

Whatcom County Council

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



Minutes - Final

**Tuesday, June 7, 2022
6 PM
Hybrid Meeting**

HYBRID MEETING - PLEASE NOTE: WE ARE EXPERIENCING INTERMITTENT DIFFICULTIES WITH OUR MEETING MANAGEMENT SYSTEM. IF YOU ARE UNABLE TO VIEW VIA THE "IN-PROGRESS" LINK, SEE ZOOM INSTRUCTIONS AT whatcomcounty.us/joinvirtualcouncil.

COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kaylee Galloway
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

COUNTY COUNCIL

CALL TO ORDER

Council Chair Todd Donovan 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, Carol Frazey, Kaylee Galloway, and Kathy Kershner

Absent: None

FLAG SALUTE

ANNOUNCEMENTS

COUNTY EXECUTIVE'S REPORT

Satpal Sidhu, County Executive, spoke about two items given to him by members of the audience, including an American flag and an iris (symbolizing hope and the commitment to young children and families in Whatcom County). He also spoke about sensible gun laws and stated he would be bringing a related Resolution to the Council.

MINUTES CONSENT

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

1. MIN2022-036 Committee of the Whole for May 24, 2022

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

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

Nay: 0

Absent: 0

Temp Absent: 1 - Kershner

2. MIN2022-037 Regular County Council for May 24, 2022

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

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

Nay: 0

Absent: 0

Temp Absent: 1 - Kershner

PUBLIC HEARINGS

1. AB2022-303 Ordinance providing for the submission of a proposition to the qualified electors of Whatcom County authorizing the County to lift the limit on regular property taxes under Chapter 84.55 RCW for the purpose of funding for childcare, early learning programs, and increased support for vulnerable children

Emily O'Connor, proponent, presented.

Donovan opened the Public Hearing and the following people spoke:

- Name not given
- Cynthia Sue Ripke-Kutsigoitz
- Julie Batten
- Sterling Chick
- (first name not audible) Parker
- Keely Deck
- Nasreen Mughal-Barrows
- Christine Espina
- Tim McEvoy
- Kristi Dominguez
- Peter Rand
- Nina (last name not given)
- Mara Kelley
- Keith (and Beck) (last name not given)
- Melissa Gragg
- Rachel Lucy
- Name not stated
- Erin (and Eloise) (last name not stated)
- Ying Wu
- Sarah Hayes
- Heather Flaherty
- Tammie Lagerwey
- Meredith Hayes
- Cliff Langley
- Name not given
- Shu-Ling Zhao
- Satpal Sidhu

- (first name not audible) Johnson
- Name not given

Council staff played a short instructional video about how to speak at the meeting and the following people spoke:

- Skip Hamilton
- Misty Flowers
- Michele Cameron
- Dan Hammill
- Kelly Bashaw
- Nathan Carnes
- Jamie Desmul
- Jennifer Wright
- Sara Rose
- Dam Pham
- Fran Isbell
- Debra Van Beek
- Wendy Harris
- Nancy Bergman
- Ken Domorod

Hearing no one else, Donovan closed the Public Hearing.

Ray Deck, proponent, spoke about the Ordinance and addressed some of the public comments.

Frazey moved and Buchanan seconded that the Ordinance be ADOPTED.

Buchanan spoke about his support for the Ordinance and Elenbaas asked whether this will require a two thirds majority vote or a fifty percent vote to pass.

Elenbaas moved to amend the Ordinance to require a two thirds majority vote to pass.

Karen Frakes, Prosecuting Attorney's Office, stated this is all something that is done pursuant to State law and that would not be allowed under State law.

Elenbaas' motion was not voted on for lack of a second.

Elenbaas moved to amend the third whereas statement on page two of the Ordinance to add language as follows:

WHEREAS, the County wishes to exempt those individuals that qualify for property tax exemptions under RCW 84.36.381; and taxpayers over the age of 61 shall be exempt from this tax.

The motion was seconded by Kershner.

