

**MEETING MINUTES  
SAN JUAN COUNTY (SJC), WASHINGTON  
COUNTY COUNCIL  
April 6 and 7, 2009**

**Monday, April 6, 2009 - Council Hearing Room, Legislative Building, Friday Harbor**

**10:00 AM                    CALL TO ORDER**

Council Chair Peterson called the Staff Meeting/Work Session to order at 10:00 a.m. Council members Howard (Howie) Rosenfeld, Gene Knapp, Bob Myhr, Lovel Pratt, and Richard Fralick; County Administrator, Pete Rose; Clerk to the Council, Ann Larson; Deputy Clerks Lisa Brown and Maureen See; and interested members of the public were present.

**CORRESPONDENCE:**

1.) Mr. Peterson asked Mr. Rosenfeld to report on a draft letter to Jeff Morris supporting a House Bill to provide for more timely construction of the critical 144-auto capacity ferry vessels. The letter was edited and Mr. Myhr suggested sending it to the Coastal Counties Caucus as well.

**Moved by Rosenfeld, seconded by Knapp to send this letter as amended. Motion carried unanimously.**

2) Mr. Myhr reported on a letter regarding Senate Bill 5543 that he had sent in support of several issues, including greater flexibility in utility tax legislation and favoring less supplant language in the mental health tax money. He offered a copy of his letter to the Council and encouraged them to consider sending individual letters as well.

**CITIZENS' ACCESS TIME**

**Mr. Ludwig** appeared before the Council to suggest they not move forward with the Cell Phone Ordinance without open public process and determining the best way to solve the problem with the least amount of harm. He provided Clerk Larson with copies of his remarks and the letter he had mailed previously.

**Tom Munsey** expressed concerns regarding cell phone towers and inquired about a staff report. Ms. Larson noted that Ms. Miller's report from the prior week was on the County Website attached to the April 30, 2009, agenda.

**10:15 AM                    CLERK UPDATE & ADMINISTRATIVE MATTERS:** Ann Larson, Clerk to the Council (Verbal)

**Ms. Larson** reported on the Historic Document Preservation Grant and explained that the Council would need to create an Ad Hoc subcommittee to review applications and bring a recommendation to the Council for distribution of the \$6,009 in this fund. She also noted that the April Board of Health meeting had been cancelled and that the Council would meet on Lopez on May 4, 2009. Ms. Larson stated that four letters in support of the NABC had been prepared for consent by Council member Pratt. The Council agreed to place them on consent for tomorrow. Ms. Larson pointed out that the Policy regarding appointments to the Council's Advisory Committees had been prepared with changes proposed by the General Government Subcommittee. Council discussion took place and it was agreed by consensus to add to the Consent Agenda. She also brought to the attention of the Council that Mr. Rosenfeld wished to send a thank you letter to Kevin Peterson, thanking him for providing a sample design of the Transfer Station. It was agreed by the Council through consent to include this letter as well.

**Ms. See** suggested including the new Advisory Committee Policy with the new application and offered her opinion on the application. She reviewed committee openings and applicant information with the Council. The Council concurred to add Mr. Parks' appointment to the HSAC to Consent.

Minutes, Agendas, Consent, and Calendar Items were presented and reviewed. Discussion regarding the Pender Island visit took place.

**10:25 AM                    COUNCIL MEMBER UPDATES & DISCUSSION ITEMS:**

**Budget Subcommittee:** Mr. Fralick reported that the Budget Subcommittee met this morning and would be meeting again next Monday.

**General Government Subcommittee:** Mr. Knapp reported that the GGS met regarding several issues and noted that the Community Development and Planning (CD&P) building regulations haven't been revised for 10 years, while the County has been putting its efforts into obtaining Growth Management Act (GMA) compliance which should be accomplished by the end of this summer. Mr. Knapp said that the committee would then seek public and Staff input on changes they think would be appropriate for building regulations.

**Work Load:** Mr. Fralick requested agenda time to consider as a full Council the work load of the Administrator; and priorities and pacing of Council agenda scheduling.

**Legislative Teleconference:** Mr. Fralick reported on the legislative teleconference and Council discussion took place.

**Legislative Meetings:** Mr. Myhr reported on his meetings in Olympia.

**11:00 AM COUNTY ADMINISTRATOR ITEMS:** Present: Pete Rose, County Administrator; Karen Vedder, Deputy Prosecuting Attorney; Sheriff Cumming; and interested members of the public.

**1. Verbal Briefing on the Dog Ordinance Revision:** Mr. Rose explained that the PA and Sheriff were experiencing difficulties related to enforcement of the current ordinance. Ms. Vedder and Sheriff Cumming provided more details and proposed changes that would clarify enforcement and appeal processes. Ms. Vedder and Sheriff Cumming answered questions from the Council. Ms. Vedder offered to obtain feedback from District Court to provide to the Council prior to the second touch on this item.

**11:30 AM DISCUSSION:** Crab Harvest Update – Marine Resource Committee & Puget Sound Anglers. Present: David Lloyd, MRC member; and interested members of the public.

Mr. Lloyd provided an update on crabbing taking place and the related laws. He addressed the major concerns regarding the number of crab pots in certain areas, whether there is damage to the area, and why there are restrictions even when the resource remains bountiful, and answered questions from the Council.

**11:45 AM DISCUSSION:** Friend of the Court brief in support of Petition for Review. Present: Randall Gaylord, Prosecuting Attorney; and interested members of the public.

Mr. Gaylord explained the brief presented and stated that he was seeking this review due to its pertinence to issues faced in SJC regarding transient and vacation rental legislation and private covenants. Mr. Gaylord answered questions from the Council. Mr. Peterson expressed interest with concern that it may result in protracted participation. Mr. Gaylord assured the Council that his participation would be for this single brief and that he was not seeking to intervene or become a party to the case. The following motion then took place:

**Moved by Knapp, seconded by Myhr, to authorize filing the Friend of the Court Brief presented. Motion carried unanimously.**

**1:00 PM DISCUSSION:** Preliminary Draft Cell Phone Ordinance. Present: Shireene Hale; CD&P Associate Planner; and interested members of the Cell Phone Task Force and public.

Mr. Peterson provided information from the Mar 30, 2009 meeting. Ms. Hale explained that the decision before the Council was whether to move the draft ordinance forward, noting that there is a small window of eligibility in order to meet public information requirements prior to having it considered on the annual docket for this year. Ms. Hale explained that according to Community Trade and Economic Development (CTED) regulations, CD&P is assembling all components of the docket at the beginning of the process so that they can be reviewed relatively and then adopt them on schedule with the most important decisions taking place first. Ms. Hale and Mr. Henrickson answered questions from the Council regarding this process and the cell phone ordinance. Mr. Peterson opened the discussion to the public and the following testimony was submitted:

**Steve Cotton**, a long time San Juan County resident, provided background on his lifetime career in the communications industry, and reported on power and wavelength frequencies and the safety of today's technology. He also explained the way testing is done to determine coverage areas and answered questions from the Council.

**Chief Harris** provided anecdotal information regarding incidents affected by cell phone coverage, including a medic call in a hazardous weather situation where a patient had to remain overnight in the fire station without access to sophisticated protocols, making it difficult to transmit complicated medical information between the station and the hospital. He reported on many other incidents and impacts, and made comparisons to other areas. Chief Harris answered questions from the Council and also pointed out that the Sheriff's Department had done a study on data transmitters on Orcas Island and found that setting up small antennas would be efficient without "covering the County in cell phone towers" to achieve their goals.

**Sheriff Cumming** reported on the limitations of radio for both communications and data transferability, obstacles related to cell communications without proper coverage, and the impacts of these related to emergency response. He stated that he is not in favor of having towers everywhere, but rather well-placed, shared towers for maximum coverage.

**Mike Nacmunger**, a ham radio operator, noted that radios are limited and unreliable, while cell phones are direct. He stated that he would like to see a public review and that Sheriff Cumming and Chief Harris covered the issues well.

**Michael Peterson**, a Lopez Island resident, pointed out that the ordinance being referred to as old is the current and existing ordinance. He noted that he has a great deal of respect for these important issues, having worked himself as a former medic, but addressed public process and property owners' concerns regarding aesthetics, setbacks, and frequency rates related to placement of cell phone towers.

**Pierette Guimmond**, shared several comments and concluded that it is impossible to have perfect coverage in SJC.

**Steve Cotton** offered a point of clarification, noting that he wouldn't stand in the direct beam of any antenna, but would stand at the base of a tower, which has no power.

**Michael Peterson** expressed his concern regarding adjoining properties.

**Laura Gibbons**, an Eastsound resident, and Lopez Island property owner, spoke in favor of the current ordinance and additional Council discussion took place.

**Dave Cable**, a former employee of T-Mobile, and Cell Phone Task Force (CPTF) member, stated that SJC does not have adequate coverage, then explained how technology in systems and towers/antennas have changed over time. Mr. Cable answered questions from the Council. Mr. Myhr expressed tremendous appreciation for the work of the CPTF and Ms. Miller's presentation, which provides a better understanding for him, but not an answer to whether a new ordinance would make any difference.

**Bill Wertz**, a CPTF member, responded to Mr. Myhr's concern by explaining that the CPTF is recommending removing the legislation from the Comprehensive Plan so that it can be accessed for updates more frequently.

Sheriff Cumming provided additional information and Council discussion took place. Mr. Knapp said he hadn't made up his mind yet, but that the discussion today is very helpful. Mr. Rosenfeld stated that he would like to see some more protection to balance the advantages. Mr. Fralick said he believes the Ordinance as written is a good start, but is aware that issues remain. He stated the real issue for him was whether or not to move the Ordinance forward to the docket and what direction to give the CPTF related to the options presented last week, noting that if the process isn't started it won't happen this year. A motion was made by Mr. Fralick and seconded by Mr. Peterson to move the Ordinance forward. Council discussion took place regarding process and the role of the CPTF. Mr. Fralick clarified his motion stating that he wanted the Ordinance moved forward to this year's Comprehensive Plan Annual Docket with details addressed once it is on the docket. Ms. Hale explained that at some point it would need to be handed to Staff to go through the normal public planning processes, and said she envisioned having a draft that the Council is comfortable with being placed on the docket and handed to Staff,

who would set up a public participation plan and go before the Planning Commission. She wasn't clear how additional work of the CPTF would come into play. Ms. Pratt suggested revising membership of the CPTF. Jean Peterson, a Lopez Island resident, commented regarding the lack of balance on the CPTF. Bill Wurtz, submitted additional comments. Mr. Knapp spoke in favor of moving the matter forward. Mr. Myhr countered that the first report from the CPTF took place last week and he requested more information and a Staff Report. Mr. Rosenfeld stated his position regarding the CPTF noting that the Ordinance would eventually go through the regular Staff and public process of ordinance development. Ms. Pratt asked to have the motion repeated. While Ms. Brown searched the record for the initial motion, Ms. Hale reviewed concerns regarding the Ordinance and offered to take the draft Ordinance as it is and make necessary code adjustments and set it up using the tiered approach and then following the typical Ordinance process to present as a Staff draft. The motion was then withdrawn by Mr. Fralick and Mr. Peterson. Mr. Fralick asked if this process would get the Ordinance on the docket for this year. Ms. Hale said that it would and that Staff time could be allocated to appropriately address concerns and incorporate recommendations of the task force. The following action then took place:

**Moved by Fralick, seconded by Peterson, to move the draft Ordinance, as it currently exists, back to CD&P through the ordinary channels and have Ms. Hale put together the tiered language that would be appropriate along the lines that have been suggested.** Mr. Rose mentioned that Shireene offered to listen to input and have Staff make choices of its own and if the Council is making a motion it becomes Council directed. Ms. Pratt said she would support the Staff taking it from here with all the various input and putting forward a staff proposal of how they see this working. Mr. Fralick said that was what he was saying, but to include the major demarcation of the tiered approach, which is what he believed the Council agreed to. Myhr asked for clarification on the motion after which **Mr. Fralick restated the motion that the draft ordinance be returned to Staff to put into the form that is suitable for their normal presentation, and direct Staff to incorporate into that ordinance the tiered approach, as outlined, to the approval process.** Mr. Myhr took exception with the word returned and said it should be stated that it be sent to staff. **Mr. Fralick said "sent" to staff and Mr. Peterson re-seconded the motion. Motion carried with Myhr opposed.**

**3:30 PM**                    **ADJOURN AND SIGN DOCUMENTATION:** (Time Approximate) The meeting was adjourned at 3:07 p.m.

<b>Tuesday, April 7, 2009 - Council Hearing Room, Legislative Building, Friday Harbor</b>
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**10:00 AM**                    **CALL TO ORDER**

Council Chair Peterson called the meeting to order at 10:00 a.m. and the flag salute was conducted. Council members Howard (Howie) Rosenfeld, Gene Knapp, Bob Myhr, Lovel Pratt, and Richard Fralick; County Administrator, Pete Rose; Clerk to the Council, Ann Larson; Deputy Clerk, Lisa Brown; and interested members of the public were present.

**AGENDA ADDITION**

Chair Peterson announced that the Council would be holding an Executive Session at 3:45 p.m. today to discuss pending litigation.

**COUNCIL ADMINISTRATIVE MATTERS**

Minutes: **Moved by Fralick, seconded by Knapp, to adopt the Minutes of March 30 and 31, 2009. Motion carried unanimously.**

Consent: **Moved by Myhr, seconded by Fralick, to approve the Consent Agenda of April 7, 2009, as follows:**

**A. Resolutions / Ordinances:**

**B. Contracts/Agreements:** (No items.)

**C. Budget Items: Approve 2009 Warrants signed by Auditor and County Administrator:**

- Warrants #59725-59765 in amount of \$129,859.36 for Public Works
- Warrants #59766-59795 in amount of \$22,244.37 for Sheriff

- Warrants #59797-59927 in amount of \$171,879.41 for County Claims
- Warrant #60173 in amount of \$200 for Veteran's Assistance
- Warrants #60225-60306 in amount of \$106,661.29 for County Claims
- Warrants #60307-60329 in amount of \$319,743.80 for Public Works
- Warrants #60509-60512 in the amount of \$1,233.26 for Medical reimbursements
- Warrants #60567-60598 in the amount of \$25,760.36 for County Claims
- Warrants #60537-60566 in the amount of \$14,046.54 for Public Works

**D. Personnel:** (No items.)

**E. Appointments:**

- A letter appointing David Parks MSW to the Human Services Advisory Board, District #1, Position #3, a term beginning immediately and expiring April 30, 2012.

**F. Correspondence:**

- A letter to Senator Joseph Zarelli in support of the NABC, requesting Senate budget funding.
- A letter to Senator Lisa Brown in support of the NABC, requesting Senate budget funding.
- A letter to Senator Margarita Prentice in support of the NABC, requesting Senate budget funding.
- A letter to Senator Rodney Tom in support of the NABC, requesting Senate budget funding.
- A letter thanking Kevin Peterson, an architect, for his report on the San Juan Island Transfer Facility Layouts and Choices, submitted on a pro bono basis.

**G. Miscellaneous:**

- A Proclamation declaring May 2009 "Community Action Month" for the Opportunity Council.
- A Policy Regarding Appointments to County Advisory Committees

**H. Bid Openings:** (No items.)

**Motion carried unanimously.**

## **COUNCIL MEMBER UPDATES**

**San Juan Island Community Foundation Critical Needs Task Force:** Ms. Pratt, Chair of the Food Workgroup, reported on her participation and the work they are doing to bring stakeholders together to discuss critical needs our community is facing and share ideas on how to address them, such as expanding the senior and school meals programs. Mr. Cory inquired whether these meetings were open to the public and Ms. Pratt referred Mr. Cory to Susan Matthews at the San Juan Island Community Foundation for more information.

