

Whatcom County Council

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



Minutes - Draft Minutes

Tuesday, February 22, 2022

6 PM

Virtual Meeting

**VIRTUAL MEETING (TO PARTICIPATE, SEE INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil OR CALL 360.778.5010); AGENDA
REVISED 2.22.2022**

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 Todd Donovan called the meeting to order at 6:01 p.m. in a virtual meeting.

ROLL CALL

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

Absent: None

FLAG SALUTE

ANNOUNCEMENTS

COUNTY EXECUTIVE'S REPORT

Satpal Sidhu, County Executive, updated on the following:

- Flood recovery and a deadline of March 7, 2022 deadline to file claims for impacts from the flood event
- Two Whatcom County Sheriff's deputies who were recently shot in the line of duty
- Two rescinded Executive Orders to start the process for opening the County for in-person business and a new Executive Order which goes into effect today regarding adjusting County operations for Covid-19 recovery
- The alternate response initiative and the request to fund fourteen full time equivalent positions for the new Response Division GRACE & LEAD programs

MINUTES CONSENT

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

1. [MIN2022-012](#) Committee of the Whole Executive Session for February 8, 2022

Byrd moved and Buchanan 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

Absent: 0

2. [MIN2022-013](#) Committee of the Whole for February 8, 2022

Byrd moved and Buchanan 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

Absent: 0

3. [MIN2022-014](#) Regular County Council for February 8, 2022

Byrd moved and Buchanan 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

Absent: 0

4. [MIN2022-015](#) Water Work Session for February 15, 2022

Byrd moved and Buchanan 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

Absent: 0

PUBLIC HEARINGS

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

1. [AB2022-082](#) Ordinance adopting various minor amendments to Whatcom County Code Titles 20 (Zoning), 21 (Land Division Regulations) and 22 (Land Use and Development)

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

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

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

Nay: 0

Absent: 0

Enactment No: ORD 2022-012

2. [AB2021-606](#) Ordinance adopting amendments to the Whatcom County Code Title 20, Zoning, to provide additional affordable housing options, including allowing and regulating tiny homes and allowing duplexes in planned unit developments

Donovan stated they would be considering a substitute Exhibit A. He opened the Public Hearing and the following person spoke:

- Zachariah Giffin

Hearing no one else, Donovan closed the Public Hearing.

Byrd moved and Buchanan seconded that the SUBSTITUTE Ordinance Requiring a Public Hearing be ADOPTED. He then addressed the speaker and Councilmembers discussed the motion.

Giffin spoke again about the Senate House Bill which had a provision in it allowing for tiny homes and tiny home communities outside of the Urban Growth Areas, and the current pathway for moveable tiny homes going through Labor and Industries (L & I).

The following people answered whether they need to re-introduce the Ordinance and have a new public hearing since there is a substitute Exhibit A.

- Dana Brown-Davis, Clerk of the Council
- Karen Frakes, Prosecuting Attorney's Office
- Cliff Strong, Planning and Development Services Department

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

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

Nay: 0

Absent: 0

Enactment No: ORD 2022-013

APPROVAL OF COMPREHENSIVE PLAN AMENDMENTS

Donovan read the process for dealing with Comprehensive Plan amendments.

1. [AB2021-420](#) Ordinance amending the Whatcom County Comprehensive Plan Map and zoning code for the Nooksack Falls Exclave within the Mount Baker-Snoqualmie National Forest

The following people answered a question about the concurrent review process, how these items fit into that process, why this item was re-introduced, and whether they were already discussed by the Councilmembers.

- Dana Brown-Davis, Clerk of the Council
- Karen Frakes, Prosecuting Attorney's Office

See motion and vote on concurrent approval of this item in the minutes below.

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

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

Nay: 0

Absent: 0

Abstain: 1 - Byrd

Enactment No: ORD 2022-014

2. [AB2022-036](#) Ordinance repealing the Cherry Point Ferndale Subarea Plan and deleting a reference to the Subarea Plan in the Whatcom County Comprehensive Plan

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

See motion and vote on concurrent approval of this item in the minutes below.

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

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

Nay: 0

Absent: 0

Abstain: 1 - Byrd

Enactment No: ORD 2022-015

CONCURRENT REVIEW

Frazey moved to approve the above adopted Comprehensive Plan amendments concurrently. The motion was seconded by Kershner.

Councilmembers discussed the motion.

The motion carried by the following vote:

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

Nay: 0

Abstain: 1 - Byrd

Kershner made a point of order and asked whether AB2022-036 (which was listed online as an “Ordinance Requiring a Public Hearing”) had a public hearing. The Clerk responded to this question during COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES below.

