

Whatcom County Council

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



Minutes - Draft Minutes

AGENDA REVISED 2.6.2020 & 2.10.2020

Tuesday, February 11, 2020

7 PM

Council Chambers

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 7 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

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

Absent: None

FLAG SALUTE

ANNOUNCEMENTS

Buchanan stated there will be a Council Retreat next Tuesday, February 18, 2020 at 1:15 p.m. in the Council Office Conference Room.

MINUTES CONSENT

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

1. [MIN2020-021](#) Water Work Session for January 21, 2020

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, Frazey, Elenbaas, and Kershner

Nay: 0

Absent: 0

2. [MIN2020-025](#) Joint Meeting with Skagit and San Juan Counties on January 6, 2020

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, Frazey, Elenbaas, and Kershner

Nay: 0

Absent: 0

3. [MIN2020-027](#) Regular County Council for January 28, 2020

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, Frazey, Elenbaas, and Kershner

Nay: 0

Absent: 0

4. [MIN2020-028](#) Special Committee of the Whole for January 28, 2020

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, Frazey, Elenbaas, and Kershner

Nay: 0

Absent: 0

5. [MIN2020-029](#) Committee of the Whole Executive Session for January 28, 2020

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, Frazey, Elenbaas, and Kershner

Nay: 0

Absent: 0

OPEN SESSION (20 MINUTES)

The following people spoke:

Joy Gilfilin spoke about the Stakeholder Advisory Committee and thanked the Council for allowing so many citizens on the committee.

Allison Calder spoke about the Point Roberts recycling initiative, and a review of the garbage ordinance.

Robert Leib spoke against another ballot initiative for the jail.

Ken Calder submitted a handout (on file) and spoke about garbage collection in Point Roberts.

Lynette Allen spoke about Homes Now and the jail.

Deborah Hawley spoke about her application for the Criminal Justice Advocate position on the Stakeholder Advisory Committee.

Brel Froebe spoke about his application for the Stakeholder Advisory Committee and the Public Health, Safety, and Justice Facility Needs Assessment.

Michael Studoff spoke about the Public Health, Safety, and Justice Facility Needs Assessment.

Irene Morgan spoke against building a new jail and the Public Health, Safety, and Justice Facility Needs Assessment.

Carole Perry spoke about the jail.

Bill Angel spoke about the Public Health, Safety, and Justice Facility Needs

Assessment.

CONSENT AGENDA

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

Browne moved to approve Consent Agenda item three:

AB2020-069 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and RE Sources to increase the number of educational outreach opportunities in the amount of \$15,000 for a total amended contract amount of \$65,000

The motion was seconded and Councilmembers discussed the item.

See vote on Consent Agenda item three below.

(From Council Finance and Administrative Services Committee)

1. [AB2020-002](#) Request authorization for the County Executive to enter into a contract with Whatcom Dispute Resolution Center in the amount of \$96,000

Byrd 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, Frazey, Elenbaas, and Kershner

Nay: 0

Absent: 0

2. [AB2020-024](#) Request authorization for the County Executive to enter into a residential lease agreement between Whatcom County and Sierra Beatson and Robert Hutton III to reside at the house located at 677 North Lake Samish Road, Bellingham, in the amount of \$1,550.00 per month

Byrd 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, Frazey, Elenbaas, and Kershner

Nay: 0

Absent: 0

3. [AB2020-069](#) Request authorization for the County Executive to enter into a contract amendment

between Whatcom County and RE Sources to increase the number of educational outreach opportunities in the amount of \$15,000 for a total amended contract amount of \$65,000

Browne moved and Frazey seconded that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 4 - Browne, Buchanan, Donovan, and Frazey

Nay: 3 - Byrd, Elenbaas, and Kershner

Absent: 0

4. [AB2020-073](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Brown & Caldwell to conduct Phase I of the Lake Whatcom Total Maximum Daily Load (TMDL) Reassessment in the amount of \$193,013

Byrd 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, Frazey, Elenbaas, and Kershner

Nay: 0

Absent: 0

5. [AB2020-075](#) Request authorization for the County Executive to enter into an interlocal amendment agreement between Whatcom County, City of Bellingham and Fire Protection District 7 for analytical and billing costs for the Ground Emergency Medical Transport program funding

Byrd 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, Frazey, Elenbaas, and Kershner

Nay: 0

Absent: 0

6. [AB2020-067](#) Resolution to set public hearing to sell tax-title property by public auction

Byrd reported for the Finance and Administrative Services Committee and moved that the Resolution be APPROVED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

Enactment No: RES 2020-005

7. [AB2020-049](#) Resolution cancelling uncollectible personal property taxes

Byrd reported for the Finance and Administrative Services Committee and moved that the Resolution be APPROVED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

Enactment No: RES 2020-006

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2020-046](#) Ordinance amending the 2020 Whatcom County Budget, request no. 4, in the amount of \$193,202

Browne submitted and read the following statement (on file and below) regarding **AB2020-046** and stated he would abstain from voting on this request and any items related to Kid's World.

