

RESOLUTION NO. 2024-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELLINGHAM, WASHINGTON DIRECTING THE ADMINISTRATION TO CREATE A LIMITED-TERM KEEP WASHINGTON WORKING ACT (KWW) ADVISORY WORK GROUP TO STUDY THE ACT, ADVISE THE CITY ON COMPLIANCE, AND RECOMMEND RELATED POLICY CONSIDERATIONS

WHEREAS, it is the policy of the City of Bellingham (COB or the City) that all people are valued, have inherent liberty interests, and should be afforded dignity and respect regardless of status or identity including race, gender, sexual orientation, religion, immigration status, national origin or ethnic origin; and

WHEREAS, on February 13, 2017, the Bellingham City Council passed Resolution #2017-10, a *Resolution Affirming the Safety of All People Residing in Bellingham*; and

WHEREAS, on February 27, 2017, the Bellingham City Council passed Ordinance #2017-02-008, an *Ordinance of the City of Bellingham, Washington Relating to City Policy with Respect to Immigration Enforcement, Equal Protection, and Equal Provision of City Services Regardless of Immigration Status and Creating a New Chapter of the Bellingham Municipal Code Regarding Such Matters*; and

WHEREAS, the Bellingham Municipal Code includes Chapter 2.25, Equal Protection and Provision of Services Regardless of Immigration Status; and

WHEREAS, all residents, including immigrants, can strengthen public health and safety, education, and the economic wellbeing of our community; and

WHEREAS, on May 21, 2019, the Governor of the State of Washington signed Engrossed Second Substitute Senate Bill 5497 (E2SSB 5497) which passed the Legislature with bipartisan support, an *Act Relating to Establishing a Statewide Policy Supporting Washington State's Economy and Immigrants' Role in the Workplace* (Keep Washington Working Act); and

WHEREAS, the Keep Washington Working Act (KWW) was enacted in multiple Chapters of the RCW, including the Washington Mutual Aid Peace Officers Powers Act (Chap. 10.93), as well as those governing the Attorney General's Office (Chap. 43.10) and Administrative Departments and Agencies (Chap. 43.17); and

WHEREAS, KWW made numerous changes to state law for the stated purpose of "ensuring the state of Washington remains a place where the rights and dignity of all residents are maintained and protected in order to keep Washington working;" and

WHEREAS, in passing KWW, the Legislature determined that a person's immigration status, presence in the country, or employment alone is not a matter for police action—reinforcing

that the federal government bears the primary jurisdiction to enforce federal immigration law; and

WHEREAS, KWW restricts the extent to which local law enforcement agencies (LEAs) may participate in the enforcement of federal immigration laws; and

WHEREAS, KWW prohibits local LEAs from asking for or collecting information about a person's immigration or citizenship status, or place of birth—unless there is a connection between that information and an investigation into a violation of state or local criminal law; and

WHEREAS, unauthorized presence in the United States is governed by federal law and is not, by itself, a crime; and

WHEREAS, KWW prohibits local law enforcement from detaining someone solely for the purpose of determining immigration status or based solely on a civil immigration warrant, or an immigration hold request; and

WHEREAS, Bellingham and Whatcom County operate the 911 emergency telephone system, called What-Comm; the initial call receiving site is located in Bellingham, and is responsible for dispatching almost all municipal law enforcement agencies in Whatcom County; and the Bellingham Police Department (BPD) operates the What-Comm Dispatch Center; and

WHEREAS, all fire and medical related calls are forwarded to the Fire Dispatch Center located at Bellingham Fire Department's Broadway Street Station, and is responsible for dispatching all municipal fire departments and fire districts in Whatcom County; and the Bellingham Fire Department operates the Prospect Fire Dispatch Center; and

WHEREAS, What-Comm and Prospect Fire dispatch law enforcement or police services, fire, and emergency medical services for Bellingham, Blaine, Everson, Ferndale, Lynden, Nooksack, Nooksack Tribal, Lummi Nation, Sumas, and Whatcom County Sheriff's office; and

WHEREAS, KWW protects the privacy and civil rights of all residents, including immigrants; and

WHEREAS, the Mayor, as the chief executive officer of the City, shall ensure compliance with KWW, which may include alignment of departmental policies, procedures, and practices of the City; and

WHEREAS, on November 4, 2019, the City adopted ordinance No. 2019-11-033, created a Chapter 2.26 of the Bellingham Municipal Code, and established the Immigration Advisory Board (IAB) to review and evaluate existing policies and analyze City data to determine compliance with KWW; and

WHEREAS, the City collects data regarding any and all contact between the COB and ICE or CBP, and disseminates the data on a monthly basis to help monitor compliance with KWW; and

WHEREAS, the IAB has recommended that the City collect more comprehensive data regarding contacts between BPD, What-Comm and federal immigration agencies such as ICE and CBP, to include data regarding the final outcome of these contacts; and

WHEREAS, the IAB has recommended that What-Comm contracting partner agencies be required to adhere to BPD standards of conduct, practice and procedure; and

WHEREAS, the IAB has recommended that the What-Comm interlocal agreement require contracting partner agencies to comply with KWW pursuant to state law; and

WHEREAS, the presence of CBP Border Patrol during the encampment clean-up that took place on January 28, 2021, raised some questions regarding City policy for interagency responses; and

WHEREAS, on May 12, 2022, the Northwest Immigrant Rights Project (NWIRP), Columbia Legal Services, and the American Civil Liberties Union (ACLU) of Washington Foundation sent a letter to Whatcom County Sheriff, Whatcom County Prosecuting Attorney, Bellingham Police Chief, Bellingham City Attorney, and What-Comm 911 regarding *Implementation of the Keep Washington Working Act with a call to Cease and Desist Inconsistent Policies*; and

WHEREAS, the cease-and-desist letter highlighted that KWW prohibits law enforcement from sharing *non-publicly available personal information about an individual*, including individuals subject to community custody pursuant to RCW 9.94A.701 and 9.94A.702, to federal immigration authorities in a noncriminal matter, except as required by state and federal law. RCW 10.93.160(5); and

WHEREAS, the IAB has recommended that City policy require language access for all emergency response; and

WHEREAS, the cease-and-desist letter highlighted that KWW also prohibits local law enforcement agencies (*LEAs*) from entering or renewing a contract for the provision of language services from federal immigration authorities as well as the acceptance of any language services from such for free or otherwise. RCW 10.93.160(13); and

WHEREAS, the City responded to the cease-and-desist letter on July 27, 2022; confirmed that the City and What-Comm may provide personal information to immigration authorities in criminal matters and when required by state or federal law; updated What-Comm and Bellingham Police Department policy manuals to prohibit contacting or using CBP for interpretation services; trained all What-Comm employees on the utilization of approved and contracted interpretation services; and removed outdated language from the interlocal agreement which is obsolete and left over from when Sumas used to contract its police dispatch to CBP; and

WHEREAS, KWW requires all Washington law enforcement agencies to (1) adopt policies consistent with those published by the Office of the Attorney General (AGO), or (2) notify the AGO that they are not adopting the necessary changes, state the reasons why they are not doing so, and provide the AGO with a copy of the agency's policies that ensure compliance with KWW; and

WHEREAS, BPD provided the AGO with a copy of Policy 417 (*Immigration Violations*) and Policy 331 (*Limited English Proficiency Services*) in response to KWW policy requirements; and

WHEREAS, the purpose of Policy 417 is to provide guidelines to members of the BPD regarding enforcement of immigration laws; and

WHEREAS, the purpose of Policy 331 is to provide guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d); and

WHEREAS, the City has a substantial and compelling interest in ensuring that Bellingham is a place where the rights and dignity of all residents are maintained and protected regardless of status or identity including immigration status, national origin or ethnic origin; and

WHEREAS, the University of Washington's Center for Human Rights, UWCHR, released a report on KWW compliance across the state on August 1, 2024, and recognizes Bellingham's efforts to establish KWW-compliant policies. It also concludes that statewide "Continued monitoring of on-the-ground practices will remain essential to ensure true compliance with the civil rights protections promised in our federal and state laws." Addendum A: *Paths to Compliance: The Effort to Protect Immigrant Rights in Washington State*; and

WHEREAS, the City desires to form a limited-term advisory work group utilizing the assistance and advice of members of the immigrant community, and representatives from the City Council, Mayor, City Attorney, Bellingham Police Department, Bellingham Fire Department, and What-Comm 911 Dispatch; and

WHEREAS, the purpose and mission of said work group is to evaluate existing City policies for compliance with KWW; to analyze policy considerations, and the related costs and benefits thereto; and to report findings and recommendations to the City; and

WHEREAS, the City of Bellingham is committed to compliance with and to the spirit of the Keep Washington Working Act

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM THAT:

SECTION 1. Advisory Work group

The Bellingham City Council directs the Mayor to appoint a volunteer limited-term Keep Washington Working Act (KWW) Advisory Work group, ("the Work group" or "KWW

Work group"). The purpose of the work group is to research, discuss and arrive at a shared understanding of the City's actions to achieve and maintain ongoing compliance with KWW.

The work group shall consist of not less than 5 and not more than 9 community members comprised of the following:

- a. Lived Experience: At least 3 local residents with general backgrounds or lived experience with strong ties or direct connections to the immigrant community in Bellingham.
- b. Community Connections: At least 1 but not more than 3 individuals with experience and training in interpretation/translation, human resources, employment/labor, emergency management, medical services, social services, police services, first response or similar field. Individuals in this area shall not represent the views of their employer.
- c. Legal Education: At least 1 but not more than 3 individuals with legal experience and training in immigration, human rights, civil liberties, social services, employment, municipal operations or similar fields. Individuals in this area shall not represent the views of their employer.
- d. In the event of a resignation or vacancy, the position will be filled by Mayoral appointment. Unexcused absences of 2 consecutive meetings shall be considered a resignation from the Work group. Substitutes or alternates shall not be allowed for any member.
- e. Elected officials and persons employed by the City of Bellingham shall not be appointed to the Work group but may serve as non-voting ex-officio members at the discretion of the Mayor. City representatives from the Mayor's Office, City Council, Office of the City Attorney, What-comm 911 Dispatch, Police Department and Fire Department may serve on and support the Work group as non-voting ex-officio members. Other individuals or organizations identified by the Mayor may also serve as non-voting ex-officio members. Council confirmation is not required for non-voting ex-officio members.

The administration shall advertise, through usual and customary means, for applications from interested individuals, residents, community members, and professionals. The Mayor shall give preference to residents of the City in considering appointments. Consideration of a diverse and inclusive group reflecting the diverse demographics of immigrants within the City shall be made in forming the Work group.

Interpretation and translation services will be provided as needed to support full participation by all Work group members.

The Mayor and administration shall support the Work group by appointing members, assigning staff, coordinating and implementing communications strategies, and general administration.

The Council's role is to confirm or reject appointments and receive and consider the advice and recommendations of the Work group.

The Work group members shall be appointed by the Mayor and confirmed by the City Council. Individuals may be removed by the Mayor.

SECTION 2. Facilitator

Council directs the Administration to contract with an outside entity or individual to serve as a neutral Facilitator to support and guide the Keep Washington Working Act Advisory Work group. The Facilitator will chair the meetings.

A City employee will prepare agendas, meeting minutes and reports, and otherwise generally support the Facilitator and the Work group.

Funding for the facilitator shall be from 2025 budget authorization.

SECTION 3. Work group Scope of Work

The Keep Washington Working Act Advisory Work group shall take the following actions and present a final report and recommendations to the City Council:

- a. Assist with development of a Scope of Work for the Work group to address the following items:
 - i. Review the Model Policies, and Training Recommendations for State and Local Law Enforcement Agencies issued by the Washington State Office of the Attorney General.
 - ii. Compare the AGO Model Policy with BPD Policy 417 and Policy 331 for compliance with KWW.
 - iii. Review the What-Comm 911 interlocal agreement, and contracting partner agencies' related policies, practices and procedures, in relation to compliance with KWW.
 - iv. Review COB Federal Contact Data and assess the final outcome or result of the contact if possible.
 - v. Review BPD policies and procedures regarding interagency responses.
 - vi. Review City's language access policy for emergency response and related contact with law enforcement or first responders.

- vii. Review City policies, publications and other public communication to ensure that the term “citizen” is only used when appropriate as a legal status.
- viii. Review City policies and procedures for commendations and complaints to be brought forward by community members.
- b. Meetings will be facilitated by a neutral, outside, professional facilitator, selected using the City’s usual and customary means with a preference for those demonstrating lived experience and/or with direct connections to the immigrant community in Bellingham. Selection and contract award shall be made by the Mayor or their designee and not by the Work group. The Mayor or their designee shall be the administrator of the contract between the Facilitator and the City.
- c. Participate in discussions with City staff and the contracted Facilitator as the scope of work is completed.
- d. A final report shall be drafted and written by the Work group to include recommendations if needed. Upon completion of the final report, the Work group shall submit the final report to the City Council Committee of the Whole for further consideration by the Council.
- e. The cost of the contracted facilitator services shall be authorized in the City’s 2025 budget.

SECTION 4. Quorums and Decisions and Meetings

- a. The Work group shall be comprised of 5 to 9 voting members as appointed by the Mayor.
- b. Quorum - Five voting members of the Work group shall constitute a quorum for the transaction of business if the Mayor appoints either eight or nine persons. Four voting members of the Work group shall constitute a quorum if the Mayor appoints either 6 or 7 persons. Three voting members of the Work group shall constitute a quorum if the Mayor appoints 5 persons to the Work group. No meeting shall be held without a quorum being present.
- c. The Work group shall not establish subgroups.
- d. Decision Making – Work group members shall strive for consensus on decisions and recommendations made to the Council. In the absence of consensus, the Work group shall make decisions and recommendations by simple majority vote of the quorum. In the event of a simple majority vote, the minority votes will be allowed to submit a written dissenting opinion to be included in recommendations made to the Council.
- e. Attendance may be in person or remote, provided the member is able to

listen, speak, fully participate and view all portions of the meeting.

- f. The Work group shall meet every other month in coordination with the Staff and Facilitator schedules. Each bimonthly meeting shall not exceed 120 minutes in duration.
- g. The Work group shall terminate and dissolve upon presentation of the final report and policy recommendations described in Section 3a to City Council.
- h. The Work group shall advise and assist the City on policy issues as defined in previous sections. In an advisory role to the City, the Work group shall use the following in conducting business:
 - i. Work group meetings shall be open to the public for observation but shall neither be recorded (audio or video) nor rebroadcast by the City. Meetings may be live streamed using the City's usual and customary means.
 - ii. Notice of meetings and agendas shall be published using usual and customary means of the City.
 - iii. Summary meeting minutes shall be prepared and provided to the public using usual and customary means of the City. Updates and communications about the progress of the work group shall be issued by the Mayor's Office only.
 - iv. The work of the Work group is limited to the scope described in this resolution. The Work group shall have no authority to set policy, direct actions of staff, communicate on behalf of the City, or otherwise replace or supplant any authority reserved for the City Council or Mayor.
 - v. Work group meetings shall not include public comment periods, nor shall the Work group be obligated to seek public comment on the work outlined in this resolution. Public comment and input on the policy advice and recommendations of the Work group may be accepted by the City after the completion of the work and presentation to the City Council.
 - vi. The Work group may consider inviting its own members or outside individuals or entities to make presentations to the Work group to establish a base of common knowledge, develop a shared understanding and increase knowledge base concurrent with other elements of work contained in this resolution.

SECTION 5. Work group Member Roles and Responsibilities


Addendum B: Facilitating Successful Community Engagement with City Advisory Groups: Expectations of advisory group members and City of Bellingham officials

This document is also available on the City's website at cob.org (See Boards and Commissions webpages).

SECTION 6. Schedule


The Work group shall take the time it needs to address the work plan, with a shared commitment to proceed efficiently to create a final report following the general schedule outlined herein. The Work group membership should be confirmed by City Council in January 2025. There will be an update on the Work group's progress presented to Council mid-year 2025. All work of the Work group and Facilitator, including presentation of the final report and related recommendations, shall be completed within the first quarter of 2026.

PASSED by the Council this 30th day of September, 2024.




Council President

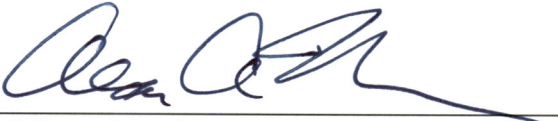
APPROVED by me this 23rd day of October, 2024.



Mayor

ATTEST:


Finance Director

APPROVED AS TO FORM:


Office of the City Attorney

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City Attorney
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