

City of Oak Harbor

City Council Meeting

Agenda for

April 17, 2012

6:00 p.m.



**Oak Harbor City Council
REGULAR MEETING
Tuesday, April 17, 2012, 6:00 p.m.**

Welcome to the Oak Harbor City Council Meeting

As a courtesy to Council and the audience, PLEASE TURN YOUR CELL PHONES OFF before the meeting begins. During the meeting's Public Comments section, Council will listen to your input regarding subjects of concern or interest that are not on the agenda. For scheduled public hearings, please sign your name to the sign up sheet, located in the Council Chambers if you wish to speak. The Council will take all information under advisement, but generally will not take any action during the meeting. To ensure your comments are recorded properly, state your name and address clearly into the microphone. Please limit your comments to three minutes in order that other citizens have sufficient time to speak. Thank you for participating in your City Government!

CALL TO ORDER

INVOCATION **Chester Cayoe – Swinomish Indian Tribal Community**

ROLL CALL

MINUTES 3/28/12 – Special Meeting; 4/3/12 – Regular Meeting

NON-ACTION COUNCIL ITEMS:

1. Proclamation – Earth Day.
2. Proclamation – Arbor Day.
3. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

4. Consent Agenda:

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- a. Noise Permit – Ruck in Remembrance 14.8 mile hike.

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- b. Reappointment – Arts Commission – K.C. Pohtilla.

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- c. Excused Absence – Councilmember Beth Munns, 5/1/12 meeting.

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- d. Agreements with North Whidbey Park and Recreation District: Recreational Services, Boat Rental Services, Water Recreational Protection Services.

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- e. Approval of Accounts Payable Vouchers (Pay Bills).

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5. ERCI Contract Amendment – Archaeology Recovery, Phase II.

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6. Three Council Motions from 4/3/12 meetings:

- Parliamentary Procedure, Conduct, State/End Times, Comments
- Voting, to include a show of hands in addition to a verbal vote
- A policy or procedure to ban the wearing of hats in Council Chambers

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7. Public Hearing – Sewer Code Revision.

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8. Waste Water Treatment Plant – Site Resolution.

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9. Introduction – Personnel Code Update and Handbook Repeal

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10. Future City Council Pending Items.

11. City Administrator's Comments.
12. Council Members' Comments.
 - Standing Committee Reports
13. Mayor's Comments.

ADJOURN

If you have a disability and are in need of assistance, please contact the City Clerk at (360) 279-4539 at least two days before the meeting.

*"Fight for your opinions, but do not believe that they contain the whole truth, or the only truth".
- Charles A. Dana*

**City Council Special Meeting
Wednesday, March 28, 2012, 3:30 p.m.
City Hall Conference Room
Department Director Recruiting Process**

CALL TO ORDER

Mayor Dudley called the meeting to order at 3:30 p.m.

ROLL CALL

Mayor Scott Dudley

Five Members of the Council,

Rick Almberg

Tara Hizon

Beth Munns

Danny Paggao

Bob Severns

Steve Powers, Interim City Administrator

Cathy Rosen, Public Works Director

Jessica Neill Hoyson, Human Resources Director

Council Member Jim Campbell and
Council Member Joel Servatius were
absent and formally excused from this
meeting.

Interim City Administrator Powers summarized this meeting's intent to:

- Review materials which were already provided.
- Address Council's comments and questions which were provided to staff by email.
- Discuss other Council comments and questions.

Human Resources Director Jessica Neill Hoyson reviewed the recruiting process' seven steps:

1. Preparation for posting
2. Posting and processing
3. Panel interviews
4. Social event
5. Mayor interviews
6. Selection and negotiation
7. Council confirmation

COUNCIL DISCUSSION

Councilmember Hizon: Will we identify our key sets of employment criteria for each job?

Ms. Neill Hoyson: Each position has a job description which outlines that position. Input will come from key stakeholders - Council, Department Director(s), and how we foresee the needs of the position into the future and identify them in recruitment materials.

Councilmember Munns: Within the process outline, the section on panel interviews - we need more than three people on each panel. Mr. Severns had mentioned (in the March 6, 2012 Council meeting) that there had been two panels of seven in a past Police Chief recruitment. Are seven panel members too many?

Ms. Neill Hoyson: The process outline is not identifying a panel number which may be dependent on the position.

Mr. Powers: Ms. Neill Hoyson makes a good point; not all recruiting processes are the same. Some may be more high-profile or technical; there can be a lot of flexibility tailored to the position and situation.

Councilmembers Severns, Paggao, and Munns recalled a past panel, or two panels, of seven members.

Mr. Powers: With the past City Attorney's position, one panel was internal, the other panel was external, so each could bring different perspectives. I am hearing the Council's desire is to go to a larger panel size.

Councilmember Paggao: Mr. Paggao, in reference to Exhibit A from the last Council agenda packet, asked about the review process - there are two reviews, one by Human Resources and the other by the hiring manager.

Ms. Neill Hoyson: The recruiting process you are looking at could be used for positions ranging from an executive assistant to an engineer. For a position in the Finance Department, the hiring manager would be Finance Director Doug Merriman. In the department head process, the Mayor (as hiring manager) conducts the final interviews and selection at the end of the process. Human Resources reviews application packets for minimum qualifications and specific qualifications, then gives appropriate applications to the panel, and the final candidates (for department heads) are forwarded to the Mayor.

Councilmember Munns: If we advertise for a month and receive twelve applications and only two fit the bill, would we interview those two or readvertise the position?

Ms. Neill Hoyson: This would vary with the position. I feel that two may not be an adequate number but, it would also depend on the qualifications of the two applicants.

Mr. Powers asked Ms. Neill Hoyson to explain the first review.

Ms. Neill Hoyson: A first review can happen if the position hasn't closed yet; a first review of what has been received. It allows for latitude regarding receipt of more applications if the response is minimal.

Mr. Powers: I have seen no direct relationship between the length of time a position is open and the number of applications received. A longer period may not necessarily net more applicants.

Councilmember Munns: I still think four weeks is a lot better than two weeks and the perception would be better with four weeks. A panel number - three to six or five to seven.

Councilmember Hizon: Explain the social event.

Ms. Neill Hoyson: It provides an informal atmosphere (for a candidate) to speak with Council, key community stakeholders, and City employees. It can provide input you may not get from a more formal environment.

Councilmember Paggao: The City has done this in the past with a prior Police Chief.

Mr. Powers: A social event was also used for the City Administrator position during Mayor Cohen's administration.

Ms. Neill Hoyson: Our job descriptions are a standard format (job summary, essential job functions, associated job functions, performance requirements, working environment and physical demands, and experience and training requirements) which are also legally defensible and driven by Federal law. Certain language in the job description addresses ADA requirements and Labor and Industry standards. The sentence at the bottom of the job description: A combination of training and experience that provides the requisite skills will be considered. Negotiable experience can offset requirements - what is the position going to do and what are the industry standards. The use of the word "required" will make a experience factor inflexible.

Mr. Powers also talked about the kind of job description needed for a planner position as another (and different) example.

Councilmember Almberg: My emailed comments related to all departments: Add a minimum credit score rating of 680 by an industry-recognized credit rating bureau. Is that permissible by law?

Ms. Neill Hoyson: With a credit rating and criminal record check, when attached as a requirement, you have to show how they are relational to the work. Personal credit may not indicate ability in job performance. We do pull a credit report on every employee of the Finance Department, but we do not set a score limit. If there is problem in the report, we would review it with the applicant. I cannot ask for a special credit rating.

Councilmember Almberg: Can you add, "must pass credit check"?

Ms. Neill Hoyson: You could create a nexus in relation to the job. I would not be supportive of a credit check for every position since it may be difficult to create a nexus relating to job performance. We do have a release in every employment application packet for criminal background and credit checks.

Mr. Almberg: Would the review panel have access to that information?

Ms. Neill Hoyson: With a criminal background check, the first review would be with the Legal Department.

Mr. Almberg: Then, this can be vetted between the Human Resources and Legal Departments. And finally, I suggest a minimum of a Bachelor's Degree. We need the best people who have a good combination of education and experience.

Ms. Neill Hoyson: In my opinion - this educational requirement for senior management positions - a degree would be appropriate. We could add the word "required" right after the educational language, but this is also why job descriptions end with the sentence: A combination of training and experience that provides the requisite skills will be considered.

Councilmember Hizon: Even though it says "experience and training requirements" in the job description.

Mr. Powers: We are in a challenging recruiting environment. You want the flexibility to bring in candidates with the use of this combination (training and experience) which gives us latitude.

Councilmember Severns: In the Police Chief job description, experience and requirements, the third sentence reads: Master's Degree in business, public administration, human resources related field is highly desirable. I think it may need to say, "required."

Mr. Powers and Ms. Neill Hoyson addressed the topic of command experience, noting it would be tough to measure, but a résumé will show job and command experience. Ms.

Neill Hoyson also noted that an application packet will ask for supplemental information, too.

Councilmember Severns: I do believe we should add "required" for Bachelor's Degree for all department heads (new hires).

MOTION: Councilmember Alberg moved to require a Bachelor's Degree for department head positions. The motion was seconded by Councilmember Munns and carried unanimously.

Councilmember Severns: Are we going to be able to post for five weeks?

Councilmember Munns: In experience and training requirements, the third sentence: Experience must demonstrate outstanding command leadership and customer-focused management with regulatory, budget and proactive, forward-thinking and strategic planning skills. Could we ask how many employees they have supervised or led. Create a little PR work on behalf of the City; demonstrate that you are the cream of the crop.

Councilmember Hizon: Is there a provision asking that department heads not have a criminal record?

Ms. Neill Hoyson: As discussed with Mr. Alberg, we conduct background checks and there is Washington Administrative Code (WAC) and L and I language that calls out how you can use criminal information. Any information would be reviewed with the applicant first before taking action to remove the applicant from the recruiting process. The application packet release forms are standard and use standard language.

Councilmember Munns: As said earlier, the Human Resources and Legal Departments would handle this review.

Ms. Neill Hoyson mentioned again that credit checks are currently run on Finance Department employees. With reference to credit checks, Mr. Powers noted that a change could be by motion or remain informal. Ms. Neill Hoyson also added that, in today's world, an applicant could have a lesser credit check through no fault of their own and emphasized that, if a credit report was unfavorable, Human Resources would meet with the applicant to discuss the situation.

Councilmember Paggao: In military service, a credit check is critical.

Councilmember Munns: I would feel comfortable with a note that it was done, not the result of the credit check.

Mr. Powers: This could be added as a normal step in the department head recruitment process.

Councilmember Severns: The timeline - I want to verify that the plan is to post for five weeks rather than four.

Ms. Neill Hoyson will be on vacation in that time period so the Police Chief position will be posted for five weeks to allow for her absence. The timeline is prepared with "real world" dates to allow for potential shifts. Mr. Powers asked Ms. Neill Hoyson to review the timeline. If it is difficult to find a candidate, then the salary's competitiveness would be reviewed. Any salary adjustment would have to come before Council before advertising the position at a higher rate. With a larger panel or two panels, and panelists' busy schedules, it can be difficult arranging a single day when everyone would be available. This could cause a variable in the timeline. Other areas of the

timeline would remain fairly set. Mr. Powers added that this is a "best case" scenario demonstrating how the process is completed. Then, the agenda bill process must be considered since Council has a single Council meeting in each summer month - July and August.

Councilmember Almberg: With June 30th as the exit date for Chief Wallace, will the Mayor make a staff appointment to fill the position on an interim basis?

Councilmember Munns: Could Chief Wallace's retirement slide another month to allow time to have a new Chief in place?

Mr. Powers: It takes two willing parties (the City and Chief Wallace).

Councilmember Almberg to Mayor Dudley: Currently, we know his last day is the end of June. Is an option on the table to have Chief Wallace stay on? Is it a possibility?

Mayor Dudley: If we turn to Lt. Dyer or Lt. Sterkel, we have qualified individuals on a short-term basis who have acted in his (Chief Wallace's) place when he has been out of town. The big question is whether there would be a significant delay or need.

Mr. Powers: I think this will be a function of the length of time. I will say at the staff level, we anticipated beginning earlier in March than where we are today and held off in consideration of Council's concerns. I think it is something we would monitor as we start this process.

Councilmember Severns: The June 2, 2012 date (social event) is a Saturday.

Ms. Neill Hoyson: We wanted to limit the amount of travel for candidates. It could also be a Friday; need a date close to the interview.

Mr. Powers then reviewed the Council emails which were presented with this meeting's packet. Councilmember Servatius' email was read into the record by Mr. Powers (as per Mr. Servatius' written request). A number of items have been addressed in this meeting, and Mr. Powers commented on each of the Council Members' emailed remarks. Covering a number of points in this meeting and the emails, **Council has emphasized education, background checks and credit checks, a four-week minimum posting time, and larger panels.**

Councilmember Almberg: With a choice of three Council Members on a panel, I think for the Police Chief recruitment, the three Public Safety standing committee members would be appropriate.

Councilmember Hizon: The most relevant standing committee would be on the panel for any position then.

Both Councilmember Hizon and Councilmember Servatius had expressed concern about the panel's make up and who selects the panel, the Mayor or Human Resources.

Ms. Neill Hoyson: I would give recommendations for both an internal and external panel, and the Mayor would also make recommendations. It would be a team effort.

Mr. Powers: As a technical point, you create a public meeting with three Council Members which would not be fair to an applicant. It is problematic to put all three Council Members on one panel, but you could split the number with two on one panel and one on the other. Specific staff or community leader members may not be the same for each recruitment process.

Councilmember Munns: It could be two and one or also two and two for Council Members on two panels.

Councilmember Almberg: I never thought about two and two. I would want people with a technical background rather than more Council Members for the purpose of more Council Members.

Mr. Powers: You are all very busy people. Two groups of seven with each panel having two Council Members may be difficult. You may be better off not increasing the Council Member numbers.

Ms. Neill Hoyson also noted that she acts as a facilitator, but she is not present during the panel interview.

Councilmember Almberg: Just say a panel of five, with two Council Members on one panel, and one Council Member on the other.

Councilmember Hizon: This is going to vary depending on who we are hiring. I am comfortable giving Ms. Neill Hoyson a range of five to seven for the panel size. Let Ms. Neill Hoyson have some discretion in this choice, but no less than five on the panel.

Mr. Powers appreciated the recognition of letting staff's expertise lead this process and Ms. Neill Hoyson noted that the panel interview will be on a single day within a week's timeframe depending on participant availability.

Councilmember Almberg: With a job offer date (negotiate employment offer) is the candidate given a template of salary and benefits then?

Ms. Neill Hoyson: Applicants know what the standard benefits and salary range are. Usually the offer is a verbal offer.

Councilmember Almberg: This occurs after the Mayor's interview. Isn't that out of sync?

Ms. Neill Hoyson: Negotiation is with the final candidate.

Councilmember Almberg talked about the newspaper's article which said Mr. Merrill had been selected and Ms. Neill Hoyson clarified that the paper saw the agenda packet as the public saw the agenda packet (online packet).

Councilmember Almberg: To negotiate employment seems odd after the decision has been made.

Ms. Neill Hoyson: We need to close the deal with the top candidate before informing the other candidates.

Councilmember Paggao had questions about the job posting and Ms. Neill Hoyson clarified that the posting directs the applicants to a complete application packet which provides full information about the position.

The meeting was adjourned at 5:00 p.m.

Connie T. Wheeler
City Clerk

**City Council Regular Meeting
Tuesday, April 3, 2012, 6:00 p.m.
City Hall – Council Chambers**

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

No objection to agenda as presented.

INVOCATION Pastor Tim Geist, Bible Baptist Church

ROLL CALL

Mayor Scott Dudley
Six Members of the Council,
Rick Almborg
Tara Hizon
Beth Munns
Danny Paggao
Joel Servatius
Bob Severns

Steve Powers, Interim City Administrator
Bill Hawkins, City Attorney
Doug Merriman, Finance Director
Cathy Rosen, Public Works Director
Eric Johnston, City Engineer
Melissa Sartorius, Associate Planner
Jessica Neill Hoyson, Human Resources Director
Rick Wallace, Chief of Police
Karen Crouch, Executive Assistant to the
City Administrator
Renée Recker, Executive Assistant to the Mayor

Councilmember Jim Campbell was absent and formally excused from the meeting.

MINUTES

March 20, 2012 Regular Meeting, March 3, 2012 Retreat Minutes

Councilmember Munns, referring to page 16 of in the agenda packet, the 3/20/12 meeting minutes, said that she did not vote on that motion. Councilmember Severns said that he also did not vote. (Councilmember Munns was actually referring to page 18 of the agenda packet and 3/20/12 minutes: Contract - Fire Chief). A motion by Councilmember Munns, and second by Councilmember Almborg was made to correct the minutes of 3/20/12 and then retracted since Councilmember Hizon also asked for a correction to the 3/20/12 minutes: Change the second to the motion for the Adopt-A-Street Program on page 12 of the agenda packet, which showed Ms. Hizon making the motion and seconding the motion. The second was made by Councilmember Munns.

Mayor Dudley asked that the 3/20/12 minutes be approved as corrected and the amended minutes were accepted.

The changes will read:

For the Contract - Fire Chief

ORIGINAL TEXT - VOTE ON THE

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

CORRECTION:

Councilmembers Almberg, Campbell, Hizon, and Paggao, voted in favor of the motion. Councilmembers Munns and Severns did not vote. Councilmember Servatius opposed. The motion carried.

For the Adopt-A-Street Program

ORIGINAL TEXT -

MOTION: Councilmember Hizon moved to adopt Resolution 12-02 establishing policies and procedures relating to the Adopt-A-Street Program, the motion was seconded by Councilmember Hizon and carried unanimously.

CORRECTION:

Councilmember Hizon moved to adopt Resolution 12-02 establishing policies and procedures relating to the Adopt-A-Street Program, the motion was seconded by Councilmember Munns and carried unanimously.

These changes will be reviewed by Council at the April 17, 2012 meeting.

NON-ACTION COUNCIL ITEMS

Navy League Award Presentation to the City

Councilmember Munns presented this award. Navy League's Community Service Award recognizes individuals, groups, or organizations in the community, either internal or external to Navy League, who within the past year have made notable contributions to the mission and perception of Navy League through support of strong and viable sea services, or of the members of the sea service. This year's award is presented to the City of Oak Harbor for the City's ten-year partnership with Navy League on an enormous annual project: The community-wide Military Appreciation Picnic at Windjammer Park. While recognizing all City departments, Ms. Munns specifically recognized two save-the-day people: Doug Nuckols and Karen Crouch. And with thanks to all City staff, you have contributed in many ways.

United Way Award Presentation to the City

Cathy Niiro, Executive Director of United Way of Island County presented this award to Mayor Dudley noting that April is also Volunteer Month. Ms. Niiro specifically recognized Renée Recker, Dina Nichols, Rick Wallace, Amy Stevens, the OHPD Explorers, Cedric Niiro, and the exceptional staff of the City of Oak Harbor for their time and talent.

Approval of 3/3/12 Council Retreat Minutes

The retreat minutes were omitted at the time of minutes' approval, so Mayor Dudley returned to these minutes to be approved as presented. Councilmember Munns abstained since she could not attend the retreat meeting.

Public Comments

Paul Brewer, Oak Harbor. We will have a kick-off on April 20, 2012, at NASWI as a countdown to Earth Day, which is April 22, 2012. On April 20th, beginning at 8:40 a.m., a beach clean-up will take place at the Seaplane Base and City Beach with a BBQ afterward. I am inviting the Council and community who have access to the Seaplane Base to join us. This is an annual event we have held for eighteen years. We have picked up seven tons of trash at past events and there are environmental and company displays in relation to our kick-off and Earth Day.

Councilmember Almberg asked: Are these discussions permitted during the public open comment period? This is an advertisement for a non-City action. City Attorney Hawkins responded that this is a Council meeting and the Council can decide on its own rules. I don't believe the current rules answer that specific enough to address your question. Council's rules are going to be reviewed to keep up with changes in the code, and we may want to look at parliamentary procedure rules.

Mr. Brewer replied that this is a community event and has been so for eighteen years. Mayor Dudley added that the Seaplane Base is within the City.

Shane Hoffmire, Oak Harbor. We do our best to bring forward matters we think are important. The new wastewater treatment plant at \$100 million is unacceptable. There are empty houses in town. If you raise utility rates to pay for a new wastewater treatment plant, you will own all that is wrong with Oak Harbor's economy. Show fiscal responsibility. Put forward this motion: The new wastewater treatment plant is not to exceed \$70 million, or any lesser amount, that would facilitate tax increases.

There were no other public comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS

Consent Agenda

- A. Noise Permit – Kiwanis of Oak Harbor – Beachcomber's Bazaar
- B. Noise Permit – North Whidbey Soccer Club – Soccer Fest
- C. Noise Permit – North Whidbey Soccer Club – Rock On! 3 v 3
- D. Interlocal Agreement – With Oak Harbor School District, Memorial Stadium
- E. Appointment – Lodging Tax Advisory Committee
- F. Approval of Accounts Payable Vouchers (Pay Bills)

MOTION: Councilmember Hizon moved to approve Consent Agenda Items A through F with Item F paying Accounts Payable check numbers 149478 - 149616 in the amount of \$370,836.56, Payroll check numbers 95416 - 95446 in the amount of \$586,739.99, and Payroll check numbers 95447 - 95470 in the amount of \$77,894.48. The motion was seconded by Councilmember Munns and carried unanimously.

Public Hearing – Zoning Agreement Amendment, Oak Tree Village

City Administrator Powers opened this agenda item and introduced Melissa Sartorius, Associate Planner who will do the presentation. Since most of Council's decisions are legislative, City Attorney Bill Hawkins reviewed the quasi-judicial process used for land use decisions noting that the law requires Council Members not have conflicts of interest. (Council's Rule 19A states: Prior to staff presentation of a quasi-judicial matter, Council Members shall each determine whether the appearance of fairness doctrine requires that the Council Member recuse himself or herself from sitting on the quasi-judicial matter.)

Question No. 1

Does any member of this Council have knowledge of having conducted business with either the proponents or opponents of this project?

Councilmember Paggao - No

Councilmember Almberg - No

Councilmember Severns talked about his affiliations in reference to all of the quasi-judicial questions: 42 years in the title business and familiarity with this early property transaction, but Mr. Severns did not believe that would create a conflict.

Councilmember Severns also sits on the Board of Whidbey Island Bank and did not feel a conflict would be created by that position.

Councilmember Servatius - No

Councilmember Munns - No

Councilmember Hizon - No

Question No. 2

Does any member of this Council have either a pecuniary or a non-pecuniary interest in the outcome of this proceeding?

Councilmember Paggao - No

Councilmember Almberg - No

Councilmember Severns - No

Councilmember Servatius - No

Councilmember Munns - No

Councilmember Hizon - No

Question No. 3

Does any member of this Council know whether or not their employer has a financial interest in the land or area which will be impacted by the decision in this proceeding?

Councilmember Paggao - No
Councilmember Almberg - No
Councilmember Severns - No
Councilmember Servatius - No
Councilmember Munns - No
Councilmember Hizon - No

Question No. 4

Does any member of this Council live or own property within 300 feet of the area which will be impacted by the decision in this proceeding?

Councilmember Paggao - No
Councilmember Almberg - No
Councilmember Severns - Mr. Severns has an interest in the building which houses Flyer's but that would not impact this proceeding's decision.
Councilmember Servatius - No
Councilmember Munns - No
Councilmember Hizon - No

Question No. 5

Does any member of this Council have any special knowledge about the substance of the merits of this proceeding which would or could cause the Council Member to prejudge the outcome of this proceeding?

Councilmember Paggao - No
Councilmember Almberg - No
Councilmember Severns - No
Councilmember Servatius - No
Councilmember Munns - No
Councilmember Hizon - No

Question No. 6

Is there any member of this Council who believes that he or she cannot sit and hear this matter fairly and impartially, both as to the respective positions of the proponents and the opponents in this proceeding?

Councilmember Paggao - Can hear this matter fairly and impartially
Councilmember Almberg - Can hear this matter fairly and impartially
Councilmember Severns - Can hear this matter fairly and impartially
Councilmember Servatius - Can hear this matter fairly and impartially
Councilmember Munns - Can hear this matter fairly and impartially
Councilmember Hizon - Can hear this matter fairly and impartially

City Attorney Hawkins then asked each Council Member to state for the record what ex parte contacts they have had, whether written or oral, concerning the matter to be decided.

Councilmember Paggao - No ex parte contacts
Councilmember Almberg - No ex parte contacts
Councilmember Severns - No ex parte contacts
Councilmember Servatius - No ex parte contacts
Councilmember Munns - No ex parte contacts
Councilmember Hizon - No ex parte contacts

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?

There were no comments from the audience.

Associate Planner Sartorius gave a PowerPoint presentation discussing an ordinance that, if adopted, would amend the Oak Tree Village Concomitant Zoning Agreement for properties located on the east side of SR-20, north of SE Cabot Drive, by allowing ingress/egress from the highway. An ordinance is necessary as the Agreement states "Amendments to this Agreement may be made only after approval by the City Council for the City of Oak Harbor by ordinance." The proposed amendment is requested by Mr. Christian A. Anderson of Dry Lake Land Stewardship, LLC, with authorization from Mr. Kenneth and Mrs. Eleanor Manni, owners of property covered by the existing agreement. The proposed amendment does not approve the proposed project nor construction of a new driveway. The project will still be subject to technical review by staff. The actual driveway configuration for Lot 1 may change based on this review. A formal site plan application was submitted to the City by the applicant on February 15, 2012. Technical review of the site plan and associated applications was suspended due to the ownership issue, however, submittal of the March 8, 2012 letter with authorization by the Mannis has allowed the review to resume.

In preparation for this request, the applicant submitted their project to the City for a pre-application review. This process allows City staff from a variety of departments to review the entire, proposed project and share their comments with the applicant prior to the submittal of a complete site plan application. The proposed ingress/egress point would replace the existing egress-only point located at the north end of Lot 1 of Oak Tree Village. The new access point is shown on the proposed site plan approximately 120 feet south of the existing egress point. The new paved entrance would connect to the existing north-south driveway that serves business on Lots 1, 2 and 3. The addition of ingress at this location will improve access to these businesses and will also lessen some of the traffic pressures on SE Cabot Drive. The existing egress-only driveway is located immediately to the south of a driveway serving the apartments to the north of Lot 1.

This present configuration does not meet State highway access standards. Moving the driveway on Lot 1 farther to south (and relocating the apartment's driveway to the north) will enable the standard to be met, and promote better circulation on SR-20. Staff believes the proposed ingress/egress is acceptable from a conceptual standpoint so long as it can be designed and located to meet managed highway access, fire safety, truck turning needs, and other appropriate engineering standards. Ms. Sartorius also noted that, on page two of the proposed ordinance, the last "whereas" shows a January 17, 2012 date which will be corrected to April 3, 2012.

Public Hearing

Mayor Dudley opened the public hearing at 6:30 p.m., but there were no comments so the public hearing was closed.

Council Discussion

Discussion followed about the existing park of which the majority will remain, the standards for access points to SR-20 and requirement to follow State law and standards, and that engineering design will address ingress/egress. Discussion continued regarding the public hearing delay to address ownership concerns, C5 zoning (part of the old Ordinance 838 - outdated language), and that the property has C3 zoning and will not be subject to the issues of C5. Discussion followed about Lot 1 and if it is subject to a condominium association that would include the other lots (no, there are common areas subject to the original site plan), if the previous Council's concern with traffic impacts have been met (yes, and a traffic impact report will be included in the technical review), and if property to the east will be subject to the agreement (no, it is part of the original binding site plan).

Discussion continued regarding access for residential and commercial properties, that standards in the City's landscaping code and City design guidelines will address residential properties adjoining commercial properties, and that Council's approval of the Comprehensive Plan and Land Use Map identify land use activities. Although a type 2 review for the site plan is administrative, all parties will be notified. Discussion also followed about commercial noise next to a residential area.

MOTION: Councilmember Hizon moved to adopt the ordinance amending the Oak Tree Village Concomitant Zoning Agreement, the associated site plan, and Ordinance No. 838. The motion was seconded by Councilmember Servatius.

AMENDMENT TO THE

MOTION: Councilmember Almberg moved to adopt the ordinance as amended with the correct date, and the motion was seconded by Councilmember Munns.

VOTE ON THE MOTION

TO AMEND: **The motion carried unanimously.**

Discussion on the Original Motion

Councilmember Servatius felt this is a great example of infill.

VOTE ON THE MAIN

MOTION: **The motion carried unanimously.**

Vision and Mission Statement

City Administrator Powers presented this agenda bill. The City's existing vision and mission statements were adopted on October 22, 2002. At the City Council retreat held on March 3, 2012, the Council was asked to review these existing statements and determine if they needed updating. During their review the Mayor and Council discussed several different revisions to both of the statements. The following language represents the conclusion of the discussion:

Vision statement: "Oak Harbor...a vibrant Whidbey Island waterfront community where everyone is welcome and encouraged to thrive.

Mission statement: The City of Oak Harbor is committed to creating a vibrant community by delivering quality services, enhancing the quality of life, and fostering economic opportunities.

The Mayor and Council also discussed the current goals to determine if they were in alignment with the updated vision and mission statements. The existing goals for the City of Oak Harbor are:

- Goal 1: Promote a healthy and growing business community.
- Goal 2: Improve the appearance and livability of the community.
- Goal 3: Encourage a safe community.
- Goal 4: Build and enhance community partnerships.
- Goal 5: Deliver superior quality service to our customers.
- Goal 6: Protect and enhance capital investment in the City.
- Goal 7: Promote a healthy work environment and employee excellence.
- Goal 8: Annual review of the City's overall performance.

At the conclusion of this discussion, the Council did not suggest any revisions to Goals 1-7. However, the Council's discussion seemed to indicate that Goal 8 was not so much a goal as an accountability statement. It was suggested that this item not be retained as a goal. The draft resolution presented the revised vision and mission statements for the City Council's consideration. The resolution also reaffirmed Goals 1-7 as listed above.

During the retreat the Council also participated in a brainstorming process during which ideas, concepts and/or projects were suggested by each of the members. Forty-one ideas, concepts and/or projects were suggested. Utilizing a ranking process, the Council identified six items to evaluate through the SMART evaluation model (Specific, Measurable, Attainable, Realistic and Timebound). The top six ideas, concepts and/or projects (in no particular order) are as follows:

- Premier Family/Business Destination
- Sound Fiscal Policy/Triple A Rating
- Amphitheater/Lagoon
- Guest Moorage at Dock Street
- Dredge the Marina Channel
- Roundabouts at SR-20

Mayor Dudley called for public comments.

Paul Brewer, Oak Harbor. Read the goals (aloud) so we know what they are. We don't all have access to the packet.

There were no other comments. Councilmember Paggao read the goals.

Council Discussion

Discussion followed regarding the six ideas and if they were meant to be examples demonstrating the SMART process or an actual priority list for projects and future goals, that this list leaves the impression that these items have been chosen for forward movement while the WWTP and water reservoir are not included. City Administrator Powers noted the WWTP and water reservoir were left off because they are works in progress. Discussion continued about the process moving from forty-one ideas to these six as the most popular but not necessarily a call to action, that the impression may be otherwise, and that Council previously had a list of priorities tied to the Capital Improvement Plan.

Mr. Powers clarified that the existing Capital Improvement Plan is a six-year list of projects which is then tied to the City's two-year budget. That list is still there as are all of the major policy plans that feed projects into it. This list of six was not meant as substantiation but could be pursued through the Capital Improvement Plan and budget process. You have both - this lines up with the new vision and you still have the existing list of capital projects.

Council thanked and recognized Stephanie Smith who acted as the retreat's facilitator, and continued discussion that the list represents what Council would like to see in the future; a list of ideas and concepts. Council will have another retreat in December and these ideas could be discussed and prioritized at that meeting.

MOTION: Councilmember Almberg moved to approve Resolution No. 12-10. The motion was seconded by Councilmember Munns and carried unanimously.

Resolution 12-10 updates the City's vision and mission statements and reaffirms the existing City goals.

Introduction – Sewer Code Revision

City Engineer Eric Johnston presented this agenda bill to set a date for consideration and a public hearing on proposed changes to Chapter 14.03.061 of the Oak Harbor Municipal Code related to mandatory sewer connection. The proposed change extends the prohibition on requiring connection by grinder pump to December 31, 2017.

Mayor Dudley called for public comments but there were none.

MOTION: Councilmember Severns moved to set April 17, 2012 for a public hearing and consideration of the ordinance. The motion was seconded by Councilmember Munns and carried unanimously.

Contract – Lead Negotiator Services

Human Resources Director Jessica Neill Hoyson presented this agenda bill proposing that the City enter into a contract with Braun Consulting Group for labor relations and negotiation services in the amount of \$55,650.00. The contract would cover those services for the two existing bargaining unit contracts (Police and Fire), and the two new bargaining unit contracts (Public Works and Marina). Ms. Neill Hoyson discussed the bargaining process as illustrated in Exhibit A of these minutes and talked about past and current negotiation practices.

Mayor Dudley called for public comments.

Shane Hoffmire, Oak Harbor. Negotiating can be tough; move forward (with this) in everyone's best interest.

Council Discussion

Discussion followed about negotiations leading to a situation the City could not afford and how that would be addressed in the bargaining process, negotiating in good faith, the use of this firm on a monthly retainer rather than using a law firm on an hourly basis, and that costs will be prorated to the affected departments and budgeted in 2013.

Council noted an incorrect total in the agenda bill; correct total is \$55,650.00.

Discussion continued about the length of this contract (through 2013) in light of hiring a City Administrator and the length of time that may be necessary to fill that position. Ms. Neill Hoyson also noted that keeping the same team in place is advisable which factors into the 2013 date. Discussion followed about the past City Administrator's negotiation skills along with negotiation done by Ms. Neill Hoyson, and how the \$55,650 will be funded. Mr. Merriman noted that a number of departments have staff vacancies and that fund savings may be shifted for this contract cost without touching reserves. Costs will have to be budgeted in 2013 but, for 2012, this is cost-neutral. If the contract is needed beyond 2013, it would be re-negotiated to meet future needs. Ms. Neill Hoyson also talked about unit contract terms (Police Department is three years, Fire Department is two years) and the possibility that the Teamster's contracts may be two or one year(s)

depending on negotiations. Council discussion followed about reserve funds (30 percent in reserves) and remaining mindful of this percentage in light of a reduced revenue stream.

MOTION: Councilmember Paggao moved to authorize the Mayor to sign the professional services contract with Braun Consulting Group in the amount of \$55,650.00 for labor relations and negotiations services. The motion was seconded by Councilmember Munns and carried unanimously.

Future City Council Pending Items

As noted in the agenda packet.

City Administrator Comments

City Administrator Powers reminded everyone that all standing committee meetings are now held in Council Chambers at 3:30 p.m. on their designated days. Mr. Powers also talked about the four meetings which are scheduled on April 11th: Shoreline Master Program, Finance Standing Committee, Open House on the WWTP, Council Workshop on the WWTP.

Council Members' Comments

Council Members talked about upcoming standing committee meetings and gave their respective board reports.

Councilmember AlMBERG distributed the text of the motion below and said the reason for the motion runs to Sturgis' Standard Code of Parliamentary Procedure, Council's Administration and Personnel Rules booklet, and that in many cases, we are not following those rules.

MOTION

- ONE:** Councilmember AlMBERG moved that the April 17, 2012 Council Agenda include an agenda item covering the following topics:
1. The City Attorney provides a Parliamentary Procedure and Council Rules presentation covering the rights, rules, and conduct of the Mayor, Council, and public during Council meetings.
 2. The Council discusses and takes possible action to create a more efficient and business-like atmosphere by considering the following changes to our Council format:
 - a. Start time at 6:00 p.m. and mandatory stop time at 9:00 p.m. unless extended by the majority vote of the Council.
 - b. Schedule the Public Comment Period at the end of Council meetings and be subject to the time available.
 - c. Delete the Council's Standing Committee reports (these meetings are video-taped).

**The motion was seconded by Councilmember Hizon.
(No vote was necessary.)**

City Administrator Powers noted that this motion will be placed on the 4/17/12 agenda for Council's discussion on moving forward, or not, so staff has time to prepare materials.

Councilmember Almberg, calling for a point of order and Councilmember Servatius both noticed a citizen recording this portion of the meeting and asked the Mayor to have this stopped. Mr. Servatius cited Council Rule No. 9 (4) which speaks to electronic devices but City Attorney Hawkins clarified that the text says, " ... No member of the public may utilize an electronic or video device for purposes of his or her presentation to the Council."

Mr. Powers noted that this issue had come up under previous administrations and the City concluded that this is an acceptable practice and Mr. Hoffmire could continue recording the meeting. Returning to the motion, Mr. Powers said that staff will not be preparing an ordinance for the 4/17/12 meeting but the motion will be presented before the full Council on 4/17/12.

Councilmember Munns talked about AWC and the possible emergency legislative session in consideration of the State's budget. Councilmember Severns had attended an Economic Development Council meeting and reported that their funding from the State had been cut by ten percent. EDC has helpful economic development information available for entrepreneurs and the public. EDC's annual luncheon will be held on June 15, 2012; Mr. Severns will check on the location. Councilmember Severns also talked about the Pioneer Way Art unveiling which will be held this Friday at 4:00 p.m. Everyone was encouraged to attend. Councilmember Hizon talked about the successful "Community Conversation" forum held by the Youth Advisory Council and the broad range of feedback they received. The Youth Advisory Council will next meet on April 18, 2012, 5:15 p.m., United Way Office. Councilmember Servatius asked about Council questions versus comments and which is appropriate. Comments could sway, while questions after a staff presentation could be reserved for the motion/second and then Council discussion prior to a vote. Mr. Servatius asked City Attorney Hawkins to comment in reference to Personnel Policy 809 concerning political activities and asked if weighing in, endorsing, and now using streaming video become political activity. Mr. Hawkins responded that political activity can include ballots and elected offices, which is the narrow definition, but interpreting Policy 809, the phrase is "political or partisan activities" on the part of employees and the definition of political activity is broader. With questions versus comments, Council rules are not specific to questions occurring in one round - it is Council's meeting.

MOTION

TWO:

Councilmember Servatius moved to amend Council Rule No. 17 (1) - Voting, to include a show of hands in addition to a verbal vote. The motion was seconded by Councilmember Almberg.

Mr. Powers noted that, if this is to become an agenda item, we will place it for the next meeting. Mr. Servatius asked if it would include a vote. Mr. Powers noted it would be placed for Council discussion.

Councilmember Hizon asked if we could do either/or? Councilmember Servatius felt a show of hands would then be easily seen on the video tape. Councilmember Paggao noted that there should not be discussion at this point; this should be discussed at the next meeting. City Attorney Hawkins suggested keeping this as stated in Council's rules and bringing this before Council on April 17th, and he also noted that Council can request a show of hands at any time during the meetings.

Councilmember Servatius then asked to amend the motion to have staff draft a resolution.

MOTION TWO RETRACTED

Councilmember Servatius and Councilmember Almberg agreed to retract the motion and second referring to Council Rule No. 17 (1) - Voting.

MOTION

THREE:

Councilmember Servatius moved to have Council adopt a resolution amending Council Rule No. 17 (1) - Voting, of Council Administration and Personnel Rules, to include a show of hands in addition to a verbal vote. Councilmember Almberg seconded the motion.

Mayor Dudley noted that Mr. Servatius was speaking without a resolution in place. City Attorney Hawkins said this could be the formal approach for April 17th but again noted that Council can make a request for a show of hands at any time as a "patch" for now.

MOTION

THREE

AMENDED: Councilmember Servatius moved to add a resolution amending Council Rule No. 17 (1) - Voting, of Council Administration and Personnel Rules, to include a show of hands in addition to a verbal vote. The motion was seconded by Councilmember Almberg. (No discussion or vote was needed.)

MOTION: Council Servatius moved to bring forward on April 17, 2012, a policy or procedure to ban the wearing of hats in Council Chambers out of respect for the City, Mayor, and Council. The motion was seconded by Councilmember Almberg.
(No discussion or vote was needed.)

Mr. Powers noted that these Council motions allow Council to have an item set for discussion, and then Council would vote on whether to proceed forward with that item. Staff is not always going to be in the position of drafting an agenda bill and agenda bill materials for the next meeting. Council rules say the item may be set over and that is what we follow.

Mayor's Comments

The City now has a Facebook page for better communication:
www.facebook.com/cityof oak harbor

Mayor Dudley apologized for what happened earlier with electronic recording and Councilmember Almberg called for a point of order saying: This is the Council's meeting and the Mayor's position is to conduct a neutral and unbiased meeting; a level playing field by the rules. I object to the solicitations in previous meetings. I want to clean up our procedure process that is in conflict with Sturgis, Council rules, and policies. I will stand corrected that, as I read the rules, the Mayor's position is to conduct the meeting to do the City's business - the Council does the City's business and the Mayor is the chairman.

City Attorney Hawkins noted that this is basically correct, but the agenda format has a comment period for Council and the Mayor.

Mr. Almberg continued that he was objecting to the Mayor's comments about the comments period which Mr. Almberg felt should be kept related to the City's business and not used politically or for advertising.

Councilmember Paggao called for a point of order noting that Councilmember Almberg's statements should be directed to the chair. Mayor Dudley encouraged the public to come out and speak at the next Council meeting to express their opinions; I think this will affect everyone.

Councilmember Hizon noted that, with the point of order, and the Mayor's concern about limiting public remarks, Council has not yet had that discussion. Ms. Hizon also asked Mr. Hawkins about Mayor's comments at the end of each meeting and if he is allowed to voice an opinion. Mr. Hawkins responded that this is the time and point in the meeting agenda when the Mayor can express an opinion. Coming back to Councilmember Almberg's remarks, the Mayor's role is to preside, but he has a comment period now and it was appropriate that he expressed his views.

Councilmember Servatius asked, if we make a motion and second, and there is no discussion, aren't we discussing this now? Mayor Dudley noted that the Council can have discussion and vote at the next Council meeting. Mayor Dudley went on to say that, in the past, we had no problem with the Mayor weighing in on action taken by the Council. I want the public to know and to hear from them any time that we talk about minimizing public comment or are concerned about what they are wearing. That is a concern to this Mayor.

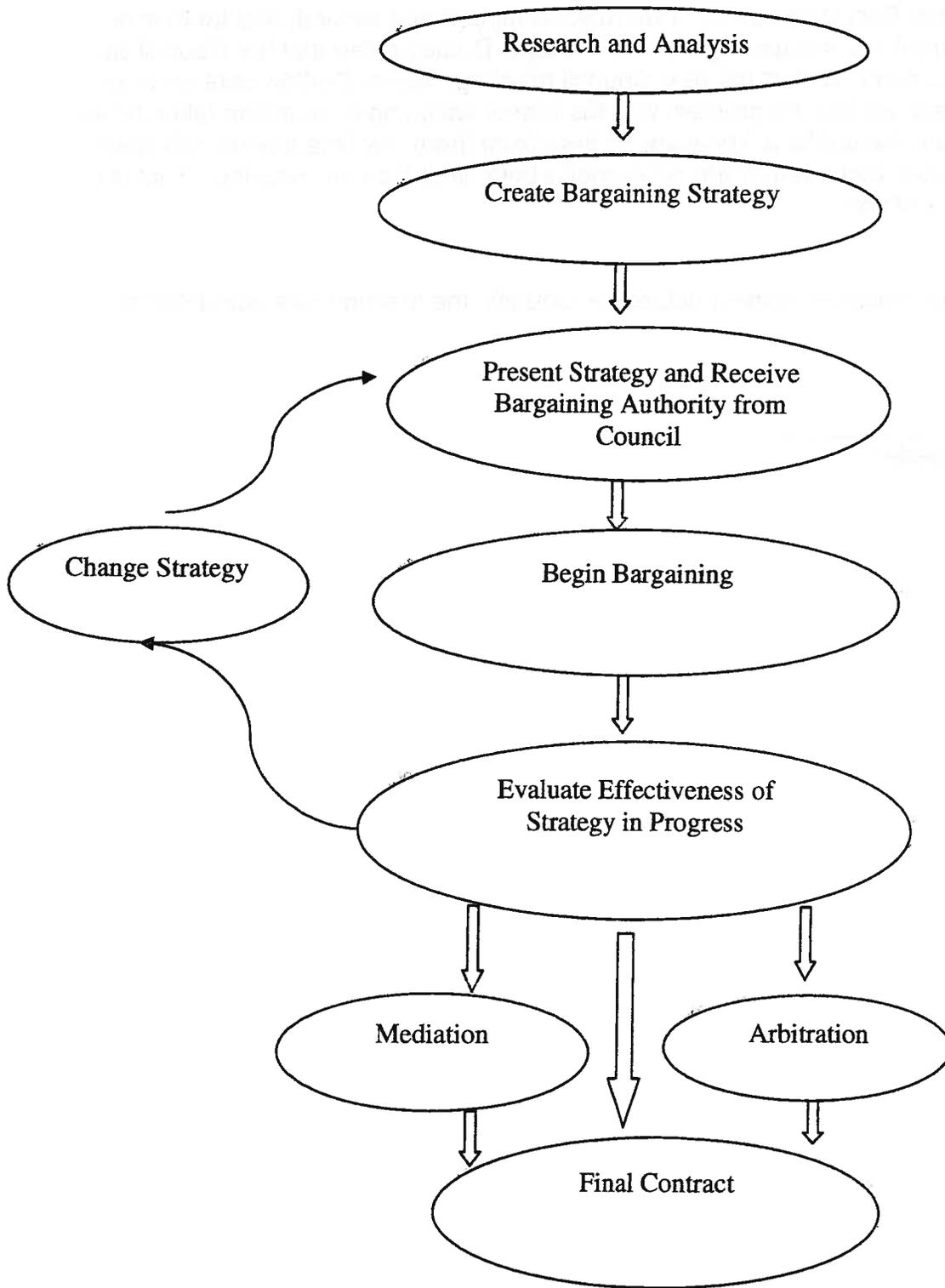
ADJOURN

With no further business coming before the Council, the meeting was adjourned at 8:10 p.m.

Connie T. Wheeler
City Clerk

Bargaining Process

Exhibit A



City of Oak Harbor

OFFICE OF THE MAYOR
SCOTT DUDLEY
MAYOR



PROCLAMATION IN RECOGNITION OF

EARTH DAY

WHEREAS, The first Earth Day was celebrated on April 22, 1970, with the goal of inspiring environmental awareness and encouraging the conservation, protection, and appreciation of our nation's natural resources, and;

WHEREAS, the Earth Day movement has created a groundswell of public support, leading to the protection of our nation's land, air and water resources, and;

WHEREAS, in 1990, Earth Day went global and garnered the support of 200 million people from 141 countries in an effort to raise international awareness, and;

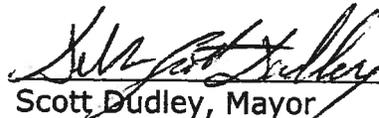
WHEREAS, the global community now faces extraordinary challenges, such as global health issues, food and water shortages, and economic struggles, and;

WHEREAS, there are economic, environmental and social reasons for state and local governments to initiate energy efficiency and renewable energy practices, and;

WHEREAS, Earth Day offers citizens an unprecedented opportunity to take a moment to consider what each of us can do to ensure the long-term sustainability of the environment.

NOW, THEREFORE, WE, Scott Dudley, Mayor, and Councilmembers of the City of Oak Harbor do hereby designate **April 22, 2012** as **Earth Day** in the City of Oak Harbor.

Signed this 17th day of April, 2012


Scott Dudley, Mayor

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT
5712 S. UNIVERSITY AVE.
CHICAGO, ILL. 60637



PHYSICS 321: QUANTUM MECHANICS

PROFESSOR J. J. THORNTON

Problem Set 10: Angular Momentum and Spin

Due Date: Friday, November 12, 2010

Instructions: Please show all work and include units.

1. A particle with spin $S = 1/2$ is in a state with $S_z = \hbar/2$.

(a) What are the possible values of the total angular momentum J ?

(b) What are the possible values of the projection of the total angular momentum J_z ?

(c) What are the possible values of the angle between \mathbf{J} and the z-axis?

2. A particle with spin $S = 1$ is in a state with $S_z = \hbar$.

(a) What are the possible values of the total angular momentum J ?

City of Oak Harbor

OFFICE OF THE MAYOR
SCOTT DUDLEY
MAYOR



PROCLAMATION IN RECOGNITION OF

ARBOR DAY

WHEREAS, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and;

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and;

WHEREAS, Arbor Day is now observed throughout our nation and the world, and;

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen and provide habitat for wildlife, and;

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and countless other wood products, and;

WHEREAS, trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community, and;

WHEREAS, since 2003, the City of Oak Harbor has been continually recognized by the Arbor Day Foundation as a Tree City, and;

NOW, THEREFORE, WE, Scott Dudley, Mayor, and Councilmembers of the City of Oak Harbor do hereby proclaim **April 27, 2012** as **Arbor Day** in the City of Oak Harbor, and urge all citizens to celebrate Arbor Day, support efforts to protect our trees and woodlands, and to plant trees.

Signed this 17th day of April, 2012


Scott Dudley, Mayor

City of Grand Haven

City of Grand Haven
1000 Grand Haven Blvd
Grand Haven, MI 49434
616-835-2000



City of Grand Haven

OFFICE OF THE CITY CLERK

City of Grand Haven, Michigan
1000 Grand Haven Blvd
Grand Haven, MI 49434
616-835-2000

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City of Grand Haven, Michigan



**City of Oak Harbor
City Council Agenda Bill**

Bill No. 3

Date: 4/17/12

Subject: PUBLIC COMMENTS

FROM: Scott Dudley, Mayor *SD*

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

SP Steve Powers, Interim City Administrator

DM Doug Merriman, Finance Director

BH Bill Hawkins, City Attorney

SUMMARY STATEMENT

City Council will accept public comments for items not otherwise on the agenda for the first 15 minutes of the Council meeting. You may also speak to any of the consent agenda items.

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**City of Oak Harbor
City Council Agenda Bill**

Agenda Bill No. 4a
Date: April 17, 2012
Subject: Noise Permit – Ruck in
Remembrance 14.8 Mile Hike

FROM: Steve Powers, Interim City Administrator *RSP*

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

[Signature] Scott Dudley, Mayor
[Signature] Doug Merriman, Finance Director
[Signature] Bill Hawkins, City Attorney, as to form

PURPOSE:

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from Joseph Ortega for the use of amplified sound associated with a Ruck in Remembrance Memorial Day 14.8 mile hike on May 28, 2012.

AUTHORIZATION:

Oak Harbor Municipal Code (OHMC) 5.50.040(3)(g) provisions relating to Special Events requires compliance with noise ordinance regulations and laws. OHMC 6.56.030(2)(a) requires Council approval for a noise permit for sound amplification. As this event may include amplified sound, Council approval is required.

The City Council may grant a Noise Permit to deviate from the provisions of OHMC 6.56.030 if it is determined the activity and associated noise: 1) is not undertaken in disregard of the rights of others, or 2) is temporary, or 3) the activity creating the noise constitutes a program of a temporary nature for the benefit of the entire municipality or for the benefit of a charitable purpose.

SUMMARY STATEMENT:

Joseph Ortega submitted a Noise Permit request for amplified sound associated with a Ruck in Remembrance Memorial Day Hike scheduled for May 28, 2012. The request states that amplified sound will be used for music and announcements at the VFW at the end of the hike. The purpose of the hike is to support the Wounded Warrior Project and the VFW. An event flyer and route map is included for additional information.

The Application was reviewed by Fire, Police, and Public Works Departments.

STANDING COMMITTEE REVIEW:

Not required.

RECOMMENDED ACTION:

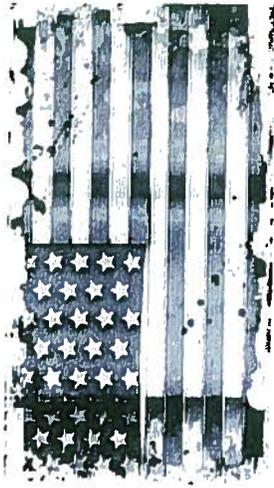
Grant a noise permit for amplified sound to Joseph Ortega for the Ruck in Remembrance Hike.

ATTACHMENTS:

- Event Flyer
- Route
- Noise Permit.

MAYOR'S COMMENTS:

RUCK IN REMEMBRANCE



**MEMORIAL DAY
28 MAY, 2012
14.8MI HIKE**



Let this Memorial Day not be just about the beginning of summer or the super sales. Instead, let us gather in remembrance of those who paid the ultimate price for our freedom.

Join our veterans who will be remembering our country's real heroes. This event will be benefitting the Wounded Warrior Project. For more info about the WWP visit:
www.woundedwarriorproject.org



WOUNDED WARRIOR PROJECT

Registration:

Complete and submit registration form. Participation in the event will cost \$75 per person. All participants will receive a free event T-shirt and WWP memorabilia.

The event:

A 14.8 mile hike with a 30 pound pack on. Squads of 10 will be lead by a squad leader and followed by a corpsman. Each participant will be rucking for a fallen service member whose name and bio will be provided unless participant already has a hero they would like to ruck for.

Location:

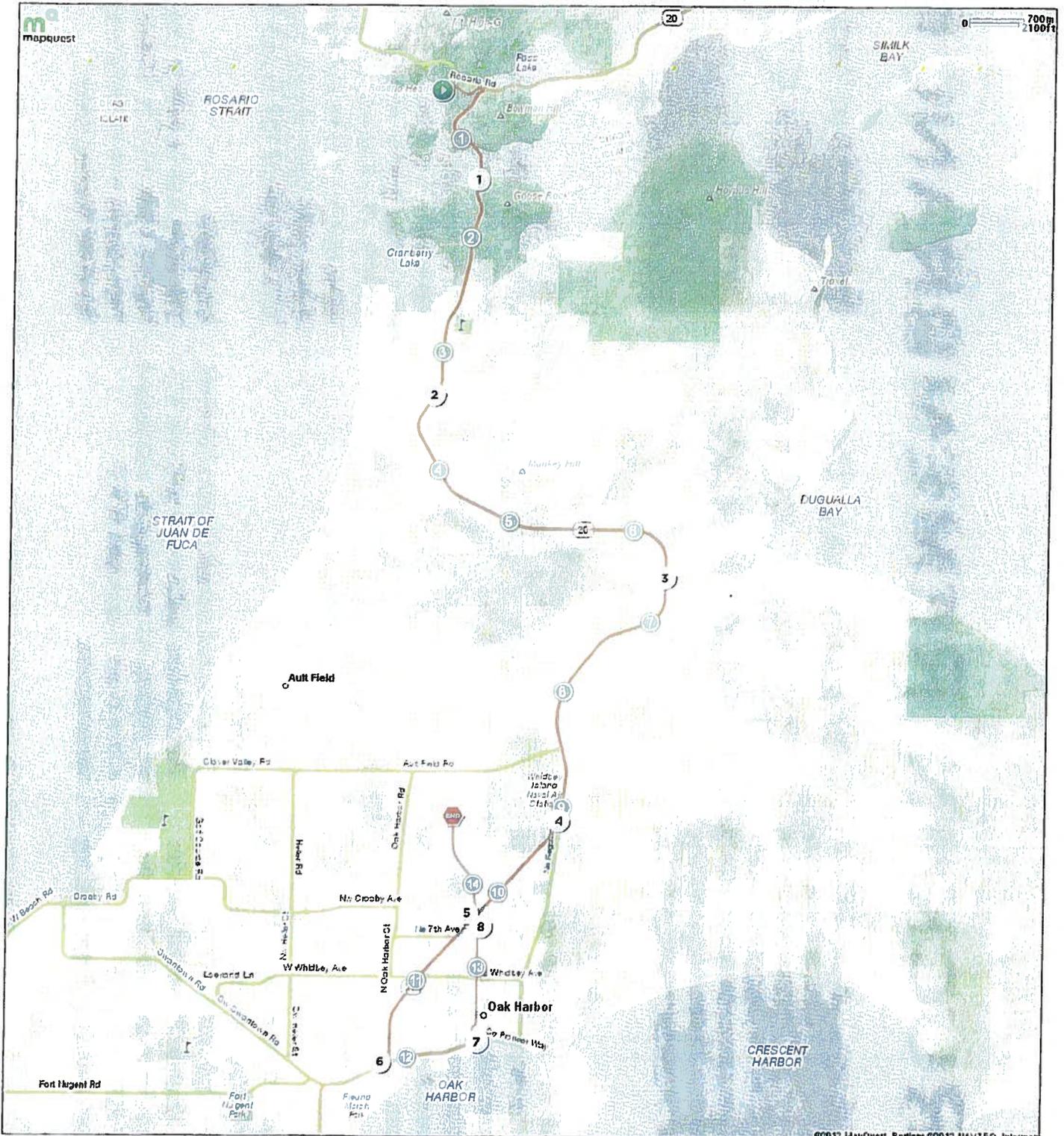
The event will be held at Oak Harbor VFW 3037 N. Goldie Rd. Participants will be transported to the event starting point.

Ruck In Remembrance

Starts in Oak Harbor, Washington

14.65 miles

Elevation **331ft** Max **-10ft** Min **+456ft** Ascent **-433ft** Descent **< 3 %** Max Climb



Description
Route for Ruck In Remembrance.

CITY OF OAK HARBOR

NOISE PERMIT

Name of Applicant: Joseph Ortega

Location of Event: Oak Harbor VFW Post 7392
3037 Goldie Road

Date of Event: May 28, 2012

Hours of Operation: 8:00 a.m. to 6:00 p.m.

Permitted Noise: Amplified sound for music and
announcements

Approval Conditions: Face speakers away from the
campground area.

Date of City Council
Approval:

Issued this day of April, 2012.

Karen Crouch, Special Events Coordinator

This Noise Permit is limited to the date and time specified.

Please post this notice on site

**City of Oak Harbor
City Council Agenda Bill**

Bill No. 4b
Date: April 17, 2012
Subject: Arts Commission
Re-Appointment – KC Pohtilla

FROM: Scott Dudley, Mayor *SD*

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

SP Steve Powers, Interim City Administrator
DM Doug Merriman, Finance Director
Bill Hawkins Bill Hawkins, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is for the Council to confirm Mayor Dudley's re-appointment of K.C. Pohtilla to the Arts Commission.

AUTHORITY

Oak Harbor Municipal Code, Chapter 2.29 Oak Harbor Arts Commission:

2.29.040 Membership of commission.

The majority voting membership of said commission must reside within the city of Oak Harbor or work within the city.

FISCAL IMPACT DESCRIPTION

None

SUMMARY STATEMENT

K.C. Pohtilla was appointed to the Arts Commission in March 2006 and has served on the commission since its inception. She resides within the city of Oak Harbor. If confirmed, Ms. Pohtilla's four-year term would expire March 2016.

Ms. Pohtilla is an active and valued member of the Board. Mayor Dudley recommends that K.C. Pohtilla be confirmed to serve a four-year term on the Arts Commission.

STANDING COMMITTEE REPORT

None.

RECOMMENDED ACTION

Confirm Ms. Pohtilla's re-appointment to the Arts Commission.

ATTACHMENTS

None.



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City of Oak Harbor
City Council Agenda Bill

Bill No.
Date:
Subject:

4c
April 17, 2012
Excused Absence Request
Councilmember Beth Munns

FROM: Scott Dudley 
Mayor

**INITIALED AS APPROVED FOR
SUBMITTAL TO THE COUNCIL BY:**

 Steve Powers, Interim City Administrator
 Doug Merriman, Finance Director
 Bill Hawkins, City Attorney as to form

PURPOSE

The purpose of this agenda bill is to present and approve Councilmember Beth Munns' excused absence request for the May 1, 2012 City Council meeting.

AUTHORITY

Per RCW 35A.12.060: ...*A council position shall become vacant if the councilmember fails to attend three consecutive regular meetings of the council without being excused by the council.*

SUMMARY STATEMENT

Councilmember Munns has submitted an excused absence request for the May 1, 2012 City Council meeting.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Approve Councilmember Munns' excused absence for the May 1, 2012 City Council meeting.

ATTACHMENTS

None

MAYOR'S COMMENTS



City of Oak Harbor City Council Agenda Bill

Bill No.

4d

Date:

April 17, 2012

Subject:

Interlocal Agreements with
North Whidbey Park and
Recreation District

FROM: Cathy Rosen, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Steve Powers, Interim City Administrator
 Doug Merriman, Finance Director
 William H. Hawkins, City Attorney, as to form

PURPOSE

It is a goal of the City of Oak Harbor Parks Division to promote recreational activities for all residents. This agenda bill presents three Interlocal Agreements with the North Whidbey Park and Recreation District to further that goal. The City has provided, through Interlocal Agreements, Lifeguarding Services at the lagoon, including wading pool maintenance, Boat Rental Services at Windjammer Park and Recreational Services during the summer months for the citizens of Oak Harbor.

AUTHORITY

The Interlocal Cooperation Act, RCW 39.34.080, authorizes public entities to contract with other public entities to perform any governmental undertaking which each is authorized to do individually. The City is authorized to provide recreational services through RCW 35A.11.020. The North Whidbey Park and Recreation District is authorized to provide recreation through Chapter 36.69 RCW.

FISCAL IMPACT DESCRIPTION

Funds Required: \$29,175 (budgeted)

Appropriation Source: Parks Division Budget (001.70)

SUMMARY STATEMENT

The District will be responsible for all aspects of the lifeguarding program, including providing a Safety Monitor for the lagoon area, scheduling, hiring, training and some general maintenance (housekeeping) responsibilities within a designated area. Also, the District will ensure that all lifeguards are certified, and will provide liability insurance for the lifeguarding program. The District will also be responsible for wading pool maintenance, including daily cleaning, water testing, purification and the daily opening and closing of the pool(s). The District will carry liability insurance on the staff members assigned to maintain and operate the wading pool(s). The 2011-2012 Parks Budget provides funding for these services.

Also, under a separate agreement, the District will once again be providing paddle boat and canoe rentals at the Windmill, and will pay the City \$100 per month for use of the Windmill for this purpose. This fee will cover the cost to the City for utilities and overhead and includes any leasehold excise tax that will be due.

City of Oak Harbor City Council Agenda Bill

The third Interlocal Agreement with North Whidbey Park and Recreation District is for Recreational Services, which includes such programs as a Running Club, Sailing Program, Kids Love Soccer Program, as well as supporting the Teen Activity Council and other mutually agreed upon programs at City owned parks and facilities. This Agreement supports a continuing goal of the City, as stated in the Six Year Parks, Recreation and Open Space Plan, to work with North Whidbey Park and Recreation District to establish recreational programs in the community.

This agreement allows the use of the Marina's facilities in support of the sailing program. The District will insure the sailing program and also name the City as additional insured. There would be no cost to the City for the District to provide these services and there would be no cost to the District to use City facilities.

As the City of Oak Harbor has the facilities available for the recreational programs and the District has the necessary staffing to operate the programs, the City would allow the use of mutually agreed upon locations within the City's parks and facilities for these purposes. Field scheduling will be such as to not interfere with organized sports leagues that have field use agreements with the City.

STANDING COMMITTEE REPORT

These Interlocal Agreements will be discussed at the Public Works Standing Committee meeting on April 5, and at the Park Board meeting on April 9, 2012.

RECOMMENDED ACTION

It is recommended that the City Council:

- 1) Approve three Interlocal Agreements with the North Whidbey Park and Recreation District for Water Recreational Protection Services, Boat Rental Services and Recreational Services; and
- 2) Authorize the Mayor to sign.

ATTACHMENTS

- Water Recreational Protection Services Agreement (Lifeguarding)
- Boat Rental Services Agreement
- Recreational Services Agreement (Running Club, Sailing Program, Flag Football, Kids Love Soccer Program, Teen Activity Council, etc.)

City of Oak Harbor

AGREEMENT WITH NORTH WHIDBEY PARK & RECREATION DISTRICT FOR RECREATIONAL SERVICES

This Agreement is made this _____ day of _____, 2012, between the City of Oak Harbor, a municipal corporation ("City") and North Whidbey Park and Recreation District, a park and recreation district organized pursuant to Ch. 36.69 RCW ("District"). Generally, the City and District mutually agree that recreational programs are important to the health and welfare of the citizens of Oak Harbor. Therefore, the District agrees to operate a Running Club, Sailing Program, Kids Love Soccer Program, as well as supporting the Teen Activity Council and other mutually agreed upon programs for the benefit of Oak Harbor residents and others at City owned parks, all subject to the terms and provisions of this Agreement.

Section 1. Purpose. This Agreement is entered pursuant to the District's authority under RCW 36.69.130(9) to contract with a municipal corporation for the conduct of park and recreation programs. The City has the facilities available for recreational programs to serve Oak Harbor youth, whereas the District has the necessary staffing to operate the programs. The District agrees to operate their recreational programs to include Oak Harbor youth in mutually agreed upon locations within the City's parks and marina.

Section 2. Term. This Agreement shall be effective upon execution and shall continue in effect through April 20, 2013, unless earlier terminated pursuant to Section 7 herein.

Section 3. Services. The District shall provide Recreational Services ("Services") including, but not limited to, the Running Club, Sailing Program, Kids Love Soccer Program, as well as supporting the Teen Activity Council in various City facilities.

- 3.1 Availability to Oak Harbor resident. The District shall make its recreational programs available to Oak Harbor residents on the same terms and conditions as its recreational programs are available to other clients of the District.
- 3.2 Accessibility. The District shall ensure that the programs conducted at City parks and other facilities are accessible to individuals with disabilities in accordance with the Americans with Disabilities Act, the Americans with Disabilities Amendment Act, the Washington Law Against Discrimination, and all other applicable federal, state and local non-discrimination laws and regulations.
- 3.3 Customer Service. The District's employees, agents, and representatives shall provide high quality customer service and shall treat all customers with courtesy and respect.
- 3.4 Employee Appearance. All District employees, agents, representatives or licensees shall have a neat, clean and sanitary personal appearance and those who come in direct contact with the public shall wear clothing or identification which distinguishes them as employees of the District.
- 3.5 Sex Discrimination Prohibited in Community Athletics Programs. The District shall comply with RCW 49.60.500.
- 3.6 Non-Discrimination in Services. The District shall comply with all applicable non-discrimination laws and regulations in the provision of services under this Agreement.

Section 4. Facilities. The City of Oak Harbor will provide facilities for the recreational services listed in Section 2 in the city of Oak Harbor, as follows:

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- 4.1 Parks facilities. At the annual spring league meeting, the District will provide the City with a proposed schedule of recreational programs for the season. The District and the City agree to mutually negotiate the city parks facilities necessary to meet the recreational services to be provided under this Agreement. The City and District will agree upon fields and other facilities to be made available for District use. Field scheduling will be such as to not interfere with organized sports leagues that have field use agreements with the City.
- 4.2 Marina facilities. The City will provide three facilities to the District for its sailing program:
- (i) Marina moorage suitable to accommodate the dinghy docks and vessels stored thereon.
 - (ii) Two Marina storage units.
 - (iii) Up to three parking spaces for storage of trailers and equipment.

Section 5. Equipment. The District shall supply its own equipment.

Section 6. Maintenance. The District shall, at its sole cost and expense, maintain the facilities provided by the City pursuant to this Agreement in good condition and repair, including, but not limited to, removing all garbage, trash or other debris on a regular basis pursuant to the City's instructions.

Section 7. Termination. Either the City or the District may, in its discretion, terminate this Agreement with or without cause. Where there are programs in progress, termination without cause of this Agreement shall be effective upon the completion of the pending program period. If either the City or the District is in breach or default of the terms of this Agreement, the other party may terminate the Agreement for cause upon five (5) days written notice and failure of the other party to cure within the five (5) day period.

Section 8. Compliance with Laws. The District shall comply with and perform the services in accordance with all applicable federal, state and City laws including, without limitation all City codes, ordinances, resolutions, standards, and policies, as now existing or hereafter adopted or amended, including, but not limited to, the following:

- 8.1 Federal, state and local health, safety and licensing laws relating to the boat rentals.
- 8.2 City code provisions requiring any person or entity doing business in the City to obtain a business registration.
- 8.3 City Parks, Recreation and Cultural Services Department policies.
- 8.4 The District shall comply with the head injury protocols set forth in Section 2 of House Bill (EHB 1824) Laws of 2009 and agrees to hold the City of Oak Harbor harmless, indemnify and defend the City, its officers and employees for any legal claims or lawsuits for injury or death arising from the failure of the organization to comply with the requirements of Section 2 of EHB 1824.
- 8.5 The City of Oak Harbor has adopted Resolution No. 09-32 establishing a policy which prohibits gender discrimination in community athletics programs using City athletic facilities, per RCW 49.60.505. Discrimination against any person on the basis of sex in the operation, conduct, or administration of community athletics programs for youth or adults utilizing City athletic facilities is expressly prohibited and shall be a basis for denying the discriminating person or organization permission to use City athletic facilities.

Section 9. Warranty. The District warrants that it has the requisite training, skill and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities, including, but not limited to, being registered to do business in the City of Oak Harbor by obtaining a City of Oak Harbor business license.

Section 10. Independent Contractor/Conflict of Interest. It is the intention and understanding of the parties that the District shall be an independent contractor and the City shall be neither liable nor obligated to pay any employees, volunteers, officers or officials of the District sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax which may arise as an incident of employment.

Section 11. Indemnification/Hold Harmless.

11.1 **Indemnification.** The District shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the District and the City, its officers, officials, employees, and volunteers, the District's liability hereunder shall be only to the extent of the District's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the District's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

11.2 **City Indemnification.** The City agrees to indemnify and hold the District, its officers, directors, shareholders, partners, employees, and agents harmless from any and all claims, demands, losses, actions and liabilities (including costs and attorney fees) to or by any and all persons or entities, including without limitation, their respective agents, licensees, or representatives, arising from, resulting from or connected with the Agreement to the extent solely caused by the negligent acts, errors, or omissions of the City, its employees or agents.

11.3 **Survival.** The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

Section 12. Equal Opportunity Employer. The District shall not violate any of the terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the American with Disabilities Act, the Americans with Disabilities Amendment Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state or local law or regulation regarding non-discrimination in employment. Any material violation of this provision shall be cause for termination of this Agreement by the City and, in the case of the District's breach, may result in ineligibility for further City agreements.

Section 13. Insurance. The District shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the District, their agents, representatives, employees or subcontractors.

- 13.1 No Limitation. The District's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the District to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- 13.2 Minimum Scope of Insurance. The District shall obtain insurance of the types described below:
- (i) Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
 - (ii) Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent Districts, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the District's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage through insurance pool.
 - (iii) Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- 13.3 Minimum Amounts of Insurance. The District shall maintain the following insurance limits:
- (i) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
 - (ii) Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.
- 13.4 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:
- (i) The District's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the District's insurance and shall not contribute with it.
 - (ii) The District's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
- 13.5 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII or Enduris.
- 13.6 Verification of Coverage. The District shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the District before commencement of the work.
- 13.7 Third party entities are also required to carry their own insurance, naming the City of Oak Harbor as also insured.

Section 14. Exclusive Right. This Agreement grants the District the right to offer recreational programs in City parks, except during City approved special events or other organized sports league activities. The City reserves the right to grant to other persons or entities any of the rights contained herein or otherwise.

Section 15. Signs. The District shall coordinate placement of any sign, notice or advertising matter in or about the City's real property, with City staff. If required by City code, the District shall obtain all necessary permits in connection with any such signs.

Section 16. General Provisions.

- 16.1 **Entire Agreement.** This Agreement contains all of the agreements of the parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.
- 16.2 **Modification.** No provision of this Agreement may be amended or modified except by written agreement signed by the parties.
- 16.3 **Full Force and Effect.** Any provision of this Agreement, which is declared invalid or illegal shall in no way, affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect.
- 16.4 **Assignment.** Neither the District nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and right hereunder without the prior written consent of the other party.
- 16.5 **Successors in Interest.** Subject to the foregoing Subsection, the right and obligations of the parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns.
- 16.6 **Attorney Fees.** In the event either of the parties defaults on the performance of any terms of this Agreement or either party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each party shall pay all of its own attorneys' fees, costs and expenses. The venue for any dispute related to this Agreement shall be Island County, Washington.
- 16.7 **No Waiver.** Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default. Failure or delay of the District to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the District to declare one breach or default does not act as a waiver of the District's right to declare another breach or default.
- 16.8 **Governing Law and Venue.** This Agreement shall be made in and shall be governed by and interpreted in accordance with the laws of the State of Washington. If suit is brought in this matter, venue shall be Island County District Court or Island County Superior Court.
- 16.9 **Authority.** Each individual executing this Agreement on behalf of the City and the District represents and warrant that such individuals are duly authorized to execute and deliver this Agreement on behalf of the District or the City.
- 16.10 **Notices.** Any notice required to be given by the parties shall be delivered at the addresses set forth below. Any notice may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the address set forth below. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.

- 16.11 Captions. The respective captions of the Sections of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect any of the provisions of this Agreement.
- 16.12 Performance. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor. Adherence to completion dates set forth in the description of the Services is essential to the District's performance of this Agreement.
- 16.13 Remedies Cumulative. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the City at law, in equity or by statute.
- 16.14 Counterparts. This Agreement may be executed in any number of counterparts, which counterparts shall collectively constitute the entire Agreement.
- 16.15 No Third-Party Beneficiary. No third-party beneficiary or beneficiaries are intended nor shall such status be construed as arising out of this Agreement.

CITY OF OAK HARBOR

**NORTH WHIDBEY PARK &
RECREATION DISTRICT**

By _____
Scott Dudley, Mayor

By _____
Director

Date _____

Date _____

City of Oak Harbor

AGREEMENT WITH NORTH WHIDBEY PARK & RECREATION DISTRICT FOR BOAT RENTAL SERVICES

This Agreement is made this _____ day of _____, 2012, between the City of Oak Harbor ("City") and North Whidbey Park and Recreation District ("District"). Generally, the District agrees to furnish, and the City agrees to accept, boat rental services as described in Section 1 at its lagoon facilities, located in Windjammer Park, all subject to the terms and provisions of this Agreement.

Section 1. Purpose. The City seeks the temporary services of a skilled independent organization capable of providing boat rental services to the general public at Windjammer Park.

Section 2. Services. The District shall provide boat rental services ("Services") located in the Windmill at Windjammer Park, in a manner consistent with the accepted practices for other similar services, performed to the City's satisfaction, within the time period prescribed by the City.

2.1 **Customer Service.** The District's employees, agents, representatives shall provide high quality customer service and shall treat all customers with courtesy and respect.

2.2 **Employee Appearance.** All District employees, agents, representatives or licensees shall have a neat, clean and sanitary personal appearance and those who come in direct contact with the public shall wear clothing or identification which distinguishes them as employees of the District.

2.3 **Staffing.** The Windmill shall be staffed in order to provide boat rental services to the public.

2.4 **Hours of Operation.** The boat rental Stand shall be open during the hours of 12:00 - 5:00 p.m. Sunday through Thursday, and 12:00 - 6:00 p.m. Friday and Saturday, unless the City requests and the District agrees to other hours of operation.

Section 3. Equipment.

3.1 The District shall supply the District's own equipment for purposes of carrying out this Agreement.

3.2 **Alterations.** The District shall not make any alterations, additions or improvements to the Windmill without the City's prior written consent, which consent may be withheld for any reason. In the event the City consents to the making of any alterations, additions or improvements to the Windmill, the same shall be made at the District's sole cost and expense, and in the event such alterations, additions or improvements are made to a structure, building or other improvements attached to the real property, the same will become a part of the real property and be surrendered to the City upon the termination of this Agreement. The City has no obligation to alter, remodel, improve, repair decorate, or paint the Windmill. The City shall provide water and electricity and solid waste disposal.

3.3 **Maintenance.** The District shall, at its sole cost and expense, maintain the Windmill area in good condition and repair, including, but not limited to, maintaining the Windmill in a neat, clean and sanitary condition and removing all garbage, trash or other debris on a regular basis pursuant to the City's instructions.

3.4 **Damage to Windmill.** If the Windmill or any part thereof or surrounding real property is damaged by the District, the District shall, at its sole cost and expense, restore the Windmill to a condition equivalent to better than their condition immediately prior to such damage. The City will inspect and provide in writing an inventory of City equipment and condition of Windmill for use by the District as a base line for damage claims.

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3.5 Utilities, Taxes and Expenses. The District shall pay all costs and expenses associated with the operation of the Windmill other than utility expenses for water, solid waste and power which will be paid by the City.

Section 4. Exclusive Right. The City hereby grants the District an exclusive right to rent boats in buildings of Windjammer Park, except during City approved special events, during the term of this Agreement. The City reserves the right to grant to other persons or entities any of the remaining rights contained herein or otherwise.

Section 5. Term. The term of this Agreement shall commence **June 20, 2012** and shall continue until the completion of the Services, but in any event no later than **September 3, 2012** ("Term"). This Agreement may be extended for additional periods of time upon the mutual written agreement of the City and the District.

Section 6. Termination. Prior to the expiration of the Term, the City and or the District may terminate this Agreement immediately, with or without cause. Termination shall be in writing, and shall be effective upon service on the signatories to this Agreement.

Section 7. Compensation.

7.1 Total Compensation. The District agrees to pay the City an amount equal to One Hundred Dollars (\$100.00) per month during any month the District occupies the Windmill. This fee includes any leasehold excise tax due to the City.

7.2 Payment Due Date. The District shall pay fees to the City on or before the 5th day of each month that the District occupies the Windmill. Payment for the first month shall be made prior to occupancy.

7.3 The District – Responsible for Taxes. The District shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Agreement. The Leasehold Excise Tax, currently at a rate of 12.84%, is included in the One Hundred Dollar (\$100.00) monthly compensation.

Section 8. Compliance with Laws. The District shall comply with and perform the Services in accordance with all applicable federal, state and City laws including, without limitation all City codes, ordinances, resolutions, standards, and policies, as now existing or hereafter adopted or amended, including, but not limited to, the following:

8.1 Federal, state and local health, safety and licensing laws relating to the boat rentals.

8.2 City code provisions requiring any person or entity doing business in the City to obtain a business registration; and

8.3 City Parks, Recreation and Cultural Services Department policies, including, but not limited to, its concession policy.

8.4 Non-Discrimination in services, as required by the Americans with Disabilities Act, the Americans With Disabilities Amendment Act, the Washington Law Against Discrimination and all other applicable federal, state and local laws.

Section 9. Warranty. The District warrants that it has the requisite training, skill and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities, including, but not limited to, being registered to do business in the City of Oak Harbor by obtaining a City of Oak Harbor business license.

Section 10. Independent Contractor Relationship.

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- 10.1 The parties intend that an independent contractor relationship will be created by this Agreement. The City is interested primarily in the results to be achieved; subject to paragraphs herein, the implementation of services will lie solely with the discretion of the District. No agent, employee, servant or representative of the District shall be deemed to be an employee, agent, servant or representative of the City for any purpose, and the employees of the District are not entitled to any of the benefits the City provides for its employees. The District will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.
- 10.2 In the performance of the services herein contemplated, the District is an independent contractor with the authority to control and direct the performance of the details of the work however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

Section 11. Indemnification/Hold Harmless

- 11.1 Indemnification. The District shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the District and the City, its officers, officials, employees, and volunteers, the District's liability hereunder shall be only to the extent of the District's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the District's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

- 11.2 Survival. The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

Section 12. Equal Opportunity Employer. Personnel employment shall be as per the existing Districts policy. The District shall not violate any of the terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the American with Disabilities Act, the Americans with Disabilities Amendment Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state or local law or regulation regarding non-discrimination. Any material violation of this provision shall be grounds for termination of this Agreement by the City and, in the case of the District's breach, may result in ineligibility for further City agreements.

Section 13. Insurance. The District shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the District, their agents, representatives, employees or subcontractors.

- 13.1 No Limitation. The District's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the District to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- 13.2 Minimum Scope of Insurance. The District shall obtain insurance of the types described below:
- (i) Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute

form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

- (ii) Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent Districts, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the District's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage through insurance pool.
- (iii) Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

13.3 Minimum Amounts of Insurance. The District shall maintain the following insurance limits:

- (i) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- (ii) Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.

13.4 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:

- (i) The District's insurance coverage shall be primary insurance with respect to the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the District's insurance and shall not contribute with it.
- (ii) The District's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

13.5 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII or Enduris - Washington.

13.6 Verification of Coverage. The District shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the District before commencement of the work.

13.7 Third party entities are also required to carry their own insurance, naming the City of Oak Harbor as also insured.

Section 14. Signs. The District shall coordinate placement of any sign, notice or advertising matter in or about the City's real property, with City staff. If required by City code, the District shall obtain all necessary permits in connection with any such signs.

Section 15. General Provisions

15.1 Entire Agreement. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.

15.2 Modification. No provision of this Agreement may be amended or modified except by written agreement signed by the Parties.

- 15.3 Full Force and Effect. Any provision of this Agreement, which is declared invalid or illegal shall in no way, affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect.
- 15.4 Assignment. Neither the District nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and right hereunder without the prior written consent of the other party.
- 15.5 Successors in Interest. Subject to the foregoing Subsection, the right and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns.
- 15.6 Attorney Fees. In the event either of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all of its own attorneys' fees, costs and expenses. The venue for any dispute related to this Agreement shall be Island County, Washington.
- 15.7 No Waiver. Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default. Failure or delay of the District to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the District to declare one breach or default does not act as a waiver of the District's right to declare another breach or default.
- 15.8 Governing Law and Venue. This Agreement shall be made in and shall be governed by and interpreted in accordance with the laws of the State of Washington. If suit is brought in this matter, venue shall be Island County District Court or Island County Superior Court.
- 15.9 Authority. Each individual executing this Agreement on behalf of the City and the District represents and warrant that such individuals are duly authorized to execute and deliver this Agreement on behalf of the District or the City.
- 15.10 Notices. Any notice required to be given by the Parties shall be delivered at the addresses set forth below. Any notice may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the address set forth below. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.
- 15.11 Captions. The respective captions of the Sections of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect any of the provisions of this Agreement.
- 15.12 Performance. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor. Adherence to completion dates set forth in the description of the Service is essential to the District's performance of this Agreement.
- 15.13 Remedies Cumulative. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the City at law, in equity or by statute.
- 15.14 Counterparts. This Agreement may be executed in any number of counterparts, which counterparts shall collectively constitute the entire Agreement.
- 15.15 Third-Party Beneficiaries. This Agreement is neither expressly nor impliedly intended to be for the benefit of any third party, and is neither expressly nor impliedly enforceable by any third party.

CITY OF OAK HARBOR

**NORTH WHIDBEY PARK &
RECREATION DISTRICT**

By _____
Scott Dudley, Mayor

By _____
Director

Date _____

Date _____

City of Oak Harbor

AGREEMENT WITH NORTH WHIDBEY PARK & RECREATION DISTRICT FOR WATER RECREATIONAL PROTECTION SERVICES

This Agreement is made this ____ day of _____, 2012, between the City of Oak Harbor ("City") and North Whidbey Park and Recreation District ("District"). Generally, District agrees to furnish and the City agrees to pay for and accept lifeguarding, safety monitoring and water recreation services as described in Section 1 at its lagoon and wading pool facilities located in Windjammer Park, all subject to the terms and provisions of this Agreement.

Section 1. Purposes. The City allows public use of the Windjammer Park lagoon as a swimming area and the use of the wading pools for children. For these purposes, the City requires lifeguard services at the lagoon and general maintenance, oversight and operation of the wading pools. To accomplish these aims, it makes sense to enter into a cooperative arrangement with a service provider who has the skill to run this program and provide the necessary personnel. The District maintains a swimming pool and runs the program all year round. The District has specific experience in recruiting and providing guards; providing and maintaining lifeguarding services, and running water recreation programs. The District is willing to provide these services to the City at the Windjammer Park lagoon and wading pools, in exchange for which the City will provide compensation to the District.

Section 2. Services Provided. The District shall provide lifeguard services and a safety monitoring program for the City of Oak Harbor Parks and Recreation program at Windjammer Park for the term of this Agreement. These services shall include scheduling, hiring and training and oversight of qualified staff to perform lifeguard services in accordance with standards for lifeguard services at public parks and facilities in the state of Washington. The District shall also be responsible for scheduling, hiring and training and oversight of qualified staff to be responsible for safety monitoring for users of the lagoon and wading pools, in accordance with standards for safety monitoring services at public parks and facilities in the State of Washington. The District will provide lifeguarding and safety monitoring services at Windjammer Park during the hours that Windjammer Park is open for the term of this Agreement, to wit: Sunday through Thursday, 12:00 p.m. - 5:00 p.m., and Friday through Saturday, 11:00 a.m. - 6:00 p.m. The District will not provide services on July 4.

In addition to its primary responsibility for lifeguard services and safety monitoring, the District shall also perform general maintenance (housekeeping) responsibilities within a designated area set out in Exhibit A. These tasks include keeping the windmill office clean; sweeping the pathways around the swimming area of the lagoon and the swimming dock; picking up litter; and discarded clothing, towels, toys and floatation devices. The lifeguarding staff and safety monitor will also be responsible for removing driftwood from the lagoon. The area to be maintained will be designated in the contract (a map will be provided).

The District will assure that all lifeguards are qualified and certified to perform lifeguard services (holding a current Red Cross certificate or equivalent) and will provide liability insurance for the lifeguarding services.

The District shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the District, their agents, representatives, employees or subcontractors.

No Limitation. District's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the District to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

Minimum Scope of Insurance. The District shall obtain insurance of the types described below:

- a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
- b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent Districts, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the District's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage through insurance pool.
- c. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

Minimum Amounts of Insurance. The District shall maintain the following insurance limits:

- a. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- b. Commercial General Liability insurance shall be written with limits no less than \$3,000,000 each occurrence, \$9,000,000 general aggregate and a \$2,000,000 products-completed operation aggregate limit.

Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:

- a. The District's insurance coverage shall be primary insurance with respect to respect the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the District's insurance and shall not contribute with it.
- b. The District's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII or Enduris – Washington.

Verification of Coverage. The District shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the District before commencement of the work.

The program shall run from **June 20, 2012 to September 3, 2012**, Sunday through Thursday from 12:00 to 5:00 p.m. and on Friday and Saturday from 11:00 to 6:00 p.m. Closed on July 4.

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The District shall at all times during this Agreement cooperate with the City by assuring that the lifeguards provided are trained and certified to carry out the duties of lifeguard in an outdoor setting. The District shall provide adequate staffing to cover the facilities described. The City will provide lifeguards with a cellular telephone to call for emergency backup from the Police or Fire Department, Parks Division or ambulance.

The District shall provide a bi-weekly invoice to the City showing days and hours of services provided, including for which pay is requested and showing days when the water was too cold or raining to provide lifeguarding services.

Section 3. Duty of City to Pay for Services Provided. The City of Oak Harbor agrees to pay North Whidbey Park and Recreation District a maximum of **Twenty Nine Thousand One Hundred Seventy Five Dollars (\$29,175)** for providing the services described in this Agreement.

Payment for services at the wading pools and lagoon shall be made per day that those services are provided. It is anticipated that the wading pools and lagoon will be open for **75** days during the summer months. The rate of compensation shall be **Three Hundred Eighty Nine Dollars (\$389)** per day.

Rainout days, determined by the District, are those days when the weather is reasonably determined to be too cold and/or rainy to open the pools and lagoon. The District will credit Two Hundred Dollars (\$200) per rainout day to the City, leaving the remainder to cover the cost of incidentals, ongoing costs, and the administrative costs of coordinating the shutdown.

The District will be allowed the use of office space in the Windjammer Windmill to use for their operation headquarters. The District may sell concessions out of the windmill.

City shall pay the District on a monthly basis, upon billing.

City and State Auditor shall have a right to audit the accounts and records of the District kept for these services at its offices 85 SE Jerome Street, Oak Harbor, Washington 98277.

Section 4. Maintenance of Grounds. The District's obligations under this Agreement shall also include:

The District shall provide wading pools maintenance. This will include the maintenance and operation of the East and West wading pools located at Windjammer Park. The pools will be open the same days and hours as the swimming lagoon. The District will be responsible for the daily cleaning, water testing-purification and the daily opening and closing of the pools. The District will also carry liability insurance on the maintenance staff members assigned to maintain and operate the wading pools.

City's obligations under this Agreement shall also include:

The City of Oak Harbor ("City") will be responsible for obtaining a Water Recreational Permit from the County; and conduct the initial pre-season clean-up, to include driftwood removal, necessary repairs to the dock and digging out the channel to the bay. The City will be responsible for the installation of the outdoor foot wash, shower and water slide. The City will supply all necessary safety/first aid supplies and equipment. The City will be responsible for all necessary repairs to the water slide, swimming dock, swim ladders, buoys, shower and foot wash. City Parks staff will do a weekly inspection of the swimming area to ensure that all equipment is safe and functional. The District will notify the Oak Harbor Parks Division immediately of any damage or problems with equipment they have identified to

ensure that the repairs are made in a timely manner. The City will ensure that all City equipment is operational and in good repair before the District assumes control of operations.

The City will be responsible for the initial pre-season clean-up, which includes pumping out the pools, pressure washing, ensuring that the circulation lines and pumps are functioning properly, and filling the pools. The City will also provide all necessary pool chemicals, cleaning supplies and a chemical test kit.

Section 5. Additional Services. The City will allow the District to operate paddleboat and kayak rentals in the lagoon. City will provide storage of boats and equipment at Windjammer Park. The District will assume full responsibility for this program, including the maintenance of the boats, collection of fees, usage supervision, and will carry liability insurance for this activity as provided for in Section 2 and in a separate interlocal agreement.

All collected rental fees will go to the District.

The District shall keep boats in repair and safe for use and shall operate such recreational services in a safe and prudent manner. If the City determines that this cannot be done safely, these services shall be terminated, immediately, if necessary. If there is a dispute on this matter, the District may seek arbitration of this issue.

Section 6. Term of the Agreement.

This Agreement shall be in effect from **June 20, 2012 to September 3, 2012**, unless terminated earlier by one of the parties pursuant to Section 15 herein.

Section 7. Cooperation.

- a. City staff and District staff shall cooperate in maintaining safe and reasonable recreational services at the City lagoon and wading pools.
- b. Both parties will work to ensure adequate signage is posted concerning safe use of the lagoon and wading pools. It will be the City's responsibility to provide and pay for the necessary signage.

Section 8. Independent Contractor Relationship.

- a. The parties intend that an independent contractor relationship will be created by this Agreement. The City is interested primarily in the results to be achieved; subject to paragraphs herein, the implementation of services will lie solely with the discretion of the District. No agent, employee, servant or representative of the District shall be deemed to be an employee, agent, servant or representative of the City for any purpose, and the employees of the District are not entitled to any of the benefits the City provides for its employees. The District will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.
- b. In the performance of the services herein contemplated, the District is an independent contractor with the authority to control and direct the performance of the details of the work however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

Section 9. Indemnification/Hold Harmless

- a. **Indemnification.** The District shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the District and the City, its officers, officials, employees, and volunteers, the District's liability hereunder shall be only to the extent of the District's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the District's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

- b. Survival. The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

Section 10. Equal Opportunity Employer. Personnel employment shall be as per the existing Districts policy. The District shall not violate any of the terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the American with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state or local law or regulation regarding non-discrimination. Any material violation of this provision shall be grounds for termination of this Agreement by the City and may result in ineligibility for further City agreements.

Section 11. Non-Discrimination in Services. The District shall make all services provided pursuant to this Agreement accessible equally to all members of the public, regardless of disability or membership in any protected class, in conformity with the Americans with Disabilities Act, the Americans with Disabilities Amendment Act, the Rehabilitation Act, the Washington Law Against Discrimination and all other applicable federal, state and local laws and regulations. The District shall also comply with RCW 49.60.500 – Community Athletic Programs – Sex Discrimination prohibited.

Section 12. Inability to Perform. The District shall not be liable to City for damages in the event the performance of the District service shall be delayed or prevented by fire, flood, earthquake, riot, strike or other labor dispute beyond the control of the District and without fault on its part; that wherever possible the District shall give City at least one hour's prior notice of its inability to perform such services for such reason. The District shall promptly resume performance on removal or cessation of the cause of the interference or delay.

Section 13. Licensing. The District shall maintain necessary licenses for carrying out its activities.

Section 14. Agreements and Covenants. The provisions of this Agreement are not entered into for the benefit of any third party nor are any provisions of this Agreement intended to be a guarantee or warranty of fitness of facilities for use. It is recognized that the swimming areas are open to the public and the weather and other natural conditions cannot be controlled, anticipated or easily detected.

Section 15. Notices.

- a. Except as otherwise provided in this Agreement, all notices given pursuant to this Agreement to City shall be in writing and shall be delivered to its Mayor at the City or at such other place as City may designate to the District in writing.
- b. Except as otherwise provided for in this Agreement, all notices given to the District shall be in writing and delivered to its Director at the office at 85 SE Jerome Street, Oak Harbor.

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Section 16. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the laws of Washington.

Section 17. Modification of Agreement. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if in writing signed by each party or an authorized representative of each party.

Section 18. Termination. Either party may terminate this Agreement by giving to the other party thirty (30) days' advance written notice of its intention to do so; provided, however, that such termination shall not affect rights acquired or obligations incurred prior to the effective date of termination.

Section 19. Assignment or Substitution of Rights or Obligation. The rights and duties of each party under this Agreement are personal to that party and may not be assigned or substituted or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.

Section 20. Paragraph Headings. The titles to the paragraphs of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

IN WITNESS WHEREOF, each party to this Agreement has caused it to be executed at Oak Harbor, Washington, on the date indicated below.

CITY OF OAK HARBOR

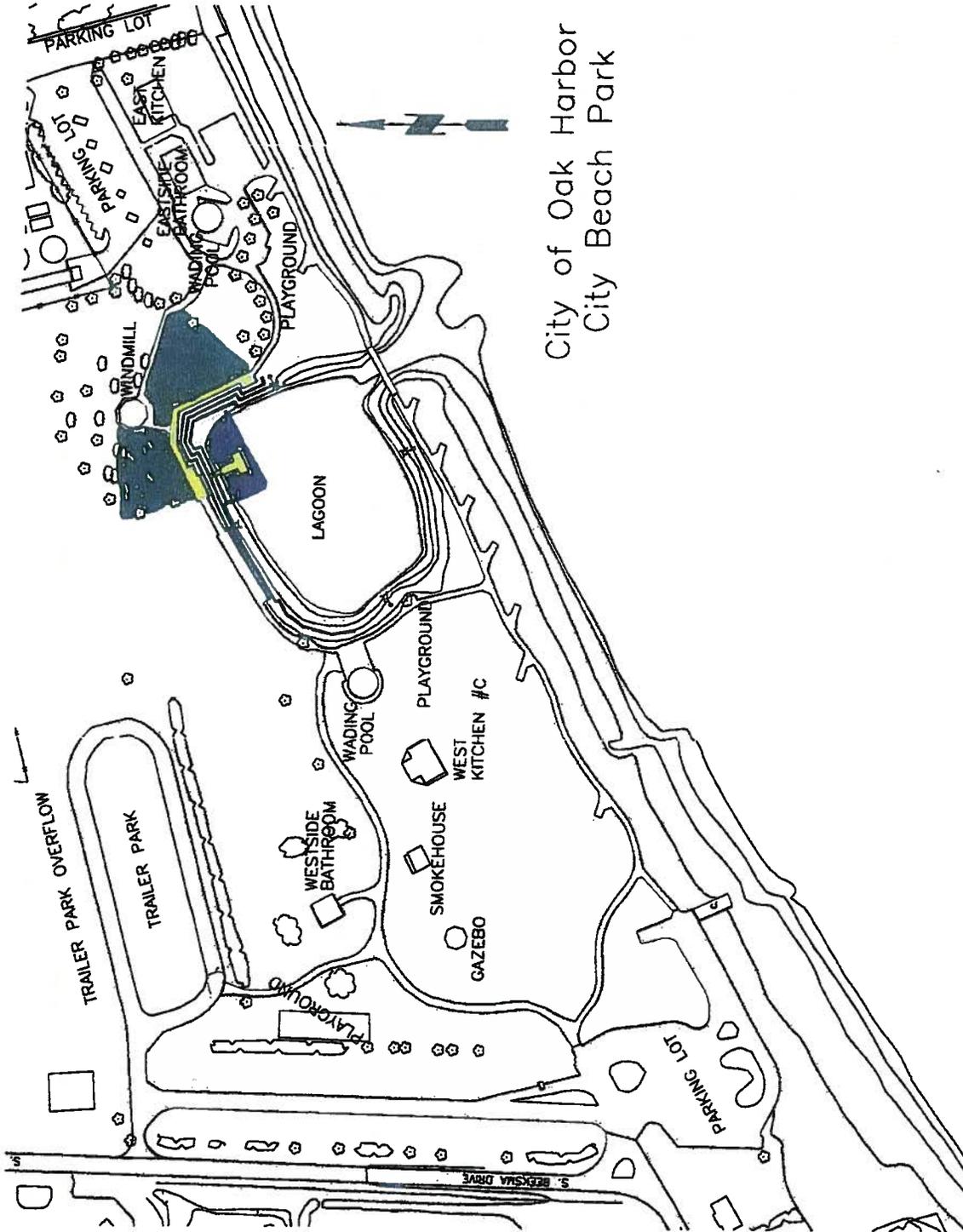
**NORTH WHIDBEY PARK &
RECREATION DISTRICT**

By _____
Scott Dudley, Mayor

By _____
Director

Date _____

Date _____



City of Oak Harbor
City Beach Park

area for litter control and removal of discards clothing, towels and toys
area to be swept

Swim area to be life guarded to include removal of drift wood.

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City of Oak Harbor City Council Agenda Bill

Bill No.

42

Date:

4/17/12

Subject:

Approval of Accounts Payable
Vouchers

FROM: Doug Merriman, Finance Director 

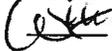
INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:



Scott Dudley, Mayor



Steve Powers, Interim City Administrator



Bill Hawkins, City Attorney, as to form

SUMMARY

Oak Harbor Municipal Code Chapter 3.72 establishes procedures for claims (vouchers) payment. The documentation that regularly supports the signature cover sheets is included in this agenda packet. Claim cover sheets will continue to be on hand prior to the City Council meeting for City Council signatures.

AUTHORITY

Oak Harbor Municipal Code Chapter 3.72.

RECOMMENDED ACTION

Approve accounts payable vouchers.



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vchlist

03/30/2012

8:21:49AM

Voucher List
City of Oak Harbor

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
149617	3/30/2012	0001299 CHURCHILL REALTY	Ref000194678		UB Refund Cst #00127285	86.81
149618	3/30/2012	0006709 GARRETT, AMY	Ref000194682		UB Refund Cst #00157429	10.97
149619	3/30/2012	0006680 MANCHESTER, BRYCE	Ref000194680		UB Refund Cst #00156127	41.00
149620	3/30/2012	0006708 MELTON, YVONNE	Ref000194681		UB Refund Cst #00157369	78.90
149621	3/30/2012	0004440 VASQUEZ, ANDREW	Ref000194679		UB Refund Cst #00154495	134.67
149622	3/30/2012	0006218 ZUBLIC, MATT	Ref000194677		UB Refund Cst #00124918	91.93
6 Vouchers for bank code : bank						91.93
6 Vouchers in this report						444.28
Total vouchers :						444.28

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Bank code :	bank	Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
		149626	4/6/2012	0006710 GLASS, KEITH A	Ref000194685		UB Refund Cst #00124496	114.30

1 Vouchers for bank code : bank

1 Vouchers in this report

Total : 114.30
Bank total : 114.30
Total vouchers : 114.30

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Bank code :	bank	Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
		149623	4/4/2012	0000743 PUGET SOUND ENERGY	040412		ELECTRICAL SERVICES/PIT ROAD	3,568.93
							Total :	3,568.93
		149624	4/5/2012	0000066 AWC EMPLOYEES BENEFITS TRUST	040512		PREMIUMS	724.51
							Total :	724.51
		149625	4/6/2012	0006711 SENTINELLA, TERRY	001		MEASURING FEES	560.00
							Total :	560.00
		149627	4/11/2012	0006157 AHBL, INC	85683		PROF SVC/OAK HARBOR SMP	5,443.42
							Total :	5,443.42
		149628	4/11/2012	0000028 ALL ISLAND LOCK & KEY	19973		KEYS	7.34
							Total :	7.34
		149629	4/11/2012	0000029 ALL PHASE ELECTRIC SUPPLY	0952-222020 0952-605887		DOOR FLUOR LAMP	-11.21 255.66
							Total :	244.45
		149630	4/11/2012	0000712 AMERIGAS	3007377567 3007497153		PROPANE/DOG POUND PROPANE/MARINA	363.80 146.85
							Total :	510.65
		149631	4/11/2012	0002044 ANACORTES.NET/HOW IT WORKS	30170		APR 2012/WEB HOSTING	75.00
							Total :	75.00
		149632	4/11/2012	0006015 ANCHOR SIGNS & AWNINGS	032812		SIGNS	609.81
							Total :	609.81
		149633	4/11/2012	0005001 ARAMARK	516793000		MAR 2012/JUNIFORM SERVICES	2,324.60
							Total :	2,324.60
		149634	4/11/2012	0000053 ARROW PEST CONTROL, INC	139865		CELL MAINTENANCE	108.70
							Total :	108.70
		149635	4/11/2012	0004019 ASSOCIATED PETROLEUM PRODUCTS	0289181-IN		FUEL	6,052.52

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Bank code :	bank			Invoice	PO #	Description/Account	Amount
Voucher	Date	Vendor					
149635	4/11/2012	0004019	0004019 ASSOCIATED PETROLEUM PRODL (Continued)				Total : 6,052.52
149636	4/11/2012	0000159	AT&T MOBILITY	996009348X04012012		CURRENT CELL CHARGES	96.68
149637	4/11/2012	0000091	BENS CLEANER SALES, INC	222526		ORING REPAIR	96.68
149638	4/11/2012	0000098	BIDDLE, KYLE	EXP REIMB		EXP REIMB	556.54
149639	4/11/2012	0000103	BLADE CHEVROLET, INC	127032 415147		WEATHERSTRIP/DOOR PANEL MAR 2012/VEHICLE RENTAL	546.45 546.45
149640	4/11/2012	0006712	BLAKELY, JOAN OR BURT	1		TRAVEL REFUND	268.37 425.00 Total : 693.37
149641	4/11/2012	0000109	BLUMENTHAL UNIFORMS	925200 927760 929599		COLLAR BRASS HAT/NIIRO PANTS/MCMICKLE	110.00 110.00
149642	4/11/2012	0001025	BOB WILLIAMS	1822-10		MUGS	61.69 93.92 176.37 Total : 331.98
149643	4/11/2012	0000137	BRIM TRACTOR COMPANY	IM54047 IM54345 WM09452		HOSES/TUBE/WASHER WASHER/HOSE ENGINE SEAL REPAIR	165.50 165.50
149644	4/11/2012	0006714	BROWNELLS, INC	07449349.00		PINS/TUBE/SPRINGS	379.88 -208.11 941.96 Total : 1,113.73
149645	4/11/2012	0005027	BURT'S SAW & MOWER	1525		SPARK PLUG	37.97 37.97
149646	4/11/2012	0005126	CASCADE ENGINEERING SERV, INC	ML-12032703866		RADAR TESTIMONY	25.00 25.00 332.50

Bank code :	bank	Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
		149646	4/11/2012	0005126	CASCADE ENGINEERING SERV, IN (Continued)			
		149647	4/11/2012	0000160	CENTRAL WELDING SUPPLY	RN03121054	CENTRASHIELD	Total : 332.50
		149648	4/11/2012	0000173	CINTAS CORPORATION #460	460378043	MATS/TOWELS	Total : 12.17
		149649	4/11/2012	0000179	CLERKS PETTY CASH	032812	PETTY CASH	Total : 12.17
		149650	4/11/2012	0000188	CODE PUBLISHING COMPANY	40438	MUNICIPAL CODE WEB HOSTING F	Total : 70.88
		149651	4/11/2012	0005773	COMCAST	8498300270032028	XFINITY	Total : 15.41
		149652	4/11/2012	0001891	COMFORT INN AUBURN	10374492	HOTEL ACCOMMODATIONS/TYHUI	Total : 486.88
		149653	4/11/2012	0000197	CONCRETE NORWEST	793964 794194 794402	CRUSHED ROCK CRUSHED ROCK CRUSHED ROCK	Total : 8.32 Total : 8.32 Total : 265.20 Total : 265.20
		149654	4/11/2012	0000220	CUMMINS NORTHWEST, INC	001-7186	MODULE/SCREW/INSULATOR/GAS	Total : 244.58 Total : 81.53 Total : 244.58 Total : 570.69
		149655	4/11/2012	0001815	DEPARTMENT OF RETIREMENT	920157	2011 TAX YEAR/OLD AGE SURVIVO	Total : 1,642.69 Total : 1,642.69
		149656	4/11/2012	0004084	DFAS CLEVELAND	20120330T058	MAR 2012/ANIMAL SHELTER	Total : 64.98 Total : 64.98
		149657	4/11/2012	0000253	DIVERSINT	97060	WD RE4 500GB 3.5"	Total : 166.98 Total : 166.98
		149658	4/11/2012	0000175	DUNN-TERRY, ROXANN	EXP REIMB	EXP REIMB	Total : 1,294.03 Total : 1,294.03 Total : 1,008.13

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
149658	4/11/2012	0000175 DUNN-TERRY, ROXANN				
			033112		MAR 2012/LAUNDRY SERVICES	Total : 1,008.13
149659	4/11/2012	0000257 DUTCH MAID CLEANERS	1077		CLEANING	613.85
						10.87
					Total :	624.72
149660	4/11/2012	0005842 EMERY, DEANNA	TRAVEL ADVANCE		TRAVEL ADVANCE	58.00
					Total :	58.00
149661	4/11/2012	0000283 ENTENMANN-ROVIN COMPANY	0079029-IN		BADGES	173.40
					Total :	173.40
149662	4/11/2012	0006713 ENZMINGER, BETTY OR KEN	1		TRAVEL REFUND	110.00
					Total :	110.00
149663	4/11/2012	0005086 EZINE INDUSTRIES, INC	802400		MAR 2012/COMMUNITY ALERT	9.75
					Total :	9.75
149664	4/11/2012	0002900 FASTENAL	WAOAK11272 WAOAK11290		CHOP SAW SAW BLADE	242.38 145.64
					Total :	388.02
149665	4/11/2012	0000954 FIRE CHIEFS, WASHINGTON STATE AS 09-4579			REGISTRATION/MERRILL	600.00
					Total :	600.00
149666	4/11/2012	0000322 FOSTER PEPPER PLLC	1001625		PROF SVC/DOWNTOWN IMPROVEI	4,182.00
					Total :	4,182.00
149667	4/11/2012	0000355 FRONTIER	206-1721 240-0614 240-2350 279-1060 675-1568 675-1572 675-2111 675-3121 675-4296 675-5190		CURRENT PHONE CHARGES CURRENT PHONE CHARGES	276.64 84.00 1,132.90 53.34 201.60 52.97 58.71 52.97 20.68 34.82

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Voucher List
City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
149667	4/11/2012	0000355 FRONTIER	(Continued)			
			675-6794		CURRENT PHONE CHARGES	48.43
			675-6858		CURRENT PHONE CHARGES	53.19
			679-0500		CURRENT PHONE CHARGES	58.23
			679-1640		CURRENT PHONE CHARGES	53.34
			679-1651		CURRENT PHONE CHARGES	58.52
			679-1789		CURRENT PHONE CHARGES	53.34
			679-2530		CURRENT PHONE CHARGES	316.72
			679-2628		CURRENT PHONE CHARGES	53.19
			679-3013		CURRENT PHONE CHARGES	44.84
			679-3321		CURRENT PHONE CHARGES	54.81
			679-3902		CURRENT PHONE CHARGES	49.46
			679-4150		CURRENT PHONE CHARGES	106.38
			679-4541		CURRENT PHONE CHARGES	44.84
			679-6391		CURRENT PHONE CHARGES	74.67
			679-8477		CURRENT PHONE CHARGES	56.82
			679-8702		CURRENT PHONE CHARGES	35.11
			770-2694		CURRENT PHONE CHARGES	26.50
			770-2715		CURRENT PHONE CHARGES	3,210.21
					Total :	
149668	4/11/2012	0001706 GARDNER, PAT	EXP REIMB		EXP REIMB	483.50
					Total :	483.50
149669	4/11/2012	0000330 GARDNER, TERI	EXP REIMB		EXP REIMB	168.77
					Total :	168.77
149670	4/11/2012	0000345 GREATER OAK HBR CHAMBER OF COM	030114		2% FUNDING	1,395.56
			030115		APR 2012/TOURIST PROMOTION	6,667.00
					Total :	8,062.56
149671	4/11/2012	0000323 HD FOWLER COMPANY	13092144		BOLT/CLIP KIT	105.73
					Total :	105.73
149672	4/11/2012	0003095 HOME DEPOT CREDIT SERVICES	1037868		ALL PURP TXT/BOTTLE/MASKING F	27.90
			1042995		PLUG	9.24
			1043025		CMPHTRWH	186.97

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Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
149672	4/11/2012	0003095 HOME DEPOT CREDIT SERVICES	(Continued)			
			2022070		CDR	10.71
			2042885		SCREWS	9.58
			24835		SCREWS/SIGNS	180.53
			3026708		CLAMP SET	108.28
			3030914		MOSSOUTFRT	39.96
			3035658		BRUSHES/SEALS	218.33
			3040681		VOLTAGE DETECTOR/GFI TESTER/	49.89
			38216		PAINT TRAYS	4.29
			6035061		BOLTS/WAX EXTENDER/SPACER/P	23.36
			6100524		SCREWS	-58.44
			7023201		TERMINAL/CONDUIT	21.09
			7036748		TAPE/CDR/SILICONE/MEASURER	28.93
			8022954		GRWH/GRINDER	11.97
			8592158		COMB	96.75
			9025189		CLR	134.78
					Total :	1,104.12
149673	4/11/2012	0000627 HSBC BUSINESS SOLUTIONS	128375344211		SUPPLIES	584.01
			147462234211		SUPPLIES	331.06
					Total :	915.07
149674	4/11/2012	0000394 HUMAN RESOURCE SERVICES	040112		APR 2012/JUNEMPLOYMENT SERVI	110.00
					Total :	110.00
149675	4/11/2012	0005872 IMPAIRED DRIVING IMPACT PANEL	040112		DUI/UNDERAGE DRINKING PREVEI	200.00
					Total :	200.00
149676	4/11/2012	0000417 INDUSTRIAL BOLT & SUPPLY	506249-1		CANS/PUMPS/UNIONS/WASHERS/I	239.76
					Total :	239.76
149677	4/11/2012	0000401 ISLAND COUNTY AUDITOR	0050716		RECORDED DOCUMENTS	71.00
			0051738		RECORDED DOCUMENTS	194.00
					Total :	265.00
149678	4/11/2012	0000411 ISLAND COUNTY TREASURER	04		1ST QTR 2012/MUNICIPAL COURT f	4,300.00
			040912		CRIME VICTIM COMPENSATION	208.38

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Bank code : bank		Invoice		PO #	Description/Account	Amount
Voucher	Date	Vendor				
149678	4/11/2012	0000411	ISLAND COUNTY TREASURER	(Continued)		
149679	4/11/2012	0000412	ISLAND COUNTY TREASURER	040912	1ST QTR 2012/JOINT TOURISM FUP	Total : 4,508.38
149680	4/11/2012	0000794	JOHN DEERE FINANCIAL	20346	O RING/BUSHING	Total : 5,000.00
149681	4/11/2012	0003336	JOHNSON CONTROLS, INC	1-4883518478	MOTOR REPLACEMENT	Total : 73.35
149682	4/11/2012	0005959	LANGABEER & TULL, PS	3008341	PROF SVC/NAVY PIPELINE	Total : 1,252.73
149683	4/11/2012	0000889	LANGUAGE EXCHANGE	05	MUNICIPAL COURT INTERPRETER	Total : 1,252.73
149684	4/11/2012	0004502	LEXISNEXIS RISK DATA MANAGE	1404645-20120331	MINIMUM COMMITMENT/MAR 2012	Total : 925.00
149685	4/11/2012	0000950	LICENSING, WASHINGTON STATE DEP	03272012	CONCEALED WEAPON PERMITS	Total : 925.00
149686	4/11/2012	0001909	LONG, JAY	1	DRIVING SERVICES	Total : 360.00
149687	4/11/2012	0000522	LUEHR, TOM	1	DRIVING SERVICES	Total : 129.00
149688	4/11/2012	0001895	MACK, JOAN	1	DRIVING SERVICES	Total : 129.00
149689	4/11/2012	0002729	MAILFINANCE	H3191542	TRAVEL REFUND	Total : 144.00
149690	4/11/2012	0000530	MAILLIARD'S LANDING NURSERY	55520	MAIL MACHINE LEASE	Total : 96.00
				56066	YARD WASTE BARK	Total : 240.00
						Total : 20.00
						Total : 20.00
						Total : 806.84
						Total : 806.84
						Total : 10.00
						Total : 27.15

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
149690	4/11/2012	0000530	0000530 MAILLIARD'S LANDING NURSERY (Continued)			
149691	4/11/2012	0000660	MARKET PLACE FOOD & DRUG 041512		GROCERIES/MARATHON	37.15
					Total :	839.92
149692	4/11/2012	0000660	MARKET PLACE FOOD & DRUG 001-125369		FITTINGS/AIR BLOW GUN/CPLNPL	839.92
			198401		GROCERIES	14.58
			313921		GROCERIES	172.20
					Total :	450.19
149693	4/11/2012	0003508	MARTENSEN, SANDY 1		TRAVEL REFUND	636.97
					Total :	50.00
149694	4/11/2012	0006072	MASTER'S TOUCH, LLC 2327		APR 2012/ESTIMATED POSTAGE	50.00
			P23553		JAN 2012/POSTAGE FOR LATE NOT	2,975.00
			P23937		FEB 2012/POSTAGE FOR LATE NOT	20.09
					Total :	39.86
149695	4/11/2012	0006072	MASTER'S TOUCH, LLC 23937		FEB 2012/MAILING SERVICES FOR	3,034.95
			23938		FEB 2012/MAILING SERVICES FOR	239.79
					Total :	849.71
149696	4/11/2012	0000040	MATRIX 607933112		LONG DISTANCE	1,089.50
					Total :	470.50
149697	4/11/2012	0005929	MAXWELL MEDALS & AWARDS 3082718-IN		MEDALS	470.50
					Total :	5,601.41
149698	4/11/2012	0005127	MICHALSKI, PAT 1		TRAVEL REFUND	5,601.41
					Total :	300.00
149699	4/11/2012	0000587	MOTOR TRUCKS, INC 151500		SENSOR/SEAL/RELAY/WIRE	300.00
					Total :	1,443.89
149700	4/11/2012	0000608	NC MACHINERY COMPANY SECS0540188		HOSE/SEALS/CONNECTORS	1,443.89
					Total :	122.77
149701	4/11/2012	0005954	NEILL HOYSON, JESSICA TRAVEL ADVANCE		TRAVEL ADVANCE	122.77
					Total :	58.00

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Voucher List
City of Oak Harbor

Bank code :	bank	Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
149701	4/11/2012	0005954	0005954	NEILL HOYSON, JESSICA	(Continued)			
149702	4/11/2012	0000618	NEXTEL COMMUNICATIONS	343702312-124			CURRENT COMM CHARGES	58.00
149703	4/11/2012	0002633	NEXXPOST LLC	184681			INK CARTRIDGE	4,389.29
149704	4/11/2012	0003889	NORTHWEST FIRE INVESTIGATION	6811			REGISTRATION/BUXTON	4,389.29
149705	4/11/2012	0000672	OAK HARBOR ACE	199382			PLUG/VALVE	242.59
				200008			CABLE TIES/WIRE/TUBE/SEALANT	242.59
				200949			BRUSHES	375.00
				201054			FASTENERS	375.00
				201062			SURGE STRIP/FASTENERS	27.78
				201083			ELECTRICAL TAPE/SPLICE KITS	37.24
				201097			SPLICE KIT	22.35
				201099			VALVE	0.83
				201108			TOG/DRILL BIT	56.52
				201142			CONN/FASTENERS	27.14
				201161			REDUCER	22.81
				201166			CAP/DRAIN	5.97
				201188			COUPLE/BLADES	4.22
				201198			GLUE SPRAY	4.84
				201223			SAW HOLE	17.90
				201360			VELCRO	6.07
				201405			RESCUE TAPE	13.44
				201434			SPRAYPAINT	13.03
				201461			RSTP	28.24
				201481			BULB/HOSE	21.72
				201490			FASTENERS	10.86
149706	4/11/2012	0000668	OAK HARBOR AUTO CENTER	001-125255			HARMONIC BALANCE/OIL SEAL/BE	10.85
				001-125371			CIRCUIT BREAKER	9.76
				001-125695			AIR HAMMER	23.33
								2.07
							Total :	366.97

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
Bank code : bank						
149706	4/11/2012	0000668 OAK HARBOR AUTO CENTER	(Continued) 001-125697 001-125897 001-125978 001-126168 001-126476 001-126603 001-126616		FILTERS MINI LAMP FILTERS TOGGLE ROUGH SERVICE SEAL JACK STAND	52.20 8.26 4.40 5.00 8.70 18.28 27.96 98.36
149707	4/11/2012	0000673 OAK HARBOR MOTORS	42141		BELT	49.52 49.52
149708	4/11/2012	0000677 OHPD INVESTIGATIVE FUND	043012		REPLENISH DRUG FUND	3,374.75 3,374.75
149709	4/11/2012	0005867 PACIFIC POWER BATTERIES	16060208		BATTERIES	187.49 187.49
149710	4/11/2012	0002985 PACIFIC TIRE CO. INC	0046785 0048612 0048614 0050303 0052687 0053580 0055132 0055133 0055134 0055162 0055177		TIRES TIRES TIRES TIRES TIRES TIRES TIRES TIRES TIRES TIRES TIRES	473.89 46.53 48.15 277.13 456.32 63.84 127.68 67.63 29.21 219.24 1,453.80 3,263.42
149711	4/11/2012	0001349 PARTNER CONSTRUCTION PRODUCTS	3889		GUAGE	76.44 76.44
149712	4/11/2012	0005526 PEDERSEN, DAN	1171		SIGNAGE PANELS	1,260.00 1,260.00

Bank code :	bank	Vendor		Invoice	PO #	Description/Account	Amount
Voucher	Date						
149713	4/11/2012	0000299	PLACE, SANDRA	EXP REIMB		EXP REIMB	167.18
149714	4/11/2012	0000724	PONY MAILING & BUSINESS CENTER	194133		SHIPPING	167.18
149715	4/11/2012	0000732	POWERS, RICHARD S.	TRAVEL ADVANCE		TRAVEL ADVANCE	21.41
149716	4/11/2012	0000743	PUGET SOUND ENERGY	0349160002 9249160004		ELECTRICITY/WELL #7 ELECTRICITY/WELL #6	21.41
149717	4/11/2012	0002997	QUINTON DESIGN & ELECTRICAL	2004		ELECTRICAL SERVICES	139.00
149718	4/11/2012	0001463	RASMUSSEN, SHIRLEY	1		TRAVEL REFUND	139.00
149719	4/11/2012	0006383	REFFITT, TONI	1		TRAVEL REFUND	11.86
149720	4/11/2012	0003657	RESOURCE ACTION PROGRAMS	0401126934-888-IN		OAK HARBOR WATER WISE PROG	11.86
149721	4/11/2012	0005132	S & W ROCK PRODUCTS, LLC	83348		TOPSOIL	23.72
149722	4/11/2012	0000791	SCHEER, KEVIN	EXP REIMB		EXP REIMB	214.14
149723	4/11/2012	0005967	SEATTLE AUTOMOTIVE DIST	06-772552		MOTOR/RELAY	98.00
149724	4/11/2012	0000807	SEIM, CARL	EXP REIMB		EXP REIMB	150.00
149725	4/11/2012	0002358	SERVICEMASTER OF THE ISLAND	8247		APR 2012/JANITORIAL SERVICES	150.00
						Total :	3,160.30
						Total :	3,160.30
						Total :	2,543.58
						Total :	2,543.58
						Total :	227.25
						Total :	227.25
						Total :	332.65
						Total :	332.65
						Total :	124.72
						Total :	124.72
						Total :	775.00

Bank code :	bank	Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
		149725	4/11/2012	0002358	0002358		SERVICEMASTER OF THE ISLAND (Continued)	
		149726	4/11/2012	0000719	SEVERNS, RHONDA		EXP REIMB	57.60
							EXP REIMB	89.24
							Total :	146.84
		149727	4/11/2012	0004184	SIPES, TAMRA		RACE DIRECTOR SERVICES	1,400.00
							Total :	1,400.00
		149728	4/11/2012	0000814	SKAGIT FARMERS SUPPLY		PROPANE	12.95
							Total :	12.95
		149729	4/11/2012	0000846	SOUND PUBLISHING		JANITORIAL SERVICES	117.40
							HVAC SERVICES	129.14
							CC 12-04	76.31
							CC 12-05	64.57
							ORD 1621	82.18
							Total :	469.60
		149730	4/11/2012	0000851	SPRINT		LONG DISTANCE	8.97
							LONG DISTANCE	14.25
							Total :	23.22
		149731	4/11/2012	0003883	STAPLES BUSINESS ADVANTAGE		INK	90.20
							BINDING COVER	42.91
							CHAIRMAT	66.93
							TAPE/PENS	38.91
							RIBBON/DIVIDERS/FOLDERS/SPEA	489.36
							CORKBOARD	82.60
							CHAIR MAT/PLASTIC DIVIDERS	78.72
							CD CASES	39.97
							INK CARTRIDGE	93.58
							TONER	130.44
							PENS	49.80
							Total :	1,203.42
		149732	4/11/2012	0003749	STUMP, PATRICK L	1	DRIVING SERVICES	132.00
						2	DRIVING SERVICES	132.00

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
Bank code : bank						
149732	4/11/2012	0003749	0003749	STUMP, PATRICK L		
149733	4/11/2012	0000874	317415	SURETY PEST CONTROL	PEST EXTERMINATION	Total : 264.00
149734	4/11/2012	0005273	1100695	TANDEM SERVICE CORP, INC	PUMPING SERVICES	Total : 32.61
149735	4/11/2012	0005826	033012	THOMPSON, NIKKI	MAR 2012/PROF SVC	Total : 268.27
149736	4/11/2012	0001053	040912	TREASURER, WASHINGTON STATE	COURT/BC FEES	Total : 268.27
149737	4/11/2012	0000922	031912	UNUM LIFE INSURANCE COMPANY	MAR 2012/LONG TERM CARE	Total : 4,000.00
149738	4/11/2012	0004903	4485591000304067	US BANK	CREDIT CARD PURCHASES	Total : 10,570.23
149739	4/11/2012	0004903	4485590100104922	US BANK	CREDIT CARD PURCHASES	Total : 141.00
149740	4/11/2012	0004903	4485590001191861	US BANK	CREDIT CARD PURCHASES	Total : 4,978.29
149741	4/11/2012	0004903	4485590100104955	US BANK	CREDIT CARD PURCHASES	Total : 4,978.29
149742	4/11/2012	0006156	182677	US POSTAL SERVICE - HASLER	CREDIT CARD PURCHASES	Total : 1,710.66
149743	4/11/2012	0000978	EXP REIMB	WALLACE, RICHARD	CREDIT CARD PURCHASES	Total : 1,710.66
149744	4/11/2012	0000979	289578	WALLGREN TIRE CENTER	POSTAGE	Total : 320.00
149745	4/11/2012	0000953	040612	WASH MUNICIPAL CLERKS ASSOC	EXP REIMB	Total : 320.00
					TIRES	Total : 79.72
					MEMBERSHIP DUES/WHEELER	Total : 79.72
						Total : 3,000.00
						Total : 3,000.00
						Total : 60.00
						Total : 60.00
						Total : 425.23
						Total : 425.23
						Total : 75.00

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
Bank code : bank						
149745	4/11/2012	0000953	0000953 WASH MUNICIPAL CLERKS ASSOC (Continued)			
149746	4/11/2012	0001052	WASHINGTON STATE PATROL	I12007442	BACKGROUND CHECKS	Total : 75.00
149747	4/11/2012	0001039	WESTERN PETERBILT, INC	S749772	SENSOR	781.00
				S751206	GASKET/INSULATOR	140.86
				SE24878	ROAD CALL	57.13
				T579644	ANTENNA	726.12
					Total :	58.03
149748	4/11/2012	0006267	WESTERN REFUSE & RECYCLING	127420	TAILGATE SEAL	Total : 982.14
149749	4/11/2012	0003067	WHIDBEY ANIMALS' IMPROVEMENT	1155	MAR 2012/ANIMAL SHELTER	84.48
149750	4/11/2012	0001000	WHIDBEY AUTO PARTS, INC.	134048	METAL GASKET	Total : 84.48
				134132	CONTROL/WIRE	7,083.33
					Total :	21.76
149751	4/11/2012	0001007	WHIDBEY CLEANERS	215730	FLAGS	100.53
				219591	SEWING/NIRO	Total : 122.29
149752	4/11/2012	0003418	WHIDBEY ISLAND EMS COUNCIL	04062012	EMT TUITION	130.44
149753	4/11/2012	0006151	WHIDBEY MARKETPLACE & NEWS,LLC 5336		ADVERTISING	17.61
149754	4/11/2012	0001017	WHIDBEY PRINTERS	45317	WINDOW ENVELOPES-BUSINESS I	Total : 148.05
				45338	BUSINESS CARDS/GRAVEL	3,600.00
					Total :	3,600.00
149755	4/11/2012	0001010	WHIDBEY TELECOM	3415162	CURRENT NET CHARGES	500.00
					Total :	500.00
					WINDOW ENVELOPES-BUSINESS I	220.61
					BUSINESS CARDS/GRAVEL	66.85
					Total :	287.46
					CURRENT NET CHARGES	42.07
					Total :	42.07

Bank code :	bank				Invoice	PO #	Description/Account	Amount
Voucher	Date	Vendor						
149756	4/11/2012	0006316 WOODRUSH MUSIC, LLC			2004		MUSICAL PERFORMANCE	400.00
149757	4/11/2012	0001061 XEROX CORPORATION			060952030		MAR 2012/COPIER RENTAL	290.22
					060952031		COPIER RENTAL/MAR 2012	816.50
					060952032		MAR 2012/COPIER RENTAL	667.33
					060952033		MAR 2012/COPIER RENTAL	412.43
					060952037		MAR 2012/COPIER RENTAL	999.52
					060952038		MAR 2012/COPIER RENTAL	338.54
					060952042		MAR 2012/COPIER RENTAL	1,567.77
							Total :	5,092.31
							Bank total :	148,670.28
							Total vouchers :	148,670.28

134 Vouchers for bank code : bank

134 Vouchers in this report

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City of Oak Harbor City Council Agenda Bill

Bill No. 5
Date: April 17, 2012
Subject: Contract Amendment 1 -
Archaeology Recovery

FROM: Cathy Rosen, Public Works Director
Eric Johnston, City Engineer

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Steve Powers, Interim City Administrator
 Doug Merriman, Finance Director
 Bill Hawkins, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to authorize the Mayor to sign Amendment No. 1 to the Professional Services Agreement with Equinox Research and Consulting International (ERCI) for archaeology services related to the Archaeological Recovery Project, specifically the first eight weeks of field work following receipt of the Archaeological Excavation Permit (Phase 2). The proposed amendment would expand the scope of services to include Phase 2 of the project and increase the not to exceed contract amount to \$318,758.25.

AUTHORITY

Oak Harbor Municipal Code states:

2.310.050 Professional service contracts.

Contracts for professional services, including contracts for legal and consulting services, are not subject to the bidding requirements of Chapters 2.310 through 2.390 OHMC. The mayor or his/her designee shall promulgate procedures and standards for the approval of such contracts. Contracts for architectural and engineering services shall be awarded in accordance with Chapter 2.350 OHMC and Chapter 39.80 RCW. For purposes of this section, "professional services" are those services involving skill, education and special knowledge and where the work is predominately mental and intellectual, rather than physical and mechanical. The mayor shall establish guidelines and procedures for obtaining professional services. Professional service contracts in excess of \$30,000 shall require approval by the city council. Contracts for professional services under \$30,000 shall be reviewed by the finance director or the city attorney prior to signing to assure compliance with the Oak Harbor biannual budget, provisions of Chapter 2.390 OHMC and purchasing policies promulgated by the mayor. (Ord. 1470 § 2, 2006).

FISCAL IMPACT DESCRIPTION

Funds Required: \$288,758.25

Appropriation Source: Utility funds

City of Oak Harbor City Council Agenda Bill

Funding for this phase of the archaeology recover is available within the funding plan previously authorized by Resolution 10-16 for the SE Pioneer Project. This is possible because the actual construction costs for the project were less than the budgeted costs. The amount of this phase is consistent with the range of potential costs previously present to the council.

Once this phase of the project is complete, ERCI will develop a detailed cost estimate for the remaining work (Phase 3). Additional detail regarding funding will be presented to the Council when Phase 3 of the project is presented for approval.

SUMMARY STATEMENT

Immediately following the June 16, 2011 inadvertent discovery of ancestral human remains during the Pioneer Way Reconstruction Project, just over 100 truckloads of construction spoils removed from Pioneer Way were identified and isolated at a gravel pit location. On June 18, 2012, representatives from the Washington State Office of Archaeology and Historic Preservation (DAHP) visited the gravel pit location and identified ancestral human remains within several piles. The site was subsequently recorded as a 'redeposited site' (No. 45IS300) within the State of Washington Archeological Inventory database.

On March 6, 2012, the City Council approved a Professional Services Agreement between the City of Oak Harbor and Equinox Research and Consulting International (ERCI) covering Phase 1 of the Archaeological Recovery Project. Phase 1 encompassed project orientation, initial research, Tribal and State consultation, document control, and permit preparation and submittal. These tasks were all pre-requisites to acquiring a new Archaeological Excavation Permit to commence field work for the offsite recovery. As approved by the City Council, the Phase 1 Agreement was for a total not-to-exceed contract amount of \$30,000.00.

Phase 2 of the Archaeological Recovery Project is intended to cover the mobilization and first eight weeks of field work at the Pit Road site. As detailed in the attached Contract Amendment, Phase 2 encompasses the following five components: (1) planning, administration, documentation and reporting; (2) archaeological analysis; (3) field equipment; (4) field labor; and (5) housing and travel. ERCI estimates that the first eight weeks of field work will cost \$288,758.25 based on the archaeological protocols required by our permit. Staff have reviewed these estimates with ERCI and conclude that they are reasonable based on the scope of work.

Why establish a break point at eight weeks? According to ERCI, eight weeks should be sufficient time to field test the recovery protocols, adjusting where necessary, and to gauge the pace of the recovery effort. Information gathered from this period will be used to project a reliable estimate for how much time and money will be needed to complete the project. This estimate can then be built into a second contract amendment covering Phase 3 covering the balance of the field work.

Staff recommends approval of Contract Amendment No. 1 to the Professional Services Agreement with Equinox Research and Consulting International (ERCI) to expand the scope of services to include Phase 2 of the Archaeological Recovery Project and increasing the not to exceed contract amount from \$30,000 to \$318,758.25.

City of Oak Harbor City Council Agenda Bill

STANDING COMMITTEE REPORT

This item was presented to the Public Works Standing Committee at their April 5, 2012 meeting.

RECOMMENDED ACTION

Authorize the Mayor to sign Amendment No. 1 to the Professional Services Agreement with Equinox Research and Consulting International (ERCI) to expand the scope of services to include Phase 2 of the Archaeological Recovery Project and increasing the not to exceed contract amount by \$288,758.25, from \$30,000 to \$318,758.25.

ATTACHMENTS

Contract Amendment No. 1

Professional Services Agreement Amendment Number <u>1</u>	Organization and Address	
Original Agreement Title: Pioneer Way Archaeological Recovery Project	City of Oak Harbor 865 SE Barrington Drive Oak Harbor, WA 98239 Phone: 360-279-4539	
Project Number: ENG- 12-02	Execution Date	Completion Date (Prior) 12/31/2013
Project Title Archaeology recovery	New Maximum Amount Payable \$ <u>318,758.25</u>	
Description of Work Phase 2 of archaeology recovery efforts at Pit Road and associate off site areas.		

The City of Oak Harbor
desires to supplement the agreement entered into with ERCI
and executed on 3/7/2012 and identified as Professional services agreement with ERCI

All provisions in the basic agreement remain in effect except as expressly modified by this supplement

The changes to the agreement are described as follows:

SCOPE OF WORK is hereby amended to add the following:

See attached scope of work and fee

SCOPE OF WORK is hereby changed and supplemented with the following:

NO CHANGE.



41507 South Skagit Hwy Concrete, WA 98237 Tel.360-826-4930 Fax. 360-826-4830 www.equinoxerci.com

April 3, 2012

Larry E. Cort, Project Specialist
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

Re: Scope and Budget for Phase II – the first 8 weeks of Field Recovery Process for Pit Road Archaeological Project 2012, Oak Harbor, Washington

Dear Mr. Cort:

Thank you for the considering Equinox Research and Consulting International Inc. (ERCI) for your cultural resource management needs. ERCI provides a full service cultural resource management program and we look forward to providing you timely and professional fieldwork and reporting.

Section 106 of the National Historic Preservation Act (NHPA), SEPA, Executive Order 05-05 and a number of State RCW regulations requires agencies to consider the effects of their actions on historic properties and to consult with others in carrying out historic preservation activities. In providing cultural resource management services for clients, Equinox Research and Consulting International Inc. (ERCI) works in accordance with all applicable laws and regulations.

This particular project contains a number of unique elements that we are considering for our scoping process. We are providing this field work budget for the first 8 weeks of field recovery to include:

- Prepare for and participate in project meetings with the City of Oak Harbor, the 6 effected federally recognized Tribes and the State Department of Archaeology and Historic Preservation (DAHP) representatives and State Historic Preservation Officer (SHPO).
- Complete the first 8 weeks of field work of processing, the analysis of objects, the preparation of objects and documents for reburial or curation, the reporting including site forms for:
 - The Main Pit Road site
 - The Public Works Yard site
 - The two outlier sites on Burrows Road

- The outlier site on Waterloo Road
- It will also include
- background research on project and study area
 - 8 weeks of field and lab field work at the Pit Road site
 - all costs associated with the archaeological field crew to complete the processing for the first 8 weeks of recovery at the Pit Road site
 - Preliminary Analysis and interim reporting deliverables, including weekly reports and creating an evaluative summary for the first 8 weeks of project implementation.

Qualifications:

- Experience working with ancestral remains for 12 years in Western Washington.
- Principal investigator meets the Secretary of Interior’s professional qualification standards for archaeology
- Expertise on prehistoric and historic archaeology of Western Washington
- Experience in State Laws including permitting, Executive Order 05-05 and NHPA Section 106 work.
- Positive working relationship with federally recognized Tribes who are consulting parties on this project.
- Experience in processes that balance competing resource needs
- Strong record of completing work on time within budget

The following budget covers all costs associated with the coordination, correspondence, research, writing and field work for the archaeological field team required to complete the 8 weeks of processing for the deposits associated with the Pioneer Road Construction Project at the Pit Road site.

The following costs are not included in this estimate:

- Costs associated with any additional outliers that are identified during the recovery process.
- Costs associated with processing stockpiled cultural material if an amendment to the Permit is required such as if the conditions of the cultural material at the Pit Road or outliers changed drastically enough that the methods outlined in permit could not be followed. This could happen through natural events or human intervention.
- None of the initial permitting or resulting public outreach. This is a stand alone budget just for the initial 8 weeks of field work, analysis and reporting associated with processing the stockpiled cultural material the Pit Road site.

The team at ERCI is comprised of individuals with strong personal research specialties who pride themselves on efficiency, performance and integrity. We provide the highest quality product in a timely fashion. Please check out our web site for additional details; www.equinoxerci.com .

Thank you for the opportunity to provide excellent heritage planning services for this recovery work and we look forward to working with you.

Regards,



Kelly R. Bush
Equinox Research and Consulting International Inc. (ERCI)

Notes	Description	Units	Rate/HR	Sub Total
This includes phone calls, emails, and meetings related to planning, decision making, and other administrative tasks	Project orientation and administrative planning (35 hours) Ongoing administrative work (4 hrs/week)	67.00	143.75	9,631.25
This is over and above the daily/weekly written report. This includes phone calls, emails, and site visits that will likely occur especially if we have decision points.	Ongoing consultation with SHPO (1 hrs/week)	8.00	143.75	1,150.00
This is emails, phone calls and site visits with all tribes.	Ongoing consultation with affected Tribes (2 hrs/week)	16.00	143.75	2,300.00
This includes the design, ordering and testing of field and lab gear. Organizing crew structure, accommodations and transportation.	Logistical Planning for field work	40.00	143.75	5,750.00
All field notes will need to be curated eventually. We transcribe notes that need to have an electronic component and copy or archive notes that will need to go to the archives. This is also the time we identify problems with information flow or management	Document control and transcriptions (8 hrs/week)	64.00	63.25	4,048.00
Each outlier and Pit Road will need a site form before and after the project	Site Inventory Forms (5 sites at 6 hours)	30.00	63.25	1,897.50
Complete review of published and unpublished documents and some interviews with archaeologists who have worked but not written up their work in the immediate area.	Archival background research	9.00	97.75	879.75
Weekly report to stakeholders	Interim Report editing (1/2 hr/week)	4.00	143.75	575.00
Final Project Reports	Draft and Final Report editing	0.00	143.75	0.00
	Interim (weekly) Report writing (2 hrs per week)	16.00	97.75	1,564.00
	Draft and Final Report writing	0.00	97.75	0.00
This is the documentation of the objects in the field lab prior to wrapping for reburial. 20 minutes is the lowest threshold for data collection. The predication on number of artifacts comes from a volume comparisons to other shell midden/burial sites.	Documentation of precontact artifacts such as stone, bone, antler or shell tools: photo, metrics and characterization of precontact artifacts (30 minutes per artifact @ an estimate of 125 artifacts)	70.00	74.75	5,232.50
This is a very simple analysis on the data in the tables collected in the field lab. We will compare object type to other sites and regional trends	Analysis of precontact artifact data	10.00	97.75	977.50
This is the documentation of the objects in the field lab prior to wrapping for reburial. 20 minutes is the lowest threshold for data collection. The predication on number of artifacts comes from a volume comparisons to other shell midden/burial sites.	Documentation and Analysis: Historic artifacts (30 minutes per artifact @ an estimate of 250 artifacts)	125.00	74.75	9,343.75
This is a very simple analysis on the data in the tables collected in the field lab. We will try to tie in some of the objects to Oak Harbor history and past activities along Pioneer Way.	Analysis of historic artifacts	20.00	97.75	1,955.00
Photos, maps and other images for the interim reporting	Graphics and layout (interim reports 4 hrs/week)	32.00	97.75	3,128.00
formatting and distribution	Report production interim (1 hr per week)	8.00	63.25	506.00
formatting, printing, binding	Report production draft and final reports	0.00	63.25	0.00
formatting, printing, binding	Report production Appendicies	0.00	63.25	0.00
	SUB TOTAL for planning, field documentation, preliminary analysis and reporting for first 8 weeks			48,938.25
	DESCRIPTION	Units	Rates Daily	Sub Total
Inspection and oversight of the set up and take down of field locale of crew and equipment.	Set up of field site P.I.	40.00	143.75	5,750.00
	Principal Investigator 2 days per week for 8 weeks	128.00	143.75	18,400.00
	Travel time for PI	48.00	34.50	1,656.00
	Mileage for PI	1600.00	0.60	960.00

Notes	Description	Units	Rate/HR	Sub Total
Tamela Smart will be the field director for this project. She will be to go to person on site for field related work, managing personnel and data on site and will be involved in all decision points for work on the Pit Road and outliers sites.	Field Director 40 hr/week @ 8 weeks	320.00	97.75	31,280.00
Alyson Rollins is the Physical Anthropologist and will be responsible for all bone identification, and reassociation.	Physical (Biological) Anthropologist (2 day/week for 26 weeks-416 hrs); 3 days per week for 10 weeks (240 hrs)	128.00	115.00	14,720.00
	Physical (Biological) Anthropologist Reassociation (at 40 days)	0.00	115.00	0.00
The field technicians will be shoveling and screening, identification of artifacts and tracking the volumes of processed material	Archaeological Field Technician	320.00	74.75	23,920.00
	Archaeological Field Technician	320.00	74.75	23,920.00
	Archaeological Field Technician	320.00	74.75	23,920.00
Screens, covers, power screens, sharpening tools, inspection and replacement of tools. On site safety.	Equipment fabrication and maintenance (initial set up (40) and on going service of 4 hours per week)	256.00	74.75	19,136.00
This will be able to feed the power screen and keep work areas clear of processed material and help to move equipment around	Equipment Rental small landscape tractor 900.00/week	8.00	900.00	7,200.00
This will be the bigger land moving for stockpiling to be removed from the site or for burial.	Equipment Rental front end loader and operator 8 hours per week	64.00	95.00	6,080.00
This is for processing piles that don't have cultural material in them. It includes the cost of the power screen and the conveyor.	Equipment Rental power screen (60.00/day for 8 weeks)	56.00	80.00	4,480.00
	Field and Lab Supplies: paper bags (25.00), plastic bags (48.00), field and archive paper (110.00) (storage boxes 100@3.50), other lab supplies(300.00)	1.00	833.00	833.00
These hand screens are used in addition to the hanging screens. The replacement mesh is for all screens on the project	Field Equipment: hand screens (3 at 140.00 each) and replacement mesh for all screens (300.00)	1.00	720.00	720.00
Shelters will provide privacy and keep screeners somewhat protected from the elements - this will help keep productivity up.	Field Equipment: mobile shelters for screen sets	3.00	850.00	2,550.00
	Field Equipment: shovels and other hand tools	20.00	65.00	1,300.00
These are the frames for holding the screens up.	Field Equipment: screen holding sets	2.00	220.00	440.00
These are the screens that process the material	Field Equipment: hanging screens	12.00	125.00	1,500.00
This is if we order one, I expect we can fashion one for less.	Field Equipment: storage tub for Fire Cracked Rock	1.00	435.00	435.00
We may not need this.	Field Equipment: steel plates	2.00	450.00	900.00
	7 camera security system and I.T. set up	1.00	1,750.00	1,750.00
	SUB TOTAL for the first 8 weeks of field work			215,770.00
	Travel 3.5 hrs/ week/person when staying in town=17.5 hrs/week for 5 person crew	140.00	34.50	4,830.00
	Housing-house rental for 5 crew members at \$22.50/crew member/night=500.00/week	8.00	562.50	4,500.00
This is the federal rate.	Per Diem 5 days per week, 5 crew members	200.00	61.00	12,200.00
	Milage local and return mileage for 8 week	4200.00	0.60	2,520.00
	SUB TOTAL of accomodations and travel for 8 weeks			24,050.00
	GRAND TOTAL			\$288,758.25
	per person per work day cost for accomodations and perdiem			83.50

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**City of Oak Harbor
City Council Agenda Bill**

Bill No. 6
Date: April 17, 2012
Subject: City Council Meeting Parliamentary
Procedure and Rules

FROM: Steve Powers *SP*
Interim City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

SD Scott Dudley, Mayor
DM Doug Merriman, Finance Director
BH Bill Hawkins, City Attorney, as to form

PURPOSE

This agenda bill arises from a motion by Councilmember Almberg, and a second by Councilmember Hizon, to have an item placed on the agenda related to parliamentary procedure and rules for City Council meetings.

AUTHORITY

OHMC 1.04.020(3)

Public Notice for full council agenda – Introduction of action.

(3) Matters introduced by a councilmember which are seconded by another councilmember and not on the agenda shall be set over to another full council meeting for consideration and action, if any. Every councilmember-initiated agenda item shall be stated by the initiating councilmember for the agenda in the form of a proposed action item such as council discussion, a motion, resolution or ordinance. As an exception to the provision of this subsection, the following matters after motion and second may be considered and acted upon during the same meeting they are introduced:

- (a) Matters declared an emergency;
- (b) Directions to staff to prepare documents or reports or both for consideration; or
- (c) Scheduling of meetings.

(Ord. 1578 § 4, 2010; Ord. 1115 § 1, 1997; Ord. 1031 § 1, 1996; Ord. 817 § 1, 1988).

FISCAL IMPACT DESCRIPTION

Funds Required: N/A

Appropriation Source: N/A

SUMMARY STATEMENT

At the April 3, 2012 City Council meeting, Mr. Almberg made the following motion which was seconded by Ms. Hizon:

City of Oak Harbor City Council Agenda Bill

Councilmember Almberg moved that the April 17, 2012 Council Agenda include an agenda item covering the following topics:

1. The City Attorney provides a Parliamentary Procedure and Council Rules presentation covering the rights, rules, and conduct of the Mayor, Council, and public during Council meetings.
2. The Council discusses and takes possible action to create a more efficient and business-like atmosphere by considering the following changes to our Council format:
 - a. Start time at 6:00 p.m. and mandatory stop time at 9:00 p.m. unless extended by the majority vote of the Council.
 - b. Schedule the Public Comment Period at the end of Council meetings and be subject to the time available.
 - c. Delete the Council's Standing Committee reports (these meetings are video-taped).

Per OHMC 1.04.020(3), the full City Council shall consider this motion and decide whether or not to take action on the motion.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Consider motion and decide whether or not to take action on the motion

ATTACHMENTS

None

City of Oak Harbor City Council Agenda Bill

Bill No. _____
Date: April 17, 2012
Subject: City Council Voting Method

FROM: Steve Powers *SP*
Interim City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

SD Scott Dudley, Mayor
DM Doug Merriman, Finance Director
BH Bill Hawkins, City Attorney, as to form

PURPOSE

This agenda bill arises from a motion by Councilmember Servatius, and a second by Councilmember Almberg, to have an item placed on the agenda related to requiring a show of hands in addition to a verbal vote by City Council members.

AUTHORITY

OHMC 1.04.020(3)

Public Notice for full council agenda – Introduction of action.

(3) Matters introduced by a councilmember which are seconded by another councilmember and not on the agenda shall be set over to another full council meeting for consideration and action, if any. Every councilmember-initiated agenda item shall be stated by the initiating councilmember for the agenda in the form of a proposed action item such as council discussion, a motion, resolution or ordinance. As an exception to the provision of this subsection, the following matters after motion and second may be considered and acted upon during the same meeting they are introduced:

- (a) Matters declared an emergency;
- (b) Directions to staff to prepare documents or reports or both for consideration; or
- (c) Scheduling of meetings.

(Ord. 1578 § 4, 2010; Ord. 1115 § 1, 1997; Ord. 1031 § 1, 1996; Ord. 817 § 1, 1988).

FISCAL IMPACT DESCRIPTION

Funds Required: N/A

Appropriation Source: N/A

SUMMARY STATEMENT

At the April 3, 2012 City Council meeting, Councilmember Servatius moved to add a resolution amending Council Rule No. 17 (1) - Voting, to include a show of hands in addition to a verbal vote. The motion was seconded by Councilmember Almberg.

City of Oak Harbor City Council Agenda Bill

Per OHMC 1.04.020(3), the full City Council shall consider this motion and decide whether or not to take action on the motion.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Consider motion and decide whether or not to take action on the motion

ATTACHMENTS

None

City of Oak Harbor City Council Agenda Bill

Bill No. _____
Date: April 17, 2012
Subject: City Council Meeting Rule Banning
the Wearing of Hats in the Council
Chambers

FROM: Steve Powers *SP*
Interim City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

SD Scott Dudley, Mayor
DM Doug Merriman, Finance Director
WH Bill Hawkins, City Attorney, as to form

PURPOSE

This agenda bill arises from a motion by Councilmember Servatius, and a second by Councilmember Almborg, to have an item placed on the agenda related to establishing a policy or procedure that would ban the wearing of hats in the Council chambers during Council meetings.

AUTHORITY

OHMC 1.04.020(3)

Public Notice for full council agenda – Introduction of action.

(3) Matters introduced by a councilmember which are seconded by another councilmember and not on the agenda shall be set over to another full council meeting for consideration and action, if any. Every councilmember-initiated agenda item shall be stated by the initiating councilmember for the agenda in the form of a proposed action item such as council discussion, a motion, resolution or ordinance. As an exception to the provision of this subsection, the following matters after motion and second may be considered and acted upon during the same meeting they are introduced:

- (a) Matters declared an emergency;
- (b) Directions to staff to prepare documents or reports or both for consideration; or
- (c) Scheduling of meetings.

(Ord. 1578 § 4, 2010; Ord. 1115 § 1, 1997; Ord. 1031 § 1, 1996; Ord. 817 § 1, 1988).

FISCAL IMPACT DESCRIPTION

Funds Required: N/A

Appropriation Source: N/A

City of Oak Harbor City Council Agenda Bill

SUMMARY STATEMENT

At the April 3, 2012 City Council meeting, Councilmember Servatius moved to bring forward on April 17, 2012, a policy or procedure to ban the wearing of hats in Council Chambers out of respect for the City, Mayor, and Council. The motion was seconded by Councilmember Almberg.

Per OHMC 1.04.020(3), the full City Council shall consider this motion and decide whether or not to take action on the motion.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Consider motion and decide whether or not to take action on the motion

ATTACHMENTS

None

**City of Oak Harbor
City Council Agenda Bill**

Bill No. 7
Date: April 17, 2012
Subject: Sewer Code Revision

FROM: Cathy Rosen, Public Works Director
Eric Johnston, City Engineer

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Steve Powers, Interim City Administrator
 Doug Merriman, Finance Director
 Bill Hawkins, City Attorney, approved as to form

PURPOSE:

The purpose of this agenda bill is to consider proposed changes to Chapter 14.03.061 of the Oak Harbor Municipal Code related to mandatory sewer connection. The proposed change extends the prohibition on requiring connection by grinder pump to December 31, 2017.

AUTHORITY

The City has authority under RCW 35A.11.020 to render governmental services including operating and supplying of utilities and municipal services commonly or conveniently rendered by cities or towns. The authority to provide sewer services is found in RCW 35.21.210 and 35.67.010 et seq.

FISCAL IMPACT DESCRIPTION

Funds Required: \$0.00 (none)

Appropriation Sources: _____

SUMMARY STATEMENT

In December of 2007 the City Council began discussion and eventually passed an ordinance creating section 14.03.061 of the Oak Harbor Municipal code. When passed, the intent of the ordinance was to bar the City from requiring or mandating connection by a grinder pump to the City sewer system, for a period of time, to allow for the possible formation of a Local Improvement District (LID). The ordinance is not specific to any particular area and is applicable City wide.

Since passage of the ordinance the City has considered the formation of an LID to install a gravity sewer system to the Dillard's/Driftwood Beach neighborhood. Most recently the City Council authorized a contract to conduct a special benefit analysis to provide information on the financial feasibility of an LID.

options, costs, and policy issues related to how properties currently on septic systems can and should be served by public sewer systems. The scope of the evaluation includes both the existing City limits and the ultimate sewer service area being the urban growth area (UGA)

The LID formation process and the City wide sewer connection efforts will take some time to complete. The current ordinance barring a forced grinder pump based sewer connection expires in December of 2012. To allow for adequate time to both complete the ongoing studies and allow reasonable time periods to plan for connections it is appropriate to revise the ordinance and extend the date. The attached draft ordinance extends the date to December 31, 2017. If passed as drafted the City would be barred from requiring connection to the City sewer by a grinder pump if an existing septic system was operating in accordance with the State and County requirements until December 31, 2017.

The draft ordinance was distributed for comment to those people who attended the LID special benefit workshop and added their email list to a contacts list. Two people responded with comments, one by email and one by telephone. One individual's comments suggested the "special case" ordinance was not needed and recommended elimination of exceptions to the code requirement to connect. The other suggested stronger language related to compliance with the Island County regulations for mandatory inspections of septic systems. Both comments are appropriate and are consistent with the need to address City policies related to septic systems. As this ordinance is narrowly focused on grinder pump connections, it is recommended that these two comments be addressed with the broader, citywide policy discussion on septic systems and conversion to sewers currently underway as part of the wastewater treatment facility plan process.

It is recommended that the ordinance be passed.

STANDING COMMITTEE REPORT

This item will be discussed at the Public Works Standing Committee on April 5, 2012 and the Government services committee on April 10, 2012.

RECOMMENDED ACTION:

- 1) Conduct a public hearing
- 2) Consider a motion adopting the ordinance.

ATTACHMENTS:

Draft ordinance

ORDINANCE NO. 1623

AN ORDINANCE OF THE CITY OF OAK HARBOR REVISING SECTION 14.03.061 ENTITLED "MANDATED CONNECTION BY GRINDER PUMP -- WHEN REQUIRED" TO THE OAK HARBOR MUNICIPAL CODE ALLOWING UP TO FIVE YEARS BEFORE MANDATORY CONNECTION CAN BE REQUIRED TO THE OAK HARBOR SEWER SYSTEM FOR EXISTING SINGLE FAMILY RESIDENCES WITH PROPERLY FUNCTIONING AND PERMITTED SEPTIC SYSTEMS WHEN THE CONNECTION IS BY GRINDER PUMP EVEN WHEN THE RESIDENTIAL PROPERTY IS WITHIN 200 FEET OF A PUBLIC SEWER SYSTEM LINE

WHEREAS, the City Council desires to allow residents to have the opportunity to request that the Council consider forming an LID to install a gravity sewer system in lieu of the low pressure sewer system; and

WHEREAS, the City Council has commissioned a special benefit analysis for purposes of exploring the feasibility of forming a Local Improvement District; and

WHEREAS, the eventual goal of the City is to eliminate septic systems within the City limits; and

WHEREAS, this ordinance is passed to protect the public health, welfare and safety; now, therefore,

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One. Section 14.03.061 entitled "Mandated Connection by Grinder Pump -- When Required" of the Oak Harbor Municipal Code is hereby amended to read as follows:

14.03.061 Mandated Connection by Grinder Pump -- When Required.

- (1) Definitions. In addition to other definitions of Title 14 of the Oak Harbor Municipal Code, the following definitions shall apply to this section:
 - (a) "Gravity side sewer"-- A side sewer where flow is caused by the force of gravity as opposed to being under pressure by a pump.
 - (b) "Grinder pump"-- A mechanical device that shreds solids and conveys sewage along a sewer line in a low pressure system or raises sewage to a higher elevation to a public sewer above the grade of a particular structure. Grinder pumps are also commonly used in conjunction with gravity systems where a particular structure is located below the invert of a gravity collection pipe or there is insufficient vertical drop between the structure and the gravity pipe.

- (c) "Low pressure sewer system"-- Low pressure sewer systems, often referred to as "grinder pump systems", use a macerating type pump to convey sewage through small diameter pipelines to a centralized location.
- (2) Connection by grinder pump to the City sewer system, whether to a public low pressure sewer system line or to a public gravity sewer line, shall not be mandated for an existing single family residence until December 31, 2017 provided that the following conditions are met:
 - (a) The residence is using an on-site septic system for waste disposal;
 - (b) The septic system was permitted for use by the Island County Health Department prior to December 31, 2007;
 - (c) The septic system is functioning, is in full compliance with Island County Health Department requirements, Washington State Law and Federal Law and is not polluting adjacent properties or waters.
- (3) The City Engineer may allow voluntary connections to the sewer system by grinder pump systems under standards, terms and conditions determined by the City Engineer. Standards shall include types and uses of grinder pumps, maintenance and repair requirements, and designation of locations and ownership requirements. If more than one connection is made by or through the same privately owned grinder pump station, a connection shall not be allowed unless there is a contract with a responsible party to maintain and operate the grinder pump station in accordance with public system standards.
- (4) The exception to connection listed under this section shall not apply to gravity side sewer connections to POTW which shall continue to be regulated under OHMC 14.03.060 as now in effect or hereafter amended.

Section Two. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Three. Effective Date. This Ordinance shall be in full force and effect five days after its passage and publication as required by law.

PASSED by the City Council and approved by its Mayor this _____ day of _____, 2012.

THE CITY OF OAK HARBOR

Mayor

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Attest:

City Clerk

Approved as to Form:

City Attorney

Published: _____

**City of Oak Harbor
City Council Agenda Bill**

Bill No. 8
Date: April 17, 2012
Subject: Resolution- Wastewater Facility Plan

**FROM: Cathy Rosen, Public Works Director
Eric Johnston, City Engineer**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Steve Powers, Interim City Administrator
 Doug Merriman, Finance Director
 Bill Hawkins, City Attorney, as to form

PURPOSE

This agenda bill proposes adoption of a resolution related to candidate sites for a new wastewater treatment facility.

AUTHORITY

The City has authority under RCW 35A.11.020 to render governmental services including operating and supplying of utilities and municipal services commonly or conveniently rendered by cities or towns. The authority to provide sewer services is found in RCW 35.21.210 Chapter 35.67. Planning for those services as may be required under WAC 173-240 is included in this authority.

FISCAL IMPACT DESCRIPTION

Funds Required: \$ none

Appropriation Source: n/a

SUMMARY STATEMENT

On July 27, 2011, a workshop with the City Council was held to present and discuss the status of the wastewater facility planning process and to present three sites for further consideration. As discussed during the workshop, a resolution would be presented for consideration and adoption by the Council. The resolution considered authorizing and directing the project team to proceed with the three candidate sites. A public forum was subsequently held on August 24, 2011 at which the information presented at the Council workshop was presented and public input was sought.

Information presented at both the public forum and Council workshop was made available to the public via the project website. Videos of both the forum and the workshop were broadcast on Channel 10.

Following the August public forum the resolution for the short list of three sites was then discussed at City Council meeting on September 20, November 1 and November 28, 2012. This topic was also discussed at multiple city council committee meetings during the same time period. During the same time period, several Council members were able to participate in educational tours of wastewater facilities in Blaine, Carnation and King County.

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On January 17, 2012 the Council adopted resolution 12-05 adding a sixth site, Crescent Harbor North, to the list of possible candidate sites and directed that Carollo compare the sixth site to the selection criteria, to the same degree as the previous five sites. Carollo has completed that work and presented the results to the City Council during the workshop on April 11, 2012. Public input was sought during the open house on April 11, 2012 and is welcome during this Council meeting as well.

As was discussed and presented during the Council workshop the recommendation of the engineering team is to move forward with the Windjammer and Crescent Harbor North sites for further consideration.

STANDING COMMITTEE REPORT

The item was discussed and presented to the full City Council during the workshop conducted on April 11, 2012.

RECOMMENDED ACTION

A motion adopting Resolution 12-10.

ATTACHMENTS

Resolution 12-10.

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RESOLUTION NO. 12-10

A RESOLUTION OF THE CITY OF OAK HARBOR DIRECTING THE EVALUATION OF POTENTIAL SITES FOR A FUTURE WASTEWATER TREATMENT FACILITY.

WHEREAS, the 2008 City of Oak Harbor Comprehensive Sewer Plan identifies the need for a new wastewater treatment facility to meet future growth needs and to replace aging and at-risk infrastructure; and

WHEREAS, recognizing that the City of Oak Harbor is connected to the pristine waters of Puget Sound, specifically Oak Harbor Bay and Crescent Harbor Bay, the City's goal is to obtain the highest level of water quality practicable while recognizing the limitations of the rate payers of the City to fund the improvements; and

WHEREAS, the City of Oak Harbor Capital Improvement Plan of 2010-2015 specifically lists the Wastewater Treatment Plant Facilities Plan as a prioritized public project to be undertaken within the capital improvement plan time period; and

WHEREAS, on August 4, 2010 the City Council authorized the Mayor to enter into a contract with Carollo, Inc. for development of the aforementioned Facilities Plan required by RCW 90.48.110 and Chapter 173-240 WAC for a new wastewater treatment facility; and

WHEREAS, public input was sought, received and considered on potential wastewater treatment plant locations resulting in the identification of 13 potential locations; and

WHEREAS, input from the U.S. NAVY was sought, received and considered on potential wastewater treatment plant locations; and

WHEREAS, public input was sought, received and considered on the evaluation criteria to be used; and

WHEREAS, input from various stakeholder groups including the U.S. Navy, the Washington State Department of Ecology, Washington State Department of Health, was sought and incorporated into the evaluation criteria; and

WHEREAS, based on input from the public, various stakeholder groups, technical staff, engineering professionals and City staff, four equally weighted categories, being Social, Technical, Environmental and Financial, were developed for the evaluation of all potential site locations, and

WHEREAS, the Social criteria are as follows: 1) Protect Public Health and Safety, 2) Preserve/Enhance Public Amenities, and 3) Minimize Neighborhood Impacts; and

WHEREAS, the Environmental criteria are as follows: 1) Produce Best Water Quality, 2) Protect Environmental Sensitive Areas, and 3) Minimize Carbon Footprint; and

WHEREAS, the Technical criteria are as follows: 1) Reliable Performance, 2) Ease of Construction, and 3) Overall System Efficiency; and

WHEREAS, the Financial criteria are as follows: 1) Low Capital Cost, 2) Low Life Cycle Cost, and 3) Protect Assets for Future Development; and

WHEREAS, as directed by City Council Resolution 11-07, the 13 candidate sites were narrowed to 5 candidate sites; and

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WHEREAS, as directed by City Council Resolution 12-05, Carollo, Inc., has analyzed an additional site located north of Crescent Harbor Road and provided additional cost information and analysis on all sites and sought public input; and

WHEREAS, public input has been sought, received and incorporated in the analysis of the aforementioned sites; and

WHEREAS, based on the analysis of the technical data, comparison of the evaluation criteria and all public comment received to date, Carollo, Inc. is recommending that the Windjammer and Crescent Harbor North sites best satisfy the City's overall objectives for the Project while providing the lowest initial and long-term costs, and that the outfall from either site is best located in Oak Harbor Bay;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oak Harbor as follows:

1. That Carollo, Inc., acting on behalf of the City and under the management of the City Engineer, is directed to further evaluate two locations in accordance with the previously approved contract for further consideration as part of the wastewater treatment facility planning process.
2. That the two locations to be evaluated further are:
 - a. Windjammer Park
 - b. Crescent Harbor North
3. That an outfall to Oak Harbor Bay is the preferred location for a wastewater effluent outfall.
4. That the membrane bioreactor process be considered at both sites with activated sludge considered where space is available.
5. That a phasing plan be developed for both sites, providing more specific information regarding cost and rate-impacts in order to support a final site selection.
6. That a report be prepared together with a recommendation for City council consideration of a single, final site and process.

PASSED and approved by the City Council this 17th day of April, 2012.

THE CITY OF OAK HARBOR

Attest:

_____, Mayor

City Clerk

Approved as to Form:

City Attorney

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City of Oak Harbor City Council Agenda Bill

Bill No. 9

Date: April 17, 2012

Subject: Personnel Code Update and
Handbook Repeal

FROM: Steve Powers *SP*
Interim City Administrator
Jessica Neill Hoyson
Human Resources Manager

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

SD Scott Dudley, Mayor
DM Doug Merriman, Finance Director
WHH William H. Hawkins, City Attorney, as to form

PURPOSE

This agenda bill introduces one ordinance and a resolution concerning the personnel policies applicable to non-represented city employees. A second housekeeping ordinance will follow to ensure the rest of the code is consistent with these changes. The ordinances are needed to clarify the City Council's policies on wages, hours and conditions of employment. The resolution is necessary to repeal the Personnel Policies Manual since it will conflict with the new ordinances, if they are adopted.

AUTHORITY

The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees; within the limitations imposed by vested rights, to fix the compensation and working conditions of such officers and employees and establish and maintain civil service, or merit systems, retirement and pension systems not in conflict with the provisions of this title or of existing charter provisions until changed by the people...

RCW 35A.11.020 (in pertinent part).

The mayor shall have the power of appointment and removal of all appointive officers and employees subject to any applicable law, rule, or regulation relating to civil service. The head of a department or office of the city government may be authorized by the mayor to appoint and remove subordinates in such department or office, subject to any applicable civil service provisions. All appointments of city officers and employees shall be made on the basis of ability and training or experience of the appointees in the duties they are to perform, from among persons having such qualifications as may be prescribed by ordinance or by charter, and in compliance with provisions of any merit system applicable to such city. Confirmation by the city council of appointments of officers and employees shall be required only when the city charter, or the council by ordinance, provides for confirmation of such appointments. Confirmation of mayoral appointments by the council may be required by the council in any instance where qualifications

City of Oak Harbor City Council Agenda Bill

for the office or position have not been established by ordinance or charter provision. Appointive offices shall be without definite term unless a term is established for such office by law, charter or ordinance.
RCW 35A.12.090

FISCAL IMPACT DESCRIPTION

Funds Required: \$ _____ N/A _____

Appropriation Source: N/A

SUMMARY STATEMENT

After lengthy study and review, staff has prepared two ordinances for city council adoption to clearly establish the personnel policies applicable to non-unionized city employment. (Union employment terms and conditions are set by collective bargaining agreement). One ordinance (Attachment A) revises Ch. 2.34 of the city code to set legislative policy by topic and then delegates implementation of each policy to the Mayor. Because the changes are extensive, staff recommends repeal of the existing chapter and re-adoption of a new chapter.

The other ordinance is a "housekeeping" ordinance which revises those sections of the city code which address management-level positions to make them consistent with the first ordinance. This item will be introduced to City Council at the May 1, 2012 meeting.

Finally, the resolution (Attachment B) repeals Resolution No. 07-16 which adopted the Personnel Policies Manual. New Chapter 2.34 of the city code clarifies the role of the City Council and the Mayor, while the existing personnel policies manual placed much of the administrative detail in the hands of the City Council. By repealing the manual, the City Council will allow the Mayor to make changes in procedure to meet requirements of federal and state law on a regular basis.

STANDING COMMITTEE REPORT

The principles behind the proposed ordinances and resolution were discussed with City Council at the March 3, 2012 workshop. A copy of the PowerPoint from that meeting is included as Attachment C.

RECOMMENDED ACTION

- Consider draft ordinance and resolution
- Provide direction to staff as appropriate
- Set public hearing date for May 15, 2012 to consider adoption of ordinance and resolution

ATTACHMENTS

Attachment A: Ordinance No. _____ - repealing and re-adopting Ch. 2.34 of OHMC to set city policy with respect to city employment.

City of Oak Harbor City Council Agenda Bill

Attachment B: Resolution No. 12-__ - repealing Resolution No. 07-16 which adopted the Personnel Policies Handbook on August 7, 2007.

Attachment C: Power Point Presentation for March 3, 2012 City Council Workshop.

Ordinance No. _____

AN ORDINANCE REPEALING AND READOPTING CHAPTER 2.34 OF THE OAK HARBOR MUNICIPAL CODE, THE PERSONNEL ORDINANCE FOR CITY EMPLOYEES

WHEREAS, the regular and orderly performance of services to the public requires a system of public employment which is also regular and orderly; and

WHEREAS, the city council has the responsibility to establish legislative policies regarding city employment; and

WHEREAS, these policies direct the mayor to enact administrative procedures to implement the policies of the City Council with respect to city employment; and

WHEREAS, the City Council wishes to remain apprised of such administrative procedures but intends to set legislative policy by ordinance rather than by personnel handbook or manual; and

WHEREAS, the City Council shall retain fiscal oversight of the city employment system through review and adoption of the wage and salary schedules and classification plan as part of the biennial budget; and

WHEREAS, employees subject to collective bargaining agreement are governed by the terms of these policies unless otherwise provided in an adopted collective bargaining agreement; and

WHEREAS, the City Council intends to set the terms of employment for management employees by employment contract;

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF OAK HARBOR DO HEREBY ORDAIN:

Section One. The Personnel Ordinance of the City of Oak Harbor, Chapter 2.34 of the Oak Harbor Municipal Code, last amended by Ordinance No. 1592 in 2010, is hereby repealed and re-adopted to read as follows:

**Chapter 2.34
PERSONNEL**

Sections:

- 2.34.010 Short title.
- 2.34.020 Purpose.
- 2.34.025 Civil Service
- 2.34.030 Collective Bargaining
- 2.34.040 Definitions.

- 2.34.050 Administration.
- 2.34.055 Management Positions
- 2.34.060 Human Resources Manager – Appointment – Duties.
- 2.34.065 Collective Bargaining
- 2.34.070 Recruitment and Hiring
- 2.34.080 Compensation.
- 2.34.085 Health Insurance Benefits
- 2.34.090 Hours of Work
- 2.34.100 Leave
- 2.34.105 Disciplinary Action
- 2.34.110 Grievances
- 2.34.120 Personnel Appeals Board
- 2.34.130 Employment Discrimination
- 2.34.140 Probationary Period.
- 2.34.150 Resignation, layoff and reinstatement.
- 2.34.160 Code of Ethics.
- 2.34.2.170 Construction.

2.34.010 Short title.

This chapter shall be known as the “Personnel Ordinance.”

2.34.020 Purpose.

This chapter is enacted to establish city personnel policies and to delegate the administration of those policies to the Mayor and his/her designee. No provision of this chapter shall be deemed to limit the power of the city council to amend, modify or repeal this chapter.

2.34.025 Civil Service.

(1) The city council has determined not to create a city civil service system for all city employees. Pursuant to state law, the city has established a civil service commission for police and fire department employees (Ch. 2.32 OHMC). Where the rules or requirements of civil service for city police and civil service for city firefighters provided under state law or a collective bargaining agreement between the city and any police or fire bargaining unit address a matter also addressed by the personnel code or the personnel rules adopted pursuant to this ordinance, the provisions of state law and/or the collective bargaining agreement in effect at the relevant time period shall apply.

(a) All full-time, paid employees of the police department, other than the chief and positions designated by the civil service commission pursuant to RCW 41.12.050, are covered by Civil Service for City Police (Ch. 41.12 RCW).

(b) All full-time, paid employees of the city fire department, other than the chief of such department, are covered by Civil Service for City Firefighters (Ch. 41.08 RCW) as provided by state law.

2.34.030 Collective Bargaining.

- (1) It is the policy of the City of Oak Harbor to honor the collective bargaining obligations imposed upon the city under state law.
- (2) The human resources manager and the mayor's designee shall represent the city in collective bargaining agreements and shall consult with the city council on bargaining strategy at appropriate stages in the collective bargaining process.
- (3) Where a subject also covered by these rules is the subject of a collective bargaining agreement in effect at the relevant time period, then the terms of the collective bargaining agreement shall prevail as to the applicable represented employees.

2.34.040 Definitions.

The following terms and phrases shall have the meanings ascribed to them herein:

- (1) "Administrator" means the human resources manager;
- (2) "Covered employee" means an employee appointed to a position to which the rules of this chapter pertaining to disciplinary action and appeals apply. Such provisions of this chapter do not apply to the following positions:
 - (a) Members of the city council;
 - (b) The mayor;
 - (c) Employees holding management positions set out in OHMC 2.34.055;
 - (d) Members of appointive city boards, city commissions and city committees;
 - (e) Persons engaged under contract to provide any service to the city for a limited purpose or on a temporary or part-time basis;
 - (f) Volunteers;
 - (g) Persons hired from time to time to perform casual work including, but not limited to, those employed to perform seasonal work or to meet the immediate requirements of an emergency condition.

- (h) Employees represented by a union or guild pursuant to certification of a bargaining unit by the Public Employees Relations Commission; and
- (i) Employees subject to the city's civil service commission for police and fire department employees.
- (3) "Department head" means a person working for the city who has been designated by the mayor to be the head of a department;
- (4) "Disciplinary action" means an action imposing discipline on a covered employee, which shall include, but not be limited to, written reprimands, suspensions, demotions and disciplinary discharges/terminations from employment. Verbal warnings, counseling, written statements of performance expectations, including related notes, and performance appraisals, shall not be considered disciplinary actions, and are not subject to the grievance process. Layoffs, resignations and reinstatements are also not considered discipline;
- (5) "Disciplinary appeal" means an appeal by a covered employee to the personnel appeals board after the employee has exhausted the grievance process;
- (6) "Employee Policy Manual" means all of those policies, guidelines and procedures adopted by the mayor pursuant to OHMC 2.34.050;
- (7) "Full-time" means a regular employee working in a regularly budgeted position allocated at least 32 hours per week;
- (8) "Grievance" means a complaint by a covered employee regarding disciplinary action taken against that employee or the application of any of the provisions of this chapter to that employee;
- (9) "Hourly" means any employee who is paid on an hourly basis;
- (10) "Part-time" means an employee working in a regularly budgeted position allocated work hours of less than thirty-two (32) hours per week and whose hours may be regular or irregular;
- (11) "Probationary employee" means an employee who has not yet successfully completed his or her probationary period set pursuant to OHMC 2.34.140.
- (12) "Regular employee" means an employee who has successfully completed his or her probationary period and is retained in a fully budgeted position in the biennial budget
- (13) "Temporary employee" means a person employed to meet a temporary or seasonal need of the city. An employee may not remain in this category more than 12 months without the written approval of the mayor;

2.34.050 Administration.

The mayor shall have general authority to oversee administration of the personnel matters of the city. The city council recognizes that the management of the city and the administration of personnel are administrative matters and not legislative functions. For that reason, and also because there are complex and constantly changing state and federal regulations affecting city employees, it would be unwise, inefficient and impractical to attempt to incorporate all details of personnel policies in an ordinance, resolution or motion of the city council. Thus, the city council expressly authorizes and directs the mayor to adopt such additional or clarifying personnel policies by administrative actions. Such policies shall be in accordance with this chapter and shall be for the purpose of carrying out the goals and policies of this chapter. Such personnel policies shall not create rights in employment, but instead shall implement the personnel policies provided for in this chapter and other applicable ordinances. The mayor may incorporate personnel policies into a handbook or other informational document for employee use.

(3) Nothing in any handbook, manual or other informational document shall, nor shall any oral promises, assurances or other statements by city employees, officers or agents, be binding upon the city in personnel matters.

(4) The city reserves the right to modify personnel policies at any time and the same shall not be construed as guaranteeing or promising contract or property rights in employment with the city.

2.34.055 Management Positions

(1) The following positions serve at the pleasure of the mayor and are not covered by the grievance, disciplinary action and appeals provisions of this chapter:

- a. City administrator;
- b. Finance director;
- c. City attorney and any assistant city attorneys;
- d. Chief of police;
- e. Fire chief;
- f. Development Services Director
- g. Public Works Director
- h. Executive assistant to the mayor.

(2) Employees holding the above-listed positions shall serve pursuant to employment contracts which shall provide the terms of service and compensation. The mayor is authorized to enter

into employment contracts with employees holding these positions, which contracts shall be approved by city council,

(3) Employees holding the above-listed positions at the time of adoption of this ordinance who do not already have employment contracts with the city or whose contracts have not been revised in the previous five years shall be offered employment contracts providing the terms of service and compensation as approved by the city council. Such contracts shall be prepared for city council approval no later than six (6) months from the date of adoption of this ordinance. Employees who decline to enter into contracts of employment offered to them pursuant to this subsection shall continue in their status at the time of adoption of this ordinance until separation from city service and shall not be entitled to any of the rights or benefits conferred upon the above-listed positions by contracts established pursuant to subsection 2 above.

2.34.060 Human Resources Manager – Appointment – Duties

(1) The “manager” or the “human resources manager” as those terms are used in this chapter shall mean the human resources manager, who, under the direction of the city administrator, shall administer the provisions of this chapter and any personnel rules and regulations adopted pursuant to delegation under this chapter.

(2) The manager shall advise and consult with city department heads and supervisors on all disciplinary, benefit, compensation, workplace and labor matters. Department heads and supervisors shall provide the human resources manager with a copy of all such actions taken concerning individual employees and bargaining units.

(3) The manager shall be the custodian of all official employee records on behalf of the city, including medical records, and shall maintain confidentiality of those records to meet the requirements of state and federal law.

2.34.070 Recruitment and Hiring.

(1) It is the policy of the City of Oak Harbor that employees shall be selected on the basis of merit and fitness to perform the duties of the position for which the employee is hired. The City is an equal opportunity employer and shall not discriminate against any employee or applicant for employment on any grounds prohibited by state or federal law including race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability; as provided by state or federal law..

(2) The mayor and/or mayor’s designee and human resources manager are directed to develop hiring and recruitment procedures and practices to implement this policy.

2.34.080 Compensation.

- (1) It is the policy of the City of Oak Harbor to pay adequate levels of compensation to city employees. Providing adequate compensation to city employees promotes productivity, reduces turnover, and improves the city's ability to attract and retain qualified personnel to carry out the functions of city government. Compensation levels should reflect the market for such personnel in the region.
- (2) The human resources manager is directed to develop a wage and salary schedule for all regular positions within city government. The human resources manager shall prepare a current wage and salary schedule for presentation to the city council for consideration and adoption at the time of the adoption of the biennial budget. The wage and salary schedule, together with the current description of all regular positions within city employment to be known as "the classification plan", shall be adopted as part of the biennial salary ordinance.
- (3) Where wages and salaries are established through collective bargaining agreements, compensation for employee-members of each collective bargaining unit shall be reflected in the wage and salary schedule in conformity with the applicable collective bargaining agreements. This chapter shall not impair any obligations of the city under present or future collective bargaining agreements.
- (4) At the time of adoption of the wage and salary schedule, the city council shall decide whether to set a cost of living adjustment (COLA) for regular employees not subject to collective bargaining agreement.

2.34.085 Health Insurance Benefits.

- (1) It is the policy of the City of Oak Harbor to provide health insurance benefits to its employees at a level which is comparable to benefits provided by other local municipal governmental entities in the state of Washington. Health insurance benefits for city employees promote the health and well-being of city employees, reduce the use of sick leave, and promote employee retention.
- (2) The level of benefits offered to city employees shall be established by the city council through the biennial salary ordinance. Part-time employees working less than twenty (20) hours per week shall not be entitled to health care benefits unless otherwise provided in an employment contract. The human resources manager shall prepare the benefit plan for city council approval.
- (3) Because an active wellness program has been shown to reduce employee use of sick leave, improve productivity and reduce the need for health care services, the city council authorizes the participation of the city of Oak Harbor in the wellness program offered by the city's health care administrator.

2.34.090 Hours of Work.

- (1) For purposes of the Fair Labor Standards Act and the Washington Minimum Wage Act, the City of Oak Harbor declares the work period to be forty (40) hours, Monday through Sunday, for all regular employees, except police and fire department employees. The work period for police and fire employees shall be established by the mayor or his/her designee and set out in their respective collective bargaining agreements.
- (2) The human resources manager and the finance director are directed to establish work hour recording and compensation procedures to comply with state and federal law.

2.34.100 Leave.

- (1) It is the policy of the City of Oak Harbor to comply with all state and federal leave laws. The human resources manager is directed to establish procedures and practices to ensure that the city complies with such laws and can demonstrate compliance.
- (2) It is the city's policy to coordinate leave granted to city employees with leave requirements of state and federal law so that city-granted leave is counted towards fulfillment of any state and federal requirements. The human resources manager is directed to establish procedures and practices to coordinate city-granted leave with state and federal requirements; to minimize conflicts; and to maximize credit of city-granted leave towards state and federal requirements.
- (3) Full-time city employees not subject to collective bargaining agreement shall earn vacation and sick leave per month of service. The rate of vacation and sick leave to be earned shall be set in the biennial salary ordinance.
- (4) Employees are encouraged to use their vacation leave in the year it is earned. The mayor/designee and human resources manager shall establish rules for maximum accrual and use of both sick and vacation leave.

2.34.105 Disciplinary Action.

- (1) It is the policy of the City of Oak Harbor to uphold high standards of customer service and professionalism in the performance of city functions and services. Employees are expected to follow the standards of conduct established for the city, their departments and their positions. The human resources manager is directed to establish standards of conduct for city employment and to work with department directors to establish departmental and position-related standards of conduct.
- (2) A covered employee is subject to disciplinary action when, in the opinion of the department head, disciplinary action is necessary for the good of the city or when an employee has violated any standards of conduct established by the city or the department director.

(3) The city may impose upon any covered employee any disciplinary action or form of discipline which the department head or, in the case of a management employee, the mayor finds appropriate given conduct of the employee. There shall be no requirement that any specific number or sequence of disciplinary actions be followed. However, the administrator shall establish procedures which provide for progressive discipline of covered employees for minor, correctible offenses.

2.34.110 Grievances.

(1) It is the policy of the City to resolve covered employee grievances promptly. To that end, the human resources manager shall promulgate a grievance procedure to serve as a check on initial disciplinary decision-making. This procedure shall be published and made available to all employees. The procedure shall be internal to the city and shall include an internal appeal to the city administrator. Failure to follow the procedures for a grievance, including the time limits set out in it, shall constitute a waiver of the grievance process and a failure to exhaust administrative remedies.

(2) It is the policy of the City to provide a post-deprivation remedy in the event that a covered employee is dissatisfied with the final decision of the city after the grievance process has been exhausted. This remedy shall be an appeal to the personnel appeals board from the final decision of the city.

(3) An employee who wishes to appeal the final decision of the city after exhaustion of the city's internal grievance process must file a written appeal with the City Administrator or designee no later than fifteen (15) days from the date of the city's written final decision. Such written appeal shall contain:

- a. The name and current address of the employee filing the appeal;
- b. A brief description of the action being appealed with a copy of the final decision of the City, the department in which the employee works or worked, the date of the final written decision and the grounds for the appeal;
- c. The remedy sought;
- d. A telephone number at which the employee may be reached during the pendency of the appeal; which number the employee shall keep current throughout the appeal and whose messaging capabilities shall be sufficient for the city to leave any notices in the employee's absence.

The written appeal shall be signed and dated by the employee. Failure to substantially comply with these requirements shall result in dismissal of the appeal.

2.34.120 Personnel appeals board.

(1) There shall be a personnel appeals board consisting of three members appointed by the mayor and approved by the city council. Members shall serve four-year terms and may be re-appointed by the mayor and approved by the city council for additional term(s). Members of the personnel advisory board at the time of the adoption of the ordinance codified in this section shall continue to serve on the newly created personnel appeals board through the expiration of their terms of office. No officer, official, or employee of the city or any of their immediate family members may serve on the board. "Immediate family member" as used in this section means the parents, spouse, siblings, children, or dependent relatives of the officer, official, or employee, whether or not living in the household of the officer, official, or employee. Members of the personnel appeals board shall live or work in the city of Oak Harbor at the time of appointment. Board members shall be appointed on the basis of knowledge of personnel practices and/or labor relations.

(2) The board shall hear disciplinary appeals by covered employees who have exhausted the internal grievance procedure. The board shall have authority to conduct hearings, administer oaths, direct the appearance of witnesses and adopt procedures for that purpose. The board may adopt rules governing procedures for hearing disciplinary grievances. In the absence of conflicting rules adopted by the board, the following provisions of the Administrative Procedures Act shall apply: RCW 34.05.434, 34.05.437, 34.05.440, 34.05.449, 34.05.452, 34.05.455, 34.05.458, 34.05.461, 34.05.467, 34.05.473, and 34.05.476. The proceedings shall be recorded and the decision of the board shall be in writing.

(3) The mayor shall appoint a secretary for the personnel appeals board.

(4) The board shall meet as needed.

(5) The board shall represent the public interest.

(6) The board shall issue a written decision upon every appeal. Appeal from the decision of the board shall be to the Island County Superior Court and must be brought within 30 days of issuance of the board's written decision.

2.34.130 Employment Discrimination.

(1) The City of Oak Harbor shall not discriminate against any employee on the basis of being a member of any class protected under state or federal law nor shall the city retaliate against any employee for asserting any rights to be protected from discrimination as prohibited by state or federal law. Allegations of sexual or racial harassment are employment discrimination claims. Employee complaints of prohibited employment discrimination shall be subject to an employment discrimination grievance process. The human resources manager shall develop and

publish the procedures for the employment discrimination grievance process and post those procedures for ready employee access.

(2) Employment discrimination complaints shall be expedited for prompt and fair resolution and shall be confidential to the extent practicable, consistent with public disclosure laws and due process.

2.34.140 Probationary period.

(1) All new employees shall be appointed subject to a probationary period. The length of the probationary period shall be established at the time of appointment but shall be for a period no shorter than six months nor longer than two years; provided, in any case the department head with the approval of the city administrator may extend the trial period for a period not to exceed an additional six months if the department head finds it is necessary to fully evaluate the employee's suitability for the position. Determination that a new employee has failed to satisfactorily complete the probationary period is in the sole discretion of the appointing authority.

(2) A regular city employee promoted to another regular position shall serve a probationary period as part of a promotion decision. Until the probationary period has been satisfactorily completed, the promoted employee shall be subject to return to his/her prior position if, in the sole discretion of the appointing authority, the promoted employee fails to satisfactorily complete his/her probationary period..

(3) The adoption of the ordinance codified in this chapter shall not change the trial status of current trial employees and they each shall remain on trial status without loss of service time accrued toward regular employee status.

2.34.150 Resignation, layoff and reinstatement.

The personnel policies shall provide for layoff and reinstatement of employees conforming to the following:

(1) Resignations. An employee may resign by filing his reasons with the department head. An employee resigning in good standing may be reinstated to any position in the same class or other class for which he was qualified, if there is need for his services, within one year after his date of resignation.

(2) Layoffs may occur as a result of lack of work, lack of funds, material change in duties or organization, the interests of economy or efficiency, or other causes as determined to be for the good of the city service by the mayor.

(3) The order of layoffs among positions within departments shall be first casual workers, then employees serving a trial period, and then all other employees. Exceptions to this sequence may be made to retain persons with qualifications significant to a particular department.

(4) Within each of the three categories identified in subsection (2) of this section, the order in which employees in a department will be laid off shall be determined by the city, in its sole discretion, based on employee job knowledge, skill and other qualifications; attendance, safety, performance and disciplinary records; the existing and anticipated needs of the department; and the good of the city service. When two employees are equally qualified under such factors, the employee with the most time served since the current date of hire shall be retained.

(5) The names of persons laid off shall be maintained on a reinstatement list. Personnel policies and procedures shall provide for reinstating employees from a reinstatement list. An employee's name may be maintained on the reinstatement list for up to one year following the employee's layoff.

(6) As an alternative to layoff, the mayor may demote an employee or authorize part-time employment. Layoffs and substitutions, therefore, are not disciplinary matters.

2.34.160 Code of Ethics

(1) Highest standards of professionalism and customer service are expected of city of Oak Harbor employees. The human resources manager is directed to incorporate a code of ethics in public service in the standards of conduct that reflect these values.

(2) The code of ethics shall describe and prohibit nepotism, conflicts of interest, and official misconduct by city employees.

2.34.170 Construction.

(1) If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected. This provision shall not be codified.

Section Two. Severability.

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Three. Effective Date.

This Ordinance shall be in full force and effect five days after publication.

PASSED by the City Council this _____ day of _____, 2012.

12/25

THE CITY OF OAK HARBOR

Veto ()

Approve ()

Mayor

Date

Attest:

City Clerk

Approved as to Form:

City Attorney

Published: _____

RESOLUTION NO. 12-__

A RESOLUTION REPEALING RESOLUTION NO. 07-16 WHICH ADOPTED THE PERSONNEL POLICIES MANUAL ON AUGUST 8, 2007

WHEREAS, the Oak Harbor City Council adopted a Personnel Policies Manual on August 8, 2007 by Resolution No. 07-16; and

WHEREAS, the Oak Harbor City Council has revised the personnel policies pertaining to city employment in Ch. 2.34 of the Oak Harbor Municipal Code; and

WHEREAS, the Personnel Policies Manual is no longer current with the city's employment policies; and

WHEREAS, the City Council has delegated the responsibility to implement its adopted employment policies to the Mayor; and

WHEREAS, the legal requirements for such procedures are subject to frequent change due to changes in federal and state law; and

WHEREAS, it is appropriate for the Mayor to have responsibility to update city procedures as needed to meet federal and state requirements; and

WHEREAS, the Mayor may issue a procedures and policy manual to apprise the city employees of the procedures applicable to employment matters in city employment; PROVIDED, that such manual may not create any rights in employment with the city of Oak Harbor, that authority residing solely in the City Council.

NOW, THEREFORE,

The City Council of the City of Oak Harbor do hereby repeal Resolution No. 07-16, adopted on August 8, 2007.

PASSED by the City Council this _____ day of _____, 2012.

CITY OF OAK HARBOR

Scott Dudley, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

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PERSONNEL WORKSHOP



Basic Principles of Public Employment

There are a number of ways in which public employment has its own special rules and restrictions.

The purpose of this workshop is:

- To acquaint the city council with some of the ones which are important to an understanding of the city council's legislative options;
- To give the city council the background needed to make choices about the policies for city employment it wishes to adopt.

Subjects to be Covered

The presentation falls into three main parts:

- I. An overview of employment status
- II. Topics in compensation/hours of work
- III. Revisions being proposed to the present personnel ordinance

I. An overview of employment status

- A. For cause employment
- B. At-will employment
- C. Union representation
- D. Vesting

II. Topics in compensation/hours of work

- A. Fair Labor Standards Act/ Washington Minimum Wage Act
- B. State and Federally Mandated Leave

III. Revisions being presented to the present personnel ordinance

- A. Setting legislative priorities
- B. Delegation of administration of personnel to mayor
- C. Requiring the salary/wage schedule and classification plan to be adopted with the biennial budget
- D. Policies on hiring, compensation and benefits
- E. Establishing the work period for overtime purposes
- F. Establishment of rules for at-will employees

Employment Status – Public Employees

Employment is largely a matter of contract. That means that an employment relationship is established by an offer and agreement to perform certain work at a specified rate of pay.

- Other conditions of work may also be part of the agreement.
- In public employment, this contract must be established upon authorization from the city council.
- This typically comes through adoption of legislation establishing a budget and authority to hire employees (typically including a classification plan and salary schedule with positions authorized within it).
- It may also be done by individual contract, either approved by the city council or authorized in a more general way by city ordinance/resolution.

Types of employment status

- Public employment is not inherently "for cause" employment.
- At-will employment is also possible.
- However, public employees in the state of Washington have the right to unionize.
 - Any city or town that chooses to make its workforce "at-will" is likely to experience a unionization effort which typically results in a collective bargaining agreement with a "for cause" standard of employment.

"For Cause" or "Just Cause" Employment

"For Cause" or "Just Cause" employment requires just cause for termination. This is typically determined by reference to the Seven Elements of Just Cause established in the union grievance context but used fairly widely:

"For Cause or "Just Cause" Employment (cont'd)

- 1 NOTICE - Reasonable notice that the conduct was prohibited or would be punished.
- 2 REASONABLE RULES AND ORDERS - The rule or order being enforced itself must be reasonable.
- 3 INVESTIGATION - Employer conducted an investigation before imposing penalty.
- 4 FAIR INVESTIGATION - Investigation was fairly conducted.
- 5 PROOF - Substantial evidence exists that the employee is guilty of the offense.
- 6 EQUAL TREATMENT - Employee is not being treated differently from other employees who are guilty of the same offense or conduct.
- 7 FAIR AND REASONABLE PENALTY FOR THE OFFENSE - The penalty must be proportionate to the offense.

Progressive Discipline

"Progressive discipline" is the term used to describe discipline which is proportionate to the offense and gives the employee in most instances an opportunity to correct. Depending upon circumstances the disciplinary scale for a minor offense or performance deficiency typically progresses as:

- counseling,
- an oral warning,
- a written warning or reprimand,
- a suspension without pay for 1-3 days,
- a suspension for 5-10 days,
- a suspension for 30 days, and
- ultimately (if not corrected) termination.

Progressive Discipline (cont'd)

Termination Events

A serious offense such as insubordination may start at a suspension without pay and willful or intentional misconduct such as stealing from the employer may properly be dealt with termination at the outset.

HYPOTHETICAL #1
How should an offense be disciplined?

Assuming a system of progressive discipline, how would you expect to discipline the following:

1. Tardiness
2. On-duty drug use
3. Sloppy work
4. DUI conviction
5. Accidental shooting of fellow employee at work
6. Lying to a supervisor

Due Process

A public employee, unless at-will, is deemed to have a property interest in continued employment. This means that the government may not deprive the employee of his or her employment without due process. This is a constitutional right. It extends not just to termination of employment but also to disciplinary suspensions, since those involve monetary loss.

Due Process (cont'd)

Loudermill Hearings

Due process ordinarily involves notice and an opportunity to be heard prior to deprivation of a property interest. In public employment, this requires a pre-termination or pre-disciplinary hearing before the supervisor imposes discipline, for the employee to present his/her side of the case. These are known as *Loudermill* hearings after the U.S. Supreme Court case that established the principle; they may be informal hearings but are required to be offered prior to imposition of discipline.

Due Process (cont'd)

Pre-deprivation Hearings

Grievance procedures allow the employee to appeal the imposition of discipline within the city organization prior to final determination of the discipline. These are important to ensure that discipline is appropriately imposed and to offer the employee an administrative remedy without going to court. Both the pre-termination hearing and the grievance process are "pre-deprivation" remedies.

Pre-deprivation remedies are in-house checks on proper decision-making, not neutral and impartial quasi-judicial reviews after the city's final decision has been made.

Hypothetical #2
How can you tell if you have a "for cause" employee?

City A has adopted a code providing a grievance process for resolving disciplinary disputes. It is available to all employees except department heads. Do employees in City A have "for cause" employment?

Due Process
Post-Deprivation Remedies

A post-deprivation remedy is typically an appeal process outside of the city administration to an independent board or commission. When the city has settled on its determination of discipline or termination, the employee has a right to appeal to this other body which has the authority to affirm, modify or reject the city's determination of discipline.

In Oak Harbor, this is the personnel appeals board.

Due Process: Post-Deprivation Remedies (cont'd)

Advantages of a Post-deprivation Process

For the City: Having such an appeals board is helpful to the City because the employee must first go to the appeals board before filing a lawsuit (based on employment contract) and any judicial review is of the appeals board decision - so that judicial review is limited and requires a high standard to overturn.

For the employee - Such an appeals board is helpful to employees because it does not necessarily require that the employee hire a lawyer and, in any event, is quick and relatively inexpensive. Independence of the appeals board is critical to its effectiveness.

Horizontal lines for notes.

At-will Employment

Certain public employees are typically "at-will". These are employees vested with managerial and/or professional discretion and are expected to work largely without oversight. Department heads, attorneys, chief executive officers, are usually at-will for this reason.

An "at will" employee may be fired for no reason unless the reason is:

- 1. Discriminatory
2. Against Public Policy.

Horizontal lines for notes.

What is a Discriminatory Reason?

- Age (40-70)
Gender
Race
Ethnicity
Disability
Religion
Marital Status
Use of a Guide Dog
Sexual Preference

Horizontal lines for notes.

**Hypothetical #3
Public Policy**

A is the planning director for City B and an at-will employee. The Mayor wishes to approve a development application for a political supporter but A explains that the application cannot be approved in accordance with city code. The Mayor later fires A without explanation.

Is this termination a violation of public policy?

Name-Clearing Hearings

While an at-will employee may be fired for no reason, if a negative reason is given, then the employee is entitled to rebut the negative reason. This is done through a name-clearing hearing.

How is a name-clearing hearing conducted?

Unionization

Under Washington state law, public employees have an absolute right to choose to bargain collectively and to choose union representation to do that. Once union representation has been chosen by the employees (as overseen by the Public Employees Relations Commission or PERC), it may be an unfair labor practice to fail to include the union in decisions which affect its membership.

Most commonly, unions negotiate with the employer to establish a collective bargaining agreement addressing:
wages,
hours,
working conditions and
grievance procedures (among other things).

Unionization (cont'd)

Collective bargaining is favored under Washington law and such agreements will almost always trump other city laws and policies if the collective bargaining agreement actually covers the same subject.

The failure to negotiate in good faith is deemed an unfair labor practice (ULP) which may be brought to the PERC.

Interest or binding arbitration is available only to public safety employees in city employment. If the parties cannot reach agreement, an arbitrator may be selected and the decision of that arbitrator is binding.

Vested Rights

"Earned compensation vs. tenure".

The city council may set the terms of employment of existing city positions as to matters of "tenure" but not as to "earned compensation".

This distinction normally appears in matters affecting retirement benefits. **The terms of retirement vest at hiring** and can only be varied for employees hired after the terms have been changed.

Hypothetical #4 Vesting

When employee A was hired, the mandatory age for retirement was 70. The city council adopts a new ordinance making 65 the mandatory age for retirement.

Does this new ordinance apply to employee A?

**Fair Labor Standards Act
Washington Minimum Wage Act**

Overtime

The federal FLSA and the Washington WMA are largely co-extensive and the Washington courts tend to look to FLSA Interpretation for the meaning of the WMA. Both require overtime compensation for non-exempt workers who work more than 40 hours in the work week (in general – a notable exception being the work period for fire and public safety employees).

FLSA/WMA (cont'd)

Exempt employees within the meaning of FLSA/WMA are salaried employees who meet one of three tests:

1. Administrative employees
2. Professional employees
3. Executive employees

These terms have special meaning under the two acts and care must be taken to properly classify employees for purposes of overtime because a mistake is costly – double damages and attorney's fees ordinarily.

Exempt Executive Employees

Job duties are exempt executive job duties if the employee

1. Regularly supervises two or more other employees, and also
2. Has management as the primary duty of the position, and also,
3. Has some genuine input into the job status of other employees (such as hiring, firing, promotions, or assignments).

Exempt Executive Employees (cont'd)

A "rule of thumb" is to determine if the employee is "in charge" of a department or subdivision of the enterprise (such as a shift). One handy clue might be to ask who a telephone inquiry would be directed to if the caller asked for "the boss". Typically, only one employee is "in charge" at any particular time. Thus, for example, if a "sergeant" and a "lieutenant" are each at work at the same time (in the same unit or subunit of the organization), only the lieutenant is "in charge" during that time.

Which city positions would you expect to fit into this exemption?

Exempt Professional Employees

The job duties of the traditional "learned professions" are exempt. These include lawyers, doctors, dentists, teachers, architects, clergy. Also included are registered nurses (but not LPNs), accountants (but not bookkeepers), engineers (who have engineering degrees or the equivalent and perform work of the sort usually performed by licensed professional engineers), actuaries, scientists (but not technicians), pharmacists, and other employees who perform work requiring "advanced knowledge" similar to that historically associated with the traditional learned professions.

What city positions might fit into this category?

Exempt Administrative Employees

Exempt administrative job duties are

- a. office or non-manual work, which is
- b. directly related to management or general business operations of the employer or the employer's customers, and
- c. a primary component of which involves the exercise of independent judgment and discretion about
- d. matters of significance.

Exempt Administrative Employees (cont'd)

The administrative exemption is designed for relatively high-level employees whose main job is to "keep the business running". A useful rule of thumb is to distinguish administrative employees from "operational" or "production" employees.

Again, what city positions might you expect to fall into this category?

Leave Requirements

Under state and federal law, employers are required to offer leave under certain circumstances. Such mandated leave is not required to be *paid* leave but it requires that the position be held open for the employee's return (a temporary may be hired and, in some cases, a comparable position on return will do).

The city of Oak Harbor offers paid leave to its employees. Does this mean that the employee is entitled to both types of leave?

Family and Medical Leave Act (FMLA)

Qualifying employees are generally entitled to three months of leave every year for their own illness or to care for close family members. The need for leave must be supported by the employee's health care provider.

Is the city required to grant an employee a part-time schedule to handle, for example, cancer treatments?

How does this work with the disability accommodation requirements of state and federal law?

Military Leave

Public employees in the state of Washington are entitled to 21 days per year of paid leave to serve in the armed forces. RCW 38.40.060

Military employees also have reemployment rights.

Military spouses have a right to 15 days of unpaid leave while the spouse is on leave from deployment.

PERSONNEL ORDINANCE

Existing Delegation to the Mayor

The proposed personnel ordinance revision is intended to make the code provisions consistent with one another and to set out legislative policy on a variety of topics. The code already says:

"The city council recognizes that the management of the city and the administration of the personnel affairs of the city are administrative matters and are not legislative functions. For that reason, and also because there are complex and constantly changing state and federal regulations affecting city employees, it would be unwise, inefficient and impractical to attempt to encompass all details of personnel policies in an ordinance, resolution or motion of the city council. Thus, the city council hereby authorizes and directs the mayor to adopt such additional or clarifying personnel policies by administrative action. Such policies shall be in accordance with this chapter and shall be to carry out the goals and policies of this chapter. Such personnel policies as adopted shall be deemed to be not the making of new law, but instead to be the execution and implementation of the personnel system and policies provided for in this chapter and other applicable ordinances. In addition, the city council may authorize the mayor to amend or delete personnel rules and regulations adopted by the city council pursuant to resolution or motion.

The mayor may incorporate personnel policies into such handbook or other administrative documents for employee use.

(MRC 2.34.110(2))

Need to Set Policy

This code revision seeks to set legislative policy on important personnel matters, including the budgetary allocations. Rather than setting the details by council action (which requires substantial time and effort to update) the code delegates to the mayor the responsibility to implement council policy.

Recruitment and Hiring

It is the policy of the City of Oak Harbor that employees shall be selected on the basis of merit and fitness to perform the duties of the position for which the employee is hired.

Compensation

1. It is the policy of the City of Oak Harbor to pay adequate levels of compensation to city employees. Providing adequate compensation to city employees promotes productivity, reduces turnover, and improves the city's ability to attract and retain qualified personnel to carry out the functions of city government. Compensation levels should reflect the market for such personnel in the region.
2. The human resources manager is directed to develop a wage and salary schedule for all regular positions within city government. The human resources manager shall prepare a current wage and salary schedule for presentation to the city council for consideration and adoption at the time of the adoption of the biennial budget. The wage and salary schedule, together with the current description of all regular positions within city employment to be known as "the classification plan", shall be adopted as part of the biennial salary ordinance.

Health Insurance Benefits

- 1. It is the policy of the City of Oak Harbor to provide health insurance benefits to its employees at a level which is comparable to benefits provided by other local municipal governmental entities in the state of Washington. Health insurance benefits for city employees promote the health and well-being of city employees, reduce the use of sick leave, and promote employee retention.
- 2. The level of benefits offered to city employees shall be established by the city council through the biennial salary ordinance. Part-time employees as defined herein shall not be entitled to health care benefits unless otherwise provided in an employment contract. The human resources manager shall prepare the benefit plan for city council approval.
- 3. Because an active wellness program has been shown to reduce employee use of sick leave, improve productivity and reduce the need for health care services, the city council authorizes the participation of the city of Oak Harbor in the wellness program offered by the city's health care administrator.

Hours of Work

- 1. For purposes of the Fair Labor Standards Act and the Washington Minimum Wage Act, the City of Oak Harbor declares the work period to be forty (40) hours, Monday through Sunday, for all regular employees, except police and fire department employees.

The work period for police and fire employees shall be established by the mayor or his/her designee and set out in their respective collective bargaining agreements.
- 2. The human resources manager and the finance director are directed to establish work hour recording and compensation procedures to comply with state and federal law.

Leave

- 1. It is the policy of the City of Oak Harbor to comply with all state and federal leave laws. The administrator is directed to establish procedures and practices to ensure that the city complies with such laws and can demonstrate compliance.
- 2. It is the city's policy to coordinate leave granted to city employees with leave requirements of state and federal law so that city-granted leave is counted towards fulfillment of any state and federal requirements. The human resources manager is directed to establish procedures and practices to coordinate city-granted leave with state and federal requirements; to minimize conflicts; and to maximize credit of city-granted leave towards state and federal requirements.

Employment Discrimination

1. The City of Oak Harbor shall not discriminate against any employee on the basis of being a member of any class protected under state or federal law nor shall the city retaliate against any employee for asserting any rights to be protected from discrimination as prohibited by state or federal law. Allegations of sexual or racial harassment are employment discrimination claims. Employee complaints of prohibited employment discrimination shall be subject to an employment discrimination grievance process. The administrator shall develop and publish the procedures for the employment discrimination grievance process and post those procedures for ready employee access.
2. Employment discrimination complaints shall be expedited for prompt and fair resolution and shall be confidential to the extent practicable, consistent with public disclosure laws and due process.

"At-will" Employees

The code presently lists employees "not covered" by the personnel rules and later states that "Positions listed in CR-MC 2.34.030(7)(c) through (f) shall be at-will employees of the city." The personnel handbook, on the other hand, provides a different list.

New list proposed:

- City administrator;
- Finance director;
- City attorney and any assistant city attorneys;
- Chief of police;
- Fire chief;
- Director of Development Services;
- Director of Public Works;
- Executive assistant to the mayor.

At-Will Employees (cont'd)

Employment Contracts

The conditions of employment are set by individual employment contract, approved by city council. This allows for negotiation on an individual basis, while seeking standard contract terms for the most party.

Code of Ethics

1. Highest standards of professionalism and customer service are expected of city of Oak Harbor employees. The administrator is directed to incorporate a code of ethics in public service in the standards of conduct that reflect these values.
2. The code of ethics shall describe and prohibit nepotism, conflicts of interest, and official misconduct by city employees.

Council Policies

Are there matters not covered here that the city council would like to make legislative policies in the personnel code?

QUESTIONS

**City of Oak Harbor
City Council Agenda Bill**

Bill No.

10

Date:

4/17/12

Subject:

Pending Items for Future
City Council Meetings

FROM: Scott Dudley, Mayor ~~X~~

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

SP Steve Powers, Interim City Administrator

DM Doug Merriman, Finance Director

WH Bill Hawkins, City Attorney, as to form

SUMMARY STATEMENT

The attached list of pending items is meant to be an organizational tool and not a definitive list of what will come before the Council for a given meeting's date. As a tentative list, it is subject to frequent, if not daily changes.

This list is subject to change.

If a row is highlighted in blue, it has been reviewed by the Law Department and in packet.

Council Absences: Beth Munns from the 5/1/12 meeting

Targeted Meeting Date	Agenda Bills ARE DUE	Public Hearing Notice Date (if needed)	Consent Agenda	Subject	Department
5/1/12	4/11/12			Proclamation - Bike to Work Month	Admin
5/1/12	4/11/12	Public Hearing - yes		Zoning Map Adoption	Dev Srv
5/1/12	4/11/12			Contract - Automated Pay Station for Staysail RV Park	P.Works
5/1/12	4/11/12			Contract - HVAC Services	P.Works
5/1/12	4/11/12			Contract - Vending Services	P.Works
5/1/12	4/11/12			Contract - Janitorial Services	P.Works
5/15/12	4/25/12				
5/15/12	4/25/12			Final Consideration - Personnel Code Update and Handbook	HR
5/15/12	4/25/12			Contract Award - Gun Club Road Water Main	P. Works
5/15/12	4/25/12			Marina Fuel Pricing Policy	Dev Srv
6/5/12	5/16/12		✓	Marina Contract Pricing	Dev Srv
6/5/12	5/16/12			Noise Permit - Whidbey Cruzers	Admin
6/5/12	5/16/12			Contracts - Steve Powers, Development Services Director	HR
June	5/16/12			Contract - Bill Hawkins, City Attorney	HR
Originally set for 4/17/12, now moved to pending with no date	To Legal 3/28/12			Authorization to Advertise for Bids - Water Reservoir	P.Works
Moved out of April meetings per Mr. Merriman			✓	Agreement - With FETCH for Off-Leash Dog Park on Technical Way	P.Works
				Introduction - Ordinance, Credit Card Fees	Finance
				Public Hearing - Ordinance, Credit Card Fees	Finance
				Contract Award - Study for Solid Waste Transfer Station	P.Works
				Legal Department Restructure	Legal
				Asset Transfer to Water Utility - Reservoir	P.Works
				Easement Agreement - Navy Fuel Line	P.Works
				Interlocal Agreement - Island County Housing Authority, Oak Harbor, Coupeville, and Langley for Affordable Housing. Recording surcharge funds to fund housing programs.	Admin
				Resolution - Marina, Facility Use Fee	Dev Srv
				Council Rule Change - Public Forum	Legal
				Channel 10 Rules	Admin and Legal

			Recommendations from HDR -- System Development Fees (future workshop)	P. Works
			Impact Fees -- under review for deferral at closing	Dev Srv / P. Works
			Mutual Aid Agreement with Navy	FD
			Public Hearing -- Binding Site Plan Code Amendment	Dev Srv
			Authorization to Solicit Bids -- Rescue Unit	Fire
			Utilities Office, City Council Chambers, Law Department Remodels	Finance, Dev Srv
			Introduction -- Arts Commission Ordinance	Admin
			Final Consideration -- Arts Commission Ordinance	Admin

STANDING COMMITTEES and other meetings and activities

Date	Subject	Dept.
5/3/12	PUBLIC WORKS COMMITTEE, 3:30 p.m., at City Hall	Commission Members
5/4/12	CITY COUNCIL WORKSHOP, Emergency Preparedness, 10:00 a.m. -- 2:00 p.m. at City Hall	Police/Fire
5/7/12	MARINA COMMITTEE, 7:00 p.m. at City Hall	
5/8/12	GOVERNMENTAL SERVICES COMMITTEE, 3:30 p.m., at City Hall	Committee Members
5/9/12	FINANCE COMMITTEE, 3:30 p.m., at City Hall	Committee Members
5/14/12	ARTS COMMISSION, 6:00 p.m. at City Hall	Committee Members
5/17/12	PUBLIC SAFETY COMMITTEE, 3:30 p.m., at City Hall	Committee Members
May/June	Council Workshop - Budget Environment (date and time to be determined)	Finance

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