

# **Whatcom County Council**

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



## **Minutes - Draft Minutes**

**Wednesday, November 6, 2019**

**7 PM**

**Council Chambers**

### **COUNCILMEMBERS**

Barbara Brenner  
Rud Browne  
Barry Buchanan  
Tyler Byrd  
Todd Donovan  
Carol Frazey  
Satpal Sidhu

### **CLERK OF THE COUNCIL**

Dana Brown-Davis, C.M.C.

## COUNTY COUNCIL

### CALL TO ORDER

Council Vice Chair Todd Donovan called the meeting to order at 7 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

### ROLL CALL

**Present:** 7 - Barbara Brenner, Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, and Satpal Sidhu

**Absent:** None

Rud Browne participated in the meeting by phone.

### FLAG SALUTE

### ANNOUNCEMENTS

Councilmembers had a moment of silence on the passing of retired chief of police of Ferndale and interim chief of Blaine and Lynden, Michael Knapp.

### MINUTES CONSENT

1. [MIN2019-116](#) Regular County Council for October 22, 2019

**Buchanan moved and Brenner seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

### INTRODUCTION ITEMS

*Brenner moved* to introduce items one through 15. The motion was seconded (see votes on individual items below).

1. [AB2019-552](#) Ordinance amending the 2019 Whatcom County budget, request no. 14, in the amount of \$72,853

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

Absent: 0

- 2. [AB2019-553](#) Ordinance amending the project budget for the Lummi Nation Ferry Lease Fund, Request No. 2

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.  
The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

Absent: 0

- 3. [AB2019-562](#) Ordinance amending the Project Budget for the Criminal Justice Integrated Case Management Systems Fund, Request No. 1

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.  
The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

Absent: 0

- 4. [AB2019-564](#) Ordinance amending the Project Budget for the Lake Whatcom Park Trail Development Fund, Request No. 1

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.  
The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

Absent: 0

- 5. [AB2019-565](#) Ordinance amending the 2020 Whatcom County Budget, Request No. 1, in the amount of \$18,918,279

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.  
The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

Absent: 0

- 6. [AB2019-542](#) Ordinance authorizing the levy of taxes for countywide emergency medical purposes for 2020

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.  
The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

7. [AB2019-543](#) Ordinance authorizing the levy of taxes for Conservation Futures purposes for 2020

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.  
The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

8. [AB2019-544](#) Ordinance authorizing the 2020 property tax levy for county road purposes

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.  
The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

9. [AB2019-546](#) Ordinance limiting the 2020 General Fund property tax levy

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.  
The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

10. [AB2019-547](#) Ordinance authorizing the levy of taxes for County and State purposes in Whatcom County Washington for the year of 2020

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.  
The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

11. [AB2019-285](#) Ordinance amending Whatcom County Code Title 3, requiring that public funds used

for construction projects do double duty by also providing apprentices with job training hours to meet the requirements necessary to become the next generation of skilled trades persons

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.**

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

12. [AB2019-551](#) Resolution adopting 2020 budget for the Point Roberts Transportation Benefit District

**Brenner moved and Frazey seconded that the Resolution be INTRODUCED.**

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

13. [AB2019-568](#) Resolution authorizing the County Executive to enter into a twenty year communications tower lease agreement with Crown Castle GT for leased space on park property at Lookout Mountain

**Brenner moved and Frazey seconded that the Resolution be INTRODUCED.**

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

14. [AB2019-545](#) Resolution authorizing the Board of Supervisors of the Whatcom County Flood Control Zone District (WCFCZD) to impose an ad valorem property tax levy of up to fifty cents per thousand dollars of assessed value upon real property within the district in 2020

**Brenner moved and Frazey seconded that the Resolution (FCZDBS) be INTRODUCED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

15. [AB2019-557](#) Resolution adopting the 2020 budget for the Whatcom County Flood Control Zone District and Subzones (Council acting as the Flood Control Zone District Board of

Supervisors)

**Brenner moved and Frazey seconded that the Resolution (FCZDBS) be INTRODUCED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

#### **REPORT FROM COMMITTEE OF THE WHOLE - P.M.**

*Donovan* reported on a discussion from Committee of the Whole Executive Session.

