

# **Whatcom County Council**

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



## **Minutes - Final**

**Tuesday, October 26, 2021**

**6 PM**

**Virtual Meeting**

**VIRTUAL MEETING (TO PARTICIPATE, SEE INSTRUCTIONS AT  
[www.whatcomcounty.us/joinvirtualcouncil](http://www.whatcomcounty.us/joinvirtualcouncil) OR CALL 360.778.5010)**

### **COUNCILMEMBERS**

Rud Browne  
Barry Buchanan  
Tyler Byrd  
Todd Donovan  
Ben Elenbaas  
Carol Frazey  
Kathy Kershner

### **CLERK OF THE COUNCIL**

Dana Brown-Davis, C.M.C.

## COUNTY COUNCIL

### CALL TO ORDER

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

### ROLL CALL

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

**Absent:** None

### FLAG SALUTE

### ANNOUNCEMENTS

The Council is accepting applications to fill vacancies on the Business and Commerce Advisory Committee. Applicants must represent the food processing industry or manufacturing industry. If you are interested and meet these qualifications, please let us know at 360-778-5010 or email the council at [Council@co.whatcom.wa.us](mailto:Council@co.whatcom.wa.us).

### COUNTY EXECUTIVE'S REPORT

Satpal Sidhu, County Executive, reported on the following:

- A memo sent to Councilmembers regarding mid-biennium budget adjustments
- The Intalco plant reopening

### MINUTES CONSENT

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

1. MIN2021-079 Committee of the Whole for October 12, 2021

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

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

**Nay:** 0

**Absent:** 0

2. MIN2021-080 Regular County Council for October 12, 2021

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

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

**Nay:** 0

**Absent:** 0

3. MIN2021-081 Special Committee of the Whole Executive Session for October 19, 2021

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

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

**Nay:** 0

**Absent:** 0

### **PUBLIC HEARINGS**

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

1. AB2021-572 Ordinance amending Whatcom County Code 12.20 Road Vacations to update procedures for processing petitions

Andrew Hester, Public Works Department, stated he is available for questions.

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

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

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2021-065

2. AB2021-576 Resolution adopting the 2022 Annual Construction Program (ACP)

Jim Karcher, Public Works Department, stated he was available for questions.

Buchanan opened the Public Hearing and the following person spoke:

- Ken Domorod

Hearing no one else, Buchanan closed the Public Hearing.

**Frazey moved and Donovan seconded that the Resolution Requiring a Public Hearing be APPROVED. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2021-045

3. AB2021-590 Ordinance imposing a second interim moratorium on the acceptance and processing of permit applications for new or expanded recreational cannabis growing and/or processing facilities which are proposed to operate outdoors or in greenhouses
- Mark Personius, Planning and Development Services Department Director, briefed the Councilmembers and answered a question about when Council will get recommendations from the Planning Commission.

Buchanan opened the Public Hearing and the following person spoke:

- Ken Domorod

Hearing no one else, Buchanan closed the Public Hearing.

Councilmembers voted on the ordinance and Dana Brown-Davis, Clerk of the Council, clarified that the ordinance voted on was a substitute.

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

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

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

**Absent:** 0

Enactment No: ORD 2021-066

### **OPEN SESSION (20 MINUTES)**

The following people spoke:

- Katherine Telford
- Robert Bystrom
- Rob Viens
- Jennifer Durant
- Shannon Wallace
- Ken Domorod

- Cynthia Thompson
- David Spring
- Markis Dee Stidham
- Nancy Hill
- Rebecca Wilson
- Sam Kloes
- Misty Flowers
- Melissa Wisener
- Kelley Bouma
- Nancy Eklund
- Christie Duque

Byrd stated he rises to ask a question and the Council Chair granted it.  
Donovan stated he rises to ask a question and the Council Chair granted it.  
Elenbaas stated he would answer questions after public comment.

The open session continued and the following people spoke:

- Mary Stidham
- Shean Halley
- Sarah Rose
- Natalie Chavez
- Jean Purcell
- Megan Wiseman
- Rosemary VanBeek
- Mark Ambler
- Hannah Ordos
- Chad Butenschoen

Hearing no one else, Buchanan closed the Open Session.

Browne responded to comments made during the open session.

