

Whatcom County Council

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



Minutes - Draft Minutes

Tuesday, July 23, 2024

6 PM

Hybrid Meeting

HYBRID MEETING (PARTICIPATE IN-PERSON, SEE REMOTE JOIN
INSTRUCTIONS AT www.whatcomcounty.us/joinvirtualcouncil, OR CALL
360.778.5010)

COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Kaylee Galloway
Jon Scanlon
Mark Stremler

CLERK OF THE COUNCIL

Cathy Halka, AICP, CMC

COUNTY COUNCIL

CALL TO ORDER

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

ROLL CALL

Present: 7 - Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Kaylee Galloway, Jon Scanlon, and Mark Stremler

FLAG SALUTE

ANNOUNCEMENTS

COUNTY EXECUTIVE'S REPORT

There was no report.

MINUTES CONSENT

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

1. [MIN2024-038](#) Water Work Session for November 14, 2023

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

2. [MIN2024-040](#) Water Work Session for March 12, 2024

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

OPEN SESSION

The following people spoke:

- Adam Bellingar
- Matt Berry
- Sharman Burnam
- Carol Sandvig

- Lisa Guthrie
- Carol Sandvig
- Lisa Guthrie
- Michael Stringham
- Charlie Brown
- Christine Callanan
- Parneet Kaur
- David Herzfeld
- Dave Berry
- Rose Crow
- Alexis Aydelotte
- Karna Ringham
- Jonah Runde
- Monica Padilla
- Erin Grimes
- Raven Ira Seven
- Amy Tucker
- George Rounthwaite
- Jackson Maynard
- David Brewin
- Tally Rabatin
- Gerald Hulbert
- Lily Van Mullem
- Tammy (last name not stated)
- Jason McGill
- David Heinrich
- Markis Dee
- Name not stated
- Lyle Sorenson
- Joe Gibson
- Pat Jerans
- Heather K
- Natalie Chavez
- Tim Eyman
- Danielle Gaughen
- Sasha Sanguinetti
- Brian Bell
- Doralee Booth
- Hannah O

- Misty Flowers
- Jonathan Mallahan

Hearing no one else, Buchanan closed the Open Session.

Councilmembers took a short break.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

Donovan reported for the Finance and Administrative Services Committee and ***moved*** to approve Consent Agenda items one through ten.

Councilmembers voted on those items (see votes on individual items below).

1. [AB2024-464](#) Request authorization for the County Executive to enter into a contract between Whatcom County and ASM Affiliates to provide on-call professional cultural and historical resource services, in the amount not to exceed \$100,000

Donovan 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 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

2. [AB2024-471](#) Request authorization for the County Executive to enter into an interlocal contract between Whatcom County and Washington State Health Care Authority for a Reentry Demonstration Initiative Project in the amount of \$2,500,000.00

Donovan 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 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

3. [AB2024-475](#) Request authorization for the County Executive to award Bid #24-63 and enter into a contract between Whatcom County and J Ritter Dirt and Asphalt LLC, for trailhead parking lot improvements at Stimpson Family Nature Reserve, in the amount of \$219,019.30

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

4. [AB2024-477](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Astound Business Solutions, LLC (formerly Wave) for fiber optic connectivity from the Courthouse to State Street and a nearby parking lot in the amount of \$81,337.03 for a total amended amount over five years of \$364,657.26

Donovan 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 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

5. [AB2024-478](#) Request authorization for the County Executive to enter into an agreement between Whatcom County and the Lummi Island Heritage Trust to reimburse the Trust for development costs of the Aiston Preserve, in the amount of \$50,000

Donovan 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 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

6. [AB2024-481](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington Association of Sheriffs and Police Chiefs (WASPC) for Registered Sex Offender Verification Program funding, in the amount of \$132,892.95

Donovan 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 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

7. [AB2024-482](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Blaine Police Department (PD), Everson PD, Ferndale PD, Lynden PD, Sumas PD, US Border Patrol, US Drug Enforcement Agency, and Washington State Patrol to establish a multi-jurisdictional drug task force, in the amount of \$0.00

Donovan 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 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

8. [AB2024-483](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and US Department of Agriculture, Forest Service for area patrols, in the amount of \$34,056.00 for a total amended amount of \$56,760.00

Donovan 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 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

9. [AB2024-487](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Aquatic Insight, LLC to develop a Wiser Lake Cyanobacteria Management Plan, in the amount of \$62,500

Donovan 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 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