He *moved* to retain the law firm of Keller Rohrback, at no cost to Whatcom County, to investigate and pursue litigation against manufacturers and wholesalers of e-cigarettes and related products, including Juul Labs, Inc., Altria, and their corporate affiliates, in connection with the manufacture, sale, and marketing of their products. The motion was seconded.

The motion carried by the following vote:

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, Sidhu

**Nay:** 0

#### **PUBLIC HEARINGS**

1. [AB2019-528](#) Resolution authorizing the sale of surplus personal property pursuant to WCC 1.10  
Donovan opened the public hearing, and hearing no one, closed the public hearing.

**Brenner moved and Byrd seconded that the Resolution be APPROVED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

Enactment No: RES 2019-051

2. [AB2019-529](#) Resolution authorizing the sale of surplus real property (building only) pursuant to WCC 1.10

Donovan opened the public hearing, and hearing no one, closed the public hearing.

**Brenner moved and Frazey seconded that the Resolution be APPROVED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

Enactment No: RES 2019-052

- 3. [AB2019-531](#) Ordinance adopting interim zoning regulations for the siting, establishment, and operation of temporary homeless facilities

Donovan opened the public hearing, and hearing no one, closed the public hearing.

**Buchanan moved and Brenner seconded that the Ordinance be ADOPTED.  
The motion carried by the following vote:**

**Aye:** 6 - Brenner, Browne, Buchanan, Donovan, Frazey, and Sidhu

**Nay:** 1 - Byrd

**Absent:** 0

Enactment No: ORD 2019-074

**OPEN SESSION (20 MINUTES)**

The following people spoke about (AB2019-472) 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

**Richard May**

**Andrew Gamble** (he also spoke about proposed Cherry Point amendments)

The following people spoke about reviewing the mandatory level of service for solid waste in Point Roberts:

**Allison Calder**

**Ken Calder**

The following people spoke about (AB2019-479) Discussion of proposed ordinance amending Whatcom County Code Chapters 11.16 and 11.20 to protect Lake Samish shoreline properties and Lake Samish water recreation

**Laurie Henley**

**Micah Ping**

**Rich DeVeau**

**David White**

**Janet Monks**

**Paul Tiscornia**

**Eric McHenry**

**Mark Walker** (he also spoke about the ordinance creating a no-shooting zone in Drayton Harbor)

**Paul Joostens**

The following people spoke about (AB2019-285) Ordinance amending Whatcom County Code Title 3, requiring that public funds used for construction projects do double duty by also providing apprentices with job training hours to meet the requirements necessary to become the next generation of skilled trades persons

**Hannah Holt**

**Trevor Smith** (he also spoke about the Planning Commission review of proposed Cherry Point amendments)

**Tom Byma**

**Larry (no last name given)**

**Ryan Likkel**

**Rod Roth**

**Jeff Ten Pas**

**Fidencio Velasco** (he also spoke about the Planning Commission review of proposed Cherry Point amendments)

**Dominic Gonzalez**

**Luis Seragon**

**Brian Cave**

The following people spoke about the Planning Commission review of proposed Cherry Point amendments:

**Bob Gay**

**Chris Watrobka**

## **CONSENT AGENDA**

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

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

1. [AB2019-549](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Herrera Environmental Consultants to expand the scope of work and increase the contract amount by \$65,135 for a new amount not to exceed \$164,956

**Sidhu moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

2. [AB2019-561](#) Request authorization for the Executive to enter into a contract between Whatcom



County and SoftResources, LLC for consulting services to assist Whatcom County's plan to replace the current J.D. Edwards World enterprise resource planning (ERP) system in the amount of \$119,201.25

**Sidhu moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

3. [AB2019-567](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Washington State Military Department to utilize Emergency Management Performance Grant (EMPG) program funds to prepare for all hazards through sustainment and enhancement of Division of Emergency Management programs, in the amount of \$73,478

**Sidhu moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

4. [AB2019-570](#) Request authorization for the County Executive to enter into a contract amendment with Daniel A. Swedlow, Summit Law Group, to serve as Professional Negotiator and provide legal services for collective bargaining, negotiations, mediation, binding interest arbitration, and other actions brought by a Union

**Sidhu moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

5. [AB2019-537](#) Request approval for the County Executive to authorize the purchase of vehicle body repair services, using the Washington State Contract #05015, in an annual amount not to exceed \$70,000

**Sidhu moved that the Bid Award be AUTHORIZED BY CONSENT. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

Absent: 0

## **OTHER ITEMS**

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

1. [AB2019-535](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and City of Bellingham for partial funding of maintenance and operations of the Crisis Triage Facility, in the amount of \$59,000

**Sidhu moved that the Interlocal be AUTHORIZED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

2. [AB2019-563](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State University for Master Gardener Program support at County Park Sites

**Sidhu moved that the Interlocal be AUTHORIZED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

3. [AB2019-548](#) Resolution approving the 2020 recommended Convention Center Fund allocations

**Sidhu moved that the Resolution be APPROVED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

Enactment No: RES 2019-053

4. [AB2019-558](#) Request authorization for the County Executive to approve a Pass-Through Agreement between the Whatcom County Flood Control Zone District and Washington Department of Fish and Wildlife in the amount of \$216,815 and to execute a purchase and sale agreement that is consistent with the provisions and purchase price in the agreement (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

**Sidhu moved that the Contract (FCZDBS) be AUTHORIZED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

5. [AB2019-559](#) Request authorization for the County Executive to enter into a grant amendment between the Whatcom County Flood Control Zone District and the Washington State Military Department to supplement the grant scope and budget in the amount of \$169,613 for a total amended grant amount of \$512,350 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

**Sidhu moved that the Contract (FCZDBS) be AUTHORIZED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

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

6. [AB2019-573](#) Resolution acknowledging receipt of a citizen petition to form a no shooting zone in Whatcom County to be known as the Dearborn No Shooting Zone

**Sidhu moved and Buchanan seconded that the Resolution be APPROVED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

Enactment No: RES 2019-054

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

Councilmembers gave committee reports and updates on recent activities and upcoming events including the following motions:

**(From Committee of the Whole a.m.)**

**Discussion of pending litigation with Civil Deputy Prosecutor George Roche: Maravilla v. Whatcom County, et al. (AB2019-571)**

Donovan reported on having met in executive session and having been advised of the nature of the lawsuit, the allegations contained therein, and pursuant to Whatcom

County Code 2.56.

***Sidhu moved*** and Frazey Seconded that the council affirmatively finds the following:

- A. The employees were acting in a matter in which the county had an interest;
- B. The employees were acting in the discharge of a duty imposed or authorized by law;
- C. The employees acted in good faith.

The officers, officials, agents or employees will be defended and indemnified pursuant to and consistent with the provisions in WCC Chapter 2.56.

The motion carried by the following vote:

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, Sidhu

**Nay:** 0

**Discussion of pending litigation with Civil Deputy Prosecutor George Roche:  
Gardner**

**v. Whatcom County, et al. USDC no. 2:19-cv-01451 (AB2019-541)**

Donovan reported on having met in executive session and having been advised of the nature of the lawsuit, the allegations contained therein, and pursuant to Whatcom County Code 2.56.

***Brenner moved*** and Buchanan Seconded that the council affirmatively finds the following:

- A. The employees were acting in a matter in which the county had an interest;
- B. The employees were acting in the discharge of a duty imposed or authorized by law;
- C. The employees acted in good faith.

The motion carried by the following vote:

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, Sidhu

**Nay:** 0

**Discussion regarding potential property acquisition for the Flood Control  
Zone District (AB2019-555)**

Donovan reported on a discussion in Committee of the Whole - Executive Session.

***Brenner moved*** and Frazey seconded to authorize the County Executive, acting on

behalf of the Whatcom County Flood Control Zone District Board of Supervisors, to move forward with and complete acquisition of the property as long as the purchase price of the property does not exceed the amount discussed in Executive Session.

The motion carried by the following vote:

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, Sidhu

**Nay:** 0

**(From Public Works and Health Committee)**

**Discussion regarding possible safety issues associated with allowing golf carts on certain roads in Birch Bay (AB2019-572)**

*Brenner* reported on a discussion in the Public Works Committee and *moved* to recommend that the Sheriff’s office come back to Council with a plan for an online low-cost golf cart registration process.

The motion carried by the following vote:

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, Sidhu

**Nay:** 0

**ADJOURN**

The meeting adjourned at 8:38 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

\_\_\_\_\_  
Dana Brown-Davis, Council Clerk

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Rud Browne, Council Chair

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Kristi Felbinger, Minutes Transcription