

**SUMMARY OF THE MINUTES
SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
Monday, September 10, 2007**

Monday, September 10, 2007 - Council Conference Room

CALL TO ORDER

Council Vice-Chair Rosenfeld called the special meeting to order at 10:00 a.m. Council members Knapp, and Lichter; County Administrator, Pete Rose; Prosecuting Attorney, Randall Gaylord; Clerk to the Council, Laura Tuttle; and interested members of the public were present. *Council Chair Myhr, Councilman Ranker, and Councilman Peterson were excused.*

PUBLIC MEETINGS/WORK SESSIONS

10:00 a.m. – The Council met for a Staff Meeting and Work Session.

RECESS - At 11:45 a.m., Council Vice-Chair Rosenfeld recessed the meeting until 10:00 a.m., Tuesday, September 11, 2007.

Tuesday, September 11, 2007 - Council Hearing Room

CALL TO ORDER

Council Vice-Chair Rosenfeld called the meeting to order at 10:00 a.m. The flag salute was conducted and a moment of silence was invoked to commemorate those tragically affected since September 11, 2001.

EXCUSED ABSENCES

Moved by Lichter, seconded by Ranker, to excuse the absences of Mr. Myhr and Mr. Peterson. Motion carried.

CITIZEN ACCESS TIME

Ginger Norgaard referenced copies she provided to the Council of the judge's oral decision regarding her case, and a copy of her deed, showing an aliquot system legal description, and asked if the Council had any cause not to allow this to continue as ruled. She also hoped the Council would give this issue priority, so they could proceed with their plans without taking more time and incurring more cost.

Richard Durhack also urged the Council to process this immediately, stating that he was sure the Council could understand the desire of a property owner to be able to proceed without impediment as winter approaches.

Sharon Kivisto inquired about the absence of the Whale Protection Ordinance from the County's Website, stating that it would have been helpful to view it there prior to the hearing.

Mike Calhoun, President of the SJI Community Radio Board of Directors, requested assistance in finding an antenna site, either on public land, or negotiating with land owners, for placing a 100-watt transmitter and a 28 foot tower, for an educational radio station on San Juan Island. He referenced the letter he had submitted to the Council. Mr. Rosenfeld stated that this could tie in with (EMS) radio sites, adding that the EMS is seeking sites for a repeater. He then directed Staff to add this as a future agenda item, bringing in all stakeholders.

ANNOUNCEMENTS/SCHEDULE CHANGES

The posted agenda was adjusted. Mr. Rosenfeld announced that the Executive session would commence at 2:00 p.m.

APPROVAL OF MINUTES

Moved by Ranker, seconded by Knapp, to approve the Minutes of **August 20 and 21, 2007**. Motion carried.

CONSENT AGENDA

Moved by Lichter, seconded by Knapp, to approve the **Final Consent Agenda of September 11, 2007** as follows:

A. Resolutions/Ordinances: (No items.)

B. Contracts/Agreements:

1. Approve Grant No. 08000042 between the State of Washington Department of Ecology and San Juan County Health and Community Services, Project WRIA 2 – Planning Unit Support (SJC Agreement No. 07HC49). State funding of \$30,000 for period July 1, 2007 through June 30, 2008, no matching funds required, to provide Staff support to the Watershed Management Committee.

2. Approve Water Services Agreement Between The County of San Juan and Fisherman Bay Water Association (SJC Agreement No. 07CDPD25), for a term of 20 years, with possible extension of time with a written agreement by the Fisherman Bay Water Association and SJC no later than six months prior to the date of termination, September 11, 2027. In order to comply with the GMA, the County is required to enter into agreements with water providers within the UGA.

3. Approve Interagency Agreement IAA08056 Between the State of Washington Administrative Office of the Courts and The SJC Juvenile Court (SJC Agreement No. 07JV05). This Agreement is to commence July 1, 2007 and be completed on June 30, 2009, for the Court to increase the number of children served by Court-Appointed Special Advocate (CASA) in dependency matters and reduce the average caseload of volunteers to recommended CASA coordinator standards.

4. Approve Interagency Agreement IAA08029 Between the Administrative Office of the Courts and SJC Juvenile Court (SJC Agreement No. 07JV08), this Agreement to commence July 1, 2007, and be completed on June 30, 2009, to engage the services of the Contractor to process Becca Bill programs and services within its jurisdiction.

C. Budget Items:

1. Approve computer laptop costs of September 10, 2007 of \$603.12 for Kevin Ranker

D. Personnel: (No items.)

E. Appointments:

1. Approve the appointment of Katie Hover from San Juan Island to the Agricultural Resources Committee (ARC), 1st Term, as a representative at large, for a term which will begin immediately and expire August 31, 2011. Said appointment is endorsed by Ron Zee, District Manager & Chair of the ARC.

F. Correspondence:

1. Sign the letter confirming the appointment of Katie Hover from San Juan Island to the Agricultural Resources Committee, 1st Term, as a representative at large.

G. Miscellaneous: (No items.)

H. Bid Openings: (No items.)

Motion carried.

ACTION AND DISCUSSION ITEMS

ORDINANCES/RESOLUTIONS:

ORD. NO. 35-2007- (Refer to PUBLIC MEETINGS/HEARINGS, 3:00 p.m. for details of action taken.)

RES. NO. 36-2007- (Refer to PUBLIC MEETINGS/HEARINGS, 10:15 a.m. for details of action taken.)

PUBLIC HEARINGS/MEETINGS/WORK SESSIONS

COUNCIL DISCUSSION/UPDATES/OTHER ACTION ITEMS:

1. Mitchell Hill Preservation – Mr. Ranker provided an update on Mitchell Hill stating that, for some time, the goal of the Council had been to make sure the DNR property, adjacent to British Camp, was permanently protected for its natural resources, and recreational and economic value to the community. Mr. Ranker reported that, with endorsement early-on from Congressman Larsen, and the recent buy-in by Senator Cantwell, he has not been more confident in the success of this project since the onset. Senator Cantwell's Senior Staff and National Parks Staff are seeking suitable logging property in the Olympic Peninsula to be purchased and exchanged through a non-profit organization, likely the Conservation Fund, to make this acquisition possible. It will also be important to bring media attention to this, as a local match will be required and citizens will need to recognize that

this is similar to the Turtleback acquisition, requiring large private donations totaling 1.5 – 2 million dollars, with 7-8 million coming from the Federal Government. Mr. Rosenfeld shared his concern regarding areas on the property that could be dangerous from a fire load standpoint due to logging, not to mention unsightly. When questioned by Mr. Rose if this was a direction to contact the fire district, Mr. Rosenfeld said that was not necessary, as several members of the SJI Trails Committee are members of the Fire District and aware of the condition. He added that the majority of the property is beautiful and directed the public to [sanjuanislandtrails.org](http://www.sanjuanislandtrails.org) [which includes a link to the Mitchell Hill Conservancy site at <http://www.mitchellhill.org/index.html>].

2. The Puget Sound Partnership (PSP) – Mr. Ranker reported that the action areas in the PSP have been defined. Ours is known as SJI action area, and includes the San Juan Islands and most of Whatcom County. He stressed the importance of the Council's role in coordinating with Marine Resource Committees from SJC and Whatcom Counties to engage the right people to ensure a good partnership, due to the lack of representation in the state planning processes on the part of Whatcom County.

3. Oil spill legislation – Mr. Ranker referenced a letter that the MRC was seeking authorization from the Council to send to Representative Larsen regarding Oil Spill Legislation — one of the Council's top federal legislative priorities. He added that this could lend strength to Senator Cantwell's efforts to gain needed support from the House of Representatives for the Coast Guard Reauthorization Act. After Council discussion and some editing, the following action took place: **The Council agreed by consensus to authorize the MRC to send its letter with the changes noted.** Council members thanked Laura Arnold for bringing the letter before the Council.

