

ORDINANCE NO. 21 - 2007

ORDINANCE ADOPTING RULES OF PROCEDURE FOR SAN JUAN COUNTY COUNCIL AND REPEALING SJCC SECTIONS 2.04.010 THROUGH 2.04.040

WHEREAS, on November 8, 2005, the voters of San Juan County approved a charter form of government; and

WHEREAS, Section 2.41 of the Charter requires that the County Council shall enact by ordinance rules of procedure governing the time, place and conduct of its meetings and hearings and the introduction, publication, consideration, and adoption of ordinances; and

WHEREAS, Section 2.31 of the Charter requires the County Council and the County Administrator to follow procedures developed and agreed upon by the County Council and County administrator; and

WHEREAS, during the first three months of 2007, the County Council met with the County Administrator and Prosecuting Attorney in workshops to formulate the rules for procedures and rules to comply with Section 2.31 and Section 2.41 of the Charter; and

WHEREAS, a duly advertised public hearing was held on the proposal to adopt rules of procedure on July 10, 2007,

NOW, THEREFORE, it is hereby ORDAINED by the San Juan County Council:

General

Section 1.1 Purpose. These County Council Rules of Procedure are designed to provide guidance for the County Council and County Administrator. They are not to be considered an amendment or substitute of County Council authority. These rules have been prepared from review of many statutes, ordinances, court cases and other sources, but they are not intended to be an amendment or substitute for those statutes, ordinances, court decisions, or other authority.

Section 1.2 Use. No authority other than the County Council may enforce these rules or rely on these rules. Failure of the County Council to follow any of these rules shall be considered a Council decision to waive such rules. No notice of such waiver need be given.

Section 1.3 Public Use or Reliance Not Intended. Because these rules are designed to assist the County Council and not to provide substantive rules affecting constituents, it is

expressly stated that these rules do not constitute land use regulations, official controls, “appearance of fairness rules,” public hearing rules or other substantive rules binding upon or to be used by or relied upon by members of the public. These rules do not amend statutory or other regulatory (such as ordinance) requirements.

The County Council

Section 2.1 Meeting Location. The Council will meet at the County Council Hearing Room on Second Street in Friday Harbor, or such other venue as may be deemed appropriate by the Council. On any day that a regular meeting will not be held at the County Council Hearing Room, a notice of the alternate location shall be posted at the entry to the County Council Hearing Room. The Council desires to hold at least one regular meeting quarterly on the other ferry-served islands.

Section 2.2 Regular Meetings. Regular meetings of the Council shall be held on at least two Tuesdays of the month unless otherwise held or cancelled by action of the Council and shall normally begin at 10 a.m. Changes or postponements will be posted on the County web site and notice will be sent to the media who have requested such notice. Workshops, staff meetings, or study sessions will be held on the Monday preceding the regular Tuesday meeting, or at such times as are scheduled by the Council, unless cancelled or postponed in accordance with applicable state or local procedures.

Section 2.3 Special Council Meetings. A special meeting may be called by a minimum of three (3) members of the Council. The Clerk of the Council shall, pursuant to RCW 42.30.080, prepare and distribute a written notice of the special meeting. The notice shall contain the following information about the meeting: time, place, and business to be transacted. Final action shall not be taken on any subjects other than the subjects for which the meeting was noticed. The notice shall be distributed by regular or electronic mail or personally to the residence of each Council Member, the County Administrator, all persons who have requested a notice of special meeting and posted on the County web site.

Section 2.4 Council Meetings – Open to the Public. All meetings of the Council shall be open to the public, except when an executive session or closed session is authorized as provided for in RCW 42.30.110 or RCW 42.30.140.

Section 2.5 Chair/Vice-Chair. The County Charter provides that the Council shall annually elect one of its members to serve as its Chair, who shall preside at meetings of the Council and be recognized as the head of the County for ceremonial purposes. The Council shall also elect a Vice-Chair from among its members who, in the absence of the Chair, shall have the duties of the Chair.

Section 2.6 Quorum. A quorum shall consist of four Council Members.

Section 2.7 Respect and Decorum. It is the duty of the Chair and Council Members to maintain dignity and respect for their offices, County staff and the public. While the

Council is in session, the Council Members shall preserve order and decorum, and no member of the public shall, by conversation or otherwise, delay or interrupt the proceedings of the Council, or disrupt or disparage any person while speaking. Council Members and the public shall obey the proper orders of the Chair.

Any person making disruptive, disparaging or impertinent remarks, or unreasonably interrupting the business of the Council, either while addressing the Council or attending the proceedings, shall be asked to leave, or be removed from the meeting. Continued disruptions may result in a recess, while assistance of the Sheriff is requested, or adjournment, as set forth in Section 6.6 of this resolution.

Section 2.8 Permission Required to Address the Council. Persons other than Council Members and the County Administrator may address the Council at appropriate times and only after permission is given by the Chair or by at least three members of the Council.

Section 2.9 Attendance, Excused Absences. Article 4, Section 4.60 of the San Juan County Charter provides that a Council Member may forfeit his/her office by failing to attend three consecutive regular meetings without being excused by the legislative body or being absent from the County for more than thirty (30) days without being excused by the legislative body. Members of the Council may be so excused by complying with this section. The member shall establish contact with the Chair prior to the meeting and state the reason for his/her inability to attend the meeting. If the member is unable to contact the Chair, the member shall contact the Vice-Chair or Clerk of the Council, who shall convey the message to the Chair. At the start of a public meeting, the Chair shall inform the Council of the member's absence, state the reason for such absence, and inquire if there is a motion to excuse the member. Upon passage of such motion by a majority of members present, the absent member shall be considered excused and the Clerk of the Council will make an appropriate notation in the minutes.

Section 2.10 Workshops. Regular or special council meetings, or portions thereof, may be designated as workshops. Workshops need have no formal agenda, except when the session is called as a special meeting and may be conducted informally so long as such informality is not in conflict with these rules.

- (a) Unless it is a holiday, regular workshops of the Council shall normally begin at 10 a.m. on Mondays preceding each Tuesday's regular meeting day.
- (b) Purpose. The purpose of workshop discussions is to make Council Members aware of impending business and allow informal discussion of issues that might be acted on at a future meeting. Any regular meeting may be continued to a workshop when time allows. Public comment is not normally allowed at workshops, although the Council may allow or request participation in the same manner as a regular Council meeting.
- (c) Workshop Procedure. During the Council workshop, the discussion leader selected by the Council should:

- (1) Introduce the subject and give background information;
- (2) Identify the discussion goal; and
- (3) Act as a facilitator to keep the discussion focused.

The Clerk of the Council or a deputy clerk shall keep notes of the discussion subjects with special attention to Council consensus or administrative issues (e.g., agenda, future budget changes, etc.) which may need more formal action in a later meeting.

Section 2.11 Clerk of the Council - Minutes - Public Information Access. The Clerk of the Council shall keep Minutes as required by law, and shall perform such other duties in the meeting as may be required by the Council. In the absence of the Clerk of the Council, the Council shall appoint a person to act as the Clerk of the Council. The Clerk of the Council shall keep Minutes which identify the general discussion of the issue and complete detail of any official action or consensus reached. The Clerk of the Council shall audio record the proceedings of all public hearings, regular business meetings, and of all land use and quasi-judicial proceedings, except that no recordings shall be made of study sessions or workshops where no final action is intended. The Clerk shall keep, and make available, an agenda and date for each audio recording, which will facilitate location of the recorded proceedings. Access to the audio recordings shall be made reasonably available to any party who so requests, according to County public records procedures.

Section 2.12 General Duties of Clerk of the Council. Attend and record all of the proceedings of the legislative authority;(2) make full entries of all of their resolutions and decisions on all questions concerning the raising of money for and the allowance of accounts against the county; (3) record the vote of each member on any question upon which there is a division or at the request of any member present; (4) record the reports of the county treasurer of the receipts and disbursements of the county; (5) preserve and file all accounts acted upon by the legislative authority; (6) preserve and file all petitions and applications for franchises and record the action of the legislative authority thereon; (7) record all ordinances or orders levying taxes; and (8) perform all other duties required by rule or order of the legislative authority.

Section 2.13 The “Three-Touch Principle.” Decision-makers and citizens at all levels of the County should have adequate time to thoroughly consider the issues prior to final decisions. It is the intent of the Council that the Council and County Administrator abide by the “Three-Touch Principle” whenever possible. The following procedural guidelines are designed to avoid “surprises” to the Council, citizens, and administrative personnel:

- (1) Any pending request or proposal for adopting or changing public policy, ordinances, resolutions, or directives which will require a decision of the County Council or County Administrator should normally “touch” (oral, written or any combination thereof) the decision-makers at three separate meetings. Quasi-

judicial matters and any subject discussed in executive sessions are excluded from application of the "Three-Touch Principle."

(2) Unexpected circumstances may arise wherein observance of the "Three-Touch Principle" is impractical. However, when unusual circumstances arise which justify a "first discussion" decision, the persons requesting the expedited decision should also explain the timing need. This principle excludes staff reports and other general communications not requiring a future Council decision.

COUNTY ADMINISTRATION

Section 3.1 County Administrator. The County Administrator is the chief administrative officer of San Juan County. The County Administrator is appointed by, and directly accountable to, the County Council. The County Administrator is responsible for the execution of the County Council's policy directives, and for the management of County administrative departments. The powers and duties of the County Administrator are defined by Section 3 of the San Juan County Charter, and may be further defined or clarified by agreement between the Council and the Administrator. Balanced with the County Administrator's accountability to the County Council, there is a need for the Council to allow the County Administrator the freedom to accomplish the duties and responsibilities of the office as specified in Section 2.31 of the Charter.

Section 3.2 Role of the County Administrator. The County Administrator shall attend all meetings of the County Council, unless excused by the Chair or Council. The County Administrator may recommend for adoption by the Council such measures deemed necessary or expedient; prepare and submit to the Council such reports as may be required by the body or as the County Administrator deems advisable to submit; keep the Council advised as to the business of the County; and shall be available to take part in the Council's discussion on all matters concerning the welfare of the County.

Section 3.3 Complaints to Council Members. When performance complaints are made by citizens about staff actions directly to an individual Council Member, the Council Member should then refer the matter directly to the County Administrator for review and/or action. The individual Council Member should be informed of the action or response made to the complainant.

Section 3.4 Administrative Complaints -- "Best Practice." Although citizens' direct access to elected officials is to be encouraged to help develop public policy, County Council Members should not develop a "personal intervention" pattern in calls for service or administrative appeals. The suggested policy is to refer the citizen to the appropriate department or the County Administrator, unless an unsatisfactory result has occurred.

Section 3.5 County Staff – Attendance at Meetings. Attendance at meetings by staff of county administrative departments shall be at the discretion of the County Administrator.

Section 3.6 Presentations and Briefings. Administrative presentations: In order to enhance public understanding of complex issues, presenters are encouraged to include the use of visual communications if appropriate and as time allows. Presenters should have copies of materials available for the attending public.

COMMITTEES, BOARDS & COMMISSIONS

Section 4.1 General. The Council values the expression of citizen viewpoints on topics of concern to the Council. Therefore, the Council will continue the tradition of seeking input from volunteer citizen advisory boards and committees, although final responsibility for decisions, and the implementation that follows, rests entirely with the Council. The Council reminds staff that the ideal purpose of citizen involvement is not to advance staff agendas, but to seek objective opinions from a diverse range of citizens.

Section 4.2 Citizen Committees. All citizens advisory and task force groups shall be established by the Council. Unless otherwise provided by law, appointment shall be by the Council. Members of any committee, board, or commission which has been appointed or approved by the Council, may be removed for cause by a majority vote of the Council.

Section 4.3 Method of Appointment. All committees, boards, and commissions which are required by state law, County Charter, or County ordinance shall be appointed in the manner required by the charter, state law or, in the absence of such law, in the manner determined by the Council.

Section 4.4 Review. The function and activities of each County advisory board, commission, or similar body shall be reviewed every four (4) years to determine whether the purpose for which such board, commission, or similar body was established is being fulfilled, and whether a need for such board, commission or similar body still exists.

Section 4.5 Designation of Responsible Committee. The Clerk of the County Council shall compile a roster of the boards, commissions, and committees.

Section 4.6 Council Relations with Boards and Committees. Committees, boards, and commissions of San Juan County shall provide the County Council with Minutes, or a brief summary report of all meetings.

Section 4.7 Use of Uniform Business Rules and Uniform Rules of Order. Unless otherwise provided by the Council, all boards, commissions, and committees shall follow the Uniform Business Rules (Chapter 2. ___ SJCC) [pending consideration] and Uniform Rules of Order (Chapter 2. ___ SJCC), [pending consideration] as adopted by the County Council for such boards, commissions, and committees.

Section 4.8 Training. An annual orientation will be provided for all newly-appointed board members by the offices of the County Administrator. All board members, long-term and newly-appointed members are encouraged to attend this orientation. Information is

provided on the Council/Administrator form of government, the County Council governance policies, the role of citizen advisory boards, the rules and procedures of advisory boards and legal issues surrounding open public meetings and public records. After the orientation, a recognition ceremony or reception will be conducted for all board members.

Section 4.9 Annual Reporting. Each Board or Committee appointed by the Council shall present a written annual report and work plan and present it to the Council.

The annual report may include the following features:

- Verbal report
- List of members
- Summary of purpose
- Report on programs and services
- Performance measurement summary
- Expenditure report
- Goals and objectives for the coming year
- Unmet needs

LEGISLATIVE POLICY MAKING

Section 5.1 Ordinances and Resolutions. Ordinances and resolutions will customarily be prepared, introduced and proceed in the manner described on the flow chart attached hereto as Exhibit A-2.

