



CLALLAM COUNTY CHARTER REVIEW COMMISSION MINUTES OF NOVEMBER 10, 2025

MEETING OF THE CHARTER REVIEW COMMISSION (CRC)

Chair Susan Fisch called the meeting to order at 5:30 p.m., Monday, November 10, 2025. Also present were Commissioners Jeff Tozzer, Alex Fane, Patti Morris, Ron Richards, Rod Fleck, Ron Cameron, Paul Pickett, Chris Noble, Christy Holy Cathy Walde, and Nina Sarmiento. Bill Benedict, Jim Stoffer, and Mark Hodgson. Commissioner Cameron arrived late at the meeting.

REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA

Tozzer requested to add an agenda item regarding Chilling Effect.

ACTION TAKEN: Tozzer moved to add an item regarding Chilling Effect, Walde seconded, motion failed

(3 voted in favor and 8 voted opposed)

Richards commented that he noticed that in the Voters Pamphlet the proposed Charter amendment concerning the Prosecutor and Coroner was not set forth as required by state law. He noted that early on in the Charter Review Commission's existence he wrote a legal opinion that clearly spelled out the requirement for proposed Charter amendments word for word have to be printed in the Voters Pamphlet. He mentioned that for the Coroner amendment the ballot title and Charter amendment were identical but in the case of the Town Hall Meetings, Ethics and Land proposals will not be close at all. He has concerns that if the proposed amendments were to appear on the ballot, they would be subject to being overturned because of failure to comply with RCW to print in the Voters Pamphlet.

ACTION TAKEN: Richards moved to ask the Prosecuting Attorney's Office if the exact language needs to be in the Voters Pamphlet, Tozzer seconded, motion passed

(9 voted in favor and 2 voted opposed)

APPROVAL OF THE MINUTES

- Minutes October 27, 2025

ACTION TAKEN: Adopted as presented

PUBLIC COMMENT – Please limit comments to three minutes

- Ed Bowen, Clallam Bay, commented on the Ethics and Lands proposed amendments
- Dr. Sarah Huling, Clallam County, commented on the Ethics and Lands proposed amendments
- John Worthington, Sequim, commented on the Ethics and Lands proposed amendments

CORRESPONDENCES

Gores noted receipt of correspondences from Eric Fehrmann, Commissioner Tozzer, Commissioner Noble, Eva Sandvik, Quileute Tribe, and Clerk Gores (see attached).

BUSINESS ITEMS

- **Lands Acquisition proposed Charter Amendment (Step 2): Commissioner Richards**

Fisch reminded the Commission that the Lands Acquisition proposed amendment is at step 2. She read the following into the record:

Proposed amendment:

Clallam County Charter be amended by adding to Article VIII – The Public Interest, a Section 9.00: Procedures for County Responses to Land Acquisitions by State and Federal Agencies, to read as follows:

Section 9.00: Procedures for County Responses to Land Acquisitions by State and Federal Agencies

1. The Board of County Commissioners shall be required to respond to all requests from State and Federal agencies for comments on the potential impact of transfers or acquisitions of land to or by those agencies where such transfers or acquisitions would affect the County's

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taxing, legislative, regulatory, and/or law enforcement jurisdiction. No later than July 1, 2027, the County Comprehensive Plan shall be amended to add a section setting forth standards under which the Board of County Commissioners must base its responses required by this section. Those standards shall allow for the responses to include a recommendation that the transfers or acquisitions be denied, granted, or conditioned; they shall address both the positive and/or the negative impacts, as the case may be, of such transfers or acquisitions on the county's interests; and they shall consider the factors which the State or Federal agencies give weight to in approving such transfers or acquisitions.

Richards briefed the CRC Commissioners on the Land Acquisition proposed amendment. CRC Commissioners provided pro and con feedback on the amendment.

ACTION TAKEN: Morris moved to advance the Resolution to Steps 3 and 4, Walde seconded, motion failed

(4 voted in favor and 7 voted opposed)(Cameron abstain)

Cameron recommends the Lands Acquisition Committee meets to make a recommendation to forward to the Board of Commissioners.

• **Ethics Review Board proposed Charter Amendment (Step 2): Commissioner Cameron**

Fisch reminded the Commission that the Ethics Review Board proposed amendment is at step 2. She read the following into the record:

Proposed amendment:

Clallam County Charter, Article VIII – The Public Interest, Section 8.100, Ethics Review Board - Establishment and Purpose, be added to read as follows:

Section 8.100. Ethics Review Board — Establishment and Purpose

An independent Ethics Review Board is hereby established to receive and review complaints of violations of the Clallam County Code of Ethics by elected county officials.

Section 8.110. Composition and Terms

(a) The Ethics Review Board shall consist of three members, one from each of the county commissioner districts.

(b) Members shall serve without compensation for staggered three-year terms, with initial terms determined by lot to establish staggering.

(c) No member may be a current county employee, elected official, or candidate for county office, nor an immediate family member thereof.

Section 8.120. Appointment of Members

(a) Members shall be appointed by independently elected county officials. The offices eligible to appoint are:

- County Auditor
- County Treasurer
- County Assessor
- County Director of the Department of Community Development

(b) The order of making appointments shall be determined by lot and each official will make one appointment in turn, repeating the order after each official has made an appointment to the Ethics Review Board.

CLALLAM COUNTY CHARTER REVIEW COMMISSION
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(c) In the event of a vacancy, the office assigned under the current rotation shall appoint a qualified replacement for the remainder of the unexpired term.

(d) Members must be residents of the district they represent and meet the eligibility requirements specified in Section 8.110.

Section 8.130. Duties and Procedures

(a) The Ethics Review Board shall:

1. Determine the rules of procedure for receipt, review and appeal of complaints of violations of the Clallam County Code of Ethics
2. Receive and review written complaints alleging violations of the Clallam County Code of Ethics by elected county officials.
3. Determine whether complaints fall within its jurisdiction.
4. Conduct impartial reviews.
5. Issue written findings publicly upon completion of review.

(b) The Board shall not impose penalties or sanctions.

(c) The Ethics Review Board shall have no authority to investigate or consider alleged conduct that occurred prior to the effective date of this Charter amendment. All investigations must pertain only to actions or omissions occurring after this amendment becomes effective.

(d) Any complaint submitted to the Ethics Review Board must be made by a person or persons having first-hand knowledge of the alleged facts.

The complainant shall certify under penalty of perjury that they:

1. Have direct knowledge of the alleged conduct; and
2. Believe the charge or charges to be true and based upon their personal knowledge of the facts forming the grounds for the complaint.

Anonymous or second-hand complaints shall not be accepted.

Section 8.140. Transparency

All final findings of the Ethics Review Board shall be publicly available and posted on the county website. Meetings may be closed only as necessary to protect confidentiality of complainants or witnesses during active investigations.

CRC Commissioners provided pro and con feedback on the amendment.

ACTION TAKEN: Noble moved to advance the Resolution to Steps 3 and 4, Walde seconded, motion passed

(9 voted in favor and 2 abstain) (Fleck did not vote)

The Ethics Review Board proposed amendment will be on Step 3 and 4 at the next meeting on November 24, 2025.

• **Voter Pamphlet Language**

Richards requested to ask the Prosecuting Attorneys Office for an opinion regarding the Voter Pamphlet publishing the exact language of the Charter amendment.

ACTION TAKEN: Richards moved to ask the Prosecuting Attorney's Office for an opinion regarding the Voter Pamphlet publishing the exact language of the Charter amendment, Walde seconded, motion passed

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REPORTS

- **Chair Report – Commissioner Fisch**

No Chair report.

PUBLIC COMMENT – Please limit comments to three minutes

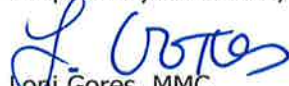
- Ed Bowen, Clallam Bay, commented on Charter Review Commission work, Planning Commission, recommendations for the next Charter Commission
- John Worthington, Sequim, commented on racism, Tribes
- Dr. Sarah Huling, Clallam County, commented on the Lands Acquisition proposed amendment

GOOD OF THE ORDER/FUTURE AGENDA ITEMS

- **Ethics Review Board proposed Charter Amendment (Step 3 & 4): Commissioner Cameron**

ADJOURNMENT - Meeting concluded at 6:51 p.m.

Respectfully submitted,



Lori Gores, MMC

Clerk of the Charter Review Commission

Approved: 11/24/25

CLALLAM COUNTY CHARTER REVIEW COMMISSION 2025 – Roll Call Voting – November 10, 2025
Y – Yes, N- No, A-Absent, Abstain

	Motion to move the lands amendment to steps 3 & 4 - Morris	Motion to move the ethics amendment to steps 3 & 4 - Noble
Susan Fisch	N	Y
Bill Benedict	A	A
Jim Stoffer	A	A
Jeff Tozzer	Y	Y
Alex Fane	N	Abstain
Ron Cameron	Abstain	Y
Pattie Morris	Y	Y
Chris Noble	N	Y
Paul Pickett	N	Abstain
Ron Richards	Y	Y
Rod Fleck	N	A
Mark Hodgson	A	A
Christy Holy	N	Y
Cathy Walde	Y	Y
Nina Sarmiento	N	Y
Yes	7	9
No	4	0
Abstain	1	2
Pass or Fail	Failed	Passed

CHARTER REVIEW COMMISSION PUBLIC COMMENT SIGN-UP SHEET

Public Comment on Agenda Items – 1st Session

I declare under penalty of perjury under the laws of the State of Washington that any testimony that I give is true and accurate. Please print name and address clearly.

Nº	PRINTED NAME	SIGNATURE	ADDRESS
1	Ed Bowen	Ed Bowen	PoB 111 CB
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CHARTER REVIEW COMMISSION PUBLIC COMMENT SIGN-UP SHEET

General Public Comment – 2nd Session

I declare under penalty of perjury under the laws of the State of Washington that any testimony that I give is true and accurate. Please print name and address clearly.

No	PRINTED NAME	SIGNATURE	ADDRESS
1	Ed Bowen		PoB 111 CB
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CHARTER REVIEW COMMISSION

CORRESPONDENCES RECEIVED

Gores, Loni

From: Gores, Loni
Sent: Tuesday, October 28, 2025 3:51 PM
To: Benedict, Bill; Boughton, Dee; Cameron, Ron; Fane, Alex; Fisch, Susan; Fleck, Rod; Hodgson, Mark; Holy, Christy; Morris, Patti; Noble, Chris; Pickett, Paul; Richards, Ron; Sarmiento, Nina; Stoffer, Jim; Tozzer, Jeff; Walde, Cathy
Cc: Gores, Loni
Subject: Press Release "For" and "Against" Committees - BOCC Town Hall Meetings
Attachments: For and against committees for BOCC Town Hall Meetings.pdf

Attached is the press release issued for the "For" and "Against" Committees for BOCC Town Hall Meetings. If you would like to serve on a committee, please let me know no later than **Tuesday, November 4, 2025, at 4:30 p.m.**

"My email address has changed! The new format is Loni.Gores@clallamcountywa.gov Please update my contact card as your earliest convenience, Thank you!"

*Loni Gores
Clerk of the Board
Commissioners Office
223 East 4th Street, Suite 4
Port Angeles, WA 98362
Phone: 360-417-2256*



Board of Clallam County Commissioners

223 East 4th Street, Suite 4
Port Angeles, WA 98362-3015
360.417.2256 Fax: 360.417.2493
E-mail: loni.gores@clallamcountywa.gov

Todd Mielke, County Administrator

MARK OZIAS, District 1
RANDY JOHNSON, District 2
MIKE FRENCH, District 3, Chair

PRESS RELEASE **For Immediate Release** **Voters' Guide committee sought for the 2026 General Election**

The Board of Commissioners is seeking individuals to serve on "For" and "Against" Committees to draft voters' guide arguments for the **2026 General Election**.

