

**SUMMARY OF THE MINUTES
SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
May 7, 2007**

Monday, May 7, 2007 - Council Hearing Room

CALL TO ORDER

Council Chair Myhr called the special meeting to order at 10:00 a.m. Council members Ranker, Peterson, Rosenfeld, Knapp, and Lichter; County Administrator, Pete Rose; Prosecuting Attorney, Randall Gaylord; Clerk to the Council, Carolyn Morrison; Deputy Clerk, Lisa Brown; and interested members of the public were present. Mr. Ranker announced that he would be leaving at noon for a meeting on Orcas Island.

PUBLIC MEETINGS/WORK SESSIONS

10:02 a.m. – A continued Public Hearing, for deliberations only, was held to consider the Rosario Resort Master Plan and Official Map redesignations. Present: Ron Henrickson, Director, Community Development and Planning Department (CDPD); Shireene Hale, Senior Planner, CDPD; Donovan Kehrer, CDPD; Randall Gaylord, Prosecuting Attorney; Pete Rose, County Administrator; Mike Usen and Laurie Cameron, agents for the applicant; Roger Pearce, legal counsel for the applicant; and interested members of the public. Mr. Myhr introduced those present. Ms. Hale presented written information requested by the Council during their last deliberations. She began by pointing out that at the last meeting the majority of the Council was in agreement regarding the proposed Rosario Resort Master Plan (RMP), provided the issues outlined were resolved, and enforceable language with conditions of approval were included in the plan. She referenced her Staff Report dated May 4, 2007, in which she responded to the Council's questions and concerns. She noted that she was confident that all issues with the exception of three had been satisfied. Ms. Hale stated the next step would be to adopt conditions of approval for those issues. She went on to explain that after that takes place, the applicant would prepare an update to the plan incorporating the changes; and, CDPD would put the plan together in the form of an ordinance for Council approval. She also pointed out that any recommendation may take some refining to meet the Council's satisfaction. She reviewed several of the recommendations of CDPD, including a more suitable emergency helicopter landing zone, an added section (5.9) regarding shoreline protection to better characterize the vision for the Shoreline Master Program (SMP), and architectural techniques planned to minimize adverse aesthetic impact. The unresolved conditions she identified as items 17, 20, and 21, noting that they had been pulled for further review. The Council then addressed these three issues in random order.

The following is a summary of discussion and action during deliberations:

Condition 20 – Ms. Hale, Mr. Kehrer, Mr. Henrickson, and Mr. Gaylord assisted the Council with their questions concerning legalities.

During deliberations, the Council by consensus, directed Staff to bring back new language for Condition 20 for further consideration later in the day.

Condition 21 – Ms. Hale, Mr. Kehrer, Mr. Henrickson, and Mr. Gaylord assisted the Council with their questions concerning legalities related to setbacks. Deliberations continued and the following action took place:

Moved by Peterson to require a 40 foot setback from the shoreline for the Bowman's Bluff Cottages. The motion died for the lack of a second.

Moved by Ranker, seconded by Myhr, to support the staff statement of a 50-foot setback for the Bowman's Bluff Cottages, with the recommended design standards. Motion carried with Lichter and Peterson opposed.

Moved by Ranker, seconded by Rosenfeld, to accept the staff recommendation to allow no less than a 50-foot setback for the luxury waterfront cottages as indicated on Exhibit D, No. 2, and no less than a 75-foot setback on the water view cottages as indicated on Exhibit D number five (5), including the recommended design standards for all units. Under discussion Mr. Knapp wanted to be certain a Conditional Use Permit (CUP) would be required prior to issuing any permits for these units. Ms. Hale assured him that it would be required. Motion carried with Lichter opposed.

Condition No. 17 - Ms. Hale, Mr. Kehrer, Mr. Henrickson, and Mr. Gaylord assisted the Council with their questions concerning legalities related to fire protection, health safety, and Mansion restoration. Ms. Hale added that units planned by the Cascade Harbor Inn were not included in this equation, and reminded the Council that Cascade Harbor was a co-applicant. Deliberations continued and the following action took place:

Moved by Knapp, seconded by Lichter, to require complete sprinkler systems in all structures not already protected by sprinklers. Under discussion, the Council addressed retrofitting and it was noted that the Resort does not control all buildings. **Motion failed with Peterson, Rosenfeld, Myhr, and Ranker opposed.**

Moved by Peterson, seconded by Rosenfeld, to require sprinkler systems in the Moran Mansion and all new construction owned by the Resort. Motion carried.

Moved by Peterson to allow building permits for 50 units prior to completion of the Moran mansion renovation. Motion failed due to lack of second.

Moved by Rosenfeld, seconded by Knapp, to allow building permits for 40 units prior to completion of the Moran mansion renovation. Motion carried with Lichter abstaining.

A lunch recess was called. The hearing resumed at 1:30 p.m. The council reviewed and deliberated upon the new language brought back by Mr. Gaylord. Mr. Peterson pointed out that the distinction between commercial and residential in shoreline areas exists only in two places in the County, Rosario and Roche Harbor. Mr. Gaylord stated that a "Notice to Title" regarding the requirement of a rental agreement with the Resort would secure the commercial status. The Council worked with the Prosecutor on the proposed new language in order to satisfy the requirements of the Shoreline Master Program and SJC Code.

By Consensus, the Council requested Mr. Gaylord to bring back a new draft with all of the changes discussed during deliberations for further consideration.

Fire Safety - Mr. Lichter readdressed the written submission of Fire Chief Harris stating that he would like to see the access road at 30-feet wide for the entire route and a dedicated helicopter landing zone for emergency patient transport. Ms. Hale explained that the helicopter landing zone is designated and dedicated, but that the access road at 30-feet wide would be cost prohibitive, as it would require purchasing existing homes to expand the right-of-way. She stated that they had incorporated other mitigating measures to minimize accidents and improve safety without widening the road into their plan. **The Council agreed by consensus that this had been adequately addressed.** Mr. Knapp noted that in the EIS, the Public Works Department had not yet approved the road issues. Ms. Hale read into the record the letter in Exhibit A-2, dated July 25, 2006, which addressed all issues including a reduction in speed limits from 25 mph to 20 mph. Additionally, there will be a comprehensive guest information guide outlining road safety, ferry schedules, public and alternative transportation, etc., which will also be available for the general public.

The Council agreed by consensus to the request of Councilman Knapp as follows: A review and approval by the County Engineer of Exhibit "B" regarding Item 9, the sewer system; additionally, approval of the County Engineer on Items 6, 10, and 11; and, Item 16, delete all but the first sentence.

Mr. Gaylord then returned with a third revision to Condition 20 for further deliberations. The Council requested answers from staff regarding specific information contained in the draft language. After all questions had been answered, the Council deliberated on the language of the new Condition No. 20, which will read as follows: **'20. To meet the requirements of the Shoreline Master Program, privately owned units within 200 feet of the Ordinary High Water Mark (OHWM), will be considered "commercial" where the owners of such units participate in either the Rosario Resort or Cascade Harbor Inn Rental Programs. To assure that all new units allowed by this Master Plan meet the requirement of the Master Plan to provide for vacation, seasonal, or transient accommodations, such units must be available in either the Rosario Resort or Cascade Harbor Inn Rental Programs. For property that is "commercial," the applicant must include the requirement to participate in the Resort Rental Programs in a "Notice to Title," and provide a copy of the recorded notice to the Community Development and Planning Department (CDPD) before a building permit will be issued.'**

The following action was the taken:

Moved by Peterson, seconded by Knapp, to accept this language as changed. Motion carried with Lichter abstaining.

The Council asked the Prosecuting Attorney and staff what the next step would be for the Council. Mr. Gaylord stated that a new plan with all changes discussed will be prepared along with a draft Ordinance for consideration of adoption at a new public hearing.

It was the consensus of the Council to include all changes and preliminary approvals made today in a new plan and new ordinance and schedule a public hearing when the documents are ready.

Mr. Myhr closed the public hearing at 3:09 p.m.

EXECUTIVE SESSIONS

3:15 p.m. – Council Chair Myhr announced that the Council would be holding an **executive session** estimated to last approximately 30 minutes, to discuss a matter of litigation, pursuant to the provisions of RCW 42.30.110(1)(i). Participant: Randall Gaylord, Prosecuting Attorney. The session ended at 3:44 p.m. for an actual session time of 29 minutes. No action was taken.

3:45 p.m. – Council Chair Myhr announced that the Council would be holding an **executive session** estimated to last approximately 15 minutes, to discuss the qualifications of candidates for public employment, pursuant to the provisions of RCW 42.30.110(1)(g). The session ended at 3:58 p.m. for an actual session time of 13 minutes. No action was taken.

RECESS - At 4:00 p.m., Council Chair Myhr recessed the meeting until 10:00 a.m., Tuesday, May 8, 2007.

Tuesday, May 8, 2007 - Council Hearing Room
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CALL TO ORDER

Council Chair Myhr called the meeting to order at 10:00 a.m. Council members Ranker, Peterson, Rosenfeld, Knapp, and Lichter; County Administrator, Pete Rose; Prosecuting Attorney, Randall Gaylord; Clerk to the Council, Carolyn Morrison; Deputy Clerk, Lisa Brown; and interested members of the public were present. The flag salute was conducted.

CITIZEN ACCESS TIME

Bill Watson of the Economic Development Council (EDC) introduced Dan Pike, Transportation Director, Skagit Council of Governments. Mr. Pike informed the Council that Eric Phillips of the Department of Transportation (DOT) would be available to present information on Rural Transportation Planning Organizations (RTPO) in the near future. Mr. Ranker stated he would like a Council briefing on this matter. Mr. Pike invited the Council to attend the DOT ribbon-cutting ceremony on SR20 and the Skagit/Island County full RTPO meeting on May 30, 2007. He pointed out that it would provide an opportunity to voice SJC transportation concerns to Senator Haugen, WSF Planner Ray Deardorf, and Governor Gregoire.

Keith Keyser expressed his concern about climate change and gas prices. He said he would like to see the County respond favorably to mitigating transportation issues, such as enhancing bicycle commuting, etc. Mr. Myhr said this is a great Council concern, and that trails, bike paths, and climate change continue to be a Council priority.

Shannon Miniken offered support for trails and any other efforts to reduce SJC's carbon footprint. She also reported on the possibility of sharing a grant with King County for dumpsters (dump trucks), and wanted to support that as well.

Teddy Dean to express that climate change is his largest priority and would like to see SJC be a leader in all aspects and endeavors that contribute to a solution for this problem. He offered his services in any way, stating that it is a responsible position for any citizen to take. Mr. Ranker said he understands SJC citizen's great interest in this regard and announced that he is working on a Climate Change Policy to address these issues, including what we can do as individual citizens of our communities. He added that several months ago, King County offered to work with SJC on a grant through the Environmental Protection Agency (EPA) for more efficient, less polluting vehicles. He explained to the audience that the time frame for participating in the grant program with King County had passed.

ANNOUNCEMENTS/SCHEDULE CHANGES

The posted Council Agenda was revised. The Council called a second executive session in the afternoon.

APPROVAL OF MINUTES

Moved by Lichter, seconded by Ranker, to approve the minutes of **April 23 and 24, 2007**, with the corrections noted. Motion carried.

CONSENT AGENDA

Moved by Ranker, seconded by Rosenfeld, to approve the **Final Consent Agenda of May 8, 2007** as follows:

A. Miscellaneous:

1. Sign the proclamation declaring May 6, 2007 through May 12, 2007 as Wildfire Awareness Week in SJC.

Motion carried.

MISCELLANEOUS ITEMS:

1. Ferry Advisory Committee (FAC) Discussion Regarding Agriculture Priority Loading, Ferry Schedules, Ferry Security, and Other Related Ferry Issues – Present: Alex MacLeod, FAC Chair; Tom Schulz, WSU Extension Officer; and other interested members of the public. **A.) Priority Loading request by WSU Extension and Agricultural Resource Committee (ARC)** – Mr. MacLeod reported that the most pressing issue Mr. Schulz presented was priority loading for the Mobil Processing Unit (MPU). The concern was that priority language in the WAC's would not qualify because the MPU does not carry livestock. Mr. MacLeod reported that due to the high demand of this unit, and with the help of Jayne Davis of WSF, it was determined that the MPU may be included under the livestock priority language as it currently exists in the WAC. The logic behind this decision was that while the MPU does not carry livestock, it is traveling on a deadline to meet livestock which is off feed because they are being prepared for slaughter. Mr. MacLeod stated that Ms. Davis maintains a list of individuals qualified for this exemption and has added the MPU to that list. Mr. MacLeod suggested that the Chair extend a thank-you to Ms. Davis for approaching this in the way of finding a solution. Mr. MacLeod went on to report that the WSU Extension proposed changing the WAC to embrace not only the MPU, but also those individuals who must leave to pick up the packaged, frozen products in Bow, WA and then return to the islands. The request is due to the sensitivity in maintaining the temperature. He added that the ARC requested amending the WAC to include the words 'and fish products' to the 'perishable livestock' allowance. Mr. MacLeod stated that the FAC is generally opposed to opening the WAC for priority loading, but would be willing to hear the requests. Mr. Schulz expressed the need for priority loading for all agricultural products. Mr. MacLeod requested documentation from Mr. Schulz, stating he would review it with the FAC in the fall. Mr. MacLeod then outlined the specifics of the data he would need for review and also pointed out that priority loading is a difficult thing for terminal agents to manage. Mr. Ranker commented on issues regarding priority status of bicycle tours and said he was looking forward to having the FAC work with ARC and the WSU Extension to resolve the agricultural issues. He stated he had spoken with Mike Anderson, CEO of WSF regarding this issue and it was agreed they should be "careful" in opening the WAC's. **B.) Ferry Safety** – Mr. MacLeod spoke in response to a letter from Pat Roe to the Council and Sheriff Cumming following the Virginia Tech massacre. Mr. MacLeod said he discussed this issue with Jayne Davis and also did research with her assistants. He reported that WSF employs Jim Hasselbaugh as the North Region Fleet and Facilities Security Officer. Mr. Hasselbaugh is in regular contact with Sheriff Cumming regarding security issues. Mr. MacLeod assured the Council that this issue is one that has been included on a list of concerns that security staff has examined here and in other areas of the system. He pointed out that WSF is reluctant to discuss details regarding their security efforts for fear of compromising them. He asked the Council to forward their concerns directly to the Sheriff. Mr. Ranker stated that Congressman Larsen's staff could also assure anyone about these issues, noting they have security clearances. **C.) Summer Ferry Schedule** – Mr. MacLeod reported that the Summer 2007 schedule will be virtually identical to the Summer 2006 schedule, stating that their greatest concern was not leaving people behind at the end of the day in Anacortes. Mr. Ranker asked Mr. MacLeod if he was aware that the Council offered to assist the FAC in working to achieve a better result through elected bodies and the Governor's office; and, asked if there was still an opportunity to do so. Mr. MacLeod was unaware of this offer and stated that he felt WSF gave SJC a fair hearing. He said the data

collected will be used to prepare the Summer 2008 schedule. Mr. MacLeod reported that from this data, it was determined that this summer, ten spaces from the 6 a.m. sailing leaving Friday Harbor and 20 spaces from the 9:40 sailing leaving Orcas Island would be reallocated to Lopez Island spaces to avoid overloads. Mr. Ranker expressed his disapproval of this decision. Mr. MacLeod pointed out that although ferry schedules cannot change once they have been set, the allocated spaces can be adjusted based on experience and review of WSF records. Mr. MacLeod pointed out that the FAC would be holding a public meeting on May 17, 2007 from 2:00 to 3:30 on Lopez Island and in Anacortes that morning. The City of Anacortes, Skagit County FAC, and SJC FAC will meet to address concerns they share, including ferry fares. He pointed out that this could have potentially great risks to SJC and requires heightened attention and long-range planning. Mr. MacLeod stated that the FAC believes having Council support in this role is something they would be very supportive of. Mr. Lichter requested an outline of elements used in determining schedules from Mr. MacLeod. Mr. MacLeod stated that he would have Rob DeGavre provide and discuss that data with the Council. After discussion, Mr. Myhr stressed the importance of the Council taking an active role in this regard and thanked Mr. MacLeod for his report.

2. Draft “Request for Proposals” and Report Regarding Lodging Tax Promotion Funding – Mr. Rose presented the draft SJC Lodging Tax Promotional Grant Program for 2007 and explained the proposed process. Revisions were made, procedures discussed. **It was agreed by consensus that the Council could invite, at their discretion, applicants to make presentations of their proposals to the Council. Additionally, the Council agreed by consensus to eliminate the percentage and dollar amounts to the various funding categories and to change the word ‘account’ to ‘program’ in the two categories under which it appeared.**

The revised draft will be forwarded to the Council and Lodging Tax Advisory Committee for review.

3. Superior Court Judge Position – Mr. Knapp requested scheduling a public comment session to discuss the Superior Court Judge position in the format of a dialogue, with two speakers - one taking the position of ‘appointment’ and the other the position of ‘election.’ He recommended the Council take a vote following that presentation to determine the method which the County would use. He also pointed out that the budget needs to be considered as well. Mr. Rose said he was working on the proposed budget for this position and could have it prepared for scheduling as soon as May 22, 2007.

4. Islands Trust Council (ITC) Conference – Mr. Lichter announced that ITC is preparing for the joint meeting with SJC, scheduled for June 13, 14, and 15, 2007. He stated that they would like members of the SJC Council there for a late afternoon session on June 13, dinner that evening, and a morning session on June 14, 2007. Mr. Lichter said he would have more details and an agenda to follow. He also stated that ITC would like to know how many attendees to plan for so that they can arrange accommodations. He reported that Councilman Peterson had offered to chauffeur everyone in his boat. The Council expressed a desire for Mr. Rose to attend also, if his schedule permits. Mr. Lichter asked Councilmen to RSVP to him as soon as possible.

PUBLIC MEETINGS

11:00 a.m. – County Administrator Council Briefing. Also present: Bill Cumming, SJC Sheriff; Brad Creasy, Interim Fire Chief District 3; Jim Cole, Emergency Medical Services (EMS) Chief; Randall Gaylord, Prosecuting Attorney; and interested citizens.

1. Fire Works Ban Report – Mr. Rose stated that this Issue was brought forth as a result of letters he had received from concerned citizens. He referenced his Staff Report dated for the Meeting of May 8, 2007 and pointed out that a ban on fire works would require a one-year advance notice prior to enactment. He explained some of the pros and cons of a ban and stated that Sheriff Cumming was available to report on local data. Mr. Creasy reported that calls received by the fire department have been on illegal fireworks and suggested educating the public on “fire-wise communities.” As far as enforcement, he stated that it is not reasonable to think that the Sheriff and/or Deputies could be everywhere at any given time. Sheriff Cumming concurred with Mr. Creasy, adding that in the past, SJC had followed the state period requirements, and has since reduced the time period for legal fireworks to one day. He reported that it is becoming more difficult to determine the difference between “safe and sane” fireworks and illegal fireworks, and gave the Council examples. He also agreed with Mr. Creasy on the importance of public education. Sheriff Cumming concluded by stating that although he does not condone the use of illegal fireworks, he understands that some consider the use of legal fireworks as a tradition, and, given the history of incidents, would not suggest changing the current regulations. Mr. Ranker asked Mr. Cole to report on injury-related calls. Mr. Cole stated that the fireworks-related calls to EMS were fire-related with minor injuries to fire fighters, and nothing life threatening. Discussion regarding safety and local and state laws ensued. Mr. Myhr pointed out that for some citizens the use of personal fireworks is a problem, but what was heard from the County’s public safety staff was that it is manageable. He asked Mr. Rose to get information from other fire chiefs and report back on a future agenda. Mr. Knapp suggested publicizing the fine for the illegal use of fireworks,

including the cost of damages. Sheriff Cumming stated the fine was \$175. **The Council agreed by consensus not to take action until further information is available.**

EXECUTIVE/CLOSED SESSIONS

11:32 a.m. – Council Chair Myhr announced that the Council would be holding an **executive session** estimated to last approximately 30 minutes, to discuss a matter of Real Estate acquisition, pursuant to the provisions of RCW 42.30.110(1)(b). The session ended at 12:02 p.m. for an actual session time of 30 minutes. No action was taken.

1:35 p.m. - Council Chair Myhr announced that the Council would be holding an **executive session** estimated to last approximately 30 minutes, to discuss the qualifications of candidates for public employment, pursuant to the provisions of RCW 42.30.110(1)(g). The session ended at 3:20 p.m. for an actual session time of one hour and 55 minutes. No action was taken.

ADJOURNMENT - Moved by Ranker, seconded by Lichter, to adjourn the meeting at 3:40 p.m. Motion carried. A special meeting was scheduled for Monday, May 14, 2007, on Orcas Island, and a special meeting was scheduled for Tuesday, March 15, 2007 on Lopez Island.

These minutes were approved and signed on May 15, 2007. The original document is retained in the Council's permanent proceedings file dated May 7 and 8, 2007. Attest: Carolyn K. Morrison, Clerk.