

Whatcom County Council

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



Minutes - Final

Tuesday, June 18, 2024

6 PM

Hybrid Meeting

HYBRID MEETING (PARTICIPATE IN-PERSON, SEE REMOTE JOIN
INSTRUCTIONS AT www.whatcomcounty.us/joinvirtualcouncil, OR CALL
360.778.5010)

AGENDA REVISED 6.18.2024 (SEE AGENDA REVISION NOTICE)

COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Kaylee Galloway
Jon Scanlon
Mark Stremmler

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 p.m. in a hybrid meeting.

ROLL CALL

Present: 7 - Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Kaylee Galloway, Jon Scanlon, and Mark Stremmer

FLAG SALUTE

ANNOUNCEMENTS

COUNTY EXECUTIVE'S REPORT

Kayla Schott-Bresler, Executive's Office, updated on the following:

- The County's work under the Justice Project
- The fact that they will be sending out budget instructions to departments in the next week and welcome more conversation on the budget with Councilmembers
- Steps the County took over the last two weeks to secure temporary morgue space

She answered how much of the the temporary morgue space is a physical facility or refrigerator truck storage, and stated they need both storage as well as a facility to perform autopsies. She answered what facilities they will be using and whether they have an estimated time when they will be back in the building on State Street, and stated this fall.

George Roche, Prosecuting Attorney's Office, answered what the status is of the inquiry involving Moles funeral home and the Medical Examiner (ME), Hunt Forensics, and stated they have retained an attorney who is independent of the County who has been tasked with factfinding. They are hoping to have a product from that in the next two weeks which they can use to form conclusions. He answered whether the contract with the Medical Examiner's company would have them incurring the additional fees to relocate the morgue if they were found to be at fault. He stated not necessarily, and answered questions about the contract.

Schott-Bresler answered whether they have paused the incorporation of the ME into the County, and stated they have not yet issued a letter of employment to the Medical Examiner.

Elenbaas stated what is being put in the newspaper regarding what has been reported to him or told to him from the Prosecutor's, Executive's, and Sheriff's offices has not been his experience so he would like to make sure that whatever investigation is being done is a real investigation.

Councilmembers and the speakers discussed the investigation, concerns about the contract going forward, whether they would be casting a wider net when or if they decide to continue moving forward with incorporation of the Medical Examiner into the County, that impartial fact-finding is in order, and the fact that people in the industry being afraid or hesitant to come forward in this situation is a problem that needs to be rectified.

PUBLIC HEARINGS

1. [AB2024-344](#) Ordinance adopting amendments to the Six-Year Capital Improvement Program for Whatcom County Facilities 2023-2028

Buchanan opened the Public Hearing and the following people spoke:

- Lisa Guthrie
- Sharman Burnham

Hearing no one else, Buchanan closed the Public Hearing.

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

Elenbaas (commenting on the testimonies of the speakers) stated it was his understanding that the Birch Bay bathrooms were in the Six-Year Capital Improvement Program.

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmler

Nay: 0

Enactment No: ORD 2024-037

2. [AB2024-350](#) Resolution adopting changes to WCC 100.07 Birch Bay Watershed and Aquatic Resources Management district funding mechanism, by revising the rate structure, service charge adjustments and exemptions (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Holly Faulstich, Public Works Department, summarized the staff memo.

Buchanan opened the Public Hearing and the following person spoke:

- Scott Hulse

Hearing no one else, Buchanan closed the Public Hearing.

Donovan moved and Galloway seconded that the Resolution (FCZDBS) Requiring a Public Hearing be APPROVED.

Donovan addressed the comments from the speaker about whether it is a countywide responsibility for funding these things versus the district's that they set up, and stated he strongly supports going forward with the rate change.

Faulstich, Kraig Olason, Public Works Department, and Councilmembers discussed what the average rate increase would be, whether the overall revenue in the district has increased since 2009 because of how much the population (and homes) have increased, whether the average homeowner in Birch pay is getting anything for their fee or whether they are just getting the ability to build a house and they have to deal with their own stormwater infrastructure on site, and the fact that the increase does lower the cost of development for people who are building now.

