

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2005 - 72

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator:	McShane	1/11/2005		1/25/2005	Introduction
Division Head:				2/8/2005	Public Hear.
Dept. Head:	<i>McShane</i>	<i>1/19/05</i>			
Prosecutor:	<i>KNF</i>	<i>2/9/05</i>			
Purchasing/Budget:					
Executive:					

TITLE OF DOCUMENT:

Ord. imposing interim moratorium on new building apps. Lk. Whatcom Watershed

ATTACHMENTS:

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

Interim ordinance imposing a moratorium on the acceptance of new building applications or subdivision applications for land within the Lake Whatcom Watershed

COMMITTEE ACTION:

COUNCIL ACTION:

1/25/2005: Introduced
 2/8/2005: Amended and adopted 6-1
 Crawford opposed, Ord. #2005-027

Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number: Ord. #2005-027

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.

SPONSORED BY: Consent

PROPOSED BY: McShane

INTRODUCTION DATE: January 25, 2005

ORDINANCE # 2005-027

IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS FOR SUBDIVISIONS AND NEW BUILDING PERMITS WITHIN THE LAKE WHATCOM WATERSHED

WHEREAS, oxygen levels in Lake Whatcom are declining to lower levels and declining faster than in the past; and

WHEREAS, lower oxygen levels and more rapid decline in oxygen in Lake Whatcom are related to increased rates of sediment and phosphorus loading into the lake; and

WHEREAS, increased availability of phosphorus has limited the nitrogen availability in the lake, making the lake more susceptible to blue-green algae blooms; and

WHEREAS, longer durations of very low oxygen levels increase the rate of methylization of mercury and other anaerobic compounds; and

WHEREAS, increased productivity in the upper waters of the lake lead to increased disinfection byproducts such as total trihalomethanes (TTHMs); and

WHEREAS, longer durations of very low oxygen levels release phosphorus bound in the lake sediments resulting in increased availability of phosphorus and further increasing biological production in the lake;

WHEREAS, Washington State Department of Ecology has listed Lake Whatcom as an impaired water body and placed Lake Whatcom on the federal Clean Water Act 303(d) list because of low oxygen levels; and

WHEREAS, the 303(d) listing requires the establishment of a Total Maximum Daily Load (TMDL) that designates loading capacity of the lake such that there will be no measurable change in oxygen levels from natural lake conditions; and

WHEREAS, a TMDL requires meeting Water Quality Standards and, for lakes, the dissolved oxygen criteria is no decline from natural conditions;

WHEREAS, the Washington State Department of Ecology has used a decline of oxygen levels of no more than 0.2 mg/L as equivalent to natural conditions in the Lake Whatcom model for the TMDL; and

WHEREAS, other pollutants identified and monitored within the Lake Whatcom watershed have the highest concentrations in the most developed areas of the watershed; and

WHEREAS, meeting the TMDL goals and improving oxygen levels in Lake Whatcom will require variety of comprehensive planning, pollution prevention, pollution reduction and technical approaches; and

WHEREAS, continued development while the TMDL goals are established and while approaches for meeting those goals are developed will increase the size of the reductions and will increase the costs that will be necessary to meet the TMDL goals; and

WHEREAS, Lake Whatcom County Code 20.71 establishes the Lake Whatcom Watershed as a Water Resource Protection Overlay District; and

WHEREAS, Lake Whatcom is the drinking water source for approximately half the residents of Whatcom County; and

WHEREAS, the preservation and protection of drinking water is a high priority for Whatcom County; and

WHEREAS, Lake Whatcom County Code 20.71 establishes the Lake Whatcom Watershed as a Water Resource Protection Overlay District; and

WHEREAS, the Whatcom County Comprehensive Plan, adopted on May 20, 1997, establishes the Lake Whatcom watershed as a Special Study Area; and

WHEREAS, Lake Whatcom is a valuable recreation lake for swimming, boating and fishing, and enhances the property values in the area as long as the lake maintains high water quality; and

WHEREAS, declining oxygen levels poses a risk to the water quality of Lake Whatcom that could harm drinking water quality, recreational opportunities and, lake property values; and

WHEREAS, actions required under the 303(d) listing and TMDL goals as well as declining water quality will cause a hardship to tax payers, local property owners in the watershed and water consumers if proactive planning and programs are not established prior to the establishment of the TMDL goals; and

WHEREAS, the Whatcom County SEPA Official issued a Determination of Non-significance on January 24, 2005

WHEREAS, the Council makes the following findings of fact to justify its actions as required by RCW 36.70.795:

1. This interim building and subdivision moratorium is necessary to avoid future degradation of the Lake Whatcom watershed and the associated threat to the drinking water supply of approximately half of the citizens of Whatcom County as well as recreational and lake property values.
2. Without a moratorium additional development within the Lake Whatcom Watershed will lead to negative hydrologic and storm water impacts that may cause irreversible harm to Lake Whatcom and therefore cause harm to the health and welfare of the public.

3. The Whatcom County Council desires the opportunity to evaluate necessary actions to meet the loading goals established in the TMDL process. Actions to meet the TMDL goal of reversing the declining oxygen trends in Lake Whatcom may include but are not limited to the following:

- ~ Storm water management plans, implementation and maintenance.
- ~ Storm water funding in the watershed.
- ~ Other development codes and regulations.
- ~ Review existing zoning densities and development standards within the Bellingham Urban Growth Areas in the Lake Whatcom watershed.
- ~ Storm water management in areas that cross City of Bellingham and Whatcom County jurisdiction.
- ~ Transfer of development standards.
- ~ Land acquisition.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a moratorium is hereby imposed on the acceptance of new applications for subdivisions and new building permits in the Lake Whatcom watershed unless applications:

1. Were complete prior to the effective date of this ordinance; or
2. Are submitted during a scheduled appointment with Planning and Development Services that was made prior to the effective date of this ordinance; or
3. Are for building permits for remodels where the total impervious surface will remain the same.

BE IT FURTHER ORDAINED that all lots that remain 5 acres or greater shall be exempt from this building and subdivision moratorium.

BE IT FINALLY ORDAINED by the Whatcom County Council that, pursuant to RCW 36.70.795, this ordinance shall be effective until May 1, 2005, and may be renewed for one or more six-month periods if subsequent public hearings are held and findings of fact are made prior to each renewal.

ADOPTED this 8th day of February, 2005.

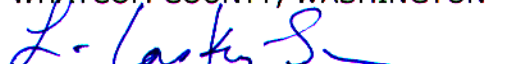
ATTEST:


Dana Brown-Davis, Clerk of the Council


APPROVED AS TO FORM:


Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


Laurie Caskey-Schreiber, Chair

Approved Denied


Pete Kremen, Executive

Date: 2-11-05