

## Whatcom County Ferry Advisory Committee

February 22, 2024, at 6 p.m.

*Bold text indicates Committee decision expected. Asterisk\* indicates attachment.*

6:00 p.m. CALL TO ORDER – Pam Gould, Chair

### ROLL CALL

- |                  |                 |                      |
|------------------|-----------------|----------------------|
| · Janice Catrell | · Diane Harper  | · Thomas Philpot     |
| · Richard Frye   | · Todd Lagestee | · Catherine Shornick |
| · Pam Gould      | · Carol Landt   | · Open               |

FLAG SALUTE & MOMENT OF SILENCE

### BUSINESS MEETING:

- Welcome to committee members, county staff and community, in person and on Zoom
- Accept Agenda
- Adoption of Minutes for 2/8 & 2/15 meetings
- News from the ferry (Gary Poole, Senior Master)

### 6:15 COMMITTEE WORK:

- Introduce **Resolution Requesting Council Approval of the Interpretation and Retroactive Application of Accounting of WCC Chapter 10.34.030 – Use of Ferry Rates\***
- 6:25 Introduce **Whatcom County Code Chapter 10.34 Ferry Rates Proposal from ad hoc codes committee\*** (Diane Harper)
  - Questions/comments from Committee and attendees
  - **Decision by WCFAC on Codes recommendation to Public Works** (Final vote 3/14 WCFAC meeting)
- 6:35 Finance and Ferry Rates Review and Discussion (Pam Gould, Diane Harper)
  - Current situation (Pam Gould)
  - Ferry Fares and Finances (Diane Harper)
- 7:10 **Appoint ad hoc Electric Ferry and New Docks Committee**

7:20 **OPEN SESSION:** Comments from Community, in person & Zoom

### 7:40 Committee Schedule

- March 14: Recommendation from WCFAC to Public Works on **Whatcom County Code Chapter 10.34 Ferry Rates amendments, Final Vote**
- March 14: Public Works accountant Randy Rydel presents Ferry Finances
- April 11: Public Works and KPFF Consultants present introduction to new ferry and infrastructure: constraints, issues, and costs

### 7:50 ADJOURN

**Location: The Gathering Place – 3913 Legoe Bay Road, Lummi Island WA**

Or join Zoom meeting: Meeting ID: 825 1364 0723 Passcode: 236321

<https://us06web.zoom.us/j/82513640723?pwd=xxSUxLa8hBvVZU56cl6LpxJTixALJe.1>

One tap mobile telephone

or find your local number: <https://us06web.zoom.us/u/khl6fy6l9>

**Whatcom County Ferry Advisory Committee**  
Meeting Minutes, February 8, 2024

**Call to Order, Pam Gould, Chair**

Thanks to Michael Godshall for assistance with Zoom technology.

**Roll Call**

- **Present:** Janice Catrell, Rich Frye, Pam Gould, Diane Harper, Thomas Philpot, Catherine Shornick. **Absent:** Todd Lagestee, Carol Landt
- **Welcomed:** Liz Kosa, Director, and Roland Middleton, Public Works (PW); Jon Scanlon, Whatcom County Council; Gary Poole, Sr. Master.

**Flag Salute and Moment of Silence**

**Business Meeting**

- Introduce new WCFAC member, Catherine Shornick
- Election of Secretary, Catherine Shornick
- Agenda, no changes; January 25<sup>th</sup> minutes amended and approved
- **Liz Kosa**, news of electric ferry and RAISE Grant.
  - Director Kosa described her extensive background in maritime management including a degree in marine engineering and many years as an active merchant marine. She offered deep thanks to WCFAC, acknowledging the necessary commitment to being a conduit to and from the community. Big things coming up include not only codes, fares, and a new vessel and updated terminals, but also long term projects such as automatic ticketing, a passenger code of conduct, and a name and artwork for the new boat.
  - Liz introduced **Kim Boone**, the new administrative support staff. She is strictly limited to 16 hours a week; requests for her help should be sent to both Roland and Kim.
  - The \$25M RAISE grant is complex, and its scope included electrification of the new ferry earlier if possible. The boat will also have diesel backup to allow for potential trips to Bellingham and to avoid exorbitant towing expenses for maintenance. Roland is the contact person for the community; he will be looking to WCFAC and ferry riders for input on practical, operational elements.
  - Liz will be attending the March 5<sup>th</sup> County Council meeting to request an intercounty loan to cover an upcoming deficit in the Fare Box Reserve. She cited lower Motor Vehicle Tax funds, decreased ridership, fewer ferry deficit funds from State, and increased expenses as contributing to a deficit. Randy Rydell will provide more info at the March WCFAC meeting. This is a proactive action, since cutting service is not an option, and raising fares at this time is out of synch with the agreed process.
- **News from the ferry, Gary Poole, Senior Master.** A standard shutdown is scheduled for February 28<sup>th</sup>. Dry dock is now scheduled for **April 17<sup>th</sup> until May 18<sup>th</sup>**, due to additional repairs that are needed.

**Committee Work:** *Whatcom County Code Chapter 10.34 Ferry Rates, Proposal*

- **Report from ad hoc Code Amendment Committee** (Rich Frye, Diane Harper, Janice Holmes).
  - Diane and Janice presented preliminary review and analysis of code amendments received from Public Works on February 1, noting that the County has been supporting the ferry for 100 years. Unincorporated property owners carry the burden to support the Road Fund, but this should be reexamined in the future to possibly include incorporated areas. Expenses have been consistent over many years except for Covid and the dolphins. Many thanks went to PW for willingness to update the codes, many of which include housekeeping amendments that are much appreciated. Other changes are policy oriented, where further discussions are needed. [See “WCFAC Code Presentation 2-8-24”] WCFAC expects to hear from the community, discuss, and make a recommendation. Concern was expressed that PW sent three versions of revisions, and sufficient time is necessary for WCFAC and the community to provide the best document possible.
  - Policy issues [see *presentation*] include how to address extraordinary or emergency expenses for an aging system; lease payments; proposed annual earmark of \$150K from Road Fund; and capping the amount of extraordinary expenses the Fare Box should be required to cover. Janice distributed a discussion of lease issues after the presentation; these were provided to PW earlier as well. It’s important to keep fares stable; PW proposals are a good start but need more discussion. WCFAC would like crew advisement on fee nuances that are challenging for riders and crew alike, such as vans vs RVs; Liz clarified that the code referring to hearses is applicable only to after-hours.
  - Written comments are invited and should be sent to WCFAC email, or contact Rich, Janice H., or Diane. A formal work session is scheduled for Feb. 15<sup>th</sup> at the library, 6 PM. Committee members are asked to notify Chair Pam Gould by Monday, Feb. 12<sup>th</sup> if they are planning to attend, for planning purposes and Open Meeting rules. The public is invited.
  - Several draft documents were prepared by the ad hoc committee, distributed to WCFAC and PW staff, and will be available at the library and on [ourlummiisland.org](http://ourlummiisland.org).
  - Liz acknowledged and heard concerns and appreciated all of the timely and thorough work. She asked that the committee send any specific requests for a possible longer timeline to the County Executive (and cc her), but encouraged WCFAC to be aware of some urgency. She described the specific need for her to use ‘emergency’ in order to expedite necessary work (including permits and continuation of ferry services); she would look to the Council to make changes in lease terms; she will work with FAC on terminology and language; and she will look into whether expenses can be paid over multiple years. Gary will look closer at categorizing fares including van/camper language. Roland pointed out that the uplands lease also includes \$2M at one, five and 15 years (which is approaching) that all come from the Road Fund.

#### Questions and Comments:

- Rich Fry inquired about a summer surcharge; Liz responded that it is an administrative burden and there may not be enough time to implement by summer. Roland cautioned that it would be important to consider impacts if any to the deficit fund as well. Additional discussion surrounding vehicle equivalent spaces and fares occurred.
- Ralph Steele expressed shock that a loan is needed to rescue the ferry fund. Liz responded that the 55% fund is short, and the Road Fund can only be used toward the 45%. Ralph noted outstanding issues; Liz asked that requests go through WCFAC in order to honor the process. [See questions provided by Ralph Steele]
- Bob Anderson supported request for additional time, with six of eight new FAC members. Issues are complicated; allow time for FAC to learn, engage with community, deliberate and gain confidence in decisions. The two big issues are Covid deficits and the dolphin expenses, since without them an interagency loan would not be necessary. Liz K. responded that County Exec and PW is in support of using ARPA funds; request needs to come through Exec but she will look into timing and amounts.
- Peter Earle questioned why the Fare Box is being charged for 55% of dolphin expenses that were not regular or routine. Liz noted this was PW's understanding of the codes; \$800K was a maintenance item and is why language was proposed to the code since it is currently silent on this issue. PW is not ignoring, but this was 100% not capital expense.
- [Charles Bailey, from Zoom, was cut off due to time.]

#### Open Session

Kurt Esveldt was hoping for a revised schedule for design bid and construction for ferry terminal and electrical components. Liz will make sure it's available as soon as possible; Roland indicated it's being worked on and hopes detail will be available in April.

#### Tabled (due to time)

WCFAC Work Program 2024

Meeting adjourned approx. 7:45 PM.

#### Next Meeting: February 22, 2024

A recording of this meeting is available at <https://www.youtube.com/watch?v=GZ-uEltZ9oQ&list=PL8XMZ64kSXEEphem7uTV78bH8QG0pngab&t=4s>

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Respectfully submitted, C. Shornick

*Attachments:*

Final WCFAC Minutes, January 25, 2024

WCFAC Code Presentation

WCFAC ad hoc Discussion Draft

WCFAC ad hoc Commentary

Lease concerns, Janice Holmes

Comments: Ralph Steele

**Whatcom County Ferry Advisory Committee**  
Minutes, February 15, 2024  
Special Meeting, Work Session

**Call to Order, Pam Gould, Chair**

**Roll Call**

- **Present:** Janice Catrell, Rich Frye, Pam Gould, Diane Harper, Thomas Philpot, Catherine Shornick. **Absent:** Todd Lagestee, Carol Landt

**Agenda Amendment:** Time adjusted to discuss code, followed by new information from County Executive.

**Ad hoc Code Committee:** *Whatcom County Code Chapter 10.34 Ferry Rates, Public Works Proposal:*

**Discussion with ad hoc Code Committee** (Rich Frye, Diane Harper, Janice Holmes).

- Diane reviewed ad hoc recommendations related to housekeeping (see document, “2-15 WCFAC work session...”), noting that County legal advisors finally affirmed that no change in code language is necessary to use ARPA funds for the ferry. The ferry crew will provide a proposal regarding fares for vans and wide vehicles; ad hoc will review the definition of Annual Fare Box Contribution; a question arose as to emergency vehicle rates for trips after boat shut down.
- Janice H. reviewed ad hoc policy recommendations (see untitled document, 2/14 draft).
  - Tidelands Lease: A retroactive policy change occurred in 2022, but funds were not properly accounted for before then, so it’s necessary to both correct the code and return \$1.6M to the reserve. Various options could be considered moving forward.
  - It should be clear that the Fare Box is responsible for 55%; the remaining amount (45% of ATOE, etc.) should not be addressed here.
  - ERR Fund needs review of accounting/expenses, including rental rate cost.
  - Ad hoc received support that:
    - A fare box deficit can be made up by a future fare increase OR by the use of the Cumulative Fare Reserve.
    - After three sequential years of overpayment or underpayment a fare or service change will be considered whether or not there is a fare reserve remaining.
    - If the total fare reserve reaches higher than one year of revenue, or the total fare deficit is more than four months of fare revenue, a change in fares or services will occur the following year.
  - Regarding emergency or extraordinary expenses, the group suggested, “Non-regular, non-routine expenses” with a cap, to refer to non-regular repairs. A metric could be very useful, with a statistical array of figures where fares should only apply to those expenses a certain distance from the mean. There was strong agreement that “Fare Box only contributes x” rather than “PW only contributes x.” Fares can only carry so much and must be predictable and fair.

- Discussion occurred as to level of compromise, since—thus far—fares have only been responsible for regular and routine. This is less of an issue as long as the new ferry comes through; if not, it could become a huge issue. Ferry riders cannot manage significant fare fluctuations, so consider a percentage cap for increases. There was general agreement that instead of continuing to say no to all non-regular and non-routine maintenance and repairs, a compromise position of paying for some portion that did not create a spike in costs would be offered.
  - Group agreed on a rationale that fares must be predictable and stable, and therefore to the concept of sharing costs that include regular and routine expenses with a cap defined in percentage. A 5% increase is manageable.
- The goal is for ad hoc to send recommendations on Monday (Feb. 19); present them to WCFAC on Feb. 22, so by the end of the meeting a final document is agreed upon; and for WCFAC vote on March 14.
- Suggestion made to present resolutions for each of the three main policy issues; as well, a preface and executive summary to accompany the recommendation sent to County Council and clearly articulating policy questions/issues.

### Information from County Executive

Pam conveyed that County Executive Sidhu (CE) will be requesting ARPA funds to cover the \$358K deficit due to Covid. Nonetheless, the CE is alarmed at a severe shortfall predicted to occur mid-2024 (see information provided by CE); he intends to request a 15% fare increase at the (Council) Committee of Whole meeting next week. He is opposed to requesting an interagency loan as planned by PW Director Kosa.

Diane's assessment is that a shortfall won't occur until next year; however, everything is more expensive and a fare increase hasn't happened for a long time. Ralph Steele expressed shock at any deficit; Pam would like to request quarterly reports from Randy Rydel/PW. Rich reflected that people are generally willing to pay a slightly higher fare (10 to 15%) if a summer surcharge was included as well.

The timing is of concern, and the group agreed that a request for an increase should be delayed until later in March in order to honor the process and provide community feedback. The issue will be taken to the upcoming February 22<sup>nd</sup> WCFAC meeting, and a March town hall may be necessary.

Meeting formally adjourned, 7:48 PM.

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Respectfully submitted, C. Shornick

#### *Attachments:*

- 2-15 WCFAC work session discussion draft PW
- 2-15 WCFAC work session code policy draft
- Highlights from 2023 Ferry Revenue Collection (from CE)

***Whatcom County Code Chapter 10.34***  
***FERRY RATES<sup>1</sup>***

Sections:

**10.34.005 Definitions.**

**10.34.010 Effective date for ferry user fees.**

**10.34.020 Interpretation of rate schedule.**

**10.34.030 Use of ferry user fee revenues.**

**10.34.005 Definitions.**

A. "Adjusted Total Operating Expenses" (ATOE) is the amount of total operating expenses (TOE) minus adjustments listed below and then used in the calculation of the fare box recovery goal. Beginning January 1st, 2007, the ATOE amount shall be determined by subtracting the following amounts from the TOE:

(1) Motor Vehicle Fuel Tax attributable to ferry operations;

(2) Ferry Deficit Reimbursement funds (RCW 47.56.725 (2));

(3) Investment income or loss;

(4) County employee trips as defined in 10.34.010(I);

(5) Other miscellaneous Income – such as immaterial amounts due to NSF checks;

(6) Beginning January 1, 2024, MOER expenses greater than 5% of the average of the past three years of total ferry user fees;

(7) Beginning January 1, 2024, vessel rental fees greater than 50% of average of past three years total annual ferry user fees and all capital costs associated with the vessel.

CB. "Capital cost" means all capital expenditures, including financing and depreciation expenses applied to the replacement, expansion, or creation of ferry system physical elements. Consistent with the Whatcom County Charter and the Governmental Accounting Standards Board's Statement No. 87 requiring lease accounting changes for financial reporting to be retroactive, the annual Tideland's lease or its replacement is considered a capital cost.

C. "Cumulative fare box reserve" is the running total of adding the annual difference between the ferry user fees and the fare box recovery goal: when the goal is larger than the total ferry

user fees collected, the difference is a deficit and is subtracted; when the total ferry user fees collected is greater than the goal, the difference is a surplus and is added.

D. "Fare box recovery goal" means the amount ferry user fees are to pay to support the ferry system and is calculated by multiplying ATOE by the fare box recovery rate.

DE. "Fare box recovery rate" means the percentage of ATOE to be recovered by ferry user fees and is established in WCC Chapter 10.34.030(A) ~~the calculated percentage of total revenue generated through ferry user fees in comparison to total actual operating costs for the same period of time minus any revenue from the motor vehicle fuel tax meant for ferry operations, or from interest.~~

AE. "Ferry system" means all physical elements of the Lummi Island ferry operations, including both the Gooseberry Point and Lummi Island vehicle and pedestrian staging areas, vehicle parking area, ~~and~~ ferry docks, and any and all boats utilized for transport purposes.

EG. "Ferry user fees" means the rates and charges required of and collected from ~~any and all~~ users of the ferry system, as established and periodically amended in the Unified Fee Schedule, plus all other funds designated by resolution of the Whatcom County Council. Ferry user fees do not include 1) any payments earned under WCC Chapter 10.34.020(I) or 2) any surcharge collected pursuant to WCC Chapter 10.34.020(O).

H. "Major Or Emergency Repairs" (MOER) means maintenance and repair activities that are not regular and routine with total project expenses that are greater than 50 percent of the average of the past three years total maintenance and repair expenses, excluding prior MOER expenses.

FI. "Rate schedule" means the combination of ferry user fees and operational policies affecting the use of the ferry system.

BJ. "Total Operating ~~cost~~ expenses" means all actual daily running expenses and all actual regular and routine maintenance and administrative expenses associated with the use and operation of all physical elements of the ferry system. As of January 1, 2024, it also includes the vessel rental rate excluding capital expenses and all major or emergency repairs (MOER), both as limited by 10.34.005(A).

(Ord. 2021-012 Exh. A; Ord. 2015-034 Exh. A; Ord. 2013-042 Exh. A; Ord. 2012-016 Exh. A; Ord. 2010-054 Exh. A; Ord. 2008-052 Exh. A; Ord. 2008-017 Exh. A; Ord. 2007-001 Exh. A; Ord. 2005-090 Exh. A).

**10.34.010 Effective date for ferry user fees.**

Ferry user fees are set forth in the Whatcom County Unified Fee Schedule and become effective as set forth in the ordinance adopting or amending such schedule.

(Ord. 2021-012 Exh. A; Ord. 2015-034 Exh. A; Ord. 2013-042 Exh. A; Ord. 2012-016 Exh. A; Ord. 2010-054 Exh. A; Ord. 2008-052 Exh. A; Ord. 2008-017 Exh. A; Ord. 2007-001 Exh. A; Ord. 2005-090 Exh. A; Ord. 2002-012; Ord. 2001-064; Ord. 93-080 Exh. Q).

**10.34.020 Interpretation of rate schedule.**

The following provisions should be observed in application of the ferry rate schedule:

A. Buses, mobile homes, motor homes, fifth wheels in bed of pickup, and trailers including goosenecks are charged by total length. Length includes tongue, hitch, and projections to the rear.

B. Tow vehicles with trailers shall be charged a combined rate based on total length of the trailer, as defined in subsection A of this section, and weight of the tow vehicle based on the gross vehicle weight of the designation of the vehicle. Heavy machinery that is self-propelled onto the ferry shall be charged at the corresponding vehicle weight.

C. Special trips are a surcharge in addition to the applicable fare.

D. A weekly run limited to fuel trucks, charged at the regular rate, shall be scheduled by the public works department and published appropriately.

