

Whatcom County Council

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



Minutes - Final

Tuesday, March 19, 2024

6 PM

Hybrid Meeting

HYBRID MEETING (PARTICIPATE IN-PERSON, VIEW ONLINE, OR REGISTER TO SPEAK REMOTELY - PLEASE SEE AGENDA NOTES UNDER "ANNOUNCEMENTS", "OPEN SESSION", OR "PUBLIC HEARINGS" FOR MORE INFORMATION)

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 6:01 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

There was no report.

MINUTES CONSENT

Buchanan began to talk about public hearings before considering the Minutes Consent items. He stated at the recent Council retreat, Councilmembers discussed the issue of being “Zoom-bombed” during public comments. To address the problem, Councilmembers established a registration system for people joining remotely to provide public comment, so today is the first trial run of implementing that new system.

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

1. MIN2024-010 Committee of the Whole for February 20, 2024

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

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

Nay: 0

2. MIN2024-011 Regular County Council for February 20, 2024

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

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

Nay: 0

3. MIN2024-012 Committee of the Whole Executive Session for March 5, 2024

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

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

Nay: 0

4. MIN2024-013 Committee of the Whole for March 5, 2024

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

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

Nay: 0

5. MIN2024-014 Regular County Council for March 5, 2024

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

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

Nay: 0

PUBLIC HEARINGS

See discussion about the public hearing process under Minutes Consent above.

1. AB2024-126 Ordinance granting the Port of Bellingham a non-exclusive franchise to locate, set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate, use and similar activities related to telecommunication facilities in, upon, over, under, along, across and through the franchise area to allow the provision of telecommunication services

Christopher Quinn, Prosecuting Attorney's Office, stated he was appearing on behalf of Public Works and was available for questions.

John Sitkin, Legal Counsel for Port of Bellingham and PUD, briefed the Councilmembers on this and the next agenda item (AB2024-127).

Buchanan opened the Public Hearing and the following person spoke:

- Todd Lagestee

Hearing no one else, Buchanan closed the Public Hearing.

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

Galloway spoke about the value that the Council has held of maintaining public ownership of broadband access as a result of public investment. She spoke about the motion and stated she appreciates the work of Andrew Hester (Public Works) in getting the coordination of construction activities clause in there.

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

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

Nay: 0

Enactment No: ORD 2024-014

2. AB2024-127 Ordinance granting the Public Utility District No. 1 of Whatcom County, a non-exclusive franchise to locate, set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate, use and similar activities related to telecommunication facilities in, upon, over, under, along, across and through the franchise area to allow the provision of telecommunications services

Buchanan opened the Public Hearing and hearing no one, closed the Public Hearing.

Byrd moved and Galloway seconded that the Ordinance Requiring a Public Hearing be ADOPTED. The motion carried by the following vote:

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

Nay: 0

Enactment No: ORD 2024-015

3. AB2024-160 Ordinance establishing a temporary closure of Truck Road

Christina Schoenfelder, Public Works Department, stated she was available for questions.

Buchanan opened the Public Hearing and hearing no one, closed the Public Hearing.

Elenbaas stated he got a call from a citizen with a concern that this closure, in the timeframe that it was, was going to block their access to harvesting their hay field. He stated he was hoping that Public Works could contact them to see if there is a way they could still harvest their hay field in July.

Schoenfelder stated she could get a hold of him and can make sure all of their farm equipment can still get into that field.

Byrd moved and Scanlon seconded that the Ordinance Requiring a Public Hearing be ADOPTED. The motion carried by the following vote:

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

Nay: 0

Enactment No: ORD 2024-016

4. AB2024-166 Ordinance amending Whatcom County Code 8.10, Solid Waste and Residential Recycling Collection

Buchanan opened the Public Hearing and the following people spoke:

- Carl Weimer

Hearing no one else, Buchanan closed the Public Hearing.

Byrd stated if there is not someone at the meeting who can address the questions raised by Weimer, he would be in favor of holding the item.

After hearing public testimony, *Byrd moved* and Donovan seconded that the Ordinance Requiring a Public Hearing be HELD (AND REFERRED TO COMMITTEE).

Tyler Schroeder, Director of Administrative Services, answered whether this is time-sensitive and he stated he is not sure there is a time constraint, but if Council has questions related to the comments, he thinks they can hold it and come back for a Health Department response. He stated there was a discussion on this at the March 5 Public Works meeting (see **AB2024-187**).

Jennifer Hayden, Health and Community Services, spoke about the ordinance, summarized the earlier presentation, and addressed how they might maintain a low contamination rate with the single stream system.

Stremler stated this was talked about quite at length in the Solid Waste Advisory Committee and the Health Department sent him more in-depth information.

Elenbaas spoke about his recollection of the presentation in the Public Works and Health Committee.

Donovan stated it could only help to have this back in Public Works (committee), and maybe they could get someone from Sanitary Service

Company (SSC) to come and address some of the things that Mr. Weimer brought up.

Hayden stated she could ask SSC to provide information.

Byrd stated they did have a presentation but the Council may have not known the right questions to ask at the time. They should go back to the table and get the answers so they are informed of the pros and cons.

Byrd's motion that the Ordinance Requiring a Public Hearing be HELD (AND REFERRED TO COMMITTEE) carried by the following vote:

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

Nay: 0

OPEN SESSION

The following person spoke:

- Dwayne Engelsman

Royce Buckingham, Prosecuting Attorney's Office, spoke about the topic the speaker spoke about and stated he believes that Planned Unit Developments (PUDs) eventually come before the Council, and if that is the case, they would not take input from people before they come before the Council. He would discourage research on the issue until all the facts come before them if they have a quasi-judicial role in it. He will look it up to be sure.

Public comments continued and the following person spoke:

- Rone Brewer

Buckingham stated the County Council would be the final decision maker on a Planned Unit Development. The advice would be if they gather information outside of the hearing, they could be asked to recuse themselves. The protocol is to not take information on the subject outside of the hearing because they become like a judge. He stated at this point, I think we have a record. You should probably incorporate that record by reference when the hearing comes before you.

Elenbaas stated Whisper Lake has been on the record for a while and information has been out there, and Buckingham answered questions.

Buchanan stated it would be nice to have a list of issues going on for which Council should not engage in ex parte communication.

Open Session continued and the following people spoke:

- Todd Lagestee
- Doug (Yoshe) Revelle
- Ryan Bowman
- Christopher Deile
- Name not stated
- Natalie Chavez
- Markis Dee
- Name not stated

Hearing no one else, Buchanan closed the Open Session.

Councilmembers and staff discussed the new public comment system.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

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

Stremler requested to discuss Consent Agenda #5 (**AB2024-193**). He spoke about a conversation he had with a citizen who gave him some perspective on the river and on dredging the river. He stated he does not understand why we cannot pursue that as part of the solution.

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

1. AB2024-186 Request authorization for the County Executive to enter into an Interlocal Agreement between Whatcom County and Bellingham Technical College to exchange no-cost, internal Diversity, Equity and Inclusion assessments of each other's organizations

Galloway 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

2. AB2024-188 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Central Consulting LLC to provide strategic consultation services related to implementation of the Healthy Children's Fund in the

amount of \$30,000 for a total amended contract amount of \$45,000

Galloway 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

3. AB2024-189 Request authorization for the County Executive to enter into an interlocal contract amendment between Whatcom County and the City of Everson to extend the term of the Jail Use Agreement until December 31, 2024

Galloway 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. AB2024-192 Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and Washington State Department of Health to fund various public health programs in the decreased amount of \$531,200 for a total amended agreement amount of \$13,893,641

Galloway 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

5. AB2024-193 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Sumas for implementation of the FEMA Hazard Mitigation Grant Program (HMGP) Agreement to purchase twelve flood-damaged properties, one of which is in the City of Sumas (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Galloway 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. AB2024-194 Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and Washington State Department of

Children, Youth and Families to provide funding for the Nurse Family Partnership Program in the amount of \$36,123.01 for a total amended contract amount of \$414,618.60

Galloway 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

7. AB2024-202 Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and North Sound Behavioral Health Administrative Services Organization to fund the Recovery Navigator Program to enhance LEAD programming in the amount of \$154,000 for a total amended agreement amount of \$666,455

