

**SUMMARY OF THE MINUTES
SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
JULY 10 AND 11, 2006**

Monday, July 10, 2006 - Council Hearing Room

CALL TO ORDER

Council Chair Lichter called the special meeting to order at 10:00 a.m. Council Member Myhr; County Administrator Pro-Tem, David Goldsmith; Randall Gaylord, Prosecuting Attorney; and Interim Clerk of the Council, Carolyn Morrison, were present. Council Member Ranker was excused for 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 business of the County. No action was taken

RECESS - At 11:55 a.m., Council Chair recessed the meeting until 10:00 a.m., Tuesday, July 11, 2006.

Tuesday, July 11, 2006 - Council Hearing Room

CALL TO ORDER

Council Chair Lichter called the meeting to order at 10:00 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

No matters were brought before the Council.

ANNOUNCEMENTS/SCHEDULE CHANGES

The posted Council Agenda and Discussion/Other Action Agenda were revised.

APPROVAL OF MINUTES

Moved by Myhr, seconded by Lichter, to approve the minutes of **June 26 and 27, 2006**. Motion carried.

CONSENT AGENDA

Moved by Myhr, seconded by Lichter, to approve the **Final Consent Agenda of July 11, 2006** as follows

A. Resolutions/Ordinances:

1. **Resolution 35-2006** - Adopt the resolution rescinding Resolution 30-2006, adopted on May 23, 2006, and rescinding the bid award therein to Paramount Petroleum for supplying CRS-2P Asphalt Emulsion at the price of \$295.00 per ton with tax, pursuant to notification of the decline of the bid award and contract by Paramount Petroleum; and, re-awarding the bid and contract for CRS-2P Asphalt Emulsion to McAsphalt Industries, Ltd., at the price of \$280.00 per ton without tax as the second bidder meeting the published specifications submitted at the bid opening held on April 25, 2006.
2. **Resolution 37-2006** – Adopt the resolution affirming the permanent replacement of the SJC Auditor as the Ex-Officio Clerk of the SJC Council; implementing the right of the SJC Council henceforth to appoint a Clerk of the Council pursuant to RCW 36.32.110; and providing for the transfer of existing funding under the Auditor's budget to the Council's budget to pay for the positions and duties as set forth therein.

B. Contracts/Agreements:

1. **Agreement No. 06PK07** – Sign the Interlocal Agreement between SJC and the San Juan Island Park and Recreation District (SJIP&RD) for a summer recreation program for 2006 as identified in Attachment A, in an

amount not to exceed \$17,900, for the period of January 1, 2006 through December 31, 2006, under the terms and conditions outlined therein.

C. Personnel:

1. Approve the extension of the appointment of Carolyn Morrison as the Interim SJC Council Clerk/Office Manager, at Range L, Step 3 of the 2006 Management Non-Represented Pay Schedule, until the permanent appointment of the position of Clerk of the Council/Office Manager is made by the County Council.

D. Appointments:

1. Approve the appointment of Patty Miller to the Eastsound Design Review Subcommittee as representative of the Eastsound Planning Review Committee for a three-year appointment which will begin immediately and expire July 31, 2009.

2. Approve the reappointment of William C. Agosta to the Noxious Weed Control Board for a four-year term which will begin August 1, 2006 and expire July 31, 2010.

E. Correspondence:

1. Sign the letter confirming the appointment of Patty Miller to the Eastsound Design Review Subcommittee as representative of the Eastsound Planning Review Committee.

2. Sign the letter confirming the reappointment of William C. Agosta to the Noxious Weed Control Board.

3. Sign the letter to Victoria Parker accepting her resignation from the San Juan County Marine Resources Committee; and, sign the Certificate of Recognition for her service.

F. Miscellaneous:

1. Sign the proclamation declaring July 2006 as Recreation and Parks Month.

Motion carried.

ACTION AND DISCUSSION ITEMS

ORDINANCES/RESOLUTIONS:

ORD. NO. 10-2006 – (Refer to PUBLIC HEARINGS/MEETINGS, 11:00 a.m., for details of action taken.)

RES. NO. 38-2006 - Moved by Myhr, seconded by Lichter, to adopt the resolution to acquire the Carlson Building in Friday Harbor under the terms and conditions as set forth therein. Motion carried. (Refer to PUBLIC HEARINGS/MEETINGS, 1:30 p.m., for additional details.)

BUDGET ITEMS/PERSONNEL ISSUES:

1. Request for Approval of a Supplemental Appropriation and Posting of Two Temporary Personnel Positions - Moved by Myhr, seconded by Lichter, to approve moving forward with the required paperwork to the Auditor for a public meeting to consider supplemental appropriations for the Department of Emergency Management as presented; and to approve the request to use this grant funding to post and hire two temporary employees as presented. Motion carried. (Refer to PUBLIC HEARINGS/MEETINGS, 1:30 p.m., for additional details.)

APPOINTMENTS:

1. SJC Hearing Examiner (HEX) Pro-Tem Appointment - Present: David Goldsmith, Administrator Pro-Tem. Mr. Goldsmith explained that SJC has had HEX Pro-Tem's in the past to hear cases when the HEX is unavailable. He had contacted SJC HEX Bill Nielsen for a recommendation and had been provided with the name of C. Thomas Moser who currently fills in for him in other venues. He added that Mr. Moser was a Prosecuting Attorney in SJC years ago and has been the Skagit County HEX Pro-Tem since 1992. Mr. Moser's resume had been provided to the Council for review. Council Chair Lichter stated that he had been privileged to sit in on an informal debate between Mr. Moser and Randall Gaylord, SJC Prosecuting Attorney, and was extremely impressed. The following action was taken: **Moved by Myhr, seconded by Lichter, to appoint Mr. C. Thomas**

Moser as the SJC Hearing Examiner Pro-Tem to serve in the absence of the SJC Hearing Examiner, based upon the recommendation of Bill Nielsen, SJC Hearing Examiner. Motion carried.

MISCELLANEOUS ITEMS:

1. Request for Agricultural Resource Summit Funding – Present: Susan Robins, SJC Agricultural Resource Committee (ARC) Chair. At the request of the Council, Ms. Robins explained that the original date of July 21 had been changed to a tentative date of August 31, 2006; and, that she would appreciate Chair Lichter's participation. When this date is confirmed she will inform the Council. She explained that this summit meeting will include five county officials and other special guests, and the theme will be a regional approach to agricultural resources as well as economic development. She provided a copy of the prior May, 2006 summit report for reference. She then explained that each of the participating counties is sharing in the cost of a facilitator and that Councilman Ranker had requested that she provide a written request to the Council. The amount requested from SJC is \$1,500. The Council asked if there was a budget for the summit and Ms. Robins replied that she estimated the total cost to be in the neighborhood of \$7,000 to \$8,000. Councilman Myhr asked if the issues relating to SJC were similar to the farmers in Skagit, or the issues of scale, or were there differences. Ms. Robins stated that Skagit County has huge dairy farms and in SJC we do not; however, there are two specific issues where we are alike and one is organic farming. She noted that neither she, nor Todd Goldsmith, had been able to attend the May meeting but that Peter Corning, ARC member had represented the County. The Council discussed the funding request and stated the strong desire of the Council to protect open spaces and open farm lands. Ms. Robins shared that the ARC is preparing to present to the Council a possible new use of open farm space which may mean a new definition of what agricultural lands are in SJC including potential tax benefits for active farming. The ARC may ask for assistance in developing guidelines for this process. After discussion, Chair Lichter stated that he was supportive of the summit and especially "our" farmers as was Mr. Myhr. However, both Mr. Lichter and Mr. Myhr requested additional information from Ms. Robins to include an actual budget for the summit, an agenda, and confirmation of a date certain prior to considering the funding requested. Mr. Lichter added that Councilman Ranker will be back from his planned trip in August and may wish to attend this meeting, as he is the liaison to the ARC. Ms. Robins will provide the requested information for future consideration of the funding request.

2. Update on Land Divisions Regarding the Aliquot System – Present: David Goldsmith, Administrator Pro-Tem; Paul Dossett, SJC Assessor; Si Stephens, SJC Auditor; and interested citizens. Mr. Goldsmith explained that he had reviewed this issue further since the last meeting and recommended referring the matter to the Planning Commission to analyze whether to retain the existing policy or amend the current practice. The Council and other officials discussed the implications of any policy changes and the need for a thorough analysis. Councilman Myhr confirmed that a policy is in place and then asked how many applications had been received for land divisions affected by this issue. Mr. Goldsmith stated approximately four. Mr. Dossett offered his opinion and stated he was in support of a review by the Planning Commission. Mr. Lichter agreed that it would be prudent that the matter should be sent to the Planning Commission to provide guidance to the Council. However, Mr. Myhr requested that the Council wait until Mr. Ranker returned so that he could voice his opinion and be part of the decision. After additional discussion, **it was agreed that the matter would be brought back for further consideration when Mr. Ranker returns.**

3. Update Regarding Changes to Funding Under House Bill 1386 (Government Operations and Elections Surcharge) – Present: David Goldsmith, and Si Stephens. Mr. Goldsmith explained that he had received a proposal from the museums of SJC which was date-stamped by the Council staff July 10, 2006, to provide funding for the preservation of their documents using a portion of this special funding. He noted that this new change allows for a County Commission or Council to direct \$1.00 of the funding collected for discretionary purposes; however, he cautioned that SJC has no spare funds available as the County's document preservation needs far exceed the funding available. Mr. Stephens added that SJC requires hundreds of thousands of dollars just to maintain what is required and that the County's needs are great. When asked how much money was requested, Mr. Goldsmith stated no specific amount had been stated. He added that a better source of assistance might come from Hotel/Motel funding, to which Mr. Stephens responded that the County already provides funding to all museums in excess of \$10,000 each annually from this fund. Mr. Stephens added one other comment that this document preservation fund had provided \$160,000 to recreate the records of County Clerk because SJC did not have adequate network backup systems. **It was agreed to forestall any decisions today and to look at this request again during the budget process.**

4. Sustainable Development Information Update – Mr. Goldsmith provided a paper for review on some of the issues involved in this process for information purposes only as requested at an earlier meeting.

5. Growth Management Hearings Board (GMHB) Order(s) Updates – Present: Cameron Carter, Deputy Prosecuting Attorney. Mr. Carter related that the next GMHB hearing will be held at 1:30 p.m., July 21, 2006 in

Anacortes at the Police Department. This facility is more centrally located for the GMHB officers and will accommodate the number of people expected to attend. The second order discussed was to deny moving the compliance hearing to a later date and to broaden the scope of the hearing. A number of motions had been filed by petition to widen the scope related to density. Mr. Carter stated that the GMHB had been firm in its decisions that it will only hear compliance issues; and, it has ruled that expansion of the scope will not be considered. The County's brief is due on July 17 and he will forward a copy to the Council. Chair Lichter stated that he will be attending this hearing as an observer and Councilman Myhr stated that he had wanted to attend but that another matter had come up and he was glad that Mr. Lichter would represent the Council.

