

Whatcom County Council

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



Minutes - Final

Tuesday, May 9, 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 5.8.2023**

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: 7 - Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Carol Frazey, Kaylee Galloway, and Kathy Kershner

FLAG SALUTE

ANNOUNCEMENTS

COUNTY EXECUTIVE'S REPORT

There was no report.

MINUTES CONSENT

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

1. [MIN2023-033](#) Committee of the Whole for April 25, 2023

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

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

Nay: 0

Temp Absent: 1 - Elenbaas

2. [MIN2023-034](#) Regular County Council for April 25, 2023

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

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

Nay: 0

Temp Absent: 1 - Elenbaas

PUBLIC HEARINGS

1. [AB2023-231](#) Ordinance authorizing a revised system of assessment for Drainage Improvement District No. 7

Travis Bouma, Public Works Department, briefed the Councilmembers.

Buchanan opened the Public Hearing and the following people spoke:

- Paulette Love
- Wanda Schleisner
- Rick Metzger
- Kevin Maddux
- Rod Stump

Bouma addressed comments about the assessment letter and stated the way it is written is because of State law. People can reach out to him to get clarity.

The following additional person spoke:

- Wendy Harris

Hearing no one else, Buchanan closed the Public Hearing.

Donovan moved to send this to an appropriate committee. He would like to hear more about it.

Kershner stated it was discussed in the Public Works and Health Committee.

Elenbaas spoke about his conversations with the representatives of District 7 when he got elected four years ago about trouble they were having with the drainages caused by more development, roads, and other things, and the inadequacy of their budget. He suggested they find a way to fund their district better in order to serve their community so he applauds their efforts.

Metzger answered what the district's budget is now and what it would go to if this item passes.

Donovan withdrew his motion.

Kershner moved and Elenbaas seconded that the Ordinance Requiring a Public Hearing be ADOPTED. She explained the Ordinance (from the discussions in the Public Works and Health Committee) and stated she read the letter and agrees it was very confusing.

Donovan stated we have these inadequately funded districts with infrastructure needs beyond what their capacity is so the discussion we could have in Public Works could be to look at what models are working better in other counties in order to scale this up so the districts here can do the projects they need to do.

Elenbaas spoke about the issues faced by the districts because of their budgets and stated he agrees with the district commissioners that this is a more equitable way to fund the district.

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

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

Nay: 0

Enactment No: ORD 2023-027

2. [AB2023-246](#) Ordinance establishing a temporary speed limit for Hannegan Road

Jim Karcher, Public Works Department, stated this is a continuation of the April 25, 2023 public hearing. He answered whether the project has already started and stated it has not.

Buchanan opened the Public Hearing and the following people spoke:

- Christopher Diele
- Wendy Harris

Hearing no one else, Buchanan closed the Public Hearing.

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

Elenbaas stated his question is if we lower the speed limit, do we need to close Kelly and Van Wyck Roads and if we close those roads, do we need to lower the speed limit. He does not know if they need to do both.

Karcher spoke about this and the next agenda item and stated the speed limit reduction and road closures are Public Works' professional opinion on what safety measures are needed to accommodate a detour by Washington State Department of Transportation for their fish passage project on Squalicum Creek on the Mount Baker Highway. He answered how long the measures would be in place and stated it would be about 100 days. He spoke about the closures.

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

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

Nay: 0

Enactment No: ORD 2023-028

3. [AB2023-248](#) Ordinance establishing a temporary closure of Kelly Road and Van Wyck Road
Buchanan opened the Public Hearing and, hearing no one, closed the Public Hearing.

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

Elenbaas spoke about the motion and stated he thinks they should keep the roads open.

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

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

Nay: 1 - Elenbaas

Enactment No: ORD 2023-029

OPEN SESSION

The following people spoke:

- Christopher Diele
- Susan David
- Alexander Harris
- Aubrey Stargell
- Gerry Millman
- Ryan Lorimer
- Laura Weiss
- Judith Akins
- Laura Sheehan
- Elizabeth Kerwin
- John Gold
- Carly Lloyd
- Bill Turner
- Natalie Chavez

- Lyle Sorenson
- Misty Flowers
- Markis Dee Stidham
- David Janicki
- Daniel Harm
- Heath Heikkila
- Rob Lewis
- Bruce Parelskin
- Mark Ambler
- Doug Cooper
- Cliff Langley
- Brel Froebe
- Wendy Harris
- Lindy (last name not given)
- Hannah (last name not given)
- Christa Colouzis

Hearing no one else, Buchanan closed the Open Session.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

Kershner reported for the Finance and Administrative Services Committee and stated that Consent Agenda item number five (**AB2023-295**) is a substitute.

Byrd requested that Consent Agenda item number two (**AB2023-308**) be removed from the Consent Agenda for a separate vote (see that item after the Consent Agenda).

Kershner ***moved*** to approve Consent Agenda items one and three through ten. Councilmembers voted on those items (see votes on individual items below).

1. [AB2023-301](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Communities In Schools of Whatcom-Skagit to support a range of student needs and increase access to critical school and community services, in the amount of \$136,000

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

2. [AB2023-308](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to provide housing case management services in the amount of \$474,072 for a total amended contract amount of \$1,079,307

This item was considered separately. See below.

3. [AB2023-320](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Road2Home to operate overnight severe weather shelters in the amount of \$16,000 for a total amended contract amount of \$95,729

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

4. [AB2023-327](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Lydia Place to provide funding for motel rooms for families experiencing unsheltered homelessness in the amount of \$108,650 for a total amended contract amount of \$681,779

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

5. [AB2023-295](#) Request authorization for the County Executive to enter into a Memorandum of Understanding with Unity Care Northwest for the Way Station in the amount of \$2,000,000

Kershner reported for the Finance and Administrative Services Committee and moved that the SUBSTITUTE Memorandum of Agreement be AUTHORIZED BY CONSENT. The motion carried by the following vote:

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

Nay: 0

6. [AB2023-311](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and United General District 304 to support

youth cannabis and tobacco prevention strategies and activities in the amount of \$43,945 for a total amended contract amount of \$125,595

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

7. [AB2023-322](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham/Bellingham Fire Department for training and onboarding lateral hire paramedics in the amount of \$66,916

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

8. [AB2023-325](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and the Washington State Department of Health for the delivery and funding of various public health services in the amount of \$381,005, for a total amended agreement amount of \$8,981,095

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

9. [AB2023-314](#) Resolution amending the 2022 Comprehensive Economic Development Strategic (CEDs) project list to include a Drainage Improvement District 7 project known as the Atwood Drainage Replacement Project

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

Enactment No: RES 2023-011

10. [AB2023-323](#) Resolution authorizing the County Executive to purchase Department of Commerce

grant funded flood response equipment

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

Enactment No: RES 2023-012

CONSENT AGENDA ITEMS CONSIDERED SEPARATELY

2. [AB2023-308](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to provide housing case management services in the amount of \$474,072 for a total amended contract amount of \$1,079,307

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

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

Nay: 1 - Byrd

OTHER ITEMS

(From Council Climate Action and Natural Resources Committee)

1. [AB2023-273](#) Request approval to send a letter regarding the Brokedown Palace timber sale

Galloway reported for the Climate Action and Natural Resources Committee and ***moved*** that the SUBSTITUTE Request for Motion (as amended in Committee) be APPROVED.

Elenbaas shared a map showing designated commercial forest and agricultural land but only representing part of Whatcom County. He then showed a map of the entirety of Whatcom County to demonstrate that the other map only represents about a third of the county and this map shows the other two thirds which is already being protected. He would like people to think about the whole map when they say the County or the Department of Natural Resources (DNR) is not doing enough to protect these mature forests. He is not going to support the letter.

Donovan stated he will support the letter but there is less money there than we thought, there is a lot of doubt about whether this parcel is going to qualify, and as long as it is held out, that is revenue that is not going to the

beneficiary districts. He would like to do a policy statement instead of doing another letter about another parcel.

Galloway stated she agrees with Donovan's sentiments but she still supports sending letters because she thinks it is a demonstration of our eagerness to co-manage with DNR and other State agencies.

Kershner moved to amend the substitute letter as follows in bold font:

The Washington State Legislature ~~agrees. The state legislature~~ just allocated \$70 million from Climate Commitment Act (CCA) revenue to allow DNR to protect mature, structurally-complex forests, ~~which includes an estimated \$20 million to protect up to 2,000 acres of forestland, while ensuring the beneficiaries are not adversely impacted.~~ Whatcom County Council understands pausing harvest or selecting forests for inclusion in the CCA proviso, may delay funding for our local beneficiaries for years or decades. We are committed ~~to exploring all possible pathways~~ to offsetting any potential negative impacts to our local beneficiaries, including the Mount Baker School District.

The motion was seconded by Byrd.

Councilmembers discussed the motion.

The motion to amend carried by the following vote:

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

Nay: 0

Galloway stated she is looking to understand the impact to our local beneficiaries a little bit more and would be interested in seeing what role the County could play in providing some support to a local school district so we can have both preserving critical lands and making sure our beneficiaries are whole.

Galloway's motion that the SUBSTITUTE Request for Motion be APPROVED AS AMENDED carried by the following vote:

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

Nay: 3 - Byrd, Elenbaas, and Kershner

(From Council Finance and Administrative Services Committee)

2. [AB2023-298](#) Ordinance amending the 2023 Whatcom County Budget, request no. 7, in the amount of 2,880,144

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

Enactment No: ORD 2023-030

3. [AB2023-299](#) Ordinance amending the project budget for the Way Station Project Fund, request no. 2

Kershner 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, Frazey, Galloway, and Kershner

Nay: 0

Enactment No: ORD 2023-031

(From Council Public Works and Health Committee)

4. [AB2023-228](#) Request approval to send a letter regarding proposed legislation to increase truck size and weight

Kershner reported for the Public Works and Health Committee and moved that the Request for Motion be APPROVED. The motion carried by the following vote:

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

Nay: 3 - Byrd, Elenbaas, and Kershner

(From Council Planning and Development Committee)

5. [AB2023-312](#) Resolution relating to a schedule for joint County and City review of Urban Growth Areas

Elenbaas reported for the Planning and Development Committee and moved that the Resolution be APPROVED. The motion carried by the following vote:

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

Nay: 0

Enactment No: RES 2023-013

(From Council Committee of the Whole)

6. [AB2023-313](#) Discussion and motion to approve the Public Participation Plan for Whatcom County Comprehensive Plan and Development Regulation Amendments

Buchanan reported for the Committee of the Whole and moved that the Request for Motion be APPROVED. The motion carried by the following vote:

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

Nay: 0

(No Committee Assignment)

7. [AB2023-318](#) County Executive requests approval of the Economic Development Investment (EDI) Board's recommendation for funding to support the Atwood Road Culvert Replacement project from Whatcom County Drainage Improvement District 7

Byrd moved and Elenbaas seconded that the Special Executive Only Item be APPROVED.

Satpal Sidhu, County Executive, gave a history of this item. He stated this is rare that we use Economic Development Investment (EDI) funds, but the situation keeps getting worse and the EDI board took a hard look at it and approved it unanimously.

Tyler Schroeder, Director of Administrative Services, answered whether this is from the thirty percent that can be used for the County's general government purposes and stated it is from the seventy percent of the EDI fund that is out for grants and loans. He answered whether it is both a grant and a loan and state it is.

Councilmembers and Sidhu discussed a concern of Frazey that this is not what we use EDI funds for, and what scoring metric was used.

Councilmembers voted on the item (see vote and motion below) and then continued to discuss the scoring mechanism and whether it should be brought into a committee for more discussion.

Schroeder stated the EDI Board meeting notes are in the packet and they talked about how the board does the budgeting process.

Sidhu stated last year they did not distribute money because of COVID-19

so the fund balance was high, and several other things happened, but they will work on the scoring mechanism. They are encouraging the cities to plan ahead of time what they will need for the next two years and where they would need EDI funding and that way the Council can weigh in on the requests.

Byrd's motion that the Special Executive Only Item REQUEST be APPROVED carried by the following vote:

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

Nay: 0

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2023-289](#) Appointment to a vacancy on the Sumas/Everson/Nooksack Flood Control Subzone Advisory Committee, Applicant(s): Jerry Juergens (Council Acting as the Flood Control Zone District Board of Supervisors)

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

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

Nay: 0

2. [AB2023-302](#) Appointment to a vacancy on the Business and Commerce Advisory Committee, higher education representative, Applicant(s): Barry Robinson

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

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

Nay: 0

CONFIRMATION OF EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2023-319](#) Request confirmation of the County Executive's appointments to the Public Defense Advisory Committee

Kershner read the names of the appointees and **moved** that the Executive Appointment be CONFIRMED. The motion was seconded by Galloway.

