

**MEETING MINUTES
SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
September 15 and 16, 2008**

Monday, September 15, 2008 - Council Hearing Room, Legislative Building, FH

CALL TO ORDER – REGULAR STAFF MEETING AND WORK SESSION

Council Chair Howard Rosenfeld called the staff meeting to order at 10:02 a.m. Council members Kevin Ranker, Rich Peterson, Gene Knapp, Bob Myhr, and Alan Lichter; 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.

CITIZEN ACCESS TIME

Tom Munsey addressed the Council on behalf of SJ Public Access Media. He requested that the equipment ordered and received by the Council be released to him for recording at the Transportation Summit on Wednesday. Mr. Rose explained that the contract needed to release the equipment was being finalized by the Prosecuting Attorney (PA). It was agreed that the camera would be released to record at the Transportation Summit.

Milene Henley addressed the Council as a Friday Harbor property owner. She disagreed with the Council decision to request a second crosswalk at the corner of Reed and 2nd streets, due to the loss of three valuable parking spaces.

Jack Cory pointed out that Friday Harbor is one of the few places, that has no law against jaywalking. Mr. Knapp warned that there is a state law against it and anyone crossing outside the crosswalk can be held responsible.

CLERK UPDATE

Clerk Larson referenced the drawing of the intersection of Reed and 2nd Streets that she placed in the Council binders for discussion during clerk time. Council discussion took place and it was decided by consensus that their position still stands, knowing that three parking spaces will be lost. Mr. Rosenfeld said he would restate this position to the Town Council. Logistics of Tuesday's travel were arranged. Scheduling for the 2009 Council calendar was discussed. Ms. Larson reported that position papers on Legislative Priorities were coming in and requested a deadline. Council requested all materials be submitted for next week's meeting. Ms. Larson stated that the Minutes distributed had been revised, the General Governance Subcommittee would meet at 12:30, and that she had additional information for the CAO Ordinance that she would get to the Council.

Deputy Clerk See presented the appointment of Peggy Bell to the Agricultural Resource Committee (ARC) for Council consideration. She reported that she would run one more committee vacancy ad toward the end of the year and that Ms. Larson had placed these boundaries around advertising to keep costs down. Mr. Knapp inquired about the creation of the Deer Harbor Hamlet Plan Review Committee and the need to begin the process of recruiting for this. Mr. Myhr stated that it is a good idea to have citizen review committees, but follow-through, according to the governing ordinances, needs to be tracked. Mr. Rosenfeld asked for a calendar showing review cycles of committees. Ms. See also reported that the Northwest Agriculture Business Center (NABC) Board has a Lopez vacancy. Lastly, she asked for WSAC attendee information so that she could complete the registrations and submit them together electronically.

ADMINISTRATIVE MATTERS

Council schedules, agendas, and Minutes were reviewed. Mr. Rosenfeld asked to have calendar items listed at the end of the Staff Session Agenda.

COUNCIL MEMBER UPDATES

Franchise Agreements: Mr. Myhr inquired about the public hearing tomorrow regarding a Franchise Agreement, stating that he hadn't seen the desalinization agreement before and inquired about the applicant on the Franchise Agreement. Mr. Rose pointed out that Hunter Bay Homeowner's Association is not yet a legal entity and that this

