

Whatcom County Council

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



Minutes - Final

Wednesday, November 6, 2024

6 PM

Hybrid Meeting - Council Chambers

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

COUNCILMEMBERS

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

CLERK OF THE COUNCIL

Cathy Halka, AICP, CMC

COUNTY COUNCIL

CALL TO ORDER

Council Chair Barry Buchanan called the meeting to order at 6:02 p.m. in a hybrid meeting.

ROLL CALL

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

FLAG SALUTE

ANNOUNCEMENTS

COUNTY EXECUTIVE'S REPORT

There was no report.

MINUTES CONSENT

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

1. [MIN2024-072](#) Water Work Session for October 15, 2024

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

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

Nay: 0

2. [MIN2024-073](#) Committee of the Whole Executive Session for October 22, 2024

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

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

Nay: 0

3. [MIN2024-074](#) Committee of the Whole for October 22, 2024

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

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

Nay: 0

4. [MIN2024-075](#) Regular County Council for October 22, 2024

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

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

Nay: 0

INTRODUCTION ITEMS

Councilmembers requested to consider Introduction item numbers 1, 10, and 14 separately.

Aly Pennucci, Executive's Office, stated they are working on a substitute version for number 14 (**AB2024-745**) to reflect the motions made in Committee today.

Buchanan moved to introduce item numbers 2-9, 11-13, and 15-20. The motion was seconded by Byrd and Councilmembers voted on those items (see votes on individual items below).

1. [AB2024-697](#) Ordinance adopting the Seven-Year Capital Improvement Program for Whatcom County Facilities 2025-2031

This item was considered separately below.

2. [AB2024-714](#) Appointment to two vacancies on the Climate Impact Advisory Committee,
Applicant(s): Marc Hoeschele, Ted Scott, Joshua Williams, Robert Drake

Buchanan moved and Byrd seconded that the Council Appointment Requiring Introduction be INTRODUCED. The motion carried by the following vote:

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

Nay: 0

3. [AB2024-719](#) Ordinance amending the project budget for the Central Shop NPDES Stormwater Improvements Project Fund, request no. 1

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

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

Nay: 0

4. [AB2024-723](#) Ordinance amending the project based budget for the Goshen Road/Anderson Creek

Bridge No. 248 Replacement Fund and Project Based Budget, request no. 1, in the amount of \$200,000, for a total amended amount of \$700,000

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

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

Nay: 0

5. [AB2024-728](#) Ordinance authorizing the levy of taxes for Countywide Emergency Medical purposes for 2025

Buchanan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

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

Nay: 0

6. [AB2024-729](#) Ordinance authorizing the levy of taxes for Conservation Futures purposes for 2025

Buchanan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

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

Nay: 0

7. [AB2024-730](#) Ordinance authorizing the levy of taxes for County Road purposes for 2025

Buchanan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

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

Nay: 0

8. [AB2024-731](#) Ordinance authorizing the levy of taxes for County and State Purposes in Whatcom County, Washington for the year of 2025

Buchanan moved and Byrd seconded that the Ordinance Requiring a Public

Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

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

Nay: 0

9. [AB2024-732](#) Resolution amending the levy of taxes for the Whatcom County Flood Control Zone District for 2025 (Council acting as the Flood Control Zone District Board of Supervisors)

Buchanan moved and Byrd seconded that the Resolution (FCZDBS) Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

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

Nay: 0

10. [AB2024-739](#) Ordinance amending Whatcom County Code Chapter 2.130 Economic Development Investment Board

This item was considered separately below.

11. [AB2024-742](#) Resolution adopting the 2025 budget for the Whatcom County Flood Control Zone District and Subzones (Council acting as the Flood Control Zone District Board of Supervisors)

Buchanan moved and Byrd seconded that the Resolution (FCZDBS) Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

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

Nay: 0

12. [AB2024-743](#) Ordinance authorizing the 2025 Whatcom County Unified Fee Schedule

Buchanan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

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

Nay: 0

13. [AB2024-744](#) Ordinance amending the 2024 Whatcom County Budget, request no. 14, in the amount of \$4,564,923

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

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

Nay: 0

14. [AB2024-745](#) Ordinance in the matter of the adoption of the final budget of Whatcom County for the Biennium 2025-2026

This item was considered separately below.

