

# **Whatcom County Council**

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



## **Minutes - Final**

**Tuesday, January 28, 2020**

**7 PM**

**Council Chambers**

### **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 TO ORDER

## ROLL CALL

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

**Absent:** None

## FLAG SALUTE

## ANNOUNCEMENTS

## MINUTES CONSENT

1. MIN2020-017 Special Committee of the Whole for January 14, 2020

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

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

**Nay:** 0

**Absent:** 0

2. MIN2020-018 Special Committee of the Whole for January 14, 2020

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

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

**Nay:** 0

**Absent:** 0

3. MIN2020-019 Regular County Council for January 14, 2020

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

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

**Nay:** 0

**Absent:** 0

## PUBLIC HEARINGS

The hearing for AB2019-480 was moved to be the last public hearing item. See below.

2. AB2019-614 Ordinance amending Whatcom County Code 16.30, Lake Whatcom Stormwater Utility Funding Mechanism, changing the date for collection of Capital Facility Charges from January 1, 2020 to January 1, 2021
- Buchanan opened the public hearing, and hearing no one, closed the public hearing.
- Byrd moved and Kershner seconded that the Ordinance Requiring a Public Hearing be ADOPTED. The motion carried by the following vote:**
- Aye:** 6 - Browne, Buchanan, Donovan, Frazey, Elenbaas, and Kershner
- Nay:** 1 - Byrd
- Absent:** 0
- Enactment No: ORD 2020-001
3. AB2020-001 Resolution approving Whatcom County Parks & Recreation's proposed lease of the Ostrom Conservation Site to the Nooksack Valley School District to maintain and operate the property as an outdoor education program and public site
- Mike Mcfarlane, Parks and Recreation Department, briefed the Council.
- Buchanan opened the public hearing, and hearing no one, closed the public hearing.
- Byrd moved and Kershner seconded that the Resolution Requiring a Public Hearing be APPROVED. The motion carried by the following vote:**
- Aye:** 7 - Browne, Buchanan, Byrd, Donovan, Frazey, Elenbaas, and Kershner
- Nay:** 0
- Absent:** 0
- Enactment No: RES 2020-003
1. AB2019-480 Ordinance amending Whatcom County Code Chapters 11.16 and 11.20 to protect Lake Samish shoreline properties and Lake Samish water recreation
- Ryan Ericson, Planning and Development Services Department, answered questions about the erosion potential of ballast and ski boats operating 150 feet as compared to 300 feet from the shore.
- Buchanan opened the public hearing, and the following people spoke:
- Ron Goodman  
Brian McFarlane

Chris Fellows  
Gary Baker  
Brett Milewski  
Laurie Henley  
Paul Joostens  
Gary Wood  
Katie Stark  
Dave Pros  
Jeff Hunt  
Marc Walker  
Rich DeVea  
Jeff Monks  
Jim Beard  
Eric Huntoon  
Jim Holstine  
Becky O'Brien Willson  
Steve Tomicki  
Janet Monks  
Micah Ping  
Garrett Walker  
Millie Johnson  
Dan Peck  
Jonathan Niva  
Don Terry  
Stacy Ziegler  
Jim Peeples  
James Willson  
Jim Bremer  
Cooper Walker  
Eric McHenry  
Richard Herman  
Jacob Alexander  
Noah Joostens  
David DeYoung  
Melanie Henley

Hearing no one else, Buchanan closed the public hearing.

**Byrd moved** that the Ordinance be adopted.

The motion was seconded.

Councilmembers thanked the speakers, discussed the motion, and spoke

about whether safety is an issue for non-motorized activities on the lake, and how the community can find ways to regulate visitors who come from outside the area to recreate on the lake, and how the County can enforce two different distances.

