

Whatcom County Council

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



Action Summary

**VIRTUAL MEETING (TO PARTICIPATE, SEE INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil OR CALL 360.778.5010); AGENDA**

REVISED 3.22.2021 & 3.23.2021

Tuesday, March 23, 2021

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, Ben Elenbaas, Carol Frazey, and Kathy Kershner

Absent: None

FLAG SALUTE

ANNOUNCEMENTS

COUNTY EXECUTIVE'S REPORT

MINUTES CONSENT

1. [MIN2021-023](#) Committee of the Whole Executive Session for March 9, 2021

APPROVED BY CONSENT

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

Nay: 0

Absent: 0

2. [MIN2021-024](#) Committee of the Whole for March 9, 2021

APPROVED BY CONSENT

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

Nay: 0

Absent: 0

3. [MIN2021-025](#) Regular County Council for March 9, 2021

APPROVED BY CONSENT

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

Nay: 0

Absent: 0

4. [MIN2021-026](#) Water Work Session for March 16, 2021

APPROVED BY CONSENT

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

Nay: 0

Absent: 0

PUBLIC HEARINGS

1. [AB2021-134](#) Ordinance amending Whatcom County Code Section 1.14, Electoral Precincts, for changes in certain voting precinct boundaries in Whatcom County

ADOPTED

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

Nay: 0

Absent: 0

Enactment No: ORD 2021-010

2. [AB2021-135](#) Ordinance regarding temporary installation of stop signs on Noon Road at Ten Mile Road and East Hemmi Road at Noon Road

ADOPTED

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

Nay: 0

Absent: 0

Enactment No: ORD 2021-011

3. [AB2021-147](#) Ordinance establishing a fare capital surcharge for the Lummi Island Ferry System

ADOPTED

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

Nay: 0

Absent: 0

Enactment No: ORD 2021-012

4. [AB2021-164](#) Ordinance imposing an additional sales and use tax of one-tenth of one percent for housing and related services as authorized by RCW 82.14.530 adding a new chapter 3.47 to the Whatcom County Code

ADOPTED

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

Nay: 3 - Byrd, Elenbaas, and Kershner

Absent: 0

Enactment No: ORD 2021-013

OPEN SESSION (20 MINUTES)**CONSENT AGENDA****(From Council Finance and Administrative Services Committee)**

1. [AB2021-127](#) Resolution to set hearing and notice of hearing on sale of county tax title property

APPROVED

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

Nay: 0

Absent: 0

Enactment No: RES 2021-010

2. [AB2021-129](#) Resolution to set hearing and notice of hearing on sale of county tax title property

WITHDRAWN

3. [AB2021-157](#) Request authorization for the County Executive to enter into an interlocal amendment between Whatcom County and Fire Protection District #7 to extend the agreement through December 31, 2022 in the amount of \$296,995

This item was considered separately. See motion and vote below.

4. [AB2021-159](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Patrol to lease tower access at the WSP Sumas Mountain Communications Site for a period of 10 years in the amount of \$15,304.28

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 0

5. [AB2021-162](#) Request authorization for the County Executive to enter into a lease agreement between Whatcom County and Lookout Mountain Holdings to lease tower access at the Lookout Mountain North Tower Site for four years and seven months for a total amount of \$51,332.73

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 0

6. [AB2021-170](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and SeaMar Community Health Centers to provide funding for an additional GRACE Program Case Manager in the amount of \$92,875 for a total amended contract amount of \$1,712,583

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 0

7. [AB2021-183](#) Request authorization for the County Executive to enter into a lease agreement between Whatcom County and Mt Constitution Sites, Inc to lease tower access at the Mt Constitution site for the period of five years in the amount of \$111,000

AUTHORIZED BY CONSENT

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

Nay: 0

Absent: 0

3. [AB2021-157](#) Request authorization for the County Executive to enter into an interlocal amendment between Whatcom County and Fire Protection District #7 to extend the agreement through December 31, 2022 in the amount of \$296,995

AUTHORIZED BY CONSENT

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

Nay: 2 - Byrd, and Kershner

Absent: 0

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2020-110](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Freedom 2000, LLC dba Cando Recycling and Disposal to lease the Johnson Road Transfer Station Facility in Point Roberts, in the amount of \$750 per month

AUTHORIZED

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

Nay: 3 - Byrd, Elenbaas, and Kershner

Absent: 0

2. [AB2021-145](#) Ordinance amending the project budget for Academy Road Stormwater

Improvements Fund, request no. 2

ADOPTED

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

Nay: 0

Absent: 0

Enactment No: ORD 2021-014

3. [AB2021-146](#) Ordinance amending the 2021 Whatcom County Budget, request no. 4, in the amount of \$3,397,903

ADOPTED

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

Nay: 1 - Elenbaas

Absent: 0

Enactment No: ORD 2021-015

4. [AB2021-155](#) Request authorization for the County Executive to enter into a Lease Agreement between Whatcom County Flood Control Zone District and Brian Mellema for the annual amount of \$3,537.53 (Council Acting as the Flood Control Zone District Board of Supervisors)

AUTHORIZED

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

Nay: 0

Absent: 0

5. [AB2021-172](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham for coordinated administration of the GRACE Program, in the amount of \$280,000

AUTHORIZED

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

Nay: 0

Absent: 0

6. [AB2021-178](#) Resolution to seek funding for the Lummi Island Ferry Modernization and Preservation project, including the BUILD grant program

APPROVED

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

Nay: 0

Absent: 0

Enactment No: RES 2021-011

(No Committee Assignment)

7. [AB2021-165](#) Request Council approval of the proposed charter for the SWISS (Snohomish, Whatcom, Island, Skagit, and San Juan Counties) group

APPROVED REQUEST

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

Nay: 2 - Elenbaas, and Kershner

Absent: 0

Abstain: 1 - Byrd

8. [AB2021-148](#) Ordinance amending Whatcom County Code 3.08 Purchasing System to include nondiscrimination by county contractors

ADOPTED

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

Nay: 0

Absent: 0

Enactment No: ORD 2021-016

EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2021-167](#) Request confirmation of the County Executive's reappointment of Megen Porter and new appointment of Dana Weber to the Developmental Disabilities Advisory Board

CONFIRMED

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

Nay: 0

Absent: 0

2. [AB2021-175](#) Request confirmation of the County Executive's appointment of Nadine Kaaland to the Public Defense Advisory Committee

CONFIRMED

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

Nay: 0

Absent: 0

3. [AB2021-176](#) Request confirmation of the County Executive's appointment of Kathryn Ketteridge to the Marine Resources Committee

CONFIRMED

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

Nay: 0

Absent: 0

4. [AB2021-177](#) Request confirmation of the County Executive's appointments of Nichole Oleson and Austin Hengy to the Food System Committee

CONFIRMED

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

Nay: 0

Absent: 0

ITEMS ADDED BY REVISION

1. [AB2021-190](#) Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new or expanded outdoor recreational cannabis growing and/or processing facilities

INTRODUCED FOR PUBLIC HEARING

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

Nay: 1 - Elenbaas

Absent: 0

2. [AB2021-209](#) Resolution regarding permanent affordability of childcare in Whatcom County

INTRODUCED

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

Nay: 0

Absent: 0

INTRODUCTION ITEMS

1. [AB2021-173](#) Ordinance amending the 2021 Whatcom County Budget, request no. 5, in the amount of \$1,192,365

SUBSTITUTE INTRODUCED

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

Nay: 0

Absent: 0

2. [AB2021-171](#) Ordinance granting Trans Mountain Pipeline (Puget Sound) LLC, a non-exclusive franchise for pipeline facilities

INTRODUCED FOR PUBLIC HEARING

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

Nay: 0

Absent: 0

3. [AB2021-184](#) Ordinance amending Whatcom County Code 9.08.020 Unlawful Exposure to include an exception for breastfeeding

INTRODUCED FOR PUBLIC HEARING

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

Nay: 0

Absent: 0

4. [AB2021-128](#) Resolution to sell county tax title property by public auction

INTRODUCED FOR PUBLIC HEARING

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

Nay: 0

Absent: 0

5. [AB2021-130](#) Resolution to sell county tax title property by public auction

WITHDRAWN

6. [AB2021-168](#) Resolution declaring the Whatcom County Flood Control Zone District intention to lease property on Emmerson Road (Council Acting as the Flood Control Zone District Board of Supervisors)

INTRODUCED FOR PUBLIC HEARING

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

Nay: 0

Absent: 0

7. [AB2021-169](#) Resolution declaring the Whatcom County Flood Control Zone District intention to lease property on Dahlberg Road (Council Acting as the Flood Control Zone District Board of Supervisors)

INTRODUCED FOR PUBLIC HEARING

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

Nay: 0

Absent: 0

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

The following motion from Committee of the Whole Executive Session was approved 7-0 regarding AB2021-174 Discussion of pending litigation with Civil Deputy Prosecutor Brandon Waldron re: Tojek v. Whatcom County, et al.; Whatcom County Superior Court case no. 21-2-00117-37 [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.110(1)(i)]:

The County Council met in executive session concerning the lawsuit Tojek v. Whatcom County, et al., Whatcom County Superior Court No. 21-2-00117-37. Pursuant to Whatcom County Code 2.56, the Council hereby finds the following:

- A. George Roche was acting in a matter in which the county had an interest;
- B. The George Roche was acting in the discharge of a duty imposed or authorized by law;
- C. George Roche acted in good faith.

Employee George Roche will be defended and indemnified pursuant to and consistent with the provisions in WCC Chapter 2.56.

A motion was approved 7-0 to approve the Council sending a letter if needed to State legislators on funding of the Crisis Stabilization Center and establishing the Center as a State pilot program for diversion.

ADJOURN