

# **Whatcom County Council**

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



## **Minutes - Final**

REVISED 3.9.2020 (SEE REVISION NOTICE IN MEETING DETAILS)

**Tuesday, March 10, 2020**

**7 PM**

**Council Chambers**

### **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 7 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

### ROLL CALL

**Present:** 6 - Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, and Ben Elenbaas

**Absent:** 1 - Kathy Kershner

### FLAG SALUTE

### ANNOUNCEMENTS

Satpal Sidhu, County Executive, announced the first confirmed positive case of COVID-19 in Whatcom County today, his decision to declare a public health emergency in Whatcom County, and new recommendations made today by the Whatcom County Health Department. He read into the record the Whatcom County Proclamation of Emergency.

*Donovan moved* to affirm the Executive's proclamation. The motion was seconded.

The motion carried by the following vote:

**Aye:** 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey

**Nay:** 0

**Absent:** 1 - Kershner

### MINUTES CONSENT

1. [MIN2020-035](#) Water Work Session for February 18, 2020

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

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

**Nay:** 0

**Absent:** 1 - Kershner

2. [MIN2020-036](#) Regular County Council for February 25, 2020

**Donovan moved and Frazey seconded that the Minutes Consent be**

**APPROVED BY CONSENT. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 1 - Kershner

**OPEN SESSION (20 MINUTES)**

The following people spoke:

Yoshi Ravell spoke about the climate and the environment.

Allison Calder spoke about the COVID-19 virus and the transfer station in Point Roberts.

John Lesow submitted a handout (on file) and spoke about an article written concerning Point Roberts.

Ken Calder spoke about the transfer station in Point Roberts.

James Reiley spoke about the COVID-19 virus.

**CONSENT AGENDA**

*Byrd* reported for the Finance and Administrative Services Committee and *moved* to approve Consent Agenda items one through four.

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

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

1. [AB2020-105](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Snohomish County to utilize State Homeland Security Program (SHSP) funding to sustain and enhance Division of Emergency Management programs, in the amount of \$87,923

**Byrd moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 1 - Kershner

2. [AB2020-095](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and the City of Sumas to remove Yakima County Jail and add Kittitas County Jail as a Correctional Facility utilized by Whatcom County

**Byrd moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 1 - Kershner

3. [AB2020-101](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and the City of Ferndale to remove Yakima County Jail and add Kittitas County Jail as a Correctional Facility utilized by Whatcom County

**Byrd moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 1 - Kershner

4. [AB2020-102](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and the City of Everson to remove Yakima County Jail and add Kittitas County Jail as a Correctional Facility utilized by Whatcom County

**Byrd moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 1 - Kershner

## **OTHER ITEMS**

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

1. [AB2020-109](#) Request authorization for the County Executive to enter into an interlocal contract amendment between Whatcom County and Whatcom Conservation District to provide Lake Whatcom Homeowner Incentive Program assistance, in the amount of \$100,000 for a total amended interlocal contract amendment amount of \$316,000

**Byrd moved that the Interlocal be AUTHORIZED. The motion carried by the following vote:**

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

**Nay:** 1 - Elenbaas

**Absent:** 1 - Kershner

2. [AB2020-112](#) Request for authorization for the County Executive to enter into an Interlocal Agreement between Whatcom County and the City of Ferndale for the Stormwater Education and Outreach Project

**Byrd moved that the Interlocal be AUTHORIZED. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 1 - Kershner

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

3. [AB2020-092](#) Ordinance amending Whatcom County Code (WCC) 2.150, Whatcom County Veterans' Advisory Board, and WCC 2.152, Veterans' Assistance Program

**Frazey moved that the Ordinance be ADOPTED. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 1 - Kershner

Enactment No: ORD 2020-007

**(No Committee Assignment)**

4. [AB2020-131](#) Emergency ordinance amending the 2020 Whatcom County Budget, request no. 7, in the amount of \$150,000 (Ordinance amended and amount changed to \$250,000)
- Satpal Sidhu, County Executive, briefed the Councilmembers about what the funds will be used for and about workforce planning.

**Browne moved** that the Ordinance be ADOPTED. The motion was seconded.

Browne asked Executive Sidhu if he would still like to increase the amount to \$250,000 and Sidhu said yes.

**Buchanan moved** to amend the amount to \$250,000. The motion was seconded.

Councilmembers, Sidhu and Tyler Schroeder, Executive's Office, discussed the motion. Supplies are especially needed at this time. If money gets reimbursed from the Federal or State government it would get returned to

the general fund. If we get grant revenue coming in we would have to bring forward a budget supplemental to accept the grant revenue and show where those dollars will go.

The motion to amend carried by the following vote:

**Aye:** 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey

**Nay:** 0

**Absent:** 1 - Kershner

Karen Frakes, Prosecuting Attorney's Office, answered a question about whether this ordinance needs a public hearing.

The motion to adopt as amended carried by the following vote:

**Aye:** 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey

**Nay:** 0

**Absent:** 1 - Kershner

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

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

**Nay:** 0

**Absent:** 1 - Kershner

Enactment No: ORD 2020-008

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

1. [AB2020-104](#) Request confirmation of Executive's appointment of Robin Thomas to the Bicycle Pedestrian Advisory Committee

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

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

**Nay:** 0

**Absent:** 1 - Kershner

2. [AB2020-122](#) Request confirmation of the Executive's appointment of Pam Sheppard to the Point Roberts Community Advisory Committee

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

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

**Nay:** 1 - Byrd

**Absent:** 1 - Kershner

## **INTRODUCTION ITEMS**

**Browne moved** to introduce items one through six. The motion was seconded and Councilmembers discussed item six. (see votes on individual items below).

1. [AB2020-091](#) Ordinance amending Whatcom County Code 16.20, Whatcom County Shellfish Protection Districts

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

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

**Nay:** 0

**Absent:** 1 - Kershner

Enactment No: ORD 2020-031

2. [AB2020-093](#) Ordinance amending Whatcom County Code 1.32, Public Records, to delete provisions related to exhaustion of administrative remedies

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

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

**Nay:** 0

**Absent:** 1 - Kershner

Enactment No: ORD 2020-032

3. [AB2020-118](#) Ordinance amending the 2020 Whatcom County Budget, request no. 6, in the amount of \$339,615

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

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

**Nay:** 0

**Absent:** 1 - Kershner

Enactment No: ORD 2020-009

4. [AB2020-119](#) Ordinance establishing the Swift Creek Capital Projects Fund and establishing a

project based budget for Swift Creek Capital Projects

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

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

**Nay:** 0

**Absent:** 1 - Kershner

Enactment No: ORD 2020-010

5. [AB2020-120](#) Ordinance authorizing an interfund loan to finance cash flow for the Swift Creek Capital Projects Fund

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

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

**Nay:** 0

**Absent:** 1 - Kershner

Enactment No: ORD 2020-011

6. [AB2020-121](#) Resolution regarding support for a Community Development Block Grant funding application and review of current CDBG funding opportunities

Tyler Schroeder, Executive's Office, Satpal Sidhu, County Executive, and Councilmembers discussed whether the County qualifies for this and Schroeder stated he would bring information about it at the next meeting.

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

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

**Nay:** 0

**Absent:** 1 - Kershner

Enactment No: RES 2020-011

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

Councilmembers gave committee reports and other updates.

### **(From Committee of the Whole - Executive Session)**

- [AB2020-123](#) Discussion of pending litigation with Civil Deputy Prosecutor George Roche: Maier v. Elfo, et al. [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW42.30.110 (1) (i)]



**Browne** read the following and *moved* that:

The County Council met in executive session concerning the lawsuit: Maier v. Whatcom County, et al. Pursuant to Whatcom County Code 2.56, the Council hereby finds the following:

- A. The employees were acting in a matter in which the county had an interest;
- B. The employees were acting in the discharge of a duty imposed or authorized by law;
- C. The employees acted in good faith.

The officers, officials, agents or employees will be defended and indemnified pursuant to and consistent with the provisions in WCC Chapter 2.56.

The motion was seconded.

**Browne's motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 1 - Kershner

[AB2020-125](#) Discussion of pending litigation with Civil Deputy Prosecutor George Roche: Bredberg v. Middaugh, et al. [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW42.30.110 (1) (i)]

**Elenbaas** read the following and *moved* that:

The County Council met in executive session concerning the lawsuit: Bredberg V. Middaugh, et al. Pursuant to Whatcom County Code 2.56, the Council hereby finds the following:

- A. The employees were acting in a matter in which the county had an interest;
- B. The employees were acting in the discharge of a duty imposed or authorized by law;
- C. The employees acted in good faith.

The officers, officials, agents or employees will be defended and indemnified pursuant to and consistent with the provisions in WCC Chapter 2.56.

The motion was seconded.

**Elenbaas' motion carried by the following vote:**

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

Nay: 0

Absent: 1 - Kershner

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

**Contiued**

Councilmembers discussed how the chair of the Health Board is determined, about being prepared for the challenges of the COVID-19 virus, being a good neighbor to others, the importance of checking the Health Department website, that fact that the measures that have been put in place are to keep us from overrunning our infrastructure, volunteer opportunities for citizens, and the need for blood donations.

**ADJOURN**

The meeting adjourned at 8:00 p.m.

The County Council approved these minutes on June 16, 2020.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

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

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

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

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