

# **Whatcom County Council**

COUNTY COURTHOUSE  
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## **Minutes - Final**

VIRTUAL MEETING - VIEW ONLINE

**Tuesday, May 19, 2020**

**1 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

### ROLL CALL

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

**Absent:** None

### ANNOUNCEMENTS

Buchanan stated they would discuss AB2020-219 before the Executive Report.

### OTHER ITEMS

1. AB2020-219 Discussion and update on strategies and other items related to COVID-19 (Council and Health Board)

The following people spoke:

- Erika Lautenbach, Health Department Director
- Scott McCreery, Unified Command Incident Commander
- Tyler Schroeder, Executive's Office
- Satpal Sidhu, County Executive

McCreery briefed the Council then he and the other speakers answered questions about the transition for the drop-in center out of Bellingham High School to an alternative facility, the status of the former Georgia Pacific (GP) building and whether the Port of Bellingham owns it, at what stage and what involvement the Council will have in making decisions about alternate facility options, where the Unified Command is in response to the COVID-19 crisis, where recommendations are coming from and why they are not getting to the Council, whether Unified Command is planning for additional isolation centers to prepare for a possible surge, how many people have been served at the current isolation and quarantine facility, whether the models show that case counts are not increasing at the same rate as they were in early April, how the Unified Command is currently working and whether there is anything the Council can do to make it more efficient.

Councilmembers and staff discussed how often they are getting updates from the Health Department and the Unified Command; coordinated staffing at the Unified Command; preparation for a surge with the coming of

farm workers and opening of more businesses and how many quarantine rooms should be available; whether there is planning in place for different forms of housing for farm workers to keep them from being in close quarters; current work by the Health Department to educate farmers; what indicators or benchmarks will show that Emergency Management and Unified Command have served their purpose; whether this virus will ever go away and whether having no further cases should be used as a benchmark; whether the models used by the Unified Command are the same ones used by the Health Department; why the Health Department decided there was a need to have a new mask directive and what the driver was behind it; whether decisions by the Health Department are still being made under the Unified Command structure and if not, why we have the Unified Command; whether a plan is in place to make sure the Unified Command has the staff they need; a de-mobilization and a re-mobilization plan in progress for transferring staff to and from the Unified Command; making a plan for de-mobilizing the Unified Command; whether the infection rate has been higher in the homeless population than in the general population; whether the people in the isolation center are there because they are homeless and whether they are currently infected with COVID-19; and whether the Health Department has any way of knowing a person's housing situation.

Judge Deborra Garrett, Whatcom County Superior Court, spoke about a recent administrative order issued for the County courthouse in response to the COVID-19 crisis and answered questions about whether the Council should be part of the process of communicating these things to their constituents, questions from the community about who is in charge in the county, what discussions or ideas have been considered in the courts about providing adequate social distancing in the courtrooms, the use of YouTube to broadcast trials, and whether someone can video tape proceedings in a courtroom.

Erika Lautenbach, Health Department Director, spoke about a new variance option for counties announced by the Governor and key metrics for re-opening which were just received by the Health Department. She answered questions about where Whatcom County is in relation to the benchmarks required for a variance, what the County's flu rate is and how attainable the benchmarks are.

**This agenda item was DISCUSSED.**

## **EXECUTIVE REPORT**

*Clerk's note: The Council took a five minutes recess.*

Satpal Sidhu, County Executive, reported on the following items:

- Re-opening of the economy and being proactive in the health, economic and trust crises
- Initiating more frequent communication with Councilmembers
- A recent memo outlining budget priorities for the next biennial budget cycle
- Planning for using CARES Act funds
- Steps necessary for the COVID-19 response over the next 12-18 months including new ideas for isolation and quarantine
- Planning in the Unified Command for COVID-19 outbreaks in the farm worker community

Tyler Schroeder, Executive's Office, read from a memo about CARES Act relief funding in Whatcom County (on file). He answered questions about how the funds would be divided between the listed five main categories, whether these are Federal dollars already on hand at the Department of Commerce that are ready to be disbursed to the County, a concern that the County might drag its feet in using the money or create places to spend the money instead of using it where it's helpful, whether budget priorities and guidelines have been sent to the Council as stated in the recent budget priorities memo sent to Councilmembers, whether the County needs to actually use the CARES funds or just have it allocated by the October 31st deadline and the definition of "spending" in the guidelines.

Brad Bennett, Administrative Services Department, stated there needs to be a bill to submit by October 31st for services rendered or commitments made.

Sidhu stated he spoke with the city mayors who collectively will receive about \$4 million and they felt that the money would be best used for the whole community by pooling it all together with the County. The Cities can give their proposals and ideas for how money should be used. The pooled total would be \$16 million and would need to be spent in four months. They would also like to get ideas from the Council.

Schroeder and Sidhu answered questions about and discussed with Councilmembers whether the five-prong test referred to in the memo to ensure expenditures are consistent with CARES Act has already been developed, whether this will come to the Council as a budget supplemental request, finding ways to use the money to keep it in the community such as

the County buying masks made by Whatcom County residents, formulating ideas by June 15 for how to spend the money, and whether rental assistance would be eligible for these funds.

### **OTHER ITEMS**

2. AB2020-194 Ordinance amending the 2020 Whatcom County Budget, request no. 12, in the amount of \$77,641
- Donovan moved*** that the Ordinance be adopted. The motion was seconded by Frazey.
- Christ Thomsen, Parks Department, answered whether the County is just processing the acceptance of grant money with this ordinance.
- Donovan'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 2020-023
3. AB2020-195 Ordinance amending the 2020 Whatcom County Budget, request no. 7, in the amount of \$250,000 (Supersedes Ord. No. 2020-008)
- Tyler Schroeder, Executive's Office, briefed the Council on this and the next five ordinances on the agenda which are permanent ordinances which supersede or replace emergency ordinances previously adopted.
- Donovan moved and Frazey seconded that the Ordinance be ADOPTED. The motion carried by the following vote:**
- Aye:** 5 - Browne, Buchanan, Donovan, Frazey, and Kershner
- Nay:** 2 - Byrd, and Elenbaas
- Absent:** 0
- Enactment No: ORD 2020-024
4. AB2020-196 Ordinance amending the 2020 Whatcom County Budget, request no. 8, in the amount of \$1,155,821 (Supersedes Ord. No. 2020-012)
- Frazey moved and Browne seconded that the Ordinance be ADOPTED. The motion carried by the following vote:**
- Aye:** 5 - Browne, Buchanan, Donovan, Frazey, and Kershner
- Nay:** 2 - Byrd, and Elenbaas

**Absent:** 0

Enactment No: ORD 2020-025

5. AB2020-197 Ordinance establishing the COVID-19 Emergency Response Fund and establishing a budget for the COVID-19 Emergency Response Fund (Supersedes Ord. No. 2020-016)

**Donovan moved** that the Ordinance be adopted. The motion was seconded by Browne.

Tyler Schroeder, Executive's Office, answered a question about whether we got the \$500,000 support from the City of Bellingham, whether there is a hold up with the Interlocal and whether the County has already spent the money expecting the City to reimburse them.

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

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

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

**Absent:** 0

Enactment No: ORD 2020-026

6. AB2020-198 Ordinance amending the 2020 Whatcom County Budget, Request No. 10, in the amount of \$3,000,000 (Supersedes Ord. No. 2020-018)

**Frazey moved** that the Ordinance be adopted. The motion was seconded by Donovan.

Tyler Schroeder, Executive's Office, answered a question about the status of the FEMA reimbursement of this money.

Brad Bennett, Administrative Services Department, answered whether we have a plan for the 25% match on this \$3 Million and whether there was an assumption before that the State would pick up the 25%.

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

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

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

**Absent:** 0

Enactment No: ORD 2020-027

7. AB2020-199 Ordinance amending the 2020 Whatcom County Budget, request no. 11, in the amount of \$154,946 (Supersedes Ord. No. 2020-020)

**Donovan moved** that the Ordinance be adopted. The motion was seconded by Frazey.

Tyler Schroeder, Executive's Office, and Satpal Sidhu, County Executive, answered whether this had previously been presented as an emergency ordinance, why it was an emergency ordinance, and whether it was because the County would lose the money if they didn't commit it.

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

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

**Nay:** 1 - Elenbaas

**Absent:** 0

Enactment No: ORD 2020-028

8. AB2020-200 Ordinance authorizing an interfund loan to finance cash flow for COVID-19 emergency response (replaces Ord. No. 2020-015 and Ord. No. 2020-017)

**Frazey moved** that the Ordinance be adopted. The motion was seconded by Donovan.

Tyler Schroeder, Executive's Office, answered whether it is just one \$4 million transfer and stated this is making one of the previously adopted ordinances permanent.

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

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

**Nay:** 3 - Byrd, Elenbaas, and Kershner

**Absent:** 0

Enactment No: ORD 2020-029

9. AB2020-212 Request authorization for the County Executive to enter into a contract between Whatcom County and the US Forest Service to provide Work Crew Services for Forestry projects in the amount of \$191,548.00

**Byrd moved** that the Contract be authorized. The motion was seconded by Donovan.

Wendy Jones, Sheriff's Office, answered whether this happens every five

years and whether the crew gets paid.

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

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

**Nay:** 0

**Absent:** 0

10. AB2020-216 Resolution regarding support for a General Purposes Community Development Block Grant funding application for Opportunity Council's housing rehabilitation program
- Frazey moved** that the Resolution be approved. The motion was seconded by Donovan.

Tyler Schroeder, Executive's Office, answered whether San Juan County will be getting a matching contribution, what help the grant will provide and what it will look like in implementation.

Paul Shissler answered what the cut-off is for a designation of low income and whether the person has to own the home, whether it covers just the service of consulting with the homeowner and facilitating the project or also the project itself, how much money is left from the last three years or what portion was utilized, whether they have enough funds to get through this year, how much of the funding has been used from the last three year period and how much is left.

Schroeder answered whether this is coming out of the general fund.

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

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2020-016

11. AB2020-203 Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and the City of Blaine to remove Yakima County Jail and add Kittitas County Jail as a Correctional Facility utilized by Whatcom County

**Byrd moved and Kershner seconded 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

12. AB2020-204 Ordinance (interim) establishing a COVID-19 interim economic recovery plan to respond to the economic crisis within Whatcom County caused by the COVID-19 pandemic

**Browne moved** that the Ordinance be withdrawn from the agenda. The motion was seconded by Donovan.

Browne spoke about and Councilmembers discussed why this should be a resolution (AB2020-218) instead of an ordinance.

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

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

**Nay:** 0

**Absent:** 0

13. AB2020-218 Resolution establishing a process for the development of a COVID-19 interim economic recovery plan to respond to the economic crisis within Whatcom County caused by the COVID-19 pandemic

**Browne moved** that the substitute Resolution (on file) approved. The motion was seconded by Donovan.

Dana Brown-Davis, Clerk of the Council, answered questions about which version was being considered.

**Frazey suggested** a friendly amendment to amend item three on page two of the substitute resolution in the first "NOW, THEREFORE, BE IT RESOLVED" paragraph:

3. The ADO should assume responsibility for messaging and communications, to the press and community related to the business and economic recovery aspects related to the COVID-19 crisis in coordination with the Joint Information Center (JIC), and

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

**Byrd moved** to hold in Council. The motion was seconded by Kershner. Byrd stated it would be beneficial to get feedback from the Cities and their corresponding councils.

Councilmembers discussed the motion to hold and the differences between the proposed and substitute resolutions.

Don Goldberg, Port of Bellingham, updated the Council on his request to remove the \$50,000 ask, background of the resolution, and the work that the Associate Development Organization (ADO) is doing. He and Councilmembers continued to discuss the changes in the substitute version of the resolution from what was proposed.

The motion to hold failed by the following vote:

**Aye:** 1 - Byrd

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

Goldberg spoke about the friendly amendment.

**Frazey** changed her friendly amendment to a motion and **moved** to amend item three on page two of the substitute resolution in the first “NOW, THEREFORE, BE IT RESOLVED” paragraph:

3. The ADO should assume responsibility for messaging and communications, to the press and community related to the business and economic recovery aspects related to the COVID-19 crisis in coordination with the Joint Information Center (JIC), and

The motion failed for lack of a seconded.

Councilmembers and Goldberg continued to discuss the resolution and what was changed in the substitute version.

**Kershner moved** to amend Exhibit B of the substitute resolution as follows:

Health Department deliverables:

The Health Department’s critical role in helping our economy recover should include:

- Disease prevention education and enforcement as businesses reopen

The motion was seconded by Elenbaas.

Councilmembers discussed the proposed amendment.

**Kershner withdrew** her motion.

**Kershner moved** to amend Exhibit A of the substitute resolution by

removing the last paragraph as follows:

~~Recognizing that every adversity in life provides opportunity, the team should look for ways this disaster can be leveraged to make our economy and community stronger and more resilient in the future.~~

The motion was seconded by Elenbaas.

The motion to amend carried by the following vote:

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

**Nay:** 0

Councilmembers and Goldberg continued to discuss the resolution.

Elenbaas asked about adding language to give it an expiration date.

**Donovan moved** to amend the substitute resolution to remove item three on page two of the substitute resolution in the first “NOW, THEREFORE, BE IT RESOLVED” paragraph:

~~3. The ADO should assume responsibility for messaging and communications, to the press and 12 community related to the business and economic recovery aspects related to the COVID-19-13 crisis, and~~

The motion was seconded by Frazey.

Councilmembers and Goldberg discussed the motion.

The motion to amend failed by the following vote:

**Aye:** 3 - Buchanan, Donovan and Frazey

**Nay:** 4 - Browne, Byrd, Elenbaas and Kershner

**Elenbaas moved** to amend the substitute resolution to remove the last paragraph as follows:

~~NOW, THEREFORE, BE IT FURTHER RESOLVED, to help reduce the future costs to the County of responding to COVID-19 strategies 2(a) and 2(b) in Exhibit B should be added to Incident Command’s existing plans.~~

The motion was seconded by Browne.

The motion to amend carried by the following vote:

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

**Nay:** 0

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

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

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

**Absent:** 0

Enactment No: RES 2020-017

**INTRODUCTION ITEMS**

*Donovan moved* that all three Introduction items be introduced. The motion was seconded by Frazey.

*Kershner moved* to withdraw item two (AB2020-217) from Introduction. The motion was seconded by Byrd.

Kershner discussed the reasons for her motion.

Buchanan asked whether Kershner was moving to remove the item completely from the agenda or removing it from the other two so that they should vote on it separately. Kershner clarified that she is making a motion to remove the item from the agenda.

Karen Frakes, Prosecuting Attorney's Office, answered a question about whether the agenda item goes by the guidelines put in place when the Governor suspended some of the Open Public Meetings rules.

Councilmembers and Frakes discussed the motion.

The motion to withdraw Introduction item number two from the agenda failed by the following vote:

**Aye:** 3 - Elenbaas, Kershner and Byrd

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

*Browne moved* that Introduction items one and three be considered separately from Introduction item number two. The motion was seconded by Donovan.

The motion carried by the following vote:

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

**Nay:** 0

**Donovan moved** that Introduction items one and three be introduced. The motion was seconded by Frazey.

The motion carried by the following vote:

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

**Nay:** 0

**Donovan moved** that Introduction item number two be introduced. The motion was seconded by Browne.

Councilmembers and Frakes discussed the motion and waiting for the work of the Planning Commission.

The motion carried by the following vote:

**Aye:** Browne, Buchanan, Donovan, Frazey

**Nay:** Kershner, Byrd, Elenbaas

Votes on individual items are also listed for each Introduction item below.

1. AB2020-213 Ordinance authorizing installation of stop signs on Truck Road

**Donovan moved and Frazey seconded that the Ordinance Requiring a Public Hearing 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 2020-038

2. AB2020-217 Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new or expanded facilities in the Cherry Point urban growth area, the primary purpose of which would be the shipment of unrefined fossil fuels not to be processed at Cherry Point

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

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

**Nay:** 3 - Byrd, Elenbaas, and Kershner

**Absent:** 0

Enactment No: ORD 2020-030

3. AB2020-222 Ordinance clarifying the procedure for the Whatcom County Council's and senior staff's access to information during the COVID-19 pandemic

**Donovan moved and Frazey seconded 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

### **OTHER ITEMS AND COUNCILMEMBER UPDATES**

Elenbaas briefed the Councilmembers on a proposed letter to the Governor regarding re-opening Whatcom County businesses and giving the county more local control (on file).

Councilmembers discussed whether he did or should work with Karen Frakes, Prosecuting Attorney's Office, before sending the letter and whether it should be circulated now so Councilmembers can weigh in on it in two weeks.

***Elenbaas moved*** that they send his letter to the Governor. The motion was seconded by Byrd.

Discussion continued about sending the letter as it is currently written and what changes they might want to include before sending it.

Browne submitted a new version of the letter with amendments (on file).

***Elenbaas moved*** to accept the amendments to his letter as proposed by Browne. The motion was seconded by Byrd.

The motion to accept the amendments to the letter carried by the following vote:

**Aye:** 6 - Browne, Buchanan, Byrd, Elenbaas, Frazey and Kershner

**Nay:** 0

**Out of the Meeting:** Donovan

Councilmembers discussed whether the previously proposed and related ordinance should be sent with the letter and formatting the letter appropriately before sending it. They concurred that they should send the letter without the ordinance.

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

**Aye:** 6 - Buchanan, Byrd, Elenbaas, Frazey, Kershner and Browne

**Nay:** 0

**Out of the meeting: 1 - Donovan**

Byrd spoke about and uptick in domestic violence and asked what resources are available.

Browne stated there should be a briefing on the agenda from the departments about mental health and domestic violence.

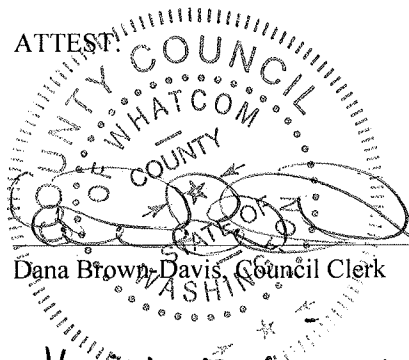
Kershner asked if County departments could let them know if there are any pressing needs that the Council should be aware of.

**ADJOURN**

The meeting adjourned at 6:04 p.m.

The County Council approved these minutes on July 21, 2020.

ATTEST:



Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

A handwritten signature in black ink, appearing to read "Barry Buchanan".

Barry Buchanan, Council Chair

A handwritten signature in black ink, appearing to read "Kristi Felbinger".

Kristi Felbinger, Minutes Transcription