

**MEETING MINUTES
SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
Monday, February 2 and 3, 2009**

Monday, February 2, 2009 - UW Friday Harbor Laboratories , 620 University Road, Friday Harbor, WA

10:00 AM CALL TO ORDER

Council Chair Peterson called the Retreat to order at 10:00 a.m. Council members Howard (Howie) Rosenfeld, Gene Knapp, Bob Myhr, Lovel Pratt, and Richard Fralick; County Administrator, Pete Rose; Clerk to the Council, Ann Larson; Pamela Morais, Human Resources Manager; and interested members of the public were present. The Council conducted sessions as follows: Session 1, open dialogue between Council members; session 2, focus on key questions; and session 3, focus on key outcomes, with a lunch and mid-afternoon break. The meeting adjourned at 4:30 p.m.

Tuesday, February 3, 2009 - Council Hearing Room, Legislative Building, Friday Harbor

10:00 AM CALL TO ORDER

Council Chair Peterson called the meeting to order at 10:00 a.m. and the flag salute was conducted. Council members Howard (Howie) Rosenfeld, Gene Knapp, Bob Myhr, Lovel Pratt, and Richard Fralick; County Administrator, Pete Rose; Clerk to the Council, Ann Larson; Deputy Clerks, Lisa Brown and Maureen See; and interested members of the public were present.

10:05 AM CITIZENS' ACCESS TIME (Commenced at 10:02 a.m.)

Mike Kaill, keeper of the Friday Harbor aquarium, reported on continued problems in the bay and that Ed Hale, SJC Utility Manager had contacted him to address his concerns. He reported on toxicity levels he has determined through testing and analysis and other areas he plans to test, corrective measures he has taken, and noted that as marine life continues to die it has a harder time coming back. He also reported on a reverse osmosis permit that Snug Harbor was granted in which the application had used tidal dynamics data from Kellet Bluff, which has much more current than Snug Harbor.

John Ashenhurst, President of the Orcas Island Library Board of Trustees, requested that the Council appoint the current nominee to the Orcas Library Board and provided history to the Protocol currently used by their board in nominating members. Mr. Peterson stated that the appointment was on Consent for today.

Jack Cory, Island Guardian, submitted a correction to the minutes of January 27, 2009, that he stated he was shocked and appalled instead of dismayed. He stated that he was also shocked and appalled when it was announced that Ms. Windrope had been granted the right to vote on the CAO and when he checked with staff, was told that was not correct. He stated that it is very important that the Council's advisory groups be balanced or the Council would not hear both sides of the situation. He explained that the CAO experienced difficulties because it was well balanced, that they worked through this and are making progress. He expressed concern that if someone who is clearly on one side is given a vote that the committee would be out of balance. He suggested the Council maintain its set-up and that it should be a paradigm for all advisory groups.

10:15 AM COUNCIL ADMINISTRATIVE MATTERS (Commenced at 10:16 a.m.)

Clerk Update: Ms. Larson pointed out that the Town Centennial Proclamation had been placed on consent and asked if the Council had any edits. Ms. Larson reported that Pat Mason, Municipal Research Services Center Legal Consultant, said that web blogging would be a violation of OPMA, noting that Mr. Gaylord would also be researching further options. Mr. Rosenfeld pointed out that the blogging would pertain to FACs, which are not subject to the OPMA, adding that SJC is the only county totally dependent on ferries and has placed an extra restriction on its FAC by requiring that it adhere to the OPMA, when none of the other counties have, which is proving to be a hindrance. Mr. Rose agreed and said the essence is whether the Council is willing to change its own legislation. Ms. Larson noted that a tour of Lopez Hill is slated for March 9, 2009. She referenced the legislative priority changes submitted by Ms. Pratt and after discussion, the Council agreed to those changes.

Committee Appointments: Mr. Fralick reported on interviews conducted by Ms. Pratt, Mr. Knapp and himself and reported that the names being brought forward to Consent for appointment were Lisa Wolford, to the Land Bank; and Alan Lichter, to the Orcas Library Board of Trustees. He requested agenda time by June of this year for discussing and finalizing appointment procedures for the library boards prior to their appointment cycle next January.

Council agendas, schedules, and calendar items were discussed.

Minutes: Moved by Fralick, seconded by Myhr, to approve the **Minutes of January 26, 27, and 28, 2009**, with recommended revisions by Mr. Cory. Motion carried unanimously.

Consent Agenda: Moved by Myhr, seconded by Rosenfeld, to approve the **Consent Agenda of February 3, 2009**, as follows:

A. Resolutions/Ordinances:

1. A Resolution Authorizing Treasurer to Cancel Uncollectible Personal Property Taxes

B. Contracts/Agreements: (No items.)

C. Budget Items: Approve 2009 Warrants signed by Auditor and County Administrator:

- Warrants #57228-57250 in amount of \$23,803.00 for Public Works
- Warrants #57142-57196 in amount of \$55,566.42 for County Claims
- Warrant #57251 in the amount of \$200 for Veteran's Assistance
- Warrants 57197-57227 in amount of \$138,002.13 for Public Works
- Warrants #57085-57141 in amount of \$59,927.58 County Claims

D. Personnel: (No items.)

E. Appointments

1. A letter appointing Lisa Wolford to the Land Bank Commission, Position #4, At Large, the term beginning immediately and expiring on December 31, 2013.

2. A letter thanking Jonathan Heverly for his interest in the Land Bank Commission position.

3. A letter amending the appointment of Alan Lichter to the Veterans' Advisory Board to a full two years, beginning January 1, 2009 and expiring December 31, 2010.

4. A letter appointing Alan Lichter to the Orcas Island Library Board of Trustees, the term to begin immediately and expire in December, 2013.

5. A letter thanking Dennis DeHart for his interest in becoming a Board member of the Orcas Island Library Board.

F. Correspondence:

- A letter to Senator Ranker in support of Senate Bill 5344 to provide an emergency response system for the Strait of Juan de Fuca.

G. Miscellaneous:

- A Proclamation commemorating the Town of Friday Harbor for reaching its Centennial Year

H. Bid Openings: (No items.)

Motion carried unanimously.

Council Member Updates & Discussion Items

Ferries: Mr. Rosenfeld reported on media coverage and the on-line ferry petition and made the following motion:

Moved by Rosenfeld, seconded by Knapp, that the Council take an official position by encouraging the citizens of San Juan County to sign the on-line petition regarding ferries. The motion carried unanimously.

Rescue Tug: Mr. Rosenfeld, in response to a request from Senator Ranker to have a SJC Council member present to testify to the Senate on the necessity of a rescue tug, suggested reminding the Senator that the Council meets on Tuesdays. The Council did concur that a letter should be sent in support of the tug.

Driver License Renewal: Mr. Rosenfeld reported, according to Senator Ranker, that the Department of Licensing is eliminating its on-island Driver License renewal program.

CAO Vote: Mr. Peterson commented on the miscommunication regarding Amy Windrope's right to vote regarding CAO matters. Council discussion took place and it was decided that further exploration was necessary. Mr. Rose pointed out that the Council had previously requested input from Shireene Hale, staff contact for the CAO. Mr. Peterson requested that Ms. Hale be included on the next Council Session agenda.

10:20 AM DISCUSSION & PRESENTATION: (Commenced at 10:41 a.m. due to time constraints.) Overview of the Northwest Regional Council (NWRC): Victoria Doerper, NWRC Executive Director & Shelly Zylstra, NWRC Planning Unit Director; Carl Bender, Georgia Baci, and Barb Pesola volunteers; and Joyce Rupp, SJC Community Services Manager and a key partner to the NWRC; and interested members of the public were present.

Ms. Doerper pointed out that Mr. Myhr sits on the NWRC Board and that Mr. Knapp served previously as general counsel to the NWRC. Ms. Doerper provided a PowerPoint presentation, giving an overview of their program for the elderly and disabled. She reported on great participation and collaboration with the counties served by the NWRC, Island, Skagit, Whatcom, and San Juan, and introduced partners present. She reported on the background, revenues and programs they support, their funding, services, and some challenges in serving SJC. Ms. Zylstra provided detail on structure, programs, and planning by the NWRC, with their goal of creating elder friendly communities by addressing basic needs, promoting social and civic engagement, optimizing health and well-being, and maximizing independence for the frail and disabled.

10:40 AM DISCUSSION: (Commenced at 11:11 due to time constraints.) Housing Bank Commission Work Plan: Angela Lausch, Affordable Housing Coordinator; William Agosta, Housing Bank Commission Chair; Dick Keefe, Housing Bank Commission member; and interested members of the public were present.

Mr. Agosta reported to the Council on the role of the Housing Bank Commission in advising the Council regarding distribution of County funds. He provided a breakdown of the various funds authorized by the State and collected through surcharges, and the distributions made over the past year. He reported on a rental subsidy program to take affect this year to help low income residents in danger of homelessness and how the Commission provides advice to county government through the Planning Commission, and CD&P with the Housing Element of the Comprehensive Plan, and explained work done in this regard. He stressed the importance of having denser affordable rentals, with units available to purchase for those who cannot afford to buy a single family residence (SFR) and that funding for this could be accessed from the state if the County were to enact a Housing Authority. Mr. Agosta and Mr. Keefe answered questions from the Council and tried to allay Mr. Knapp's concerns regarding eminent domain. Ms. Lausch provided a review of the past year and presented the proposed 2009 Work Plan. She noted that the annual homeless count had taken place on January 29, 2009, and would be tallied in a couple of weeks. Ms. Lausch reported on long range goals, the aging SJC work-force, the economic down-turn, that with HA money could create the potential for the HBC to acquire SFR housing that they would not otherwise be able to afford. She also noted that the HBC intends to make another attempt to access real estate excise tax (REET) money and answered questions from the Council regarding housing needs and collaboration with the Town of Friday Harbor. Regarding the idea of a Housing Authority work study session, Ms. Pratt inquired if Ms. Lausch would be willing to help identify appropriate stakeholders and appropriate people to address the concerns about eminent domain. Mr. Knapp requested both sides be represented and added that it may be an issue that he would rather see go to a vote of the public.

11:20 AM DISCUSSION: (Commenced at 11:43 a.m. due to time constraints.) Veterans Advisory Board (VAB) Work Plan: Milene Henley, Auditor and ex-officio VAB member; and interested members of the public were present.

Ms. Henley provided a PowerPoint presentation outlining the history, accomplishments, and goals of the VAB. She reported on 2008 awards in the amount of \$24,261.11, down from the prior year, with a total budget of \$77,000. She explained the 1 1/8% levy requirement and its carry over basis. Ms. Henley stated that the VAB goal for 2009 is to do more outreach, increasing awareness of the fund to better connect with and provide assistance to more veterans.

11:40 AM **DISCUSSION:** (Commenced at 11:53 due to time constraints.) Citizens Salary Commission Work Plan: Pamela Morais, Human Resources Manager; Pete Rose, County Administrator; Salary Commission Members Wilma Munsey and Michael Soltman; and interested members of the public were present.

Mr. Rose explained that this commission is not advisory to the Council, but rather an operational committee that holds meetings and acts in accordance of their role set by state statute to set salary levels for elected officials. He noted that they have two meetings scheduled for 2009. Mr. Rose answered questions from the Council. Ms. Munsey addressed the Council with concerns regarding salary levels opposed to amounts being budgeted and suggested meeting in November instead of December to accommodate the budgeting timeline. She thanked the Council for their willingness to forfeit their COLA, and stated that they were the only elected officials that had done so. Mr. Peterson noted that the budget is a policy issue for the Council to decide.

1:30 PM **COUNTY ADMINISTRATOR ITEMS:** Milene Henley, SJC Auditor; Ron Henrickson, CD&P Director; Jon Shannon, Public Works Director; and interested members of the public.

1. Introduction of an Ordinance amending the San Juan County Travel Policy: Ms. Henley provided an update to the SJC travel and meal policy, summarizing the changes. She answered questions from the Council regarding reimbursable expenses, tips, and combining business and personal travel, and the following action took place:

Moved by Fralick, seconded by Knapp, to hold a public hearing on February 10, 2009, to consider adoption of the ordinance revising the SJC travel policy. Motion carried unanimously.

2. Environmental Protection Agency (EPA) Grant Proposal: Mr. Henrickson reported that CD&P and Public Works have been working on a proposal for a \$600,000 EPA grant to support planning and watershed protection efforts in the San Juan - Gulf Island Archipelago. He noted that although they were not successful in their attempt for this money last year, they were encouraged to try again this year. Mr. Henrickson reviewed the terms of the program and the areas in which the money would enhance efforts of SJC, and provide staff training, public education, and outreach. He answered questions from the Council, explaining that there would be some overlap with efforts of the San Juan Initiative (SJI), but that no money is currently going to the SJI to accomplish these things. He explained that the EPA grant application does not include an administrative fee because the Auditor was not able to update and file the necessary information in time for the grant application submission, however the Auditor will be doing this so that future federal grant applications can include an administration fee. Mr. Henrickson stated that the typical administrative cost to process a grant program of this magnitude is 14% and that since they are applying for the cap on this grant, they have converted this amount into direct overhead by including it in planning for staff for the length of the grant.

3. Introduction of an Ordinance Amending Chapter 18.100 of the SJC Code Regarding Land Use Code Enforcement Procedures and Penalties: Mr. Rose explained that Mr. Henrickson provided a brief review of this Ordinance to the Council last week and that it was being presented today to approve sending to the Planning Commission for a public hearing and subsequent public hearing by the Council as part of the first UDC docket process of 2009. Mr. Henrickson and Mr. Rose answered questions from the Council regarding this ordinance and the hearing process. Mr. Henrickson agreed to review the compliance process with the Planning Commission and the following action took place:

Moved by Rosenfeld, seconded by Knapp, to introduce an ordinance amending chapter 18.100 of the SJC code regarding land use code enforcement procedures and penalties and offering it for public hearing by the Planning Commission and subsequent public hearing by the Council as part of the first UDC docket of 2009. Mr. Myhr noted that he didn't have particular concerns regarding this ordinance, but cautioned the Council that ordinances heard in a package at the deadline may be compressed and not provide sufficient time to be heard. **Motion carried unanimously.**

4. Analysis of House Bill 1659 for a .06% sales tax exchange: Mr. Shannon explained that this Bill would allow SJC to apply for a portion of sales tax to be used for development of recreation trails, addressing an issue of increased interest in SJC for many years. This law would allow SJC to receive a rebate, as it does on the 1/10 of

1% mental health tax money, to create a reserve for use in recreational trails. Mr. Shannon answered questions from the Council, explaining that this is money is rebated by the state and does not have a negative impact on SJC revenue, but could gain over \$200,000 to apply towards trails. Sheriff Cumming, Island Rec Board Chair, (also present for this discussion) addressed the Council stating that the Trails Committee had been in contact with Island Rec seeking a sponsoring agency and asked to be copied on the this information. **It was agreed by the Council to take an active support position regarding House Bill 1659 by writing a letter to the legislators, and including Island Rec, the Trails Committee, and Friends of Lopez Hill.**

2:00 PM PUBLIC HEARING: A public hearing was held to consider an Ordinance Adopting the Fisherman Bay Water Association's Updated 2006 Water System Plan and Updated Capital Improvement Plan into the San Juan County Comprehensive Plan and making the appropriate amendments to Element 7 and Appendix 7. Present: Full Council; County Administrator, Pete Rose; County Clerk, Ann Larson; Public Hearing Specialist, Lisa Brown; CD&P Director, Ron Henrickson; CD&P Senior Planner, Colin Maycock; and interested members of the public.

Mr. Maycock referenced his staff report presenting a proposal to adopt the updated Fisherman Bay Water System Plan. He explained that the Ordinance before the Council was one step of the Lopez urban growth area (UGA) towards compliance. He explained that the Growth Management Hearings Board (GMHB) had decided in June of 2006 that SJC needed to adopt a sewer system and water plan demonstrating urban levels of service could be provided for a twenty year period to meet Growth Management Act (GMA) compliance for the Lopez UGA. Mr. Maycock reviewed the details of the plan and he and Mr. Henrickson answered questions from the Council. Public testimony was opened, none submitted, and closed. Deliberations were held and the following action was taken:

Moved by Myhr, seconded by Rosenfeld, to adopt an ordinance amending the SJC Comprehensive Plan Capital Facilities Element and appendix 7 to address water system capital facilities in the Lopez Village UGA. Motion carried unanimously.

2:20 PM DISCUSSION: Testamentary Land Division of Open Space Classification. Charles Zalmanek, Assessor; Chris Ledgerwood, appraiser; and interested members of the public were present. Ms. Pratt announced that she would err on side of caution and recused herself from this discussion.

Mr. Zalmanek addressed the Council regarding a matter of testamentary land division whereby one parcel was divided into three, rendering two as unbuildable. He referenced the letter and supporting documents he had sent to the Council seeking their determination as to whether, in its current state, the land continues to qualify under the terms of the open space taxation agreement. Mr. Zalmanek and Mr. Ledgerwood answered questions from the Council and it was decided to place this discussion on hold until Deputy Prosecuting Attorney (PA), Jon Cain, arrived. The discussion continued at 2:57 p.m. at which time the Council requested legal advice from Mr. Cain, who noted that he had reviewed the material, laws pertaining to the issue, and had a discussion with a Department of Revenue representative. He stated his advice would be based specifically on the statute and Council resolution passed, concluding that a transfer of ownership in this case, since it is a testamentary division, does not create a change of use. He noted that this advice coincides with the DOR, that the property had just changed hands at this point in time, and that the property after division remains in exactly the same state as it was prior to the division. Mr. Cain answered questions from the Council. Mr. Myhr expressed concern regarding ensuring that beneficiaries were aware that only one residential unit will be allowed on the entire three-parcel property, even though it is now in three parcels, two parcels will be unbuildable. Mr. Cain explained that he had addressed this question with Mr. Henrickson, stating that CD&P would need to note that these properties were divided by testamentary land division so that in the event the three properties come into three different hands and everyone wanted to build on them, the County would have in its own notes that limits apply. Mr. Knapp requested this determination in writing from Mr. Cain, so that when it arises in the future it is clear. Mr. Myhr also suggested recording the document.

2:40 PM DISCUSSION: (Commenced at 2:46 p.m.) **Council Position on Fireworks Referendum.** Bill Cumming, SJC Sheriff; and interested members of the public were present.

Mr. Peterson explained that this discussion resulted from a request from Mr. Burkhart, who filed the Fireworks Referendum, to modify the adopted ban. Sheriff Cumming was present to answer questions from the Council. Council discussion took place and Mr. Rose explained that during the modification to an existing ordinance the law would fall back to the prior rule. Sheriff Cumming stated that he appreciates the process and wants to hear the vote of the people. **The Council agreed by consensus to let the referendum proceed.**

2:55 PM DISCUSSION: (Commenced at 3:02 due to time constraints.) **Eastsound GMA Hearings Board Decision.** Jon Cain, Deputy PA; Ron Henrickson, CD&P Director; and interested members of the public were present.

Mr. Cain reported that the GMAHB had ordered six compliance issues in their remand and that this decision concluded that all but a fraction had been met. He stated that the remaining work was to handle the issue of having sewer lines outside the UGA area. Mr. Cain and Mr. Henrickson answered questions from the Council as to how this could be resolved with assistance offered by the Eastsound Sewer and Water District (ESWD). The Council commended CD&P for their work on this remand. **Mr. Knapp suggested sending a thank you letter from the Council to CD&P and the ESWD for their work in achieving this compliance and the Council concurred.** Mr. Henrickson stated that a letter from the ESWD indicating that they would include this area in the Country Corner LAMIRD, would satisfy compliance.

3:00 PM EXECUTIVE SESSION: (Commenced at 3:21 due to time constraints.)

Council Chair Peterson announced that the Council would be holding an **executive session** estimated to last approximately 45 minutes, to discuss labor contract negotiations pursuant to the provisions of RCW 42.30.140(4)(b). Participants: Pamela Morais, Human Resources Manager. The session ended at 3:54 p.m. for an actual session time of 33 minutes. No action was taken.

3:45 PM ADJOURN AND SIGN DOCUMENTATION: (Time Approximate) Moved by Myhr, seconded by Knapp, to adjourn the meeting at 3:54 p.m. Motion carried. A meeting was scheduled for Monday, February 9, 2009, and the next regular meeting was scheduled for Tuesday, February 10, 2009.

APPOINTMENTS:

1. See Consent Agenda, section E.

BUDGET ITEMS/WARRANTS:

1. See Consent Agenda, section C.

CALL FOR BIDS: (No items.)

CONTRACTS/AGREEMENTS: (No items.)

CORRESPONDENCE:

1. **Letter to Legislators supporting House Bill 1659:** See COUNTY ADMINISTRATOR ITEMS, 1:30 p.m., No. 4., for details of action taken.
2. **Letter to CD&P and ESWD:** See DISCUSSION, 2:55 p.m., for details of action taken.

MISCELLANEOUS ITEMS:

1. **Ferry Petition Position:** See COUNCIL ADMINISTRATIVE MATTERS, 10:15 a.m., Council Member Updates and Discussions, Ferries, for details of action taken.

ORDINANCES / RESOLUTIONS:

ORD. NO. 5-2009- (Refer to PUBLIC HEARINGS, 2:00 p.m., for details of action taken.)

RES. NO. 5-2009- (Refer to CONSENT AGENDA, section A, for details of action taken.)

PERSONNEL ITEMS: (No items.)

These Minutes were approved and signed on Tuesday, February 10, 2009. The original document is retained in the Council's permanent proceedings file. Attest: Lisa J. Brown, Deputy Clerk.