E. All trucks shall be charged regular round-trip rates based on gross vehicle weight.

~~F. Over-width vehicles or trailers occupying more than one lane shall be charged a 50 percent surcharge. In addition, vehicles towing over-width trailers shall also be charged a 50 percent surcharge. Vans outfitted for commercial use or as RVs shall be charged the ferry user fee for Vehicle with Driver 11,001- 20,000 pounds (small truck).~~

G. Student multi-ride cards shall be sold to full-time post-high school students only. Proof of post-high school enrollment shall be required at time of purchase. No special student discount is available for drivers of vehicles.

H. Children ~~12 to~~ under 19 years of age will receive free passenger and pedestrian passage all year round. No special child discount is available for drivers of vehicles.

I. ~~All trips by County employees on official county business and ferry employees and their immediate household members who are not required to pay fares shall be recorded, and an amount equal to what fare would have been charged according to the rates established in the Unified Fee Schedule shall be deposited in the Ferry Fund.~~ ~~exempt from fares. All county employee trips exempt from fares will be tracked, and \$10.00 per trip will be credited toward the fare box recovery rate each year.~~

J. During the term of the tidelands lease agreement dated October 24, 2011, lessee (Whatcom County) shall grant free foot and noncommercial passenger vehicle passage upon and across the ferry operated by lessee between Gooseberry Point and Lummi Island to those persons going to Lummi Island for legitimate tribal business who are either enrolled members of the Lummi Nation or employees thereof, and who also present appropriate identification issued by the nation, including Lummi Indian Business Council identification cards or current fishing cards/licenses as issued by the Lummi Nation.

K. A special needs-based discount is provided for Lummi Island residents who meet the ~~very~~ Very Low income levels set annually by the Department of Housing and Urban Development (HUD). The current year's levels will be posted on the Whatcom County Public Works ferry web page. The reviewing authority will screen all applicants to determine eligibility. ~~The number of needs-based applications processed annually, regardless of approval, will depend on the constraints of the ferry operations budget for each year. The special needs-based ferry fare discount shall always be higher than any other discount.~~ These special needs-based tickets will ~~not be sold on the ferry~~ only be sold at the Whatcom County public works administration building in Bellingham and will require a valid voucher issued from the reviewing authority and valid photo ID. Eligibility will be reviewed at least annually by the reviewing authority. ~~Forms and procedures will be developed by the Whatcom County public works and the reviewing authority.~~

L. Eligibility for a special "senior/disabled" discount is available to all Lummi Island residents who currently hold property tax exemptions or deferral as defined under RCW 84.36.381 and RCW 84.36.381 and 84.38.030 and WAC 458-16-020 and 458-18-020, and as these may be hereafter amended. These special needs-based tickets will ~~not be sold on the ferry~~ only be sold at the Whatcom County public works administration building in Bellingham and will require valid photo ID.

M. ~~One punch on the Multi-ride cards pays for one round trip. purchased prior to the most current fare change shall be valid until six months after the effective date of the ordinance codified in this chapter. When ferry rates change, the remaining value (original value divided by original number of trips times the remaining un-punched trips) of multi-ride cards purchased at~~

~~the previous rate can be used for 12 months as a credit towards purchasing the current fare multi-ride card. Multi-ride cards purchased at the previous rate, rather either higher or lower than the new rate, will be accepted for use as one punch equals one round trip for one month after new rates take effect. No credit or refund replacement cards will be allowed or issued. These rate changes will take place within 60 calendar days of the adopted date of the ordinance codified in this chapter.~~

N. All children under the age of 12 years when traveling on the Whatcom County ferry must be accompanied by an adult. ~~An exception to this policy will be made only if the adult parent or guardian signs a waiver exempting Whatcom County from all liabilities for any and all injuries, loss of life, etc., while the child is traveling on the ferry.~~

O. A capital surcharge of \$1.00 shall be collected for all fares except for student multi-ride cards (subsection G of this section), special needs-based fares (subsection K of this section), and special senior/disabled fares (subsection L of this section). The capital surcharge shall be used exclusively for the construction of a new ferry vessel and terminal improvements.

P. ~~Entities and individuals legally authorized to transport human remains shall be exempt from after scheduled hours fares when using the ferry to pick up and transport the body of a deceased person from Lummi Island. Ferry personnel reserve the right at the time of travel to require riders claiming this exemption to present burial-transit permits required under RCW 70.58A.210 or other legal authority authorizing transport of the deceased person.~~

(Ord. 2021-012 Exh. A; Ord. 2015-034 Exh. A; Ord. 2013-042 Exh. A; Ord. 2012-016 Exh. A; Ord. 2010-054 Exh. A; Ord. 2008-052 Exh. A; Ord. 2008-017 Exh. A; Ord. 2007-001 Exh. A; Ord. 2005-090 Exh. A; Ord. 2002-012; Ord. 2001-064; Ord. 93-080 Exh. Q).

#### **10.34.030 Use of ferry user fee revenues.**

A. Beginning January 1, 2006, a 55 percent fare box recovery rate shall be applied to the ATOE and evaluated continuously from that time forward. The remaining ferry system expenses shall be covered through other sources of funds, which includes but is not limited to the unincorporated area Road Fund property tax.

~~B. An annual review of ferry system services, actual and projected operating costs, and actual and projected revenue from ferry user fees shall occur in order to verify the 55 percent fare box recovery rate is being achieved.~~

WCFAC ad hoc code committee final draft 2-19-24

In any given year the actual fare box recovery rate exceeds 55 percent, the excess revenue shall be retained in the ~~ferry system fund~~ cumulative fare box reserve and applied only to future ~~operating costs~~ fare box deficits.

C. In any given year the actual fare box recovery rate is below 55 percent, the difference shall be recovered in a future ferry user fee increase ~~or by using the unless there is adequate~~ excess ferry user fee revenue remaining in the cumulative fare box reserve ~~ferry system fund collected during prior years~~.

D. ~~After three sequential years of the annual total of ferry user fees not reaching 55 percent or three sequential years of the annual total of ferry user fees being greater than 55 percent, a change in ferry rates and services provided shall be considered, whatever the balance in the cumulative fare box reserve.~~

E. ~~Ferry rates or services shall be changed at any time the cumulative fare box reserve has a positive balance greater than the total amount of the prior annual total of ferry user fees or a negative balance greater than could be funded by one third of the total amount of the prior year ferry user fees.~~

F. ~~An annual review of ferry system services, actual and projected operating costs including the costs included in the Equipment Rental & Revolving Fund vessel rental fee, and actual and projected revenue from ferry user fees shall occur in order to verify the 55 percent fare box recovery rate is being achieved. A six year financial pro forma report including operations and capital will be presented to the Whatcom County Council and citizen advisory bodies during the 2nd quarter of each calendar year.~~

~~Beginning January 1, 2007, any interest income or income from state motor vehicle fuel tax for ferry operation will be deducted from the actual operating costs before the actual 55 percent fare box recovery rate is calculated.~~

(Ord. 2021-012 Exh. A; Ord. 2015-034 Exh. A; Ord. 2013-042 Exh. A; Ord. 2012-016 Exh. A; Ord. 2010-054 Exh. A; Ord. 2008-052 Exh. A; Ord. 2008-017 Exh. A; Ord. 2007-001 Exh. A; Ord. 2005-090 Exh. A; Ord. 2002-012; Ord. 2001-064).

