

Whatcom County Council

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



Minutes - Draft Minutes

Tuesday, February 6, 2024

6 PM

Hybrid Meeting

HYBRID MEETING (PARTICIPATE IN-PERSON, SEE REMOTE JOIN INSTRUCTIONS AT www.whatcomcounty.us/joinvirtualcouncil, OR CALL 360.778.5010), AGENDA REVISED 2.6.2024

COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Kaylee Galloway
Jon Scanlon
Mark Stremler

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 p.m. in a hybrid meeting.

ROLL CALL

Present: 7 - Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Kaylee Galloway, Jon Scanlon, and Mark Stremler

FLAG SALUTE

ANNOUNCEMENTS

COUNTY EXECUTIVE'S REPORT

MINUTES CONSENT

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

1. [MIN2024-004](#) Committee of the Whole for January 23, 2024

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

Aye: 5 - Buchanan, Donovan, Galloway, Scanlon, and Stremler

Nay: 0

Temp Absent: 2 - Byrd, and Elenbaas

2. [MIN2024-005](#) Regular County Council for January 23, 2024

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

Aye: 5 - Buchanan, Donovan, Galloway, Scanlon, and Stremler

Nay: 0

Temp Absent: 2 - Byrd, and Elenbaas

3. [MIN2024-006](#) Health Board and Public Health Advisory Board for January 29, 2024

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

Aye: 5 - Buchanan, Donovan, Galloway, Scanlon, and Stremler

Nay: 0

Temp Absent: 2 - Byrd, and Elenbaas

OPEN SESSION

The following people spoke:

- Kendra Cristelli
- Brenna Kentch
- Marcus Sanders
- Jennifer Sanders
- Austin Sanders
- Dan Dunne
- Name not stated
- Robert Bystrom
- Natalie Chavez
- Lyle Sorenson
- Justin Mills
- Misty Flowers
- Melissa (last name not given)

Clerk's note: There were other speakers (speaking online through the Zoom meeting). The comments made by those speakers have been edited out of the meeting due to highly offensive content. The original uncut video version of the meeting has been retained according to law.

Buchanan adjourned the meeting to go into executive session.

Donovan moved at 6:52 p.m. to go into executive session to discuss how we can improve public comment. The motion was seconded by Galloway.

Buchanan stated we are going into executive session to talk about the legal issues surrounding public comment and how we can deal with offensive comments (pursuant to RCW 42.30.110(1)(i)(iii)).

The motion carried by the following vote:

Aye: 7 - Byrd, Donovan, Elenbaas, Galloway, Scanlon, Stremmer, and Buchanan

Nay: 0

Buchanan stated Executive session will conclude no later than 7:05 p.m. If the meeting extends beyond the stated conclusion time, staff will make a public announcement.

Councilmembers went into executive session at 6:53 p.m.

Councilmembers reconvened and Buchanan called the regular meeting back to order at 7:06 p.m.

Buchanan apologized for the comments that everyone had to endure.

Donovan moved that for the rest of the evening attendees online will be able to submit their comments in writing to Council@co.whatcom.wa.us, and those will be received and read; and in the meantime, we will work to figure out a better way to preserve open comment. The motion was seconded by Byrd.

The motion carried by the following vote:

Aye: 7 - Byrd, Donovan, Elenbaas, Stremler, Galloway, Scanlon, and Buchanan

Nay: 0

Motion approved 7-0 to go into executive session to discuss how to improve open session and to talk about legal issues about public comments.

Motion approved 7-0 that for the rest of the evening the attendees online will be able to submit their comments in writing to Council@co.whatcom.wa.us.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

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

Stremler stated he would like to address item number four (**AB2024-104**) separately.

Councilmembers voted on items one through three, five, and six (see votes on individual items below).

1. [AB2024-098](#) Request authorization for the County Executive to enter into a Local Agency Standard Service Agreement between Whatcom County and Pacific Surveying & Engineering Services, Inc., to provide on-call professional land surveying services for 2024, in the amount not to exceed \$100,000

Donovan 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, Galloway, Scanlon, and Stremler

Nay: 0

2. [AB2024-099](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and FLO Analytics to update the Birch Bay Watershed and Aquatic Resources Management (BBWARM) district's fee roll process in accordance with a rate study that is currently underway in the amount of \$50,965.00 for a total amended contract amount of \$70,720.00 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

3. [AB2024-102](#) Request authorization for the County Executive to enter into a grant agreement between Whatcom County and Washington State Department of Fish and Wildlife to support the fish passage barrier remediation program, in the amount of \$800,250.00

Donovan 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, Galloway, Scanlon, and Stremler

Nay: 0

4. [AB2024-104](#) Request authorization for the County Executive to enter into a grant agreement between Whatcom County and the Washington State Department of Ecology to conduct a climate vulnerability assessment and develop shoreline management solutions, in the amount of \$250,000.00

This item was considered separately below.

5. [AB2024-106](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Nooksack Indian Tribe where the Flood Control Zone District will reimburse the tribe for 80% of the eligible grant costs for work as outlined in Task 4 of the 2021-2023 Floodplains by Design grant specific to the Fish Camp (Ts'eq) Integrated Fish-Flood Project, in the amount of \$880,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Donovan reported for the Finance and Administrative Services Committee and moved that the Contract (FCZDBS) be AUTHORIZED BY CONSENT.

The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

6. [AB2024-117](#) Resolution to declare Whatcom County owned structure located in Bay Horizon Park as worthless

Donovan 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, Galloway, Scanlon, and Stremler

Nay: 0

Enactment No: RES 2024-007

7. [AB2024-118](#) Resolution to declare Whatcom County owned structure located in Hovander Park as worthless

This item was considered separately below.

CONSENT AGENDA ITEMS CONSIDERED SEPARATELY

4. [AB2024-104](#) Request authorization for the County Executive to enter into a grant agreement between Whatcom County and the Washington State Department of Ecology to conduct a climate vulnerability assessment and develop shoreline management solutions, in the amount of \$250,000.00

Donovan reported for the Finance and Administrative Services Committee and **moved** that the Interlocal be AUTHORIZED.

Stremler spoke about a concern that they may be doing a study without thinking about how they can actually do something to help the potential problem. He asked why they would not go off of Phase I and move toward some kind of solution to the problem now if those assessments are accurate.

Elenbaas spoke about the uncertainty of the climate models and stated he hesitates to make long-term decisions on a model that has not had any accuracy.

Satpal Sidhu, County Executive, and Tyler Schroeder, Director of Administrative Services, spoke about the benefit of continuing the study and where the rest of the funding might be coming from. Schroeder stated there is an error in the amount in the agreement. The total cost is \$250,000, the

total eligible cost is \$250,000, and the recipient share (our share) is zero. He stated the mitigation options can be the first topic they talk to the Council about as they continue to engage regarding the study.

Donovan's motion that the Interlocal be AUTHORIZED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

7. [AB2024-118](#) Resolution to declare Whatcom County owned structure located in Hovander Park as worthless

Donovan reported for the Finance and Administrative Services Committee and moved that the Resolution be HELD IN COUNCIL. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

OTHER ITEMS

(From Council Criminal Justice and Public Safety Committee)

1. [AB2024-096](#) Ordinance suspending Whatcom County Code 1.28 to update the Correctional Facilities Operational Standards

Buchanan reported for the Criminal Justice and Public Safety Committee and ***moved*** that the Ordinance be ADOPTED. The motion was seconded by Donovan.

Donovan moved to amend the first sentence of the proposed code language starting on line twelve in the "Be it Finally Ordained" paragraph, to say:

Whatcom County Code Chapter 1.28 is temporarily suspended for up to an additional twelve (12) months, beginning Feb 20, 2024, pursuant to Ord. 2024-xxx; This is the fourth such extension, following:

- Ord. 2019-047 which suspended WCC 1.28 temporarily for (12) months.
- Ord. 2021-039 that extended the temporary suspension eighteen (18) months
- Ord. 2023-009 that extended the temporary suspension eighteen (11) months.

The motion was seconded by Galloway.

The motion to amend carried by the following vote:

Aye: 7 - Scanlon, Stremler, Buchanan, Byrd, Donovan, Elenbaas, and Galloway

Nay: 0

Scanlon pointed out a scrivener's error on page two, line one, which says, "Law and Justice *Committee*," and should be changed to, "Law and Justice *Council*."

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

Enactment No: ORD 2024-006

(From Council Committee of the Whole)

2. [AB2024-090](#) Resolution identifying Whatcom County approaches to the fentanyl emergency
- Buchanan* reported for the Committee of the Whole and *moved* that the Resolution be held until (and referred to) the Joint Health Board/Public Health Advisory Board meeting on March 26. The motion was seconded by Donovan.

Byrd stated he voted no in committee because he would prefer that they pass it as-is today and bring any additional changes or improvements forward in future resolutions.

Elenbaas stated there are certain perspectives and collaboration that he and Buchanan wanted to have that they have not been able to coordinate just yet. He is hoping that holding it will help them create a more effective resolution in the end.

The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

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

(No Committee Assignment)

3. [AB2024-100](#) Ordinance adopting amendments to Whatcom County Code Title 2 (Administration and Personnel) to abolish the Appeals Board and assign its duties to the Hearing

Examiner

Dana Brown-Davis, Clerk of the Council, stated this was from the Planning and Development Committee two weeks ago.

The following staff briefed the Councilmembers:

- Cliff Strong, Planning and Development Services Department
- Curtis Metz, Planning and Development Services Department

They stated they are trying to abolish the Appeals Board (which has not met in eight years) and assign their duties to the Hearing Examiner.

Donovan moved and Galloway seconded that the Ordinance be ADOPTED.

Metz answered if there are any active members and stated there are not.

Councilmembers discussed whether it is better to appeal to a group of peers or to one person.

Royce Buckingham, Prosecuting Attorney's Office, answered questions about the last case heard by the Appeals Board, and whether there is a jury if a Hearing Examiner decision is appealed to another body. He stated there is not.

Metz answered why they cannot get people to serve on the Appeals Board.

Strong stated all of our other appeals of decisions have been turned over to the Hearing Examiner or the Courts. This is the last hold-out, of all the types of decisions we make, that still resides with a committee that the Council has appointed. All jurisdictions have moved to a Hearing Examiner system throughout the state.

Councilmembers discussed the motion and staff answered whether the public is aware that they have the ability to appeal.

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

Aye: 4 - Buchanan, Donovan, Galloway, and Scanlon

Nay: 3 - Byrd, Elenbaas, and Stremmer

Enactment No: ORD 2024-007

4. [AB2024-088](#) Ordinance adopting amendments to Whatcom County Code Title 2 (Administration)

and Personnel) and 3 (Revenue and Finance) to amend the qualifications for serving on the Wildlife Advisory Committee, the composition of the Conservation Easement Program Oversight Committee, and cleaning up the Agricultural Advisory Committee code

Cliff Strong, Planning and Development Services Department, referred to the discussion on this item at the last Planning and Development Committee meeting (**AB2024-089**) and briefed the Councilmembers.

Galloway moved and Donovan seconded that the Ordinance (the “Revised Substitute Ordinance”) be ADOPTED.

Strong answered questions and Councilmembers discussed the motion.

Galloway pointed out a scrivener’s error in Section 3.25A.060 Subsection A(1) of Exhibit A, which says, “one citizen with expertise in agricultural programs, and one conservation easement-holding entity,” and stated “citizen” should say “member.”

Galloway's motion that the Ordinance (the revised substitute) be ADOPTED carried by the following vote:

Aye: 4 - Buchanan, Donovan, Galloway, and Scanlon

Nay: 3 - Byrd, Elenbaas, and Stremler

Enactment No: ORD 2024-008

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2024-091](#) Reconsideration of appointment to a position on the Whatcom County Ferry Advisory Committee, Member: Fabian Mendoza

Buchanan reported on the discussion of this item that they had at the last meeting.

Jill Nixon, Council Office Staff, referred Councilmembers to the staff report (on file as “Staff Memo: Feb 6”).

Elenbaas asked whether there should be a welfare check on the applicant since all correspondence has gone without any reciprocation by the applicant.

Donovan moved to reconsider the appointment of Mr. Mendoza to the Whatcom County Ferry Advisory Committee. The motion was seconded by Elenbaas.

Donovan amended his motion and ***moved*** to remove Mr. Mendoza from the Whatcom County Ferry Advisory Committee. The motion was seconded by Elenbaas.

The motion carried by the following vote:

Aye: 6 - Elenbaas, Galloway, Scanlon, Stremmer, Buchanan, and Donovan

Nay: 0

Out of the meeting: 1 - Byrd

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

Motion approved 6-0, with Byrd out of the room, to remove Mr. Mendoza from his position on the Whatcom County Ferry Advisory Committee.

2. [AB2024-120](#) Appointment to vacancies on the Drayton Harbor Shellfish Protection District Advisory Committee, Applicant(s): Katherine Garrah

Donovan moved to appoint Katherine Garrah. The motion was seconded by Buchanan.

Jill Nixon, Council Office Staff, stated there are two applicants and three vacancies.

Donovan amended his motion and ***moved*** to appoint Katherine Garrah and Stephen Seymour to the vacant positions. The motion was seconded by Elenbaas.

Nixon stated there are three terms and they will need to assign specific terms to each of these appointees. There is one 4-year term, one partial term ending 1/31/2025, and one partial term ending 1/31/2027.

Donovan amended his motion to say that the application that was received on time should get the longer term and the second application would get the shorter term.

Councilmembers discussed the terms.

Donovan withdrew his motion and ***moved*** to appoint Garrah and Seymour and that Garrah would get the four-year term and Seymour would get the partial term ending in 2027. The motion was seconded by Elenbaas.

Galloway stated that Seymour's application was late.

Donovan withdrew his motion.

Elenbaas moved that they accept all late applications for this agenda. The motion was seconded by Buchanan.

Elenbaas' motion carried by the following vote:

Aye: 7 - Galloway, Scanlon, Stremler, Buchanan Byrd, Donovan, and Elenbaas

Nay: 0

Donovan moved that Garrah be appointed to the four-year position and that Seymour be appointed to the position ending in 2027. The motion was seconded by Elenbaas.

Elenbaas discussed the applicants.

The motion carried by the following vote:

Aye: 7 - Scanlon, Stremler, Buchanan, Byrd, Donovan, Elenbaas, and Galloway

Nay: 0

This agenda item was APPOINTED (and motions were approved).

Motion approved 7-0 to accept all late applications for this agenda.

Motion approved 7-0 that Garrah be appointed to the four year position and Seymour be appointed to the position ending in 2027.

CONFIRMATION OF EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2024-097](#) Request confirmation of the County Executive's appointments of Charlie Heggem, Becca Shew, and Pete Sharp to the Bicycle Pedestrian Advisory Committee

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

2. [AB2024-107](#) Request confirmation of the County Executive's appointments of Paul Schissler and Ashley Thomasson to the Whatcom County Housing Advisory Committee

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

3. [AB2024-108](#) Request confirmation of the County Executive's appointments of Valerie Billmire and Myla Musselwhite to the Developmental Disabilities Advisory Board

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmer

Nay: 0

4. [AB2024-109](#) Request confirmation of the County Executive's appointments of Elma Burnham, Thomas Hoats, and Avery Maverick to the Marine Resources Committee

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmer

Nay: 0

5. [AB2024-119](#) Request confirmation of the County Executive's appointments of David Kershner, Trevor Gearhart, and Alison Moon to the Conservation Easement Program Oversight Committee

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmer

Nay: 0

ITEMS ADDED BY REVISION

1. [AB2024-131](#) Resolution amending Resolution 2023-056 to correct the levy amounts for the City of Bellingham and re-certify property tax levies for collection in 2024 to the County Assessor

Donovan reported for the Finance and Administrative Services Committee and *moved* that the Resolution be APPROVED.

Rebecca Xczar, County Assessor, stated she had nothing to add to Donovan's report.

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmer

Nay: 0

Enactment No: RES 2024-008

INTRODUCTION ITEMS

Donovan moved to introduce items one through five. The motion was seconded by Byrd (see votes on individual items below).

1. [AB2024-110](#) Ordinance establishing a project based budget for Eagleridge Stormwater Improvements Project Fund SWP #SWLW24-01

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

2. [AB2024-111](#) Resolution amending the 2024 Flood Control Zone District and Subzones Budget, request no. 1, in the amount of \$14,400 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Donovan moved and Byrd seconded that the SUBSTITUTE Resolution (FCZDBS) be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

3. [AB2024-114](#) Ordinance establishing a 23-Hour Crisis Relief Center Fund and establishing an initial project based budget for the 23-Hour Crisis Relief Center Project

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

4. [AB2024-116](#) Ordinance amending the 2024 Whatcom County Budget, request no. 4, in the amount of 3,247,623

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

5. [AB2024-122](#) Ordinance establishing Whatcom County Code Chapter 3.39 Public Health, Safety, and Justice Facilities and Services Sales and Use Tax

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

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Councilmembers gave Committee reports.

Buchanan moved to move all sheltering discussions into Committee of the Whole. He would like for Councilmembers to be able to discuss, without quorum issues, what the scope of work might look like for an advisory committee that would deal with this issue. The motion was seconded by Donovan.

Councilmembers discussed the motion and what an advisory committee might look like.

The motion carried by the following vote:

Aye: 7 - Stremler, Buchanan, Byrd, Donovan, Elenbaas, Scanlon, and Galloway

Nay: 0

Galloway spoke about comments received in Open Session regarding our Support Officers of Whatcom County and the services they provide to our community.

Galloway moved to formally request an update from the administration on how things are going with the internalization of the Medical Examiner Office and how we can move forward with a collaborative process. The motion was seconded by Donovan.

Tyler Schroeder, Director of Administrative Services, briefed the Councilmembers on the process of internalization and stated they would be happy to give an update in the next month or two.

Elenbaas stated he would like to acknowledge the great work that the support officers do, especially in light of what their budget is.

Buchanan stated the work they do in our community is vital.

Byrd stated he would like to see the internalization of the Medical Examiner happen sooner than later.

Galloway's motion carried by the following vote:

Aye: 7 - Galloway, Stremmler, Buchanan, Byrd, Donovan, Elenbaas, and Scanlon
Nay: 0

Councilmembers gave other updates.

Motion approved 7-0 to move all sheltering discussions into Committee of the Whole.

Motion approved 7-0 to request an update from the Administration on how things are going with the internalization of the Medical Examiner Office and how we can move forward with a collaborative process.

ADJOURN

The meeting adjourned at 8:46 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription