

# LUMMI ISLAND FERRY ADVISORY COMMITTEE (LIFAC) MINUTES

## 2/8/23

**Location:** Public Works, Garden Room, Bellingham

**Meeting called to order by Chair, Judy Olsen at 6:05pm**

### **ROLL CALL:**

Judy Olsen (Chair), Mary Marshall (Vice Chair & Secretary) , Cris Coburn, Jim Dickinson, Todd Lagestee, Mike McKenzie, Rich Frye

### **Others:**

Rich Hudson, Todd Donovan (County Council) Bruce Coury,  
Lane Davis-Courey, Connie Hahn, Kathleen Gallagher, Ralph Steele

### **Open Session for Public Comment:**

**Lane Davis- Coury** – Requested that Public Works or the county send notices via mail to ALL islanders regarding Fare Increases/New Rates as many don't use internet. Possibly LICA could help with distribution.

- **Judy** – *We do utilize the tome, which most residents receive. But will see what else can be done to get the word out. Draft Minutes are usually available within a week of the meeting.*

**Connie Hahn** – Let everyone know she is Deaf and been a resident for 38 years. Wanted to support the ferry passes for low income residents and cannot afford to have an increase. She doesn't feel the county supports low income residents. Perhaps more subsidies much like they do with gas or electricity or with those with very low income.

- **Mary** – LIFAC has firmly supported and recommended no change to Needs Based fares, and the Council and Public Works are listening. Could Todd speak to potential subsidies?
- **Todd Donovan** – Confirmed that Council has heard the request and realizes the need to keep those the same. Basically all ferry rates are subsidized (the county pays 45% of all expenses) and definitely is sympathetic to those in need of a helping hand.

**Kathleen Gallagher** – As a 20 year resident, would encourage no change in Needs Based fares and really for all fares, but understands that may not be possible. Fares were \$4 when she moved here and now medical appointments due to several issues require at least a couple of visits a week. Would like the minutes of the meeting and information relating to the ferry to be posted at the Islander, the Post Office and the Library. Would like the idea of the State taking over the ferry if Whatcom County keeps raising fares. And would like handicap access to happy about a new ferry that will address that.

- **Jim** – Believes the state does have a better discount program for needs based.

**Ralph Steele** – A part timer on the Island, and I've submitted my opinions to LIFAC and to Public Works. I get very concerned when council members talk about funding the deficit when there is no deficit, according to my reading of the ordinance. Basically, there is actual accounting for expenses and then a theoretical calculation for the 55/44% split, which is where Randy Rydell get's the deficit as to whether we comply or not. It's not an actual fund, it's just an accumulated and recorded calculation. After the financials, it's an off the book calculation. I am waiting for Randy to respond to my email of 1/23/23 but have not heard yet. When you look at costs from 2019 and 2024, if you back out the rental fund (which is used during drydock), which has risen enormously, it would only be a 2.2% inflation rate, therefore the rates should not be raised more than that. Should use "Actual" costs, not projected costs when calculating fare increases. Growing a fund for future is not "Actual" expenses, so should not be considered when calculating. There is \$2.3 in the fund so it's adequate. Reading this ordinance, then we are in

complicance and there is no deficit, therefore no need for increases. Nor would there be a need for ARPA funds. Should have a legal opinion as to what is an operating cost and what is capital.

- **Rich Hudson** – The numbers are not necessarily correct, and we do have a deficit but Randy Rydell can help clarify.
- **Cris Coburn** – As a committee member, we cannot answer questions or determine whether your opinion is correct, so let's wait to hear from Randy. They also have been working on this for several months and I trust that they are operating under correct assumptions. As well, they have plenty of good legal help.
  - **Ralph Steele** – They do not have good legal help, I have spoken to two good lawyers who disagree with how it's being interpreted.
- **Rich Frye** – Speaking to Ralph, after we spoke this afternoon, I don't understand if this funds exist, why isn't this used? Ralph said the fund exists and he confirmed that with Randy, but Ralph believes this to be just an on paper transaction – and since the deficit doesn't really exist, we don't need to use the fund.

