

# **Whatcom County Council**

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



## **Minutes - Draft Minutes**

**Tuesday, June 6, 2023**

**6 PM**

**Hybrid Meeting**

**HYBRID MEETING (PARTICIPATE IN-PERSON, SEE REMOTE JOIN INSTRUCTIONS AT [www.whatcomcounty.us/joinvirtualcouncil](http://www.whatcomcounty.us/joinvirtualcouncil), OR CALL 360.778.5010), AGENDA REVISED 6.5.2023**

### **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 6:03 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

### COUNTY EXECUTIVE'S REPORT

There was no report.

### MINUTES CONSENT

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

1. [MIN2023-036](#) Committee of the Whole Executive Session for May 9, 2023

**Kershner 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, Frazey, Galloway, and Kershner

**Nay:** 0

2. [MIN2023-037](#) Committee of the Whole for May 9, 2023

**Kershner 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, Frazey, Galloway, and Kershner

**Nay:** 0

3. [MIN2023-038](#) Regular County Council for May 9, 2023

**Kershner 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, Frazey, Galloway, and Kershner

**Nay:** 0

4. [MIN2023-039](#) Committee of the Whole for May 23, 2023

**Kershner 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, Frazey, Galloway, and Kershner

**Nay:** 0

5. [MIN2023-040](#) Regular County Council for May 23, 2023

**Kershner 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, Frazey, Galloway, and Kershner

**Nay:** 0

### **SPECIAL PRESENTATION**

1. [AB2023-359](#) Whatcom County Executive Sidhu's "State of the County" address

**This agenda item was WITHDRAWN.**

### **PUBLIC HEARINGS**

1. [AB2023-309](#) Ordinance adopting amendments to Whatcom County Code Title 20, Zoning, to regulate short-term vacation rentals

Cliff Strong, Planning and Development Services Department, stated he was available for questions.

Kershner asked whether they would be voting on the Ordinance or on the definition of short-term rental and Elenbaas stated they are voting on the substitute Ordinance which is what was introduced.

Strong stated this Ordinance is just a definition and allowance in certain zones.

Buchanan opened the Public Hearing and the following people spoke:

- Bruce Parelskin

Hearing no one else, Buchanan closed the Public Hearing.

***Elenbaas moved*** and Galloway seconded that the (introduced) Ordinance Requiring a Public Hearing be ADOPTED.

Councilmembers discussed the motion and whether the Ordinance should include the references to directing staff to come up with the regulatory

structure.

Strong stated staff had asked the Council to hold off on voting on the second part (Attachment A) because that will take some time to hire a consultant or vendor. The Council had also expressed an interest in seeing what this registration fee would be and they wanted staff to bring that back if this portion is adopted.

Kershner pointed out a scrivener's error for the public hearing date in the draft Ordinance.

Frazezy asked when Attachment A would come back to the Council and Strong stated it would be as soon as possible but it depends on the vendor being able to set it all up and get it tailored for Whatcom County and to get the vendor under contract. He anticipates three months at a minimum.

*Clerk's note:* There were technical difficulties in the middle of this item. Councilmembers made a motion and began to discuss the item, then there was a break for just over 30 minutes, after which they continued with the discussion and the vote. The meeting has "pause" space from about time mark 00:17:00 when the difficulties began, to 00:25:42 when the recording was re-started (some of the pause was not recorded).

Donovan stated according to the original Ordinance, his sense is that it was the intent to include the language (Finding of Fact number eleven and Now Therefore be it Ordained Section 2) about directing Planning staff so he does not understand why they would go forward with something that is telling the public they are not going to do that.

Kershner asked whether Strong received the letter from Whatcom Association of Realtors and Strong stated he did.

Councilmembers discussed the Ordinance and whether there should be registration and regulations.

Strong answered how this would get past the Department of Ecology if they take out the part of registration and regulations and Councilmembers continued to discuss the motion.

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

**Aye:** 2 - Elenbaas, and Kershner

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

**Abstain:** 1 - Galloway

Clerk's note: There were technical difficulties in the middle of this item. Councilmembers made a motion and began to discuss the item, then there was a break for just over 30 minutes, and then they continued with the discussion and the vote. The meeting has "pause" space from about time mark 00:17:00 when the difficulties began, to 00:25:42 when the recording was re-started (some of the pause was not recorded).

## **OPEN SESSION**

The following people spoke:

- Renee Johnson
- Kamille Scellick
- Megan Britson
- Dick Huntley
- Jennifer Bruner
- Kiale Staveland
- Lyle Sorenson
- Aleksey Shkurat
- Kirsten Smith
- Bruce and Debra Parelskin
- Name not audible
- Misty Flowers
- 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 and three through six (item number two was voted on separately below). Councilmembers voted on those items (see votes on individual items below).