## **CONSENT AGENDA**

**(From Council Finance and Administrative Services Committee)**

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

1. AB2021-585 Request authorization for the County Executive to enter into an interlocal agreement

between Whatcom County and U.S. Department of Justice Drug Enforcement Administration for Cooperative State and Local Task Force Agreement FY2022

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

**Nay:** 0

**Absent:** 0

2. AB2021-586 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and U.S. Department of Justice Drug Enforcement Administration for Program-Funded State and Local Task Force Agreement FY2022, in the amount of \$38,744.00

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

**Nay:** 0

**Absent:** 0

3. AB2021-588 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and San Juan County for Whatcom County Veteran Service Officer support services to San Juan County resident veterans, in an amount not to exceed \$10,000

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

**Nay:** 0

**Absent:** 0

4. AB2021-604 Request authorization for the County Executive to enter into a contract between Whatcom County and National Service Office for Nurse-Family Partnership to provide technical support and training, in the estimated amount of \$42,444

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

**Nay:** 0

**Absent:** 0

## **OTHER ITEMS**

**(From Council Finance and Administrative Services Committee)**

1. AB2021-447 Resolution accepting the 2021 Whatcom County Comprehensive Economic Development Strategy (CEDS) and amended Appendix and approving submittal of the draft to the United States Department of Commerce Economic Development Administration

**Browne** reported for the Finance and Administrative Services Committee and **moved** that the SUBSTITUTE Resolution be APPROVED.

Donovan read the substitute title into the record.

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

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2021-046

2. AB2021-582 Ordinance amending the 2021 Whatcom County Budget, request no. 16, in the amount of \$411,953

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

The following people answered questions about the \$385,466 to fund amendment to Opportunity Council CDBG grant to fund services to counter COVID-related community impacts.

- Tyler Schroeder, Executive's Office
- Satpal Sidhu, County Executive

**Byrd moved** to table the agenda item. The motion was seconded by Kershner.

Councilmembers discussed the motion and Sidhu answered how the Opportunity Council came to be the steward of this grant.

The motion failed by the following vote:

**Aye:** 1 - Byrd

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

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

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

**Nay:** 1 - Byrd

**Absent:** 0

Enactment No: ORD 2021-067

3. AB2021-583 Resolution amending the Flood Control Zone District & Subzones 2021 budget, request no. 4, in the amount of \$855,502 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

**Browne** reported for the Finance and Administrative Services Committee and *moved* that the Resolution (FCZDBS) be APPROVED.

Councilmembers discussed whether they had gotten a presentation from staff.

Tyler Schroeder, Executive's Office, briefed the Councilmembers.

**Browne's motion that the Resolution (FCZDBS) be APPROVED carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2021-047

4. AB2021-593 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Island County to provide COVID-related isolation and quarantine to Island County residents, in the amount of \$200 per resident, per day

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

Councilmembers discussed the item.

Tyler Schroeder, Executive's Office, responded to a question about whether



the \$200 a day covers the cost that Whatcom County is putting out to have that facility open.

*Byrd moved* to amend the interlocal to approve this tonight with the expectation that if it comes back to us in three months that it either has full funding by FEMA, by the State, or it is a cost share agreement with the other counties. The motion was seconded by Kershner.

Councilmembers discussed the motion and Satpal Sidhu, County Executive, and Tyler Schroeder answered questions.

Buchanan suggested they approve this interlocal now and then do a motion (like Byrd's) for going forward with any new interlocal agreements that are created with other counties.

*Byrd withdrew* his motion and Kershner withdrew her second.

Councilmembers discussed the main motion and Schroeder and Sidhu answered whether other counties have their own facilities or are dependent on our facility, whether other counties would be shutting their facilities down if ours became a regional facility, whether it is less likely to be reimbursed from FEMA if Whatcom County shares the cost with other counties, whether FEMA usually gives only 80% of the cost back to the County, how the number of \$200 a night was derived, how many rooms there are, and what the current cost is per room.

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

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

**Nay:** 1 - Elenbaas

**Absent:** 0

5. AB2021-595 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to administer the Housing and Essential Needs Program in the amount of \$503,370 for a total amended contract amount of \$2,540,694

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

Tyler Schroeder, Executive's Office, answered what this cost includes.

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

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

**Nay:** 0

**Absent:** 0

6. AB2021-600 Request authorization for the County Executive to enter into a contract between Whatcom County Flood Control Zone District and Geneva Consulting Services for the coordination of the Whatcom Lead Integrating Organization (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

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

Tyler Schroeder, Executive's Office, answered a question about the scope of work for the Lead Integrating Organization (LIO).

**Browne's motion that the Contract (FCZDBS) be AUTHORIZED carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

7. AB2021-602 Request authorization for the County Executive to enter into an agreement between Whatcom County and Greg Dibble for the lease of 600 Dupont Street, Bellingham WA

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

Byrd explained why he abstained on the vote in the Finance and Administrative Services Committee and Councilmembers discussed why the space is needed, and whether the monthly and annual amount is in line with renting other commercial space.

Tyler Schroeder, Executive's Office, answered how big the whole building is and how much the County will spend over three years.

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

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

**Nay:** 0

**Absent:** 0

**(From Council Public Works and Health Committee)**

8. AB2021-598 Discussion and request for motion regarding community requested revision to the Birch Bay Golf Cart Zone boundary

*Frazey* reported for the Public Works and Health Committee and *moved* to extend the current Birch Bay golf cart zone to Gemini Street.

Dana Brown-Davis, Clerk of the Council, clarified whether the motion from committee was to have the Public Works Department create an ordinance to extend the zone to Gemini Street.

Frazey stated *that should be the motion*.

The motion carried by the following vote:

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

**Nay:** 0

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

**(From Council Committee of the Whole)**

9. AB2021-611 Discussion and possible motion to recommend rescinding a previous action of the Council that established a no shooting zone in Drayton Harbor

Buchanan briefed the Councilmembers about why the item is on the agenda.

Dana Brown-Davis, Clerk of the Council, briefed Councilmembers on the best process and type of motion for this item. She stated the best way to bring this back is to rescind the motion that adopted it on October 12, 2021.

Byrd gave his analysis on the procedure and stated a new ordinance should be brought forward.

Brown-Davis clarified that the County Executive has ten days to sign after presented to his office and the former ordinance was not taken to his office until Thursday of last week.

Karen Frakes, Prosecuting Attorney's Office, stated the procedure the Clerk of the Council is recommending is appropriate and legal.

Councilmembers discussed the options and whether they should reconsider or rescind the motion to adopt.

Brown-Davis stated a motion to reconsider can be presented at the same

meeting (in which the ordinance was adopted), but because this was adopted in a past meeting it has to be a motion to rescind.

*Elenbaas moved* to rescind the motion that adopted Ordinance 2021-061 on October 12, 2021 (the no-shooting zone in Drayton Harbor). The motion was seconded by Donovan.

The motion to rescind carried by the following vote:

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

**Nay:** 0

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

### **ITEMS ADDED BY REVISION**

There were no agenda items added by revision.

### **INTRODUCTION ITEMS**

Buchanan stated that AB2021-594 is a substitute.

*Donovan moved* and Frazey seconded that agenda items 1-5 be introduced.

The motion carried by the following vote:

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

**Nay:** 0

Councilmembers started to give committee reports but Dana Brown-Davis, Clerk of the Council, stated that the AB2021-606 was recommended for withdrawal from introduction in committee.

*Donovan moved* to reconsider the motion to introduce items 1-5 so that item number 4 can be removed. The motion was seconded by Elenbaas.

The motion to reconsider carried by the following vote:

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

**Nay:** 0

*Donovan moved* and Elenbaas seconded to introduce all introduction items except for AB2021-606 (see motion and votes on individual items below).

1. AB2021-594 Ordinance amending Whatcom County Code Chapter 2.02 (County Council) to define absence and temporary disability

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

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

**Nay:** 0

**Absent:** 0

2. AB2021-599 Ordinance establishing the Ferry Fare Capital Surcharge Fund

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

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2021-068

3. AB2021-601 Ordinance amending the 2021 Whatcom County Budget, request no. 17, in the amount of \$4,967,500

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

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2021-069

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

**This agenda item was WITHDRAWN.**

5. AB2021-609 Ordinance amending Whatcom County Code Title 3 (Revenue and Finance), specifically Chapters 3.06 (Grants) and 3.08 (Purchasing System)

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

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2021-070

**COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES**

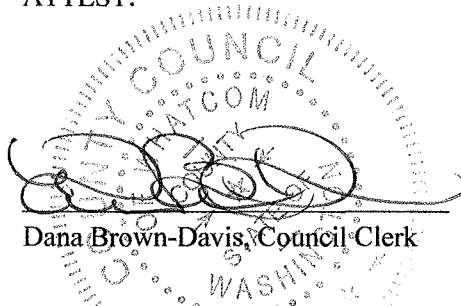
Councilmembers gave committee reports and other updates.

**ADJOURN**

The meeting adjourned at 9:49 p.m.

The County Council approved these minutes on November 9, 2021.

ATTEST:



The seal of the Whatcom County Council is circular with a dotted border. The text "WHATCOM COUNTY COUNCIL" is written along the top inner edge, "WHATCOM" is at the bottom, and "WASHINGTON" is written along the bottom inner edge. A signature is written across the seal.

Dana Brown-Davis, Council Clerk

Kristi Felbinger  
Kristi Felbinger, Minutes Transcription

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

Barry A. Buchanan  
Barry Buchanan, Council Chair