

Whatcom County Council

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



Minutes - Final

Tuesday, July 9, 2024

6 PM

Hybrid Meeting

**HYBRID MEETING (PARTICIPATE IN-PERSON, SEE REMOTE JOIN
INSTRUCTIONS AT www.whatcomcounty.us/joinvirtualcouncil, OR CALL
360.778.5010); AGENDA REVISED 7.8.2024**

COUNCILMEMBERS

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

CLERK OF THE COUNCIL

Cathy Halka, AICP, CMC

COUNTY COUNCIL

CALL TO ORDER

Council Chair Barry Buchanan called the meeting to order at 6:03 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

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

1. MIN2024-030 Regular County Council for June 4, 2024

Donovan moved and Scanlon 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. MIN2024-031 Committee of the Whole for June 4, 2024

Donovan moved and Scanlon 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. MIN2024-032 Special Council for June 11, 2024

Donovan moved and Scanlon 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. MIN2024-033 Committee of the Whole for June 18, 2024

Donovan moved and Scanlon 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. MIN2024-034 Regular County Council for June 18, 2024

Donovan moved and Scanlon 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

6. MIN2024-035 Special Council for June 25, 2024

Donovan moved and Scanlon 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

7. MIN2024-036 Water Work Session for October 17, 2023

Donovan moved and Scanlon 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

1. AB2024-348 Resolution to Declare Whatcom County Real Property as Surplus and Approve Transfer

Roland Middleton, Public Works Department, stated he was available to answer questions but there were none.

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

Donovan moved and Scanlon seconded that the Resolution Requiring a Public Hearing be APPROVED. The motion carried by the following vote:

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

Nay: 0

Enactment No: RES 2024-033

OPEN SESSION

The following people spoke:

- Rachel Lucy
- Dan Tucker
- Dorie Belisle
- Jake Foster
- Greg Winter
- Jason McGill
- Chao-Ying Wu
- Suzanne Wu
- Colton Kaltenfeldt
- Sara O'Connor
- Dean Wight
- Chris Secrist
- Diana Meeks
- Allison Ormsby
- Jen Knudsen
- Peter Frazier
- Mike Kaufman
- Tally Rabatin
- Clark Campbell
- Ken Gas
- Name not stated
- Nicole Baughn
- Sierra James
- Lyle Sorenson
- Jerry Burns
- Deborah Bineza
- Heather Flaherty
- Terrance "Teejay" Morris
- Eve Smason-Marcus
- Lindy McDonough
- Patrick Alesse
- Kevi Veldman
- Darcy Allen
- Markis Dee
- Melissa Gragg
- Janet Johnson

- Russ Sapienza
- Sonja Wingard
- David Lynch
- Ben Brown
- Dam Pham
- Natalie Chavez
- Name not stated
- Erin Lynch
- Meredith Hayes
- Richard Johnson
- Seth Mangold
- Lisa Guthrie
- Misty Flowers
- Coleman Hoyt
- Megan Wiseman
- Jim Cozad
- Kris Halterman
- Barbara Chase
- Sharman Burnam
- Rob Fix
- Perry Eskridge

Hearing no one else, Buchanan closed the Open Session.

Clerk's note: Councilmembers took a break.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

Donovan reported for the Finance and Administrative Services Committee and ***moved*** to approve Consent Agenda item numbers 1, and 3 through 22. Councilmembers voted on those items (see votes on individual items below).

1. AB2024-406 Request authorization for the County Executive to enter into a contract between Whatcom County and Snohomish County to utilize State Homeland Security Grant Program (SHSP) funding to sustain and enhance Division of Emergency Management programs, in the amount of \$41,307

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

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

Nay: 0

2. AB2024-417 Request authorization for the County Executive to enter into a contract between Whatcom County and Uwill, Inc. to provide school based teletherapy services, in the amount of \$150,000

This item was considered separately below.