1. [AB2023-345](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Whatcom Dispute Resolution Center to provide eviction prevention resolution services, in the amount of \$69,000

**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

2. [AB2023-363](#) Request authorization for the County Executive to enter into a contract between Whatcom County and the Lighthouse Mission Ministries for the provision of kitchen equipment and room furnishings in the amount of \$750,000

This item was considered separately (see below).

3. [AB2023-366](#) Request authorization for a Letter of Understanding between Whatcom County and the Fraternal Order of Police, Matt Herzog Memorial Lodge #24, to amend the Collective Bargaining Agreement for the period January 1, 2022 - December 31, 2024

**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

4. [AB2023-367](#) Request authorization for the County Executive to enter into a Collective Bargaining Agreement between Whatcom County and General Teamsters' Local Union 231 Master Collective Bargaining Unit for the period January 1, 2023 - December 31, 2025

**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

5. [AB2023-352](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington Traffic Safety Commission for Drug Recognition Expert (DRE) overtime funding, in the amount of \$3,000.00

**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

**Nay:** 0

6. [AB2023-371](#) Request authorization for the County Executive to enter into an interlocal loan and grant agreement between Whatcom County and Whatcom County Drainage Improvement District 7 in support of the Atwood Road Culvert Replacement project

in the amount of \$500,000

**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

### **CONSENT AGENDA ITEMS CONSIDERED SEPARATELY**

2. [AB2023-363](#) Request authorization for the County Executive to enter into a contract between Whatcom County and the Lighthouse Mission Ministries for the provision of kitchen equipment and room furnishings in the amount of \$750,000

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

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

**Nay:** 1 - Frazey

**Abstain:** 2 - Donovan, and Galloway

### **OTHER ITEMS**

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

1. [AB2023-378](#) Request approval of letter of support for Mental Health Court

**Kershner reported for the Finance and Administrative Services Committee and moved that the Request for Motion be APPROVED. The motion carried by the following vote:**

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

**Nay:** 0

**(No Committee Assignment)**

2. [AB2023-155](#) Ordinance amending Whatcom County Code 2.128, Business and Commerce Advisory Committee, to revise membership

***Kershner moved* that the Alternate (Kershner) proposed Ordinance be ADOPTED. The motion was seconded by Byrd.**

Kershner explained the differences between this and the amended Ordinance from May 23 and stated that the voting members were taken out of it for K-12 education.

*Galloway moved* to amend Subsection D (2) to add a statement, “and one non-voting member representing public K-12 education.”

*Kershner accepted* Galloway’s motion as a friendly amendment.

Donovan asked whether this would bring the total membership to an odd number and Kershner stated the total voting membership will be an odd number.

**Kershner's motion that the SUBSTITUTE (alternate) Ordinance be ADOPTED AS AMENDED carried by the following vote:**

**Aye:** 5 - Buchanan, Donovan, Frazey, Galloway, and Kershner

**Nay:** 2 - Byrd, and Elenbaas

Enactment No: ORD 2023-034

## **COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES**

1. [AB2023-377](#) Appointment of one Councilmember to serve on the North Cascades Interagency Grizzly Bear Committee

*Frazey moved* and Buchanan seconded that Elenbaas be APPOINTED.

Galloway stated she was going to nominate Donovan.

Councilmembers discussed what the group is, what the ask is, what they are committing by doing this, and what the appointed person will do.

Byrd stated the purpose is to have an active role in the conversation and the decision-making as it moves forward.

Donovan stated he has not been excited about the whole process because he sees that it is coming from a place of opposition to reintroduction. This county has approved resolutions (at least once) saying that we are in favor of reintroduction of the grizzlies from other areas and not relying on the natural re-growth here because that is not going to work.

Elenbaas stated this process is happening, and if you do not get involved, you do not get input. His intent would be for them to have input because the majority of the habitat that these bears are going to be in is Whatcom County and that will affect us. He spoke about the reasons he volunteered to be on the committee and his past involvement and knowledge in the subject. He answered whether he is in favor of reintroducing grizzlies in the

Cascades and stated he has been torn on it the entire time because there are both benefits and drawbacks.

Galloway requested that Elenbaas keep the Council informed on what he is learning at the meetings.

Donovan stated he will dust off a letter that Council received from Conservation Northwest to take this position on reintroducing the grizzly bear and bring that forward.

**Frazey's motion that Elenbaas be APPOINTED carried by the following vote:**

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

**Nay:** 0

Councilmember Elenbaas was appointed.