would be a question for Karen Vedder tomorrow. Discussion followed regarding possible continuations of the Franchise Agreement hearings. **Transfer Site Draft Environmental Impact Study (DEIS):** Mr. Lichter reported that he received an e-mail from Mr. MacDonald stating that the DEIS was filled with omissions and distortions and asked how the Council was going to respond to that. Mr. Rose stated that the purpose of publishing a DEIS is to provide disclosure about a project and allow time for comments, then address concerns in the final EIS. Mr. Knapp suggested responding to Mr. MacDonald and Mr. Rose suggested a letter from the Council letting Mr. MacDonald know that his concerns will be heard through this process. **Community Development and Planning (CD&P) Backlog:** Mr. Ranker, referencing the impact of reduced staffing in CD&P, reported on an e-mail he received from Wally Gudgell, an Orcas Island business owner, stating he was losing over \$2-\$3 thousand dollars per day due to the slow-down this has caused and stated that other contractors have had to lay people off. Mr. Rosenfeld expressed concern over people being told by CD&P they need to do something, only to find out later it wasn't necessary. Mr. Rose said that those were fact-specific things that he would look into and that the overfill position had been filled with an October 6, 2008, start date. **Cattlepoint Road Realignment:** Mr. Rosenfeld reported that he had an opportunity on Friday to hike the area at the preferred alternative for the road realignment with a SJ Trails Committee member and a GPS unit. He expressed concern about the steep grade this will create in the road and said it would wipe out a trail. Council discussion took place regarding erosion due to coastal conditions and run-off from Mt. Finlayson. Mr. Ranker explained that there will be significant impacts in both aesthetics and recreation due to the amount of grading and that National Parks Service (NPS) is the major decision-maker in this regard. He stated that they are seeking a long-term fix behind the equilibrium of the pull on the sediment. He suggested contacting Steve Fradkin, NPS, for details. Mr. Rosenfeld suggested an alternative mid-way up the mountain with a shed covering the road to a point that would mitigate run-off. Mr. Ranker added the idea of a tunnel, but stressed the importance of keeping this a priority with congressional delegates to avoid a sloughing situation that would create an emergency declaration, where no EIS is required and regulations are skirted, in a fragile area. **Ferries/FAC/Ferry Sub-committee:** Mr. Rosenfeld addressed the recent Ferry Customer Survey, which averaged responses system-wide, stating that the results become skewed for our area by including down-Sound commuter routes in the same survey. He referenced page 5 of the Funding Study showing SJC's Capron Funds in the estimated future capital needs by Washington State Ferries (WSF), and suggested his colleagues familiarize themselves with the report prior to the State Transportation Commission meeting on Thursday. He added that the FAC is drafting a letter to David Moseley, WSF, that he will present to the Council for authorization tomorrow. **Stormwater Subcommittee:** Mr. Peterson reported that Mr. Matthews would have a press release regarding this and that he is planning a tour of the sites for the Council. He added he is hopeful that Mr. Gaylord, PA, is continuing his work on the ordinance. **Cell Phone Subcommittee:** Mr. Peterson distributed a list of committee members and reported on their progress. Ordinances from other counties were reviewed and Island County's ordinance (6 pages), surfaced as more direct and less burdensome. Some members of the group also reviewed the SJC ordinance (22 pages), and sent it off to a variety of people to identify problems the industry could have and what barriers would need to be removed in adapting that ordinance. Mr. Peterson reported on a memo from Mr. Rose regarding adoption, stating that alterations to the ordinance on a sub area plan, which the cell phone ordinance is part of, would need to be considered under the annual docket review. Mr. Peterson said he would propose changing that and adopting it as an ordinance that is more agile so that as technology changes, the ordinance could change with it. He stated this would require Council action by November 18, 2008 and would need to plan a couple of touches with the Planning Commission prior to that. Mr. Ranker asked Laura Arnold, who was present, if she had expressed interest in being on the committee, adding that she was responsible for a great deal of input on the current ordinance. She had not, but Mr. Peterson invited Ms. Arnold to meet with him. Council discussion followed.

COUNTY ADMINISTRATOR ITEMS

11:00 a.m. (Commenced at 11:16 due to time constraints.) – **1/10 of 1% Sales and Use Tax rate increase for Mental Health:** Also present: John Manning, Health & Community Services (HCS) Director; and Mr. Kearney, Juvenile Court Administrator. Mr. Rose provided background, stating that on December 17, 2007, Mr. Manning and Mr. Kearney briefed the Council on this program and were asked to research and report back to the Council on their findings and recommendations. Mr. Manning reported that they established a task force comprised of public and private sector individuals and citizens with a concern regarding mental health issues. Three sub-committees were then established for the following review: 1) stakeholder input, 2) funding allocations, and 3) exploration of programs that would be legally eligible for funding. He reported that the Subcommittees have met and will be prepared to report to the Council the first week in November. Several meetings have been scheduled between now and then to discuss recommendations and seek additional public input. Mr. Kearney reported that he met