OPEN SESSION (20 MINUTES)

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

The following people spoke:

- Richard Tran
- Johnathan Humphrey
- Eleanor Hines
- Robert Bystrom
- Becky Raney
- Enoch Mann
- Misty Flowers
- Fran Isbell
- Tammie Lagerwey
- Wendy Harris
- Fallon Richardson
- (Name not given)
- Kenneth Domorod
- Hannah Ordos
- Sara Rose
- (Name not given)
- Harold
- Nancy Bergman
- Natalie Chavez
- Angelica Duvier
- Jean Purcell
- Dennis Lytle
- Lindy (last name not given)

- Susan Prosser
- Jasmine Prosser

Hearing no one else, Donovan closed the Open Session.

Donovan spoke about opening the Chambers for in-person meetings.

Clerk's note: Council took a ten-minute break.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

Byrd reported for the Finance and Administrative Services Committee and *moved* to approve Consent Agenda items one through nine (item ten was withdrawn).

Councilmembers discussed agenda item number two (AB2022-074) and Satpal Sidhu, County Executive, answered a question about the request.

Councilmembers voted on the Consent Agenda items (see votes on individual items below).

1. [AB2022-037](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Flex Financial, a division of Stryker Sales Corporation, for two additional gurneys not included in the original agreement, increasing the agreement by \$116,700.03

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

Nay: 0

Absent: 0

2. [AB2022-074](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Cascadia Law Group, PLLC for legal advice, in the amount of \$60,000 for a total amended amount of \$100,000

See discussion on this item in the Consent Agenda header above.

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

Nay: 0

Absent: 0

3. [AB2022-081](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Lynden for alterations to Fire Station 75 in the amount of \$150,000

Byrd 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

Absent: 0

4. [AB2022-101](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Bellingham Technical College for accreditation services for the paramedic training program, in the amount of \$42,200

Byrd 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

Absent: 0

5. [AB2022-107](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Lifeline Connections for psychiatric services in the amount of \$187,200.00

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

Nay: 0

Absent: 0

6. [AB2022-112](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Whatcom Community College to provide Adult Basic Education and GED classes to people residing in the county jail in the amount of \$60,524.00

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

Nay: 0

Absent: 0

7. [AB2022-116](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to operate the Whatcom Homeless Service Center in the amount of \$574,760 for a total amended contract amount of \$2,225,008

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

Nay: 0

Absent: 0

8. [AB2022-117](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and Washington State Department of Commerce to provide resources to obtain and maintain housing stability to people who are experiencing homelessness, in the amount of \$282,878 for a total amended agreement amount of \$7,824,102

Byrd 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

Absent: 0

9. [AB2022-126](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Bird's Eye Medical to provide COVID-19 vaccine administration services at community vaccine clinics, in the amount of \$275,000 for a total amended contract amount of \$315,000

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

Nay: 0

Absent: 0

10. [AB2022-130](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Opportunity Council to build a health, resource, and service navigation system that will provide timely connection of parents and children, pre-natal to five years, to a range of protective and supportive services, in the amount of \$77,797

This agenda item was WITHDRAWN.

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2022-086](#) Ordinance amending the 2022 Whatcom County Budget, request no. 5, in the amount of \$7,750,231

Byrd reported for the Finance and Administrative Services Committee.

Frazey moved and Buchanan seconded that the Ordinance be ADOPTED.

Councilmembers discussed the motion, how budget amendments come to the Council, and information received by the Health Department since the Committee meeting today on all the various allocations and funding requests for the COVID-19 isolation facilities.

Satpal Sidhu, County Executive, discussed with the Councilmembers whether this supplemental is increasing the General Fund budget by \$4,200,000 which means these expenses are not offset by grants or other funding mechanisms, how confident he is that the County has the money in the General Fund to be spending on these items and where we are with the budget, whether \$4.2 million is something that can be absorbed into our budget, whether the Council will get an updated financial report, the discussion today in the Finance and Administrative Services Committee about how these supplemental requests might be partitioned in the future, and whether supplemental budget Ordinances could be grouped and created by fund.

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

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

Nay: 2 - Byrd, and Elenbaas

Absent: 0

Enactment No: ORD 2022-016

2. [AB2022-088](#) Ordinance closing the State Street Building Acquisition and Improvement Fund 348

Byrd 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

Absent: 0

Enactment No: ORD 2022-017

3. [AB2022-089](#) Ordinance establishing the Way Station Project Fund and establishing a project based budget for the Way Station Project

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

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

Nay: 2 - Byrd, and Elenbaas

Absent: 0

Enactment No: ORD 2022-018

(From Council Committee of the Whole)

4. [AB2022-111](#) Resolution establishing a Respectful Workplace Standard

Donovan reported for the Committee of the Whole and **moved** that the Resolution be APPROVED.

Councilmembers discussed the Resolution.

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

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

Nay: 0

Absent: 0

Enactment No: RES 2022-009

(No Committee Assignment)

5. [AB2022-083](#) Ordinance amending Ordinance No. 2021-064 (Review of Response to COVID-19 Pandemic) to change project timeline

Byrd moved and Buchanan seconded that the Ordinance be ADOPTED.

