone. Options would be to constrict the size of the urban growth area (UGA) through some sort of purchasing program or a downzone. The County should consult with the City before those actions. Through the subarea plan process, they are doing potential boundary adjustment of the UGA to accommodate 20-year growth. Looking at water quality issues would take more analysis in consultation with the City. If they do lay, they need an extensive analysis of the consolidated and open lots in the watersheds to see what type of stormwater regulations they can work with. It should not prohibit them from going forward with UGA zoning. Watershed protection should be done outside the subarea process. If the Council wants to move forward with Lake Padden watershed protection, it would take place outside the subarea plan process. They would need to look at the criteria for sensitive watersheds and consult with the Department of Health, different engineering departments, the City of Bellingham, and the Stormwater Division. The County would have to look at other watersheds in the county to see if others meet those criteria as well.

Fleetwood asked if the staff recommends not affecting the zoning maps, reinstating the initially proposed density, and considering the removal of density at a later time. Craver stated back away from the term of removing density. Through the subarea process, they are required to accommodate growth. They will be able to evaluate tools to protect water quality an another time.

Fleetwood stated this committee already voted to change the zoning maps in ways tantamount to a downzone. He asked if it's staff's recommendation to revert back to what was previously proposed. The committee took out density from Hillsdale, Geneva, and Lake Padden using the watershed boundary. Craver stated that is the recommendation.

Caskey-Schreiber asked if the recommendation is to back off from doing an overlay in these sensitive areas. She supports leaving the zoning as it is for Lake Padden, and creating development standards. She would like a response about shrinking the UGA for Hillsdale while the City looks into its sewer agreements. Craver stated the City staff

1 provided an amendment to an ordinance for that specific area of Hillsdale. Certain areas
2 have sewer service, but not water. Staff can look further into that. She recommends that
3 they consult with the City to identify each property.
4

5 **Caskey-Schreiber moved** to reverse the Lake Padden zoning decision.
6

7 Crawford stated he understood that for Hillsdale, Geneva, and Lake Padden,
8 Councilmember McShane proposed some mechanism to reduce future sub-dividable density
9 to a rural, one unit per five acres (R5A) zone within watershed areas of those maps. At the
10 end of the last meeting, the City said it has adopted or will adopt an offer to property
11 owners in Hillsdale to provide a water and sewer hookup if the owner agrees not to
12 subdivide further. He is not sure of any votes that were taken.
13

14 Caskey-Schreiber stated they only voted on the Padden area map. They discussed
15 shrinking the UGA in the Hillsdale area, but they were waiting for more information from the
16 City. Her motion was to go back to the original Padden area maps as recommended by
17 staff.
18

19 McShane stated staff's been put in a difficult position. The City proposed a certain
20 amount of density in these areas. The City brought forward a proposal that includes
21 additional development in the Geneva area. They have a water service process, which
22 reduces the potential development in the Hillsdale area, but it is susceptible to being
23 changed by the City on a whim. The Hillsdale area zoning was brought to the Council based
24 on the City's policy for water hookups, which is a fantasy. That zoning needs to be
25 changed. Given the abundant record they have on water quality in the Lake Whatcom
26 watershed, especially in the north end, the change in zoning should occur for Hillsdale and
27 Geneva.
28

29 Not much thought has been given to the Lake Padden drainage and the
30 consequences of development in that area. He's sympathetic to the infrastructure already
31 extended out there. If they don't deal with this now, the question is when. He is opposed
32 to the motion. The environmental impact statement should help inform their decision. It
33 includes specific language about Lake Padden. It seems no one wants to think about it.
34 Not dealing with this now creates a lot of uncertainty in terms of the amount of UGA
35 expansion they need. It leaves it a major uncertainty if they deferred this to a later date.
36

37 By deferring the decision, he is afraid it will be dropped. If people want to drop the
38 issue, they should be clear about it. Recognize that there are three areas, Hillsdale,
39 Geneva, and the area around Lake Padden, where they recommend that zoning changes
40 occur. That will be inconsistent with what came forward to this point, which leads to a
41 negotiation between the City and County. Once the County makes its recommendation, it
42 will get an opinion from the City, which it's not getting now. Given the City's policy, the
43 County may not need to recognize the amount of development potential there from transfer
44 of development rights (TDR), because those properties are essentially un-developable.
45 Don't back down. Many homes will be built above Lake Padden. That has consequences. If
46 the Council decides to urbanize the majority of the Lake Padden watershed, he will disagree,
47 but the decision will be clear to him.
48

49 Caskey-Schreiber stated she understands the concern, but Lake Padden is entirely in
50 the city limits. The City must be responsible for it and handle the consequences. She has
51 some faith that the City is keeping the lake in mind and will work with the County to adopt
52 development standards and other protective programs. Don't complicate what they will
53 have to do in the Lake Whatcom watershed with the Lake Padden issue. It's imperative that

1 they protect Lake Whatcom. She will support reducing the density in Hillsdale and Geneva.
2 Lake Whatcom is her priority since it is the drinking water source.