Scanlon stated it is worth assessing for whether this is a county-wide responsibility and looking at options, and he is hoping that discussion could be added to a future Water Work Session.

Councilmembers and staff discussed how many new homes this would support, assuming it would allow adding additional homes in the future, and whether this would go away if Birch Bay were to incorporate.

Donovan's motion that the Resolution (FCZDBS) Requiring a Public Hearing be APPROVED carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Galloway, Scanlon, and Stremmer

Nay: 1 - Elenbaas

Enactment No: RES 2024-030

3. [AB2024-367](#) Ordinance amending Ordinance 2023-039 regarding the membership and formation of the Justice Project Finance Advisory Board

Buchanan stated this item was removed from the agenda.

This agenda item was WITHDRAWN.

OPEN SESSION

The following people spoke:

- John Westerfield
- Marlene Dawson
- Charly Myers
- Cynthia Sue Ripke-Kutsagoitz
- Doug Thomas
- Amy Myers
- Charlie Brown
- Jeff Margolis
- David Heinrich
- Brian Heinrich
- Doug Revelle "Yoshe"
- Perry Eskridge
- John Ferdon
- Simon Sefzik
- Markis Dee
- Name not stated
- Lyle Sorenson
- Natalie Chavez
- Douglas Gustafson
- Matt Berry
- Michi Marcher
- Danielle Gaughen
- Misty Flowers
- Janet Johnson

Hearing no one else, Buchanan closed the Open Session.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

Donovan reported for the Finance and Administrative Services Committee and ***moved*** to approve Consent Agenda items one through twenty-four.

Byrd stated he would like to vote separately on Consent Agenda item numbers 4, 6, 20, and 24.

Donovan amended his motion ***and moved*** to approve Consent Agenda item

numbers 1-3, 5, 7-19, and 21-23. The motion was seconded by Galloway.

Stremmler requested to vote on item number 5 separately.

Donovan withdrew his motion.

Galloway moved approve Consent Agenda items numbers 1-3, 7-19, and 21-23. The motion was seconded by Donovan.

Councilmembers voted on those items (see votes on individual items below).

1. [AB2024-375](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Sustainable Connections to provide commercial waste reduction and recycling technical assistance and education, in the amount of \$95,000

Galloway moved and Donovan seconded that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmler

Nay: 0

2. [AB2024-377](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and US Department of Justice Organized Crime Drug Enforcement Task Force (OCDETF) for reimbursement of overtime, in the amount of \$5,000

Galloway moved and Donovan seconded that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmler

Nay: 0

3. [AB2024-381](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Opportunity Council to temporarily relocate Dorothy Place tenants during facility renovations, in the amount of \$80,000

Galloway moved and Donovan seconded that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmler

Nay: 0

4. [AB2024-382](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Opportunity Council to expand, administer and manage the Whatcom Resource Information Collaborative website, in the amount of \$65,000

This item was considered separately below.

5. [AB2024-384](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and Washington State Department of Commerce to fund homelessness crisis response systems in the amount of \$5,016,231 for a total amended agreement amount of \$17,361,346

This item was considered separately below.

6. [AB2024-385](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to administer rental assistance for people with co-occurring disorders in the amount of \$74,457.60 for a total amended contract amount of \$173,715.20

This item was considered separately below.

7. [AB2024-386](#) Request authorization for the County Executive to enter into an Interlocal agreement between Whatcom County and North Whatcom Fire and Rescue for the transfer of property related to the purchase of the Power Load gurney lift and restraint system for the Agency, in the amount of \$49,092.00

**Galloway moved and Donovan seconded that the Interlocal be
AUTHORIZED BY CONSENT. The motion carried by the following vote:**

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

8. [AB2024-387](#) Request authorization for the County Executive to enter into an Interlocal agreement between Whatcom County and Whatcom County Fire District No. 14 to transfer property related to the purchase of the Power Load gurney lift and restraint system for the Agency, in the amount of \$73,638.00

**Galloway moved and Donovan seconded that the Interlocal be
AUTHORIZED BY CONSENT. The motion carried by the following vote:**

