

Whatcom County Council

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



Minutes - Draft Minutes

Tuesday, May 21, 2024

6 PM

Hybrid Meeting

**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

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 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. [MIN2024-022](#) Special Council PM for April 30, 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. [MIN2024-023](#) Special Council AM for April 30, 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. [MIN2024-024](#) Committee of the Whole Executive Session for May 7, 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. [MIN2024-025](#) Committee of the Whole for May 7, 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

5. [MIN2024-026](#) Regular County Council for May 7, 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

OPEN SESSION

The following people spoke:

- Rebecca Cavanaugh
- Joni Hensley
- Derek Smith
- Markis Dee
- Natalie Chavez
- Rebecca Donato
- Misty Flowers

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 twelve.

Elenbaas stated he would like to consider items four and nine separately.

Donovan restated his motion to approve Consent Agenda item numbers 1-3, 5-8 and 10-12.

Dana Brown-Davis, Clerk of the Council stated that item #6 is a substitute and Byrd explained what was revised. It was an issue with the breakdown of the bid prices.

Donovan restated his motion to approve Consent Agenda item numbers

1-3, 5-8 (with #6 being a substitute), and 10-12. Councilmembers voted on those items (see votes on individual items below).

1. [AB2024-315](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and U.S. Department of Agriculture, Forest Service for overtime patrols, in the amount of \$21,900

Donovan 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

2. [AB2024-316](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Northwest Clean Air Agency for reimbursement of materials and distribution of DIY air cleaner kits, in an amount up to \$3,000

Donovan 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

3. [AB2024-317](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Imagine Institute to assist new home-based childcare providers through the start-up process in order to expand availability of childcare in Whatcom County, in the amount of \$478,910

Donovan 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. [AB2024-318](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and Washington State Department of Health to provide funding for the delivery of various public health programs in the amount of \$416,456 for a total amended agreement amount of \$14,310,097

This item was considered separately below.

5. [AB2024-319](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and the City of Lynden to further advance their Mouw Ditch project to address drainage and flooding issues in the Bertrand

Creek subbasin, in the amount of \$32,000 for a total amended agreement amount of \$96,000 (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 Contract (FCZDBS) be AUTHORIZED BY CONSENT. The motion carried by the following vote:

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

Nay: 0

6. [AB2024-322](#) Request approval for the County Executive to award Bid #24-46 for the purchase of 30 rifles, associated equipment, and accessories from Proforce Law Enforcement, located in Prescott, Arizona, in an amount not to exceed \$60,576.42

Donovan reported for the Finance and Administrative Services Committee and moved that the SUBSTITUTE 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

7. [AB2024-323](#) Request approval for the County Executive to award Bid #24-47 for the purchase of a 360-degree laser scanning system, associated equipment, and accessories from Leica Geosystems, Inc., located in Alpharetta, Georgia, in an amount not to exceed \$154,128.53

Donovan reported for the Finance and Administrative Services Committee and moved 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

8. [AB2024-324](#) Request approval for the County Executive to authorize the purchase of vehicle upfit equipment, using the Washington State Contract #02020, in an amount not to exceed \$125,000 in 2024. The state contract is awarded to JR Setina Manufacturing Co., located in Olympia

Donovan reported for the Finance and Administrative Services Committee and moved 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

9. [AB2024-327](#) Resolution amending Resolution 2023-048 for Unrepresented County employees

This item was considered separately below.

10. [AB2024-330](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and North Sound Behavioral Health Administrative Services Organization to provide funds to support substance use disorder assessments in jail, re-entry services and recovery and mental health courts, in the amount of \$101,896 for a total amended contract amount of \$625,684.10

Donovan 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 Stremmer

Nay: 0

11. [AB2024-334](#) Request authorization for the County Executive to enter into an interlocal agreement amendment to increase the compensation for Boundary Review Board services in the amount of \$5,000 for a total amended amount of \$20,000

Donovan 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 Stremmer

Nay: 0

12. [AB2024-339](#) Request authorization for the County Executive to enter into a lease amendment between Whatcom County and Lengoset, LLC to extend the term of the lease through December 31, 2024 for the purposes of a temporary morgue location in the amount of \$250 per autopsy

Donovan 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 Stremmer

Nay: 0

CONSENT AGENDA ITEMS CONSIDERED SEPARATELY

4. [AB2024-318](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and Washington State Department of Health to provide funding for the delivery of various public health programs in the amount of \$416,456 for a total amended agreement amount of \$14,310,097

Donovan reported for the Finance and Administrative Services Committee

and *moved* that the Interlocal be AUTHORIZED.

Kayla Schott-Bresler, Executive's Office, answered who the contractor is for the Youth Cannabis & Commercial Tobacco Prevention and stated it is Health and Community Services.

Elenbaas asked whether it is still a fact that kids over 13 years of age can seek medical treatment without their parents' approval and stated he does not think that law has changed yet. He spoke about his concern regarding that and stated he is frustrated that he has to vote yes or no on the agenda item whether he agrees with all of it or none of it. He stated the four funding items in the interlocal amendment do not seem to all be the same.

Erika Lautenbach, Health and Community Services Director, stated all their funding from the State Department of Health goes into a consolidated contract. The \$95,000 for school-based health centers is pass-through money from the State to the school district.

Scanlon spoke about a recent Health Department presentation at a League of Women Voters meeting regarding some of the needs and gaps in East Whatcom County and an email to Council from the interim and outgoing superintendents of the school district. He stated this is something the school district wants and the school board will be voting on it soon. It is a documented need in the community.

Aly Robinson, Health and Community Services, answered whether the health center would be solely for students or whether it would be for the community at large, and stated the program will be focused on students for the first few years but they hope it can then be made open to see the general public.

Schott-Bresler and Lautenbach answered questions about the COVID-19 LHJ Gap Funding and stated it was a timeline extension and not an addition of budget authority. She answered what it has to do with COVID-19 and Lautenbach stated this is funding that they have been receiving since 2020, and the Federal Government has granted extensions so they can stabilize staffing. This funds staff positions and services in continuation of their Covid work. She answered what Covid work means and stated it means communicable disease prevention.

Councilmembers discussed the questions being asked, school-based health centers, and the motion.

Donovan's motion that the Interlocal be AUTHORIZED carried by the

following vote:

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

Nay: 2 - Elenbaas, and Stremler

9. [AB2024-327](#) Resolution amending Resolution 2023-048 for Unrepresented County employees
Donovan reported for the Finance and Administrative Services Committee and *moved* that the Resolution be APPROVED.

Councilmembers discussed the resolution with the following people:

- Dana Brown-Davis, Clerk of the Council
- Kayla Schott-Bresler, Executive's Office
- Satpal Sidhu, County Executive
- George Roche, Prosecuting Attorney's Office

Elenbaas stated this item was not on the Consent Agenda and it failed, and now it is on the Consent Agenda. He is working on an ordinance for the Medical Examiner's Office but it is not done yet.

Galloway asked whether they can move forward with this resolution tonight and still consider Elenbaas' ordinance when it is presented, and Elenbaas stated he believes that is true but he would prefer that they go the other way around.

Councilmembers and the people listed above discussed how the item got back on the agenda and how that fits in to parliamentary procedure.

Donovan withdrew his motion *and moved* to table this item (**AB2024-327**) with the intent that we see if there is support for reintroducing the previous item (**AB2024-268**). The motion was seconded by Scanlon.

Councilmembers voted on the motion to table (see below).

Clerk's note: The continuation of the discussion was regarding **AB2024-268**, so the minutes are recorded under that item below.

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

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

Nay: 1 - Galloway

ITEM ADDED AFTER DISCUSSION OF AB2024-327 (TWO ACTIONS TAKEN)

[AB2024-268](#) Request authorization to amend Resolution 2023-048 for Unrepresented County employees

Clerk's note: Two separate votes were taken on AB2024-268 so the file is listed twice to reflect the action for each motion.

Buchanan moved to rescind the action taken (motion) on AB2024-268 on May 7, 2024.

The motion was seconded by Donovan.

George Roche, Prosecuting Attorney's Office, answered parliamentary procedure questions.

Elenbaas discussed the motion and stated he is not saying he does not want to bring the Medical Examiner in as an employee, he just wants the definition of what that looks like to be in place before he votes for the funding to do so.

Kayla Schott-Bresler, Executive's Office, stated this is not a vote to bring the funding. That was done through the budget process through an Additional Service Request (ASR) that was already approved. She described what was laid out in the ASR and stated this resolution is a technical point that allows them to provide an offer of employment to the Medical Examiner.

Buchanan's motion that the previous MOTION on this Resolution (from May 7, 2024) be RESCINDED carried by the following vote:

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

Nay: 2 - Byrd, and Elenbaas

ACTION SUMMARY: Motion approved 5-2, with Byrd and Elenbaas opposed, to rescind the action taken (motion) on AB2024-268 on May 7, 2024.

[AB2024-268](#) Request authorization to amend Resolution 2023-048 for Unrepresented County employees

Clerk's note: See discussion and other action on this item above in **AB2024-327** and **AB2024-268**.

Galloway moved and Scanlon seconded that the Resolution be APPROVED.

Councilmembers discussed the motion.

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

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

Nay: 2 - Byrd, and Elenbaas

Enactment No: RES 2024-024

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2024-303](#) Ordinance amending the project budget for the Lake Whatcom Park Trail Development Fund, request no. 3

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

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

Nay: 2 - Byrd, and Elenbaas

Enactment No: ORD 2024-032

2. [AB2024-302](#) Ordinance amending the 2024 Whatcom County Budget, request no. 7, in the amount of 1,605,662

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

Scanlon answered whether this was the language that he brought forward and stated it is slightly different but achieves the same outcome. He stated that what they ended up doing, as opposed to having a separate resolution as discussed in the Finance and Administrative Services Committee today, is to include language in this ordinance (last "Be it Further Ordained" paragraph) that states their intent that American Rescue Plan Act (ARPA) funding will be used to cover the fare box revenue.

George Roche, Prosecuting Attorney's Office, answered whether the change is substantive enough that the ordinance needs to be re-introduced and stated he does not believe that it is a substantive change to what was originally proposed.

Donovan stated he thinks this is what they were trying to do all along so he supports it.

Elizabeth Kosa, Public Works Department Director, stated that when she

discussed the intent with the Prosecuting Attorney's Office, it was determined that it was not a substantive change from what the whole intent was from the very beginning. That is why they did not propose something new.

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

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

Nay: 0

Enactment No: ORD 2024-033

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2024-328](#) Appointment to a vacancy on the Wildlife Advisory Committee, Applicant: Emily Wirtz

Donovan moved and Byrd seconded that the Council Appointment be APPOINTED.

Scanlon spoke about the application and letters of recommendation and stated he supports the appointment.

Donovan's motion that the Council Appointment be APPOINTED carried by the following vote:

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

Nay: 0

ITEMS ADDED BY REVISION

AB2024-268 was not added by revision but was considered during the Consent Agenda (after AB2024-327) above.

INTRODUCTION ITEMS

Byrd moved to introduce items one through five. The motion was seconded by Galloway (see votes on individual items below).

1. [AB2024-314](#) Ordinance establishing Whatcom County Code Chapter 2.180 Naming County-Owned Public Buildings, Properties, Parks, and Facilities

Byrd moved and Galloway 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

2. [AB2024-333](#) Ordinance closing the Vactor Truck Storage Building Fund 379

**Byrd moved and Galloway 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

3. [AB2024-335](#) Ordinance closing the South Fork Park Improvement Fund 363

**Byrd moved and Galloway 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. [AB2024-337](#) Ordinance amending Whatcom County Code 3.08.060, Bids and Proposals Required

**Byrd moved and Galloway 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. [AB2024-325](#) 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 Galloway 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

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Councilmembers gave Committee reports.

Elenbaas reported for the Planning and Development Committee and *moved* that the Council support re-examining changing the use of the Heavy Impact Industrial (HII) zone in the UGA to include other zoning designations as possible. The motion was seconded by Donovan.

Councilmembers discussed a fear that they are going to lose net HII property, the fact that the Growth Management Act mandates that they are going provide a plethora of different zonings and land use designations to enhance our economic viability as an area, and that the process they will be doing is evaluating where the most appropriate place is and enabling them to

make some adjustments.

Donovan stated the discussion of the motion was to identify additional areas where they could have HII zoning. That is Council's intent.

Scanlon stated the Port of Bellingham has done a study of HII zones across the county and there is a request to add the LII to that as well. Having both of those areas in there will help them to find other potential sites if they are doing a swap, and that would be his intent.

Elenbaas stated there is HII land that is designated, but whether it is feasible or not is a whole other story. Voting yes now is to vote to just start the process to evaluate if they can find a better spot for it.

The motion carried by the following vote:

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

Nay: 0

Councilmembers continued committee reports and gave Councilmember updates.

Kayla Schott-Bresler, Executive's Office, answered whether they got feedback on the item submitted by Executive Sidhu and Councilmember Galloway to Washington State Association of Counties to attempt to assure that the State works with the managed care organizations on adequate Medicaid reimbursement rates and stated the request did not prevail.

From Planning and Development Committee:

Motion approved 7-0 that the Council support re-examining changing the use of the HII zone in the UGA to include other zoning designations as possible.

ADJOURN

The meeting adjourned at 8:22 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription