

# **Whatcom County Council**

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



## **Minutes - Final**

**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

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

### ANNOUNCEMENTS

Buchanan made the following announcement: The County is accepting applications from county residents to fill vacancies on several boards, commissions, and committees spanning a wide range of important local issues. For more information, visit the Boards and Commissions vacancy webpage on the County website at [www.co.whatcom.wa.us](http://www.co.whatcom.wa.us) or call the County Council office or County Executive's Office.

### COUNTY EXECUTIVE'S REPORT

There was not an executive report.

### FLAG SALUTE

### MINUTES CONSENT

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

1. [MIN2021-071](#) Joint Health Board / PHAB for September 7, 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. [MIN2021-072](#) Committee of the Whole for September 14, 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. [MIN2021-073](#) Regular County Council for September 14, 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

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

5. [MIN2021-075](#) Water Work Session for September 21, 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. [AB2021-500](#) Ordinance adopting amendments to the Whatcom County Zoning Code Relating to Temporary Homeless Facility Regulations

Mark Personius, Planning and Development Services Department Director, briefed the Councilmembers.

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

***Browne moved*** and Frazey seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Personius answered a question about a previously made amendment about public entities being able to be sponsors and stated the change is reflected in the definition for sponsors on page 11 of Exhibit A under a new section D of Chapter 20.97.

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

**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

**This agenda item was WITHDRAWN.**

3. [AB2021-503](#) Resolution authorizing the sale of surplus personal property pursuant to WCC 1.10  
Buchanan opened the Public Hearing and, hearing no one, closed the Public Hearing.

**Byrd moved and Frazey 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 2021-038

4. [AB2021-508](#) Ordinance for Installation of a Stop Sign on Northshore Road  
Jim Karcher, Public Works Department, stated he was available for questions.

Buchanan opened the Public Hearing and the following person spoke:

- Bruce Parelskin

Hearing no one else, Buchanan closed the Public Hearing.

**Frazey 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 2021-056

5. [AB2021-515](#) Resolution in the matter of the Whatcom County Six-Year Transportation Improvement Program (STIP) for the years 2022 through 2027

Jim Karcher, Public Works Department, stated he did not have a report.

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

**Byrd moved and Frazey 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 2021-039

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)

Kraig Olason, Public Works Department, stated he did not have a report.

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

**Donovan moved and Byrd seconded that the Resolution (FCZDBS) 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 2021-040

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"

Amy Dearborn, Planning and Development Services Department, briefed the Councilmembers.

Buchanan opened the Public Hearing and the following people spoke:

- Wendy Harris
- Dena Jensen

Hearing no one else, Buchanan closed the Public Hearing.

***Donovan moved*** to accept the Wildlife Advisory Committee's recommendation to designate the Western Toad (also known as boreal toad) (Anaxyrus [formerly Bufo] boreas), the Coastal Tailed Frog (Ascaphus truei), Townsend's Big-Eared Bat (Coryrhinus townsendii), and the Elk (Cervus elaphus) as species of local importance. The motion was seconded by Frazey.

Councilmembers and staff discussed the motion.

Robert Waddell, Washington Department of Fish and Wildlife, spoke about issues with elk.

***Kershner moved*** to amend the motion to remove the Elk from the list. The motion was seconded by Browne.

The motion to amend carried by the following vote:

**Aye:** 4 - Browne, Buchanan, Byrd, and Kershner

**Nay:** 3 - Donovan, Elenbaas, and Frazey

**Donovan's motion that species be APPOINTED AS AMENDED carried by the following vote:**

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

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

**Absent:** 0

### **OPEN SESSION (20 MINUTES)**

The following people spoke:

- Sarah (last name not given)
- Cutzi Jobs
- Dena Jensen
- Kathy Sabel
- David Spring

- Lonnie Brogan
- Ken Domorod
- Tyler Zmolek
- Lindy McDonough
- Wendy Harris
- Melissa Wisener
- Misty Flowers
- Markis Dee Stidham
- Shannon Wallace
- Jared Petterson
- Gail Adderley
- Enoch Mann
- Sarah Rose
- Shean Halley
- Nancy Bergman
- Natalie Chavez
- Jean Purcell
- Rebecca Wilson
- Chad Butenschoen
- Stacey Dailey
- Kamal Bhachu

Councilmembers discussed a point of order about speakers making mention of candidacy for office and the following people answered questions:

- Dana Brown-Davis, Clerk of the Council
- Karen Frakes, Prosecuting Attorney's Office

Open session comments continued with:

- Kamal Bhachu
- Shaz
- Louis Burrell
- Tawni Hickman
- Mary Stidham
- Hannah Ortis
- Desiree Espericueta
- Renee Norton

Hearing no one else, Buchanan closed the Open Session.

**CONSENT AGENDA**

(From Council Finance and Administrative Services Committee)

**Browne** reported for the Finance and Administrative Services Department and **moved** to approve item numbers 1 and 3-11.

**Byrd moved** to also remove item number 9 (AB2021-542) from the Consent Agenda.

**Browne amended his motion** and **moved** to approve Consent Agenda item numbers 1, 3, 4, 5, 6, 7, 8, 10, and 11.

Councilmembers discussed the motion.

See motion and votes on each individual item below.

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

**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

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.

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

**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. [AB2021-526](#) 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

**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

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

**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

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

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

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

**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

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)

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

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.

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

**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

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

**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

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.

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

Browne reported for the Finance and Administrative Services Committee and stated that this item was forwarded to Council without a recommendation from the committee.

***Donovan moved*** and Frazey seconded that the Contract be AUTHORIZED.

Tyler Schroeder, Executive's Office, discussed with Councilmembers what happens if the Councilmembers vote no on this item, and Councilmembers discussed the motion, whether the cost of the property should be reduced to cover the cost of relocating the Washington State University (WSU) Extension facility, whether approving this right now helps the Opportunity Council's project to go forward, which option would help the Opportunity Council with tax credits, and what the \$1.2 million in the general fund would be allocated for.

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

**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)

**Browne reported for the Finance and Administrative Services Committee and moved that the Contract (FCZDBS) be AUTHORIZED. The motion carried by the following vote:**

**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

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

Kathleen Roy, Health Department, answered what happened to the plan to have a regional facility that was paid for by the State.

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

**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

**Browne reported for the Finance and Administrative Services Committee and moved that the Ordinance be ADOPTED. The motion carried by the following vote:**

**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)

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

The motion carried by the following vote:

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

**Nay:** 0

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

**This agenda item was voted on 7-0 and then RECONSIDERED later in the meeting.**

Enactment No: RES 2021-041

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)

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

Elenbaas stated that he would like to vote again on the previous item (AB2021-522) so Councilmembers went back to that item (see vote on AB2021-527 below).

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)

**Elenbaas moved** to reconsider AB2021-522. The motion was seconded by Byrd.

The motion to reconsider carried by the following vote:

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

**Nay:** 0

**Browne moved** and Buchanan seconded that the Resolution (FCZDBS) be APPROVED.

The following people answered questions about what the money for this item would be used for and why this does not include some of the stakeholders and water users:

- Paula Harris, Public Works Department
- Tyler Schroeder, Executive's Office

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

**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)

Browne read this into the record then they realized that they skipped AB2021-527 so they stopped and went to that item.

See vote on this item below.

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)

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

**Donovan moved** to that this item be HELD IN COMMITTEE. The motion was seconded by Byrd.

Councilmembers discussed the motion.

Donovan stated he would like to hold it for two weeks.

**Donovan's motion that the Contract (FCZDBS) be HELD and REFERRED TO COMMITTEE carried by the following vote:**

**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)

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

Councilmembers discussed the motion.

Paula Harris, Public Works Department, spoke about the contract and answered questions about the consultant.

**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

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

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

Elenbaas asked what the dollar amount is.

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

**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

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

Councilmembers discussed the motion.

The following people answered questions:

- Tyler Schroeder, Executive's Office
- Karen Frakes, Prosecuting Attorney's Office

They answered questions whether the money goes to both District and Superior Court, and whether there would be a non-discrimination agreement with the money.

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

**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

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

**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

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

**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

*Elenbaas* reported on the Planning and Development Committee and *moved* that the Ordinance be HELD IN COMMITTEE.

Councilmembers discussed the motion and Dana Brown-Davis, Clerk of the Council, answered questions about agenda process.

**Elenbaas moved that the Ordinance be HELD IN COMMITTEE and sent to Council Planning and Development Committee. The motion carried by the following vote:**

**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

**Buchanan reported for the Committee of the Whole and moved to extend the deadline to October 15 (this would hold the item in committee). The motion carried by the following vote:**

**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

Buchanan reported for the Committee of the Whole.

Cathy Halka, Council Legislative Analyst, briefed the Councilmembers.

**Buchanan moved** to approve the document titled Substitute Draft Scope for 9.28 as listed as attachment #3 on this file in the Legislative Information Center.