*Clerk's note: Browne requested that the entirety of his statement be incorporated into these minutes. Legal Counsel's response to Browne's statement is attached to this minutes file (MIN2020-034) as **Exhibit A - Opinion re Conflict of Interest.***

Browne's statement:

February 11, 2020

Background

- The Boys & Girls Club (BGC) is in the process of taking over the child care operations of Kids World as the existing owners have said they are unable to continue due to the high number of their clients who receive state subsidies, which after the recent increases in the minimum wage are now no longer enough to cover the labor costs.
- If the BGC is unable to find funding to take over the Kids World operations, approximately 120 staff will lose their jobs and 530 children will be displaced which would have a significant impact on these families and the community's workforce. Without assistance these jobs and childcare slots could disappear within two months.
- The BGC has requested financial assistance from the County Council to assist in

paying the first few months' rent to Kids World, it is expected that future amounts may be requested as well.

- One long term solution may also be for either the County or the Cities of Bellingham/Ferndale to purchase facilities that can be used by BGC, perhaps at little or no charge for 5 years, after which the BGC could purchase the properties at cost.
- Browne has proposed using a County EDI loan to provide funding for building acquisition. These facilities could be these current Kids World properties or others.
- Other discussions at the state level to provide additional funding are also occurring.

Disclosure of relationship

- Kids World is owned and operated by Michael Watters and Bob Warshawer.
- Browne has no commercial or other substantive relationship with Watters.
- Browne does have the following relationship with Warshawer which (out of abundance of caution) Browne is proactively placing into the record.
 - Browne has been friends with Warshawer for over 20 years.
 - Browne has, and still is, involved in several investments involving Warshawer.
 - However, Browne has never had any involvement with Kids World and has never participated in any Real Estate with Warshawer

Request of County Legal Council

Browne does not believe that there is any scenario in which Browne or members of his family could, or would, benefit from any transaction involving the County, the Boys & Girls Club and Kids World.

However, in an effort to promote transparency and avoid even the appearance of conflict, Browne hereby formally requests a review of the above by County legal counsel. Furthermore, Browne is hereby formally abstaining from voting on any appropriation of funds on this matter until such guidance is provided.

Rud Browne

Councilmember - District One
Whatcom County Council

Byrd reported for the Finance and Administrative Services Committee and ***moved*** that the Ordinance be ADOPTED. The motion was seconded.

Byrd stated that the \$100,000 has been budgeted but not contracted to the Boys and Girls Club. It will be set aside for now until Councilmembers get more information on how the money will be spent and what the plan will be moving forward.

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

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

Nay: 0

Absent: 0

Abstain: 1 - Browne

Enactment No: ORD 2020-004

- 2. [AB2020-052](#) Ordinance amending the project budget for the New Jail Project Fund 2013-2014, request no. 5

Byrd reported for the Finance and Administrative Services Committee and ***moved*** to adopt the Ordinance.

Kershner moved and Byrd seconded that the Ordinance be amended so that the title of the fund in the last paragraph would read: "...New Public Health, Safety and Justice Facility..."

The motion carried by the following vote:

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

Nay: 0

Byrd's motion that the Ordinance be ADOPTED (AS AMENDED) carried by the following vote:

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

Nay: 0

Absent: 0

Enactment No: ORD 2020-005

- 3. [AB2020-077](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and City of Blaine for the purposes of adjusting the EDI loan terms on the Gateway Regional Stormwater project

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

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

Nay: 0

Absent: 0

- 4. [AB2020-047](#) Resolution to approve annual petition for refunds paid list consistent with RCW 84.69.020

Byrd reported for the Finance and Administrative Services Committee and moved that the Resolution be APPROVED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

Enactment No: RES 2020-007

(From Council Public Works and Health Committee)

5. [AB2020-056](#) Resolution to establish income eligibility designation for use of the Veterans Assistance Fund

Frazey reported for the Public Works and Health Committee and ***moved*** that the Resolution be APPROVED.

Councilmembers praised the presentation and the County's Veterans program and stated that the County is not taking the full tax dollars that the State allows.

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

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

Nay: 0

Absent: 0

Enactment No: RES 2020-008

(From Council Special Committee of the Whole)

6. [AB2020-055](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Hellmuth, Obata, and Kassabaum, Inc. (HOK) to develop a Whatcom County Public Health, Safety, and Justice Facility Needs Assessment, in the amount of \$629,694

Buchanan reported for the Special Committee of the Whole and ***moved*** that the Contract be AUTHORIZED. The motion was seconded.

Councilmembers discussed the scope of the contract, how to determine the needs of the County for a new facility, hearing more from community members in the advisory groups, and the allocation of resources to behavioral health and criminal justice experts as measures taken by the consultant team to assure no conflict of interest.

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

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

Nay: 2 - Byrd, and Elenbaas

Absent: 0

Clerk's Note: Councilmembers discussed AB2020-025 and AB2020-083 together.

[AB2020-025](#) Appointment to fill vacancies on Stakeholder Advisory Committee for Public Health, Safety, and Justice Facility Needs Assessment - applicants: Arlene Feld, Heather Flaherty, Harriet Markell, Jessica Waaga, Lynn Allen, Chad Butenschoen, Atul Deshmane, Joy Gilfilen, Cliff Langley, John Mutchler, Patrick Allen, Kendra Cook, Kristin Hanna, Kara Mitchell, Jeff Monks, David Goldman

Browne moved to allow all, including the late, applications to be considered. The motion was seconded.

Councilmembers discussed the motion.

The motion carried by the following vote:

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

Nay: 1 - Elenbaas

7. [AB2020-083](#) Resolution amending the membership of the Stakeholder Advisory Committee (SAC) for the Public Health, Safety, and Justice Facility Needs Assessment

Byrd moved to amend the resolution Exhibit A, Membership to remove #8 (the four seats dedicated for the Incarceration Prevention and Reduction Task Force) and replace it with four new seats to be filled by community member applicants.

Browne stated as a point of order that there needs to be a main motion and **moved** that the substitute resolution be approved. The motion was seconded.

Byrd restated his motion and **moved** to amend the resolution Exhibit A, Membership to remove #8 (the four seats dedicated for the Incarceration Prevention and Reduction Task Force) and replace it with four new seats to be filled by community member applicants.

Councilmembers discussed Byrd's motion.

The motion to amend failed by the following vote:

Aye: 2 - Byrd and Elenbaas

Nay: 4 - Browne, Buchanan, Donovan, and Elenbaas
Abstain: 1 - Kershner

Donovan moved to amend the substitute resolution Exhibit A, Membership to "The Stakeholder Advisory Committee will consist of ~~33~~³⁷ members as follows:" and "13. Citizen - Criminal Justice Advocate*(~~5~~9)" to give space for the new applicants. The motion was seconded.

Councilmembers discussed the motion.

The motion to amend carried by the following vote:

Aye: 5 - Buchanan, Byrd, Donovan, Elenbaas, and Kershner
Nay: 2 - Browne and Frazey

Kershner moved to amend the substitute resolution Exhibit A, Membership to reduce #12. Citizen - Behavioral Health (mental health and substance use disorder (SUD)) Advocate* from two members to one so that the total membership is 36.

The motion to amend carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner
Nay: 0

Donovan restated Browne's main motion to approve the substitute resolution but moved that the SUBSTITUTE Resolution be APPROVED AS AMENDED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Frazey, Elenbaas, and Kershner
Nay: 0

Absent: 0

Enactment No: RES 2020-009

(No Committee Assignment)

8. [AB2020-084](#) Approval of request received from opioid litigation attorneys to send letter to sponsors of HB 2786

Kershner moved and Frazey seconded that the request be approved.

Karen Frakes, Prosecuting Attorney's Office, briefed the Council on the letter which is written to representatives who are sponsoring the bill to let them know that Whatcom County thinks that counties and cities should have more representation. She answered questions about the process which would determine how money from a potential settlement would be divided.

Kershner's motion that the REQUEST be APPROVED carried by the following vote:

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

Nay: 0

Absent: 0

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2020-059](#) Appointment to fill vacancy on the Lummi Island Ferry Advisory Committee (LIFAC) - applicant(s): Gregory Rice

Byrd moved and Kershner seconded that Gregory Rice be APPOINTED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

2. [AB2020-061](#) Appointment to fill vacancies on the Countywide Flood Control Zone District Advisory Committee - Applicant(s): Steve Seymour, Jeff DeJong, and John Perry (Council acting as the Flood Control Zone District Board of Supervisors)

Kershner moved and Donovan seconded that all three applicants be APPOINTED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

3. [AB2020-078](#) Appointments to fill vacancy on the Birch Bay Watershed and Aquatic Resources management Advisory (BBWARM) Committee - Applicant: Jackie Bourgault (Council Acting as the Flood Control Zone District Board of Supervisors)

Donovan moved to appoint Jackie Bourgault. The motion was seconded.

Councilmembers discussed whether the applicant lives in the correct district for this appointment.

Tyler Schroeder stated the applicant's street address is outside of the correct district.

Byrd moved and Buchanan seconded that Council Appointment be HELD IN COUNCIL. The motion carried by the following vote:

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

Nay: 0

Absent: 0

4. [AB2020-025](#) Appointment to fill vacancies on Stakeholder Advisory Committee for Public Health, Safety, and Justice Facility Needs Assessment - applicants: Arlene Feld, Heather Flaherty, Harriet Markell, Jessica Waaga, Lynn Allen, Chad Butenschoen, Atul Deshmane, Joy Gilfilen, Cliff Langley, John Mutchler, Patrick Allen, Kendra Cook, Kristin Hanna, Kara Mitchell, Jeff Monks, David Goldman

See minutes on this item in Other Items (From Special Committee of the Whole) above. A motion was approved to accept all nominations in the relevant categories as they were received by acclamation. All applicants were appointed as positions were created for all through amending AB2020-083 - Resolution amending the membership of the Stakeholder Advisory Committee (SAC) for the Public Health, Safety, and Justice Facility Needs Assessment.

Browne previously moved that all the applicants be NOMINATED and after discussion, it was moved that all, including the late applicants, be APPOINTED. The motion carried by the following vote:

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

Nay: 1 - Elenbaas

Absent: 0

EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2020-079](#) Request confirmation of the Executive's appointment of Douglas Cornelsen to the Northwest Senior Services Board

Donovan moved and Byrd seconded that the Executive Appointment be CONFIRMED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

2. [AB2020-080](#) Request confirmation of Executive's appointment of Daniel Sulak to the Marine Resources Committee

Donovan moved and Byrd seconded that the Executive Appointment be CONFIRMED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

INTRODUCTION ITEMS

Browne moved to introduce items one through four. The motion was seconded (see votes on individual items below).

1. [AB2020-076](#) Ordinance amending the 2020 Whatcom County Budget, request no. 5, in the amount of \$792,558

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

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

Nay: 0

Absent: 0

2. [AB2020-064](#) Ordinance finalizing a revised system of assessment for Drainage Improvement District No. 5

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

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

Nay: 0

Absent: 0

3. [AB2020-065](#) Appointment to fill one vacancy on the Business and Commerce Advisory Committee, Higher Education - applicants: Eva Schulte and CJ Seitz

Browne moved and Byrd seconded that the Council Appointment Requiring Introduction be INTRODUCED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

4. [AB2020-068](#) Resolution to sell tax-title property by public auction

Dana Brown-Davis, Clerk of the Council, referred to a discussion in Committee about possibly moving the public hearing to a later date.

Browne moved that item four be introduced but that the public hearing be set for at least 90 days from today's date in order to give time for adjacent

property owners to be notified.

Councilmembers discussed the time frame for the hearing.

Buchanan suggested a friendly amendment to change the time frame to 60 days.

Browne accepted the friendly amendment and ***moved*** that the public hearing on item four be set for a later date as least 60 days from today.

The motion carried by the following vote:

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

Nay: 0

Browne's motion that the Resolution Requiring a Public Hearing be INTRODUCED and a public hearing held at a later date at least 60 days from today carried by the following vote:

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

Nay: 0

Absent: 0

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Councilmembers gave committee reports and updates on recent activities and upcoming events.

Donovan moved to reexamine the number of cans that are required to be collected in Point Roberts. The motion was seconded.

Councilmembers and Tyler Schroeder, Executive's Office, discussed the motion, getting a thorough review and hearing from both sides of the issue, and what that review might look like.

The motion carried by the following vote:

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

Nay: 1 - Browne

Councilmembers continued with updates and Satpal Sidhu, County Executive, and Tyler Schroeder answered questions about updating financial request documents and looking further at possible solutions to flooding

ADJOURN

The meeting adjourned at 9:28 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription