

**SUMMARY OF THE MINUTES
SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
MARCH 13, 14, AND 15, 2006**

Monday, March 13, 2006 - Council Conference Room

CALL TO ORDER

Council Chair Lichter called the special meeting to order at 9:05 a.m. Council Members Ranker and Myhr; County Administrator Pro-Tem David Goldsmith; and Interim Clerk of the Council, Carolyn Morrison, were present.

EXECUTIVE/CLOSED SESSIONS

9:05 a.m. – Council Chair Lichter announced that the BOCC would be holding an **executive session** estimated to last approximately 30 minutes, to discuss a matter of litigation pursuant to the provisions of RCW 42.30.110(1)(i). Participants: Randall Gaylord, Prosecuting Attorney, and Karen Vedder, Deputy Prosecuting Attorney. The session ended at 9:35 a.m. for an actual session time of 30 minutes. No action was taken.

RECESS - At 9:35 a.m., Council Chair Lichter recessed the meeting until 1:30 p.m., this afternoon.

ANNOUNCEMENTS/SCHEDULE CHANGES

NOTICE: All three Council Members attended the San Juan Archipelago Marine Site Managers Work Session II held at the Friday Harbor Laboratories which began at 10:30 a.m. Council Member Ranker presented a report on Ecosystem-based Management in the Archipelago. A Deputy Clerk attended this private Work Session along with the Council. Council Members Lichter and Myhr attended as observers only.

PUBLIC MEETINGS/WORK SESSIONS

1:30 p.m. – The Council met for a weekly Staff Meeting and Council Work Session regarding various County business. No action was taken

RECESS - At 3:45 p.m., Council Chair recessed the meeting until 10:00 a.m., Tuesday, March 14, 2006.

Tuesday, March 14, 2006 - Council Hearing Room

CALL TO ORDER

Council Chair Lichter called the meeting to order at 10:05 a.m. Council members Ranker and Myhr, Administrator Pro-Tem David Goldsmith, and the Interim Clerk to the Council, Carolyn Morrison, were present. The flag salute was conducted.

CITIZEN ACCESS TIME

Laura Stara and Nancy Stark of the League of Women Voters - To extend a personal invitation to each Council Member to individually present a history of the proposed Affordable Housing Real Estate Excise Tax ballot measure to citizens during evening meetings scheduled for April 18 on San Juan Island, April 19 on Orcas Island, and April 20, 2006 on Lopez Island. Written invitations will be forthcoming.

Julie Miller, Market Manager – Regarding a request for review of a rental increase imposed by the SJC Parks Department to the participants of the Orcas Island Farmers' Market. Chair Lichter announced that this matter would be discussed at 11:30 a.m.

ANNOUNCEMENTS/SCHEDULE CHANGES

The posted Council Agenda was revised.

APPROVAL OF MINUTES

Moved by Myhr, seconded by Ranker, to approve the minutes of **March 6 and 7, 2006**. Motion carried.

CONSENT AGENDA

Moved by Myhr, seconded by Ranker, to approve the **Final Consent Agenda of March 14, 2006** as follows:

A. Resolutions/Ordinances:

1. **Resolution 15-2006** - Adopt the resolution to accept the request to withdraw the Road Vacation petition of the unopened County Road Right-of-Way in the Southeast Quarter of the Northwest Quarter of Section 24, Township 35 North, Range 4 West, W.M.; and, approve the release of \$2,100 to L. Curtis Widdoes, Jr.
2. **Resolution 16-2006** – Adopt the resolution affirming the inventory of San Juan County’s 2005 Fixed Assets as described in “Attachment A” in the amount of \$40,303,191.00.
3. **Resolution 17-2006** – Adopt the resolution establishing the SJC Ecosystem-based Management Initiative with Shared Strategy of the Puget Sound.

B. Contracts/Agreements:

1. **Agreement No. 06SJ20** – Sign the Interlocal Agreement between SJC and Hospital District No. 1, dba Inter-Island Medical Center, to provide use of a small works roster, vendor list, and list of firms providing architectural and engineering services, prepared by SJC under RCW 39.04, for a period of seven years from date of execution, under the terms and conditions as listed therein.

C. Appointments:

1. Approve the appointment of Ralph Hahn to the SJC Agricultural Resources Committee as a non-voting representative of the Economic Development Council.

D. Correspondence:

1. Sign the letter confirming the appointment of Ralph Hahn to the SJC Agricultural Resources Committee as a non-voting representative of the Economic Development Council.

Motion carried.

ACTION AND DISCUSSION ITEMS

CORRESPONDENCE:

1. Moved by Myhr, seconded by Ranker, to sign the letter To Whom It May Concern regarding the San Juan Islands’ Renewable Energy Producers Cooperative. Motion carried. (Refer to MISCELLANEOUS ITEMS, No. 3, for additional details.)

MISCELLANEOUS ITEMS:

1. Process for a Hearing Examiner Decision Appeal to the SJC Council – Councilman Ranker brought this matter forward to ask the Council if they wanted to continue to hear appeals of Hearing Examiner decisions as did the former Board of County Commissioners. He stated that he would provide paperwork to the Council if it was their choice to proceed with legislation to enact this provision, noting that there was language in the Charter that stated an appellant has the option of bypassing the Council and going straight to the courts if legislation is not adopted. He added that the Charter does not mention what would take place if there were more than one appellant, which is often the case; nor does it address the desires of the applicant. Councilman Myhr responded first by reading the language of the Charter and stating that he read this to mean that if they (appellants) choose to set up local opportunity to have the Council review a decision, this would provide the vehicle to do so. He added that there are times local knowledge can assist, and that he believed that the Council should proceed for people to be able to appeal to the County Council if they choose to do so. Chair Lichter stated he agreed with his fellow Council Members and that he felt it was an important level for citizens and that there was no reason to discontinue hearing appeals. He added that this was significant for the Council to continue to serve as a quasi-judicial body. **By consensus, the Council agreed to place this item on the Council agenda for March 21, 2006 which is being set aside as an all day work session.**

2. Proposed Town of Friday Harbor (TFH) and SJC Joint Administration Building Update – Councilman Ranker reported that he had met with the Mayor and TFH Council about this proposed cooperative venture. He stated that the TFH is in favor of moving forward but he wanted to ask the SJC Council if they also want to

continue the discussions. He suggested that this matter be assigned to the County Administrator Pro-Tem and the Town Administrator, King Fitch, for further discussion. Councilman Myhr stated that he wants to be certain that we look at all facilities that the County needs, adding that this proposal would be part of the package. **The Council agreed by consensus to have the two Administrators meet to discuss this matter further.**

3. San Juan Islands Renewable Energy Producers Cooperative Update – Also Present: Paul Dossett, SJC Assessor. Council Member Myhr reported the County has a new private group which has been formed. This is in addition to the Orcas Power and Light Cooperative (OPALCO) Green Power Program. He said that this group will look at windmills, tidal flow for generation of current, and other means of renewable energy. He added that there are many questions to be answered and it is not known if there is enough scale for an economically feasible program; however, the members are working hard to determine what will work for SJC. They have already met with the US Department of Agriculture and other agencies. The Council discussed a draft letter addressed To Whom It May Concern in support of their efforts. Councilman Ranker noted that he would like to see solar power as part of this program and perhaps the County could consider a reduction in permit fees for low impact/energy efficient methods. Mr. Dossett explained that at one time there was legislation in place for tax incentives but it had expired. He recommended that the County propose legislation to reinstate these incentives because he and other County Assessors must follow the law as it exists. Mr. Ranker noted that he had spoken to Representative Jeff Morris on this issue and would like to meet with the Assessor to discuss this further. The Council moved to sign the letter of support. (See CORRESPONDENCE for details of the action taken.)

4. Status Report on Filing for an Extension of the Stay of a Decision to the State Appeals Court – Present: Randal Gaylord, Prosecuting Attorney, who reported that the deadline for filing for an extension is March 22 and that he has started the process.

PUBLIC HEARINGS/MEETINGS/WORK SESSIONS

10:30 a.m. - A public hearing was held to consider an application for an Open-Open Space Classification for Bill Associates, Lopez Island, located off Elliot Road, File No. 0505001. Present: Lee McEnery, Community Development and Planning Department (CDPD) representative; David Bill, applicant; and interested citizens. Ms. McEnery presented the information in her Staff Report dated March 10, 2006 for an application to place approximately 55 acres into Open-Open-Space, with six acres removed for the uses listed. She added that the Open Space Advisory Team recommended approval with a rating of 47.2 points, and that the Planning Commission and CDPD also recommended approval. After questions were answered, public testimony was opened, none submitted, and closed. Deliberations were held and the following action was taken:

Moved by Myhr to approve the application for an Open-Open Space Classification for Bill Associates, Lopez Island, located off Elliot Road, File No. 0505001 as presented. The motion was seconded by Ranker for discussion purposes related to the issue of the potential future dock. Under discussion, Mr. Ranker wanted additional information concerning the procedure that would be required if the potential dock portion was not included in this application. Councilman Myhr and Ms. McEnery explained that if there would be a dock or home constructed on the property in the future where it was indicated in the application, it would not affect the open space classification as written. The Council was referred to a map on page 25 of the Staff report where it explained the issue and that this would not affect the natural aspect of property. Further, Ms. McEnery explained that there exists only one process for this type of classification and that the entire process would have to begin again if this was not taken into consideration at this time. The question was then called and the **motion carried.**

11:00 a.m. – County Administrator Pro-Tem Council Briefing. Also present Jon Shannon, Public Works Director.

- 1. House Bill Report – ESSB 6839** – Mr. Shannon reported on the Capron Funding the County receives from the State that will be affected by this bill. An increase of 9 ½ cents was expected to be phased in through 2008 for the County. These funds have now been diverted away from SJC and are going to be used for the WA State Ferry operating fund. He estimated a loss of about \$1,000,000 per year of expected funding. During his report he gave historical information about Capron funding which was allotted to “island” communities. However, Island County also receives funding for a State Highway which SJC does not. That is because there are no State Highways in SJC, and Island County did not lobby to retain this Capron funding increase for themselves or SJC. After a lengthy discussion, Mr. Shannon noted that the bill had not yet been signed by the Governor and added that there might be a chance of a line-item veto on Section 12 of the bill. Mr. Goldsmith added that the impact to the County’s road system over time will be very significant. He noted that the Road Fund does much more than just build roads. He encouraged the Council to write a letter to the legislature to define the significance of these funds. Mr. Shannon noted he had spoken to the Prosecuting Attorney concerning this matter as well. **The Council**

Chair requested that Mr. Goldsmith draft a letter for consideration of the Council. Mr. Goldsmith and Mr. Shannon will prepare a letter. Due to time constraints, the Council recessed this portion of their agenda until the afternoon.

2. **Personnel Issues** – Upon resuming this briefing at 2:24 p.m., Mr. Goldsmith announced that the candidate for the position of Building Official had accepted the County's offer. As discussed earlier in the day during the Agricultural Resources Committee (ARC) Report, he reported that the anticipated funding expected from WSU for a staff person for the ARC did not come through. A position had been created that was budgeted to use money from the Conservation District and other sources and the WSU money was to pay for benefits. Mr. Goldsmith noted that the operating budget of the County must be sustainable and critical core positions need to be maintained. He cautioned about creating more positions that are not funded. He stated he will speak with the Conservation District to determine if they are able to provide the benefits for this ARC staff support. The Council expressed their views on losing the funding that was previously pledged. Mr. Goldsmith will continue to work on a solution, such as reduced hours that would include benefits and will set time to discuss ideas with the Council in the future.
3. **Fire Marshal Contract Update** – Mr. Goldsmith has met again with Fire Chief McLaughlin and is working on modifications to the prior contract. There is a potential for a change in the fee ordinance recently adopted.
4. **General Updates** – The WA State Administrators group will meet in the near future. He will attend. A new law was passed this year to ensure that the WA State Auditor does performance standard audits in addition to financial audits. This will be a topic at the upcoming conference. During this meeting, he will also attend a pandemic flu session for emergency preparedness. The critical core of County government will be addressed by local staff as part of the new procedures being drafted.

11:30 a.m. - A meeting was held to hear a report by the SJC Agricultural Resources Committee (ARC). Present: Susan Robins, ARC Chair; Dona Wuthnow, SJC Parks Superintendent; and interested parties. Ms. Robins presented the information in her written report dated March 14, 2006. She addressed the issues of economic liabilities of farmers; regulatory hurdles of food laws; suitability of land and potential lease of property associated with the Conservation District, Land Bank and Ports; the response to surveys issued; the need for continuing public education; and food security. Farmers had expressed that, in their opinion, if the public bought all its food on the islands, they would not need to travel off island and the local farmers would be able to sustain their businesses. She addressed staffing problems which were being brought forward by Mr. Goldsmith later in the afternoon. She requested that the Council address revisions to the animal control ordinance as many farmers are suffering large livestock losses. She added that the group has submitted suggestions to the Prosecuting Attorney. She asked the Council if they could provide relief to the Orcas Farmers' Market rent increase. After thanking Ms. Robins for her report, the Council discussed various aspects of the issues brought forth including the use of certain lands. It was noted that the Council had asked the Prosecutor about the status of the changes requested to the animal control ordinance and were disappointed that this was not a priority at this time, as many citizens have requested changes. The Council added that there are a few hundred priorities with the change to a Charter government and this is only one of them.

The Council asked Ms. Wuthnow to address the issue of the increase in rent to the Orcas Farmers' Market. She explained that the Park Board had voted to increase the rent between 30 and 35 percent, not the 50 percent reported, and that it was increased because they expanded their operation. The reason for this is that the Parks Department is dependent upon fees to sustain operations. The park facility used costs \$20,000 annually to run and the revenue from fees was about \$4,800 in total. With the new increase, revenue would now amount to about \$6,800 annually. The Council discussed the matter adding that this is a policy level decision and that perhaps some sort of subsidy could be considered and that the impacts need to be known. It was agreed that the farmers markets are a benefit for the community; however, any funding considerations would need to be addressed at budget time. It was noted that the Lopez and San Juan Island Farmers' Markets do not pay any fees. Ms. Wuthnow stated she had met with the market manager, Ms. Miller, on March 1 and that this item is on the agenda for the March 16 Park Board meeting at which time she will convey the message of the Council. The Council thanked Ms. Robins for her report and complimented the members of the ARC.

1:30 p.m. - The quarterly meeting was held with the SJC Law and Justice (L&J) Council members. Present: Randall Gaylord, Prosecuting Attorney and L&J Chair; Stewart Andrew, District Court Judge; Mary Jean Cahail, SJC Clerk; Bill Cumming, SJC Sheriff; Dave Zeretzke, Administrative Services Director; Paul Dossett, SJC Assessor; and interested citizens. Agenda:

1. Records Storage – Mr. Gaylord noted this is still a critical issue. He explained that the grant application which has been discussed with the Council is with the Trial Court Improvement Council. The grant can only be used for

L&J records. He added that any funding must be used as a planning tool to be able to obtain an assessment of the situation and to develop a plan to proceed with a “County hire.”

2. Security Issues – Mr. Gaylord referred to a written security audit that was issued by the Administrative Offices of the Courts. He explained that the L&J Council will address the report at next month’s L&J meeting. Sheriff Cumming then reported that this audit group deals with record keeping, security, and other issues related to the courts. He reviewed types of serious incidents that have occurred throughout the court system in WA and also other places in country, noting that small courtrooms are at risk. He also reviewed some incidents that have occurred in SJC. He stated he was pleased with the report because it was prepared by an objective body. He stated that a sub-committee will work on the security audit, present it to the Council, and may ask for funding to implement necessary changes. He added that some of the audit issues will be helped due to the new correctional officer that the County Council approved last year. He also informed the County Council that there is a new Court Administrator who will be serving both SJC and Island Counties and that he is accomplished in courtroom procedures.

3. Interim Changes to Council Hearing Room and Court Conflicts – Mr. Gaylord explained that the Council Hearing Room has become a multi-purpose room, however, it has both advantages and disadvantages for use as a courtroom and it cannot be used for 12-person jury trial. Judge Andrew then addressed the Council referring to the letter he wrote regarding the interim use of this room. He added that it was his understanding that the room is being considered for use by six Council Members and the Administrator. He noted that his letter had suggested a few specific short-term solutions. After saying that the Courts had conducted two jury trials last year in this room, he asked to be involved in discussions as the Council decides how it wants to change things and suggested that Council Members take tour of a real courtroom to see what is needed. Chair Lichter asked for examples. Judge Andrew itemized what he would like to see which included (but was not limited to) a jury modesty panel, visibility of exhibits, restrooms and chambers/offices for the judges, and a change in the proximity of the Court Clerk desk to the Judges. Mr. Lichter noted that he is L&J Council Liaison and will be working with them on this. Mr. Gaylord added other recommendations and reiterated how many years the members of the L&J community have asked for additional space and a second courtroom. He also gave a brief history of the various attempts to expand the County’s facilities and that he would like to see this funded by Real Estate Excise Tax. He concluded by stating that in 2009 a bond will be retired which would leave \$900,000 available for a new building and that maybe a bridge loan could work in the meantime. He is desirous of continuing to engage the County Council in discussions adding that L&J has told everyone this is critical, that they have been nice, but it is now at the emergency level. The Sheriff and Ms. Cahail added their comments as well. Chair Lichter stated that the Council completely understands the space needs of the County and intends to move forward with a solution. Councilman Ranker added that, speaking for himself, he is committed to move forward with a new administration building and that the County needs a positive working environment for our all staff and employees.

2:00 p.m. - A work session was held to review a proposed ordinance amending the SJC Code regarding Accessory Dwelling Units (ADU’s). Present: Ron Henrickson, Community Development and Planning Department Director; Randy Gaylord, Prosecuting Attorney; Cameron Carter, Deputy Prosecuting Attorney; Jon Shannon, Public Works Director; available members of the SJC Planning Commission; Paul Dossett, SJC Assessor; and interested citizens. Chair Lichter began by stating that the Council had requested a briefing due to the fact that they had just received a copy of this document this morning and had not had time to review it. Mr. Henrickson acknowledged that this was correct and explained that he wanted to thank the Planning Commission for their work on this issue. He detailed how much time had been spent on meetings and hearings and that the recommendations before the Council were the result of the many hours spent on the issue. The draft prohibits free-standing ADU’s in rural and resource lands. He proceeded to detail the criteria and design standards. Council Members asked several questions which Mr. Henrickson answered. He noted that the issue of rental units was not addressed as it went beyond the scope of the Western Region Growth Management Hearings Board (GMHB) order of compliance and can be addressed in another forum. After comments, Councilman Myhr asked if the recommendations presented would satisfy the needs of the GMHB order. Mr. Henrickson stated that he believed it addresses the issues to be dealt with. Councilman Ranker noted that these recommendations are much stricter than what had been proposed by the Council. He stated that if the Council does consider this proposal, we are ending the idea of detached ADU’s in this County. He also stated that the draft is less risky than what he and Councilman Lichter had proposed. Chair Lichter thanked Mr. Henrickson for the information and asked to retain the April 4, 2006 date which had been set aside for a public hearing to be used for a work session. Councilman Myhr added that he understood the “torture” that the Planning Commission had gone through having spoken to many of the members of the commission. However, he stated that he personally thought that this draft may be closer to what is wanted in SJC related to conservation space and sprawl in the County. He requested that this item be added to the list for the work session scheduled for March 21, 2006.

EXECUTIVE/CLOSED SESSIONS

10:55 a.m. – (Scheduled for 10:45 a.m.) Council Chair Lichter announced that the BOCC would be holding a **closed session** estimated to last approximately 15 minutes, to discuss a matter of labor negotiations, pursuant to the provisions of RCW 42.30.140(4)(a). The session ended at 11:10 a.m. for an actual session time of 15 minutes. No action was taken.

RECESS - At 2:39 p.m., Council Chair Lichter recessed the meeting until 10:00 a.m., Wednesday, March 15, 2006 at the Orcas Senior Center on Orcas Island.

Wednesday, March 15, 2006 – Orcas Island Senior Center

CALL TO ORDER

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

PUBLIC HEARINGS

10:55 a.m. – A continued Public Hearing was held from February 14, 2006 to consider additional public testimony and adoption by resolution of the East Orcas Water Supply Report and Recommendations. Present: Mark Tompkins, Environmental Health Manager; Vicki Heater, Environmental Health Technician–Water; a representative of the WA State Department of Ecology; and interested citizens. After Chair Lichter introduced those present, Ms. Heater recapped the history of this report and the recommendations followed, by Mr. Tompkins acknowledging the work done by the members of the committee. It was duly noted that no appeals had been filed on the Determination of Non-Significance issued by the Community Development and Planning Department and that the appeal period had been extended to March 3, 2006. Additional public testimony was then solicited, submitted, and closed. Deliberations began. In response to comments from the public, the Council asked that the word “policy” be replaced by “guidelines” in the Exhibit. At the conclusion of deliberations, the following action was taken:

Moved by Ranker, seconded by Myhr, to go forward with the changes requested during deliberations to change the references to “policy” to “guidelines,” and to approve the report and recommendations with these changes; and, to directed staff to prepare a final report for adoption by resolution on the Council’s Consent Agenda for next week. Motion carried.

ADJOURNMENT – Council Chair Lichter adjourned the meeting at 11:55 a.m. The next regular meeting was scheduled for Tuesday, March 21, 2006.

These minutes were approved and signed on March 21, 2006. Note: Councilman Myhr was excused from session and was therefore absent for the approval. The original document is retained in the Councils’ permanent proceedings file dated March 13, 14, and 15, 2006. Attest: Carolyn Morrison, Clerk.