

Whatcom County Council

**COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010**



Minutes - Final

Tuesday, October 26, 2021

6 PM

Virtual Meeting

**VIRTUAL MEETING (TO PARTICIPATE, SEE INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil OR CALL 360.778.5010)**

COUNCILMEMBERS

Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

COUNTY COUNCIL

CALL TO ORDER

Council Chair Barry Buchanan called the meeting to order at 6:01 p.m. in a virtual meeting.

ROLL CALL

Present: 7 - Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Carol Frazey, and Kathy Kershner

Absent: None

FLAG SALUTE

ANNOUNCEMENTS

The Council is accepting applications to fill vacancies on the Business and Commerce Advisory Committee. Applicants must represent the food processing industry or manufacturing industry. If you are interested and meet these qualifications, please let us know at 360-778-5010 or email the council at Council@co.whatcom.wa.us.

COUNTY EXECUTIVE'S REPORT

Satpal Sidhu, County Executive, reported on the following:

- A memo sent to Councilmembers regarding mid-biennium budget adjustments
- The Intalco plant reopening

MINUTES CONSENT

Donovan moved to accept the minutes consent items. The motion was seconded by Frazey (see votes on individual items below).

1. [MIN2021-079](#) Committee of the Whole for October 12, 2021

Donovan moved and Frazey seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

2. [MIN2021-080](#) Regular County Council for October 12, 2021

Donovan moved and Frazey seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

3. [MIN2021-081](#) Special Committee of the Whole Executive Session for October 19, 2021

Donovan moved and Frazey seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

PUBLIC HEARINGS

Council staff played a short instructional video about how to speak at the meeting.

1. [AB2021-572](#) Ordinance amending Whatcom County Code 12.20 Road Vacations to update procedures for processing petitions

Andrew Hester, Public Works Department, stated he is available for questions.

Buchanan opened the Public Hearing and, hearing no one, closed the Public Hearing.

Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be ADOPTED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2021-065

2. [AB2021-576](#) Resolution adopting the 2022 Annual Construction Program (ACP)

Jim Karcher, Public Works Department, stated he was available for questions.

Buchanan opened the Public Hearing and the following person spoke:

- Ken Domorod

Hearing no one else, Buchanan closed the Public Hearing.

Frazezy moved and Donovan seconded that the Resolution Requiring a Public Hearing be APPROVED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: RES 2021-045

3. [AB2021-590](#) Ordinance imposing a second interim moratorium on the acceptance and processing of permit applications for new or expanded recreational cannabis growing and/or processing facilities which are proposed to operate outdoors or in greenhouses

Mark Personius, Planning and Development Services Department Director, briefed the Councilmembers and answered a question about when Council will get recommendations from the Planning Commission.

Buchanan opened the Public Hearing and the following person spoke:

- Ken Domorod

Hearing no one else, Buchanan closed the Public Hearing.

Councilmembers voted on the ordinance and Dana Brown-Davis, Clerk of the Council, clarified that the ordinance voted on was a substitute.

Donovan's motion that the SUBSTITUTE Ordinance Requiring a Public Hearing be ADOPTED carried by the following vote:

Aye: 5 - Browne, Buchanan, Byrd, Donovan, and Frazey

Nay: 2 - Elenbaas, and Kershner

Absent: 0

Enactment No: ORD 2021-066

OPEN SESSION (20 MINUTES)

The following people spoke:

- Katherine Telford
- Robert Bystrom
- Rob Viens
- Jennifer Durant
- Shannon Wallace
- Ken Domorod

- Cynthia Thompson
- David Spring
- Markis Dee Stidham
- Nancy Hill
- Rebecca Wilson
- Sam Kloes
- Misty Flowers
- Melissa Wisener
- Kelley Bouma
- Nancy Eklund
- Christie Duque

Byrd stated he rises to ask a question and the Council Chair granted it.
Donovan stated he rises to ask a question and the Council Chair granted it.
Elenbaas stated he would answer questions after public comment.

The open session continued and the following people spoke:

- Mary Stidham
- Shean Halley
- Sarah Rose
- Natalie Chavez
- Jean Purcell
- Megan Wiseman
- Rosemary VanBeek
- Mark Ambler
- Hannah Ordos
- Chad Butenschoen

Hearing no one else, Buchanan closed the Open Session.

Browne responded to comments made during the open session.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

Browne reported for the Finance and Administrative Services Committee and ***moved*** to approve Consent Agenda items one through four. Councilmembers discussed and voted on those items (see votes on individual items below).

