

LUMMI ISLAND FERRY ADVISORY COMMITTEE (LIFAC) MINUTES
6.14.23

ROLL CALL:

Mary Marshall, Judy Olsen, Jim Dickinson, Mike McKenzie, Todd Lagestee, Rich Frye
Cris Colburn, excused.
Approx. 25 members of public

Flag Salute & moment of silence

Abbreviations used are as follows:

LIFAC – Lummi Island Ferry Advisory Committee

PW – (Whatcom County) Public Works

WG – working group

CC – (Whatcom) County Council

MVFT – Motor Vehicle Fuel Tax

Mary opened meeting with prepared notes inserted here:

[Previously prepared comments are inserted in blue.]

Welcome and thank you for coming tonight.

Introduce Members:

I would like to remind everyone that LIFAC is an advisory committee to the Whatcom County Council, we do not make decisions but rather work WITH (not for) both Public Works, Council , Whatcom County Residents and the Islanders to make recommendations regarding all things ferry related – in an ADVISORY capacity.

We are not asked to provide legal, accounting or any other expertise as Council and Public Works have plenty of that already.

With all the information, and misinformation out there, especially on Next Door, please remember that all are entitled to your own opinion, but not your own facts.

Facts:

1. Council is set to vote on a proposed amendment change on June 20th that was held over from the April meeting:
 - a. some minor working edit changes
 - b. a provision for Islanders to trade in punch cards for full value when the fares go up

- c. a schedule for rate increases, if needed, in the future so it can be done in a thoughtful manor
 - d. a clarification of capital vs. operating expenses
 - e. Being able to accept ARPA funds and other funds as available
 - f. a commitment to needs based fares as staying as low as possible
 - g. Clarifies the interpretation of the MVFT per the Monsen memo
2. Council is also set to vote on a resolution to recapture the MVFT funds going back to 2007, without this, the current surplus of approx. \$1M, goes away.
3. A group of islanders have made a separate proposal, which they have presented to PW, Council and the Executive
 - a. Several minor changes to wording
 - b. Recommending that council revert back to the old wording of capital vs. operating using “regular and routine maintenance” for operating expense.
 - c. This is the same language that Public Works used to justify classifying the Dolphin repair as maintenance
4. Diane Harper was able to find an old memo defining how the MVFT was to be calculated and if correct, results in a \$1M surplus in the fare box. NOT \$2M – the other surplus is excess Road Fund contributions from the county that are used as a “float” and will likely be pared back at some point.
5. Currently, this allows PW to postpone a fare increase until January of 2024 – we are currently operating at \$46K per month deficit, which will eat up that surplus fast
6. PW is considering a 10-15% increase and then will evaluate going forward depending upon ridership and expenses and how Council votes on both the proposed changes and the resolution.

Rich Hudson could not be here this evening due to his fathers illness but wanted me to let everyone know that as an Islander, he strongly supports the current proposed changes to the ordinance from PW before council as well as the resolution.

I would also like to remind everyone that this meeting will be conducted with respect for all, and any unprofessional or disrespectful behavior will not be tolerated, or if the meeting is otherwise disrupted, the meeting will be adjourned.

Let’s remember that everyone’s opinion is valid and valuable, let’s make sure that all are heard and assume positive intent. I think this will enable us to have a productive meeting.

MAY Minutes Consent

APPROVED 6-0

New Terminal Preliminary Update – Roland Middleton, Special Programs Manager, Public Works

Roland was last here in September or October of last year when he initially presented to LIFAC the prospect of an extended passenger-only service time frame needed to build the new terminals. Since then, PW has been working with the maritime administration on the permitting necessary for performing the terminal work on both sides. James Lee of PW oversees the terminal projects. This project is not a typical project for them. To date, a request for proposal has not been submitted.

Roland suggests that beginning this year in the fall that we start having community or town hall meetings to discuss the needs of the community during a long-term passenger only situation as we will need alternate plans for things like propane, mail delivery, garbage, and recycling, etc. PW has been looking at things like landing crafts and barge sites to potentially be included in plans to deal with the situation.

There are issues with eel grass on both terminal sides, but the Island side is the one that will create the most difficulty and take the most time as eel grass surrounds the entire terminal and there is no ability to move around it. Work can only be done during certain timeframes – or fish windows during fall and winter.

Mary asked if Gooseberry Terminal is moving at this time. Gooseberry terminal is not moving at this point, there were hopes that it could be moved to its ultimate location at the time of this terminal work but that is not going to be possible. In the future a new terminal will move about 600 feet to the west from its current location. Lummi Nation would like more room for its fish processing operation and moving the terminal will provide for that. At the new, future location there is more room to queue cars and room for the potential business opportunities.

The new terminals will have emergency access docks placed first before work begins on the terminals. These will be fully accessible to wheelchairs etc. and will remain in place in the future.

Judy asked about the concept of an eelgrass offset such as is done with carbon offsets. Roland explains that this is up to Lummi Nation. They have the veto power for both terminals. This is the reason that in Bellingham the Taylor dock is not complete – Lummi Nation vetoed the permits.

Rich Frye asked, generally, about collaborating with Lummi Nation. Roland says that currently PW, at the staff level, is working very well with the Nation and relations are much improved over prior years. It's felt that PW sees Lummi Nation as benefiting the greater community of Lummi Island and that the island is a positive benefit to them.

Rich Frye inquired about breaking up the amount of work over several different dry dock time frames. Roland explained this is more about the finances than it is about the engineering. The funds have to be expended in a certain period of time - it might be possible to stretch the work over two seasons or two windows.

Mary attempted to outline a time frame for work to be done beginning this fall (2023). Roland recommends initiating community meetings to break out all the myriad solutions that will be necessary.

Roland mentions that his staff is in frequent communication with congressman Larson which helps as he is the ranking member of the transportation committee.

Kathy Shornick spoke and asked how Roland envisioned the community involvement happening to plan for this event.

Jim Dickinson mentioned that when San Juan needed new docks built, they built a new one right next to the old one.

Pam Gould spoke to the need to elevate the roadways due to sea level increase.

New Ferry Naming – no report today

Operations Report – given by Roland from Rich Hudson

Successful dry dock – all repairs and maintenance completed.

After returning from DD vessel experienced extra air leaks on main engines causing extra exhaust. Tri-county marine to address this (under warranty).

Given that the passenger-only vessel didn't miss any of its runs (EMS calls aside) marks one full year of service with no unscheduled services outages due to electrical or mechanical failure, until the steak was broken with a lost hydraulic cylinder on island side apron. The Chief was only out service for about an hour.

Bridge crew pulled off fastest swap out of that ever done.

This summer, when possible, will be scheduling an extra deck hand during busiest part of day.

Toilets are fixed in public restrooms, and other repairs.

Back parking lifts are fixed and functioning properly.

Open Session/Public Comments

Bob Anderson

My name is Bob Anderson. I serve as moderator of the Lummi Island Work Group. The Work Group has grown since April and now includes 14 people with expertise in accounting, legal drafting and the law, economics, education, and communications. We've put in literally hundreds of hours analyzing how the current system of ferry finances has worked over the last 17 years.

Tonight, I am here as an individual and a Work Group member, but also to give voice to Islanders who have signed a petition because they are deeply concerned about the proposed changes to the ordinance. The bottom line of the petition is to request LIFAC's support of postponing action by the County Council on the proposed ordinance changes.

As of this moment, 576 people—more than half the population of Lummi Island—have signed this petition, and this happened in just 5 days. Surely this speaks volumes about the need to pause on the ordinance changes. I would ask you to please enter the signed petition in the minutes of this meeting. I will also provide an electronic version of the petitions for the record.

The Council ordinance which created LIFAC says this Committee is, and I quote, *“to provide a forum for those who depend upon the Lummi Island ferry service to voice their ideas and concerns about the ferry service.”* Please listen to and respond to these voices. They are saying please don't rush this process. Let us be involved in the deliberations and let us help you to get it right.