The motion carried by the following vote:

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

Nay: 0

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

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

**Buchanan reported for the Committee of the Whole and moved that the Resolution 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 2021-042

**(No Committee Assignment)**

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

***Frazey moved*** and Byrd seconded that the Resolution be APPROVED.

Councilmembers discussed the motion and why there are three meetings scheduled in May.

***Kershner moved*** to strike May 31 from the proposed agenda dates. The motion was seconded by Byrd.

Dana Brown-Davis, Clerk of the Council, answered whether they would still have the required number of meetings.

***Frazey moved*** and Donovan seconded that the Resolution be HELD IN COUNCIL to give opportunity for the Clerk to come up with a date to strike from the schedule for next year.

Councilmembers discussed the motion and Brown-Davis stated she could rework the schedule and bring back a couple options.

**Frazey's motion that the Resolution be HELD IN COUNCIL carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2021-043

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**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  
***Donovan moved*** to appoint both applicants. The motion was seconded by Byrd.

Dana Brown-Davis, Clerk of the Council, stated a motion for a waiver of the one-year requirement would be needed.

***Donovan moved*** to waive the interim period for being off the board for the nominee Charlie Hawkins but there was already a motion on the floor.

***Donovan withdrew*** his motion to appoint.

***Donovan moved*** to waive the interim period on the Drayton Harbor Shellfish Protection District Advisory Committee so Charlie Hawkins would be eligible to be an applicant for this position. The motion was seconded by Byrd.

Brown-Davis answered how long the position was advertised and whether any other applicants were received.

The motion to waive carried by the following vote:

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

**Nay:** 0

**Abstain:** 1 - Elenbaas

Councilmembers discussed the item further.

**Byrd moved and Frazey seconded that both applicants be APPOINTED. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 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

**Donovan moved and Byrd seconded that the Executive Appointment be**

**CONFIRMED. The motion carried by the following vote:**

**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

Karen Frakes, Prosecuting Attorney's Office, briefed the Councilmembers and answered questions (after the vote).

Councilmembers discussed the item.

**Byrd moved and Buchanan seconded that the Request for Motion be APPROVED. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

**INTRODUCTION ITEMS**

Buchanan stated that AB2021-549 has a substitute (see note on this below).

*Donovan moved* to introduce items one through seven. The motion was seconded by Byrd (see votes on individual items below).

Dana Brown-Davis, Clerk of the Council, confirmed that it is **AB2021-547** that has a substitute.

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

**Donovan moved and Byrd 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

Enactment No: ORD 2021-062

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

**Donovan moved and Byrd 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 2021-063

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

**Donovan moved and Byrd 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 2021-064

- 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

**Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2021-061

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

**Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2021-058

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

**Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2021-059

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

**Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2021-060

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

Buchanan reported for Committee of the Whole Executive Session and stated there was a motion to read into the record.

Karen Frakes, Prosecuting Attorney's Office, answered a question about Browne proposing an alternative motion.

**Browne** read a statement and **moved** to reject further negotiations and refer the matter back to the courts for adjudication. The motion was seconded by Elenbaas.

Councilmembers discussed Browne's motion.

Christopher Quinn, Prosecuting Attorney's Office, spoke and Councilmembers continued to discuss the motion.

The motion failed by the following vote:

**Aye:** 1 - Browne

**Nay:** 6 - Frazey, Kershner, Buchanan, Byrd, Donovan, and Elenbaas

Councilmembers discussed with Quinn and Frakes how to proceed with the item.

**Donovan moved** the following:

I hereby move to authorize the Executive to enter into the settlement agreement as described by Mr. Quinn. The motion was seconded by Byrd.

Councilmembers discussed the motion.

Buchanan read **Donovan's full motion** from Committee of the Whole Executive Session into the record:

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.

The motion carried by the following vote:

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

**Nay:** 1 - Browne

Councilmembers continued to give committee reports.

**Buchanan** reported for the Criminal Justice and Public Safety Committee and **moved** to re-engage the Stakeholder Advisory Committee members and re-affirm the principles in the resolution (Res 2019-036). The motion was seconded by Donovan.

The motion carried by the following vote:

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

**Nay:** 0

After the other committee reports, Councilmembers discussed other topics, including the location of the WSU Extension, the Bellingham City

Council having public sessions on dates opposite of their public meetings, the fact that Whatcom County Council has not mandated any vaccines to date, and COVID-19 policies concerning keeping kids in school and employees working.

Tyler Schroeder, Executive's Office, answered questions about the WSU Extension.

Approved motions in Committee Reports:

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.

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

**ADJOURN**

The meeting adjourned at 11:12 p.m.

The County Council approved these minutes on October 12, 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