

**SUMMARY OF THE MINUTES
SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
June 18 and 19, 2007**

Monday, June 18, 2007 - Council Conference 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; Acting Clerk to the Council, Lisa Brown; and interested members of the public were present.

PUBLIC MEETINGS/WORK SESSIONS

10:00 a.m. – The Council held a Staff Meeting and work session to discuss County business. No action was taken.

RECESS - At 11:30 a.m., Council Chair Myhr recessed the meeting until 10:00 a.m., Tuesday, June 19, 2007.

Tuesday, June 19, 2007 - Council Hearing Room

CALL TO ORDER

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

EXCUSED ABSENCES

Moved by Rosenfeld, seconded by Knapp, to excuse Mr. Ranker, who was attending a Washington State Association of Counties (WSAC) meeting in Eastern Washington. Motion carried.

CITIZEN ACCESS TIME

Sharon Kivisto addressed the Council regarding the Ferry Advisory Committee (FAC). She stated that the FAC does not meet regularly, and has no mechanism to make notifications to the public regarding breakdowns and temporary schedule/route changes. She added that these problems would be more easily fixed if they were discussed in a better time frame and if the FAC met more often than once per quarter. She mentioned that, aside from a ferry fare meeting, there was a meeting in January and then not until May. Ms. Kivisto requested the Council have the FAC meet monthly and advertise the meetings as is called for in the resolution. Mr. Myhr thanked Ms. Kivisto and explained that Council is currently addressing regulations for all advisory bodies.

ANNOUNCEMENTS/SCHEDULE CHANGES

The posted Council Discussion Agenda was revised.

APPROVAL OF MINUTES

Moved by Rosenfeld, seconded by Knapp, to approve the minutes of **June 4 and 5, and June 11, 2007 as corrected.** Motion carried.

CONSENT AGENDA

Moved by Rosenfeld, seconded by Peterson, to approve the **Final Consent Agenda of June 19, 2007** as follows:

A. Contracts/Agreements:

1. **Agreement No. 07HC36** – Sign the Interlocal Agreement between WA State Department of Early Learning for the purpose of providing Early Childhood Education and Assistance Program (ECEAP)

services within the County in an amount not to exceed \$331,404, with no match fund requirement, for the period of July 1, 2007 through June 30, 2009, under the terms and conditions as set forth therein, as approved in the adopted 2007 budget.

2. **Agreement No. 07HC37** – Sign the Interlocal Agreement between SJC and San Juan Island School District to provide school nurse services as defined therein, in the amount of \$11.30 per pupil enrolled, plus a \$310.00 administrative fee for the 2006-2007 school year, under the terms and conditions as listed therein, as approved in the adopted 2007 SJC Budget.
3. **Agreement No. 07HC38** – Sign the Interlocal Agreement between SJC and Shaw Island School District to provide school nurse services as defined therein, in the amount of \$11.30 per pupil enrolled, plus a \$195.00 administrative fee for the 2006-2007 school year, under the terms and conditions as listed therein, as approved in the adopted 2007 SJC Budget.
4. **Agreement No. 07HC40** – Sign the Interlocal Program Agreement between WA State Department of Social and Health Services (DSHS) in order to specify the procedure by which DSHS will assess and, if necessary, adjust the Long-Term Payable it provides to SJC for projects operated during the term of this agreement, as outlined in the attached “Special Terms and Conditions”.
5. **Agreement No. 07HC41A** – Sign the Amendment No. 1 to Interlocal Agreement SJC 05HC35 between SJC and WA State Division of Alcohol and Substance Abuse to amend language and shift funds within the program for an unchanged consideration of \$414,327 and contract end expiration of June 30, 2007, with all other terms and conditions of the original agreement to remain in effect.
6. **Agreement No. 07HC42** – Sign the Interlocal Agreement between WA State Division of Developmental Disabilities to provide a coordinated and comprehensive program of services for persons with developmental disabilities for the period of July 1, 2007 through June 30, 2009, in the maximum amount of \$114, 592, as approved in the adopted 2007 budget, under the terms and conditions as set forth therein.

B. Budget Items:

1. Approve the transfer of \$1,000 from Line Item Number 511.10.43.005 [Travel - District No. 5] to Line Item No. 511.10.43.0001 [Travel - District No. 1] within the approved 2007 SJC Council Budget.

C. Appointments:

1. Approve the reappointment of Brian Ehrmantraut to the Eastsound Planning Review Committee for a two-year term, which will expire May 31, 2009.
2. Approve the reappointment of Laura Arnold to the SJC Marine Resources Committee for a four-year term that will begin July 1, 2007 and expire June 30, 2011.
3. Approve the reappointment of Jonathan White to the SJC Marine Resources Committee for a four-year term that will begin July 1, 2007 and expire June 30, 2011.

D. Correspondence:

1. Sign the letter to Brian Ehrmantraut confirming his reappointment to the Eastsound Planning Review Committee.
2. Sign the letter to Laura Arnold confirming her reappointment to the SJC Marine Resources Committee.
3. Sign the letter to Jonathan White confirming his reappointment to the SJC Marine Resources Committee.
4. Sign the letter to Thom Jones accepting his resignation from the SJC Salary Commission; and, sign the Certificate of Recognition for his service.

E. Miscellaneous:

1. Approve the Council Chair to sign the project and bid specifications for the SJC Rural County 2-Lane Roadway Pilot Program, Orcas Island and Lopez Island Guardrail Installations.

F. Bid Openings:

1. Approve a Call for Bids for the SJC Public Printing Contract with sealed bids to be received by the County Council until 3:15 on Tuesday, July 10, 2007, and with the bid opening to occur precisely at 3:15 on that day. [Clerk’s Note: See Item F-2.]

2. Authorize the County Administrator to analyze and accept the most responsive bid submitted for the SJC Public Printing Contract pursuant to the bid opening to occur at 3:15 p.m. on Tuesday, July 10, 2007. [Clerk's Note: See Item F-1.]
3. Approve a Call for Bids for the SJC Rural County 2-Lane Roadway Pilot Program, Orcas Island and Lopez Island Guardrail Installation Program with sealed bids to be received by the County Council until 11:00 a.m., July 17, 2007, and with the bid opening to occur precisely at 11:00 a.m. on that date. [Clerk's Note: See Items E-1 and F-4.]
4. Authorize the County Administrator to analyze and accept the lowest responsible bid submitted for the SJC Rural County 2-Lane Roadway Pilot Program, Orcas Island and Lopez Island Guardrail Installation Program, pursuant to the bid opening to occur at 11:00 a.m. on July 17, 2007; and, authorize the County Administrator to sign the construction contract and potential change orders. [Clerk's Note: See Items E-1 and F-3.]

Motion carried.

ACTION AND DISCUSSION ITEMS

ORDINANCES/RESOLUTIONS:

ORD. NO. 12-2007 - (Refer to PUBLIC HEARINGS/MEETINGS, 2:30 p.m., for details of action taken.)

MISCELLANEOUS ITEMS:

1. Marine Resources Committee (MRC) Update – Present: Mary Knackstedt, MRC Coordinator; Jim Slocomb, MRC representative; and interested members of the public. Mr. Slocomb provided a copy of a draft letter the MRC proposed sending to National Marine Fisheries Service (NMFS), regarding their work to protect San Juan County's Marine Stewardship Area and outlining regulatory measures they are seeking from National Oceanic and Atmospheric Administration (NOAA). He also distributed the Be Whale Wise (BWW) guidelines and a Question and Answer sheet, including a request for public comment on vessel regulations, put out by NOAA. Mr. Slocomb and Ms. Knackstedt answered the Council's questions, including an affirmative response to a question regarding whether certain areas would be closed completely to vessel traffic during certain periods. Mr. Peterson pointed out that their request of NOAA differed from SJC's proposed ordinance. Mr. Slocomb added that evidence through Whale Museum research over the years suggests that the idea of a rest zone for the whales would be beneficial to them and that this would be beyond the draft ordinance and County authority. Mr. Myhr asked the Council if they were comfortable with MRC sending the letter. **The Council agreed by consensus that the MRC should send the letter.**

2. Power of Referendum Regarding Storm Water Utility Charge – Present: Jon Cain, Deputy Prosecuting Attorney; and interested members of the public. Mr. Cain reported that a petition for referendum was filed pertaining to Ordinance 20-2006, Storm Water Utility Fees, forming a funding mechanism through a service charge. The filing of this referendum overturns the ordinance, rendering it ineffective, pending the outcome of the referendum on the November 6, 2007 ballot. Mr. Cain pointed out that a determination should be made as to whether Ordinance 20-2006 was put in place under a finance and revenue requirement, or a Growth Management Act (GMA) requirement, adding that if it was directed by the state legislature under the GMA, the referendum would become invalid. Mr. Cain offered to answer questions from the Council. Mr. Peterson asked if the question could legally be ignored, allowing the charter to run the process it was intended to provide. Mr. Rosenfeld carried this thought further by wondering about a scenario in which the Council decided to do nothing and let the referendum go to ballot and it succeeded, but was later challenged and discovered to be invalid because it was a GMA item. Mr. Cain said he would research the option, and the pros and cons, if it was a possibility. Mr. Rosenfeld pointed out that the GMA mandates that some collection mechanism be in place for storm water utility fees. Mr. Peterson suggested drafting an alternative referendum to be included on the ballot and asked Mr. Cain for clarification on that as well. Mr. Myhr thanked Mr. Cain for his briefing on this matter and added it to the work session and discussion agenda for June 25 and 26, 2007.

3. Council Procedures – Mr. Myhr reported that the Council Sub-committee had been working on revising procedures relative to the new Charter form of government for SJC Code since February, 2007. The new draft rules of procedure were completed at the Sub-committee meeting on June 11, 2007. Mr. Myhr reviewed the changes put forward by the Sub-committee and found them to be complete. He asked for consensus of Council to publish for public hearing. Mr. Knapp suggested moving forward, making changes if necessary at the public hearing. Mr. Myhr asked the Council if there was consensus. **It was agreed by consensus of the Council to publish the draft ordinance on rules and procedures and schedule the hearing.**

4. Veterans Advisory Board (VAB) – Present: Milene Henley, Auditor; and interested members of the public. Mr. Lichter reported that SJC has many Veterans with diverse needs. The State mandates that each County provide assistance to Veterans through a Veterans Advisory Board. Until now, the needs have been met informally, by way of Veterans making their requests to an American Legion representative, who forwards the requests to the Auditor's office. Mr. Lichter stated that the VAB Sub-committee is in the process of forming a board with the help of Jerry Pfannenstiel, Veterans Services Coordinator for Washington State Veterans Advisory Committee. He added that all members of this board must be veterans and would appreciate possible candidates names be directed to him. Ms. Henley pointed out that of this year's budget of \$56,000 (some of which is carry-over from last year), \$14,000 has been expended to date. Mr. Lichter hopes to build a list over time of all Veterans living in San Juan County.

5. Council Member Updates – a.) Transborder Meeting and Smart Growth Conference - Mr. Lichter reported on the Transborder Meeting on North Pender Island, BC, between the Islands Trust Council and SJC Council. Council members commented on the educational value and networking opportunity this meeting provided. Discussions included growth, tourism, and affordable housing. Mr. Peterson commented that Canada has stresses and dynamics very similar to SJC. Mr. Lichter reported that, after he spoke about SJC's upcoming Smart Growth Conference, three Land Use Planners and Island Trust Council members said they planned to be in attendance. After discussion on Thursday, June 14, 2007, the Transborder Agreement was signed. Mr. Myhr and the other Council members expressed their great appreciation to Mr. Lichter for his efforts in preparing for the Islands Trust and SJC Transborder Meeting and Agreement, and deep gratitude for putting together the Smart Growth Conference with Mr. Pagini, which will provide significant value to the Council. **b.) Committees and Advisory Bodies** – Mr. Myhr pointed out that citizens contribute valuable time to the work the Council does by serving on advisory committees. He also referenced a memo from Deputy Clerk, Amy Taylor, regarding the time commitment required of Staff each time a position opens. Ms. Taylor's memo explained the effect the six-month transition terms are having, leading to multiple term expirations. Mr. Rosenfeld added that, aside from the extra time and effort involved in processing the terms, the committees are beginning to lose the staggering of the terms. Mr. Myhr recommended having Staff advertise open positions to move forward in appointing people to full terms, subject to change once Council Procedures are set. He also added this to the Work Session agenda for the June 25, 2007 Staff Meeting.

The Council agreed by consensus to make the full-term appointments, but also noting to the appointees that their appointments may change once the transition to the Charter Government is complete.

c.) Storm Water Utility Fees Referendum – Mr. Peterson asked to have the storm water issue added to the agenda for June 26, 2007. Mr. Myhr said he could add it to discussion time, with the possibility of beginning the public hearing, scheduled for 11:00, at 11:15. He added that public comments would be allowed.

PUBLIC HEARINGS/MEETINGS/WORK SESSIONS

1:30 p.m. – (Commenced at 1:40 p.m. due to time constraints.) County Administrator Council Briefing. Also present: Jon VanLund, County Engineer; Rachel Dietzman, Sr. Project Engineer; Lou Haff, Consultant; Charles Zalmanek, Assessor; Milene Henley, Auditor; and interested members of the public.

1. Briefing on Cattle Point Bluff (Environmental Impact Study) EIS Process – Mr. Rose spoke regarding the erosion taking place on Cattle Point Road, a problem the County began to address several years ago by initiating the EIS scoping process. Mr. VanLund introduced Lou Haff, who was the interim Public Works director prior to the hire of Jon Shannon, and the consultant to the County on this project. Mr. Haff reported that phase one, the preliminary scoping activities, was nearing completion and that transitioning into the second phase, the environmental analysis phase, had begun. He added that the third phase would be design and construction. He reported that a three-year erosion rate study was conducted, using analysis of aerial photography. Out of this study came the conclusion that ninety percent of the erosion was geographically located in National Park Service (NPS) land and the majority of the remainder in Department of Natural Resources property, with only one percent in SJC. With this understanding, it became necessary to create a partnership, which shifted the lead to the NPS, bringing with it the federal level of review under the National Environmental Policy Act (NEPA). He added that the process of transitioning to NEPA was slow-moving and estimated the draft EIS would be complete by the end of the year. Then the appropriate federal agency would make the decision to publish the EIS in the Federal Register, initiating a comment and review for the public input process. Mr. Haff also addressed the funding problems due to Katrina. If State and Congressional funding is granted, a 2009 construction schedule would be planned. He noted that competition for this funding is great, and stressed the importance of maintaining momentum so that the NEPA process doesn't stagnate. Mr. Haff and Mr. VanLund invited questions from the Council. Mr. Peterson asked if there was a plan in the event of a catastrophic failure. Mr. Haff explained limitations due to the location in the NPS land, but assured the Council that a viable alternative had been

identified, which was to open the old road on the north side of Mt. Finlayson. Mr. Rosenfeld commented that rip-wrapping was rejected, which meant the road had to be moved. He asked if the erosion would continue at that rate. Mr. VanLund explained that rip-wrapping is against federal policy and that it also creates a hard armor, compromising the bank next to it. Mr. Haff stated that what has been designed would have a 100 year lifespan and the preference of the NPS would be to remove the old road completely and restore the land to prairie grass or possibly a trail. Mr. Myhr thanked Mr. Haff and Mr. VanLund for their report.

2. Request by the Assessor's Office for an Emergency Appropriation – Mr. Rose invited Mr. Zalmanek to report. Mr. Zalmanek explained that, due to the high turnover in staff in the Assessor's office last year, the annual work was completed later in the year than ever before, necessitating the use of abbreviated construction inspections to get tax levies out. He explained that his request for emergency funding would be a cost-effective investment, in that the money would allow for overtime so that his Staff could conduct new construction assessments, which add one percent to the amount of new construction, based on last year's levy rate. Mr. Lichter thanked Mr. Zalmanek for his report and asked if the request had the support of the administrator. Mr. Rose said he supported the request. Mr. Myhr asked Mr. Zalmanek if he foresaw the problem continuing into next year. Mr. Zalmanek explained that he requested, for the first time ever, a comprehensive performance audit of the Assessor's office. He hopes to determine possibilities for advancement in efficiencies and staffing levels and plans to release the study the end of January, 2008. Mr. Myhr asked if all new construction evaluations had been abbreviated. Mr. Zalmanek explained that all new construction, permitted at \$50,000 or more, would be subject to the new construction assessment retroactively, with the annual date of discovery being June 1. He also pointed out that currently his Staff is only assessing new construction on San Juan, Orcas, Lopez, and Shaw and that new construction on other islands is unaccounted for, but eventually gets picked up during the three year cycle. Mr. Knapp asked Ms. Henley to comment. Ms. Henley stated that the Assessor's office generates money and clearly needs the money for staffing. She added that it is a permanent problem, exacerbated by temporary conditions. After discussion, the following action was taken:

Moved by Lichter, seconded by Rosenfeld, to approve funds in the amount of \$12,200 to fund overtime necessary to complete the work of the Assessor's office in a timely manner and to direct the Auditor to include this in the next 2007 emergency appropriation. Motion carried.

3. Report by Auditor and Administrator on State Legislative revisions to Public Facilities Financing Program – Ms. Henley explained that this rebate legislation is much like a grant and at no cost to the County or the consumer. Mr. Rose added that it is a very limited program that only a few counties qualify for. After discussion, the following action was taken:

Moved by Lichter, seconded by Peterson to request the Prosecuting Attorney's office prepare an ordinance to increase San Juan County's rural sales and use tax rate from .08% to .09% consistent with state law. Motion carried.

2:30 p.m. – A public hearing was held to consider an Ordinance to amend Ordinance 7-2006 regarding detached Accessory Dwelling Units (ADU) on rural parcels smaller than five (5) acres in size to comply with orders of the Growth Management hearings Board. Present: Ron Henrickson, Community Development and Planning Department (CDPD) Director; Jon Cain, Deputy Prosecuting Attorney; and interested members of the public. Mr. Myhr introduced those present, noting that Mr. Ranker was absent, and invited Mr. Henrickson to provide his Staff Report. Mr. Henrickson referenced his Staff Report, dated for the meeting of June 19, 2007, explaining that revising the minimum acreage to allow an ADU, from one acre to five acres, brings the County closer to being in compliance with the GMA. Mr. Myhr asked if the Council had questions of Staff. Mr. Knapp asked what additionally needed to be done to be fully compliant with the GMA. Mr. Henrickson stated that areas yet to be addressed were Lopez Village and Eastsound compliance, an update with a seven year plan as part of the Critical Areas Ordinance (CAO), an update to the housing element, and a number of other elements. Public testimony was opened, submitted, and closed. Additional questions were answered by Staff. Mr. Myhr then began deliberations. After deliberations the following action was taken:

Moved by Lichter, seconded by Knapp, to adopt the proposed changes to the San Juan County Code and Ordinance 7-2006 as written. Motion carried.

3:00 p.m. – A briefing, entitled "Nearshore Environment: Opportunities and Threats" was held. Present: Friends' Executive Director, Stephanie Buffum Field; Tina Whitman; and interested members of the public. Mr. Myhr invited Ms. Whitman to report. Ms. Whitman, Nearshore Habitat Biologist, reported on the value of this work in creating a global picture of the relative health of the marine environment in the San Juan Islands. She identified specific threats and opportunities that the County has jurisdiction with, and provided a comprehensive PowerPoint

presentation detailing areas of concern and mitigating measures. Ms. Whitman stated that the San Juan Islands have a very diverse and rich ecosystem. Ms. Whitman and Ms. Buffum Field answered the Council's questions. Mr. Myhr asked how they envisioned better coordination between the Marine Resource Committee (MRC), San Juan Initiative, and Critical Areas Ordinance. Ms. Whitman explained that each provides an important role in the work being done to protect our marine environment. She added that they work a great deal together and are beginning to coordinate more with the County as well. Mr. Myhr raised the issue of code enforcement relative to the Shoreline Master Program (SMP) and Ms. Whitman suggested requiring restitution as a deterrent to code violations. Mr. Myhr thanked Ms. Buffum Field and Ms. Whitman for their presentation, noting that the Marine Stewardship Plan would be before the Council in July.

EXECUTIVE/CLOSED SESSIONS

10:57 a.m. – Council Chair Myhr announced that the Council would be holding an **executive session** estimated to last approximately 45 minutes, to discuss qualifications of candidates for public employment, pursuant to the provisions of RCW 42.30.110(1)(g). The session ended at 11:40 a.m. for an actual session time of 43 minutes. The Council came out of executive session and took the following action:

Moved by Knapp, seconded by Lichter, to offer the Council Clerk position at Range L, Step 1, with a start date of July 2, 2007 to Laura Tuttle. Motion carried.

Moved by Knapp, seconded by Lichter, to extend substitute pay to Lisa Brown during this transition through August, 2007. Motion carried.

ADJOURNMENT - Moved by Peterson, seconded by Lichter, to adjourn the meeting at 3:40 p.m. Motion carried. A Special Meeting was scheduled for Monday, June 25, 2007, and the next regular meeting was scheduled for Tuesday, June 26, 2007.

These minutes were approved and signed on Tuesday, June 26, 2007. The original document is retained in the Council's permanent proceedings file dated June 26, 2007. Attest: Lisa J. Brown, Deputy Clerk