

**MEETING MINUTES  
SAN JUAN COUNTY (SJC), WASHINGTON  
COUNTY COUNCIL  
January 5, 2010**

Tuesday, January 5, 2010 - Legislative Hearing Room, 55 Second Street, Friday Harbor, WA

**10:01 AM      CALL TO ORDER**

**10:02 AM**

Council Chair Peterson called the meeting to order at 10:02 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, Ingrid Gabriel; Deputy Clerk, Maureen See; and interested members of the public were present.

Chair Rich Peterson suggested the Council postpone Clerk Updates and Administrative Matters to extend time for Citizen's Access. Mr. Fralick suggested removing the Resolution supporting the implementation of the San Juan Initiative's recommendations for improving Shoreline Protection from the Consent for further Council discussion today.

**CITIZENS' ACCESS TIME**

Colleen Howe thanked the Council for the passage of the climate change ordinance and offered suggestions to ensure climate change implementation in the County.

Tim Blanchard thanked the Council for removing the San Juan Initiative's Resolution from the Consent Agenda, shared his concerns, and offered suggestions for revisions.

Jane Cable stated she agreed with Tim Blanchard's comments.

John Lackey stated he agreed with Tim Blanchard's comments and ask for more specific demonstrations of where problems exist.

Dave Cable stated he agreed with Tim Blanchard's comments.

Sam Buck stated he felt the San Juan Initiative recommendations did not fully represent San Juan County's population.

**Comments regarding the Critical Areas Ordinance (CAO):**

Paul Kamin expressed his concerns with sections of the Ordinance pertaining to utilities.

Tim Blanchard expressed his concerns including: rush to produce changes without sufficient analysis; what land parcels are affected; and the dissemination of information to the public.

Ed Kilduff produced maps he prepared from County data indicating land parcels affected by the ordinance, and offered an analysis.

Mike Carlson commented on the need for an audit of systems in place now and cautioned the Council as to what constitutes conforming.

Frank Penwell, representing Citizens Alliance for Property Rights San Juan (CAPR), asked the Council to respect CAPR's point of view and to start over with the current CAO.

Dick Babbitt commented on the potential for litigation with the proposed Ordinance and suggested working with our BC neighbors to develop mitigation measures.

Craig Dorsey said he concurred with the previous comments.

Sam Buck commented on the setback issues of the Ordinance, and recommended the Council convene a panel to evaluate the economic impact of changes.

Stephanie Buffum expressed her view that the citizens of the County want certainty. Delaying passage of the CAO would result in blocked grants and an unprotected environment.

Patty Miller commented that the Council should seek clarity from the Prosecuting Attorney's office regarding required changes. She also recommended that the Council provide vision to committees.

Stephanie O'Day commented that based on her experience as a member of the Critical Area Ordinance Committee, some areas of the ordinance some need changes. She supports a tailored buffer approach.

Sharon Kivisto expressed her shock that the Council allowed public comment to go on this long, as it constitutes a public hearing without public knowledge. She stressed a lack of communication on Ferry Advisory Committee openings, and recommended the Council address communication at their Retreat.

Claudia Mills commented on the Council's adherence to the agenda.

#### **11:03 AM**

Mr. Fralick requested that the San Juan Initiative Resolution be removed from the Consent Agenda. Ms. Pratt noted that the San Juan Initiative Resolution had been unanimously approved on December 8, 2009. Ms. Pratt asked Mr. Gaylord a process question regarding the inclusion of the San Juan Initiative Resolution on the Consent Agenda, and whether or not legal review had changed the Resolution such that it required further action. Mr. Gaylord responded that no changes were made to the Resolution during legal review and that when the Council takes action, nothing further is required. Mr. Fralick noted that since the Resolution was approved on December 8, 2009, if it were to be reconsidered, it would have needed to take place at the following meeting on December 15.

Mr. Fralick said that although recommendations were made for changes to the Resolution, the Resolution was approved as written. Mr. Myhr concurred, and it was agreed the Resolution was ready for signature.

#### **COUNCIL MEMBER UPDATES & DISCUSSION ITEMS: (postponed until January 12)**

**Ferries/FAC/Intermodal:**

**Budget Subcommittee:**

**Legislative Priorities & Lobbying Efforts:**

#### **ADDITIONAL UPDATES AND DISCUSSION ITEMS: (postponed until January 12)**

1. Council Retreat, Monday, March 1 - topics for consideration:
2. Quarterly Joint Meeting with Town of Friday Harbor: topics for discussion: a) Establishment of Joint County/Town Housing Authority;

**11:09 AM PUBLIC HEARINGS:** Council Chair Peterson announced public hearings to be held to consider the following matters: 1) Ordinance on Polystyrene Ban; and 2) Unified Development Code (UDC) Amendments continued - a. Upland Essential Public Facilities

**Present:** Full Council, County Administrator Pete Rose; Clerk to the Council, Ingrid Gabriel; Deputy Clerk, Maureen See; Randall Gaylord, Prosecuting Attorney; Jon Cain, Deputy Prosecutor; Shireene Hale, Planning Coordinator, including staff and interested members of the public

1. Ordinance on Polystyrene Ban - Randall Gaylord, Prosecuting Attorney

Mr. Gaylord introduced the Ordinance explained that it was tailored with the Town of Friday Harbor's Ordinance, and it is consistent with other ordinances in the state. The effective date was changed to Earth Day, April 22, 2010.

Chair Peterson opened Public Testimony and the following was submitted:

Bill Wright expressed his view that the Ordinance was not enforceable as written.

Doris Estabrooks explained that she has been working on this issue since 2004, and she thanked the Council and the Town of Friday Harbor for their support.

Stephanie Buffum, representing the San Juan Island Anti-Litter Initiative, urged the Council to adopt the polystyrene ban.

Public Testimony was closed, deliberations were held and the following action was taken:

**Moved by Mr. Myhr, seconded by Mr. Rosenfeld, to adopt an Ordinance Restricting the Use of Expanded Polystyrene Materials in Food Service Containers and Providing Penalties for Violations. Ayes - Fralick, Knapp, Pratt, Myhr and Rosenfeld; Nay - Peterson  
Motion passed 5-1**

2. Unified Development Code (UDC) Amendments (Continued)  
a) Upland Essential Public Facilities - Shireene Hale, Planning Coordinator;  
Randall Gaylord, Prosecuting Attorney; Jon Cain, Deputy Prosecutor

Shireene Hale, Planning Coordinator, continued Public Hearing for the purpose of discussing the Upland Essential Public Facilities. One impact of the proposed ordinance is to establish a new method for the identification of essential public facilities. The new process is intended to create ways to add other facilities to the list, provide a process for determination, provide reasonable mitigation, and insure that the siting and approval process is timely. Part of the process includes public participation.

Mr. Gaylord explained that essential public facilities are an exception to standard zoning rules. The Growth Management Act (GMA) underscores their importance to the community, and to the site.

Discussion followed between the Council, the Prosecuting Attorney, and staff. Public Testimony was opened and the following was submitted:

Paul Kamin asked that Group A water systems be included .

Steve Ludwig commented on confining definitions to municipal corporations in the County.

Bob Gamble commented that telecommunication facilities should not be added to the list.

Dave Cable commented that communication facilities should be included in discussion, and should be moved from the Comprehensive Plan and into the Unified Development Code.

Stephanie Buffum, representing the Friends of the San Juans, questioned the consistency in standards regarding rural, residential, industrial, and rural forest, and how they meet GMA standards.

Claudia Mills commented on the land use designations for siting, and asked that why other alphabetized definitions are missing from the ordinance.

Patty Miller commented that the definitions do not match state definitions for local areas and asked that sewer and water definitions be added back in, as well as primary communications facilities (land line).

Pierrette Guimond objected to the inclusion of communication towers definition as it removes public rights.

Michael Peterson expressed his concern regarding the notification of designated EPFs, and how a EPF is determined.

Chris Clarke asked what entity constitutes an EPF and how much public hearing process is allowed.

Patty Miller added that the Comprehensive Plan shows water systems as EPFs.

Chair Peterson closed Public Testimony with the right to reopen for continued Council discussion.

**12:29 PM RECESS FOR LUNCH**

**1:32 PM Continued Public Hearing on Upland Essential Public Facilities**

Chair Peterson continued the discussion on Upland Essential Public Facilities. Council reviewed the staff report with suggested revisions on definitions. It was agreed to close this Public Hearing, and schedule a new Public Hearing on January 26, 2010, at 10:00 AM.

**2:52 PM SELECTION OF COUNCIL CHAIR AND VICE-CHAIR**

Clerk to Council, Ingrid Gabriel, opened nominations for Council Chair. The following action took place:

**Mr. Myhr nominated Richard Fralick as the 2010 San Juan County Council Chair. Mr. Knapp seconded, All Ayes**

**Call for nominations for Vice Chair. Mr. Peterson nominated Lovel Pratt as the 2010 San Juan County Vice Chair. Mr. Myhr seconded. All Ayes**

**2:57 PM Appointment of Rene Beliveau as Director of Community Development and Planning**

Mr. Rose introduced Rene Beliveau as the recommended head of the Community Development and Planning Department. He briefly mentioned previous discussion of reorganization and approved CDPD fee increases. The following action took place:

**Mr. Fralick moved to confirm the appointment of Rene Beliveau as Director of Community Development and Planning. Mr. Knapp seconded. All ayes**

**Mr. Fralick moved to direct the County Auditor to prepare the appropriate emergency appropriation to allocate the revenue and expenditures anticipated from the recently approved fee increases. Mr. Rosenfeld seconded. All ayes**

**Mr. Fralick moved to rescind the appointment of John Manning as Interim Community Development and Planning Director, and to approve a letter thanking him for his service. Mr. Myhr seconded. All ayes**

**3:11 PM**

Mr. Fralick acknowledged those members of Boards and Committees who have stepped down from citizen's advisory posts in 2009. The following action took place:

**Mr. Fralick moved that the County Council send letters of thanks and appreciation to the volunteer citizens who resigned from their advisory committees in 2009. Mr. Rosenfeld seconded, as follows:**

Roland Sauer (Housing Bank Commission); Rebecca Moore (Agricultural Resources Committee); Neal C. Foley (Agricultural Resources Committee); Kji McIntyre (Agricultural Resources Committee); Todd Goldsmith (Agricultural Resources Committee); Jim Lawrence (Agricultural Resources Committee); Peggy Bill (Agricultural Resources Committee); Sally Coffin (Human Services Advisory Board); Harold Lentzner (Human Services Advisory Board); Richard Keefe (Housing Bank Commission); Brian Ehrmantraut (Eastsound Planning Review Committee); Steve Hopkins (Eastsound Planning Review Committee); Doug Bison (San Juan County Fair Board); Nancy Jones (Land Bank Commission); Thom Pence (Land Bank Commission); Williams Evans (Lopez Island Library Board of Trustees); Judith Miller (Orcas Island Library Board of Trustees); Thomas Metke (San Juan Island Library Board of Trustees); John Messinger (Lodging Tax Advisory Committee); Jack Giard (Marine Resources Committee); Andy Holman (Marine Resources Committee); Mary Masters (Marine Resources Committee); Carl Jones (San Juan County Parks and Recreation Board); Kurt Long (Planning Commission); George Post (San Juan County Solid Waste Advisory Committee); Susie Teague (Veterans' Advisory Board); and Dorothy Vandaveer (San Juan County Solid Waste Advisory Committee).

**All Ayes**

**3:12 PM NEXT STEPS FOR CRITICAL AREAS ORDINANCE**

Council continued the discussion on Critical Areas Ordinance. By consensus the Council agreed to not move forward at this time with the current draft uplands CAO update as, and to take the following steps:

1. Review and possibly amend the Best Available Science (BAS) included in the current draft ordinance. The Prosecuting Attorney recommends that the Council adopt a resolution that identifies the BAS. Staff is drafting a work plan to achieve this.
2. Consider a tailored approach component (which may or may not relate to the Conservation Area Stewardship Plan currently included in the draft ordinance), possibly Island County's or Ecology's BAS Volume 2, appendix 8C or combination thereof.
3. Concurrently address the three "hot button" issues through Council workshops:

Reasonable use; Non-conforming; Setbacks and buffers in UGAs

Outside support, i.e., Dr. Paul Adamus, or another consultant, would be invaluable in evaluating existing BAS and/or creating additional local BAS, however funding is a major obstacle.

**4:08 PM      SOLID WASTE FUNDING** - Jon Shannon, Public Works Director; Steve Alexander, Solid Waste Manager; Ed Hale, Utility Manager

Mr. Rose introduced the background of the proposed solid waste rates. He indicated to Council that a funding system should be approved this month.

Mr. Shannon proposed four funding model alternatives: 1) Status Quo; 2) SWAC based Model; 3) Simplified Rate Model; 4) District Property Tax Model

Discussion followed summarizing major rate components for each alternative. The discussion will continue on January 12, 2010.

Chair Peterson asked for a motion to approve the Consent Agenda. The following action took place:

**Moved by Mr. Rosenfeld, seconded by Mr. Myhr to approve the Consent Agenda of January 5, 2010 as follows:**

**A. Resolutions:**

1. A Resolution granting Courtney Bowles Timber Open Space Application No. 08TOS003 on Lopez Island

**Ordinances:** (No Items)

**B. Contracts/Agreements:**

1. Intergovernmental Agreement for Law Enforcement Services and Assistance between the Town of Friday Harbor and San Juan County

**C. Budget Items:**

Approve 2009 Warrants signed by Auditor and County Administrator:

- Warrants #72722-72757 & 72857 in the amount of \$13,100.09 for Medical Reimbursements
- Warrants #72764-72856 in the amount of \$81,665.12 for County Claims
- EFT #12162009 in the amount of \$3,984.68 for Public Works Excise EFT
- Warrants #72858-72902 in the amount of \$43,101.11 for Public Works
- Warrants #72980-73008 in the amount of \$34,950.80 for Public Works
- Warrants #73009-73092 in the amount of \$101,881.58 for County Claims
- Warrants #73273-73330 in the amount of \$64,539.64 for County Claims
- Warrants #73331-73374 in the amount of \$127,968.33 for Public Works

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

**E. Appointments:**

**F. Correspondence:**

A letter to Barry Thom, Acting Regional Administrator, Protected Resources Division, Northwest Regional Office, National Marine Fisheries Service regarding Input to the National Oceanic and Atmospheric Administration on Proposed Regulations to Protect Killer Whales from Vessel Effects in the Inland Waters of Washington.

**G. Miscellaneous:** (No Items)

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

**All Ayes**

**5:03 PM      ADJOURN AND SIGN DOCUMENTATION**

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**COUNTY COUNCIL, SAN JUAN COUNTY, WASHINGTON**

**These Minutes were approved and signed on Tuesday, January 12, 2010. The original document is retained in the Council's permanent proceedings file. Attest: Ingrid Gabriel, Council Clerk.**