

Whatcom County Council

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



Action Summary

Tuesday, July 11, 2023

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 7.10.2023**

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

ROLL CALL

Present: 6 - Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Carol Frazey, and Kaylee Galloway

Absent: 1 - Kathy Kershner

FLAG SALUTE

ANNOUNCEMENTS

COUNTY EXECUTIVE'S REPORT

MINUTES CONSENT

1. [MIN2023-043](#) Special Committee of the Whole for June 13, 2023

APPROVED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

2. [MIN2023-044](#) Water Work Session for June 13, 2023

APPROVED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

PUBLIC HEARINGS

1. [AB2023-415](#) Ordinance providing for submission of a proposition to the qualified electors of Whatcom County pursuant to RCW 82.14.450 authorizing the collection of a local sales and use tax of two-tenths of one percent for the purpose of providing funds for costs associated with public health, safety and justice facilities and services, including behavioral health, supportive housing, public safety, and criminal justice facilities and programs

ADOPTED AS AMENDED

Aye: 5 - Buchanan, Byrd, Elenbaas, Frazey, and Galloway

Nay: 0

Absent: 1 - Kershner

Abstain: 1 - Donovan

Enactment No: ORD 2023-039

(Approximate Timestamp 2:07:37)

Motion approved 6-0 to amend Section 9 (4) of the Ordinance so that it reads:

In the case that capacity expansion (an increase in number of beds or cells) is considered for the new jail facility, a variety of factors shall be examined including, but not limited to, population growth, operational capacity, success of diversion, reentry, and housing programs, changes in state law or court rules affecting pretrial detention and sentencing, and other factors as listed in the Justice Project Implementation Plan. Any plans for expansion shall include a robust and inclusive community engagement process and be approved by the County Council.

Motion approved 6-0 to strike “and behavioral health center” and replace it with "including jail-based behavioral health services" in the fifth whereas statement from the bottom of page 5 so it reads as follows:

WHEREAS, it is the intent of the Whatcom County Council, moving forward, to continue to dedicate this voter approved one-tenth of one percent jail facilities sales and use tax to the construction and operations of a new jail including jail-based behavioral health services; and

- [AB2023-416](#) Ordinance amending Whatcom County Code Section 11.20.025, Flotation Devices on the South Fork of the Nooksack River, to better protect ESA-listed Chinook salmon

ADOPTED AS AMENDED

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

Nay: 2 - Byrd, and Elenbaas

Absent: 1 - Kershner

Enactment No: ORD 2023-040

Approximate Timestamp: 4:41:49

Motion approved 6-0, with Kershner absent, to amend Section 1 of the Ordinance to delete language so that it would read as follows:

SECTION 1. Whatcom County Code 11.20.025 is hereby amended as presented in Exhibit A.

Motion approved 6-0, with Kershner absent, to amend Section 3 of the Ordinance to add language so that Section 3 reads as follows:

SECTION 3. This ordinance shall be effective until Whatcom County receives data pursuant to Section 2 above that shows the number of South Fork Nooksack Early chinook natural-origin spawners has reached 50% of the recovery goal of 9,900.

OPEN SESSION

INTRODUCTION ITEMS

Motion approved 5-1 with Elenbaas opposed to add AB2023-387 (as amended in Committee) to Introduction.

1. [AB2023-448](#) Ordinance Establishing the Central Shop NPDES Stormwater Improvements Project Based Budget

INTRODUCED

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

Nay: 1 - Elenbaas

Absent: 1 - Kershner

2. [AB2023-451](#) Ordinance amending the 2023 Whatcom County Budget, request no. 10, in the amount of 1,493,534

INTRODUCED

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

Nay: 1 - Elenbaas

Absent: 1 - Kershner

3. [AB2023-455](#) Receipt of application to fill a vacancy on the Surface Mining Advisory Committee, position for a representative of a potable domestic groundwater supply, preferably a public water system representative or private well owner - Applicant(s): Kathleen Greenbaum (additional applications for this position are due at 10:00 a.m. on Tuesday, July 18, 2023)

INTRODUCED

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

Nay: 1 - Elenbaas

Absent: 1 - Kershner

- [AB2023-387](#) Ordinance adopting amendments to Whatcom County Code Title 20 (Zoning) to regulate short-term/vacation rentals

SUBSTITUTE INTRODUCED FOR PUBLIC HEARING

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

Nay: 1 - Elenbaas

Absent: 1 - Kershner

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

1. [AB2023-411](#) Request authorization for the County Executive to enter into a contract amendment

between Whatcom County and The Arc of Whatcom County to provide information, education and family support services to individuals with developmental disabilities, their families and the general public in the amount of \$172,464 for a total amended contract amount of \$480,144

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

2. [AB2023-412](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the U.S. Department of Justice for Organized Crime Drug Enforcement Task Forces (OCDETF) PA-WAW-0376, in the amount of \$5,000.00

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

3. [AB2023-413](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Washington Association of Sheriffs and Police Chiefs for Registered Sex Offender Verification Program Funding 2023-2024, in the amount of \$135,992.00

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

4. [AB2023-419](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Social and Health Services - Development Disabilities Administration to provide services for persons with development disabilities, in the amount of \$5,459,497.00

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

5. [AB2023-421](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Environmental Science Associates to complete a climate vulnerability assessment, in the amount of \$69,997

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

6. [AB2023-424](#) Request authorization for the County Executive to enter into an interagency agreement between Whatcom County and the Washington State Department of Health to provide funding for the Whatcom County Pollution Identification and Correction (PIC) Program, in the amount of \$1,478,994 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

7. [AB2023-426](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Drayton Archaeology to provide on-call cultural and historical resource services for July 2023 through July 2024 in the amount not to exceed \$100,000

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

8. [AB2023-428](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Cascade Connections to provide services to eligible individuals with developmental disabilities in the estimated amount up to \$1,657,818

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

9. [AB2023-429](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Kulshan Supported Employment to provide services to eligible individuals with developmental disabilities in the estimated amount up to \$1,547,837

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

10. [AB2023-430](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Washington Vocational Services to provide services to eligible individuals with developmental disabilities in the estimated amount up to \$295,353

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

11. [AB2023-431](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Work Opportunities to provide services to eligible individuals with developmental disabilities in the estimated amount up to \$979,423

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

12. [AB2023-433](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Language Line Services, Inc. to provide telephonic and video language interpretation services in the amount of \$15,000 for a total amended contract amount of \$48,000

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

13. [AB2023-440](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Pacific Surveying and Engineering Services, Inc. to evaluate the current stormwater system and determine appropriate Stormwater BMPs to improve the site's water quality and provide an NPDES Engineering Report to DOE, in the amount of \$63,531.06

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

14. [AB2023-441](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Pacific Power Group to provide generator preventative maintenance per agreement, in the amount of \$49,823.00

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

15. [AB2023-442](#) Request authorization for the County Executive to enter into a contract between Whatcom County and RE Sources to implement waste reduction and recycling education programs, in the amount of \$65,000

This item was considered separately (see below).

16. [AB2023-443](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Environmental Science Associates to continue to develop and implement the WRIA 1 integrated funding strategy, in the amount of \$45,000.00 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

17. [AB2023-444](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Commerce to fund homelessness crisis response systems, in the amount of \$10,543,379

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

18. [AB2023-450](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and the Bellingham Food Bank to extend the agreement through December 2024 for an additional \$1,000,000 for a total cost of \$1,500,000

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

19. [AB2023-452](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and Washington State Department of Commerce to prevent, prepare for and respond to the COVID-19 pandemic among individuals and families who are homeless or receiving homeless assistance in the amount of \$150,000 for a total amended contract amount of \$4,744,770

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 1 - Kershner

CONSENT AGENDA ITEMS CONSIDERED SEPARATELY

15. [AB2023-442](#) Request authorization for the County Executive to enter into a contract between Whatcom County and RE Sources to implement waste reduction and recycling education programs, in the amount of \$65,000

AUTHORIZED

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

Nay: 2 - Byrd, and Elenbaas

Absent: 1 - Kershner

OTHER ITEMS

(From Council Committee of the Whole)

1. [AB2023-427](#) Resolution acknowledging the rights of the Southern resident orcas

WITHDRAWN

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2023-446](#) Appointment of members to serve on SWISS (Skagit, Whatcom, Island, Snohomish, and San Juan Counties regional cooperation committee) strategic plan subcommittees

APPOINTED

Donovan Appointed to the Transportation Subcommittee 5-1 with Elenbaas opposed (Galloway was affirmed as the appointee for the Broadband Subcommittee and Buchanan was affirmed as the appointee for the Behavioral Health Subcommittee)

CONFIRMATION OF EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2023-417](#) Request confirmation of the County Executive's appointment of Sheli Moore to the

Parks and Recreation Commission

CONFIRMED

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

Nay: 0

Absent: 1 - Kershner

2. [AB2023-432](#) Request confirmation of the County Executive's appointment of Ryan Corley to the Bicycle Pedestrian Advisory Committee

CONFIRMED

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

Nay: 0

Absent: 1 - Kershner

ITEMS ADDED BY REVISION

AB2023-455 was added to Introduction by agenda revision (see vote above).

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Motion approved 5-0-1 with Frazey abstaining to approve defense and indemnification of David Wayne Kimball, named as a defendant in Vincent Russell DOC# 345299, Plaintiff, vs. David Wayne Kimball, Defendant, United States District Court, Western District of Washington Case No. 23-cv-500-LK-SKV. Based on the following findings:

- A. David Wayne Kimball was acting in a matter in which the county had an interest;
- B. David Wayne Kimball was acting in the discharge of a duty imposed or authorized by law;
- C. David Wayne Kimball acted in good faith (AB2023-418)

Motion approved 5-1, with Elenbaas opposed, to authorize the County Executive, acting on behalf of the Whatcom County Flood Control Zone District, to move forward with and complete the acquisition of the properties as long as the purchase price of the properties does not exceed the amount discussed in Executive Session (AB2023-420).

Motion approved 6-0 to hold off on filling vacancies (processing applications) on the Lummi Island Ferry Advisory Committee for three months and to have a policy discussion in the Public Works and Health Committee.

ADJOURN