### **CONFIRMATION OF EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES**

1. [AB2023-360](#) Request confirmation of the County Executive's appointments of Alana Pattermann and Terry Bornemann to the Housing Authority of Whatcom County

**Byrd moved and Kershner seconded that the Executive Appointment be CONFIRMED. The motion carried by the following vote:**

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

**Nay:** 0

2. [AB2023-373](#) Request confirmation of the County Executive's appointment of Loraine Boland to the Public Facilities District

**Byrd moved** and Kershner seconded that the Executive Appointment be CONFIRMED.

Tyler Schroeder, Director of Administrative Services, answered why the application says "City of Bellingham Boards and Commissions Application," and stated he does not truly know the answer, but it is the Bellingham Public Facilities District so he is assuming that the County has a role in recognizing and approving certain members on that public facility district.

**Byrd's motion that the Executive Appointment be CONFIRMED carried by the following vote:**

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

Nay: 0

### **ITEMS ADDED BY REVISION**

1. [AB2023-372](#) Resolution adopting an amendment to the Unified Fee Schedule increasing the fees at the Birch Bay Lynden and Cedarville drop box facilities

**Kershner reported for the Finance and Administrative Services 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 2023-014

### **INTRODUCTION ITEMS**

*Galloway moved* to introduce items one through seven. The motion was seconded by Frazey.

Elenbaas stated he would like to make a motion to amend the motion to *not* introduce number seven and to send that to Committee.

Buchanan stated they could just vote on item seven separately.

*Galloway amended* her motion and *moved* to introduce items one through six. The motion was seconded by Frazey. Councilmembers voted on those items (see votes on individual items below).

1. [AB2023-374](#) Ordinance amending the 2023 Whatcom County Budget, request no. 9, in the amount of \$842,550

**Galloway moved and Frazey 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

2. [AB2023-375](#) Ordinance amending the project budget for the Hovander Park Building Improvements Project, request no. 1

**Galloway moved and Frazey 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

3. [AB2023-354](#) Ordinance adopting amendments to the Six-Year Capital Improvement Program for Whatcom County Facilities 2023-2028
- Galloway moved and Frazey 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
4. [AB2023-356](#) Ordinance adopting Zoning Code amendments relating to density, lot size, setbacks, public water and sewer, and reasonable measures for the Birch Bay UGA
- Galloway moved and Frazey 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
5. [AB2023-361](#) Receipt of applications to a vacancy on the Public Health Advisory Board, Applicant(s): Matthew Durkee, Madison Emry, Robyn Phillips-Madson (Deadline for additional applications is 10:00 a.m. on Tuesday, June 13, 2023)
- Galloway moved and Frazey 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
6. [AB2023-349](#) Resolution granting a Quitclaim Right of Way Deed to the City of Lynden
- Galloway moved and Frazey seconded that the Resolution 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
7. [AB2023-387](#) Ordinance adopting amendments to Whatcom County Code Title 20 (Zoning) to regulate short-term/vacation rentals

This item was considered separately below.

### **INTRODUCTION ITEMS CONSIDERED SEPARATELY**

7. [AB2023-387](#) Ordinance adopting amendments to Whatcom County Code Title 20 (Zoning) to regulate short-term/vacation rentals

***Donovan moved*** and Frazey seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING.

Elenbaas stated he would like to see this (especially the regulation portion) in Committee for more discussion because he feels it needs more work. He stated just because the Council does not regulate something does not mean it is unregulated.

Councilmembers discussed whether it can go to Committee after being introduced, whether introducing it takes away Planning and Development Staff's ability to go back and make amendments, and taking more time in order to incorporate recommendations from the public.

Dana Brown-Davis, Clerk of the Council, stated the general course of action for this type of file is to introduce it for a public hearing in two weeks, so if the Council wants to do something different it should be specified in a motion.

Elenbaas stated he wants to make a motion that this does not get introduced for a public hearing in two weeks but that it goes to Committee.

***Donovan accepted*** that as a friendly amendment and ***amended his motion*** to introduce this item for a public hearing, but send it back to the Planning and Development Committee before we have a public hearing.

**Donovan's motion that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING and REFERRED to the Council Planning and Development Committee carried by the following vote:**

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

**Nay:** 1 - Elenbaas

Introduced and sent to the Planning and Development Committee before being scheduled for a public hearing

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

Councilmembers gave committee reports and other updates.

Elenbaas spoke about getting the word out to the public regarding public hearings and possibly doing that through social media.

Galloway stated she wanted to bring up fireworks for consideration.

**ADJOURN**

The meeting adjourned at 8:19 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

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

\_\_\_\_\_  
Barry Buchanan, Council Chair

\_\_\_\_\_  
Kristi Felbinger, Minutes Transcription