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

**Aye:** 5 - Browne, Buchanan, Byrd, Elenbaas, and Kershner

**Nay:** 2 - Donovan, and Frazey

**Absent:** 0

Enactment No: Ord 2020-002

**OPEN SESSION (20 MINUTES)**

The following people spoke:

The following people spoke about the withdrawal of the Renewable Energy Group (REG) permit application for the Green Apple Project at the Phillips 66 Refinery and the moratoriums at Cherry Point:

- Trevor Smith**
- (inaudible) Tarter**
- Michael (inaudible)**
- Adam Lamb**
- Luis Aragon**

The following people spoke about issues concerning Point Roberts:

- Allison Calder**
- John Lesow submitted a handout (on file)**
- Ken Calder**

The following people spoke about the Public Health, Safety, and Justice Facility Needs Assessment:

- Max Perry**
- Carole Perry**

Buchanan closed the open session.

**CONSENT AGENDA**

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

1. AB2020-039 Request approval to sign agreement with Washington State Recreation and Conservation Office Washington Wildlife and Recreation Program Farmland Preservation grant program to provide matching funds for the acquisition of an

agricultural conservation easement on the McLeod property through the Purchase of Development Rights (PDR) Program

**Byrd 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 - Browne, Buchanan, Byrd, Donovan, Frazey, Elenbaas, and Kershner

**Nay:** 0

**Absent:** 0

2. AB2020-040 Request approval to sign agreement with Washington State Recreation and Conservation Office Washington Wildlife and Recreation Program Farmland Preservation grant program to provide matching funds for the acquisition of an agricultural conservation easement on the Roper property through the Purchase of Development Rights (PDR) Program

**Byrd 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 - Browne, Buchanan, Byrd, Donovan, Frazey, Elenbaas, and Kershner

**Nay:** 0

**Absent:** 0

3. AB2020-041 Request approval to sign agreement with Washington State Recreation and Conservation Office Washington Wildlife and Recreation Program Farmland Preservation grant program to provide matching funds for the acquisition of an agricultural conservation easement on the TeVelde property through the Purchase of Development Rights (PDR) Program

**Byrd 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 - Browne, Buchanan, Byrd, Donovan, Frazey, Elenbaas, and Kershner

**Nay:** 0

**Absent:** 0

4. AB2020-043 Request authorization for the County Executive to enter into a contract between Whatcom County and Max Higbee Center to support critical construction improvements at their newly leased location, in the amount of \$100,000

**Byrd 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 - Browne, Buchanan, Byrd, Donovan, Frazey, Elenbaas, and Kershner

**Nay:** 0

**Absent:** 0

5. AB2020-044 Request authorization for the County Executive to enter into a contract between Whatcom County and Northwest Youth Services to support operations at the Ground Floor Day-Use Center, in the amount of \$125,000

**Byrd 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 - Browne, Buchanan, Byrd, Donovan, Frazey, Elenbaas, and Kershner

**Nay:** 0

**Absent:** 0

6. AB2020-045 Request authorization for the County Executive to enter into a Collective Bargaining Agreement between Whatcom County and the Fraternal Order of Police, Matt Herzog Memorial Lodge #24 representing Whatcom County Sheriff's Office Management Group

**Byrd 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 - Browne, Buchanan, Byrd, Donovan, Frazey, Elenbaas, and Kershner

**Nay:** 0

**Absent:** 0

7. AB2020-055 Request authorization for the County Executive to enter into a contract between Whatcom County and Hellmuth, Obata, and Kassabaum, Inc. (HOK) to develop a Whatcom County Public Health, Safety, and Justice Facility Needs Assessment, in the amount of \$629,694

**Byrd reported for the Finance and Administrative Services Committee and stated that this agenda item was HELD IN COMMITTEE.**

## **OTHER ITEMS**

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

1. AB2020-020 Ordinance amending the 2020 Whatcom County Budget, request no. 3, in the amount of \$1,586,506

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

Councilmember Frazey spoke about the plantation range and stated she would like to look at it again at the next budget cycle to see if it is losing money.

