

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

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



## **Committee Minutes - Draft Minutes**

**Tuesday, August 8, 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 2:15 p.m. in a hybrid meeting.

## Roll Call

**Present:** 6 - Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, Kaylee Galloway, and Kathy Kershner

**Absent:** 1 - Ben Elenbaas

## Announcements

### Special Presentation

1. [AB2023-456](#) Presentation by Planning and Development Services Department regarding affordable housing strategies

Mark Personius, Planning and Development Services Department Director, read from a presentation (on file) about planning for and permitting strategies related to affordable housing. He answered whether there is specification in Engrossed House Bill (EHB) 1337 for whether the Accessory Dwelling Units (ADUs) that must be allowed in cities and Urban Growth Areas (UGAs) need to be attached or detached. He stated they must allow at least two on all lots that meet the minimum lot size in UGA zoning districts that allow single family residences and they can be any combination of attached and detached. He answered whether there is more they can unpack from the Whatcom County Business & Commerce Advisory Committee report (on file) on what we can actually do as a county. He stated a lot of their suggestions are addressed in some of the bills passed by the Legislature but the Legislature did not change some regulations which would have been helpful for permitting timelines; they just told planners to do the same thing they are doing but in half the time. He answered how many FTEs they would need to be able to deal with the new timeline requirements coming in 2025, whether there is discussion with the City of Bellingham about annexing the Yew Street area into their city limits, whether there has been any formal review and evaluation of the Housing Element chapter of the 2016 Comprehensive Plan, and whether they have any education tools for the community about what is needed from them in the permitting process in order to make it go more smoothly.

**This agenda item was PRESENTED.**

### Committee Discussion

1. [AB2023-504](#) Resolution identifying approaches to expand broadband access in Whatcom County

Galloway briefed the Councilmembers on the resolution.

Donovan asked about topic number four in the Now, Therefore, Be It Resolved section and asked whether it should be part of a permit check and how that might delay people in getting building permits. He also asked what topic number six means by moratorium. Galloway stated her intent with topic four is to incorporate this into an existing process so it would not add time, and as for the moratorium, she was intentional about leaving out a specific year duration, hoping the specificity can be developed at a later time.

Kershner stated she is thinking about areas in the county that might not yet be served by internet and that this would significantly stall projects or make them not achievable until internet was brought to that area. She would be leery about putting that into the County code, but it is something we could encourage cities (who have fully functioning internet systems) to do. She spoke about an example of just paving part of a road and how infrastructure added there may change in the time between the next paving project. She does like the idea of making sure that if we are digging, we are taking care of all the business that we can at that time, but for a purpose-- not just to sit and wait for something to pick it up later.

Galloway stated the resolution moves away from requiring the installation of conduit or fiber but more moves toward the requirement to coordinate and notify. She spoke about the broadband priority map and stated she does not see an excuse to build a house that does not have internet, but there is some flexibility in how they do it.

Buchanan stated he is not sure they can impose a moratorium that is enforceable with a resolution.

Galloway stated the intent of this resolution is to package these values, priorities, or recommended action items as providing Council support and guidance to our staff and staff of the Administration to start to move forward with the drafting of code that might be required for these items.

Buchanan stated she might want to look at the wording because it reads like it is an imposition of a moratorium.

Kayla Schott-Bresler, Strategic Initiatives Special Programs Manager, stated they want Council to understand that this is a shift in the County's role as it relates to broadband. Previously we have been a funder of broadband infrastructure but this shifts us to a place where Council is

directing us to pursue different policy tools to address some of this on the front end. Some of these recommended actions are a fairly easy lift for our departments but some are much harder, so they are happy to work with Galloway on companion information as it relates to budget and staffing impact to go along with each of these recommendations.

Donovan followed up on topic four and Galloway answered whether internet would have to be hooked up before someone can get a permit and whether they could they build a house and choose not to get internet.

Frazezy stated she is comfortable with topics one through three, so they are really discussing topics four through six.

Galloway spoke about the next steps and timeline and stated Councilmembers can think on this more and give feedback to her for specific language amendments or questions.

Frazezy stated she appreciates this coming forward and making it a priority.

**This agenda item was DISCUSSED.**

2. [AB2023-510](#) Discussion regarding allocating American Rescue Plan Act (ARPA) funds to assist Whatcom County Search and Rescue in relocation efforts

Gwynne Gruizenga-Top, Search and Rescue (SAR), gave a history of SAR and an overview of what has happened in the last few months since their last discussion at the June 20, 2023 Criminal Justice and Public Safety Committee. She spoke about SAR having to find a new location and stated they have secured donations that include a fully serviced building site, engineering, and permitting, but they lack the funds to construct the building itself. It is their request that the Whatcom County Council approve disbursement of the remaining 1.1 million dollars.

Buchanan stated the timeline for construction of this building, which would need to be ready for SAR in May, includes a big milestone this month, which is the purchase of the materials for the shell of the building. There is some urgency to this request that we need to respond to.

Kershner stated she asked the Clerk to bring this forward because she thinks it is important that they support SAR. Everson City Council has approved the usage of the property that SAR wants to put the building on, and she wonders whether the Administration has any additional information about the potential relocation of the SAR building.

Kayla Schott-Bresler, Strategic Initiatives Special Programs Manager,

stated the Administration has been working with the Sheriff's Office and Facilities on potential options to support SAR with a temporary and permanent facility. She apologizes for frustration and miscommunication about the Northwest Annex location and thinks the timeline of May of 2024 may be flexible with regards to SAR having to leave that location. There has been some discussion about supporting SAR with interim storage and location in the short term, but it does not provide a permanent solution and they want to work toward supporting that. They have been advised that further discussion with the Prosecuting Attorney's Office would be necessary before they went forward with any sort of contract related to the request. There is a concern that they do not have the legal authority to provide a capital grant to SAR as a volunteer organization. She stated she wants to make the Council and SAR aware of the prevailing wage, audit and procurement requirements associated with the use of American Rescue Plan Act (ARPA) funds, and that they do have some creative solutions to those things. Should Council wish to move forward with budget authority for some capital contribution or support for a SAR facility, they would ask for a little more time to work out the details. She spoke about the use of ARPA funds.

Buchanan asked how flexible the timing is with the Northwest Annex location and when the Administration might have that information.

Kershner asked whether the concern has to do with an email they received about how to use public funds and Schott-Bresler stated that was correct. She spoke about the timeline SAR has to give a commitment for at least \$500,000.

Bill Elfo, Sheriff, answered whether the Revised Code of Washington (RCW) requires the county to have SAR and stated the service is absolutely vital.

Donovan stated the request is to fund a building that would be owned by a private 501 non-profit and we cannot do that, and he asked if there is a way we can provide funding for a permanent facility that would be county-owned or leased where we are able to provide the resources.

Gruizenga-Top stated it is their hope that the County would take possession of the building once it is constructed and asked why County funds could be given to the Lighthouse Mission but SAR does not fall under that same umbrella.

Councilmembers and Schott Bresler discussed whether there is a way to

make it work, whether there are pieces of this that can move forward now if they used Division Street, and whether they could meet the August deadline for purchasing building materials.

***Kershner moved*** that the Council use \$1.1 million to fund the new Search and Rescue building in Everson. The motion was seconded by Buchanan.

Satpal Sidhu, County Executive, stated they want to help them but an executive session is needed.

Councilmembers discussed whether the motion would just convey Council's intentions, whether they should first hear from legal, what the motion would be doing, and what pool the money would be coming out of.

Karen Frakes, Prosecuting Attorney's Office, asked if Christopher Quinn, Prosecuting Attorney's Office, was in the meeting and he was. She stated she feels uncomfortable discussing this in open session.

***Kershner moved*** that they go into executive session. The motion was seconded by Buchanan.

The motion carried by the following vote:

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

**Nay:** 0

**Absent:** 1 - Elenbaas

Councilmembers went into executive session from 3:42 p.m. to 4:05 p.m. Attorneys present were Christopher Quinn and Karen Frakes.

The regular meeting resumed at 4:08 p.m.

***Kershner withdrew*** her earlier motion ***and moved*** that the Council consider allocating \$1.1 million from ARPA and other funds to fund Search and Rescue efforts. The motion was seconded by Buchanan.

Galloway stated she would urge the Administration to consider the other funds first rather than deplete our limited ARPA dollars.

The motion carried by the following vote:

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

**Nay:** 0

**Absent:** 1 - Elenbaas

Gruizenga-Top asked for clarification on the motion and Buchanan stated legal wanted it broad. She asked whether they were OK to order their building materials and Schott-Bresler stated they should have a conversation.

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

3. [AB2023-511](#) Discussion regarding the Lummi Island Ferry Advisory Committee and related matters

Buchanan reminded Councilmembers of the motion passed on July 11 (during Committee Reports in the Council meeting) “to hold off on filling vacancies (processing applications) on the Lummi Island Ferry Advisory Committee for three months and to have a policy discussion in the Public Works and Health Committee.” He stated the next discussion would be those policy discussions on membership and structure.

Donovan spoke from the perspective of a Lummi Island Ferry Advisory Committee (LIFAC) member about the timing of repopulating the LIFAC and the adopted ordinance amending Whatcom County Code 10.34, Ferry Rates (**AB2023-258**).

Jed Holmes, Administrative Services Community Outreach Facilitator, answered when the ordinance would be returned from the Executive’s Office back to the Council Office and stated they should expect something tomorrow pending the outcome of these discussions.

Kershner stated the ordinance passed with a vote of five to two and asked whether the Executive can veto an ordinance with five affirmative votes, and Buchanan stated the Executive can, but the Council can override a veto with another five to two vote and it has to have another process to be overridden.

Satpal Sidhu, County Executive, stated they will know his decision tomorrow.

Donovan answered what the impact would be if the ordinance goes into effect. He stated that some of them had the sense that it was not urgent for that ordinance to be passed, but they did not communicate that well and they might have done things differently. One thing the Council should think about is whether it really matters if it goes into effect as long as the priority for LIFAC, when it is reconstituted, will be to start with this and recommend either keeping it, changing it, etc.

Sidhu stated if he decides to veto the ordinance and send it back to the Council, the Council has to override it in the September meeting. If they override it, it will go into effect; if they do not override it, it does not go

into effect. He answered what the impact of the ordinance going into effect would be and stated if it did not pass for three months it would not have a financial impact.

Councilmembers discussed having a discussion in the Public Works and Health Committee about LIFAC in September to start talking about policy, and the October timeframe for sending out the notifications for applications and processing that.

Dana Brown-Davis, Clerk of the Council, stated if the Council changes the membership (of LIFAC) we might need some extra time to get that ordinance into effect.

Holmes stated there is a little bit of an urgency around getting the fares set. We cannot keep postponing and postponing that.

Kershner spoke about the ferry rates Ordinance and stated most, if not all, of the changes in it are to the benefit of the people who use the ferry. The sticking point that she has heard from people on the island is that they do not like the way our Public Works Department has been categorizing capital and operational expenses. But she has had extensive conversations with Public Works and the language we are using is the most consistent with how other programs of this nature are run. She is satisfied with it. Her recommendation is, if the Executive vetoes it, that the Council pass it again. Then, when the new LIFAC is constituted, if there is an issue with capital and operation, they can pick that one item up and discuss it with community members.

Frazeley stated she agrees with Councilmember Kershner. She would like the Council to stick with this ordinance and then put LIFAC in place in October or November. Then if there is an issue to look at, they can do it. Keeping this ordinance in place would be her recommendation.

Donovan stated, unless the ordinance is vetoed and not overridden, we cannot rescind the ordinance without introducing a new ordinance-to-rescind which could not happen well into September, so it is, by default, going into effect unless there is a veto. Then when LIFAC is re-formed they can make any recommendations about the capital versus operating expenses.

Galloway spoke about restoring community trust and stated her recommendation to the Administration is, if there is veto, that it come back with a proposal on engagement and how we are going to move forward in a

productive way.

Councilmembers discussed looking at ways to better support LIFAC when it is repopulated, maybe funding some facilitation for the first few months when they start up again, and the makeup of the committee.

**This agenda item was DISCUSSED.**

**Committee Discussion and Recommendation to Council**

1. [AB2023-529](#) Discussion and approval of a joint Council/Executive letter to the Port of Bellingham regarding broadband investments

Buchanan asked the Council to move the discussion to the evening meeting since they were out of time and Councilmembers concurred.

**This agenda item was FORWARDED TO COUNCIL WITHOUT A RECOMMENDATION.**

**Items Added by Revision**

There were no agenda items added by revision.

**Other Business**

There was no other business.

**Adjournment**

The meeting adjourned at 4:32 p.m.

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