10. [AB2024-490](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Klemple Glass LLC to reconfigure the storefront doorway and frame in the Auditor's Office in the amount of \$5,684.80 for a total amended amount of \$42,676.80

Donovan 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 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2024-432](#) County Executive requests approval of the Economic Development Investment (EDI) Board's recommendation for funding to support the City of Bellingham's Bear Creek

Corridor Construction Project, the City of Lynden's Wastewater Treatment Plant Capacity and Nutrient Improvement Project, the City of Ferndale Water Treatment Plant Upgrades and Douglas Deep Well Projects, and the Housing Affordability through the Workforce Program

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

2. [AB2024-460](#) Ordinance amending the project budget for the Way Station Project Fund, request no. 4

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

Enactment No: ORD 2024-040

3. [AB2024-463](#) Ordinance amending the 2024 Whatcom County Budget, request no. 9, in the amount of 873,134

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

Scanlon thanked everyone who came and spoke or who emailed about the Birch Bay incorporation study.

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

Aye: 6 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, and Scanlon

Nay: 1 - Stremler

Enactment No: ORD 2024-041

4. [AB2024-476](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and City of Bellingham Fire Department, City of Lynden Fire Department, South Whatcom Fire Authority, Whatcom Fire Protection District 1, Whatcom Fire Protection District 4, Whatcom Fire Protection District 7, Whatcom Fire Protection District 8, Whatcom Fire Protection District 11, Whatcom Fire Protection District 14, Whatcom Fire Protection District 16, Whatcom Fire Protection District 17, Whatcom Fire Protection District 18, Whatcom Fire

Protection District 19, and Whatcom Fire Protection District 21 for First Response Emergency Medical Services, in the amount of \$7,500,000.00

Donovan reported for the Finance and Administrative Services Committee and moved that the Interlocal be HELD IN COMMITTEE. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

(From Council Committee of the Whole)

5. [AB2024-419](#) Ordinance submitting to the qualified voters of Whatcom County a proposal to repeal Proposition 5

Buchanan reported for the Committee of the Whole and stated the motion to recommend this afternoon failed to get a second so they have no recommendation from committee.

Galloway moved to table *then withdrew* her motion.

Donovan stated they had a discussion two weeks ago about introducing the ordinance to put this on the ballot with some whereas statements about Council's concerns about whether this would have been initiative or referendum, but leaving the exact language in the "Now, Therefore, Be It Ordained section." He stated they have the option of adopting this ordinance and that, if they do that, those whereas statements would potentially (not certainly) appear in the voter's pamphlet. Otherwise, the no-action course would leave the proponents' language in the pamphlet.

Donovan moved to consider approving the ordinance to put this on the ballot as was introduced two weeks ago.

George Roche, Prosecuting Attorney's Office, stated when the Auditor goes to publish, they will be publishing the citizen's initiative as written and signed by the citizens. But, if Council passes this ordinance that is before them right now, and as long as page limits are allowed, it is the perspective of the Auditor's Office that both sections would be published in the advisory pamphlet. If Council takes no action, like they did in Committee, the Auditor's Office would only be publishing what was presented to them by the citizens.

Donovan's motion was seconded by Buchanan.

Councilmembers discussed the motion, and Roche answered questions.

Scanlon stated he has some question about accuracy of the statement on lines two and three of the second page which states:

WHEREAS, the group submitted 9620 signatures to the Auditor's office to qualify their repeal proposal via the initiative route; and

He stated they did not receive any communication from the Auditor regarding that number. What they did receive from the Auditor was how many signatures were verified which was 6,423.

Roche spoke about where the number in the ordinance came from and stated his recommendation would be to copy whatever the Auditor sent them as the certificate.

Scanlon moved to amend the ordinance to add a whereas statement between the first and second whereas statements on page two (after line three) which reads:

WHEREAS, the Auditor verified 6,423 signatures to qualify the repeal proposal via the initiative route; and

The motion was seconded by Byrd.

Councilmembers discussed the proposed amendment.

The motion to amend carried by the following vote:

Aye: 5 - Scanlon, Buchanan, Byrd, Donovan, and Galloway

Nay: 2 - Stremmler and Elenbaas

Galloway commented on the motion to adopt the ordinance as amended and stated she will opt to vote against this ordinance because she believes that no action should mean no action and not taking an action for no action.

Councilmembers voted on the ordinance as amended and the motion failed. See vote below after further discussion.

Donovan stated they are concretely taking no action then and asked if they need to table this, and Roche stated the Auditor's Office will react to this failed ordinance and act with whatever they deem to be appropriate. He is guessing they are going to interpret that as no action and put the citizens initiative on the ballot as proposed by the citizens.

