

**Whatcom County Ferry Advisory Committee**  
**May 1, 2024, 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   | · <i>Uninc area position</i> |

FLAG SALUTE and MOMENT OF SILENCE

BUSINESS MEETING:

- Welcome to committee members, county staff and community, in person and on Zoom
- **Accept Agenda**
- **Adopt Minutes\*, April 11, 2024**
- Gary Poole, Senior Master, news from the ferry
- Roland Middleton, Public Works, Special Programs

**6:30** COMMITTEE WORK:

- Ad Hoc code committee report on status of Whatcom County Code Chapter 10.34 Ferry Rates\*
- Ad Hoc electric ferry and docks committee report
- **WCFAC and LICA Passenger Ferry Committee:** Discuss process with committee members. Appoint WCFAC & community members to committee to address lengthy vehicle ferry disruption scheduled for August 2027 through January 2028, during terminal construction.
- **Meeting day discussion** – current day conflicts with LICA meetings

**7:15** OPEN SESSION: Attendees, then, if possible, Zoom attendees

**7:45** ADJOURN

COMMITTEE SCHEDULE:

- June 5 [Note change in day and time to first Wednesday]: WCFAC Meeting

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

Join Zoom meeting:

<https://us06web.zoom.us/j/86559420252?pwd=xR7kdW6zbtJVT6e2dbBjMcfOJGCaN.1>

Whatcom County Ferry Advisory Committee  
April 11, 2024  
Minutes

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

Present: Richard Frye, Pam Gould, Diane Harper, Todd Lagestee, Carol Landt, Tom Philpot, Catherine Shornick

Absent: Janice Catrell

County representatives present: Jon Scanlon, Whatcom County Council (CC); Roland Middleton, Public Works (PW); and Gary Poole, Senior Master.

Introductions: James Lee, PW ferry lead; KPFF consultants Mike Anderson, Director/Ferry Operations and Service Planning, Kelly Lesoing, Project Manager, and Ed Debroeck, Terminal Modification Design Lead.

Agenda: Stands

Minutes: March 14 and March 18, 2024, Adopted

News from the ferry:

Gary Poole apologized for drydock date changes and affirmed outage from May 18 to June 15. No service will be provided Saturday, May 18<sup>th</sup> until approximately 1 PM, and a brief outage will occur on May 19<sup>th</sup> to get ramp in place. Maintenance outage is scheduled for May 24<sup>th</sup>.

The Trek is a great vessel but not an option since it will not fit under aprons and its Code of Certification appears to have lapsed (this is being confirmed). As well, there is a contract in place; any additional contract would require a new bid process. Jim Dickinson lodged disagreement. Gary reported that the drydock contract is \$1.2M.

New Ferry Terminals, Public Works and KPFF

Mike Anderson brings substantial marine history including 34 years with WA state ferries (up to Director of Operations and CEO) and 16 years as director of the marine transit group. He worked on the Level of Service (LOS) for the new ferry. Kelly Lesoing is project manager and Ed Debrock is a structural engineer working on the terminal and upland side of the project since 2017. Mike reviewed the project timeline for the LOS study that included looking at a 60-year period, with the goal of minimize risk going forward (see LOS documents at <https://www.whatcomcounty.us/3432/New-Ferry-Vessel>). Covid did change patterns but may not result in overall figures. The trick is to get the right size boat to meet future needs based on average midweek ridership, compliance needs, a move toward carbon neutral, and stable operating costs (such as keeping crew at three). Grant applications were very successful, with RAISE providing \$25M and CRAB \$10M. The project plan was adopted 23 March 2021.

Kelly coordinates with James Lee and Roland of PW toward simultaneous construction of the new terminals between July 2027 and February 2028, with ferry operations in place by January 2028. Environmental requirements are underway with MARAD (US Maritime Administration), Dept. of Fish and Wildlife, and the Lummi Nation and to meet EIS and NEPA timelines, all of which is scheduled to be completed by summer 2024.

Ed reviewed plans for the Gooseberry Pt. terminal, noting that terminals on both sides will include a permanent passenger-only float that can be raised and lowered by both emergency and ferry crews, to be built while the Whatcom Chief is in service and used during construction periods. The island side passenger dock will be on the north side of existing north wingwalls. Car ferry service is anticipated to cease from August 1 through January. Constraints include large crane barge operations, eel grass, daylight, pile driving restrictions, and unknown schedule impacts (such as weather, marine mammals, etc.). KPFF will work with WCFAC to identify services that require vehicles, potential emergency response needs, support needed for walk-on ferry, and the best way to obtain community feedback.