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

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2020-003

2. AB2020-003 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Skagit County for mutual assistance on minor road projects with labor, equipment, or materials on a reimbursable basis for road maintenance activities through January 31, 2024

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

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

**Nay:** 0

**Absent:** 0

3. AB2020-034 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Skagit County for Mini-Chain Services in the amount of \$153,411.00

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

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

**Nay:** 0

**Absent:** 0

4. AB2020-035 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Oak Harbor for Mini-Chain Services in the amount of \$1,845.00



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

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

**Nay:** 0

**Absent:** 0

5. AB2020-036 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Marysville for Mini-Chain Services in the amount of \$37,006.00

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

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

**Nay:** 0

**Absent:** 0

6. AB2020-050 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Island County for Mini-Chain Services in the amount of \$4,626.00

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

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

**Nay:** 0

**Absent:** 0

7. AB2020-053 Request approval of the Economic Development Investment (EDI) Board's recommendation for funding of the City of Lynden's request for a loan in the amount of \$2,000,000 and a grant in the amount of \$1,000,000

Byrd reported for the Finance and Administrative Services Committee.

***Kershner moved*** and Elenbaas seconded that the request be APPROVED.

Kershner summarized the presentation and the request.

Tyler Schroeder, Executive's Office, answered questions and Councilmembers discussed how many other projects will be coming forward for Economic Development Investment (EDI) funding, protecting

the EDI funds so they can be used for other needs such as the childcare crisis, granting and loaning money that would enable the owners of the land to increase the value of their property, recusing oneself from discussion and voting on a proposal when a potential conflict of interest exists, ways that the proposal could be restructured to come back to the Council for approval, the fact that part of the EDI money has come from the the citizens of the City of Lynden, and how to proceed with the request before them.

**Kershner's motion failed by the following vote:**

**Aye:** 1 - Kershner

**Nay:** 6 - Browne, Buchanan, Byrd, Donovan, Frazey, and Elenbaas

**Absent:** 0

**EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES**

1. AB2020-054 Request confirmation of the Executive's new appointments and reappointments to Executive boards and committees; appointments to take effect on February 1, 2020

***Donovan moved*** that all the appointments be confirmed.

***Byrd suggested a friendly amendment*** to hold confirmation of the Housing Advisory Committee appointment for two weeks to keep it open for additional applicants.

Satpal Sidhu, County Executive, answered questions about the suggestion to hold the confirmation.

***Donovan accepted*** the friendly amendment and ***moved*** to confirm all of the appointments except for the Housing Advisory Committee. The motion was seconded.

Sidhu answered questions about whether the Agricultural Advisory Committee has full membership.

The motion carried by the following vote:

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

**Nay:** 0

***Donovan moved*** to ask that the Executive bring a request for confirmation of applicants for the Housing Advisory Committee at a later date.

***Donovan withdrew*** his motion because a motion is not needed from the

Council.

**Donovan's motion that the Executive Appointments be CONFIRMED except for the Housing Advisory Committee carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

## **INTRODUCTION ITEMS**

*Byrd moved* that the introduction items be introduced.

Tyler Schroeder, Executive's Office, answered a question about whether the item two should be introduced tonight since *AB2020-055 Request authorization for the County Executive to enter into a contract between Whatcom County and Hellmuth, Obata, and Kassabaum, Inc. (HOK) to develop a Whatcom County Public Health, Safety, and Justice Facility Needs Assessment, in the amount of \$629,694* was held in Committee.

**See vote on individual item below.**

1. AB2020-046 Ordinance amending the 2020 Whatcom County Budget, request no. 4, in the amount of \$193,202

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

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2020-004

2. AB2020-052 Ordinance amending the project budget for the New Jail Project Fund 2013-2014, request no. 5

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

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2020-005

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

Satpal Sidhu, County Executive, requested to give an Executive Report and reported on an upcoming trip to Olympia to talk to the Governor's Office about the Phillips 66 Green Apple project not moving forward and the housing and childcare crises in Whatcom County; revisiting the board structure of the Economic Development Investment (EDI) board and criteria for securing EDI funds; including the Business and Commerce Advisory Committee in the EDI funding approval process; what kind of information the Council would like to see on the cover sheets of contracts that come before the Council for approval; a desire to create a formal process to set a schedule for at least four meetings with each Councilmember a year to improve communication between the Councilmember and the administration; and engaging early on the biennium budget by requesting Councilmembers to submit proposals of budget priorities in writing before the budget process begins.

