

**Whatcom County
Charter Review Commission**

Meeting Minutes

May 24, 1995

I. Call to Order

The meeting was called to order at 7:00 p.m. at the Courthouse Multi-Purpose Room, 311 Grand Avenue, Bellingham, by Chairperson Kathy Sutter.

II. Roll Call

Present:

Keith Ahrens
Danna Beech
Joe Elenbaas (arrived late)
Karen Frederick
Georgia Gardner (arrived late)
Don Hansey
Darlene McLeod (arrived late)
Ron Polinder
Mary Scrimsher
Orphalee Smith
Mary Stender
Kathy Sutter

Absent, but excused:

Yvonne Goldsmith
Ray Radke
Terry Unger

III. Approval of the Agenda

{Clerk's note: Gardner arrived at this point in the meeting.}

Frederick moved to approve the agenda.

Hansey seconded the motion.

Motion carried unanimously.

IV. Reading and Approval of Minutes from the May 17, 1995 Meeting

{Clerk's note: McLeod arrived at this point in the meeting.}

Ahrens moved to approve the minutes.

Smith seconded the motion.

Motion carried unanimously.

V. Open Session - Public Comments (15 minutes)

The Chair opened the floor for open session.

Speakers:

Paul Holtzheimer, P.O. Box 366, Custer

{Clerk's note: Joe Elenbaas arrived at this point in the meeting.}

Gayle Pattenau, 5809 Aldrich Rd., Bellingham
Francie Smart, 210 Sable Dr., Bellingham
Carol Stoufer, 3876 Centerview Rd., Lummi Island
Butch Edison, 6043 Hatton Pl., Ferndale
Richard Gilda, 2727 Jensen Rd., Bellingham
Martin Van Buren, 623 E. Wiser Ridge Rd., Lynden
Nat Dickinson, Purchasing Agent
Cleo Callen, P.O. Box 498, Custer

The Chair closed open session.

VI. Discussion of Proposed Motions

Beech moved to amend the Charter as follows:

{Clerk's note: for original motion, see attached, #1}

Frederick seconded the motion.

Elenbaas proposed that we strike the shaded portion in the first paragraph; on the first line of the second paragraph, we would strike the word "further"; on the fifth line of the second paragraph, after "Cost Principles for State and Local Governments," we would put "or its update." and we would strike the balance of the proposed amendment.

{Clerk's note: see attached #2}

Elenbaas moved to amend the motion in that manner.

Beech seconded the motion.

By consent, the Commission amended the motion to amend; the Chair read the new motion to amend as follows:

Section 9.20 Purchasing, Contracts, Claims, and Bonds.

The County Council shall by ordinance establish procedures for purchasing supplies, services, materials and equipment, the awarding of contracts, the processing of claims, and the sale or refunding of bonds. The ordinance shall provide when bids shall be required and how invitations for bids shall be advertised.

The ordinance shall provide, for purposes of bid preparation, that all county departments will submit bids in the competitive bidding process and employ full accrual and cost accounting principles.

Elenbaas moved that this be postponed to a time certain, that being next week's agenda, for further consideration.

Frederick seconded the motion.

Motion failed, 4 - 8, with Beech, Frederick, Elenbaas, and Hansey in favor.

Motion to amend, as amended, carried 10 - 2, with McLeod and Scrimsher opposed.

Hansey moved that we postpone further consideration of this proposal until next week.

Elenbaas seconded the motion.

Motion carried, 6 - 5, with Gardner, McLeod, Polinder, Scrimsher, and Stender opposed.

{Clerk's note: at this point in the meeting, the Chair called for a break.}

Hansey moved that we proceed with the agenda, as was approved at the beginning of the meeting.

Stender seconded the motion.

Motion carried by a majority.

Smith moved to amend the Charter as follows:

Section 3.21 Election, Term of Office and Compensation.

The County Executive shall be appointed by the County Council. ~~nominated and elected by the voters of the county, and the term of office shall be four years and until the successor is elected and qualified. The County Executive shall receive compensation as determined by the County Council.~~ (amended by Referendum 1986)

{Clerk's note: additional language implementing this change throughout the Charter was presented at the meeting.}

McLeod seconded the motion.

Gardner moved that we postpone this to a time certain, which is the next meeting.

Ahrens seconded the motion.

Motion carried by a majority.

Polinder moved that we postpone this discussion until after we discuss further the matter of elected versus appointed County Executive.

{Clerk's note: "this discussion" refers to the third motion on the agenda.}

Hansey seconded the motion.

Motion carried unanimously.

VII. Break

The Chair called for a break at 8:35 p.m.

The Chair reconvened the meeting at 8:45 p.m.

