

# **Whatcom County Council**

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



## **Minutes - Final-revised**

**Tuesday, September 24, 2019**

**7 PM**

**Council Chambers**

### **COUNCILMEMBERS**

Barbara Brenner  
Rud Browne  
Barry Buchanan  
Tyler Byrd  
Todd Donovan  
Carol Frazey  
Satpal Sidhu

### **CLERK OF THE COUNCIL**

Dana Brown-Davis, C.M.C.

## COUNTY COUNCIL

### CALL TO ORDER

Council Chair Rud Browne called the meeting to order at 7 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

### ROLL CALL

**Present:** 7 - Barbara Brenner, Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, and Satpal Sidhu

**Absent:** None

### FLAG SALUTE

### ANNOUNCEMENTS

### MINUTES CONSENT

*Brenner moved* to accept the minutes consent items. The motion was seconded (see votes on individual items below).

1. [MIN2019-063](#) Regular County Council for September 10, 2019

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

2. [MIN2019-064](#) Committee of the Whole for September 10, 2019

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

3. [MIN2019-065](#) Special Committee of the Whole for September 10, 2019

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

4. [MIN2019-066](#) Surface Water Work Session for September 17, 2019

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

### **PUBLIC HEARINGS**

1. [AB2019-366](#) Ordinance granting Comcast Cable Communications Management, LLC, a non-exclusive franchise for the provision of cable services

Browne opened the public hearing, and the following people spoke:

**Vincent Buys**, Comcast Government and Regulatory Affairs, thanked the administrative staff and stated he is available for questions.

**Patrick Alesse** spoke about the importance of good internet service.

Hearing no one else, Browne closed the public hearing.

***Brenner moved*** and Byrd seconded that the ordinance be adopted.

Councilmembers discussed and Buys answered questions about the differences in the agreements between Comcast and the City of Bellingham and Comcast with the County, density requirements in both the old and new franchises, whether the one percent increase will be passed on to the consumer, the company policy on helping people in rural areas gain access to internet services, not having to raise costs for service, how many miles of transmission line are laid in a year and how that is coordinated with the power company's projects, the state of the system in Sumas, and different ways of adding lines in rural areas.

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

**Aye:** 6 - Brenner, Browne, Buchanan, Byrd, Frazey, and Sidhu

**Nay:** 1 - Donovan

**Absent:** 0

Enactment No: ORD 2019-063

2. [AB2019-368](#) Ordinance granting WaveDivision I, LLC, a non-exclusive franchise for the provision of cable services

Browne opened the public hearing, and the following people spoke:

**Thomas Steele** spoke for Wave and answered questions about why he relocated to this area, and whether his company would be interested in working in rural areas.

Hearing no one else, Browne closed the public hearing.

**Brenner moved** and Frazey seconded that the Ordinance be adopted.

Councilmembers discussed holding the item to ensure that the terms of the franchise include giving better service to rural communities by decreasing density thresholds.

Andrew Hester, Public Works Department, answered a question about why both franchises were recommended, how the franchise would be affected if the item were held and the Comcast franchise was reconsidered, and whether there are examples of how other cable companies work with rural areas.

Tyler Schroeder, Executive's Office, gave some background and answered questions about the process of negotiating the terms of the Comcast franchise.

Hester answered whether there is any other jurisdiction that allocates its franchise fee back to the provider to subsidize the cost of infrastructure.

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

**Aye:** 6 - Brenner, Browne, Buchanan, Byrd, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

**Abstain:** 1 - Donovan

Enactment No: ORD 2019-064

3. [AB2019-379](#) Resolution vacating Safsten Road

Browne opened the public hearing, and the following people spoke:

**Pam Brady**, BP Cherry Point Refinery, spoke in favor of the vacation of Safsten Road.

Hearing no one else, Browne closed the public hearing.

Councilmembers discussed and Brady answered questions about whether there was a specific project for which the vacation would be an advanced mitigation and how the vacation is consistent with Ordinance 2018-044 (Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new or expanded facilities in the Cherry Point urban growth area, the primary purpose of which would be the shipment of unrefined fossil fuels not to be processed at Cherry Point), whether the Whatcom County Code addresses planning for advanced mitigation, and how the County could assist in the process.

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

Enactment No: RES 2019-039

4. [AB2019-445](#) Resolution in the matter of the Whatcom County Six-Year Transportation Improvement Program (STIP) for the years 2020 through 2025

Joe Rutan, Public Works Department, gave a staff report and stated the Birch Bay project has gone out for bid.

