Whatcom County Council

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



Minutes - Final

Tuesday, July 25, 2023 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 Carol Frazey Kaylee Galloway 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 p.m. in a hybrid meeting.

ROLL CALL

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

FLAG SALUTE

ANNOUNCEMENTS

Buchanan stated during election season, specific rules apply. And those rules state that State law prohibits the use of public facilities to support or oppose candidates or ballot measures. So please refrain from raising any campaign issues during the meeting, and that includes the jail measure because we cannot be speaking of that, utilizing this resource (this County Council meeting). We will not be taking any comment regarding that.

COUNTY EXECUTIVE'S REPORT

There was no report.

MINUTES CONSENT

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

1. MIN2023-045 Committee of the Whole Executive Session for June 20, 2023

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

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

Nay: 0

2. MIN2023-046 Regular County Council for June 20, 2023

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

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

3. MIN2023-047 Committee of the Whole for June 20, 2023

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

Ave: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

4. MIN2023-048 Committee of the Whole Executive Session for July 11, 2023

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

Ave: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

5. MIN2023-049 Committee of the Whole for July 11, 2023

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

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

Nay: 0

6. MIN2023-050 Regular County Council for July 11, 2023

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

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

Nay: 0

PUBLIC HEARINGS

Ordinance adopting amendments to Whatcom County Code Title 20 (Zoning) to regulate short-term/vacation rentals

Cliff Strong, Planning and Development Services Department, stated the ordinance before them would only adopt Exhibit A and directs staff to come back with additional things for Council to consider at a later date.

Buchanan opened the Public Hearing and the following person spoke:

• Bruce Parelskin

Hearing no one else, Buchanan closed the Public Hearing.

Donovan moved and Galloway seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Donovan stated this version of the ordinance does include direction to Planning to pursue the licensing regulation plans that we discussed previously in committee.

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

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

Nay: 0

Enactment No: ORD 2023-041

Ordinance amending Whatcom County Code Chapter 20.14, Wind Energy Systems, and Chapter 20.97, Definitions

Cliff Strong, Planning and Development Services Department, briefed the Councilmembers.

Buchanan opened the Public Hearing and the following person spoke:

• Brian Heinrich

Hearing no one else, Buchanan closed the Public Hearing.

Galloway moved and Byrd seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Donovan spoke about the history of the discussions on this item.

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

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

Nay: 0

Enactment No: ORD 2023-042

OPEN SESSION

Buchanan read the earlier statement about the State rules that prohibit the use of public facilities to support or oppose candidates or ballot measures.

The following people spoke:

- Name not stated
- Natalie Chavez
- Lyle Sorenson
- Wendy Harris

Hearing no one else, Buchanan closed the Open Session.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

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

1. AB2023-453

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Ecology for technical assistance and education outreach to small businesses, in the amount of \$275,075

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

Ave: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

2. AB2023-454

Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and U.S. Department of Justice Organized Crime Drug Enforcement Task Force (OCDETF) for continuing an OCDETF investigation, in the amount of \$14,000, for a total amount of \$16,500

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

3. AB2023-458

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham for Aquatic Invasive Species (AIS) enforcement patrols on Lake Whatcom and Lake Samish, in the amount of \$20,000.00

Kershner 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, Frazey, Galloway, and Kershner

Request approval for the County Executive to award Bid #23-50, Rental Rates for Maintenance and Construction Equipment Without Operator, to all bidders with the award for each vendor not to exceed \$100,000.00

Kershner 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:

Ave: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

5. <u>AB2023-460</u>

Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and Washington State Department of Health to deliver various public health services in the amount of \$3,197,322 for a total amended agreement amount of \$12,178,417

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

6. AB2023-462

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 reimbursement for work performed related to the Juvenile Detention Alternative Initiative (JDAI) in the amount of \$28,000 per year for a total of \$56,000 over 2 years

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

7. AB2023-463

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 reimbursement of services relating to programming for juvenile offenders under the supervision of Juvenile Court, with reimbursement to continue at the SFY2022-2023 rate in Whatcom County Contract No. 202106029 until the State has determined the SFY 2024-2025 rates

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

8. AB2023-464

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and The Administrative Office of the Court for reimbursement for costs related to resentencing and vacating convictions for those individuals affected by the Blake Decision in the maximum reimbursement amount of \$837,967

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

9. AB2023-467

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Health Care Authority for the coordination and implementation of prevention programs and strategies, in the amount of \$260,000 annually with a not to exceed amount of \$1,320,000

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

10. AB2023-468

Request authorization for the County Executive to enter into a subrecipient agreement between Whatcom County and the Whatcom Conservation District to complete components of a National Estuary Program (NEP) funded grant scope of work including data coordination, technical assistance and outreach, in the amount of \$773,332 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Kershner 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 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Request authorization for the County Executive to enter into a lease between Whatcom County and Lengosot LLC to provide temporary space to perform autopsies in the amount of a base rent of \$250 per autopsy and an additional \$50 transportation cost per trip

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

OTHER ITEMS

AB2023-472

1.