Galloway 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

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. AB2024-179 Ordinance establishing a project-based budget for the Unity Street Acquisition Project Fund

Galloway reported for the Finance and Administrative Services Committee and moved that the Ordinance be ADOPTED. The motion carried by the following vote:

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

Nay: 0

Enactment No: ORD 2024-017

2. AB2024-180 Ordinance amending the 2024 Whatcom County Budget, request no. 5 in the amount of \$9,827,008

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

Stremler spoke about the Health Department request “to fund LHJ Covid-19

grant (#4592)” regarding COVID-19 vaccines, and stated he urges the Health Department to communicate very effectively with the public so that they are adequately informed about the warnings and potential long-term side effects of this vaccine. It is crucial that we prioritize transparency and empowering individuals to make informed health decisions.

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

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

Nay: 2 - Elenbaas, and Stremmler

Enactment No: ORD 2024-018

- 3. AB2024-178 Resolution amending the Flood Control Zone District & Subzones 2024 budget, request no. 2, in the amount of \$564,477 (Council acting as the Flood Control Zone District Board of Supervisors)

Galloway reported for the Finance and Administrative Services Committee and moved that the Resolution (FCZDBS) be APPROVED. The motion carried by the following vote:

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

Nay: 0

Enactment No: RES 2024-012

(From Council Public Works and Health Committee)

- 4. AB2024-095 Resolution approving the Whatcom County Water District No. 2 Water System Plan

Scanlon reported for the Public Works and Health Committee and moved that the SUBSTITUTE Resolution be APPROVED. The motion carried by the following vote:

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

Nay: 0

Enactment No: RES 2024-013

(From Council Committee of the Whole)

- 5. AB2024-209 Resolution supporting a Whatcom County ferry rate increase and allocation of American Rescue Plan Funds

Buchanan reported for the Committee of the Whole and stated Galloway authored the resolution.

Galloway stated since the discussion they had today, it has become more clear to her that this needs more time. She stated her recommendation was going to be to hold this until they have had more time to see the work that Public Works and the Executive's Office are negotiating with the Whatcom County Ferry Advisory Committee and to continue to collect community feedback.

Donovan moved to hold. The motion was seconded by Buchanan.

Donovan stated he is concerned about authorizing the American Rescue Plan Act (ARPA) funds before we know that the fare increases are set and approved.

Scanlon spoke about the discussion earlier today and stated it sounds like there is a commitment to continue to talk to the community, advisory committee, and Public Works and to come out with some agreement.

Elenbaas stated he thinks they should pass this resolution because it says exactly what they would like to see done and it keeps anyone from "kicking the can down the road" again.

Donovan stated he could be talked out of his motion to hold this. We did not even need the resolution because we sent a clear signal to the Executive that we realize the severity of the funding situation and we need a fare increase. He stated his hesitancy is committing to the American Rescue Plan Act (ARPA) money before we know we are going to get a commitment on the fares. But we are basically just saying in this resolution what we told the Executive two weeks ago.

Stremmer stated the code issue needs more discussion but this is very appropriate for right now to get it moving.

Tyler Schroeder, Director of Administrative Services, stated he thinks the Executive would say he agrees with Elenbaas. There are some efforts associated with the ferry fund, like short-term funding, that need to be resolved but that can be accomplished by Executive order. They also anticipate working through Public Works and the advisory committee to accomplish it. But all of the strategies anticipated these ARPA funds. The Administration will bring a budget supplemental to the Council in April and they can ensure at that time that the fare proposal is resolved.

Councilmembers and Schroeder discussed whether a resolution is necessary, which strategy (fares or ARPA money) will have the quickest

impact in bending the curve in terms of revenue losses, and that they have been having the ferry fare conversation for a long time and action is needed.

Elizabeth Kosa, Public Works Department Director, stated the only way to change the curve is to change expenses or gain more revenue, and the quickest way is a fare increase.

Councilmembers discussed how long they would hold the item, whether it *should* be held, and whether amendments suggested by the community would make a difference in the resolution.

The motion to hold failed by the following vote:

Aye: 0

Nay: 6 - Elenbaas, Scanlon, Stremler, Buchanan, Byrd, and Donovan

Abstain: 1 - Galloway

Elenbaas moved and Donovan seconded that the Resolution be APPROVED.