4. Miscellaneous Items – a) Flag Protocol – Mr. Lichter reported that he was contacted by a constituent who requested that the American Flag be flown at half-staff to honor service men and women. Mr. Lichter asked other Council members their opinion on endorsing this protocol, adding that decisions regarding time-periods for flags to be flown at half-mast could be determined by local governments. After a brief discussion regarding showing support for the troops, Mr. Rosenfeld asked that this be placed on a future agenda. **b) Orca Ordinance** – Mr. Ranker, responding to Ms. Kivisto's question during Citizen Access Time, said he also was unable to find the Orca Ordinance on the County website. Mr. Ranker stated that the previous copy, that had been distributed, was very close to the one that would be discussed this afternoon, adding that it was unfortunate the most recent draft was unavailable and stressed the importance of posting ordinances prior to public hearings. **c) Sign Ordinance** – Also present: Jeff Wasnick, CDPD Code Enforcement Officer; and Ron Henrickson, CDPD Director. Mr. Knapp reported that he had attended a meeting of the Eastsound Sub-area Plan Monday evening, September 10, 2007, during which discussion regarding granting leniency toward allowing A-board, or sandwich-board signs, took place. In light of this he stated a "blanket" prohibition may not be appropriate at this time and suggested rethinking enforcement until this is clarified. Mr. Rose pointed out that A-boards are currently not allowed and that the County had received several complaints regarding their illegal use over the summer. Discussion regarding the proliferation of commercial, event, and garage sale signs over the years, and the idea of requiring a uniform design and specific locations followed. Mr. Rosenfeld stated there was no action taking place today and that Staff should "stay the course," regarding enforcement to current code. Mr. Henrickson said that Mr. Wasnick would direct flow towards commercial signs, making his determinations on a case-by-case basis, and give a 30-day warning period before red-tagging. **d) Title 2 Ordinance Revision of the SJC Code** – Mr. Knapp suggested splitting review of this section into two sets, being 2.04 through 2.24, and 2.25 on the following week, due to its import and finality. **The Council agreed to this by consensus.** **e) Aliquot Issue** – [The presence of Deputy PA, Karen Vedder, and Assessor, Charles Zalmanek was requested by the Council] Mr. Ranker noted that since this arose from Citizen Access Time, and was not advertised as an agenda item, it would be considered an update and no action would be taken. Mr. Knapp asked Ms. Vedder if the County could require the applicant to submit a survey affirming the amount of acreage involved on land designations. Ms. Vedder responded by stating that there was no written order in this case, only an oral decision which created a lot of confusion on the role of a survey. Mr. Zalmanek and Mr. Henrickson concurred, and Ms. Vedder continued to answer questions from the Council. Mr. Rosenfeld apologized to Mr. Durhack and Ms. Norgaard for being stalled by this process. Mr. Ranker expressed hope that an appeal would not be necessary once the decision was clarified. Ms. Vedder explained that the County would be working on an interim period from the Judge's decision, with the next step being to change the code to comply with what the judge determined to be allowable. She also informed the Council that there was a 30-day period after the written decision was delivered to file an appeal. Mr. Ranker asked if Mr. Durhack and Ms. Norgaard could move forward with their subdivision. Ms. Vedder responded by stating they could move forward with the County's best interpretation of how the Judge's decision would affect other parcels, but that she would have difficulty advising CDPD on that. Ms. Norgaard thanked the Council for their consideration.

COUNTY ADMINISTRATOR COUNCIL BRIEFING

Also present: Charlotte Dye, Deputy Auditor; Milene Henley, Auditor; George Johnson, IT Services Director; and interested members of the public.

1. Council briefing on budget issues. Mr. Rose provided a budget update to the Council and commended Auditor Henley for building the spreadsheets for departments to submit their budgets on, which will be fed into the Eden program for the final budgeting process. Once that takes place he will have a better idea of what it will take to get the budget to close. He expressed concern regarding building reserves in the County Current and Equipment Rental and Revolving (ER&R) funds at a time when it has become necessary to “pay the piper” on County Current and Public Works needs, and replacement out of Real Estate Excise Tax (REET) would be incompatible by definition. Support payments for the phone system and switch have been long avoided and can no longer be put off. While grant revenues are solid, the cost of maintaining staffing for parks is increasing. In terms of extraordinary revenue used in the last 3-4 years, road levy shift expenditures may be necessary to balance the budget. He added that departments have behaved excellently in terms of base budget requests. Contract increases will need consideration in the areas of Agriculture Extension and software licensing. He reported that there are 37 program requests, totaling approximately \$675,000, and 11 capital requests, a couple of which have been expected in the \$250,000 range. The Capital Budget will also be stretched with the upcoming historic Courthouse renovation project --something that couldn't be passed up, but will require a \$300,000 match. Mr. Rose said he would continue to work with department heads to arrive at a budget for recommendation that has buy-in from all departments. Mr. Rose, Ms. Henley, Mr. Johnson, and Ms. Dye answered questions from the Council. Mr. Rosenfeld then presented Ms. Dye with a retirement gift on behalf of the Council.

2. Title 2 Ordinance Revision of the SJC Code and Rules for Advisory Bodies - Mr. Rose reviewed Mr. Knapp's suggestion to divide Title 2 into two sections with public hearings in successive weeks. As far as the rules for advisory bodies, he asked that they be sent out to all boards and commissions to be reviewed within the next 35 to 40 days. Mr. Gaylord pointed out that under the Charter, the next step would be to introduce the ordinances for public hearings, and suggested taking a more comprehensive look at 2.22, the Hearings Examiner ordinance. After discussion, the following motion took place:

Moved by Ranker, seconded by Knapp to move forward to public hearings on ordinances for sections 2.04, 2.10, 2.11, 2.16, 2.24, 2.25, 2.28, 2.32, 2.42, 2.44, 2.48, 2.52, 2.56, 2.74, 2.84, 2.88, 2.100. Under discussion Mr. Knapp pointed out that 2.22 was not included in this motion. **Motion carried.**

PUBLIC MEETINGS/HEARINGS

10:15 a.m. – (Commenced at 10:34 due to time constraints.) A public meeting was held to consider a resolution repealing Resolution 30-2005 and adopting a revised Public Participation Plan for the development of the Essential Public Facilities Ordinance. Also present: Pete Rose, County Administrator; Ron Henrickson, Community Development and Planning Department (CDPD) Director; Shireene Hale, CDPD Senior Planner; and interested members of the public. Ms. Hale referenced her Staff Report, stating that County Staff would be working with the Town as development of the Ordinance progressed. She said there would be a meeting prior to the public hearing to solicit additional committee members, and that the initial list of seven members would be contacted as well. She explained the drafting and public hearing process proposed and then answered questions from the Council. After discussion, the following action took place:

Moved by Ranker, seconded by Knapp to adopt a Resolution 36-2007 repealing Resolution 30-2005 and adopting a new Public Participation Plan for amendments to the SJC Comprehensive Plan and development regulations regarding Essential Public Facilities. Motion carried.

3:00 p.m. A public hearing was held to consider an ordinance regulating the operation of vessels in proximity to the Southern Resident Killer Whale, an endangered species, and establishing penalties for the violation thereof. Present: Council members Rosenfeld, Lichter, Ranker, and Knapp; Clerk Tuttle; Deputy Clerk Brown; County Administrator, Pete Rose; Randall Gaylord, Prosecuting Attorney; Sheriff Cumming; Sergeant Russ Mullins, WDFW; and interested members of the public. Mr. Gaylord referenced the proposed ordinance and provided background regarding its development and answered questions from the Council. Public testimony was opened, submitted, and closed. Discussion regarding “knowingly” versus “negligent” violations followed. Mr. Gaylord and Mr. Cumming answered additional questions from the Council. It was decided that it would be impossible to cover every situation, but having this ordinance in place would provide an enforcement tool. Sheriff Cumming

was asked to comment on authorizing a commission to WDFW, to which he replied, "This is a County Ordinance, through which he is willing to work with co-enforcing due to the interim status, and added that it would be a mistake on the part of the County to assume that this Ordinance is anything but interim and when we ask the State to step in and enforce an Ordinance it needs to be a state law not a county ordinance. He added that he is unwilling to hand over commission due to liability issues and desire to get this ordinance squarely in front of the State Legislature. Mr. Rosenfeld asked what citizens should do if they witness harassing behavior. Sheriff Cumming said his office should be contacted. Deliberations were held and the following action was taken:

Moved by Lichter, seconded by Ranker, to adopt Ordinance 35-2007, Regulating Operation of Vessels in Proximity to the Southern Resident Killer Whale, an Endangered Species, and Establishing Penalties for the Violation Thereof. Mr. Ranker added a friendly amendment to have the ordinance include original discussion points additional organizations involved in development of the ordinance and the correction to the numbering. Friendly amendment was accepted by Mr. Lichter. **Motion carried.**

EXECUTIVE SESSIONS

2:06 p.m. Council Vice-Chair Rosenfeld announced that the Council would be holding an **executive session** estimated to last approximately 30 minutes, to discuss pending litigation pursuant to the provisions of RCW 42.30.110(1)(i). Participants: Prosecuting Attorney Randall Gaylord was present. The session ended at 2:30 p.m. for an actual session time of 24 minutes. No action was taken.

ADJOURNMENT - Moved by Ranker, seconded by Lichter, to adjourn the meeting at 4:40 p.m. Motion carried. A Special Meeting was scheduled for Monday, September 17, 2007, and the next regular meeting was scheduled for Tuesday, September 18, 2007.

These minutes were approved and signed on Tuesday, September 18, 2007. The original document is retained in the Council's permanent proceedings file dated September 11, 2007. Attest: Lisa J. Brown, Deputy Clerk.