Four days ago on behalf of the Work Group, I sent LIFAC a set of proposed amendments to the Public Works version of the ordinance asking for the full Committee to consider them, and at least, to recommend to Council a postponement of a vote on June 20. The LIFAC chair informed us that you would not be considering our recommendations any further beyond the discussions we had with the three LIFAC members of the Ad Hoc Committee.

In our letter we highlighted three areas in particular that need to be made crystal clear in the ferry code. These will be mentioned by other Work Group members in a moment.

To conclude, the proposed code is flawed. Whatcom County can do better. The Lummi Island Work Group's proposal is a starting point for genuine dialogue on this important subject. There's no urgency to legislate so let's take the time to get it right. The County Council should not approve a revised code which has significant shortcomings.

We ask you to make this recommendation.

Diane Harper

The law that has governed ferry fares for the past 16 years says that fares are responsible for a portion of “all actual daily running expenses and all actual regular and routine maintenance and administrative expenses associated” – note that maintenance expenses are qualified. Public Works has proposed changing that to all expenses that are not capital costs will be included in the fare calculation. What makes this confusing to many of us is that major repairs that Generally Accepted Accounting Principles (GAAP) would have been able to classify as capital a decade ago now would not be considered capital expenses. The net effect of no longer limiting maintenance to only what is regular and routine would be that some unusual and unusually costly maintenance tasks would be included in calculating fares. The graph below shows this impact on what have been regular and routine maintenance costs since 2006. The associated fare impact is an increase of about \$400,000 or about 3 months of fare collection.

Simple fairness begs the question of why should unincorporated county residents pay more instead of ferry users? The answer is that the scale of the impact is too different for it to be fair: when someone buys a home or takes a job, they consider commuting costs. Increasing the commuting cost substantially by surprisingly large maintenance expenses is a significant burden that ferry users would pay compared to what other county residents pay when the roads they use need unusually expensive road or culvert or bridge repair.

It is important in answering future questions to keep the original 2007 date in the code, and to state clearly that excess fares collected are to be used only to cover fare deficits. Public Works has some good changes in their proposal, and they are included in the LIWG suggested amendments. But the change from 16 years of predictable (regular and routine) costs to unpredictably large future costs is too great to support Public Works proposed Chapter 10.34. Please don't.

I appreciate the willingness of LIFAC members to volunteer to serve the community – island and county. I remind you that the ferry is only about 7% of the Public Works budget, so limited staff time is available to develop drafts. That makes your tasks to review, analyze, and provide suggestions on ferry issues so very important – take advantage of the expertise available to you from other volunteers in fulfilling your duties. I would be happy to answer questions. Thank you.

Janice Holmes

I want to speak to the PW proposed version Ordinance.

3rd change recommended by WG that was not accepted by LIFAC members on the Ad Hoc committee is something that has potential to have really large impact going forward and that's how to account for any excess fares over the 55% target rate. Right now it says that excess goes to operations, proposed change is to insert word > solely < so that any excess fare revenue would go solely to future operations. That means that in a future year when might be a deficit there would be no fare box reserve to cover that deficit and the end result of that would be that the fares would actually cover more than the 55% which is what the code requires.

So it would be contrary to the code provision.

So that is something that is unfair to take excess revenue from people if it's more than what was necessary to meet the 55% to take that and apply that somewhere else – it's not right – means we would pay more in long run which is contrary to code.

There us other information based on information shared this evening. There is a \$1m + surplus of fare revenue now – also \$1m surplus in ferry system fund reserve that is part of County initial \$1.5m contribution. There is no indication anywhere in legislative record that this contribution was a loan or should be paid back or should be taken back to the road fund. This was a contribution to create a reserve for exactly the situation when there is unexpected high cost repairs needed to be used in that manner to essentially cover a 3-6 month of reserve cost.

Another issue is the \$46k/mo. deficit. This is thru 2023 – this is a number from PW – PW also projects the deficit in 2024 of only \$22k – the \$46k is direct result of expense of dolphins but they will now have been paid for so the deficit will drop in 2024 to anticipated \$22k – should ARPA money come through, that would reduce the 2023 deficit to \$19k/mo – not \$43k.

With a \$1m surplus you can see that is enough surplus to carry through another several years.

Marissa Ourada

From mid-west – new to LI – good place to raise a family.

Fare box and fare increases need to be scrutinized heavily and so do the proposed ordinance changes. We shouldn't just accept public works' version of the ordinance – only a few words need to be removed from the existing ordinance to allow us to accept ARPA money into the fare box, the rest of PW's proposed changes are to make it easier to interpret if we already know how to interpret the existing ordinance why do we need to change it? The ordinance changes appear to give PW broad latitude to add charges they like to our fare box. I was already questioning the presence of the dolphin repair as an operating expense in the fare box. The ordinance changes mean that this questionable accounting decision is accepted into law -- what else might PW add to our fare box – shouldn't county council be in control of how the accounting happens? Island residents have to pay for services in town, commuters will pay more

At last LIFAC meeting I heard LIFAC promise to hold a town hall and to work with the WG. The town hall has yet to happen and ordinance changes under consideration are exactly those proposed by PW. What happened, why are we giving PW everything they're asking for – what's in it for us I hope the signatures and support form islanders demonstrates to you the majority support for accepting the WG's changes to the code. Please do not recommend PW changes to the code as is. I implore you to do what you promised in May, work with the WG, develop a recommendation that satisfies everyone and have the town hall to answer our questions.

Di Kegeles

Since 2004. 19 years. Thank LIFAC. Purpose of what LIFAC exists for (directly from website) “the committee provides review and recommendations to the Whatcom County council and the Executive on issues that affect ongoing operations and infrastructure of the ferry service to Lummi Island. The committee also provides a forum for those who depend on Lummi Island ferry service to voice their ideas and concerns about ferry service.”

It goes on from there with five bullet points as to how that should work - some are pretty interesting - but nowhere in the description does it talk about it being in existence to solely support public works in their decisions. It's a committee designed to support Islanders not just PW. Honestly it feels to me like some members of the committee have lost sight of this and have put getting along with PW ahead of those of islanders.

I'm aware that the ferry runs at a deficit and I'm aware that at some point this will have to be resolved and there will have to be a fare increase – I get it – most people do. What I don't get is the rush to increase fares when we have such a large surplus - and rush to action when there is still so much confusion and misunderstanding and rush to approve the proposed ordinance amend when we haven't gotten to the bottom of the issues at hand. And why some members of LIFAC have forgotten their committee's purpose and are in a hurry to support whatever PW says even when it's been proven there were tremendous financial errors.

I ask LIFAC not support pending amendments to code as it's currently written and that if they chose to do so PW will not proceed with it. It's not time yet, there's still too much to resolve.

Please take the time to continue to work with the WG to resolve language and make this work for all of us.

Mike Skehan

Over 500 islanders signed the petition – sends powerful message to committee that these are important issues to the island, and we want to know that there is some sense of balance and not a slam dunk. You lose community when you do it this way.

The petition states let's get it right this time. We the undersigned ferry riders request that LIFAC recommend to the County Council those pending amendments to code 10.34 be withdrawn by PW. Let's get this right - we have time, the budget will support getting it right - I think you want everybody on the same page and not scattered all over running around signing petitions and creating hell.

Request from Zoom [Peter Earle] that Roland clarifies a statement.

Could you clarify please whether it's possible or unlikely that the gooseberry terminal upgrade could be merged with the new location?

Roland states it's not entirely clear and that's part of the problem -- it is possible but unlikely. It makes sense to do it only once, but we've been told by the environmental permitting agencies to not bother because there's no way we can catch up and get the new terminal constructed even if we were gifted the entire amount of money from the feds. We cannot get the permits in time so I would say it's unlikely. When you are told specifically from the core of engineers and National Marine Fisheries to not even bother – there is just not way – that starts to lean towards impossible.

Pat Hayes

I've been impressed with quality expertise in the community and willingness to come together and make proposals clear and researched and dispassionate. My disappointment has been in the misinterpretation it seems to me in LIFAC's charter that Dee read that LIFAC is an advisory committee, but it seems to me that LIFAC is advising the community from PW. It not seeming to go back and forth. I really ask you to take to heart LIFAC's charter to advise PW how the people on LI feel.

Please don't give me the feeling that you are for most part the mouthpiece of PW. PW wouldn't even need a committee; it could just send out directives. If you are not working back and forth, you are a mouthpiece of PW and that's really disappointing to folks on LI. Need to take into consideration your constituency on LI.

End of public comment

Cris isn't here to give his report.

Other committee business?

Jim Dickenson

We have had lots of nice input from community – and needs to continue – need to look at other ways perhaps to fund the ferry, streamline things, and need a review of upcoming boat because the more I look at it – the more expensive it is. Nice to get a nice boat but problem if you can't afford to run it. Would like to give presentation and looking for help with CAD drawing.

Rich Frye

Should LIFAC send forward to CC commentary or resolution to continue to hold open public hearing on ordinance until maybe July meeting (instead of June meeting).

Mary asks if there is a motion.

RF proposes this motion, Jim D, seconds the motion is:

Motion:

"LIFAC requests WCC to continue to hold open the public hearing on Whatcom County code 10.34 beyond its June 20th 2023 meeting to permit further public consideration."

Discussion:

Todd: would the impact of this be that it would delay the vote of the CC by a month which would then delay the imposition of new ferry fees.

Fees aren't going into effect until next year anyway right so it doesn't have any impact on the ferry fees other than setting them.

Mary - this particular ordinance does not set the fees.

Rich: the other element behind this is that council chair is going to be away for that meeting and would prefer to be there when it comes before the council. That's peripheral to this - I still think that the idea is worth pursuing given what we've heard tonight.

Mary: more discussion?

Todd: so, we're talking about this resolution?

Mary: no, the current ordinance change resolution that was introduced 2 months ago that is currently up there - the one that has the changes so that you can trade in your old ferry cards etc.

Jim: since nothing's going to happen for a while let's just do it and then give people some more time to talk about it - there's a lot of mistrust right now and I wouldn't try to aggravate it

Todd: Rich is there any timeliness?

Mary: the timeliness is that if we don't pass the changes to the ordinance, we cannot accept ARPA funds and they are going to get rid of - those ARPA funds are going to go away.

I also have a sense that if we postpone the ordinance any longer PW is going to pull it all together and they're going to go with the exactly the way it's written now with no changes whatsoever which we're going to lose the good pieces of it - so that is my concern about postponing.

Pam G: (audience) (some difficulty with transcript as not speaking into microphone)
At one point you said PW was more than happy to make small amounts if it changes would need to be made so if that was in fact the case if we even if it the ordinance we have stayed the way it is for a while and so you know small change needed to be made

Mary: that is what I thought about a month and a half ago I don't think that's the case anymore I think they want to move ahead or not move ahead at all and I am concerned that we will lose the opportunity to be able to take ARPA funds or anything else. Just my opinion – may not be fact.

(Zoom lead mentions that if folks don't speak into mic they can't really record what they are saying and Mary reminds that discussion now is really with committee.)

Mike: want to clarify something to do with process not opinions.

PW reports to the county Executive.

CC reports to County Executive – Todd – no CC is separate.

County Council is separate.

It's a 3-ring circus legislative, judicial, executive.

The executive can veto CC and they can override, and they don't report, they are equivalent.

Mike: and my understanding if I heard you correctly is that there's – and who told you (Mary) that the County Executive is approving this ordinance change.

Mary: Liz Kosa did.

Mary: are we proposing a vote are we ready to vote?

Todd: I'll just say I think there's some good things in the resolution, it sounds like - getting the ARPA funds and there are some things people are still concerned about or maybe not happy with and that's usually the sign of a decent compromise when nobody's happy so that's one of the things that I'm considering on this and the timeliness of that \$300k which is about six months worth of the deficit that we seem to be running right now - I'm concerned that a \$1 million reserve when you're looking at the expenses on a year isn't a super large amount so it seems reasonable enough to preserve that amount.

