

**SUMMARY OF THE MINUTES
SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
May 22 and 23, 2006**

Monday, 22, 2006 - Council Conference Room

CALL TO ORDER

Council Vice-Chair Myhr called the special meeting to order at 10:00 a.m. Council Member Ranker; County Administrator Pro-Tem, David Goldsmith; and Interim Clerk of the Council, Carolyn Morrison were present. Council Chair Lichter was excused due to a planned vacation.

PUBLIC MEETINGS/WORK SESSIONS

10:00 a.m. – The Council met for a weekly Staff Meeting and Council Work Session regarding various County business. No action was taken.

RECESS - At 11:12 a.m., Council Chair recessed the meeting until 10:00 a.m., Tuesday, May 23, 2006.

Tuesday, May 23, 2006 - Council Hearing Room

CALL TO ORDER

Council Vice-Chair Myhr called the meeting to order at 10:06 a.m. Council Member Ranker; County Administrator Pro-Tem, David Goldsmith; and Interim Clerk of the Council, Carolyn Morrison were present. Council Chair Lichter was excused due to a planned vacation. The flag salute was conducted.

CITIZEN ACCESS TIME

No matters were brought before the Council.

ANNOUNCEMENTS/SCHEDULE CHANGES

1. Vice Chair Myhr announced that Council Chair Alan Lichter is excused for planned vacation
2. The posted Council Agenda and Discussion/Other Action Agenda were revised.

APPROVAL OF MINUTES

Moved by Ranker, seconded by Myhr, to approve the minutes of **May 15 and 16, 2006**. Motion carried.

CONSENT AGENDA

Moved by Ranker, seconded by Myhr, to approve the **Final Consent Agenda of May 23, 2006** as follows:

A. Resolutions/Ordinances:

1. **Resolution 26-2006** - Adopt the resolution authorizing the temporary closure of portions of North Beach Road, Prune Alley, Crow Valley Road on Orcas Island and Bayshore Road on Lopez Island for various civic events as detailed in Attachment "A", County Road Temporary Closures.
2. **Resolution 27-2006** - Adopt the resolution approving the establishment and amount of a petty cash fund for the Orcas Island Recreation Program for the SJC Parks Department, and designating custodians of said fund.
3. **Resolution 28-2006** – Adopt the resolution approving the acquisition of the "Fowler's Knob" property, Orcas Island, for the SJC Land Bank; authorize payment to Janet Jacobs in the amount of \$220,000 less credits at closing from the Conservation Area Fund for said property; authorize the Director of the Land Bank to sign all other documents necessary to effect the purchase of the Fowler's Knob Property, including any necessary closing documents; and, accept a Statutory Warranty Deed from the Seller conveying the "Fowler's Knob" property to San Juan County, pursuant to the public hearing held on May 16, 2006.
4. **Resolution 29-2006** – Adopt the resolution accepting the bids for supplying 5,000 tons of 5/8-inch chiprock for San Juan Island from Mike Carlson Enterprises, Inc., at \$31.98 per ton for the total amount of \$159,900.00; and,

for Lopez Island from Lopez Sand & Gravel, at \$26.07 per ton for the total amount of \$130,350.00, as the lowest and most responsive bids submitted at the bid opening held on April 25, 2006.

5. **Resolution 30-2006** – Adopt the resolution accepting the bid for supplying asphalt emulsion at the price of \$295.00 per ton with tax for CRS-2P Asphalt Emulsion, strictly per bid specifications, from Paramount Petroleum Corp., as the best and most responsive bid meeting the published specifications submitted at the bid opening held on April 25, 2006.

6. **Resolution 31-2006** – Adopt the resolution accepting the bid for the purchase of three (3) Model HD Dump Chassis with 10/12 yard dump body trucks from Valley Freightliner Inc., in the amount of \$452,401.51 including delivery and sales tax, as the best and most responsive bid submitted at the bid opening held on April 25, 2006.

B. Contracts/Agreements:

1. **Contract No. 06RD29** – Sign the Contract between SJC and Mike Carlson Enterprises, Inc., to supply 5,000 tons of 5/8-inch chiprock to San Juan Island at \$31.98 per ton for a total price of \$159,900.00, under the terms and conditions as set forth therein, pursuant to the provisions of **Resolution 29-2006**.

2. **Contract No. 06RD30** - Sign the Contract between SJC and Lopez Sand and Gravel to supply 5,000 tons of 5/8-inch chiprock to Lopez Island at \$26.07 per ton for a total price of \$130,350.00, under the terms and conditions as set forth therein, pursuant to the provisions of **Resolution 29-2006**.

3. **Contract No. 06RD31** - Sign the Contract between SJC and Paramount Petroleum Corp, to supply asphalt emulsion at the price of \$295.00 per ton for CRS-2P Asphalt Emulsion strictly per bid specifications, under the terms and conditions as set forth therein, pursuant to the provisions of **Resolution 30-2006**.

Motion carried.

ACTION AND DISCUSSION ITEMS

ORDINANCES/RESOLUTIONS:

ORD. NO. 6-2006 – (Refer to PUBLIC HEARINGS/MEETINGS, 11:00 a.m., for details of action taken.)

CORRESPONDENCE:

Present: Randall Gaylord, Prosecuting Attorney; Karen Vedder, Deputy Prosecuting Attorney; and interested citizens. A discussion was held regarding a request for copies of all documents from the office of the Prosecuting Attorney that might involve policy considerations by the Council. Mr. Gaylord, Ms. Vedder, and Mr. Goldsmith discussed with the Council the appropriateness of copying all documents, especially when in response to a question by a department head on a legal opinion regarding a technicality. In summary, Vice-Chair Myhr expressed that it would be very helpful to have knowledge of issues in advance so that the Council Members could become acquainted with matters that they may have to address. Councilman Ranker requested digital copies of documents to which Mr. Gaylord replied that they were not always available. Administrator Pro-Tem, David Goldsmith, pointed out that as the head administrative side of the new Charter government, many of the issues he deals with on a daily basis are often taken care of and do not necessarily have to come to the Council. He stated that he has kept, and will continue to keep the Council informed of any issue that is ready for them to address. The following action was taken:

1. Moved by Ranker, seconded by Myhr, to sign the memo to the Prosecuting Attorney regarding being copied on documents that pertain to possible County Council policy or action. Motion carried.

MISCELLANEOUS ITEMS:

1. Update on Amicus Briefs Filed Regarding the Request for a Stay on a Court Decision Concerning Accessory Dwelling Units in SJC – Present: Randall Gaylord, Prosecuting Attorney. In summary: At the request of the Council, Mr. Gaylord explained that the Court of Appeals had already granted an extension of their Court decision as requested by the County until July 31, 2006. He recapped new briefs filed with the court. Councilman Ranker asked about a brief filed by Mr. Jay Kimball and a document which was privileged sent out by the former Board of County Commissioners (BOCC) Clerk in response to a public records request. Mr. Gaylord stated that he had spoken to another attorney concerning the Kimball brief and it was decided that because the document was submitted to the Clerk of the Court rather than the Court itself, it was moot. Regarding the document released by the Clerk, Mr. Gaylord stated that this had been the practice for the past twelve years on

public records requests to release related documents such as had been done on the request filed by Ri Warren. After discussion, he concluded that there was no reason for concern about these new briefs and they did not affect the Court's decision. He also noted that the Friends of the San Juans were in error when stating that this would change the record.

2. Appointment of Citizen's Panel to Conduct Interviews for County Administrator – Councilman Myhr reported that interviews were scheduled for June 7 and 8, 2006 for the four finalists for consideration. On the 7th, there will be two panels of seven members each. One will consist of government officials and one will be of selected citizens with a private luncheon to follow. A social has been planned for the public from 4:30 to 6:30 p.m. at the Pepper Mill restaurant. The Council interviews will be held in Executive Session on June 8, 2006. Each Council Member put forth names from their respective districts for consideration for the Citizen's Panel to the Clerk of the Council who shared them with the other Council Members and made up a master list. The nominees represent a broad range of expertise and also make up a diverse group to represent the citizens of the County. The nominees are Lynn Bahrych, Charlie Bodenstab, Lisa Byers, Steve Garrison, Larry Hendel, Lovel Pratt, and Brent Snow. **By consensus, the Council approved these nominees to make up the members of the Citizens' Panel to conduct interviews for candidates for the SJC County Administrator.**

3. WA State Oil Spill Advisory Council Conference, Lopez Island – Councilman Ranker reported that there were 36 people who attended the meetings over two days which dealt with the prevention of disasters in the Puget Sound. He noted that he was appointed by the Governor to this Council. He stated that there will be a draft report of the conference available by June 1 for review. One will be for government structure and one will deal with marine shorelines. Councilman Myhr stated that he had an opportunity to stop by for a portion of one of the days to meet the participants. He offered that he had printed materials to share if anyone would like to see them.

4. Anacortes Parking Fee Increase Issue – Councilman Myhr reported that there was an excellent article on the San Juan Islander.com concerning a proposal to increase the cost of parking at the Anacortes Ferry Terminal. Bob Distler, Transportation Commission Commissioner, had reported that there may also be a fuel surcharge that citizens should be aware of. The concern of the Council is how this will affect those who commute to work. Councilman Ranker will be in Olympia later in the week and will try to discuss the issue with Senator Spanel and Representative Jeff Morris. He stated he will also attempt to meet with WA State Ferries CEO, Mike Anderson, about this as well.

5. Economic Development Element of the Comprehensive Plan – Present: Ron Henrickson, Community Development and Planning Director. Mr. Henrickson began by stating that eleven months ago grants were applied for by the Town of Friday Harbor and the County for this element. The work was not done for a variety of reasons. He added that he recently published a Request for Proposals (RFP) for a qualified vendor to assist with this project. One was received from a firm in Olympia that does this type of work. A contract is being drafted by both the Town and County to get the work done. June 2007 is the deadline from the WA State Community, Trade and Economic Development Department (CTED). There will be more information available in about a week. Councilman Myhr noted that the Madrona Group had done a study several years ago regarding the economic drivers in the County and asked if this would be part of the work. Mr. Henrickson stated that he will look at this report. Councilman Ranker noted that there was a proposal submitted by the Economic Development Council (EDC) which was rejected. Mr. Henrickson confirmed this information. After additional discussion, Mr. Henrickson reported that he will keep the Council updated on the progress of this element.

6. Proposed Consultant Contract for Hearing Examiner Appeal Procedures and Ordinance – Present: Karen Vedder, Deputy Prosecuting Attorney. Councilman Myhr explained that the Council was seeking an experienced consultant to expedite this work. Mr. Ranker offered that he had put together a draft scope of work and is recommending Laura Arnold as the qualified consultant. He stated he would like to request that the County Administrator Pro-Tem draft a contract. He noted that Ms. Vedder will be the lead from the Prosecutor's office. He added that he hoped to have a draft ready by June 1, 2006. Ms. Vedder stated that she will be out of the office for an extended weekend and has a draft but not one that reflects all the discussions. Councilman Myhr noted that with all the work being considered by both offices, it would be wise to be realistic about deadlines. **It was agreed by consensus that the 15th of June would be a more realistic deadline.**

PUBLIC HEARINGS/MEETINGS/WORK SESSIONS

11:00 a.m. – (Commenced at 11:11 a.m.) A public hearing was held to consider an ordinance to create the San Juan County Board of Health (BOH). Present: John Manning, Health and Community Services Director. Mr. Manning related that the SJC Charter changed the composition of the Board of Health and noted that under the Charter Government, the County must establish the Board of Health according to the RCW's. He read into the record the rules that applied and noted that the proposed ordinance is consistent with these rules. Public testimony was opened, none submitted, and closed. The Council thanked Mr. Manning for his work on this and noted they look forward to a new BOH. Deliberations were held and the following action was taken:

Moved by Ranker, seconded by Myhr, to adopt **Ordinance 6-2006**, an ordinance creating the SJC Board of Health adding a new Chapter to Title Eight of the County Code establishing the local Board of Health to perform the duties necessary to the preservation of the life and health of the people of SJC with a correction as noted on Page 2. Motion carried.

11:15 a.m. - The Council sat as the Board of Health (BOH) for their regularly scheduled monthly meeting. Present: John Manning, Health and Community Services Director; Mark Tompkins, Environmental Health Manager; JoAnne Campbell, Personal Health Services Manager; Nancy Best, Public Health Nurse II; and interested citizens. Agenda:

- 1. Maternal and Child Health Programs Updates** – Ms. Best reported on the achievements listed in the 2005 State report on the WA Women, Infants, and Children (WIC) and success of the SJC WIC and related programs.
- 2. Annual Shellfish Report** – Mr. Tompkins explained the history of the reporting system which gives the status of all shellfish growing areas. In summary, all areas in SJC are open; however, two have some concerns. These are Buck Bay on Orcas Island, and Mackaye Harbor, on Lopez Island. His Staff Report dated May 18, 2006, gave all details of this program in SJC. In summary, it was thought that geese might be the cause of any issues at Buck Bay. Mackaye Harbor had two samples driving a downgrade in 2003 and 2004 and has been monitored 2005. Mr. Tompkins has spoken with State Department of Health and they are as puzzled as he is. A fly-over was undertaken and it was determined that no fresh water is causing this, that the septic installations in the area are good, and that geometric means are used. It is thought that tides may be a factor.
- 3. West Nile Virus Update** – Mr. Tompkins noted that in 2001 health staff began talking about this virus with the BOH. The virus has worked its way west but is not yet in SJC. Whatcom County has had birds that tested positive for this virus. It is known that it will eventually arrive in SJC as it travels with migratory birds and by mosquitoes. Most people are not affected, but some can be, and some could die. SJC is still testing and sending samples to State. Also, the Health Department has issued press releases to help people clean up around their homes and take precautions. There is a 24-hour emergency contact telephone number in place for Mr. Manning, Ms. Campbell and Mr. Tompkins, and brochures are available for the public. Mr. Tompkins noted that discussions have been held in the past regarding the establishment of a mosquito control district, but the former BOH did not want to pursue it. He asked if this BOH might want to reconsider this option. It was agreed that Mr. Tompkins would provide information to the new BOH for a future meeting to determine if the BOH wants to consider this option.

1:30 p.m. – County Administrator Pro-Tem Council Briefing. Also present: Karen Vedder, Deputy Prosecuting Attorney; Paul Dossett, County Assessor; Ron Henrickson, Community Development and Planning (CDPD) Director; Dan Powell, SJC Cartographer; Jeff Iverson, private surveyor; and interested citizens.

- 1. Land Division of Acreage Regarding the Aliquot System** – Mr. Goldsmith explained that old measurements were done by the Aliquot System and were not done by GIS. He referred to the memo from Paul Dossett detailing the issue dated May 3, 2006. In addition, he referred to a memo from the Ms. Vedder dated May 4, 2006. Mr. Dossett came forward to explain the issue. For years a 160-acre parcel was divided into four sections (quarter sections of 40 acres each). This treated parcels as if the earth was flat. Of course, it is not and the issue now is equity, uniformity, and consistency. He presented an example to show a parcel that really equaled 39.5 acres when surveyed by GIS rather than the 40 acres determined under the old system. In 1998 SJC began to digitize SJC maps. Mr. Powell then added that people have bought and sold property for years and thought that they were actually buying 40 acres or a portion thereof. Now, they have discovered that they do not have that amount. It is complicated when fractions of pieces of property were purchased or sold. A lengthy discussion ensued regarding the issue and how this affects the Open Space Programs as well as requests for land divisions under the existing County Code. Mr. Henrickson reported that this issue came up because of a request for land division that is not addressed in our Comprehensive Plan because fractional sections are not dealt with. If you change the code, you would need to address parcels that are less than zoned-for currently. He added that a former CDPD director contacted another county to discuss this issue, and it was noted that a change could create several new lots. Councilman Ranker stated that he had researched this issue over the last few days and found that the former BOCC did not allow land divisions dealing with fractions. Mr. Henrickson stated that he had no opinion on this issue and the County could administer this either way. Mr. Goldsmith explained that Ms. Vedder's memo deals with this on Page 3. It was stated that CDPD has used the official Assessor's maps for their permit requests. Mr. Powell estimated that there are approximately 132 parcels which are short by $\frac{1}{4}$ of an acre. Half acres were not figured into equation but he estimated that only a few were off by this much. He used 40-acre parcels for determination. Ms. Vedder stated that the 20-acre parcel she was asked to analyze was actually 19.1

acres using the GIS measurement. Councilman Ranker stated he was glad this issue had come up for discussion and that any changes would have to be a policy decision of the Council. Ms. Vedder noted that there is a policy in place which the County is using. Mr. Goldsmith added that there may be an issue of equity because a parcel of 40-acres can be divided (where allowed) and a parcel of 39.6 acres cannot. It was agreed that this issue would be brought back for further discussion in the future when more information has been collected.

2. Deer Harbor Fire District Request for Exemption under Moratorium – Present: Ron Henrickson, Director of Community Development and Planning. Mr. Henrickson stated that the request of the Fire District would require a legal opinion before any action could be taken because allowing this request for an exemption could nullify the existing emergency ordinance. He also stated that he did not see this as an “emergency situation” at this time, adding that this issue has existed for some time prior to the present. Mr. Henrickson did state that if the Fire Department officials had a desire to come before the Council to state why this would be an emergency, and why they had to build now, he would discuss it further with them. Mr. Goldsmith told the Council that he would communicate this information to Fire Chief Harris. The Council stated that they were not in favor of granting an exemption at this time. However, they will await Mr. Henrickson’s and Mr. Goldsmith’s recommendation after they have spoken further with the Fire District.

3. Proposed Work Session Regarding the Olga Hamlet Plan– Mr. Goldsmith noted there was unanimity in the community regarding this proposed plan and that the Planning Commission had agreed unanimously. The plan will be ready to go quickly and he wanted to know if the Council wanted a work session or to go straight to public hearing. Councilman Ranker offered that he has also heard that the proposed plan is mostly supported by community. **It was the consensus of the Council that a work session was not necessary and agreed to go forward with scheduling a public hearing.**

ADJOURNMENT – Council Vice-Chair Myhr adjourned the meeting at 2:23 p.m. There is no meeting schedule for the week of May 29, 2006. A special meeting was scheduled for Monday, June 5, a regular meeting for Tuesday, June 6, and a special meeting for Thursday, June 8, 2006. The Council will attend a private luncheon with their Clerk on June 7, 2006.

These minutes were approved and signed on Tuesday, June 6, 2006. The original document is retained in the Councils’ permanent proceedings file dated May 22 and 23, 2006. Attest: Carolyn K. Morrison, Clerk.