

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, October 8, 2024

1:40 PM

Hybrid Meeting - Council Chambers

**HYBRID MEETING - ADJOURNS BY 4:30 PM (PARTICIPATE IN-PERSON, SEE
REMOTE JOIN INSTRUCTIONS AT www.whatcomcounty.us/joinvirtualcouncil, OR
CALL 360.778.5010)**

COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Kaylee Galloway
Jon Scanlon
Mark Stremler

CLERK OF THE COUNCIL

Cathy Halka, AICP, CMC

Call To Order

Council Vice Chair Kaylee Galloway called the meeting to order at 1:50 p.m. in a hybrid meeting.

Roll Call

Present: 6 - Tyler Byrd, Todd Donovan, Ben Elenbaas, Kaylee Galloway, Jon Scanlon, and Mark Stremler

Absent: 1 - Barry Buchanan

Announcements

Committee Discussion

1. AB2024-379 Discussion of Whatcom County Budget Process

Aly Pennucci, Executive's Office, briefed the Councilmembers on the memo for October 8, 2024 (on file). She answered what they hope to get out of a budget prioritization exercise next year and whether it would also include revisiting the listed reductions in services. She stated they would like to see if there are areas in which they could save money by changing processes and systems, and to look at which funds could potentially be used to support work that the General Fund is now supporting. And she stated some of the areas of reductions would likely be looked at.

Elenbaas spoke about having more options than just the two being presented.

Pennucci stated they are not presenting these as the only areas to be cut. They were areas that were identified through conversations with departments, but Council could offer different options for where to cut or change previous policy decisions regarding things such as the use of the Community Priorities Fund. But taking banked capacity is a longer-term solution.

Elenbaas stated people are already screaming that they are paying too much.

Satpal Sidhu, County Executive, stated local governments only have property tax and sales tax and it may be that it is that system which is putting more burden on people who cannot afford it. There is no other mechanism to get taxes proportional to income and that may be why people are screaming.

Pennucci answered whether the calculated household cost for residents in the proposal includes the increases in the Unified Fee Schedule (UFS), and

stated it does not, and that the household increase would just be what people would see on their property tax bill. She answered what the total amount is for all the Additional Service Requests (ASRs), and stated it is about \$3.9 million.

Andrew Tan, Administrative Services Department Finance, and Pennucci answered if there is still time for departments to change some of their ASRs. Tan spoke about the budget timeline, and Pennucci stated in order to get something changed and included in the Executive's proposal, the Administration would need to know in the next 24-48 hours.

Donovan stated he is trying to get the big picture of what is sustainable going forward to achieve at least a 15 percent fund balance in light of \$2.7 million of the proposal coming from one-time Local Assistance and Tribal Consistency Funding (LATCF). He asked if all the ASRs are really maintaining current services.

Pennucci stated the LATCF buys them some time to do more work because the banked capacity alone is not enough to right the ship in the long term. If they go without the banked capacity, they cannot assume a lapse since the budget would be so tight, so that is why she is suggesting they have to make closer to \$7 million of cuts in order to balance. They are also trying to do better than a 15 percent fund balance. In the recommended path, they are, over time, projecting a reduced reliance on fund balance for ongoing operations and maintaining a consistent fund balance. In the alternative option, they are continuing to rely more on the use of the fund balance so it would be declining over time.

Donovan stated part of the reason they are in this situation is that, in the last couple budget cycles, the Council has funded things that were not in the budget without really dealing with the revenue side of that. So, it is maybe on them now to look at the ASRs to determine what is needed to maintain current services and not just leave that to the Administration.

Councilmembers, Pennucci, Sidhu, and Kayla Schott-Bresler, Executive's Office, discussed that the ASRs submitted this year are different than in past budget cycles with department heads at a breaking point this time for resource needs, that Councilmembers would like the option to increase revenue *and* reduce costs as opposed to doing one or the other, what the increase would be to the current expense levy that was collected last year if they take the banked capacity and how that works out per household, the fact that they would expect to start the prioritization exercise right away in January, that the option that takes the banked capacity includes cuts already,

what perception about taking banked capacity might be at the State Legislature in terms of funding requests, grants, or bonding for capital projects, and that the Administration encourages Councilmembers to reach out to them with any questions or suggestions.

This agenda item was DISCUSSED.

2. AB2024-646 Discussion of Whatcom County advisory groups

Scanlon briefed the Councilmembers, and stated they sent a survey to advisory group members which asked for their feedback, and they also asked questions to prior legal counsel about State law and the county's code and charter. Representatives from some of the groups are here today to give their perspective.

Vesla Tonnessen, Child and Family Well-Being Task Force Co-Chair, stated their task force is committed to transparency and the spirit of the Open Public Meetings Act (OPMA) but it eliminates the ability for them to use Google Docs and inhibits their ability to move fast. They also have questions about quorum. She gave an example of challenges they face and spoke about how OPMA affects them. She answered whether they have found any other jurisdiction in Washington that has figured out a solution to Google Docs or other mechanisms for shared communication, and stated they have not, except for anecdotal examples of some communities being able to use an open Slack channel.

Galloway spoke about having broader analysis on all the boards to break down which are Council appointed versus Executive appointed, which have staff and which do not, which are guided by OPMA requirements, and which have bylaws. She spoke about creating a different tier of rules in Whatcom County Code that would honor the spirit of OPMA without being as rigid, and might drop the parts of OPMA requirements that are prohibitive to the advisory groups since those requirements are not State-mandated for all of them.

Councilmembers discussed legal options in regards to OPMA and the goal of learning today where it is that the advisory boards feel like they are held back so Council can try to determine the best path forward.

Tonnessen stated they had a conversation with the Attorney General's Office and it was pretty clear that these advisory bodies are not required to be OPMA-compliant. The request from the Child and Family Well-Being Task Force is that they pull what they can from OPMA that provides transparency and accessibility, but leave out the part where the groups cannot use collaborative documents.

George Roche, Prosecuting Attorney's Office, answered whether advisory boards are subject to rules pertaining to public records as well as open public meetings, and stated they are similar but different. He spoke about the consequences of OPMA litigation and stated it is an area where it might be a better-safe-than-sorry proposition.

Pam Gould, Whatcom County Ferry Advisory Committee Chair, spoke about constraints they face because of OPMA rules, and challenges with the time it takes to deliver hybrid Zoom meeting, and stated they would appreciate assistance with the latter. She answered whether being a site-specific board ever leads to issues with quorum because it lends itself to people wanting to have conversations as they encounter each other outside of a meeting.

Emily O'Connor, Public Health Advisory Board (PHAB) Vice Chair, stated she would underscore what has already been shared in this discussion. When the most restrictive rules are applied across the board, it comes at a cost, and lack of clarity on the requirements can also hinder or halt progress on boards. She would like if they could look at the difference between the letter of the law and the spirit of the law, boil it down to the intended outcomes, and then build the governance language that supports those outcomes. She stated one example of that for PHAB would be a change around what constitutes a quorum. It is also important for them to have tools available to be able to respond quickly so they can be responsive to changing aspects of community health.

Donovan stated, in summary, they have an Attorney General's opinion that says the OPMA does not have to apply to Council advisory boards, and a Prosecutor's Office memo saying the county code could be amended to eliminate the OPMA from advisory committees. So, he wonders how much they can approach rules for each board on an individual basis.

Roche stated if they change county code, which has a broad application of OPMA to all Council-formed committees (it is not something that applies to Executive-formed committees), and revert to State law, it would not be so simple then either because many of the committees are still going to be subject to OPMA under State law. They would have to go through each and every one and reassess whether or not they have the luxury of removing the OPMA requirements. They have applied the rules across the board because it is the simplest approach with the least chance of error.

Scanlon stated he is interested in exploring communication tools such as

Google Docs and Slack and reaching out to Washington State Association of Counties (WSAC) to see how other counties have dealt with it.

Tonnessen stated they asked the State about Google Docs and were told that an open Google Doc to which any member has access is considered a meeting and so is not allowable.

This agenda item was DISCUSSED.

3. AB2024-647 Discussion relating to population and employment projections for the Birch Bay Urban Growth Area (UGA), Cherry Point UGA, Columbia Valley UGA and areas outside UGAs (Rural areas and Resource Lands) associated with the 2025 Whatcom County Comprehensive Plan Update

Matt Aamot, Planning and Development Services Department, read from a presentation (on file) and stated they are seeking direction from the Council on a preferred population and employment growth projection for the non-binding, multi-jurisdictional resolution which will come to the Council at a later date. He spoke about the process for developing the population, housing, and employment projections.

Donovan spoke about the challenge of giving direction on population projections (especially in rural areas and unincorporated Urban Growth Areas (UGAs)) when they do not know what the cities are planning, and Aamot stated the Council can change its projections when it comes back to them during the Comprehensive Plan update process, and the cities are also coming up with preliminary numbers by the end of October.

Aamot continued the presentation on an overview of the Birch Bay, Cherry Point, and Columbia Valley UGAs and rural and resource lands, and answered questions about population and employment projections in those areas. He answered whether the projections could be reassessed in the event that Birch Bay becomes incorporated during the process and what they have learned over the course of this recent Comprehensive Plan that might help inform them for this update, whether job projections for Cherry Point align with the plans of existing businesses, and whether current planning is trying to align zoning with what the community needs in unincorporated areas outside of the UGAs.

Donovan spoke about the difficulty of having to decide on population projections for rural areas without knowing yet where all the UGAs are. He stated they should probably lower the population goals in the unincorporated non-UGA rural areas instead of repeating past practices, but asked how they do that until they have information from the cities. He asked what the rural land supply is and whether those areas would have to be

rezoned to accommodate the growth.

Aamot stated the only areas they are looking at rezoning in rural areas are in Limited Areas of More Intensive Rural Development (LAMIRDs).

Donovan asked, if they are telling the cities they are planning on just using that as their capacity for growth, what the city's incentive is then for doing annexations.

Galloway spoke about approaching it by looking at the big picture instead of one piece at a time and asked why they are not looking at big issues such as housing and climate now in order to inform what growth should be. She stated she was also alarmed by the optimistic employment growth numbers and asked that they think about the future of work, what that looks like, and what the infrastructure needs would be. It is hard to give guidance without some of the answers.

Aamot and Councilmembers discussed continuing this discussion at the next meeting and adjusting some of the numbers in the meantime.

Donovan stated he would like to get a sense of what the receptiveness would be from some of the cities to the County potentially lowering the rural allocation expectation. He is not comfortable sending this to the Planning Commission as it is.

Scanlon stated he is interested in learning more about rezoning in LAMIRDs and Accessory Dwelling Units (ADUs) to see what potential they would offer for population growth.

Kayla Schott-Bresler, Executive's Office, stated she would support more discussion with Council or one-on-one meetings with the Administration and Planning.

This agenda item was DISCUSSED.

4. AB2024-650 Discussion of a draft scope for human resources consultant services for the Whatcom County Council

Cathy Halka, Clerk of the Council, stated she took the report that was provided by the investigative committee and drafted a scope that would be used in a Request for Proposal (RFP). She would like a motion to move forward with a scope (with any revisions) and one to identify two Councilmembers to serve on a selection committee to review proposals received and select a consultant. She answered if there is a way to put a time goal for when the Council would want this to be done, and a question about

the percentages on the criteria for the consultants being evaluated.

Donovan moved that the Council recommend going forward with this scope. The motion was seconded by Scanlon.

Scanlon moved to amend the scope to add a new point to the "Scope of Services" (on page one of the Draft Scope) after point six which reads:

7. Evaluate and summarize alternate options for employees and the public to report employee misconduct, including evaluating the effectiveness of independent offices and mechanisms present in other counties in Washington state such as an ombudsperson, citizen public advocate, expanded scope for the Ethics Commission, or other similar office/commission.

The motion was seconded by Donovan.

Councilmembers discussed the motion, whether the scope should include helping to create policies for areas where we know we do not already have one, whether the consultant should also recommend other areas for which the County should have policies, and whether an ethics committee or ombudsperson should just be focused on HR issues as opposed to all County policies.

Kayla Schott-Bresler, Executive's Office, stated an ombudsperson would be an additional staff position that would impact the budget, and that the County's HR Department is ready and willing to be as involved as the Council feels comfortable with in this effort and might have some perspective on evaluating consultants or the scope or work. She stated this is a priority to the Administration and they are ready to assist in whatever way the Council welcomes.

Scanlon stated implementation of what they come up with would require coordination or acceptance from the Executive's Office, but he thinks they should study what they want to study and then have that conversation.

Schott-Bresler stated she would have some concerns about the knowledge base an HR consultant might have for broader public interest if they are thinking about what can be done internally versus externally.

Donovan stated he would volunteer Scanlon to be on the selection committee and Councilmembers discussed the wording of the motion.

The motion to amend carried by the following vote:

Aye: 5 - Byrd, Donovan, Galloway, Scanlon, and Stremler

Nay: 0

Out of the Meeting: 1 - Elenbaas

Absent: 1 - Buchanan

The motion to approve going forward with the scope as amended carried by the following vote:

Aye: 5 - Byrd, Donovan, Galloway, Scanlon, and Stremler

Nay: 0

Out of the Meeting: 1 - Elenbaas

Absent: 1 - Buchanan

Councilmembers discussed appointing two Councilmembers to the selection committee.

Scanlon moved to appoint himself and Donovan to the selection committee. The motion was seconded by Donovan.

The motion carried by the following vote:

Aye: 5 - Donovan, Galloway, Scanlon, Stremler, and Byrd

Nay: 0

Out of the Meeting: 1 - Elenbaas

Absent: 1 - Buchanan

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

Motion approved to amend the scope to add a new point to the "Scope of Services" (on page one of the Draft Scope) after point six which reads:

7. Evaluate and summarize alternate options for employees and the public to report employee misconduct, including evaluating the effectiveness of independent offices and mechanisms present in other counties in Washington state such as an ombudsperson, citizen public advocate, expanded scope for the Ethics Commission, or other similar office/commission.

Motion approved that the Council recommend going forward with this scope as amended.

Motion approved to appoint Scanlon and Donovan to the selection committee.

5. AB2024-661 Discussion of draft ordinance amending Whatcom County Code 20.82, Public Utilities, to increase allowable power line voltage to 230 kilovolts in zones currently limited to 115 kilovolts and address permit requirements

Galloway briefed the Councilmembers and stated they are hoping today to get technical questions answered from Puget Sound Energy and to get a sense from Council whether they would like to give Planning and

Development Services Department (PDS) a head nod to move forward with the planning process (PDS and Planning Commission review then a public hearing...) on this.

Donovan stated Whatcom is the only county that has a limit of 115 kilovolts for transmission lines and we can only exceed that within heavy industry zoning. If PSE wanted to increase the capacity across their existing lines, the current code would not allow that.

Brian Heinrich, Puget Sound Energy (PSE), answered questions about what 230 kilovolts looks and sounds like, and whether or not it would increase costs for rate payers. He stated building new transmission infrastructure would be a greater cost than just installing 230 kilovolts on the existing infrastructure, but improvements in the system are ultimately borne by rate payers. He answered how increased demand also affects the economics and stated if they can remove the prohibition in the code, it gives them a better ability to manage the entire grid as a system.

Donovan moved that they send this to the Planning and Development Services Department to develop something to send to the Planning Commission. The motion was seconded by Scanlon.

The motion carried by the following vote:

Aye: 5 - Galloway, Scanlon, Stremmler, Byrd, and Donovan

Nay: 1 - Elenbaas

Absent: 1 - Buchanan

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

Motion approved that they send this to the Planning and Development Services Department to develop something to send to the Planning Commission.

6. AB2024-667 Discussion of draft resolution to affirm food insecurity a public health priority
- Galloway and Scanlon briefed the Councilmembers and Scanlon stated he thinks they should put some asks in the resolution for State and Federal governments for what Council wants them to do. Galloway stated anyone who wants to weigh in on the resolution language could direct that to Council staff so they can prepare an updated version for a future meeting.

Donovan stated he would also like the resolution to be more explicit about what the Council wants from the Executive as far as funding and where that should come from.

Galloway stated they were trying to strike a balance given the complexity of

the county’s budget forecast. Using \$2 million of the county’s budget would be awesome but it is not necessarily feasible. She spoke about developing what they can advocate for from the State.

Scanlon spoke about hearing from the agricultural community.

Elenbaas stated he has an amendment to add language to the resolution regarding looking into county policies that are in place to help them connect local partners and local food producers. He stated he can email it.

Stremmler spoke about wanting dollars to go as far as they can to provide as much food as they can, and stated sometimes what local suppliers are asking for their products can be substantially higher than what it costs to get similar products in bulk. He does not want to saddle food banks with higher costs for less food.

This agenda item was DISCUSSED.

Items Added by Revision

There were no agenda items added by revision.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 4:30 p.m.

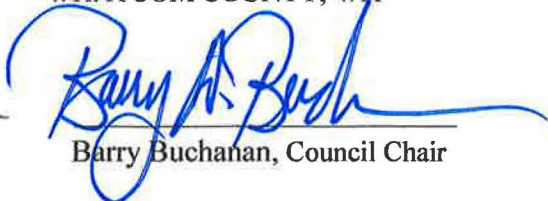
The County Council approved these minutes on October 22, 2024.

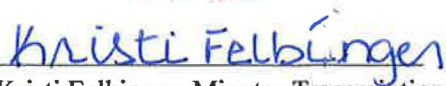
ATTEST:



Cathy Halka, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA


Barry Buchanan, Council Chair


Kristi Felbinger, Minutes Transcription