Councilmembers gave committee reports and updates on recent activities and upcoming events.

**Byrd submitted a resolution for consideration:**

AB2020-072 Resolution supporting environmentally friendly renewable energy projects

***Byrd moved*** that the RESOLUTION be approved. The motion was seconded.

Councilmembers and Executive Sidhu discussed the Resolution, the recent application for the Green Apple Renewable Fuels Facility project, addressing regulatory uncertainty and how to expedite permit processes.

Tyler Schroeder, Executive's Office, suggested amended language in the last paragraph of the Resolution:

NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Council will work with requests the County Executive and County Planning department to create an expedited permitting process and try to define legal uncertainties ~~work with the Green Apple project to create an expedited permitting process for all renewable energy projects, including the Green Apple project.~~

***Byrd*** accepted the suggested language amendment and ***moved*** to approve as amended. The motion was seconded.

***Donovan suggested*** to change the wording: to create an expedited fair permitting process and try to define legal uncertainties.

**Browne suggested** to change the wording: NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Council, ~~requests~~ the County Executive and County Planning department will work together to establish the specific regulatory uncertainties affecting renewable energy projects. ~~work with the Green Apple project to create an expedited-permitting process for all renewable energy projects.~~

Byrd did not accept the suggested language from Donovan or Browne.

Karen Frakes, Prosecuting Attorney's Office, stated she is not concerned about the proposed resolution.

**Byrd's motion that the Resolution be APPROVED AS AMENDED carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2020-004

Councilmembers continued giving committee reports and updates on recent activities and upcoming events.

**Browne** submitted two letters in support of HB 1497 and HB 2679 (related to funding for foundational public health services and **moved** to request that the Council approve and send the first letter (related to HB1497). The motion was seconded.

Councilmembers discussed whether they support the letter and how the wording of the letter should reflect that support.

**Browne suggested** to amend the language of the first paragraph to add a sentence at the end that states: The Council majority supports this bill and we hope you will too.

The suggestion was seconded.

The motion to approve as amended carried by the following vote:

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

**Nay:** 0 -

**Abstain:** 2 - Byrd and Elenbaas

Councilmembers discussed the language of the second letter.

Donovan suggested that the language of the letter reflects that it comes from the Council majority by adding "The Whatcom County Council majority urges the legislature..."

**Browne** accepted the change and **moved** to request that the Council approve and send the second letter (related to HB 2679) as amended. The motion was seconded.

The motion to approve as amended carried by the following vote:

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

**Nay:** 0 -

**Abstain:** 2 - Byrd and Elenbaas

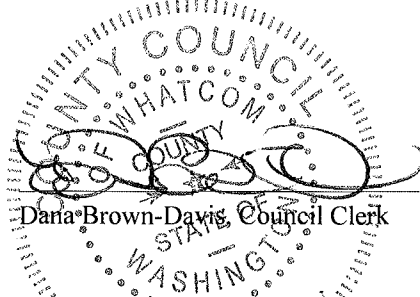
Councilmembers discussed an idea of purchasing the Bellis Fair Mall property to use for County facilities and gave other updates.

**ADJOURN**

The meeting adjourned at 11:46 p.m.

The County Council approved these minutes on February 11, 2020.

ATTEST:



Dana Brown-Davis, Council Clerk

*Kristi Felbinger*

Kristi Felbinger, Minutes Transcription

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

*Barry Buchanan*  
Barry Buchanan, Council Chair