3. AB2024-421 Request authorization for the County Executive to enter into a contract between Whatcom County and Pace CDL Consulting and CDL Training to provide Commercial Driver's License Training and test preparation to Maintenance and Operations employees, in the amount of \$75,000

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

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

Nay: 0

4. AB2024-423 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Skagit County for the purpose of providing each other with labor, equipment, or materials on a reimbursable basis for road maintenance activities through May 21, 2027

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

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

Nay: 0

5. AB2024-424 Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and Washington State Department of Social and Health Services to ensure a coordinated system of local developmental disability services in the amount of \$6,476,900, for a total amended agreement amount of \$12,546,270

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

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

Nay: 0

6. AB2024-426 Request authorization for the County Executive to enter into a contract between Whatcom County and Ferndale Community Services to perform rural homeless outreach services, in the amount of \$55,377

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

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

Nay: 0

7. AB2024-431 Request authorization for the County Executive to enter into a contract between Whatcom County and Washington State Department of Transportation (WSDOT) to provide federal Ferry Boat Program (FBP) funds for the Lummi Island Ferry operations costs, in the amount of \$1,099,507.00

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

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

Nay: 0

8. AB2024-433 Request authorization for the County Executive to enter into a contract between Whatcom County and the State of Washington Department of Ecology to receive funding for Water Resource Inventory Area 1 (WRIA 1) collaborative water supply planning, in the amount of \$485,600.00

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

Nay: 0

9. AB2024-435 Request authorization for the County Executive to enter into a contract between Whatcom County and the Executive Office of the President Office of National Drug Control Policy (ONDCP) to implement the strategy of the Northwest High Intensity Drug Trafficking Area (HIDTA) in the amount of \$170,590.00

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

Nay: 0

10. AB2024-437 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and RH2 to update the Whatcom County Coordinated Water System Plan in the amount of \$50,000, for a total amended contract amount of \$200,000

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

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

Nay: 0

11. AB2024-438 Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and the City of Everson for participation in the Floodplain Integrated Planning (FLIP) process in the amount of \$25,000 for a total amended agreement amount of \$73,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

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

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

Nay: 0

12. AB2024-439 Request authorization for the County Executive to enter into a contract between Whatcom County and Pacific Security for patrol services, in the amount of \$64,260.00

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

Nay: 0

13. AB2024-440 Request authorization for the County Executive to enter into a lease agreement amendment between Whatcom County and Greg Dibble to extend the lease at 600 Dupont Street, Suite 100, in the amount of \$257,217.36, for a total amended amount of \$500,843.00

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

Nay: 0

- 14. AB2024-442 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Tolin Law Firm to provide legal representation for the preparation and completion of the resentencing hearing in the matter of State v. Ryan Eugene Alexander in the amount of \$10,001.00 for a total amended amount of \$50,000.00

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

Nay: 0

- 15. AB2024-443 Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and the City of Bellingham to provide funding for the Alternative Response Team (ART) Program in the amount of \$60,000, for a total amended agreement amount of \$630,096

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

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

Nay: 0

- 16. AB2024-444 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to support childcare stabilization in Whatcom County in the amount of \$119,305, for a total amended contract amount of \$618,038

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

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

Nay: 0

- 17. AB2024-445 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Washington State Department of Health to provide funding for various public health services in the amount of \$1,948,136, for a total amended agreement amount of \$16,258,233

Donovan reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion

carried by the following vote:

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

Nay: 0

18. AB2024-447 Request approval for the County Executive to award Bid #24-64 for the purchase of 16 pair of night vision goggles with helmet mounts from Steele Industries, Inc., located in Bradenton, Florida, in an amount not to exceed \$190,979.27

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

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

Nay: 0

19. AB2024-448 Request authorization for the County Executive to enter into a commercial lease agreement between Whatcom County and Cornwall Center Inc. for use of parking spaces at the Bellingham Senior Activity Center over five years with cost sharing from the City of Bellingham and Whatcom Council on Aging, in the amount of \$133,464

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

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

Nay: 0

20. AB2024-449 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Washington State Military Department for pass-through funding to support the What-Comm Communication Center in the amount of \$52,900

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

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

Nay: 0

21. AB2024-457 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Criminal Justice Training Commission for reimbursement of expenses, in the amount of \$84,000

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

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

Nay: 0

- 22. AB2024-458 Request authorization for the County Executive to enter into a contract between Whatcom County and TBL Investigations and Consulting, LLC for background investigations, in the estimated amount of \$40,000 per year

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

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

Nay: 0

CONSENT AGENDA ITEMS CONSIDERED SEPARATELY

- 2. AB2024-417 Request authorization for the County Executive to enter into a contract between Whatcom County and Uwill, Inc. to provide school based teletherapy services, in the amount of \$150,000

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, Galloway, and Scanlon

Nay: 3 - Byrd, Elenbaas, and Stremler

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

- 1. AB2024-432 County Executive requests approval of the Economic Development Investment (EDI) Board’s recommendation for funding to support the City of Bellingham’s Bear Creek Corridor Construction Project, the City of Lynden’s Wastewater Treatment Plant Capacity and Nutrient Improvement Project, the City of Ferndale Water Treatment Plant Upgrades and Douglas Deep Well Projects, and the Housing Affordability through the Workforce Program

Donovan reported for the Finance and Administrative Services Committee.

He stated they made a motion to hold **AB2024-416** (Presentation from Bellingham Whatcom County Tourism President and CEO Dylan Deane-Boyle), but the item is not scheduled on this agenda.

Donovan moved that **AB2024-416** be held in committee.

Satpal Sidhu, County Executive, asked how long **AB2024-432** would be held.

The motion to hold **AB2024-416** carried by the following vote:

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

Nay: 0

Councilmembers discussed with Sidhu how long this item (**AB2024-432**) would be held.

Donovan moved that the Special Executive Only Item be HELD IN COMMITTEE (so the Executive's Office can schedule presentations). The motion carried by the following vote:

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

Nay: 0

(From Council Committee of the Whole)

2. AB2024-418 Resolution approving a Major Project Permit for the City of Bellingham

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

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

Nay: 0

Enactment No: RES 2024-034

3. AB2024-420 Ordinance amending Whatcom County Code 2.02.080, Standing Committees - Membership, to change the membership of all standing council committees from three members to seven

Buchanan reported for the Committee of the Whole and moved that the Ordinance be HELD IN COMMITTEE for two weeks. The motion carried by the following vote:

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

Nay: 0

(No Committee Assignment)

4. AB2024-400 Appointment of members to serve on pro and con statement writing committees for a proposed ballot measure amending the Whatcom County Charter to expand the standards for conflict of interest

Elenbaas asked if they could wait on voting for this since they have three applicants for the pro side but only two for the con.

Donovan moved to accept the applicants. The motion was seconded by Buchanan.

Councilmembers discussed the motion.

The motion carried by the following vote:

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

Nay: 0

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

Motion approved 7-0 to accept: Pro: Andrew Redding, Kathy Kershner, and John Westerfield; and Con: Doris Smith and Atul Deshmane

CONFIRMATION OF EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. AB2024-429 Request confirmation of the County Executive's reappointments of Georgiann Dustin and Jen Lautenbach to the Northwest Senior Services Board

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

Satpal Sidhu, County Executive, answered why the Council does not see the applications for executive appointments, and whether they could just be added to the packet each time. He stated they can ask their staff to send those applications.

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

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

Nay: 0

2. AB2024-461 Request confirmation of the County Executive's appointment of Mike Cullum to the Civil Service Commission

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

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

Nay: 0

ITEMS ADDED BY REVISION

1. AB2024-466 Resolution requesting Whatcom County Superior Court issue a declaratory judgement to determine whether Initiative 2024-01 is procedurally invalid

Buchanan reported for the Committee of the Whole and ***moved*** that the Resolution be APPROVED.

Councilmembers discussed the motion, a concern about whether or not they would continue to collect the funds and whether the funds would then be unrestricted, how long it would be until they have a response from the courts on the request of this resolution, and whether it would make sense to move both this and the initiative item (as it is) forward.

George Roche, Prosecuting Attorney's Office, clarified the hiring process for an attorney, and stated the presiding judge of the Superior Court would likely just select an attorney to fulfill the duties of being a special prosecuting attorney. He spoke about whether a pre-election challenge could be filed in time for the ballot publication deadline and stated it would be a pretty tight time frame. He answered how the special prosecutor would be funded and how much it would cost, and stated he is not sure how it would be funded but they could plan for not less than \$100,000.

Councilmembers discussed the motion, whether the only way to look at the charter issues is through the courts, the opinion that what the Council is doing is procedurally invalid and that the initiative should go on the ballot, what information citizens are given by the Auditor (including the advisory memo attached to this file), separating these processes from the goal of helping children while continuing to talk about how gaps in childcare in our community can be filled, and whether this issue about process might be a good thing for the Charter Review to take up.

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

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

Nay: 2 - Elenbaas, and Stremler

Abstain: 1 - Byrd

Enactment No: RES 2024-035

2. AB2024-468 Ordinance imposing an emergency interim moratorium on the acceptance and processing of applications and permits for new uses in areas zoned heavy impact industrial within a city's designated urban growth area

Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be TABLED.

He stated he had intended that this and the non-emergency version (AB2024-467 below) would be discussed simultaneously, and Councilmembers discussed with Council staff whether this motion could be reconsidered later in the meeting.

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

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

Nay: 2 - Elenbaas, and Stremler

3. AB2024-469 Resolution requesting the Whatcom County Executive decommission all contracts with the Opportunity Council and Northwest Youth Services relating to the 22 North permanent supportive housing facility

Elenbaas briefed the Councilmembers on the resolution and its intent. He stated he does not want anyone else to die in a facility the County is funding. He would hope that if they have a secure treatment center in that infrastructure instead, that in the long run, they will have a better outcome with homelessness. His resolution is not to just pull the carpet out from under 22 North, but to hold them accountable, and he would like to see the infrastructure repurposed as a treatment facility.

Elenbaas moved and Stremler seconded that the resolution be approved.

Byrd stated they do not have any legal power over that building and asked whether that should be updated in the resolution.

Elenbaas stated the point of his resolution is that he does not want Whatcom County to fund the operations anymore. He is asking that the executive team come up with a new plan for that infrastructure and the County can fund operations in that building with a new objective.

Donovan stated this is a discussion they need to have but this is not the best way to do it.

Elenbaas stated he is not asking to pull the plug tomorrow and kick everybody out on the street. He is saying they are going to plan to defund and repurpose. It can be funded privately by donors.

Galloway spoke about needing a more robust conversation about this and *moved* to hold for two weeks. She requested that they carve out at least an hour during one of their committee meetings to have a robust conversation.

The motion to hold was seconded by Scanlon.

Councilmembers and discussed the motion to hold.

Satpal Sidhu, County Executive, addressed some of the comments from Elenbaas and spoke about the program and what Elenbaas' expectations and perception are.

Councilmembers continued to discuss the motion to hold, what kind of conversations should take place, the intent and facts of the resolution, and that there may be other ways to accomplish the goals it puts forth.

Cathy Halka, Clerk of the Council, clarified whether Councilmembers would like this referred back to the Committee of the Whole.

The motion to hold carried by the following vote:

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

Nay: 2 - Stremmler and Elenbaas

Councilmembers discussed the schedule in two weeks, whether Elenbaas would be available at that time, and whether they could add a work session to July 30th which is also a Health Board meeting day.

Erika Lautenbach, Health and Community Services Director, answered what the Health Board agenda will look on July 30th and whether there would be time to add a work session for this item.

Galloway moved to reconsider the motion to hold for two weeks.

The motion was seconded by Donovan.

The motion to reconsider carried by the following vote:

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

Nay: 0

Galloway moved and Scanlon seconded to hold for three weeks so they can have a work session during their July 30th Health Board meeting. The motion carried by the following vote:

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

Nay: 0

Motion Approved 7-0 to hold for three weeks so they can have a work session during their July 30th Health Board meeting.

INTRODUCTION ITEMS

Donovan moved to introduce items one through six.

Galloway requested that they consider Introduction item numbers 1 and 6 separately.

The motion was seconded by Byrd.

Councilmembers voted on Introduction item numbers 2-5 (see votes on individual items below).

1. AB2024-419 Ordinance submitting to the qualified voters of Whatcom County a proposal to repeal Proposition 5

This item was considered separately below.

2. AB2024-422 Appointment to a vacancy on the Solid Waste Advisory Committee, Waste Collection Industry representative, Applicant(s): Ted Carlson

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

3. AB2024-453 Ordinance creating Whatcom County Code 2.49, establishing the Justice Project Finance and Facility Advisory Board

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

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

Nay: 0

4. AB2024-460 Ordinance amending the project budget for the Way Station Project Fund, request no. 4

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

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

Nay: 0

5. AB2024-463 Ordinance amending the 2024 Whatcom County Budget, request no. 9, in the amount of 873,134

**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

6. AB2024-467 Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new uses in areas zoned heavy impact industrial within a City's designated urban growth area

This item was considered separately below.

