

# **Whatcom County Council**

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



## **Action Summary**

**Tuesday, September 28, 2021**

**6 PM**

**Virtual Meeting**

**VIRTUAL MEETING (TO PARTICIPATE, SEE INSTRUCTIONS AT  
[www.whatcomcounty.us/joinvirtualcouncil](http://www.whatcomcounty.us/joinvirtualcouncil) OR CALL 360.778.5010), AGENDA  
REVISED 9.28.2021**

### **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

## ROLL CALL

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

**Absent:** None

## ANNOUNCEMENTS

## COUNTY EXECUTIVE'S REPORT

## FLAG SALUTE

## MINUTES CONSENT

1. [MIN2021-071](#) Joint Health Board / PHAB for September 7, 2021

**APPROVED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

2. [MIN2021-072](#) Committee of the Whole for September 14, 2021

**APPROVED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

3. [MIN2021-073](#) Regular County Council for September 14, 2021

**APPROVED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

4. [MIN2021-074](#) Committee of the Whole Executive Session for September 21, 2021

**APPROVED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

5. [MIN2021-075](#) Water Work Session for September 21, 2021

**APPROVED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

**PUBLIC HEARINGS**

1. [AB2021-500](#) Ordinance adopting amendments to the Whatcom County Zoning Code Relating to Temporary Homeless Facility Regulations

**ADOPTED**

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2021-055

2. [AB2021-414](#) Ordinance granting Cascade Natural Gas Corporation a franchise for the transportation of natural gas in Whatcom County

**WITHDRAWN**

3. [AB2021-503](#) Resolution authorizing the sale of surplus personal property pursuant to WCC 1.10

**APPROVED**

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2021-038

4. [AB2021-508](#) Ordinance for Installation of a Stop Sign on Northshore Road

**ADOPTED**

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2021-056

5. [AB2021-515](#) Resolution in the matter of the Whatcom County Six-Year Transportation

Improvement Program (STIP) for the years 2022 through 2027

**APPROVED**

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2021-039

6. [AB2021-516](#) Resolution adopting the Whatcom County Flood Control Zone District Six-Year Water Resources Improvement Program for the years 2022 through 2027 (Council acting as the Flood Control Zone District Board of Supervisors)

**APPROVED**

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2021-040

7. [AB2021-359](#) Request for public comment related to the Whatcom County Wildlife Advisory Committee's recommendation regarding Nomination of Species of Local Importance and request for Council motion to designate four wildlife species as "Species of Local Importance"

**APPOINTED**

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

**Nay:** 3 - Byrd, Elenbaas, and Kershner

**Absent:** 0

Motion carried to accept the recommendations of the Wildlife Advisory Committee (with one amendment) to appoint the Western Toad (also known as boreal toad) (*Anaxyrus* [formerly *Bufo*] *boreas*), the Coastal Tailed Frog (*Ascaphus truei*), and Townsend's Big-Eared Bat (*Coryrhinus townsendii*) (the elk was removed from the list).

**OPEN SESSION (20 MINUTES)**

**CONSENT AGENDA**

(From Council Finance and Administrative Services Committee)

1. [AB2021-488](#) Request authorization for the County Executive to execute a contract amendment between Code Publishing Company and Whatcom County for legal code publishing services

**AUTHORIZED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

2. [AB2021-513](#) Request authorization for the County Executive to enter into a transfer option agreement between Whatcom County and Opportunity Council for the property located at Laurel and Forest streets for the appraised amount of \$1,230,000

See action on this item below after the Consent Agenda.

3. [AB2021-517](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Ecology for solid waste planning and implementation activities, in the amount of \$732,835

**AUTHORIZED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

4. [AB2021-526](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Commerce for FY18 Justice Assistance Grant, in the amount of \$155,053.00

**AUTHORIZED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

5. [AB2021-529](#) Request approval for the County Executive to enter into an agreement with Washington State Recreation and Conservation Office in order to secure matching funds for the VanderWerff Agricultural Conservation Easement through the Conservation Easement Program

**AUTHORIZED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

6. [AB2021-530](#) Request approval for the County Executive to enter into an agreement with the Washington State Recreation and Conservation Office in order to secure matching funds for the Moors Forestry Conservation Easement through the Conservation Easement Program

**AUTHORIZED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

- 7. [AB2021-532](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Children, Youth, and Families for high quality home visiting services to vulnerable families, in the amount of \$355,339

**AUTHORIZED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

- 8. [AB2021-540](#) Request approval for the County Executive to enter into an agreement with the United States Department of Interior, Geological Survey in the amount of \$145,225 (Council acting as the Flood Control Zone District Board of Supervisors)

**AUTHORIZED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

- 9. [AB2021-542](#) Request approval for the County Executive to enter into an interagency agreement between the State of Washington Puget Sound Partnership and the Whatcom County Flood Control Zone District, acting as the fiscal agent for the Local Integrating Organization (LIO) to coordinate the County LIO (Council acting as the Flood Control Zone District Board of Supervisors)

See action on this item below after the Consent Agenda.

- 10. [AB2021-554](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Northwest Youth Services to support operations at the Ground Floor Day Use Center in the amount of \$10,000 for a total amended contract amount of \$145,000

**AUTHORIZED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

11. [AB2021-557](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Catholic Community Services to provide behavioral health support at Francis Place and other permanent supportive housing programs in the amount of \$60,757 for a total amended contract amount of \$306,173

**AUTHORIZED BY CONSENT**

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

**Nay:** 0

**Absent:** 0

12. [AB2021-562](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and G6 Hospitality Group to extend the agreement for an additional three months

See action on this item below after the Consent Agenda.

2. [AB2021-513](#) Request authorization for the County Executive to enter into a transfer option agreement between Whatcom County and Opportunity Council for the property located at Laurel and Forest streets for the appraised amount of \$1,230,000

**AUTHORIZED**

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

**Nay:** 1 - Byrd

**Absent:** 0

9. [AB2021-542](#) Request approval for the County Executive to enter into an interagency agreement between the State of Washington Puget Sound Partnership and the Whatcom County Flood Control Zone District, acting as the fiscal agent for the Local Integrating Organization (LIO) to coordinate the County LIO (Council acting as the Flood Control Zone District Board of Supervisors)

**AUTHORIZED**

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

**Nay:** 2 - Byrd, and Elenbaas

**Absent:** 0

12. [AB2021-562](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and G6 Hospitality Group to extend the agreement for an additional three months

**AUTHORIZED**

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

**Nay:** 3 - Byrd, Elenbaas, and Kershner

Absent: 0

## **OTHER ITEMS**

### **(From Council Finance and Administrative Services Committee)**

1. [AB2021-512](#) Ordinance amending the 2021 Whatcom County Budget, request no. 14, in the amount of \$315,947

#### **ADOPTED**

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

**Nay:** 2 - Byrd, and Elenbaas

**Absent:** 0

Enactment No: ORD 2021-057

2. [AB2021-522](#) Resolution amending the Flood Control Zone District 2021 budget, request no. 3, in the amount of \$175,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Enactment No: RES 2021-041

Clerk's note: The vote on this item was reconsidered. See final vote on this item below.

3. [AB2021-527](#) Request approval for the County Executive to enter into an agreement with Cascadia Policy Solutions, LLC, for the purpose of developing and implementing a collaborative water solutions table in the amount of \$190,000 (Council acting as the Flood Control Zone District Board of Supervisors)

See vote on this item below.

2. [AB2021-522](#) Resolution amending the Flood Control Zone District 2021 budget, request no. 3, in the amount of \$175,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

#### **APPROVED**

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

**Nay:** 2 - Byrd, and Elenbaas

**Absent:** 0

Enactment No: RES 2021-041

4. [AB2021-533](#) Request approval for the County Executive to enter into an agreement with Kramer Consulting, Inc. for facilitation services for the WRIA 1 Drainage Based Management Pilot Project in the amount of \$100,000 (Council acting as the Flood Control Zone



District Board of Supervisors)

See vote on this item below.

3. [AB2021-527](#) Request approval for the County Executive to enter into an agreement with Cascadia Policy Solutions, LLC, for the purpose of developing and implementing a collaborative water solutions table in the amount of \$190,000 (Council acting as the Flood Control Zone District Board of Supervisors)

**REFERRED TO COMMITTEE**

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

**Nay:** 0

**Absent:** 0

4. [AB2021-533](#) Request approval for the County Executive to enter into an agreement with Kramer Consulting, Inc. for facilitation services for the WRIA 1 Drainage Based Management Pilot Project in the amount of \$100,000 (Council acting as the Flood Control Zone District Board of Supervisors)

**AUTHORIZED**

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

**Nay:** 0

**Absent:** 0

5. [AB2021-534](#) Request Council approval of the 2021-2023 Criminal Justice Treatment Account Plan Update

**APPROVED REQUEST**

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

**Nay:** 0

**Absent:** 0

6. [AB2021-545](#) Request authorization for County Executive to enter into an Interlocal Grant Agreement between Whatcom County and the Administrative Office of the Courts to reimburse Whatcom County for extraordinary costs associated with the Blake decision in the amount of \$1,790,621

**AUTHORIZED**

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

**Nay:** 2 - Elenbaas, and Kershner

**Absent:** 0

7. [AB2021-551](#) Request authorization for the County Executive to enter into a contract amendment

between Whatcom County and Opportunity Council to operate the Whatcom Homeless Service Center in the amount of \$162,400 for a total amended contract amount of \$1,113,951

**AUTHORIZED**

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

**Nay:** 0

**Absent:** 0

8. [AB2021-555](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Pacific Security to provide COVID-related security services in the amount of \$51,752 for a total amended contract amount of \$123,488

**AUTHORIZED**

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

**Nay:** 3 - Byrd, Elenbaas, and Kershner

**Absent:** 0

**(From Council Planning and Development Committee)**

9. [AB2021-424](#) Ordinance adopting amendments to the Whatcom County Code Title 20, Zoning to allow and regulate Battery Energy Storage Systems

**HELD IN COMMITTEE**

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

**Nay:** 0

**Absent:** 0

**(From Council Committee of the Whole)**

10. [AB2021-209](#) Resolution regarding permanent affordability of childcare in Whatcom County

**HELD IN COMMITTEE**

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

**Nay:** 0

**Absent:** 0

11. [AB2021-525](#) Discussion and request for Council motion regarding request for proposals (RFP) for independent review of the response to the COVID-19 pandemic

**DISCUSSED AND MOTION(S) APPROVED**

Motion carried 7-0 to approve the document titled Substitute Draft Scope for 9.28 listed as attachment #3 on this file in the Legislative Information Center.

12. [AB2021-528](#) Resolution approving the Water District 13 Small Water System Management Plan

**APPROVED**

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2021-042

**(No Committee Assignment)**

13. [AB2021-538](#) Resolution setting regular Whatcom County Council meeting dates for 2022

**HELD IN COUNCIL**

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

**Nay:** 0

**Absent:** 0

**COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES**

1. [AB2021-559](#) Council appointment to fill vacancies on the Drayton Harbor Shellfish Protection District Advisory Committee - Applicant(s): Ravyn Whitewolf and Charlie Hawkins

**APPOINTED**

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

**Nay:** 0

**Absent:** 0

Motion approved 6-0-1 (with Elenbaas abstaining) to waive the interim period on the Drayton Harbor Shellfish Protection District Advisory Committee so Charlie Hawkins can be an applicant.

Appointed both applicants 7-0

**EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES**

1. [AB2021-546](#) Request confirmation of the County Executive's appointment of Elizabeth Lorence to the Marine Resources Committee

**CONFIRMED**

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

**Nay:** 0

**Absent:** 0

**ITEMS ADDED BY REVISION**

1. [AB2021-578](#) Request authorization for the Whatcom County Prosecutor's Office to join Whatcom County with several other counties and the Washington State Association of Counties as a plaintiff in Benton County, et al. v. State of Washington filed in the King County Superior Court, an action seeking a declaratory judgment regarding obligations under State v. Blake

**APPROVED REQUEST**

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

**Nay:** 0

**Absent:** 0

**INTRODUCTION ITEMS**

1. [AB2021-547](#) Ordinance amending the 2021 Whatcom County Budget, request no. 15, in the amount of \$859,440

**SUBSTITUTE INTRODUCED**

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

**Nay:** 0

**Absent:** 0

2. [AB2021-549](#) Ordinance establishing the Central Plaza Tenant Improvements Fund and establishing a project based budget for the Central Plaza Tenant Improvements Project

**INTRODUCED**

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

**Nay:** 0

**Absent:** 0

3. [AB2021-561](#) Ordinance amending Ordinance No. 2021-045 (Review of Response to COVID-19 Pandemic)

**INTRODUCED**

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

**Nay:** 0

**Absent:** 0

4. [AB2021-185](#) Ordinance amending Whatcom County Code 9.32, Unlawful Discharge of Firearms, to establish a no shooting zone in the Drayton Harbor area of Whatcom County

**INTRODUCED FOR PUBLIC HEARING**

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

**Nay:** 0

**Absent:** 0

5. [AB2021-539](#) Ordinance adopting amendments to the Six-Year Capital Improvement Program for Whatcom County Facilities (2021-2026)

**INTRODUCED FOR PUBLIC HEARING**

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

**Nay:** 0

**Absent:** 0

6. [AB2021-543](#) Ordinance adopting Zoning amendments relating to density credits in the UR4 zone in the Birch Bay UGA, density credits for accessory dwelling units, and modifying the minimum lot size, width, depth and other requirements in the Urban Residential zone

**INTRODUCED FOR PUBLIC HEARING**

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

**Nay:** 0

**Absent:** 0

7. [AB2021-544](#) Ordinance adopting amendments to the Unified Fee Schedule relating to density credit fees for increasing the size of accessory dwelling units

**INTRODUCED FOR PUBLIC HEARING**

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

**Nay:** 0

**Absent:** 0

**COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES**

The following motion was approved 6-1 (with Browne opposed) : I hereby move to authorize the Whatcom County Executive to enter into the settlement agreement negotiated by the District and the Plaintiffs in the matter of Ericksen v Whatcom County Flood Control Zone District, Whatcom County Superior Court cause no. 20-2-00650-37.

Motion approved 7-0 to re-engage the Stakeholder Advisory Committee members and re-affirm the principles in the resolution (Res 2019-036).

**ADJOURN**