3
4 Crawford stated he doesn't believe the City policy in Hillsdale is any different than
5 any other urban growth area, other than they may contemplate exchanging utility hookups
6 for incentives to not subdivide. Now, the utility provision is based on will-serve letters, a
7 deadline, annexation, and things like that. Using the City's rationale for water and sewer
8 hookup is a fluid situation that could change with time. If the City offered a hookup for no
9 further subdivision, people in other urban growth areas may want to litigate that. He asked
10 about the fantasy zoning due to the lack of utility provision, when that's the case in every
11 UGA.

12
13 McShane stated the City provides an exemption in the Lake Whatcom watershed.
14 They will not serve to the zoning density. That's why it doesn't make sense to zone the
15 density at urban residential, three units per acre (UR-3) when the City won't allow that
16 urban density through the City extension policy. The City is not meeting a density in an
17 urban growth area, which means it is not providing full urban services. The City has to do it
18 that way because it's in the urban growth area. Both the City and County would have to
19 agree to reduce the density and zone. That's exactly what they should do. He hopes the
20 City would concur.

21
22 Regarding Lake Padden, he doesn't have faith in the development standards. Lake
23 Whatcom development standards now aren't necessarily followed. It is the City's urban
24 growth area, but it's the County's jurisdiction. As the lake degrades, the County ends up
25 with a responsibility of handling those areas. They will become responsible for fixing water
26 quality problems and stormwater problems at a significant expense to county taxpayers.
27 The same thing will happen in the Lake Padden watershed. The Department of Ecology
28 stormwater manual doesn't fully consider the consequences of drainages into lake areas and
29 doesn't deal with phosphorus the way it should. A thorough analysis is in order. Urbanizing
30 a majority of that watershed is not a good idea.

31
32 Caskey-Schreiber stated that if there is no overlay zone, the option is to remove
33 Lake Padden from the UGA, or lower the density to UR-4. It would be a little island of rural
34 land.

35
36 McShane stated take the areas out of the UGA. It won't create an island. It would
37 just redraw the line. Some of the areas will need to remain in the UGA because they've
38 already been developed and already have water and sewer service. Recognize that water
39 and sewer service is already present in areas that have yet to be developed. They should
40 probably go forward with urban residential development in those areas. Where the lines
41 have not yet been constructed, redraw the UGA boundary. Let the land and watershed
42 speak. Do that analysis and negotiation with the City. Start that dialog about Lake Padden.

43
44 Fleetwood asked what the County would do to exert its protection in the watershed.
45 The lake is within the city jurisdiction and the area around the lake is the County
46 jurisdiction.

47
48 McShane stated he would like to start the dialog about whether it was really
49 considered. The trailer court is around a small lake near Lake Padden. That lake was
50 devastated due to neighboring urban development in the county. The residents of the
51 trailer court showed up to the Planning Committee meeting with pictures of the lake, which
52 was full of mud. The County development standards that applied clearly did not work to
53 protect that area. That's the reality of trying to develop in those areas. Runoff is severe.

1 It didn't get the attention it should have. The County government, because of the land use
2 decisions it struggles with, is more oriented toward preserving natural resource areas than
3 the City. The County better understands the realities. They need to balance urban
4 development with protection of wetlands and water quality. From a regulatory standpoint,
5 once a lake is a listed water body, the County, being in charge of development within that
6 drainage area, must fix any problems that exist, just like it does for Lake Whatcom
7 currently. The County is responsible for any problems that discharge into the lake.
8

9 **Caskey-Schreiber amended her motion** and moved to zone the area UR-4 in the
10 watershed areas. She doesn't have a lot of faith in the viability of the TDR program if they
11 keep dumping on it. Now, reserve the lots they will remove from the Hillsdale and Geneva
12 area for that kind of program. At some point, the City has to take responsibility for a
13 natural resource in its jurisdiction. This is definitely in the City's jurisdiction.
14

15 Fleetwood stated that if he voted for the motion, it would not be tantamount to
16 supporting urbanization. There should be a different process that thoroughly analyzes this
17 situation.
18

19 McShane stated he doesn't believe they need to create a different process. This
20 process has an environmental impact statement that clearly says there is a problem with
21 Lake Padden. By saying that they will defer this creates a dilemma about how much urban
22 growth area they need and the kind of safety factor they need. Decide the density as soon
23 as possible. Take out any areas that don't currently have water and sewer line trunks from
24 the UGA. Then the County will have to sit down with the City and figure out what really
25 works now. Don't defer this. No one is taking a lead on this issue. A density of UR-4 won't
26 protect the watershed.
27

