

**SUMMARY OF THE MINUTES
SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
June 25 and 26, 2007**

Monday, June 25, 2007 - Council Conference Room

CALL TO ORDER

Council Chair Myhr called the special meeting to order at 10:03 a.m. Council members Ranker, Peterson, Rosenfeld, and Lichter; County Administrator, Pete Rose; Clerk to the Council, Laura Tuttle; Acting Clerk, 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 a general work session to discuss County business. No action was taken.

RECESS - At 11:47 p.m., Council Chair Myhr recessed the meeting until 10:00 a.m., Tuesday, June 26, 2007.

Tuesday, June 26, 2007 - Council Hearing Room

CALL TO ORDER

Council Chair Myhr called the meeting to order at 10:00 a.m. Council members Ranker, Peterson, Rosenfeld, and Lichter; County Administrator, Pete Rose; Prosecuting Attorney, Randall Gaylord; Deputy Prosecuting Attorney, Karen Vedder; Clerk to the Council, Laura Tuttle; Acting Clerk, Lisa Brown; and interested members of the public were present. Councilman Knapp was absent.

EXCUSED ABSENCES

Moved by Ranker, seconded by Lichter, to excuse the planned absence of Mr. Knapp. Motion carried.

CITIZEN ACCESS TIME

Gordy Petersen spoke about Ordinance 20-2006, regarding storm water fees, and asked the Council to begin again to try to make this ordinance fair.

ANNOUNCEMENTS/SCHEDULE CHANGES

The posted Council Agenda and Discussion/Other Action Agenda were revised.

APPROVAL OF MINUTES

Moved by Lichter, seconded by Ranker, to approve the Minutes of **June 14, 2007, and June 18 and 19, 2007.** Motion carried.

CONSENT AGENDA

Moved by Lichter, seconded by Ranker, to approve the **Final Consent Agenda of June 26, 2007** as follows:

A. Resolutions / Ordinances:

1. Resolution 19-2007 – Adopt the resolution to support the Oil Pollution Prevention and Response Act of 2007.

B. Contracts/Agreements:

1. **Agreement No. 07HC43A** – Sign the amendment to Interlocal Agreement 06HC44 between SJC and Northwest Educational Service District No. 189, providing twenty-four additional hours at the billing rate of

\$35 per hour for a total of \$840, and the new maximum agreement amount of \$19,840 to support school nursing services to be performed by June 30, 2007, with all other terms and conditions of the original agreement to remain in effect.

2. **Agreement No. 07PK02** - Sign the Interlocal Agreement between SJC and the San Juan Island Park and Recreation District (SJIP&RD) for a summer recreation program for 2007, as identified in Attachment A, in an amount not to exceed \$17,900 as approved in the adopted 2007 budget, for the period of January 1, 2007 through December 31, 2007, under the terms and conditions outlined therein.
3. **Agreement No. 07SJ07** – Approve the signing of the Transborder Island Agreement between Islands Trust and San Juan County, dated June 12, 2007, to recognize a spirit of partnership and friendship between these islands, in accordance with the original Protocol Agreement between the agencies dated June 17, 2000.

Motion carried.

ACTION AND DISCUSSION ITEMS

ORDINANCES/RESOLUTIONS:

ORD. NO. 13-2007- (Refer to PUBLIC HEARING at 2:15 p.m. for details of action taken.)

ORD. NO. 14-2007- (Refer to PUBLIC HEARING at 3:30 p.m. for details of action taken.)

ORD. NO. 15-2007- (Refer to PUBLIC HEARING at 11:00 a.m. for details of action taken.)

RES. NO. 20-2007- (Refer to COUNTY ADMINISTRATOR COUNCIL BRIEFING, No. 2, for details of action taken.)

RES. NO. 21-2007- (Refer to COUNTY ADMINISTRATOR COUNCIL BRIEFING, No. 3, for details of action taken.)

RES. NO. 22-2007- (Refer to COUNTY ADMINISTRATOR COUNCIL BRIEFING, No. 3, for details of action taken.)

APPOINTMENTS:

1. Approved the appointment of Robert Gamble to the Planning Commission, as a representative of Orcas Island, for a term of four years, which will expire on December 31, 2011.
2. Approved the appointment of Mike Kaill to the Planning Commission, as a representative of San Juan Island, for a term of one year, which will expire on December 31, 2008.
3. Approved the appointment of Lovel Pratt to the Planning Commission, as a representative of San Juan Island, for a term of three years, which will expire on December 31, 2010.
4. Approved the appointment of Stephen Adams to the Planning Commission, as a representative of Lopez and Shaw Islands, for a term of two years, which will expire on December 31, 2009.
5. Approved the appointment of Brian Ehrmantraut to the Planning Commission, as a representative of Orcas Island, for a term of three years, which will expire on December 31, 2010.
6. Approved the appointment of Barbara Thomas to the Planning Commission, as a representative of Lopez and Shaw Islands, for a term of four years, which will expire on December 31, 2011.
7. Approved the appointment of Karin Agosta to the Planning Commission, as a representative of San Juan Island, for a term of four years, which will expire on December 31, 2011.
8. Approved the appointment of Teri Williams to the Planning Commission, as a representative of Orcas Island, for a term of one year, which will expire on December 31, 2008.

CORRESPONDENCE:

1. Moved by Ranker, seconded by Rosenfeld, to sign the letter to E. James Cole, MA, NREMT-P, EMS Chief. Motion carried.

PUBLIC HEARINGS/MEETINGS/WORK SESSIONS

COUNCIL DISCUSSION/UPDATES/OTHER ACTION ITEMS:

1. **Power of Referendum** – Present: Randall Gaylord, Prosecuting Attorney; Karen Vedder, Deputy Prosecuting Attorney; Jon Shannon, Public Works Director; and interested members of the public. Ms. Vedder recommended that a Declaratory Action be filed to determine if the referendum to repeal Ordinance 20-2006, assessing storm

water utility fees, which met the signature requirements to be placed on the November ballot, was legal under powers of the SJC Charter and State Law. She also explained that this determination could be made either now or after the vote. She cited a similar case involving the City of Sequim, in which it determined to be illegal after the initiative passed, burdening the City with the costs of an unnecessary election. Ms. Vedder and Mr. Gaylord answered the Council's questions, including the various options available for funding storm water (which is a GMA requirement), that were considered by the committee in the formation of Ordinance 20-2006. Councilman Peterson asked if this referendum could be allowed to run its course without having a legal determination made. He added that if the measure was approved, the vote would overturn the existing ordinance, thus showing that the majority of the citizens didn't approve of the way SJC had chosen to handle the fee. Ms. Vedder pointed out that, contrary to that argument, the system was structured for referendums and initiatives with rules designating when people have the power to speak and when they don't. The Superior Court decided that counties under the GMA, acting to reach compliance with the GMA, should be able to make the decision on how best to do so without challenge of the people. On an even larger scale, she cautioned that, as we move forward with the Charter, to start from the beginning by endorsing a process that misrepresents what the power of referendum is about would set a dangerous precedent. Mr. Lichter noted that this places the Council in a difficult position, recognizing that it is important to give power to the citizens, but that if it is determined to be illegal, it would place the County and its citizens in a much worse position. Mr. Ranker pointed out that the question was not whether the fees associated with storm water were legal, but whether or not the referendum was legal. Mr. Rosenfeld asked how long the Declarative Action would take to conclude. Mr. Gaylord said the County should have the answer within 90 days. Ms. Vedder pointed out that the Council has the ability at any time to make political decisions about what happens with storm water and the ability to change the existing ordinance at any time. Mr. Peterson asked about the fees assessed to date under Ordinance 20-2006. Mr. Gaylord replied that the fees collected were assessed in full, lawfully. Chair Myhr then invited members of the public to speak. Five members of the public provided input as follows:

Charlie Bodenstab asked about the probability of the ruling. Mr. Gaylord stated that there are strong arguments on both sides, making that difficult to determine. Mr. Bodenstab warned the Council that a decision to determine legality through the courts, before an election, would taint their public image, being viewed as opposition to the Charter.

Alex Gavora was concerned about the damper effect this Declarative Action would have on the referendum, as there would only be a short time after the 90-day Superior Court determination period to convey their message to the public, adding that people don't care about legal specifics of going to ballot, but rather the underlying issue.

Gordy Petersen expressed concern that some of what had been said relative to this would prejudice his ability to get a fair hearing on his appeal and argued that this funding mechanism goes against the fairness doctrine, as not all committee recommendations were brought forward.

Sharon Kivisto pointed out that the Town of Friday Harbor has a stormwater utility district and that there was never a referendum filed to overturn it, adding that everybody pays in and everybody benefits. She also reminded the Council that there are a lot more people that live in the county than present at the meeting today.

Steve Hussey introduced himself as a member of the stormwater utility steering committee, stating that their recommendation process was public and transparent, and managed by outside consultants; and that the funding was to end in six years so that it could be revisited to address major concerns. The stormwater advisory committee was also to meet to assure the money was spent properly.

Mr. Ranker asked Mr. Rose for his opinion. Mr. Rose suggested moving in the direction of clarity, pointing out that the funding mechanism was being questioned by nearly 2000 registered voters. After discussion, Mr. Lichter made a motion to follow the recommendation of the Prosecuting Attorney's office. Mr. Myhr seconded the motion. Under discussion, Mr. Lichter stated that the Council should be open to discussing and considering alternative methods of collecting funds for stormwater in the future. Mr. Peterson maintained his position that the Council not stand in the way of the referendum and didn't feel a nay vote would violate his oath to uphold the law. Mr. Rosenfeld expressed his desire for more information and further discussion. The motion failed with Peterson opposed and Rosenfeld abstaining. Chair Myhr asked for this to be discussed further on July 10, 2007.

2. Discussion of Process / Scheduling of Appeal filed by Gordon and Lori Petersen – Mr. Myhr asked the Petersens, Public Works, and the Prosecuting Attorney Staff, if the Petersen Stormwater Appeal/Public Hearing

could be scheduled for July 17, 2007. All parties agreed to the hearing commencing on that date at 10:00 a.m., with submissions of materials to be received from relevant parties in the Council office by July 9, 2007.

3. Purchase of Multi-purpose Trucks by Public Works – Present: Pete Rose, County Administrator; and Jon Shannon, Public Works (PW) Director. Mr. Rose pointed out the complexities PW faced in evaluating the bids, related to their recommendation, as PW needed to analyze specifications while also considering their fleet reduction program to acquire fewer chassis with more versatility. Mr. Shannon referenced his staff report dated for the meeting of June 26, 2007, and stated that fuel efficiency and emissions needed to meet standards as well. He invited questions from the Council. Mr. Ranker asked if the gas/electric model of a ten-yard dump truck was cost-prohibitive and why PW didn't pursue the King County grant program related to this. Mr. Shannon pointed out that prior to taking advantage of these opportunities, the County would need to be prepared with an indoor garage space and mechanics with the knowledge to service these highly technical vehicles. Mr. Rosenfeld asked if the trucks would run on bio-diesel. Mr. Shannon stated that all trucks that meet the new emissions standards will run on bio-diesel. Mr. Myhr asked if SJC leases heavy equipment. Mr. Shannon replied that leasing is evaluated as needs arise, but that equipment is not always available for lease. After discussion the following action was taken:

Moved by Ranker, seconded by Peterson, to approve the purchase of the three multi-purpose trucks with detachable bodies. A friendly amendment submitted by Lichter, to include in the purchase three sanders, three dump bodies, three snow plows, and one water tank, was accepted by Ranker and Peterson. Motion and friendly amendment carried.

4. Fireworks Update – Mr. Myhr reported that he had talked with the EMS Chief, Jim Cole, who confirmed that his department was not ready to take steps to recommend a complete ban, but was concerned with fire-loading this year and asked that the Council join them in encouraging citizens to voluntarily discontinue fireworks this year. Mr. Myhr stated that this message could be placed on the website and on signs in County road right of ways. He asked if the Council had considered the response to Mr. Cole's letter. Mr. Ranker moved that the Council sign the letter, and Mr. Rosenfeld seconded the motion. After discussion, the motion failed, with Lichter and Peterson opposed. Mr. Peterson stated he would be in favor of a letter that said people should be especially concerned about using legal fireworks in a responsible way. Mr. Rose pointed out that the fire marshal could ban all burning in the County for any period he deemed appropriate. After discussion the following motion took place:

Moved by Ranker, seconded by Rosenfeld, to sign the letter to Chief Cole. Motion carried.

5. WSAC District Meeting – Mr. Ranker reported on the annual WSAC meeting that he attended the week of June 18, 2007. He learned of federal legislation (HR2421) requiring an Army Corps of Engineering process for any development near inland streams and bodies of water and would like to discuss this before he makes his trip to Washington DC in July. He presented SJC's Orca Whale Protection Ordinance and reported that several counties would be passing their own resolutions and/or writing letters of support for our ordinance, to show the federal Legislature that it is not a "one county" issue. He reported on the Puget Sound Partnership and meeting with Representatives Rockafeller and Upthegrove, and representatives of the Governor's Office to push for increased resources to be given directly to counties to implement the requirements, adding that the Coastal Counties Caucus needs to move forward with this as well. Mr. Ranker will be bringing a draft of the Federal Climate Change resolution, which is going before NACO, for Council consideration. He reported on ferry issues to the State Transportation Commission. Both Eastern and Western Washington will support this as a statewide issue and will continue to support SJC in regard to our legislative priority for ferries. Lastly, Mr. Ranker was invited to participate on a panel in Washington DC put on by the National Oceanic and Atmospheric Administration (NOAA) and the Coastal States Commission (CSC). This will provide an opportunity for SJC to weigh in -- at no cost, as CSC will be covering travel expenses for this trip. Mr. Ranker will be bringing a "Priorities Draft" for Council review prior to his trip to Washington DC.

COUNTY ADMINISTRATOR COUNCIL BRIEFING

1. Briefing on SJC Six-Year Transportation Improvement Program – Also present: John Van Lund, County Engineer; Jon Shannon, Public Works (PW) Director; and interested members of the public. Mr. Van Lund presented his Staff Report on the 2007 workshop updating the Six-Year Transportation Improvement Program. He identified improvement areas and reviewed documents that the Council would be considering at the Transportation Improvement Program public hearing, scheduled for July 31, 2007. He noted that the public hearing for the Planning Commission recommendation had been scheduled for July 20, 2007. Mr. Van Lund

addressed recommendations from last year, that were acted upon this year, acknowledging the hard work put into these successful projects by the Public Works (PW) staff, including Guard Sundstrom, Office Engineer; Rachel Dietzman, Sr. Project Engineer, and other senior engineers. Mr. Van Lund answered the Council's questions. Mr. Rosenfeld voiced his appreciation regarding the number of non-motorized pathways in the plan. In response to a question by Mr. Lichter, Mr. Van Lund stated that this year, PW would be correcting a vicious turn on a road in West Sound and Deer Harbor. Mr. Ranker questioned the inclusion of a plan to address Warbass Road, and suggested focusing on County issues, but working with the town to ensure cooperation where possible. Mr. Rosenfeld added that the issues related to Warbass Road also affect affordable housing, which is a County issue. Mr. Ranker maintained his argument, adding that if the County was approached by the Mayor or Town Administrator, it would be a discussion SJC should have. Mr. Rose suggested that Warbass Road and the UGA be discussion topics at the next Town/County meeting. Bridge replacement and seawall destabilization was also discussed and Mr. Ranker stated his desire for PW to work with the Lead Entity regarding funding for this as salmon recovery funds are available for shoreline restoration. Mr. Van Lund stated that he had met with the Salmon Recovery Funding Board (SRFB) and learned that People for Puget Sound was the lead agency. He added that there was an eligibility question for SJC, but that the County could not afford to undertake these projects within the current budget. Mr. Ranker reported that he had confirmation that our projects do qualify and he would confirm this with the SRFB if necessary. Guardrails were mentioned briefly and it was decided to review them as an agenda item on July 17, 2007. Mr. Myhr thanked Mr. Van Lund and Mr. Shannon for their report.

2. Legislative Building Bid Analysis and Recommendation – Also present: David Zeretzke, Administrative Services Director; and interested members of the public. Mr. Zeretzke referenced his Staff Report dated June 19, 2007, stating that due to the anticipated cost of the project exceeding resources by more than \$152,000, he would provide several possible recommendations for the Council to consider. Mr. Zeretzke suggested one idea to offset the shortfall: allowing the town to rent “smart” conference rooms from the County at \$360 per day, adding that the ability to have a resource-sharing relationship with the town would be very good. This would also improve chances for partnership in a new building in the future. Credo Construction was determined to be the low and responsible bidder by Mr. Zeretzke. Discussions regarding accepting what the Council designed as a quality space and identifying ways to recoup the shortfall in funds, or modifying the design, took place. Mr. Ranker pointed out that the Council went through an exhaustive process determining the space and accommodations necessary for the County. Mr. Zeretzke added that it was also realistic to use a 12 year lifespan in amortizing for budget purposes and commercial rental comparisons. He added that, as he looked at the pressures defined in the capital improvement budget, the budget could be strained for possibly five years. Mr. Ranker stated that he was impressed with the report and recommended the first option. Mr. Myhr asked if the contractor would be committed to the quoted price. Mr. Zeretzke stated that he didn't survey all references to that degree, but that the best reference had two buildings built by Credo, and was impressed with their responsiveness, timeliness, and the finished product. Mr. Lichter asked how we came to underestimate the project by 35 percent. Mr. Zeretzke replied that he wouldn't know without going behind these numbers to determine the finish carpentry super-structure. Mr. Lichter expressed interest in a finished product that would serve the Council, County, and renters, but was also concerned about responsibility to the citizens. Mr. Lichter suggested a higher daily rental amount for a state-of-the-art facility. After discussion, the following action took place:

Moved by Peterson, seconded by Ranker, to accept the bid from Credo Construction, Inc. for their Alternate Bid, which must be completed by December 31, 2007. Motion carried.

Moved by Peterson, seconded by Ranker, to direct the County Administrator to prepare and sign all legal paperwork to complete the Legislative building Remodel project. Motion carried.

Moved by Peterson, seconded by Lichter, to authorize the Auditor to prepare, at the next available opportunity, an emergency appropriation to the 2007 Capital Improvement Fund for \$152,315 to fund the Legislative building remodel project at \$710,315, and to further prepare any inter-fund loan documents for signature by the Administrator as may be necessary to keep the Capital Improvement Fund solvent. Motion carried.

Mr. Ranker added that the building needs to work for county business, citizens, and partnerships, but not at the expense of what caused the need to purchase the building.

3. 2005 State Audit Management Letter – Mr. Rose referenced his Staff Report dated for the meeting of June 26, 2007, and explained the two audit items that he proposed correcting with interfund loans and interest-bearing warrants. This plan would cover deficit periods between lodging tax collection intervals. Mr. Rosenfeld offered a

suggestion of a long-range approach to build reserves in the Lodging Tax Fund to allow for payments to Destination Marketing Organizations and avoiding interest-bearing warrants in the future. After discussion, the following action was taken:

Moved by Lichter, seconded by Ranker to approve the interloan fund from the equipment rental and revolving fund (fund 5011) to the solid waste fund (fund 4011) in the amount of \$42,433.33. Motion carried.

Moved by Ranker, seconded by Lichter to approve the resolution formalizing the procedures for approving interfund loans, and for assessing interest on such loans. Motion carried.

PUBLIC HEARINGS

11:00 a.m. – (Commenced at 11:28 a.m. due to time constraints.) A public hearing to consider an Ordinance to adopt the Deer Harbor Hamlet Plan and rescind Ordinance 6-2007 was opened. Mr. Myhr announced that because the Council didn't receive the Ordinance adopting the Deer Harbor Hamlet Plan in advance of the hearing, that a motion to continue the public hearing would be appropriate and the following action took place:

Moved by Lichter, seconded by Rosenfeld, to continue the public hearing to consider an Ordinance to adopt the Deer Harbor Hamlet Plan to Monday, July 9, 2007 at the Madrona Room in the Orcas Center on Orcas Island at 10:30 a.m. Motion carried.

The Council then considered an Emergency Ordinance to extend the Deer Harbor Hamlet Area Moratorium to coincide with the July 9th hearing date. After discussion, the following action was taken:

Moved by Lichter, seconded by Peterson, to extend the present Deer Harbor Hamlet Area Moratorium by adopting an Emergency Ordinance. Under discussion Mr. Gaylord was invited to comment. He pointed out that ordinances have an effective date of ten business days following adoption, so this ordinance was specifically set out to commence on July 1, 2007 and end on July 30, 2007, allowing for the ten-day adoption period of the Ordinance adopting the Deer Harbor Hamlet Plan, following the July 9, 2007 hearing. Councilman Ranker expressed his discontentment with revisiting this moratorium. **Motion carried.**

2:45 p.m. - A public hearing was held to consider an Ordinance Approving a SJC Superior Court Judge Position and agreeing to pay expenses for the position in 2008. Present: Pete Rose, County Administrator; Karen Vedder, Deputy Prosecuting Attorney; and interested members of the public. Mr. Myhr introduced those present, noting that Mr. Knapp was absent, and invited Mr. Rose to report. Mr. Rose referenced his Staff Report, dated for the meeting of June 26, 2007, and reviewed the Council's decision to approve and fund a superior court judge position for SJC. The Council's questions were answered by Mr. Rose, and several wording changes to the Ordinance were suggested by Mr. Myhr. Mr. Ranker interjected that the Governor's staff was waiting for this ordinance and a letter from the Council clarifying the Council's desire to fund the position and have the Governor make the appointment. He added that for transition purposes, it would be best to urge her to make the appointment as soon as possible. Public testimony was opened, none submitted, and closed. Deliberations were held and the following action was taken:

Moved by Ranker, seconded by Rosenfeld, to adopt the ordinance approving a SJC Superior Court Judge position and agreeing to pay expenses of the Superior Court Judge in 2008. A friendly amendment was offered by Mr. Lichter to add "San Juan County's share of" between the words "pay" and "expenses" in the title of the ordinance. The friendly amendment was accepted by Ranker and Rosenfeld. Motion and friendly amendment carried.

3:30 p.m. - A public hearing was held to consider an ordinance adding new sections to Chapter 2.20 of the SJC Code Pertaining to the Planning Commission, and repealing Sections 2.20.010, 2.20.020 and 2.20.050, to comply with the SJC Charter and State Law. Present: Pete Rose, County Administrator; Ron Henrickson; Community Development and Planning Department Director; Karin Agosta, Planning Commission Chair; and interested members of the public. Mr. Myhr introduced those present, noting that Mr. Knapp was absent, and invited Mr. Rose to report. Mr. Rose referenced his Staff Report, dated for the meeting of June 26, 2007, and explained how this ordinance would set districting and transitions in proper order for staffing of the Planning Commission through the new Charter government. Also included were the Uniform Business Rules and Rules of Order for Boards, Commissions, and Committees. Mr. Rose, Mr. Henrickson, and Ms. Agosta answered the Council's questions.

Public testimony was opened, none submitted, and closed. Deliberations were held and several minor changes were suggested, resulting in renumbering of paragraphs. After deliberations, the following action was taken:

Moved by Ranker, seconded by Peterson, to adopt the ordinance with the changes agreed to during deliberations. Motion carried.

Moved by Lichter, seconded by Peterson, to make the eight appointments to the Planning Commission, pursuant to attachment G. Motion carried.

ADJOURNMENT - Moved by Ranker, seconded by Lichter, to adjourn the meeting at 4:09 p.m. Motion carried. A Special Meeting was scheduled for Monday, July 9, 2007, and the next regular meeting was scheduled for Tuesday, July 10, 2007.

These minutes were approved and signed on Tuesday, July 10, 2007. The original document is retained in the Council's permanent proceedings file dated June 26, 2007. Attest: Lisa J. Brown, Deputy Clerk