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

9. [AB2024-388](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Lifeline Connections to provide funding for jail substance use disorder assessments and post-assessment treatment coordination in the amount of \$181,977 for a total amended contract amount of \$320,619

**Galloway moved and Donovan seconded that the Contract be AUTHORIZED
BY CONSENT. The motion carried by the following vote:**

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

10. [AB2024-389](#) Request authorization for the County Executive to enter into an Interlocal agreement between Whatcom County and Whatcom County Fire District No.5 to transfer property related to the purchase of the Power Load gurney lift and restraint system for the Agency, in the amount of \$24,546.00

Galloway moved and Donovan seconded that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

11. [AB2024-390](#) Request authorization for the County Executive to enter into an Interlocal agreement between Whatcom County and Whatcom County Fire District No.16 to transfer property related to the purchase of the Power Load gurney lift and restraint system for the Agency, in the amount of \$24,546.00

Galloway moved and Donovan seconded that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

12. [AB2024-391](#) Request authorization for the County Executive to enter into an Interlocal agreement between Whatcom County and City of Lynden Fire Department to transfer property related to the purchase of the Power Load gurney lift and restraint system for the Agency, in the amount of \$24,546.00

Galloway moved and Donovan seconded that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

13. [AB2024-392](#) Request authorization for the County Executive to enter into an Interlocal agreement between Whatcom County and South Whatcom Fire Authority to transfer property related to the purchase of the Power Load gurney lift and restraint system for the Agency, in the amount of \$24,546.00

Galloway moved and Donovan seconded that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

14. [AB2024-393](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Lydia Place to provide motel rooms for families with children who would otherwise experience unsheltered homelessness in the amount of \$330,000 for a total amended contract amount of \$2,376,275

Galloway moved and Donovan seconded that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmer

Nay: 0

15. [AB2024-394](#) Request authorization for the County Executive to award bid #24-48 and enter into a contract between Whatcom County and Western Refinery Services for the 2024 and 2025 Swift Creek Channel Excavation in the amount of \$509,836.80

Galloway moved and Donovan seconded that the Bid Award be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmer

Nay: 0

16. [AB2024-395](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Catholic Community Services to operate the permanent supportive housing facility known as Francis Place in the amount of \$396,917 for a total amended contract amount of \$901,487

Galloway moved and Donovan seconded that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmer

Nay: 0

17. [AB2024-396](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Glyph Language Services, Inc. to provide language interpretation and translation services, in the amount of \$65,000

Galloway moved and Donovan seconded that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmer

Nay: 0

18. [AB2024-397](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Equinox Research and Consulting International Inc to provide on-call professional cultural and historical resource services, in the amount not to exceed \$100,000

Galloway moved and Donovan seconded that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

19. [AB2024-398](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Mobile Mama Strategies, Inc. to administer a perinatal mental health internship pilot project, in the amount of \$164,235

Galloway moved and Donovan seconded that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

20. [AB2024-399](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Opportunity Council to administer the Single Entry Access to Services (SEAS) Program, in the amount of \$450,000

This item was considered separately below.

21. [AB2024-404](#) Request authorization for the County Executive to enter into a grant agreement between Whatcom County and the Washington State Department of Commerce for grant funding through the 2024 Local Community Projects Program in the amount of \$486,940 for renovation of the Van Zandt Community Hall located at Josh VanderYacht Memorial Park

Galloway moved and Donovan seconded that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

22. [AB2024-409](#) Request approval for the County Executive to authorize the purchase of three (3) replacement mower heads, using the Washington State Contract #05218, in an amount of \$266,926.83

Galloway moved and Donovan seconded that the Bid Award be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

23. [AB2024-412](#) Request authorization for the County Executive to enter into a lease between Whatcom County and Unity Care Northwest to lease space in the Way Station, in the amount of \$1.00 annually

Galloway moved and Donovan seconded that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

24. [AB2024-413](#) 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 \$2,023,518 for a total amended contract amount of \$15,504,103

This item was considered separately below.

CONSENT AGENDA ITEMS CONSIDERED SEPARATELY

4. [AB2024-382](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Opportunity Council to expand, administer and manage the Whatcom Resource Information Collaborative website, in the amount of \$65,000
- Donovan** reported for the Finance and Administrative Services Committee and **moved** that the Contract be AUTHORIZED. The motion was seconded by Buchanan.

Byrd spoke about this and the other items he pulled from the Consent Agenda. He stated that, with the Opportunity Council, he feels like they are putting money down a hole there with no oversight. He referred to an email from a constituent that sums up eight deaths at 22 North (seven of which took place in an eleven-month period). He read the names of those who died.

Galloway stated she sat down with the executive director of the Opportunity Council and walked through each one of these contracts and Opportunity Council staff was available to answer questions at the meeting today. She stated she agrees they need to do more inquiry into 22 North and would welcome a presentation from Opportunity Council about what is happening there.

Elenbaas stated his experience on the Council has been a lack of trust in their ability to get an outcome with the dollars the County is investing. He would like to know they are stewarding the taxpayer dollars in a way that gets the results that they expect.

Donovan stated this contract is not about 22 North and the Council just approved another agenda item that had to do with the Opportunity Council,

so he is trying to make sense of that.

Byrd stated the one that was approved was for renovating an existing project.

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

Aye: 4 - Buchanan, Donovan, Galloway, and Scanlon

Nay: 3 - Byrd, Elenbaas, and Stremmer

5. [AB2024-384](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and Washington State Department of Commerce to fund homelessness crisis response systems in the amount of \$5,016,231 for a total amended agreement amount of \$17,361,346

Donovan reported for the Finance and Administrative Services Committee and **moved** that the Interlocal be AUTHORIZED. The motion was seconded by Galloway.

Ann Beck, Health and Community Services, stated this funding is from the State to help with inflation costs and to give them money they can dedicate toward families with children in motels, and will be going to the entire housing system. She answered questions about those purposes and how the funding works.

Kayla Schott-Bresler, Executive's Office, answered how the funds are used and stated that operations dollars are for case management and supportive services to help people find and stay in housing. This is an amendment and the second column on the table in the memo reflects the addition of funds. Also, the family motel shelter program for \$250,000 (second page of the amendment) is a specific allocation that Whatcom County is getting.

The speakers answered whether motel stays could be made more efficient so that more dollars could go for more nights, the fact that it is more than just a roof over people's heads and that they have to pay trained support staff, how the funds are being spent and why more than \$250,000 is not designated for families, whether there are expectations on people who stay in the motels for how they treat the rooms, what the monthly rate is for the motel rooms that the County pays, the fact that the contracts for spending the grant funds will come before the Council if they meet the threshold to do so, and whether Health and Community Services Department can include the rate the County will pay for the motels when the contracts come to Council.

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

Aye: 6 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, and Scanlon

Nay: 1 - Stremmler

6. [AB2024-385](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to administer rental assistance for people with co-occurring disorders in the amount of \$74,457.60 for a total amended contract amount of \$173,715.20

Donovan reported for the Finance and Administrative Services Committee and **moved** that the Contract be AUTHORIZED. The motion was seconded by Galloway.

Hannah Fisk, Health and Community Services, answered what a viable clean and sober living environment is and how it can be made available to someone, and stated under this contract, they are designated units that have programming dedicated to clean and sober housing.

Elenbaas stated this is exactly the type of accountability that he likes to see.

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

Aye: 6 - Buchanan, Donovan, Elenbaas, Galloway, Scanlon, and Stremmler

Nay: 1 - Byrd

20. [AB2024-399](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Opportunity Council to administer the Single Entry Access to Services (SEAS) Program, in the amount of \$450,000

Donovan reported for the Finance and Administrative Services Committee and **moved** that the Contract be AUTHORIZED. The motion was seconded by Galloway.

Ann Beck, Health and Community Services, answered whether this is a new or existing program and stated it started in 2012.

