

**SUMMARY OF THE MINUTES  
SAN JUAN COUNTY (SJC), WASHINGTON  
COUNTY COUNCIL  
Monday, July 16 and 17, 2007**

**Monday, July 16, 2007 – Council Hearing Room**

**CALL TO ORDER**

Council Chair Myhr called the special meeting to order at 9:00 a.m. Council members Peterson, Rosenfeld, Knapp, and Lichter; County Administrator, Pete Rose; Prosecuting Attorney, Randall Gaylord; Clerk to the Council, Laura Tuttle; Deputy Clerk, Lisa Brown; and interested members of the public were present.

**EXCUSED ABSENCES**

Moved by Rosenfeld, seconded by Knapp, to excuse Mr. Ranker, who was attending congressional appointments in Washington, DC. Motion carried.

**ACTION ITEMS**

ORDINANCES/RESOLUTIONS:

**ORD. NO. 26-2007** – (Refer to PUBLIC HEARINGS, 9:00 a.m., for details of action taken.)

**PUBLIC MEETINGS/WORK SESSIONS**

**9:00 a.m.** – (Commenced at 9:03 due to time constraints.) The Council held a continued public hearing, from July 9, 2007, in consideration of the Deer Harbor Hamlet Plan, (DHHP) the Ordinance adopting the plan, and Official Map redesignations. Present: Ron Henrickson, CDPD Director; Colin Maycock, CDPD Senior Planner; Randall Gaylord, Prosecuting Attorney; Pete Rose, County Administrator; and interested members of the Public. Council Chair Myhr opened the hearing, introduced the Council and Staff, and welcomed those present. Mr. Maycock referenced his staff report, dated July 13, 2007, which addressed issues raised under public testimony, and questioned by the Council, at the July 9, 2007, hearing. He reported that Public Works was investigating alternative parking in Westsound for Waldronites, who had been previously promised parking in Deer Harbor. Mr. Lichter pointed out that during his regular visits to Waldron, which is in his district, there had been a preponderance of people there who wanted to be able to park in Deer Harbor. He added that it behooves the County, since there was an agreement already in place, to set aside funds to provide for parking there, to continue looking in that area. Mr. Maycock continued his report, stating that the County does have a Noise Ordinance in place that could be used to address possible complaints in that regard. He stated that Staff recommended the building height limit be 28 feet. Regarding the question on porches and decks, he reported that Staff recommended keeping the language, but including a maximum footprint of 2,500 square feet, with the deck being limited to one edge of the unit. He reported that geographical features and historical development had created a level of pollution in the harbor that wouldn't allow for Aquaculture and that, according to the Department of Ecology (DOE), it is inconceivable that this would be a viable option in the near future. Water catchment tanks, if allowed by administration, would be an option. Mr. Maycock consulted Jon Van Lund, County Engineer (CE), regarding pathway development and learned that, as a matter of policy, PW would not use eminent domain for pathways, but may for roads. He reported that landowners have offered easements through their property for two pathway projects currently underway in that area. Community Center development on contiguous property was recommended, as well as maintaining density limits in the DHH area. After Mr. Maycock answered questions from the Council, Mr. Myhr opened public testimony. After all public testimony was heard, Mr. Myhr closed public testimony and invited additional questions from the Council. Mr. Rosenfeld stated that the Town of Friday Harbor (TFH) was starting to create design incentives and would like the County to consider this as well. He suggested keeping the 26 foot roof height for 4:12 roof pitches, but allowing a 28 foot roof height for 6:12 pitches, and a 30 foot roof height for 8:12 pitches, to allow for variation. Regarding water catchment tanks, Mr. Rosenfeld stated that it may look as if an exception was being sought for one property owner, but that as sea level increases and salt water intrusion becomes an increasing concern, it may be necessary to accept catchment tanks as a reality for the future, and recommended that this be a condition that could be approved. He was not in favor of limiting decks, stating that they are attractive and add to the appeal in villages. Mr. Knapp asked Mr. Maycock about the letter Ms. Shaw had presented to the Council concerning water issues. Mr. Maycock reported that the Department of Health (DOH) had begun a five year well monitoring project in 2006, but wouldn't have conclusive answers until 2011. He stated that the County requires developers to show proof of water availability prior to permitting and didn't feel this would be prohibitive with respect to this project. Mr. Peterson raised the issue of the parking agreement

entered into by the County with Waldron, in 1995, and inquired about where the money had been spent. Mr. Rose responded, stating that he had spoken with the former auditor, Si Stephens, who gave him some information to help determine what had been done and if there was money still available, but was unable to provide a definitive answer at the time of the meeting. Discussion regarding budgeting for parking followed. Mr. Myhr then opened deliberations and asked Mr. Maycock about the Staff recommendation for parking. Mr. Maycock stated that it was the recommendation of the Planning Commission to remove parking as a topic from the plan and honor the 1995 agreement. The Council expressed its strong desire to include language in one of the guiding documents of the plan that addressed this agreement and the following action was taken.

**Moved by Lichter, seconded by Knapp, that the following wording regarding parking in Deer Harbor be inserted where the Staff feels it most appropriate: The County acknowledges earlier agreements to provide increased public parking in the Deer Harbor Hamlet and, to this end, will make a good faith effort to provide such parking as soon as possible.** Under discussion, Mr. Lichter stated that the longer this is delayed, the more costly it will become for the County. Mr. Myhr restated the importance of determining the status of what had taken place previously regarding the agreement. **Motion carried.**

After a discussion regarding building heights, the following action was taken:

**Moved by Lichter, seconded by Knapp, to limit buildings to two stories with a maximum height of 26 feet with a 4:12 roof pitch and up to 28 feet with a 6:12 roof pitch.** Mr. Rosenfeld offered a friendly amendment to add the allowance of a 30 maximum height with an 8:12 roof pitch. The friendly amendment was not accepted. **Motion carried without amendment.**

After a discussion regarding parking and pathways, the following action was taken:

**Moved by Lichter, seconded by Knapp, to have the last two sentences of section four, Page 23, of the DHHP to read: “The acquisition of the two acre waterfront park site, north of the Bellport Marina, significantly increases the public shoreline and will accommodate walking paths to get pedestrians off the public road as well as provide a very limited number of regulated automobile parking space. Deer Harbor road is too narrow along the new park to permit on-street parallel parking. Mr. Knapp suggested removing the word parallel. Mr. Lichter accepted the amendment.** Discussion regarding existing right-of-way distances was discussed and confirmed by Mr. Maycock that surveys were not available, but that the right-of-ways extend to include the surface of the roadway. **Amended motion carried.**

Discussion regarding whether aquaculture should be allowed for research and/or commercial purposes, with initial permitting approval determined by the State, depending on conditions of the Harbor, was discussed. Mr. Maycock explained that currently the ordinance and plan includes a provision for aquacultural research, but not commercial “aquaculture.” After discussion, Mr. Lichter made a motion to accept Staff recommendation item five, removing the word aquaculture from the DHHP and/or the ordinance. The motion failed for lack of a second. It was then moved by Rosenfeld, seconded by Peterson, that aquaculture be an allowed use in the DHHP. This motion failed with Lichter and Myhr opposed, leaving the plan as it currently reads in this regard.

Mr. Lichter then raised the subject of pathways and made the following motion:

**Moved by Lichter, seconded by Knapp, to include in the DHHP, “The County recognizes the importance of walking trails and pathways, and recommends that appropriate County departments, as well as volunteer citizen groups, assist in promoting and developing such facilities within the Deer Harbor community.”** Mr. Myhr asked what section this would fall under. Mr. Maycock stated it would be in Section four, Page 29. **Motion carried.**

Mr. Lichter expressed concern regarding possible disputes if one person would be permitted to designate his one-acre piece of property as the commercial center, adding that he would prefer to have a minimum size of a Planned Unit Development (PUD) specified in the plan. Mr. Maycock explained that it was his desire to leave some flexibility allowing for tasteful development with open space and that, while one acre may be too small to accomplish this, five acres would be the maximum. He did recommend amending the ordinance to include the term contiguous and to allow only one PUD in the plan. He also pointed out that if the plan was adopted, the Deer Harbor Plan Review Committee would review the PUD application, and it would also be reviewed by the Hearings Examiner, giving a number of options for public input so as to have the community’s wishes reflected in the development. After discussion, the following action was taken:

**Moved by Lichter, seconded by Knapp, to include, under section 6C, an added item No. 2 to read, “The Community Center Planned Unit Development is limited to one PUD on contiguous parcels within the community center overlay district.” Motion carried.**

**Moved by Peterson, seconded by Rosenfeld, to make terminology in item No. 7 of the Staff Report standard and to have this language reflected in the land use table terminology for consistency. Motion carried.**

**Moved by Peterson, seconded by Rosenfeld, to change the three commercial uses of grocery, restaurant/bar, and gift shop in the Deer Harbor Marina schedule from NO to YES in the Land Use Table and the ordinance, making them allowable uses. Motion carried.**

**Moved by Peterson, seconded by Rosenfeld, to include indoor storage and an eating establishment under the Boatworks Table of allowable uses.** Mr. Maycock pointed out that mini-storage was already allowed under the column Hamlet Industrial (HI)-A, as a commercial use. **Mr. Peterson amended his motion to include only “eating establishment.” The amendment was accepted by Rosenfeld.** Mr. Myhr inquired about the permit level. Mr. Maycock explained that with a Conditional (C) use, it would need to go before the Hearings Examiner and that since it is in the shoreline it would also require a substantial shoreline development permit. Mr. Myhr asked if everyone agreed that the N be changed to a C on Page 9, Column HI-A. The Council agreed by consensus. **Motion carried.**

**Moved by Knapp, seconded by Rosenfeld, to insert the table on Page 5 of the July 13, 2007, Staff Report as item No. 3, and on Page 8 of the ordinance. Motion carried.**

Mr. Knapp inquired about the changes in commercial uses requested in writing by Mr. Durland. Mr. Lichter pointed out that Mr. Durland did not request this during his verbal public testimony earlier today, but that the request he did make was accommodated. Mr. Maycock pointed out that because his business is already in the shoreline district, it would fall under the shoreline permitting process, being incumbent upon the applicant to show why this activity would need to take place in the shoreline area, rather than the upland area, adding that allowing for these options works against the whole idea of a Community Center. Mr. Rosenfeld thought it seemed reasonable to at least allow for applications. Mr. Lichter concurred with Mr. Maycock’s point that people are adamant about new commercial development being confined to the Community Center.

Mr. Rosenfeld made a motion to increase the allowable size of a deck to 400 square feet. Mr. Peterson seconded the motion and discussion followed. Mr. Maycock pointed out that limiting the square footage to 400 reduces the maximum allowed in the plan currently. Mr. Rosenfeld withdrew the motion.

There was no further discussion regarding the plan and the following action was taken:

**Moved by Lichter, seconded by Knapp, to approve the DHHP, with the specified corrections, and to adopt Ordinance 26-2007, with changes, approving the DHHP, adopt amendments to the SJC Official Land Use Map, making corrections to the Shoreline Master Program Act, and to repeal Ordinance 15-2007, which suspends the acceptance of applications for building and land-use permits in the Deer Harbor Activity Center. Motion carried.**

Mr. Myhr thanked Mr. Maycock, the Planning Department, the citizens of Deer Harbor, the Planning Commission and Karin Agosta, Chair, who were all helpful in bringing this plan together.

**RECESS** - At 1:20 a.m., Council Chair Myhr recessed the meeting until 9:00 a.m., Tuesday, July 17, 2007.

<b>Tuesday, July 17, 2007 - Council Hearing Room</b>
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**CALL TO ORDER**

Council Chair Myhr called the meeting to order at 9:00 a.m. Council members Peterson, Rosenfeld, Knapp, and Lichter; County Administrator, Pete Rose; Prosecuting Attorney, Randall Gaylord; Clerk to the Council, Laura Tuttle; Deputy Clerk, Lisa Brown; and interested members of the public were present. The flag salute was conducted.

**EXCUSED ABSENCES**

Moved by Lichter, seconded by Rosenfeld, to excuse Mr. Ranker, who was attending congressional appointments in Washington, DC. Motion carried.

#### **ANNOUNCEMENTS/SCHEDULE CHANGES**

The posted Council Agenda and Discussion/Other Action Agenda were revised. Mr. Gaylord reported that the DHHP Ordinance 26-2007, passed on July 16, 2007, would be signed today, eliminating the need to have the 11:15 public hearing for the DHH Moratorium.

#### **CITIZEN ACCESS TIME**

No matters were brought before the Council.

#### **APPROVAL OF MINUTES**

Moved by Lichter, seconded by Rosenfeld, to approve the Minutes of **July 9 and 10, 2007**. Motion carried.

#### **CONSENT AGENDA**

Moved by Lichter, seconded by Rosenfeld, to approve the **Final Consent Agenda of July 17, 2007** as follows:

##### **A. Resolutions/Ordinances:**

**1. Resolution 24-2007** – Adopt the resolution granting the open open space classification for Jim and Lisa Nash-Lawrence, Friday Harbor, File No. 050S003, subject to the findings and conditions listed therein; and authorize the County Administrator to sign the Open Space Taxation Agreement, pursuant to the public hearing held on April 17, 2007.

**2. Resolution 25-2007** – Adopt the resolution granting the timber open space classification for Kevin and Michelle Loftus Application No. 05TOS002 on San Juan Island, 7.5 acres, subject to the attached Forest Management Plan; and authorize the County Administrator to sign the Open Space Taxation Agreement No. 07OS05, pursuant to the Public Hearing held on June 5, 2007.

##### **B. Contracts/Agreements:**

(No Items)

##### **C. Budget Items:**

(No Items)

##### **D. Personnel:**

(No Items)

##### **E. Appointments:**

**1.** Approve the reappointment of Thom Pence, as a representative from District #1 in Position #1, to the Land Bank Commission for a three and one-half year term (in order to complete the four year term required, six months of which has already been served), which will begin on July 1, 2007 and expire December 31, 2010. This term is subject to modification upon the completion of the Charter implementation.

**2.** Approve the reappointment of Nancy Greene, as a representative from District #3 in Position #3, to the Land Bank Commission for a three and one-half year term (in order to complete the four year term required, six months of which has already been served), which will begin on July 1, 2007 and expire December 31, 2010. This term is subject to modification upon the completion of the Charter implementation.

**3.** Approve the reappointment of Amanda Azous, as a representative At Large, in Position #6, to the Land Bank Commission for a three and one-half year term (in order to complete the four year term required, six months of which has already been served), which will begin on July 1, 2007 and expire December 31, 2010. This term is subject to modification upon the completion of the Charter implementation.

##### **F. Correspondence:** (No Items)

##### **G. Miscellaneous:** (No Items)

##### **H. Bid Openings:** (No Items)

Motion carried.

## **ACTION ITEMS**

### ORDINANCES/RESOLUTIONS:

**ORD. NO. 27-2007** – (Refer to PUBLIC HEARINGS, 1:30 p.m., for details of action taken.)

**RES. NO. 27-2007** – (Refer to PUBLIC MEETINGS, 2:30 p.m., for details of action taken.)

## **PUBLIC MEETINGS/HEARINGS/BID OPENINGS**

### COUNCIL DISCUSSION/UPDATES/OTHER ACTION ITEMS:

Also present: Pete Rose, County Administrator (CA); Milene Henley, Auditor; interested members of the Lodging Tax Advisory Committee (LTAC); and interested Staff and members of the public.

**1. Lodging Tax Advisory Committee Recommendations** – Chair Myhr began by thanking Mr. Ralph Hahn, who filled in on short notice to take minutes at the LTAC meeting. Mr. Myhr invited Mr. Rose to comment on the award recommendation by LTAC. Mr. Rose reported that LTAC met on Wednesday, July 11, 2007, to review the five applications received, and made their proposal that all proceeds be awarded to the Destination Marketing Organization, which would be San Juan Islands Visitor's Bureau (SJIVB), with 15 percent subcontracted from the SJIVB in the amount of five percent to each of the three Chambers of Commerce for visitor contact services. In terms of the five percent for innovations and enhancements, the proposal recommended that the SJIVB do those also, as outlined in their proposal. Mr. Myhr then invited questions from the Council. Mr. Lichter asked for a review of the innovative and enhanced marketing proposed by the SJIVB. Mr. Myhr pointed out Page 2, Item 1, of the SJIVB application, which included six innovative promotion programs and three tourism enhancement programs, adding that these are new programs, beyond what has been done in past. Mr. Lichter expressed an interest in having the Council approve the innovative marketing programs, or at the very minimum, have as broad a coverage and view of these new programs as possible the first time around. Mr. Rosenfeld said he would rather adopt the plan without micromanaging, with the exception of adding that any growth in the LTAC fund should be allocated to a reserve fund. Mr. Myhr then invited comments from the public. Several present spoke, extolling the past efforts and successes of the SJIVB, and confirming that a single county-wide strategy is the best way to preserve the second two percent and increase the first two percent. Ms. Henley pointed out that it is always possible that lodging tax revenues could decrease, so the contract is always based on revenue received in the current year. She stated that some reserve is helpful, but that it would not be necessary to save an entire year's reserve. She suggested basing it on the increase from year to year. She said she would re-write the contract to reflect the current year's revenue before it is delivered. Regarding monitoring innovative marketing, she added that this could be a function of the auditor in making payment on deliverables. An in-depth discussion on reserves ensued and it was decided that Mr. Myhr would ask LTAC how they foresaw structuring a reserve. The following action was then taken:

**Moved by Rosenfeld, seconded by Peterson, that the second two percent money be awarded to the SJIVB, less any reserves set aside which would be recommended by the LTAC and approved by the Council, with 15 percent divided equally among Orcas Island, San Juan Island, and Lopez Island Chambers of Commerce.** Mr. Lichter added a friendly amendment that the SJIVB spend up to 5 percent of innovation with consent of SJC Council. The friendly amendment was not accepted. Mr. Myhr commented that based on discussion today, the SJIVB should come to the Council to seek further suggestions on ways to carry out innovative programs. **Mr. Myhr asked if the motion was to include up to five percent for innovative marketing and the Council agreed that it was. Motion carried.**

**2. Charter Implementation** – Mr. Gaylord reported that he would be prepared to present revisions to the Council on all of Title One of the Charter by this Thursday, and Title Two by the following Thursday. Mr. Rose commented that Title One pertains largely to changing over to the new Charter form of government and Title Two relates to Boards and Committees, some of which has already been done, and some that would require extensive review. Mr. Myhr inquired about the status of the Hearings Examiner Ordinance. Mr. Gaylord reported that after he conferred with CDPD he would be bringing that ordinance back for consideration.

**3. Solid Waste Advisory Committee (SWAC) Update** – Mr. Lichter reported on his site visits with the SWAC on July 16, 2007. He attended this public meeting of SWAC, as Council liaison to this Committee, and pointed out

that, due to conflicting Board of Health meetings, he had been unable to attend the last two meetings. He visited three recommended sites and the present site with the Committee and reported that two sites would seem inadvisable for a solid waste site. The site visit was also attended by surrounding and nearby property owners, who took the lead in pointing out advantages and disadvantages of the various locations. Mr. Lichter expressed his disappointment in what he called a “lobbying visit.” However, he believes the Council will have a recommendation, as to site selection, coming forth shortly from the Committee.

#### COUNTY ADMINISTRATOR COUNCIL BRIEFING

**1. SJC Fair Update** – Also Present: Christine Miller, SJC Fair Manager, and interested members of the public. Ms. Miller reported on preparations for the upcoming County Fair, scheduled for August 15-18, 2007. She provided photographs of several capital improvement projects taking place on the fairgrounds, including installation of flexible three inch pipes to correct water issues encountered last year, which were compounded by storms this year. The fair received a temporary use permit for the new addition and the bulk of 4H family camping has been relocated to that area. The grounds are park-like and should be a nice change for the fairgoers. She expressed concerns about being annexed into the Town of Friday Harbor (TFH) Urban Growth Area (UGA), but realizes other options could be considered. She reported that the Fair Board would be updating the master plan for the fairgrounds and that she would be pursuing several grant opportunities from the Department of Agriculture. As far as County Fair operations, Ms. Miller reported that there is a great line-up of entertainment and island artisans. There will be educational opportunities with agricultural seminars, and a special exhibit on Sustainability in the San Juans. The Agricultural Resources Committee (ARC), and the Conservation District have become lead groups for this exhibit. Ms. Miller assured that the Council carnival rides would have safety assurances resulting from inspections by Labor and Industries (L&I) prior to operation. The SJC Fair Board has expanded the discount wristband for two days. Staff and Fair Board will be on the grounds with two-way radios for safety and security. Helen Venada helped to put recycling into place for the Fair this year, which has not been done in the past due to problems with wasps. Mr. Lichter asked if problems with carnival operators from last year had been addressed and inquired about the use of the same operators. Ms. Miller responded, saying that although there are many other operators out there, conflicts in scheduling has been the problem in making a switch to another operator. Therefore, Paradise Amusements had been contracted again this year with a two million dollar liability rider. She assured the Council that she would have this certificate reviewed by David Zeretzke, SJC Risk Manager. More discussion followed regarding problems with the carnival workers last year. Ms. Miller said she had addressed that by assigning a board member as the liaison between carnival and fair, having a separate camping area for the carnival workers away from 4H families, and communicating restrictions prior to arrival, and strategies in place to alert fairgoers if a breakdown occurs. Mr. Lichter inquired about the 4H building, staffing, and the budget. Ms. Miller replied that the 4H building was designed as a pole building without heat, but that she was seeking grant money to put heat in and finish the building. As far as staffing, she reported that more carpenters were needed. Fair revenues for this year were approximately \$200,000 in fair/off season and \$200,000 from hotel motel funds, Dept of Agriculture Grant, carry forward money, and Real Estate Excise Tax (REET) money. Mr. Lichter requested that any safety problems that arise be communicated to the Council immediately and requested that he be called on his cellular phone. Ms. Miller stated that after many great runs it was unfortunate that there was a problem with the carnival last year and that the record shouldn't be blemished by that one incident, especially since the staff and Board has worked diligently on safety issues, services, and practices for finding lost children, and rapid response with EMTs for injuries.

**2. Employee Reclassification Process Presentation** – Present: Pamela Morais, Human Resources Manager; Lee Lehman, Local 1849 Representative; Toni Bailey, Assistant to the Prosecuting Attorney; Ron Henrickson, CDPD Director; Milene Henley, Auditor; and interested members of the public. Ms. Morais presented her Staff Report, dated July 17, 2007, which included recommendations for staff reclassification and a print-out of her PowerPoint presentation. She invited questions from the Council as they would arise. She identified the Council's responsibility in personnel as being long-term viability, while the classification committee, which is comprised of half union members and half unrepresented employees and managers, determines equal pay for equal types of work, lending credence to establishing internal equity. Resulting from their recent review, Ms. Morais made several requests of the Council regarding personnel operations, as follows: 1) Approval of job reclassifications, classifications for new positions, and structure changes recommended by the Classification Committee; 2) Approval to research the cost and process for re-evaluating the job classification system and to present these findings for the 2008 budget development process; 3) Delegate approval of the Classification Committee to the County Administrator when the Personnel Rules are updated; and 4) Change the comparator counties to include Snohomish, King, and Pierce Counties. The panel provided answers to the Council's questions regarding this

proposal and the current back-log situation County departments face due to high volumes of work, levels of understaffing, and the bow-wave issue. After discussion, the following action was taken:

**Moved by Lichter, seconded by Peterson, to approve the reclassification recommendations regarding the 12 positions reviewed by the Reclassification Committee. Motion carried.**

**Moved by Lichter, seconded by Rosenfeld, to approve the new positions and reluctantly, the CDPD career ladder.** (Clerk's note: Mr. Lichter modified his reluctance by stating, "On balance this is a good thing to do.")  
**Motion carried.**

**Moved by Lichter, seconded by Rosenfeld, to authorize the HR Manager to research the cost and process for re-evaluating the job classification system and to present these findings for the Council's review in the 2008 budget development process. Motion carried.**

Mr. Lichter stated that he wanted to be sure that the Council and CA would be partners relating to policy concerns in the reclassification process, adding that the Council has long range political implications and they must remain concerned about and involved with decisions about raising taxes. With this premise, Mr. Lichter made the following motions:

**Moved by Lichter, seconded by Peterson, to delegate the approval of the work of the Classification Committee to the County Administrator when the Personnel Rules are updated. Motion carried.**

**Moved by Lichter, seconded by Rosenfeld to change the comparator counties as recommended by the HR Manager. Motion carried.**

#### PUBLIC HEARINGS / MEETINGS / BID OPENINGS

**10:00 a.m.** - A quasi-judicial public hearing was held to consider an appeal filed by Gordon and Lori Petersen regarding a request for relief from stormwater utility fees. Present: Ron Henrickson, Community Development and Planning Department (CDPD) Director; Jon Cain, Deputy Prosecuting Attorney (to advise the Council); Karen Vedder, Deputy Prosecuting Attorney (representing Public Works); Stan Matthews, Communications Program Manager; Milene Henley, Auditor; Pete Rose, County Administrator; and interested members of the public. Mr. Myhr introduced those present, noting that Mr. Ranker was absent. He explained the process and asked if any Council members had Appearance of Fairness issues to disclose. Mr. Knapp questioned if a challenge to an ordinance passed by this Council would be a conflict of interest. Mr. Cain explained that the ordinance was lawful and that challenge was brought under the ordinance pursuant to a process in the ordinance, with the action before the Council to determine, under statute, whether or not the Petersens were entitled to a reimbursement of their stormwater fee. He also pointed out that Public Works' motion to strike one of the Petersen's submittals should be considered first to determine which items would be considered during this hearing. Mr. Petersen then asked to approach the bench. Mr. Myhr stated that he would allow that after the motion to strike was addressed. Ms. Vedder reported on the PW motion to strike. Mr. Cain corroborated her report. Mr. Petersen wanted to be certain that all parties were sworn in. Ms. Vedder pointed out that everything submitted by the County was done so with sworn declarations, and, as far as being evidential, their submittals were in a form acceptable to a Washington State Superior Court. After discussion, the following action took place:

**Moved by Peterson, seconded by Lichter, to accept the submittal from the Petersens and deny the motion to strike from Public Works. Motion carried.**

Mr. Myhr then asked Mr. and Mrs. Petersen to present their case. Mr. Petersen asked if the Council had any questions regarding the two briefs they had submitted. There were none. Mr. Petersen explained that, while he and Ms. Petersen support clean water and solutions to storm water, taxation as a quality of life was their issue here. He also expressed concerns about calling a tax a fee, considering this tax was imposed County-wide, and the only place needing relief, for which these funds are collected, is Eastsound. After stating additional arguments, he said that Ordinance 20-2006 was put together hastily and encouraged the Council to amend it to make it fair. He added that there were many other funding options available that the County Council had the authority and duty to investigate, pointing out that when 1600 voters sign a petition claiming that the stormwater fee is unfair, it needs to be voted on. Ms. Vedder argued that under SJC Code, it is clear that an appeal cannot be granted unless three criteria are met. She pointed out that this appeal did not meet even one of the three criteria and also cited case law. She stated that the way SJC chose to make this assessment was common practice in many other counties as

well. She argued that in order to decide something, the Council would first have to have jurisdiction over the matter, adding that the Council doesn't have the authority to make a determination on an appeal on taxation, and that the Court would uphold Ordinance 20-2006 as lawful. She then stated that nothing was preventing the Council from reconsidering the issue to decide whether to amend or keep the Ordinance; that they are free to do this as legislators, but not in their quasi-judicial capacity. Ms. Vedder then answered questions from the Council. Mr. Cain directed that while the Council was acting in a quasi-judicial capacity, they were looking at whether or not the Director of Public Works made the right decision based on the ordinance. Mr. Knapp stated that, based on the arguments he heard and results of similar cases in other Counties that had gone before the Superior Court, he would uphold the decision of Public Works. He also said that the Supreme Court says things we sometimes don't want to hear, but that they don't selectively enforce laws, nor can the Council. He wanted to be clear that his decision was not meant to be unfair and that he shared Councilman Peterson's concern regarding the fairness of the ordinance. He believes it needs to be reviewed, but, to do what the law requires, the appeal should be denied. Mr. Petersen was then given an opportunity to rebut. After discussion, the following action took place:

**Moved by Knapp, seconded by Rosenfeld, to deny the Petersen's appeal. Motion carried.**

**11:00 a.m.** – (Commenced at 11:06 due to time constraints.) A bid opening was held for San Juan County Rural County Two-Lane Roadway Pilot Program, Orcas Island and Lopez Island Guardrail Installation. Bid specifications were published as required by law. Three fully executed bids were submitted. The following is a summary of the bids received:

<b>FIRM NAME</b>	<b>ITEM</b>	<b>TOTAL PRICE</b>
1. Pan Arctic	Guardrail Installation	\$166,181
2. Peterson Brothers, Inc.	Guardrail Installation	\$206,224
3. Choral Construction	Guardrail Installation	\$270,080

**Moved by Lichter, seconded by Rosenfeld, to forward the bids to Public Works for analysis and recommendation. Motion carried.**

**11:30 a.m.** – A public presentation was given by the Eastsound Planning Review Committee (EPRC) on the Eastsound Vision Partnership Community Planning Project. Present: Peter Fisher, EPRC Chair; interested EPRC Board Members and County Staff; and interested members of the public. Mr. Fisher gave a PowerPoint presentation of the EPRC's "Vision Planning Process." Throughout this process, the goal of the EPRC was to become compliant with governance, while building partnerships to obtain grants and matching funds to move forward in learning to balance nature with commerce. They are seeking citizen input to determine how Eastsound could become a more attractive and desirable place for residents and businesses. According to trends, it is likely that Eastsound will see a significant population increase and they would like to guide this growth with "vision" map planning. A "Community Design Workshop" will be held in mid-September, 2007. Council Members were invited to attend. Mr. Fisher and members of the panel answered the Council's questions. The Council agreed that it would be helpful for the EPRC and the Council to meet periodically and asked the EPRC to return for a briefing prior to the September workshop. Ms. Kale accepted the Council's invitation, stating that their hope in the process was to provide planners with good information about what kind of development its citizens want to take place.

**1:30 p.m.** - A public hearing was held to consider an ordinance amending SJC Code, Chapter 2, Title 104, to allow negotiated leases of County property. Present: Lincoln Bormann, Land Bank Director; Ron Henrickson, Community Development and Planning Department Director; Pete Rose, County Administrator; Karen Vedder, Deputy Prosecuting Attorney; other interested Staff; and interested members of the public. Mr. Bormann presented his Staff Report, requesting this amendment to allow for agricultural leasing opportunities on County-owned property. He answered questions from the Council, playing out possible scenarios, adding that as the County moves in this direction of encouraging agricultural opportunities, private land-owners may also see the value in providing similar opportunities with their land. Mr. Rose and Ms. Vedder also weighed in with relevant supportive input. Mr. Myhr asked if all cases would come before the Council for approval. Mr. Bormann assured him that they would. Mr. Myhr then stated that the Council is moving to a three-touch principle, and with this being the first time to consider this Ordinance, he would have liked to see more lead time and opportunity for public process. Public testimony was then opened, submitted, and closed. After deliberation, the following action took place:

**Moved by Lichter, seconded by Rosenfeld, to adopt Ordinance 27-2007 amending SJC Code Chapter 2 Title 104, to allow negotiated leases on County property and to amend references to the Board of County**

**Commissioners. Motion passed with Myhr abstaining, emphasizing the importance of three-touches when considering ordinances.**

**2:30 p.m.** - A public meeting was held to consider a resolution adopting the SJC Marine Stewardship Area (MSA) Plan. Present: Kit Rawson, Marine Resources Committee (MRC) Chair; Mary Knackstedt, SJC MRC Coordinator; available members of the MRC; and interested Staff and community members. Mr. Rawson provided a copy of the MSA Plan and resolution adopting the plan to the Council. He gave a PowerPoint presentation highlighting the extensive marine environment (72 percent of SJC) and shoreline (over 400 miles in SJC). He explained that the marine environment provides for a unique quality of life and has economic benefits as well, and will continue to provide for the future if it is cared for. Mr. Rawson explained details of the plan and answered questions from the Council. Mr. Lichter requested that the MRC publish a pamphlet outlining the various groups and agencies dealing with marine issues, what their goals and functions are, and how they coordinate with each other to achieve those goals. After discussion, the following action was taken:

**Moved by Lichter, seconded by Rosenfeld, to approve the proposed MSA Plan under Resolution 27-2007.** Mr. Knapp requested that it be placed on consent, so that Mr. Ranker could sign it also. Mr. Myhr pointed out that it would be approved today, but held off for signature until July 31, 2007. **Motion carried.**

#### **EXECUTIVE/CLOSED SESSIONS**

**3:30 p.m.** – Council Chair Myhr announced that the Council would be holding an **executive session** estimated to last approximately 30 minutes, to discuss litigation pursuant to the provisions of RCW 42.30.110(1)(i). Participants: Present, Randall Gaylord, Prosecuting Attorney. The session ended at 4:00 p.m. for an actual session time of 30 minutes. No action was taken.

**ADJOURNMENT** - Council Chair Myhr adjourned the meeting at 4:02 p.m. A Special Meeting was scheduled for Monday, July 30, 2007, and the next regular meeting was scheduled for Tuesday, July 31, 2007.

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**These minutes were approved and signed on Tuesday, July 31, 2007. The original document is retained in the Council's permanent proceedings file dated July 17, 2007. Attest: Lisa J. Brown, Deputy Clerk.**