

Whatcom County Council

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



Minutes - Draft Minutes

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

Tuesday, July 27, 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

Council Chair Barry Buchanan called the meeting to order at 6:01 p.m. in a virtual meeting.

ROLL CALL

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

Absent: None

FLAG SALUTE

ANNOUNCEMENTS

Buchanan read the following announcement: The Council is accepting applications to fill 5 vacancies on the Portage Bay Shellfish Protection District Advisory Committee. The vacancy must be filled by someone with a direct interest in the district. If you are interested in filling this vacancy and meet the qualifications, please let us know at 360-778-5010 or email the council at Council@co.whatcom.wa.us.

COUNTY EXECUTIVE'S REPORT

Satpal Sidhu, County Executive, stated he did not have a report.

SPECIAL PRESENTATION

1. [AB2021-440](#) Presentation on police reform in Washington State

Bill Elfo, Sheriff, gave a presentation and answered questions about the new legislation, how many officers the Sheriff's Office will be short, whether it would be helpful if money was allocated in the budget for hiring bonuses, hiring behavioral health professionals and who would supervise them, whether the new legislation will cause more people to take the law into their own hands and whether that would make communities more safe.

Anne Deacon, Health Department, spoke about the shortage of mental health professionals and keeping those workers safe.

Councilmembers discussed the next steps forward, why it was just scheduled in a Council meeting and whether a discussion should be scheduled for committee, tracking the effects and costs of the legislation, and what it is that the Council can do.

Satpal Sidhu, County Executive, stated it is something the Administration

has been working on for six months or more with Emergency Medical Services, the City of Bellingham, and other programs.

This agenda item was PRESENTED AND DISCUSSED.

ITEMS ADDED BY REVISION

1. [AB2021-457](#) Letter of support for opioid treatment program in Bellingham

Clerk's note: This item was moved from the "ITEMS ADDED BY REVISION" header later in the agenda.

The following people briefed the Councilmembers and answered questions:

- Jackie Mitchell, Health Department,
- Jessica DePriest, Acadia Healthcare
- Colleen Bowles, Clinic Director
- Anne Deacon, Health Department

Browne moved that they approve the letter. The motion was seconded by Donovan.

DePriest answered a question about recovery rate for the methadone treatment.

Browne's motion that the REQUEST be APPROVED carried by the following vote:

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

Nay: 0

Absent: 0

MINUTES CONSENT

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

1. [MIN2021-055](#) Committee of the Whole Executive Session for July 13, 2021

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

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

Nay: 0

Absent: 0

2. [MIN2021-056](#) Committee of the Whole for July 13, 2021

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

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

Nay: 0

Absent: 0

3. [MIN2021-057](#) Regular County Council for July 13, 2021

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

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

Nay: 0

Absent: 0

4. [MIN2021-059](#) Water Work Session for July 20, 2021

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

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

Nay: 0

Absent: 0

PUBLIC HEARINGS

Dana Brown-Davis, Clerk of the Council, answered a question about the process for this and the other ordinances to be considered concurrently. Council staff played a short instructional video about how to speak at the meeting.

1. [AB2021-403](#) Ordinance adopting amendments to the Whatcom County Comprehensive Plan and Whatcom County Code relating to the Cherry Point UGA fossil fuel facilities, renewable fuel facilities, piers, SEPA, greenhouse gas emissions, and other matters

Buchanan opened the Public Hearing and the following people spoke:

- Lance Calloway
- Cary Clemenson
- Todd Taylor
- Sandy Lawrence
- Rod Roth
- David Kershner

- Larry Montgomery
- Charles Bailey
- Tom Wolf
- Zach McCown
- Matt Krogh
- Shannon Wright
- Brad Brown
- Trevor Smith
- Pam Brady
- Dave Brune
- Tim Johnson
- Rick Stumph
- Christopher Watrobka
- Alex Ramel
- Luis Serragon
- Tony Galina
- Matthew Hepner
- Kamal Bhachu
- Doris Smith
- Barney Smith
- Barbara Chase
- Bruce Gregory Tims
- Andrew Gamble
- Wendy Harris
- Adam Lamb
- Dana Briggs
- Kelley Bouma
- James Arstead

Hearing no one else, Buchanan closed the Public Hearing.

PUBLIC TESTIMONY RECEIVED.

Buchanan moved to forward this ordinance for concurrent review with the other Comprehensive Plan amendment proposals scheduled later this evening. The motion was seconded by Donovan.

Dana Brown-Davis, Clerk of the Council, explained the process for reviewing the Comprehensive Plan amendments concurrently.

Councilmembers discussed the motion.

Byrd suggested a friendly amendment to add the agenda bill number to the motion so that the motion says to forward this ordinance (AB2021-403) for concurrent review with the other Comprehensive Plan amendment proposals scheduled later this evening.

Buchanan accepted the friendly amendment.

Buchanan's motion that the Ordinance Requiring a Public Hearing (AB2021-403) be FORWARDED FOR CONCURRENT REVIEW carried by the following vote:

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

Nay: 0

Absent: 0

APPROVAL OF COMPREHENSIVE PLAN AMENDMENTS

1. [AB2021-403](#) Ordinance adopting amendments to the Whatcom County Comprehensive Plan and Whatcom County Code relating to the Cherry Point UGA fossil fuel facilities, renewable fuel facilities, piers, SEPA, greenhouse gas emissions, and other matters
Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Councilmembers discussed the motion and Satpal Sidhu, County Executive, also commented. See vote on concurrent approval of this item in the minutes below.

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

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

Nay: 0

Absent: 0

Enactment No: ORD 2021-046

2. [AB2021-380](#) Ordinance adopting amendments to the Whatcom County Comprehensive Plan relating to density credits, PDRs, and TDRs
See vote on concurrent approval of this item in the minutes below.

Browne moved and Donovan seconded that the Ordinance be ADOPTED (see motion below related to concurrent review). The motion carried by the following vote:

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

Nay: 2 - Byrd, and Elenbaas

Absent: 0

Enactment No: ORD 2021-047

3. [AB2021-381](#) Ordinance adopting Whatcom County Comprehensive Plan amendments concerning the Lummi Island Ferry, modifying Policy 6A-1 relating to ferry level of service and deleting Policy 6C-9 relating to a ferry feasibility study

See vote on concurrent approval of this item in the minutes below.

Browne moved and Donovan seconded that the Ordinance be ADOPTED (see motion below related to concurrent review). The motion carried by the following vote:

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

Nay: 0

Absent: 0

Enactment No: ORD 2021-048

4. [AB2021-363](#) Ordinance amending the Whatcom County Code and Comprehensive Plan, requiring a site-specific geotechnical analysis when mineral extraction is proposed within 500 feet of a gas or petroleum transmission pipeline

Dana Brown-Davis, Clerk of the Council, stated that the ordinance has already been adopted (ORD 2021-040) but it needs to be part of concurrent review. See vote on concurrent approval of this item in the minutes below.

This item was adopted in a previous meeting (see motion below related to concurrent review).

Concurrent Review Vote

Buchanan moved to approve the above adopted Comprehensive Plan amendments concurrently. The motion was seconded by Frazey.

Dana Brown-Davis, Clerk of the Council, stated that includes AB2021-363.

The motion carried by the following vote:

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

Nay: 0

OPEN SESSION (20 MINUTES)

Council staff played a short instructional video about how to speak at the meeting.

The following people spoke:

- Misty Flowers
- Cliff Langley
- Nancy Bergman
- Jennifer Durant
- Jean Purcell
- Natalie Chavez
- Helga Deliban
- Andrea Ward
- Richard Tran
- Hannah (last name not given)
- Dana Briggs
- Brad Brown
- Alicia McCoy

Hearing no one else, Buchanan closed the Open Session.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

Browne reported for the Finance and Administrative Services Committee and **moved** to approve Consent Agenda items one and two. Councilmembers voted on those items (see votes on individual items below).

1. [AB2021-407](#) Request authorization for the County Executive to enter into a contract between Whatcom County and GeoEngineers, Inc. to provide on-call geotechnical engineering services for 2021-2022 in the amount not to exceed \$200,000

Browne 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 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

2. [AB2021-429](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Lifeline Connections to support the Whatcom Recovery House, in the amount of \$51,447

Browne 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 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2021-405](#) Ordinance requesting that the Whatcom County Auditor include the question of establishing a Birch Bay Library Capital Facility Area to finance a new library facility in Birch Bay on the ballot at the November general election

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

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

Nay: 0

Absent: 0

Enactment No: ORD 2021-049

2. [AB2021-431](#) Resolution to set hearing and notice of hearing to declare Whatcom County real property as surplus

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

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

Nay: 0

Absent: 0

Enactment No: RES 2021-023

3. [AB2021-432](#) Resolution to set hearing and notice of hearing to authorize the sale of Whatcom County surplus property

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

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

Nay: 0

Absent: 0

Enactment No: RES 2021-024

4. [AB2021-396](#) Request approval for the County Executive to enter into a contract between Whatcom County Flood Control Zone District and the Washington Department of Ecology in the amount of \$153,520 (Council acting as the Flood Control Zone District Board of Supervisors)

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

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

Nay: 0

Absent: 0

5. [AB2021-409](#) Request approval for the County Executive to enter into an interlocal agreement on behalf of the Flood Control Zone District between Whatcom County and the City of Lynden in the amount of \$20,000 for the construction of the Lynden Levee Channel Realignment Project (Council acting as the Flood Control Zone District Board of Supervisors)

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

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

Nay: 0

Absent: 0

Dana Brown-Davis, Clerk of the Council, answered a question about an item added by revision (AB2021-456).

(From Council Committee of the Whole)

6. [AB2021-438](#) Resolution approving the Whatcom County Water District No. 7 Water System Plan
Buchanan reported for Committee of the Whole.

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

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

Nay: 0

Absent: 0

Enactment No: RES 2021-025

ITEMS ADDED BY REVISION

2. [AB2021-456](#) Request authorization for the County Executive to enter into a contract to purchase 2000 Division Street property

Dana Brown-Davis, Clerk of the Council, read AB2021-456 into the record.

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

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

Nay: 0

Absent: 0

INTRODUCTION ITEMS

Buchanan reported for Committee of the Whole and stated that AB2021-185 (Introduction item number 9) was withdrawn from introduction.

Donovan moved to introduce items 1-8. The motion was seconded by Byrd (see votes on individual items below).

1. [AB2021-412](#) Ordinance amending the 2021 Whatcom County Budget, request no. 12, in the amount of \$1,506,763

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

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

Nay: 0

Absent: 0

2. [AB2021-420](#) Ordinance amending the Whatcom County Comprehensive Plan Map and zoning code for the Nooksack Falls Exclave within the Mount Baker-Snoqualmie National Forest

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

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

Nay: 0

Absent: 0

3. [AB2021-422](#) Ordinance for reestablishing a speed limit for a portion of Bay Road

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

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

Nay: 0

Absent: 0

4. [AB2021-424](#) Ordinance adopting amendments to the Whatcom County Code Title 20, Zoning to allow and regulate Battery Energy Storage Systems

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

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

Nay: 0

Absent: 0

5. [AB2021-433](#) Resolution declaring Whatcom County real property as surplus

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

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

Nay: 0

Absent: 0

6. [AB2021-434](#) Resolution authorizing the sale of Whatcom County surplus property

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

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

Nay: 0

Absent: 0

7. [AB2021-413](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and City of Bellingham for FY2021 Byrne Justice Assistance Grant (JAG) Program Award, in the amount of \$14,001

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

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

Nay: 0

Absent: 0

8. [AB2021-417](#) Resolution transferring a Whatcom County Flood Control Zone District property to the Lummi Nation (Council acting as the Flood Control Zone District Board of Supervisors)

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

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

Nay: 0

Absent: 0

9. [AB2021-185](#) Ordinance amending Whatcom County Code 9.32, Unlawful Discharge of Firearms, to establish a no shooting zone in the Drayton Harbor area of Whatcom County

This agenda item was WITHDRAWN.

OTHER BUSINESS FROM COMMITTEE

Dana Brown-Davis, Clerk of the Council, spoke about a need for a Pro and Con Statement Committee for a Ballot Measure to Amend the Charter.

Councilmembers concurred to have staff set up a special Council meeting for Monday, August 2, 2021.

They then discussed Bellingham Community Television (BTV)'s decision to not air Council meetings if they contain medical misinformation as defined by YouTube.

Byrd moved to formally request a joint session with the City of Bellingham's Council and Mayor to discuss the topic if they choose not to air the episode we send them tomorrow. The motion was seconded by Frazey.

Councilmembers and Brown-Davis discussed the motion.

Byrd clarified his motion to send BTV the July 27, 2021 meeting video and if they refuse to air it in its entirety unedited, then follow up with a formal request for a Joint meeting with the City of Bellingham's Council.

The motion carried by the following vote:

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

Nay: 0

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Councilmembers gave committee reports.

Dana Brown-Davis, Clerk of the Council, read a motion into the record from Committee of the Whole Executive Session.

Browne moved to authorize the County Executive, acting on behalf of the Whatcom County Flood Control Zone District, to execute a Purchase and Sale Agreement and Relocation Assistance Package for the acquisition of a property as discussed in Executive Session. The motion was seconded by Frazey.

Councilmembers discussed the motion.

The motion carried by the following vote:

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

Nay: 1 - Byrd

Out of the Meeting: 1 - Donovan

They and Satpal Sidhu, County Executive, also discussed an issue concerning a recent Council vote about providing funding for COVID-19 education through the Health Department.

ADJOURN

The meeting adjourned at 10:11 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription