

Regular City Council Meeting
Tuesday, December 1, 2009, 6:00 p.m.
City Hall – Council Chambers

CALL TO ORDER Mayor Slowik called the meeting to order at 6:00 p.m.

INVOCATION Mark Hickenbotham, St. Stephens Anglican Church

ROLL CALL

Jim Slowik, Mayor	Paul Schmidt, City Administrator
Seven Members of the Council,	Margery Hite, City Attorney
Rick Almberg	Doug Merriman, Finance Director
James M. Campbell	Steve Powers, Development Services Director
Eric Gerber	Cac Kamak, Senior Planner
Jim Palmer	Cathy Rosen, Public Works Director
Beth Munns	Eric Johnston, City Engineer
Danny Paggao, Mayor Pro Tem	Rick Wallace, Chief of Police
Bob Severns	Mark Soptich, Fire Chief
	Ray Merrill, Battalion Chief
	Ron Hancock, POC Captain
	Mike McIntyre, Senior Services Director
	Mack Funk, Harbormaster
	Renée Recker, Executive Assistant to the Mayor

MINUTES

Motion: Councilmember Munns moved to approve the minutes of the 11/17/09 regular meeting and 11/19/09 special meeting. The motion was seconded by Councilmember Campbell and carried unanimously.

NON-ACTION COUNCIL ITEMS

Wreath Presentation by Boy Scout Troop 4059

The full troop presented their annual wreath to the City which marked the 50th year of this presentation.

Introduction of New Employees – Michael Evans and Jack Robinson

Cathy Rosen introduced Michael Evans; Jack Robinson was not present. Mr. Evans is a WWTP Operator in Training (OIT) and had interned with the City this past summer through ARRA. Mike was chosen from 100 other applicants for this position.

Public Comments

Mel Vance, P.O. Box 2882. Mr. Vance spoke with concern about the utility rates workshop and proposed change to the ERU calculation (from 2,500 sf to 3,300 sf). Mr. Vance felt, that increasing the ERU does not encourage installation of less impervious surface. Mr. Vance also spoke about the deaths of the four Lakewood police officers and noted that the Lakewood Independent Police Guild is accepting contributions on behalf of the officers' families.

Helen Chatfield-Weeks, 1415 SE 9th. Ms. Chatfield-Weeks spoke in support of the Chamber's "I Found it in Oak Harbor" campaign. Ms. Chatfield-Weeks encouraged everyone to shop locally.

With no other comments coming forth, Mayor Slowik closed public comments at 6:15 p.m.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS

Consent Agenda

- A. Excused Absence Request – Councilmember Bob Severns from the 1/5/10 Council Meeting
- B. WAIF Contract
- C. Pay Bills

Councilmember Alberg asked that item B – WAIF Contract be removed from the consent agenda.

MOTION: Councilmember Alberg moved to table the WAIF contract until the December 15, 2009 City Council meeting and set it for action as a single agenda item outside of the consent agenda. The motion was seconded by Councilmember Palmer.

Mr. Alberg spoke to his motion noting that this is an \$185,000 budget item and WAIF's representatives should be present to speak to the contract and total budget. (Note: the WAIF contract represents \$85,000.)

VOTE ON THE

MOTION: The motion carried unanimously.

MOTION: Councilmember Alberg moved to approve consent agenda items A and C with item C paying accounts payable check number 139265 in the amount of \$5,012.13, and payroll check numbers 93377 – 93440 in the amount of \$929,105.58. Councilmember Gerber seconded the motion which carried unanimously.

Quasi-Judicial Proceedings for Third Quarter Report on Element Nightclub, Nightclub License – Flyer's Restaurant and Brewery, and Nightclub License – Seven West.

Because all three of these agenda items require a quasi-judicial hearing, this process was conducted as a group for each of the three businesses. City Attorney Hite explained the appearance of fairness and quasi-judicial procedure beginning with ex parte communication. As stated in RCW 42.36.060:

During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

- Places on the record the substance of any written or oral ex parte communication concerning the decision of the action; and
- Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related.

This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence

is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.

Ms. Hite then asked each Council Member to state, for the record, what ex parte contacts they have had, whether written or oral, concerning the three matters to be decided. Each Council Member stated they had no ex parte contacts regarding Elements Nightclub, Flyer's Restaurant and Brewery, and Seven West.

Ms. Hite continued to these appearance of fairness questions which were individually asked of each Council Member:

1. Do you have knowledge of having conducted business with either the proponents or opponents of this project? Elements Flyer's Seven West	Mr. Almborg	Mr. Campbell	Mr. Gerber	Ms. Munns	Mr. Paggao	Mr. Palmer	Mr. Seaverns
	No	No	No	No	No	No	No
2. Do you have either a pecuniary or a non-pecuniary interest in the outcome of this proceeding? Elements Flyer's Seven West	Mr. Almborg	Mr. Campbell	Mr. Gerber	Ms. Munns	Mr. Paggao	Mr. Palmer	Mr. Seaverns
	No	No	No	No	No	No	No Flyer's; will recuse. No
3. Do you know whether or not your employer has a financial interest in the land or area which will be impacted by the decision in this proceeding? Elements Flyer's Seven West	Mr. Almborg	Mr. Campbell	Mr. Gerber	Ms. Munns	Mr. Paggao	Mr. Palmer	Mr. Seaverns
	No	No	No	No	No	No	No No No
4. Do you live or own property within 300 feet of the area which will be impacted by the decision in this proceeding? Elements Flyer's Seven West	Mr. Almborg	Mr. Campbell	Mr. Gerber	Ms. Munns	Mr. Paggao	Mr. Palmer	Mr. Seaverns
	No	No	No	No	No	No	Owns interest in a building within 300 feet of Elements and Seven West, but will not be impacted. No for Flyer's.

5. Do you have any special knowledge about the substance of the merits of this proceeding which would or could cause you to prejudge the outcome of this proceeding? Elements Flyer's Seven West	Mr. Almberg	Mr. Campbell	Mr. Gerber	Ms. Munns	Mr. Paggao	Mr. Palmer	Mr. Severns
	No	No	No	No	No	No	No
	No	No	No	No	No	No	No
6. Do you believe that you cannot sit and hear this matter fairly and impartially, both as to the respective positions of the proponents and the opponents in this proceeding? Elements Flyer's Seven West	Mr. Almberg	Mr. Campbell	Mr. Gerber	Ms. Munns	Mr. Paggao	Mr. Palmer	Mr. Severns
	No	No	No	No	No	No	No
	No	No	No	No	No	No	No
7. Is there any member of the audience who because of the "Appearance of Fairness Doctrine" wishes to disqualify any member of the Council from hearing this matter? If so, please state the name of the councilmember and the reason or reasons why you believe that Councilmember should be disqualified.							
No audience members came forward. Councilmember Severns recused himself regarding Flyer's.							

Public Hearing – Third Quarter Report on Elements Nightclub

Chief of Police Rick Wallace presented the third quarter investigative report regarding activities at Elements Nightclub as required in *OHMC 5.22.045(3) License Conditions*. Chief Wallace's report for the period of July – September 2009 included information on all calls for police service to Elements. During the third quarter of 2009 there were a total of 40 calls for police service. Ten of those calls have no significant bearing on this issue and should not be viewed as having a negative connotation towards the nightclub as these types of calls for police service could occur at any business or private residence. The remaining 30 calls for service do pertain to the license conditions and are described as follows:

Assault Complaints: 7 total - 5 in the parking lot, 2 inside the business

- 2 Arrests – In both incidents assaults did occur with one person arrested in each case.
- 1 Unfounded – No assault occurred.
- 2 Information only complaints – One victim reported was assaulted by unknown subject then refused to cooperate with officers. One victim reported was assaulted then changed his statement denying he was assaulted.
- 2 Settled by contact – Both cases involved business employees thinking that a fight was starting. These two situations were properly handled by Security Staff prior to arrival of officers.

Disorderly Conduct Complaints: 1 total, occurred in the parking lot

- 1 Gone on arrival – Verbal argument, properly handled by the security staff but this person was gone upon the officers arrival.

Theft: 1 total, inside the building

- 1 Unfounded – Victim claimed he was owed the money he had lost while gambling.

DUI: 1 total, in the area of the business

- 1 Gone on arrival – No further information was available to the responding officers.

Noise: 20, all in the parking lot, all at closing time

- 10 Information only or settled by contact – In these ten incidents there probably was a violation of the City's noise ordinance at the time of the complaint but the officers reported that the security staff responded quickly and effectively to mitigate the noise.
- 2 Gone on arrival - The officers were delayed in their response by other pending calls but there was no noise or violation upon their arrival.
- 8 Unfounded - Officers were in the parking lot area prior to and at the time of these complaints and there were no violations of the noise ordinance occurring.

While there is always room for improvement on the whole, it appears that the management and staff of Elements are doing an effective job of adhering to the license conditions ordered by the City Council. Although 30 complaints is a fairly large number and improvement in preventing these types of complaints does need to occur, there was not a single case reported where the officers felt they could have taken action as a violation of the license conditions. Additionally, the officers reported that the business had more than the required number of designated security personnel working during the required times but especially near closing time.

Mayor Slowik opened the public hearing at 6:35 p.m.

Mel Vance, P.O. Box 2882. Mr. Vance felt that both the second and third quarter reports demonstrated that Elements is appropriately handling their situation and the number of required security staff should be reduced. Incidents are the same at other nightclubs.

With no other comments coming forth, Mayor Slowik closed the public hearing at 6:38 p.m.

Council Discussion

Discussion followed about noise at closing time and what closing time was (4:00 a.m. or 2:00 a.m.) and if noise complaints are coming from one phone number. Chief Wallace clarified that the noise statistics reference 1:30 a.m. to 2:00 a.m. and the complaints are coming from one number. Discussion continued about noise in the parking lot and how to identify whether the patron came from Elements or another business. Chief Wallace noted that there has been a reduction in the number of calls from the second to third quarter, and Council felt that

Elements staff and security staff are doing a good job. No action is required with this report and Chief Wallace will present a final fourth quarter report at a future Council meeting.

Public Hearing – Nightclub License, Flyer’s Restaurant and Brewery

As noted in the earlier quasi-judicial process, Councilmember Severns recused himself from this discussion. Chief Wallace presented the agenda bill asking for approval and issuance of a nightclub license to Flyer’s Restaurant and Brewery. The business is located in a single-story building on SR-20 near Whidbey Avenue. Flyer’s Restaurant is made up of a large restaurant area with a smaller but separate area closed to those under the age of 21 that is designated for alcohol sales. This area has an access doorway inside the main entryway where their security can check the identification of their customers. From October 1, 2008 through October 31, 2009, there were 20 calls for service at that address. 18 of those calls have no significant bearing on this issue and should not be viewed as having a negative connotation towards the nightclub as these types of calls for police service could occur at any business or private residence. The 2 remaining calls for service were both noise complaints regarding music coming from the business, both near the hours of twelve midnight. As a result of Chief Wallace’s investigation, which included a review of the police responses to Flyer’s Restaurant and Brewery from October 1, 2008 through October 31, 2009 and an interview with the owners and managers, there are no circumstances that would deem any of the public health and safety issues described in OHMC 5.22.045(4) a concern at this time and that Flyer’s staff is operating with the appropriate levels of security staffing to handle or prevent issues relating to security, traffic, noise and litter.

Mayor Slowik opened the public hearing at 6:50 p.m.

Mel Vance, P.O. Box 2882. Mr. Vance spoke with concern about noise and noted that most of the Elements Nightclub complaints are noise complaints. Flyer’s backs up against apartment buildings and since there is a potential for noise complaints, Mr. Vance felt that Flyer’s should have one security person in the parking lot at closing.

Jason Tritt, General Manager and Partner, Flyer’s Restaurant and Brewery, 32295 SR-20. Mr. Tritt spoke with concern about the need for a nightclub license. Flyer’s is not a nightclub and has live music only once a month. Most of the time, the music has finished by 10:00 p.m. Flyer’s does not have security issues in the parking lot and usually closes at 10:00 or 11:00 p.m. Flyer’s Restaurant and Brewery made a decision to stop music at 10:00 p.m. Any other events will be done through a special event permit and should primarily occur in the summer. Mr. Tritt asked to have his application withdrawn based on the criteria for a nightclub license being inapplicable for Flyer’s.

With no other public comments coming forth, the public hearing was closed at 7:00 p.m.

City Attorney Hite concurred that the application could be withdrawn even though the City does not have a policy in place addressing withdrawal. Council could not exempt them from the license.

Chief Wallace noted that Mr. Tritt's comments were accurate and that the police department should remain problem-oriented. Two complaints in one year are not a problem. Flyer's management also feels that they are achieving 75% of gross receipts in food sales receipts, they do not have social dancing, and the music is background music. Chief Wallace also felt the application could be withdrawn.

Mayor Slowik concurred and this agenda item and application were withdrawn from this meeting's agenda.

Councilmember Severns returned to the meeting.

Public Hearing – Nightclub License, Seven West

Chief Wallace also presented this agenda bill asking for approval of a nightclub license for Seven West which is a new business located at 780 SE Bayshore Drive, Suite 101. The business is on the first floor of a two-story building (upper level has a Pioneer Way address and the lower level is on Bayshore Drive). Seven West is a restaurant and lounge open only to patrons 21 years of age and older. There are two main rooms: a dining area and lounge, and a separate lounge. Music will be played for social dancing and patron identification will be checked at the main entrance to the business.

Mayor Slowik opened ph at 7:10 p.m.

Mel Vance, P.O. Box 2882. Mr. Vance could not locate this business but thought it was close to Elements and Element's could be blamed for infractions from Seven West's patrons. This is only the second nightclub requiring parking lot security and Mr. Vance felt it was unfair to single out these minority businesses for additional licensing conditions. Mr. Vance thought that Seven West will have the same complaints as Elements.

With no other comments coming forth, Mayor Slowik closed the public hearing at 7:15 p.m.

Chief Wallace noted that Seven West is located on Bayshore Drive and Dock Street on the lower eastern side of the building across from Island Transit's Harbor Station. There are residents on Bayshore Drive and that is the reason for security personnel as a licensing condition. Mr. Allen intends to have five security employees on duty on Friday and Saturday nights and does not have a problem with the security personnel condition.

Council Discussion

Discussion followed about security personnel and the parking lot, the dance floor area and exits, Seven West's close proximity to Elements and the Island Transit Station, and their operating hours (2:00 a.m. closing) and liquor service.

MOTION: Councilmember Campbell moved to approve the issuance of a nightclub license to Seven West LLC with the following conditions:

- 1. Adhere to all existing laws, regulations, ordinances and zoning conditions of the State of Washington and the City of Oak Harbor applicable to the nightclub business located at Oak Harbor, Washington.**

2. **Ensure that at least two designated security personnel, in addition to existing on duty employees, will be on duty on Fridays and Saturdays, between the hours of 10:00 p.m. and 2:00 a.m.**
3. **Ensure that there are security measures sufficient to prevent noise violations or any other nuisance violation as included and described in the City of Oak Harbor Municipal Code, inside and outside the business, to include the parking lot and adjacent properties and that with the exception of ingress and egress to and from the building, doors and windows are to remain closed at all times while any type of music or entertainment is playing.**

The motion was seconded by Councilmember Severns and carried unanimously.

Public Hearing – Ordinance, 2009 Comprehensive Plan Amendments

Cac Kamak, Senior Planner discussed the Comprehensive Plan Amendment process and presented 2009's Comprehensive Plan Amendments which include updates to the Capital Improvements Plan (CIP) per the requirements of Oak Harbor Municipal Code (OHMC) 18.10.030, and an update to the Open Space Element with recently adopted goals and policies of the 2009 Parks, Recreation and Open Space Plan. This year there were no applications filed for land use changes.

Mayor Slowik opened the public hearing at 7:25 p.m. but there were no comments so the public hearing was closed.

MOTION: Councilmember Munns moved to adopt the ordinance approving the 2009 Comprehensive Plan Amendments. The motion was seconded by Councilmember Campbell and carried unanimously.

Public Hearing – Ordinance, Comprehensive Plan Amendments Process

Mr. Kamak also presented this agenda bill which introduces a new chapter to the Oak Harbor Municipal Code, Chapter 18.15, entitled "Comprehensive Plan Amendment Process." The purpose of this new chapter is to codify the process and schedule by which annual amendments to the Comprehensive Plan are submitted, processed, and acted upon. The proposed code introduces the concept of an annual docket system. The docket system allows the Planning Commission and the City Council to formally review and act on the scope of amendments proposed each year to the Comprehensive Plan. The review of a docket provides the opportunity for early public participation as prescribed in RCW 36.70A.140. The proposed code language outlines a process and schedule for the amendment process, public notification, and provides consistency and predictability for public input opportunities. The proposed language also includes a framework for docket management, threshold criteria for agenda items, and evaluation criteria for the amendments. The process is intended to:

- Formalize the amendment process and meet the requirements of RCW 36.70A.140
- Increase public involvement
- Provide a consistent and predictable schedule for the amendment process
- Provide a mechanism to proactively advance goals and policies within the comprehensive plan

Mayor Slowik opened the public hearing at 7:35 p.m.

Helen Chatfield-Weeks, 1415 SE 9th. Ms. Chatfield Weeks thanked the staff for proposing a better way to serve the public.

With no other comments coming forth, Mayor Slowik closed the public hearing at 7:38 p.m.

Council Discussion

Discussion followed about the effect of this process on citizens. Timing remains the same but becomes more predictable and allows staff to accept applications outside of the timeframe (though they would not be considered until the docket's December deadline for applications). Discussion continued about the technical advisory committee and the timeframe for Comprehensive Plan adoption. Council complimented staff for their work on this process.

MOTION: Councilmember Munns moved to continue the public hearing and proposed ordinance to the December 15, 2009 City Council meeting. The motion was seconded by Councilmember Almberg and carried unanimously.

Break

Mayor Slowik called for a five-minute break at 7:40 p.m. and the meeting reconvened at 7:45 p.m.

Pioneer Way Improvements – Street Configuration

Eric Johnston, City Engineer, presented this agenda bill and introduced Mick Monken, P.E., Perteet, Inc. The agenda bill sought Council direction on the final street configuration, either a one way or two way street, for the Pioneer Way Improvements Project which extends along SE Pioneer Way between City Beach Street and Midway Boulevard. The purpose and intent of the project is to promote economic development and revitalization of the City and specifically the Downtown Business Corridor, through the improvement and rehabilitation of the public infrastructure and beautification of the streetscape. The emergency replacement of the water main in 2008 focused attention on the failing underground utilities, sidewalks, drainage, street surfacing and other infrastructure along SE Pioneer Way. With the need to make a significant investment for the rehabilitation of basic infrastructure comes the opportunity to make an improvement beyond basic functionality. A number of studies and plans commissioned by the City have pointed to a need for improvements along the Pioneer Way Corridor. These studies have a recurring theme of beautification, pedestrian safety as well as amenities within the streetscape. Many of these project goals are captured in the various elements of the City of Oak Harbor Comprehensive Plan. In March of 2009 the City Council moved beyond the studies and planning efforts and retained the engineering firm Perteet, Inc. to develop construction-ready project documents. As was described in the March 3, 2009 agenda item, the engineering consultant was asked to look at both one way and two way configurations. Upon completing the surveying, site investigations, geometric design, and other engineering tasks in the scope of work, Perteet presented the following three alternatives:

- Existing Condition – Two way street with on street parallel parking
- Alternate 1 – Two way street with on street angle parking
- Alternate 2 – One way street with on street angle parking

From an engineering design viewpoint, SE Pioneer Way has a number of constraints, most notably the available right-of-way space. Downtown street right-of-ways are typically a

minimum of 60 feet wide and are often 70 to 100 feet wide. Street widths less than 60 feet do not allow for the wide sidewalks, parking on both sides, and two way traffic that are commonly seen in downtown areas. The available width on Pioneer Way is approximately 50 feet which means that choices and priorities must be made as to which elements of the streetscape are of highest priority to the community. It should be noted that, in describing these three alternatives, angle parking and the preservation of as much on street parking as possible were considered to be a priority and a common basis for analysis.

Existing condition or Alternative 0

This alternative would replace in kind the existing street configuration and leave the existing on street parallel parking, sidewalk width, and traffic configuration unchanged. This option is not recommended for further consideration as it does little, other than utility replacement, to meet the purpose and intent of the project.

Alternative 1 – Two Way Street with Angle Parking

This option would construct a two way street with angle parking on either side of the street as the travel lanes meander, or shift, from North to South along Pioneer Way. Opportunities for slightly wider sidewalks as well as creation of some limited plaza type spaces would be available. Two travel lanes are provided. In providing for the necessary turning radii and other geometrics necessary for larger vehicles, long tapers are provided at the intersections. This allows for all vehicles to safely and efficiently use the roadway, however, it is especially important for large delivery or service vehicles including solid waste pickup and emergency vehicles. The number of available on street parking spaces is reduced by approximately one half, below existing, in order to provide the space needed for the two way street configuration. As a two way street the engineering decision-making array focuses on traffic and vehicles. Space for pedestrians and pedestrian comfort level is given a lesser priority in providing spaces for moving vehicles. Spaces for bicycles are eliminated as the priority is given to motorized vehicles. Sidewalks remain a minimum of 5 feet wide but are widened in some areas. As a two way street the volumes of traffic along SE Pioneer Way, currently at approximately 4,000 ADT could be expected to increase over time. With current average speeds on SE Pioneer at 19 mph, there would not likely be any additional perceived reduction in speed with the two way configuration. Minimum lane widths of 10 feet are used with this alternative to maximize the use of the remaining space for parking and pedestrian areas. No shoulder, or shy, distance is provided. The standard lane width for higher volume two lane roads is 12 feet. A 10 foot lane width is used where ROW constraints exist, such as SE Pioneer Way. While a 10 foot lane width is adequate and the minimum for safety, it is not optimal for the flow of traffic. Use of narrow lanes is normally limited to lower volume roads. It is worth noting that with the narrow 10 foot lane, cars backing out of the angle parking spaces will often cross the centerline due to the narrow width.

Alternative 2 – One Way Street with Angle Parking

This option would construct a one way street, eastbound (towards the Seaplane Base) with angle parking on one side of the street (most likely the north side). A single 12 foot wide travel lane and a 3 foot wide shoulder would be provided. While this is not wide enough for a designated marked bicycle lane, it does provide for adequate space for bicycles and vehicles to share the road. Sidewalk widths are increased to a minimum of 8 feet in width and, as a one way street, the decision-making array focuses on the pedestrians. Spaces for vehicles are

reduced thereby providing more space for pedestrians and non-motorized modes of transportation. In some cases traffic engineers propose a one way street configuration to maximize traffic flow. In large urban centers, one way street couplets have been used to maximize traffic flow. In this case, however, the one way street will reduce the amount of traffic while maintaining the low average vehicle speeds. The relatively narrow street, the angle parking, the narrow constrictions at the intersections will help maintain relatively low speeds. The one way street alternative maximizes the available right-of-way space for use by pedestrians and while placing less importance on traffic. Bayshore Drive would remain a two way street to provide for the alternate circulation route for vehicles. Bayshore Drive has sufficient capacity for the anticipated increase in traffic. Minor modifications to the signalized intersections at Midway Boulevard and City Beach Street would be needed to accommodate the change in traffic pattern however both intersections would continue to operate well within normal level of service, both in terms of delay and safety.

A basic comparison of Alternative 1 and Alternative 2 is shown below.

	Alt 1 Two Way	Alt 2 One Way
Sidewalk Width	5 to 8 ft	8 to 10-ft
Maximum On Street Parking Spaces	45	96
Bicycle Lane	No	Yes
Design Focus	Vehicles	Pedestrians
Traffic Impacts	Minimal	Minimal
Time of Construction	8-12 months	8-12 months
Approximate Total Cost	\$8.35 million	\$8.35 million

The relocation of overhead utilities, construction start dates, impacts to businesses and other ancillary issues are key to the development of this project. These issues are of great importance and concern to the community and business owners alike. However, despite the importance of these issues they are largely independent from the decision on the street configuration. The overhead utilities can be relocated underground with both the one way and two way options. Likewise, the construction start date and the impact to business during the construction will not be affected, positively or negatively, by the selection of either alternative.

The Mayor and staff have presented these various options to several community groups including the Chamber of Commerce, the Downtown Merchants Association, City Council committees, the Kiwanis Club, the Lions Club, Sunrise Rotary, Navy League, Realtors groups, property owners and others. In addition, a community open house was held on October 24. In total, presentation of the alternatives and the concepts of the project have been given directly to hundreds of members of the community and indirectly through the City website and cable access channel to hundreds more.

As requested by the City, Perteet, Inc. has investigated and analyzed the three previously described alternatives. It is recommended that the Existing Condition Alternative not be considered for use on the project. Alternative 1 is focused on providing improvements to support vehicular traffic. Alternative 2 is focused on providing improvements to support and benefit the pedestrian. Both alternatives will provide a benefit to the City as a whole and to the Pioneer Way business area. Perteet has recommended that the one way configuration is the preferred alternative for the project. Normally, staff would provide a recommendation on the

choice of an alternative. In this case, however, as there is no clear technical choice, staff does not have a recommendation.

Mr. Johnston gave a visual demonstration of this project's elements and what could or could not be included depending on the alternative chosen. Mr. Monken gave a PowerPoint presentation on what is needed: drainage and stormwater, street surface, basic sidewalks, sewer, water and other utilities; and what is left: parking, traffic and vehicles, and pedestrians. Costs are equivalent but the largest difference is one alternative favors traffic while the other alternative favors pedestrians. Mr. Monken presented the goals: destination, pedestrian-oriented, business focus, tourist attraction, unique, safe multi-modal (bicycles), places and people spaces, and accommodation space for a unique identity. He also discussed safety issues with parking, doing business with people on foot rather than people in cars, accommodation for bicyclists, pedestrian crossings, commuter trips and capture trips. Mr. Johnston also noted that Mr. Monken's goals came from Oak Harbor's planning documents and the three remaining elements as shown in the visual demonstration and Mr. Monken's statement – parking, traffic and vehicles, and pedestrians – are focused on these goals.

Mayor Slowik called for public comments at 8:20 p.m.

Maynard Hoing, Oak Harbor Tavern. You will surround 27 businesses with this project and the whole town is involved. 250 people will be put out of work. This whole meeting is pointing to a one way street. By the time you are done, everybody is going to learn Mt. Vernon has more to offer and Oak Harbor is going to be closed down.

Coreen Lerch, 1195 Silverlake Road. I am proud of Perteet's decision. It is important that our children have a place that they can call downtown. Oak Harbor Elementary is part of an art walk, the downtown tree lighting ceremony – a one way option is wonderful. It would be great to have sidewalks where kids can play and parents can have a coffee in a sidewalk café. This option would be more accessible for everybody and not a detriment to downtown. This will increase business on Pioneer and Bayshore; Flintstone Park will be used. Pioneer Way should not be a thoroughfare.

Phil Sykes, Whidbey Wild Bird, 860 SE Pioneer Way. Engineering aspects are not all equal. They will all put me out of business after 7 years on Pioneer. This is my livelihood. Not one of the footfalls (Mr. Johnston's visual demonstration) said anything about the retailers. I don't think my landlord will excuse my rent. Either option will shut me out of business for 12 months, but I opt for a two way street to get people and freight in on Pioneer Way.

Scott Wotring, Good Times Pizza. I am onboard for making our downtown better. I grew up here. Kristi Jensen emailed us about Cincinnati's \$3 million project. The existing businesses disappeared and bars and tattoo shops took their place. This area has become Cincinnati's biggest bar district. We have a lot of drinking establishments already in Oak Harbor. I am in favor of a two way street and keeping the existing parallel parking. A one way will create a straight shot to the Seaplane Base and the two way option will still add 3 feet of sidewalk. In response to a remark about attracting high-end businesses, Pioneer Way already has high-end businesses in place.

Mayor Slowik made a correction for the record: in the first public presentation, we did not present parallel parking as an option but did so in the next 9 public presentations.

Frank Scelzi, P.O Box 2249. 15 out of 20 merchants were against the one way. All 15 said they could not renew their leases. I have a monster payment on my building. Most of the people did not want to come to this meeting and felt that Council would go with the one way option. I have spent the last two years of my life downtown and have not seen the Council members there. Talk to the people who are down there and see what is happening to them. The reality is that most of the downtown merchants have taken out loans and this project will be detrimental to them. In looking at the internet, I cannot find one positive thing about a one way street for small towns. If I was in the position to make a decision that would take away someone's livelihood, I wouldn't do it. Choose the two way option.

Chris Skinner, 740 Pioneer Way. Mr. Skinner talked about his properties and the new building he will build on Pioneer Way. We believe that a one way makes the most sense for what we want to do. I don't agree that livelihoods will be that affected. There will be disruption since it is inevitable with the utilities and street construction. Two way is clearly an arterial heading to the base and base housing. This is the heart of our city and it is clogged. People are not stopping and going into the businesses. Parallel parking is a true detriment to our downtown. If we create a parking-friendly atmosphere, this will enhance retail. Create a friendlier place with wider sidewalks, tables, space for sidewalk sales, and restaurants that can accommodate overhangs. Emphasizing traffic does not make sense. We are not like Mt. Vernon. We can route traffic to Bayshore Drive. If the downtown is not a friendly place, retail will go down the road. Choose the one way alternative.

Kelly Beedle, Oak Harbor Tavern, 940 SE Pioneer Way. Choose the two way option. Older people cannot come down if they are parked off of Pioneer Way. We voted for you. Take a vote for the people here who work, own the buildings, and the retailers who pay their leases. We want downtown to be a destination; vote for a two way street.

Gloria Carothers, 2130 Stoney Beach Lane, Owner of Jewelry Gallery on Pioneer Way. I have owned the Jewelry Gallery for 18 years and I am one of the stable forces downtown. I am unequivocally for a two way street. We have a natural triangular flow from Pioneer Way to Midway to SR-20. We expected a large sign, as recommended by the Windjammer Project, directing people downtown and this would require a two way street. All of the property owners and merchants want to work with you. We need a healthy economy downtown and two way is the way to go. One way creates a thoroughfare. Who is taking the risks? It is the building owners and merchants. What risks are the Council and Mr. Monken taking? How many Perteet projects are one way? What was the economic outcome? I have been told that you have not been involved in any one way projects. Consider the two way alternative.

Kristi Jensen, 1380 SE 8th. I am a property owner, a merchant, and a real estate agent. I have been researching one way streets and can contradict the one way alternative. I've found a ton of information supporting a two way option which would reach every goal with a bigger business focus. If there are no businesses, no one will be attracted downtown. I have been asking customers at Purple Moon about a one way street and they would not come downtown with that option. I am for revitalization, but do the two way street. I cannot rent my retail spaces. Right now, Pioneer Way is a low rent district. Several potential lessees have said that they want to wait until the one way or two way decision has been made. People window shop with a two way street and will head out of town or go to existing box stores with a one way.

Kay Coolidge, 3021 Mt. Baker Circle, Owner of Popsies on Pioneer Way. I know that the work has to be done. Crying hard times is a moot point; it has to be done. I support the one way option which is a wonderful plan. I have contacted the Council members about an extended plan. I like the one way street.

Sylvia Salgato, Owner of the Sports Shop in Harborside Village. I support the two way street and feel drivers would go straight to the base with a one way street which would also increase speed on Pioneer Way.

Ron Apgar, Owner of Paint Your World on Pioneer Way. I am for the two way street. You can still slow down the traffic and making it safe for pedestrians. Add more speed humps. This could still be a good thing for the merchants.

Dan Ollis, Owner of Whidbey Coffee, 980 SE Pioneer Way. Mr. Ollis also has businesses in Seattle and Seattle's Queen Anne neighborhood. I have seen other Councils want cafés and pedestrian amenities. If you create limitations for customers, they will not come downtown. If the business owners in this room tonight are not successful, I am not successful. A two way street gives you the most options. The goals don't pay attention to the retailers or who would replace a retailer going out of business. I have worked with site locators and they turn away from one way streets. Walgreens would not consider a one way street since it impedes their traffic counts.

Dave Harrington, 1524 NE Narrows. I do not have an economic consideration, but a two way plan with curved streets and street furniture will also offer wider sidewalks and doesn't restrict the traffic flow. A lot of parking isn't used in downtown. In Kirkland, none of their main streets are one way, only their side streets. A one way street design is one you cannot back out of. Local smaller cities have tried one way and then went back to two way. Go with a more luxurious two way street that could be tried as a one way without incurring the expense of a one way. Two way does reduce the amount of parking downtown. I don't think either plan is pedestrian-oriented.

Mel Vance, P.O. Box 2882. Mr. Vance addressed some of the comments supporting the one way alternative. Safer pedestrian crossings are marginally better with a one way street. Pedestrians crossing Pioneer Way right now often cross outside of the sidewalks. The City built the Waterfront/Maylor Point Trail which is better for recreational walking. Using Bayshore Drive as a bypass creates a short left-hand turn lane which will stack up traffic. There isn't a long right-hand turn coming back from the east end. I sympathize with the businesses downtown, but Pioneer Way is not a destination street, it is a thoroughfare. SW 4th and SW 8th are residential streets that are also being used as thoroughfares and they shouldn't be used that way. A large part of Island County's economy comes from the base and the one way will affect that traffic. I support the two way alternative.

Helen Chatfield-Weeks, 1415 SE 9th. I like Pioneer Way as it is right now. Oak Harbor is the nicest small town in Island County. Vote for the two way. Consider what everyone has said.

Jill Schacht, Owner of Casual House and Fox Pointe, 690 Pioneer Way. Ms. Schacht spoke with concern about the one-way alternative and firmly believes that a one way street can be potentially devastating to business in downtown and will create a ghost town. She read her letter to Mayor and Council which was submitted for the record and attached to these minutes as Exhibit A.

Brenda Marti, lives in Coupeville, business is at 720 Pioneer Way. Vote for the two way street. Even though I'm an avid cyclist, the two way alternative is the best choice.

Sandi Willmetts, 466 SE Neil Street, Owner of Baby and Me on Pioneer Way. Baby and Me serves young families who are primarily military and offers a consignment opportunity for them. Keep Pioneer Way a two way street.

With no other comments coming forth, Mayor Slowik closed comments on this subject at 8:55 p.m.

Council Comments

Councilmember Severns: I have spent more time on this agenda bill than any other. I have spent time talking to businesses and business owners. There are 27 businesses but 55 property owners. This question is so controversial that even some business partners don't agree with each other. Mr. Severns asked about handicapped accessibility and why staff did not make a recommendation. Mayor Slowik responded that he had taken responsibility for staff not making a recommendation and leaving this decision to Council. He also noted that a decision did not have to be made this evening. Mr. Johnston added that federal law requires ADA compliance whether the configuration is one way or two way. Some store fronts may not be ADA compliant; the difficulty is with individual retail spaces. Widening the sidewalks eases accessibility. Mr. Severns also asked about the cross streets and any plan to change their direction. Mr. Johnston noted that there is opportunity to change cross street direction or create two way on some cross streets but parking would then be lost on those streets. Mr. Severns asked about the one way alternative's angled parking sited for the north side of Pioneer and why that side was chosen. Mr. Johnston talked about how the street meanders from the north to south side, standard tapers, and that parking on the north side maximized the number of parking spaces and provided for greater turning radii. Mr. Severns asked about returning a one way design to a two way street and Mr. Johnston noted that it would be difficult to change this design back to a two way.

Councilmember Almberg: Mr. Almberg asked about the 4,000 ADT vehicle count. Mr. Johnston talked about this count covering both east and westbound directions counted over the last four years with the count being about equal each direction. A formal traffic study has not been done for a one way alternative and the effect on neighborhood streets. Comparatively, the Pioneer Way traffic count is very low. SR-20 has 25,000 cars per day. Residential streets see an average of 1,400 vehicles. Bayshore Drive has a lower volume than Pioneer Way. The traffic flow for one way would not have a dramatic effect on these streets and would not be a major detriment. Mr. Almberg felt that comments about a one way alternative reflect 1/3 are unhappy, 1/3 are happy, and 1/3 do not want a change.

Councilmember Palmer: Mr. Palmer asked how delivery trucks would be accommodated on a one way street. Mr. Johnston noted that both a one way and two way would need to change how deliveries can occur and would need to establish delivery times so they could stop in the street which would also restrict parking during that time. Mr. Monken concurred that both options will have obstructions and restrict parking during delivery times. Mr. Palmer talked about being a former retailer on Pioneer Way. It was difficult unloading even with the existing two way. He also talked about the intersections at Midway and Pioneer, City Beach and Pioneer and asked how the turning lanes would be configured. Mr. Johnston replied that changes will need to be made to signalization and channelization to encourage a change in turning movement. Total volume at the intersection will not likely change. Timing will be changed to accommodate vehicles in a protective phase rather than the existing protective permissive phase. Mr. Palmer also asked about the option of parking garage. Mr. Johnston noted that a parking garage has not been considered as part of this project. Researching a pedestrian plaza revealed costs between \$700,000 and \$900,000. A parking garage would be more costly and a single level parking garage on Pioneer Way would only net 18 to 20 additional parking spaces since the lower level space would be needed for support columns. This would be very expensive. Parking garages are not economically viable until land costs

are valued at \$1 million per acre. There may be other opportunities to provide additional parking at a more economical cost.

Councilmember Gerber: If we move forward with the two way alternative and then change it to one way, what would that cost? Mr. Johnston responded that costs for two way to one way would be related to striping changes which would be less costly than changing from one way to two way street.

Councilmember Paggao: The purpose and intent of this project is to promote economic development and revitalization. I have attended seminars on revitalization and networked with council members from other cities and everyone's major concern is revitalization. We have the funding to do so and to also promote economic development. It looks like there are more amenities with a one way street when you consider the comparison chart. In spite of this, along with testimony, articles, and letters, the merchants still have an uncertainty about the one way alternative. If we lose the merchants, that would be devastating. We need to help the merchants and have an obligation to decide and reflect the wishes of our merchants.

Councilmember Campbell: I have heard a lot of emotion tonight. I'm attempting to eliminate the emotion and go with the facts for each alternative. Our primary responsibility is to protect our citizens, give them good roads, and establish an environment that is good for our citizens. I support the two way option. I know that the one way option has an impact on the property owners and retailers. The most important question is how we march the construction down the street and ease impact on the merchants and owners. 4,000 cars go up and down Pioneer Way and one way cuts half of that count rather than adding to the count. I go to the Seaplane Base, and then shop coming back on Pioneer. Early on in the Windjammer Plan four years ago, there was one feature that a one way street would not allow us to do: trying to get drivers to turn off of SR-20 onto Midway and then Pioneer Way and back into downtown. Are drivers really going to go down Bayshore Drive to turn around toward Pioneer Way if you miss what you want on Pioneer? One way does not bring people into downtown. A bike lane is better on Bayshore Drive. I think each of the direction alternatives are equally safe. People fall on the sidewalks but I cannot remember someone being hit in the street. People feel safe on Pioneer Way. We live in an automobile society and we are not going to change that.

Councilmember Munns: Ms. Munns asked about the traffic flow from Bayshore Drive, City Beach Street, Pioneer Way, and with new signage, is there concern about adding more traffic to these intersections, notably down by Wells Fargo. Mr. Johnston agreed that the intersection by Wells Fargo as it meets Bayshore is a terrible intersection. Ms. Munns asked if Pioneer as a one way would make this intersection worse and Mr. Johnston talked about channelization and signalization as a remedy. Ms. Munns also asked about turn radii. Mr. Johnston noted that the two way option and oblique angle along with the meandering street lead to the need for tapers. Ms. Munns asked Mr. Monken about the audience's comments concerning risk and Perteet. Mr. Johnston answered that the City retains Perteet for design, compliance, and construction documents but does not assign Perteet risk for the ultimate financial well-being of Oak Harbor. Mr. Monken spoke to his personal experience as a public works director for 18 years, the references to Kirkland's one way – two way was dying and the drive by capture business relocated, with other businesses, art galleries and boutiques replacing them, and the successes of one way streets where appropriate. Perteet has also recommended against one way streets with the City of Snohomish and City of Woodinville being examples of that option not working as well. Most of Perteet's one way recommendations are transit one ways in downtowns. Mr. Monken spoke about the public comment concerning unfavorable internet research on one way streets in downtowns. These are not single lane designs. They are multiple lanes meant to move traffic without consideration to parking. Perteet will design

the best option for Oak Harbor whether it is one or two way. Oak Harbor has all of the elements to make one way successful for Pioneer and to meet the goals. You will gain goals with two way but there are trade-offs and you will lose uniqueness. One way gives you the maximum number of parking spaces. The preferred Perteet opinion of a one way for Pioneer wasn't a quick personal opinion but was considered as a firm. Perteet wants to see Oak Harbor succeed. Ms. Munns could understand the anxiety from retailers and owners, but never heard them talk about bringing people into downtown. Without shoppers, you have nothing. Whatever decision is made, we need to join together. This is our city, not just the merchants, we all live here. The community needs to stay united. We are all going to have to do some give and take. In the past, some of the decisions were limiting. I have lived here since 1976. I'm more worried about getting the Pioneer Way businesses through construction whether the choice is one way or two way. This project is supposed to energize Oak Harbor and make us proud. We want it to last more than 5 years. Casual House spruced up, and a domino effect was created down the street. Oak Harbor is growing, we will fill in, but we won't be ready without a plan.

Mayor Slowik asked Mr. Schmidt if he had any comments.

Paul Schmidt: No specific comments, but we didn't imagine the project would be this divisive; it shows local government in action. This project will be using City funds rather than an LID with the merchants which would assess the property owner for the utilities. We felt that would be a burden and difficult to administer. The \$3.5 million in real estate excise tax is an investment from the entire community. These funds can only be used for this type of capital improvement project and the City is using a considerable amount of REET funding. We are seeking other funding for potential utility undergrounding. The previous City Council prioritized Pioneer Way and we have gone through the input process with many workshops.

Council Comments continued

Councilmember Severns: I have been on both sides of this decision. In talking to the merchants and property owners, they do not want more studies. We need to do something. Mr. Severns had polled his responses: property owners favored one way, 37% of people he talked with favored two way, 4 people said they didn't care but do something, 2 people said do nothing. People see the importance of parking; 96 spaces would be created with the one way alternative, and 45 spaces with the two way option. The other option is to do nothing or go back to the drawing board. At this point, I cannot vote for two way alternative.

Councilmember Almberg: The primary purpose as stated by the engineer, was for improvement of public infrastructure, and secondly, to create a people-friendly environment and streetscapes. The Comprehensive Plan speaks to this and speaks for the community, not just individuals. Whether one way or two way, improvements need to be done right away. We have a good bidding climate and funding is available for street improvements and utilities. These funds could be used in other parts of the City, but the best opportunity is downtown and economic recovery. Without these improvements downtown will deteriorate and businesses would be subject to unplanned utility failures which are expensive to do under emergency circumstances. If these funds go to other City projects, these funds would not then become available for Pioneer Way other than through an LID which means the property owners would pay for the improvements. One way vs. two way: people to people, or bumper to bumper. We have enough bumper to bumper in Oak Harbor. Having read articles and books while I was on the Planning Commission, the Comprehensive Plan strongly encourages a people-friendly atmosphere. Cars take up 20 times more area than people do. With a vehicular design, and

as the community grows, the City will not be able to build its way out of that problem. We have to remain pedestrian-friendly.

Councilmember Palmer: Mr. Palmer owned the Radio Shack in its downtown location for 5 years. I know the feeling of what will happen with your businesses. No matter what we do, the time period is going to be tough but the long-term is what we need to look at. The north side businesses are here tonight, south side businesses are for one way since they are afraid of losing their parking. This is going to be an issue no matter what we do. How can we accept 45 parking spaces which comes with the two way alternative. I like Mr. Almborg's statistics: 1/3, 1/3, 1/3. Many are afraid of having anything done. The community seems to want a one way street. Citizens talk about how they have paid for this, too, and it is not just the concern of the merchants. We can't lose the parking.

Councilmember Gerber: When the City hires consultants, they work for the Mayor and staff. What has been presented here tonight is not an accident; it is the best concept for what the City has. My thanks to the Mayor for having Council make this decision and for his time spent giving presentations to community groups. I support the Mayor and the vision of a one way alternative.

Councilmember Paggao: The vision is on quality of life, not only on the merchants, but for the whole community. If we lose the merchants, there will be no quality of life. This would limit sales tax. We need to think about quality of life. A one way is more focused on the pedestrian. There is no assurance that this will increase the merchants' customers. I think a two way street is more preferable and not only helps the merchants, but the whole community.

Councilmember Campbell: I still support a two way alternative but earlier in the evening, someone commented that we have our minds made up. That is not true. This has not been set up.

Councilmember Munns: It seems to be split 50/50 with the public's opinion. You can impulse-buy when walking, and a thoroughfare takes you to specific stores. People are worried about access to stores and would like the choice to be more ADA-friendly. Either way, we need to decide tonight.

Councilmember Almborg: Mr. Almborg commented on Dom Nozzi and that very little is more attractive than a vibrant, festive place filled with happy people. Sidewalk contacts are the small change from which a city's wealth in small town life can grow.

MOTION: Councilmember Almborg moved to direct staff to proceed with design of the one way angle parking alternative for the Pioneer Way Improvements. The motion was seconded by Councilmember Gerber.

AMENDED

MOTION: Councilmember Paggao amended the original motion to direct staff to proceed with design of the two way angle parking alternative for the Pioneer Way Improvements. The motion was seconded by Councilmember Campbell.

City Attorney Hite did not feel that Mr. Paggao's motion is an amendment to the original motion. Mayor Slowik let the amended motion stand. Councilmember Paggao spoke to his amended motion noting that when he and his family purchase or dine, they go downtown.

VOTE ON THE AMENDED

MOTION: Councilmembers Campbell, Munns, and Paggao voted in favor of the amended motion. The amended motion was opposed by Councilmembers AlMBERG, Gerber, Palmer, and Severns. The amended motion did not carry.

SECOND AMENDED

MOTION: Councilmember Severns amended the original motion to select alternative 0 and direct staff to proceed with design of a two way alternative with parallel parking. The motion was seconded by Councilmember Paggao.

Alternative 0 would replace in kind the existing street configuration and leave the existing on-street parallel parking, sidewalk width, and traffic configuration unchanged.

VOTE ON THE SECOND AMENDED

MOTION: Councilmembers Paggao, Palmer, and Severns voted in favor of the second amended motion. The second amended motion was opposed by Councilmembers AlMBERG, Gerber, Munns, and Campbell. The second amended motion did not carry.

VOTE ON THE ORIGINAL

MOTION: Councilmembers AlMBERG, Gerber, Palmer and Severns voted in favor of the original motion. Councilmembers Campbell, Munns, and Paggao opposed the motion. The original motion to direct staff to proceed with design of the one way angle parking alternative for the Pioneer Way Improvements carried.

Mayor Slowik called for a five-minute break and the meeting reconvened at 10:20 p.m.

Fire Department Reorganization Proposal

Fire Chief Mark Soptich presented a proposal to reorganize the Fire Department and a resolution to authorize payment for two different classes of employee for off-duty command responsibilities. To account for off-duty command responsibilities, the resolution authorizes a per-shift amount of "inconvenience pay" for management-exempt employees assuming that duty. Additional compensation does not alter the status of salaried employees if they are otherwise paid on a salary basis. The additional pay represents the additional duties, not the specific number of hours involved, so it is to be paid on the basis of the shifts for which command responsibility is assigned. Chief Soptich talked about the differences between the original 9/15/09 organizational chart and the proposed 12/1/09 organizational chart. The revised proposal includes the following changes to the September 15th proposal:

- 1) The Deputy Chief Paid On Call position has been removed.
- 2) The Fire Prevention Specialist/Public Educator/PIO position is retained as part of the re-organizational structure but is unfunded at this time. Funding will be included in the department's budget process for the 2011 - 2012 budget cycle.

The cost to implement the proposal in 2010 is \$37,887 and the funding sources are:

Deputy Chief of Operations, a FTE position	\$ 5,897	Funding source – 2010 Fire Department Budget
2 POC Captains (pay increase)	\$ 2,000	Funding source – 2010 Fire Department Budget

4 POC Captains (new positions)	\$ 3,000	Funding source – 2010 Fire Department Budget
Command Inconvenience Pay	<u>\$26,990</u>	Funding source - General Fund
Total	\$37,887	

Exempt status of the Deputy Chief of Fire Prevention position is better defined as the management of Paid On Call personnel would be assigned to this position.

Mayor Slowik called for public comments but there were none.

Council Discussion

Discussion followed about how the \$26,990 Command Inconvenience Pay fits into the budget, and that POC Captains should be corrected to read POC Lieutenants. Mr. Merriman noted that Command Inconvenience Pay used to be \$48,000 which was taken out and put back into the ending fund balance, but now is only \$26,990 which is already in the ending fund balance. This amount is not inscribed indefinitely, but it will be reviewed during the budget cycle and is an amount that could be found and funded in future years. The question was asked if, \$82,000 represents a project surplus at the end of this year and is the reserve, then why is \$26,990 being taken out of the general fund when that amount seems to be in place. Mr. Merriman responded that for 2010, the \$82,000 surplus at the end of the year goes into the ending fund balance which is the same place we go to next year to fund the \$26,990. This does not permanently raise the baseline for the Fire Department’s budget. The reorganization chart’s staffing is put in place for 2010 and the future.

MOTION: Councilmember Severns moved to approve the proposed reorganization of the Fire Department and Resolution 09-27, Command Inconvenience Pay, in the amount of \$26,990. The motion was seconded by Councilmember Munns and carried unanimously.

Contract Award – RBC Diversion Pump Station Upgrade

City Engineer Eric Johnston presented this agenda bill which recommended the award of a construction contract for the RBC Diversion Pump Station Upgrade to Ebenal General. Inc. in the amount of \$119,277.94. Staff received and opened eleven sealed bids on November 24, 2009. IMAC, Inc. submitted a bid at \$110,729.52, however, IMAC notified City staff one day after the bid opening that they had made an error on their bid and asked to be removed from the bidders list. The Engineer’s estimate for this project is \$124,802.17.

Mayor Slowik called for public comments but there were none.

Council Discussion

Discussion followed about previous experience with Ebenal (this company was involved with the Oak Harbor High School and Stadium projects) and if IMAC’s bid bond would be pursued (no). Discussion continued about what would be done with the existing two generators.

MOTION:

Councilmember Munns moved to:

- 1. Authorize the Mayor to sign a contract with Ebenal General, Inc. in the amount of \$119,277.94.**
- 2. Authorize the City Engineer to administratively approve changes to the construction contract totaling not more than \$12,000.00.**

The motion was seconded by Councilmember Campbell and carried unanimously.

Final Consideration – Resolution, Legislative Priorities

City Administrator Paul Schmidt presented the revised resolution for 2010's Legislative Priorities. Mayor Slowik called for public comments but there were none.

MOTION:

Councilmember Munns moved to approve Resolution 09-24 identifying 2010 Legislative Priority Issues. The motion was seconded by Councilmember Palmer and carried unanimously.

Introduction – Marina Rate Increase and Project Funding Approach

Councilmember Munns asked to be recused since she slips a boat at the Marina; Councilmember Severns asked to be recused because he rents a Marina storage unit. Development Services Director Steve Powers presented this introductory agenda bill for certain rate increases for the Marina and a proposed funding approach for the Marina's redevelopment project. The Marina is operated like an enterprise fund. The Marina's operations and maintenance, as well as any capital improvements, are funded by the revenue it generates. Permanent moorage rates were last increased at the beginning of 2007 and guest moorage rates were last increased in 2004. The last date of increase for other rate categories varies as well. Although the rates have been somewhat static over time, operational and maintenance costs have increased. An examination of the anticipated expenditures and revenues (as reflected in the 2009-2010 budget) shows that a rate increase is necessary for the Marina if it is to meet both its operation and maintenance needs and to begin to accrue a cumulative reserve to be used for undertaking the redevelopment project. In undertaking a review of the sufficiency of the existing rates, staff used the following basic assumptions:

1. The Marina rates must support its operation and maintenance needs and must be set accordingly. Rates should not only be benchmarked to those of other marinas.
2. The Marina rates must generate enough revenue to build up a cumulative reserve. These funds will be allowed to accumulate and will be used to pay for future capital projects (e.g. float replacement). The annual target for the cumulative reserve is \$300,000 per year.
3. Any dredging project will not be funded by the cumulative reserve but will instead be funded through a separate dredging fee.
4. It will be necessary to borrow the money to dredge using the dredging fee as the revenue stream. The City may choose to issue bonds or to borrow from itself.

The current Marina fees are codified in the Municipal Code. Any revision to the fees requires an amendment to the Code. Staff proposes that the appropriate code sections be revised to indicate that the fees will be established by City Council resolution. This approach still requires

City Council approval but does not involve amending the code. A proposed engineering services contract for dredging and mitigation design is tentatively scheduled for the December 15, 2009 City Council meeting. Reid Middleton has provided the City estimated costs for design, construction administration, and construction. These estimated costs have been utilized by staff to develop an estimated dredging fee. It was noted that a dredging fee is not being proposed at this time. This concept was provided for information purposes only so that the City Council may be made aware of the possible scope of funding needs. Using the estimated costs and a fee based on lineal feet of occupied slip space, a dredging fee of \$1.91 per lineal foot per month was calculated. This dredging fee would be in addition to the base moorage rate.

Mayor Slowik called for public comments at 10:45 p.m.

Steve Williford, 2541 SW Petes Lane. Mr. Williford spoke as a member of the Marina Advisory Committee. There are two issues: First, the Marina community – staff and the advisory committee, did not raise rates in 2008 because of the economy. The 2008 rate raise would have been 3% and now we are looking at 11%. Tenants will not be happy. I am concerned about the process to bring this proposal forward in such a rapid manner. There was no mention of this proposal in the November Marina newsletter. On November 2nd, the advisory committee met but staff wasn't ready to address the amount. The advisory committee held a special meeting on November 16th, but this issue went to the Governmental Services Standing Committee on November 9th before first coming to the Marina Advisory Committee. Still, there was no announcement to the Marina tenants until yesterday that there would be a rate increase. You have a lot of stakeholders/tenants that are hearing about this very late. We need a public meeting at the Marina, not a Public Hearing in this room. We should have been increasing rates in 2008 and 2009 and now we are hit with 11%. We need to explain this to our tenants. Have a public meeting with the tenants and market this increase. I support the 11%, but think this will be onerous to the Marina's rank and file in this economy.

Bob Nelson, 1415 SE 9th. I have a boat on F Dock and have been there for 5 years. 11% is a big jump and I recommend a 5% increase over the next three years which would ease the rate increase in place. Look at ways to cut costs and increase revenues. Mayor Slowik commented that Mr. Nelson is being appointed to the Marina Advisory Committee.

Byron Skubi, 1279 Penn Cove Road. Dr. Skubi has been a continuous tenant at the Marina for the last 30 years. I can live with the 11%. We need to build up the reserve fund. There are two problems: The 11% will be across the board. If it includes guest moorage, there should be a larger increase for that moorage. Oak Harbor Marina guest moorage is 50% below other guest moorage rates. Secondly, commercial users, especially at the boat ramp, use the ramp for free and we are paying for that ramp and its maintenance. We need some way to capture funds from commercial users and increase guest moorage.

Richard Cole, P.O. Box 1516. Mr. Cole lives aboard on C Dock. I believe that user fees are appropriate and long-term budget plans are vital. I think the 11% will be a bit of a bombshell. With the nature of the economy and the nature of boat ownership, people may decide not to keep their boats in Oak Harbor. Streaming out over several years is the way to go and Mr. Cole agreed with portioning an increase out over each of three years. The Marina community needs to have more timely information.

With no other comments coming forth, Mayor Slowik closed public comments at 11:00 p.m.

Council Discussion

Discussion followed about the state of the economy, how to look at these issues from staff to Marina Advisory Committee to standing committees and then Council, commercial users on the ramp, and the details of the rate increase which had been presented to committees. Discussion continued about the City's bonding capacity, that a rate increase would positively affect debt coverage when considering bonding capacity, and further consideration of spreading out the rate increase over several years. Council asked about interfund repairs and maintenance which are represented by another department's work – such as Public Works – on Marina repairs or purchases for repairs. When there are general fund expenses in an enterprise fund, those expenses are charged to those funds. Discussion followed about the \$300,000 debt service margin as it works toward 2012, the insulated water pipe installation currently being done at the Marina which would remain in place (started shoreside and going to bottom of the gangway), and how to best define what the rate increase gives the Marina users.

MOTION: Councilmember Campbell moved to schedule the Marina rate increase and project funding approach agenda bill for the December 15, 2009 City Council meeting. The motion was seconded by Councilmember Severns and carried unanimously.

City Administrator's Comments

City Administrator Paul Schmidt talked about standing committee dates, the exit audit for the Finance Standing Committee, and the WWTP lagoon issues.

Council Members' Comments

Council Members gave available standing committee reports, talked about the tough decisions that have to be made, and that AWC will be presented copies of the Legislative Priority Issues Resolution.

Mayor's Comments

Mayor Slowik noted that he and City Administrator Schmidt were going to Olympia the next morning to participate in the Mayors and City Managers meeting. They hope to meeting with Governor Gregoire and Senator Haugen. The Holiday Open House will be December 11th in City Council Chambers: 3:00 p.m. – 5:00 p.m. for Chamber members and volunteers; 5:00 p.m. – 7:00 p.m. for the Navy League and Navy. Admiral Symonds will also be here.

ADJOURN

With no other business coming before Council, **Councilmember Campbell moved to adjourn; the motion was seconded by Councilmember Gerber and carried unanimously.** The meeting adjourned at 11:30 p.m.

Connie T. Wheeler
City Clerk

CASUAL HOUSE

fashion • footwear • gifts

December 1, 2009

Oak Harbor Mayor & City Council
865 SE Barrington Dr
Oak Harbor, WA 98277

We've invested in our buildings and possibly mortgaged our futures in order to enhance our downtown. Physically over the last five years, downtown has been transformed with positive results.

We've formed the Harborside Merchants Association first and foremost to promote the Roger Brooks and Windjammer Projects in order to act as a lobbying body with the City. We hope to be a positive force for improvement. Members of our Association sat on the Windjammer Committee through two year of planning. Through all that investment, involvement and planning there was never the consideration of a one-way street.

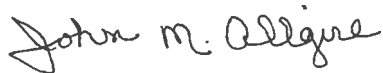
As you can see many of us, vested in downtown, are concerned about the effects of a one-way street revision on business. We believe a two-way plan gives our customers the best access to our businesses, without disrupting their existing habits. Those habits are valuable to all of us and have taken years of work, advertising and dollars to establish.

John D. Edwards, with 35 years in traffic, planning and parking, stated in an article in "Main Street News," in June 2002, that "perhaps the most important reason for changing the traffic flow of a downtown street is to improve the economic well being of the commercial district. A survey of 25 towns and cities that have converted their main streets (from one-way to two-way) show that many have experienced significant reductions in vacant floor space after the conversion. All the communities surveyed reported positive results after converting their one-way street to two-way traffic, and many reported substantial private investment, stimulated by conversions that coupled with Streetscape projects."

I firmly believe a one-way street can be potentially devastating to business in downtown. There are no guarantees, and you are putting us all at risk for what is essentially an experiment.

There are positive elements of the Streetscape Plan that can be implemented without a one-way street. I understand that the engineering has been prepared, but where is equal time spent on the impact of a one-way street on business. Moving ahead without adequate research is irresponsible. I also understand that this administration wants to be the one to finally implement a plan. Just don't throw the businesses out with the bath water. Your legacy could be a ghost town.

Respectfully,



John M. Allgire



Jill Schacht