WCFAC Recommendations on 4/9/2024 Proposed Amendments to Whatcom County Code Chapter 10:34 Ferry Rates

A. Three new concepts were included in the proposed amendments to Chapter 10:34 that were not in the documents given to WCFAC to review on February 1st. Our first chance to see these proposals was on 4/9, and this is the first opportunity we have had to discuss them with County representatives.

Issue 1: New on 4/9 "Ferry Fund Reserve Target" concept, Section 10:34.005 O and Section 10.34.030

Issue 2: New on 4/9 proposal for restricting ferry rates, Section 10:34.020 M.

Issue 3: New on 4/9 proposal for annual fare increases in Section 10:34.030.

B. Next we would like to discuss 2 areas of concern with the currently proposed code that we addressed in our recommendation to Public Works on their Feb. 1st draft amendments. Two expenses are proposed to be included in the Total Operatng Expenses that are used to calculate the fare box revenue goal and thus fares.

Issue 4: The new category of "Non-capital Emergency Repairs" in Sections 10.34.005 E, F, and G

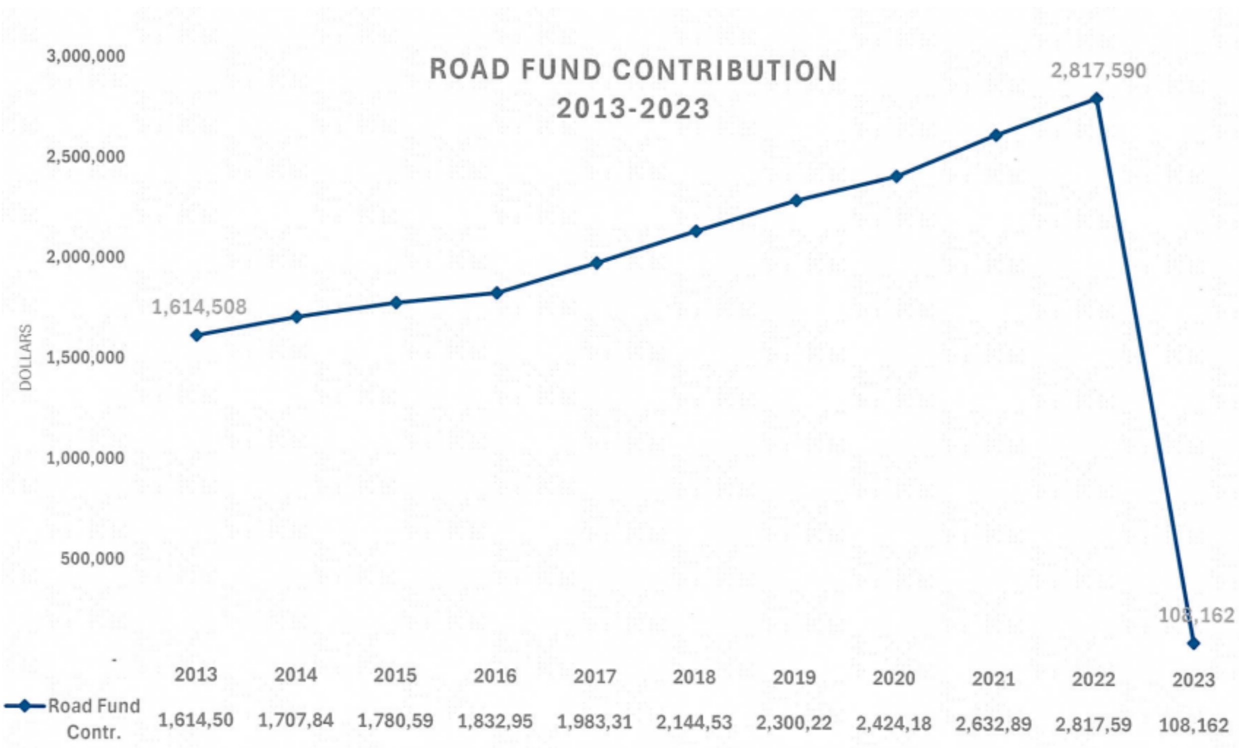
Issue 5: The redefining of lease payments as operating expenses in Section 10.34.005 F

C. Following the discussion section are the specific amendments that we ask the Council to make in the proposed code amendments. In some cases it was so complicated to show the changes in the proposed text that the existing text is shown so that it would be clearer what the changes in the existing code would be.

Issue 1: New on 4/9 “Ferry Fund Reserve Target” concept, Section 10:34.005 O

The Ferry Fund was started by the County Council in 2006 when they put **$1,587,137** from the road fund into a new enterprise fund, the Ferry Fund. Prior to that time all ferry revenues and expenses went through other Public Works accounts. Starting with the initial funding of the Ferry Fund by the CC, all operating income and expenses would be deposited into the FF and the 55% paid by fares would come from this fund.

The graph below shows the road fund contributions over time. Public Works deposited the 45% from the road fund each year until near the end of 2022. At this point Public Works decided that the Council had intended the initial deposit as a loan, so instead of contributing the annual amount they used the initial money that started the Ferry Fund to cover the 45% contributions from the county. Carefully reviewing all Council discussions of the initial deposit in 2005-2006, along with a CPA review during the 2011 Ferry Task Force report, shows no evidence for this change in policy.



By removing the reserve monies allotted by the CC in 2006, the PW change in policy has drained the Ferry Fund. The $ **1,587,137** the Council deposited worked well as a reserve and kept the fund stable, covering some years when fare revenue did not reach 55% while in other years the fare revenue built this balance to over $2 million. The FF fund depletion, increasing Operations and Maintenance costs and decreasing revenue has created the financial crisis that concerns the Council.

Defining a new "Ferry Fund Reserve Target when the Ferry Fund itself has operated well as such a reserve for 17 years is an unnecessary complication. Currently the farebox is not meeting the 55% due mostly to skyrocketing repair and maintenance charges and drydock payments double a few years ago, so adding yet another! assessment on to the required fare revenue does not make sense. The costs of keeping the aging ferry running and the expected reduction of fare income during the predicted six months of no vehicle ferry during the construction of a new terminal will likely postpone the ability of fares to add to reserves until after the new ferry is operational sometime in 2029.

See recommended code changes on pages 5 and 6

Issue 2: New on 4/9 proposal for restricting ferry rates, Section 10:34.020 M.

This is a new restriction on multi-ride tickets, stating that the discount for them cannot be more than 20% except for needs-based fares. This seems odd in that it makes it impossible to bring the discount into line with other WA county and state ferries serving commuter islands without a future County Council having to take up amending Chapter 10:34. Although the current County administration and Council may have strong opinions about what is appropriate, making it more complicated for future elected officials to set ferry rates seems excessive. *See recommended code changes on page 5*

Issue 3: New on 4/9 proposal for annual fare increases in Section 10:34.030.

LIFAC was informed by Public Works a few years ago that the costs of changing fares outweighed the benefits of a summer surcharge (which as proposed by WCFAC would bring in about $70,000 per year). To add this operating cost annually, when even the County adopts new budgets every other year, seems extravagant. Particularly when in many years the CPI increase would be very small.

In addition to the annual dollar costs of changing fare media, receipts, signs, and electronic programming, it adds a large amount of additional work for both county employees who must sell the new cards to everyone who uses them within a short period of time and a large amount of inconvenience for those who use punch cards and must acquire new ones within that same brief window.

WCFAC had proposed a different trigger for fare increases, one related to whether or not fare revenue reached the 55% revenue goal. We recommend adopting it instead.

See recommended code changes on pages 5 and 6

Issue 4: The new category of "Non-capital Emergency Repairs" in Sections 10.34.005 E, F, and G

This new definition attempts to narrowly limit to emergency situations the very large costs involved in repairing instead of replacing aging infrastructure that is beyond its useful life (according to documents submitted to the State). It will be Public Works choice as to whether to undertake a capital improvement or extraordinarily expensive repairs for the infrastructure that is on the island side until the new ferry infrastructure is built, and on the mainland side until 2046 when the tidelands lease is ended.

In our earlier recommended amendments, WCFAC suggested that fares could pay up to 10% of total fare revenue in any calendar year for "major or emergency" repairs (defined in the WCFAC amended test) in recognition of the costs of an aging infrastructure being used past its useful life. The PW proposal to kick in up to $150,000 for emergency repair simply means that there is no cap on expenses charged to fares and would result in large spikes that make a predictable increase in fares impossible. If there is no cap on the costs to be included in fare calculations, then these major and emergency costs should not be added into the Adjusted Total Operating Costs.

See recommended code changes on page 6

Issue 5: The redefining of lease payments as operating expenses in Section 10.34.005 F

The lease is a capital cost according to the County Charter and to accounting rules that Public Works invokes whenever definitions of maintenance versus capital costs are in question. Including the lease payments in operating costs was a mistake made by accountants beginning in 2011, and as in the Monsen letter where certain income was not credited, a mistake, however many years having been made, must be corrected.

If Public Works wishes to disregard accounting definitions about capital expenses in regard to the lease, we ask them to also disregard them in situations where aging infrastructure capital replacement is being delayed by instead making very expensive partial replacements and major repairs.

See recommended code changes on page 6

Recommended Changes to the Proposed Code Amendments:

ISSUE !: Delete entirely or delete last sentence: 10.34.005 **O**. "~~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.~~

ISSUE 2: Delete sentence adding new limitation on ferry rates: 10.34.020 **M**. ...~~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~~.

ISSUES 1 and 3: DELETE PROPOSED TEXT AND INSTEAD USE CURRENT TEXT MODIFIED AS SHOWN: 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~~ Fare Box Considered Revenue shall occur in order to verify the 55 percent Fare Box Recovery Rate is being achieved. The annual review shall be presented to the Whatcom County council during the 2nd quarter of each calendar year.

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~~ deficits in reaching the Fare Box Recovery Goal.

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~~ Cumulative Fare Box Reserve collected during prior years.

Beginning January 1, 2024, ferry rates shall be adjusted whenever the Cumulative Fare Box Reserve is negative or is greater than the annual Fare Box Recovery Goal. An adjustment in Ferry Rates or services shall be considered whatever the balance in the Cumulative Fare Box

Reserve after three sequential years of the annual Fare Box Recovery Goal not being met or three sequential years of the Fare Box Considered Revenue being greater than the annual Fare Box Recovery Goal.

Other ferry expenses shall be funded through other county funding sources, which include but are not limited to unincorporated area road taxes.

~~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).

ISSUE 4: Delete entirely 10.34.005 **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.~~

And also delete 10.34.050 **G** ~~**(6)**Actual NCER expenditures, up to $150,000 in a calendar year.~~

ISSUES 4 and 5: Delete proposed 10.34.005 **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.~~

Instead use existing text (with change in title): "Total Operating ~~Cost~~ Expenses" (TOE) 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.
