

# **Whatcom County Council Public Works & Health Committee**

**COUNTY COURTHOUSE  
311 Grand Avenue, Ste #105  
Bellingham, WA 98225-4038  
(360) 778-5010**



## **Committee Minutes - Final**

**Tuesday, June 20, 2023  
12:45 PM  
Hybrid Meeting**

**HYBRID MEETING - ADJOURNS BY 1:45 P.M. (PARTICIPATE IN-PERSON, SEE  
REMOTE JOIN INSTRUCTIONS AT [www.whatcomcounty.us/joinvirtualcouncil](http://www.whatcomcounty.us/joinvirtualcouncil), OR  
CALL 360.778.5010)**

### **COUNCILMEMBERS**

Carol Frazey  
Kaylee Galloway  
Kathy Kershner

### **CLERK OF THE COUNCIL**

Dana Brown-Davis, C.M.C.

## **Call To Order**

Committee Chair Kathy Kershner called the meeting to order at 12:45 p.m. in a hybrid meeting.

## **Roll Call**

**Present:** 3 - Carol Frazey, Kaylee Galloway, and Kathy Kershner

Also Present: Barry Buchanan, Tyler Byrd, Todd Donovan, and Ben Elenbaas

## **Announcements**

### **Special Presentation**

1. [AB2023-406](#) Update on the Healthy Children's Fund Implementation

*Clerk's note:* Kershner changed the order of the agenda items because two of them are related and she wanted to have those back to back.

Ann Beck, Health and Community Services, presented and answered whether they are leaning in a direction toward specific projects.

**This agenda item was PRESENTED.**

### **Committee Discussion and Recommendation to Council**

1. [AB2023-403](#) Resolution on the interpretation and retroactive application of ambiguous language in WCC 10.34.030, Use of Ferry Fee Revenue

Randy Rydel, Public Works Department, gave a brief history of how we got to where we are today. He stated there are two funding sources that Whatcom County receives and both come from the motor vehicle fuel tax. One of them is the ferry deficit reimbursement and the other is called the motor vehicle fuel tax attributable to ferry operations. At the time this legislation was implemented, just one of these sources was included in the calculation. That source was the ferry deficit reimbursement. The motor vehicle fuel tax attributable to ferry operations is funded by motor vehicle fuel tax but is derived by the County Road Administration Board and their allocation of motor vehicle fuel tax. They figure what they would have given the counties if they did not have a ferry and that differential is what is known as the motor vehicle fuel tax attributable to ferry operations.

Kershner asked whether the motor vehicle fuel tax attributable to ferry operations has been going into the Road Fund since 2006 and whether there is more of it besides what would go to the ferry that is going into the Road Fund as well, whether capital expenses are paid by the Road Fund 100

percent, whether there is reimbursement from the State to cover the capital expenses that we are paying for the ferry, and whether there is a reason we could not also use this motor vehicle fuel tax attributable to ferry operations to also cover capital expenses attributable to the ferry.

Rydel referred to the 2010 "Monsen Memo" (excerpt on file in presentation), written by Jeff Monsen, County Road Administration Board, which they received about a month ago and which made them re-think how they were interpreting the code. He answered how much of the ferry deficit reimbursement goes into the Ferry Fund, whether they are proposing to do the same calculation with the motor vehicle fuel tax, and whether we would need the American Rescue Plan Act (ARPA) money if this goes toward income that would count toward operations. Rydel stated this change makes it so there would be about \$1 million of excess fair box revenue at the end of 2022 so there is no cumulative deficit if this is done.

Councilmembers and staff discussed how they make up the gap in what they are taking out of the Road Fund, whether this would create a bigger burden on other people who do not use the ferry than there was prior to this because there would be less money in the Road Fund that would need to be made up with other taxpayer dollars, whether this is a one-time shift or whether they will do this calculation every year, whether the Ferry Fund would be square if the calculation changes but the Road Fund would be \$1 million short of what it could have been if they did not change the calculation, how ARPA funding comes into play, whether this shift erases the deficit in the fair box so we do not have to look at ARPA funding to bring it to zero but does not change the trajectory of the fair box recovery still pointing down, whether this would preserve ARPA dollars to use in some other capacity but would be spreading out the deficit across all the rural taxpayers that pay into the Road Fund, whether the Ordinance (which comes later) talks about doing this on a more permanent basis every year and then fares would be adjusted to stop the decline and bring them to a place where they are more stable, and what the ongoing impact to the Road Fund would be per year.

Elizabeth Kosa, Public Works Department Director, spoke about where to find the proposed Ordinance online.

Rydel answered who pays into the Road Fund and whether it is just rural residents, how other counties handle their ferry operations and how they pay their capital expenses, whether capital expenses in other counties that have ferries are paid out of the Road Fund, and whether this Resolution has

support from the Lummi Island Ferry Advisory Committee (LIFAC).

***Galloway moved*** that the Resolution be RECOMMENDED FOR APPROVAL.

Councilmembers discussed whether the Road Fund is collected from the fuel tax and whether the calculation is based on population, that this moves more of the cost of ferry operations onto rural residents who do not use the ferry, looking again at the fair box recovery rate percentage split and whether it is fair, the fact that this just clarifies the interpretation of existing code, and whether this would disproportionately affect people with lower-income.

**Galloway's motion that the Resolution be RECOMMENDED FOR APPROVAL carried by the following vote:**

**Aye:** 2 - Frazey, and Galloway

**Nay:** 1 - Kershner

### **Committee Discussion**

1. [AB2023-401](#) Discussion regarding ferry fares and Code revisions

Elizabeth Kosa, Public Works Department Director, briefed the Councilmembers on the proposed major changes to the code. She stated Public Works is not recommending a change to the current practice of how we do our operation and maintenance versus capital, and how that is determined. In a general calculation, ten percent of what the County spends on operation and maintenance annually over the last three years in the whole county goes to Lummi Island. She answered who is not in support of this Ordinance and whether the Lummi Island Ferry Advisory Committee (LIFAC) supports it or has a recommendation, what the proposed language was from the working group regarding the definition of capital, and whether there is something new in this proposed code change that says whether something is clearly operations or clearly capital. Kosa stated it is not supposed to be that specific. It actually gets you into a position where you might not be eligible for funding.

Donovan answered whether LIFAC gave a definitive recommendation on the Ordinance and stated he was not sure.

Kosa answered whether, even if you are repairing a physical element, that repair is considered maintenance, and stated that is correct. She answered whether these definitions for capital and operating are consistent with the way they are defining them in another Public Works division and Kosa

stated the way they do it with the ferry is the way they do it with roads as well. The adjustments to the definitions in this Ordinance would remove the consistency for them across other departments and divisions.

Councilmembers discussed how much people in rural Whatcom County are subsidizing the Lummi Island Ferry and whether it is equitable, and whether taking money from the Road Fund would mean fewer dollars that could be spent on roads in those areas.

Byrd stated he would like to know difference between median home prices on Lummi Island and in rural Whatcom County and how any increase (regardless of where it would be coming from) would impact those in the rural county. If we divert more funds out of the Road Fund or any other source, that means fewer funds that are available to solve those needs that are directly impacting those individuals.

Kosa stated with these proposed code changes, we are not proposing to change how we have been doing business. This is only if Council decided to further change the definition so that it would allow for more expenses to hit the Road Fund.

Donovan stated he would discourage the Committee and Council from going down the road where we are going to evaluate Public Works projects based on home values.

Elenbaas stated the discussion here is based around how we want to balance where the money comes from to fund the ferry. He does not think it is inappropriate to consider the equity there.

Donovan stated he agrees that this should be a discussion about how much the main beneficiaries or users pay for it versus the rest of the county, but we do not want to get into who is wealthier than who or home values.

**This agenda item was DISCUSSED.**

### **Items Added by Revision**

There were no agenda items added by revision.

### **Other Business**

Doug Ranney, Public Works Department, spoke about road closures and stated he did some investigating into codified requirements for Council to vote on road closures, and found that it is not a codified requirement for Council to vote on them. That has been a historical courtesy that the Public

Works Department has given to the Council. In most cases he would continue to bring road closures to the Council with some exceptions, including one that is upcoming in the city of Ferndale which will be closing Smith Road. There is no choice in that matter so he does not plan to bring it to the Council for a vote. If a road has to be closed it is something that Public Works can do but if there is a choice to be made, he can continue to bring that to the Council.

He spoke about current road closures and answered whether there have been any changes to them or to how we are operating, and whether there is any way we can push back on the State's Pole Road project so that it is not compounding the traffic flow off of Mount Baker Highway.

Elenbaas stated he recommends that Public Works run these projects through the Council in the future.

Elizabeth Kosa, Public Works Department Director, stated communication is a big thing for them and they are always looking for new ways to do that. She will write a summary for the Council after their meeting with the Washington Department of Transportation to let them know what is going on with regards to these closures.

### **Adjournment**

The meeting adjourned at 1:59 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

**Kathy Kershner-via email 7/18/2023**

\_\_\_\_\_  
Dana Brown-Davis, Council Clerk

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Kathy Kershner, Committee Chair

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Kristi Felbinger, Minutes Transcription

SIGNED COPY ON FILE