Clallam's online guide and printed voter pamphlet includes a wealth of information designed to help voters better understand the voting process and measures when casting their ballots.

Each measure appearing in the guide and pamphlet includes the official ballot title, explanatory statement, and the arguments "for" and "against" the measure.

Individuals are needed to serve on the following committees:

- **"For" and "Against" Committees regarding County Commissioners District Town Hall Meetings**

Interested parties should contact the Clerk of the Board of Commissioners by **Tuesday, November 4, 2025, at 4:30 p.m.** Email loni.gores@clallamcountywa.gov or call 360-417-2256 if interested.

Please include your full name, voter registration address, phone number and which committee you would like to serve on.

Information on "For" and "Against" Committees can be found in the Elections Guide for Jurisdictions & Candidates at <https://www.clallamcountywa.gov/164/Ballot-Measures> or by contacting the Elections Department at 360-417-2221

Proposed amendment:

Therefore, the 2025 Clallam County Charter Review Commission hereby proposes that the Clallam County Charter be amended by adding to Article II – Legislative and Executive Branches, a new Section 2.50, Commissioner District Town Hall Meetings, to read as follows:

Each member of the Board of County Commissioners shall conduct at least one town hall meeting in their Commissioner District each year, and all members of the Board of County Commissioners shall conduct at least one town hall meeting in each commissioner's district each year, said meetings to occur outside of normal working hours. Notice of such meetings must be posted at least 30 days in advance of the meeting.

Any language in double parentheses with a line through it is existing Clallam County Charter language and will be taken out of the Charter if this measure is approved by voters. Any underlined language does not appear in current Clallam County Charter language but will be added to the Charter if this measure is approved by voters.

Gores, Loni

From: noreply@civicplus.com
Sent: Thursday, October 30, 2025 10:14 AM
To: Gores, Loni
Subject: Online Form Submission #8590 for Contact the Clerk of the Board

Contact the Clerk of the Board

First Name	Eric
Last Name	Fehrmann
Email	efehrm_3@hotmail.com
Phone	13608093716
Subject	Charter Review Commissioners
Comments	Hi Loni, Please send this to Clallam County Charter Review Commissioners. Ethics as a standard refers to a set of principles and values that guide behavior and decision-making within a specific context, such as a profession or organization. These standards help ensure actions are conducted with integrity, fairness, and respect for others, promoting accountability and trust. Isn't the goal of the ethics committee to formulate a means of establishing standards of ethics for county commissioners and holding them accountable to those standards?

Please Note

This form is not for emergencies. If you have an emergency, please phone 911.

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Gores, Loni

From: Tozzer, Jeff
Sent: Monday, November 3, 2025 4:08 PM
To: Fisch, Susan; Noble, Chris; Hodgson, Mark
Cc: Gores, Loni
Subject: CRC: Request to Add Agenda Item: "The Chilling Effect"

Hi Loni, Please send to all 15. Thank you.

Dear Executive Committee,

I'd like to request that an item titled **"The Chilling Effect"** be added to the next Charter Review Commission agenda.

Earlier in this session, Chairwoman Susan Fisch gave a thoughtful and compelling explanation of the *chilling effect*—how fear or intimidation can discourage people from speaking up or participating fully in public processes. It was one of the most passionate discussions this commission has had, and I believe it deserves to be revisited.

Twice now, I've attempted to bring forward a discussion regarding the roles of Chair Fisch, Commissioner Mark Ozias, and County Administrator Todd Mielke in arranging for taxpayers to spend thousands of dollars on private security for Commissioner Jim Stoffer. The first time, the item was removed from the agenda, preventing the public from commenting on it. The second time, the Executive Committee declined to include it at all, and a later attempt to add it was not supported by a majority of commissioners.

This stands in sharp contrast to the March meeting, when Commissioner Stoffer requested an item titled *"OPMA Violations and Free Speech."* That item was added at the start of the meeting—without prior notice or supporting documentation—after Chair Fisch simply asked if there were any objections. There were none, and it was added. That discussion ultimately served as the basis for several hours of debate over proposed bylaw changes that would have restricted commissioners' Freedom of Speech outside of meetings. When I asked recently why this process is no longer being followed, Chair Fisch replied, "Well, that was a while ago," and declined to elaborate.

If the *chilling effect* is worth discussing when it applies our friends who provide public comment, it should also be worth discussing when it affects the broader public—or commissioners themselves. Selective enforcement of rules or unequal treatment can discourage members from asking questions or raising concerns, particularly when those concerns challenge the majority view.

Chair Fisch has spoken in-depth about the importance of protecting open dialogue. I believe this is an opportunity to build on that message. Her experience and perspective would be valuable in helping us consider whether the same *chilling effect* she described months ago may now be influencing our work as commissioners. Does it only apply when our allies feel silenced—or should it protect everyone who has taken an oath to serve impartially and in the public's best interest?

The Chilling Effect was also the foundation for a two-hour bylaw review earlier this year, led by Commissioners Chris Noble, Christy Holy, and Chair Fisch. If it was important enough to drive that effort, it should be equally important to reexamine now—especially given growing concerns that decision-making power within this commission rests with only a few individuals.

I make this request in the same spirit of transparency and fairness that Chair Fisch championed earlier in the year. I believe a renewed discussion of *The Chilling Effect* would benefit both the commission and the public we serve.

Sincerely,

Commissioner Jeff Tozzer

Gores, Loni

From: Noble, Chris
Sent: Friday, November 7, 2025 10:08 AM
To: Tozzer, Jeff; Fisch, Susan; Hodgson, Mark
Cc: Gores, Loni
Subject: Re: CRC: Request to Add Agenda Item: "The Chilling Effect"

Loni,
Please forward to the full commission.

Commissioner Tozzer,
Your suggested discussion item was not included in the draft agenda because it does not pertain to a proposed charter amendment or a recommendation to the Board of County Commissioners. As always, you may move to add an item to the agenda.

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From: Tozzer, Jeff <jeff.tozzer@clallamcountywa.gov>
Sent: Monday, November 3, 2025 4:07:55 PM
To: Fisch, Susan <susan.fisch@clallamcountywa.gov>; Noble, Chris <chris.noble@clallamcountywa.gov>; Hodgson, Mark <mark.Hodgson@clallamcountywa.gov>
Cc: Gores, Loni <loni.gores@clallamcountywa.gov>
Subject: CRC: Request to Add Agenda Item: "The Chilling Effect"

Hi Loni, Please send to all 15. Thank you.

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Chair Fisch has spoken in-depth about the importance of protecting open dialogue. I believe this is an opportunity to build on that message. Her experience and perspective would be valuable in helping us consider whether the same *chilling effect* she described months ago may now be influencing our work as commissioners. Does it only apply when our allies feel silenced—or should it protect everyone who has taken an oath to serve impartially and in the public’s best interest?

The Chilling Effect was also the foundation for a two-hour bylaw review earlier this year, led by Commissioners Chris Noble, Christy Holy, and Chair Fisch. If it was important enough to drive that effort, it should be equally important to reexamine now—especially given growing concerns that decision-making power within this commission rests with only a few individuals.

I make this request in the same spirit of transparency and fairness that Chair Fisch championed earlier in the year. I believe a renewed discussion of *The Chilling Effect* would benefit both the commission and the public we serve.

Sincerely,

Commissioner Jeff Tozzer

Gores, Loni

From: Tozzer, Jeff
Sent: Monday, November 10, 2025 6:05 AM
To: Gores, Loni
Cc: Noble, Chris; Hodgson, Mark; Fisch, Susan
Subject: Clarification Regarding Agenda Item Standards and Consistent Application of Rules

Hello Loni, Please forward to all 15. Thanks.

Dear Commissioner Noble,

I wanted to follow up regarding my recent request to add an item titled *"The Chilling Effect"* to the next Charter Review Commission agenda.

You informed me that my suggested discussion item was not included in the draft agenda because it "does not pertain to a proposed charter amendment or a recommendation to the Board of County Commissioners." I've reviewed both our bylaws and rules, and I do not see any requirement that agenda items must pertain specifically to proposed charter amendments or recommendations.

In fact, there are several examples throughout this session where agenda items have not fit that description. For instance, Commissioner Morris added "Meeting Schedule" to the October 27th agenda; I added "CRC Security" to the October 13th agenda; Commissioner Richards added "Executive Session Request" to a July agenda; and Commissioner Stoffer added "OPMA and Free Speech" to a March agenda. Each of these items involved internal matters or process discussions rather than proposed charter amendments or recommendations.

Given these precedents, I'm struggling to understand why my recent request is being handled differently. If the Executive Committee has adopted new criteria for what qualifies as an agenda item, could you please point me to where that standard is recorded or when it was approved by the full commission?

I want to be clear that I'm not objecting to following established rules—only asking that they be applied consistently to all commissioners. I also recognize that **my questions and concerns don't always align with the views of Chair Fisch or the majority**, and if that's the real reason my requests are being excluded, I'd rather know so I can **stop wasting everyone's time**.

However, if this is simply a misunderstanding or a matter of inconsistent application, then I respectfully ask that the same flexibility extended to other commissioners also be extended to me. Consistent and transparent treatment helps all of us maintain public trust and ensures that every commissioner can fully represent their constituents.

Thank you for your time and consideration. I look forward to your clarification.

Sincerely,

Commissioner Jeff Tozzer

From: noreply@civicplus.com
Sent: Monday, November 10, 2025 8:22 AM
To: Gores, Loni
Subject: Online Form Submission #8655 for Contact the Clerk of the Board

Contact the Clerk of the Board

First Name	Eva
Last Name	Sandvik
Email	evapnw@yahoo.com
Phone	3605655635
Subject	Charter review: Ethics
Comments	With the limited time remaining, please work together on a proposed amendment to the Clallam County Charter to include an ethics oversight mechanism with enforceable penalties for violations. If the last 5 years have taught us anything, it is that absolute power indeed corrupts absolutely. County Commissioners loyalties should be to Clallam County taxpayers and residents. Thank you.

Please Note

This form is not for emergencies. If you have an emergency, please phone 911.

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Gores, Loni

From: James Salazar <james.salazar@quileutetribe.com>
Sent: Monday, November 10, 2025 8:59 AM
To: Gores, Loni
Cc: Bryan Cramer
Subject: Quileute Tribes Comments to the CRC
Attachments: Letter to Clallam County Charter Review Commission.pdf

You don't often get email from james.salazar@quileutetribe.com. [Learn why this is important](#)

Good Morning,

Attached is a letter from the Quileute Tribal Council for the CRC to review prior to their meeting tonight. If there is any comments or questions from the CRC, please direct them to Bryan Cramer the tribes General Manager as his is the primary point of contact for government agencies on behalf of the tribe. Thank you.

James Salazar
Quileute Tribal Council
90 Main St,
La Push WA. 98350
Office: (360) 374-6163
Cell: (360) 640-2151

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Quileute Tribal Council

• QUILEUTE INDIAN TRIBE •

P.O. Box 279 • La Push, WA • 98350-0279
Phone: (360) 374-6163 • Fax: (360) 374-6311



November 10th, 2025

Clallam County Charter Review Commission
Port Angeles, WA

Via Email
(loni.gores@clallamcountywa.gov)

Re: Comments Regarding Proposed Charter Amendment Concerning Trust Lands

Dear Charter Review Commission Members:

The Quileute Tribal Council writes in opposition to the proposed amendment to the Clallam County Charter ("Charter") regarding trust land transfers, which is currently under consideration by the Clallam County Charter Review Commission ("CRC"). First, we explain some of the reasons why we oppose the proposed amendment. Second, we provide some additional context we hope will help CRC members understand why the proposed amendment is not advisable.

EXECUTIVE SUMMARY

There are numerous practical reasons why the proposed amendment should not be enshrined in Clallam County's highest governing document (where it does not really belong in the first place) without the ability to amend it for at least five years. There are already established processes in place for the County to respond to a proposed trust land transfer if it wishes to do so for any particular reason. But *requiring* it to do so in *all* cases is unnecessary, will strip Clallam County (the "County") of discretion it should have, and will result in unnecessary costs and impacts that have not been clearly identified or quantified. Moreover, the proposed amendment wades into multiple areas of law, including federal Indian law, which is a notoriously complex and nuanced area of law, without thorough legal review. In short, more due diligence is necessary.

In addition, we hope that the context we provide below will help the CRC recognize that the proposed amendment is not advisable. Tribal trust land transfers are both historically and legally appropriate. They significantly benefit both tribes and surrounding communities, and they should not be discouraged as a general matter.

If the CRC would like to see the County more frequently respond to proposed trust land transfers, we suggest that it instead send a recommendation to the County Board of Commissioners so that appropriate due diligence can be performed and, if deemed necessary, a regulation, policy, or process can be more carefully developed, with appropriate intergovernmental coordination and legal review, and without the last-minute time constraints and lack of information the CRC currently faces with this proposed amendment.



Quileute Tribal Council

• QUILEUTE INDIAN TRIBE •

P.O. Box 279 • La Push, WA • 98350-0279
Phone: (360) 374-6163 • Fax: (360) 374-6311



A. REASONS WHY THE CRC SHOULD NOT PASS THE PROPOSED AMENDMENT

There are many reasons, most of them quite practical in nature, why the CRC should not pass the proposed amendment. These include, without limitation:

1. **The proposed amendment is unnecessary.** The County already has the ability to weigh in on proposed transfers of land into trust if and when it chooses to do so. For example, there is an established process for local governments to submit responses regarding tribes' fee-to-trust applications to the United States. 25 C.F.R. §§ 151.9(d), 151.10(d), 151.11(c). Similarly, there are opportunities for public comment and/or lobbying activities at multiple stages of the Washington Department of Natural Resources' trust land transfer program, including at the Advisory Committee stage, the Board of Natural Resources stage, and the legislative appropriations stage. See https://dnr.wa.gov/sites/default/files/2025-03/amp_tlt_process.pdf. Accordingly, the proposed amendment is not necessary in order for the County to weigh in on proposed trust land transfers.
2. **The proposed amendment will strip the County of its discretion.**

As a general matter, it is important for government administrators and elected officials to have discretion in performing many of their duties, and not be excessively bound by red tape. The proposed amendment would strip the County of its discretion by *requiring* it to respond to all proposed trust land transfers that fall within the broad scope of the proposed amendment. And it would prescribe the development of standards that would further bind the County. Yet there are many circumstances in which it might not be in the County's best interests to weigh in on a proposed trust land transfer. As discussed below, there will be costs associated with doing so, and a response might not be worth the costs in many cases. For example:

- The land in question may be located on a tribe's reservation, so the proposed trust transfer is not of significant interest to the County;¹
- The proposed trust transfer may have an obviously *de minimis* impact on the County that is not worth the cost of addressing (such as, perhaps, a fee-to-trust application for a small homesite with a low property value);
- There may be obvious benefits to the surrounding community of a proposed trust land transfer (such as more revenues for the County from a DNR trust transfer, or the significant economic benefits to the surrounding community that might come

¹ The CRC may be surprised to know that even fee-to-trust applications for *on-reservation* land could fall within the scope of the proposed amendment as written. For example, fee land within a reservation may be subject to state/local taxation under the Burke Act of 1906.



Quileute Tribal Council

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from a tribal economic development project associated with a federal fee-to-trust transfer), rendering the cost of a response unnecessary;

- The law may establish a strong presumption in favor of a trust land transfer that is obviously unlikely to be outweighed by the County's response, making it not worth the cost of addressing. *E.g.*, 25 C.F.R. § 151.9(c) and (d) (establishing a presumption that a tribe's fee-to-trust request for land within reservation boundaries should be approved and placing the burden of rebutting that presumption on local governments);
- The County and the tribe in question may have already reached some type of agreement regarding one or more proposed trust land transfers, making it unnecessary for the County to respond (and a waste of resources to require it to).

As discussed above, the County already has the ability to respond to proposed trust land transfers, but restricting its discretion by *requiring* it to do so is not advisable in this case, given the many scenarios in which a response might be unnecessary or undesirable. If the CRC would like to see the County more frequently respond to proposed trust land transfers, that is a policy issue that could be better forwarded to the County Board of Commissioners as a recommendation.

3. **The proposed amendment will entail unnecessary time and effort at taxpayer expense.** The proposed amendment will require significant and often unnecessary (see above) time and effort at taxpayer expense. We lead a government, so we are very familiar with the time constraints, staffing considerations, and cost concerns that governments face. It is our understanding that Clallam County already has existing staffing and budgetary concerns, which the proposed amendment would only exacerbate. We do not wish to see the taxes the Quileute Tribe and its members pay to Clallam County expended in unnecessary ways, and we suspect many other taxpayers would feel the same.

One significant cost would be making the required amendments to the County's Comprehensive Plan. This would undoubtedly require many hours of staff time (presumably including attorney time) and possibly consultant time as well. Indeed, an amendment process is currently underway which has taken nearly two years, involves a large team of both consultants and staff, and is projected to cost more than \$150,000 for the amendments to the Comprehensive Plan alone (not including associated work, such as updating ordinances and regulations). See <https://www.clallamcountywa.gov/DocumentCenter/View/23174/Periodic-Update-Work-Plan-Final-Draft-20240930>. In this case, the process would be particularly cumbersome because of the broad scope of the proposed Charter amendment. The proposed charter amendment encompasses numerous (and vaguely identified) types of trust land transfers



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which are governed by various federal and state laws. The purposes, processes, parties involved, potential considerations, etc. for each vary widely, so crafting standards will be difficult. Moreover, to the extent the trust land transfers involve issues of federal Indian law, crafting the standards will involve specialized knowledge the County staff and their usual consultants are not likely to possess. To make things worse, such standards may be largely unnecessary in some (perhaps all) cases. For example, notices from the federal government regarding tribal fee-to-trust requests already outline a number of questions for local governments to consider, and federal regulations already clearly set forth the topics the federal government considers.

Another significant cost would be the time, effort, and resources required to respond to the proposed trust land transfers. Again, the scope of the proposed amendment is broad, yet vague, so it is not clear exactly what types of trust land transfers it encompasses, and we have not seen that enumerated yet. Accordingly, it is impossible to know how many responses might be required or how burdensome those responses might be. But presumably they would all require, at a minimum, review of the request by one or more staff, legal research, property research, review of applicable zoning and other relevant land use laws and regulations, review of property taxes and other tax revenues generated from the property, review of what governmental services are/would be provided to the property, drafting time, legal review, and more. In short, the required responses seem likely to get very time consuming and expensive, very fast. Moreover, depending on the process in question, the timeframe for the response might be short. For example, the County only has 30 days to respond to notices of fee-to-trust applications from the federal government. 25 C.F.R. §§ 151.9(d), 151.10(d), 151.11(c). In government, that is a relatively short timeline which would likely require multiple staff people to drop what they are doing and prioritize the response.

As far as we know, the staffing considerations, budgetary impacts, and other practical implications of the proposed amendment have not been analyzed or described. Nor have all of the trust land transfers that would be encompassed in the proposed amendment, or the legal standards involved for each, been identified. Proposing an amendment to the Charter—the County’s highest governing document—which could not be changed again for at least five years if approved, without doing basic due diligence about the costs and other practical implications of the proposed amendment would be irresponsible.

4. **The proposed amendment is not appropriate for the Charter.** The Charter is the County’s highest governing document, similar to a constitution. As such, it deals on a very high level with the framework and general administration of the County government. In contrast, the proposed amendment pertains to a minor administrative function. This is the type of topic that would more typically (and appropriately) be



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addressed in regulations, policies, or procedures, not in a governing document like a charter, or even in a code.

5. **The required amendment to the County's Comprehensive Plan would be an odd fit with a timeline that might not be feasible.** The proposed amendment would require amending the County's Comprehensive Plan no later than July 1, 2027, to add standards for the County's responses to proposed trust land transfers. As an initial matter, this topic would be an odd fit for the Comprehensive Plan, which covers more substantive, higher-level aspects of land use, transportation, zoning, development, etc. And, as discussed above, the amendment process would be lengthy, burdensome, and expensive. Additionally, it is not clear whether the prescribed timeline could even be met. The current amendment process is scheduled to conclude by the end of next month and the Comprehensive Plan is not updated frequently. It appears that the last update was in 2020. Again, we question whether basic due diligence has been done into whether this requirement is even feasible, not to mention desirable.
6. **The proposed amendment involves complex and nuanced areas of law, policy, history, and intergovernmental relations, which should be considered and addressed in a more careful way.**

Federal Indian law (which is the body of federal law that governs the rights of tribes and the relations between tribes and the federal and state governments, and includes the U.S. Constitution, federal statutes, federal regulations, federal court case law, and more) is a notoriously complex area of law that even most attorneys are not well versed in, unless they specifically practice it. Underlying it is centuries of history and vacillating federal policy (and the resultant effects) that most non-Indians are not well informed about. And intergovernmental relationships with tribes require a high level of diplomacy, like any other intergovernmental relationships. Even purportedly well-intentioned efforts in dealing with tribes, without tribal involvement and careful consideration, can easily backfire and have negative consequences, as history has repeatedly shown. Federal Indian law is simply not an area to wade into casually. A proposed amendment to the Charter that involves federal Indian law and impacts tribes should not be recommended by the CRC or placed on the ballot for voters' consideration without careful consideration and full vetting. This proposed amendment was drafted by laypersons who are obviously not very familiar with federal Indian law, has not had thorough legal review by an attorney well versed in federal Indian law, and has not been analyzed for its practical impacts. Even if it were an appropriate topic for the Charter (which, as discussed above, it is not), putting it on the ballot would be premature, at best. At most, the CRC should



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consider making a recommendation to the County Board of Commissioners for further review of this topic.

7. The proposed amendment inappropriately targets tribes and may be applied to tribes in ways that are not appropriate.

While the proposed amendment is worded somewhat neutrally on its face and does not specifically reference tribes, tribes and their trust land transfers appear to be the primary target of the proposed amendment. Moreover, much of the rhetoric regarding the proposed amendment seems to boil down to the misguided idea that tribes should have to “pay their fair share.” Accordingly, we are concerned that the standards developed pursuant to the proposed amendment and/or the way those standards are applied, may result in a presumption that the County will oppose trust land transfers unless tribes are willing to “pay for play,” so to speak. Besides the fact that ethical governments should not operate on a “pay for play” basis, that is simply not an appropriate way to engage with another government, much less a tribal government. The following discussion explains why targeting tribes in this way is not appropriate.

B. IMPORTANT CONTEXT FOR THE CRC TO UNDERSTAND

We are concerned about the anti-tribal rhetoric we have seen and heard in the discussions and materials regarding this proposed ordinance. At the same time, we recognize that some of this may be rooted in simple lack of information or misunderstanding about federal Indian law, tribes, and intergovernmental relations. Accordingly, we provide below some overall context that is important for the CRC to understand, as well as some information specific to some of the key points we have heard and seen made. Hopefully, once armed with this information, the CRC will see why the proposed amendment is not appropriate.

- 1. Historical context must not be ignored.** Tribes pre-exist the County, the State of Washington, and the United States. All of Clallam County was originally tribal land. For hundreds of years, tribes were unfairly dispossessed of their land in various ways. First, via treaties which were typically negotiated in a language the tribes did not speak, entered into under varying degrees of fraud and/or duress, and involved inadequate compensation for the land. Second, pursuant to the since-repudiated federal allotment program and its after-effects. And sometimes in other ways as well. The Quileute Tribe was left with a particularly small reservation that is insufficient for the Tribe’s housing, community service, cultural, and economic development needs. We ask CRC members to keep this historical context at the front of their minds.



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2. **Tribal land reacquisition is beneficial for tribes and surrounding communities.** In recent decades, tribes have made great strides in revitalizing their governments and communities. After much sustained effort, they are now in a position where they are sometimes able to reacquire certain parcels of land in their traditional homelands. Not only is that quite meaningful for tribes, but it is also beneficial to both the tribes and the surrounding communities in various ways, including:
 - In most cases, tribes purchase property on the open market, at fair market prices, which supports local real estate markets and property values. Note that this also means tribes are *paying* to reacquire land that was unfairly taken from them. The assertion that tribes have a competitive advantage (*i.e.*, can make higher offers) because of the possibility of having land placed into trust in the future is not realistic. There is no guarantee that the land will be taken into trust and even if it is, the process can take years.
 - Even in cases where tribes themselves do not pay for the land, such as under the DNR trust land transfer program, the State pays DNR fair market value for the land. The tribes then use the property for some public benefit (such as parkland, open space, conservation, nature preserve, recreational opportunities, scientific research, and/or outdoor education) and are responsible for all costs of maintaining the property. The DNR is then able to acquire more profitable replacement land elsewhere. See https://dnr.wa.gov/sites/default/files/2025-03/amp_ult_manual.pdf.
 - Tribes use their lands in various ways, but always in ways that directly benefit their communities (such as for housing, community services, cultural activities, and economic development). This enables tribal communities to become even healthier and more self-sufficient, which also benefits surrounding communities. In addition, tribes' use of their lands benefits surrounding communities in numerous ways, both direct and indirect. Direct benefits could include, for example, a health clinic that all community members can access, a park or recreation area open to all, a tribal agency or business that employs numerous individuals from the surrounding community, or a new attraction that people want to visit. Indirect benefits could include, for example, less demand on local governments to provide community services, contracts for goods/services with local businesses, tribal employees (both Indian and non-Indian) spending their paychecks in the surrounding community, attractions drawing more people to the area who also spend money at other local businesses, or tribal donations to community organizations.
3. **Tribes are governments who are uniquely situated in the American governmental framework and must be treated accordingly.** We have heard and seen several



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comments to the effect that tribes should be treated like everyone else. But the fact is that tribes are *not* like everyone else. Tribes are governments. They pre-exist the United States and have always been treated differently, since the founding of the United States. *See* U.S. CONST., art. 1, §§ 2 and 8. Tribal governments have sovereign governmental powers similar to other governments (*e.g.*, the power to tax, law enforcement authority, judicial authority, regulatory authority, etc.). Also like other governments, they provide a full range of governmental services (*e.g.*, education, law enforcement, court systems, infrastructure, natural resources management, healthcare, childcare, elder care, etc.). Obviously, all of that needs to be funded, yet tribes have a very limited tax base compared to other governments, as an unfortunate legacy of various federal court decisions, federal laws, and federal policy. Instead, tribal economic development provides a crucial way to fund tribal governmental services. Tribal businesses are not like other businesses, whose profits go to individuals. Tribal business revenues go to the tribal government, to fund tribal governmental services. Thus, the idea that tribes or tribal businesses should be treated like everyone else is simply misguided. Concerningly, it harkens back to the 1880s and the 1950s, when the United States policy towards Indians was to promote assimilation. In both cases, the results were disastrous and assimilation-based laws and policies were subsequently reversed. Since 1970, the policy of the United States has been to support tribal sovereignty and self-determination. *See* Nixon's Special Message on Indian Affairs, July 8, 1970, *available at* <https://www.presidency.ucsb.edu/documents/special-message-the-congress-indian-affairs>.

4. **There is no equal protection issue.** We have also heard comments that treating tribes or Indians differently raises equal protection issues. Not so. As discussed above, tribes have always been treated differently under United States law. Indeed, there is an entire chapter of the United States Code devoted entirely to tribes. 25 U.S.C. There is no equal protection issue because this distinction is not based on race. Instead, it is based on the political status of tribes as governments pre-existing the United States (and of tribal members as citizens of their tribes). *See Morton v. Mancari*, 417 U.S. 535, 553-555 (1974). While it is true that anti-tribal individuals and organizations have sometimes continued to claim that there is an equal protection issue, their efforts have not been successful. The law review article that we have seen cited as somehow supporting the idea that there is an equal protection issue merely recognizes the continued existence of these claims. It does not agree with such claims—rather, it “defends the constitutionality of federal Indian law.” It is a highly theoretical article, written by a law professor (*not* a tribal attorney, as has been stated) that outlines a scholarly argument that could potentially be used to defend federal Indian law from equal protection challenges. Michael Doran, *The Equal-Protection Challenge to Federal Indian Law*, 6 U. PA. J. L. & PUB. AFF. 1 (2020). It does not support the claim that there is an equal protection issue here.



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5. **What is the federal fee-to-trust program?** The federal government has held land in trust for tribes for centuries. As part of federal efforts to correct past mistakes (such as the federal allotment policy in the 1880s and resultant land losses) and support tribal governments, there has been a process for tribes and Indians to request the United States to take additional land into trust on their behalf for nearly a *century*, since 1934. 25 U.S.C. § 5108 (formerly 25 U.S.C. § 465). The current process is detailed in the Code of Federal Regulations. 25 C.F.R. Part 151. Under this process, tribes and Indians can ask the United States to take land that is in fee status (like most land owned by individuals and businesses) into trust on their behalf. If the United States agrees, then the United States takes ownership of the land, but holds it in trust on behalf of the tribe or Indian. When this happens, the land becomes subject primarily to tribal and federal authority, not state or local authority. This was intended to help correct past land losses and prevent future land losses, by protecting the land. For example, trust land cannot be sold, leased, or otherwise encumbered without federal approval. So trust status protects the land for future generations of the tribe. It also provides opportunities for tribes to make the best use of the land. For example, tribes may be able to offer tax incentives (like other governments do) to attract outside business development, tribes may be able to engage in business opportunities that would not otherwise be available, they may be able to establish and control important community services, they may qualify for certain government programs, etc. As discussed above, these things also benefit surrounding communities.

The fee-to-trust application process is far from a foregone conclusion. Assembling an application is a time- and labor-intensive process, requiring a significant amount of information. And while recent revisions to the federal regulations should speed up the processing of applications, it remains to be seen if that is truly the case. In the past, the process could take years. And not all applications are approved.

6. **What is the Washington DNR trust land transfer program?** State trust lands are trust lands that were granted by the United States to the State of Washington upon statehood. DNR manages three million acres of these trust lands, which generate revenues to support counties, public schools, etc. Revenues are generated from the lands through activities like harvesting timber and other forest products, leasing lands for agricultural purposes, and leasing lands for various other purposes. For *decades* (since 1989), the DNR trust land transfer program has allowed the DNR to identify State trust lands that are economically underperforming (*i.e.*, they are not generating the desired revenues). The DNR can propose the transfer of these underperforming lands to tribes or public agencies (which, notably, could include Clallam County itself) to be used for some public benefit (such as conservation, recreation, open space, etc.). There is an extensive review process



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for such proposals, which includes review by an Advisory Committee, the Board of Natural Resources, and finally the State legislature. Only a few transfers are approved each two-year cycle. If approved, the legislature provides funds equal to the fair market value of the land, the land is transferred to the tribe or public agency (which becomes responsible for all future costs), and the DNR uses the funds provided by the legislature to purchase *replacement* land from which it can generate more revenues for the counties, schools, etc. Therefore, these DNR trust land transfers *benefit* the County by allowing economically underperforming land to be used instead for some public benefit, while enabling the DNR to acquire land that will generate more revenues for the County and local schools. See <https://dnr.wa.gov/land-transactions/trust-land-transfer> (and associated materials).

7. **Tribal trust land transfers do not necessarily mean a loss of revenues for the County.** For the reasons discussed above, even if tribal trust land transfers result in some lost revenues to the County, that should not be a reason to oppose them. However, it is also important to note that tribal trust transfers do not necessarily mean a loss of revenues for the County. In some cases, such as the DNR trust land transfer program discussed above (where, incidentally, the lands are *already* exempt from property taxes), revenues to the County should actually *increase*. And while tribal fee-to-trust transfers do remove the property from the County's property tax rolls, even that does not necessarily mean a loss of revenue. As discussed above, tribes' use of trust lands brings significant benefits, both direct and indirect, and both financial and otherwise, to surrounding communities. These can range from reduced need for County governmental services (whether to the property itself, or as a result of community services provided by the tribe on the property), to tax revenues generated by non-Indian businesses on a property, to tax revenues generated at nearby businesses due to increased visitor numbers, to employee paychecks being spent in the community, to donations by the tribe to community organizations, to a more attractive/vibrant community, and more. The outsized economic and community benefits of tribes in Washington has been well-documented and quantified. <https://www.washingtonindiangaming.org/wp-content/uploads/2025/06/2025-Economic-Community-Benefits-of-Tribes-in-Washington.pdf>. This report is lengthy, but we would encourage CRC members to review some or all of it. The benefits include, among many others, *billions* in State/local revenues, wages, benefits, and purchases; and tens of thousands of jobs (majority non-Indians). Why would the CRC want to risk impeding any of that with the proposed amendment?
8. **Why does the federal government have the ability to remove land from state/local authority?** Some commenters have questioned whether the federal government actually has the ability to remove land from state/local authority. It does. First, recall that the



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lands in question *came from* the federal government (after it first acquired them from the tribes, albeit typically unfairly), whether through sales to individuals, transfer of trust lands to the State at statehood, or some other way. Second, the Supremacy Clause of the United States Constitution makes the Constitution, laws, and treaties of the United States “the supreme Law of the Land,” which takes precedence over state constitutions and laws. U.S. CONST. art. VI, cl. 2. The federal government can, and does, take ownership of property (thus removing it from state/local authority) in various ways, such as by eminent domain with just compensation (*see* U.S. CONST. amend. V) and by designating national parks, national forests, military installations, and other federal lands. Taking property in trust for tribes is just another way the federal government does this. As discussed above, the federal government has held land in trust for tribes for centuries, and there has been clear federal statutory authority for it to take additional land into trust on behalf of tribes since 1934. 25 U.S.C. § 5108. There is nothing new or uncertain about any of this.

CONCLUSION

In conclusion, tribal trust land transfers are historically and legally appropriate, they benefit both tribes and surrounding communities, and they should not be discouraged as a general matter. If there is a proposed trust land transfer that the County has particular concerns about for some reason, it can certainly submit a response, and there are established processes in place for it to do so. But *requiring* it to do so in *all* cases is unnecessary, will strip the County of discretion it should have, and will result in costs and impacts that have not been clearly identified or quantified. If the CRC would like to see the County more frequently respond to proposed trust land transfers, we suggest that it instead send a recommendation to the County Board of Commissioners so that appropriate due diligence can be performed and, if deemed necessary, a proposed regulation, policy, or process can be more carefully drafted, with appropriate intergovernmental coordination and legal review, and without the last-minute time constraints and lack of information the CRC currently faces with this proposed amendment.

Sincerely,

Douglas Woodruff, Jr.
Chairman

CHARTER REVIEW COMMISSION

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