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

Aye: 5 - Buchanan, Donovan, Elenbaas, Galloway, and Scanlon

Nay: 2 - Byrd, and Stremmler

24. [AB2024-413](#) 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 \$2,023,518 for a total amended contract amount of \$15,504,103

Donovan reported for the Finance and Administrative Services Committee and ***moved*** that the Contract be AUTHORIZED. The motion was seconded by Galloway.

Elenbaas stated a no vote does not mean he does not support this type of service. He just wants someone else in the contract.

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

Aye: 4 - Buchanan, Donovan, Galloway, and Scanlon

Nay: 3 - Byrd, Elenbaas, and Stremmer

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2024-351](#) Ordinance amending the project budget for the Silver Beach Creek Stormwater Improvements Project Fund, request no. 2

Donovan 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, Galloway, Scanlon, and Stremmer

Nay: 0

Enactment No: ORD 2024-038

2. [AB2024-352](#) Resolution amending the 2024 Flood Control Zone District and Subzones Budget, request no. 4, in the amount of \$207,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmer

Nay: 0

Enactment No: RES 2024-031

3. [AB2024-372](#) Ordinance amending the 2024 Whatcom County Budget, request no. 8, in the amount of \$4,642,972.

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

Councilmembers discussed having to vote on all the items included in the ordinance, and school-based health clinics and the involvement of Sea Mar.

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

Aye: 4 - Buchanan, Donovan, Galloway, and Scanlon

Nay: 3 - Byrd, Elenbaas, and Stremmer

Enactment No: ORD 2024-039

4. [AB2024-411](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Mission Critical Partners, LLC to complete a countywide fire and EMS study in the amount of \$223,056

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

Elenbaas stated he was on the committee to help select this contractor and he explained why he voted no on doing this study.

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

Aye: 5 - Buchanan, Byrd, Donovan, Galloway, and Scanlon

Nay: 2 - Elenbaas, and Stremmer

(From Council Committee of the Whole)

5. [AB2024-401](#) Resolution supporting affordable energy choices (and discussion of any impact AB2024-329 may have upon initiative I-2066, an act relating to promoting energy choice by protecting access to gas for Washington homes and businesses)

Buchanan reported for the Committee of the Whole.

Byrd moved and Elenbaas seconded that the Resolution be APPROVED.

Councilmembers discussed the motion and why they do or do not support the resolution, the importance of collaboration, and the intentions of the State for natural gas.

Byrd's motion that the Resolution be Approved failed by the following vote:

Aye: 3 - Byrd, Elenbaas, and Stremmer

Nay: 4 - Buchanan, Donovan, Galloway, and Scanlon

6. [AB2024-402](#) Request confirmation of the County Executive's appointment of Aly Pennucci as Deputy Executive effective August 5, 2024

Buchanan reported for the Committee of the Whole and ***moved*** that the Executive Appointment be CONFIRMED. The motion was seconded by Galloway.

Councilmembers discussed the motion, hiring this position in light of budget issues (driven by the number of additional positions in the County) expressed by the Executive's Office, the fact that the Executive's Office needs the help at this time, and the support it will give to the departments.

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

Aye: 6 - Buchanan, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 1 - Byrd

7. [AB2024-403](#) Resolution approving Whatcom County Superior Court to preside over and hold certain water adjudication hearings outside of Bellingham, WA pursuant to Civil Rule (CR) 77

Buchanan reported for the Committee of the Whole and moved that the Resolution be APPROVED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

Enactment No: RES 2024-032

(No Committee Assignment)

8. [AB2024-400](#) Appointment of members to serve on pro and con statement writing committees for a proposed ballot measure amending the Whatcom County Charter to expand the standards for conflict of interest

Byrd moved and Galloway seconded to appoint the applicants (Pro: Andrew Redding and Kathy Kershner; Con: Doris Smith and Atul Deshmane).

Elenbaas stated there are typically three positions appointed to each side and asked whether they have time if someone else wants to join those teams.

Dana Brown-Davis, Clerk of the Council, answered what the deadline is for submittal of the committee members and how they should go about the

appointment tonight. She stated they could hold the appointment and extend it another two weeks and seek additional names.

Elenbaas moved to hold (so they can try to get three applicants for each side). The motion was seconded by Buchanan.

