

Whatcom County Council

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



Minutes - Draft Minutes

**VIRTUAL MEETING - VIEW ONLINE; AGENDA REVISED 2.8.2021 (TO
PARTICIPATE, SEE INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil OR CALL 360.778.5010)
Tuesday, February 9, 2021**

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 TO ORDER

Council Chair Barry Buchanan called the meeting to order at 6:01 p.m. in a virtual meeting.

ROLL CALL

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

Absent: None

FLAG SALUTE

ANNOUNCEMENTS

Buchanan announced the following:

- Openings on various boards and commissions
- The opening of a warming center starting at 5 p.m. tonight

COUNTY EXECUTIVE'S REPORT

Buchanan stated Executive Sidhu was not attending the meeting.

Tyler Schroeder, Executive's Office, stated there was no report.

MINUTES CONSENT

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

1. [MIN2021-005](#) Regular County Council for January 12, 2021

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

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

Nay: 0

Absent: 0

2. [MIN2021-006](#) Water Work Session for January 19, 2021

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

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

Nay: 0

Absent: 0

3. [MIN2021-007](#) Committee of the Whole Executive Session for January 26, 2021

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

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

Nay: 0

Absent: 0

4. [MIN2021-008](#) Committee of the Whole for January 26, 2021

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

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

Nay: 0

Absent: 0

5. [MIN2021-009](#) Regular County Council for January 26, 2021

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

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

Nay: 0

Absent: 0

PUBLIC HEARINGS

Council Staff played a short video about how to speak at the meeting.

1. [AB2021-051](#) Ordinance adopting Countywide Planning Policies relating to the Review and Evaluation Program (also known as Buildable Lands) and dispute resolution procedures

Mark Personius, Planning and Development Services Department Director, briefed the Councilmembers and answered whether there is a deadline for the Buildable Lands Program to be complete.

Buchanan opened the Public Hearing and, hearing no one, closed the Public Hearing.

Browne moved and Donovan seconded that the Ordinance Requiring a Public Hearing be ADOPTED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

Enactment No: ORD 2021-003

2. [AB2021-058](#) Ordinance adopting the temporary installation of stop signs on Deer Trail
Jim Karcher, Public Works Department, stated there is no staff report but he is available for questions.

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

Nay: 0

Absent: 0

Enactment No: ORD 2021-004

3. [AB2021-075](#) Ordinance authorizing the closure of a portion of 4th Street in Custer, Washington, related to COVID-19 economic relief

Jim Karcher, Public Works Department, stated he did not have a report.

Buchanan opened the Public Hearing and the following person spoke:

- Larry McDonough

Hearing no one else, Buchanan closed the Public Hearing.

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

Donovan thanked Elenbaas for bringing the issue forward and the Public Works Department staff for working on it.

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

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

Nay: 0

Absent: 0

Enactment No: ORD 2021-005

OPEN SESSION (20 MINUTES)

Council Staff played a short video about how to speak at the meeting and the following people spoke:

- Ashley Butenschoen
- Heather Katahdin
- Markis Dee Stidham

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

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

1. [AB2021-066](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and US Imaging, Inc. to extend the original contract from 12/31/2020 to 12/31/2021 (original contract amount was \$128,000 previously approved by Council)

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

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

Nay: 1 - Elenbaas

Absent: 0

2. [AB2021-076](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Status Electrical Corporation for the purpose of Security Electronics and DVMS System Support & Maintenance Agreement

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

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

Nay: 1 - Elenbaas

Absent: 0

3. [AB2021-077](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Whatcom Conservation District to provide a Community

Wildfire Risk Reduction Program in the amount of \$50,000

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

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

Nay: 1 - Elenbaas

Absent: 0

4. [AB2021-078](#) 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 \$2,138

Browne moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

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

Nay: 1 - Elenbaas

Absent: 0

5. [AB2021-081](#) Request authorization for the County Executive to enter into a 2-year interlocal agreement between Whatcom County and the City of Bellingham for Work Crew Services in the amount of \$89,000.00 per year

Browne moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

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

Nay: 1 - Elenbaas

Absent: 0

6. [AB2021-085](#) Request authorization for the County Executive to enter into a two year interlocal agreement between Whatcom County and South Whatcom Fire Authority for Work Crew Services in the amount of \$1,700.00 per year

Browne moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

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

Nay: 1 - Elenbaas

Absent: 0

7. [AB2021-090](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Seattle, in the amount of \$3,000 for a geodetic grade GPS antenna

Browne moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

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

Nay: 1 - Elenbaas

Absent: 0

8. [AB2021-099](#) Request authorization for the County Executive to renew a Collective Bargaining Agreement between Whatcom County and General Teamsters' Local Union 231 Corrections Deputies and Sergeants for the period January 1, 2021 through December 31, 2021

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

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

Nay: 1 - Elenbaas

Absent: 0

9. [AB2021-100](#) Request authorization for the County Executive to enter into a Collective Bargaining Agreement between Whatcom County and the Washington State Nurses Association for the period January 1, 2021 through December 31, 2022

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

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

Nay: 1 - Elenbaas

Absent: 0

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2021-049](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Henry Hollander to provide facilities management and support services at the COVID Temporary Housing Facility in the amount of \$20,000 for a total amended contract amount of \$60,000

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

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

Nay: 3 - Byrd, Elenbaas, and Kershner

Absent: 0

2. [AB2021-052](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Lighthouse Mission Ministries to provide oversight and assistance at the COVID-19 Temporary Housing Facility in the amount of \$103,088 for a total amended contract amount of \$476,302

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

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

Nay: 2 - Byrd, and Elenbaas

Absent: 0

3. [AB2021-053](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Pacific Security to provide security services at the COVID-19 Temporary Housing Facility in the amount of \$79,425 for a total amended contract amount of \$278,972

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

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

Nay: 2 - Byrd, and Elenbaas

Absent: 0

4. [AB2021-067](#) Resolution cancelling uncollectible personal property taxes

Browne reported for the Finance and Administrative Services Committee and moved that the Resolution be APPROVED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

Enactment No: RES 2021-006

5. [AB2021-074](#) Ordinance adopting amendments to Whatcom County Code 2.66 County-Owned Vehicles

Browne reported for the Finance and Administrative Services Committee

and *moved* that the Ordinance be ADOPTED.

Councilmembers discussed the versions of the proposed Ordinance on the Legislative Information Center and the following people answered questions:

- Tyler Schroeder, Executive's Office
- Karen Frakes, Prosecuting Attorney's Office

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

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

Nay: 0

Absent: 0

Enactment No: ORD 2021-006

6. [AB2021-079](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and SeaMar Community Health Centers to provide oversight and assistance at the COVID-19 Temporary Housing Facility in the amount of \$95,460 for a total amended contract amount of \$357,976

Browne reported for the Finance and Administrative Services Committee and *moved* that the Contract be AUTHORIZED.

Councilmembers discussed being able to see the increase and the total amended contract amount in the file's title.

Browne's motion that the Contract be AUTHORIZED carried by the following vote:

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

Nay: 2 - Byrd, and Elenbaas

Absent: 0

7. [AB2021-080](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the United States Department of the Treasury for rental and utility assistance and other housing expenses, in the amount of \$6,911,585

Browne reported for the Finance and Administrative Services Committee and *moved* that the Interlocal be AUTHORIZED.

Tyler Schroeder, Executive's Office, answered how people will be able to sign up for assistance and whether there is a process in place to also tie in the water and sewer districts and associations.

Councilmembers discussed the item and Kershner requested that the Health Department and Opportunity Council keep administrative costs low and make sure there is some sort of safety network in the contract so that landlords are getting the rent from people who are affected.

Browne's motion that the Interlocal be AUTHORIZED carried by the following vote:

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

Nay: 0

Absent: 0

8. [AB2021-087](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Brown & Caldwell to conduct Phase 2 of the Lake Whatcom Total Maximum Daily Load (TMDL) Reassessment in the amount of \$303,935

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

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

Nay: 0

Absent: 0

9. [AB2021-091](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Washington State Department of Transportation in the amount of \$2,047,063 for a total amended contract amount of \$2,197,063

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

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

Nay: 0

Absent: 0

10. [AB2021-094](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Crossroads Consulting to provide consulting and facilitation services for the COVID Employer Support Task Force, for a total amended contract amount of \$130,000

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

Aye: 6 - Browne, Buchanan, Donovan, Elenbaas, Frazey, and Kershner

Nay: 1 - Byrd

Absent: 0

11. [AB2021-095](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Elizabeth Boyle Consulting to provide strategic coordination of the COVID Safer Stronger Together Campaign, in the amount of \$25,000 for a total amended contract amount of \$45,000

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

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

Nay: 2 - Byrd, and Elenbaas

Absent: 0

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2021-031](#) Council appointment to fill vacancies on the Business & Commerce Advisory Committee - Applicant(s): Brad Rader
- Browne moved** to appoint Brad Rader. The motion was seconded by Frazey.

Kershner suggested a friendly amendment to rescind the previous appointment of Rader to the Business and Commerce Advisory Committee food processing position and appoint him to the same committee in the agricultural sector spot.

Browne **did not accept** the friendly amendment.

Jill Nixon, Council Office Staff, provided more information and answered questions.

Browne withdrew his objection to Kershner's friendly amendment but Kershner stated they need to first rescind the original motion to appoint Rader and then appoint him to a different position.

Kershner moved to rescind the original motion to appoint Brad Rader to the Business and Commerce Advisory Committee food processing position. The motion was seconded by Buchanan.

