

**City Council Regular Meeting
Tuesday, October 5, 2010, 6:00 p.m.
City Hall – Council Chambers**

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

INVOCATION Brian Haynes, Family Bible Church

ROLL CALL

Mayor Jim Slowik	Paul Schmidt, City Administrator
Six Members of the Council,	Margery Hite, City Attorney
Rick Almberg	Doug Merriman, Finance Director
Jim Campbell	Steve Powers, Development Services Director
Scott Dudley	Cathy Rosen, Public Works Director
Beth Munns	Eric Johnston, City Engineer
Jim Palmer	Steve Bebee, Public Works Operations Manager
Bob Severns	Rick Wallace, Chief of Police
	Mark Soptich, Fire Chief
Danny Paggao, Mayor Pro Tem was ill and excused from this meeting.	Mack Funk, Harbormaster
	Mike McIntyre, Senior Services Director
	Renée Recker, Executive Assistant to the Mayor

MINUTES

Councilmember Dudley asked that this statement be added to page 12 (within Mr. Dudley's remarks about North Oak Harbor Street) of the 9/21/10 Council minutes:

I thought that the City did not communicate with Island Transit or the Transportation Department of our Oak Harbor School District of which both of them were greatly affected.

Councilmember Almberg:

I don't know if this is relevant and I don't know that the comment, if there was a comment like that, that it reflects that there was a conversation between the School District, Island Transit, and the Engineering Department, so I don't know why it is relevant in the minutes.

Mayor Slowik:

Mr. Dudley did make that point; he would like to see it in. I think it is relevant to put it in and I don't have a problem with that. I think the process would be that we would have an open house; the agencies would study our plan and would come to an open house or make comments during the public process. So I think us going out that way is what you (to Mr. Almberg) are looking at. But, I think what Mr. Dudley is saying is, that was a point he made and I agree he did make that point.

Councilmember Almberg:

If he made that point then so be it. Thank you.

MOTION: Councilmember Dudley moved to approve the 9/21/10 regular meeting minutes as amended. The motion was seconded by Councilmember Campbell and carried unanimously.

NON-ACTION COUNCIL ITEMS

Proclamation – Ladies Auxiliary VFW Day

Diane Small, Department President for the Ladies Auxiliary to Veterans of Foreign Wars, thanked Mayor and Council for this recognition and Mayor Slowik thanked Ms. Small and the Auxiliary for his invitation and chance to meet National President, Cortina Barnes.

Public Comments

Corey Johnson, 2080 Boulder Meadow Lane, Oak Harbor. Mr. Johnson had seen the televised 9/21/10 Council meeting and wanted to share his thoughts as a contractor and Oak Harbor School Board member with regard to North Oak Harbor Street. C. Johnson Construction had bid on this project, did not get the bid, and noting the tight schedule, closely watched the project to see how it would turn out. Issues discussed during the 9/21/10 Council meeting – ADA issues, crosswalks, sidewalks, handicapped ramps – are addressed in the Washington State Department of Transportation's Blue Book. The City wanted this project done right. As contractors, we all know the rules. I am speaking as an individual on the school board and not the whole board. We are responsible for a \$45 million modernization project at the high school. If I saw problems, and there were some problems, I did not hesitate to call the project manager. If there was a contractual issue, I needed to understand it. I would never talk directly to a contractor. My place is with the other five members on the board to make a collective decision and support it. I was shocked when I heard that the contractor for the North Oak Harbor Street project was in the audience during that last Council meeting. I went back and looked at the last six years I have worked on projects for the City of Oak Harbor. I've done \$3.7 million worth of work during those last six years and I appreciate that work. In those six years, the City's Engineering staff, Public Works staff, Steve Powers, Paul Schmidt, past City Engineer Larry Benfield, have all treated me fairly. As contractors, we all know the rules when we sign up; there can be risk, a big reward, or loss. My experience has been a positive one. I do not do business with those who are not contractor-friendly. With Oak Harbor Street, maybe there could have been some tweaks and improvements, but it is a nice job, done on time, and a good product in the end. It meets the needs of the City and is a good project that will do just fine for you.

