

# **Whatcom County Council**

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



## **Minutes - Final**

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

**REVISED 3.22.2021 & 3.23.2021**

**Tuesday, March 23, 2021**

**6 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 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

### COUNTY EXECUTIVE'S REPORT

Satpal Sidhu, County Executive, reported on the affordable housing initiative.

### MINUTES CONSENT

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

1. [MIN2021-023](#) Committee of the Whole Executive Session for March 9, 2021

**Donovan moved and Byrd 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. [MIN2021-024](#) Committee of the Whole for March 9, 2021

**Donovan moved and Byrd 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. [MIN2021-025](#) Regular County Council for March 9, 2021

**Donovan moved and Byrd 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

4. [MIN2021-026](#) Water Work Session for March 16, 2021

**Donovan moved and Byrd 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. [AB2021-134](#) Ordinance amending Whatcom County Code Section 1.14, Electoral Precincts, for changes in certain voting precinct boundaries in Whatcom County

Diana Bradrick, County Auditor, briefed the Councilmembers and answered 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 2021-010

2. [AB2021-135](#) Ordinance regarding temporary installation of stop signs on Noon Road at Ten Mile Road and East Hemmi Road at Noon Road

Jim Karcher, Public Works Department, briefed the Councilmembers.

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 2021-011

3. [AB2021-147](#) Ordinance establishing a fare capital surcharge for the Lummi Island Ferry System

The following people briefed the Councilmembers:

- Roland Middleton, Public Works Department
- Rhayma Blake, Lummi Island Ferry Advisory Committee

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

***Donovan moved*** and Kershner seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Middleton answered questions about what fares the charge will apply to, whether there is an end to the surcharge, how much money it will raise per year and how many of the island's residents fall into the low income or disabled or student population.

Councilmembers discussed the item.

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

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2021-012

4. [AB2021-164](#) Ordinance imposing an additional sales and use tax of one-tenth of one percent for housing and related services as authorized by RCW 82.14.530 adding a new chapter 3.47 to the Whatcom County Code

Satpal Sidhu, County Executive, stated he was available to answer questions.

Buchanan opened the Public Hearing and the following people spoke:

- Joy Gilfilen
- Markis Dee Stidham

- Brien Thane
- Paul Schissler
- Ken Domorod

Hearing no one else, Buchanan closed the Public Hearing.

***Donovan moved*** and Frazey seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Councilmembers discussed the motion.

Satpal Sidhu, County Executive, provided information about what the money can be used for and addressed earlier comments.

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

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

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

**Absent:** 0

Enactment No: ORD 2021-013

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

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

The following people spoke:

- Sharon Bassam
- Louis Burrell
- Joy Gilfilen
- Rainbow Medicine Walker
- Markis Dee Stidham
- Doug (Yoshe) Revelle
- Eliza Steele
- Heather Katahdin
- Holly Koon
- Allison Calder
- Krista Rome
- Todd Baker
- Natalie Chavez

- Misty Flowers
- Susan Windnagel
- Melissa Gregg/Wisener
- Gwen Garrett

Hearing no one else, Buchanan closed 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, three, four, five, six, and seven (item two was withdrawn from the agenda).

Byrd requested that they pull out item number three and vote on it separately.

**Browne withdrew** his motion **and moved** to approve Consent Agenda items one, four, five, six, and seven.

Councilmembers voted on those items (see votes on individual items below).

1. [AB2021-127](#) Resolution to set hearing and notice of hearing on sale of county tax title property

**Browne moved that the Resolution 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 2021-010

2. [AB2021-129](#) Resolution to set hearing and notice of hearing on sale of county tax title property

**This agenda item was WITHDRAWN.**

3. [AB2021-157](#) Request authorization for the County Executive to enter into an interlocal amendment between Whatcom County and Fire Protection District #7 to extend the agreement through December 31, 2022 in the amount of \$296,995

This item was considered separately. See motion and vote below.