Jim: seems to me county Executive said nothing was going to happen till July.

Mary: That's not the case - they're planning to vote next Tuesday on it.

Bob Anderson (from audience) asks if he could inform the council and the community:

Is it not possible for the council to vote the APRA funds and the recovery of the MVFT and postpone the other aspects of the PW proposed amendments to a later time.

Mary: I suppose they probably could.

Bob: so, if that's possible I think that should be investigated before you automatically say it's all or nothing.

Patrick Vincent (audience): The way it was presented recently was very reminiscent of the kind of mafia statement with a gun to your head you must make this decision now or else.

Mary: ready to vote on Rich's proposed motion?

Motion is read again:

“LIFAC requests WCC to continue to hold open the public hearing on Whatcom County code 10.34 beyond its June 20th 2023 meeting to permit further public consideration.”

Vote: Does not pass: 2 yay // 3 nay // 1 abstain

Todd: so, I would provide a motion then that would (and help me wordsmith this) allow the deviation from the LIFAC for CC to consider separating out the considerations of the ARPA funds and the recovery of the MVFT back to 2007.

Mary: asks what are you trying to accomplish?

Todd: the consideration that we're just going to provide the advisory from the committee to say you could consider doing this where you break out and accept the ARPA funds and you except the MVFT and you hold off on the other considerations.

That would be the voice of the advisory committee - we're an advisory committee we aren't official, and we could say that -- and we can choose to vote that up or down so that's my point here, is that we can make that voice to them and then they can choose to do with it what they want.

RF: Is that a motion?

Todd: yes, the motion is that LIFAC advises CC to accept the use of ARPA funds for the Lummi island ferry and to accept the use of MVFT to 2007.

Mike: this is really confusing.

Todd: we can advise them and they can choose to do with it what they want.

Mary: do we have a second – Rich seconded.

Mary: the concern I have for that one is that the ARPA funds are separate so they're going to vote on the ARPA funds separately but the ability to accept the funds is in the ordinance.

Todd: they can rewrite the ordinance.

Mary: which would mean postponing the ordinance.

Todd: that's up to them we're advising them they can choose to do whatever.

Jim: I think he's got it (referring to Todd's concept).

Mike: I'm still confused - we're asking County Council...

Mary: (interjects) to vote on the ARPA funds and to vote on the resolution to accept the MVFT back to 2007 but not vote on the ordinance.

Asks Todd: is that what you're saying

Todd: well they can write an ordinance that does those two things but not the other concerns that people had and gives them time - and remember we're an advisory - they have a whole legal department that's going to look at this and decide – we are at least voicing the concerns that's all.

Jim: I think that's a good compromise and I've watched them write ordinances right between the table and chair.

Vote: 5 yay, 1 nay

Motion to Adjourn: 6-0

Post note:

After the meeting had adjourned, because the language of the motion was still somewhat unclear and it appeared we had just reversed ourselves from the previous motion, Todd asked Bob Anderson and Diane Harper to help with the language so that we had it documented clearly for the record – this is what they wrote verbatim:

“The Lummi Island Ferry Advisory Committee advises the Whatcom County Council to accept the ARPA funds for Farebox Recovery and to capture the Motor Vehicle Fuel Tax back to 2007, for the ferry system fund.” (Attached)

In the days after the meeting, it became clear that there was a high-level misunderstanding between the members of the WG around the ultimate intent of the second motion. Some LIFAC members continued (as indicated in the first motion) to NOT be in favor of recommending to CC they postpone voting on the PW proposed ordinance changes on June 20, and if they had believed that is what they were voting on, would have voted no.

Attachment: Video of the entire meeting:
Leslie Dempsey’s video [not YouTube]

Link: To meeting minutes on the County website LIFAC page:

<https://wa-whatcomcounty.civicplus.com/AgendaCenter/Lummi-Island-Ferry-Advisory-Committee-8>

DRAFT