Councilmembers discussed whether Elenbaas needs to recuse himself since he is an appointee and concurred that he did not.

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

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

Nay: 0

ITEMS ADDED BY REVISION

1. [AB2023-331](#) Request authorization for the County Executive to award bid #23-35 and enter into a contract between Whatcom County and Lynden Tribune & Print Co. for the design, production, and distribution of primary and general election voters' pamphlets in the amount of not to exceed \$60,000

Byrd moved and Kershner seconded that the Contract be AUTHORIZED.

The motion carried by the following vote:

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

Nay: 0

INTRODUCTION ITEMS

Elenbaas moved and Kershner seconded to introduce items one and two and they voted on those (see motion and votes below).

1. [AB2023-324](#) Ordinance amending the Whatcom County Budget, request no. 8, in the amount of \$2,557,297

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

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

Nay: 0

2. [AB2023-326](#) Ordinance authorizing an interfund loan for the purchase of floodplain land near Acme, Wa

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

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

Nay: 0

3. [AB2023-309](#) Ordinance adopting amendments to Whatcom County Code Title 20, Zoning, to regulate short-term vacation rentals

This item was considered separately. See below.

INTRODUCTION ITEMS CONSIDERED SEPARATELY

3. [AB2023-309](#) Ordinance adopting amendments to Whatcom County Code Title 20, Zoning, to regulate short-term vacation rentals
- Elenbaas moved* to (withdraw this item from Introduction and) refer it back to the Planning and Development Committee. The motion was seconded by Byrd.

Elenbaas spoke about why he would not like to introduce this item yet and Councilmembers discussed the motion.

Elenbaas' motion that the Ordinance Requiring a Public Hearing be WITHDRAWN and referred back to committee carried by the following vote:

Aye: 4 - Byrd, Elenbaas, Galloway, and Kershner

Nay: 3 - Buchanan, Donovan, and Frazey

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Donovan read a motion from the Committee of the Whole Executive Session and *moved* to authorize the Whatcom County Executive to execute the proposed Agreed Order (No. DE 21650) between Whatcom County and the State of Washington, Department of Ecology. The motion was seconded by Galloway.

The motion carried by the following vote:

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

Nay: 0

Abstain: 1 - Kershner

Councilmembers gave Committee reports and other updates.

Tyler Schroeder, Director of Administrative Services, asked about the meeting that Elenbaas attended in the Blaine School District about opioids in school and whether Greg Thompson (the County's Co-Health Officer) was there. He stated they were able to give that presentation to the County's department heads and it was quite powerful. It may be something that, if the whole Council has not seen it, they can work with Director Lautenbach to get it scheduled in the Public Health Advisory Board (PHAB) or Public Works and Health Committee.

Satpal Sidhu, County Executive, stated there were 89 fentanyl deaths last year and the majority of those were people under 28 years of age. There are 33 deaths already in the first quarter of this year.

Galloway asked if there is Council interest in requesting the PHAB to consider an emergency declaration or public health crisis in order to elevate the fentanyl issue.

Elenbaas asked if the Council can make an emergency declaration.

Councilmembers continued their updates.

Sidhu updated the Councilmembers on Jim Karcher's (Public Works Department) retirement and stated they have appointed Doug Ranney as the new County Engineer as of July1, 2023.

Dana Brown-Davis, Clerk of the Council, let the Councilmembers know that she will be working to schedule a joint Health Board and PHAB meeting for June 13, 2023 at 1 p.m. to discuss standing up the multi-jurisdictional group regarding the opioid epidemic.

ACTION SUMMARY: Motion approved 6-0-1 with Kershner abstaining to authorize the Whatcom County Executive to execute the proposed Agreed Order (No. DE 21650) between Whatcom County and the State of Washington, Department of Ecology.

ADJOURN

The meeting adjourned at 9:34 p.m.

The County Council approved these minutes on June 6, 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