Donovan's motion that the Ordinance be ADOPTED AS AMENDED failed

by the following vote:

Aye: 3 - Buchanan, Donovan, and Scanlon

Nay: 4 - Byrd, Elenbaas, Galloway, and Stremler

6. [AB2024-420](#) Ordinance amending Whatcom County Code 2.02.080, Standing Committees - Membership, to change the membership of all standing council committees from three members to seven

Galloway reported for the Committee of the Whole and moved that the Ordinance be HELD IN COMMITTEE and that they schedule a work session within the next month or so to further their discussion on this topic. The motion was seconded by Buchanan. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

Motion approved 7-0 to hold and schedule a work session within the next month or so to further their discussion on this topic.

7. [AB2024-453](#) Ordinance creating Whatcom County Code 2.49, establishing the Justice Project Finance and Facility Advisory Board

Buchanan reported for the Committee of the Whole and moved that the Ordinance be ADOPTED. The motion carried by the following vote:

Aye: 4 - Buchanan, Donovan, Galloway, and Scanlon

Nay: 3 - Byrd, Elenbaas, and Stremler

Enactment No: ORD 2024-042

8. [AB2024-492](#) Resolution supporting the expansion of year-round shelter capacity in Whatcom County

***Buchanan* reported for the Committee of the Whole and *moved* that the SUBSTITUTE Resolution be APPROVED.**

Scanlon briefed the Councilmembers on the resolution and stated it is asking the Executive to plan ahead for this winter and over the next few years by getting a proposal to the Council for their biennial budget discussions this fall. He spoke about the feedback and input they received and incorporated into the resolution.

Councilmembers discussed a letter regarding the resolution from the City of Bellingham, whether the City gave any verbal financial commitments, and the motion.

Satpal Sidhu, County Executive, stated they wholeheartedly agree with this concept and that local government should do something about it. He stated that getting a support letter from the City of Bellingham is a positive thing. He thinks, however, that they should separate working on the immediate need of having a winter shelter ready before November and working on a long-term shelter plan which will likely take longer.

Councilmembers discussed the resolution being flexible for multiple shelter strategies and that they want the Administration to look at all the options based on available budget, that a county-run shelter might be more affordable in the long run when compared to the cost of incarceration or time spent in the emergency room, feedback received from Bellingham councilmembers and the community and whether the problem is just a Bellingham problem, whether the resolution is taking on too much at one time, and the option to just start with specific populations toward the goal of functional zero homelessness.

Buchanan stated, for his part, he was never intending to identify all of this and to then say, "Go do it right now." His intention was to make sure they had a complete list of all the available types of sheltering, the data behind it, and all the different needs of that population, and then prioritize for the Executive's Office.

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

Aye: 4 - Buchanan, Donovan, Galloway, and Scanlon

Nay: 3 - Byrd, Elenbaas, and Stremmler

Enactment No: RES 2024-036

(No Committee Assignment)

9. [AB2024-479](#) Appointment of members to serve on pro and con statement writing committees for a proposed ballot measure to repeal the Children's Initiative Levy Lid Lift

Buchanan stated there was one late application for the pro side.

Galloway moved to consider all applicants for the pro side, including the late applicant. The motion was seconded by Buchanan.

The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmler

Nay: 0

Buchanan asked whether any of the applicants were present and wanted to speak but there were none.

Councilmembers discussed the applicants then voted for three applicants for the pro side as follows:

Buchanan: Christensen, Bell, and Allsop

Byrd: Myers, Bell, and Allsop

Donovan: Christensen, Bell, and Allsop

Elenbaas: Christensen, Bell, and Allsop

Galloway: Christensen, Bell, and Allsop

Scanlon: Christensen, Bell, and Allsop

Stremler: Myers, Bell, and Allsop

The following people were appointed to the pro side:

Ken Bell (7 votes), Ryan Allsop (7 votes), and Kyle Christensen (5 votes)

Donovan moved to nominate all the applicants for the con side. The motion was seconded by Galloway.

The motion carried by the following vote:

Aye: 7 - Byrd, Donovan, Elenbaas, Galloway, Scanlon, Stremler, and Buchanan

Nay: 0

Councilmembers voted for three applicants for the con side as follows:

Donovan: Imhof, Kaepernick, and Hansen

Elenbaas: Imhof, Kaepernick, and Hansen

Galloway: Imhof, Kaepernick, and Hansen

Scanlon: Imhof, Kaepernick, and Hansen

Stremler: Kaepernick, Hansen, and Mauerman

Buchanan: Imhof, Kaepernick, and Hansen

Byrd: Imhof, Kaepernick, and Hansen

The following people were appointed:

Lisa Kaepernick (7 votes), and Greg Hansen (7 votes), and Patti Imhof (6 votes).

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

Motion approved 7-0 to consider all applicants for the pro side, including the late applicant.

Motion approved 7-0 to nominate all applicants for the con side.

The following people were appointed:

Pro: Ken Bell (7 votes), Ryan Allsop (7 votes), and Kyle Christensen (5 votes)

Con: Lisa Kaepernick (7 votes), and Greg Hansen (7 votes), and Patti Imhof (6 votes).

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2024-422](#) Appointment to a vacancy on the Solid Waste Advisory Committee, Waste Collection Industry representative, Applicant(s): Ted Carlson

Galloway moved and Stremler seconded that the Council Appointment Requiring Introduction be APPOINTED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

CONFIRMATION OF EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2024-489](#) Request confirmation of the County Executive's appointments of Jack Hovenier and JanRose Ottaway Martin to the Justice Project Financial Advisory Board

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

ITEMS ADDED BY REVISION

There were no agenda items added by revision.

INTRODUCTION ITEMS

1. [AB2024-472](#) Appointment to a vacancy on the Forest Resilience Task Force for a community member with expertise in climate, salmon recovery, and natural resources policy, Applicant(s): Emily Thompson, Brandy Reed, Gregory Houle

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Scanlon stated he had a motion related to **AB2024-466**.

Scanlon moved to request that Council staff prepare a supplemental budget request for up to \$100,000 to be introduced at the August 6 Council meeting to contract for outside legal support regarding Council's approved actions via AB2024-466 "A Resolution requesting Whatcom County Superior Court issue a declaratory judgment to determine whether Initiative 2024-01 is procedurally invalid" and request assistance from the County Executive to expedite the processing of this supplemental budget request.

The motion was seconded by Donovan.

Councilmembers discussed the motion.

Kayla Schott-Bresler, Executive's Office, asked about the request that this budget supplemental be expedited and stated if they introduce this on August 6, their next Council meeting, the date to vote on approval would be the first meeting in September.

Councilmembers and staff discussed having a special meeting two weeks after the ordinance is introduced in August, whether the timing of this would affect the ballot and how it could be expedited, the fact that Council could consider proceeding with lapse in the budget as a short-term solution prior to the passage of a budget supplemental, that policies allow Council to proceed with professional services under \$40,000 or that Council and the Executive may also have the authority to waive that threshold if it is deemed in the best interest of the county, the fact that the motion is for an amount up to \$100,000 and that it could be under that, whether anyone has looked into whether there is a budget lapse that could be utilized, and prioritizing this when there is a County hiring freeze.

The motion carried by the following vote:

Aye: 4 - Buchanan, Donovan, Galloway, and Scanlon

Nay: 3 - Byrd, Elenbaas, and Stremler

MOTION RELATED TO: AB2024-466

Motion approved 4-3, with Byrd, Elenbaas, and Stremler opposed, to request that Council staff prepare a supplemental budget request for up to \$100,000 to be introduced at the August 6 Council meeting to contract for outside legal support regarding Council's approved actions via AB2024-466 "A Resolution requesting Whatcom County Superior Court issue a declaratory judgment to determine whether Initiative 2024-01 is procedurally invalid" and request assistance from the County Executive to expedite the processing of this supplemental budget request.

[AB2024-488](#) Discussion of pending litigation with Civil Deputy Prosecutor, George Roche, re; Opioid settlements and Whatcom County’s participation in the Kroger Opioid Settlement Agreement [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW42.30.110. (1)(i)]

Buchanan moved to authorize Satpal Sidhu, Whatcom County Executive, to sign the Kroger Settlement Participation Form and corresponding allocation agreement on behalf of Whatcom County, as discussed in Executive Session.

The motion was by Donovan.

The motion carried by the following vote:

Aye: 7 - Byrd, Donovan, Elenbaas, Galloway, Scanlon, Stremmer, and Buchanan

Nay: 0

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

Motion approved 7-0 to authorize Satpal Sidhu, Whatcom County Executive, to sign the Kroger Settlement Participation Form and corresponding allocation agreement on behalf of Whatcom County, as discussed in Executive Session.

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES
CONTINUED

Councilmembers continued to give committee reports and gave other updates.

ADJOURN

The meeting adjourned at 10:04 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Cathy Halka, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription