

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, December 3, 2024

1:50 PM

Hybrid Meeting - Council Chambers

**HYBRID MEETING - MAY BEGIN EARLY - 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 Stremmler

CLERK OF THE COUNCIL

Cathy Halka, AICP, CMC

Call To Order

Council Chair Barry Buchanan called the meeting to order at 11:52 p.m. in a hybrid meeting.

Roll Call

Present: 7 - Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Kaylee Galloway, Jon Scanlon, and Mark Stremler

Announcements

Special Presentation

1. [AB2024-760](#) Presentation on the independent study of the countywide fire and emergency medical services (EMS) system

Rick Harrison, Mission Critical Partners, read from a presentation (on file) on the project team, the goals and project scope of the study, stakeholders they have and still need to interview, and the project timeline.

Scanlon encouraged the consultants to visit Point Roberts.

This agenda item was PRESENTED.

2. [AB2024-819](#) Presentation from Health and Community Services Department on partnership with the Didg^wálic Wellness Center

Malora Christensen, Health and Community Services, gave a briefing on an expansion of services to serve community members struggling with addiction. She stated through a partnership with the Swinomish Tribe, the didg^wálic Wellness Center, and the City of Bellingham, they are working to bring that model of support to Whatcom County. She briefed the Councilmembers on the location of the Bellingham center, that it is anticipated to open in the first few months of 2025, the provision of medication for opioid use disorder (MOUD) through two mobile medical units that will be parked adjacent to the leased clinical space, the other services that will be available, and the communication strategy for neighbors of the campus. She and the following people answered questions:

- Bryce Parent, didg^wálic Wellness Center
- Erik Ostergaard, didg^wálic Wellness Center

Satpal Sidhu, County Executive, stated he, Bellingham Mayor Kim Lund, and Kayla Schott-Bresler, Executive's Office, visited the facility and mobile units and he thinks this will be a good additional resource for our community.

This agenda item was PRESENTED.

Committee Discussion

1. [AB2024-793](#) Ordinance adopting amendments to Whatcom County Code Titles 20 and 22 to enact SSB 5290 regarding local project review

Garrett Smith, Planning and Development Services Department, updated Councilmembers on a history of this item and its discussions in committee. He stated Councilmember Galloway has helped coordinate discussion between the development field and the Planning Department and has proposed alternate code language which is scheduled for public hearing tonight.

Amy Keenan, Planning and Development Services Department (PDS), read from a presentation (on file) and stated that PDS is requesting that Council hold the current proposed ordinance that is on for public hearing tonight and remand it back to committee for future discussion after the hearing. They would like the opportunity to propose a revised ordinance that meets the needs of PDS and the stakeholders. The presentation outlined that they would propose a revised version of Title 22, hold a stakeholder meeting, and prepare an interim policy in the meantime for portions of SB 5290 that will be effective on January first.

Councilmembers and the speakers discussed determining what parts are needed in the proposed code language to fulfill requirements of SB 5290, the desire to take more time on this so they can get it right, making sure that PDS has the resources they need to fulfill the obligations, the recommendation to hold this after the hearing, that maybe they should close the book on this particular agenda bill and work with PDS over the next several weeks to get a new version on the Council agenda for the first or second January meeting that just focuses on the 5290 components, and that the interim regulations would allow them to have a policy in place to help meet the requirements of 5290 and address what would be outside of the code by the January deadline.

Satpal Sidhu, County Executive, spoke about having more discussion about buffer increases and customizing buffers for different areas in the county.

This agenda item was DISCUSSED.

Committee Discussion and Recommendation to Council

1. [AB2024-739](#) Ordinance amending Whatcom County Code Chapter 2.130 Economic Development Investment Board

Donovan briefed the Councilmembers and stated there are two proposals before them. One is from the Executive's Office and one is a substitute. He gave a history, including a resolution in 2023 to encourage more EDI funding to go to affordable housing, a change in State law about what they can use EDI funding for, and another resolution to start the process of modernizing the EDI board. He spoke about the changes in the substitute (alternate) and that it will require that a new ordinance be introduced. He stated he would propose that they dispose of the original ordinance that was introduced on November 19, and introduce the substitute proposal (**AB2024-870** added by revision to Council after this meeting, and attached to this file with Donovan's and Buchanan's name) today.

Cathy Halka, Clerk of the Council, stated this ordinance (**AB2024-739** from the Executive) was introduced on November 6, on held on November 19th. If they want to make further substantive changes the new ordinance (added to Council by revision after this meeting as the proposed ordinance in **AB2024-870**) would need to be introduced.

Donovan moved that they recommend to themselves that they vote down the original and approve the substitute. The motion was seconded by Scanlon.

George Roche, Prosecuting Attorney's Office, stated they could just take no action on the originally proposed ordinance.

Donovan withdrew his motion and **moved** that they introduce the substitute proposed ordinance (to be on introduction tonight). The motion was seconded by Scanlon.

Galloway spoke about item number three under proposed Whatcom County code **2.130.040 Membership - Term of office**, and suggested it just say one mayor, and she spoke about there being a second County Council member (item number five under the same section).

Councilmembers and Roche discussed Galloway's suggestions.

Donovan's motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremmler

Nay: 0

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

Motion approved that they introduce the substitute proposed ordinance (to be on introduction tonight).

2. [AB2024-747](#) Ordinance amending Whatcom County Code Chapter 2.06 Medical Examiner to establish a Medical Examiner Department

Kayla Schott-Bresler, Executive's Office, updated the Councilmembers since the last meeting, at which Councilmembers asked whether establishing a Medical Examiner department would increase institutional costs. She referred to the staff memo (on file) and stated they do not anticipate significant or really much of any cost increases associated with it, and spoke about advantages.

Scanlon moved and Buchanan seconded that the Ordinance be RECOMMENDED FOR ADOPTION. The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

Temp Absent: 1 - Donovan

3. [AB2024-767](#) Resolution to establish Council goals for full, timely awarding of Healthy Children's Fund contracts

Buchanan briefed the Councilmembers and stated this is an attempt to streamline the system and drive awareness, and has to do with getting the resources out to where they can be used and helpful to the community. He stated there are proposed amendments and they will start with the ones in "Memo - Byrd edits" (on file).

Byrd moved that they amend the resolution to include changes as listed in "Memo - Byrd edits" under bullet point A (Timeline for execution of contracts) sub bullet points 1 and 2.

The motion was second by Galloway.

Scanlon asked why they do not do this for every contract.

The following people discussed with Councilmembers about concerns regarding the proposed process, airing negotiations with vendors publicly, and that the second point is too restrictive:

- Kayla Schott-Bresler, Executive's Office
- Satpal Sidhu, County Executive

Byrd withdrew his motion because there was not a main motion on the floor.

Donovan moved that the resolution be RECOMMENDED FOR APPROVAL.

Byrd moved that they amend the resolution to include changes as listed in “Memo - Byrd edits” under bullet point A (Timeline for execution of contracts) sub bullet points 1 and 2.

The motion was seconded by Buchanan.

Councilmembers discussed the motion with the following people:

- Erika Lautenbach, Health and Community Services Director
- George Roche, Prosecuting Attorney’s Office
- Satpal Sidhu
- Aly Pennucci, Executive's Office

They discussed finding the bottlenecks that are causing some of these contracts to take so long, that there are good reasons that some contracts take more than 90 days, that the Council’s attorney will not approve the resolution as to form if this amendment (in Section A2) includes the word “shall” since that would be a violation of the separation of powers, that the resolution could just have a mechanism by which the Administration could let the Council know about delays or things that are not being expedited, whether a resolution should be worded in a way to list expectations even if a resolution does not have the force of law, and that this is a message from the Council that they want to get money out the door, what the Council’s role should be (whether it is funding additional staff, changing the dollar amount threshold for contracts to come to Council, or Council getting quarterly reports on initiated contracts as opposed to having to approve them) in achieving expedited timelines, what would trigger a formal request for an extension (point two), the wording of the proposed amendment language, the preference of the Administration to have less prescriptive language, that the “Memo - Lautenbach edits” says that if the County Administration does not get contracts through within 90 days then further explanation will be provided, and that Health and Community Services wants to partner with Council to make the process better.

Byrd did not amend his motion to change the word “shall” to “should.”

The motion to amend carried by the following vote:

Aye: 4 - Elenbaas, Scanlon, Buchanan, and Byrd

Nay: 3 - Donovan, Galloway, and Stremmer

Byrd moved to amend the resolution to include the suggested paragraph (in “Memo - Byrd edits”) as a new bullet point (E) as follows:

Reporting and audits: Excludes from reporting and audit requirements any programs, contracts, results, or metrics related to programs not directly funded with HCF funds (for example ARPA funds).

The motion was seconded by Buchanan.

Councilmembers discussed the motion to amend.

The motion carried by the following vote:

Aye: 7 - Elenbaas, Galloway, Scanlon, Stremler, Buchanan, Byrd, and Donovan

Nay: 0

Byrd moved to amend the resolution as seen in the item labeled “F. Independent auditor” from “Memo - Byrd edits” which reads:

- F. Independent auditor Establishes timeframes for contracting an independent auditor and creates an audit schedule, including
1. RFP for independent audit posted immediately upon approval of ordinance
 2. Contract with independent auditor no later than Jan. 31, 2025
 3. Complete audit and review of 2023-2024 HCF performance and provide results to Council and Child and Family Wellbeing Task Force by April 30, 2025.
 4. Complete subsequent biannual reviews to Council and Child and Family Wellbeing Task Force by:
 - a. March 31, 2027
 - b. March 31, 2029
 - c. March 31, 2031
 - d. March 31, 2033

The motion was seconded by Buchanan.

Kirsten Smith, Council Office Staff, explained that the first sentence in section F represented in the “Memo - Byrd edits” is just a summary of Byrd’s proposed changes and not the exact language for the resolution.

Byrd amended his motion to change the word “ordinance” to “resolution” in sub item 1 so that it would read:

1. RFP for independent audit posted immediately upon approval of **resolution**

The following people discussed the motion with Councilmembers:

- Ann Beck, Health and Community Services
- Sarah Simpson, Health and Community Services
- Kayla Schott-Bresler

They discussed reporting on contracts that is already taking place, a monthly narrative from Sarah Simpson to the task force that could also be given to Councilmembers in the monthly budgetary report, whether the intent of the Council is to add an every-two-year audit to the audit that is already required under the Healthy Children's Fund ordinance (Ord 2022-045), and the purpose of the audit described in the ordinance compared to the one described here.

Byrd stated this was not intended to be an addition. The point of this was to move forward the audits that were required under the initiative as it was passed and set the deadlines for when that information will be brought to Council.

The motion to amend carried by the following vote:

Aye: 6 - Galloway, Stremmler, Buchanan, Byrd, Donovan, and Elenbaas

Nay: 1 - Scanlon

Lautenbach spoke about the 10th Whereas statement in the proposed resolution and stated she wants to make sure it is clarified that Council's priority was for them to first spend \$13 million, with American Rescue Plan Act (ARPA) funds, for childcare capital projects. They did get that money out, but that delayed their ability to move on Healthy Children's Fund early learning care programs because it was a heavy lift to get that money into the community with good projects. She also spoke about an incorrect dollar amount in the 11th Whereas statement which had already been corrected in the proposed resolution. And she spoke about the 90-day requirement in the "Now Therefore Be It Resolved" section and about contract reporting.

Scanlon moved to amend the 10th whereas clause with the language suggested by Health and Community Services (in "Memo - Lautenbach edits"), changing the "but" to an "and" (so the second line reads; "with more than \$13M awarded for childcare capital projects using ARPA funds AND \$385,722").

The motion was seconded by Galloway.

The motion carried by the following vote:

Aye: 7 - Scanlon, Stremmler, Buchanan, Byrd, Donovan, Elenbaas, and Galloway

Nay: 0

Beck answered how the Healthy Children's Fund balance can still be almost \$20 million if \$5 million has been executed, and stated the \$19 million is the total that is sitting there and the \$5 million is part of that \$19 million. There is \$14 million that has not been encumbered anywhere else.

Donovan moved to adopt the proposed change from Director Lautenbach in item A (in "Memo - Lautenbach edits"), to put it as "County Administration".

The motion was seconded by Scanlon.

Councilmembers discussed the motion and whether this amendment would still be required after the Byrd amendments.

Donovan withdrew his motion since they already added an amendment to Section A that removed the word "County."

Lautenbach explained the proposed amended language in subsection C in the "Memo - Lautenbach edits."

Donovan asked why Health and Community Services is asked to "to include information to the Child and Family Wellbeing Task Force about the timeline delay" but not to the Council, and Lautenbach stated it could be changed to also include the Council.

Donovan moved to adopt the changes to C as in Director Lautenbach's proposal, with the addition of "County Council and the" in the sentence that begins, "...date contract finalized by..." so that Health and Community Services is asked to include information to the County Council and the Child and Family Wellbeing Task Force.

The motion was seconded by Scanlon.

Clerk's note: Councilmembers did not vote on this motion.

Satpal Sidhu, County Executive, spoke about his concern with this resolution creating confusion with its directives to the Administration and

with the resolution violating the separation of powers.

Roche stated he does not want to see one branch force the other branch into litigation.

Galloway moved to go into executive session, pursuant to RCW 42.30.110 (1)(i)(iii), until 4:15 p.m.

The motion was seconded by Scanlon.

The motion to go into executive session carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Galloway, Scanlon, and Stremler

Nay: 0

Councilmembers entered into executive session at 4 p.m.

At 4:16 p.m. the Council chair announced that the Council is still in executive session and will return at 4:30 p.m.

The regular meeting was reconvened at 4:30 p.m.

Buchanan moved to change the word “shall” wherever it appears in the resolution, with the exception of the severability clause, and replace it with “should.”

The motion was seconded by Galloway.

The motion to amend carried by the following vote:

Aye: 7 - Donovan, Elenbaas, Galloway, Scanlon, Stremler, Buchanan, and Byrd

Nay: 0

Buchanan stated they will consider this and the remaining agenda items tonight.

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

Motion approved to amend the resolution to include changes as listed in “Memo - Byrd edits” under bullet point A (Timeline for execution of contracts) sub bullet points 1 and 2.

Motion approved to amend the resolution to include the suggested paragraph (in “Memo - Byrd edits”) as a new bullet point (E) as follows:

Reporting and audits: Excludes from reporting and audit requirements any programs, contracts, results, or metrics related to programs not directly funded with HCF funds (for example ARPA funds).

Motion approved to amend the resolution as seen in item labeled “F. Independent auditor” from “Memo - Byrd edits” and to change the word “ordinance” to “resolution” in sub item 1, so it reads:

F. Independent auditor Establishes timeframes for contracting an independent auditor and creates an audit schedule, including

1. RFP for independent audit posted immediately upon approval of RESOLUTION
2. Contract with independent auditor no later than Jan. 31, 2025
3. Complete audit and review of 2023-2024 HCF performance and provide results to Council and Child and Family Wellbeing Task Force by April 30, 2025.
4. Complete subsequent biannual reviews to Council and Child and Family Wellbeing Task Force by:
 - a. March 31, 2027
 - b. March 31, 2029
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 - d. March 31, 2033

Motion approved to amend the 10th whereas clause with the language suggested by Health and Community Services (in “Memo - Lautenbach edits”), changing the “but” to an “and” (so the second line reads; “with more than \$13M awarded for childcare capital projects using ARPA funds AND \$385,722”).

Motion approved to go into executive session, pursuant to RCW 42.30.110.1(i)(iii), until 4:15 p.m.

Motion approved to change the word “shall” wherever it appears in the resolution, with the exception of the severability clause, and replace it with “should.”

4. [AB2024-794](#) Ordinance establishing Whatcom County Code 2.190 Birch Bay Community Advisory Committee

This agenda item was NOT ACTED UPON.

5. [AB2024-795](#) Ordinance amending Whatcom County Code 2.03 Advisory Groups

This agenda item was NOT ACTED UPON.

6. [AB2024-856](#) Request County Council to appoint a Council Health Board member to serve on final interview panel for the Health Officer candidate

This agenda item was NOT ACTED UPON.

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

Cathy Halka, Council Clerk

Barry Buchanan, Council Chair

Meeting Minutes prepared by Kristi Felbinger