Buchanan stated the hold would be for two weeks.

Galloway clarified that they would be extending the deadline to submit an application for two weeks and then the Council would consider the appointment in three weeks, on July 9.

Elenbaas's motion that the Request for Motion be HELD carried by the following vote:

Aye: 6 - Buchanan, Byrd, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 1 - Donovan

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2024-325](#) Appointment to a vacancy on the Solid Waste Advisory Committee, citizen representative with no financial ties to the other sectors, Applicant(s): Jerry Burns
Byrd moved and Scanlon seconded that the Council Appointment Requiring Introduction be APPOINTED.

Elenbaas stated he is not related to the applicant.

Byrd's motion that the Council Appointment Requiring Introduction be APPOINTED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

2. [AB2024-346](#) Appointment to a vacancy on the Planning Commission, District 2 or 4, Applicant(s): Suneeta Eisenberg
Galloway moved and Scanlon seconded that the Council Appointment Requiring Introduction be APPOINTED.

Galloway spoke about the applicant.

Galloway's motion that the Council Appointment Requiring Introduction be APPOINTED carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Galloway, Scanlon, and Stremler

Nay: 1 - Elenbaas

CONFIRMATION OF EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2024-414](#) Request confirmation of the County Executive's appointment of Michael Bratt to the Development Standards Technical Advisory Committee

Byrd moved and Galloway seconded that the Executive Appointment be CONFIRMED.

Elenbaas stated he is related to Michael Bratt.

Kayla Schott-Bresler, Executive's Office, answered whether there would be any conflict of interest issues with the applicant being a consultant, and stated, though she is not familiar with the particulars of this appointment, it is very common to have people serving on advisory bodies who work in the particular field and have expertise in that area.

George Roche, Prosecuting Attorney's Office, spoke about his experience with the applicant's business (Freeland & Associates) and stated they have a very robust conflict screening process and they are not afraid to turn down large sums of money when they feel they cannot work on something.

Scanlon stated the list of expectations for advisory board members does not say much about conflict of interest and he wonders if they should say more.

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

Aye: 6 - Buchanan, Byrd, Donovan, Galloway, Scanlon, and Stremler

Nay: 0

Recused: 1 - Elenbaas

2. [AB2024-415](#) Request confirmation of the County Executive's appointment of Susan Johnson as the PeaceHealth designated representative to the Behavioral Health Advisory Committee, in response to the resignation of the former representative

Galloway moved and Scanlon seconded that the Executive Appointment be CONFIRMED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

ITEMS ADDED BY REVISION

There were no agenda items added by revision.

INTRODUCTION ITEMS

Clerk's note: Both introduction items were considered separately and the order of the items was reversed with item number two being considered first.

Items one and two were considered separately and in reverse order.

2. [AB2024-420](#) Ordinance amending Whatcom County Code 2.02.080, Standing Committees - Membership, to change the membership of all standing council committees from three members to seven

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

Aye: 6 - Buchanan, Donovan, Elenbaas, Galloway, Scanlon, and Stremmler

Nay: 1 - Byrd

1. [AB2024-419](#) Ordinance submitting to the qualified voters of Whatcom County a proposal to repeal Proposition 5

Donovan moved to introduce the alternate version. The motion was seconded by Buchanan.

Donovan stated his version adds whereas statements to call out that there is a difference in the definition of initiative versus referendum and that there is an intentional difference between the signature threshold to repeal something and to initiate something. This petition was filed as an initiative to repeal something while it does not initiate anything new. So, any standard evaluation of the differences between the referendum and the initiative process would lead you to conclude that this should have gone the route that would have been more costly and required more signatures than the proponents submitted. He stated they should recognize that they are being asked to violate the Charter and are essentially providing a cheaper access route by letting a repeal measure qualify through the initiative process which requires far fewer signatures. He has asked the Prosecutor's Office for an evaluation of that but they have not gotten back. He stated the only other thing he amended was cutting out language where the Prosecuting Attorney is authorized to make minor adjustments to the wording of the proposition. He stated they can put this on the ballot as is written, but what is in the resolution that came from the Prosecutor's Office is not what was filed with the Auditor's Office.