Elenbaas clarified his motion that the proposed amendment should be added to the Ordinance on page two, line twenty-four; page two, line forty; and page six, line twelve.

Frakes stated, I think this is dictated by State law and I don't think we can create our own exemptions from property tax.

Kershner asked if there is an income threshold for people over 61 that Elenbaas would want to meet but Elenbaas did not change his motion.

Frakes answered whether Revised Code of Washington (RCW) 84.36.381 already applies to people 61 and over.

Elenbaas repeated his motion to add, "taxpayers over the age of 61 shall be exempt from this tax" to page two, line twenty-four; page two, line forty; and page six, line twelve of the Ordinance.

Councilmembers discussed the motion to amend.

The motion to amend failed by the following vote:

Aye: 1 - Elenbaas

Nay: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Satpal Sidhu, County Executive, stated the Ordinance has a sunset clause of ten years.

Councilmembers discussed the Ordinance and the motion to adopt.

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

Aye: 5 - Buchanan, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

Abstain: 1 - Byrd

Enactment No: ORD 2022-045

OPEN SESSION

Clerk's note: Councilmembers took a short recess and reconvened at 8:55 p.m.

The following people spoke:

- Cynthia Sue Ripke-Kutsigoitz
- Markis Dee Stidham
- Melissa Gragg
- Cliff Langley
- Simon Sefzik
- Barbara Powers
- Carol Perry
- Name not given
- Name not given
- Lyle Sorenson
- Name not given
- Name not given
- Natalie Chavez
- Nancy Bergman
- Misty Flowers
- Skip Hamilton
- Sara Rose
- Richard Tran

Hearing no one else, Donovan closed the Open Session.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

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

1. AB2022-300 Request authorization for the County Executive to enter into a contract between Whatcom County and Lydia Place to provide operational funding for a new

permanent supportive housing program known as Heart House, in the amount of \$57,145

Byrd 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, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

2. AB2022-305 Resolution updating the appendix of the 2022 Comprehensive Economic Development Strategy (CEDS)

Byrd reported for the Finance and Administrative Services Committee and moved that the Resolution be APPROVED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

Enactment No: RES 2022-030

3. AB2022-306 Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and the Washington State Department of Social and Health Services to provide funding for developmental disability services in the amount of \$4,099,797 for a total amended contract amount of \$8,225,332

Byrd 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, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

4. AB2022-307 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Language Exchange, Inc. to provide language interpreter and translation services for the Health Department in the amount of \$19,000 for a total amended contract amount of \$49,000

Byrd 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, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

5. AB2022-310 Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and the Washington State Department of Health for the delivery and funding of various public health services in the amount of \$36,795, for a total amended agreement amount of \$5,959,895

Byrd 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, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

6. AB2022-313 Request approval for the County Executive to enter into the Rural Arterial Program Funding Contract Amendment No. 1 between Whatcom County and the County Road Administration Board in the amount of \$690,000 for a total amended amount of \$860,100

Byrd 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, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

7. AB2022-316 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Skagit Valley College for use of the Plantation Rifle Range for training purposes, in the amount of \$7,177.87

Byrd 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, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

8. AB2022-328 Request approval for the County Executive to award Bid No 22-28 and enter into a contract with lowest responsible bidder, American Construction Co., Inc. for the

Lummi Island Dolphin Repair Project in the amount of \$327,429

Byrd 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, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

OTHER ITEMS

(From Council Climate Action and Natural Resources Committee)

1. AB2022-335 Request approval to send a letter to the State Building Code Council on residential energy code

Galloway reported for the Climate Action and Natural Resources Committee and stated that she and Byrd had an opportunity to work through some additional language. They are still working through what a second substitute might look like for this letter. She is not sure if they should stand firm in the value of advocating for an updated residential energy code that promotes a transition to all-electric or do they try to reconcile to find a middle ground that reflects a little bit more the diversity of our community and some of the challenges our communities face. She would like to know how the Council would like to proceed.

Byrd spoke about having language in the letter that is specific and strong in relation to the impacts that something like this would have on our community.

Dana Brown-Davis, Clerk of the Council, answered whether there would be an alternative way to go about approving and sending a letter before the June 17th deadline if they postpone it tonight.

Elenbaas stated he is not opposed to a clean energy transition or electrification in general but he has a hard time with banning things. If the Council decides to send a letter he would like his name to be taken off the letter. It is well-meaning, but if the infrastructure, building industry, and people are not ready for it, it will cause massive problems.

Galloway reported on the motion from Committee and *moved* to recommend the substitute version, but then stated if she were to make a new motion it would be to hold off for a couple days and then have the Council Clerk circulate for individual Councilmember consideration to give us

more time to work on a second substitute.

Galloway withdrew the motion to recommend the substitute letter and *moved* to table the letter until June 10th, with circulation on June 13th, for final consideration on June 15th to be sent prior to June 17th.

She restated the motion to give the Councilmembers until June 10th to finalize a second substitute, for sending to Council on June 13th, for approval by June 15th, and to send in prior to the 17th.

Councilmembers discussed when they might be able to discuss the letter and whether it could be added as a special meeting after the Water Work Session on June 14th.

Galloway withdrew her motion and *moved* to postpone the letter until a June 14th special session after the Water Work Session. The motion was seconded by Kershner.

The motion carried by the following vote:

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

Nay: 0

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

(From Council Finance and Administrative Services Committee)

2. AB2022-280 Ordinance amending Whatcom County Code Section 3.08.095, Small Works Roster Contract Award process, to update requirements for Bids and Proposals

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

Dana Brown-Davis, Clerk of the Council, clarified that there was a recommended amendment.

Kershner moved to amend the Ordinance to include a sunset (or a review) clause after two years. The motion was seconded by Elenbaas.

The motion to amend carried by the following vote:

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

Nay: 0

Byrd's motion that the Ordinance be ADOPTED AS AMENDED carried by

the following vote:

Aye: 5 - Buchanan, Donovan, Frazey, Galloway, and Kershner

Nay: 2 - Byrd, and Elenbaas

Absent: 0

Enactment No: ORD 2022-046

3. AB2022-319 Ordinance amending the 2022 Whatcom County Budget, request No. 8a, in the amount of \$1,500,000

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

Elenbaas stated he does not support the Ordinance because it seems to be taking resource land out of production which will hurt our overall ability to support a resource-based economy and that would be timber harvest.

Chris Elder, Public Works Department, answered when the easement agreement will be completed, whether the actual purchase will come before the Council again or whether the \$1.5 million budget item will be the final action item, and whether this is just phase one.

Kershner stated she would like to have the easement before they grant the approval.

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

Aye: 5 - Buchanan, Donovan, Frazey, Galloway, and Kershner

Nay: 2 - Byrd, and Elenbaas

Absent: 0

Enactment No: ORD 2022-047

4. AB2022-317 Request authorization for the County Executive to enter into a contract between Whatcom County and Pyramid Communications for public communications for the Incarceration Prevention and Reduction Task Force in the amount of \$88,800.00

Byrd stated this agenda item was withdrawn.

This agenda item was WITHDRAWN.

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. AB2022-281 Appointment to a vacancy on the Board of Equalization for an at-large alternate - Applicant(s): Thomas Goetzl and Jen Glyzinski

Buchanan moved and Galloway seconded to consider both candidates.

Councilmembers confirmed there is just one position and appointed Jen Glyzinski with six votes as follows:

Buchanan - Jen Glyzinski
 Byrd - Jen Glyzinski
 Donovan - Thomas Goetzl
 Elenbaas - Jen Glyzinski
 Frazey - Jen Glyzinski
 Galloway - Jen Glyzinski
 Kershner - Jen Glyzinski

This agenda item was APPOINTED.

Appointed Glyzinski with six votes

CONFIRMATION OF EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. AB2022-332 Request confirmation of the County Executive's reappointment of Marshall Gartenlaub and George Edward to the Northwest Senior Services Board

Byrd moved and Galloway seconded that the Executive Appointment be CONFIRMED. The motion carried by the following vote:

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

Nay: 0

Absent: 0

ITEMS ADDED BY REVISION

There were no agenda items added by revision.

INTRODUCTION ITEMS

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

1. AB2021-424 Ordinance adopting amendments to the Whatcom County Code Title 20, Zoning to allow and regulate Battery Energy Storage Systems

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

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

Enactment No: ORD 2022-048

2. AB2022-320 Ordinance closing the Agate Heights/Estate Bay Lane Stormwater Improvements Fund 365

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

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

Enactment No: ORD 2022-049

3. AB2022-321 Ordinance closing the Northshore Drive/Edgewater Lane Stormwater Improvements Fund 381

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

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

Enactment No: ORD 2022-050

4. AB2022-326 Ordinance amending the project based budget for the North Lake Samish Road Bridge No. 107 Replacement Fund, request no. 1

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

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

Enactment No: ORD 2022-051

5. AB2022-327 Ordinance amending the Shallow Shore Culvert Relocation Fund, request no. 1

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

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

Enactment No: ORD 2022-052

6. AB2022-329 Ordinance amending the 2022 Whatcom County Budget, request no. 9, in the amount of \$15,838,261

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

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

Enactment No: ORD 2022-053

7. AB2022-322 Resolution amending the Flood Control Zone District & Subzones 2022 budget, request no. 3, in the amount of \$5,250,617 (Council acting as the Flood Control Zone District Board of Supervisors)

Galloway moved and Buchanan seconded that the Resolution (FCZDBS) be INTRODUCED. The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

Enactment No: RES 2022-031

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Donovan reported on the discussion in Committee of the Whole Executive Session.

Kershner moved and Buchanan seconded the following motion:

I hereby move to approve defense and indemnification of David Reynolds, named as a defendant in Fred A. Pulphus, Plaintiff v. Compass Health, a Washington Corporation, Whatcom County, Whatcom County Sheriff's Office, Wendy Jones, and David Reynolds, Defendants, United States District Court Western District of Washington Case No. 2:21-cv-00930-TL-BAT Based on the following findings:

2:21-cv-00930-TL-BAT Based on the following findings:

A. David Reynolds was acting in a matter in which the county had an interest;

B. David Reynolds was acting in the discharge of a duty imposed or authorized by law;

C. David Reynolds acted in good faith.

The motion carried by the following vote:

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

Nay: 0

Councilmembers gave committee reports and updates on the following topics:

- The upcoming Deming Log Show this weekend
- Council interacting and responding to Open Session public comments
- Council “staying in their lane” and dealing with issues that are within their control and purview
- The deadline for Councilmembers to submit comments regarding the proposed Comprehensive Plan Resolution
- Continued work on developing a dig-once policy for broadband
- A Lake Whatcom Policy Group meeting last week and a conversation around forestry
- Galloway’s attendance of one of two meetings hosted by the Department of Ecology and Commerce concerning a low-carbon energy project siting improvement study and a second meeting coming up on June 16th.
- A Washington State Association of Counties (WSAC) timber training this week which Galloway will be attending
- A Whatcom Women in Timber Woods Tour on Friday, June 10th which Kershner will be attending

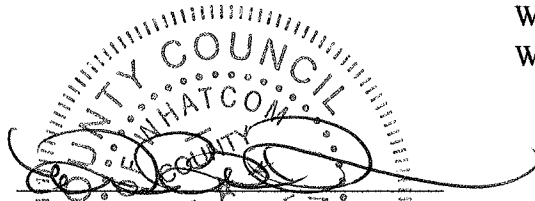
A motion from Committee of the Whole Executive Session was approved 7-0 (see notes above).

ADJOURN

The meeting adjourned at 10:41 p.m.

The County Council approved these minutes on June 21, 2022.

ATTEST:



Dana Brown-Davis, Council Clerk

Kristi Felbinger

Kristi Felbinger, Minutes Transcription

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Todd Donovan, Council Chair