28 Fleetwood asked if there may be a total maximum daily load (TMDL) listing for the
29 watershed.
30

31 McShane read about the potential threats in the Lake Padden watershed. Lake
32 Padden is listed on the 303(d) list for poor water quality due to temperature, dissolved
33 oxygen, and fecal coliform. Lake Padden is listed now for total PCB's.
34

35 Fleetwood stated that technically, under the law, there is a duty to remediate Lake
36 Padden for PCB's.
37

38 McShane stated there is that duty because of PCB's and possibly for dissolved
39 oxygen. As additional urbanization occurs, they are going to see the lake be listed.
40

41 Caskey-Schreiber stated that if they adopt the UR-4 zoning, they will force a
42 conversation with the City. That may be a good time to entertain the City's perspective on
43 whether the density should be less.
44

45 Fleetwood stated they will have to raise this issue during the reconciliation meeting if
46 they keep it in there. The question becomes how they hear from the City. He assumes that
47 there will be a separate process to address it at a later time. That still leaves in place the
48 appropriate concern from Councilmember McShane that they won't know the implication of
49 it, which would influence how they vote on accommodation.
50

51 Weimer stated he supports Councilmember McShane. Either way, they will force a
52 conversation with the City, which is very important. This process seems to have become
53 about how to accommodate growth. How they protect neighborhoods and the environment

1 seems to have been put aside. That should not become a separate process. They need to
2 go hand-in-hand. They need to have a discussion with the City about Lake Padden before
3 anything is finalized. Leave the map the way it is now.
4

5 **Caskey-Schreiber restated her motion** to reverse the previous overlay concept
6 and adopt UR-4 zoning in the UGA in the Lake Padden watershed areas.
7

8 Fleetwood stated he would oppose the motion at this time. He looks forward to
9 forcing the discussion.
10

11 **Motion failed 1-2 with Caskey-Schreiber in favor.**
12

13 Hal Hart, Planning and Development Services Director, stated there are legal
14 contracts in place for utilities in the northwest section of this UGA map.
15

16 McShane stated those areas with will-serve agreements need to be left in the UGA.
17 Remove from the UGA any areas that are not currently served or have contracts in place for
18 sewer and water services.
19

20 Hart indicated the location of planned subdivisions on a map. The area zoned UR-6
21 is realizing an actual density of UR-4.
22

23 McShane indicated on a map the area to remove from the UGA. Clearly, the City has
24 considered developing the northwest area. They can have a healthy discussion with the City
25 about the areas that should have utility service commitments.
26

27 *(Clerk's Note: End of tape one, side A.)*
28

29 McShane stated consider whether they need different development standards in
30 these areas.
31

32 Crawford stated he is unclear of the impact. The Committee needs more
33 information.
34

35 Nelson stated this is the correct process for this discussion. The County has this
36 opportunity to raise its concerns to the City. However, he has concerns about the proposal
37 in that area. He is also concerned about the impact to the school district.
38

39 Hart stated the County and City are working with the school district. The policy
40 change will have little impact on the school district site and the development occurring in
41 that area. The policy question is whether the best formula for success is a reduction in
42 density or a reduction of the footprint. Staff has said reduce the overall footprint of the
43 density.
44

45 Be innovative in the application of how the UGA grows. That is the purpose of an
46 overlay. They want to affect anything that isn't vested. The way to do that is to work with
47 the City over the next 12 months to identify problems and put together a program. That is
48 the most constructive approach. They can't make as much change as they'd like if the
49 subdivision is in place and the standard is in place.
50

51 **McShane moved** to remove from the UGA the area east of Yew Street Road, which
52 is area three on map 16.
53

1 Fleetwood stated it may make better sense to first find out which areas have service
2 and will-serve commitments rather than piece together the urban growth area.

3
4 **McShane withdrew his motion.**

5
6 Fleetwood asked if the committee's votes on boundary and accommodation will have
7 an implication on the transportation, which would be amended and brought forward later as
8 background information later in the year.

9
10 John Everett, Public Works or Planning and Development Services Department,
11 stated it would. His presentation is on the information they currently have from the 2004
12 environmental impact statement (EIS) and from the City process. The transportation
13 element will be adjusted to reflect the Council's decisions on land supply and zoning. He
14 submitted and read from a presentation (*on file*).

15
16 There was discussion of the cost estimates for the necessary County road
17 improvements.

18
19 Nelson asked if impact fees are a source of revenue. Everett stated they are. The
20 estimate of \$30 million to upgrade the transportation system applies just to the northwest
21 portion of the Bellingham UGA.

22
23 McShane stated that capacity of the department is also a problem. He asked the
24 capacity of the staff to take on projects that are outside the County's control. Everett
25 stated the Engineering Division needs more people to keep up with what they've been
26 tasked with. Being understaffed and not being able to fill positions impacts their ability to
27 quickly respond. It also requires that the County rely on consultants overly-much for design
28 and management. Capacity is an issue. Financing is more of an issue. He continued to
29 read the presentation.

30
31 Caskey-Schreiber stated that State law only allows collecting impact fees for the
32 portion of the project that a new development affects. In areas of the Guide Meridian,
33 where there are already problems, it will be difficult to prove that they can enhance a
34 system that's already failed. Everett stated impact fees can only go to the portion of the
35 project cost associated with new growth. Calculating the portion of a project on the Guide
36 itself would be futile. They are okay on other county roads. As significant new volumes of
37 traffic are added, some improvements will be necessary. Those improvements will be
38 necessary because of new growth. Those projects and impact fees would be helpful. Most
39 jurisdictions shy away from collecting the full share of those costs. Historically, they collect
40 \$2,000 to \$3,000 per unit, which is 20 to 30 percent of the actual associated cost. Now,
41 jurisdictions are starting to collect the full amount. Don't use impact fees as the only tool.
42 It's one tool of many.

43
44 McShane asked about reciprocal traffic mitigation fees as a solution. He asked if
45 they ought to consider that with some of the cities anyway, given development in the
46 unincorporated and non-UGA areas.

47
48 (*Clerk's Note: End of tape one, side B.*)

49
50 McShane continued to state that the County should be sensitive to the impacts it has
51 on city roads, as well. Everett stated it's possible to collect impact fees in conjunction with
52 the cities. The State Department of Transportation is interested in talking with the County
53 about creating an interlocal for reciprocal mitigation fees.

1
2 McShane stated the City and County will be working on the interlocal agreement.
3 There are two major City projects, Sunset Drive and San Juan Boulevard. A significant
4 impact to those areas is due to development in the county. This is an opportunity to have a
5 broader negotiation. They are not trying to just grab funding from the UGA's. They
6 recognize the County impacts to city roads.
7

8 Caskey-Schreiber stated the cities set the densities in the UGA's, and then get
9 surprised when their road levels of service deteriorate. The County gets frustrated with the
10 infill that isn't happening within the city limits. However, the County must compensate for
11 traffic that's coming in.
12


13 McShane stated he's thinking of areas like Kendall and Sudden Valley. People aren't
14 working in those areas. They come into the city to work.
15

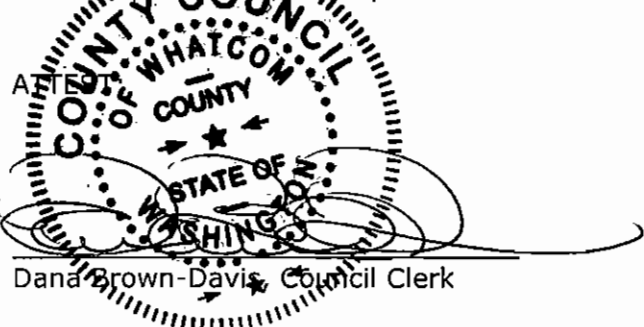
16 Fleetwood asked about the State requirement to amend the transportation plan, and
17 whether they would have to drop other projects to concentrate financial resources on
18 improvements in the expanded UGA. Everett stated the six-year transportation
19 improvement program is supposed to be a list of what the County is going to build with
20 what the resources it has. It's not a wish list of what they'd like to build someday. The
21 County must show it can cover the cost of all the projects listed in the six-year
22 transportation improvement plan (TIP) for the first three years. When they talk about the
23 upcoming updated six-year TIP, they must talk about the projects for 2008 to 2010 being
24 realistic, due to cost overruns on current projects. They won't have to drop existing
25 projects to add these projects related to the UGA. They may have to increase the pool of
26 projects for which they have to resources. There may be new projects associated with the
27 UGA expansion that will have to be rated higher on the list so they don't have significant
28 congestion and safety problems on the roadways. It's a matter of ranking what's most
29 important.
30

31 Fleetwood stated the committee will meet again on this issue in one week. They will
32 meet with large landowners and the City.
33

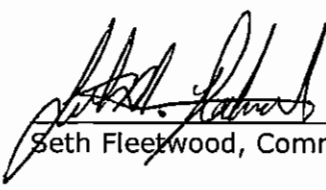
34
35 **ADJOURN**

36
37 The meeting adjourned at 10:50 p.m.
38

39
40 
41 Jill Nixon, Minutes transcription
42

43
44 
45
46
47
48
49
50 Dana Brown-Davis, Council Clerk
51

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


Seth Fleetwood, Committee Chair