

**CLERK OF THE COUNCIL**

Dana Brown-Davis, C.M.C.

**COUNTY COURTHOUSE**

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**WHATCOM COUNTY COUNCIL**

August 12, 2010

Henry Cagey, Chairman  
Lummi Indian Business Council  
2616 Kwina Road  
Bellingham, WA 98226

Dear Henry:

Thank you for your letter dated July 30. I understand from your letter that it seems to you the County has done little or nothing since our June meeting. As you are no doubt aware, the past couple of months have involved some significant repairs to our aging ferry, the **Whatcom Chief**, and in a time when our finances are especially lean, we are again reminded of the considerable expense involved in all facets of the ferry operation. It is critical for the County to consider the totality of the ferry operation, including the ferry dock lease, and not treat any of the pieces in isolation from the others.

You have again graciously extended an invitation to our Council to meet with the immediate goal of finalizing the lease agreement. We accept that invitation and will suggest a few considerations later in this letter for the format of such meeting(s).

You distributed your letter to members of the public which informed them of the Lummi's position. In case there is any misunderstanding, in response to your last and final offer the County countered with an offer of \$200,000 (fixed payment) per year for a 25-year entire lease. We note that this figure, which we have been paying at the rate of \$16,667 per month, is just over three times the amount of the annual fair market rental value (\$65,000) of the ferry landing property as determined by a professional appraiser hired by Lummi Nation. We also note that the appraiser placed a value of about \$410,000 upon the purchase of the entire property in question, tidelands and uplands. Our offer, after 25 years, would compensate Lummi with \$5,000,000, which is 12 times greater than the 2008 Lummi appraisal for an outright purchase.

Lummi Nation's last and final offer as conveyed by your letter, if effectuated in a lease, would necessitate the payment of an average of \$424,000 in the first year of a 35 year lease period, adjusted annually for CPI adjustments. If these CPI adjustments averaged 2.5% per year, the 35<sup>th</sup> year of your proposal would have Whatcom County making an annual payment of \$1,006,241. Over the entire period of the lease, the county would pay \$23,871,831, which is more than 58 times greater than fair market value placed by your appraisal on the purchase price for the property.

When discussing the 2008 Lummi appraisal, we note that Whatcom County continues to own a portion of the uplands within that area that was appraised, so the estimated fair market value for both rental and purchase includes value for property that the County already owns. However, the inclusion of County property in the appraisal, while inflating the appraised value, is not our primary difficulty in responding to Lummi's offer.

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A large part of our difficulty in making a counter-offer beyond what we have already done is that we are geared by experience and ordinarily by law to relate our lease terms to fair market value. Once we go beyond that amount, as we have done here by three times the amount of appraised value, we have no discernible objective basis to gauge what we should pay apart from the parties' demands. We believe that the use of a skilled mediator in the remaining negotiations would help us to break through the current impasse.

As to the parties to the negotiations, it does appear that it is time for the ultimate decision-makers to be face-to-face at the table. The County Council works under the restrictions of the Open Public Meetings Act no matter where it meets, so the presence of a majority of the County Council in negotiations necessitates for us an open public meeting. We are willing and prepared to do that as our first choice. A meeting closed to the public would require us to delegate no more than three members of our Council, and no two of them could be members of a council committee that has responsibility for this matter. If an open public meeting does not work for you, please let us know so that we can provide that smaller delegation. Please understand in this circumstance that any final decisions regarding a particular offer would still require a vote of the entire council subsequent to a 'delegation' meeting.

Now that you have provided to the Lummi Island residents the substance of your position, we are scheduling a community meeting with island residents to discuss your offer and to hear their preferences and concerns. That meeting is set for August 24, 6:30 p.m., at Beach Elementary School. The input of island residents will give us a better sense of their response to your offer, which will provide greater clarity for Council members as we negotiate.

In sum, thank you for your letter and its clear public statement. Our Council is willing to meet, whether publicly in its entirety or otherwise, and will establish with you an acceptable time that follows our meeting with island residents on August 24. We believe it helpful to our negotiations and urge that we secure a skilled mediator to help us to work past our differences in order to achieve a mutually acceptable result that is both beneficial to Lummi Nation and still affordable for Whatcom County and island residents.

Sincerely,

  
Sam Crawford, Chair  
Whatcom County Council

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