

Whatcom County Council

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



Minutes - Final

**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

Council Chair Barry Buchanan called the meeting to order at 6:01 p.m. in a hybrid meeting.

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

There was no report.

MINUTES CONSENT

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

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

Frazey 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: 1 - Kershner

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

Frazey 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: 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

Buchanan opened the Public Hearing and the following people spoke:

- Caleb Erickson
- Joel Johnson
- Joy Gilfilen
- Teresa Sygitowicz
- Lyle Sorenson
- Teresa Hertz
- Michi Marcher
- Katherine Orłowski
- Name not stated
- Markis Dee
- Elina Jahromi
- Sonja Lerner
- Lindsay Macdonald
- Name not stated
- Gabe Stonaha
- Name not stated
- Jady Holmgren
- Jason McGill
- Makenzie Graham
- Jeff Holmes
- Maya Morales
- Jesse Williams
- Name not stated
- Cassandra Erickson
- Name not stated
- Erin Burns
- Cliff Langley
- Natalie Chavez
- Sophia Rey
- Henry Ohana
- Carol Perry
- Liz Darrow
- Nathan Schaetzel

- Jennifer Dunaway
- Sean Arent
- Josie Tracy
- Austin Papritz
- Name not stated

Hearing no one else, Buchanan closed the Public Hearing.

Approximate Timestamp: 01:49:07

Satpal Sidhu, County Executive, read from a handout (on file) and spoke about how this proposal is different than previous proposals, that the results of this process are very positive for our community and are also much different than in the past ten years, that this process does not end with tonight's vote or with November's vote, continuing to work collaboratively to find solutions, that the proposed ordinance strikes a balance and is a great compromise, and that the proposal in front of Council tonight addresses our community's broad spectrum of priorities.

Frazezy moved and Byrd seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Frazezy stated Councilmember Kershner had a medical emergency but wishes she could be here and is fully supportive of the ordinance. Frazezy asked that people watch the video of the jail on the Whatcom County Government YouTube channel, watch the video of the May 9, 2023 Committee of the Whole presentation slides showing who is in the jail (AB2023-304), and read the Implementation Plan. The vision that the Implementation Plan brings forward is more of a place where we can have more services and people can heal, so she feels like we need to let the community decide what they want.

Donovan stated he thinks the Council needs to get more clarity on what the size of the facility would be. We have a number of cells defined in the Implementation Plan but there is nothing in the ordinance. The ordinance talks about a path for expansion but there is no baseline of what would be expanded. He spoke about the size of cells and whether each might have one or two beds.

Galloway stated determining size and design features is going to be a critical detail that she thinks our community and the Council needs to understand better. She referenced Sidhu's address and stated she wants to highlight that this process does not end with tonight's vote. The building of a new jail facility is only one of fifteen items in the Implementation Plan

which also addresses everything else, and she thinks they have heard from the community that the “everything else” needs to be our priority. She will support the ordinance. She spoke about what features they have added in the ordinance and stated there are three clarifying or scrivener error amendments that she would like to address.

Elenbaas stated he appreciates people coming to speak on this item. He stated one thing he has learned is how important mental health is to a person’s existence and he feels we are incredibly lacking in our community in mental health services. He looks at whether someone should go to jail for punishment or be directed in another avenue. People respond differently in different situations and luckily, we have judges that get to decide their path through the justice system. He is adamant with this ordinance that we have that path for both ways. They do not know how many people will go on each path and his critique of this ordinance was language that handcuffs the funding to go in one direction or the other. He was hoping to see language that would be more available to be directed to where it needs to go, but he agrees that this is just the beginning. He spoke about the ordinance and the public comments.

Approximate Timestamp: 02:07:38

Donovan spoke about an amendment to Section 9 and he and Councilmembers discussed the language in Section 10 and which version they were working from (“Proposed Ordinance for Introduction 6.26.2023”).

Donovan moved to amend Section 9 (4) of the Ordinance to delete “Where expansion is considered within the 30-year lifespan of the new Public Health, Safety, and Justice Sales and Use Tax,” and replace it with “In the case that capacity expansion (an increase in number of beds or cells) is considered for the new jail facility,” as follows:

~~Where expansion is considered within the 30-year lifespan of the new Public Health, Safety, and Justice Sales and Use Tax,~~ 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.

The motion was seconded by Buchanan.

Councilmembers discussed the motion, whether it would affect expansion of services, and whether the intent of the motion is such that should they double up on beds, even if it is not a physical expansion, it is a bed expansion that would trigger the requirement of considering the factors and including a robust and inclusive community engagement process and approval by the County Council.

Tyler Schroeder, Director of Administrative Services, answered whether the Implementation Plan talks about beds and stated there is clarification in the latest version of the Plan.

Buchanan stated this amendment is in the spirit of the Plan so he supports the amendment.

Satpal Sidhu, County Executive, stated they also agree with the amendment.

Schroeder and Wendy Jones, Sheriff's Office, answered a question about the process of going to two or three beds per cell if the original design on the current jail was for one bed per cell. Jones stated when the current jail was constructed, they put in the capacity to be able to double-bunk all the general population cells at the time the building was built. The process of putting in additional bunks happened gradually and the third beds were never intended to exist and were definitely temporary.

Councilmembers continued to discuss the motion.

Karen Frakes, Prosecuting Attorney's Office, answered whether this would trigger a re-introduction of the ordinance and stated in reading the Implementation Plan and in reading the language that is already there, she does not see this as a significant change. She thinks it is clarifying what the initial intent was anyway.

Dana Brown-Davis, Clerk of the Council, clarified the wording of the motion.

The motion to amend carried by the following vote:

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

Nay: 0

Absent: 1 - Kershner

Councilmembers discussed whether they already changed the title in Section 10.

Approximate Timestamp: 02:22:36

Galloway stated the first change she would like to make is a scrivener's error. Section 8 (3) states, "Implementation plans must be consistent with Section 2 - Sales and Use Tax Purpose..." but Section 2 should read Section 3. No motion was needed for this change.

Galloway read the fifth WHEREAS statement from the bottom of page five of the ordinance stating, "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 and behavioral health center; and." They received an email from a community member who suggested that the statutory restriction on this was strictly for jails or juvenile detention centers so she would like some clarification on whether the behavioral health center is in fact jail-based, or that whatever language they use is clearly applicable under the Revised Code of Washington (RCW).

Tyler Schroeder, Director of Administrative Services, stated he could see some clarifying language to clarify the intent of a new facility and a coordinated behavioral health center at that location.

Frakes answered whether jail-based behavioral health services would qualify under jail facility as facility or operations and stated she thinks that is probably accurate.

Galloway moved 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 five 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 ~~and behavioral health center~~ including jail-based behavioral health services; and

The motion was seconded by Buchanan.

The motion to amend carried by the following vote:

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

Nay: 0

Absent: 1 - Kershner

Galloway stated the last change she would like to make is another scrivener's error on page 57 of the Implementation Plan that they moved to introduce ("Exhibit A - Implementation Plan 7.11.23 (formatted)"). There was a section titled "Determining Facility Size" and they added "and Expansion Criteria," but in the new formatting, that did not get added.

Tyler Schroeder, Director of Administrative Services, stated he saw that and intended the change to be made after the last discussion.

No motion was needed.

Frakes answered whether those amendments would require re-introduction and stated they would not.

Approximate Timestamp: 02:31:12

Byrd stated he appreciated Frazey's comments earlier and spoke about substantial investments made in alternatives over the last several years, being jailed in Ferndale as opposed to having to be sent hundreds of miles away, the amount of money being spent on repairs on the current jail, having a new facility that has space for much-needed programs and which would be a huge improvement from where we are today, setting a standard for other communities, and taking the time to research (as Councilmember Frazey suggested) instead of going off of a few lines on social media.

Satpal Sidhu, County Executive, stated it is a county jail and the average stay there is three months. Employees, however, are sentenced for life. They need a humane work place.

Buchanan spoke about his journey on this issue. He voted no both times (in 2015 and 2017) because there was no public process. He vowed (after it failed in 2017) to find a path forward, to get a robust public process, and to really consider the treatment we need for our community. He gave a history of those efforts since 2018.

Frazey's motion that the Ordinance Requiring a Public Hearing be ADOPTED AS AMENDED carried by the following vote:

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

Nay: 0

Absent: 1 - Kershner

Abstain: 1 - Donovan

Enactment No: ORD 2023-039

2. [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

Clerk's note: Councilmembers took a short break.

Treva Coe, Assistant Natural Resources Director for the Nooksack Tribe, read from a presentation.

She answered when the Chinook are spawning and whether it is in the spring or summer, what the incubation time of an egg is, whether there is anything that distinguishes the potential threat or damage from limb-propelled flotation devices versus that from kayaks and canoes (paddle-propelled) since the latter were not originally included in the ordinance, what the fishing regulations are around the river, whether subsistence fishing is done with nets and what time of year that happens, whether they are targeting the Chinook at that time, and when silver fishing starts.

Buchanan opened the Public Hearing and the following people spoke:

- Larry Bierne
- Dana Crawford
- Lyle Sorenson
- Jerimiah Winchester
- Vicki Wilson
- Harmony Hayes
- Setrina Wilson
- Nick Sutterley
- Cliff Langley
- Jeffrey Holmes
- Jacki Rossing
- Kyler Larsen
- Preston Hall
- Carl Weimer
- Robert Merhaut
- Rosie O'Neil
- Steve Rossing
- Stewart (last name not given)
- Name not stated
- Jamie Sutterfield

- Merle Jefferson
- Natalie Chavez
- Caden Fox
- Robbie Evjue
- Alexander Harris
- Wendy Harris
- Michelle (last name not stated)
- Misty Flowers

Hearing no one else, Buchanan closed the Public Hearing.

Galloway moved and Donovan seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Donovan stated we have regulation in our code for boating on rivers and lakes, but somebody made the distinction that rivers are navigable. He asked whether there is some distinction in terms of the County's ability to regulate how people navigate a river. He also asked whether there is a distinction between limb-propelled devices and canoes and kayaks, and is wondering why the original ordinance language did not include those.

Karen Frakes, Prosecuting Attorney's Office, stated she could not find anything that would distinguish the bodies of water, she spoke about a case out of San Juan County, and stated this has existed in some form for quite some time, and I think originally it was sort of a compromise position, perhaps, more than a concern about conflicting with some federal regulations.

Elenbaas spoke about no one wanting to damage the salmon run, what is going to alienate an entire community or keep a community engaged, the fact that the natural state of things can also be devastating and whether there is an argument that tubing is just mimicking nature as opposed to causing the decline, whether a ban is just hitting the easy button on managing the situation and will alienate the community, considering the food desert that might be created without the general store and the diner, and how robust the numbers being presented are for returning salmon in light of the daily fishing limits. He stated he wants to do the right thing and he is not convinced that a ban on tubing is the right thing, and it might backfire on them. He would rather go back to the drawing board and come up with a management plan.

Galloway gave a background on the ordinance and summarized updates made

to it. She stated she does not want to make this a permanent ban so she has added Section 3 which effectively adds a sunset tied to recovery goals. She spoke about the County's efforts in funding, public outreach, a stewardship program, and broader salmon recovery. She stated she sees salmon as an indicator species and a canary in the coal mine, warning us of future danger. She stated she understands the importance of recreation and is sympathetic to the concerns that people shared but she truly believes that they are doing this for the greater good. She summarized what they heard in Coe's presentation tonight and spoke about being good stewards of taxpayer dollars that are committed for South Fork projects and safety during those projects. She stated treaties are the supreme law of the land and read Article 6 of the Constitution.

Approximate Timestamp: 04:42:07

Galloway moved to amend Section 1 of the ordinance to delete "and shall become effective immediately after the County Executive signs this ordinance" as follows:

SECTION 1. Whatcom County Code 11.20.025 is hereby amended as presented in Exhibit A ~~and shall become effective immediately after the County Executive signs this ordinance.~~

Galloway spoke about language in the charter about the passage of ordinances that would make this language irrelevant.

Frakes clarified that the charter requires that an ordinance become effective 10 days after the Executive signs it.

The motion was seconded by Buchanan.

The motion to amend carried by the following vote:

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

Nay: 0

Absent: 1 - Kershner

Galloway moved to amend Section 3 of the ordinance to add language 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.

The motion was seconded by Frazey.

The motion to amend carried by the following vote:

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

Nay: 0

Absent: 1 - Kershner

Councilmembers discussed the motion to adopt the ordinance as amended. They discussed doing everything possible to make sure salmon are here forever, whether they should put a budget item together to keep businesses open, considering more comprehensive recreation management planning, writing a letter to the Washington State Department of Fish and Wildlife requesting a ban on recreational fishing in the South Fork until they hit 50 percent of the salmon recovery goal, not putting the burden of the issue on the back of one group but coming together and all making sacrifices, whether the community was engaged to help solve the problem, whether something should be written up to engage them and come up with proposals, the understanding that staff was going to engage the community and hand out literature and signs, and trying that first (since it reportedly did not happen) before a ban.

Galloway's motion that the Ordinance Requiring a Public Hearing be ADOPTED AS AMENDED carried by the following vote:

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

Nay: 2 - Byrd, and Elenbaas

Absent: 1 - Kershner

Enactment No: ORD 2023-040

OPEN SESSION

The following people spoke:

- Lyle Sorenson
- Teresa Sygutowicz
- Name not stated
- Natalie Chavez
- Gwen Hunter
- Wendy Harris
- Misty Flowers
- Robbie Evjue
- Nancy Bergman

Hearing no one else, Buchanan closed the Open Session.

INTRODUCTION ITEMS

Buchanan stated they needed to go out of order on the agenda so these items can be introduced before midnight.

Donovan moved to add the ordinance adopting amendments to Whatcom County Code Title 20 (Zoning) to regulate short-term/vacation rentals (**AB2023-387**) to Introduction. The motion was seconded by Galloway.

Galloway clarified whether the motion is to introduce the ordinance as it was revised in the Planning and Development Committee today and Donovan stated that is correct.

Donovan's motion carried by the following vote:

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

Nay: 1 - Elenbaas,

Absent: 1 - Kershner

Byrd moved to introduce the introduction items.

Dana Brown-Davis, Clerk of the Council, clarified that this motion includes **AB2023-455** which was added by revision and **AB2023-387** which was added by the previous motion.

The motion was seconded by Donovan.

Councilmembers voted on the Introduction items (see motion and vote on individual items below).

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

Byrd moved and Donovan seconded that the Ordinance be INTRODUCED.

The motion carried by the following vote:

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

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

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

Nay: 1 - Elenbaas

Absent: 1 - Kershner

3. [AB2023-455](#) Appointment 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

Byrd moved and Donovan seconded that the Council Appointment Requiring Introduction be INTRODUCED. The motion carried by the following vote:

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

**Byrd moved and Donovan seconded that the SUBSTITUTE Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING.
The motion carried by the following vote:**

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

Nay: 1 - Elenbaas

Absent: 1 - Kershner

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 nineteen.

Elenbaas requested that Consent Agenda item number 15 be considered separately (see vote on this item after the Consent Agenda).

Councilmembers voted on Consent Agenda item numbers 1-14 and 16-19 (see votes on individual items below).

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

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: 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 (OCDEF) PA-WAW-0376, in the amount of \$5,000.00

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: 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

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: 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

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: 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

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: 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)

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: 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

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: 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

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: 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

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: 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

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: 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

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: 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

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: 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

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: 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

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: 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)

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: 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

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: 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

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: 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

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: 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

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

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
Buchanan stated this item was withdrawn from the agenda.

This agenda item was 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
Galloway briefed the Councilmembers and stated Councilmember

Buchanan has stepped up to serve on the Behavioral Health Subcommittee and she has stepped up to serve on the Broadband Subcommittee so those can be affirmed tonight. They need to appoint someone for the Transportation Subcommittee. She stated she was going to recommend Kershner but she is not here to accept the nomination.

Elenbaas moved to nominate Donovan since he has been a long time representative of the Whatcom Transportation Authority (WTA). The motion was seconded by Galloway.

Dana Brown-Davis, Clerk of the Council, stated she mentioned this item to Councilmember Kershner and checked email to see if Kershner had given an indication of interest but she had not.

Donovan accepted the nomination.

The motion to appoint Donovan (and also affirm Buchanan and Galloway) carried by the following vote:

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

Nay: 1 - Elenbaas

Absent: 1 - Kershner

This agenda item was 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

Galloway moved and Frazey seconded that the Executive Appointment be CONFIRMED.

Frazey spoke about the letter of recommendation (on file) and the passing of former Commissioner Terry Terry. She acknowledged her for her involvement in several committees and for all she has done in the community.

Galloway's motion that the Executive Appointment be CONFIRMED carried by the following vote:

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

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

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

Buchanan stated he had two motions to read into the record from Committee of the Whole Executive Session.

Buchanan moved 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**)

The motion was seconded by Galloway.

The motion carried by the following vote:

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

Nay: 0

Abstain: 1 - Frazey

Absent: 1 - Kershner

Buchanan moved 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).

The motion was seconded by Galloway.

The motion carried by the following vote:

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

Nay: 1 - Elenbaas

Absent: 1 - Kershner

Councilmembers gave committee reports.

Donovan stated most of the Lummi Island Ferry Advisory Committee has resigned so there will not be a committee meeting tomorrow, and the Council is being asked to give direction about when they want to fill these positions and whether they want to redefine what the committee might look like.

Donovan moved to hold off on filling vacancies (processing applications) on the Lummi Island Ferry Advisory Committee (LIFAC) for three months.

The motion was seconded by Byrd.

Elenbaas asked what the reason would be to not fill the seats immediately and Donovan stated if we want to change the size or the composition, particularly an additional off-island person representing, we would have to redo the ordinance. Elenbaas asked whether the expectation would be that they get feedback from the community on what they think the make-up of LIFAC should be and Donovan stated he hopes that would be part of the process.

Byrd stated it makes sense to him to maybe set that committee up so that the seats are proportionate to the breakdown of revenue. So, if 50 percent of the revenue comes from islanders, then 50 percent of the seats go to the islanders, and the other 50 percent come from taxpayers throughout the county.

Galloway suggested a friendly amendment to the motion to specify that they also want to have a policy discussion in the Public Works and Health Committee.

Donovan accepted the friendly amendment to his motion.

The motion carried by the following vote:

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

Nay: 0

Absent: 1 - Kershner

Councilmembers gave other updates.

MOTION SUMMARY: 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

The meeting adjourned at 12:07 a.m. on Wednesday, July 12, 2023.

The County Council approved these minutes on July 25, 2023.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription

SIGNED COPY ON FILE