### **Minutes Consent:**

**Motion to approve January 2023 Meeting Minutes – Approved (unanimous consent)**

### **Committee Activity:**

- *Terms end Jan. 2024: Mike McKenzie(1<sup>st</sup> term) & Jim Dickinson (2<sup>nd</sup> term)*
- *Terms end Jan. 2025: Judy Olsen, Mary Marshall, Rich Frye, Cris Colburn, Todd Lagestee*
- *Can have no more than 5 members as Island Residents*

### **Reports, Presentations and Discussion:**

Mary report out on recent Meetings:

#### **Recap of 1/24/23 Whatcom County Finance Committee Meeting**

- Judy and Mary requested permission to address the meeting (Mike McKenzie, Cris Coburn and Rich Frye were also in attendance)
- Elizabeth Kosa from PW explained the rationale for the rate increases – the ordinance requires Public Works to inform the County when the Ferry Fund is not covering the mandated 55% of the ferry operating costs. She also mentioned that she would like some time to “clean up” ordinance.
- Council members asked about the difference between capital and operating costs that several Islanders had questioned
- Randy Rydell – Finance Manager for PW, answered that everything has been classified according to best practice accounting principals and has been audited and deemed correct
- Mary explained to Committee with the urgency of the fare increases, due to the significant deficit (caused by increased prices of fuel, wages and additional maintenance due to the age of the ferry), the LIFAC committee could not support any of the proposals in their current form and would like more time to evaluate options.
- LIFAC would like to look at the ordinance, and do what we can to mitigate the impact of the fare increases as well as make sure we don't find ourselves in this situation again.
- Judy supported the points and said that due to no real increases since 2011, aside from a surcharge in 2015, the amount of the increase is really hard for Islanders to absorb and perhaps a gradual increase to get back to the 55% would be better.
- Randy Rydell explained that the current increases do not even get us to 55% until 5 years out – emphasizing the scope of the deficit.
- Councilwoman Kershner asked if we had received any covid money – which we had not.
- She said she thought some ARPA funds might still be available – about \$500K – which would significantly help with the deficit.
- The committee agreed to postpone the ferry increase conversation until March 7<sup>th</sup>, at which time we will know whether or not we have access to the ARPA funds and also give us time to come up with a graduated fare increase proposal that LIFAC can support.
- At the County Council meeting on January 24<sup>th</sup>, several islanders asked that fares not be raised and provided rationale.

### Recap of Meeting with PW on Ferry Ordinance – 2-1-23

- Per Councils request, Liz asked Judy and Mary to join Public Works to begin reviewing the ordinance. Roland, Rich, Randy, Elizabeth attended.
- Elizabeth Kosa (Interim Director of Public Works) suggested that we change wording to say that people have 3 months to use old punch cards after new fares go into effect and that old punchcards can be traded in for the face value to purchase new cards. We agreed with this Suggestion.
- We asked that future increases be capped at a maximum of 20%
- We asked that regular annual increases/decreases go into effect annually from 3-5% with a specific review date, increase date etc so that everyone knows what to expect and no more huge increases or surprises – not to automatically raise the rates but to have a process for review and revision if needed.
- Also found out that we can decrease fares and not lose state funds.
- There is no desire on the behalf of PW to recommend a change to the 55/45% ferry fare recovery split because there are several council members who strongly believe the ferry fares should cover all expenses, which could make things much worse for us.
- Clarification of actual operating expenses and capital expenses – if it exists, its an operating expense, if it's new, it's capital.
- An audit report done by an advisory committee in 2011, led by Pat Dunn concluded that the ferry fare calculations were done correctly, in accordance with accounting principles and in compliance with the ordinance. This was brought to our attention because Rich Frye had contacted both the WA state auditor as well as the WSDOT to ask for an audit of Public Works. The WSDOT auditor replied that all was in compliance.
- We recommended summer surcharges
- All of the suggestions are being considered and we will see a draft of proposed changes prior to our March LIFAC meeting.
- We asked for the following consideration as to fare prioritization in order of importance:
  1. Minimal/slight or no changes to Needs based Fares
  2. Keep student fares low (proposed changes 1/10/23 okay – could be the same as NB for the sake of simplicity)
  3. Multi-ride Vehicle fares
  4. Multi-ride passenger fare
  5. Single ride passenger
  6. Single ride Vehicle
  7. Bicycle
  8. All other larger vehicles,, motor homes and buses

### Recap of PW Committee meeting on 2/7/23

- Attended by Judy, Mary, Cris
- Committee heard the proposed changes, discussions from Elizabeth Kosa and was open to them.
- Asked for further discussion of the changes on March 7<sup>th</sup>.
- Agreed that new ferry fare rate discussion may not happen then as we would only be learning about the possible ARPA funds.

### Discussion:

**Rich Hudson:** Confirmed that we can reduce fares to the 2015 level if we end up with surpluses in the future. (State ferry deficit fund)

**Todd Donovan:** Confirmed will not have a fare increase to vote on by March 7<sup>th</sup>, Randy will do the modeling and have something present late March or early April, putting the actual increase in effect up to 60 days following.

**Rich Frye:** Seems like there is too much work going into a ferry that is going to be replaced in 4 years and then everything will change so why go to the trouble. Just slow down and keep things in place till then, no increases. As Ralph pointed out, until 2019 there was never an issue with the fund. The pandemic was responsible for the issues, so most likely ridership will improve so it obviates the need for increases, especially if there is \$2.5M in the ferry fund. Also researched other ferries and most systems have surcharges in the summer. The need is to protect islanders way of life.

**Rich Hudson:** The surcharge is being looked at and will be determined after we know about ARPA funds.

**Todd Donovan:** The summer surcharge targets visitors, which for Whatcom county residents who visit the Island and already pay whatcom county taxes, it feels like it's an additional tax.

- Judy – agreed that it may not be fair for Whatcom County residents and could be considered an additional tax

**Rich Frye:** My tests of customers at the Islanders says that summer season visitors are coming for one time. Which is different from those who have to commute every day – and the daily commute would be \$3500/year, which is not fair. Tourist budgets would not be impacted as much as frequent users. The assumption that ridership is not going up and expenses are not going down is inaccurate. And since there is no deficit, nothing needs to be done.

**Mary Marshall** – This is a circular argument. Costs are up, ridership is down, something needs to be done.

- **Rich F.** – I don't agree with that.

**Mary** – That's your opinion, which you are entitled to but it doesn't seem to be supported by facts.

**Mike** – Asked Rich Hudson how much more are the operations today than when the fares were set in 2011 and the answer was 400% so it's just common sense that we would need to look at increases. I respect your opinion Rich Frye, but increases are inevitable. Also, the bulk of the ridership is commuters, so they SHOULD be paying the bulk of the fees.

**Todd Lagesse**– Might be a problem trying to do a surcharge in the summer when the Willows has closed, there might not be the traffic you think to adjust for the difference. Also, Social Security has increased 24% over the last several years and we're looking at an overall 20% fare increase so it is on par with other increases. Even though it seems like annual rate increases seem easy, it might be something we don't always need.

- **Mary** – we are not advocating for an automatic annual rate increase, it would be reviewed and if it met certain criteria it would be triggered, not just to raise it every year -there would be a floor and a ceiling.
- **Cris** – When we know about the ARPA (American Rescue Fund Act) funds, we can have a much more informed discussion about the actual increases.

#### **Ferry Operations Report: Rich Hudson**

- **Dry Dock Dates: April 29<sup>th</sup> – May 20<sup>th</sup>.**
  - Departure and return on Saturdays because kids aren't in school, exact times depend on times. One the 29<sup>th</sup>, no ferry at all in the morning and on the 20<sup>th</sup>, not any ferry in the afternoon until the Chief returns.
- Bid documents out to advertise for bid/work -estimates will be well north of \$700K
- Hope to notify residents when tides make it difficult for handicapped individuals
- All repairs to the dolphins went well according to plan
- Since last scheduled maintenance in May, no work has been needed on the ferry!
- Kellsey McLane is going for her captains exam!

**Jim** – Asked if Rich would entertain the “Truck” for service during drydock, it's a small car ferry.

- Rich said “No” as it is not certified and has no back up vessel plan. Doesn't meet specifications.

**Judy** – We will begin conversations about the new ferry, the prolonged dry dock and what options we may have in May with Roland Middleton from Public Works.

- **Jim** – I have been doing an evaluation of the “new ferry” and am writing a report and concerned about fuel use and the hull design. When would the committee like to see it?
- **Judy** – The committee won't make a decision about a boat design as that is not our mandate.
- **Jim** – Do you all want to add another \$2 to the fare? I think it should be made available to the public.
- **Rich Hudson**– The consultants have said the fuel costs are equivalent and we'd be happy to see your report.

**Mike** – Grateful for the work of the committee, the islanders, PW, the ferry and their crew, the County Council and that Todd, you take the time to be here.

#### **Action Items:**

1. Cris Coburn will write a letter to the Lummi Nation re: naming help for new ferry

**Judy:**

- **Adjourned meeting at 7:30 and thanked Attendees for participation and ideas.**

## Draft Lifac minutes 2/8/23

### Rich Frye comments/ corrections/annotations

1. Bottom of page 1: "There is \$2.3 in the fund"...should read "\$2.5 million"
2. Top of page 2, I am paraphrased as saying some pretty confusing stuff:

*"Speaking to Ralph, after we spoke this afternoon, I don't understand if this funds exist, why isn't this used? Ralphs said the fund exists and he confirmed that with Randy, but Ralph believes this to be just an on paper transaction – and since the deficit doesn't really exist, we don't need to use the fund."*

I believe Ralph's real points and my comments in this discussion were more about the lack of transparency in PW ferry fund accounting, including:

- 1) the lack of a paper trail showing the PW calculation and carryover of the annual "ferry fund" balance over the past few years; and:
- 2) the rules governing the ferry fund *do not justify fare increases for projected future deficits*, only deficits that have already occurred, and for which no calculations have been provided by PW.

3. Center of page 3:

Text: *"The WSDOT auditor replied that all was in compliance."*

- 1) There's a WSDOT auditor..?
- 2) The letter I got from WSDOT said nothing about compliance. Rather it quoted the same general language as in our annual agreement with them, which by coincidence actually uses dolphin repair as an example of a *capital expense that cannot be called an operating expense*. Technically, in response to my inquiry, they neither confirm nor deny that PW has been breaking the rules.

The point here is that the "WSDOT auditor" statement provided should have a reference and a precise quotation about what exactly did what particular auditor examine to determine that what exactly was in compliance with what exact rules?

**From:** Leingang, Eileen  
**Sent:** Wednesday, February 01, 2023 8:16 AM  
**To:** Richard Frye <[richf@flowingbody.com](mailto:richf@flowingbody.com)>  
**Subject:** RE: [EXTERNAL] wsdot contract with Whatcom County re ferry

Good morning Mr. Frye,

The Office of the Washington State Auditor reviews the financial activities of all local governments and provides an independent opinion on their financial statements that summarizes the results of its operation and cash flow.

Based on the information provided and the concern raised regarding this matter, we do not see anything that would warrant further consideration for a WSDOT audit. The county's decision to classify the expenditures to replace some pilings within a dolphin as operating and maintenance falls within the TERMS & CONDITIONS of the agreement.

*Operating and maintenance expenditures are defined as:*

- *Routine costs of operating and maintaining the ferry, including salaries, benefits, fuel, supplies, utilities, repairs, inspection, advertising, taxes, small tools, land leases, rentals, postage, printing, etc.*
- *Routine anticipated replacement of piling, wing-wall facing, repairing docks, etc. which does not extend the useful life, nor increase the efficiency or capacity of an asset.*
- *Routine dry-docking and associated repairs to maintain the vessel's certification.*
- *Routine engine repair or rebuilding.*
- *Work directed toward preservation of the existing roadway or facility and related appurtenances as necessary for safe and efficient operation.*
- *Any surface treatments less than .06 feet thick, crack sealing, etc.*
- *Other work not defined as capital and agreed to in writing by WSDOT.*

Thank you,  
Eileen Leingang  
Finance & Administration Manager  
Local Programs

**From:** Richard Frye <[richf@flowingbody.com](mailto:richf@flowingbody.com)>  
**Sent:** Monday, January 30, 2023 11:06 AM  
**To:** Leingang, Eileen <[LeingaE@wsdot.wa.gov](mailto:LeingaE@wsdot.wa.gov)>  
**Subject:** [EXTERNAL] wsdot contract with Whatcom County re ferry

**WARNING:** This email originated from outside of WSDOT. Please use caution with links and attachments.

Dear Eileen,

After our conversation last week I was able to locate and contact the Bellingham office of the State Auditor's office and initiated an inquiry about ferry accounting practices.

While that is going on, I would like to follow up with your office about our annual contract with WSDOT. As we discussed, page 1 of the contract quite clearly lays out a definition of capital costs that should NOT be allowed as ferry operating costs by the County. That definition is consistent with standard industrial accounting practices that adding value, extending service life, or improving function are all properly considered capital improvements.

In case I didn't include this information in my previous email, below is a quotation from a recent email from Randy Rydell, the chief accountant for Public Works, on our challenge to the inclusion of major recent structural repairs as "ordinary maintenance" and charging them against fare box receipts:

*"I do not believe that a document explaining why the dolphin contracts are considered part of operations maintenance exists. Public Works routinely has robust conversations regarding capital vs maintenance for many types of projects but this one did not warrant any notable documentation given that it is a straightforward replacement of compromised components requiring minimal engineering. I reviewed the plan set for the dolphin repairs yesterday and believe that it provides clarity to Whatcom County's decision that this is a maintenance and not a capital cost. For the 2022 repair, we replaced 7 of the 29 piles that make up the existing dolphin. For the 2023 repair, we are replacing 9 of 32. These piles are being replaced because there were failing units within the larger dolphin that were reducing its impact capacity. Yes, individual pieces within the dolphin were replaced, but the replacement of a failing portion does not constitute a new dolphin. These repairs help to restore the impact capacity of the dolphin. The replacement of piles in our dolphin only happens when enough fail to compromise the function of the dolphin. As you have noticed this is not on an annual schedule, but that fact does not make it any less routine. "*

All of this is important because every \$4 in fares costs a frequent commuter about \$1000/yr. Current fares for a car/driver with a multi-ride pass cost about \$2500/yr. A pedestrian or vehicle passenger with a multi ride pass pays about half that at \$1100. Under the proposed fare increases, both would pay another \$1000 per year, making it very important that we understand WSDOT's interpretation of the contract. Who is responsible for enforcing the terms? Is there a regular audit practice at WADOT to confirm that County ferries are playing by the rules? What are the consequences if the County has violated this requirement by consistently overstating operating costs by including major capital repairs as "regular and routine maintenance?" Are there any?

Since all of this could conceivably wind up in court, we need to develop as clear a picture as possible of the rules and practices governing State oversight of ferry funding and accounting.

The legal requirement of County law currently specifies that fares must pay for 55% of all "regular and routine" operating costs. With about 500 full-time households, that's a heavy lift by itself, and downright oppressive if it is being deliberately overstated outside the rules.

Thanks for any clarification you can provide about WSDOT's oversight role and practices; we are deeply grateful for your help.

Best regards,

Rich Frye

Lummi Island