

# **Whatcom County Council**

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



## **Minutes - Final**

**VIRTUAL MEETING - VIEW ONLINE; AGENDA REVISED 4.6 AND 4.7**

**Tuesday, April 7, 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

Council Chair Barry Buchanan called the meeting to order at 1 p.m. in a virtual meeting.

### ROLL CALL

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

**Absent:** None

### ANNOUNCEMENTS

### EXECUTIVE'S REPORT

Satpal Sidhu, County Executive, updated the Council on the following:

- The two main objectives of the Unified Commander, Bill Elfo, and himself as the County Executive are continuity of government services and saving lives.
- Protocols of social distancing are working in the state and in Whatcom County.
- The Unified Command is working to secure additional quarantine facilities and he has shared with the Council via email some of the cost estimate models.
- Discussions of the Unified Command team leaders about having a better flow of both internal and external communication.
- The Health Department's efforts to put out messages of prevention and preparedness to the public.
- The tireless work of the Emergency Operations Center (EOC) team, in the four weeks since the emergency was declared.
- Help from local refineries in kind, cash and help in the form of specialists sent to the EOC to help and offer their expertise.
- New Work Schedules assigned by department heads to County Employees including working from home or being assigned to the EOC.

Bill Elfo, Sheriff, spoke about the Unified Command being a coordination among various entities which necessitates the rotation of agency representatives. It might be worth considering a switch from a Unified Command structure to one involving a single incident commander who would oversee and direct the incident manager structure as a means to improved planning efficiency, decision making, communication and execution. This incident command would report to an executive committee

and be supplemented with agency representatives who could provide jurisdictional and subject matter advice. It would likely facilitate returning operational people to their primary positions. There would still be details to work out and City of Bellingham and County representatives have been meeting to hopefully come up with a consensus. The plan is to keep the Health Department involved in the process. There should also be a person assigned to assess longer term needs and associated strategic planning such as determining financial impacts from incurred expenses and loss of tax revenues. He answered a question about how a person chosen to oversee the process would be hired, and whether there would need to be an amendment to the County Code to say the director can appoint his designee.

Karen Frakes, Prosecuting Attorney's Office, stated a code amendment would not be necessary as long as they are working together which would be more efficient anyway.

### **OTHER ITEMS**

1. AB2020-116 Update on COVID-19  
*Clerk's note: The Council Chair changed the order of the agenda and this item was discussed later after AB2020-170. See below.*
2. AB2020-170 Resolution proclaiming the week of April 6 - 12 National Public Health Week  
Erika Lautenbach, Health Department Director, gave a summary of the resolution.

**Browne moved and Donovan seconded that the Resolution be APPROVED.  
The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2020-013

1. AB2020-116 Update on COVID-19  
The following people spoke and answered questions:
  - Tom Kunesh, Health Department Food Safety Supervisor
  - Karen Frakes, Prosecuting Attorney's Office
  - Erika Lautenbach, Health Department Director
  - Tyler Schroeder, Executive's Office
  - Brad Bennett, Administrative Services Department
  - Dana Brown-Davis, Clerk of the Council
  - Satpal Sidhu, County Executive

Kunesh briefed the Councilmembers on Health Department recommendations for food establishment relief options (document on file) for restaurants, bars and nightclubs.

Councilmembers and the above speakers discussed what the Council needs to do to implement the recommendations; whether salaries of Health Department food safety staff would be paid by FEMA relieving some of the need for the usual permit revenue; \$252,000 just received from the State for COVID-19 activities that would help pay for staffing costs that are dedicated to the COVID-19 cost center; whether the Unified Fee Schedule would need to be amended and what would be required to accomplish that outside of the regular cycle. If the Council makes a motion to support implementing the recommendations the Executive would make an Executive order to update the fee schedule and the Executive's Office would bring forward an ordinance at a future Council meeting to make the change.

Councilmembers discussed the options presented by the Health Department.

Kunesh stated that the Unified Fee Ordinance establishes the amount of the fees and with respect to food service, Whatcom County Code 24.03 sets the term for permits.

***Donovan moved*** to request the Health Department work with the Executive's Office to craft an ordinance and/or changes to the fee structure based on recommendations (on file) by the Health Department regarding food establishment relief options to bring back to the Council for consideration. The motion was seconded by Elenbaas.

Councilmembers and Kunesh discussed when they might see an ordinance, and the different options recommended by the Health Department.

Browne stated the extensions should also be applied to other types of permits which expire in the next 90 days.

***Kershner suggested*** a friendly amendment to choose option three of the recommendations which extends permits only for restaurants, bars and nightclubs but not grocery and convenience stores.

***Donovan accepted*** the friendly amendment.

Councilmembers and staff discussed whether there is a time frame that this

has to be done by, whether enforcement could be suspended until the ordinance can be adopted, the Health Department holding off on billing until a decision is made, whether the ordinance should be generalized to allow permit extensions for other types of permits or whether a separate ordinance would be needed, whether lost revenue could be submitted to FEMA for reimbursement, and whether fees could be forgiven for this timeframe if the County can be reimbursed.

Bennett stated that only Category B expenditures can be reimbursed which are lifesaving actions taken during the period of emergency. They are limited to actions taken to protect health and safety.

Councilmembers and Kunesh continued discussion about whether closing restaurants was a measure taken to protect life and safety, whether Business and Occupation Tax could also be considered, and whether the Health Department should include options for a three-month extension and a six-month extension.

The motion carried by the following vote:

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

**Nay:** 0

Browne stated he'd like to meet again tomorrow.

**Browne moved** to request legal counsel review the Whatcom County Code to identify sections about permits that will expire and have penalties incurred in the period of time from the date of the emergency declaration to June 30, 2020 with the goal of extending permits and waiving penalties.

**Byrd** seconded the motion and **suggested** a friendly amendment that building permits and any licensing will push out to that same period of time.

Browne did not accept the friendly amendment.

Browne restated his motion and Councilmembers discussed the timeframe.

The motion carried by the following vote:

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

**Nay:** 0

**Browne moved** to schedule a Special Council meeting for tomorrow at 2 p.m.

Brown-Davis and Councilmembers discussed the motion.

***Browne withdrew*** his motion.

They continued on with the agenda item and Erika Lautenbach, Health Department Director, gave an update about COVID-19 and stated the objectives of the current Unified Command operational period:

- Establish isolation facilities to meet county-wide demand
- Provide essential medical screening and care
- County Health Officer to provide data-driven decisions on public health strategies
- Provide resources and supplies to healthcare facilities as requested
- Identify Critical Functions/Services (e.g., utilities, continuity of essential government services, public transportation etc.)
- Maintain Childcare for Essential Personnel
- Monitor Health of Essential Personnel
- Minimize Staffing in EOC
- Establish Surge Capacity Capability
- Assess agricultural, aqua cultural, fishery and farming impacts
- Monitor and assess impacts to board restrictions
- Monitor and assess impacts on local government ensuring compliance with state and FEMA guidance

She gave the following updates:

- The State has extended the ban on hunting and fishing until May 4, 2020.
- The Health Department has created a strategic plan which is currently out for review.
- She clarified the functions which are unique to the Health Department and not part of the Unified Command. They include doing rapid testing response when there is an outbreak at a care facility; drive-through testing for first responders, health professionals, people with underlying health conditions and people who have been exposed; operating the call center seven days a week and providing information to the public; doing case investigations and contacting those who might have been exposed when they identify a positive case; communicating with long term care facilities and nursing facilities to see if they have policies in case of an outbreak and enough personal protective equipment (PPE); providing guidance and recommendations on who should test; and communicating with health care providers through a health care

coalition.

She, Sidhu and Schroeder answered questions and discussed establishing additional isolation sites in the County which requires they be pre-approved with a FEMA application which can't happen until the Health Department and Health Officer sign the document as well. They discussed whether the Health Officer has written down what he needs to be able to sign, when that will be provided to him, when the documents will be signed off, whether money has to initially come from the County government and thus need Council approval for cashflow first before it gets reimbursed from FEMA, and whether there are any projects deemed necessary by the Health Department that are still waiting for Council approval.

Lautenbach answered a question about where the county is on the curve of the crisis and whether we know if we need additional facilities in the county. According to the CDC's pandemic flu framework we are still in the acceleration phase of this disease, but it is not clear where we are in the upslope of the bell curve. According to a recent article, the stay-home order has had positive impacts and whether or not people will stay home will change the trajectory. We are not out of the woods. What kind of facilities and how many we will need is still in question but we will need to prepare for the possibility of a surge. Unified Command is setting the stage for preparation so we aren't in a situation where the hospital is at capacity and there is nowhere for people to go who are in a critical dire situation.