4. [AB2021-159](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Patrol to lease tower access at the

WSP Sumas Mountain Communications Site for a period of 10 years in the amount of \$15,304.28

**Browne 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

5. [AB2021-162](#) Request authorization for the County Executive to enter into a lease agreement between Whatcom County and Lookout Mountain Holdings to lease tower access at the Lookout Mountain North Tower Site for four years and seven months for a total amount of \$51,332.73

**Browne moved that the Agreement 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

6. [AB2021-170](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and SeaMar Community Health Centers to provide funding for an additional GRACE Program Case Manager in the amount of \$92,875 for a total amended contract amount of \$1,712,583

**Browne 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

7. [AB2021-183](#) Request authorization for the County Executive to enter into a lease agreement between Whatcom County and Mt Constitution Sites, Inc to lease tower access at the Mt Constitution site for the period of five years in the amount of \$111,000

**Browne moved that the Agreement 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. [AB2021-157](#) Request authorization for the County Executive to enter into an interlocal amendment between Whatcom County and Fire Protection District #7 to extend the agreement through December 31, 2022 in the amount of \$296,995

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

Councilmembers discussed the motion.

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

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

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

**Absent:** 0

### **OTHER ITEMS**

(From Council Finance and Administrative Services Committee)

1. [AB2020-110](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Freedom 2000, LLC dba Cando Recycling and Disposal to lease the Johnson Road Transfer Station Facility in Point Roberts, in the amount of \$750 per month

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

Councilmembers discussed the motion.

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

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

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

**Absent:** 0

2. [AB2021-145](#) Ordinance amending the project budget for Academy Road Stormwater Improvements Fund, request no. 2

**Browne reported for the Finance and Administrative Services Committee and moved that the Ordinance 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 2021-014

3. [AB2021-146](#) Ordinance amending the 2021 Whatcom County Budget, request no. 4, in the amount of \$3,397,903

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

Councilmembers discussed the motion.

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

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

**Nay:** 1 - Elenbaas

**Absent:** 0

Enactment No: ORD 2021-015

4. [AB2021-155](#) Request authorization for the County Executive to enter into a Lease Agreement between Whatcom County Flood Control Zone District and Brian Mellema for the annual amount of \$3,537.53 (Council Acting as the Flood Control Zone District Board of Supervisors)

**Browne reported for the Finance and Administrative Services Committee and moved that the Contract (FCZDBS) be AUTHORIZED. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

5. [AB2021-172](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham for coordinated administration of the GRACE Program, in the amount of \$280,000

**Browne reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

6. [AB2021-178](#) Resolution to seek funding for the Lummi Island Ferry Modernization and Preservation project, including the BUILD grant program

**Browne reported for the Finance and Administrative Services Committee and moved that the Resolution 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 2021-011

**(No Committee Assignment)**

7. [AB2021-165](#) Request Council approval of the proposed charter for the SWISS (Snohomish, Whatcom, Island, Skagit, and San Juan Counties) group

Dana Brown-Davis, Clerk of the Council, briefed the Councilmembers.

Councilmembers discussed the request and whether they would like to move forward with being a part of the SWISS (Snohomish, Whatcom, Island, Skagit, and San Juan Counties) group.

Satpal Sidhu, County Executive, spoke about it from the perspective of the Administration.

***Browne moved*** that they approve the proposed charter. The motion was seconded by Donovan.

Councilmembers discussed the motion and whether this is just a vote to approve the proposed charter and not whether they will be part of the group.

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

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

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

**Absent:** 0

**Abstain:** 1 - Byrd

8. [AB2021-148](#) Ordinance amending Whatcom County Code 3.08 Purchasing System to include nondiscrimination by county contractors

**Browne moved and Byrd seconded that the Ordinance 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 2021-016

**EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES**

1. [AB2021-167](#) Request confirmation of the County Executive’s reappointment of Megen Porter and new appointment of Dana Weber to the Developmental Disabilities Advisory Board

**Donovan moved and Frazey seconded that the Executive Appointment be CONFIRMED. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

2. [AB2021-175](#) Request confirmation of the County Executive’s appointment of Nadine Kaaland to the Public Defense Advisory Committee

**Frazey moved and Donovan seconded that the Executive Appointment be CONFIRMED. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

3. [AB2021-176](#) Request confirmation of the County Executive’s appointment of Kathryn Ketteridge to the Marine Resources Committee

**Donovan moved and Frazey seconded that the Executive Appointment be CONFIRMED. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

4. [AB2021-177](#) Request confirmation of the County Executive’s appointments of Nichole Oleson and Austin Hengy to the Food System Committee

**Kershner moved and Browne seconded that the Executive Appointment be CONFIRMED. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

### **ITEMS ADDED BY REVISION**

1. [AB2021-190](#) Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new or expanded outdoor recreational cannabis growing and/or processing facilities

*Byrd moved* and Donovan seconded that the Ordinance be INTRODUCED FOR PUBLIC HEARING.

