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3
4 WHATCOM COUNTY COUNCIL
5 **Public Works and Safety Committee**
6

7 November 22, 2005
8

9 Committee Chair Barbara Brenner called the meeting to order at 1:30 p.m. in
10 the Council Chambers, 311 Grand Avenue, Bellingham, Washington.
11

12 Present:

13 L. Ward Nelson
14 Sam Crawford
15

Absent:

None

16 Also Present:

17 None
18
19

20 **COMMITTEE DISCUSSION**
21

22 **1. DISCUSSION OF THE PROPOSED ORDINANCE AMENDING WCC 10.34,**
23 **FERRY RATES, ADDING DEFINITIONS RELATED TO THE FERRY**
24 **SYSTEM (AB2005-443)**
25

26 Crawford asked if this ordinance is about what the committee has been
27 discussing to get in line with the state.
28

29 Ken Richardson, Accounting Supervisor, stated that's correct. The changes
30 reflect four of the five points the Council approved about a month ago. This
31 enacted the changes to the ordinance.
32

33 ***Crawford moved*** to recommend approval of the ordinance.
34

35 Brenner referenced page 175, item E. She asked if they should specify that
36 the total of which will be 55 percent of operating costs. Richardson stated the
37 intent here is just a definition of the term "ferry user fee." The fee is specified in
38 the unified fee schedule.
39

40 ***Brenner moved*** stated the definitions should be clearer and more specific. She
41 ***moved*** to amend Whatcom County Code (WCC) 10.34.005D, "The calculated 55
42 percentage of total revenue..."
43

44 Crawford stated he is opposed to the motion. Definitions are not a place to
45 establish amounts. Don't use definitions to define the establishment of certain
46 amounts on anything.
47

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1 Brenner stated other definitions in the code have specific amounts.
2

3 Nelson stated fare rates have had controversy about actual and projected
4 costs. He asked if they have projected the cost and fare rates. Richardson stated
5 he has had meetings and conversations with Fred Kinney from Lummi Island, who
6 had concerns about how they forecast the need for revenue. Mr. Kinney and he
7 have agreed that the calculation and methodology is good. Over the next couple of
8 weeks, Mr. Kinney and staff will either present the same thing or two different
9 viewpoints.

10
11 It comes down to three things, whether they look at the past three or five
12 years and whether they project based on that actual figure. In terms of looking
13 forward, a question is whether they include in the calculations the things the
14 County knows will do for service levels or ignore that until after the upgrades are
15 installed, when they recover the costs. It's going to come down to how often they
16 want to raise rates and whether they want to recover costs after they install new
17 services or as they install new services.

18
19 Nelson asked if ferry rates were deposited to the current expense fund or
20 road fund. Richardson stated any difference between the money collected at the
21 fare box and the cost of operating the system is made up from the road fund.

22
23 Nelson asked if any excess collected goes to the road fund. Richardson
24 stated it does.

25
26 Nelson asked if this will make it specific for the ferry, so it doesn't go into the
27 road fund. Richardson stated it will create the ferry system fund, which would
28 maintain any over-recovery to make up any under-recovery.

29
30 ***Brenner amended her motion*** to amend 10.34.005(E), "E. Ferry User Fee
31 - ...Unified Fee Schedule, the total of which will be 55 percent of operating costs."
32

33 Richardson stated that wording would require the fare box to meet that
34 standard at all time.

35
36 Brenner stated the wording doesn't do that. It just says that the user fees
37 and box recovery rate will equal 55 percent, which could include existing amounts
38 that are left over.

39
40 Nelson stated that when they set the rate, it's based on a certain percentage
41 that is approximately 55 percent, but not exactly 55 percent. For the past few
42 years, it's been slightly less than 55 percent. Arguments have been about why
43 they've collected less than 55 percent and why the rate is based on assumed costs
44 in the future, not the current operating cost.

45
46 Brenner stated the rates and charges include any leftovers.
47

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1 Nelson stated the language would have to say "not to exceed 55 percent."
2 He asked what happens if the operating costs are greater than 55 percent.

3
4 Brenner stated the Council would have to change the ordinance, including the
5 definitions.

6
7 Nelson stated that is what staff is concerned about. They may end up having
8 to change the percentages to meet that goal.

9
10 Brenner stated the Council changes definitions all the time. There are
11 specifics in other definitions. The recovery rate has been 55 percent for a long
12 time. She's tired of definitions that say a lot of nothing. The definition is obvious
13 as it is. Identifying 55 percent in the definition is pertinent.

14
15 Nelson stated the 55 percent is in the County Code. He asked why they
16 wouldn't include the percentage in the definition. Richardson stated staff didn't
17 intend for the definitions to specify the percentage. The definition of fare box
18 recovery, no matter what the number is at any point of time or over any period of
19 time, is the operating cost divided into the amount of money taken from user fees.
20 Whatever that percentage is is defined as the fare box recovery rate for that period
21 of time. In terms of ferry user fees, the definition simply says that the fee is
22 whatever is in the unified fee schedule. A car and driver fee might be \$5 and a
23 dump truck fee is \$50, but neither of them have a relationship to 55 percent. The
24 issue is to recover 55 percent of the total operating cost from user fees.

25
26 Brenner stated the definition is the appropriate place where the percentage is
27 appropriate. People always complain about how the County is so vague. Not
28 everyone is going to read everything. It's important to have clarity.

29
30 Nelson asked if it is okay to recover less than 55 percent. Richardson stated
31 it is, as long as they make up the difference later. Keep the recovery rate at
32 around 55 percent.

33
34 Nelson suggested amending the definition of operating cost, "B. ...of the
35 ferry system, shall not exceed 55 percent." Richardson stated it is anticipated that
36 the total fees collected in any given period could exceed 55 percent.

37
38 Nelson stated the rates and charges could exceed 55 percent, but not what
39 the County establishes as a fee. Richardson stated the fees for any class of user
40 bear no relationship to 55 percent of anything.

41
42 Brenner stated her motion has to do with the total, not any class of user.
43 Richardson stated this definition of ferry user fee is specific to class of user.

44
45 Nelson asked if the County doesn't want to exceed 55 percent from any and
46 all class of users. Richardson stated the County doesn't care if it exceeds 55
47 percent from any and all class of user. As it is written, it says that over time, the

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1 County wants to collect 55 percent of the operating cost from user fees. In the
2 ordinance, WCC 10.34.030 addresses the concern.

3
4 **Brenner** stated it should be in the definition. She **restated the motion** to
5 amend 10.34.005(D), "The calculated percentage of total revenue...for the same
6 period of time, 55 percent over time."

7
8 **Motion failed 1-2 with Brenner in favor.**

9
10 Nelson asked if WCC 10.34.030 is where the recovery rate is established.
11 Richardson stated section establishes the County requirement that they collect 55
12 percent of operating costs over time from user fees.

13
14 Nelson stated discuss what 55 percent means in terms of the new ferry.
15 Richardson stated that if they were to establish a new revenue target today for the
16 next three years, without forecasting the cost of the new ferry, the rate would
17 increase 25 to 30 percent. If they include the costs of the new ferry, off-boat
18 ticketing, and other items they've discussed, they are looking at a 45 to 50 percent
19 increase in rates over the same time span.

20
21 Nelson asked if they could estimate longer than three to five years.
22 Richardson stated cost recovery could be extended out. They have to know
23 operating cost over that time and how many tickets they will sell over that time.

24
25 Crawford asked if the citizens' concern were that they pay for what they
26 have. Therefore, the rates would go up accordingly on the first trip of the new
27 ferry. Until then, they would pay for what operates today. He asked staff's opinion
28 of that view. He asked if there is a financial scheme to start paying for the new
29 ferry when it begins to operate, rather than ahead of time. Richardson stated it's
30 possible to do that. The issue becomes how often they want to go through the
31 process of changing ferry rates. Mr. Kinney had in mind that the County would wait
32 three or five years, then look at how much they have not recovered from the new
33 ferry service. No one has said they want to change the ferry rate every time there
34 is a change in service level or operating cost. No one wants to do that. This year
35 alone, they would have had to do a rate change due to fuel prices. Mr. Kinney's
36 suggestion was to change the rates in three years, after the new ferry begins to
37 operate, rather than now, before the new ferry operates.

38
39 **Nelson moved** to amend 10.34.010, "...or amending such schedule. **This**
40 **fee shall be based on a fare box recovery rate of 55 percent.**" Definitions should
41 remain definitions, but this puts the percentage closer to the definitions.

42
43 Brenner stated that is a definition. If the percentage changes, they can
44 change the definition. They will have to change the ordinance no matter where
45 they put it, so put it in the definitions.

46
47 **Nelson withdrew his motion.**

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1
2 ***Motion to recommend approval carried 2-1 with Brenner opposed.***
3

4 Brenner asked why this is not on the agenda for the evening meeting.
5 Richardson stated it is being introduced to the Council at this evening's meeting.
6

7 **2. DISCUSSION REGARDING THE PROPOSED RESOLUTION ADOPTING**
8 **THE WHATCOM COUNTY 2006 ANNUAL ROAD CONSTRUCTION**
9 **PROGRAM (AB2005-447)**

10
11 Joe Rutan, County Road Engineer, stated the annual construction program
12 takes the first year of the six year plan, assigns money to it, and is shown in detail.
13 This year, every project with money in 2006 for design, right-of-way, or
14 construction has a project narrative sheet. He submitted a substitute of the
15 narrative for the Whatcom Chief replacement, CRP #90514. The update is to the
16 amount that would be spent this year.
17

18 They spend a good amount of time discussing a lot of these projects. There
19 shouldn't be too much new information. The first two projects are already under
20 construction, and will end in 2006. The next few projects will begin and end in
21 2006. The project summaries are pretty self-explanatory.
22

23 Regarding Lincoln Road, they are finding that the cross-section will need to
24 be brought forward again to the Council and community to further define the
25 project, specifically about lane widths, curbs, gutters, and other features.
26

27 The Birch Bay-Lynden Road and Blaine Road project and the Lincoln Road
28 project will be dealt with as one project. It requires some kind of intersection
29 control. They will coordinate with the State Department of Transportation (DOT)
30 about that location and also where Lincoln Road coordinates with Blaine Road.
31

32 Drayton Harbor Road is another project they will start and complete in 2006.
33 They will repair the shoulder and open the road. It will then be available for traffic
34 control during the Lincoln Road construction. When Lincoln Road is complete, they
35 will meet with the community and the Council on the long-range plan for Drayton
36 Harbor Road. Most of the work is on the beach and slope, not the road. The only
37 other proposal is to close the road altogether. It is a very difficult project in terms
38 of permitting.
39

40 Brenner asked about Slater Road. Rutan stated there is no money in 2006
41 for that project, so it's not on the plan. That doesn't mean they won't do work this
42 year. They may have to amend the annual program. Heavy funding for that
43 project begins in 2007. It is project 15 on the list. One million dollars will be spent
44 on that project in 2007. Nothing will be spent in 2006, however staff will spend
45 time tracking it. A lot of the work this year will be done by the River and Flood
46 Division. If any significant amount of money is spent on it, he will be back before
47 the Council.

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1
2 Nelson asked if there would be a new impact to Anderson Road and Birch
3 Bay-Lynden Road if Drayton Harbor Road was retained for local access only. Rutan
4 stated the function of Drayton Harbor road will be drastically different after Lincoln
5 goes through.

6
7 *(Clerk's Note: End of tape one, side A.)*
8

9 Rutan continued to state that they will put it back together to have it
10 available during the construction of Lincoln Road. After that, they will talk to the
11 community about what to do with it. The work in 2006 is the same work that would
12 be required to either make it a pedestrian boulevard or repaired road. It is work
13 that would be done no matter what they decide to do with the road, other than
14 close it.

15
16 Brenner asked about making Birch Bay Drive one way or pedestrian only.
17 Rutan stated that they would do what the community wants. From a transportation
18 standpoint, Birch Bay Drive should not be a motorized through route. There should
19 have been a through route up on the bluff to keep the arterial off the waterfront.
20 However, there are many different visions for the community out there.

21
22 Next year, the information sheets will probably start showing the Council
23 districts in which each project is located.

24
25 Introduce this tonight with the amended sheet, and have a public hearing on
26 December 6.

27
28 Nelson asked about the design of the new ferry, and where pedestrians walk.
29

30 Ken Richardson, Accounting Supervisor, stated the pedestrians would walk
31 on the main deck, which is the car deck. That level, which runs down one side of
32 the main car deck, would have a full pedestrian cabin. The pedestrian cabin would
33 be on the north side of the boat, given the way the boat goes back and forth.

34
35 *(Clerk's Note: Discussion continued below.)*
36
37

38 **OTHER BUSINESS**

39
40 Brenner asked about the issue of the **discussion regarding repeated**
41 **speeding and auto accidents at Dewey Road and Bakerview (AB2005-385).**

42
43 Joe Rutan, County Road Engineer, stated staff has put together aerial photos
44 and visited the site. He can set up a meeting or provide the aerial photos.

45
46 Brenner stated the committee members could get the aerial photos. She
47 asked if staff met with any of the neighbors. Rutan stated staff did not. Staff just

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1 drove through the area to look at site distance and the area in comparison with the
2 aerial photos.

3
4 Crawford stated the most dangerous place on the road is the uphill curve.
5 Rutan stated the actual intersection of Dewey Road and Bakerview Road is the least
6 bad of the four accident areas. The curve on Bakerview Road at the intersection of
7 Dewey Road and Van Wyk Road is the worst of the four accident areas.

8
9 *(Clerk's Note: Discussion continued below.)*

10
11
12 **COMMITTEE DISCUSSION**

13
14 **2. DISCUSSION REGARDING THE PROPOSED RESOLUTION ADOPTING**
15 **THE WHATCOM COUNTY 2006 ANNUAL ROAD CONSTRUCTION**
16 **PROGRAM (AB2005-447)**

17
18 *(Clerk's Note: Discussion continued from above.)*

19
20 **Crawford moved** to recommend approval to the full Council.

21
22 **Motion carried unanimously.**

23
24
25 **OTHER BUSINESS**

26
27 Crawford stated he wants to see the hull test design for the new ferry.
28 Richardson stated he should get notice of the testing day any day.

29
30 Crawford stated the developer of the **new Pioneer Park Mall in Ferndale**
31 **(AB2005-287)** was on the radio. A caller to the radio station said that neither the
32 City nor the County have road improvements budgeted, under the concept that the
33 developer would pay for the portion of improvements on which the development
34 would impact. The developer responded that was correct. That caught him off
35 guard. He assumed that, because they have existing county roads and existing
36 traffic, any required improvements to those County roads would be 100 percent the
37 cost to the developer, who would create the impact that causes the county to
38 improve the road. For example, Axton Road is adequate at two lanes. If Axton
39 Road needs to go to four lanes to Northwest Road to accommodate the mall, then
40 the cost of going from two lanes to four lanes needs to be paid for by the
41 developer. He asked if the County needs to account for a certain level of traffic,
42 using the two new lanes, that wouldn't go to the mall.

43
44 Joe Rutan, County Road Engineer, stated the mall itself is within the Ferndale
45 city limits. If in the County, the developer would have been required to do frontage
46 improvements. Through the State Environmental Policy Act (SEPA) process, the
47 County can review the impacts of the project, including the level of service the

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1 County has defined in those areas through the Comprehensive Plan for those roads
2 and intersections. If the development brings down the level of service, it will have
3 to raise the level of service back to what it is now.

4
5 Rutan asked if the developer has to pay 100 percent of the cost to upgrade
6 the road. Rutan stated it becomes difficult when the level of service is reduced by
7 several cumulative smaller projects.

8
9 Brenner stated this is a huge project.

10
11 Rutan stated he agreed. It will be a negotiated issue.

12
13 Brenner stated the problem is that the way they calculate level of service is
14 antiquated and inaccurate. There are no roads that are a level of E or F. They can
15 always average and find that they are totally fine. Rutan stated they are supposed
16 to be measured during the peak travel hour.

17
18 Brenner stated they are still averaged.

19
20 Crawford stated this large project will have a huge impact. He would like to
21 see those who benefit, the developer, pay the share of what it costs the County to
22 provide all the public services. The County's biggest impact will be the road. Rutan
23 stated he agrees. The issue is not paying for the upgrade, it's doing the upgrade.
24 Even if they paid for it 100 percent, he has no one to do it.

25
26 Brenner stated they should pay for the County to hire someone to upgrade it.
27 Rutan stated that on the Horizons project, he didn't want the money for the
28 upgrade. He wanted the developer to do the upgrade.

29
30 Brenner stated there is no State or County protection for the taxpayer.
31 Rutan stated that it's just what the County can achieve through SEPA. He foresees
32 that the Axton Road is a project that the developer will need to build, not pay for
33 the County to build.

34
35 Crawford stated the developer talked on the radio about phasing the road
36 improvements according to how fully built out the development is. That seemed
37 hokey to him. Bond or fund the cost up front to make sure the developer pays for
38 it.

39
40 Brenner stated that if things happened over time instead of all at once, there
41 are other ways to alleviate impacts. When a development happens all at once, the
42 impact is all shouldered on a certain percentage of the taxpayers just because they
43 are there.

44
45 Nelson stated this points out how necessary it is for the county and
46 communities to communicate about all types of growth. Rutan stated the County
47 and City of Ferndale planning staff meet and talk monthly.

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1
2 Brenner stated the City of Ferndale staff gave the Ferndale Planning
3 Commission the wrong population projection numbers. She tried to get that
4 information before the meeting, but it wasn't available to her. The City of Ferndale
5 isn't good about providing information. It's very difficult to work collaboratively
6 with any jurisdiction that makes it difficult to get information.

7
8

9 **ADJOURN**

10
11 The meeting adjourned at 2:35 p.m.

12
13
14
15 _____
16 Jill Nixon, Minutes Transcription

17

18 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

19
20
21
22
23 _____
24 Dana Brown-Davis, Council Clerk

Barbara Brenner, Committee Chair