Browne opened the public hearing, and the following people spoke:

**Eileen Kadesh**, Whatcom County Bicycle Pedestrian Advisory Committee, requested that the Council include portions of the Nooksack Loop trail and the Bay to Bay International trail in the six-year plan and that a feasibility study for a bicycle pedestrian trail be done on Dearborn between Drayton Harbor Road and Dakota Creek Bridge.

Hearing no one else, Browne closed the public hearing.

Jon Hutchings, Public Works Department Director, spoke about projects that are currently included and building more specific projects into the Six-Year Transportation Improvement Program that address issues for bicycles and pedestrians, the challenges of implementing the proposals from the Bicycle Pedestrian Advisory Committee, and focusing on projects such as shoulders on roads which contribute to bicycle and pedestrian safety.

Rutan and Hutchings answered questions and Councilmembers discussed traffic issues on Pacific Highway and on Euclid Street in Bellingham, adding shoulders and other modifications to such roadways and the challenges of that, and whether possible funding for bicycle and pedestrian trails could come from private sources.

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

Enactment No: RES 2019-040

5. [AB2019-450](#) Ordinance establishing a speed limit for portions of East Smith Road and Everson Goshen Road

Joe Rutan, Public Works Department, gave a staff report.

Browne opened the public hearing, and the following people spoke:

**Kathy Sable** spoke in support of the ordinance.

Rutan and Councilmembers discussed the current speed limit and the required distance to reduce speed before a roundabout; and the use of other methods to slow traffic including blinking lights, reflective pole wraps, and traffic radar signs.

**Brenner moved and Buchanan seconded that the Ordinance be ADOPTED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2019-065

6. [AB2019-456](#) Resolution adopting the Six-Year Water Resources Improvement Program (WRIP), 2020-2025

Browne opened the public hearing, and hearing no one, closed the public hearing.

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

Enactment No: RES 2019-041

7. [AB2019-458](#) Ordinance amending WCC 8.13, Solid Waste Disposal District, regarding the Solid Waste Excise Privilege Tax

Browne opened the public hearing, and hearing no one, closed the public hearing.

**Brenner moved and Frazey seconded that the Ordinance be ADOPTED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2019-066

### **OPEN SESSION (20 MINUTES)**

The following people spoke about AB2019-480 and AB2019-479 regarding proposed amendments to Whatcom County Code Chapters 11.16 and 11.20 to protect Lake Samish shoreline properties and Lake Samish water recreation:

Debra Noonan  
Meredith Skully  
Annie Jewitt  
Jerry Johnson  
Richard Herman  
Dave Morrow  
Paul Joostens  
Janet Monks  
Anne Bremer  
Eric McHenry  
James Wilson  
John F. Bremer

Hearing no one else, Browne closed the open session.

Councilmember Byrd spoke about his process for gathering opinions of residents of Lake Samish and finding the best solution.

### **CONSENT AGENDA**

**(From Council Finance and Administrative Services Committee)**

1. [AB2019-471](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and the Opportunity Council for the East Whatcom Regional Resource Center Phase II Construction project, in the amount of \$172,000

**Sidhu 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 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

2. [AB2019-474](#) Request authorization for the County Executive to enter into a contract between Whatcom County and SAZAN Group for design and construction services for Plantation Indoor Range HVAC and Roof Replacement, in the amount of \$53,650

Councilmembers discussed the gun range losing money over the last five years, how the program is a resource for public safety and recreation for the community, whether the range should be privatized, and investing money into the property to maintain its value.

**Sidhu 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:** 6 - Brenner, Browne, Buchanan, Byrd, Donovan, and Sidhu

**Nay:** 1 - Frazey

**Absent:** 0

3. [AB2019-477](#) Request approval for the County Executive to award Bid #19-59 for the purchase of one 27' full cabin patrol boat to low bidder, Inventech Marine Solutions, in an amount not to exceed \$373,499.26

**Sidhu 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 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

## **OTHER ITEMS**

(From Council Natural Resources Committee)

1. [AB2019-475](#) Resolution declaring the County Council's support for the update to the Rural Land Study to identify areas deserving heightened agricultural protection measures

**Donovan reported for the Natural Resources Committee and moved that the Resolution be APPROVED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0



**Absent:** 0

Enactment No: RES 2019-042

**(From Council Finance and Administrative Services Committee)**

2. [AB2019-451](#) Ordinance amending the project budget for the Birch Bay Drive and Pedestrian Facility Project Fund, Request No. 5

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2019-067

3. [AB2019-460](#) Ordinance amending the project budget for the East Whatcom Regional Resource Center Expansion project, in the amount of \$172,000

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

Enactment No: ORD 2019-068

4. [AB2019-464](#) Ordinance amending the project budget for the Triage Center Expansion Fund, request no. 3

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

**Aye:** 6 - Brenner, Browne, Buchanan, Donovan, Frazey, and Sidhu

**Nay:** 1 - Byrd

**Absent:** 0

Enactment No: ORD 2019-069

5. [AB2019-465](#) Ordinance amending the 2019 Whatcom County budget, request no. 12, in the amount of \$2,759,531

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

**Aye:** 6 - Brenner, Browne, Buchanan, Donovan, Frazey, and Sidhu

**Nay:** 1 - Byrd

**Absent:** 0

Enactment No: ORD 2019-070

6. [AB2019-446](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham so that the City may install, maintain, and repair communications equipment for the Whatcom County Sheriff's Office

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

**(From Council Planning and Development Committee)**

7. [AB2019-481](#) Consideration of Hearing Examiner's recommendation on Preliminary Long Subdivision application filed by Wesley Herman (WD-40 Cluster Long Subdivision)

**Byrd reported for the Planning and Development Committee and moved that the Hearing Examiner Recommended Decision be AFFIRMED. The motion carried by the following vote:**

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

8. [AB2019-417](#) Resolution to replace the Business Rules of the Whatcom County Hearing Examiner

**Byrd reported for the Planning and Development Committee and reported that this agenda item was HELD IN COMMITTEE.**

### **EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES**

1. [AB2019-473](#) Request confirmation of the County Executive's appointment of Alec Howard to the

Whatcom County Bicycle Pedestrian Advisory Committee

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

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

**Nay:** 0

**Absent:** 0

## **INTRODUCTION ITEMS**

1. [AB2019-472](#) 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

**Brenner moved and Buchanan seconded that the Ordinance be INTRODUCED. The motion carried by the following vote:**

**Aye:** 6 - Brenner, Browne, Buchanan, Donovan, Frazey, and Sidhu

**Nay:** 1 - Byrd

**Absent:** 0

2. [AB2019-480](#) Ordinance amending Whatcom County Code Chapters 11.16 and 11.20 to protect Lake Samish shoreline properties and Lake Samish water recreation

**This agenda item was WITHDRAWN.**

## **COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES**

Committee Chair Todd Donovan gave a committee report from Natural Resources. Councilmembers discussed the motion made in committee to recommend that the Planning Unit give its approval of the workplan within 60 days, giving the Executive a recommendation for how to vote at the Management Board Meeting, a request to reconsider the motion from the Natural Resources Committee, revisiting the role and functions of the Planning Unit and the Watershed Management Board, and the process for recommendations and decision-making.

**Browne moved** to support allowing the County Executive to approve the recommended amendments to the Watershed Management Board's five-year plan.

The following people answered questions about the wording of the motion:  
Dana Brown-Davis, Clerk of the Council  
Gary Stoyka, Public Works Department

Councilmembers discussed whether they should wait to get approval from the Planning Unit before giving a recommendation to the Executive.

Tyler Schroeder, Executive's Office, read from and summarized comments that were emailed to the Council from Planning Unit members Henry Bierlink, Dan Eisses, and Karlee Deatherage.

Councilmembers discussed the Council's role and authority, whether recommendations on the five-year plan have already come from the Planning Unit, and what those recommendations are.

***Browne moved*** to call the question. The motion was seconded.

The motion to call the question carried by the following vote:

**Aye:** 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, Sidhu

**Nay:** 0

The motion to recommend that the Executive approve the Watershed Management Board's five-year work plan amendments carried by the following vote:

**Aye:** 5 - Browne, Buchanan, Donovan, Frazey, and Sidhu

**Nay:** 2 - Brenner and Byrd

Councilmembers discussed and agreed to schedule another discussion about the watershed planning process in Committee.

Committee Chairs gave committee reports and updates on recent activities and recent events.

**COUNCILMEMBERS DISCUSSED, AND A MOTION WAS APPROVED**

## **ADJOURN**

The meeting adjourned at 10:42 p.m.

The County Council approved these revised minutes on January 14, 2020.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

\_\_\_\_\_  
Dana Brown-Davis, Council Clerk

\_\_\_\_\_  
Rud Browne, Council Chair

\_\_\_\_\_  
Kristi Felbinger, Minutes Transcription

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