**Lopez Village Advisory Committee:** Mr. Myhr commented on the growing need for this committee, as the vacation rental issue continues and the Market relocation permits are in place.

**County Contracts / BOE Update:** Mr. Rose explained this function of his office, mandated through Charter, stating that 360 contracts are processed each year. He noted that two recent contracts, the King Sisters upgrades and the farming lease on that property, will be bringing some noticeable change to the SJC landscape. He reported that chip sealing would be commencing on Lopez Island and that the BOE has had the busiest staff year on record, but that Chris Covington and the Assessor had passed the half-way mark in the hearings, with a report forthcoming. He stated that Ms. Cunningham, Deputy Administrator, is currently fielding a request from the SJ Farmers' Market to consider use of County land neighboring the Legislative Building for some small mid-week small Farmers' Markets. Ms. Pratt suggested sending a letter of thanks to the BOE for their work this year. She also reported that Tom French, FHHS Experience Food Project, had requested use of some of the property across the street from the high school to put in a garden for the school lunch program. Mr. Rose said that the decision had been left to the Superintendent and Mr. French to see if they were willing to accept risk and if so, he would direct a quid pro quo agreement.

**Cell Phone Task Force:** Mr. Fralick wanted to recognize the tremendous amount of time spent by the CPTF and suggested sending a letter of thanks to them as well.

**Greenhouse Project:** Mr. Rosenfeld inquired about the Greenhouse Project proposed by Aaron Kendzorick with funding through a Gates Grant. Ms. Pratt and Mr. Rose provided information related to seeking a site for this project.

**10:40 AM PUBLIC HEARING:** A public hearing was held to consider the Bowles Timber Open Space Application #08TOS003 (TPN 240232001). Present: Full Council; County Administrator, Pete Rose; County Clerk, Ann Larson; Public Hearings Specialist, Lisa Brown; Julie Thompson, Associate Planner; and interested members of the public.

Ms. Thompson presented her staff report and explained the plan to the Council. She recommended approval, noting that the application had been heard by the Planning Commission, and they too recommended approval. Ms. Thompson answered questions from the Council. Public testimony was opened, none submitted, and closed. Deliberations were held and the following action took place:

**Moved by Myhr, seconded by Pratt, to approve the Bowles Timber Open Space Application #08TOS003. Motion carried unanimously.**

**10:55 AM PUBLIC HEARING:** A public hearing was held to consider the Maffei Timber Open Space Application #08TOS004 (TPN 262432010002, 262432007002, 262432008000). Present: Full Council; County Administrator, Pete Rose; County Clerk, Ann Larson; Public Hearings Specialist, Lisa Brown; Julie Thompson, Associate Planner; and interested members of the public.

Ms. Thompson presented her staff report and explained that this application was to transfer property out of DFL and into TOS and provided specific information regarding the proposal. She noted that she and the Planning Commission were recommending approval. Ms. Thompson answered questions from the Council. Public testimony was opened, none submitted, and closed. Deliberations were held and the following action took place:

**Moved by Myhr, seconded by Knapp, to approve the Maffei Timber Open Space Application #08TOS004. Motion carried unanimously.**

**11:10 AM COUNCIL DISCUSSION:** Ferry/FAC/Inter-modal, Lobbying Efforts/Legislative Priorities

Mr. Rose explained that a lot will be happening in legislation related to ferries during these last three weeks of the legislative session. Council discussion took place regarding ferry service and legislative tactics. Mr. Rosenfeld reported on a Bill that would expand the FAC by one member to include a County Legislator and asked to consider whether SJC would move one the alternates into a permanent place or select an additional member and maintain two alternates. Council discussion continued regarding WSF, possibilities for the Sidney run using a foreign hull, FAC composition and operation, ferry replacement scheduling, rates, and challenges WSF management faces.

Other Issues: Ms. Pratt inquired about broadband fees for state parks; Mr. Fralick said that a copy of the bill had been requested from Representative Morris' office. Mr. Myhr referenced his letter again regarding Senate Bill 5334

**11:45 AM COMMITTEE REPORT:** Lodging Tax Advisory Committee (LTAC) Work Plan – Chair Peterson

Mr. Peterson gave an overview of the 2008 LTAC Report and 2009 Work Plan and thanked Mr. Rose for producing the reports, which addressed cost for the Village Green restroom for 2009. He noted that the LTAC grant process for 2009 is in motion and reported on the upcoming review schedule and grant funds, amounting to approximately \$360,000 for 2010. Mr. Peterson answered questions from his colleagues and discussion took place regarding the first and second "2%" money, tourism and infrastructure, and project funding, The following action then took place:

**Moved by Rosenfeld, seconded by Fralick, to approve the 2009 LTAC Work Plan. Motion carried unanimously.**

**Announcement:** Chair Peterson reported that a determination had been made by the Prosecuting Attorney, being that the matter to be taken up after the Housing Element discussion would take place in open session.

**1:30 PM**                    **WORK SESSION:** Housing Element, Changes to Appendix 1 – Population, & Housing Authority. Present: Ron Henrickson, CD&P Director; Colin Maycock, CD&P Senior Planner; Angela Lausch, SJC Affordable Housing Coordinator; and interested members of the public.

Mr. Rose said the goal of Staff was to focus on key policy issues that the Council would need to decide on, noting that any internal inconsistency could be dealt with “off-line.” Mr. Henrickson thanked the Council for their comments. Mr. Henrickson and Mr. Maycock then worked through the document with the Council addressing and noting each of their specific recommendations, while questions and dialogue took place. The following motion was then made:

**Moved by Pratt, seconded by Knapp, to continue the continued public hearing to June 8 [9], 2009.** Mr. Fralick inquired about the 90 day extension to the GMA regarding the Housing Element. Mr. Henrickson said it had been requested and he expected an allowance until the end of June. **Motion carried unanimously.**

**Added Item:**                **DISCUSSION:** FEIS Appeal. Present: Pete Rose, County Administrator; Randall Gaylord, Prosecuting Attorney; and interested members of the public.

Mr. Rose stated the Council had an option to consolidate appeals with the hearing on the first government action to take place regarding the facility in question. He stated that after hearing the law and discussing the matter with Mr. Gaylord, the Council would either act to consolidate, put something on the website to consolidate, or decide to take a separate action. Mr. Gaylord explained that the general rule is to consolidate and is part of the regulations referenced in 1995, noting that an exception is made in the statute when the applicant that it is not a requirement. Mr. Gaylord explained the two scenarios and answered questions from the Council regarding its relevance to the siting decision, appeals, and timing. Mr. Gaylord recommended consolidation of the appeal. Mr. Rose explained that if the Council took no action that he would direct the consolidation.

**3:45 PM**                    **ADJOURN AND SIGN DOCUMENTATION:** (Time Approximate) Chair Peterson adjourned the meeting at 4:07 p.m. Motion carried. A meeting was scheduled for Monday, April 13, 2009, and the next regular meeting was scheduled for Tuesday, April 14, 2009.

**APPOINTMENTS:** 1. See Consent Agenda, section E.

**BUDGET ITEMS/WARRANTS:** 1. See Consent Agenda, section C.

**CALL FOR BIDS:** (No items.)

**CONTRACTS/AGREEMENTS:** (No items.)

**CORRESPONDENCE:** 1. See Consent Agenda, section F.

**MISCELLANEOUS ITEMS:** 1. See Consent Agenda, section G.

**ORDINANCES / RESOLUTIONS:** (No items.)

**PERSONNEL ITEMS:** (No items.)

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**These Minutes were approved and signed on Tuesday, April 14, 2009. The original document is retained in the Council’s permanent proceedings file. Attest: Lisa J. Brown, Deputy Clerk.**