

Whatcom County Code Chapter 10.34

Public Works version 3 DRAFT

Initial Comments by the WCFAC ad hoc code committee



February 8, 2024

**Whatcom County Ferry
Advisory Committee**

Presentation Topics

*Janice Holmes, former Lummi Island Work Group member, island resident/business owner, and retired attorney
Diane Harper, 2011 Lummi Island Ferry Citizens' Task Force, and former Work Group member & County employee*

- 1) Brief review of basic ferry finances that underlie code amendments
- 2) Process between now and recommendation to County Council and Executive
- 3) Ferry rate amendments that alter Whatcom County policy
- 4) Amendments that update code language and improve implementation
- 5) How to contribute and WCFAC ad hoc code committee work session

In WA State, Ferry Systems are Roads and Bridges

- Four counties in Washington State operate ferries. One crosses the Columbia River to Oregon and is funded somewhat differently.
- All County and the WA State ferry systems have large gaps between what fares pay and what the operating costs are.

Ferries Are Very Expensive Compared to Most Roads and Bridges

County Road Administration Board (CRAB) Year 2014 Ferry Systems Report (data from county financial reports)								
County	Total County Road Centerline Miles	Number of County Bridges	Length of Ferry Route (miles)	Ferry Docks Included in Bridge Inventory	Ferry system as a rough proportion of County Roads and Bridges	Total County Road Related Expenditures	Total County Ferry Related O&M Expenditures	County Ferry O&M Expense as a % of Total Road Expenses
Pierce	1557	102	3.5	3	0.4%	\$100,899,000	\$4,089,892	4.1%
Skagit	801	105	0.7	2	0.3%	\$23,206,000	\$2,504,800	10.8%
Wahkiakum	139	20	1.5	1	1.6%	\$6,757,000	\$848,988	12.6%
Whatcom	940	136	0.9	2	0.3%	\$32,320,000	\$2,332,562	7.2%

How Much Does It Cost?

- The owner of a property in the unincorporated area valued at \$500,000 in 2022 paid about **\$37** in Whatcom County Road Fund taxes. (Including Lummi Island properties).
- By comparison - one passenger vehicle with driver for one round trip is **\$14.00**.
Ferry fares for 5 days per week commuting over 48 weeks would be **\$2,256**.
The cost of having a partial load of concrete delivered is **\$600**.

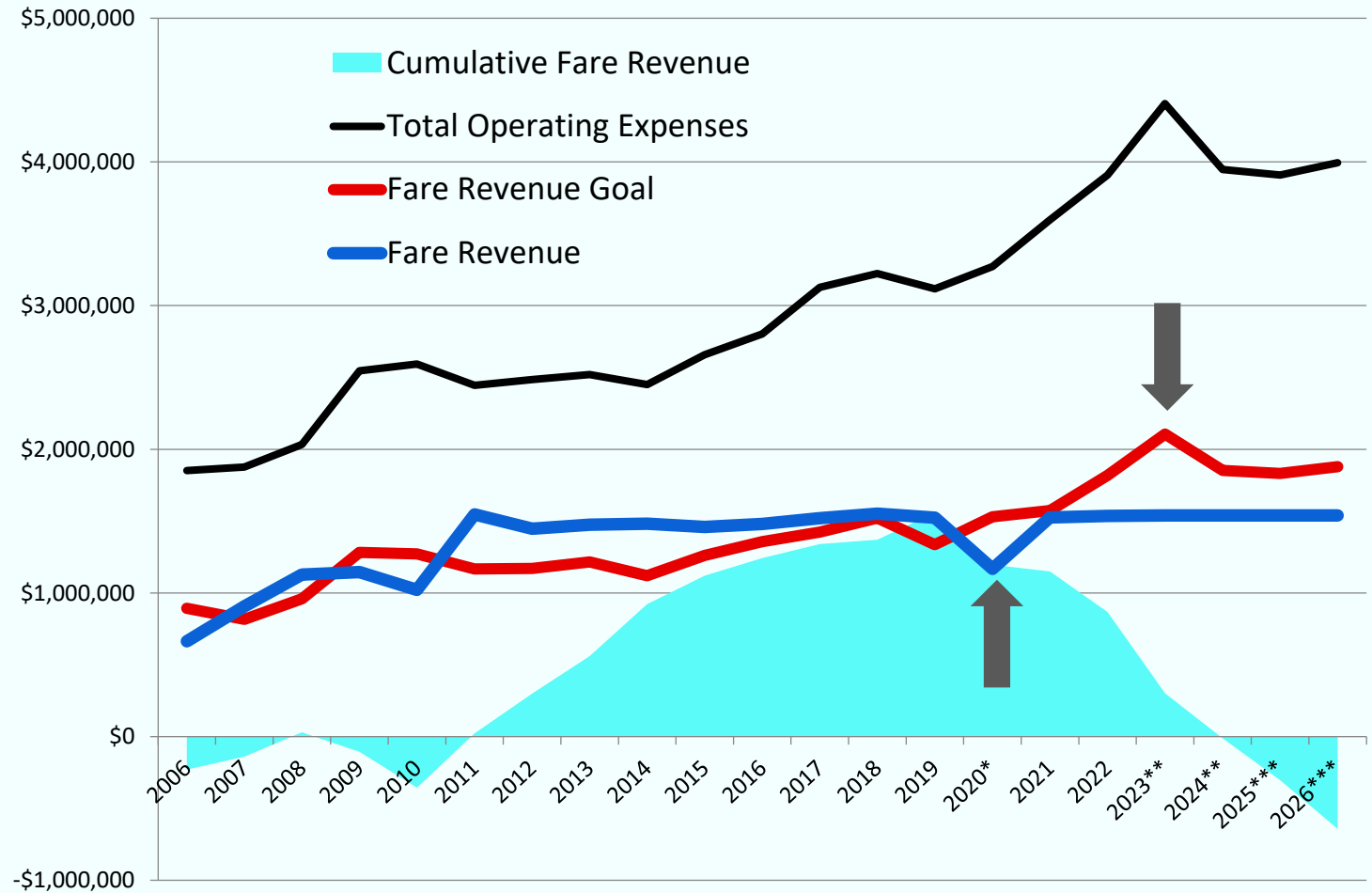
Another way to look at it:

- Ferry operations in 2021 cost the equivalent of **\$13.78** per year per each resident of unincorporated Whatcom County.
- The equivalent cost for city residents would have been **\$0**.

Has Fare Box Revenue Met the 55% Rate?

Projections for 2023 and 2024 indicated that:

- without the County Council approving ARPA funds to replace the lost COVID revenue, **and**
- Public Works removing the extraordinary costs in 2022 and 2023, the Cumulative Fare Box surplus will be exhausted mid-2024.



WCFAC Responsibility

A. The committee function is solely to advise the county council or the executive on the following functions:

1. Review and provide recommendations on proposed changes to ferry operations and fares; and
2. Review at least annually ferry revenue and expenditures, ferry fund balance, and actual versus targeted fare return; and
3. Assist the county in collecting information from ferry riders on actual and desired ferry services, concerns, and ideas for improved service; and
4. Analyze and develop recommendations to continue and improve the cost-effective operation of ferry service to Lummi Island; and
- 5. Review and make recommendations on proposed changes to:**
 - a. Chapter [10.34](#) WCC, Ferry Rates;
 - b. Chapter [10.36](#) WCC, Ferry Multi-Ride Cards and Quarterly Passes;
 - c. The Lummi Island ferry service action plan as approved in County Resolution 2018-026 regarding ferry vessel, terminal, and operations.

Timeline and Proposed Process

- **February 1: Public Works gives WCFAC three versions of DRAFT code amendments to WCC Chapter 10.34**
- **February 8: WCFAC ad hoc code committee presents initial comments on Public Works version 3 DRAFT and hears comments from PW Director Liz Kosa**
- **February 8 – 21: ad hoc code committee gathers input and develops WCFAC final recommendation DRAFT**

tentative dates

- February 22: WCFAC discusses and decides on final recommendation
- March 1: Public Works sends draft code amendments to County Council
- March 14: WCFAC adopts final recommendation
- March 19: WCFAC presents final recommendation to Council Committee considering proposed code amendments

Summary of Initial Comments

Test 1: Does the proposed code amendment increase consistency, replace outdated or ineffective regulations, improve clarity, or make implementation easier? (housekeeping amendments)

Test 2: Does the proposed code amendment implement a change in policy that increases community well-being and the long term viability of the enterprise or system?

Code Amendment Format used in the preliminary DRAFT ad hoc code committee recommended changes to the Public Works version 3 DRAFT

Red text indicates a change that Public Works has proposed. In some cases it appears that existing text was also changed to red and underlined, so refer to the existing text to be sure it is a change.

Underline means new text not in existing code.

~~Strikethrough~~ means delete text in existing code

Blue text indicates where the WCFAC ad hoc code committee has proposed a change.

Underline means new text not in existing code.

~~Strikethrough~~ means delete text in existing code.

Where the text was proposed for addition or deletion in the Public Works draft and the WCFAC ad hoc committee proposed that the change not be made (either addition or deletion) it is highlighted in **turquoise**.

E.B. “Ferry user fees” means the rates and charges required of and collected from ~~any and all~~ **non-exempt** users of the ferry system, as established and periodically amended in the Unified Fee Schedule, plus all other funds designated by resolution of the Whatcom County Council. Ferry User Fees do not include 1) any consideration or credits earned under WCC 10.34.020(I) or 2) any surcharges collected pursuant to WCC 10.34.020(O).

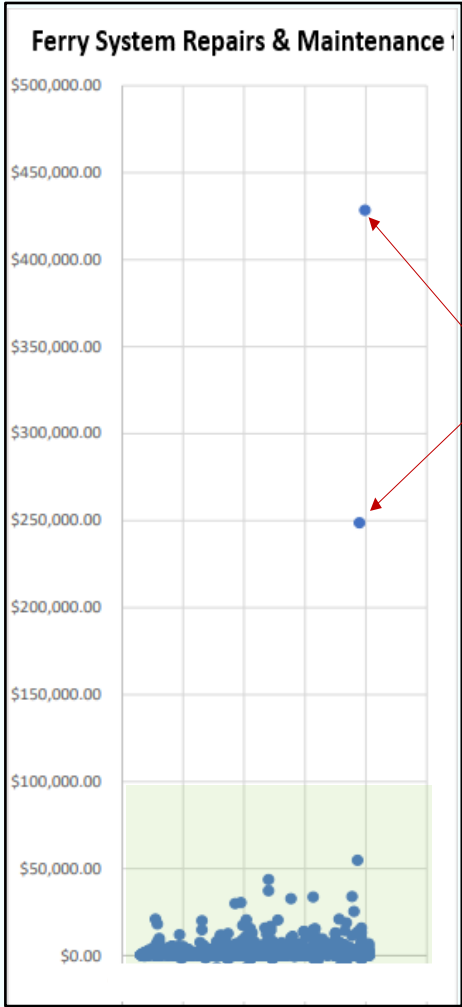
Whatcom County Code Chapter 10.34

Code Amendments that Change the Policy of the Past 17 Years

Issue 1. What expenses should be included in the Total Operating Expenses and the Adjusted Total Operating Expenses (fares pay 55% of ATOE)?

Issue 1: What Should be Included in Total Operating Expenses (TOE) and in Adjusted TOE (used to set fares)?

10 Years of Accounting Entries for Ferry System Repair & Maintenance: the blue dots are 1,107 entries for 2013 through April 2023



2022 and 2023 expenses for Lummi Island dock repair to extend life until new boat

Is this predictable for fare setting? No.
 Is it fair commuting cost changes for those who buy houses and take jobs? No.
 Should the 2006 WCC Chapter 10.34 wording be changed to allow this? No.

WCC Chapter 10.34.005 Definitions

Public Works version 3 DRAFT with WCFAC ad hoc code committee initial recommended changes

c. ~~D.~~ “Capital cost” means all capital expenditures, including financing and depreciation expenses applied to the replacement, expansion, or creation of ferry system physical elements. Consistent with past practice the Whatcom County Charter and the Governmental Accounting Standards Board’s Statement No. 87 requiring lease accounting changes for financial reporting, the monthly Tidelands lease or its replacement is a Capital cost will continue to be considered part of the Total Operating cost” means all actual Expenses calculation regardless of implementing the -Governmental Accounting Standards Board’s Statement No. 87 requiring lease accounting changes for financial reporting.

WCC Chapter 10.34.005 Definitions

Public Works version 3 DRAFT with WCFAC ad hoc code committee initial recommended changes

E.D. “Non-Capital Extraordinary Emergency Repairs” (NCER) means emergency non-regular and routine maintenance and repair activities to the terminal structures and other infrastructure with total project expenses greater than (\$???) - what is a reasonable maximum for non-regular and routine maintenance and repair? Or is it a time limit – like it happens less than once in 20 years, or is there some other measure? And if a dollar amount, how is it to be escalated over time?) included in operating expenditures.

WCC Chapter 10.34.005 Definitions

Public Works version 3 DRAFT with WCFAC ad hoc code committee initial recommended changes

B.F E. “Total Operating Cost Expenses” (TOE) means all Ferry System expenses that are not Capital Costs. TOE includes the vessel rental rate excluding capital replacements and improvements, all actual daily running expenses and, all actual regular and routine maintenance, all NCER expenses not paid by other funds, and all administrative expenses associated with the use and operation of all physical elements of all physical elements of the ferry system.

WCC Chapter 10.34.005 Definitions

Public Works version 3 DRAFT with WCFAC ad hoc code committee initial recommended changes

G. F. "Adjusted Total Operating Expenses" (ATOE) is the amount of Total Operating Expense (TOE) minus adjustments defined in 10.34.05 (G)(1-6) and then used in the calculation of the Fare Box Recovery Goal.

Beginning January 1st ~~2024~~ 2007, the ATOE amount shall be determined by subtracting the following amounts from the TOE:

(6) Beginning Jan. 1, 2024, actual NCER expenditures, up to \$150,000 in a calendar year in excess of _____ \$? (what is the maximum amount that could be included in calculating fares that will allow fares to be predictable for long term decisions and to not impact ridership? Or should fares pay any non-regular and non-routine maintenance and repair expenses?)

WCC Chapter 10.34 Updated Code Language

Public Works version 3 DRAFT with
WCFAC ad hoc code committee initial recommended changes

Test 1: Does the proposed code amendment increase consistency, replace outdated or ineffective regulations, improve clarity, or make implementation easier? (housekeeping amendments)

WCC Chapter 10.34 Updated Code Language

Public Works version 3 DRAFT with

WCFAC ad hoc code committee initial recommended changes

E.B. “Ferry user fees” means the rates and charges required of and collected from ~~any and all~~ non-exempt users of the ferry system, as established and periodically amended in the Unified Fee Schedule, plus all other funds designated by resolution of the Whatcom County Council.
Ferry User Fees do not include 1) any consideration or credits earned under WCC 10.34.020(I) or 2) any surcharges collected pursuant to WCC 10.34.020(O).

C. “Fare Box Considered Revenue” means the revenue from Ferry User Fees. Revenue from other funding sources will be only be included as Fare Box Considered Revenue if designated by resolution of the Whatcom County Council.

WCC Chapter 10.34 Updated Code Language

Public Works version 3 DRAFT with

WCFAC ad hoc code committee initial recommended changes

~~F. Over width vehicles or trailers occupying more than one lane shall be charged a 50 percent surcharge. In addition, vehicles towing over width trailers shall also be charged a 50 percent surcharge.~~

F. Vans used for something other than multiple passenger transportation, such as used by commercial businesses or outfitted as RVs shall be charged at the Vehicle with Driver 11,001 – 20,000 pounds rate.

WCC Chapter 10.34 Updated Code Language

Public Works version 3 DRAFT with
WCFAC ad hoc code committee initial recommended changes

P. Entities and individuals legally authorized to transport human remains shall be exempt from fares when using the ferry to pick up and transport the body of a deceased person from Lummi Island. Ferry personnel reserve the right at the time of travel to require riders claiming this exemption to present burial-transit permits required under RCW 70.58A.210 or other legal authority authorizing transport of the deceased person.

WCC Chapter 10.34.030 Use of ferry user fee revenues.

WCFAC ad hoc code committee initial recommended changes

10.34.030 Use of ferry user fee revenues

The existing text is a conglomeration of 5 different topics, and the Public Works draft makes multiple improvements to it. But it is still confusing and now repetitive. The ad hoc code committee suggests it should be rewritten to use the format of the other sections, where each topic has its own lettered paragraph. We will provide a draft of this format soon.

From our last meeting - Issue 2: What happens when there is a surplus or deficit in 55% of ATOE by Fare Box Revenue? Still need to be answered:

- Raise fares after dip into deficit? after multiple years? include future projections?
- Raise fares only after no surplus remains, or leave some for future deficits?
- Should there be a maximum amount or number of years while surplus fares accumulate before a fare reduction or adding services would be proposed?

Copies of code and comments for you to use:

There are two DRAFT documents available:

- 1) The ad hoc code committee comments and explanations of changes to the existing code and the Public Works version 3 DRAFT.
- 2) The ad hoc code committee preliminary code revision text.

EVERYONE is invited to send written comments to the every WCFAC member by using the mailing address on the County ferry webpage. Just keep in mind that Ferry Committee members cannot respond to everyone or to each other as that would become a private discussion outside of a public meeting.

EVERYONE is also invited to contact any of the three ad hoc code committee members, although we will not be able to discuss your input with more than 3 other WCFAC members.

Sample of handouts

County Policy Issues: WCFAC ad hoc code committee discussion draft on modifications to DRAFT Public Works version 3

A. Amounts charged contrary to charter and accounting standards should be refunded to the Cum. Fare Box Reserve.

C. **“Capital cost”** means all capital expenditures, including financing and depreciation expenses applied to the replacement, expansion, or creation of ferry system physical elements. **Consistent with past practice** the Whatcom County Charter and the Governmental Accounting Standards Board’s Statement No. 87 requiring lease accounting changes for financial reporting, the monthly Tideland’s lease or its replacement is a Capital cost. **will continue to be considered part of the Total Operating cost—means all actual Expenses calculation regardless of implementing the Governmental Accounting Standards Board’s Statement No. 87 requiring lease accounting changes for financial reporting.**

D. **“Non-Capital Extraordinary Emergency Repairs” (NCER)** means **emergency non-regular and routine maintenance and repair activities to the terminal structures and other infrastructure with total project expenses greater than \$???** - what is a reasonable maximum for non-regular and routine maintenance and repair? Or is it a time limit – like it happens less than once in 20 years, or is there some other measure? And if a dollar amount, how is it to be escalated over time? **included in operating expenditures.**

E. **“Total Operating Cost Expenses” (TOE)** means all Ferry System expenses that are not Capital Costs. TOE includes the vessel rental rate excluding capital replacements and improvements, all actual daily running expenses and, all actual regular and routine maintenance, **all NCER expenses not paid by other funds, and all administrative expenses associated with the use and operation of all physical elements** of all physical elements of the ferry system.

F. **“Adjusted Total Operating Expenses” (ATOE)** is the amount of Total Operating Expenses (TOE) minus adjustments defined in 10.34.05 (G)(1-6) and then used in the calculation of the Fare Box Recovery Goal.

Beginning January 1st 2024 2007, the ATOE amount shall be determined by subtracting the following amounts from the TOE:

- (1) Motor Vehicle Fuel Tax Attributable to Ferry Operations;
- (2) Ferry Deficit Reimbursement Funds (RCW 47.56.725 (2));
- (3) Investment income or loss;

Everything here except item 6 is contained in the existing code, just in scattered pieces. This is a sorely needed new definition.

It is not just emergency repairs that are not “regular and routine,” and what defines an extraordinary repair?

Sq what is the best way to limit fares to paying for regular and routine?

Comparison of Existing Code with Public Works proposal version 3 DRAFT			Page 5 of 7
Existing Code	Public Works version 3 DRAFT	WCFAC ad hoc code committee comments	
10.34.020 Interpretation of rate schedule. A, B, C, D, E, G, I, and O have no changes proposed.	10.34.020 Interpretation of rate schedule. Public Works proposes changes to items I, K, L, M, N, and adds new item P.	10.34.020 Interpretation of rate schedule. The ad hoc code committee also suggests changes to item “F” and “H”	
F. Over-width vehicles or trailers occupying more than one lane shall be charged a 50 percent surcharge. In addition, vehicles towing over-width trailers shall also be charged a 50 percent surcharge.	no change proposed	The ad hoc code committee suggests deleting this item and adding a new item about vans. We would like to have crew feedback on these suggestions before taking them any further. - delete the 50% surcharge as impractical for crew to administer since how the ferry is loaded often determines whether more than one lane is used - add a provision that treats all commercial and RV vans alike as equivalent to trucks weighing 11,000-20,000 pounds. (Question: how is a sprinter van delivering window coverings or containing plumbing repair equipment now charged, since there is no gross vehicle weight posted on the door?)	
I. County employees on official county business shall be exempt from fares. All county employee trips exempt from fares will be tracked, and \$10.00 per trip will be credited toward the fare box recovery rate each year.	I. County employees on official county business shall be exempt from fares. All county employee trips exempt from fares will be tracked, and \$10.00 per trip will be credited toward applied in the fare box recovery rate Adjusted Total Operating Expense calculation each year, as outlined in 10.34.005(G)(4).	This fixes a contradiction in the existing code. The \$10 amount was set in 2010 when that was the charge for a passenger vehicle with driver. It is fixed forever when established this way, instead we suggest that the credit should change as the fares change. This could be accomplished by substituting this wording: “an amount equal to the fare user fee category established in the Unified Fee Schedule.”	
K. A special needs-based discount is provided for Lummi Island residents who meet the very low income levels set annually by the Department of Housing and Urban Development (HUD). The current year’s levels will be posted on the Whatcom County public works ferry web page. The reviewing authority will screen all applicants to determine eligibility. The number of needs-based applications processed annually, regardless of approval, will	K. A special needs-based discount is provided for Lummi Island residents who meet the very low income/Very Low Income levels set annually by the Department of Housing and Urban Development (HUD). The special needs-based discount shall always be higher than any other discount. The current year’s levels will be posted on the Whatcom County public works Public Works ferry web page. The reviewing authority will screen all applicants to determine eligibility. The number of needs-based applications processed annually, regardless of approval, will	This updates existing code to allow reduced fare punchcards to be sold on the island, also to require photo ID, wording changes also clarify and update other provisions. The ad hoc code committee suggests that in addition to the Public Works proposed changes that either: - this sentence in the existing code is deleted: “The number of needs-based applications processed annually, regardless of approval, will depend on the constraints of the ferry operations budget for each year.”	

3 column better on legal paper OR print on 11” paper and use separate copy of existing code – letters in left margin refer to existing code sections

Public Works version 3 DRAFT with WCFAC ad hoc code committee comments		Page 5 of 7
Public Works version 3 DRAFT	WCFAC ad hoc code committee comments	
10.34.020 Interpretation of rate schedule. A, B, C, D, E, G, H, J, and O have no changes proposed. Public Works proposes changes to items I, K, L, M, N, and adds new item P.	10.34.020 Interpretation of rate schedule. The ad hoc code committee also suggests changes to item “F”	
F. no change proposed	The ad hoc code committee suggests deleting this item about using more than one lane and adding a new item about vans. We would like to have crew feedback on these suggestions before taking them any further. - delete the 50% surcharge as impractical for crew to administer since how the ferry is loaded often determines whether more than one lane is used - add a provision that treats all commercial and RV vans alike as equivalent to trucks weighing 11,000-20,000 pounds. (Question: how is a sprinter van delivering window coverings or containing plumbing repair equipment now charged, since there is no gross vehicle weight posted on the door?)	
I. County employees on official county business shall be exempt from fares. All county employee trips exempt from fares will be tracked, and \$10.00 per trip will be credited	This fixes a contradiction in the existing code. The \$10 amount was set in 2010 when that was the charge for a passenger vehicle with driver. It is fixed forever when established this way, instead we	

WCFAC ad hoc code committee WORK SESSION Feb. 15

6 pm in the Island Library

In order to allow WCFAC members the same opportunity to discuss options and ask questions of the ad hoc code committee as the public has, we must meet the requirements of OPMA.

Therefore if at least 3 other WCFAC members want to join the Feb. 15 discussion with the ad hoc code committee, we will publish it as a special meeting and have formal minutes. We ask that every WCFAC member send the WCFAC mailing list whether you plan to participate – we have to know by Monday. Zoom attendance is possible. **No decisions will be made that evening.**

We also invite members of the public to attend, whether or not it is a special meeting of WCFAC. We will not offer this as a hybrid meeting for the public to participate in the discussion by zoom.

Questions or comments?

Two locations have WCFAC information available via the internet. Paper copies will be kept at the Island Library.

Visit the Lummi Island website sponsored by LICA to follow ferry issues and important dates, for links to A-V presentations, to explore background information, and for a fantastic history of past ferries .

WCFAC/LIFAC: <https://ourlummiisland.org/info/org/wcfac/>

Ferry Work Group: <https://ourlummiisland.org/lica/c-r/liwg>

Visit the Whatcom County website for information about ferry service, Public Works and County Council documents, agendas/documents/minutes from WCFAC meetings, and information that WCFAC has posted.

Ferry information: <https://www.whatcomcounty.us/382/Lummi-Island-Ferry>

WCFAC: <https://www.whatcomcounty.us/521/Whatcom-County-Ferry-Advisory-Committee>

WCFAC agendas: <https://www.whatcomcounty.us/AgendaCenter/Whatcom-County-Ferry-Advisory-Committee-8>