

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

**COUNTY COURTHOUSE  
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Bellingham, WA 98225-4038  
(360) 778-5010**



## **Committee Minutes - Draft Minutes**

**Tuesday, October 10, 2023**

**2:15 PM**

**Hybrid Meeting**

**HYBRID MEETING - ADJOURNS BY 4:30 P.M., MAY BEGIN EARLY  
(PARTICIPATE IN-PERSON, SEE REMOTE JOIN INSTRUCTIONS AT  
[www.whatcomcounty.us/joinvirtualcouncil](http://www.whatcomcounty.us/joinvirtualcouncil), OR CALL 360.778.5010)**

### **COUNCILMEMBERS**

Barry Buchanan  
Tyler Byrd  
Todd Donovan  
Ben Elenbaas  
Carol Frazey  
Kaylee Galloway  
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 2:01 p.m. in a hybrid meeting.

## **Roll Call**

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

## **Announcements**

### **Special Presentation**

1. [AB2023-535](#) Presentation on Washington State University's independent review of progress on addressing the recommendations and strategies in the 2017 Vera Institute of Justice report

This item was considered out of order. See below after the Committee Discussion Part 1.

### **Committee Discussion Part 1**

1. [AB2023-583](#) Discussion of a resolution supporting the use of Economic Development Investment (EDI) funds for affordable housing

Galloway and Buchanan briefed the Councilmembers on the draft resolution (the resolution is not scheduled for consideration of approval at this time).

The following people discussed with Councilmembers the resolution and their interpretation of Substitute House Bill 1267 which amended RCW 82.14.370 in May 2023, to extend the authorization for the sales and use tax for public facilities in rural counties through December 31, 2054:

- Karen Frakes, Prosecuting Attorney's Office
- Kayla Schott-Bresler, Strategic Initiatives Special Programs Manager

Karen Frakes, Prosecuting Attorney's Office, stated the problem with the way the Legislature made these amendments is that even though they opened it up for affordable housing, they did not remove the requirement that they be public facilities.

Kayla Schott-Bresler, Strategic Initiatives Special Programs Manager, stated they have been working with the legislative delegation to propose some amendments to the statute which would allow us more flexibility to achieve the vision that Council may set out through this resolution.

Councilmembers and Schott-Bresler discussed the language, “as allowed by State law” in the resolution which keeps the resolution relevant even if there are changes to the law, adding more specificity in the “Be it resolved” section to make sure that the 8% is going to be doing new and innovative things for housing and not just basic infrastructure, looking at updating the Economic Development Investment (EDI) board to include housing advocates and people in the building industry, the fact that Whatcom County Code 2.130.040 (C) states that “Due to the composition of this board, it is not subject to Charter Section 3.23 which states, “The appointments by the County Executive shall be subject to confirmation by a majority of the County Council,” making sure the numbers in the resolution, such as the estimated ending balance of the EDI fund, are up to date, whether Council feels the percentages of the fund balance and annual EDI revenues are appropriate, and addressing the enabling ordinance for the EDI board that waives the Charter mandate.

*Clerk's note:* Guests were scheduled to discuss **AB2023-535** at 2:15 p.m. so Councilmembers stopped the discussion on this item and went to that item. See continuation of this discussion after **AB2023-535** below.

**This agenda item was DISCUSSED.**

### **Special Presentation**

1. [AB2023-535](#) Presentation on Washington State University’s independent review of progress on addressing the recommendations and strategies in the 2017 Vera Institute of Justice report

Dr. Jennifer Schwartz, Washington State University, introduced the research team and read from a presentation (on file). She answered why there is a difference in success rates across the courts for court-appearance reminders reaching the recipient and whether it has to do with the language used in the texts. She stated generally, using straightforward language is better, but she does not know what caused the variability in Whatcom County’s case in particular. She answered how the increase in book and release practices as a form of diversion from jail is considered as a success or not, and stated diversion has been successful in reducing the jail population but the question is whether it is having unintended consequences. There could be more purposeful discussion about what role diversion should serve and who is appropriate for diversion.

Kershner stated declining jail admission rates does not mean that crime is down in Whatcom County; it means our officers are not arresting people and putting them through the system. We cannot make conclusions that

because we are not putting people in jail that our crime issue is resolved. Schwartz stated that the data included was offenses known to the police, so it was independent of whether law enforcement decided to make an arrest or not.

Donovan stated that some trends in the presentation show crime going up (page 32) on one slide and crime going down on another (page 7), and that the trend may depend on how it was measured.

Kershner stated she is not questioning the validity of the data, but maybe some of our businesses have stopped reporting crimes. It is hard for us to be able to say theft is going down when people see with their own eyes that it is not.

**This agenda item was PRESENTED.**

## **Committee Discussion Part 2**

1. [AB2023-583](#) Discussion of a resolution supporting the use of Economic Development Investment (EDI) funds for affordable housing

Councilmembers and staff continued the earlier discussion (see the first part of the discussion above) on this item.

Tyler Schroeder, Director of Administrative Services, and Kayla Schott-Bresler, Strategic Initiatives Special Programs Manager, spoke about next steps. They stated the Administration will take the earlier discussion into consideration and bring back a new version of the resolution and work with Councilmember Galloway on that. They will also take into consideration some of the larger board membership discussions and some policy they can rope into the resolution and bring those recommendations back before the deadline in the resolution.

Buchanan stated they will revisit this in the near future.

See the majority of the discussion on this item above.

2. [AB2023-582](#) Discussion of American Rescue Plan Act (ARPA) funding allocation  
Tyler Schroeder, Director of Administrative Services, briefed the Councilmembers and representatives from the Christian Health Care Center (CHCC) and Mt. Baker School District presented their requests.

### Christian Health Care Center (CHCC)

Vincent Byes, Chair of the Board for the CHCC, presented and answered questions about the request. He answered whether this will maintain the

ability to serve their 100 beds, whether they would have been more capable to make the investment in the system if it was not for the COVID-19 pandemic, what their budget projection is for 2024, whether these are normal upgrades for any business, and whether the organization will close if they do not receive the funding.

Councilmembers discussed the request with Byes and the additional following people:

- Tyler Schroeder, Director of Administrative Services
- Kayla Schott-Bresler, Strategic Initiatives Special Programs Manager
- Satpal Sidhu, County Executive

They discussed how the request fits in to the pre-established Council priorities for the American Rescue Plan Act (ARPA) funds, whether Council could approve a smaller amount as a matching grant, whether this is equivalent to the County putting \$14 million into childcare, the fact that we cannot afford to lose 100 beds for seniors in our community, that the time to identify these types of requests was in the 2022 policy discussions for how to use ARPA funds, that creating a new ARPA spending “bucket” would require a consistent procurement or Request for Proposal (RFP) process in the community which would be a heavy lift for the Administration, how to fund other needs and requests that come up, whether other sources of money could be used, whether Council has interest in this type of industry-wide support, how many similar programs to this one there are in our community, and whether they could have further discussion on this type of industry support before the end of the year.

Schroeder stated he would like to provide some background to other federal support that these types of programs have had before creating a local program.

***Galloway moved*** that Councilmember Kershner work with the Administration to identity a path forward for increasing our county investment into senior services. The motion was seconded by Buchanan.

The motion carried by the following vote:

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

**Nay:** 0

Mt. Baker School District

Russ Pfeiffer-Hoyt, Mt. Baker School District Board President, presented and answered questions about the request.

Donovan spoke about a letter from the Council asking the Department of Natural Resources (DNR) to pause the Brokedown Palace timber sale until December 31, 2023 so they would have enough time to figure out if acres would be transferred out of the trust status as part of the Climate Commitment Act (CCA) Program (see **AB2023-273**). The way he is reading that letter is if that does not happen, then the Council no longer opposes that timber sale.

Pfeiffer-Hoyt answered when the revenue for the school district would have shown up if the Council had not written the letter and stated it would show up after the sale, generally within two years.

Donovan asked whether we know if the Brokedown sale was going to end up in the CCA program and what the Council would like to do, not knowing that answer.

Pfeiffer-Hoyt stated their request is that the County would front Mt. Baker's share and when the issue is resolved (either by buying it out of the trust or by selling the timber) then that first \$150,000 of their revenue would go back to the County.

Donovan stated if they had had the discussion earlier that County dollars were on the table for offsetting the loss and they were not assuming the State was going to do that, he would not have signed on to the letter.

Councilmembers and Pfeiffer-Hoyt discussed getting an update from DNR and on the State programs, maybe doing a sort of loan to the school district or supporting them in other areas, whether the County should fund school districts, whether the school district would have gotten the revenue by now if the sale had gone through, the fact that the money from a sale does not transfer to the district until a harvest takes place, and whether revenue can take up to 30 years to come if some of the trust lands are swapped through the CCA program.

Tyler Schroeder, Director of Administrative Services, spoke about getting more details from the County Treasurer as it relates to distribution to school districts associated with these types of sales, and answered whether the County has other mechanisms other than loans. He concurs with what Donovan said about re-engaging DNR about the policy perspective that was written in the letter before developing a whole new program.

Pfeiffer-Hoyt answered questions about when school districts receive distributions.

***Kershner moved*** that Councilmembers Donovan and Galloway work with the Department of Natural Resources (DNR) to check in on the status of these timber sale pauses. She is interested in making the Mt. Baker School District whole, so we need to figure out how we do that if DNR is pausing and they are swapping land that is not going to be valuable to you for 20 to 30 years. The motion was seconded by Donovan.

***Kershner restated her motion and moved*** that Donovan and Galloway work with the Department of Natural Resources (DNR) to find out where we are on the status of these timber sales, find out when Mt. Baker School District can expect a payment, if any of the timber sales are included in the land swap, and what the impact to all the school districts will be, so that we can take action as a Council to honor our commitment to make sure that these districts are made whole.

The motion carried by the following vote:

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

**Nay:** 0

Schott-Bresler and Schroeder answered what the status is of a request for \$12,000 of ARPA funds made by Search and Rescue, the \$300,000 of COVID-19 impacts to the Ferry Fund, and the capital request from the Birch Bay Library.

**This agenda item was DISCUSSED AND MOTION(S) APPROVED.**

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

1. [AB2023-548](#) Ordinance amending WCC 2.145, Lummi Island Ferry Advisory Committee

***Buchanan moved*** and Galloway seconded that the Ordinance be RECOMMENDED FOR ADOPTION.

Donovan spoke about the most updated version of the ordinance and stated the last edit they made was just saying there will be a facilitator and they will figure out when that is, but the one thing not in the ordinance is whether that facilitator will be ready if the Council gets the committee populated by November.

Buchanan stated, with the conversations he has had, he would be optimistic

about that.

**Buchanan's motion that the Ordinance be RECOMMENDED FOR ADOPTION carried by the following vote:**

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

**Nay:** 0

**Items Added by Revision**

There were no agenda items added by revision.

**Other Business**

There was no other business.

**Adjournment**

The meeting adjourned at 4:29 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

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Dana Brown-Davis, Council Clerk

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Barry Buchanan, Council Chair

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Kristi Felbinger, Minutes Transcription