

SPONSORED BY: Consent

PROPOSED BY: Executive

INTRODUCTION DATE: 07/02/02

ORDINANCE NO. 2002-041

AMENDING CHAPTER 1.17 OF THE WHATCOM COUNTY CODE AND CREATING A JOINT PUBLIC FACILITIES DISTRICT PURSUANT TO RCW 35.57, TO BE KNOWN AS BELLINGHAM-WHATCOM PUBLIC FACILITIES DISTRICT, TO UNDERTAKE THE DESIGN, CONSTRUCTION, OPERATION, PROMOTION AND FINANCING OF A REGIONAL CENTER AND/OR RELATED PARKING OR OTHER RELATED FACILITIES.

WHEREAS, Whatcom County is a municipal corporation, organized under the laws of the State of Washington; and

WHEREAS, the City of Bellingham is a municipal corporation operated as a charter city, organized and existing under and by virtue thereof and the laws of the State of Washington; and

WHEREAS, the Bellingham City Council and the Whatcom County Council have determined that it is in the best interests of the City and County and its citizens to take advantage of recent amendments to the provisions of RCW 35.57 and to thereby create a joint public facilities district; and

WHEREAS, pursuant to RCW 35.57, cities and counties are authorized to enter into an agreement under RCW 39.34 for the creation and joint operation of a public facilities district; and

WHEREAS, a regional center would promote economic development, provide needed public facilities to serve local and regional business, community, family entertainment, youth recreation, and athletic organizations; and

WHEREAS, the City and County desire to set forth certain principles relating to the Bellingham-Whatcom Public Facilities District and its Board;

NOW, THEREFORE, THE WHATCOM COUNTY COUNCIL DOES HEREBY ORDAIN:

Chapter 1.17 of the Whatcom County Code is amended as follows:

1.17.010 Creation and Purpose.

Pursuant to Chapter 35.57 RCW, there is hereby created a public facilities district, which

shall be called the Bellingham-Whatcom County Public Facilities District (the “District”), coextensive with the boundaries of the City of Bellingham and of the County, as now established or as may hereafter be reconfigured, with the powers and authority set forth in the County PFD Act as last amended by the Laws of Washington. The District is established for the purpose of pursuing ownership, financing, and operational requirements of Public Facilities Projects within the County.

The Executive and other appropriate officers of the County are authorized and directed to take any and all such additional actions as may be necessary or desirable to accomplish the creation of the District.

1.17.015 Corporate Powers.

The District shall be considered a municipal corporation, and an independent taxing authority within the meaning of the PFD Act. As such, it shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute.

1.17.020 Board of Directors.

All corporate powers of the District shall be exercised by or under the authority of the board of directors of the District (the “Board”); and the business, property and affairs of the District shall be managed under the direction of the Board, except as may be otherwise provided for by law, herein or in the Charter.

A. The Board of Directors of the Bellingham-Whatcom Public Facilities District shall consist of seven (7) members, selected as follows:

(1) Three (3) members jointly nominated by the Mayor and County Executive and approved by a majority vote of the City and County Councils; and

(2) Four (4) members nominated jointly by the Mayor and County Executive, and approved by a majority vote of the City and County Councils, based upon recommendations from local organizations that may include, but are not limited to, the Chamber of Commerce, local economic development council, and local labor council.

B. Board members shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, and one must be appointed for a three-year term, and the remainder must be appointed for four-year terms. At the end of each term, and in the event of a vacancy on the Board, the nominations and approval of successor members of the Board shall be as provided in this section.

1.17.030 Organizational Meeting.

The District shall be established as of the date of the appointment of the initial members of its Board. Upon such date, the Executive or designee shall call an organizational meeting of the initial Board within 10 days, giving at least three days' advance written notice to each Board Member, unless waived in writing. At such meeting, the Board shall organize itself, may appoint officers, and shall select the District's place of business.

1.17.040 Loan of Working Capital.

In order to provide the District with initial working capital for legal and formation expenses, the County may loan the District such sums as necessary from the General Fund. Any such loan shall be made pursuant to an interlocal agreement negotiated between the District and the County, and shall be repaid with interest within twelve (12) calendar months.

1.17.050 Powers, Duties and Limitations.

The Bellingham-Whatcom Public Facilities District shall have all the powers and authority set forth in RCW 35.57, including any amendments thereto, and including authority to acquire, design, construct, own, finance, and operate and maintain a regional center.

The District shall exercise those powers and duties, subject to the following limitations and directives:

- (1) Except as specifically provided in an interlocal agreement between the District and the County, the District shall take no action that might impose liability upon the County. All liabilities incurred by the District shall be satisfied exclusively from the assets, credit, and properties of the District, and no creditor or other person shall have any right of action against or recourse to the County, its assets, credit, or services, on account of any debts, obligations, liabilities, or acts or omissions of the District.
- (2) In the event that the District determines that one or more Public Facilities Project(s) (as defined in the County PFD Act) located within the County is a viable project that is likely to begin construction within the time limits imposed by state law, the District shall impose all or a portion of the sales tax authorized under RCW 82.14.390(1) in support of pursuing joint ownership, financing, or operational relationships with such Public Facilities Project(s). Such tax proceeds shall be apportioned between such Public Facilities Project(s) (taking into account adequate reserves to be maintained by the District) in an equitable manner that supports construction and operation of any viable Public Facilities Project(s) located in Whatcom County.
- (3) The District shall provide at least annually a written report to the Council detailing its final project list, and the percentage of anticipated tax proceeds flowing to each project.
- (4) In consideration of the County's loan of working capital to the District and to ensure that the Public Facilities Projects are developed in a manner that is consistent with the County's regional planning objectives, intergovernmental relations with its incorporated cities, and available and planned infrastructure, the District shall not enter into any project in excess of \$50,000 unless the County is party to the interlocal agreement.

- (5) In consideration for the County's loan of working capital, the District shall not seek to impose any tax authorized under the County PFD Act, other than sales taxes imposed pursuant to RCW 82.14.390, without prior approval of the Council.

1.17.060 Approval of Charter and Bylaws.

The Charter of the District will be reviewed and approved by the County Council.

The Board shall maintain rules of procedure and governance of its activities through its Bylaws. The initial Bylaws of the District shall be approved by the County Council. The power to alter, amend, or repeal the Bylaws or adopt new Bylaws shall be vested in the Board. The Bylaws shall be consistent with the County PFD Act, this county ordinance, and the Charter of the District.

1.17.065 Governing Principles – Interlocal Agreement

The Executive is authorized to negotiate and recommend to the County Council an interlocal agreement between the City of Bellingham, the County and the Public Facilities District. The terms of the interlocal agreement shall be consistent with the following principles:

- A. The District is authorized to acquire, design, construct, operate, promote, and finance a regional center or rehabilitate and improve such facilities, pursuant to RCW 35.57.020.
- B. Every effort shall be made to insure that a regional center is a first class facility that provides benefit to all citizens of Bellingham and Whatcom County.
- C. The City of Bellingham and Whatcom County declare their intention, consistent with and subject to the determination of public interest, to assist the District in the development of a regional center.
- D. The interlocal agreement may provide for capital and/or operating funding for the District, and provisions for acquisition, financing, design, construction, operation of the regional center, and such other matters as appropriate.
- E. Subject to reimbursement, the City and County may provide other interim financing, and interim necessary and reasonable support services to the District, including, but not limited to legal, accounting, and other staff services.
- F. District activity shall comply with the Open Public Meetings Act and other provisions of state law applicable to municipal corporations.
- G. The District shall report not less than quarterly to the Councils on the District's activities. The report shall include a report on all financial matters, and other items as may be requested by Councils.

1.17.070 Applicability of Public Laws.

District activity shall, as required by law, comply with the Open Public Meetings Act and other provisions of state law applicable to municipal corporations.

1.17.080 Dissolution.

At such time as it is determined that the District's long term indebtedness has been paid or defeased and the District has availed itself of the full sales tax rebate at the maximum allowable rate under RCW 82.14.390, the City and County Councils may by ordinance dissolve the District. Upon dissolution of the District the assets and liabilities of the District may, at the city's option, become the assets and liabilities of the City of Bellingham.

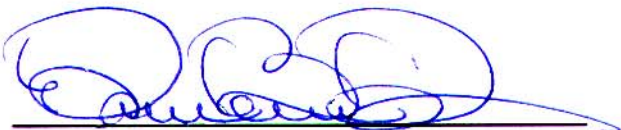
1.17.090 Severability.

If any section, sentence, clause, or phrase (i.e., provision) of this ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision and the remainder of this ordinance, or the application of such provisions to other persons or circumstances, shall not be affected.

ADOPTED this 16 day of July, 2002.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON



Dana Brown-Davis, Clerk of the Council




L. Ward Nelson, Council Chair

APPROVED AS TO FORM:

Approved Denied



Civil Deputy Prosecutor

 7-19-02

Pete Kremen, County Executive