Galloway spoke about suggested amendments but no motion to amend was made.

Councilmembers discussed the motion to approve the resolution as written and whether it should be amended.

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

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

Nay: 0

Enactment No: RES 2024-014

CONFIRMATION OF EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. AB2024-198 Request confirmation of the County Executive's appointment of Mark McDonald to the North Sound Behavioral Health Organization Advisory Board

Donovan moved and Byrd seconded that the Executive Appointment be CONFIRMED.

Stremler stated that the application said the applicant is not registered to vote in the County, and Buchanan stated they removed that restriction, but Stremler stated he takes that very seriously.

Scanlon stated he reached out to the Administration and received more background on the applicant, and he read that information.

Councilmembers discussed applicants who are not registered to vote in Whatcom County and whether considering that factor could be seen as discrimination.

Royce Buckingham, Prosecuting Attorney's Office, stated he is not sure how that would be considered discrimination.

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

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

Nay: 1 - Stremler

ITEMS ADDED BY REVISION

There were no agenda items added by revision.

INTRODUCTION ITEMS

Buchanan stated Introduction item number 4 (**AB2024-208**) is a revised version (with mark-up shown where it was not before)

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

1. AB2024-210 Ordinance calling for the election of Charter Review Commissioners at the November 2024 General Election

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. AB2024-173 Ordinance adopting amendments to Whatcom County Code Title 15, Buildings & Construction, to adopt by reference the 2021 Editions of the International Building, Residential, Mechanical, Fuel gas, existing building, fire codes, and the national fuel gas, Washington State Energy, uniform plumbing, & liquified petroleum gas codes, and the 1997 uniform code for the abatement of dangerous buildings, as amended as set forth herein, as required by RCW Chapter 19.27

Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried

by the following vote:

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

Nay: 0

3. AB2024-201 Ordinance adopting amendments to Whatcom County Code Section 1.14, Electoral Precincts, with newly established voting precinct boundaries for Whatcom County

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

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

Nay: 0

4. AB2024-208 Ordinance adopting Whatcom County Code Title 20, zoning code amendments relating to allowing propane reload, storage, and distribution facilities in the agriculture zone as a conditional use

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

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

Nay: 0

Clerk's note: The ordinance was a revised version after Committee to show the mark-up.

5. AB2024-191 Appointment to a vacancy on the Surface Mining Advisory Committee, potable domestic groundwater supply representative, Applicant(s): Carl Isom-McDaniel

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

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

Nay: 0

6. AB2024-211 Clarification of Council appointment and appointment to vacancies on the Justice Project Oversight and Planning Committee, Applicant(s): Scott Ryckman, Richard Gleason, and Tawsha Thompson

Donovan moved and Byrd seconded that the Council Appointment Requiring

Introduction 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 reported for Committee of the Whole and stated they did not discuss **AB2024-206** regarding options for enhancing Courthouse security measures during evening meetings.

Stremler stated he has been working with Facilities and the Sheriff's Office and there seems to be consensus to have a deputy present on site for evening Council meetings. He is still working on that.

Dana Brown-Davis, Clerk of the Council, requested and received a head nod from Councilmembers to proceed with preparing a budget supplemental request for a deputy for about \$400.00 per meeting.

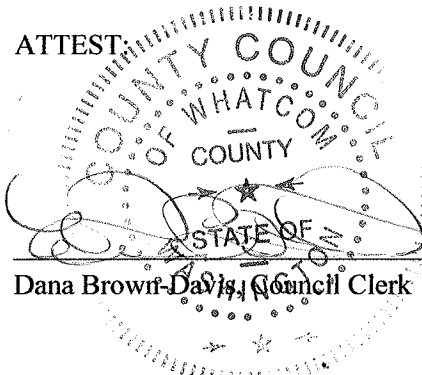
Councilmembers gave Councilmember updates.

ADJOURN

The meeting adjourned at 8:20 p.m.

The County Council approved these minutes on April 9, 2024.

ATTEST:



Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Barry A. Buchanan
Barry Buchanan, Council Chair

Kristi Felbinger
Kristi Felbinger, Minutes Transcription