

# **Whatcom County Council**

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



## **Minutes - Final**

**VIRTUAL MEETING (PART 2) - VIEW ONLINE;**

**Tuesday, June 2, 2020**

**6 PM**

**Virtual Meeting**

### **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 BACK TO ORDER

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

### ROLL CALL

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

**Absent:** None

### ANNOUNCEMENTS

**Donovan** read the following *motion* from Committee of the Whole - Executive Session: I hereby move to approve defense and indemnification of employee defendants named in Toppin & Laule v. Whatcom County & Babson, Whatcom County Superior Court Cause No. 20-2-00662-37.

The motion was seconded by Frazey.

The motion carried by the following vote:

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

Nay: 0

### PUBLIC HEARINGS

1. AB2020-217 Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new or expanded facilities in the Cherry Point urban growth area, the primary purpose of which would be the shipment of unrefined fossil fuels not to be processed at Cherry Point

Buchanan gave a summary of how the public hearing will be done.

*Clerk's note: An instructional video was shown on how to virtually join and speak in the meeting.*

There was no staff report. Buchanan opened the public hearing and the following people spoke:

Trevor Smith  
Judith Akins  
Dena Jensen  
Karen Russell  
Andrew Gamble

John Munson  
Lori Province  
Alex Ramel  
Edward Ury  
Clara Jean Carmean  
Ryan Likkel  
Doris Smith  
Dirk Vermeeren  
Lance Calloway  
David Kershner  
Hue Beattie  
Irena Lambreau

*Clerk's note: An instructional video was shown on how to virtually join and speak in the meeting.*

Carrie Blackwood  
Danielle Shaw  
Ronald Colson  
Russ Dzialo  
Jennifer Sefzik  
Janet Higbee-Robinson  
Jeff Ten Pas  
Jack McBride  
Warren Sheay  
Charles Bailey  
Rick Eggerth  
Miguel Perry  
Andronetta Douglas  
Jamie Douglas  
Bonnie Barker  
Samuel Sefzik  
Jacob Pederson  
Michelle Smith  
Kris Halterman  
Michelle Stelovich  
Luis Aragon

*Clerk's note: An instructional video was shown on how to virtually join and speak in the meeting.*

Brel Foebe  
Christopher Grannis

Olof Anderson  
Gretchen Hovde  
Ria Bordian

*Clerk's note: An instructional video was shown on how to virtually join and speak in the meeting.*

Lence Collier

Hearing no one else Buchanan closed the Public Hearing.

(Time stamped at 02:31:52)

**Donovan moved** that the ordinance be adopted. The motion was seconded by Frazey.

Councilmembers discussed the ordinance.

(Timestamped at 02:33:33)

**Elenbaas moved** to amend the ordinance to remove lines 42 through 51 on Combined Packet page 40 as follows:

~~WHEREAS, multiple trains carrying crude oil from the Bakken formation moving through the United States and Canada have derailed and exploded causing damage to property and the environment, one derailment caused significant fatalities, which is the reason regulations must be improved; and~~

~~WHEREAS, a unit train carrying Bakken crude traveling through Mosier, Oregon, on June 3, 2016, derailed and exploded causing damage to property and the Columbia River, demonstrating that recently adopted state and federal policies and corporate investment intended to reduce the risks associated with oil by rail have proven insufficient to protect communities along the rail corridor; and~~

The motion was seconded by Byrd.

Councilmembers discussed the motion to amend the ordinance.

(Timestamped at 02:47:02)

**Donovan moved** to call the question.

The motion to call the question failed for lack of a second.

Councilmembers continued to discuss the motion to amend to ordinance.

The motion to amend failed by the following vote:

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

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

Mark Personius, Planning and Development Services Department Director, answered whether land use policy regulates any type of shipping and whether Title 20 would regulate the construction of the facilities and the parking lots if you were building a gravel facility.