Peter Earle requested that WCFAC be provided with accounting of what would be saved to modify the new ferry to fit the existing terminal; and asked for discussions with PW and CC regarding the totality of impacts to the island community. Roland noted that the same size vessel would not meet LOS and funding would be jeopardized, expressing frustrations as to what islanders want. The boat and the terminal structures are failing. Rich Frye asked if an economic impact study had been done (no), since there will be measurable impacts to the island community from a six-month outage. He also asked how long the Gooseberry side will be viable due to increased flooding; Roland noted that the lease for the current location expires October 12, 2046, and that he will start working on that issue right after this project is done. Rich pointed out that it's up to engineers to solve problems, and asked if this could occur in chunks. Ed reported that intervals could extend the project two or three years, greatly increasing costs.

Daylight work is required so marine mammals can be seen if in the area. Incentives will be included in bid process, and construction will occur in sequences that mitigate risks for serious delays. Requirements for a passenger ferry will be included in a bid process (such as reliability in adverse weather).

Jim D. claimed that the new docks are unnecessary and a shorter ferry would be better. Janice Holmes asked about sea level rise especially on Gooseberry side, which is already under water throughout the year, and whether impacts to the Lummi Nation (LN) were being considered. PW should have an idea of what is needed for six months, both for the LN and the island. Roland responded that conversations are underway with the LN regarding raising the dock area, lot, and roadway, as well as possible parking at the Casino and elsewhere. Several people voiced concerns about a larger and safer passenger boat and about increased king tides. The passenger-only dock will not be for recreational use.

Kurt Esvoldt and Tom Philpot of the ad hoc Electric Ferry and Dock Committee asked questions related to the terminals, underscoring an assumption to discuss the ferry at the next WCFAC meeting (see questions, attached).

- Terminal drawings are 60% complete and the timeline is for July 2024 completion; future shore power is in design work for island side as a sequence (questions 1, 2, 3).
- Could construction barges use winches to move in and out during down times such as night or weekends? Work is scheduled for 7 days/week for 10-12 hours depending on light, and barges move slowly. Attendees noted that no vehicle can go 6 months without fuel; it will be imperative to have supplies to island even if late at night. Modeling for waves, wind, etc. are occurring, and parameters for the vessel—just as in place now—will be set once dolphins are in place. It's been determined that the island north wave barrier will not be necessary (questions 9, 11, 12).

Diane H. noted that the ferry serves residents, and priorities cannot be made only by construction issues. Roland said although the challenge is the fish window, he said everyone understands the severe impact to islanders and they will bring supply options in the middle of night if need be.

Mike Anderson underscored that we have three years to plan, they seek feedback now, and that possible supply alternatives are being considered (such as landing crafts). The risks of not moving forward are great, but this is just the beginning of the process. Stuart Rich called attention to emergency scenarios that must rely on ferry service, and that people will be forced to decide whether to stay on the island. It's important to put a face to the problem since we owe our lives to the ferry. Others underscored the inadequacy of the usual passenger ferry for this kind of outage.

#### Whatcom County Code Chapter 10.34, Ferry Rates

Diane H. reviewed the sequence whereby WCFAC provided code proposals to PW and CC; on April 4<sup>th</sup> PW forwarded their version to CC, which included almost none of what WCFAC proposed. Her handout (attached) included two specific issues where WCFAC recommendations were ignored and two new entirely new provisions appeared that would significantly impact future fares. Pam G. spoke to the Council of the Whole (COTW) this week to ask for time to review and comment on these. FAC had already voted on two issues (although they include different elements), but the new provisions include a 20% cap on percentage discounts for multiride passes, an annual Consumer Price Index (CPI-U) every January, and an undefined reserve target by 2024. Realistically, a current tight timeline for CC voting may not allow for input to be considered. Tom P. made a motion, Rich F. seconded, to authorize three ad hoc/WCFAC members Pam, Rich and Diane to speak together on behalf of WCFAC regarding these issues. This would allow a timely dialog during a scheduled 45-minute opportunity before the Public Works and Health Committee on April 23, since CC seemed to agree the proposal warrants more time, and a special FAC meeting—although perhaps ideal—is not practical. It's hoped that a CPI could occur every two or three years, for instance, that the reserve recoup would be more defined, and the 20% limit could be lifted. WCFAC voted 6/6 to approve the motion.

## Open Session

Ralph Steele requested a formal review of ferry reserve fund (see attachment). The county inexplicably removed \$2.4M from the reserve, resulting in a financial crisis created by PW.

Bob Anderson endorsed Ralph's request (see attachment), and asked FAC to submit request for answers to PW. He noted Mike Anderson's passion to work with islanders; the problems are not for islanders to solve but for the county to do so.

Charles Bailey encouraged collaboration with Mike Anderson and underscored that a six-month ferry closure would spell disaster and change the island forever. Community members provide the best consultants for KPFF.

Jim Dickinson reiterated issues associated with past contract bids with the Trek, exorbitant drydock costs exaggerated by lost revenue, and concerns about experience of the ferry designer.

Dave Kershner called attention to need to plan for power now if we want a climate-smarter system. The Climate Committee endorsed but the County Exec held off including a solar array in the shore power study: if KPFF is working on, FAC should ask for input on site options, and if not, ask for funding.

Todd Lagestee noted that while a six-month outage will have socioeconomic impacts, the island sits in a subduction zone and should seriously consider its expectations from the government; instead, it could be an opportunity for preparedness. He also thanked Ralph for his reporting.

## Upcoming

- April 23, Public Works and Health Committee, regarding codes
- May 1 [note change to first Wednesdays], LIFAC meeting; requested Eliot Bay Design Group attends

Meeting adjourned 8:34 PM.

## Attachments:

- Ad hoc questions KPFF 4-11-24
- WC Code 10.34, PW 4.4.24
- R Steele WCFAC 4.11.24
- B Anderson WCFAC 4.11.24

Zoom recording hosted by LICA: <https://www.youtube.com/watch?v=qkohNl1P2mA>

////

Submitted by C. Shornick

## 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 the Gooseberry Point and Lummi Island vehicle and pedestrian staging areas, vehicle parking areas, ferry docks, and any and all boats utilized for transport purposes.
- B. "Ferry User Fees" means the charges required of and collected from all non-exempt users of the ferry system, as established and periodically amended in the Unified Fee Schedule. Ferry User Fees do not include 1) any consideration or credits earned under WCC 10.34.020(I) or 2) any surcharges collected pursuant to WCC 10.34.020(O).
- C. "Fare Box Considered Revenue" means the revenue from Ferry User Fees. Revenue from other funding sources will be only be included as Fare Box Considered Revenue if designated by resolution of the Whatcom County Council.
- D. "Capital Cost" means all the capital expenditures, including financing and depreciation expenses, necessary to replace, expand or create the physical elements of the ferry system.
- E. "Non-Capital Emergency Repairs" (NCER) means any emergency maintenance or repair to the terminal structures, and which costs shall be included as part of the Ferry System's operating expenditures.
- F. "Total Operating Expenses" (TOE) means all Ferry System expenses that are not Capital Costs. TOE includes the vessel rental rate, all daily running expenses, all actual regular and routine maintenance, all NCER expenses, and all administrative expenses associated with the use and operation of the ferry system. Consistent with past practice, the monthly Tidelands lease or its replacement will continue to be considered part of the Total Operating Expenses calculation at the value of its annual cash payments regardless of implementing the Governmental Accounting Standards Board's Statement No. 87 requiring lease accounting changes for financial reporting.

G. "Adjusted Total Operating Expenses" (ATOE) is the amount of Total Operating Expenses (TOE) minus adjustments defined in 10.34.05 (G)(1-6) and then used in the calculation of the Fare Box Recovery Goal.

Beginning January 1st 2024, 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) Actual NCER expenditures, up to \$150,000 in a calendar year.

H. "Fare Box Recovery Rate" means the percentage of ATOE to be recovered by Fare Box Considered Revenue as set by WCC 10.34.030.

I. "Fare Box Recovery Goal" means the amount to be recovered by Fare Box Considered Revenue. The Fare Box Recovery Goal shall be calculated by multiplying ATOE by the Fare Box Recovery Rate.

J. "Annual Fare Box Contribution" shall be calculated by subtracting the annual Fare Box Recovery Goal from the annual Fare Box Considered Revenue. A positive amount indicates a surplus in fare collection for the year, and a negative amount indicates a deficit in fare collection for the year.

K. "Cumulative Fare Box Reserve" is the ongoing calculation of fare box surplus or deficit and shall be calculated as the sum of each year's Annual Fare Box Contribution.

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

M. "Ferry Fund" is the account where dedicated monies are held for ferry expenses.

N. "Ferry Fund Reserve Target" is defined as 50% of the average prior three years' ATOE and will be comprised of 55% Fare Box Considered Revenue and 45% County funds. The Ferry Fund shall contain the full Ferry Fund Reserve Target by 2034.

(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 shall be charged a 50 percent surcharge. Over-width vehicles are any vehicle or load that exceeds the outside width limit of eight and one-half feet (8.5 ft) as defined in RCW 46.44.010.
- G. Free passage shall be granted to the Whatcom County Fire District 11 for departmental business per the terms of their interlocal agreement for fire protection services, Whatcom County Contract #201511022 or its replacement.

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

I. Whatcom County employees on official Whatcom County Public Works or Sheriff's Department business shall be exempt from fares. These exempt fares will be tracked, and \$10.00 per trip will be applied in the Adjusted Total Operating Expense calculation each year as outlined in 10.34.005(G)(4).

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 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 needs-based discount shall always be higher than any other discount. 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 needs-based tickets will not be sold on the Ferry and will require a valid voucher issued by the reviewing authority and a valid photo ID. Eligibility will be reviewed at least annually by the reviewing authority.

L. A needs-based discount is available to 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 multi-ride needs-based tickets are not sold on the ferry and require a valid photo ID.

M. Rate changes shall occur no later than 60 calendar days after the adopted date of the ordinance or executive order changing the rates. Multi-ride cards are convenience cards that may have a discount applied to them. Multi-ride cards are only valid if they are fully intact, less punches used. With the exception of needs-based multi-ride cards, no multi-ride card shall have a discount greater than 20% applied to its corresponding single ride fare. The needs-based multi-ride discount shall always be higher than any other discount. One punch on the multi-ride card equals one round trip. Multi-ride cards purchased prior to the most current fare change are valid for 30 calendar days after the rate change takes effect. 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, higher or lower than the new rate,

shall be used as a credit towards purchasing the current fare multi-ride card. No refunds, returns, or replacement cards will be allowed or issued.

N. All children under the age of twelve (12) years must be accompanied by an adult when traveling on the Whatcom County ferry.

O. A capital surcharge of \$1.00 shall be collected for all fares except for needs-based fares (subsection K and 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 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.**

Beginning January 1, 2006, a 55 percent Fare Box Recovery Rate shall be applied and evaluated continuously, from that time forward, on an annual basis. An annual review of ferry system services, actual and projected operating costs, and actual and projected revenue from ferry user fees shall occur to verify that the Fare Box Recovery Rate is being achieved. The annual review shall be presented to the Whatcom County Council during the 2<sup>nd</sup> quarter of each calendar year. The purpose of this review is to use the Cumulative Fare Box Reserve total, Ferry Fund Reserve Target, and current projections to determine if a fare change is warranted. Additionally, beginning January 1, 2024, the Cumulative Fare Box Reserve's adequacy shall be evaluated, in part by comparison against the annual Ferry Fund Reserve Target with the goal of fully funding the Ferry Fund Reserve Target by 2034. At a minimum, fares or expenditures shall be adjusted each year for inflation per the Consumer Price Index (CPI-U). All CPI-U related fare changes shall go into effect in January of the following year.

The 55 percent Fare Box Recovery Rate shall be applied to the Adjusted Total Operating Expenses (ATOE) to determine the Fare Box Recovery Goal. The remaining 45% of the ATOE shall be funded through other county funding sources, which include but are not limited to road taxes.

The Cumulative Fare Box Reserve tracks each Annual Fare Box Contribution over time, maintaining a running balance to determine annually if a surplus (positive) or deficit (negative) exists. Beginning January 1, 2024, the annual Ferry Fund Reserve Target will be subtracted from the Cumulative Fare Box Reserve before determining if a Cumulative Fare Box Reserve surplus or deficit exists. A Cumulative Fare Box Reserve deficit indicates that insufficient Fare Box Considered Revenue has been collected over the years and shall be corrected by increasing future Fare Box Considered Revenues and/or decreasing TOE. A Cumulative Fare Box Reserve surplus indicates that Fare Box Considered Revenues have exceeded the amount required by the Fare Box Recovery Goal and the Ferry Fund Reserve Target. When a cumulative surplus exists, the surplus shall be evaluated with other available information to determine if a future fare decrease is warranted.

. (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).