(From Council Climate Action and Natural Resources Committee)

Resolution authorizing the County Executive to grant an easement to Puget Sound Energy across park property to service two private residences located off of Blue Canyon Road

Galloway reported for the Climate Action and Natural Resources Committee and moved that the Resolution be APPROVED. The motion carried by the following vote:

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

Nay: 0

Enactment No: RES 2023-017

(From Council Finance and Administrative Services Committee)

2. AB2023-448 Ordinance Establishing the Central Shop NPDES Stormwater Improvements Project Based Budget

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

Enactment No: ORD 2023-043

Ordinance amending the 2023 Whatcom County Budget, request no. 10, in the amount of 1,493,534

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

Donovan stated there is no increase or decrease in the General Fund budget because those are grants and Road Fund.

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

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

Nay: 0

Enactment No: ORD 2023-044

(From Council Public Works and Health Committee)

4. AB2023-294 Resolution adopting the Food System Plan created by the Whatcom County Food

System Committee

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

Donovan and Frazey thanked the people who worked on the plan.

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

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

Nay: 0

Enactment No: RES 2023-018

5. AB2023-483

Discussion and request approval of motion to appoint one member of Council to the Multi-Agency Coordination (MAC) Group

Kershner reported for the Public Works and Health Committee and *moved* that Buchanan be appointed as recommended in committee.

The motion carried by the following vote:

Aye: 7 - Byrd, Donovan, Elenbaas, Frazey, Galloway, Kershner, and

Buchanan Nay: 0

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

Motion approved 7-0 to appoint Buchanan

(From Council Committee of the Whole)

6. AB2023-434 Resolution for Whatcom County Code language revisions to address equity, diversity, and inclusion

Buchanan reported for the Committee of the Whole.

Frazey spoke about the resolution and thanked Council intern Sophia Rey for her work on it.

Donovan moved and Galloway seconded that the Resolution be APPROVED. The motion carried by the following vote:

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

Nay: 0

Enactment No: RES 2023-019

(No Committee Assignment)

Ordinance amending Whatcom County Code 10.34, Ferry Rates

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

Buchanan moved to hold until such time that the Lummi Island Ferry Advisory Committee (LIFAC) is re-established and they have a chance to look at this. He stated that would be around September or October.

The motion was seconded by Byrd.

Donovan stated he hoped the goal of holding is so they can discuss in committee what Council would like the LIFAC to be so that advisory committee is formed to vet this ordinance again.

Kershner stated there was hope that the new LIFAC would not have to take this on as their first order of business and there are a lot of good things in this ordinance that help the Lummi Island community. That is why she moved to approve this tonight.

Donovan stated they have not fully vetted having a definition of capital versus operating and some people in the Work Group have found some language in the Washington Administrative Code (WAC) that is potentially a definition.

Kershner stated she has had extensive discussions with Public Works Director Kosa about where that language came from so she is comfortable with it, and she is not supportive of moving any more cost for the ferry to the rural residents. She knows there is a Work Group but they are not recognized by the Council as an advisory committee and LIFAC members have emailed individually saying that they support this and hope for us to pass it tonight.

Galloway stated she has mixed feelings. She recognizes the value of maintaining consistency within our code and State and Federal definitions and she believes the way it is currently written is consistent. Her concern with holding it is that we are delaying the inevitable. If they do hold it, she requests that they have a plan. She wants to honor and respect the community, but she believes they have done their due diligence in making sure the community is heard and has avenues to engage.

The motion to hold failed by the following vote: **Aye**: 3 - Buchanan, Donovan, and Frazey

Nay: 3 - Kershner, Byrd, and Elenbaas

Abstain: 1 - Galloway

Kershner spoke about elements of this ordinance which would help the islanders.

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

Aye: 5 - Byrd, Elenbaas, Frazey, Galloway, and Kershner

Nay: 2 - Buchanan, and Donovan

Enactment No: ORD 2023-045

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. AB2023-455

Appointment to fill a vacancy on the Surface Mining Advisory Committee, position for a representative of a potable domestic groundwater supply, preferably a public water system representative or private well owner - Applicant(s): Kathleen Greenbaum

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

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

Appointment of members to serve on pro and con statement writing committee for a proposed ballot measure regarding a sales and use tax for public health, safety, and justice facility purposes

Councilmembers discussed how to proceed with considering the item.

Dana Brown-Davis, Clerk of the Council, answered whether there can only be three people on each committee.

Donovan moved to accept the late application (for the con committee) from Todd Lagestee. The motion was seconded by Buchanan.

The motion carried by the following vote:

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

Nay: 0

Kershner moved to appoint Scott Korthuis, Peter Frazier, and Gail DeHoog to the pro committee.

Galloway asked whether they could just move to appoint all the applicants and vote for three.

Kershner withdrew her motion and *moved* that they consider all candidates for the three positions on the pro side and all candidates for the three positions on the con side. The motion was seconded by Galloway.

The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and

Kershner

Nay: 0

Councilmembers allowed candidates to speak and the following people from the pro side addressed the Councilmembers:

- Peter Frazier
- Jake Anderson

Councilmembers voted on the pro side as follows:

Buchanan: DeHoog, Frazier, and Hovenier Byrd: Anderson, Browne, and Frazier Donovan: Frazier, DeHoog, and Korthuis

Elenbaas: Korthuis, Browne, and Frazier Frazey: Anderson, Frazier, and Hovenier Galloway: Browne, Frazier, and Hovenier Kershner: Korthuis, DeHoog, and Frazier

The vote count for each applicant after this vote was as follows:

Peter Frazier: 7 Scott Korthuis: 3 Rud Browne: 3 Gail DeHoog: 3 Jack Hovenier: 3 Jake Anderson: 2 Amy Zender: 0

Buchanan stated Peter Frazier has been selected.

Elenbaas requested that they try to be well-rounded in their choice for the second round.

Councilmembers discussed that they will do a second round of voting for those candidates that received three votes (DeHoog, Browne, Korthuis, and Hovenier)

Councilmembers voted as follows:

Byrd: Browne and Hovenier Donovan: Korthuis and DeHoog Elenbaas: Korthuis and Browne Frazey: Hovenier and Korthuis Galloway: Browne and Hovenier Kershner: Korthuis and Browne Buchanan: Korthuis and Hovenier

The vote count for each applicant after this vote was as follows:

Scott Korthuis: 5 Rud Browne: 4 Jack Hovenier: 4 Gail DeHoog: 1

Since there was a tie between Browne and Hovenier, Buchanan changed his vote to Korthuis and Browne so the following people were appointed:

Peter Frazier (with seven votes), Scott Korthuis (with five votes) and Rud Browne (with five votes).

The following person from the con side addressed the Councilmembers:

Makenzie Graham

Donovan moved to nominate all four applicants but Kershner had already made that motion above.

Councilmembers voted on the con side applicants as follows:

Donovan: Reding, Graham, and Lagestee **Elenbaas:** Reding, Graham, and Lagestee

Frazey: Smason-Marcus, Graham, and Lagestee

Galloway: Reding, Graham, and Lagestee Kershner: Reding, Graham, and Lagestee Buchanan: Reding, Graham, and Lagestee Byrd: Lagestee, Graham, and Smason-Marcus

The vote count for each applicant after this vote was as follows:

Todd Lagestee: 7 Makenzie Graham: 7 Andrew Reding: 5 Eve Smason-Marcus: 2

The following people were appointed:

Todd Lagestee (with seven votes), Makenzie Graham (with seven votes), and Andrew Reding (with five votes).

This agenda item was APPOINTED.

Motion approved 7-0 to consider all candidates for the position on the pro side and all candidates on the con side.

Appointed Peter Frazier (7), Scott Korthuis (5), and Rud Browne (5) for the Pro statement writing committee and Andrew Reding (5), Makenzie Graham (7), and Todd Lagestee (7) for the Con statement writing committee.

ITEMS ADDED BY REVISION

There were no agenda items added by revision.

INTRODUCTION ITEMS

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

Dana Brown-Davis, Clerk of the Council, stated **AB2023-475** is a substitute version.

1. AB2023-470

Ordinance amending the 2023 Whatcom County Budget, request no. 11, in the amount of \$250,000

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

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

Nay: 0

Enactment No: ORD 2023-047

2. AB2023-475

Ordinance establishing the Lummi Island Ferry Replacement and System Modernization Fund and establishing a project based budget for the Lummi Island ferry replacement and modernization project; CRP #919008

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

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

Nay: 0

Enactment No: ORD 2023-048

3. AB2023-471

Ordinance establishing a temporary closure of West Smith Road from Northwest Drive to the Ferndale city limits

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

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

Nay: 0

Enactment No: ORD 2023-046

4. AB2023-480

Appointment to a vacancy on the Business and Commerce Advisory Committee, construction industry representative, Applicant: Dan Dunne

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

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

Nay: 0

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Buchanan reported for the Committee of the Whole Executive Session and **moved** to authorize the County Executive to move forward with and complete the acquisition of the property as long as the purchase price does not exceed the amount discussed in Executive Session. The motion was seconded by Galloway.

The motion carried by the following vote:

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

Nay: 1 - Elenbaas

Councilmembers gave committee reports.

Satpal Sidhu, County Executive, spoke about the Lummi Island ferry ordinance (adopted tonight under AB2023-258) and stated it was a surprise to the Administration. There was no recommendation from the Lummi Island Ferry Advisory Committee (LIFAC) and it was the Administration's understanding that this matter should be held until the fall after the Council decides the constitution of the LIFAC. The people that were engaged had a real stake in this decision. The Administration is disappointed that the Council made a quick decision and it seems like the rigorous community discussion has been set aside. Making this decision later would only have a miniscule impact financially. He answered why the Administration did not then pull it from the agenda.

Councilmembers gave other updates.

Motion approved from Executive Session 6-1 with Elenbaas opposed to authorize the County Executive to move forward with and complete the acquisition of the property as long as the purchase price does not exceed the amount discussed in Executive Session.

ADJOURN

The meeting adjourned at 7:20 p.m.

The County Council approved these minutes on August 8, 2023.

WHATCOM COUNTY COUNCIL WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription