

Whatcom County Council

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



Minutes - Final

Tuesday, February 20, 2024

6 PM

Hybrid Meeting

HYBRID MEETING - PLEASE NOTE: COUNCIL IS CURRENTLY REVIEWING ITS PUBLIC COMMENT RULES AND HAS SUSPENDED REMOTE PUBLIC COMMENT VIA ZOOM UNTIL FURTHER NOTICE. PLEASE SEE AGENDA NOTES UNDER "OPEN SESSION" FOR MORE INFORMATION.

COUNCILMEMBERS

Barry Buchanan

Tyler Byrd

Todd Donovan

Ben Elenbaas

Kaylee Galloway

Jon Scanlon

Mark Stremmler

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 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

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

1. [MIN2024-007](#) Committee of the Whole for February 6, 2024

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

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

Nay: 0

Temp Absent: 1 - Scanlon

2. [MIN2024-008](#) Regular County Council for February 6, 2024

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

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

Nay: 0

Temp Absent: 1 - Scanlon

OPEN SESSION

Buchanan stated that at the last meeting, during the virtual portion of the public open session, we had some hate speech delivered by a few individuals and then we had to shut down our public comment period and retreat to executive session. We then came back out and we did not continue our open

public session on the virtual side. Tonight, we are continuing that suspension of the virtual side until we have come up with a remedy.

The following people spoke:

- Angie Burke
- Rebecca Cash
- Mark (last name not stated)
- Natalie Chavez

Hearing no one else, Buchanan closed the Open Session.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

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

1. [AB2024-123](#) Request authorization for the County Executive to enter into an interlocal cooperative agreement between Whatcom County and U.S. Department of Agriculture Forest Service for enhancement of state and local law enforcement on National Forest Service lands, in the amount of \$22,704.00

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

2. [AB2024-129](#) Resolution ordering the cancellation of an accounts receivable invoice from the Sheriff's Office

Donovan 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, Galloway, Scanlon, and Stremler

Nay: 0

Enactment No: RES 2024-009

3. [AB2024-130](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and North Sound Behavioral Health

Administrative Services Organization to acknowledge and fund Whatcom County's participation in the North Sound Integrated Care Network, in the amount of \$523,788.10 for a total amended contract amount of \$1,496,767.30

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

4. [AB2024-135](#) Request authorization for the County Executive to enter into a grant agreement between Whatcom County and Washington State Department of Ecology for the 2023-2025 Biennial Stormwater Capacity Grant, in the amount of \$130,000

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

5. [AB2024-136](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Washington State Military Department and the U.S. Department of Homeland Security to assist in preparing for all hazards through sustainment and enhancement of current programs, in the amount of \$74,670.00

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

6. [AB2024-137](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and the Washington State Department of Commerce to change the scope of work and reduce the funding by \$29,391.00 for a total amended contract amount of \$1,850,608.00

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

7. [AB2024-141](#) Request authorization for the County Executive to enter into a contract agreement

between Whatcom County and ImageTrend, Inc. to increase the contract in the amount of \$14,460.00 for a total amended contract amount of \$201,876.32

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

8. [AB2024-143](#) Request authorization for the County Executive to enter into an interlocal amendment between Whatcom County and Washington State Military Department for Operation Stonegarden FY20, in the amount of \$234,343.94 for a total amended amount of \$639,943.94

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

9. [AB2024-148](#) Request authorization for the County Executive to enter into an easement agreement with Western Washington University and Sierra Pacific Land & Timber Company to allow public access to Canyon Lake Community Forest, in the amount of \$100,000

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

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

Nay: 0

AB2024-148 was discussed below under Other Items.

OTHER ITEMS

(From Council Climate Action and Natural Resources Committee)

1. [AB2024-140](#) Resolution authorizing Whatcom County Conservation Easement Program Administrator and Whatcom County Executive to proceed with the acquisition of a conservation easement on the Jacoby application

Galloway reported for the Climate Action and Natural Resources Committee and moved that the resolution be approved. But Elenbaas wanted to discuss the last item on the Consent Agenda, so they did that first then came back to this item (see motion and vote below).

Enactment No: RES 2024-010

Councilmembers started to discuss AB2024-140, then returned back to AB2024-148 on the Consent Agenda. See motion and vote on this item below.

9. [AB2024-148](#) Request authorization for the County Executive to enter into an easement agreement with Western Washington University and Sierra Pacific Land & Timber Company to allow public access to Canyon Lake Community Forest, in the amount of \$100,000

Elenbaas stated he was not clear about Consent Agenda number nine and wanted to ask a question, and the following people answered:

- Tyler Schroeder, Director of Administrative Services
- Bennett Knox, Parks and Recreation Department Director
- Satpal Sidhu, County Executive

Elenbaas stated there is \$100,000 and it appears to come from the County, but the easement is granted to the County and Western Washington University. He asked whether Western does not have any skin in the game or whether we are getting a grant for that.

Knox briefed the Councilmembers on the easement agreement and stated Western does not have money toward this. The money that is being allocated is to cover maintenance costs that are associated with establishing the access.

Schroeder stated that really early on in the acquisition is when all three parties worked together to acquire the easement rights, so Western was already a part of the easement and, as such, needed to be a party to this amended easement as well.

Sidhu gave a history of the acquisition and stated the County needed research and used Western Washington University to do the research. They were the County's partner in getting the original easement in the 1990s so their name is already on the lease.

Knox answered what funds the Parks Special Revenue Fund and stated it comes from a number of different sources and is within the Parks Department's budget for maintenance.

1. [AB2024-140](#) Resolution authorizing Whatcom County Conservation Easement Program Administrator and Whatcom County Executive to proceed with the acquisition of a conservation easement on the Jacoby application

Galloway reported again for the Climate Action and Natural Resources

Committee and Councilmembers discussed the motion (made above before the discussion on AB2024-148).

Elenbaas stated over the last two to three decades we have done a lot of work to preserve the land and he does not know how well that has done at preserving our agriculture economy because we need to switch our mindset to preserving our ability to farm. He spoke about how this program can be a double-edged sword and we do not see what we have given up until maybe the next generation comes through. We are doing this thinking we are preserving ag land, but we might just be preserving the land and not ag land or timber land. That is because the things we are doing to protect the land could possibly make it more difficult to farm or harvest in the future.

Tyler Schroeder, Director of Administrative Services, answered whether the Conservation Easement Program has always included forestry and stated in about 2018 the program was expanded to also protect forest land and ecosystems as secondary goals.

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

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

Nay: 0

Abstain: 1 - Elenbaas

Enactment No: RES 2024-010

(From Council Finance and Administrative Services Committee)

2. [AB2024-110](#) Ordinance establishing a project based budget for Eagleridge Stormwater Improvements Project Fund SWP #SWLW24-01

Donovan 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, Galloway, Scanlon, and Stremmer

Nay: 0

Enactment No: ORD 2024-009

3. [AB2024-111](#) Resolution amending the 2024 Flood Control Zone District and Subzones Budget, request no. 1, in the amount of \$14,400 (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 Resolution (FCZDBS) be APPROVED.

Elenbaas asked why this meets the contract threshold for coming to Council for approval and Buchanan stated there is a different set of criteria for the Whatcom Flood Control Zone District.

Donovan's motion that the Resolution (FCZDBS) be APPROVED carried by the following vote:

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

Nay: 0

Enactment No: RES 2024-011

4. [AB2024-114](#) Ordinance establishing a 23-Hour Crisis Relief Center Fund and establishing an initial project based budget for the 23-Hour Crisis Relief Center Project

Donovan reported for the Finance and Administrative Services Committee and *moved* that the Ordinance be ADOPTED.

Councilmembers discussed the motion.

Donovan's motion that the Ordinance be ADOPTED carried by the following vote:

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

Nay: 0

Enactment No: ORD 2024-010

5. [AB2024-116](#) Ordinance amending the 2024 Whatcom County Budget, request no. 4, in the amount of \$3,247,623

Donovan reported for the Finance and Administrative Services Committee and *moved* that the Ordinance be ADOPTED.

Elenbaas stated he has to support it all in order to vote yes.

Donovan's motion that the Ordinance be ADOPTED carried by the following vote:

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

Nay: 0

Enactment No: ORD 2024-011

6. [AB2024-118](#) Resolution to declare Whatcom County owned structure located in Hovander Park as worthless

Donovan reported for the Finance and Administrative Services Committee

and stated after the vote in committee there is not a recommendation to the Council.

Donovan moved that the Resolution be held for two weeks. The motion was seconded by Byrd.

Byrd asked why the hold period is two weeks.

Bennett Knox, Parks and Recreation Department Director, answered whether there is a time frame less than a year in which they would have some information that is valuable for making a decision since the whole process could be drawn out. He stated the motion in front of them today is to declare the property surplus. Parks does not have budget authority yet for the actual demolition. They are just trying to go through the process based on the fact that they feel this property does not meet their long term needs in the park for various reasons. They are months away from having the master plan completed. Two months would be better in order to get more information to the Council.

Donovan amended his motion to hold for up to two months from today.

Councilmembers discussed whether the house should be torn down, and Scanlon stated he would be interested in seeing what Public Works' updated mapping says about the floodplain.

Knox stated they spoke with Public Works this morning and the latest mapping shows the property is firmly in the 100-year floodplain and could be impacted by the 25-year flood.

Donovan spoke about scheduling a discussion in the Public Works and Health Committee about whether the Parks Department operating residences is the best use of public resources and what they should do with the other properties.

Donovan's motion that the Resolution be HELD FOR UP TO TWO MONTHS carried by the following vote:

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

Nay: 0

7. [AB2024-122](#) Ordinance establishing Whatcom County Code Chapter 3.39 Public Health, Safety, and Justice Facilities and Services Sales and Use Tax

Donovan reported for the Finance and Administrative Services Committee and **moved** that the SUBSTITUTE Ordinance be ADOPTED.

Tyler Schroeder, Director of Administrative Services, briefed the Councilmembers and stated this is an ordinance establishing the ability for the County to impose what the voters approved late last year. After voters make that decision, an ordinance is drafted and passed by Council to place it into the County code. This is the ordinance to establish the code.

He answered whether it is intentional that the fund created by this ordinance (the New Health, Safety & Justice Facility fund) will keep this two-tenths of one percent separate from the original one-tenth, and stated it is intentional. He answered why cars are exempt from the tax and stated it is authorized by RCW 82.14.450.

Donovan's motion that the SUBSTITUTE Ordinance be ADOPTED carried by the following vote:

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

Nay: 0

Enactment No: ORD 2024-012

8. [AB2024-142](#) County Executive requests approval of the Economic Development Investment (EDI) Board's recommendation for funding to support the City of Blaine's Wellfield Reservoir Replacement Project and the City of Bellingham's Old Town Urban Village Infrastructure Improvement Project

Donovan reported for the Finance and Administrative Services Committee and **moved** that the SUBSTITUTE REQUEST BE APPROVED.

Councilmembers discussed the motion, their support for the projects, and what policies could be put in place for Economic Development Investment (EDI) to make it such that they are using the funds help cities remove barriers to adding housing and commerce within their city limits.

Dana Brown-Davis, Clerk of the Council, stated this and last item are substitutes.

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

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

Nay: 0

ITEMS ADDED BY REVISION

There were no agenda items added by revision.

INTRODUCTION ITEMS

Donovan moved to introduce items one through three. The motion was seconded by Byrd (see votes on individual items below).

Donovan asked if **AB2024-145** could be scheduled for the Public Works and Health Committee for discussion.

Galloway stated it would be nice to get another ferry update in the Public Works and Health Committee and if topics were noticed before bringing them up.

1. [AB2024-126](#) Ordinance granting the Port of Bellingham a non-exclusive franchise to locate, set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate, use and similar activities related to telecommunication facilities in, upon, over, under, along, across and through the franchise area to allow the provision of telecommunication services

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

Nay: 0

2. [AB2024-127](#) Ordinance granting the Public Utility District No. 1 of Whatcom County, a non-exclusive franchise to locate, set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate, use and similar activities related to telecommunication facilities in, upon, over, under, along, across and through the franchise area to allow the provision of telecommunications services

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

Nay: 0

3. [AB2024-145](#) Ordinance amending Whatcom County Code 2.145 to clarify member requirements on the Whatcom County Ferry Advisory Committee

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

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Buchanan reported for the Committee of the Whole Executive Session.

Donovan moved to authorize Royce Buckingham, Civil Deputy Prosecutor, to vote on behalf of the Council for the reorganization plan Endo LLC is proposing in the bankruptcy as discussed in Executive Session. The motion was seconded by Galloway.

The motion carried by the following vote:

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

Nay: 0

Councilmembers continued committee reports.

Buchanan reported for Committee of the Whole and **moved** that they start the process to remove PLN2022-00006 from the docket. The motion was seconded by Donovan.

Elenbaas spoke about why he voted no for this in committee. He believes they can maintain some mountain bike trails in the watershed without having a negative effect on water quality. It will probably happen anyway and may not happen in the best way. Allowing it may be better for the overall health of the waterway.

Galloway spoke about allowance in the current code for trail maintenance and construction in the dryer summer months. We already have a pathway to "yes," and this opens up what could be a precedence for development in those trail systems during seasons when it is more risky to do so.

Elenbaas spoke about a presentation from the proponents on this topic about having a trail maintenance window.

Scanlon stated he would like to hear from the Department of Natural Resources (DNR), then bring it back for a more well-informed conversation.

Donovan stated the worry is that if they grant this exemption, there will be

other groups coming for exemptions.

Stremler stated if they are going to give an exemption for this organization he might come back with a proposed exemption for the maintenance and operation crews in the Public Works Department for the maintenance they have to do in the watershed.

Councilmembers discussed how the rules about working in certain seasons came to be.

The motion carried by the following vote:

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

Nay: 1 - Elenbaas

Councilmembers spoke about other items. Buchanan stated they discussed the ferry in Committee of the Whole.

Satpal Sidhu, County Executive, reported on his discussion with Councilmembers about bringing ordinances to the Council to increase ferry fares and for the use of American Rescue Plan Act (ARPA) dollars. He also reported on their discussion about reorganization of the County Executive's Office and answered questions.

Councilmembers gave updates and Sidhu and Tyler Schroeder, Director of Administrative Services, answered questions about the upcoming water adjudication, the Medical Examiner collaborating with support officers and a request for funds from Point Roberts so they can put together an economic development strategy.

Motion from Committee of the Whole Executive Session approved 7-0 to authorize Royce Buckingham, Civil Deputy Prosecutor, to vote on behalf of the Council for the reorganization plan Endo LLC is proposing in bankruptcy as discussed in Executive Session.

Motion from Committee of the Whole approved 6-1, with Elenbaas opposed, that they start the process to remove PLN2022-00006 from the docket.

ADJOURN

The meeting adjourned at 8:15 p.m.

The County Council approved these minutes on March 19, 2024.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription

SIGNED COPY ON FILE