PUBLIC HEARINGS/MEETINGS

11:00 a.m. – (Commenced at 11:13 a.m.) A public hearing was held to consider an ordinance amending the SJC Comprehensive Plan and Unified Development Code, and adopting the Olga Hamlet Plan. Present: Ron Henrickson, Community Development and Planning Department (CDPD) Director; Laura Arnold, SJC Consultant; and interested parties. Mr. Henrickson began by complimenting Ms. Arnold for her excellent work with the Olga community and her work on the plan itself. He reported that the Planning Commission had unanimously approved the plan. Ms. Arnold noted that the Council had received all related documents, copies of the entire plan, and all the Planning Commission recommendations were incorporated. She noted that if the plan is adopted today, it will complete this planning process. The Council also complimented Ms. Arnold on the proposed plan noting that the photographs were very useful. Ms. Arnold answered the questions of the Council. Chair Lichter noted that he had been contacted by members of the Olga community explaining that the ferry from Orcas Island would be arriving in Friday Harbor around 11:10 a.m., and that they would appreciate it if the Council would allow for this delay when it opened public testimony. At 11:20 a.m., the Olga citizens had still not arrived. Public testimony was opened for those citizens present. No comments were submitted and testimony was closed with the proviso that if the Olga citizens arrived before the lunch recess, they would be allowed to offer their testimony. After the additional questions of the Council had been answered by staff, a brief recess was called to allow for the possibility that the ferry was running late. The hearing was resumed at 11:25 a.m., and the Olga citizens were present. Their testimony was submitted for the record. Ms. Arnold noted that if the Council adopted the Plan, the interim regulations in place would expire. Deliberations were then held and the following action was taken:

Moved by Lichter, seconded by Myhr, to adopt **Ordinance 10-2006**, an ordinance amending the SJC Comprehensive Plan and Unified Development Code, and adopting the Olga Hamlet Plan, based upon the recommendation of the SJC Planning Commission and the Staff Report of CDPD. Motion carried.

1:30 p.m. – County Administrator Pro-Tem Council Briefing. Also present: David Zeretzke, Administrative Services Director; Brendan Cowan, Department of Emergency Management (DEM) Director; Si Stephens, Auditor; and interested parties.

1. Request to Post Two Temporary, Grand-Funded Positions in DEM – Mr. Cowan explained his department had received two new grants. One was from FEMA for an Emergency Planner position, which was previously filled for a short time to write an emergency plan that is now 80 percent complete. The second grant is for a Preparedness Educator. Mr. Goldsmith noted that because these positions are funded by money that is not in the approved 2006 adopted budget, it will require approval of the Council. (Refer to BUDGET ITEMS/PERSONNEL ISSUES for details of action taken.)

2. Carlson Building Purchase Discussion – Mr. Zeretzke began with historical information on the proposed purchase of this property and noted he had provided the Council with a complete packet of all documents including appraisals and inspection reports. Also provided was a summary of current leases; anticipated maintenance expenses without the addition of the installation of fiberoptics; monthly utility costs; and cleaning charges. It was anticipated that some of the required maintenance can be accomplished by County staff; however, other items such as HVAC repairs should be done by licensed contractors. Mr. Zeretzke recommended that whatever expenses were estimated should be doubled as this would allow for items and costs not yet figured in. He suggested then that \$100,000 should cover all items not listed in the estimates. The Council discussed the existing leases, debt service, and life-expectancy of the HVAC systems. The appraisal documented that the value and price of the property were warranted. Council member Lichter thanked staff for the information. Mr. Stephens then addressed preliminary financing options, handing out two options which he stated should be considered short term options. He recommended that future bonding could be used to refinance this building at a lower interest rate. The Council agreed they were ready to move forward with consummating the Purchase and Sale Agreement in place. Mr. Goldsmith stated that the Prosecuting Attorney was preparing a resolution regarding the property which would be ready for adoption later in the afternoon. **By consensus, the Council**

agreed to approve the purchase and to await adoption of the resolution later in the day. (Refer to ORDINANCES/RESOLUTIONS for details of action taken.)

2:00 p.m. - A meeting was held for a presentation by the San Juan Island Trails Committee (SJITC) of the Proposed Trail Plan for San Juan Island. Present: Dave Zeretzke, Administrative Services Director and volunteer member of the SJITC; available SJITC members; John Van Lund, County Engineer; Dona Wuthnow; SJC Parks Superintendent; and interested citizens. Mr. Zeretzke provided printed copies of the proposed plan and gave a Power Point presentation for the audience. He made the presentation as a member of the committee which was founded in 1999 as a sub-committee of the San Juan Island Parks and Recreation District. The Council asked questions during the presentation and complimented the committee on their work and accomplishments. Councilman Myhr thanked the group for taking the lead on providing trails for San Juan Island and noted that it was an excellent model for Orcas and Lopez. He invited SJITC members to visit Lopez Island to help the community begin a similar program. Councilman Lichter echoed Mr. Myhr's statements and noted that in England there is a law that all private property must be accessible for people to be able to walk on. Having been there with his wife, he explained that visitors and residents walk regularly, that there is no trash on property, and England does not suffer from the obesity found here in the United States. He suggested that having these trails in SJC would create a new climate for "walkers." Members of the audience were invited to ask questions. Mr. Zeretzke noted that much of the information is on the Website of the SJITC and that comments on the proposed plans are being solicited before it is formally adopted. He added that a similar group is now forming on Orcas Island. The Council again thanked him for the presentation and the excellent work the committee has done.

2:45 p.m. - A public hearing was held to consider the SJC Land Banks amended 2006 Expenditure and Acquisition Plan II. Present: Lincoln Bormann, Land Bank Director; Lisa Lawrence, Land Bank Commission Chair; and interested parties. Mr. Bormann presented the information contained in the Staff Report dated July 5, 2006 and described the projects. The major acquisition is Turtleback Mountain on Orcas Island. This property is being acquired in partnership with the San Juan Preservation Trust and the Trust for Public Lands. He detailed the particulars of the agreement and noted that the Land Bank's share will be \$10,000,000. It is anticipated that this amount will be bond funded. After questions from the Council, public testimony was opened, submitted, and closed. Deliberations were held and the following action was taken:

Moved by Myhr, seconded by Lichter, to approve the SJC Land Banks amended 2006 Expenditure and Acquisition Plan II as presented. Motion carried.

3:15 p.m. - A public hearing was held to consider an ordinance establishing rules to apply to the construction of a principal residence after the construction of a certain lawful freestanding accessory dwelling unit for a period of five years. Present: Ron Henrickson, Community Development and Planning Department (CDPD) Director; Randall Gaylord, Prosecuting Attorney; and interested parties. Mr. Henrickson explained the basis of the ordinance, answered questions of the Council, and recommended adoption. Public testimony was opened, submitted, and closed. The Council then conferred with the Prosecuting Attorney regarding language to address partnership or estates in the body of the ordinance. Mr. Gaylord then stated that he advised it would be a mistake to adopt the ordinance today. He requested that the Council wait until the Growth Management Hearings Board (GMHB) has dealt with the compliance issue related to Accessory Dwelling Units adopted earlier by the Council. He explained that the ordinance under consideration today is not a "vesting" ordinance and explained in detail the difference between the two. Councilman Myhr stated he agreed with the fact that the proposed ordinance only deals with a select group of people. The Council asked why this ordinance would be considered by the GMHB since it was a local matter and deals with issues prior to the existing order of invalidity. Mr. Gaylord explained his position. The Council discussed the issues and then referred to written testimony submitted by other attorneys that provided a different legal opinion. Council Chair Lichter asked an attorney in the audience if they would make a comment concerning this issue as an attorney and not as a citizen. The attorney stated that, in her opinion, this ordinance was not related to the GMHB order of invalidity. Mr. Myhr asked the Prosecuting Attorney for an opinion on the worst case scenario if the Council adopted the ordinance with the minor changes discussed. Mr. Gaylord stated that the worst-case scenario would be that the GMHB declare it was not valid. He advised the Council to wait at least 60-days before making a decision. Councilmen Lichter and Myhr both stated that they understood each of the two different legal opinions presented. Deliberations were then held and the following action was taken:

Moved by Myhr, seconded by Lichter, to approve the proposed ordinance with the recommended changes brought forth today; and directed staff to bring back a final version to be placed on the Consent Agenda for formal consideration next week. Motion carried.

ADJOURNMENT – Chair Lichter adjourned the meeting at 4:07 p.m. A Special Meeting is scheduled for July 17, 2006 and the next regular meeting was scheduled for Tuesday, July 18, 2006.

These minutes were approved and signed on July 18, 2006. The original document is retained in the Council's permanent proceedings file dated July 10 and 11, 2006. Attest: Carolyn K. Morrison, Clerk.