15. [AB2024-748](#) Ordinance amending the project budget for the 23-Hour Crisis Relief Center Project

Fund, request no. 1

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

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

Nay: 0

16. [AB2024-749](#) Ordinance amending the project budget for the Hovander Park Building Improvement Project, request no. 3

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

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

Nay: 0

17. [AB2024-750](#) Ordinance amending the project budget for the Courthouse Building Envelope Fund, request no. 6

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

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

Nay: 0

18. [AB2024-752](#) Ordinance amending the project budget for the Integrated Land Records and Permit Management System Fund, request no. 3

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

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

Nay: 0

19. [AB2024-753](#) Ordinance establishing the project based budget and an initial budget for the courtroom audio visual systems upgrade

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

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

Nay: 0

20. [AB2024-747](#) Ordinance amending Whatcom County Code Chapter 2.06 Medical Examiner to establish a Medical Examiner Department

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

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

Nay: 0

INTRODUCTION ITEMS CONSIDERED SEPARATELY

1. [AB2024-697](#) Ordinance adopting the Seven-Year Capital Improvement Program for Whatcom County Facilities 2025-2031

The following people discussed the substitute ordinance with the Councilmembers:

- Aly Pennucci, Executive's Office
- Satpal Sidhu, County Executive
- George Roche, Prosecuting Attorney's Office

- Lucas Clark, Planning and Development Services Department
- Bennett Knox, Parks and Recreation Department Director
- Kayla Schott-Bresler, Executive's Office
- Mark Personius, Planning and Development Services Department Director

They discussed the dollar amounts listed in Exhibit A for each project and that they do not reflect current amounts, the options to introduce the ordinance as presented on the agenda tonight and then amend it in committee in two weeks and vote on it on November 19th alongside the budget, or for the Council to make an oral amendment asking staff to make those corrections to update the numbers (which they will get to Council in a couple days) and introducing the ordinance tonight as orally amended, why the dollar amounts do not reflect what the County has known for months and what was told to the voters, and the fact that the numbers will likely change and are based on reasonable assumptions.

Roche stated he thinks that they should adopt the numbers that are already in the Capital Improvement Program (CIP) as they are.

Councilmembers and staff discussed why they are changing from a six-year to a seven-year plan (as described in the memo), that Exhibit A still has several references to “six-year,” questions about the list of facilities (in Table 7. “Existing County Government Office Space” of Exhibit A) and whether they are up to date with all the recent acquisitions, the fact that the list was updated as of the date when Planning staff sent the completed CIP to SEPA and to the Washington State Department of Commerce, the fact that the dollar amounts in the ordinance are current best-known estimates, and how it can be amended to reflect the most current amounts.

Donovan moved to introduce item one (AB202-697). The motion was seconded by Buchanan.

Pennucci answered what the consequences would be of amending the dollar amounts to reflect what Councilmembers have been hearing about for months, and stated they would update the CIP with those numbers but it might show that some of the costs do not have a defined fund source. The changes could be made, but not fully reflected in all of the attachments tonight.

Roche stated he prefers they introduce it in the way that it was presented despite the concerns, and that in the future they need to be having this discussion a month earlier.

Schott-Bresler spoke about the risk if this ordinance does not get passed with the budget, and stated capital projects that they would like to enter into in 2025 and for which they are planning to use REET or EDI funds for County facilities would not be eligible for those funding sources if they are not in the CIP.

Mark Personius, Planning and Development Services Department Director, stated it is just a planning document and the cost estimates are always changing. It is a snapshot in time and it is a requirement. Councilmembers can amend it in the future to include updated numbers. Staff just has to identify in general what they think the funding sources are going to be and move forward with that.

Councilmembers and the speakers discussed how often the CIP can be amended, what the process would be to add projects that are currently not reflected in the plan, and correcting any inconsistencies in the document between six-year and seven-year except where it refers to the six-year program being repealed.

The motion to introduce carried by the following vote:

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

Nay: 0

Councilmembers discussed that the motion just voted on was for introduction and not an amendment to the ordinance.

Donovan moved to reconsider the vote to introduce. The motion was seconded by Buchanan.

The motion to reconsider carried by the following vote:

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

Nay: 0

Donovan moved to amend item one to have the Capital Improvement Program include a \$174 million estimate for the justice facility and the most recent estimate on the ferry.

The motion was seconded by Buchanan.

Councilmembers and the speakers discussed the motion.

The motion to amend carried by the following vote:

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

Nay: 1 - Scanlon

Elenbaas moved and Scanlon seconded that the SUBSTITUTE Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING AS AMENDED. The motion carried by the following vote:

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

Nay: 0

Motion approved 6-1, with Scanlon opposed, to amend item one to have the Capital Improvement Program include a \$174 million estimate for the justice facility and the most recent estimate on the ferry.

10. [AB2024-739](#) Ordinance amending Whatcom County Code Chapter 2.130 Economic Development Investment Board

Donovan moved and Galloway seconded that the Ordinance be INTRODUCED.

Galloway moved to amend 2.130.020(A) (Purpose) of Exhibit A to strike the word "citizens" and amend it to read, "residents."

The motion was seconded by Scanlon.

Councilmembers discussed the motion.

George Roche, Prosecuting Attorney's Office, suggested that the language say, "Increase the number of family wage jobs available in Whatcom County."

Galloway withdrew her motion **and moved** to amend 2.130.020(A) (Purpose) of Exhibit A to read "Increase the number of family wage jobs available in Whatcom County."

The motion was seconded by Donovan.

The motion to amend carried by the following vote:

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

Nay: 0

Satpal Sidhu, County Executive, answered questions about, and

Councilmembers discussed section 2.130.040 (14)(C) regarding the plans for not being subject to Charter Section 3.23, whether there are enough regularly scheduled meetings, whether the Port of Bellingham ends up getting two representatives now when they only used to have one, whether the small cities get two representatives and the City of Bellingham gets one, whether there is a way that Council knows, when applications are coming to them, which jurisdiction is getting which amount of money, and whether it is the ordinance or the guidelines that should be amended.

Sidhu spoke about the application process and changes being made to align with the biennial budget process which will allow for prioritization of requests.

Kayla Schott-Bresler, Executive's Office, stated it is not going to break anything if there is a delay on this if Council chooses to further amend it in two weeks.

Donovan's motion that the Ordinance be INTRODUCED AS AMENDED carried by the following vote:

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

Nay: 0

Motion approved 7-0 to amend 2.130.020(A) (Purpose) of Exhibit A so that it reads: A. "Increase the number of family wage jobs available in Whatcom County."

14. [AB2024-745](#) Ordinance in the matter of the adoption of the final budget of Whatcom County for the Biennium 2025-2026

Byrd stated he asked the Executive's Office to put together an additional request adding one FTE to the Council because the Board of Equalization (BOE) needs some help as it processes around 1,800 applications and works with changes which affect the time the appeals are taking.

Cathy Halka, Clerk of the Council, answered whether the funding for BOE is from the General Fund, and stated all of the funding from the Council Office comes from the General Fund and the BOE has funds allocated for overtime and extra help.

Byrd moved and Buchanan seconded that the SUBSTITUTE Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING.

Byrd moved to approve the revised version of Additional Service Request (ASR) 7253 (Legislative Coordinator - Policy Ongoing) that changes the one additional FTE of Council staff, increasing it to two FTEs.

Aly Pennucci, Executive's Office, stated what she believes Councilmember Byrd is intending is adding another FTE to Council staff to support the BOE, and she spoke about how they could represent that in the budget. She stated the amendment is reflected in version two (Revised Technical Corrections v2 for 11.6.2024).

The motion was seconded by Elenbaas.

Stremmer asked if the two FTEs could be separated out.

George Roche, Prosecuting Attorney's Office, answered whether the amendment would be substantive, and stated it would be.

Pennucci stated they could modify the motion so that instead of amending the existing ASR, it would request a separate one that has a different purpose for the position.

Councilmembers and staff discussed the motion, whether impacts to the Council Office have been considered and whether the Clerk of the Council was consulted, whether the position should be permanent or temporary, whether employees could split their time between roles or whether the existing Legislative Analyst ASR could be changed to be a BOE position, how adding another FTE would impact the budget, and whether they should start with the one FTE and then consider a second FTE in the mid-biennium review.

Donovan suggested a friendly amendment to the motion to make it a two-year position, and **Byrd accepted** the friendly amendment.

Councilmembers discussed that this would be a two-year FTE on top of the request for one additional FTE originally in the budget, and whether they could hear from the Clerk of the Council.

George Roche, Prosecuting Attorney's Office, stated the latter would be something that would require an executive session.

Galloway moved to enter into executive session to discuss personnel matters pursuant to RCW 42.30.110(g).

The motion was seconded by Scanlon.

Roche stated the time needed would be about 15 minutes.

Galloway amended her motion **and moved** to enter into executive session to discuss personnel matters, pursuant to RCW 42.30.110(g), until no later than 8:15 p.m. If more time is needed the chair can come out and extend the time.

The motion carried by the following vote:

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

Nay: 0

Councilmembers entered into executive session at 8 p.m.

At 8:15 p.m. Buchanan stated they are still in executive session and anticipate that they will not be out until 8:30 p.m.

At 8:30 Buchanan stated they are still in executive session and anticipate being done around 8:45 p.m.

The executive session adjourned at 8:45 p.m. and Buchanan reconvened the regular meeting at 8:48 p.m.

Byrd amended his motion **and moved** to create a new ASR that reflects this as a two-year temporary position with benefits.

The motion was seconded by Buchannan.

The motion carried by the following vote:

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

Nay: 0

Elenbaas spoke about fully funding the request of the food bank for \$2 million.

Elenbaas moved that they request that the executive schedule a policy discussion with Council in quarter one regarding food bank funding as the use of either: A. the Healthy Children's Fund reserves from year one and two, and/or B. incorporation of food assistance into the upcoming Healthy Children's Fund Implementation Plan.

The motion was seconded by Galloway.

Councilmembers discussed the motion and whether the language would be included in the budget.

Pennucci stated she does not think the language goes in this ordinance, but they are committed to following through on helping to facilitate the conversation.

Roche answered whether they can add a non-codified section in the ordinance that says what Councilmember Elenbaas just moved, and stated they can write anything, but he does not know that it is necessary. The motion is enough.

Elenbaas withdrew his motion but stated he would like the motion to go along with the discussion on this item.

Councilmembers voted on the motion to introduce (**AB2024-745**) the substitute (version two as amended). See vote on that item below.

Elenbaas moved that they request that the executive schedule a policy discussion with Council in quarter one of 2025 regarding food bank funding as the use of either: A. the Healthy Children's Fund reserves from year one and two, and/or B. incorporation of food assistance into the upcoming Healthy Children's Fund Implementation Plan.

The motion was seconded by Galloway.

The motion carried by the following vote:

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

Nay: 0

Byrd's motion that the SUBSTITUTE Ordinance Requiring a Public Hearing (with the amendment) be INTRODUCED FOR PUBLIC HEARING carried by the following vote:

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

Nay: 2 - Elenbaas, and Stremler

Motion approved 7-0 to enter into executive session to discuss personnel matters, pursuant to RCW 42.30.110(g), until no later than 8:15 p.m., and if more time is needed the chair can come out and extend the time.

Motion approved 7-0 to create a new Additional Service Request (ASR) that reflects a two-year temporary position (in the Council Office) with benefits.

Motion approved 7-0 that they request that the executive schedule a policy discussion with Council in quarter one of 2025 regarding food bank funding as the use of either: A. the Healthy Children's Fund reserves from year one and two, and/or B. incorporation of food assistance into the upcoming Healthy Children's Fund Implementation Plan.

CONFIRMATION OF EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2024-722](#) Request confirmation of the County Executive's appointment of Dr. Aldo Fusaro as Medical Examiner effective December 9, 2024

Councilmembers considered this item out of order so that it could be earlier in the meeting.

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

Councilmembers discussed the interview process and the applicant.

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

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

Nay: 0

OTHER ITEMS - PART ONE

(From Council Committee of the Whole)

3. [AB2024-725](#) Resolution establishing ferry level of service-decision on a replacement

This item was also considered out of order for time considerations.

Satpal Sidhu, County Executive, read a brief statement about the history of this item and his request for a Council decision on the amended level of service resolution.

Elizabeth Kosa, Public Works Department Director, read from a presentation (on file) and answered questions. She stated that the executive and Public Works Department are recommending a revised-size vessel. They have deemed it the "hybrid 20 car" ferry that aims to reduce the current 34-car design to a 20-car diesel electric hybrid using battery as well. This maintains terminal dimensions, so they would only be doing necessary improvements on the Lummi Island side and staying away from any modifications on the Gooseberry side. They are looking to keep the installation of the passenger-only float on the Lummi Island side and will be deferring some of the upfront land improvements since those can be done at

any time. The project will likely require Federal funding and the timing of the resolution is of the essence for seeing if they can retain existing Federal funds.

She answered whether finance plan options will include a decision on whether they are eligible for the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant, and stated she anticipates they will hear something fairly quickly.

Donovan stated, assuming they do not get the Raise grant, they should have a Council discussion about how they will finance it, and if there are assumptions that there is going to be a countywide taxing district, it would be better if they found out sooner than later.

Kosa summarized the resolution.

George Roche, Prosecuting Attorney's Office, answered whether Council should wait to vote on this until after hearing from the public in open session, and stated they could legally vote on it now, but he understands waiting.

Donovan moved to approve the resolution and ***then withdrew*** his motion.

Councilmembers and staff discussed deferring action on this item until after the open session, and the language in Exhibit A Sections 1(A) and 1(D) which allows for some flexibility and does not hold them to anything they are not aware of at this time.

Councilmembers waited to vote on this item until its natural order in the agenda.

This agenda item was DISCUSSED.

Enactment No: RES 2024-048

See consideration of this item under Other Items - Part two

PUBLIC HEARINGS

1. [AB2024-695](#) Ordinance adopting amendments to WCC Titles 20 and 22 to enact SSB 5290 regarding local project review

Mark Personius, Planning and Development Services Department Director, stated the purpose of these code changes is to decrease the amount of time they have to request additional information and to speed up permit review

and approvals by requiring a critical area review upfront. Senate Bill 5290 requires shorter time frames to issue permits but provides no additional funding for staffing or resources to do so. He stated requiring critical area review upfront is the only way to do that without additional staff resources. He spoke about the problem they are trying to solve with onsite sewage systems (OSS), which is being issued a permit by the Health Department, then having to deal with the Planning Department at a later date and finding that the approved OSS may violate the critical areas ordinance. The County's IT department is working with Health and their permitting software to get it integrated into Planning's Intergov system so the two can communicate, but that cannot happen until the Intergov system is moved to the cloud which needs to be funded by the Council. This code change fixes that problem in the meantime.

Buchanan opened the Public Hearing and the following people spoke:

- Perry Eskridge
- Adam Bellingar
- Allison Calder
- Ken Calder
- Lyle Sorenson
- Pam Brady

Hearing no one else, Buchanan closed the Public Hearing.

Galloway moved to hold and keep the public hearing open until their first December meeting.

The motion was seconded by Donovan.

Galloway stated she would like more time to reach out to their legislative allies and engage with stakeholders in this room (many of whom spoke this evening), and to continue working with the Planning and Health Departments.

Councilmembers discussed the motion and the ordinance with the following people:

- Garrett Smith, Planning and Development Services Department
- Mark Personius, Planning and Development Services Department Director
- Aly Pennucci, Executive's Office

- Hayli Hruza, Health and Community Services
- George Roche, Prosecuting Attorney's Office

They discussed SB 5290, the hope of coming to a mutual resolution on the code changes, that moving to a sequential order for permits as opposed to doing them concurrently is both a function of trying to comply with the legislation and a staffing issue, application timelines, the motion to hold and what Councilmembers need between now and December 3rd to help them make a decision, an alternative option of introducing a new ordinance on November 19th, adding this item for further discussion at a special meeting on November 12th, what happens if they cannot get something passed on December 3rd, an option to amend Section 22.05.022 to remove the OSS requirement to have the PDS critical area review done before an applicant applies to the Health Department for an OSS, why there needs to be a site assessment as opposed to just looking at a map at the Planning counter and how many sites they visit where staff says there are no wetland issues, how far back they would have to go to give refunds to people if this code is not in place by the time the legislation goes into effect on January 1, 2025, the belief that the one amendment suggested by staff tonight would not be substantive and require re-introduction but that other amendments would, and having a special meeting on November 12 with introduction then on November 19, and a new public hearing with action taken on December 3rd if they make those changes.

Galloway withdrew her motion ***and moved*** to hold this item until November 19th and schedule a work session on Tuesday, November 12th after their courthouse briefing.

The motion was seconded by Donovan.

Galloway's motion that the Ordinance Requiring a Public Hearing be HELD IN COUNCIL and SCHEDULED FOR A WORK SESSION on NOVEMBER 12 carried by the following vote:

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

Nay: 0

Motion approved 7-0 to hold this item until November 19th and schedule a work session on Tuesday, November 12th after their WSAC courthouse briefing.

OPEN SESSION

The following people spoke:

- Bob Anderson

- Ashley Hill
- Kathryn Kraynak
- Isabel Farquhar
- Michele Yerger
- Adam Bellingar
- David Foreman
- Diane Harper
- Amber Rucker
- Bill LaFreniere
- Natalie Chavez
- Name not stated
- Lyle Sorenson

Hearing no one else, Buchanan closed the Open Session.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

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

1. [AB2024-682](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Bellingham and Whatcom County Housing Authorities to develop a licensed child care facility in the Samish Commons affordable housing complex, in the amount of \$1,093,637

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

2. [AB2024-709](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Lake Whatcom Water and Sewer District to provide emergency management services to Lake Whatcom Water and Sewer District in the amount of \$50,000

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

3. [AB2024-711](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Elizabeth Boyle Consulting to provide meeting facilitation services in the amount of \$23,000, for a total amended contract amount of \$46,000

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

4. [AB2024-715](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham for the purchase of brine at a cost of \$.63 per gallon

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

5. [AB2024-716](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Sanitary Service Company, Inc. to collect waste along Birch Bay Drive in the amount of \$15,000, for a total contract amount of \$43,000

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

6. [AB2024-717](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Elliot Bay Design Group, LLC, to provide engineering services for the annual dry dock of the MV Whatcom Chief ferry along with other on-call services as needed for the Lummi Island Ferry System, in the amount of \$75,000

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

7. [AB2024-720](#) Request authorization for the County Executive to enter into a three year subscription agreement with West Publishing for legal research databases in the amount of \$151,672.68

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

8. [AB2024-721](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham for the What-Comm Communications Center in support of reimbursement for E911 capital equipment expenses in the amount of \$43,747

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

9. [AB2024-726](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Fire Protection District 5 (Point Roberts) for Basic Life Support Services in Whatcom County, in the amount of \$21,869.16

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

10. [AB2024-727](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Washington State Department of Commerce to examine the potential for an Office of Healthy Housing in the amount of \$190,000

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

11. [AB2024-734](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the US Department of Justice Drug Enforcement Agency (DEA) for Organized Crime Drug Enforcement Task Force (OCDETF) investigation # PA-WAW-0376, in the amount of \$5,000

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

12. [AB2024-735](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the US Department of Justice Drug Enforcement Agency (DEA) for Organized Crime Drug Enforcement Task Force (OCDETF) investigation # PA-WAW-0385, in the amount of \$5,000

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

13. [AB2024-736](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the US Department of Justice Drug Enforcement Agency (DEA) for Organized Crime Drug Enforcement Task Force (OCDETF) investigation PA-WAW-0386, in the amount of \$5,000

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

14. [AB2024-737](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the US Department of Justice Drug Enforcement Agency (DEA) for Organized Crime Drug Enforcement Task Force (OCDETF) investigation # PA-WAW-0387, in the amount of \$5,000

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

15. [AB2024-738](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Washington Traffic Safety Commission for High Visibility Emphasis (HVE) patrols, in the amount of \$28,000

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

16. [AB2024-740](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Lutheran Community Services Northwest to lease a facility intended for use as the 2024-2025 winter shelter, in the amount of \$66,625

Galloway 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, Galloway, Scanlon, and Stremler

Nay: 0

OTHER ITEMS - PART TWO

(From Council Finance and Administrative Services Committee)

1. [AB2024-654](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Ferndale School District to purchase and install an ADA-compliant playground, in the amount of \$700,000

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

Donovan stated he has a disconnect about why County dollars are going to a jurisdiction with revenue capacity.

Eric Chambers, Health and Community Services, answered what the nexus is between this item and childcare and why the school district is not paying for it when other school districts are paying for these types of facilities.

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

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

Nay: 0

(From Council Criminal Justice and Public Safety Committee)

2. [AB2024-691](#) Ordinance amending Whatcom County Code Section 5.04.085 EMS technical advisory board

Buchanan reported for the Criminal Justice and Public Safety Committee and **moved** that the Ordinance be ADOPTED.

Galloway spoke about a concern with the District 7 representative (Item 7 on the first page of Exhibit A) maybe bringing this group out of balance since there is not a commensurate Bellingham fire district administration position.

Councilmembers discussed the concern and whether anyone else has voiced concern about it.

Satpal Sidhu, County Executive, stated this was discussed in the EMS Oversight Board (EOB) meeting and there was no request from Bellingham.

Kayla Schott-Bresler, Executive's Office, read who is on the EMS Oversight Board.

Councilmembers discussed the motion.

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

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

Nay: 0

Enactment No: ORD 2024-056

(From Council Committee of the Whole)

See discussion of this item above (under OTHER ITEMS PART ONE)

3. [AB2024-725](#) Resolution establishing ferry level of service-decision on a replacement
Elenbaas moved and Buchanan seconded that the Resolution be APPROVED.

Councilmembers discussed the motion and that it shows good collaboration.

Elenbaas's motion that the Resolution be APPROVED carried by the

following vote:

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

Nay: 0

Enactment No: RES 2024-048

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

- 1. [AB2024-680](#) Appointment to a vacancy on the Child and Family Well-Being Task Force, Applicant(s): Jessica Goette

Galloway moved and Byrd seconded that the Council Appointment Requiring Introduction be APPOINTED. The motion carried by the following vote:

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

Nay: 0

- 2. [AB2024-712](#) Appointment to a vacancy on the Justice Project Oversight and Planning Committee, substance use disorder provider position, Applicant(s): Suzanne Scala, Alexis Hahs, Amber Rucker

Buchanan moved to nominate all three applicants. The motion was seconded by Donovan.

Alexis Hahs, applicant, addressed the Council.

Clerk's note: Applicant Amber Rucker addressed the Council about the appointment during Open Session.

Councilmembers discussed the appointment and appointed **Amber Rucker** with five votes as follows:

Scanlon: Rucker

Stremler: Hahs

Buchanan: Rucker

Byrd: Hahs

Donovan: Rucker

Elenbaas: Rucker

Galloway: Rucker

Amber Rucker APPOINTED.

Appointed Amber Rucker with five votes.

CONFIRMATION OF EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2024-722](#) Request confirmation of the County Executive's appointment of Dr. Aldo Fusaro as Medical Examiner effective December 9, 2024

This item was considered out of order after Introduction above.

ITEMS ADDED BY REVISION

- [AB2024-779](#) Ordinance authorizing the levy of taxes for Countywide Emergency Medical purposes for 2025

Clerk's note: This item was not added by an agenda revision but rather brought forward by a councilmember at this point in the meeting.

Galloway moved that they introduce the substitute version two of the EMS levy ordinance to be considered concurrently with the executive's proposal.

The motion was seconded by Donovan.

Galloway stated they would be introducing this alternate as well as the executive's proposal (**AB2024-754**) so they can decide which one they want to take action on at the next meeting.

Galloway's motion that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING carried by the following vote:

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

Nay: 2 - Byrd, and Elenbaas

Motion approved 5-2, with Byrd and Elenbaas opposed, that they introduce the substitute version 2 of the EMS levy ordinance to be considered concurrently with the executive's proposal.

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Buchanan reported on the Committee of the Whole Executive Session.

Donovan moved to approve defense and indemnification of Ryan Swinburnson, named as a defendant in Jacob Dean Ringenbach, an individual, Plaintiff v. Attorney Ryan Swinburnson, Defendant. Based on the following findings:

- A. Ryan Swinburnson was acting in a matter in which the county had an interest;
- B. Ryan Swinburnson was acting in the discharge of a duty imposed or authorized by law;
- C. Ryan Swinburnson acted in good faith.

The motion was seconded by Galloway.

The motion carried by the following vote:

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

Nay: 0

Councilmembers gave committee reports

Galloway spoke about a Councilmember appointment to the 2025 WSAC legislative steering committee (on which she currently serves) that needs to be appointed in November and Councilmembers concurred to appoint her on a temporary basis and then revisit the appointment with the regular reorganization of the Council in January.

Councilmembers gave updates on recent activities and upcoming events.

MOTION SUMMARY:

From Committee of the Whole Executive Session (AB2024-724)

Motion approved 7-0 to approve defense and indemnification of Ryan Swinburnson, named as a defendant in Jacob Dean Ringenbach, an individual, Plaintiff v. Attorney Ryan Swinburnson, Defendant. Based on the following findings

- A. Ryan Swinburnson was acting in a matter in which the county had an interest;
- B. Ryan Swinburnson was acting in the discharge of a duty imposed or authorized by law;
- C. Ryan Swinburnson acted in good faith.

ADJOURN

The meeting adjourned at 12:08 a.m. on Thursday, November 7, 2024.

The County Council approved these minutes on December 3, 2024.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Cathy Halka, Council Clerk

Barry Buchanan, Council Chair

Meeting Minutes prepared by Kristi Felbinger

SIGNED COPY ON FILE