INTRODUCTION ITEMS CONSIDERED SEPARATELY

1. AB2024-419 Ordinance submitting to the qualified voters of Whatcom County a proposal to repeal Proposition 5

Buchanan moved and Byrd seconded that the Ordinance be INTRODUCED.

Councilmembers discussed which version was being introduced.

Buchanan amended his motion and ***moved*** to introduce the alternate version of the proposal (on file as "Alternate Ordinance submitted for 6.18.2024 Introduction"). The motion was seconded by Donovan.

George Roche, Prosecuting Attorney's Office, answered what language will end up on the voter's pamphlet (as discussed earlier in committee) and stated there is some degree variability at play in the Auditor's rules about that, and one issue is that there are certain page limit requirements. However, the consensus, after speaking to the Auditor's Office, is that the most likely outcome would be that they would see a publication that included the totality of the citizens' initiative, and along with it would also be the Council's ordinance in its totality, provided they do not run into some sort of page limit problem that stops that from happening for one reason or another.

Galloway discussed the motion and whether there should have been a

resolution as opposed to an ordinance.

Donovan moved to amend the alternate ordinance to get rid of the deletions in subsection two of the “Now, Therefore, be it Ordained” section so that everything after “Now, Therefore, be it Ordained” is as it was written by the Prosecutor’s Office. The motion was seconded by Buchanan.

Stremler asked whether this is addressing the three options given to Council with the initiative and whether approving the alternate would mean there would be two propositions on the ballot.

Roche stated he would see this substitute (“alternate”) proposal as still taking advantage of one of the three options available to Council pursuant to the Code and to the Charter. Because the ballot title has not been changed from the citizens’ version of the initiative, his legal opinion at this point in time is that it is taking what was proposed and signed by the citizens and returning that back to the Auditor, not as an alternate, but just returning the language agreed to by the initiative petitioners and the Prosecuting Attorney’s Office when they wrote the ballot title. In many ways it has the effect of being almost no action from the Council. The practical effect of the action they are taking is that they are returning it to the Auditor and letting the Auditor know that they do not have a substitute proposal that they will be offering, so the Auditor can move forward in their process with the initiative and move towards publication.

Councilmembers discussed Roche’s comments and Councilmember Donovan’s intent with this alternate version, which of the three actions the Council would be taking by adopting this ordinance, and what safeguards there would be with this amendment to ensure that Council sees the revised language to make sure it does not change the intent.

Roche stated there are specific duties in the Charter and Code for the Prosecuting Attorney's Office, and one of them to remain neutral and to not argue one way or another in favor of any sort of ballot proposition, but they write the ballot title and the explanatory statement.

The motion to amend carried by the following vote:

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

Nay: 0

Buchanan's motion that the ALTERNATE SUBSTITUTE Ordinance be INTRODUCED AS AMENDED carried by the following vote:

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

Nay: 0

6. AB2024-467 Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new uses in areas zoned heavy impact industrial within a City's designated urban growth area

Donovan moved and Buchanan seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING.

Donovan answered why they need a moratorium and briefed the Councilmembers on the history of the discussion on this topic. He stated the Council voted in May on a motion to support re-examining changing the use of the HII zone in the UGA to include other zoning designations as possible. Planning staff gave that instruction to the Planning Commission and they came back with a memo saying that there is a potential two-phase approach here where they can do some code changes, but the zoning change has to go through the Comprehensive Plan update. There was a challenge first of defining what non-compatible uses might be and they were asked by the Planning Commission, whether, while they were trying to figure out what these incompatible uses would be, a moratorium could be imposed until the long-term solution (phase 2) is adopted through the Comprehensive Plan. He stated his answer to that is yes. They can roll the dice for the next couple years and hope that a permit is not dropped under the current situation or they can put moratorium in place while the Comprehensive Plan update is going on to see how that zoning discussion goes and see how the Planning Commission, Council, and Planning Department define what these incompatible uses might be.

Councilmembers discussed the motion, whether it should be referred back to committee for a longer discussion, and hearing more about the legal implications of this and making sure, if they go down this route, that they are not impacting current businesses.

Donovan stated the intent of his motion is that they would introduce this with the idea that they are not voting on it in two weeks and that it would be going to a committee for discussion.

Councilmembers decided it should be placed in Committee of the Whole with no action taken that day.

Donovan's motion that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING (and sent to Committee for discussion) carried by the following vote:

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

Nay: 2 - Elenbaas, and Stremler

Introduced for Public Hearing (but only referred to Committee of the Whole in two weeks with no action on that date)
5-2 with Elenbaas and Stremler opposed

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Councilmembers reported for committees, made motions on three separate agenda bill files, and gave other updates. See motions under individual files below.

AB2024-462

Discussion of pending litigation with Civil Deputy Prosecutor, George Roche, re; national opioid litigation and the opportunity to amend complaints to add additional defendants [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW42.30.110 (1) (i)]

Donovan moved to authorize George Roche, Civil Deputy to advise Keller Rohrback, outside counsel handling the national opioid litigation for Whatcom County, to amend our complaint to add the following additional defendants as discussed in Executive Session: Albertsons, Indivior Inc., KVK-Tech, Inc., Express Scripts, OptumRx.

The motion was seconded by Galloway.

The motion carried by the following vote:

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

Nay: 0

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

Motion approved 7-0 to authorize George Roche, Civil Deputy to advise Keller Rohrback, outside counsel handling the national opioid litigation for Whatcom County, to amend our complaint to add the following additional defendants as discussed in Executive Session: Albertsons, Indivior Inc., KVK-Tech, Inc., Express Scripts, OptumRx.

AB2024-446

Discussion with Parks Department staff regarding potential property acquisition [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.110(1)(b)]

Galloway moved and Buchanan seconded to authorize County Executive Sidhu, to move forward with and complete the acquisition of the property as long as the purchase price of the property does not exceed the amount discussed in Executive Session.

The motion was seconded by Buchanan.

The motion carried by the following vote:

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

Nay: 1 - Elenbaas

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

Motion approved 6-1, with Elenbaas opposed, to authorize County Executive Sidhu, to move forward with and complete the acquisition of the property as long as the purchase price of the property does not exceed the amount discussed in Executive Session.

AB2024-336 Update from the investigative committee assigned to review recent employment law decisions

Buchanan reported for Committee of the Whole and *moved* to have Council staff put in motion a budget supplemental not to exceed \$100,000 to engage a professional to come in and review our policies pursuant to the scope of work that we as a Council will agree to.

The motion was seconded by Donovan.

Galloway asked how they want to handle multiple cases where they may be seeking third party counsel, and whether they want to make this task-specific or just establish a line in the Council budget for special counsel.

Elenbaas stated he does not think they are looking for legal review right now, but an HR expert for policy and best practice review.

George Roche, Prosecuting Attorney's Office, spoke about policy writing and stated there are a lot of stand-alone policies in each individual County department, but Elenbaas stated they are talking about core policies such as harassment, discrimination, and reporting.

Buchanan stated that is why he wanted a pretty large dollar amount so that if they do have to take up multiple consultants for this, they would have enough resources to do that.

Donovan stated a future discussion might be whether they want to have some sort of ongoing budget authority for Council to have resources to do these kinds of things.

The motion carried by the following vote:

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

Nay: 0

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

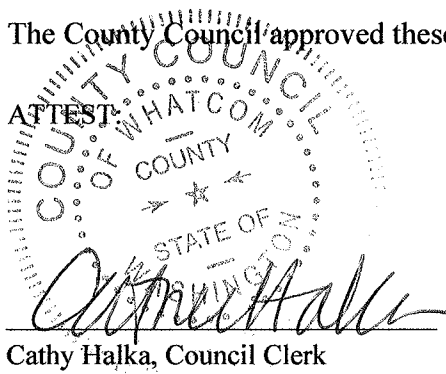
Motion approved 7-0 to have Council staff put in motion a budget supplemental not to exceed \$100,000 to engage a professional to come in and review our policies pursuant to the scope of work that we as a Council will agree to.

ADJOURN

The meeting adjourned at 11:20 p.m.

The County Council approved these minutes on August 6, 2024.

ATTEST



Cathy Halka

Cathy Halka, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Barry Buchanan

Barry Buchanan, Council Chair

Kristi Felbinger

Kristi Felbinger, Minutes Transcription