

MEETING MINUTES
SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
MONDAY, FEBRUARY 22, 2016

Legislative Hearing Room, 55 Second Street, Friday Harbor, WA

09:00 AM CALL TO ORDER & FLAG SALUTE

Council Chair Stephens called the meeting to order at 9:00 AM. Present: Council Members Jamie Stephens, Rick Hughes, Bob Jarman. County Manager Mike Thomas, Clerk to the Council Ingrid Gabriel and interested members of the public.

Mr. Stephens added a report from Sheriff Ron Krebs to the agenda.

Citizens Access: The following citizens submitted comments: Bill Wright, Rob Howard

09:14 AM

Sheriff Krebs updated the Council regarding a recent assault on Orcas Island.

09:20 AM PUBLIC HEARING (Council deliberations continued from February 8):
Shoreline Master Program (SMP) Ordinance Follow-Up Items - Erika Shook, Director Community Development; Linda Kuller, Planning Manager; Colin Maycock, Senior Planner
Present: Full Council, County Manager Mike Thomas, Clerk to the Council Ingrid Gabriel

Chair Stephens opened the public hearing to continue deliberations on the draft Ordinance.

Ms. Shook, Ms. Kuller and Mr. Maycock presented proposed changes to the draft Ordinance and answered Council's questions. During discussion, the Council took the following actions:

1. **MOVED by Mr. Jarman, seconded by Mr. Hughes to accept the Staff's language under New Section 29.A.3 [hearing draft Ordinance], "The construction of all overwater structures including new, modifications or replacements of existing facilities must meet the applicable design criteria established by the WDFW in WAC 220-660-140 and 220-660-380, as amended, relative to materials, siting, disruption of currents, restrictions of tidal prisms, flushing characteristics, and fish passage to the extent that those criteria are consistent with protection of the shore process corridor and its operating systems." ALL AYES; MOTION CARRIED.**
2. **MOVED by Mr. Hughes, seconded by Mr. Stephens to include in the title of New Section 37.B [hearing draft Ordinance], words that say "replacement, repair and expansion" and add a new Letter D, "The structure must have been usable at the site within the past twelve months of the time of application to be considered a replacement structure. Usable means no major deterioration or section loss in critical structural components is present," for consistency with WAC 336-60-383(c). ALL AYES; MOTION CARRIED.**

3. **MOVED** by Mr. Stephens, seconded by Mr. Hughes to change the language under “Decking” under Table X on page 61 [hearing draft Ordinance], as Staff has suggested to be closer to the Washington Annotated Code (WAC) 220-660-380, and change all the suggested words “effective grating” to “functional grating”. **ALL AYES; MOTION CARRIED.**
4. **MOVED** by Mr. Jarman, seconded by Mr. Hughes to add on Table X page 61 [hearing draft Ordinance], under “Orientation” Staff’s changes, “Also see the Washington Department of Fish & Wildlife (WDFW) guidelines in WAC 220-660-380 and 220-660-140 as amended.” **ALL AYES; MOTION CARRIED.**
5. **MOVED** by Mr. Jarman, seconded by Mr. Hughes to accept Staff’s three changes under *Goals and Policies* Section 3.4.C Commercial Development: removing the word “indoor” and adding the word “campgrounds” in the introduction; and adding a new #6, “To encourage recreational camping opportunities consistent with the SMA and shoreline ecological functions.” **ALL AYES; MOTION CARRIED.**
6. **MOVED** by Mr. Hughes, seconded by Mr. Jarman to move the *Goals and Policies* parking section under 3.4.M, #4 Recreational Development, “Protect the County’s limited supply of shoreline areas suitable for recreational use from inappropriate uses, such as parking areas. Allow roadside view areas in suitable locations,” to the Transportation section. **ALL AYES; MOTION CARRIED.**
7. **MOVED** by Mr. Hughes, seconded by Mr. Jarman to add under *Goals and Policies* 3.3G Ports, Marinas and Marine Transportation Designation under Policies a new #4 “Encourage the maintenance and expansion of recreation and transportation uses.” **ALL AYES; MOTION CARRIED.**
8. **MOVED** by Mr. Hughes, seconded by Mr. Stephens to delete on page 75 [hearing draft Ordinance] New Section 49 Regulations: Commercial Development in New #9 the word “parking” and delete on the next line “and land transportation facilities” and add a new #11 to read, “All accessory parking and transportation facilities must comply with the provisions of Section 61(b) and (c) of this ordinance.” **ALL AYES; MOTION CARRIED.**
9. **MOVED** by Mr. Jarman, seconded by Mr. Hughes to accept Staff’s recommendations [draft hearing Ordinance] under New Section 61-B Regulations – roads (public and private) to add a new #4, “Access roads must be located according to the following preferences: a) Outside of shoreline jurisdiction, where feasible; or b) Landward of water-oriented uses unless it can be shown that such facilities are shoreline dependent.” **ALL AYES; MOTION CARRIED.**
10. **MOVED** by Mr. Stephens, seconded by Mr. Jarman to add under New Section 61-C.2, Regulations-parking [hearing draft Ordinance] a new #6, “Where feasible,

shared parking is preferred for all types of shoreline development.” ALL AYES;
MOTION CARRIED.

11. **MOVED** by Mr. Jarman, seconded by Mr. Stephens to make changes to the table on page 103 [hearing draft Ordinance] under Commercial Development, Rural/Non-water-oriented uses as presented by Staff with Council’s changes. ALL AYES; MOTION CARRIED.
12. **MOVED** by Mr. Hughes, seconded by Mr. Jarman to change on page 75 Section 49B.2 [hearing draft Ordinance] Regulations by designation under *Rural*, “only by conditional use permit” to “SD (Substantial Development)/Conditional Use Permit.” VOTE: 1-2-0 (Stephens and Jarman opposed); MOTION FAILED.
13. **MOVED** by Mr. Hughes, seconded by Mr. Stephens to change on page 103 [hearing draft Ordinance] the chart under Commercial Development: Rural all the designations from SD to CUP* except for non-water oriented uses which would be “No*/CUP*. ALL AYES; MOTION CARRIED.
14. **MOVED** by Mr. Hughes, seconded by Mr. Jarman to support Staff’s recommendations on the table on page 103 [hearing draft Ordinance] under Conservancy to have all uses read as following “Water-dependent uses – SD*/CUP*; Water-related uses SD*/CUP*; Water-enjoyment uses SD*/CUP*; Mixed-use SD*/CUP*.” ALL AYES; MOTION CARRIED.
15. **MOVED** by Mr. Hughes, seconded by Mr. Jarman to withdraw Motions 13 and 14 as they were covered by a previous motion by Mr. Jarman. ALL AYES; MOTION CARRIED.
16. **MOVED** by Mr. Hughes, seconded by Mr. Stephens to add under New Section 58-A [hearing draft Ordinance] Recreation General regulations #2 the word “and” after “Accessory uses such as restrooms...” and to strike after “commercial services...” the words “access roads and parking lots.” ALL AYES; MOTION CARRIED.
17. **MOVED** by Mr. Hughes, seconded by Mr. Stephens to add in Section 58-A [hearing draft Ordinance], a new number #8, “All accessory parking and transportation facilities must comply with the provisions of New Section 61(B) and (C) of this ordinance.” ALL AYES; MOTION CARRIED.
18. **MOVED** by Mr. Stephens, seconded by Mr. Jarman, under New Section 58-B.2 [hearing draft Ordinance] Regulations by designation that we add the word “Noncommercial...” after “Natural.” VOTE: 2:1:0 (Hughes Opposed); ALL AYES; MOTION CARRIED.
19. **MOVED** by Mr. Stephens, seconded by Mr. Hughes to accept the changes to the table on page 105 [hearing draft Ordinance] under “Recreational development” as directed by Council and presented by Staff with the exception of under “Rural

park with no camping facilities” shall be SD (substantial development). ALL AYES; MOTION CARRIED.

20. **MOVED** by Mr. Hughes, seconded by Mr. Jarman supporting Staff’s recommendation to eliminate in *Goals and Policies*, Section 3.4.H Institutional Development #7 which reads “Parking facilities shall be placed inland away from the water’s edge and recreational beaches, and where necessary should be screened to minimize their visual impact on shorelines, and should include measures to control surface runoff and prevent pollution of nearby water bodies.” ALL AYES; MOTION CARRIED
21. **MOVED** by Mr. Jarman, seconded by Mr. Stephens to add under *Goals and Policies* Section 3.4.O.i, Parking Goal: we accept Staff’s recommended wording “To protect the County’s limited supply of shoreline areas suitable for recreational use from inappropriate uses such as parking areas.” Also, under Policies, to accept Staff’s recommendations for #4, “Place parking lots inland, away from the water’s edge and where necessary, screen parking lots to minimize their visual impact on shorelines, and include measures to control surface runoff and prevent pollution of nearby water bodies.” #5, “Encourage cooperative multiple use of parking lots in port areas. #6, “Allow roadside view areas in suitable locations.” VOTE: 2:1:0 (Hughes opposed); ALL AYES; MOTION CARRIED.
22. **MOVED** by Mr. Hughes, seconded by Mr. Jarman to add in *Goals and Policies* Section-3.5.C Ports and Water-Related Port Facilities Policies #3, the word “and” and delete the words “and parking lots” to read “Encourage cooperative multiple use of docking, cargo handling, and storage in port areas.” ALL AYES; MOTION CARRIED.
23. **MOVED** by Mr. Hughes, seconded by Mr. Jarman to remove in New Section 52 [hearing draft Ordinance] under General Regulations, #2 line 28, the word “parking” on line 28 and on line 29 between “facilities” adding the word and deleting the comma and remove “water dependent portions of the development” on Line 29. And remove “ordinary high water mark of the...” MOTION WITHDRAWN
24. **MOVED** by Mr. Hughes, seconded by Mr. Jarman to remove in New Section 52.A, Industrial development and uses [hearing draft Ordinance], *General regulations*, #2: Line 28 the removal of the word “parking”; and on Line 29, removal of a comma after “facilities” and inclusion of the word “and”. On the same line, removal of “and land transportation” and on Line 30, to include a period at the end of the sentence, and on page 78 removal of the words “of the water dependent portions of the development and the set back from the ordinary high water mark.” ALL AYES; MOTION CARRIED.
25. **MOVED** by Mr. Jarman, seconded by Mr. Hughes to accept under New Section 52.A [hearing draft Ordinance], Industrial developments and uses, *General regulations* Staff’s recommendations for new wording under Line 14 “All

accessory parking and transportation facilities must comply with the provisions of Section 61(B) and Section 61(C) of this Ordinance.” ALL AYES; MOTION CARRIED.

- 26. MOVED by Mr. Jarman, seconded by Mr. Hughes to accept the changes under New Section 53.A, #3 [hearing draft Ordinance], as presented by Staff and adding a new #6, “All accessory parking and transportation facilities must comply with the provisions of Section 61(B) and (C) of this ordinance.” ALL AYES; MOTION CARRIED.**
- 27. MOVED by Mr. Hughes, seconded by Mr. Jarman to add in *Goals and Policies*, Section 3.4.B Aquaculture, *Policies* a new number 9 to read, “Limit aquaculture that involves significant risk of cumulative adverse effects on water quality, sediment quality, benthic or pelagic organisms, and/or wild fish populations through potential contribution of antibiotic resistant bacteria, or escapement of non-native species of other adverse effects on Endangered Species Act listed species.” Plus, the addition of #10, which would read, “Prohibit the introduction of genetically modified organisms.” Also, add in #1 (same section) “Give preferences to...” and delete “in general”; remove “are preferred” after “visual impacts”; add the word “aquaculture” between “floating” and “structures”. Under new #4, delete the word “areas”. Under new #5, add the words, “Consider the relative environmental impacts of each method or proposal...” and delete the words, “...the relative environmental impacts of each method or proposal should be considered”; add the words “the following” after “listed in”; add under 5.d the word “aquaculture” after “floating” and before “structures”. Under new #6, delete the word “raft” and add the words “...of floating aquaculture facilities...” Under #7, add the word “Limit” at the beginning of the sentence and change to lower case “e” on “experimental”; delete the words “should be limited” and “should be approved” and add the words, “...allow them...”. ALL AYES; MOTION CARRIED.**
- 28. MOVED by Mr. Hughes, seconded by Mr. Jarman to add under New Section 18.A [hearing draft Ordinance] a new #7 to read “Critical area standards and requirements for aquaculture activities and uses allowed in and over aquatic fish and wildlife habitat conservation areas do not apply in shoreline jurisdiction. Specifically, SJCC Table 18.35.130-3, items (f) and (g) do not apply.” ALL AYES; MOTION CARRIED.**
- 29. MOVED by Mr. Hughes, seconded by Mr. Jarman to add in New Section 28 [hearing draft Ordinance], a new #3, to read, “Private, non-commercial aquaculture activities that do not include development are not subject to this section.” ALL AYES; MOTION CARRIED.**
- 30. MOVED by Mr. Hughes, seconded by Mr. Jarman to add in New Section 28.A [hearing draft Ordinance] under General Regulations the inclusion of a new #5 “On deeded, private tidelands, shellfish aquaculture projects or practices allowed or permitted by the appropriate state and federal agencies shall be allowed. Projects shall be maintained to standards specified in any and all state and**

federal permits and guidelines, and shall change and improve with changing standards from these entities. County permits shall be required or not, as mandated by Ecology shellfish permitting standards.” VOTE: 1-2-0 (Jarman and Stephens opposed); MOTION FAILED.

- 31. MOVED by Mr. Hughes, seconded by Mr. Jarman to add in New Section 28 on page 52 [hearing draft Ordinance], Line 13, Letter H under #12, the word “aquaculture” between “floating” and “facilities”. ALL AYES; MOTION CARRIED.**
- 32. MOVED by Mr. Hughes, seconded by Mr. Stephens to change in New Section 28 [hearing draft Ordinance] on page 53, which corresponds with page 28 of the Staff Report, new #19 that begins on Line 10 at the end of the sentence where it says “...critical saltwater habitats...” to add, “...where the public’s need for such an action is clearly demonstrated and the proposal is consistent with the protection of the public trust; the project is consistent with the state’s interest in resource protection and species recovery:...” Add two lines down, “...consistent with the requirements of Section 19 of this ordinance. To add on #22, which begins on page 53, Line 21 after “the” and before “or” “...floating aquaculture facility...” Add a new #25 starting on line 31 of page 53, “Commercial finfish net pens are prohibited.” And delete the language, “Fish net pens shall meet, as a minimum, state approved administrative guidelines for the management of net pen cultures. Where any conflict in requirements arises, the more stringent requirement governs.” ALL AYES; MOTION CARRIED.**
- 33. MOVED by Mr. Hughes, seconded by Mr. Jarman to delete in New Section 28 [hearing draft Ordinance] #25, Line 34 that reads, “Individual fish net pens shall not occupy more than two (2) surface acres of water area, excluding necessary booming and anchoring.” On new #26, Line 36 of page 53, strike the words in the first sentence, “...net pens or rafts...” And add the words, “floating aquaculture facilities”. Two lines down, add the words, “floating aquaculture facilities...” and remove the language that say “...net pens or rafts.” On Line 4 of page 54 which corresponds with page 29 of the staff report, add the word “aquaculture” in between “floating” and “systems” and on line 23 to add #30 that says, “A conditional use permit is required for commercial geoduck aquaculture. Subsequent cycles of planting and harvesting do not require a new conditional use permit. A single conditional use permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under the control of the same applicant.” Same page 29, under B to change the language of the title from “Shellfish aquaculture” to “Small-scale shellfish aquaculture.” ALL AYES; MOTION CARRIED.**
- 34. MOVED by Mr. Jarman, seconded by Mr. Hughes to accept Staff’s recommendation to remove under Section 28-B.4 [hearing draft Ordinance], *Aquaculture* wording as presented as it is repetitive. ALL AYES; MOTION CARRIED.**
- 35. MOVED by Mr. Hughes, seconded by Mr. Stephens page 30 (Staff Report) Section 28, page 56 [draft hearing Ordinance] under C. *Aquaculture Regulations by***

designation 1. Rural Residential, to remove the language that states, “Commercial aquaculture project proposals containing net pen facilities are to be located no closer than fifteen hundred feet (1,500) from the Ordinary High Water Mark (OHWM) of this designation unless a lesser distance is determined to be appropriate based upon a visual impact analysis. Other types of...”. Delete lower case “f”. Add upper case “F” and add “aqua” before “...culture facilities...”. ALL AYES; MOTION CARRIED.