VIII. Other Business

No other business was discussed.

IX. Discussion of Next Agenda

Items to be included on the next agenda: call to order, roll call, approval of agenda, approval of minutes, open session, discussion of motions, other business, discussion of next agenda, adjourn.

X. Adjourn

The meeting was adjourned at 9:25 p.m.

Respectfully submitted,

Kerstin M. Bailey
Recording Secretary

WHATCOM COUNTY CHARTER REVIEW COMMISSION

Yvonne Goldsmith, Secretary

Kathy Sutter, Commission Chair

**MOTIONS MADE BY CHARTER REVIEW COMMISSIONERS
MAY 24, 1995**

1. Beech's original motion, to amend the Charter as follows:

Section 9.20 Purchasing, Contracts, Claims, and Bonds.

The County Council shall by ordinance establish procedures for purchasing supplies, services, materials and equipment, the awarding of contracts, the processing of claims, and the sale or refunding of bonds. The ordinance shall provide when bids shall be required and how invitations for bids shall be advertised, and shall provide that bids shall be required on services provided.

The ordinance shall further provide, for purposes of bid preparation, that all county departments will submit bids in the competitive bidding process and employ full accrual and cost accounting principles contemplated by Generally Accepted Accounting Principles, and shall also provide that all county departments adhere to the cost standards outlined in OMB Circular A-87, Cost Principles for State and Local Governments, and that all county departments adhere to The Common Rule - Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Every department shall work with local business groups, and trade associations, to determine the best possible means of formulating contracts and bid requests, so that Whatcom County can acquire the lowest possible prices for their supplies and projects, as well as encouraging the greatest number of responses to bid requests.

The County shall make every effort to contract out to local contractors as many projects and services as possible in order to:

1. Reduce the size and cost of government;
2. Provide the highest tax base in the community by providing work for our local businesses and their employees;
3. Provide for competition, which assures that the County is getting the maximum value for its dollar.

2. Beech's motion, as amended by Elenbaas:

Section 9.20 Purchasing, Contracts, Claims, and Bonds.

The County Council shall by ordinance establish procedures for purchasing supplies, services, materials and equipment, the awarding of contracts, the processing of claims, and the sale or refunding of bonds. The ordinance shall provide when bids shall be required and how invitations for bids shall be advertised.

The ordinance shall further provide, for purposes of bid preparation, that all county departments will submit bids in the competitive bidding process and employ full accrual and cost accounting principles contemplated by Generally Accepted Accounting Principles, and shall also provide that all county departments adhere to the cost standards outlined in OMB Circular A-87, Cost Principles for State and Local Governments, or its update.

CHARTER REVIEW COMMISSION
SPEAKERS AT THE
MAY 24, 1995 MEETING

1. Paul Holtzheimer, P.O. Box 366, Custer 384-2136
-Your job is not to do these items; your job is to put these items on the ballot, if they're not frivolous. For those of you who are planning on running for election after this, the results of these meetings will make a difference in how voters vote.
-I want to speak for putting the item of an appointed versus elected Executive on the ballot.
(See hand-out received at meeting)
2. Gayle Pattenaude, 5809 Aldrich Rd., Bellingham 398-1070
-I would like to see put on the ballot the ability of the Council to dissolve the current Planning Department and to appoint a manager to contract out to bonded and certified people in all fields. This would save money on buildings, staff, support staff, office equipment, and supplies. Then, maybe we can streamline this department and make it more answerable to the people.
-I would also like to be allowed to vote for the Commissioner form of government.
3. Francie Smart, 210 Sable Dr., Bellingham 966-4063
-I'd like to speak on the issue of contracting out County services to private contractors. I believe that protecting Whatcom County's at-best tentative economic base is very important. It is a well-known fact of public record that the majority of current contracts have been awarded to low-bidders outside of Whatcom County. For example, the purchasing of office supplies has recently been contracted out to a Kent-based company, not a local company. Three construction projects were also awarded to non-local companies: the H-Street bridge rebuild, the Hannegan Road improvement project, and the Birch Bay-Lynden Road improvement project. According to the Whatcom County Code, the County, in making a decision on the lowest responsive bidder, may take the following into consideration: "the bidder's responsiveness to the County's requirements, the quality of articles to be purchased or leased, availability of parts and service, and delivery time". In our County Code, we already have that we give some preferential treatment to local contractors. Most important is the tax revenue that the County would receive from purchasing from a supplier within its boundary. If this is taken into consideration, then it must be that, since local contractors can't seem to bring in a low bid, their bids must be higher than the norm. I'd like you to think what giving preferential treatment to local contracts would mean for our local economy. For instance, if the majority of work and service now provided for the public was to be contracted out, there would be no need for numerous employees now serving Whatcom County residents. Therefore, they would be laid off. Those jobs could be contracted out. I believe that it is more than likely that a contractor from outside the County would get the majority of bids. At that point, a known economic base would have been destroyed. Those employees laid off would no longer have their purchasing power. They may even need to collect food stamps and welfare, as their unemployment benefits wear out. That would add an additional tax burden. Remember, county employees are also taxpayers. Also, tax dollars would be spent outside of the County and would not come back. Therefore, I believe that you would be asking taxpayers to eliminate an established tax base in order to bail out an industry that has fallen into hard times. I wonder how many industries we as taxpayers might be expected to bail out in similar circumstances.

4. Carol Stoufer, 3876 Centerview Rd., Lummi Island 758-7457
-The Charter Review Commission should seriously consider recommending that the Executive become an appointed position for three reasons. First, specific qualifications would be adopted for this position. Essential qualifications would include experience in managing technical managers, experience in managing a multi-million dollar budget, and experience with design and implementation of major data management systems. Second, specific performance measurements would be set for this position, therefore delineating specific accountability. Third, even though the position would be appointed, the Council itself would be made accountable to the public through the election process. In summary, my opinion is that the complexity of the position requires a highly trained and experienced manager. It should not be left to chance that such an individual will come forward to seek election. Thank you.

5. Butch Edison, 6043 Hatton Pl., Ferndale 384-8020
-I think that the choice of an appointed manager is much too important to be left within the confines of this room, no matter what side you come down on. The people have shown that they want participatory government. People do not want a small group of people to be making this decision for them. I ask that you come forward with a recommendation that the public be allowed to vote on this, as they did before. They should be allowed to vote on it frequently. Government needs to change; that's been its problem. The world has changed, but government is about 40 years behind. The biggest subsidized industry in this country is government, and the private sector is suffering for it. So, I would ask that this debate go outside this room. Let the people decide if they want someone who can get one more vote than the next person to manage a 50 million dollar budget with 25 to 30 funds, versus a paid, professional manager. They both have their risks, but I think that people who vote ought to be making those choices.
-The second thing I would ask is that, wherever it is not protected by law, any identifiable service, not product, be put out to compete with the private sector.

6. Richard Gilda, 2727 Jensen Rd., Bellingham 676-0885
-I'd like to echo some famous quotes that relate to these issues. First, from a Council Member, "It's just too important an issue for the public to decide." Another one came from a Council Member on the radio, saying that an appointed manager is "someone who can make tough decisions, someone who surveys his neighbors, and does what they say". That bothers me. I think that the Council has enough to do without worrying about who they're going to hire as a manager and making sure they're doing stuff. Let the citizens worry about that. Mr. Holtzheimer had some good things to say about a manager, but the manager does not answer to the citizens, only to the Council. In my opinion, that's bad, because we have no say. We have to go through the Council. It's just adding another Council Member.
-A lot of people have problems with public works and stuff like that. Maybe we should put all the department heads on the ballot and let them be elected and answer to the public. I think we'd have a lot less problems. One particular department head, Mr. Brown, says, "Hey, I don't have to answer to the people. I was appointed, and that's it." This is the wrong attitude.
-Having people be elected only in their own district is a good idea. I don't know of anyone who has a problem with it, but take it one step further. There's a polarization between Bellingham and the county. So, split the districts into Bellingham and the rest of the county.
-The County should put out bids, instead of doing it all themselves. The citizens have shown in some areas that they will do better. If we get more in, I think it would be a lot more efficient.

7. Martin Van Buren, 623 E. Wiser Ridge Rd., Lynden

354-1554

-With the constant growth of our County and the expense of running the biggest business in the County, it only makes common sense to privatize in as many ways as possible to conserve the tax dollar and minimize the bureaucracy. I concur with Ms. Beech and her motion to contract out by bidding and urge the Commission to put the suggestion on the ballot.

-To hit another dead horse, I urge the Commission to give the voters the opportunity to reassess the means by which our county government operates. Put the choice of Commissioner versus Home Rule on the ballot. There's no question that the Commissioner form would be cheaper. We need to get up to date on the opinion of the people; voting is the only choice we have. Give us the opportunity to choose. Thank you.

-Contracting out is like getting an outside opinion of what your bookkeeper says the books of your company say.

8. Nat Dickinson, Purchasing Agent

676-6733

-I work for the County in a couple of capacities; one is ADA coordinator and one is the purchasing agent. I want to address a couple of things. First of all, the 1972 Federal American Disabilities Act requires that the County make all of its programs available and accessible to people with disabilities, including public meetings. Unfortunately, due to an announcement at the end of last week, security arrangements have closed off the accessible entrance. You may have a formal complaint; Kurt Dessauer has informed me that, in no uncertain terms, we are out of compliance with the law.

-It's important that people be aware that the current purchasing system is consistent; all of the policies and procedures are under 3.08 of the Whatcom County Code. It runs very smoothly. Every department head uses it, and we haven't had any major conflicts. We try to respond quickly, so we don't hold anyone up. But we make them go through a process, so that the business man has an opportunity to know that they can compete. We bid out services the same way we bid out supplies and materials. My point is that if you were not to amend the Charter, the Council could bid out any service, just the way it is. It doesn't have to be changed in order for a service to be bid out. It's a political, policy decision. I think the Charter enables policy makers to do their work. The more specific you make the Charter, the more difficult it is for elected officials to make policy changes. If you say, "All services must be bid out," you make the purchasing agent the most important person. It would also be phenomenally impossible to try to do. The elected people need to decide what services to bid out. I think those things are going to change. The City of Bellingham's Charter says that everything over \$2,000 should go out to bid, but they don't do that. They just can't! They follow an ordinance that raises it to \$5,000. That tells me that it was a mistake to put that limit into the Charter. Conditions change; the value of the dollar changes.

-The County is severely limited by State Law in giving local preference, although there are a couple of ways to do it. It's something that's been talked about by a lot of elected officials; it's something they want to do. It's obvious that it helps our economy. The County can factor in the effect of tax revenue (1%). The local bidder gets that 1% preference. Also, according to State Law, you can give preference to a company that uses recycled materials, but you have to have an ordinance to put it into place. Whatcom County never has. You can take into consideration whether they're a responsible bidder, whether they can deliver on time, whether they have the quality of goods, services, or material that you need, and their responsiveness. Otherwise, State Law says that you must award to the low bidder, and anything we say otherwise would be invalidated. So, it's a fact; we award a lot of bids to out-of-county bidders, especially on large bids. It's just the way it goes for us and, I think, for every other jurisdiction in the State.

-The Charter makes the Council responsible for determining how bid awards are made. All bids go out through the Purchasing Department, which is part of Administrative Services. I have to review all bid applications, and I have to distribute and advertise them. The bids all have to come in through the same pathway, in order to ensure that everyone is treated fairly. I review the bids and send them to the department initiating the bid. The department makes the recommendation and sends it back to me; I send it up to the Executive. If it's over \$25,000 for supplies, \$10,000 for professional services, it goes forward to the Council's agenda. The Council considers it and awards the bid or not.

9. Jaime Henifin, 3857 Hannegan Rd., Bellingham 733-5411

-I've been in the contracting business in Whatcom County for 26 years. I feel compelled to speak tonight about how Whatcom County Maintenance and Operation has branched off into the heavy construction industry. They are performing over a million dollars worth of work in drainage and ditch cleaning, and roughly that amount in bridge construction. They have 67 employees and a list of equipment that goes on for two pages, including dump trucks, cats, backhoes, etc. They are probably one of the largest contractors in Whatcom County. They are taking work away from us local people. This is why people in the industry, like myself, feel that these jobs should go out to bid, which is the most cost-effective way for the taxpayers. Maintenance and Operations should be just that, not a large contractor. Don't take my word for it; put this out to vote and let our community decide how they want their money spent. Thank you for your time.

10. Cleo Callen, P.O. Box 498, Custer 366-5000

-I'm with a local contractor company. I think we're missing the point a little bit. What we need to do, from my perspective, is to have department heads work with local organizations, like contractors and trade associations, to develop the best possible way to contract out. They should research ways to contract out services that have traditionally been done by county forces. Almost everything government does today could be contracted out with a little bit of imagination. It's a philosophical point of view, that if you contract out, you're going to get the best benefit of your dollar. The trick is getting people in there who want to work with not only contractors, but all kinds of services. They should sit down with them and say, "All right, private industry, how can we write our contracts, so that they're going to work for you and we're going to get competitive bids?" You could contract out the whole Engineering Department. The point isn't a dollar amount over which you have to bid; the focus is that you try to work with the private community, so that you can get a relationship going and they can tell you how you can structure your bids to get the most for your money. If you put a bid out to clean all the dishes in Whatcom County, you'd get bids that are so ridiculous, they wouldn't even register. Then you say, "Gee, it's obvious that we can do it cheaper ourselves." But if you work with the contracting community over a period of time, so they can get a handle on the workload, then, I think, you'll start to get competitive bids. But if you want to get the system to fail, it's not that hard to do.