

Whatcom County Council

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



Action Summary

VIRTUAL MEETING - VIEW ONLINE; AGENDA REVISED 9.14.2020

Tuesday, September 15, 2020

6 PM

Virtual Meeting

COUNCILMEMBERS

Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

COUNTY COUNCIL

CALL TO ORDER

ROLL CALL

Present: 7 - Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, Ben Elenbaas, and Kathy Kershner

Absent: None

ANNOUNCEMENT

FLAG SALUTE

COUNTY EXECUTIVE'S REPORT

MINUTES CONSENT

1. [MIN2020-084](#) Special Council for July 28, 2020

APPROVED BY CONSENT

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

Nay: 0

Absent: 0

2. [MIN2020-085](#) Special Council for July 22, 2020

APPROVED BY CONSENT

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

Nay: 0

Absent: 0

3. [MIN2020-086](#) Committee of the Whole for August 5, 2020

APPROVED BY CONSENT

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

Nay: 0

Absent: 0

4. [MIN2020-087](#) Committee of the Whole - Executive Session for August 5, 2020

APPROVED BY CONSENT

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

Nay: 0

Absent: 0

5. [MIN2020-088](#) Regular County Council for August 5, 2020

APPROVED BY CONSENT

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

Nay: 0

Absent: 0

PUBLIC HEARINGS

1. [AB2020-086](#) Ordinance granting Cellco Partnership d/b/a Verizon Wireless, a non-exclusive franchise for the provision of wireless telecommunications services

ADOPTED

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

Nay: 0

Absent: 0

Enactment No: ORD 2020-043

OPEN SESSION (20 MINUTES)

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

1. [AB2020-335](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Skagit County Sheriff's Office for use of the Plantation Rifle Range to train personnel, in the amount of \$15,134.81

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

2. [AB2020-336](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Marysville Police Department for use of the Plantation Rifle Range to train personnel, in the amount of \$12,716.30

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

3. [AB2020-337](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Bellingham Police Department for use of the Plantation Rifle Range to train personnel, in the amount of \$26,476.80

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

4. [AB2020-338](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Anacortes Police Department for use of the Plantation Rifle Range to train personnel, in the amount of \$6,422.23

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

5. [AB2020-339](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Sedro-Woolley Police Department for use of the Plantation Rifle Range to train personnel, in the amount of \$7,414.23

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

6. [AB2020-342](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Mount Vernon Police Department for use of the Plantation Rifle Range to train personnel, in the amount of \$6,783.04

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

7. [AB2020-343](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Skagit Valley College for use of the Plantation Rifle Range to train personnel, in the amount of \$22,498.85

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

8. [AB2020-349](#) Request authorization for the County Executive to enter into an interlocal lease agreement between Whatcom County and the City of Bellingham for use of a County owned road and right-of-way at Boulevard Park to build a restroom building

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

10. [AB2020-378](#) Request authorization for the County Executive to enter into an agreement between Whatcom County and the Washington State Department of Commerce for a grant in the amount of \$60,461.00 for provision of victim-witness advocacy services in District Court matters

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

11. [AB2020-341](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Elliot Bay Design Group, LLC to provide engineering services for the annual dry dock for the Whatcom Chief ferry along with the other on-call services, as needed, for the Lummi Island Ferry system during the year, in the amount of \$10,000 for a total amended contract amount of \$170,000

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

12. [AB2020-346](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Northwest Youth Services to provide outreach and engagement of youth and young adults designed to reduce risk of opioid use disorder, in the amount of \$160,000

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

13. [AB2020-353](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Lake Whatcom Residential & Treatment Center to provide reimbursement for COVID-19 related operations expenditures, in the amount of \$100,000

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

9. [AB2020-357](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Washington State Department of Ecology 2020-2021 Washington Conservation Corps Crew Agreement

HELD IN COMMITTEE

15. [AB2020-364](#) Request authorization for the County Executive to enter into a five-year lease agreement, using the National Association of State Procurement Officials ValuePoint Master Agreement #ADSP016-00006328 and State of Washington Participating Addendum #05515, between Whatcom County and Pitney Bowes for a replacement Pitney Bowes Connect+ SendPro mail machine, in the amount of \$50,887.25

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

16. [AB2020-365](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Whatcom Family YMCA for operational losses incurred at their child care facilities as a result of COVID-19 impacts, in the amount of \$292,221

See motion and vote under Other Items

17. [AB2020-367](#) Request authorization for the County Executive to enter into a contract between Whatcom County and MORE Smiles Learning Center to provide funding to cover operational losses incurred at their child care facilities as a result of COVID-19 impacts, in the amount of \$50,000

See motion and vote under Other Items

18. [AB2020-361](#) Request authorization for the County Executive to award bid #20-48 and enter into a contract between Whatcom County and Henifin Construction LLC for the Leeward Way Drainage Improvement Project CRP 920015 in the amount of \$229,270

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 0

- 14. [AB2020-359](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Tetra Tech Inc to amend Whatcom County Contract 2019-06008-2 in the amount of \$23,268 for a total amended contract amount of \$61,553

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 0

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

- 1. [AB2020-316](#) Ordinance amending the 2020 Whatcom County Budget, request no. 16, in the amount of \$987,509

ADOPTED

Aye: 5 - Browne, Buchanan, Donovan, Frazey, and Kershner

Nay: 2 - Byrd, and Elenbaas

Absent: 0

Enactment No: ORD 2020-044

- 2. [AB2020-374](#) Report and request for a motion of support from the Whatcom County Council in acknowledgement and support of distributing these CARES Act dollars to our very valuable childcare businesses as recommended by the countywide Childcare review team comprised of representatives from Whatcom County, City of Bellingham, Opportunity Council, Health Department, United Way, and Mt. Baker Foundation

DISCUSSED AND MOTION(S) APPROVED

A motion was approved 6-1, with Elenbaas opposed, to approve the allocations.

- 3. [AB2020-376](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Commerce for funding to develop and expand shelter programs, in the amount of \$1,194,211

AUTHORIZED

Aye: 5 - Browne, Buchanan, Donovan, Frazey, and Kershner

Nay: 2 - Byrd, and Elenbaas

Absent: 0

5. **AB2020-389** Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Fire Protection District #7 to provide COVID-19 testing

AUTHORIZED

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

Nay: 0

Absent: 0

4. [AB2020-385](#) Report and request for a motion of support from the Whatcom County Council in acknowledgement and support of distributing these CARES Act dollars to our very valuable businesses as recommended by the countywide business review team comprised of representatives from Whatcom County, City of Bellingham, and Small Cities, Port of Bellingham Regional Economic Partnership, WWU small Business Development Center, Whatcom Community Foundation and Bellingham Regional Chamber of Commerce

DISCUSSED AND MOTION(S) APPROVED

Aye: 5 - Browne, Buchanan, Byrd, Frazey, and Kershner

Nay: 0

Absent: 0

Abstain: 2 - Donovan, and Elenbaas

A motion was approved 5-0-2, with Donovan and Elenbaas abstaining, to approve the applicants listed under the Whatcom County column, noting the amendment of the removal of the Spice Hut from the City of Bellingham's list.

16. [AB2020-365](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Whatcom Family YMCA for operational losses incurred at their child care facilities as a result of COVID-19 impacts, in the amount of \$292,221

AUTHORIZED BY CONSENT

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

Nay: 1 - Elenbaas

Absent: 0

17. [AB2020-367](#) Request authorization for the County Executive to enter into a contract between Whatcom County and MORE Smiles Learning Center to provide funding to cover operational losses incurred at their child care facilities as a result of COVID-19

impacts, in the amount of \$50,000

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 0

6. [AB2020-356](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Whatcom Conservation District to amend the 2019 Interlocal and Subrecipient Agreement for the Pollution Identification and Correction Program Non-Dairy Agricultural Technical Assistance in the amount of \$223,932.00 for a total amended contract amount of \$530,182.00

REFERRED TO COMMITTEE

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

Nay: 0

Absent: 0

(From Committee of the Whole Executive Session)

Browne moved to approve defense and indemnification of Whatcom County employee defendants Bill Elfo, Wendy Jones, Caleb Erickson, Adam Miller, Cheryl Cardinal, Matt Turner, Jason McDonald, Matthew Charroin, Tim Kiele, Krista Robinson, Jeffrey Hindman, Violet Ignashova, Miriah Brown, Joshua Farmer and contractor Stuart Andrews, named in Cooper as personal representative of the Estate of Paula Jefferson, et al. v. Whatcom County, et al. US District Court Western District of WA No. 2:20-cv-01196. The motion was seconded by Donovan and carried 7-0.

Buchanan read into the record the following corrected version of the title of the second item and stated that no action was taken: Discussion of potential litigation with Civil Deputy Prosecuting Attorney George Roche re: ordinance to revise WCC 2.09 Public Defender's Office, to take place in executive session pursuant to RCW 42.30.110(1)(i)

INTRODUCTION ITEMS

1. [AB2020-368](#) Ordinance amending the 2020 Whatcom County Budget, request no. 17, in the amount of \$871,548

INTRODUCED

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

Nay: 1 - Elenbaas

Absent: 0

2. [AB2020-371](#) Ordinance amending Whatcom County Code 2.09, Public Defender, to reflect current standards of practice outlined under RCW 10.101.030 and the ethical standards relating to conflicts of interest outlined by Washington court rules of

professional conduct

INTRODUCED

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

Nay: 1 - Elenbaas

Absent: 0

3. [AB2020-377](#) Ordinance amending the 2020 Whatcom County Budget, request no. 18, in the amount of \$220,000

INTRODUCED

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

Nay: 1 - Elenbaas

Absent: 0

4. [AB2020-360](#) Ordinance to amend Whatcom County Code 12.60.040, appointment and responsibilities of the Citizen Address and Road Name Appeals Committee

INTRODUCED FOR PUBLIC HEARING

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

Nay: 1 - Elenbaas

Absent: 0

5. [AB2020-340](#) Receipt of application to the Drayton Harbor Shellfish Protection District Advisory Committee, Applicant(s): Patricia Erin Lulu (deadline for applications to this position is 10:00 a.m. on Tuesday, September 22, 2020)

INTRODUCED

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

Nay: 1 - Elenbaas

Absent: 0

6. [AB2020-362](#) Receipt of application to the Climate Impact Advisory Committee, Applicant(s): Stevan Harrel (application deadline for any other applicants to these positions is 10 a.m. on September 22, 2020)

INTRODUCED

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

Nay: 1 - Elenbaas

Absent: 0

7. [AB2020-363](#) Resolution in the matter of the Whatcom County Six-Year Transportation

Improvement Program (STIP) for the years of 2021 through 2026

INTRODUCED FOR PUBLIC HEARING

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

Nay: 1 - Elenbaas

Absent: 0

8. [AB2020-366](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham for FY2020 Byrne Justice Assistance Grant Program Award, in the amount of \$12,832.00

INTRODUCED FOR PUBLIC HEARING

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

Nay: 1 - Elenbaas

Absent: 0

9. [AB2020-358](#) Resolution adopting the Six-Year Water Resources Improvement Program (WRIP) 2021-2026

INTRODUCED FOR PUBLIC HEARING

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

Nay: 1 - Elenbaas

Absent: 0

10. [AB2020-352](#) Ordinance adopting various amendments to WCC Titles 12 (Roads & Bridges), 16 (Environment), 20 (Zoning), 21 (Land Division Regulations), and 22 (Land Use and Development Procedures)

INTRODUCED FOR PUBLIC HEARING

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

Nay: 1 - Elenbaas

Absent: 0

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2020-351](#) Confirmation/appointment of councilmembers to serve on two subcommittees of a five-county regional cooperation group (Skagit, Whatcom, Island, San Juan, and Snohomish)

NOMINATED AND APPOINTED

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

Nay: 1 - Kershner

Absent: 0

Temp Absent: 1 - Browne

Motion approved 5-1-1, with Browne out of the meeting (just for the vote) and Kershner opposed, to appoint Browne to serve on the Policy Committee and Buchanan to serve on the Framework Committee.

EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2020-369](#) Information only: the County Executive concurrently appoints William Szabo, City appointment, to the Bellingham-Whatcom County Housing Authorities Board of Commissioners

CONFIRMED

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

Nay: 0

Absent: 0

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

ADJOURN