

Whatcom County Council (Special)

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



Minutes - Final

Monday, June 26, 2023

10:30 AM

Hybrid Meeting - Chambers/Remote

HYBRID MEETING ((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
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 10:32 a.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

Discussion

1. [AB2023-304](#) Justice Project workshop

Buchanan stated that they have a couple of items to look at, the first of which is AB2023-304 the Justice Project Workshop.

Frazey asked if any changes had been made to the ordinance draft since their last meeting. Buchanan responded that he believes the file titled “Draft Ordinance with Galloway Edits 6.26.23 - Version 2” is the most current.

Buchanan said there is an ordinance and Implementation Plan to look at today, and he asked if Galloway would walk through the ordinance edits one by one.

WHEREAS STATEMENT ON PAGE FOUR - Approximate Timestamp 2:20

Galloway stated that Councilmembers have seen some of the edits before, and other edits try to make reconciliations with the Implementation Plan. The first edit on page four of the file titled “Draft Ordinance with Galloway Edits 6.26.23 - Version 2” adds “and substance use disorder” to one of the 15 Implementation Plan action items so that it would read:

Identifying what additional facilities are needed to support people with behavioral health and substance use disorder issues at risk of incarceration.

Donovan moved to approve the changes on page four. Frazey seconded the motion.

Kershner sought clarification on the reason for the addition of “and substance use disorder.”

Galloway stated that the substance use disorder terminology is also reflected in the amendments she proposed for the Implementation Plan.

“Substance use disorder” was not originally included in the ordinance or Implementation Plan.

Kershner asked why the language was not included originally.

Tyler Schroeder, Director of Administrative Services, explained that the term “behavioral health” covers substance use disorder and mental health treatment.

The motion carried by the following vote:

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

Nay: 0

SECTION 5 (1) (d) - Approximate Timestamp: 8:04

Galloway stated that the next amendment in Section 5 (1) (d) clearly articulates that revenue sharing for the bond should be in the first four years rather than four to six years. It also streamlines language so that it would read:

Allows for cost-effective terms of bonding for the construction of the jail and behavioral health facilities by including a sharing of the first four ~~to six~~ years of sales tax revenue ~~to This up-front revenue will~~ reduce the bond size. ~~ensure that~~ In subsequent years, a minimum of 50% of the ongoing county-wide Public Health, Safety, and Justice sales ~~and use~~ tax revenue will be used for ~~other community-based projects as prioritized in the Justice Project Implementation Plan, priorities~~ such as the construction and operation of behavioral health facilities serving populations outside of the County jail, expansion of incarceration reduction programs, increasing access to community-based behavioral health and substance use disorder treatment services, re-entry programs, supportive housing, diversion programs, and accountability measures that monitor progress and inform future planning, and

Galloway moved to amend Section 5 (1) (d) as proposed. Buchanan seconded the motion.

Donovan said the substantive change appears to be the shift to “four years” from “four to six years.” He asked the Executive how that change would affect things.

Schroeder stated that he agreed that the change in years seemed to be the

only substantive change in the amendment. He said the four to six years is important for County Administration and for the cities as well. He said we've had a lot of conversation about the kind of funding mechanism and framework that's also in the Implementation Plan. Four to six years provides flexibility for the community to ensure that a jail is able to be funded with while also ensuring that, in the long-run, 50 percent of an ongoing county-wide tax goes to other behavioral health and criminal justice improvements in the Implementation Plan. He said he was unsure of the intent to go to four years and cautioned it might have an opposite effect, meaning the bond would be higher so there is not enough money for the 50 percent for behavioral health purposes.

Kershner spoke against the amendment. She stated that she is looking at the economy and seeing people talk about the possibility of a recession or downturn in the next four years. She said she would like to leave some flexibility for the County by keeping the four to six years. She said the longer we're able to collect sales tax for a down payment, the smaller our bond payment will be, meaning we'll be able to dedicate more to Implementation Plan projects going forward. If we don't have enough money to bring the bond payment down to a manageable amount, then we aren't going to be able to dedicate 50 percent to Implementation Plan priorities.

Elenbaas agreed with Kershner and said he does not like the language about 50 percent. He asked about the intent of the section and whether it was focused on rural allocation of dollars.

Schroeder clarified that Elenbaas was asking about whether county-wide sales tax referred to just the rural portion of the sales tax collected or if it referred to the cities' portion as well. He said ongoing county-wide collection is intended to refer to the portion collected and allocated to the County as well as the portions allocated to all of the cities. There is a recognition that most of the cities' collection would go to the City of Bellingham, which is working toward letters and resolutions supporting this. There is a section that allows for smaller cities under 20,000 population to use their portion for public safety purposes.

Frazezy stated she wanted to keep the four to six language as well.

Kershner asked if the ordinance could commit other cities to use their portion of the tax allocation in a certain way.

Schroeder stated that this is a request for the Executive to develop an

agreement with the cities.

Kershner asked what would happen if the cities do not agree to this path.

Schroeder said there has been a lot of discussion with the small cities' leadership and with the City of Bellingham. He noted that Kershner's question is valid.

Kershner clarified that the Public Health, Safety, and Justice sales and use tax refers to the two-tenths of one percent tax and not the previous one-tenth of one percent tax.

Schroeder clarified that it only refers to the proposed two-tenths of one percent tax.

Frazey asked the intent of striking the six years in the amendment.

Galloway said the intent was to provide more clarity to the community. It also ensures that, after year four, 50 percent would go toward community-based projects.

Schroeder stated that using the language "community-based projects" maybe changes the intent because it was originally meant to refer to everything in the Justice Project. Community-based would mean not within the jail. He sought clarification about whether "community-based" would include a re-entry specialist in a jail.

Galloway stated that "community-based" would be housing, behavioral health, incarceration prevention and reduction. She said services within the jail, such as medical, dental, and behavioral health, are arguably within jail operations, even if they are currently not funded sufficiently.

Kershner stated that she cannot support the community-based language because we are creating a whole new system with a correctional facility with services incorporated within so that we are supporting people at the best level we can. She stated that we do not know what the system will look like in 20 years, and she does not want to tie our hands.

Kershner moved to amend the amendment to leave the language about "four to six years" in place and strike "community-based." Frazey seconded the motion.

Galloway stated that she does not consider this a friendly amendment as it

guts the intent of her original amendment. She said the community-based language is what the amendment is all about. She encouraged a “no” vote on the amendment. She said the community needs to know that the funding will go to reduce people’s involvement in the criminal legal system and keep people off the streets.

Elenbaas said that the Council has appointed people to the Incarceration Prevention and Reduction Task Force (IPRTF), but other folks’ opinions have to be considered as well if we want to pass this.

Kershner’s motion to amend Galloway’s motion carried by the following vote:

Aye: 4 - Byrd, Elenbaas, Frazey, and Kershner

Nay: 3 - Donovan, Galloway, and Buchanan

Council then took a vote on the main motion to approve the amendment as amended.

Galloway’s motion carried by the following vote:

Aye: 6 - Elenbaas, Frazey, Galloway, Kershner, Buchanan, and Byrd

Nay: 1 - Donovan

Approximate timestamp: 34:30

Elenbaas moved to amend Section 5 (1) (d) to add “a goal of” in referring to the “50%” so that it would read, “a goal of a minimum of 50%.”

Kershner suggested a friendly amendment to have it read “a goal of 50%.”

Elenbaas accepted the friendly amendment. Kershner seconded the motion.

Elenbaas stated that the intent of the motion is not to direct funds away from mental health toward incarceration. Rather, he does not want to tie our hands in terms of spending through restrictive language.

Satpal Sidhu, County Executive, stated that we cannot predict the future, and more flexibility is valuable for the Council. He said we should not assume what’s happening now will be happening ten years from now.

The motion failed by the following vote:

Aye: 2 - Elenbaas, and Kershner

Nay: 4 - Frazey, Galloway, Buchanan, and Donovan

Abstain: 1 - Byrd

SECTION 5 (2) - Approximate Timestamp 45:13

Kershner moved to amend the ordinance to change all uses in the ordinance of “directs the Whatcom County Executive” to read “requests the Whatcom County Executive.” Buchanan seconded the motion.

The motion carried by the following vote:

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

Nay: 0

SECTION 5 (3) - Approximate Timestamp 48:39

Galloway moved to clarify wording around the Justice Project Oversight and Planning (JPOP) Committee’s membership and role by adding the following language:

The IPRTF/LJC shall establish a Justice Project Oversight and Planning (JPOP) Committee that includes a balanced membership ensuring fair representation of BIPOC communities, service providers, and people with lived experience. With guidance from the JPOP Committee, the IPRTF/LJC shall coordinate with the Finance and Operations Advisory Board to monitor the progress of the Implementation Plan and provide a written report of progress towards Plan goals annually to the Advisory Board and County Council. The IPRTF/LJC and JPOP Committee shall provide recommendations for plan updates a minimum of every five years.

The motion was seconded by Buchanan.

Elenbaas stated that the folks who we voted to be on the Finance and Operations Advisory Board sound more like the JPOP Committee.

Kershner said she would be willing to support the motion if we could reconsider the makeup of the Finance and Operations Advisory Board and revert back to the membership proposed in the Executive Office’s original ordinance draft.

Donovan asked for clarification about whether the JPOP Committee is already in the Implementation Plan. He also stated that “balanced” might mean different things to different people.

Kershner asked for clarification about whether these things would be funded from the new sales tax we are generating.

Schroeder stated they could be funded by either the new sales tax or the General Fund moving forward. The funding sources listed in the Implementation Plan are estimates. The General Fund currently helps support the IPRTF.

The motion carried by the following vote:

Aye: 4 - Galloway, Buchanan, Donovan, and Frazey

Nay: 3 - Kershner, Byrd, and Elenbaas

SECTION 5 (5) - Approximate Timestamp 56:04

Galloway motioned to amend Section 5 (5) so that it reads:

The IPRTF/LJC shall further consult BIPOC communities, service providers, and people with criminal justice lived experience in the progress of the Implementation Plan and future planning efforts. Further, the Whatcom County Executive, County Council, and the IPRTF/LJC shall consult with the Whatcom Racial Equity Commission on progress and planning efforts, particularly as it relates to data gathered on racially disparate impacts in the Whatcom county criminal justice system, and recommendations regarding elimination of barriers to public participation.

Donovan seconded the motion.

Councilmembers discussed how data would be shared and how oversight groups will report to one another.

The motion carried by the following vote:

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

Nay: 2 - Kershner, and Elenbaas

NEW SECTION 7 - Approximate Timestamp 1:01:15

Councilmembers discussed the language and purpose of the proposed addition of Section 7.

Galloway moved to add a new Section 7 titled “Incarceration Prevention and Reduction Investments,” which includes the following:

1. Whatcom County will make initial investments - using a combination of proceeds from this sales and use tax and other local, state, and federal funds - in Justice Project Implementation Plan projects that increase access to community-based behavioral health services, substance use disorder treatment,

- re-entry services, supportive housing, diversion, and other incarceration reduction programs. Investments will begin in 2023 and occur concurrently with the planning and construction of a new jail facility and behavioral health treatment center.
2. The Whatcom County Council requests the Whatcom County Executive to coordinate with the Whatcom County cities, the Washington State Legislature, community-based providers, the Finance and Operations Advisory Board, and the IPRTF/LJC to maximize resources, build capacity, and align plans in order to accomplish such projects.
 3. The Whatcom County Council shall provide sufficient budgetary authority to accomplish such projects and requests the Executive to include such expenses in relevant biennial and supplemental budgets and budget amendments as appropriate.

Galloway stated the proposed amendment demonstrates a commitment to the community in investment in community-based behavioral health services, substance use disorder treatment, re-entry services, supportive housing, diversion, and other incarceration reduction programs.

Buchanan seconded the motion.

Donovan stated his support for the motion because he feels we are already doing everything included in the amendment.

Schroeder stated that Section 7 (1) should read “Whatcom County will continue to make” instead of “Whatcom County will make.” He stated that Section 7 (3) should read “The Whatcom County Council intends to” instead of “The Whatcom County Council shall.”

Buchanan offered Schroeder’s wording suggestions as a friendly amendment. ***Galloway accepted*** the friendly amendment.

Kershner offered a friendly amendment to Section 7 (1) so that it reads “Whatcom County will continue to make initial and ongoing investments” instead of “Whatcom County will continue to make initial investments.”

Galloway and Buchanan accepted the friendly amendment from Kershner.

The motion carried by the following vote:

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

Nay: 0

SECTION 8 (1) - Approximate Timestamp 1:10:51

Galloway moved to amend Section 8 (1) to add language about adherence to the ordinance, so that it would read as follows:

No less than every two years, the Whatcom County Executive shall coordinate with the IPRTF/LJC and Finance and Operations Advisory Board to update the Implementation Plan with a detailed Spending Plan for the public health, safety, and justice tax, that adheres to the terms of this ordinance. The spending plan may not impede the County's ability to pay debt service on facility bonds issued against the tax.

Frazey seconded the motion.

Frazey asked whether the "no less than every five years" wording in Section 8 (2) matches the wording in the Implementation Plan.

Schroeder clarified that the "no less than every two years" in Section 8 (1) refers to a Spending Plan while the "no less than every five years" in Section 8 (2) refers to the entire Implementation Plan.

Councilmembers discussed whether language in the ordinance limits spending determination or flexibility.

Sidhu clarified the administration's intent regarding the Spending Plan. He stated that a 50 percent minimum could be problematic in the future because it does not take into account other funding that will be available or the timing needs of various projects.

Councilmembers discussed the purpose of the amendment and the broader implications of spending requirements in Section 5 (1) (d).

Sidhu shared a hypothetical example to illustrate how unplanned events can impact even the most careful planning. He said some of the things being said are coming out of mistrust.

The motion carried by the following vote:

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

Nay: 1 - Elenbaas

SECTION 9 - Approximate Timestamp 1:28:58

Galloway moved to add a new Subsection 4 under Section 9 that would

read:

No expansion of any new jail facility shall be considered for at least five years after construction is completed. Thereafter, if expansion is considered within the 30-year lifespan of the new Public Health, Safety, and Justice Sales and Use Tax, a variety of factors shall be examined including, but not limited to, population growth, operational capacity, success of diversion, reentry, and housing programs, and other factors as listed in the Justice Project Implementation Plan. Any plans for expansion shall include a robust and inclusive community engagement process and be approved by the County Council.

Buchanan seconded the motion.

Buchanan asked for clarification from the administration about how the proposed amendment aligns with the formula for expansion criteria that has been discussed.

Schroeder said that page 42 of the Implementation Plan includes a list of factors that will be weighted to determine the number of beds in the jail facility. He stated that the language in the amendment is consistent with that of the Plan.

Elenbaas asked for clarification that the amendment is not replacing the formula.

Schroeder stated that the amendment restricts expansion for five years after construction, but it does not replace the formula.

Elenbaas asked if the purpose of the amendment was to acknowledge the possibility of a spike in incarceration after the end of booking restrictions.

Schroeder said that seems accurate.

Galloway added that the amendment provides transparency to the community and builds in needing to make strategic and thoughtful decisions in the initial sizing of the jail.

Kershner spoke against the amendment because we are not sure exactly what we need with the booking restrictions taken off.

Elenbaas said he feels like the language of the amendment is there to

facilitate booking restrictions and the objectives of the IPRTF rather than making sure that we are putting forth a fiscally responsible plan for the long haul.

Byrd stated that he wanted to hear the Sheriff's opinion on the amendment.

Bill Elfo, Sheriff, said "no expansion" does not take into account what may happen in the years to come that is often unpredictable. When the state provided funding to build the current jail facility, everyone was happy. Right after that, the state changed sentencing schemes and people began serving sentences in county jails rather than prisons and certain laws began mandating arrests. He said decades of overuse is causing us to spend millions of dollars to keep the facility operating. He said he would not want to tie the hands of the future Council with a blanket prohibition. He said he could not support the language of the amendment to the public.

Elenbaas asked about the number of current outstanding warrants and about state laws regarding incarceration.

Elfo responded to the questions.

Kershner stated that she wanted to hear from the small cities about how the amendment would impact the bond payments.

Scott Korthuis, City of Lynden Mayor, stated that all the cities in Whatcom want a jail without booking restrictions. He listed concerns with other aspects of the ordinance including the 50 percent language.

Frazezy offered a friendly amendment to Galloway's amendment so that it would read:

~~No expansion of any new jail facility shall be considered for at least five years after construction is completed. Thereafter, if Where~~ expansion is considered within the 30-year lifespan of the new Public Health, Safety, and Justice Sales and Use Tax, a variety of factors shall be examined including, but not limited to, population growth, operational capacity, success of diversion, reentry, and housing, programs, and other factors as listed in the Justice Project Implementation Plan. Any plans for expansion shall include a robust and inclusive community engagement process and be approved by the County Council.

Galloway accepted the friendly amendment. She stated that the community

has concerns about expansion and the intent of putting a timeframe on it is that it encourages us to get it right in the first place and it reassures the community that it will not double in size over night.

Buchanan accepted the friendly amendment as well.

Kershner stated that an expansion would go through the oversight process using the formula. She asked whether the County Council would approve an expansion anyway in the duties Council has to approve budget authority.

Sidhu replied that there would be no automatic expansion without the Council because that's where the purse strings are. Anything happening would come to the Council.

Elenbaas stated that there will not be money to expand because of the 50 percent limitations.

Buchanan directed attention to Section 12 that states, "Provided that it is consistent with state law, the Council may, through its inherent authority, otherwise amend this ordinance if it determines that circumstances warrant such amendment."

Byrd asked if the amendment to the amendment alleviates the concerns of the Sheriff and Mayor of Lynden.

Elfo said he could support the amendment.

Elfo suggested that the language of the amendment be expanded to include changes in state law or court rules that affect sentencing or pretrial detention.

Galloway amended her motion to expand the language so that it would read:

~~No expansion of any new jail facility shall be considered for at least five years after construction is completed. Thereafter, if Where~~ expansion is considered within the 30-year lifespan of the new Public Health, Safety, and Justice Sales and Use Tax, a variety of factors shall be examined including, but not limited to, population growth, operational capacity, success of diversion, reentry, and housing, programs, changes in state law or court rules affecting pretrial detention or sentencing, and other factors as listed in the

Justice Project Implementation Plan. Any plans for expansion shall include a robust and inclusive community engagement process and be approved by the County Council.

The motion carried by the following vote:

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

Nay: 0

SECTION 12 - Approximate Timestamp 2:05:47

Galloway moved to amend Section 12 of the ordinance so that it would read:

Section 12 - Amendments and Severability:

If the ballot measure proposed herein passes by a majority vote, the sales and use tax authorized must be imposed in compliance with the terms of RCW 82.14. Provided that it is consistent with state law, the Council may, through its inherent authority, otherwise amend this ordinance if it determines that circumstances warrant such amendment. If any provision of this ordinance or its application to any person or circumstance is determined to be invalid, the remainder of the ordinance or its application to other persons or circumstances shall not be affected.

Galloway stated that the intent of the amendment is to provide transparency about the Council's duties and authority. She said she hoped it addressed some of Councilmember Elenbaas' concerns.

Donovan seconded the motion.

The motion carried by the following vote:

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

Nay: 0

SECTION 5 (2) - Approximate Timestamp 2:08:18

Elenbaas moved to amend Section 5 (2) of the ordinance so that it reverts to the language that the administration originally proposed for membership on the Finance and Operations Justice Project Advisory Board.

Kershner seconded the motion.

Schroeder stated that the Finance and Operations Board originally included

the Whatcom County Executive, one Whatcom County Councilmember, the Whatcom County Sheriff, the Mayor of Bellingham, one Bellingham City Councilmember, one elected representative from the remaining cities within Whatcom County, two elected representatives from federally recognized tribes within Whatcom County, one municipal law enforcement representative, the chair(s) of the IPRTF/LJC, one individual with lived experience in the criminal justice system, and one representative of the behavioral health system.

Councilmembers discussed who should provide financial and operations oversight for the Justice Project.

Schroeder stated that the Finance and Operations Board would provide input to Council like the Executive Oversight Board. He said the JPOP committee is there to provide similar input along with the IPRTF coordinated with the Finance and Operations Board to monitor the Implementation Plan. The JPOP was in the IPRTF because it is an existing structure. He stated that it may need to be clarified that the roles and responsibilities of the JPOP are in a similar stack and not separate to the advisory to the Council.

Councilmembers discussed how the oversight groups would be created.

Sidhu stated there would be a financial oversight body and a JPOP body and this could be defined by the Council. He said it doesn't have to be in the ordinance.

Dana Brown-Davis, Clerk of the Council, clarified that they are talking about the list Schroeder read into the record.

The motion carried by the following vote:

Aye: 4 - Donovan, Elenbaas, Kershner, and Byrd

Nay: 3 - Frazey, Galloway, and Buchanan

SECTION 5 (3) - Approximate Timestamp 2:33:25

Elenbaas moved to make the 21 members who previously made up the membership of the Finance and Operations Advisory Board members of the JPOP committee.

Galloway moved to table the discussion of Elenbaas' motion until after lunch. Frazey seconded the motion.

The motion carried by the following vote:

Aye: 6 - Donovan, Kershner, Byrd, Frazey, Galloway, and Buchanan
Nay: 1 - Elenbaas

RETURN FROM BREAK - Approximate Timestamp 2:35:50

After break, Councilmembers returned to discussion of oversight groups for the Justice Project.

Galloway proposed retaining the IPRTF as the top umbrella group to provide oversight and advice directly to Council. Under them would be JPOP, who would monitor progress and update the Implementation Plan. That group would now have at least 21 members (previously from the Finance and Operations Advisory Board). The Finance and Operations Advisory Board could serve as a subcommittee of JPOP and would have nine members.

Elenbaas stated that he would rather have the JPOP and IPRTF feed into the Finance and Operations Advisory Board. He said elected representatives would be held accountable to the people, so the responsibility should fall on our shoulders.

Councilmembers continued to discuss the various roles and composition of the oversight committees before returning to Elenbaas' motion from before break, which would amend Section 5(3) of the ordinance to read:

The IPRTF/LJC shall advise the County and cities on policy matters related to law and justice. The IPRTF/LJC shall participate in the development of a population health report such as the Community Health Assessment that includes a public health and safety component. This report shall be developed in collaboration with the local community health advisory board as defined by RCW 70.46.140 and the local Community Health Improvement Plan process. The IPRTF/LJC shall establish a Justice Project Oversight and Planning (JPOP) Committee that includes a balanced membership ensuring fair representation of BIPOC communities, service providers, and people with lived experience. The JPOP membership shall consist of the Whatcom County Executive, one Whatcom County Councilmember, the Whatcom County Sheriff, the Mayor of Bellingham, one Bellingham City Councilmember, one public defender, one elected representative from the remaining cities within Whatcom County, at least one representative from each federally recognized tribe within Whatcom County, two criminal legal system utilizers with preference for formerly incarcerated and BIPOC individuals, one community-based behavioral health provider,

one community-based treatment provider, one reentry specialist, one paramedic from EMS, one recovery subject matter expert, one youth representative such as from teen court programs, one supportive housing subject matter expert, one representative from the Racial Equity Commission, and the chairs of the IPRTF/LJC. With guidance from the JPOP Committee, the IPRTF/LJC shall coordinate with the Finance and Operations Advisory Board to monitor progress of the Implementation Plan and provide a written report of progress towards Plan goals annually to the Advisory Board and County Council. The IPRTF/LJC and JPOP Committee shall provide recommendations for plan updates a minimum of every five years. The Whatcom County Council and Whatcom County Executive shall provide the resources needed for the IPRTF/LJC to fulfill its planning, community consultation, and oversight charge.

Frazey seconded the motion.

Kershner read the responsibilities of the JPOP and Finance and Operations Advisory Board as outlined in the draft Implementation Plan.

Councilmembers discussed how members of the JPOP would be appointed and whether it is necessary to include details of membership in the ordinance if that information is already included in the Implementation Plan.

Frazey proposed removing “Operations” from the Finance and Operations Justice Project Advisory Board title.

Councilmembers continued discussing the roles and composition of each oversight group.

The motion carried by the following vote:

Aye: 6 - Buchanan, Elenbaas, Frazey, Galloway, Kershner, and Donovan

Nay: 0

Out of Meeting: 1 - Byrd

FINANCE AND OPERATIONS JUSTICE PROJECT ADVISORY BOARD - Approximate Timestamp 3:12:10

Frazey moved to change the name of the “Finance and Operations Justice Project Advisory Board” to “Finance Justice Project Advisory Board.”

Donovan seconded the motion.

Elenbaas asked for comment from Corrections on the motion.

Caleb Erickson, Lieutenant, spoke on regulations and codes regarding jail operations.

Councilmembers continued to discuss the roles and scope of the oversight committees.

Wendy Jones, Chief of Corrections, clarified that the jail works with a number of advisory committees in Whatcom County and is always willing to listen to suggestions and ideas. She said they run under the authority of the Sheriff and a whole lot of rules and regulations at a variety of levels. Information and ideas from advisory committees are always appreciated though.

The motion carried by the following vote:

Aye: 5 - Donovan, Frazey, Galloway, Kershner, and Buchanan

Nay: 1 - Elenbaas

Out of Meeting: 1 - Byrd

Approximate Timestamp 3:25:07

Kershner moved to introduce the ordinance. Frazey seconded the motion.

Galloway stated that the Implementation Plan is not ready for introduction.

Brown-Davis recommended that Councilmembers finish making changes to the Implementation Plan prior to introducing the ordinance.

Kershner withdrew her motion.

Elenbaas spoke about his concerns about the 50 percent minimum language in the ordinance. He asked if language about other funding sources for projects could be added to the ordinance.

Galloway stated that information about other funding sources is already included in the Implementation Plan. She asked that Councilmembers move to the next item.

Buchanan steered the discussion to the Implementation Plan.

Councilmembers began discussion of the Implementation Plan using the document labeled: Revised Draft Implementation Plan - Exhibit A - 6.26.2023 Gallo

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

Refer to the meeting video for motions and votes.

Break (to revise ordinance prior to introduction)

Introduction

1. [AB2023-415](#) Ordinance providing for submission of a proposition to the qualified electors of Whatcom County pursuant to RCW 82.14.450 authorizing the collection of a local sales and use tax of two-tenths of one percent for the purpose of providing funds for costs associated with public health, safety and justice facilities and services, including behavioral health, supportive housing, public safety, and criminal justice facilities and programs

ORDINANCE INTRODUCTION - Approximate Timestamp 4:35:22

Kershner moved to introduce the ordinance with the associated exhibit, the Implementation Plan.

Frazezy seconded the motion.

Galloway stated that she wanted to thank Chair Buchanan for his work on this process. She said she believes the ordinance and Implementation Plan is a culmination of many years of hard, dedicated work and he has proven a strong leader. She also said she wants to thank her colleagues on the Council, as she feels this is the product of a collaborative, community-driven work. She said she is excited to introduce this and urges everyone's "yes" vote.

Donovan stated that he wants to thank everyone for their work and all the committees that have been working on this over the years. He said he is much more confident in the process and outcome here than in the last two proposals, which he did not support on the ballot. He said this one he definitely will.

Kershner clarified when this item would be scheduled for discussion.

Galloway answered that it will be scheduled for July 11th.

Sidhu stated that he wanted to echo everything Councilmember Galloway said, and he wanted to thank Holly O'Neil and Mardi Solomon as well. He said it has been a long process, and he complimented the work of Chair Buchanan, Councilmembers, SAC members, townhall participants, and others. He stated the plan is a compromise and while not everyone got everything they wanted, everyone got something dear to them. He said he

wanted to thank his staff for their work as well.

Elenbaas stated he fully supports building a new jail and incarceration reduction activities, and he supports using a tax to accomplish those goals. He said he wishes we could divert everyone from having to be in the jail, but he does not know if that is reality. He said this vote is on introducing this particular plan and this ordinance in a form that will be most palatable to all, and his “yes” or “no” vote depends on his belief on whether we have that. He stated that some of the things that bring doubt in his mind is the language around the minimum of 50 percent. He said he supports that as a goal, but has concern about it being a handcuff. He said he would also love to have language that reduces the tax over time or includes a complete sunset of the tax. He said that if those things were included, the ordinance and plan would be very palatable to a large voting block.

Donovan stated that he wants to give a shout out to the Executive’s Office and the Deputy Executive. He added that the more support the plan gets, the greater chance it will pass, and we might not get another chance for a long time.

Elenbaas stated that whether he votes “yes” or “no” on this is not a comment on whether he will vote “yes” or “no” when it is on his ballot or whether he will vote “yes” or “no” after it is introduced.

Galloway stated that she understood the lifetime of this tax was 30 years, which is a sort of de facto sunset. She also asked if this levy will be authorized by Council every biennium.

Schroeder clarified that there is a request in the ordinance for the Council to discuss repeal of one half of the tax after the 30-year lifespan. He said this is also a sales tax collection, so it is not an annual levy of property tax which the Council considers.

Elenbaas asked if the 2004 tax had a sunset.

Schroeder answered that the 2004 tax did not have any of that language about a sunset.

The motion carried by the following vote:

Aye: 5 - Buchanan, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Out of Meeting: 1 - Byrd

Elenbaas thanked Councilmembers, the Executive’s Office, and Council staff for their work.

Buchanan stated that the ordinance would be up for a public hearing on July 11th.

Kershner moved and Frazey seconded that the Ordinance Requiring a Public Hearing be INTRODUCED AS AMENDED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 5 - Buchanan, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Temp Absent: 1 - Byrd

Items Added by Revision

There were no agenda items added by revision.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 4:45 p.m.

The County Council approved these minutes on August 8, 2023.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Jenna Gernand, Minutes Transcription