

**SUMMARY OF THE MINUTES
SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
OCTOBER 2 AND 3, 2006**

Monday, October 2, 2006 - Council Conference Room

CALL TO ORDER

Council Chair Lichter called the meeting to order at 10:00 a.m. Council members Ranker and Myhr; County Administrator, Pete Rose; Clerk to the Council, Carolyn Morrison; Amy Taylor, Deputy Clerk; and Barbara Rosenkotter, Salmon Recovery Coordinator, were present.

PUBLIC MEETINGS/WORK SESSIONS

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

RECESS - At 12:10 p.m., Council Chair Lichter recessed the meeting until 10:00 a.m., Tuesday, October 3, 2006.

Tuesday, October 3, 2006 - Council Hearing Room

CALL TO ORDER

Council Chair Lichter called the meeting to order at 10:05 a.m. Council members Ranker and Myhr; County Administrator, Pete Rose; and Clerk to the Council, Carolyn Morrison, were present.

CITIZEN ACCESS TIME

Jacqueline Hansson - Regarding the legality of Proposition 1 (concerning the war in Iraq) as an Advisory Ballot Measure on the September, 2006 primary election ballot in SJC. She requested that the Council respond to her questions in the near future.

ANNOUNCEMENTS/SCHEDULE CHANGES

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

APPROVAL OF MINUTES

Moved by Myhr, seconded by Ranker, to approve the minutes of **September 11 and 12, 2006**. Motion carried.

CONSENT AGENDA

Moved by Ranker, seconded by Myhr, to approve the **Final Consent Agenda of October 3, 2006** as follows:

A. Resolutions/Ordinances:

1. **Resolution 49-2006** - Adopt the resolution revising the estimates of the 2006 Annual Road Program as adopted in Resolution 118-2005, and appropriating funds for specific projects as detailed therein.

B. Contracts/Agreements:

1. **Agreement 06HC44** - Sign the Interlocal Agreement between SJC and Northwest Education Services District 189 to provide school nurse services as defined therein, for the period of August 2006 through June 2007, for a maximum amount of \$18,500, under the terms and conditions set forth therein.

C. Appointments:

1. Approve the appointment of Mindy Kayl to the Eastsound Planning Review Committee for a two-year term which will expire May 31, 2008.

D. Correspondence:

1. Sign the letter confirming the appointment of Mindy Kayl to the Eastsound Planning Review Committee.

Motion carried.

ACTION AND DISCUSSION ITEMS

ORDINANCES/RESOLUTIONS:

ORD. NO. 14-2006 - (Refer to PUBLIC HEARINGS/MEETINGS/WORK SESSIONS, 3:30 p.m., for details of action taken.)

RES. NO. 50-2006 - (Refer to PUBLIC HEARINGS/MEETINGS/WORK SESSIONS, 1:30 p.m., for details of action taken.)

RES. NO. 51-2006 - (Refer to PUBLIC HEARINGS/MEETINGS/WORK SESSIONS, 2:30 p.m., for details of action taken.)

RES. NO. 52-2006 - Moved by Myhr, seconded by Ranker, to adopt the resolution requesting action of the President of the United States and Congress regarding Iraq. Motion carried.

APPOINTMENTS:

1. “Pro” Statement Authors for the Proposed Levy Lid Lift for the Lopez Island Library Board of Trustees General Election Voter’s Pamphlet – The Council announced that every attempt had been made to secure authors to write both “Pro” and “Con” statements regarding this issue. No volunteers had come forward to write a “Con” statement. The Elections Supervisor had informed the Council Clerk that because these attempts had been made, the Council could authorize appointment of volunteer citizens to write the “Pro” statement only. The following action was taken: **Moved by Myhr, seconded by Ranker, to appoint Dan Drahn, Shannon Wilbur, and Jim Lett to write the “Pro” statement for the proposed Levy Lid Lift for the Lopez Island Library Board of Trustees General Election Voter’s Pamphlet. Motion carried.**

CORRESPONDENCE:

1. Moved by Myhr, seconded by Ranker, to sign the letters to President George W. Bush, Senators Patricia Murray and Maria Cantwell, and Congressman Rick Larsen regarding withdrawal of United States military personnel in Iraq. Motion carried.

MISCELLANEOUS ITEMS:

1. Fire Marshal Inspection Fees – Council Chair Lichter noted that there had been complaints from local business owners regarding the \$100 fee adopted in Ordinance 8-2006 (Attachment C, Fire Code Fees) for a Fire Code Operational Annual Permit (including one follow-up inspection). He advised those present that this ordinance and all fee schedules were published as required, a public hearing was held, and testimony was taken. He stated that it appears to be a “harsh” fee and reported that he, the County Administrator, and the Fire Marshal have been working together to come up with more equitable fees and an accelerated program of public education. He added that this will be an on-going process for the Council, Mr. Rose, and Fire Marshal Low. These discussions will continue until this matter is resolved to the good of SJC citizens.

2. New Council Quarters and Space Planning Approval – The Council discussed the draft plans that had been presented at their staff meeting on Monday. Councilman Ranker asked if Mr. Rose had been able to reach Ann Williamson, Space Planner, concerning his question about the cost of installing an elevator for a two-floor model. Mr. Rose noted that he had not been able to reach her. Councilman Myhr again stated he was in favor of an open landscape design. Mr. Ranker and Mr. Lichter were not. The Council chose to work with the model marked Attachment C, Revision 3-E, attached to Mr. Rose’s Staff Report dated October 3, 2006, provided that it was modified by switching the location of a proposed Council office and proposed private meeting room. This model allowed for the Council and staff to be located on the ground floor of the former Carlson Building. Councilman Myhr noted that Ms. Williamson had previously estimated that an elevator would cost approximately \$100,000. He stated that that this was not a fair cost for the taxpayers at this time. Chair Lichter stated that he favored the ground floor plan as it will work for the Council and staff; however, he wanted to reserve the right to make minor modifications or adjustments with the Administrator and Council Clerk as the project progressed, if needed. The following action was then taken: **Moved by Myhr, seconded by Ranker, that the move to the “Legislative**

Building” will involve the Council and Council Clerk and staff offices to be on the first floor; that the Council is permitted modifications as “we go”; that “we” use the preliminary drawing marked Attachment C, Revision 3-E with the “switch” of the noted Council Office and the private Conference Room as discussed. Motion carried. Chair Lichter then commented that this renovation will take up to a year and the Council is working diligently to meet the mandates of Charter and Home Rule, which, in his view, may be giving the County a swollen government and swollen budget and this move to the first floor will help in this regard. Mr. Ranker noted his concern that there will be three new Council members and a new staff person, with additional staff for the Administrator, coming on board very soon. He suggested that the Council should be fiscally responsible and use the existing offices in the Legislative Building so that the new Council Members have a place to work. Furniture can be ordered that will be moved downstairs when the renovations are complete. **The Council agreed that this was a workable solution for the three new Council Members.**

3. Initiative 747 Update – Mr. Myhr reported that the Council attended the WSAC conference in Spokane last week. One highlight was a discussion of I-747 which was passed by the voters in 2001 limiting any increase to property taxes to one percent. In 2005 this had been challenged by Whitman County and the Superior Court ruled that it was unconstitutional. That decision is in the process of appeal now. The legality of the issue being challenged was the ballot title. Voters were supposed to have been shown how the effect of the initiative and they were not. Should the higher court rule that it is unconstitutional, there will also be a question of whether or not a banked levy can be taken. Mr. Ranker noted that King County had also joined in this challenge. He further explained that the Governor’s office and the legislature are discussing this issue as it was overwhelmingly passed. There is a question whether this issue should be left at the county level instead of the state level. Updates will be given as information is received.

4. Animal Control Ordinance Amendments and Agriculture Resource Committee (ARC) Updates – Councilman Ranker stated he attended the recent ARC meeting and had provided copies of the draft ordinance sent by the Prosecutor for their review and comments to the members. He asked the Council to allow their comments before going forward with the process for adoption of this proposed ordinance. Councilman Myhr stated he had forwarded copies of the draft to the Animal Protection Societies and others for their comments as well. He noted that there should be provisions for additional enforcement added. **It was agreed that these comments are necessary for consideration.**

5. Global World Ocean Conference and Salmon Recovery Program Updates – Councilman Ranker reported that he was invited to attend this conference held on September 18, in Long Beach, CA. Copies of his Press Release, and an article he wrote that appeared in the October 3, 2006 Seattle Post-Intelligencer, were made available for the public. The Governors of California, Oregon, and Washington formed a partnership and action plan for ocean and coastal resource protection along the Pacific Coast. Mr. Ranker stated that SJC Salmon Recovery Board had questioned the eligibility of the SJC proposal. He stated that SJC staff has worked diligently to amend the projects submitted to comply with these new policies. Mr. Myhr announced he will also meet with Carol MacIlroy of Shared Strategy for the Puget Sound concerning this issue as will Mr. Lichter. Mr. Ranker stated he is awaiting a call from Bill Ruckelshaus to address this matter. Updates will be provided as they are known.

6. WA State Association of Counties (WSAC) Conference Report and Overview – Mr. Myhr reported that this conference marked the 100-year meeting. This conference provides an opportunity for County Commissioners and Council Members to converse on how each entity deals with local issues. He noted that there was a good discussion on marine resources and ocean coasts. He added that he was able to meet with Doug Sutherland, Commissioner of Public Lands, concerning Lopez Hill on Lopez Island. Former WSAC President and SJC Commissioner Tom Cowan also attended and was honored with other past legislators for their long service.

7. Review of a Draft Ordinance Regarding Discretionary Review of Hearing Examiner Decisions – Due to time constraints, this item was moved to 2:00 p.m. It was noted that Mr. Gaylord had been called out of the County and would not be able to work with the Council as planned today. The Council began a discussion on the draft document and memorandum written by the Prosecuting Attorney, Randall Gaylord, dated September 28, 2006. After stating their comments and concerns, and noting typographical errors, each member of the Council stated that he had many questions that needed to be answered. Mr. Ranker suggested the Council hire a consultant to review the document. Mr. Myhr and Mr. Lichter did not agree. It was noted that Mr. Gaylord would be available the following Tuesday. The issues concerning moving this matter toward a public hearing were also discussed as well as whether or not the Planning Commission should hold a separate hearing. After a lengthy discussion, **it was agreed by consensus to place this matter on the agenda for the following week for an in-depth discussion with the Prosecuting Attorney; and that each Council Member would provide a copy of the document to knowledgeable contacts who would have the ability to review and comment on the content of the proposed document for discussion the following week.**

11:00 a.m. – (Due to time constraints, this session commenced at **11:29 a.m.**) A work session was held to discuss and identify the Council's list of priorities regarding SJC legislative matters. Also present: Ron Henrickson, Community Development and Planning Director (CDPD). Mr. Myhr began by noting that the internal working list the Council has been using has been greatly reduced as many matters have been accomplished since the first of the year. **It was agreed that the first two items of priority were the ordinances for establishing procedures for the Council to hear appeals of Hearing Examiner decisions and amendments to the animal control provisions.** Mr. Myhr added that the ordinances and resolution regarding the Lodging Tax Advisory Committee (LTAC) required priority due to direction from the State Auditor's Office resulting from the annual audit. The Council discussed several topics which included the Critical Areas Ordinance amendments; agricultural issues; managing growth; ferry service; Council procedures; implementation of the Eco-based Management Initiative; Comprehensive Plan compliance; Fair Board and Park Board changes; categorizing Charter issues; economic issues; rifle use in SJC; lighting standards within the County; and sustainability policies. A suggestion was made to have three categories – procedural issues as a result of the Charter, critical issues, and future issues. Mr. Rose noted that there will be three new Council members in six weeks and thinking about a "goals" process would be useful. Due to time constraints, the Council will work on the category suggestion and continue work on priorities as time permits noting that the first two priorities have been identified and that the Clerk to the Council is working on the revisions to the LTAC documents for future consideration.

11:30 a.m. (Due to time constraints, this item was rescheduled to **2:50 p.m.**) – County Administrator Council Briefing. Also present: Ron Henrickson, Community Development and Planning Director.

1. Accessory Dwelling Unit Applications – Mr. Rose reported there were 28 total applications of which three (3) were conversions. Mr. Henrickson explained that the telephone calls were taken one at a time and included the tax parcel number. CDPD will go through each of these preliminary applications to determine the first thirteen (13) valid ones. These thirteen will have until December 1 of this year to file complete applications, and if they are not filed, the next available "number" will be given to the next place in line.

2. Urban Growth Areas (UGA) and Land Use Issues Updates – (a) Mr. Henrickson reported that the first phase of the **Critical Areas Ordinance updates** has been completed as of June 30 and was completely funded by the WA State Department of Community, Trade and Economic Development (CTED). The second phase is going to run through December 31 of this year and is being done under a contract with a consultant. At the end of October, public meetings will begin with meetings on each island. A public participation plan will be submitted for Council approval. The third phase will be a review of the public comments on drafts of the revisions and then formal public hearings in April, May and June of 2007. Mr. Myhr asked about the proposed setbacks under state law. He noted that several people have asked if there can be a provision for variances. Mr. Henrickson replied that these are actually guidelines and if the community wants to deviate from them, then the County can provide for that. Mr. Ranker expressed his concerns for the agricultural community. He stated he will meet with the Grange on Wednesday and requested additional community outreach due to the perception that there could be impacts to them. Mr. Henrickson stated that the CDPD will involve the agriculture people in the meetings held on every island. Mr. Ranker asked if a CDPD staff person would be able to attend the Grange meeting and Mr. Henrickson stated he would attempt to have one there. Mr. Rose offered that there has been a trend he has noticed. When a state and national organization, such as the Grange, is facing an issue, they are paying attention to what has occurred elsewhere. Mr. Ranker reported that he had discussions with members of the Grange who shared with him that a proposal to potentially address these issues would cost about \$2,000. He asked if she could make a presentation before the Council and perhaps the Council could assist with funding for this plan. Mr. Lichter stated he had spoken to Lovel Pratt and had been told the cost would be in the neighborhood of \$6,000. He cautioned Mr. Ranker that everyone (County staff) is currently working around the clock, and that the list of priorities the Council had discussed this morning should not have new issues added to it constantly. There was no concurrence to the suggestion to fund such a plan. **(b)** Mr. Henrickson then stated that CDPD had identified all the specific tasks concerning the **Lopez and Eastsound UGA's**. Many items have been dealt with. CDPD has identified all the utility providers; however, the County cannot meet the Growth Management Act (GMA) requirements because the County does not have the ability to make decisions on its own. Neither water supplier is willing to expend any more funding for any studies, tests, or other requirements outside of its service area. He and the Administrator approached the Prosecutor to determine if County funds can be used to assist with this and an answer was issued last Friday. They will bring this matter before the Council in the near future. The issue is very complicated and the Deputy Prosecuting Attorney that was working on this has resigned. Mr. Henrickson stated that he suspected the Prosecutor would request a six-month extension in order to adequately address the issues. Mr. Myhr expressed his concerns for Lopez and Mr. Lichter for Eastsound. Mr. Rose asked if he and Mr. Henrickson should take the lead on this matter and Mr. Myhr stated yes.

3. Initiative 933 – Mr. Rose noted that several packets of information had been provided by Council staff to explain this issue which basically is a regulatory takings proposal. The proposed actions for compensation are broad, and exemptions are narrow. He identified what is a diminished value; provided information on case law; and explained that this proposal would be retroactive for ten (10) years. He cautioned the Council that the Unified Development Code was adopted in 1998 and that any downzoning of property happening after 1998 would be subject to this if it is passed by the voters. The impacts will amount to billions of dollars for the counties and state and could affect mandated programs such as salmon recovery and habitat. He explained that if the Council wanted to take a position on the issue, there was a specific process that must be followed. A public meeting must be held and invitations must go to people who have all points of view to offer testimony for the record. A resolution would have to be adopted after the comments were submitted either for or against the initiative. Mr. Myhr asked if the Council could issue their opinion as individuals. Mr. Rose suggested contacting the Public Disclosure Commission (PDC) to determine restrictions. Mr. Ranker stated he wanted to further educate himself on this complex issue before scheduling a meeting. Mr. Lichter and Mr. Myhr state that they did not want to take a Council position at this time.

5. Report on Public Housing Meeting – Mr. Rose reported he attended a meeting on San Juan Island last Friday and stated that there was a need for reasonably zoned land available for housing.

12:00 Noon - A joint luncheon meeting was held with the County Council and the Town of Friday Harbor Council and the SJC Health Officer, Dr. Frank James, regarding pandemics. Also present: Brendan Cowan, Department of Emergency Services Director; John Manning, Health and Community Services Director; Pete Rose, County Administrator; Steve Dubail, acting Town Council Clerk; Betty Gilson, Chair of the SJC Board of Health; and interested parties. Introductions were made and the Town Council roll call was taken. Mayor David Jones, Council Members Debbie Emery, Carrie Brooks, Howard Rosenfeld, Liz Illg, and Wally Gillette were present. A Power Point presentation was given by Dr. James. He explained the difference between a pandemic and epidemic virus; the likely percentage of occurrences of illness; preventive control measures and logistical problems with these measures; influenza spreading rates and mortality rates with an array of graphs and statistics; noted that the avian flu is a likely candidate for a pandemic; and also explained how you know if you have the flu, the differences between the flu and a cold, and infection control for those already infected. Dr. James concluded with a “be prepared talk” which detailed that citizens should have enough of everything they will need at home to last several weeks.

The group discussed issues such as what would happen, and possible solutions, should the ferries shut down, the availability of ventilators and oxygen, loss of power, ability to communicate, lack of hospital facilities, and other related concerns. Mr. Manning stated the next step is that the Town of Friday Harbor Council and the County Council develop a “plan”; call for disaster when appropriate (such as securing federal funding); and demonstrate the goals and the plan to the public. Community awareness is essential. There will be a community forum on Monday, November 13th at either the Community Theater or the Mullis Center on San Juan Island for pandemic education. The goal of Health and Community Services is to have a draft plan, identify appropriate personnel, and to have response policies in place by the time of the planned forum. After a round table discussion and questions and answers, it was agreed that the SJC Board of Health (BOH) should be tasked with this issue. Mr. Manning was asked to prepare a draft for consideration of the BOH. Dr. Gilson noted that this was appropriate but that the BOH was in transition. Chair Lichter thanked everyone for participating in this meeting.

1:30 p.m. - A public hearing was held to consider the transfer of the “Turtleback Mountain” property on Orcas Island from Designated Forest Land Tax Classification to Timber Open Space Classification, File No. 06TOS002. Present: Laura Arnold, Land Use Consultant, on behalf of SJC; and interested citizens. Ms. Arnold explained the proposal and the existing forest management plan. Public testimony was opened, submitted, and closed. Deliberations were held and the following action was taken:

Moved by Myhr, seconded by Ranker, to adopt **Resolution 50-2006**, a resolution granting the Medina Foundation Timber Open Space application No. 06TOS002, Orcas Island. Motion carried.

2:30 p.m. - A public hearing was held to consider applications for funding from the State Community Development Block Grant (CDBG) Program for 2007. Present: Colin Maycock, Senior Planner, Community Development and Planning Department (CDPD); Julie Brunner, OPAL Housing Manager; and interested citizens. Handouts were made available for members of the public in both Spanish and English. Mr. Maycock had prepared a Staff Report dated September 28, 2006 detailing the project that had been submitted for consideration entitled the “Mount Baker Road Permanently Affordable Housing Project.” He also explained that no other projects had responded to the display advertisement requesting applications. Originally the project had requested \$450,000 in grant funding;

however, this figure had been revised to a request of \$490,000. Ms. Brunner then explained that this project had been submitted the prior year and had been turned down due to a technicality regarding the use of some of the funds for water hook-ups. Public testimony was opened, none submitted, and closed. Deliberations were held and the following action was taken:

Moved by Ranker, seconded by Myhr, to adopt **Resolution 51-2006**, a resolution adopting the Mount Baker Road Permanently Affordable Housing Project for submission for consideration for CDBG funding, and designating a Chief Administrative Officer. Motion carried.

3:30 p.m. - A public hearing was held to consider the renewal for 90 days of Ordinance No. 12-2005, as amended by Ordinance 17-2005, and Ordinance 5-2006, which ordinances suspended for six months the acceptance of applications for building and land use permits in the Deer Harbor Activity Center. Present: Ron Henrickson, Community Development and Planning Director; and interested parties. Mr. Henrickson explained that the ordinance being considered was prepared by the Prosecutor; and that the Planning Commission held a public hearing on the Deer Harbor Plan but recessed the matter before deliberating on a recommendation to allow the Council to consider the extension of the moratorium. They will resume deliberations at the appropriate time. Public testimony was opened, submitted, and closed. Deliberations were held and the following action was taken:

Moved by Myhr, seconded by Ranker, to adopt **Ordinance 14-2006**, an ordinance to renew for 90 days Ordinance No. 12-2005, as amended by Ordinance 17-2005, and Ordinance 5-2006, which ordinances suspended for six months the acceptance of applications for building and land use permits in the Deer Harbor Activity Center and to make Findings of Fact in Support thereof. Motion carried.

ADJOURNMENT – At 3:45 p.m., Council Chair Lichter adjourned the meeting. A special meeting was scheduled for Monday, October 9, 2006, and the next regular meeting was scheduled for Tuesday, October 10, 2006.

These minutes were approved and signed on October 10, 2006. The original minutes are retained in the Council's permanent proceedings file dated October 2 and 3, 2006. Attest: Carolyn K. Morrison, Clerk.