Elenbaas stated that the Council has been supportive of requests for funding when there is a plan specifically communicated and they've also proven their ability to be nimble.

Lautenbach updated Councilmembers on the issue of PPE. The State has larger purchasing power and is buying PPE on behalf of local jurisdictions. They have contracts with a lot of national providers for the next 12 weeks and are spending tens of millions of dollars a week on PPE for statewide operations. They have a great pipeline for local jurisdictions to request and receive supplies so, though not yet out of the woods, the trajectory of availability is going up.

Councilmembers and staff discussed the following:

- Where the County is with the commitments that have been made or need to be made relative to the amount of money that has already been allocated. The Unified Command is looking at surge capacity and additional facilities for isolation and quarantine that would cost

as much or more than the Motel 6 quarantine facility and operations. It is hard to make commitments at Unified Command without having budget authorized.

- Whether the Health Department is documenting meetings and notes of those in health roles in the same fashion as the Unified Command so we can look back at it later and whether there is a policy in place to do so. All significant decisions to change operations or create policies or procedures are being documented. Lautenbach stated she sends an email to staff every morning instead of having the 8 a.m. calls they previously had. Elfo stated Unified Command meetings at 10 a.m. are recorded through GoToMeetings and a scribe when available.
- How much money has been allocated for the Motel 6 quarantine facility and whether there is enough allocated for a potential surge.
- The difference between quarantine and isolation, the use of the Motel 6 facility, why it is necessary and why there is a need for \$295,000 for case management in a contract with the Lighthouse Mission. Isolation is used if someone is positive for COVID-19 and quarantine is used if someone has been exposed but is not showing symptoms. The Motel 6 would be used for people who cannot self-isolate and may not necessarily require medical attention. It includes more than just people who are homeless. There's been a shift from the message of self-isolating because we don't have testing capacity to having more testing capacity and not wanting to unnecessarily expose people if there are confirmed cases. Case management would be a useful tool to identify the potential needs of the community and how to address them so we can ensure compliance with people staying onsite.

**This agenda item was DISCUSSED.**

3. AB2020-175 Emergency ordinance authorizing an interfund loan to finance cash flow for COVID-19 emergency response

Councilmembers discussed a recent email to the Council from the Executive and the Sheriff about the importance of allowing for a budget item which would be used for cash flow for nimble decision-making to be accomplished by professionals in this community for running the emergency response, whether an emergency ordinance is needed, two ordinances scheduled for introduction today, and two emergency ordinances prepared today and emailed to Council for Council's consideration. Schroeder stated the \$3,000,000 in the emergency ordinances would be spent on PPE, identifying other isolation facilities, continuation with medical surge preparations and for cash flow purposes.



*Elenbaas moved* to accept the emergency ordinances now for adoption (AB2020-175 and AB2020-174). The motion was seconded by Buchanan.

*Browne* noted a point of order that they need to consider one ordinance at a time and *suggested* that they consider the interfund loan ordinance first (AB2020-175).

Elenbaas accepted the point of order and friendly amendment.

Councilmembers and Schroeder discussed differing models of when the peak of the crisis will or has occurred, adopting the ordinance without a plan and a pre-approved application to FEMA, projections of where the County is heading as it relates to revenue loss and increased expenses, support for the Motel 6 facility because it will ultimately save money and critical hospital space, the fact that that money will be paid back to the Economic Development Investment Fund if it is not needed and spent, not getting information that the Council has asked for, not having plans yet for people in care facilitates, rebuilding trust, and giving more information to the Council.

**Elenbaas' motion that the Emergency Ordinance be ADOPTED carried by the following vote:**

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

**Nay:** 1 - Byrd

**Absent:** 0

Enactment No: ORD 2020-017

- 4. AB2020-174 Emergency ordinance amending the Whatcom County 2020 Budget, Request No. 10, in the amount of \$3,000,000

*Browne moved* to adopt the Emergency Ordinance. The motion was seconded by Donovan.

Councilmembers discussed the motion, whether the money can be used for quarantine facilities outside of Bellingham, what can be done for people who are homeless and vulnerable in the county and smaller cities outside of the City of Bellingham, the lack of clarity on where the money is going, why the money has not gone to taking well people from senior living facilities and placing them somewhere else and what groups of people the Motel 6 facility will be used for.