1. [AB2021-585](#) Request authorization for the County Executive to enter into an interlocal agreement

between Whatcom County and U.S. Department of Justice Drug Enforcement Administration for Cooperative State and Local Task Force Agreement FY2022

Browne reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

2. [AB2021-586](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and U.S. Department of Justice Drug Enforcement Administration for Program-Funded State and Local Task Force Agreement FY2022, in the amount of \$38,744.00

Browne reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

3. [AB2021-588](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and San Juan County for Whatcom County Veteran Service Officer support services to San Juan County resident veterans, in an amount not to exceed \$10,000

Browne reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

4. [AB2021-604](#) Request authorization for the County Executive to enter into a contract between Whatcom County and National Service Office for Nurse-Family Partnership to provide technical support and training, in the estimated amount of \$42,444

Browne reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2021-447](#) Resolution accepting the 2021 Whatcom County Comprehensive Economic Development Strategy (CEDS) and amended Appendix and approving submittal of the draft to the United States Department of Commerce Economic Development Administration

Browne reported for the Finance and Administrative Services Committee and **moved** that the SUBSTITUTE Resolution be APPROVED.

Donovan read the substitute title into the record.

Browne's motion that the SUBSTITUTE Resolution be APPROVED carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: RES 2021-046

2. [AB2021-582](#) Ordinance amending the 2021 Whatcom County Budget, request no. 16, in the amount of \$411,953

Browne reported for the Finance and Administrative Services Committee and **moved** that the Ordinance be ADOPTED.

The following people answered questions about the \$385,466 to fund amendment to Opportunity Council CDBG grant to fund services to counter COVID-related community impacts.

- Tyler Schroeder, Executive's Office
- Satpal Sidhu, County Executive

Byrd moved to table the agenda item. The motion was seconded by Kershner.

Councilmembers discussed the motion and Sidhu answered how the Opportunity Council came to be the steward of this grant.

The motion failed by the following vote:

Aye: 1 - Byrd

Nay: 6 - Kershner, Browne, Buchanan, Donovan, Elenbaas, and Frazey

Browne's motion that the Ordinance be ADOPTED carried by the following vote:

Aye: 6 - Browne, Buchanan, Donovan, Elenbaas, Frazey, and Kershner

Nay: 1 - Byrd

Absent: 0

Enactment No: ORD 2021-067

3. [AB2021-583](#) Resolution amending the Flood Control Zone District & Subzones 2021 budget, request no. 4, in the amount of \$855,502 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Browne reported for the Finance and Administrative Services Committee and **moved** that the Resolution (FCZDBS) be APPROVED.

Councilmembers discussed whether they had gotten a presentation from staff.

Tyler Schroeder, Executive's Office, briefed the Councilmembers.

Browne's motion that the Resolution (FCZDBS) be APPROVED carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: RES 2021-047

4. [AB2021-593](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Island County to provide COVID-related isolation and quarantine to Island County residents, in the amount of \$200 per resident, per day

Browne reported for the Finance and Administrative Services Committee and **moved** that the Interlocal be AUTHORIZED.

Councilmembers discussed the item.

Tyler Schroeder, Executive's Office, responded to a question about whether

the \$200 a day covers the cost that Whatcom County is putting out to have that facility open.

Byrd moved to amend the interlocal to approve this tonight with the expectation that if it comes back to us in three months that it either has full funding by FEMA, by the State, or it is a cost share agreement with the other counties. The motion was seconded by Kershner.

Councilmembers discussed the motion and Satpal Sidhu, County Executive, and Tyler Schroeder answered questions.

Buchanan suggested they approve this interlocal now and then do a motion (like Byrd's) for going forward with any new interlocal agreements that are created with other counties.

Byrd withdrew his motion and Kershner withdrew her second.

Councilmembers discussed the main motion and Schroeder and Sidhu answered whether other counties have their own facilities or are dependent on our facility, whether other counties would be shutting their facilities down if ours became a regional facility, whether it is less likely to be reimbursed from FEMA if Whatcom County shares the cost with other counties, whether FEMA usually gives only 80% of the cost back to the County, how the number of \$200 a night was derived, how many rooms there are, and what the current cost is per room.

Browne's motion that the Interlocal be AUTHORIZED carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Frazey, and Kershner

Nay: 1 - Elenbaas

Absent: 0

5. [AB2021-595](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to administer the Housing and Essential Needs Program in the amount of \$503,370 for a total amended contract amount of \$2,540,694

Browne reported for the Finance and Administrative Services Committee and **moved** that the Contract be AUTHORIZED.

Tyler Schroeder, Executive's Office, answered what this cost includes.

Browne's motion that the Contract be AUTHORIZED carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

6. [AB2021-600](#) Request authorization for the County Executive to enter into a contract between Whatcom County Flood Control Zone District and Geneva Consulting Services for the coordination of the Whatcom Lead Integrating Organization (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Browne reported for the Finance and Administrative Services Committee and **moved** that the Contract (FCZDBS) be AUTHORIZED.

Tyler Schroeder, Executive's Office, answered a question about the scope of work for the Lead Integrating Organization (LIO).

Browne's motion that the Contract (FCZDBS) be AUTHORIZED carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

7. [AB2021-602](#) Request authorization for the County Executive to enter into an agreement between Whatcom County and Greg Dibble for the lease of 600 Dupont Street, Bellingham WA

Browne reported for the Finance and Administrative Services Committee and **moved** that the Agreement be AUTHORIZED.

Byrd explained why he abstained on the vote in the Finance and Administrative Services Committee and Councilmembers discussed why the space is needed, and whether the monthly and annual amount is in line with renting other commercial space.

Tyler Schroeder, Executive's Office, answered how big the whole building is and how much the County will spend over three years.

Browne's motion that the Agreement be AUTHORIZED carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

(From Council Public Works and Health Committee)

8. [AB2021-598](#) Discussion and request for motion regarding community requested revision to the Birch Bay Golf Cart Zone boundary

Frazey reported for the Public Works and Health Committee and *moved* to extend the current Birch Bay golf cart zone to Gemini Street.

Dana Brown-Davis, Clerk of the Council, clarified whether the motion from committee was to have the Public Works Department create an ordinance to extend the zone to Gemini Street.

Frazey stated *that should be the motion*.

The motion carried by the following vote:

Aye: 7 - Kershner, Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

This agenda item was DISCUSSED AND MOTION(S) APPROVED.

(From Council Committee of the Whole)

9. [AB2021-611](#) Discussion and possible motion to recommend rescinding a previous action of the Council that established a no shooting zone in Drayton Harbor

Buchanan briefed the Councilmembers about why the item is on the agenda.

Dana Brown-Davis, Clerk of the Council, briefed Councilmembers on the best process and type of motion for this item. She stated the best way to bring this back is to rescind the motion that adopted it on October 12, 2021.

Byrd gave his analysis on the procedure and stated a new ordinance should be brought forward.

Brown-Davis clarified that the County Executive has ten days to sign after presented to his office and the former ordinance was not taken to his office until Thursday of last week.

Karen Frakes, Prosecuting Attorney's Office, stated the procedure the Clerk of the Council is recommending is appropriate and legal.

Councilmembers discussed the options and whether they should reconsider or rescind the motion to adopt.

Brown-Davis stated a motion to reconsider can be presented at the same

meeting (in which the ordinance was adopted), but because this was adopted in a past meeting it has to be a motion to rescind.

Elenbaas moved to rescind the motion that adopted Ordinance 2021-061 on October 12, 2021 (the no-shooting zone in Drayton Harbor). The motion was seconded by Donovan.

The motion to rescind carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

This agenda item was DISCUSSED AND MOTION(S) APPROVED.

ITEMS ADDED BY REVISION

There were no agenda items added by revision.

INTRODUCTION ITEMS

Buchanan stated that AB2021-594 is a substitute.

Donovan moved and Frazey seconded that agenda items 1-5 be introduced.

The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Kershner, and Browne

Nay: 0

Councilmembers started to give committee reports but Dana Brown-Davis, Clerk of the Council, stated that the AB2021-606 was recommended for withdrawal from introduction in committee.

Donovan moved to reconsider the motion to introduce items 1-5 so that item number 4 can be removed. The motion was seconded by Elenbaas.

The motion to reconsider carried by the following vote:

Aye: 7 - Byrd, Donovan, Elenbaas, Frazey, Kershner, Browne, and Buchanan

Nay: 0

Donovan moved and Elenbaas seconded to introduce all introduction items except for AB2021-606 (see motion and votes on individual items below).

1. [AB2021-594](#) Ordinance amending Whatcom County Code Chapter 2.02 (County Council) to define absence and temporary disability

Donovan moved and Elenbaas seconded that the SUBSTITUTE Ordinance be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

2. [AB2021-599](#) Ordinance establishing the Ferry Fare Capital Surcharge Fund

Donovan moved and Elenbaas seconded that the Ordinance be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2021-068

3. [AB2021-601](#) Ordinance amending the 2021 Whatcom County Budget, request no. 17, in the amount of \$4,967,500

Donovan moved and Elenbaas seconded that the Ordinance be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2021-069

4. [AB2021-606](#) Ordinance adopting amendments to the Whatcom County Code Title 20, Zoning, to provide additional affordable housing options, including allowing and regulating tiny homes and allowing duplexes in planned unit developments

This agenda item was WITHDRAWN.

5. [AB2021-609](#) Ordinance amending Whatcom County Code Title 3 (Revenue and Finance), specifically Chapters 3.06 (Grants) and 3.08 (Purchasing System)

Donovan moved and Elenbaas seconded that the Ordinance be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2021-070

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Councilmembers gave committee reports and other updates.

ADJOURN

The meeting adjourned at 9:49 p.m.

The County Council approved these minutes on November 9, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription

SIGNED COPY ON FILE