Fred Henninger, 580 SE Ireland, Oak Harbor. I cannot develop rational arguments on how to plan for failure but the City has. Giving two percent money to the Chamber of Commerce; you are subsidizing the Chamber. The City sponsors activities downtown and then hires a public relations firm to act on behalf of the City. Be conservative when dealing with the community. Some will fail, some will succeed. You cannot change that with my tax money. Businesses built north of the City inexpensively and land was cheaper. Now you have Navy pollution. They will not wish to pay the utility fees or other City taxes or fees. We have extended our water mains out to Ault Field and along Goldie Road. They will pick and choose the services they want.

Mel Vance, P.O. Box 2882, Oak Harbor. During the budget workshop, a brine application machine was talked about as a purchase item for roads. City Council found money for consultants and attorneys; try to find money for this machine this year rather than next year since this coming winter may prove to be intense. Mr. Vance also questioned the appropriateness of some of the North Oak Harbor Street discussion during the last Council meeting. There are some issues on Oak Harbor Road but they may not have been handled appropriately at the last Council meeting.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS

Consent Agenda

A. Approval of Accounts Payable Vouchers (Pay Bills)

MOTION: Councilmember Severns moved to approve consent agenda item A paying accounts payable check numbers 143089 – 143107 in the amount of \$2,268.56, accounts payable check numbers 143108 – 143111 in the amount of \$75,164.33, accounts payable check numbers 143112 – 143293 in the amount of \$306,616.83, payroll check numbers 94123 – 94156 in the amount of \$602,232.10, and payroll check numbers 94157 – 94184 in the amount of \$107,487.06. The motion was seconded by Councilmember Palmer and carried unanimously.

Public Hearing and Final Consideration – Ordinance, Utility Rates

Public Works Director Cathy Rosen presented this agenda bill for final consideration of the ordinance for the water, wastewater and storm drain utilities. Staff will bring forward an ordinance addressing solid waste rates in the near future. Solid waste rates were not included in the proposed rate ordinance since the rate study determined that these rates do not need to be amended for the next three years. Ms. Rosen also noted that this ordinance includes these modifications as directed by Council from their September 21, 2010 meeting:

1. Include the rate tables that show the rates for the next 5-6 years, as shown in HDR's presentation;
2. Include a clause requiring an annual review of the rates; and
3. Specify which rates apply to schools, churches and other non-profits.

Mayor Slowik opened the Public Hearing at 6:25 p.m.

Fred Henninger, 580 SE Ireland, Oak Harbor. Sen. Russell Long said, "Don't tax you, don't tax me, tax the fellow behind the tree." Families will be the fellow behind the tree. How many on Council will be voting a discount for their own properties; this is a conflict of interest, admittedly mild. Oak Harbor bills each item for 6.25% and this money goes to the general fund. There is no "will," it is already on your bill. It is called by many charges on your bill. Last year, the bill stated the amount of the tax in dollars and cents and this new billing omits that. The water meters are underground and located in difficult areas. You cannot see them easily – they are like the fellow behind the tree. It is hard to determine their size and the City will determine and charge a large fee that will go to capital improvements. The fee will go to the general fund. The percentage increases were called out with a total of 94.55% using my utility bill as an example.

Water mains were built out to Fakkema Road, Waterloo Road, and Goldie Road. We are supplying the edge of town and not the citizens. It is unclear why commercial units and schools have a declining rate, while single-family residents do not have a graduated rate increase. Waste water multi-family rates show \$3.40 per customer and then it says \$4.00 per account. Each could be paying \$5.00 for their share of the waste water. A laundromat will receive a 10 percent discount on the water. They already receive a discount because they are a commercial business and not a single-family resident. **Mel Vance, P.O. Box 2882, Oak Harbor.** Mr. Vance wanted to clarify a statement he had made during the last City Council meeting concerning his suggested penalty for large homeowners. What Mr. Vance wanted to say was they should be paying the same amount as a small homeowner to be fair (regarding impact on the stormwater system). Likewise, businesses will be paying less which is also not fair and equitable. Everyone should pay equally for their impact on the stormwater system. There is no incentive for conservation.