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1 Prior legislation: Ord. 89-103.

Existing Code

WCFAC ad hoc code committee DRAFT

Comments on Draft

Test 1: Does the proposed code amendment increase consistency, replace outdated or ineffective regulations, improve clarity, or make implementation easier? (housekeeping amendment)

Test 2: Does the proposed code amendment implement a change in policy that increases community well-being and the long term viability of the enterprise or system?

**Chapter 10.34  
FERRY RATES<sup>1</sup>**

Sections:  
[10.34.005 Definitions.](#)  
[10.34.010 Effective date for ferry user fees.](#)  
[10.34.020 Interpretation of rate schedule.](#)  
[10.34.030 Use of ferry user fee revenues.](#)

**10.34.005 Definitions.**  
 A. "Ferry system" means all physical elements of the Lummi Island ferry operations, including both the Gooseberry Point and Lummi Island vehicle and pedestrian staging areas, vehicle parking areas, and ferry docks, and any and all

**Chapter 10.34  
FERRY RATES<sup>1</sup>**

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10.34.005 Definitions.  
 A~~F~~. "Ferry system" means all physical elements of the Lummi Island ferry operations, including both the Gooseberry Point and Lummi Island vehicle and pedestrian staging areas, vehicle parking areas, ~~and~~ ferry docks, and any and all boats utilized for transport purposes.

**Chapter 10.34  
FERRY RATES<sup>1</sup>**

Sections:  
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[10.34.030 Use of ferry user fee revenues.](#)

10.34.005 Definitions.

When a code is being amended, improving past wording is a good thing to do.

B. "Operating cost" means all actual daily running expenses and all actual regular and routine maintenance and administrative expenses associated with the use and operation of all physical elements of the ferry system.

~~B~~J. "Total Operating cost expenses" means all actual daily running expenses and all actual regular and routine maintenance and administrative expenses associated with the use and operation of all physical elements of the ferry system. It also includes the vessel rental rate excluding capital expenses and all major or emergency repairs (MOER), both as limited by 10.34.005(A).

The change in term is needed in order to differentiate between the total operating costs and the costs that are included in fare calculations (Adjusted Total Operating Expenses).

The proposal retains the existing wording of "regular and routine maintenance" but inserts a new category of expenses that fares pay: "all MOER costs" (the missing third category for expenses). Although these new expenses are included in the TOTAL operating costs of the ferry, it is important that the ADJUSTED total operating costs exclude or limit them; or it will represent a major policy change by the County in what Ferry user fees are expected to cover. It also specifically excludes capital costs that might be included in the vessel rental rate. It is important to obtain more information about what is included in vessel rental fees: such as depreciation, accumulation for replacement, and insurance.

Existing Code

WC FAC ad hoc code committee DRAFT

Comments on Draft

C. "Capital cost" means all capital expenditures, including financing and depreciation expenses applied to the replacement, expansion, or creation of ferry system physical elements.

CB. "Capital cost" means all capital expenditures, including financing and depreciation expenses applied to the replacement, expansion, or creation of ferry system physical elements. Consistent with the Whatcom County Charter and the Governmental Accounting Standards Board's Statement No. 87 requiring lease accounting changes for financial reporting to be retroactive, the annual Tidelands lease or its replacement is considered a capital cost.

The new sentences Public Works proposed about the Tidelands lease were intended to specifically include a capital cost as an operating cost. However, instead we are asking Council to fix the inconsistency with the Charter and to refund to the Cumulative Fare Box Reserve the excess fare payments that have been made since 2010. 55% of the lease payments that fares have been charged as operating expenses totals approximately \$1.7 million that should go into the cumulative fare box reserve.

D. "Fare box recovery rate" means the calculated percentage of total revenue generated through ferry user fees in comparison to total actual operating costs for the same period of time minus any revenue from the motor vehicle fuel tax meant for ferry operations, or from interest.  
  
NEW D  
  
NEW C

DE. "Fare box recovery rate" means the percentage of ATOE to be recovered by ferry user fees and is established in WCC Chapter 10.34.030(A) ~~the calculated percentage of total revenue generated through ferry user fees in comparison to total actual operating costs for the same period of time minus any revenue from the motor vehicle fuel tax meant for ferry operations, or from interest.~~  
  
D. "Fare box recovery goal" means the amount ferry user fees are to pay to support the ferry system and is calculated by multiplying ATOE by the fare box recovery rate.  
  
C. "Cumulative fare box reserve" is the running total of adding the annual difference between the ferry user fees and the fare box recovery goal: when the goal is larger than the total ferry user fees collected, the difference is a deficit and is subtracted; when the total ferry user fees collected is greater than the goal, the difference is a surplus and is added.

"E" is needed as the existing code uses this phrase in various places in the code to be either the actual percentage rate or the product of the percentage rate applied to operating expenses, with the operating expenses modified within this definition - in short, a mess. The new definition correctly limits it to only the percentage itself.  
  
"D" The next definition is entirely new and is necessary to make the distinction between the percentage rate ("E") and the actual amount that is 55% of the operating expenses ("D").  
  
This is a new definition sorely needed. The existing code makes no distinction between the Ferry Fund and the excess fare revenue collected. That's how we got into the mess of thinking for years that the positive balance in the Ferry Fund meant we had a lot of fare surplus . It is important that we now have two names instead of one - the Ferry Fund is different than the Cumulative Fare Box Reserve, defined in this new item "C."

E. "Ferry user fees" means the rates and charges required of and collected from any and all users of the ferry system, as established and periodically amended in the Unified Fee Schedule.

EG. "Ferry user fees" means the rates and charges required of and collected from ~~any and all~~ users of the ferry system, as established and periodically amended in the Unified Fee Schedule, plus all other funds designated by resolution of the Whatcom County Council. Ferry user fees do not include 1) any payments earned under WCC Chapter 10.34.020(I) or 2) any surcharge collected pursuant to WCC Chapter 10.34.020(O).

The text is clearer if "any and all" are deleted, and "non-exempt" is not added. Then the sentence says that if the Unified Fee Schedule says someone pays, they do. If the Unified Fee Schedule says they don't pay, they don't. The second and new sentence fixes two problems: the existing code is contradictory on how the employee trip credit should be applied; also it is not clear that a surcharge is not included in "ferry user fees. " The Council requested that explicit permission be included in the code that they have the authority to allocate ARPA funds to replace fare revenues. This proposal inserts this phrase into this item.

Existing Code

WCFAC ad hoc code committee DRAFT

Comments on Draft

F. "Rate schedule" ....

NEW

F. "Rate schedule" ....

H. "Major Or Emergency Repairs" (MOER) means maintenance and repair activities that are not regular and routine with total project expenses that are greater than 50 percent of the average of the past three years total maintenance and repair expenses, excluding prior MOER expenses.

No change.

The existing code has only two categories: operating expenses that include "regular and routine maintenance and repair," and "capital" expenses. So this new term and definition is for the missing category between the two: repairs that are not regular and routine, but by accounting definitions are not capital (although some WAC and intergovernmental agreements have a different definition). The new category, "MOER" accommodates an aging infrastructure that may require major repairs that are not regular and routine. A definition is needed that is not so subject to debate. After looking at various options, using past expenses as a guide seems the best way to define what is included.

NEW. Contents from:  
In 10.34.030  
Beginning January 1, 2007, any interest income or income from state motor vehicle fuel tax for ferry operation will be deducted from the actual operating costs before the actual 55 percent fare box recovery rate is calculated.  
in 10.34.005  
D. "Fare box recovery rate" means the calculated percentage of total revenue generated through ferry user fees in comparison to total actual operating costs for the same period of time minus any revenue from the motor vehicle fuel tax meant for ferry operations, or from interest.  
in 10.34.020  
I. County employees on official county business shall be exempt from fares. All county employee trips exempt from fares will be tracked, and \$10.00 per trip will be credited toward the fare box recovery rate each year.

A. "Adjusted Total Operating Expenses" (ATOE) is the amount of Total Operating Expenses TOE) minus adjustments listed below and then used in the calculation of the Fare Box Recovery Goal. Beginning January 1st, 2007, the ATOE amount shall be determined by subtracting the following amounts from the TOE:  
(1) Motor Vehicle Fuel Tax Attributable to Ferry Operations;  
(2) Ferry Deficit Reimbursement Funds (RCW 47.56.725 (2));  
(3) Investment income or loss;  
(4) County employee trips as defined in 10.34.010(I);  
(5) Other miscellaneous Income – such as immaterial amounts due to NSF checks;  
(6) Beginning January 1, 2024, MOER expenses greater than 5% of the average of the past three years total ferry user fees;  
(7) Beginning January 1, 2024, vessel rental fees greater than 50% of the average of the past three years total annual ferry user fees and all capital costs associated with the vessel.

Extremely important new definition that brings together bits and pieces of the existing code . Use the date 2007, not 2024, since the existing code said these were to be deducted beginning in 2007; and a misunderstanding could occur in the future if 2024 is used.  
Item (6) is a new item, and refers to a new term and definition (MOER) discussed above. The item itself can state "beginning Jan. 1, 2024."  
Item (7) is a new item, also to begin in 2024, and refers to the costs of maintaining an aging vessel. The Equipment Rental and Revolving Fund rental fee has increased from \$600,000 (or less in all the years before 2021), to over \$1,260,000 estimated for 2024. The \$660,000 increase in rental fee is equal to about 45% of total fare revenue in 2023; while a 3% increase in the \$21 million 2023 unincorporated area Road Fund budget.  
  
Both of these new items seek to prevent fares from ping-ponging when major or emergency expenses occur, and also to prevent ferry user price shocks that would decrease ferry use. At a certain point, fare revenue goes down even though fares themselves are increased. Some guiderails are needed. The amount of expenses to include in calculating what fares should pay is debatable; the limits suggested were based on financial impacts . Bottom line: No fare structure that has over the past three years averaged about \$1,484,000 annual revenue can absorb a sudden increase in ER&R rental costs of \$363,000, or \$402,000 in major repair costs over two years. A speed limit is needed on the upramp of costs and fares so that escalation occurs at a rate that fares can be raised without significantly changing ridership.

Existing Code

WCFAC ad hoc code committee DRAFT

Comments on Draft

10.34.010 Effective date for ferry user fees.

10.34.010 Effective date for ferry user fees.

No change. Other sections should delete other effective dates.

10.34.020 Interpretation of rate schedule.  
Unchanged items are not shown

10.34.020 Interpretation of rate schedule.  
A, B, C, D, E, F, G, H, J, and O had no changes proposed by Public works. Public Works proposed changes to items I, K, L, M, N, and adds new item P.

10.34.020 Interpretation of rate schedule.  
The ad hoc code committee also suggests changes to item "F" and "H"

F. Over-width vehicles or trailers occupying more than one lane shall be charged a 50 percent surcharge. In addition, vehicles towing over-width trailers shall also be charged a 50 percent surcharge.

~~F. Over-width vehicles or trailers occupying more than one lane shall be charged a 50 percent surcharge. In addition, vehicles towing over-width trailers shall also be charged a 50 percent surcharge.~~ Vans outfitted for commercial use or as RVs shall be charged the ferry user fee for Vehicle with Driver 11,001- 20,000 pounds (small truck).

The ad hoc code committee suggests deleting this item. We think that the 50% surcharge as impractical for crew to administer since how the ferry is loaded often determines whether more than one lane is used. The ad hoc committee would like to see similarly sized vans treated identically and are unsure if all commercial vans are charged as trucks. But we think that the crew should decide whether these changes are useful.

H. Children 12 to under 19 years of age will receive free passenger and pedestrian passage all year round. No special child discount is available for drivers of vehicles.

H. Children ~~12 to~~ under 19 years of age will receive free passenger and pedestrian passage all year round. No special child discount is available for drivers of vehicles.

Corrects an oversight by prior code drafters - although children are not charged according to the Unified Fee Schedule, there is no provision in the existing code for making age 12 and under free.

I. County employees on official county business shall be exempt from fares. All county employee trips exempt from fares will be tracked, and \$10.00 per trip will be credited toward the fare box recovery rate each year.

I. All trips by county employees on official county business and ferry employees and their immediate household members who are not required to pay fares shall be recorded, and an amount equal to what fare would have been charged according to the rates established in the Unified Fee Schedule shall be deposited in the Ferry Fund. ~~exempt from fares. All county employee trips exempt from fares will be tracked, and \$10.00 per trip will be credited toward the fare box recovery rate each year.~~

The \$10 amount was set in 2010 when that was the charge for a passenger vehicle with driver. It is fixed forever when established this way; instead we suggest that the credit should change as the fares change. This could be accomplished by substituting the Unified Fee Scheule fares.  
  
We also note that, as pointed out in the 2011 Ferry Task Force report, the free passage that is included in some crew contracts should be counted and credited appropriately to total Ferry Fund revenue.

Existing Code

WC FAC ad hoc code committee DRAFT

Comments on Draft

K. A special needs-based discount is provided for Lummi Island residents who meet the very low income levels set annually by the Department of Housing and Urban Development (HUD). The current year's levels will be posted on the Whatcom County public works ferry web page. The reviewing authority will screen all applicants to determine eligibility. The number of needs-based applications processed annually, regardless of approval, will depend on the constraints of the ferry operations budget for each year. These special needs-based tickets will only be sold at the Whatcom County public works administration building in Bellingham and will require a valid voucher issued from the reviewing authority and valid ID. Eligibility will be reviewed at least annually by the reviewing authority. Forms and procedures will be developed by the Whatcom County public works and the reviewing authority.

K. A special needs-based discount is provided for Lummi Island residents who meet the ~~very~~ Very Low income levels set annually by the Department of Housing and Urban Development (HUD). The current year's levels will be posted on the Whatcom County public works ferry web page. The special needs-based ferry fare discount shall always be higher than any other discount. The reviewing authority will screen all applicants to determine eligibility. ~~The number of needs-based applications processed annually, regardless of approval, will depend on the constraints of the ferry operations budget for each year.~~ These special needs-based tickets will not be sold on the ferry ~~only be sold at the Whatcom County public works administration building in Bellingham~~ and will require a valid voucher issued from the reviewing authority and valid photo ID. Eligibility will be reviewed at least annually by the reviewing authority. ~~Forms and procedures will be developed by the Whatcom County public works and the reviewing authority.~~

This updates existing code to allow reduced fare punchcards to be sold on the island, also to require photo ID; wording changes also clarify and update other administrative provisions.

This sentence in the existing code is deleted: "The number of needs-based applications processed annually, regardless of approval, will depend on the constraints of the ferry operations budget for each year." The alternate is for Public Works to define who makes this decision, what budget constraints would cause no further applications to be taken, and how an appeal could be made.

The new wording also emphasizes the County's commitment to support an economically mixed community by stating that special needs-based fares will always be the lowest fares.

L. Eligibility for a special "senior/disabled" discount is available to all Lummi Island residents who currently hold property tax exemptions or deferral as defined under RCW 84.36.381 and 84.38.030 and WAC 458-16-020 and 458-18-020, and as these may be hereafter amended. These special needs-based tickets will only be sold at the Whatcom County public works administration building in Bellingham and will require valid ID.

L. Eligibility for a special "senior/disabled" discount is available to all Lummi Island residents who currently hold property tax exemptions or deferral as defined under RCW 84.36.381 and 84.38.030 and WAC 458-16-020 and 458-18-020, and as these may be hereafter amended. These special needs-based tickets will not be sold on the ferry ~~only be sold at the Whatcom County public works administration building in Bellingham~~ and will require valid photo ID.

Changes in administration of provision to suit current circumstances.

Existing Code

WCFAC ad hoc code committee DRAFT

Comments on Draft

M. Multi-ride cards purchased prior to the most current fare change shall be valid until six months after the effective date of the ordinance codified in this chapter. Multi-ride cards purchased at the previous rate rather higher or lower than the new rate will be accepted for use as one punch equals one round trip. No credit or refund will be allowed or issued. These rate changes will take place within 60 calendar days of the adopted date of the ordinance codified in this chapter.

M. One punch on the Mmulti-ride cards pays for one round trip. ~~purchased prior to the most current fare change shall be valid until six months after the effective date of the ordinance codified in this chapter.~~ When ferry rates change, the remaining value (original value divided by original number of trips times the remaining unpunched trips) of multi-ride cards purchased at the previous rate can be used for 12 months as a credit towards purchasing the current fare multi-ride card. Multi-ride cards purchased at the previous rate, ~~rather either~~ higher or lower than the new rate, will be accepted for use as one punch equals one round trip for one month after new rates take effect. ~~No credit or refund replacement cards will be allowed or issued. These rate changes will take place within 60 calendar days of the adopted date of the ordinance codified in this chapter.~~

This is a change that when Public Works proposed it last spring resulted in a great deal of positive comment from ferry users. When rates change, it allows trading in the remaining value on existing punchcards towards the purchase of new punchcards. The existing code does not allow this because of the difficulty for crew when punchcards were sold during trips.  
  
Since the value on existing cards is not lost, the period of time in which they still will be valid on the ferry is no longer six months. This limited time period before passage requires using punchcards at the new fare rate treats single passage ticket buyers and punchcard buyers more equally as to when they much start paying the higher fare.  
  
In several places in the existing code, as well as in the versions proposed Public Works, an implementation or effective date is specified. This is contrary to the section 10.34.010 that specifies that the effective date is contained in the adopting ordinance. Also, a change cannot take effect within 60 days of enactment, so this date might not work.

N. All children under the age of 12 years when traveling on the Whatcom County ferry must be accompanied by an adult. An exception to this policy will be made only if the adult parent or guardian signs a waiver exempting Whatcom County from all liabilities for any and all injuries, loss of life, etc., while the child is traveling on the ferry.

N. All children under the age of 12 years when traveling on the Whatcom County ferry must be accompanied by an adult. ~~An exception to this policy will be made only if the adult parent or guardian signs a waiver exempting Whatcom County from all liabilities for any and all injuries, loss of life, etc., while the child is traveling on the ferry.~~

This administrative change is reasonable given liability and the burden on crew to determine if a valid waiver had been provided.

NEW

P. Entities and individuals legally authorized to transport human remains shall be exempt from after scheduled hours fares when using the ferry to pick up and transport the body of a deceased person from Lummi Island. Ferry personnel reserve the right at the time of travel to require riders claiming this exemption to present burial-transit permits required under RCW 70.58A.210 or other legal authority authorizing transport of the deceased person.

Public Works proposed this totally new provision, and it is kind to those who are grieving.  
  
The ad hoc code committee would like to know if the after-hours fare is charged to ambulances or other emergency vehicles, and if it is, we suggest that this exemption be expanded to include clearly marked official ambulance and fire equipment.

## Existing Code

**10.34.030 Use of ferry user fee revenues.**

Beginning January 1, 2006, a 55 percent fare box recovery rate shall be applied and evaluated continuously from that time forward. An annual review of ferry system services, actual and projected operating costs, and actual and projected revenue from ferry user fees shall occur in order to verify the 55 percent fare box recovery rate is being achieved.

In any given year the actual fare box recovery rate exceeds 55 percent, the excess revenue shall be retained in the ferry system fund and applied only to future operating costs.

In any given year the actual fare box recovery rate is below 55 percent, the difference shall be recovered in a future ferry user fee increase unless there is adequate excess ferry user fee revenue remaining in the ferry system fund collected during prior years.

Beginning January 1, 2007, any interest income or income from state motor vehicle fuel tax for ferry operation will be deducted from the actual operating costs before the actual 55 percent fare box recovery rate is calculated.

## WCFAC ad hoc code committee DRAFT

**10.34.030 Use of ferry user fee revenues.**

A. Beginning January 1, 2006, a 55 percent fare box recovery rate shall be applied to the TOE and evaluated continuously from that time forward. The remaining ferry system expenses shall be covered through other sources of funds, which includes but is not limited to the unincorporated area Road Fund property tax.

B. In any given year the actual fare box recovery rate exceeds 55 percent, the excess revenue shall be retained in the ferry system fund cumulative fare box reserve and applied only to future operating costs fare box deficits.

C. In any given year the actual fare box recovery rate is below 55 percent, the difference shall be recovered in a future ferry user fee increase or by using the unless there is adequate excess ferry user fee revenue in the cumulative fare box reserve ferry system fund collected during prior years.

D. After three sequential years of the annual total of ferry user fees not reaching 55 percent or three sequential years of the annual total of ferry user fees being greater than 55 percent, a change in ferry rates and services provided shall be considered, whatever the balance in the cumulative fare box reserve.

E. Ferry rates or services shall be revised at any time the cumulative fare box reserve has a positive balance greater than the total amount of the prior annual total of ferry user fees or a negative balance greater than could be funded by one third of the total amount of the prior year ferry user fees.

F. An annual review of ferry system services, actual and projected operating costs, including the costs in the Equipment Rental and Revolving Fund vessel rental fee, and actual and projected revenue from ferry user fees shall occur in order to verify the 55 percent fare box recovery rate is being achieved. A six year financial pro forma report including operations and capital will be presented to the Whatcom County Council and citizen advisory bodies during the 2nd quarter of each calendar year.

Beginning January 1, 2007, any interest income or income from state motor vehicle fuel tax for ferry operation will be deducted from the actual operating costs before the actual 55 percent fare box recovery rate is calculated.

## Comments on Draft

The existing code is sort of a conglomeration of items that leaves some basic policy questions unanswered or open to possible misinterpretation. This section started out establishing the 55% Fare Box Recovery Rate; then talks about the details of an annual financial review; then specifies what happens when the ferry user fees produce a surplus. It is ambiguous when it says the surplus goes to the Ferry Fund for operating expenses, while in the next sentence saying the surplus should be used to meet fare deficits. It says that a fare increase only happens after a deficit, but not how long or how big a deficit. It does not deal with what happens when the surplus grows for a decade as it did between 2011 and 2020. Then to add to this mixture of items, it has a paragraph listing several funding sources that beginning in January of 2007 would be deducted from operating expenses before the 55% was applied.

The ad hoc code committee suggests that this section would be much clearer if organized in the same way as the other sections, and so revises it. Also some specific guidelines are inserted to keep either deficits or surpluses from growing forever.

It is helpful that the Public Works revised text specifies annual financing reporting in the 2nd quarter instead of leaving it vague. We suggest that a specific six year report format be used to update Council and public. The PW proposal also thankfully pulls out the last paragraph and puts it into the definitions.

RESOLUTION NO. 2024 \_\_\_\_\_

**REQUESTING COUNCIL APPROVAL OF THE INTERPRETATION AND RETROACTIVE APPLICATION OF ACCOUNTING OF WCC Chapter 10.34.030 - USE OF FERRY RATES**

**WHEREAS**, Chapter 10.34 of the Whatcom County code addresses the administration of the ferry rates and guides what should and should not be included in calculating the annual fare box goal; and

**WHEREAS**, Whatcom County and the Lummi Nation in October 2011 entered into a lease agreement of use of the Tidelands, hereinafter Tidelands Lease, for purposes of ferry operations; and

**WHEREAS**, the Tidelands lease requires payments of \$200,000/year, retroactive to February 2010, with annual adjustments based on the CPI; and

**WHEREAS**, Whatcom County Charter section 6.90 requires that real property shall not be leased to the county for more than 1 year unless included in a capital budget ordinance; and

**WHEREAS**, The Tideland Lease is a Right of Use asset as the duration is more than 12 months with payments greater than \$500,000; and

**WHEREAS**, all right of use assets meeting the above criteria must be capitalized; and

**WHEREAS**, in 2016 the Financial Accounting Standards Board made an amendment to its accounting rules requiring all leases with contract terms for more than one year to be capitalized; and

1           **WHEREAS**, this has been interpreted by the Office of the Washington  
2 State Auditor that this is effective for fiscal years ending June 30, 2022 and after.  
3 And, that the new standard applies not only to new lease agreements going forward, but  
4 also retroactively to exiting agreements. See, <https://sao.wa.gov/bars-annual-filing/>  
5 leases/; and  
6

7  
8           **WHEREAS** starting with the adoption of this lease in 2011 the rental payments have  
9 been included as operational expenses from which the fare box goal calculation is made and  
10 should be clarified to avoid disputes over fare box goal calculations; and  
11

12           **WHEREAS**, annual fare box goal calculations starting in 2010 and continuing  
13 through 2024 have been calculated including Tideland Lease payments as operational costs;  
14 and  
15

16  
17           **WHEREAS**, were the lease payments properly accounted as capital and not operational  
18 between 2010 and continuing through 2023, \$3,183,289 in lease payment would not have  
19 resulted in a fare box excess payment of \$1,750,809 at the 55% fare box recovery rate; and  
20

21  
22           **WHEREAS**, this changes the 2023 year-end fund balance and  
23 updates the portion of the fund balance attributable to Ferry Fare collections vs. attributable to  
24 other fund contributions.  
25

26           **NOW, THEREFORE, BE IT RESOLVED** by the Whatcom County Council that the  
27 Tidelands Lease payments are a Capital expense and it is reasonable to remove those  
28 charges from operational expenses retroactively to 2010 and permanently for all future lease  
29 payments; and  
30