- 36. MOVED by Mr. Hughes, seconded by Mr. Jarman to change on page 102 of the hearing draft [Ordinance] under Aquaculture - Finfish Net-pens to “No” for every designation. ALL AYES; MOTION CARRIED.**
- 37. MOVED by Mr. Hughes, seconded by Mr. Jarman to add in the *Goals and Policies*, Section 3.3.H Aquatic Designation, “... the line of ordinary high tide except where those waters between...” and add “...and extreme low tide have been assigned a different environmental designation;...” ALL AYES; MOTION CARRIED.**
- 38. MOVED by Mr. Jarman, seconded by Mr. Hughes to select Option 2 for the Jackson Beach area as presented by Staff with the exception of the end of the spit, which is zoned “Rural” and change to PMT [Ports, Marinas and Marine Transportation].” ALL AYES; MOTION CARRIED.**
- 39. MOVED by Mr. Jarman, seconded by Mr. Stephens to accept the changes [hearing draft Ordinance] as indicated on Staff report for Section 5 adding language to A regarding “Non-conforming uses, structures, and activities under the jurisdiction of the SMP are subject to the provisions of Section 14 of this Ordinance.” VOTE: 2-1-0 (Hughes Opposed); MOTION CARRIED.**
- 40. MOVED by Mr. Hughes, seconded by Mr. Jarman to add in New Section 14-A [hearing draft Ordinance] in parenthesis “...(addressed in Section 47 of this Ordinance) and boating facilities, docks, piers, mooring and recreational floats (addressed in Section 37 of this ordinance)...” ALL AYES; MOTION CARRIED.**
- 41. MOVED by Mr. Hughes, seconded by Mr. Jarman to delete on page 34 [hearing draft Ordinance] in New Section 14-B, #2 the word “and”, and add in # 3, the language “Create a new non-conformance or ...”. And capitalize “Increase” and add as an explanation the images or graphics as applied by Staff. ALL AYES; MOTION CARRIED.**
- 42. MOVED by Mr. Jarman, seconded by Mr. Hughes to remove in New Section 14-D [hearing draft Ordinance] the words, “Destroyed structures may be replaced. Replacement structures must conform to the footprint and actual dimensions of the destroyed structure.” And adding the word “written” after “a” in the sentence, “Upon submittal of a written request for administrative determination, the director may approve minor changes...” ALL AYES; MOTION CARRIED.**
- 43. MOVED by Mr. Jarman, seconded by Mr. Hughes to make changes to Section 14 [hearing draft Ordinance] Subsection 7, under “Vesting” in the title and remove**

the word “and” and add “and vesting” after procedures. We accept the verbiage from Staff in complete for a New Section N, with the exception under #2 at the end of the paragraph inserting after “paid”, “...except as provided in subsections 5 and 6 of this section.” ALL AYES; MOTION CARRIED.

44. MOVED by Mr. Hughes, seconded by Mr. Stephens to add in *Goals and Policies* Section 3.2.D Public Access a number 11 to read, “Promote the use of County road ends to provide public access to the shoreline and to enhance the use of marine facilities.” ALL AYES; MOTION CARRIED.

3:15 PM DISCUSSION & UPDATES: Council, County Manager & Departments

Mr. Hughes: Sending a letter to Customs and Border Patrol regarding direct commercial flight access between the Port of Friday Harbor and Canadian ports; hosting a Town Hall with Sheriff Krebs sat Orcas Senior Center, Wednesday, February 24 to discuss County’s response to recent home invasion/assault event on Orcas Island; attending Opportunity Council Meeting on Thursday, February 25.

Mr. Jarman: Attended Land Bank meeting last week; attended the annual Agricultural Summit as well as the Building Advisory Council meeting; met with Representative Rick Larsen and asked if the citizens’ reports on “Growler” jet noise from the Naval Air Station Whidbey Island are being addressed; suggested writing a thank-you letter to the Naval Commander on Whidbey Island in appreciation of their medical rescue efforts in the San Juan Islands.

Mr. Stephens: Will meet regarding stakeholders on Lopez regarding crushing recycled glass; representatives from Williams Pipeline have requested agenda time with the Council; wants to meet with Orcas Power & Light Cooperative (OPALCO)/Rock Island to get information on their broadband installation plan; will be in Washington DC next week to participate in the “Puget Sound Day on the Hill” event and meet with legislators.

Mr. Thomas: Staff is being trained on the new website this week; participated in the Washington State University interviews for the new SJC Extension Agent; met with Fire District #3 regarding the new fire marshal contract.

04:00 PM ADJOURN

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

These Minutes were approved and signed on April 26, 2016. The original document is retained in the Council’s permanent proceedings file. Attest: Ingrid Gabriel, Council Clerk.