George Roche, Prosecuting Attorney's Office, stated he would remind everyone that they are not supposed to be opposing or supporting ballot

measures, and that the Prosecutor's Office (according to the Charter) has a lot of duties related to initiatives, like writing ballot titles and explanatory statements, and explicit instructions that they should remain neutral and not do anything to support or oppose ballot measures. He stated the version that is before them right now reflects that he approved the form of it, but he very much did not. He asked that they remove his signature from it. He does not approve the form, and the reason is that they are trying to unlawfully impact the duties of the Prosecuting Attorney's Office by preventing them from doing their legal obligation of writing an explanatory statement with a ballot measure.

Donovan stated he would want to know what would be changed by the Prosecutor's Office and he spoke about his knowledge of the initiative process.

Roche spoke about where this is in the process and stated they have three options. The Council can adopt the proposal and not send it to a vote, they can write an alternate ballot proposal that will go on the ballot side-by-side with the citizen initiative, or they can do absolutely nothing and then it is going to go on the ballot the way the citizens presented it. He answered questions about the ballot title and how it is constructed.

Scanlon stated he would like clarification on how many ordinances voters will potentially be voting on.

Roche answered whether the Council just has the three options he outlined and stated that is right. He answered whether the alternate version, if adopted, would be on the ballot with the original proposal and stated he has been struggling with that and is hopeful that would not be the case since the alternate has left the proposition essentially as it has been written by the Auditor (through the attorney) in the ballot title. He would like to say that it is not an alternate proposal. He discussed with Councilmembers the proposed amendments to the explanatory statement in the alternate version.

Councilmembers and Roche discussed whether they should hold off on taking action tonight, whether the time to adjust the issue of the proposal being an initiative or a referendum was when the proponents went to County legal and got what they were doing approved, and the fact that legal does not give advice to citizens.

Elenbaas moved that they introduce the proposed ordinance versus Councilmember Donovan's alternate ordinance but there was already a motion on the floor. He explained why he wanted to make that motion.

Councilmembers and Roche discussed whether there has ever been a scenario in which a draft explanatory statement was shared with Council, the doctrine of prosecutorial immunity when a prosecutor has been assigned a specific duty and that those waters would be muddied if the Prosecutor took suggestions from the Council, how an ordinance is determined to be an alternate, the fact that it is very uncommon for citizen-based initiatives to not be challenged and ultimately resolved in a court of law, the intent for this to go on the ballot as proposed by the Prosecutor's Office, the fact that there is more writing to do to go in front of the voter and that the Prosecutor's Office cannot be restrained in that since it part of the their executive function, the fact that if an initiative was inappropriate and a referendum should have been used that would be part of the court challenge later, sticking closely to the three options given to the Council and allowing the process to play out from there, whether all three versions are accurate in what the County can do when it comes to "eliminating the 10-year increase" and giving back already-collected taxes, and the fact that governments have been forced to return tax dollars over the history of this nation.

Elenbaas spoke about why it might have been submitted as an initiative and stated he had checked with County legal on what it should be.

Galloway moved to hold introducing anything this evening. The motion was seconded by Scanlon.

Councilmembers discussed the motion.

Dana Brown-Davis, Clerk of the Council, answered what date the Auditor needs this by.

Galloway stated the intention would be to have something to introduce on July 9 with expectation of potential action on July 23 in time for the Auditor's deadline.

Buchanan stated they should put the item in Committee of the Whole that day as well so that if there is anything that needs to get turned around before the evening introduction they can do that.

Galloway's motion that the Ordinance be HELD IN COUNCIL carried by the following vote:

Aye: 5 - Buchanan, Byrd, Donovan, Galloway, and Scanlon

Nay: 2 - Elenbaas, and Stremmler

This item was not introduced and held until July 9.

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Councilmembers gave Committee reports and gave other updates.

ADJOURN

The meeting adjourned at 10:59 p.m.

The County Council approved these minutes on July 9, 2024.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription

SIGNED COPY ON FILE