With no other comments coming forth, Mayor Slowik closed this portion of the meeting at 6:30 p.m.

Council Discussion

At Councilmember's Dudley's request, Public Works Director Rosen clarified Dr. Henninger's statements: Each multi-family unit pays 85 percent of the residential charge. If there is a single meter, one account is set up. Councilmember Dudley read a 2009 letter from Dr. Richard Schulte, Superintendent of the Oak Harbor School District, which expressed concern with utility rates; specifically stormwater rates. With the installation of a \$2 million system addressing stormwater, Mr. Dudley advocated that the District receive incentive credits and felt communication had been lacking between the City and District prior to this evening's final consideration of the utility rates ordinance. Mayor Slowik felt this was a legitimate concern. A letter from Mayor Slowik had been hand-delivered to Dr. Schulte this date. Dr. Schulte had been invited to speak to Council this evening and he responded that he was satisfied with what the City is doing. The ERU was increased from 2,500 to 3,300 sf and this will result in a rate decrease for the School District. Mayor Slowik asked Councilmember Dudley to talk with him personally if he has concerns with future issues.

Discussion continued regarding the overall rates increase and the impact on the community, the annual rates review, that the rates study had been before Council in several earlier meetings, and that the City's infrastructure is vital for today and the future; infrastructure projects are expensive. Discussion continued about statements made regarding the School District and communication, and that there is good communication between the Mayor and School District.

Councilmember Palmer asked if he should recuse himself since he owns multi-family units with a single meter. Dr. Henninger felt he should recuse if he receives a rate discount and that recusal should extend to other Council members who own multi-family units. City Attorney Hite noted that everyone in the City has an interest and unless a Council member has benefited differently than other citizens, there would be no need to recuse. Council consensus was not to recuse Councilmember Palmer, so Mr. Palmer remained at the dais. Per Councilmember Campbell's request, Public Works Director

Rosen re-clarified multi-family rates: If you have a ten unit multi-family complex, you will be charged the monthly base rate, and then 85 percent of that since they produce less waste water. If there is a single meter, one account is established and the per-account charge is added to that. Most multi-family units have a single meter.

MOTION: Councilmember Munns moved to adopt Ordinance 1587, an ordinance of the City of Oak Harbor establishing rates for water, wastewater, and storm drain services. The motion was seconded by Councilmember Almberg.

VOTE ON THE

MOTION: Councilmembers Almberg, Campbell, Munns, Palmer and Severns voted in favor of the motion. Councilmember Dudley opposed. The motion carried.

Public Works Director Rosen noted that Public Works staff is available to help people reduce consumption and can go to their property and do a water or solid waste audit. In addition to Council's thanks to staff, Ms. Rosen thanked Sean Koorn, HDR Engineering for his work on the rates study through many meetings.

Break

Mayor Slowik called for a break at 6:55 p.m. and the meeting reconvened at 7:00 p.m.

Dredging Fee Resolution

Development Services Director Steve Powers presented a resolution for Council consideration which, if approved, would increase permanent and guest moorage rates at the Oak Harbor Marina in order to fund the Redevelopment Project, Phase 2, dredging. The rate resolution presented with this agenda bill followed the direction provided to staff by City Council. Staff obtained information on issuing Marina revenue bonds to pay for the project. The bond fund amount was set at \$2,500,000 (slightly above the estimated project cost) and the bond size (including reserve fund requirement and financing costs) is \$2,745,000; this equates to an average annual payment of \$194,014. The dredging fee necessary to support this payment is \$1.08 per lineal foot per month. Staff recommended setting the dredging fee at \$1.15 per lineal foot per month for permanent moorage customers as was previously discussed with the City Council, the Marina Advisory Board, and the public. This recommendation is made to provide a very slight hedge against fluctuations in the moorage occupancy rate. A prorated dredging fee (\$.04 per night per foot rate) was also recommended for guest moorage customers.

Mayor Slowik called for public comments.

Byron Scubi, 1279 Penn Cove Road. During the Marina Committee meeting, we discussed making the dredging assessment a fee rather than rolling it into the rates. Then, the 12 percent for the leasehold would not apply. What happened to that suggestion?

Mel Vance, P.O. Box 2882, Oak Harbor. I think it should be a separate line item on the bill as a fee rather than rolling it into the rates. This may not affect tonight's ordinance, but it could be done through the billing process.

There were no other public comments.

Finance Director Doug Merriman addressed Dr. Scubi's remarks regarding the nature of leasehold excise tax. We collect it for the State. State law says this is publicly-owned property; where we do not have real estate property taxes, we have leasehold excise tax. Mr. Merriman had contacted the State and read an FAQ sheet regarding how this tax is applied. The City has to pay the leasehold excise tax. Essentially, it is not what you are charging for, it is the nature of what the lessee is getting – the slip. Our Marina tenant lease agreement does not call out a dredging fee. It doesn't state an amount but refers the reader/tenant to our rate tables. The dredging fee is then considered as a part of the slip's rent. Mr. Merriman also discussed the City's bonding capacity which will be within the City's ceiling for indebtedness and the need to match rates to the debt service payment. Discussion continued about the bill showing a breakout of leasehold excise tax and dredging fee, change order authority, and that the scope of work for this project cannot be changed to add additional dredging quantities if the project is under cost. If the bond's principal is paid down earlier, the timeframe for the bond's retirement is shortened. Mr. Merriman noted that it is actually a series of bonds with callable bonds in the last years which can be paid down and retired earlier. Discussion continued about critical financial assumptions and the \$1.15 as a slight hedge against occupancy rate fluctuations. Change order authority falls to the City Engineer with Reid-Middleton reviewing the contractor's request and then their recommendation to the City Engineer. In the midst of a contract, the City needs the ability to respond to unforeseen circumstances. Discussion followed about financing for longer terms and locking in historically lower rates with a cost savings past down to Marina tenants. Mr. Merriman noted that the bond timeframe should match the lifespan of the asset; the lifespan of the debt. To finance another project while still paying off a longer-term bond would be difficult.

MOTION: Councilmember Alberg moved to adopt Resolution No. 10-24. The motion was seconded by Councilmember Palmer.

VOTE ON THE

MOTION: Councilmembers Alberg, Campbell, Munns, Palmer and Severns voted in favor of the motion. Councilmember Dudley opposed. The motion carried.

Introduction – Ordinance, Property Tax Increase for 2011

Finance Director Doug Merriman presented this introductory agenda bill for the proposed ordinance required to establish the property tax levy rate for the City of Oak Harbor for 2011. Under RCW 84.55.005(1) and RCW 84.55.005(2)(c), the City may increase the collection of property tax revenues by the lower of 1% or the rate of inflation as set by the Implicit Price Deflator (IPD) as published by the Bureau of Economic Analysis (BEA). The IPD measurement to be utilized for 2011 is 1.539. Accordingly, the proposed property tax increase is 1%. Mr. Merriman noted that Council will also have a budget workshop on October 14th and introduction of the General Fund.

Mayor Slowik called for public comments but there were none.

Council Discussion

Discussion followed about the necessity of taking action on this ordinance during the next Council meeting (the ordinance has to be in place by November 15th), projected revenues which will be presented at the next budget workshop, and the 1% cap on property tax increase. Mr. Merriman talked about how property tax is collected and the tax levy on assessed valuation for properties within the City of Oak Harbor.

MOTION: Councilmember Munns moved to set a public hearing date for October 19, 2010 for presentation and action. The motion was seconded by Councilmember Campbell.

VOTE ON THE

MOTION: Councilmembers Almberg, Campbell, Munns, Palmer and Severns voted in favor of the motion. Councilmember Dudley opposed. The motion carried.

2011 – 2012 Legislative Priorities

City Administrator Paul Schmidt presented this agenda bill seeking approval of the draft legislative priority issues for 2011. The 2011 legislative priority issues list was presented as an exhibit to resolution 10-25 for Council's consideration.

Mayor Slowik called for public comments.

Public Comments

Gerry Oliver, 947 NW Prow Street, Oak Harbor. Mr. Oliver asked what the City is doing for children in Oak Harbor and felt that should be addressed as an addition to the priority list. There are not a lot of programs for children and sometimes government funding can help. Use some of the Whidbey Island Marathon's profits for youth programs.

Mel Vance, P.O. Box 2882, Oak Harbor. Mr. Vance discussed two items: Number 7 on the list should be reworded to be clearer. Number 8, if they do pass it (Statewide initiatives affecting Liquor Board Funding) will also affect the County and State. The odds of getting State funding will be zero.

There were no other public comments.

Council Discussion

Discussion followed about the positive aspects of presenting this list to the legislators, combining Oak Harbor's concerns with other agencies, and the use of AWC as a singular voice for all cities in the State. An explanation was requested of number 7: "Support a Legislative effort to repeal those portions of RCW 36.70A.070(6) requiring Island County and its cities such as Oak Harbor to include State highways and ferry route capacity in determining transportation concurrency in local comprehensive plans." Mr. Schmidt talked about the GMA singling out and applying to Island County the potential for a level of service, along with development occurring along SR-20 in the City, which would bring down the service levels for the ferry system – the State could comment on that when the City prepares its comprehensive plan. The City sees that as being singled out with regard to levels of service. Discussion followed about joining priorities with other agencies and the delay that could occur; send our priorities now. The priorities include AWC's comments which were not available until September 27th. The City has always incorporated AWC's comments in past lists. Discussion continued about the need to stay proactive, that (in answer to Mr. Oliver's comments) there are eighteen youth programs receiving some funding from the City through the City's support of Big Brothers Big Sisters, the use of the words "spurious" and "and/or" in number 5 concerning public records requests, and if this list could be considered by the whole Council earlier than the evening of its passage. Number 2 and restoration of the Public Works Trust Fund was discussed, and discussion continued about Number 8 and what would replace revenues affected by the loss of Liquor Control Board funding, lost revenue from automobile sales tax, and the benefit that small cities could garner from reapportionment.

MOTION: Councilmember Munns moved to approve Resolution 10-25, the motion was seconded by Councilmember Palmer.

Councilmember Dudley asked that, instead of finding out what AWC recommends prior to drafting this list, the Council could see the local recommendations for Oak Harbor versus input from other sources. Councilmember Campbell noted that Oak Harbor's list is more extensive than AWC's three recommendations.

AMENDMENT TO THE

MOTION: Councilmember Campbell moved to remove these three words from number 5: "spurious, and/or." The amending motion was seconded by Councilmember Severns and carried unanimously.

VOTE ON THE ORIGINAL

MOTION: Councilmembers AlMBERG, Campbell, Munns, Palmer and Severns voted in favor of the motion. Councilmember Dudley opposed. The motion carried.

Council Rules Amendment – Standing Committees

City Administrator Paul Schmidt presented this agenda bill. An ordinance was adopted on June 15, 2010 which formalized the nature and meeting times of standing committees. At the Council discussion, Councilmember Palmer indicated that he would like to establish some procedures for the conduct of standing committee meetings. At the September 21, 2010 Council meeting, Councilmember Campbell indicated that he believed that all the rules relative to Council procedures should be in the Council Rules booklet. The entire Council voted for staff to re-draft two rules in order to incorporate the rules on standing committees from the ordinance into the Council Rules. This agenda bill summarized the rules applicable to standing committees adopted by amendment to Ch. 1.04 OHMC on June 15, 2010 into a new Rule No. 27. The entire ordinance addressing City Council meetings will also be attached to the Council Rules as Appendix "A." It also proposed adoption of standing committee rule (Rule No. 28) as part of the "Administration and Personnel Council Rules" to address Councilmember Palmer's procedural concerns.

Mayor Slowik called for public comments but there were none.

Council Discussion

Discussion followed about the Attorney General's response (expected in November), the different times and locations of standing committees, televising standing committees, and public perception that decisions are made in standing committee meetings. Discussion continued that this agenda bill's subject matter needs to move forward, that standing committees are good for discussion and no action is taken in standing committees, staffing and filming costs to televise these committee meetings, and the meetings' current times and locations. Discussion followed about possible redundancy with number 4 in Rule 28 since Council members sitting in the audience become part of the public attending these meetings and number 4 speaks to special treatment compared to other citizens.

MOTION: Councilmember Campbell made a motion to remove number 4 from Rule 28. The motion was seconded by Councilmember Palmer and carried unanimously.

MOTION: Councilmember Campbell moved to adopt adding Rule 27 to the Council Rules. Councilmember Severns seconded the motion.

VOTE ON THE SECOND

MOTION: Councilmembers Almberg, Campbell, Munns, Palmer and Severns voted in favor of the motion. Councilmember Dudley opposed. The motion carried.

The second motion amends Resolution No. 04-02, "Administration and Personnel Council Rules" to add a new Rule No. 27 – Standing Committees.

MOTION: Councilmember Campbell moved to add Rule 28 as amended. The motion was seconded by Councilmember Palmer.

VOTE ON THE THIRD

MOTION: Councilmembers Almberg, Campbell, Munns, Palmer and Severns voted in favor of the motion. Councilmember Dudley opposed. The motion carried.

The third motion amends Resolution No. 04-02, "Administration and Personnel Council Rules" to add a new Rule No. 28 as amended – Standing Committee Procedures.

City Administrator Comments

City Administrator Schmidt talked about upcoming meetings, the 10/20/10 AWC Roundtable in Bellingham, and the 10/28/10 Blaine wastewater treatment plant tour. As included in this evening's agenda under City Administrator comments, City Engineer Eric Johnston and Operations Manager Steve Bebee gave a PowerPoint presentation regarding the RBC Plaintiff Outfall Repair.

Council Members Comments

Since standing committees had not met since the last Council meeting, there were no reports. Councilmember Palmer summarized an economic conference he had attended in Denver, Councilmember Munns talked about AWC's priority list which was officially finished on October 1st and purposefully kept to three or four points. AWC looks for common denominators among cities and Oak Harbor's list will be helpful. Councilmember Dudley asked if the RBC Outfall Repair report could have been added as a formal agenda item this evening. Mr. Schmidt noted that it was an information-only item without action and was noted on the agenda. Mr. Dudley felt that a formal agenda bill could have allowed the public to comment. Councilmember Dudley, noting that two new people have been added to the Planning Commission, asked if the City could also recognize those members who are stepping down from committees and commissions for a job well-done.

Mayor's Comments

Mayor Slowik talked about the photographs on display which had been taken by students whose photos portrayed life on Whidbey Island. Congressman Rick Larsen had held a small roundtable in Council Chamber consisting of ten Oak Harbor businesses. Mayor Slowik thanked Congressman Larsen and Adam LeMieux from Congressman Larsen's office.

ADJOURN

With no other business coming before the Council, Mayor Slowik adjourned the meeting at 8:50 p.m.

Connie T. Wheeler
City Clerk