- (a) An ordinance is a local law (legislative act) prescribing permanent rules of general applicability. Council action shall be taken by ordinance when required by the San Juan County Charter, RCW, or where prescribed conduct may be enforced by penalty. An ordinance may be adopted after proper notice and a public hearing. Examples of ordinances are laws concerning speed limits, criminal laws and land use laws.
- (b) A resolution is less formal than an ordinance and is a statement of legislative policy or direction concerning matters of special or temporary character. Council action shall be taken by resolution in those instances where an expression of legislative policy more formal than a motion is desired. Resolutions are used to express support for policies, manage the legislative branch, or take other short term actions. Resolutions may be adopted without a public hearing.
- (c) A motion directs a specific course of action. A motion is less formal, usually unwritten, and once approved and entered into the record, is the equivalent of a resolution in those instances where a resolution is not required.

Section 5.2. Ordinances. The procedures for ordinances are as follows:

- (a) Proposal. Any ordinance may be proposed by any citizen of San Juan County. The Council then may assign the proposed ordinance to the County

Administrator, elected official, or the Council. Findings shall be promptly reported for review by the Council.

- (b) **Sponsorship.** When a Council Member wishes to assume sponsorship or advocacy of an ordinance or resolution, he/she should so announce, make the initial motion, provide an introduction and advocate the measure before the Council.
- (c) **Introduction.** Ordinances shall be introduced in a written form approved by the Prosecuting Attorney. After review and discussion by the Council, the Council may move to advertise the ordinance for public hearing or have the ordinance modified and returned to Council for formal action to publish the ordinance.
- (d) **Motion Failure.** If a motion “to advertise the ordinance for public hearing” fails, the ordinance shall be considered lost, unless a subsequent motion directs its revision and resubmission to the County Council.
- (e) **Action.** Except in an emergency, the Council will conduct a public hearing with at least ten (10) days notice and afford the public an opportunity to comment on the proposed ordinance. In response to public comment, the Council may modify the ordinance before it is adopted.
- (f) **Effective Date.** Except in an emergency, an adopted ordinance will become effective ten (10) days after the date it is enacted.

Section 5.3. Resolutions. A resolution may be put to its final passage on the same day on which it was introduced. The title of each resolution shall be read prior to its passage.

Section 5.4. Review of Drafts. Draft documents of all ordinances, resolutions or motions shall be designated as “DRAFTS” and shall contain the date of revision and the name of the author. Drafts shall be provided in electronic and paper format. Proposed ordinances shall be accompanied by a summary which fairly describes the subject of the ordinance and may be used for publication in lieu of the full text. There are two types of draft documents.

- (a) **PROPOSED DRAFTS** may be written by any person, and shall contain the date and the name of the group or individual originating or sponsoring the proposal, at the time of presentation to the County Council.
- (b) **COUNCIL DRAFTS** shall be documents or proposals which have been presented to the Council and to which the Council has decided to give further consideration or revision.

COUNCIL MEETING PROCEDURES

Section 6.1 Council Meeting Agendas. The Clerk of the Council shall prepare and maintain a list of proposed matters set for consideration by the Council over the course of the next four meetings and a proposed agenda for the next two meetings. At a workshop or at a regular Council meeting, the Council shall approve the agenda for the regular meeting to be held two regular meetings hence. The list of matters under consideration for the next four meetings, the agendas for the next two meetings and supporting materials for the next meeting shall be prepared and available for each Council Member at the conclusion of each regular Council meeting. The Chair, a majority of the Council Members present, or the County Administrator (with the Council's concurrence) may introduce a new item to the day's agenda at any meeting.

Section 6.2 Consent Agenda. The Consent Agenda is a portion of the regular meeting agenda which contains matters that:

- (a) Have been previously discussed by the Council; or
- (b) Can be reviewed by a Council Member without further explanation; or
- (c) Are so routine, technical or "housekeeping" in nature that passage without discussion is likely.

The Clerk of the Council or County Administrator, in consultation with the Chair, may place matters on the Consent Agenda. At any time prior to the vote on the Consent Agenda, any Council Member may ask to have the item moved from the Consent Agenda to the regular agenda. The motion on the consent agenda is as follows: "I move adoption of the Consent Agenda for this day." This motion shall be non-debatable and will have the effect of moving to adopt all items on the Consent Agenda. Adoption of any item on the consent agenda implies unanimous consent, unless a member requests the opportunity to record a "no" vote on a specific item on the Consent Agenda. If any matter is withdrawn, the Chair shall place the item at an appropriate place on the agenda for the current or a future meeting.

Section 6.3 Council Packets. Council Members shall personally pick up their agenda packets from their individual mailboxes, provided by the Clerk of the Council, unless otherwise arranged by the member or further directed by the Council.

Section 6.4 Executive Sessions. In accordance with the Open Meetings Act, RCW Chapter 42.30, the Council may hold a closed (executive) session during a regular or special meeting. Executive sessions will frequently be held near the end of the day to allow the public to attend meetings with the least interruption. Before convening in executive session, the Chair shall publicly announce the purpose for excluding the public from the meeting place and the time when the executive session shall be concluded. If the Council wishes to adjourn or take action at the close of a meeting from executive session, that fact will be announced. The announced time limit for executive sessions may be extended by

announcement of the Chair made to those waiting in the nearest public area. No final action may be taken in executive session.

Council Members and others present must keep confidential all oral and written information provided during executive sessions to protect the best interests of the County. Confidentiality also includes information provided to Council Members outside of executive sessions when the information is considered exempt from disclosure under the Code of Ethics for Municipal Officers (RCW Chapter 42).

Section 6.5 Agenda. The business of all regular meetings of the Council shall be transacted as follows, provided, however, that the Chair may, during a Council meeting, rearrange items that are not to be heard at a fixed time to conduct the business before the Council more expeditiously. The County Council desires to allow a maximum opportunity for public comment. However, the business of the County must proceed in an orderly, timely manner. At any time the Chair, in his/her sole discretion, may set such reasonable limits as are necessary to prevent disruption of other necessary business. These rules are intended to promote an orderly system of holding a public meeting, to give persons opportunity to be heard and to create an environment in which individuals are not likely to be embarrassed or uncomfortable by exercising their right to speak freely and inquire of their government.

- (a) Call to Order (Normally at 10 a.m.)
- (b) Pledge of Allegiance
- (c) Consideration of Absences
- (d) New Employee Introductions
- (e) Citizen Access Time
- (f) Council Administrative Matters (Extended reports shall be placed during new business and submitted in writing.)
 - Approval of minutes
 - Consent Agenda
 - Discussion/other action items
 - Boards, commissions and committees
- (g) Administrator's Briefing. Reports, tracking and discussion of an administrative nature. (Normally 1:30 p.m.)
- (h) New Business.
 - Public hearings
 - Reports/briefings
 - Closed (executive) session

- (i) Next Meeting Date Announced by Chair
- (j) Adjournment

Section 6.6 Adjournment Due to Emergency or Disruption. In the event of an emergency, such as a fire, threatened violence, or inability to maintain order, the Chair shall declare the meeting adjourned or continued and the Council Members shall immediately leave the meeting area.

RULES OF ORDER FOR COUNCIL MEETINGS

Section 7.1 Rules of Order. Rules of order shall be governed by the chart attached as Exhibit A-1.

Section 7.2 Motions and Discussion.

- (a) All items of business placed before the Council shall be in the form of an affirmative motion. Affirmative motions are preferred to prevent "approval by default" of a failed negative motion.
- (b) When possible, Council Members should direct administrative questions to the County Administrator.
- (c) Comments from the audience shall be directed to the Council, and, when appropriate, the Council will refer to the question to the staff members, Prosecuting Attorney, or to the County Administrator.

Section 7.3 Voting. Four affirmative votes are required to take action. The votes during all meetings of the Council shall be transacted as follows:

- (a) Unless otherwise provided by statute, ordinance, or resolution, all votes shall be taken by voice, except that at the request of any Council Member, a roll call vote shall be taken and recorded by the Clerk of the Council. The order of the roll call vote shall be determined by the Clerk of the Council.
- (b) In case of a tie vote on any proposal, the motion shall be considered lost.

Section 7.4 Reconsideration. Except as otherwise provided in the County Code, any action of the Council shall be subject to a motion to reconsider **except for**:

- (a) final decisions on land use applications,
- (b) events which have been established or set in motion by reliance on the action of the County Council,
- (c) any action previously reconsidered,

- (d) motions to adjourn or motions to suspend the rules,
- (e) an affirmative vote to lay an item on, or take an item from, the table, or
- (f) a vote appointing someone to a vacant elected office who is present and does not decline.

Such motion for reconsideration can only be made by a member of the prevailing side on the action in question. A motion to reconsider must be made no later than the next succeeding regular Council meeting. A motion to reconsider is debatable only if the action being reconsidered is debatable. Upon passage of a motion to reconsider, the subject matter is returned to the table anew at the next regular Council meeting for any action the Council deems advisable. Any motion for reconsideration of a matter which was the subject of a required public hearing or which is a quasi-judicial matter may not be discussed or acted upon unless and until the parties or their attorneys and the persons testifying have been given at least five (5) business days advance notice of such discussion and/or action.

Section 7.5 Audio Recordings of Meetings. All regular meetings and public hearings of the County Council shall be recorded by the Clerk of the Council on an audio recording device. Workshops or study sessions are mostly comprised of discussion in which no formal action is intended. Therefore, workshops or study sessions may not be recorded by the County except as set forth in Section 2.11 above, unless the Council so elects upon advice of the County Administrator, Prosecuting Attorney, or Clerk of the Council. Other persons may record a meeting using audio or video device, provided such recording is not disruptive to the meeting and does not discourage citizens from participating.

Section 7.6 Photography. Photography is allowed during meetings provided that the photographer does not disrupt the council by taking pictures without permission of the chair in a way that (A) uses a flash; (B) approaches or sets up in the area of council seating, staff seating or presentation tables. The Council reserves the right to adopt additional restrictions on photography when necessary to avoid disruption and preserve the good order of meetings.

Section 7.7 Scheduling of Presentations. Requests for presentations to be scheduled on the formal agenda imply that the presentation is an official business consideration of the County. Anyone wishing to address the council during session will direct their request to the clerk of the council. If the request pertains to a county administrative function, the clerk of the council will promptly forward the request to the county administrator. Graphic presentations such as videotapes or slides prepared by persons who are not County employees or volunteers shall be reviewed by the Chair or designee, who shall determine whether the items are appropriate and free from any computer virus.

PUBLIC HEARING PROCEDURES

Section 8.1 Appearance of Fairness Doctrine. Definition, Application, Disclosures/Disqualifiers:

- (a) **Appearance of Fairness Doctrine Defined.** When the law which calls for public hearings gives the public not only the right to attend, but the right to be heard as well, the hearings must not only be fair but must *appear* to be so. It is a situation where appearances are quite as important as substance. Where there is a showing of substantial evidence to raise an appearance of fairness question, the court has stated: It is the possible range of mental impressions made upon the public's mind, rather than the intent of the acting governmental employee, that matters. The question to be asked is this: Would a disinterested person, having been apprised of the totality of a Council Member's personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist? If answered in the affirmative, such deliberations, and any course of conduct reached thereon, should be voided.
- (b) **Types of Hearings to Which the Doctrine Applies.** RCW 42.36.010 states:

Application of the appearance of fairness doctrine to local land use decisions shall be limited to the quasi-judicial actions of local decision-making bodies as defined in this section. Quasi-judicial actions of local decision-making bodies are those actions of the legislative body...which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance.

Street vacations are typically legislative actions, unless clearly tied to, and integrated into, a site-specific development proposal which is quasi-judicial in nature.

Section 8.2 Obligations of Council Members - Procedure.

- (a) Immediate self-disclosure of interests that may appear to constitute a conflict of interest is hereby encouraged. Council Members should recognize that the Appearance of Fairness Doctrine does not require establishment of a conflict of interest, but whether there is an appearance of conflict of interest to the average person. This may involve a Council Member's business associate, or a member of

the Council Member's immediate family. It could involve *ex parte* (from one party only, usually without notice to, or argument from, the other party) communications, ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the Council Member's employer with the proponents or opponents, announced predisposition, and the like. Prior to any quasi-judicial hearing, each Council Member should give consideration to whether a potential violation of the Appearance of Fairness Doctrine exists. If the answer is in the affirmative, no matter how remote, the Council Member should disclose such fact to the County Attorney as to whether a potential violation of the Appearance of Fairness Doctrine exists.

- (b) Anyone seeking to disqualify a Council Member from participating in a decision on the basis of a violation of the Appearance of Fairness Doctrine must raise the challenge as soon as the basis for disqualification is made known, or reasonably should have been made known, prior to the issuance of the decision. Upon failure to do so, the doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify the Council Member shall state, with specificity, the basis for disqualification; for example: demonstrated bias or prejudice for or against a party to the proceedings, a monetary interest in outcome of the proceedings, prejudgment of the issue prior to hearing the facts on the record, or *ex parte* contact. Should such challenge be made prior to the hearing, the Prosecuting Attorney, after interviewing the Council Member, shall render an opinion as to the likelihood that an Appearance of Fairness violation would be sustained in Superior Court. Should such challenge be made in the course of a quasi-judicial hearing, the Council Member shall either excuse him/herself or a recess should be called to permit the Prosecuting Attorney to make such interview and render such opinion.
- (c) In the case of the Council sitting as a quasi-judicial body, the Chair shall have authority to request a Council Member to excuse him/herself on the basis of an Appearance of Fairness violation. Further, if two (2) Council Members believe that an Appearance of Fairness violation exists, such individuals may move to request a Council Member to excuse him/herself on the basis of an Appearance of Fairness violation. In arriving at this decision, the Chair or other Council Members shall give due regard to the opinion of the Prosecuting Attorney.

Section 8.3 Specific Statutory Provisions.

- (a) County Council Members shall not express their opinions about pending or proposed quasi-judicial actions on any such matter which is or may come before the Council.
- (b) County Council Members who comply with all provisions of applicable public disclosure and ethics laws shall not be limited under the Appearance of Fairness

Doctrine from accepting campaign contributions to finance the campaign, including outstanding debts. (RCW 42.36.050)

- (c) Members of local decision-making bodies. No member of a local decision-making body may be disqualified by the Appearance of Fairness Doctrine for conducting the business of his or her office with any constituent on any matter other than a quasi-judicial action then pending before the local legislative body. (RCW 42.36.020)
- (d) *Ex Parte* communications should be avoided whenever possible. During the pendency of any quasi-judicial proceeding, no Council Member may engage in *ex parte* communications with proponents or opponents about a proposal involved in the pending proceeding, unless the Council Member: (1) places on the record the substance of such oral or written communications concerning the decision or action; and (2) undertakes to assure that a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication shall be made at each hearing where action is taken or considered on the subject. This does not prohibit correspondence between a citizen and his or her elected official, if the correspondence is made a part of the record, when it pertains to the subject matter of a quasi-judicial proceeding. (RCW 42.36.060)
- (e) Procedure on Application. Any person making application for any action leading to a quasi-judicial hearing before the County Council shall be provided with a document containing the following information: (1) the names and address of all members of the County Council, (2) a statement that public disclosure information is available for public inspection regarding all such Council Members, and (3) a statement that if the applicant intends to raise any appearance of fairness issue, the applicant should do so at least two (2) weeks prior to any public hearing, if the grounds for such issue are then known, and in all cases, no later than before the opening of the public hearing. The applicant shall sign a receipt for such document.

THE PUBLIC HEARING

Section 8.4 Sign-in Procedure. Prior to the start of the public hearing, the Chair may require that all persons wishing to be heard sign in with the Clerk, giving their names and addresses, the agenda item, and whether they wish to speak as proponent, opponent, or otherwise. Any person who fails to sign in shall not be permitted to speak until all those who signed in have done so. At any public hearing, persons who have signed in and wish to be heard shall be given an opportunity to be heard.

Section 8.5 Time Limits. The Chair shall be authorized to establish speaker time limits and otherwise control presentations to avoid repetition. The Chair may change the order of speakers so that testimony is heard in the most logical groupings, (i.e., proponents, opponents, adjacent owners, vested interests, etc.)

Section 8.6 Agenda and Rules of Order. The Chair introduces the agenda item, opens the public hearing, and announces the following Rules of Order:

- (a) “All comments by proponents, opponents, or the public shall be made from the speaker's rostrum, and any individual making comments shall first give his/her name and address. This is required because an official recorded transcript of the public hearing is being made. If there is any appeal, the court must make its decision on the basis of what was said at the public hearing.”
- (b) “It is not necessary to be a proponent or opponent in order to speak. If you consider yourself neither a proponent nor opponent, please speak during the proponent portion and identify yourself as neither a proponent nor an opponent.”
- (c) “No comments shall be made from any other location and anyone making out of order comments shall be subject to removal from the meeting.”
- (d) “There will be no demonstrations, applause, or other audience participation during or at the conclusion of anyone's presentation. The Council is not allowed to consider such expressions and it takes time away from the speakers.”
- (e) “These rules are intended to promote an orderly system of holding a public hearing, to give persons an opportunity to be heard, and to ensure that individuals are not embarrassed by exercising their right of free speech.”

Section 8.7 Conflict of Interest. When the Council conducts a hearing to which the Appearance of Fairness Doctrine applies, the Chair or Prosecuting attorney will ask if any Council Member knows of any reason which would require such member to be excused pursuant to the Appearance of Fairness Doctrine. The form of the announcement is as follows:

All Council Members should now give consideration as to whether they have:

- (a) a demonstrated bias or prejudice for or against any party to the proceedings;
- (b) a direct or indirect monetary interest in the outcome of the proceedings;
- (c) a prejudgment of the issue prior to hearing the facts on the record; or
- (d) had *ex parte* contact with any individual, excluding administrative staff, with regard to an issue related to the pending case prior to the hearing. If any Council Member should answer in the affirmative, then the Council Member should state the reason for his/her answer at this time, so that the Chair may inquire of the County Attorney as to whether a violation of the Appearance of Fairness Doctrine may exist.

Section 8.8 Public Testimony. The Chair opens the public hearing, asks all persons who intend to be witnesses to be sworn to tell the truth.

Section 8.9 Administrative Background. The Chair then calls upon the applicable County department to describe the matter under consideration.

Section 8.10 Site Specific Caution. When considering a site-specific comprehensive plan and zoning amendment or zoning reclassification, the Chair shall announce, "Site plans, artistic renditions, and the like in support of a zoning amendment should be avoided except as they help explain the terms of any proposed or anticipated conditions for approval. Any graphic representations should be used for illustrative purposes only, and the County Council should avoid indicating approval or disapproval of such plans. Such evidence shall remain a part of the record."

The Chair will customarily call for proponents in quasi-judicial proceedings and for speakers in non-quasi-judicial proceedings.

Section 8.11 Proponents' Testimony. The Chair makes a final call.

Section 8.12 Opponents' Testimony. The Chair makes a final call.

Section 8.13 Proponents' Rebuttals.

Section 8.14 Opponents' rebuttals. If appropriate.

Section 8.15 County Administrator, County Department or Prosecuting Attorney Inquiry.

Section 8.16 Closing. Chair may close the Public Hearing, continue the Public Hearing, or take the matter under advisement.

Section 9. Repealer. The following sections of the San Juan County Code and the implementing ordinances and resolutions are hereby repealed:

- (a) Sections 2.04.010 through 2.04.040 of the San Juan County Code, which codified Resolutions 104-1979, Ordinance 14-2000 §7(B), Resolution 35-1984, Resolution 61-1974 as amended by Resolution 51-1979, and Resolution 24-1985.

Section 10 Effective Date. This Ordinance is effective on the 10th day after adoption.

ADOPTED this 10th day of July 2007.

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

ATTEST: Clerk of the Council

By: Signed
 Laura Tuttle, Clerk

Date:

REVIEWED BY COUNTY
ADMINISTRATOR

 Signed
Pete Rose Date: 07/05/07

APPROVED AS TO FORM ONLY
RANDALL K. GAYLORD

By: Signed
 Randall K. Gaylord Date 07/05/07

 Signed
Bob Myhr, Chair
District 6, Lopez/Shaw

 Signed
Howard Rosenfeld, Vice-Chair
District 3, Friday Harbor

 Signed
Kevin M. M. Ranker, Member
District 1, San Juan South

 Signed
Rich Peterson, Member
District 2, San Juan North

 Signed
Alan Lichter, Member
District 4, Orcas West

 Signed
Gene Knapp, Member
District 5, Orcas East

EXHIBIT A-1

Motion "To Approve the **Parliamentary Procedure at a Glance** Herein Contained and Incorporated as **Exhibit A-1** of the San Juan County, County Council Rules of Procedure."

PARLIAMENTARY PROCEDURE AT A GLANCE					
To do this:	You say this:	May you interrupt speaker?	Must be seconded?	Is motion debatable?	Vote required
Introduce business	"I move that ..."	NO	YES	YES	MAJORITY
Amend a motion	"I move to amend this motion"	NO	YES	YES	MAJORITY
Request information	"Point of information"	YES	NO	NO	NO VOTE
Suspend further discussion	"I move we table it"(until when?)	NO	YES	NO	MAJORITY
End debate	"I move the previous question ..."	NO	YES	NO	MAJORITY
Postpone discussion	"I move we postpone this matter until ..."(when?)	NO	YES	YES	MAJORITY
Have something further studied by a committee	"I move we refer ..."	NO	YES	YES	MAJORITY
Ask for a vote count to verify a voice vote	"I call for a division of the house"	NO	NO	NO	NO VOTE
Object to considering some matter	"I object to consideration of this"	YES	NO	NO	MAJORITY
Take up a matter previously tabled	"I move to take from the table ..."	NO	YES	NO	MAJORITY
Reconsider something already disposed of	"I move we reconsider action on ..."(time-date?)	YES	YES	YES	MAJORITY
Consider something in unscheduled order	"I move we suspend the rules and ..."	NO	YES	NO	MAJORITY
Vote on a ruling by the chair	"I appeal the chair's decision"	YES	YES	YES	MAJORITY
Object to procedure or personal affront--chair decides	"Point of order"	YES	NO	NO	NO VOTE
Complain about noise, room temperature, etc.	"Point of privilege"	YES	NO	NO	NO VOTE
Recess the meeting	"I move that we recess until ..."	NO	YES	NO	MAJORITY
Adjourn the meeting	"I move that we adjourn"	NO	YES	NO	MAJORITY

EXHIBIT A-2