(Timestamped at 03:07:32)

***Elenbaas moved*** to amend the ordinance to remove lines 13-15 on Combined Packet page 41 as follows:

~~WHEREAS, Title 20 currently does not explicitly prohibit transshipment, transport, and transfer of unrefined fossil fuels and construction of infrastructure to facilitate expanded shipment of unrefined fossil fuels not to be processed at Cherry Point; and~~

The motion was seconded by Byrd.

The motion failed by the following vote:

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

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

(Timestamped at 03:09:41)

***Elenbaas moved*** to amend the ordinance to remove line 38 on Combined Packet page 42 then amended his motion to remove lines 38 and 39 on Combined Packet page 42 as follows:

~~WHEREAS, the Council further finds that extending the moratorium imposed by Ordinance 2019-083 is necessary for the protection of public health and safety; and~~

The motion was seconded by Kershner.

Councilmembers discussed the motion to amend.

Cathy Halka, Council Office, repeated the motion.

The motion failed by the following vote:

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

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

(Timestamped at 03:56:55)

Elenbaas stated he would like to amend the ordinance to remove language in lines 21-25 on Combined Packet page 43.

Dana Brown-Davis, Clerk of the Council, asked for clarification on where in the ordinance the text is that Elenbaas was referring to.

Councilmembers discussed the request.

***Elenbaas moved*** to amend the ordinance to remove language from lines 21-25 on Combined Packet page 43 as follows:

BE IT FURTHER ORDAINED that for the purpose of this ordinance the definition of “unrefined fossil fuel” includes ~~but is not limited to all forms of crude oil whether stabilized or not; raw bitumen, diluted bitumen, or syncrude; coal; methane propane, butane, and other “natural gas” in liquid or gaseous formats excluding those that are the byproduct of refinery processes in the Cherry Point UGA; and condensate.~~

The motion was seconded by Kershner.

Karen Frakes, Prosecuting Attorney's Office, answered a question about whether the discussion to pass the moratorium is in accordance with the Governor's Proclamation 20-05 and what order from the Governor lifts the condition to limit agendas (Proclamation 20-28.4).

The motion to amend failed by the following vote:

**Aye:** 3 - Elenbaas and Kershner and Byrd

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

(Timestamped at 04:07:38)

The motion to adopt the ordinance carried by the following vote:

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

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

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

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

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

**Absent:** 0

Enactment No: ORD 2020-030

**OTHER ITEMS AND COUNCILMEMBER UPDATES**

*Byrd* read the following *motion* into the record:

Any meetings of boards, committees, and commissions through June 17 must be held in accordance with the Governor’s proclamation 20-28.4.

If either the enabling statute requires or the standard practice of the presiding body allows public comment during regular meetings, then remote meetings must provide a process to facilitate public comment, in a similar form and length, at the time of the meeting.

This motion is extended in conjunction with any extensions of the Governor’s proclamation beyond June 17.

The motion was seconded by Frazey.

Karen Frakes, Prosecuting Attorney's Office, answered a question about whether the Council put a motion in place suspending all meetings due to the Governor’s order, whether that is why they are taking this action now, whether it was passed as a motion or resolution and not an ordinance and whether this motion should have been passed before holding a public hearing.

The motion carried by the following vote:

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

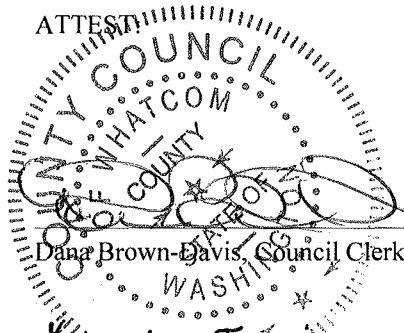
**Nay:** 0

Councilmembers gave closing comments.

**ADJOURN**

The meeting adjourned at 10:16 p.m.

The County Council approved these minutes on July 21, 2020.



Dana Brown-Davis, Council Clerk

*Kristi Felbinger*

Kristi Felbinger, Minutes Transcription

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

*Barry A. Buchanan*

Barry Buchanan, Council Chair