Councilmembers discussed the item and why this was put forward.

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

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

Nay: 0

Absent: 0

Enactment No: ORD 2022-019

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2022-073](#) Appointment to the Stakeholder Advisory Committee for the Justice Project, applicants: Debra David, Peter Frazier, RB Tewksbury (added 2/9/2022), Jeff Hindman (added 2/9/2022) (application deadline for any other applicants to this vacancy is 10 a.m. on February 15, 2022)

Cathy Halka, Council Legislative Analyst, answered how many spots need to be filled and whether they are the same category for all of the applicants.

Byrd moved to nominate all the applicants. The motion was seconded by Buchanan.

Councilmembers and Halka discussed which positions are open and specifics on the open category.

Karen Frakes, Prosecuting Attorney's Office, answered and Councilmembers discussed whether there is a law that restricts County employees from applying.

Councilmembers voted as follows:

Frazey - Frazier and Tewksbury

Galloway - David and Hindman

Kershner - Hindman and Tewksbury

Buchanan - Frazier and David

Byrd - Frazier and Tewksbury

Donovan - Frazier and David

Elenbaas - Tewksbury and Hindman

Peter Frazier and RB Tewksbury were appointed with four votes each.

Peter Frazier and RB Tewksbury were APPOINTED.

2. [AB2022-110](#) Appointment to the Flood Control Zone District Advisory Committee, alternate position, applicant(s) Shawna DeKriek (Council acting as the Flood Control Zone District Board of Supervisors)

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

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

Nay: 0

Absent: 0

EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2022-128](#) Request confirmation of the County Executive's reappointment of Arlene Feld to the North Sound Administrative Services Organization's Behavioral Health Advisory Board

Galloway moved and Frazey 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

Absent: 0

ITEMS ADDED BY REVISION

1. [AB2022-142](#) Discussion and possible motion to recommend rescinding a previous action of the Council that temporarily closed Gulf Road to motorized vehicular traffic
- Donovan reported for the Committee of the Whole and stated they suggested to staff to bring it back to the Public Works and Health Committee.

This agenda item was DISCUSSED.

INTRODUCTION ITEMS

Buchanan moved to introduce items one through six. The motion was seconded by Donovan.

Galloway spoke about the item which would be considering the role of the

Climate Impact Advisory Committee.

Councilmembers voted on the introduction items (see votes on individual items below).

1. [AB2022-087](#) Ordinance amending Whatcom County Code 2.02.075, Standing Committees, to rename Natural Resources Committee

Buchanan moved and Donovan 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

Absent: 0

2. [AB2022-131](#) Ordinance amending Whatcom County Code 2.126 (Whatcom County Climate Impact Advisory Committee)

Buchanan moved and Donovan 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

Absent: 0

3. [AB2022-109](#) Appointment to a vacancy on the Business and Commerce Advisory Committee, Manufacturing position, applicant(s): Chris Trout

Buchanan moved and Donovan 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

Absent: 0

4. [AB2022-113](#) Appointment to a vacancy on the Climate Impact Advisory Committee, applicants Ray Kamada, Ted Clifton, and Charles Bailey

Buchanan moved and Donovan 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

Absent: 0

5. [AB2022-121](#) Resolution vacating a portion of Horton Road

Buchanan moved and Donovan 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

Absent: 0

6. [AB2022-122](#) Resolution vacating a portion of Boxwood Road

Buchanan moved and Donovan 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

Absent: 0

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Donovan stated that the questions about the file types under the Concurrent Review header have been fixed.

Byrd moved and Buchanan seconded the following motion from Committee of the Whole Executive Session:

I hereby move to approve defense and indemnification of Bill Elfo, George Roche and Eric Richey, named as defendants in Emil Clermont, an individual, Plaintiff v. Latchmi Reddy, et al., Defendants. Based on the following findings:

- A. Bill Elfo, George Roche and Eric Richey were acting in a matter in which the county had an interest;
- B. Bill Elfo, George Roche and Eric Richey were acting in the discharge of a duty imposed or authorized by law;
- C. Bill Elfo, George Roche and Eric Richey acted in good faith.

The motion carried by the following vote:

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

Nay: 0

Councilmembers gave committee reports.

Satpal Sidhu, County Executive, spoke about answers to earlier questions about the budget supplemental Ordinance (AB2022-086).

Councilmembers spoke about other items including the following:

- Timelines for applying for grants for strengthening local food systems
- The statistics regarding crime in Whatcom County as reported by Sheriff Elfo in Committee
- Letting Open session speakers know that they are heard
- Opening Council Chambers
- The Bessie Timber sale
- Upcoming State legislative items
- Broadband access
- A recent Lake Whatcom Policy Group meeting

ADJOURN

The meeting adjourned at 9:09 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Chair

Kristi Felbinger, Minutes Transcription