

**MEETING MINUTES  
SAN JUAN COUNTY (SJC), WASHINGTON  
COUNTY COUNCIL  
TUESDAY, OCTOBER 30, 2012**

**Legislative Hearing Room, Legislative Building, Friday Harbor**

**SPECIAL MEETING**

**08:50 AM CALL TO ORDER SPECIAL MEETING:**

Chair Patty Miller opened the special meeting. Council Members present: Howard (Howie) Rosenfeld, Rich Peterson, Patty Miller, Richard Fralick, Lovel Pratt and Jamie Stephens; County Administrator Pro Tem Bob Jean and Clerk to the Council Ingrid Gabriel.

**EXECUTIVE SESSION:** Pursuant to RCW 42.30.110(1)(d) To review Negotiations on the Performance of Publicly Bid Contracts – Frank Mulcahy, Director Public Works

At 8:51 AM, Ms. Miller called for an **executive session** pursuant to RCW 42.30.110(1)(d) to review Negotiations on the Performance of Publicly Bid Contracts to last approximately 50 minutes. Present: Full Council; Public Works Director Frank Mulcahy, Utility Manager Ed Hale, Prosecuting Attorney Randall Gaylord, County Administrator Pro Tem Bob Jean and Clerk to the Council Ingrid Gabriel. The executive session ended at 9:50 for a total session time of 59 minutes.

Ms. Gabriel stepped out of the hearing room and announced that the executive session had ended.

**NO ACTION WAS TAKEN:**

**09:56 AM PUBLIC HEARINGS:**

1. To Approve a Resolution Approving the Six Year Transportation Improvement Program (TIP) 2013 to 2018 [**public testimony accepted**] – Rachel Dietzman, County Engineer  
**Present:** Full Council; County Administrator Pro Tem Bob Jean, Council Clerk Ingrid Gabriel and interested members of the public.

Ms. Miller opened the Public Hearing to Approve a Resolution Approving the Six-Year Transportation Improvement Program (TIP) 2013 to 2018. The following citizens provided testimony: Nancy Deveaux.

Ms. Miller closed public testimony with the right to reopen.

Ms. Dietzman answered Council's questions. After discussion, the Council took the following action:

**Moved by Ms. Pratt, seconded by Mr. Rosenfeld to place Six-Year Transportation Improvement Program 2013-2018 on a future consent agenda with the amendments as discussed. For projects 4, 5 and 6, staff is requested to provide Council with a memorandum of their plans once they are complete. ALL AYES; MOTION CARRIED**

**REGULAR MEETING**

**10:16 AM CALL TO ORDER REGULAR MEETING**

Chair Patty Miller called the regular meeting to order at 10:16 AM. Council Members present: Howard (Howie) Rosenfeld, Rich Peterson, Patty Miller, Richard Fralick, Lovel Pratt and Jamie Stephens; County Administrator Pro Tem Bob Jean and Clerk to the Council Ingrid Gabriel.

**FLAG SALUTE**

**EXCUSED ABSENCES:** none

**New Employee Introductions:** none

**Approval of Minutes:**

**Moved by Mr. Peterson, seconded by Mr. Fralick to approve the minutes of October 9, 2012. ALL AYES; MOTION CARRIED**

**Moved by Mr. Peterson, seconded by Mr. Fralick to approve the minutes of October 15, 2012. ALL AYES; MOTION CARRIED**

**Moved by Mr. Peterson, seconded by Mr. Fralick to approve the minutes of October 16, 2012. ALL AYES; MOTION CARRIED**

**Review and Approve Consent Agenda:**

**Moved by Mr. Fralick, seconded by Mr. Peterson, to approve the Consent Agenda of October 30, 2012, as follows:**

A. Resolutions:

Ordinances:

B. Contracts/Agreements:

C. Budget Items:

The Auditor's office requests approval for the following warrants issued the week of October 15, 2012:

Warrant #116967 County claims in the amount of \$1,057.41

Warrant #116968 County claims in the amount of \$23,367.21

Warrant #116978 – 116981 Veteran's Assistance in the amount of \$876.38

Warrant #116982 County claims in the amount of \$114.25

Warrant #116893 – 117082 County claims in the amount of \$53,644.08

Warrant #117083 – 117119 Public Works claims in the amount of \$30,749.82

D. Personnel:

E. Appointments:

F. Correspondence:

G. Miscellaneous:

H. Bid Openings:

**ALL AYES; MOTION CARRIED**

**Approval of Correspondence:**

1. Letter to Diane Spencer, Environmental Protection Specialist, Federal Highway Administration, in support of the Final Environmental Impact Statement (FEIS) for the Cattle Point Road Realignment Project

**Moved by Ms. Pratt, seconded by Mr. Rosenfeld, to approve a letter to Diane Spencer, Environmental Protection Specialist, Federal Highway Administration, in support of the Final Environmental Impact Statement (FEIS) for the Cattle Point Road Realignment Project. ALL AYES; MOTION CARRIED**

2. Comment letter on the proposed Gateway Pacific Terminal Environmental Impact Statement scoping process to be submitted at the November 3<sup>rd</sup>, 2012 scoping meeting in Friday Harbor

**Moved by Ms. Pratt, seconded by Mr. Rosenfeld, to approve comment letter on the proposed Gateway Pacific Terminal Environmental Impact Statement scoping process to be submitted at the November 3, 2012 scoping meeting in Friday Harbor. ALL AYES; MOTION CARRIED.**

**Citizens Access:** The following citizens submitted comments: Bill Wright, Jane Cable, Kyle Loring, Rick Hughes, Sharon Kivisto.

**10:31 AM PUBLIC HEARINGS CONTINUED**

1. Reconsideration of County Code 18.30 Updates Relating to Agricultural Sales, Recycling and Clarification of Terms, Regarding Amendment of San Juan County Code Sections 18.20.18.30 and 18.40, and Adding New Section to SJCC 18.30 **[public testimony accepted]** – Lee McEnergy, Planner III  
**Present:** Full Council; County Administrator Pro Tem Bob Jean, Deputy Prosecuting Attorney Amy Vira, Council Ingrid Gabriel and interested members of the public.

Ms. Miller opened the Public Hearing to reconsider County Code 18.30 Updates Relating to Agricultural Sales, Recycling and Clarification of Terms, Regarding Amendment of San Juan County Code Sections 18.20.18.30 and 18.40, and Adding New Section to SJCC 18.30.

The following citizens provided testimony: Marylyn O'Connor, Ann Jarrell, Dan Lowe, Mark Larsen, Ross McCallum, Kyle Loring.

Ms. McEnergy updated the Council on revisions and answered Council's questions. After discussion, the Council took the following actions:

**Moved by Ms. Pratt, seconded by Ms. Miller, to continue the public hearing to Reconsider County Code 18.30 Updates Relating to Agricultural Sales, Recycling and Clarification of Terms, Regarding Amendment of San Juan County Code Sections 18.20, 18.30 and 18.40, and Adding a New Section to SJCC 18.30 to Tuesday, November 27, 2012 at 8:45 AM. ALL AYES; MOTION CARRIED.**

**11:27 AM** 2. To Adopt an Ordinance Regarding the Critical Area Regulations for Fish and

Wildlife Habitat Conservation Areas, Amending San Juan County Code Sections 18.10.040, 18.20, and 18.30.160 [continued from October 16 – Council deliberations] – Shireene Hale, Planning Coordinator; Jon Cain, Deputy Prosecuting Attorney

**Present:** Full Council; County Administrator Pro Tem Bob Jean, Deputy Prosecuting Attorney Jon Cain, Planner IV Colin Maycock, Council Clerk Ingrid Gabriel and interested members of the public.

Ms. Miller opened the Public Hearing to adopt an Ordinance Regarding the Critical Area Regulations for Fish and Wildlife Habitat Conservation Areas.

Ms. Hale updated the Council on revisions and answered Council's questions. After discussion, the Council took the following actions:

- a. **Moved by Ms. Miller, seconded by Mr. Peterson, to remove #7 on page 30. VOTE 4:0:2 (Pratt and Rosenfeld abstained); MOTION CARRIED.**

**12:43 PM LUNCH RECESS**

**01:45 PM PUBLIC HEARINGS CONTINUED**

Ms. Miller continued the public hearing on the Fish and Wildlife Habitat Conservation Area Section:

- b. **Moved by Mr. Fralick, seconded by, Mr. Stephens to remove letter "B" from Step 5 on page 37. ALL AYES; MOTION CARRIED.**
- c. **Moved by Ms. Miller, seconded by Ms. Pratt, that on page 37, Step 7 the title be changed to "Existing Legally Established Development within Buffers and Tree Protection Zones Remains Conforming." ALL AYES; MOTION CARRIED.**
- d. **Moved by Ms. Pratt, seconded by Mr. Rosenfeld, to add a new letter under Table 3.10 that would include "new fin-fish net pens" with "no" in the aquatic fish and wildlife habitat conservation areas, but "yes" in buffers. VOTE 2:2:2 (Miller and Rosenfeld abstained; Fralick and Peterson opposed); MOTION FAILED**

The Council agreed by consensus to direct staff to add a cross reference to the variance provisions placed in the section on Reasonable Use Exceptions and, thereby, alert people to the possibility that a variance might be an option if they are having difficulty meeting the critical area regulations.

- e. **Moved by Ms. Miller, seconded by Mr. Peterson, to direct staff to modify #6 on page 42 to include existing Shoreline Master Program language with the addition of mitigation as described in SJCC 18.30.110. ALL AYES; MOTION CARRIED.**

- f. **Moved by Mr. Peterson, seconded by Mr. Rosenfeld, that on page 43 of 56, in letter "ii" the word "sections" in the fourth line be replaced with the word "parcels." ALL AYES; MOTION CARRIED.**
  
- g. **Moved by Ms. Pratt, seconded by Mr. Stephens, to direct staff to draft language in sections iii and iv on page 43 to make a clear statement that new water structures are not allowed in areas with kelp, eelgrass and documented and potential forage fish spawning beaches except where there is a significant public benefit. VOTE 3:3 (Miller, Peterson, Fralick opposed); MOTION FAILED.**

The Council agreed by consensus that staff will revise the subject on "bulkheads" to be more specific on activities on the shoreline that could be protected and make modified language consistent with Washington Annotated Code (WAC) on page 44 of 56.

- h. **Moved by Mr. Fralick, seconded Mr. Stephens, to continue public hearing on the Fish and Wildlife Habitat Conservation Area Section to Monday, November 5, 2012 at 8:45 AM. ALL AYES; MOTION CARRIED.**

- 04:44 PM**     2. To Adopt an Ordinance Regarding Critical Area Regulations for Wetlands; Amending San Juan County Code Sections 18.10.040, 18.20.010, 18.20.020, 18.20.040, 18.20.070, 18.20.080, 18.20.090, 18.20.120, 18.20.130, 18.20.140, 18.20.170, 18.20.180, 18.20.190, 18.20.200, 18.20.230, 18.30.150, and 8.60.170; and Repealing Appendices A-C of SJCC 18.30.150 [**continued from October 16 – Council deliberations**] - Shireene Hale, Planning Coordinator; Jon Cain, Deputy Prosecuting Attorney  
**Present:** Full Council; County Administrator Pro Tem Bob Jean, Deputy Prosecuting Attorney Jon Cain, Planner IV Colin Maycock, Council Clerk Ingrid Gabriel and interested members of the public.

Ms. Miller opened the Public Hearing to adopt an Ordinance Regarding Critical Area Regulations for Wetlands.

- a. **Moved by Mr. Fralick, seconded by Mr. Stephens to continue public hearing on the Wetlands Section to Monday, November 5 at 8:45 AM. ALL AYES; MOTION CARRIED**

**Moved by Ms. Miller, seconded by Mr. Fralick to continue the 18.30 Amendments to Tuesday, November, 20 at 10:15 AM. ALL AYES; MOTION CARRIED**

**Moved by Ms. Miller, seconded by Mr. Peterson to direct staff to complete the comparison of existing regulations to proposed regulations and that the Council agrees that they will not hold the final adoption of the Critical Areas Ordinance until that document is completed. VOTE: 2:4 (Fralick, Stephens, Pratt, Rosenfeld opposed); MOTION FAILED.**

**05:52 PM                    CLERK UPDATE & ADMINISTRATIVE MATTERS:**

**Committee Update:** Ms. Gabriel gave a committee report and the following action was taken:

**Moved by Ms. Miller, seconded by Mr. Fralick to approve Ken Katz to the Eastsound Planning and Review Committee (EPRC). ALL AYES; MOTION CARRIED**

**05:04 PM EXECUTIVE SESSIONS:** An **executive session** to discuss evaluation of the performance of a public employee pursuant to RCW 42.30.110(1)(g) and an **executive session** to discuss current and pending litigation pursuant to RCW 42.30.110(1)(i)

At 5:04 PM, Ms. Miller called for executive sessions to last approximately 28 minutes. Present: Full Council, Prosecuting Attorney Randall Gaylord, County Administrator Pro Tem Bob Jean and Clerk to the Council Ingrid Gabriel. The session ended at 5:30 PM for a total session time of 26 minutes.

Ms. Gabriel stepped out of the hearing room and announced that both executive sessions had ended.

**NO ACTION TAKEN.**

**Ms. Miller called the meeting back into regular session and adjourned the meeting.**

**5:30 PM ADJOURN AND SIGN DOCUMENTATION**

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**COUNTY COUNCIL  
SAN JUAN COUNTY, WASHINGTON**

These Minutes were approved and signed on November 20, 2012. The original document is retained in the Council's permanent proceedings file. Attest: Ingrid Gabriel, Council Clerk.