

# **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, December 5, 2023**

**2:20 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), AGENDA  
REVISED 12.5.2023**

### **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 3:02 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

## Committee Discussion

1. [AB2023-785](#) Discussion with Public Works staff regarding upcoming telecommunication franchise agreements with the Public Utility District No. 1 and the Port of Bellingham

Andrew Hester, Public Works Department, briefed the Councilmembers on upcoming franchise agreements and stated the applicants are asking that we do not charge a franchise fee and requesting a longer term (25 years) than is typical (10 years) for telecommunication franchises. The Executive's Office has stated they are in support of both requests. The introduction of the related ordinance will likely be later in January with a hearing in February.

Galloway requested that they include the coordination of construction activities clause, if applicable, as they have done in other agreements.

The following people discussed the item with Councilmembers:

- Andrew Hester
- Kayla Schott-Bresler, Strategic Initiatives Special Programs Manager
- Christopher Quinn, Prosecuting Attorney's Office
- Satpal Sidhu, County Executive

They discussed whether this is the fiber that after "x" amount of years is going to get turned over to Zply, the fact that the Port of Bellingham and the PUD will have their own separate leasing agreements with service providers, the support of the Executive's Office for not charging the franchise fee, a request that the Council revisit the franchise lease agreement at the time the infrastructure is turned over to the provider, and whether renegotiation of the terms of the franchise could happen at that time.

**This agenda item was DISCUSSED.**

## Committee Discussion and Recommendation to Council

1. [AB2023-775](#) Ordinance amending Whatcom County Code Chapter 2.03, Boards and Commissions

Galloway stated they are considering the “Revised Substitute Ordinance (for 12.5 Consideration)” and stated this is an ordinance that would remove the citizenship and registered voter requirements to be eligible to participate in the various boards, committees, commissions, and task forces, it rebrands them to advisory groups, includes updates related to definitions around quorum, and removes gendered language.

Councilmembers discussed why the district requirements for the Planning Commission were taken out of this section of code and whether that district representation would still be in the enabling code for that commission, concerns that this may allow people to be on a board for a place like Point Roberts even if they do not live there, whether it creates a situation in which a committee could be controlled by people who live in different states, and whether there is a middle ground where the code requires members to be registered voters but allows for exemptions.

Jill Nixon, Council Office Staff, answered whether the terms of “boards, commissions, and committees” have legal definitions behind them that align with either our code or State or Federal code.

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

Councilmembers and Nixon discussed how they would know whether an address an applicant gives is the house they are living in and not a rental, whether applicants may not be authentic in their answers on the application, whether Councilmembers should reach out to applicants to verify legitimacy, and how the code language could be reworded to say an applicant should live primarily in Whatcom County or the application reworded to add a statement that the applicant verifies the information they provided on their application is true.

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

**Aye:** 5 - Buchanan, Byrd, Donovan, Frazey, and Galloway

**Nay:** 2 - Elenbaas, and Kershner

2. [AB2023-778](#) Ordinance submitting to the qualified voters of Whatcom County a proposal to amend Whatcom County Charter Section 4.30 to expand the standards for conflict of

interest

Kershner briefed the Councilmembers and stated this would go to the voters.

Elenbaas stated he does not support any Council-generated Charter amendments.

***Frazey moved*** and Kershner seconded that the Ordinance be RECOMMENDED FOR ADOPTION.

Frazey stated this is a great thing to put out to the voters.

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

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

**Nay:** 1 - Elenbaas

3. [AB2023-791](#) Resolution to establish an independent review of countywide fire and EMS structures

Frazey briefed the Councilmembers and directed them to look at Exhibit C of the memo.

Mark Lann, Fire District 4 Commissioner, spoke about Exhibit C and stated Whatcom County fire representatives need to be involved in the process and asked that this topic be tabled until a more collaborative process can be established involving partnership with Whatcom County fire services.

Frazey stated this is just the start of the community conversation.

***Donovan moved*** and Galloway seconded that the Resolution be RECOMMENDED FOR APPROVAL.

Cathy Halka, Council Legislative Analyst, answered what type of firm does this sort of work.

***Galloway moved*** to amend the resolution to strike “Private emergency service providers” under stakeholders (Exhibit A) and as it is mentioned anywhere in the document. The motion was seconded by Byrd.

Councilmembers discussed the motion to amend.

The motion to amend carried by the following vote:

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

**Nay:** 1 - Elenbaas

Satpal Sidhu, County Executive, spoke about how emergency services have changed over the last 100 years and stated having a study is a good idea. He answered where the funds for this are coming from and stated the Emergency Medical Services (EMS) levy has funds that could be used as one of the sources but he will leave it to the Council to decide.

Lann answered whether he could get information to the Councilmembers before tonight's meeting about what the errors are in Exhibit C and stated he does not know that they could provide that by tonight. He stated there are significant errors and they are not just financial. He asked that they consider tabling this.

Councilmembers and Sidhu discussed the motion to recommended the resolution as amended.

**Donovan's motion that the Resolution be RECOMMENDED FOR APPROVAL WITH PROPOSED AMENDMENT(S) carried by the following vote:**

**Aye:** 5 - Buchanan, Byrd, Donovan, Frazey, and Galloway

**Nay:** 1 - Elenbaas

**Abstain:** 1 - Kershner

Motion approved to amend the resolution to strike "Private emergency service providers" under stakeholders (Exhibit A) and as it is mentioned anywhere in the document.

### **Items Added by Revision**

1. [AB2023-837](#) Resolution encouraging the County Executive to pursue opportunities for property acquisitions that promote conservation, economic development, and tourism associated with Bellingham to Mt. Baker trails

Donovan briefed the Councilmembers.

***Kershner moved*** and Buchanan seconded that the Resolution be RECOMMENDED FOR APPROVAL.

Councilmembers discussed the motion, whether the acquisitions just complete the County's visioning process on other people's property and how county government can make "willing sellers," and whether language about willing sellers could be changed so it does not sound like it is something that will benefit friends and family of government officials.

Tyler Schroeder, Director of Administrative Services, answered whether there has been engagement with the tribes on this resolution, and what the difference is between acquisition (insinuating County ownership) and an easement, which might grant public access where the ownership of the land is retained by the current owner.

***Donovan moved*** to amend the resolution to add “and/or acquisition of easements” to line 26 and line 30 of the resolution so that the statements read:

NOW, THEREFORE, BE IT RESOLVED that Council requests that the Executive pursue opportunities for property acquisition and/or acquisition of easements that promotes these stated goals...

and

BE IT FURTHER RESOLVED that Council requests that the Executive consider property acquisition and/or acquisition of easement opportunities that promote connectivity...

The motion was seconded by Kershner.

The motion carried by the following vote:

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

**Nay:** 1 - Elenbaas

Councilmembers discussed other potential language changes, whether someone has already gone over the Comprehensive Parks, Recreation and Open Space Plan with the tribes, and the intent that acquisitions would be done with the tribes’ blessing.

**Kershner's motion that the Resolution be RECOMMENDED FOR APPROVAL WITH PROPOSED AMENDMENT(S) carried by the following vote:**

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

**Nay:** 1 - Elenbaas

Motion approved to amend the resolution to add “and/or easements” to line 26 and line 30 of the resolution so that the statements read:

NOW, THEREFORE, BE IT RESOLVED that Council requests that the Executive pursue opportunities for property acquisition and/or acquisition of easements that promotes these stated goals...

and

BE IT FURTHER RESOLVED that Council requests that the Executive consider property acquisition and/or acquisition of easement opportunities that promote connectivity...

**Other Business**

There was no other business.

**Adjournment**

The meeting adjourned at 4:10 p.m.

The County Council approved these minutes on January 9, 2024.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

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

\_\_\_\_\_  
Barry Buchanan, Council Chair

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Kristi Felbinger, Minutes Transcription

SIGNED COPY ON FILE