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

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

**Nay:** 1 - Byrd

**Absent:** 0

Enactment No: ORD 2020-018

5. AB2020-117 Discussion of strategies related to COVID-19

Tyler Schroeder, Executive's Office, answered a question about how this crisis will impact the County from a budget perspective and how the County will make up one sixth of its revenue due to the lack of shopping, business and occupation tax, property tax, spending by Canadian shoppers, people not working and defaults on loans. He stated he and Brad Bennett, Finance and Administrative Services Department, are working on that and will come back to Council with that information once it is ready.

**This agenda item was DISCUSSED.**

6. AB2020-157 Request authorization for the County Executive to award Bid #20-15 and enter into a contract between Whatcom County and Granite Construction Company, for annual hot mix asphalt Prelevel work on Lummi Reservation in an amount not to exceed \$436,003.05

*Clerk's note: The discussion on this item also applies to AB2020-158.*

The following people spoke and answered questions:

- Tyler Schroeder, Executive's Office
- Gina Miller, Public Works Maintenance and Operations
- Brad Bennett, Administrative Services Department
- Satpal Sidhu, County Executive

Miller briefed the Council on the item.

**Byrd moved** and Elenbaas seconded to hold in Council until such time as they have an updated budget from the Executive's Office.

Miller and Schroeder answered questions about whether there are time constraints on the item, whether work done on Lummi Reservation land is tied to a contract for the renewal of the ferry terminal lease and whether the County has an obligation to do the work as part of the ferry operations, whether the roads involved are accessed by county citizens, whether these are road fund dollars, whether road fund dollars can be used for other services in the county or borrowed and put into another fund, whether road fund dollars come from our gas tax and how much gas tax money has been lost along with other impacts from lost revenue, the cost of deferred

maintenance if they wait, and how high on the priority list the chip seal program is.

Schroeder stated the road fund is there to accomplish the operation and maintenance of our roads. The maintenance crew does a really fine job and these dollars will be going to a local company. These are important expenditures and he recommends moving forward with this item and the next item, AB2020-158.

Councilmembers, Miller and Bennett discussed how it is not about the job that staff is doing, moving forward without understanding the ramifications of what we are looking at economically, making a decision on spending money on a project without knowing how long this crisis will last, whether prices have dropped since this contract was put in place, whether waiting on this contract would make it impossible to do the work, whether there would be time to put it out to bid again and could that be done given the status of these bids, what the process and timeline would be to go back out to bid on this project, and whether there is a date the work must be done.

Buchanan asked Byrd if he'd like to withdraw his motion to hold until getting an updated budget. Byrd stated he did not want to withdraw his motion.

Schroeder stated the Administration could provide some information in two weeks on the road fund impacts and there has to be consideration and understanding of the way that County budgets are done through siloed funds.

Councilmembers discussed whether the biennial budget information needs to be provided now, going back out to bid on these projects, knowing what the projections are and what we think the road fund will look like over the next year or year and a half.

Schroeder stated they could provide an estimation of what the road fund is and how that will play out in two weeks if they wait to make a decision on this.

Councilmembers discussed the motion and whether the roads are prioritized for work based on their current state.

**Donovan suggested** a friendly amendment to hold until they can get an update on the road fund and how these projects fit in to the Public Works Department's priorities.

**Byrd** stated he would accept it as adding more clarity to his motion but **did not accept** it as an amendment to his motion.

Councilmembers discussed the motion.

Sidhu stated he has asked the Department Heads to revisit their priorities and projects and he and Schroeder answered a question about how wholistic of a look at the budget or what other information or compromise on the budget could be provided to the Council in two weeks. (02:32:00)

**Byrd withdrew** his motion.

Councilmembers concurred that the Administration should bring back information on what the Council has requested in the past plus the information on the road fund relative to these two projects. They concurred that these two agenda items (AB2020-157 and AB2020-158) should be withdrawn today and scheduled on the agenda in two weeks along with a report by the Administration.

**Browne moved** to put these two contracts AB2020-157 and AB2020-158 back out for bid. The motion was seconded by Byrd.

Schroeder, Bennett and Councilmembers discussed the motion, a request to wait on the motion until the Administration can provide more background as it relates to the timing of that, whether they can change the bidding process so it wouldn't take as long to move forward and how long it would take to get the desired information from the Administration and then put it out for bid.

The motion failed by the following vote:

**Aye:** 3 - Elenbaas, Browne, Byrd

**Nay:** 4 - Donovan, Frazey, Kershner, Buchanan

Kershner asked for clarification on the motion, Brown-Davis asked as a point of order that each agenda item be voted on separately.

**Browne moved** to put the contract expressed as AB2020-157 back out for bid. Elenbaas seconded the motion.

The motion carried by the following vote:

**Aye:** 4 - Elenbaas, Kershner, Browne, Byrd

**Nay:** 3 - Donovan, Frazey, Buchanan

**This agenda item was WITHDRAWN and a motion was approved..**

7. AB2020-158 Request authorization for the County Executive to award Bid #20-16 and enter into a contract between Whatcom County and Granite Construction Company, for hot mix asphalt Prelevel at various locations (non-Lummi Reservation) work in an amount not to exceed \$628,535.00

*Clerk's note: This item was included in the discussion on AB2020-157.*

*See that agenda item for details.*

**Browne moved** to put the contract back out for bid. The motion was seconded by Elenbaas.

The motion carried by the following vote:

**Aye:** 5 - Elenbaas, Kershner, Browne, Buchanan, Byrd

**Nay:** 2 - Frazey, Donovan

Schroeder and Councilmembers discussed that they would still like to get information about the road fund balance and how this project fits into the priorities of the Public Works Department.

**This agenda item was WITHDRAWN and a motion was approved.**

8. AB2020-147 Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and the City of Bellingham to remove Yakima County Jail and add Kittitas County Jail as a Correctional Facility utilized by Whatcom County

**Elenbaas moved and Frazey 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

## INTRODUCTION ITEMS

**Donovan moved** to remove items three and four from Introduction (AB2020-168 and AB2020-169). The motion was seconded by Browne.

Sidhu requested to leave those two items on the agenda and introduce them so that way the Council can decide whether or not to consider them in two weeks.

Browne withdrew his second of the motion.

**Donovan withdrew** his motion.

**Elenbaas moved** to withdraw items three and four from Introduction (AB2020-168 and AB2020-169). The motion was seconded by Byrd.

The motion failed by the following vote:

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

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

**Browne moved** to add a fifth item to introduction (**AB2020-173 Ordinance establishing a process for information to be disclosed to the Division of Emergency Management, the County Executive, the County Health Board and the public during a public health emergency**). The motion was seconded by Buchanan.

Byrd stated he would like to move that it pass today as an emergency ordinance.

Karen Frakes, Prosecuting Attorney's Office, stated that the ordinance possibly meets the criteria to be an emergency ordinance but it doesn't have the necessary language in it to make it an emergency ordinance. You would have to actually add an emergency finding to it and designate it an emergency ordinance in order to do that. She answered whether it could be re-tooled into an emergency ordinance and brought back to the Council in two days.

Councilmembers discussed the motion and Browne stated he would like to leave it for introduction now. If they could bring forward a new ordinance as an emergency ordinance for consideration in two days they could remove this one. The Councilmembers concurred to bring forward an emergency ordinance in two days and if it does not get adopted, this ordinance would be considered at the next regular Council meeting.

**Kershner moved** to reconsider the vote adopting AB2020-046 (Ord 2020-004) amending the 2020 Whatcom County budget, request no. 4, in which they approved \$93,202 for the Executive to fund the Community Outreach Facilitator position.

Frakes asked whether action has been taken on the ordinance after adopting it.

Schroeder stated that the position has been hired.

Frakes stated that in light of that she does not think it is appropriate to

reconsider the ordinance.

***Kershner withdrew*** her motion and asked that the Administration reconsider its decision to spend that money on that position.

The motion to add a fifth item to Introduction (AB2020-173) carried by the following vote:

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

**Nay:** 0

***Frazey moved*** that all five items be introduced. The motion was seconded by Donovan. See votes on individual items below.

1. AB2020-163 Ordinance amending the 2020 Whatcom County Budget, request no. 9, in the amount of \$261,127 (revised from original proposed amount to include only essential items)

**Frazey moved and Donovan seconded that the Ordinance be INTRODUCED.**

**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 2020-019

2. AB2020-164 Ordinance closing the Lighthouse Marine Park Improvement Fund 362

**Frazey moved and Donovan seconded that the Ordinance be INTRODUCED.**

**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 2020-033

3. AB2020-168 Ordinance amending the Whatcom County 2020 Budget, Request No. 10, in the amount of \$3,000,000

**Frazey moved and Donovan seconded that the Ordinance be INTRODUCED.**

**The motion carried by the following vote:**

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

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

**Absent:** 0

4. AB2020-169 Ordinance authorizing an interfund loan to finance cash flow for COVID-19 emergency response

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

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

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

**Absent:** 0

5. AB2020-173 Ordinance establishing a process for information to be disclosed to the Division of Emergency Management, the County Executive, the County Health Board and the public during a public health emergency

**Frazey moved and Donovan seconded that the Ordinance be INTRODUCED.  
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 2020-021

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

***Buchanan*** read the following into the record: In compliance with the Governor's Proclamation 20-28 and in consultation with legal counsel, I ***move*** the Council suspends all meetings, including meetings held remotely, of County boards, commissions, and advisory committees unless:

1. The agenda is necessary to novel coronavirus (Covid-19) response; or
2. The agenda items are routine and necessary as defined by the updated Open Public Meetings Act general guidance from the Office of the Attorney General of March 26, 2020.

This motion WILL REMAIN IN EFFECT during the duration of the proclamation.

If a board, commission, or advisory committee holds a meeting that meets both requirements, the agency should provide public notice on its online agenda of how the public may remotely attend a meeting, listing the details such as a call-in phone number and access code, or login instructions.

The motion was seconded by Browne.

Karen Frakes, Prosecuting Attorney's Office, answered a question about



who makes the designation about whether it fits the criteria. She stated that this motion just states what the law at this time is. It will be a very unusual agenda item that meets the criteria outside of the Health Board or Council Meetings.

***Elenbaas suggested*** a friendly amendment that the Council Chair will make that determination.

***Buchanan accepted*** the friendly amendment and clarified it would be in consultation with legal counsel.

Donovan stated this would only apply to Executive-appointed and Council-appointed commissions.

Byrd asked if this could be written up and voted on as the Health Board on Thursday April 9, 2020, since it seems the Health Board could make it apply county-wide.

Dana Brown-Davis, Clerk of the Council, Frakes and Councilmembers discussed whether there would be boards meeting in the meantime, confusion about what meetings should be canceled because of a previous motion to cancel meetings until they could be held remotely, and the Governor's action since that time to suspend certain portions of the Open Public Meetings Act and impose limitations on meeting agendas as a result of those suspensions. This motion reflects the current state of the law.

The motion as amended carried by the following vote:

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

**Nay:** 0

Buchanan updated the Councilmembers on setting up a Peace Health tour, participation in a five-county regional Council/Executives meeting and a proposed schedule for special and regular Council meetings which can be taken up at the next meeting.

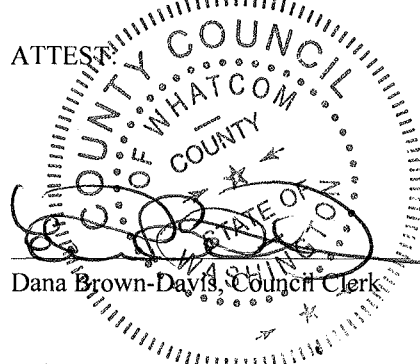
Dana Brown-Davis spoke about what agenda items should be scheduled for Thursday, April 9, 2020 including the ordinance proposed by Browne as an emergency ordinance and the discussion of future dates for the special Public Health meetings. Councilmembers discussed having no Health Department update on the agenda unless it is necessary.

## **ADJOURN**

The meeting adjourned at 4:15 p.m.

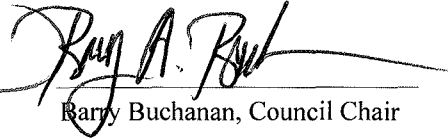
The County Council approved these minutes on July 7, 2020.

ATTEST

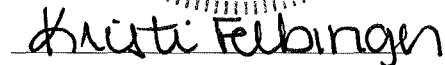


Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA



Barry Buchanan, Council Chair



Kristi Felbinger, Minutes Transcription