

**SUMMARY OF THE MINUTES  
SAN JUAN COUNTY (SJC), WASHINGTON  
COUNTY COUNCIL  
FEBRUARY 6 AND 7, 2006**

**Monday, February 6, 2006 - Council Conference Room**

**CALL TO ORDER**

Council Chair Lichter called the special meeting to order at 10:00 a.m. Council Members Ranker and Myhr and the Interim Clerk of the Council were present.

**PUBLIC MEETINGS/WORK SESSIONS**

**10:00 a.m.** – The Council met for a weekly staff meeting and Council work session regarding various County business. Also Present: Randall Gaylord, Prosecuting Attorney; David Goldsmith, County Administrator Pro-Tem; and Si A. Stephens, Auditor/Interim County Administrator Pro-Tem. No action was taken

**RECESS** - At 12:10 p.m., Council Chair Lichter recessed the meeting until 10:00 a.m., Tuesday, February 7, 2006.

**Tuesday, February 7, 2006 - Council Hearing Room**

**CALL TO ORDER**

Council Chair Lichter called the meeting to order at 10:00 a.m., in the Council Hearing Room. Council members Ranker and Myhr; County Administrator Pro-Tem David Goldsmith; and the Interim Clerk to the Council were present. The flag salute was conducted.

**CITIZEN ACCESS TIME**

Russell Savvier and Aaron Hayes – Each requesting that the Council consider modifying speed limits on County roads to accommodate electric cars (NEV's).

**ANNOUNCEMENTS/SCHEDULE CHANGES**

The posted Council Agenda was revised.

**APPROVAL OF MINUTES**

Moved by Ranker, seconded by Myhr, to approve the minutes of **January 30, 31, and February 2, 2006**. Motion carried.

**CONSENT AGENDA**

Moved by Myhr, seconded by Ranker, to approve the **Final Consent Agenda of February 7, 2006** as follows:

**A. Resolutions/Ordinances:**

1. **Resolution 6-2006** - Adopt the resolution setting the compensation for services provided by the SJC Auditor as the Eden Project Implementation Coordinator at \$500 per month effective January 24, 2006, under the terms as set forth therein.
2. **Resolution 7-2006** – Adopt the resolution to acquire the Perry Property on Orcas Island as described in Exhibit A "Property Description" for the sum of \$1,100,000, less credits at closing, from the Conservation Area Fund; authorize the Director of the Land Bank to sign all other documents necessary to effect the purchase of the Perry Property, including any necessary closing documents; and, accept a Statutory Warranty Deed from the seller, Perry, LLC, pursuant to the Public Meeting held on December 5, 2005.
3. **Resolution 8-2006** - Adopt the resolution accepting work performed under Contract No. 05RD26 by Hytech Roofing, Inc., for the Annex Building Roof Replacement, San Juan Island; and, authorize the release of the retainage held by SJC in the approximate amount of \$5,879.25 upon approval of the Department of Labor and Industries and Department of Revenue.

**B. Contracts/Agreements:**

1. **Agreement No. 06SJ02** – Sign the Inter-local Agreement between SJC and Fire Protection District No. 4 for the purchase of 911 answering and dispatch services between January 1, 2006 through December 31, 2006 for a maximum annual amount of \$14,980.00, under the terms and conditions outlined therein.
2. **Agreement No. 06HC06** – Sign the Grant Agreement between SJC and the WA State Department of Ecology for Watershed Resource Inventory Area (WRIA) Groundwater Monitoring as described in “Scope of Work” with a maximum project cost of \$100,000 with a State Share Rate of one hundred percent, specifying a project completion date of June 30, 2007, under the terms and conditions as set forth therein.

**C. Appointments:**

1. Approve the appointment of Ron Henrickson to the SJC Marine Resources Committee (MRC) for a four year term which will expire in June of 2010, noting a concurrent recommendation from the MRC in their letter dated February 1, 2006.

**D. Correspondence:**

1. Sign the letter to Ron Henrickson confirming his appointment to the MRC for a four year term which will expire in June of 2010.
2. Sign the letter to Michael Ahrenius thanking him for his interest in becoming a member of the MRC and informing him his letter of interest will be kept on file for any future vacancies.

Motion carried.

**ACTION AND DISCUSSION ITEMS**

ORDINANCES/RESOLUTIONS:

- ORD. NO. 1-2006** - (Refer to PUBLIC HEARINGS/MEETINGS, 1:30 p.m., for details of action taken.)  
**RES. NO. 9-2006** - (Refer to PUBLIC HEARINGS/MEETINGS, 2:30 p.m., for details of action taken.)

MISCELLANEOUS ITEMS:

1. **Draft Vesting Ordinance Discussion** – Present: Randall Gaylord, Prosecuting Attorney; Ron Henrickson, Community Development and Planning Department (CDPD); and interested citizens. Summary: Council Member Ranker began by stating that he had written a draft of language for review of the Council and audience for a potential solution to the Accessory Dwelling Units (ADU’s/guesthouses) vesting issue. In his report, he provided the history of those persons who had built their guest houses first and found they could not build their main houses due to a moratorium imposed on November 30, 2000. He explained that the Prosecuting Attorney had also developed a proposal for addressing the same issue. Councilman Ranker further stated that he did not see his proposal as a finished product, but rather as “a solid step in the right direction.” Councilman Ranker explained that his draft language differed from that proposed by Mr. Gaylord in that his approach was to add a new section to the SJC Code, Chapter 18.80.25 – Vesting of Permits Approved Prior to November 30, 2006. This date is important because it does not undercut the decisions of the Western Region Growth Management Hearings Board (GMHB). After explaining the issues, he noted that the public process would have to be followed; however, his proposal could be fast-tracked because it was not complex and addressed the issue affecting a small number of people. Chair Lichter allowed comments from the audience on this new proposal. Stephanie O’Day along with Lynn Bahrych, land use attorneys, came forward with additional historical information and explained that the GMHB had issued a clarification statement in 2001 that they did not mean to exclude vested permits in the time frame being considered. However, in 2005, the new members of the GMHB changed that opinion with an ambiguous decision. Ms. O’Day stated that the Prosecutor has interpreted the language in that decision differently than other attorneys and several appeals are moving forward with regard to this matter. Both Ms. Bahrych and Ms. O’Day were in favor of the language proposed by Mr. Ranker. It was their opinion that the 2005 order of the GMHB actually strengthened the original opinion. Ms. Bahrych stated that it would be unwise to consider a large code revision like Mr. Gaylord was proposing, as this type of case (“vesting”) is considered a “hard case” in the legal profession. Council Member Myhr stated that the presentation by Mr. Ranker and Ms. O’Day and Ms. Bahrych was very clear. He added to this historical information that he remembered a document

of the County from 1990 that encouraged people to build their guesthouses first. Mr. Gaylord then passed out his written approach to this issue. He explained that his interpretation was different in that if the main house permit was not issued along with the guesthouse permit, then persons who built the guesthouse first were not vested. He proposed a much more detailed draft of an ordinance to address this issue. He added that he also supports moving forward but recommended doing so through an amendment to the SJC Building Code. A lengthy discussion ensued on the merits of both recommendations. Other citizens then commented on how this inability to build their main house has affected their personal lives, and asked that the Council provide some type of assistance to the small group of citizens that fall under this vesting issue. At the conclusion of the comments, Mr. Myhr stated that he thought a two step process made sense. Help those individuals that are in the middle of this situation and then address the big picture. Mr. Ranker requested consensus from the Council on how to move forward with his proposal. Mr. Gaylord stated that he had criticism of the language but this was not the time to address it. He concluded by saying his proposal is also a “quick fix” and wants to proceed in the manner he recommended. **After discussion, it was the consensus of the Council to move forward with Mr. Ranker’s proposal; to direct the County Administrator Pro-Tem to address this, as discussed, for CDPD review and the required public process; to include the Planning Commission and Prosecuting Attorney; and, to bring back a preliminary recommendation when available.**

**2. Legislative Updates** – Council Member Myhr reported he had been in Olympia meeting with legislators the prior week regarding the status of current bills that could affect SJC. After a brief update on some of the issues, he suggested that the citizens go to the WA State Legislative Website to track the progress of any bills they are interested in. He noted how important it is for the Council members to represent their citizens during this annual process. It was noted that the air-ambulance subscription bill had passed. The Council thanked former Commissioner John Evans, Senator Harriet Spanel, and WSAC for their devoted assistance in helping to have this service available to SJC again.

**3. Revised Draft Ordinance for the Establishment of a SJC Citizens’ Salary Commission** – Randall Gaylord, Prosecuting Attorney, was present to state that he had worked with David Goldsmith, County Administrator Pro-Tem; and Carolyn Morrison, Council Clerk, on a revised draft of a new ordinance based upon previous discussions of the Council. Council Member Myhr stated he has been eager to move ahead with this matter in a timely fashion in the form of a resolution because there had been a time crunch due to potential new election filing dates. He stated that a resolution, and selection by the Council, both of which are permitted by the state statute, and consistent with the Charter that says the Council appoints members of all boards and commissions were in order; however, in further dialogs with colleagues and other groups, he has ascertained there will be enough time for SJC to complete this work and was willing to discuss doing so by ordinance instead of a resolution. In doing so, he said it is not to be considered precedent setting. He explained that the Charter leaves room for much interpretation on the issues of ordinances and resolutions, either of which may be legally correct. He further explained that there is a vast difference between an elected County Executive and an appointed County Administrator in relation to the “Executive Branch” of government. In other counties that have a county executive, it is an elected position, but our freeholders chose not to have an elected county executive. The County Administrator is the chief administrative officer and not the chief executive officer in the wording of the Charter. He is not a single commissioner or executive as mentioned in the state statute. In the SJC Charter, there is no definition of who is the leader of the Executive Branch. If the state legislature had meant “county administrator” in the statute, it would not have said “single commissioner or executive.” He added that it is important to understand the process and recognize this issue. He stated that he believed that the County can have a great team but that the appointment of a commission is different than the appointment of other appointed staff. His main point was to stress that under the Charter, he believes that either an ordinance or a resolution and selection by the Council will be appropriate for the establishment of this commission. The Council thanked him for his research into this matter and then discussed the new draft. It was agreed that this commission will be long term and because there is now time to hold the required public hearing, an ordinance would be appropriate. **The Council thanked Mr. Gaylord and Mr. Goldsmith, and agreed by consensus to move forward with the draft to include the repealer section; and, directed their Clerk to schedule a public hearing to formally consider an ordinance.**

**4. Procedures for Hearing Examiner Appointment Process** – David Goldsmith, County Administrator Pro-Tem, brought forth a draft process for the selection of a new SJC Hearing Examiner. The Council had requested that a written procedure be in place for this selection process; and, that the position be advertised again to broaden the range of applications. **After a minor modification, by consensus, the Council agreed with the language for the procedure which their Clerk will place on the Consent Agenda for formal approval next week.**

**5. Council 2006 Liaison and Policy Liaison Assignments for 2006** – Council Clerk, Carolyn Morrison, presented the draft of the assignments made by the Council the prior week and noted that there was an uneven distribution for Policy Liaison assignments. **The Council agreed by consensus to minor changes in their previous assignments.** A final draft will be placed on the Consent Agenda for the following week for formal approval.

## **PUBLIC HEARINGS/MEETINGS/WORK SESSIONS**

**11:00 a.m.** – County Administrator Pro-Tem briefing of the Council on County issues. Mr. Goldsmith began by explaining that this agenda item will be a regular feature to provide a means for the Council and public to remain informed of issues affecting the County. The Council asked for a brief written list in the future to better follow the information being imparted. Mr. Goldsmith then presented the following updates:

1. County Administrator Search Process – The process is moving forward with Waldron & Company and the information is on their Website.
2. County Fire Marshal Duties – The contract for these services with Fire District 3 had expired on December 31, 2005. The fee structure and fire code that were to be adopted were not in place as anticipated and so the contract was not extended. The County has contracted with the Town of Friday Harbor for Fire Marshal services in the interim. Mr. Goldsmith will work with the District 3 Fire Chief once the fees and code are adopted this afternoon.
3. SJC Contracts – Because contract approval now is under the County Administrator, the departments will be allowed to continue with their \$10,000 signing ability as long as they follow the procedures that are being established.
4. Council Agenda – A new procedure is being worked on with the Council Clerk on the scheduling of administrative agenda items that come before the Council.
5. Department Head Meetings – Will be held each week on Wednesday morning with all departments.
6. Archive Issues – There is a long-standing issue of record storage and retrieval. Each department is doing their own storage and record retention resulting in a large problem. The courts have the ability to use a grant for this. A plan would be to use this funding as springboard for County, along with the Auditor's Document Preservation Fund. The County should have resources to do this. The State Archivists will come here to assess the entire system and give us recommendations. Mr. Goldsmith stated that in his former jurisdiction they had an excellent system that was paid for by all departments.
7. Hamlet Plans – There will be information coming forward on two Hamlet Plans. Mr. Ranker requested consideration of holding public hearings on other islands when applicable if possible. The Council Clerk stated that this can be done, but not on a Tuesday due to the Council's current schedule. This will be discussed further with the Council as necessary.
8. Trend West Permits – Mr. Goldsmith is working with the Community Development and Planning Department on issues regarding these various permits. He will keep the Council updated
9. County Space Needs – Council Member Ranker had requested an update on this topic. Mr. Goldsmith reported that the Auditor is considering moving Elections across the street and has federal money to do accomplish this. Currently leases are being discussed. Also, the Carlson building of 8,000 square feet is being revisited to see what can be done. The previous work that was done is being reviewed. Given the current rental structures and costs, he added he may suggest purchasing this building for Council facilities or possibly other use; however, it is premature to discuss at this time. He stated that clearly the County will be well-served by a bigger facility. He also met with King Fitch, Town Administrator, on the possible co-location of the two jurisdictions. Space could be leased back to others. The problem will be when the new Council Members are in place in November.

The Council commented that they want to be sure that there is a quality environment for the County employees. However, it is crucial that the public be aware of how bad things really are with the hallways cluttered with filing cabinets and boxes. It was noted that there may be a need for several funding sources to accomplish what is needed. Mr. Goldsmith stated that there will need to be a vote of the people with the price tag that the County is facing.

**1:30 p.m.** - A public hearing was held to consider an ordinance adopting Uniform Codes as Building Codes as listed therein; repealing San Juan County Code Sections 15.04.010 Through 15.04.331 (Uniform Codes) and fees adopted In 15.04.580, 600 and 610; and, prescribing penalties for violation. Present: Ron Henrickson, Community Development and Planning Department (CDPD) Director; Shireen Hale, CDPD Temporary Senior Planner; David Goldsmith, County Administrator Pro-Tem; Fred Schaller CDPD Building Inspector/Plans Examiner; Randall Gaylord, Prosecuting Attorney; and interested citizens. Ms. Hale began by stating that the published version of this ordinance had been modified slightly in response to comments from citizens to provide some flexibility on certain portions of the proposed ordinance. Secondly, after discussions with the County Administrator and Prosecuting Attorney, it was determined that the proposed resolution that will be presented during the next agenda item to adopt the fee schedule, should be in the form of an ordinance as well. It was

agreed that the resolution would still be considered for adoption today. However, a new public hearing to consider these in ordinance format will be scheduled in the near future. Ms. Hale then gave a Power Point presentation of the entire code proposals (handouts were made available) and answered questions of the Council. Mr. Henrickson presented additional information. The Owner/Builder Code will remain intact. Public testimony was opened and submitted. A member of the public requested that that the Council allow the public to comment on any changes they might consider after their deliberations were held. The Chair agreed that an exception would be made to allow for this request, and recessed public testimony while the Council began to deliberate on some of the changes being proposed. Public testimony was then allowed to continue based upon the Council's deliberations. Public testimony was closed and there were no further deliberations. The following action was then taken:

Moved by Ranker, seconded by Myhr, to adopt the February 7 version of **Ordinance 1-2006**, an ordinance adopting uniform codes as Building Codes as listed therein; repealing San Juan County Code Sections 15.04.010 Through 15.04.331 (Uniform Codes), and Fees Adopted In 15.04.580, 600 and 610; and, prescribing penalties for violation, effective ten days after adoption. Motion carried.

**2:30 p.m.** - A public meeting was held to consider a resolution repealing existing fees and adopting a new fee schedule for services provided by the SJC Community Development and Planning Department and Local Fire Districts. Present: Ron Henrickson, Community Development and Planning Department (CDPD) Director; Shireen Hale, CDPD Temporary Senior Planner; David Goldsmith, County Administrator Pro-Tem; Fred Schaller CDPD Building Inspector/Plans Examiner; Randall Gaylord, Prosecuting Attorney; and interested citizens. Ms. Hale went over the changes being proposed noting that a new version was before the Council with no major changes. This resolution if adopted will be in effect for only six months until such time as an ordinance can be adopted through the public process to replace it. Ms. Hale presented the proposal in a Power Point format with printed handouts available to the audience. The Prosecutor requested that public comment be allowed even though this was not advertised as a public hearing. After the questions of the Council were answered, public testimony was opened, submitted, and closed. It was recommended that this resolution, if adopted, go into effect concurrently with the Ordinance adopted in the previous hearing. Deliberations were held and the following action was taken:

**Moved by Ranker, seconded by Myhr, to adopt the February 7 version of Resolution 9-2006, a resolution repealing existing fees and adopting a new fee schedule for services provided by the SJC Community Development and Planning Department and the Local Fire Districts, pursuant to Ordinance 1-2006, effective ten days from adoption. Motion carried.**

**ADJOURNMENT** - Moved by Myhr, seconded by Ranker, to adjourn the meeting at 3:10 p.m. Motion carried. A special meeting was scheduled for February 13, 2006. The next regular meeting was scheduled for Tuesday, February 14, 2006.

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**These minutes were approved and signed on February 14, 2006. The original document is retained in the permanent proceedings file of the SJC Council dated February 6 and 7, 2006. Attest: Carolyn K. Morrison, Council Clerk.**