with Superior Court Judge John Linde to review the Therapeutic Court piece. Judge Linde noted that he didn't foresee creating a burden on the Superior Court system if the tax were imposed and from his point of view it would be a great benefit for SJC because the percentage the Court would consume would be minimal, allowing the remainder of the funds to be allocated to programs. Mr. Manning pointed out that the Therapeutic Court must be established in order to collect this tax. Council discussion took place. Mr. Myhr reported that this tax increase has been imposed in three of the five counties in the NSMHA region and is currently under consideration by Snohomish County. He added that mental health problems are often swept under the rug and cited the recent terrible tragedy of a mental health situation in Skagit County and two suicides on Lopez alone, that some kind of assistance early on may have helped to prevent, and stressed the importance of taking this idea seriously.

11:30 a.m. Essential Public Facilities (EPF) Process: Also present: Shireene Hale, Senior Planner; and Ron Henrickson, CD&P Director. Mr. Rose reported that as the annual docket season approaches, Ms. Hale and CD&P are working on the EPF Ordinance and addressing related SJC Code (SJCC) and Comprehensive Plan (CP) Amendments. Ms. Hale provided an update stating that the Growth Management Act doesn't allow policies and regulations that preclude the citing and construction of EPF, which is a problem that has been worked on for at least five years. The existing land use zoning and regulations are a problem for EPF, as the SJCC and CP are generally geared toward residential development and agricultural land uses, and are not set up for uses that have negative impacts. Ms. Hale reported that on SJI there is only one piece of industrial zoned property. In looking at the CP, she couldn't locate another area that would be a plausible candidate for this zoning, so it could remain problematic for some kinds of facilities. She is trying to develop a safety valve, so that if the EPF could be located in an appropriate zone, and follow the same rules as other facilities, then they should be able to use the same process as any other facility and shouldn't have problems meeting standards, but for those that can't meet the standards, there would be a process to amend the CP and Unified Development Code (UDC). Ms. Hale is looking at ways to develop a public process for dealing with those types of facilities in a way that minimizes changes to the CP and UDC and would like to submit it in this year's docket. She stated that if the CP issue that will come before Council next week is denied, it is likely that it will have to wait until next year's docket. Ms. Hale and Mr. Henrickson answered questions from the Council and discussion took place.

Hearings Examiner (HEX): Mr. Rose reported that the HEX contract concludes at the end of this year and asked if the Council would prefer that he negotiate an extended contract, or seek other candidates. Mr. Lichter requested an evaluation of his services. Council discussion took place. Mr. Ranker suggested that Staff prepare a report for the Council to review and decide, and that the opinions of the Higher Court judges and attorneys would be important to hear. Mr. Knapp requested an evaluation of the HEX in executive session. Mr. Lichter requested evaluative material from Mr. Rose and Mr. Rosenfeld said he would schedule an executive session. Mr. Ranker asked that Mr. Nielsen be notified that the Council would be evaluating his performance. Mr. Rosenfeld requested Ms. Larson's assistance on this.

Public Benefit Rating System: Mr. Myhr inquired about the Agriculture Conservation Open Space process and requested taking public recommendations on the PBRs. Mr. Rose said farm, preservation, and conservation interest, as well as general tax payer interest, would be appropriate. Mr. Myhr suggested that the ARC work with the Planning Department to develop criteria for a recommendation.

ADJOURNMENT - At 12:08 p.m., Council Chair Rosenfeld adjourned the meeting.

<p style="text-align: center;">Tuesday, September 16, 2008 – Lopez Center for the Community & the Arts 204 Village Road, Lopez Island</p>

CALL TO ORDER

Council Chair Rosenfeld called the meeting to order at 10:50 a.m. Council Members Kevin Ranker, Rich Peterson, Gene Knapp, Bob Myhr, and Alan Lichter; 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.

CITIZEN ACCESS TIME

Cynthia Dilling, a Lopez Island resident, addressed the Council regarding the Cell Tower Ordinance, stating that she had been active with cell tower decisions since 1996. She was opposed to rewriting the current ordinance,

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hoping to maintain the level of public input currently included in the Ordinance. Ms. Dilling referenced her three main objections as: 1) property devaluation, 2) health effects, and 3) safety standards based on outdated research. She read from a document that she offered to e-mail to the Council. Mr. Ranker commented that Ms. Dilling was very involved and asked if she was interested in serving on the committee and if she thought all views were being represented. Ms. Dilling said she did not pursue membership on the committee due to health concerns, but felt her views were not being represented. She added that there are scientists in the county that could present a more balanced perspective.

Jean Peterson requested an update by Mr. Peterson.

Dan Kovak, a Lopez Senior Services employee, requested that the Council have CD&P consider constructing the path, currently planned for the north side of the road, on the south side, next to the Senior Center. Otherwise seniors will need to cross the road to get to the path and cross back to get to the village, creating a safety hazard for citizens who are already at a disadvantage. Mr. Rose offered to provide an update on this during his agenda time.

Glen Malloy, the Lopez Island Postmaster, agreed with Mr. Kovak, stating it will make it more difficult for seniors and could be hazardous. He told of a similar situation in Mt. Vernon where someone was run over. He added that he had spoken with Shannon Wilbur, who is willing to consider this, and suggested putting a culvert in the ditch with a cover over it creating a path. He also expressed a concern about the landscaping that is at risk on the north side of the street bordering the Post Office, which is “one of the prettiest around,” and has had a lot of customers express concern. He concluded by stating there are other options that accomplish same purpose, while saving money.

APPROVAL OF MINUTES

Moved by Lichter, seconded by Ranker, to approve the **Minutes of September 8 and 9, 2008**. Motion carried.

CONSENT AGENDA

Moved by Myhr, seconded by Knapp, to approve the **Final Consent Agenda of September 17, 2008** as follows:

A. Resolutions/Ordinances:

1. A Resolution to Acquire and Accept the Deed for the W. Sundstrom Property on San Juan Island, through the Land Bank.

B. Contracts/Agreements: (No items.)

C. Budget Items: Approve Warrants:

- Warrants # 50349-50373 in the amount of \$14,154.40 for Public Works
- Warrants #50242-50348 in the amount of \$93,354.88 for County claims

D. Personnel: (No items.)

E. Appointments:

A letter appointing Peggy Bill to the SJC Agricultural Resources Committee, Position #10, beginning January 31, 2009 and expiring on January 31, 2013.

F. Correspondence: (No items.)

G. Miscellaneous: (No items.)

H. Bid Openings: (No items.)

Motion carried.

COUNCIL MEMBER UPDATES

Meetings: Mr. Myhr thanked the citizens from Lopez for coming to express their views and explained that the Council will continue to move meetings to various islands to create better access for constituents. He pointed out that there is a special Transportation Summit in Friday Harbor (FH) tomorrow to discuss all aspects of transportation and what can be done to improve upon them and on Thursday, the Washington State Transportation Commission will be in FH for an all day meeting. **Cell Phone Task Force:** Mr. Peterson reported that the committee, interested in increasing wireless access and phone coverage, has met several times. He

explained that the existing ordinance is 21 pages long, in a subarea plan, and buried deeply within the Comprehensive Plan. The committee decided to look at other Counties' ordinances rather than modifying that document. From this, they determined that Island County had the best model to adapt. He reported that the Task Force will meet again on September 25th in Friday Harbor, and on September 30th, will make a report to the Council. Mr. Myhr asked if more people could attend. Mr. Peterson replied that it is a public meeting and Council discussion took place. Mr. Rosenfeld urged the public to send comments to the Task Force and the Council, adding that the recommendation will come from the full Council. Mr. Lichter stated that he supports Mr. Peterson in continuing the committee and withdrew his implied objection to the committee structure, as there will be plenty of time for public input. **General Governance / Charter Completion Committee:** Mr. Knapp reported that the committee met yesterday regarding strengthening the code enforcement rules and that the committee and the PA are drafting an ordinance that should be ready within two weeks. **Veterans Advisory Board (VAB):** Mr. Lichter reported to the Lopez audience that the County has for first time this year, started a VAB, with the main function of providing assistance to indigent Veterans and dependents in times of need and emergent situations. Several Veterans have received assistance this year from a fairly substantial fund. Mr. Lichter encouraged those present to "get the word out" about this fund, as there are approximately 2,500 Veterans in SJC and some may not be aware of the Board and assistance funds. Any Veteran that needs assistance can contact the County Council. **WSF Letter:** Mr. Rosenfeld requested any corrections or changes to a letter from him to the WSF on behalf of the Council and the FAC. [Prior to adjournment consensus was reached to send this letter as presented.]

ACTION AND DISCUSSION ITEMS

ORDINANCES/RESOLUTIONS:

ORD. NO. 45-2008- (Refer to PUBLIC HEARINGS, 11:40 a.m., for details of action taken.)

PUBLIC HEARINGS/MEETINGS/WORK SESSIONS

COUNCIL DISCUSSION/UPDATES/OTHER ACTION ITEMS:

10:50 a.m. (Commenced at 11:28 due to time constraints.) **Budget Proposal: Assessor – Charles Zalmanek,** Assessor. Mr. Zalmanek began by commending his staff's fine work, as "compassionate members of a County team." He referenced his Budget Report, explaining the primary mission of the Assessor as identifying and appraising equitably, all property in SJC in accordance with State Law. His staff works efficiently with the public and co-workers, preparing high quality appraisals to support the community, calculate levies, and administer the current use programs; farm and agriculture open space, open open space, timber open space, designated forest land, and the senior citizen program. He reported on increased demand on staff while migrating to the new program in 2009 and that legislation will be pushing for annual evaluations that in in-between years would be determined by using statistical analysis of real estate sales. He reported that his staff will continue to improve monitoring of open space programs and that their work is progressing at a reasonable pace and will have all name and map changes complete by the end of the year. He reported that property values are up over three years ago, but that the perception of our economy is changing. He anticipates an increased number of appeals, creating an increased demand on his staff. Mr. Zalmanek reviewed revenues by district from New Construction and the 2009 Budget Summary, including revenue and expenses, stating that the M&O is down slightly from the 2008 budget. He explained the three year assessment cycle and different needs for travel in each year. He expressed his biggest concern as the resignation of one of his Staff, whose last day is October 24, 2008. In light of the hiring moratorium, he implored the Council to allow him to hire a replacement for this position that his office simply cannot do without, with the increased work-load ahead. He added that his office is responsible for generating revenue for the County. Council discussion took place and Mr. Zalmanek answered questions from the Council.

11:05 a.m. (Commenced at 11:46 due to time constraints.) **Budget Proposal: Treasurer – Jan Sears,** Treasurer. Ms. Sears referenced her staff report and reviewed the mission of the Treasurer's Office, stating that customer service is their main goal. She explained that the Treasurer acts as ex-officio for all junior taxing districts (125 funds), assesses property tax and special assessments, excise taxes, accounting and cash management, foreclosure and distraint, and monitor bankruptcies. All staff is cross-trained to answer questions on any services they provide. She referenced the three-year comparison in her report stating collections are on track, but that excise tax is down considerably due to the market. She commended her staff with a total of 50 years with SJC

between five employees. Regarding the budget, projected revenues are estimates based on taxes and visitors to SJC, and are reduced by approximately \$500,000. Projected expenditures have been reduced with the exception of postage. Ms. Sears also reported on the M&O and foreclosure budget. She said that revenues are down, but doesn't anticipate any foreclosures and she attributes this to the collection efforts by her staff. The expenditure fund is subsidized by treasurer's budget to pay for .5 FTE staffing. Mr. Myhr thanked her for her report and management.

11:20 a.m. (Commenced at 12:49 due to time constraints.) **Discussion: Fisherman Bay Road Update / Weeks Road**– Jon Shannon, Public Works (PW) Director; John VanLund, County Engineer; and interested members of the public. **Weeks Road:** Mr. VanLund explained that the path was placed on the post office side because there is a right of way on that side, but is willing to look at the other side in light of the powerful arguments heard today. He added that the change would however cause it to not be built this year. Mr. Myhr said that he hoped that Public Works would move ahead, but also take into consideration the comments made. **Fisherman Bay Road:** Mr. VanLund provided an update on the status of this project commending his staff for their exemplary and hard work. He stated that the bid opening would be on October 21, 2008 at 1:00 p.m. He reported successful negotiations in acquiring rights-of-way on 23 properties, and is still under negotiation with two property owners, but is confident they will reach agreement. The estimated cost of the project is between \$1.2 to \$2.2 million, with two federal grants in the amount of \$1.5 million, one for a pathway and one for the road-way section on the south end, and a CRAB and RATA material trust account grant in the amount of \$750,000 for the middle portion. Mr. Myhr thanked John and his Staff for their work and reminded everyone of the public meetings leading up to this. He also reminded everyone that there will be a reduced speed limit to 25 mph south of Cross Road and, as part of the project, there will be a pathway from the library to one of the Community Land Trust developments.

PUBLIC HEARINGS

11:40 a.m. – (Commenced at 11:55 due to time constraints.) A public hearing was held to consider a Utility Management Group Waterline & Desalinization Franchise Agreement. Present: Full Council; Jon Shannon, PW Director; Karen Vedder, Deputy PA; Pete Rose, County Administrator (CA); Ann Larson, Clerk to the Council; Lisa Brown, Public Hearings Specialist; and interested members of the public. Mr. Shannon presented his Staff Report regarding granting a utility franchise to use a public right-of-way for a class B water system. He referenced the agreement included in his staff report and pointed out that under the Charter, the franchise is granted by ordinance, which would be a non-codified ordinance that would not go into the code. He also included a legal memo that Ms. Vedder could answer questions regarding the granting of franchises. Mr. Ranker inquired about the legality of taking into consideration the desalinization plant during this franchise hearing. Ms. Vedder explained that there will be another franchise agreement to come before the Council next week that she would not attend and suggested the Council use this time to ask any legal questions. She then explained that the issue before them today was the narrow issue of being asked to decide on the franchise agreement and that the other issues will be addressed in another form, as applications that would likely come before the Shoreline Hearings Board. Council discussion took place, with Ms. Vedder and Mr. Shannon providing information as needed. Ms. Vedder pointed out that if the franchise were denied, it would need to be denied for reasons that could be applied across the board, but not arbitrarily. Public Testimony was opened and submitted by two individuals. Scott Boye, a staff member of Friends of the San Juans, suggested crafting an overarching ordinance governing allfranchises, and tabling this action until then. San Olson did not oppose the franchise agreement, but suggested including a permit fee. When no other members of the public requested time to speak, public testimony was closed. Deliberations were held and the following action was taken:

Moved by Myhr, seconded by Peterson, to approve this franchise agreement, as it is in the interest of the public. Motion carried unanimously.

ADJOURNMENT - Moved by Myhr, seconded by Lichter, to adjourn the meeting at 12:57 p.m. Motion carried. A Meeting was scheduled for Monday, September 22, 2008, and the next regular meeting was scheduled for Tuesday, September 23, 2008.

FIELD TRIP – Donna Wuthnow, SJC Parks and Recreation Director; and Tim Clark, ARC Farmland Preservation Coordinator; guided Council members Knapp, Lichter, and Rosenfeld, and Staff on a Lopez Island tour of Agate Beach, Watmough Bay, and Blackie Brady Memorial Beach.

These minutes were approved and signed on Tuesday, September 23, 2008. The original document is retained in the Council's permanent proceedings file. Attest: Lisa J. Brown, Deputy Clerk.