*Byrd moved* to amend the ordinance to remove the outdoor reference so it refers both to indoor and outdoor.

Karen Frakes, Prosecuting Attorney's Office, stated this ordinance was tailored specifically to outdoor operations and described the process for how such an amendment could be proposed.

Councilmembers discussed how to proceed.

*Byrd withdrew* his motion to amend.

Councilmembers continued to discuss the motion to introduce the ordinance.

**Byrd's motion that the Ordinance be INTRODUCED FOR PUBLIC HEARING carried by the following vote:**

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

**Nay:** 1 - Elenbaas

**Absent:** 0

Enactment No: ORD 2021-018

2. [AB2021-209](#) Resolution regarding permanent affordability of childcare in Whatcom County  
*Donovan moved* and Byrd seconded that the Resolution be INTRODUCED.

Councilmembers and Satpal Sidhu, County Executive, discussed the motion.

*Buchanan suggested* a friendly amendment that the item be scheduled for more discussion in Committee of the Whole on April 6, 2021.

*Donovan accepted* the friendly amendment.

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

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

**Nay:** 0

**Absent:** 0

## **INTRODUCTION ITEMS**

Buchanan stated that item one has a substitute version and item 5 was withdrawn from the agenda.

*Byrd moved* to introduce items one through four, six and seven. The motion was seconded Donovan (see votes on individual items below).

Councilmembers discussed AB2021-184 and the use of the word "parent."

1. [AB2021-173](#) Ordinance amending the 2021 Whatcom County Budget, request no. 5, in the amount of \$1,220,565

**Byrd moved and Donovan 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

Enactment No: ORD 2021-019

2. [AB2021-171](#) Ordinance granting Trans Mountain Pipeline (Puget Sound) LLC, a non-exclusive franchise for pipeline facilities

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

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

**Nay:** 0

**Absent:** 0

3. [AB2021-184](#) Ordinance amending Whatcom County Code 9.08.020 Unlawful Exposure to include an exception for breastfeeding

**Byrd moved and Donovan seconded that the Ordinance Requiring a Public**

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

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

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2021-017

4. [AB2021-128](#) Resolution to sell county tax title property by public auction

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

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2021-012

5. [AB2021-130](#) Resolution to sell county tax title property by public auction

**This agenda item was WITHDRAWN.**

6. [AB2021-168](#) Resolution declaring the Whatcom County Flood Control Zone District intention to lease property on Emmerson Road (Council Acting as the Flood Control Zone District Board of Supervisors)

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

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2021-013

7. [AB2021-169](#) Resolution declaring the Whatcom County Flood Control Zone District intention to lease property on Dahlberg Road (Council Acting as the Flood Control Zone District Board of Supervisors)

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

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

**Nay:** 0

**Absent:** 0

Enactment No: RES 2021-014

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

Buchanan reported for Committee of the Whole Executive Session.

***Donovan moved*** and Frazey seconded the following motion from Committee of the Whole Executive Session regarding **AB2021-174 Discussion of pending litigation with Civil Deputy Prosecutor Brandon Waldron re: Tojek v. Whatcom County, et al.; Whatcom County Superior Court case no. 21-2-00117-37 [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.110(1)(i):**

The County Council met in executive session concerning the lawsuit Tojek v. Whatcom County, et al., Whatcom County Superior Court No. 21-2-00117-37. Pursuant to Whatcom County Code 2.56, the Council hereby finds the following:

- A. George Roche was acting in a matter in which the county had an interest;
- B. The George Roche was acting in the discharge of a duty imposed or authorized by law;
- C. George Roche acted in good faith. Employee George Roche will be defended and indemnified pursuant to and consistent with the provisions in WCC Chapter 2.56.

The motion carried by the following vote:

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

**Nay:** 0

Councilmembers reported on the other committees.

***Buchanan*** reported for Committee of the Whole and ***moved*** to approve the Council sending a letter if needed to State legislators on funding of the Crisis Stabilization Center and establishing the Center as a State pilot program for diversion. The motion was seconded by Byrd.

The motion carried by the following vote:

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

**Nay:** 0

**ADJOURN**

The meeting adjourned at 10:04 p.m.

The County Council approved these minutes on April 6, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

\_\_\_\_\_  
Dana Brown-Davis, Council Clerk

\_\_\_\_\_  
Barry Buchanan, Council Chair

\_\_\_\_\_  
Kristi Felbinger, Minutes Transcription

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