

# **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 6.15.2021  
Tuesday, June 15, 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

Buchanan announced the following:

The Council is accepting applications to a vacancy on the Lummi Island Ferry Advisory Committee. This vacancy must be filled by someone who does NOT live on or own property on Lummi Island. If you are interested in serving Whatcom County and the Lummi Island community, please let us know at 360-778-5010 or email the Council at council@co.whatcom.wa.us.

### COUNTY EXECUTIVE'S REPORT

Satpal Sidhu, County Executive, stated he did not have a report.

### MINUTES CONSENT

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

1. MIN2021-047 Committee of the Whole Executive Session for June 1, 2021

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

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

**Nay:** 0

**Absent:** 0

**Temp Absent:** 1 - Byrd

2. MIN2021-048 Committee of the Whole for June 1, 2021

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

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

**Nay:** 0

**Absent:** 0

**Temp Absent:** 1 - Byrd

3. MIN2021-049 Regular County Council for June 1, 2021

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

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

**Nay:** 0

**Absent:** 0

**Temp Absent:** 1 - Byrd

**OPEN SESSION (20 MINUTES)**

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

The following people spoke:

- Kathy Sabel
- Misty Flowers
- Andrea Ward
- Shean Halley
- Nancy Bergman
- Natalie Chavez
- Jean Purcell
- Markis Dee Stidham

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 through nine.

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

1. AB2021-319 Request authorization for the County Executive to enter into a contract between

Whatcom County and Arc of Whatcom County to provide information, education, and family support to individuals with developmental disabilities, their family members, and the general public, in the amount of \$150,616

**Browne 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 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

**Nay:** 0

**Absent:** 0

- 2. AB2021-321 Request authorization for the County Executive to enter into an agreement between Whatcom County and the County Road Administrative Board (CRAB) in order to receive Rural Arterial Preservation grant funding for the Hampton Road Pavement Rehabilitation project in the amount of \$170,100

**Browne 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 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

**Nay:** 0

**Absent:** 0

- 3. AB2021-322 Request authorization for the County Executive to enter into a contract between Whatcom County and the Executive Office of the President for a grant award for funding from the High Intensity Drug Trafficking Areas (HIDTA) program in the amount of \$205,073.00

**Browne 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 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

**Nay:** 0

**Absent:** 0

- 4. AB2021-325 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to provide funding for Child Development Services to eligible children ages birth to three who have developmental disabilities and delays, in the estimated amount of \$77,812, for a total estimated amended contract amount of \$213,952

**Browne 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 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

**Nay:** 0

**Absent:** 0

5. AB2021-332 Resolution to amend Resolution 2020-046 for unrepresented Whatcom County employees

**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 2021-021

6. AB2021-333 Request authorization for a Letter of Understanding between Whatcom County and General Teamsters' Local Union 231 to amend the Master Collective Bargaining Agreement for the period January 1, 2019 - December 31, 2021

**Browne 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 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

**Nay:** 0

**Absent:** 0

7. AB2021-335 Request authorization for a Letter of Understanding between Whatcom County and the WA State Nurses Association to amend the collective bargaining agreement for the period January 1, 2021 - December 31, 2022

**Browne 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 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

**Nay:** 0

**Absent:** 0

8. AB2021-336 Request authorization for a Letter of Understanding between Whatcom County and

PROTEC17 to amend the collective bargaining agreement for the period January 1, 2019 - December 31, 2021

**Browne 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 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

**Nay:** 0

**Absent:** 0

9. AB2021-337 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Northwest Educational Services District 189 to provide behavioral health services, in the amount of \$121,000

**Browne 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 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

**Nay:** 0

**Absent:** 0

## **OTHER ITEMS**

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

1. AB2021-307 Ordinance amending the 2021 Whatcom County Budget, request no. 9, in the amount of \$1,138,322

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

Councilmembers discussed the motion and specifically the fund used to unfreeze County staff positions that had been frozen during the COVID-19 crisis.

Satpal Sidhu, County Executive, answered questions about and Councilmembers discussed the funding source, what happens in the long run when the American Rescue Plan Act funds are gone and the County has committed money for these staff positions, and whether general funds would be set aside for that time.

**Browne's motion that the Ordinance 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 2021-035

2. AB2021-310 Ordinance establishing the American Rescue Plan Act Fund and establishing a budget for the American Rescue Plan Act Fund

**Browne reported for the Finance and Administrative Services Committee and moved that the Ordinance be ADOPTED. 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 2021-036

3. AB2021-324 Request authorization for the County Executive to enter into Local Agency Agreement Supplement No. 4 between Whatcom County and the Washington State Department of Transportation for the Birch Bay Drive and Pedestrian Facility Project in the amount of \$1,100,000

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

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

**Nay:** 0

**Absent:** 0

4. AB2021-330 County Executive requests approval of the Economic Development Investment (EDI) Board's recommendations for funding to support three project applications from the City of Lynden, Port of Bellingham, and Bellingham Housing Authority

**Browne** reported for the Finance and Administrative Services Committee and **moved** to approve the agenda item with the following amendments as recommended in committee:

- **PORT OF BELLINGHAM:** To not approve the \$6 million for the Port of Bellingham but to approve the letter of support for \$2 million with the condition that accepting grant funding will be subject to an explanation as to how they will deliver the last mile for internet coverage

- CITY OF LYNDEN: To recommend to the Council an alternative of \$2 million of loan funding to be approved for the City of Lynden project as opposed to a one third grant and two thirds loan
- BELLINGHAM HOUSING AUTHORITY: (No amendments - approve the Housing Authority proposal as described)

*Donovan moved* that they bring the full proposals that were in the Committee to the full Council for consideration. The motion was seconded by Elenbaas but a motion was on the floor.

Browne stated he would withdraw his motion but Councilmembers discussed that his motion cannot be withdrawn so they voted on his motion to approve the agenda item with the recommended amendments.

Browne's motion failed by the following vote:

**Aye:** 0

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

*Donovan moved* to begin the discussion with the proposal that went to the Committee and that was in the packet. The motion was seconded by Kershner.

Browne suggested that they trifurcate each proposal and discuss each one separately and Donovan accepted that suggestion.

#### PORT OF BELLINGHAM

Tyler Schroeder, Executive's Office, briefed the Councilmembers and Councilmembers discussed the amount of the request.

*Kershner moved* that they change the Economic Development Investment (EDI) funding request from \$6 million to \$2 million. The motion was seconded by Donovan.

Donovan asked whether it would be a combination of loans and grants.

Kershner stated she would amend her motion to include that the \$2 million would be in combination of loans and grants as presented in the packet but then withdrew it because that scenario would be for a different request and not the Port of Bellingham. They voted on her original motion.

The motion carried by the following vote:

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

Nay: 0

**Browne moved** that the Port of Bellingham has to come back with a plausible explanation as to how they are going to do the last mile before they can accept the grant and the Council will fund it. The motion was seconded by Elenbaas.

Councilmembers discussed the motion, what the Council is asking of the Port, and giving them a letter of support and the following people answered whether the Port of Bellingham has to come back to the Council after the vote tonight or if it is a done deal:

- Tyler Schroeder, Executive's Office
- Satpal Sidhu, County Executive

**Browne restated** his motion that before they can accept the grant (which is the trigger point for the Council to fund the EDI), the Port of Bellingham has to give the Council a good explanation of how they are going to do the last mile.

Schroeder answered whether it will impede the Port's ability to apply for the grant.

The motion carried by the following vote:

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

Nay: 0

#### CITY OF LYNDEN

Browne reported for the Finance and Administrative Services Committee.

Satpal Sidhu, County Executive, answered a question about whether these requests would come as three separate ordinances in the future. Today is just approval for the Administration to prepare the ordinances.

**Kershner moved** to accept the EDI application from Lynden as submitted. The motion was seconded by Elenbaas.

Councilmembers and Sidhu discussed the motion and the request.

The motion carried by the following vote:

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

**Nay:** 0

**Abstain:** 1 -Browne

BELLINGHAM HOUSING AUTHORITY

**Browne** reported for the Finance and Administrative Services Committee and *moved* to approve the request.

The motion carried by the following vote:

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

**Nay:** 1 - Byrd

THE MAIN AGENDA ITEM AS AMENDED

**Browne moved** to approve AB2021-330 as amended. The motion was seconded by Kershner.

Councilmembers and Sidhu discussed the motion.

**This Special Executive Only Item was APPROVED AS AMENDED by the following vote.**

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

**Nay:** 0

**Absent:** 0

**Abstain:** 1 - Byrd

5. AB2021-331 Request authorization for the County Executive to award bid #21-26 and enter into a contract between Whatcom County and Tiger Construction LTD for the Plantation Indoor Range HVAC and Roof Replacement, in the amount of \$1,032,352.54

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

Councilmembers discussed the motion and what kind of revenue the plantation range brings in.

Christ Thomsen, Parks and Recreation Department, answered whether the Parks Department has explored selling the plantation rifle range to a private party.

**Browne's motion that the Bid Award be AUTHORIZED carried by the**

**following vote:**

**Aye:** 5 - Buchanan, Byrd, Donovan, Elenbaas, and Kershner

**Nay:** 0

**Absent:** 0

**Abstain:** 2 - Browne, and Frazey

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

6. AB2021-320 Discussion of community-requested revision to the Birch Bay Golf Cart Zone boundary, and request for Council direction

*Frazey* reported for the Public Works and Health Committee and *moved* that they request that Public Works Department do a traffic study on this proposal.

Councilmembers discussed the motion.

*Kershner moved* to amend the motion to remove the portion of Bay Road that the residents have asked us to do (without the traffic study), return the speed limit to 35, and save the traffic study for the additional area that the residents out there would like us to look at including. The motion was seconded by Elenbaas.

Jon Hutchings, Public Works Department Director, stated there needs to be an ordinance change and Public Works would prefer to go through an analysis of all the controls on establishing speed limits and make sure we are doing things right before we make these changes. He answered whether the traffic study is the better way to go.

The amended motion carried by the following vote:

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

**Nay:** 0

**This item was DISCUSSED AND MOTION(S) APPROVED**

**(From Council Committee of the Whole)**

7. AB2021-279 Ordinance submitting to the qualified voters of Whatcom County a proposal to amend Whatcom County Charter Section 8.22 to align requirements for amending the Charter by citizen initiative with Washington State norms

*Buchanan* reported for the Committee of the Whole and *moved* that the Ordinance be Adopted.

Councilmembers discussed the motion and ways Charter amendments should be proposed.

**Buchanan's motion that the Ordinance be adopted FAILED (because the item required a supermajority vote) by the following vote:**

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

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

**Absent:** 0

**(No Committee Assignment)**

8. AB2021-323 Request approval to send letter of appreciation to child care team members  
Frazey briefed the Councilmembers.

**Browne moved and Frazey seconded that the REQUEST be APPROVED.  
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. AB2021-360 Ordinance to establish an independent review of the community response to the COVID-19 Pandemic

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

Councilmembers discussed the motion, a letter of support that came from the head of the Emergency Operations Center, and the process for the independent review. They concurred that the item should be placed in Committee of the Whole for discussion.

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

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

**Nay:** 1 - Elenbaas

**Absent:** 0

Satpal Sidhu, County Executive, commented on the proposed Ordinance and stated it is too early.

### **INTRODUCTION ITEMS**

*Donovan moved* that they withdraw AB2021-185 from Introduction tonight. The motion was seconded by Browne and Councilmembers voted (see motion and vote on item below).

*Donovan moved* to introduce items 2-4. The motion was seconded by Browne (see votes on individual items below).

1. AB2021-185 Ordinance amending Whatcom County Code 9.32, Unlawful Discharge of Firearms, to establish a no shooting zone in the Drayton Harbor area of Whatcom County

**Donovan moved and Browne seconded that the Ordinance Requiring a Public Hearing be WITHDRAWN from Introduction. The motion carried by the following vote:**

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

**Nay:** 0

**Absent:** 0

This item was withdrawn from Introduction and held in Committee.

2. AB2021-327 Ordinance amending the Whatcom County Budget, request no. 10, in the amount of \$744,800

**Donovan moved and Browne seconded that the 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 2021-038

3. AB2021-328 Resolution amending the Flood Control Zone District and subzones 2021 budgets, request no. 1, in the amount of \$15,415 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

**Donovan moved and Browne seconded that the Resolution (FCZDBS) 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: RES 2021-022

- 4. AB2021-340 Ordinance suspending Whatcom County Code 1.28 to update the Correctional Facilities operational standards

**Donovan moved and Browne seconded that the 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 2021-039

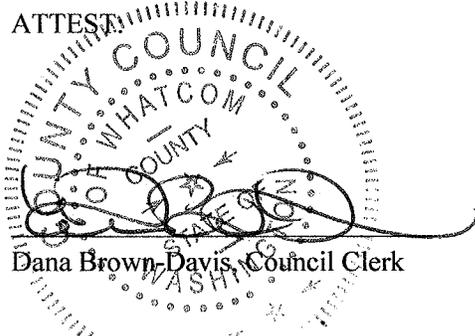
**COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES**

Councilmembers gave committee reports and updates on recent events.

**ADJOURN**

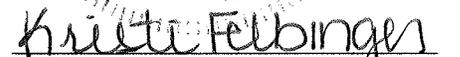
The meeting adjourned at 9:04 p.m.

The County Council approved these minutes on June 29, 2021.

ATTEST  

 Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL  
 WHATCOM COUNTY, WA

  
 Barry Buchanan, Council Chair

  
 Kristi Felbinger, Minutes Transcription