The motion to rescind carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey and Kershner
Nay: 0

Kershner moved and Byrd seconded that Rader be APPOINTED as the agriculture representative to the Business and Commerce Advisory Committee. The motion carried by the following vote:

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

Nay: 0

Absent: 0

2. [AB2021-040](#) Council appointment to fill vacancies on the Portage Bay Shellfish Protection District Advisory Committee - Applicant(s): Dorie Belisle

Donovan moved and Browne seconded that the applicant be APPOINTED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

Abstain: 1 - Elenbaas

3. [AB2021-043](#) Council appointment to fill vacancies on the Solid Waste Advisory Committee - Applicant(s): Brandi Hutton

Frazey moved and Byrd seconded that the applicant be APPOINTED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

4. [AB2021-084](#) Council appointment to fill vacancies on the Noxious Weed Control Board - Applicant(s): Dale Yoder and Alexander Vondrell

Donovan moved and Browne seconded that the applicants be APPOINTED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

ITEMS ADDED BY REVISION

1. [AB2021-112](#) Discussion and request for Council motion to assist Facilities Management in selection of in-house or contracted custodial services for outlier buildings

Browne reported for the Finance and Administrative Services Committee.

Donovan moved to approve option B. to convert the existing budget amount to labor (from Contracted Services), and bring forward an Additional Service request in the amount of \$32,082 and Council approval for 3 FTE positions. The motion was seconded by Browne.

Tyler Schroeder, Executive's Office, answered questions.

The motion carried by the following vote:

Aye: 6 - Frazey and Kershner, Browne, Buchanan, Donovan and Elenbaas

Nay: 1 - Byrd

Schroeder answered whether they need to rescind the hiring freeze to be able to do this or whether it does not apply in this situation and getting more information about why bidders were or were not selected.

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

2. [AB2021-106](#) Request confirmation of County Executive's appointment of Katherine Smith and Grant Heitman to the Point Roberts Community Advisory Committee

Donovan moved and Browne seconded that the Executive Appointment be CONFIRMED.

Councilmembers discussed the motion.

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

Aye: 6 - Browne, Buchanan, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Abstain: 1 - Byrd

3. [AB2021-117](#) Letter sent by Council with time constraints (noted as "other business" with no action necessary): Letter to Department of Health requesting information on COVID-19 vaccine rollout

Dana Brown-Davis, Clerk of the Council, discussed with Councilmembers which letter this is pertaining to (a letter from the Health Board concerning distribution of COVID-19 vaccine) and that it just needs to be read into the record to let the public know since the Councilmembers decided to send it

outside of a formal Council meeting.

Donovan pointed out that the title of the file notes it was addressed to the Governor but it was actually addressed to the Secretary of Health.

Elenbaas spoke about how the letter came to be and positive action that was taken since.

This agenda item was DISCUSSED.

INTRODUCTION ITEMS

Donovan moved to introduce items one through two. The motion was seconded by Frazey (see votes on individual items below).

1. [AB2021-092](#) Ordinance amending the 2021 Whatcom County Budget, request no. 3, in the amount of \$7,854,280

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

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

Nay: 0

Absent: 0

2. [AB2021-096](#) Ordinance adopting amendments to Whatcom County Code Title 15 (Buildings & Construction) to adopt by reference the 2018 Editions of the International Building and other associated codes

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

Nay: 0

Absent: 0

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Buchanan reported on Committee of the Whole Executive Session.

Donovan moved the following:

The County Council met in executive session concerning the lawsuit Anderson as Personal Representative of Estate of Kirk Powless, et al. v. Whatcom County, et al., US District Court for the Western District of Washington No. 2:20-cv-01125. Pursuant to Whatcom County Code 2.56,

the Council hereby finds the following:

A. Dr. Stewart Andrews was acting in a matter in which the county had an interest;

B. Dr. Stewart Andrews was acting in the discharge of a duty imposed or authorized by law;

C. Dr. Stewart Andrews 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 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Kershner and Browne

Nay: 0

Councilmembers reported from their committees.

Browne reported for the Finance and Administrative Services Committee and **moved** to go forward with option #1 regarding the Northwest Annex Feasibility Study as follows: Bring forward for Council approval consideration of budget authority to further refine the design, including some tenant improvement development and further civil engineering design and feasibility. Roughly \$30,000. This would be the incremental approach. The motion was seconded by Frazey.

The motion carried by the following vote:

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

Nay: 0

Elenbaas reported for the Planning and Development Committee.

Browne moved to request that Planning and Development Services Department staff work out what the average sized house is that people are asking to build and use that to do a calculation for how many credits would be needed, the lowest-cost way to reach the amount of energy credits to comply with the new regulations and what the cost would be. The motion was seconded by Elenbaas.

The motion carried by the following vote:

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

Nay: 0

Karen Frakes, Prosecuting Attorney's Office, updated Councilmembers on the Keep Washington Working Act.

Tyler Schroeder, Executive's Office, answered a question about recent emails to the Council regarding marijuana and an administrative approval permit on Mt. Baker Highway.

ADJOURN

The meeting adjourned at 7:44 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription