

# **Whatcom County Council Committee of the Whole**

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



## **Committee Minutes - Final**

**Tuesday, July 13, 2021  
2:25 PM  
Virtual Meeting**

**VIRTUAL MEETING - ENDS BY 5 P.M. (TO PARTICIPATE, SEE  
INSTRUCTIONS AT [www.whatcomcounty.us/joinvirtualcouncil](http://www.whatcomcounty.us/joinvirtualcouncil) OR CALL  
360.778.5010); AGENDA REVISED 7.8.2021**

### **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.

## Call To Order

Council Chair Barry Buchanan called the meeting to order at 12:25 p.m. in a virtual meeting.

## Roll Call

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

**Absent:** None

## Announcements

## Committee Discussion

1. [AB2021-395](#) Discussion and periodic update of the Shoreline Management Program  
Cliff Strong, Planning and Development Services Department, briefed the Councilmembers on the update process and answered questions about whether there is a hard deadline for the update, getting redline versions of the documents to Councilmembers and online, an example of a Shoreline Management Program (SMP) policy currently in the Whatcom County Code that would end up in the Comprehensive Plan via the update, whether there will be a separate document for the Shoreline Management Plan or if it will be a chapter in the Comprehensive Plan and then codified in the Whatcom County Code, whether proposed changes are similar to what they were several years ago, and how Councilmembers would like to review the proposed changes in future workshops.

**This agenda item was DISCUSSED.**

2. [AB2021-339](#) Discussion to establish a process for filling district court judicial vacancy

The following Council Office staff briefed the Councilmembers:

- Dana Brown-Davis, Clerk of the Council
- Cathy Halka, Council Legislative Analyst

Halka stated as per the Council's vote at a previous meeting, evaluations by the Whatcom County Bar Association and Washington Women Lawyers should be back to the Council by the 23rd of July.

Councilmembers and staff discussed whether they are still planning on coming up with questions and interviewing candidates, whether the evaluators will rank the candidates or just vet who is qualified or not, and when the evaluations will come back from the two groups.

**Frazey moved** to schedule an Executive Session on the next meeting date with District Court to get their perspective. The motion was seconded by Byrd.

Karen Frakes, Prosecuting Attorney's Office, answered a question about having court employees as part of the interview process.

**Frazey clarified** her motion to have an Executive Session on the next meeting date with current and past District Court judges (Judge Elich and Judge Grant) and the Administrator to get their perspective on the position.

Frakes answered whether the meeting should be a regular public meeting or an Executive Session.

**Browne suggested** a friendly amendment to expand it to more than the District Court judges and invite past and present Superior Court judges.

Frazey stated she would be open to the friendly amendment but would like to hear others' perspective so Councilmembers and Frakes discussed the motion, the language in the Open Public Meetings Act regarding allowing an Executive Session under these circumstances, whether the Superior Court judges should be included, setting a deadline for when a decision should be made, and whether they would talk to the District Court judges about the job or about the applicants.

**Browne moved** to amend the motion to expand it to include the Superior Court judges. The motion failed for lack of a second.

Councilmembers continued to discuss the motion and whether they should ask the judges about the applicants or just the job.

**Frazey restated** the motion to have an Executive Session at the next meeting with District Court judges, Judge Grant and Judge Elich, and the Administrator to get input on the candidates.

The motion carried by the following vote:

**Aye:** 5 - Browne, Buchanan, Byrd, Elenbaas, and Frazey

**Nay:** 2 - Donovan and Kershner

**Browne moved** that the Council make their decision no later than August 10, 2021. The motion was seconded by Kershner.

Councilmembers and Brown-Davis discussed the motion and whether the

timeline should be aspirational as opposed to a hard deadline, getting interviews set up now and whether that means they would be interviewing all the candidates since it would be before they are narrowed down, how long it will take to get the interview questions together, how long each interview would be, whether the interviews will be a public process, and finding a date in August for a special meeting.

The motion carried by the following vote:

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

**Nay:** 0

Councilmembers discussed again whether August 10 is a hard date and stated that it is aspirational.

**This agenda item was DISCUSSED AND MOTION(S) APPROVED to have an Executive Session at the next meeting with District Court judges, Judge Grant and Judge Elich, and the Administrator to get input on the candidates and;**

**that they make their decision no later than August 10, 2021.**

3. [AB2021-345](#)

Discussion regarding reopening Council operations to the public

The following people spoke and discussed the item with Councilmembers and described three options for setting up hybrid meeting capability:

- Dana Brown-Davis, Clerk of the Council
- Perry Rice, Administrative Services Department
- Karen Frakes, Prosecuting Attorney's Office

Councilmembers and staff discussed a suggested timeline for trying a hybrid meeting, which option to recommend, and not being able to remain fully remote in the long term.

***Donovan moved*** to pursue the hybrid models. The motion was seconded by Browne.

***Kershner suggested*** a friendly amendment that they give direction to staff to pursue option three.

***Donovan accepted*** the friendly amendment.

Councilmembers discussed the motion and whether they should go to live meetings yet.

The motion carried by the following vote:

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

**Nay:** 0

**This agenda item was DISCUSSED AND MOTION(S) APPROVED to pursue the hybrid models and give direction to staff to pursue option three.**

### **Committee Discussion and Recommendation to Council**

1. [AB2021-360](#) Ordinance to establish an independent review of the community response to the COVID-19 Pandemic

Browne briefed the Councilmembers on the Council's role as listed in the County Emergency Management Plan, the part of the plan which states the Deputy Executive would replace the County Executive as the leader of the County's response to emergency management in the event that he/she cannot serve, and the command structure.

Councilmembers discussed how the County Emergency Management Plan reconciles with the Charter which lists the Executive Pro Tem as the person who would perform most duties of the Executive in the case of the absence or temporary disability of the Executive, how long a review process should take and when it should start, making a more thorough and long-term solution, and finding a retired judge who can come in with experience and objectivity.

The following people spoke:

- Erika Lautenbach, Health Department Director
- Satpal Sidhu, County Executive

Councilmembers and the speakers discussed why the Council would not use the existing emergency management professionals to do a hotwash and after-action report instead of spending money for someone from the outside, whether there is still a state of emergency, starting the review right away, reviewing the County's emergency response to the COVID-19 pandemic as well as the Emergency Management Plan, extending the date for completing and delivering a report on the review from October 31, 2021 to March 31, 2022, and whether Browne would be willing to help in the process even though he will not be a Councilmember.

***Kershner moved*** to recommend approval of the ordinance to the Council with a date change to March 31, 2022 for the completed product. The motion was seconded by Browne.

Councilmembers discussed whether there would be an expenditure and whether it would come to the Council as a separate budget item.

Dana Brown-Davis, Clerk of the Council, asked who would be on the commission but Browne clarified the intent to have just a commissioner with support staff.

Councilmembers and the speakers discussed the motion, finding someone who would be independent of the Council and the Executive's Office, whether a commission would need to be appointed since it is written that way in the ordinance, and putting out a request for proposal spread wide enough to cast a net that enables them to get good applicants.

***Browne moved*** to amend the 1st "BE IT FURTHER ORDAINED" statement to remove "to head the commission" and change it to "to conduct the inquiry."

***Kershner accepted*** Browne's motion as a friendly amendment to her motion.

Kershner stated that they would also need a job description and a budget and recommended someone who could help with that process.

**Kershner's motion that the Ordinance be RECOMMENDED FOR ADOPTION WITH PROPOSED AMENDMENT(S) (to change the date to March 31, 2022 for the completed product and to amend the 1st "BE IT FURTHER ORDAINED" statement to remove "to head the commission" and change it to "to conduct the inquiry") carried by the following vote:**

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

**Nay:** 1 - Elenbaas

**Absent:** 0

### **Items Added by Revision**

1. [AB2020-219](#) Discussion and update on strategies and other items related to COVID-19 (Council and Health Board)

Erika Lautenbach, Health Department Director, updated the councilmembers on the upcoming retirement of John Wolpers from the Health Department.

Greg Stern, Whatcom County Health Officer, gave a presentation (on file) on case and hospital rates and vaccination progress, COVID-19 variants circulating in Washington State and the rest of the country, how the Delta

variant is responding to immune responses from prior infection and vaccine as well as immunotherapy, seroprevalence (infection-acquired immunity) levels in Washington compared to other states in the country and within age and gender groups, and COVID-19 vaccine safety and efficacy.

He answered a question about the strength of natural immunity.

**This agenda item was DISCUSSED.**

**Other Business**

There was no other business.

**Adjournment**

The meeting adjourned at 5:05 p.m.

The County Council approved these minutes on July 27, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

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

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Barry Buchanan, Council Chair

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Kristi Felbinger, Minutes Transcription

SIGNED COPY ON FILE