

City of Oak Harbor
City Council Meeting
Agenda
For
January 18, 2011
6:00 p.m.

Be prepared for winter storms

Oak Harbor City Council
REGULAR MEETING
6:00 p.m.
Tuesday, January 18, 2011

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 **Ron Lawler, Family Bible Church**

ROLL CALL

MINUTES 1/4/2011 Regular Meeting

NON-ACTION COUNCIL ITEMS:

1. Proclamation – Big Brothers Big Sisters of Island County Mentoring Appreciation Day.
2. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

3. Consent Agenda:

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- a. Excused Absence – Councilmember Danny Paggao.

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- b. Re-Appointment – Marina Advisory Committee, C.C. (Rip) Harbour.

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- c. Reader Board Purchase.

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- d. Interlocal Purchasing Agreement – City of Anacortes.

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

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4. Bid Award – Automated Refuse Trucks.

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5. 2% Lodging Tax Advisory Committee Recommendations – 2011 Grant Awards.

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6. Public Hearing and Final Consideration – Bond Ordinance for Oak Harbor Marina Redevelopment Phase 2/Dredging.

7. City Administrator's Comments.

8. Council Members' Comments.

- Standing Committee Reports

9. Mayor's Comments.

ADJOURN

"Wherever you go, go with all your heart."

~ Confucius

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.

**City Council Meeting
Tuesday, January 4, 2011, 6:00 p.m.
City Hall – Council Chambers**

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

INVOCATION Tim Geist, Bible Baptist Church

ROLL CALL

Mayor Jim Slowik	Paul Schmidt, City Administrator
Seven Members of the Council,	Margery Hite, City Attorney
Rick Almberg	Doug Merriman, Finance Director
Jim Campbell	Steve Powers, Development Services Director
Scott Dudley	Dave Anderson, Building Official
Beth Munns	Cathy Rosen, Public Works Director
Jim Palmer	Eric Johnston, City Engineer
Danny Paggao, Mayor Pro Tem	Rick Wallace, Chief of Police
Bob Severns	Mark Soptich, Fire Chief
	Mike McIntyre, Senior Services Director
	Renée Recker, Executive Assistant to the Mayor

MINUTES

MOTION: Councilmember Munns moved to approve the 12/21/10 regular meeting minutes. The motion was seconded by Councilmember Palmer and carried unanimously.

NON-ACTION COUNCIL ITEMS

WSDOT Presentation – Repair and Repaving Project on SR-20 in June and July 2011

City Engineer Eric Johnston introduced Marco Foster and Jay Drye, from Washington State Department of Transportation's Mt. Baker office, who led a PowerPoint overview of the project and its schedule. The project area will be south of Swantown running to north of Goldie Road and will be advertised toward the end of February. Work will commence around June 1st and consists of road surface repaving, crosswalk upgrading, 88 sidewalk ramps, 10 traffic islands and will also meet ADA compatibility standards. This road surface was last paved in 1991 and the project's purpose is to preserve the highway. WSDOT is aware of the City's special events and, with the milling operation, will also work at night to complete this part of the project in three weeks. WSDOT will continually communicate with the community, provide flaggers and traffic control, and stop light control. A great deal of effort will go into outreach for this project.

Council Questions

Discussion followed about changes to the islands (no major changes), surfacing, and sidewalks. Survey work has already been done and there will not be a new set of maps. Utilities will not be permanently affected, ironwork replacement will be the City's responsibility, but the project's cost remains with WSDOT. Email addresses for information on this project:

www.wsdot.wa.gov/Email/Updates

chessod@wsdot.wa.gov for Dave Chesson

website: www.wsdot.wa.gov/Projects/SR20/OakHarborPaving

Proclamation – North Whidbey Relay for Life

Councilmember Paggao read this proclamation and presented it to Relay for Life Co-Chairs April Wilder and Amanda Hoppick who introduced their team members including Sue Karahalios. The kick-off for this year's event will be January 12, 2011 at the Elks Club; the event will be held June 3 and 4, 2011 at the Oak Harbor Middle School track.

Public Comments

Sue Karahalios, P.O. 144. Oak Harbor. The 160th anniversary of the three settlers' land claim was today but the ribbon-cutting was not held due to inclement weather. Ms. Karahalios thanked everyone for their help and support and specifically thanked Oak Harbor Rotary for their assistance with donation administration for this project since they are a 501(c)(3) non-profit foundation. Ms. Karahalios also talked about the collaborative effort it takes to ensure the success of Relay for Life. Mayor Slowik thanked Ms. Karahalios for her many volunteer efforts in the community.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS

Consent Agenda

- A. Contract Amendment – Island County Department of Emergency Management
- B. Professional Services Agreement – EnviroIssues, Pioneer Way Project
- C. Recommended Council Memberships – Committees and Boards
- D. Introduction – Bond Ordinance, Marina Dredging Project
- E. Approval of Accounts Payable Vouchers (Pay Bills)

Councilmember Campbell asked that Item B, Professional Services Agreement – EnviroIssues, be removed for discussion.

MOTION: Councilmember Campbell moved to approve Consent Agenda Items A, C, D, and E with Item E paying accounts payable check numbers 144186 – 144207 in the amount of \$2,667.06, accounts payable check numbers 144208 – 144323 in the amount of \$852,729.46, accounts payable check numbers 144324 – 144332 in the amount of \$399,165.74, payroll check numbers 94350 – 94382 in the amount of \$604,705.94, payroll check numbers 94383 – 94404 in the amount of \$97,343.48, and payroll check numbers 94405 – 94406 in the amount of \$2,025.02. The motion was seconded by Councilmember Munns and carried unanimously.

Consent Agenda Item B – EnviroIssues, Pioneer Way Project

Development Services Director Steve Powers presented this agenda item which responded to City Council's previous action to table this item to this evening's meeting. This action was taken to allow the item to be reworked; the Council also directed that the reworked approach include the critical public outreach that must be accomplished in January and February. As the result of this review, staff established the following course of action:

1. Staff will undertake the public outreach efforts in January and February. The staff involved in this effort will include the Project Engineer and the Project Specialist. In order to ensure that staff time is available for these tasks, staff time from other projects will be diverted to this project.
2. The construction outreach contract will come forward to the City Council once the construction bids have been opened and once a construction management contract has been negotiated. This will allow staff an opportunity to further refine the scope of work and the City Council to see the actual costs associated with each of these project components. It is hoped that this approach will assist the Council in your decision making process.
3. While it is still possible that the construction outreach agreement will come forward as a separate item, staff will further explore the possibility of including this effort as a subtask to the construction management contract.

Council Discussion

Discussion followed regarding construction management and if that is part of the bid proposal. Staff responded that the bid proposal is for Pioneer Way's reconstruction and construction management is a scope of work currently under development. Discussion continued regarding the two staff members (Joe Stowell – project engineer and Larry Cort – project specialist) which are budgeted positions for 2011 and 2012 and not part of the project's budget.

MOTION: Councilmember Campbell moved to approve Item B as part of the Consent Agenda. The motion was seconded by Councilmember Palmer and carried unanimously.

Senior Services of Island County Presentation, and Senior Services of Island County Contract

Development Services Director Steve Powers presented this agenda bill and introduced Cheryn Weiser, Executive Director of Senior Services of Island County (SSIC), who gave a presentation noting that the City's support of SSIC helped leverage these services in 2010:

- 5,832 meals were provided at a congregate site three days a week last year.
- Meals on Wheels also ran three days a week along with frozen meals; 13,264 meals were provided.
- SSIC provides an additional service for the nutritional program, a prescribed liquid meal – Ensure; 4,320 of these liquid meals were provided.
- A range of services is provided to seniors, caregivers, and families, including information on legal issues; there were 2,142 information contacts. A one-on-one extension of this service provided 1,431 contacts.
- Family caregiver support and assessment provided 395 contacts.

- In addition, 532 medical transportation trips were provided by volunteers representing 30,250 miles.

In 2011, SSIC anticipates increases in these programs and is looking at joint funding opportunities. Ms. Weiser asked for approval of this contract to continue assisting seniors in Oak Harbor.

Mr. Powers talked about the proposed professional services agreement which provides for professional and administrative services for the same programs and services, at the same levels and cost as the agreement approved in 2008. The City will pay SSIC \$1,500 per month for providing the professional services described in the scope of work included with the contract. Some minor revisions were made to the existing agreement clarifying the agreement is for professional services to administer the programs and services defined in the scope of work. Other revisions reflect the current breadth of SSIC's activities. SSIC will present a monthly invoice to the City in the form as prescribed by the City.

Mayor Slowik called for public comments but there were none.

Council Discussion

Discussion followed about respite care (the old Daybreak program) which is now a separate entity and administered by Caregiver's Cove, SSIC's budget which is slightly less, the County's funding participation (40% less this year), the number of Meals on Wheels recipients in Oak Harbor (two-thirds are Oak Harbor residents), and other SSIC fundraising activities including the thrift store. Oak Harbor's Senior Center provides facility space including the kitchen and offices. Transportation volunteers can contact Mr. McIntyre if they wish to help.

MOTION: Councilmember Munns moved to authorize the Mayor to sign a two-year professional services agreement with Senior Services of Island County for professional and administrative services for Nutrition and Information and Assistance programs, in the amount of \$18,000 per year. The motion was seconded by Councilmember Palmer and carried unanimously.

Final Consideration – Building Code Amendments

Development Services Director Steve Powers presented this agenda bill and introduced Dave Anderson, Oak Harbor's Building Official. The agenda bill discussed a proposed ordinance, for final consideration, which will amend the City's Building Code to reflect changes to the 2009 International Building Code, 2009 International Residential Code, 2009 International Mechanical Code, 2009 Uniform Plumbing Code and the 2009 Washington State Energy Code as regulated and approved by the Washington State Building Code Council on July 1, 2010 and with changes reflecting City practices.

Mayor Slowik called for public comments.

Mel Vance, P.O. Box 2882, Oak Harbor. The snowload is changing from 20 to 17 pounds; Mr. Vance felt it should be maintained at 20 pounds. A roof will last longer and hold up better, but it won't make a construction difference.

Council Discussion

Discussion followed regarding Mr. Vance's observation about the snowload decrease. Mr. Anderson noted that the load level dropped from 20 to 17 as recommended by the Seattle Engineering Society and there is a 5 pound lateral each way. Mr. Vance is correct about construction. Fees have not been raised. Discussion continued about the residential code and sprinklering (Oak Harbor is not adopting this particular section as provided by the State, but has adopted the use of standards and criteria for sprinklers in residential single-family homes). With regard to carbon monoxide alarms, Mr. Anderson was asked to explain R occupancies. Residential (R) occupancies will now be required to have carbon monoxide alarms; existing residential occupancies will have a two-year leeway to install these alarms. Council encouraged the public to invest in these easily installed and life-saving alarms. Discussion returned to sprinklers in nightclubs in viewing areas exceeding 350 s.f. Several businesses have reduced their viewing area/dance floor square footage and all of Oak Harbor's nightclub businesses are in compliance.

MOTION: Councilmember Dudley moved to adopt the ordinance; the motion was seconded by Councilmember Munns and carried unanimously.

Final Consideration – Ordinance Amending Utility Billing and Collection Procedures

Finance Director Doug Merriman presented this agenda bill for final consideration of an ordinance amending Chapter 3.95 to clarify the language used to set the date on which utility bills become delinquent. This will give customers more notice and lead time between the date they receive their invoices and the final date that payment is due.

Mayor Slowik opened the public hearing at 7:00 p.m. but there were no public comments so the public hearing was closed.

MOTION: Councilmember Severns moved to approve the ordinance amending OHMC 3.95 to adjust the utility payment due date. The motion was seconded by Councilmember Almberg and carried unanimously.

City Administrator's Comments

City Administrator Paul Schmidt reviewed upcoming meeting dates including two Council workshops (1/13/11 – Wastewater Treatment Plant Facility Plan; 1/27/11 – Standing Committees), and talked about the pilot program for work crews in Oak Harbor. Mayor and Council Members will be attending the AWC Legislative Action Conference on February 16th and 17th and City Council's regular meeting on February 15th may be scheduled as a special meeting on Monday, February 14th.

Council Members' Comments

Council Members gave their respective committee reports. Councilmember Campbell would like to have Oak Harbor's contribution to the Tourism Board of Island County (Whidbey – Camano Tourism Board), reviewed and reinstated at 2% rather than 1%. Mayor Slowik noted that Oak Harbor currently contributes \$20,000 per annum and not 1%.

MOTION: Councilmember Campbell made a motion to bring back the subject of Oak Harbor's contribution to the Tourism Board of Island County on February 1, 2011, and consider changing (the contribution) back to 2% rather than \$20,000. Councilmember Almberg seconded the motion.

Councilmember Campbell will ask Sherrye Wyatt, Public Relations and Marketing Manager for Island County Tourism, to also attend the February 1, 2011 City Council meeting.

Councilmember Campbell also asked to make the following statement:

"I have prostate cancer. I have started treatment. I am very optimistic that recovery will happen for several reasons. The most important is that we have put this in the hands of the Lord and trust him for success. Also, there are many friends and family around the world who are praying for me. I will continue as City Councilmember Position 6. I have no plans to resign and I plan to continue working as I have in the past, utilizing my coffee hours at Angelo's and my "walkabouts" around the City to get citizen inputs. Finally, rest assured that I intend to perform my job as I have in the past, working at top performance levels for the citizens of Oak Harbor."

Mayor Slowik and Council Members individually added their well wishes, prayers, and support.

Councilmember Palmer talked about the Island Transit run from the Naval Base to the Navy Exchange on Saturdays, and asked that everyone continue to shop Oak Harbor and purchase USA-made goods. Councilmember Munns also talked about the AWC Conference and thanked the community for the donations to Help House. Councilmember Almberg hoped that the work crew could help clean up garbage in the shopping centers. Councilmember Dudley noted that Ron Nelson will be leading the Economic Development Council.

Mayor's Comments

Mayor Slowik talked about his ongoing meetings with downtown representatives concerning the marketing plan for downtown's merchants – this takes their expertise and it is important to effectively market downtown during the Pioneer Way project. Mayor Slowik hopes to bring a future agenda item forward to present the whole program. Mayor Slowik also noted the new watercolors by Stephanie Williams in Council Chambers and wished everyone a Happy New Year.

ADJOURN

With no other business coming before Council, Mayor Slowik adjourned the meeting at 7:20 p.m.

Connie T. Wheeler
City Clerk

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR



PROCLAMATION IN RECOGNITION OF

BIG BROTHERS BIG SISTERS OF ISLAND COUNTY MENTORING APPRECIATION DAY JANUARY 25, 2011

WHEREAS, During National Mentoring Month, we recognize the individuals who dedicate themselves to making a difference in the lives of young Oak Harbor residents; and,

WHEREAS, we underscore our commitment to supporting these dedicated community members; and,

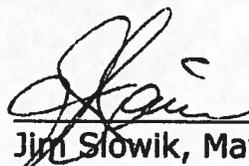
WHEREAS, every day, these volunteers from many different backgrounds work to inspire our next generation by sharing their time and experiences with students in our Oak Harbor schools and the community; and,

WHEREAS, mentors help instill important values that encourage our youth to set high goals and achieve their dreams; and,

WHEREAS, mentors demonstrate that the strength of our community lies in the hearts and souls of our residents and that a positive influence in someone's life helps them secure a more hopeful future.

NOW, THEREFORE, WE, Jim Slowik, Mayor, and Councilmembers of the City of Oak Harbor do hereby proclaim **January 25, 2011** as **Big Brothers Big Sisters of Island County Mentoring Appreciation Day** and call upon the people of Oak Harbor to recognize the importance of mentoring and to look for opportunities to serve as mentors in their communities.

Signed this 18th day of January, 2011



Jim Slowik, Mayor

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

Bill No. 2

Date: JANUARY 18, 2011

Subject: PUBLIC COMMENTS

FROM: Jim Slowik, Mayor

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Jim Slowik, Mayor
 Paul Schmidt, City Administrator
 Doug Merriman, Finance Director
 Margery Hite, 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.

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

Bill No. C/A 3 A
Date: January 18, 2011
Subject: Excused Absence Request
Councilmember Danny Paggao

FROM: Jim Slowik
Mayor

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

 Paul Schmidt, City Administrator
 Doug Merriman, Finance Director
 Margery Hite, City Attorney as to form

PURPOSE

The purpose of this agenda bill is to present and approve Councilmember Danny Paggao's excused absence request from the January 18, 2011 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 Paggao has submitted an excused absence request since he will not be able to attend the January 18, 2011 City Council meeting.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Approve Councilmember Danny Paggao's excused absence from the January 18, 2011 City Council meeting.

ATTACHMENTS

None

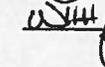
MAYOR'S COMMENTS

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

Bill No. C/A 3 B
Date: January 18, 2011
Subject: Re-Appointment – Marina
Advisory Committee

FROM: Jim Slowik, Mayor

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Paul Schmidt, City Administrator
 Doug Merriman, Finance Director
 Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to recommend the re-appointment of C.C. (Rip) Harbour to the Marina Advisory Committee.

AUTHORITY

The Marina Advisory Committee is a five-member committee appointed for a three-year term in accordance with OHMC 2.39.040. Committee members are appointed by the Mayor, and confirmed by the Council.

SUMMARY STATEMENT

Mr. Harbour has served on the Marina Advisory Committee and its predecessor, the Marina Committee, since 1999. He has confirmed that he will serve another term if re-appointed. If re-appointed, his term will expire in December 2013. Mr. Harbour is an active, valued member of the Committee.

Mayor Slowik recommends that Mr. C.C. (Rip) Harbour be re-appointed to the Marina Advisory Committee.

RECOMMENDED ACTION

Approve the recommendation to re-appoint Mr. Harbour to the Marina Advisory Committee.

ATTACHMENTS

MAYOR'S COMMENTS

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

Bill No. 0/A 3c
Date: January 18, 2011
Subject: Reader Board Purchase

FROM: Cathy Rosen, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Jim Slowik, Mayor
 Paul Schmidt, City Administrator
 Doug Merriman, Finance Director
 Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to authorize staff to purchase two reader boards off of the State Contract Number 04106.

AUTHORITY

Per OHMC 2.320.110, the City may purchase supplies, material and equipment from surplussed supplies, material and equipment from the United States, State of Washington or other municipality and through State Contract without going out to bid.

SUMMARY STATEMENT

In the 2011-2012 biennial budgets, the Water Division budgeted to purchase two reader boards. The intent and purpose of the two reader boards is to communicate with citizens about upcoming traffic delays and other important information related to Public Works projects, such as the Pioneer Way Reconstruction Project, and for special events. The boards will be portable, capable of up to eleven characters per line, have a maximum of four lines and it will be graphic enabled.

During the last two years the City has rented reader boards for construction projects and for special events, costing a total of \$9,139.67. For the Pioneer Way Project, two reader boards will be needed for approximately 10 months. The estimated rental cost for these boards would be \$27,470.00. Staff is proposing to utilize those funds more efficiently by purchasing instead of renting. In addition, the City will have the reader boards on-site in the event of emergencies instead of waiting for availability, delivery, etc.

Staff researched many options and sizes of boards. Quotes were obtained and a determination was made that the State Contract pricing was the lowest pricing available. Staff has reviewed the State Contract requirements and found that their procedures satisfy the competitive bidding requirements under OHMC 2.320.040 for the purchase of equipment over \$30,000.00.

Reviewing the State Contract requirements, City staff has confirmed that the State Contract procedures are in compliance with OHMC 2.320.040 as follows:

1. **Invitation for bids:** Per the State of Washington Purchasing Manual, an invitation for bids was made on May 31, 2006.
2. **Public notice:** Per the State of Washington Purchasing Manual, public notice was published on the State website titled Washington's Electronic Business Solutions otherwise known as WEBS.
3. **Opened publicly:** Per the bidding invitation, the bids received from the vendors were opened, recorded and made available for public inspection on June 22, 2006.
4. **Bid evaluations:** Per the State of Washington Purchasing Manual, the bids were evaluated per RCW 43.19 and the lowest responsible bidder was awarded.
5. **Bid award:** Per the State of Washington Purchasing Manual, after the prospective bids were evaluated, the lowest responsible bidder was awarded the contract on September 20, 2006.

The Department of General Administration develops and administers contracts for goods and services with an estimated term value of approximately \$900 million on behalf of State agencies, colleges, universities, select nonprofit organizations, and local governments.

Therefore, staff is proposing to utilize the State Contract #04106 in which National Barricade Company LLC is the vendor.

STANDING COMMITTEE REPORT

The Public Works Standing Committee reviewed this item at their meeting on January 6, 2011.

RECOMMENDED ACTION

Award the bid for the purchase of two reader boards per State Contract Number 04106 to National Barricade Company LLC in the amount of \$40,653.00.

ATTACHMENTS

Reader Board Features and Pictures

MAYOR'S COMMENTS

Full-Matrix Message Signs

WTMMB-SLL

Full-size, full-matrix Wanco Variable Message Signs are the ideal choice when you need to get information to the public. The full matrix allows the greatest flexibility for displaying any type of message — large or small letters, graphics and symbols. Perfect for a wide variety of applications, a multitude of functions and options make these signs extremely versatile.



Features

Setup

- Under 3000 pounds, can be towed by most vehicles
- Standard 2-inch ball coupler tow-hitch
- Hydraulic lift allows one person to easily raise and lower the message board
- Tower rotates 360 degrees for optimal positioning
- Single disk brake holds board in place during operation, while a cradle supports and holds board in travel position

Operation

- Self-contained onboard computer, no laptop required
- Easiest programming in the industry
- Preprogrammed text messages, symbols and graphics
- Quick-reference instructions, silkscreened on control panel, include most commonly performed tasks
- Easily center each line of text
- Internal clock facilitates built-in schedule programming
- Multiple alphanumeric fonts make message clear and legible
- Optical lenses and sunshades increase visibility and performance
- Wide footprint provides stability in high wind, while optional outriggers add even more support
- Multi-level password protection limits access to control software

- Control box can be locked to prevent unauthorized access
- Standard QWERTY keyboard is easily replaced

Power system

- Energy-efficient operation results in long run times
- Solar panels charge batteries automatically without intervention
- Computer shuts down solar-panel charging system when batteries are fully charged, preventing damage
- Unique system allows battery charging with solar panels and commercial power
- Cooling fans protect sign cabinet and battery charger from overheating
- Battery box can be locked to prevent unauthorized access

Maintenance

- Individual character modules can be replaced easily
- Standard 15-inch trailer tires
- Heavy-duty bolt-on steel fenders can be replaced if damaged
- Durable powder-coat finish resists the elements

Standards compliance

- NTCIP compliant
- Meets MUTCD
- AASHTO (NTPEP) tested



2116

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

Bill No. d/A 30
Date: January 18, 2011
Subject: Interlocal Joint Purchasing
Agreement - City of Anacortes

FROM: Cathy Rosen, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Jim Slowik, Mayor
 Paul Schmidt, City Administrator
 Doug Merriman, Finance Director
 Margery Hite, City Attorney, as to form

PURPOSE

This purpose of this agenda bill is to enter into an Interlocal Joint Purchasing Agreement with the City of Anacortes.

AUTHORITY

OHMC 2.320.100 Cooperative Purchasing - The City Council authorizes the use of cooperative purchasing arrangements with other public agencies similarly authorized, when the best interests of the city would be served thereby. Any cooperative purchasing agreement shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties and shall be governed by the requirements of state law in regard to competitive bidding when applicable. Approval of such cooperative purchasing arrangements shall be by the City Council prior to use by the City (Ord. 1470 § 3, 2006).

SUMMARY STATEMENT

On November 23, 2010 the City of Anacortes formally requested to enter into an Interlocal Joint Purchasing Agreement with the City of Oak Harbor. This will allow them to piggyback off of the City's bid for a street sweeper.

Interlocal Joint Purchasing Agreements (also known as Cooperative Purchasing Agreements) can save the City money by reducing staff time required to prepare bid documents, reducing advertising costs and allowing the City to benefit from reduced prices due to bulk purchases.

Staff is recommending that the City enter into an Interlocal Joint Purchasing Agreement with the City of Anacortes to provide additional opportunities to increase our buying power and reduce costs. In addition, it will allow the City of Oak Harbor to aid another City in their efforts to procure a piece of equipment that will save them time and money.

The City currently has Interlocal Joint Purchasing Agreements with the following agencies:

City of Everett
City of Lynnwood
City of Marysville
City of Mount Vernon
City of Poulsbo
US Communities
Whatcom County
Eastside Fire & Rescue

City of Seattle
City of Tacoma
Kitsap County
Oak Harbor School District
King County Directors Association (KCDA)
POS Consortium
Island County

STANDING COMMITTEE REPORT

The Public Works Standing Committee reviewed this item at their meeting on January 6, 2011.

RECOMMENDED ACTION

Authorize the City of Oak Harbor to enter into an Interlocal Joint Purchasing Agreement with the City of Anacortes and the Mayor to sign the agreement.

ATTACHMENTS

Agreement with City of Anacortes

MAYOR'S COMMENTS

Note: This document must either be filed with the County Auditor or listed on the City's website as provided in RCW 39.34.040. If this document is going to be recorded -- Please follow the guidelines set forth on the Island County Auditor's Website -- <http://wei.secstate.wa.gov/island/Recording/Pages/GenFormatRequir.aspx>

INTERLOCAL JOINT PURCHASING AGREEMENT

THIS AGREEMENT is between the City of Oak Harbor, a municipal corporation of the State of Washington, and City of Anacortes, a municipal corporation/political subdivision (or other public agency type) of _____

WHEREAS, the Interlocal Cooperation Act, as codified in Chapter 39.34 of the Revised Code of Washington, provides for interlocal cooperation between governmental agencies; and

WHEREAS, RCW 39.34.030 expressly addresses purchasing by public agencies; and

WHEREAS, the parties desire the ability to utilize each other's procurement agreements when consistent with the needs of each party;

NOW, THEREFORE, the parties agree as follows:

1. **PURPOSE.** The purpose of this agreement is to set out the terms of the parties' mutual use of bids and contracts for the acquisition of goods and services where such mutual effort can be planned in advance and to authorize the purchase of goods and services under contracts by either party where a price is extended by either party's bidder to other governmental agencies.
2. **ADMINISTRATION.** No new or separate legal or administrative entity is created to administer the provisions of this Agreement.
3. **SCOPE.** This Agreement allows the following activities:
 - a. Purchase or acquisition of goods and services by each party acting as agent for either or both parties when agreed in advance in writing;
 - b. Purchase or acquisition of goods and services by each party in contracts for such goods and services in which it is provided that other governmental agencies may avail themselves of the contract terms.
4. **DURATION – TERMINATION.** This Agreement shall become effective upon filing or alternative listing in accordance with RCW 39.34.040, and shall continue in effect until cancelled in writing. Either party may terminate this Agreement at any time by providing written notice to the other party at the following address:

For the City of Oak Harbor:
Purchasing Officer
Public Works Department
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

For _____:

5. RIGHT TO CONTRACT – INDEPENDENT ACTION PRESERVED. Each party reserves the right to contract independently for the acquisition of goods or services without notice to the other party and shall not bind or otherwise obligate the other party to participate in any activity without prior express written authorization.
6. COMPLIANCE WITH LEGAL REQUIREMENTS. Each party retains and accepts all responsibility for compliance with federal, state and local laws and regulations, including, in particular, bidding requirements applicable to its acquisition of goods and services.
7. FINANCING. The method of financing of payment shall be through budgeted funds or other available funds of the party for whose use the property is actually acquired or disposed. No party accepts responsibility for the payment of the price for acquisition of any goods or services intended for the other party.
8. INTERLOCAL COOPERATION DISCLOSURE. Each party may insert in its solicitations for goods or services a provision disclosing that other authorized governmental agencies may also wish to procure the goods or services being offered to the party and allowing the bidder the option of extending the bid to other agencies at the same bid price, terms and conditions.
9. NON-DELEGATION/ NON-ASSIGNMENT. Neither party may delegate the performance of any contractual obligation arising under this Agreement to a third party unless mutually agreed in writing. Neither party may assign this Agreement without the written consent of the other party.
10. HOLD-HARMLESS AGREEMENT. Each party shall be liable and responsible for the consequences of any negligent or wrongful act or failure to act on the part of itself and its employees in the performance of this Agreement. Neither party assumes any responsibility to the other party or to any third-party for the consequences of any act or omission of any person, firm or corporation not a party to this Agreement.
11. SEVERABILITY. Any provision of this Agreement which is prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement.

ENTERED this ____ day of _____, 201__.

CITY OF OAK HARBOR _____

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

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

Bill No. 4
 Date: January 18, 2011
 Subject: Bid Award - Automated Refuse Trucks

FROM: Cathy Rosen, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Jim Slowik, Mayor
 Paul Schmidt, City Administrator
 Doug Merriman, Finance Director
 Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to award the bid for the three automated refuse trucks to Western Peterbilt in the amount of \$829,061.61 and to surplus one 2004 Peterbilt Automated Refuse Truck.

AUTHORITY

OHMC 2.320.040 Competitive bidding - Materials, supplies and equipment requires that the City staff solicit competitive bids for any purchase of material, supplies and equipment where the cost thereof exceeds \$30,000 except under certain specific circumstances.

SUMMARY STATEMENT

On October 19, 2010, City Council authorized staff to solicit bids for three automated refuse trucks. The purpose and intent is to replace two existing automated refuse trucks through the Equipment Rental Replacement Program, as budgeted, and the third automated refuse truck has been budgeted within the Solid Waste Fund. This vehicle will be an addition to the fleet and will be necessary for the 2012 annexation.

The bid was advertised in the Daily Journal of Commerce and Whidbey New Times.

Amount of the Bids: Staff received and opened three sealed bids on December 3, 2010. The bid totals are tabulated below:

Vendor	Body Option	Total each on 2 trucks	Total on 3rd truck	Sales Tax	Grand Total	Trade-In
Western Peterbilt	Wayne	\$ 254,479.52	\$ 260,527.39	\$ 68,484.29	\$ 837,970.72	\$ 9,500.00
Solid Waste Systems	Wayne	\$ 254,576.62	\$ 260,619.69	\$ 68,509.75	\$ 838,282.68	\$ 14,000.00
Solid Waste Systems	Labrie	\$ 267,741.13	\$ 275,751.33	\$ 72,199.61	\$ 883,431.20	\$ 14,000.00

Staff reviewed the bid prices and is knowledgeable of the qualifications and experience of the low bidder.

Staff is proposing to not take the trade-in offer due to the low price. Staff has determined that the value of the parts on the old trucks would amount to more than the amount of the trade-in offer. Instead, staff would like to try to sell a truck outright for more than the parts are worth. As a last resort, staff proposes to part-out and dispose of one truck. The other truck would be kept as back up for the residential route, just as has been done with the commercial route.

In addition, options were provided to the City. After reviewing the options, staff has determined some items are necessary and some are not. The options totals are tabulated below:

Option	Price	Extended Price x 3
Hopper Floor Thickness 3/8" Hardox	\$ 722.00	\$ 2,166.00
Remote Grease Line to Tailgate Cylinders	\$ 325.00	\$ 975.00
Delete 24 Month Warranty and Keep Standard One Year	\$ (3,774.00)	\$ (11,322.00)
Grand Total with 8.9% tax	\$ (2,969.70)	\$ (8,909.11)

It is recommended that the bid award in the amount of \$837,970.72, minus the extended price options in the amount of \$8,909.11 for a grand total of \$829,061.61, be awarded to Western Peterbilt, who is the lowest responsible bidder.

Funding: The funding for the two replacement trucks has been set aside in the Equipment Rental Replacement Fund and one new truck has been budgeted for in the Solid Waste Fund.

Justification: Proposed in the 2011-2012 biennial budget is the replacement of two 2004 automated refuse trucks. In addition, an acquisition for a third automated refuse truck has been budgeted in Solid Waste to serve the 2012 annexation area.

The City currently utilizes two automated refuse trucks for residential pick up. They are used Monday through Friday, five days per week. They were purchased in 2004 and have a seven year life cycle. These trucks have been evaluated for replacement and the repair and maintenance reports were printed out to be analyzed. The attached graphs show that the repairs exceed the replacement and that is the first indication that replacement is necessary. In addition, the graphs show significant increase in repair and maintenance costs. The graphs do not include the items that still need to be done to keep these two units functioning properly and down time cost is not included.

A sound maintenance program is an important part of the management of public equipment and there comes time when maintenance costs, down time and inefficiency become excessive and detract from the organization's ability to function effectively. A city fleet is nothing more or less than a tool for the provision of services to the general public by government employees. When the tool wears out, becomes obsolete or requires repetitive upkeep, the agency's ability to provide necessary services to its customer suffers. An essential component of effective fleet management is the commitment to replace vehicles before service delivery is impaired or diminished.

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During the replacement process, an Equipment Replacement Review form is completed. It allows staff to determine if the vehicle or equipment can be extended without incurring additional repair and maintenance costs, if it can be utilized by another division/department, how often it is being utilized, etc. These questions allow staff to make an informed decision on when replacements should occur. Many vehicles and equipment in the City's fleet have been extended even though replacement funding has been met. One example is the 21 year old dump truck that has been up for replacement for the last eleven years.

In 2012, the City will be annexing approximately 544 residential accounts. A third truck will be necessary to accommodate this annexation. Since this is a new acquisition, it has been budgeted for in the Solid Waste Fund.

STANDING COMMITTEE REPORT

The Public Works Standing Committee reviewed this item at their meeting on January 6, 2011.

RECOMMENDED ACTION

- 1) Authorize the surplus and disposal of one 2004 Peterbilt Automated Refuse Truck.
- 2) Award the bid for the purchase of three automated refuse trucks to Western Peterbilt in the amount of \$829,061.61.

ATTACHMENTS

Replacement criteria documentation

MAYOR'S COMMENTS

Basics

2004 Peterbilt Side Arm Loaders

Vehicle #	Total Mileage	Yearly Mileage	Yearly Hours
45	71877	12250	1300
46	59473	8000	800

Repair Issues

- Both units will need the side arms replaced (they are cracking) approx. \$10,000-15,000
- Both units will need outside engine work done \$5,000
- AC/Heat issues need fixed.
- Seats not locking properly and have air leaks.
- Controls for side arms are sloppy and in need of work.

Safety Issues

Current recycling units have a difficult time dumping their load due to the height of the structures at Waste Connections.

This is not only inefficient (it takes 45 minutes longer), but a safety issue that the operators have to go inside the truck with the door open to manually remove the recycling material. The full eject of the new trucks will eliminate this issue.

Replacement Plan

Both trucks have met the standard criteria-

- 7 year life span
- Over 60,000 miles
- Fully depreciated in 2009
- Repairs and replacement costs are more than depreciated value

Our intent is to move the two 2006 Peterbilt recycling trucks to the residential route. The two new trucks will be put into the recycling route due to be full eject option. Then we would like to keep the better of the two 2004 Peterbilt side arm loader as back up to the recycling route. Just as we have done with the commercial truck route.

Purchase of 3rd Truck

Our intent is to purchase a 3rd truck now and take delivery in late 2012. We will not only optimize our buying power with 3 trucks versus 1, but we will also get the pricing locked in at 2010 pricing and not the inflation rate of another 2 years.

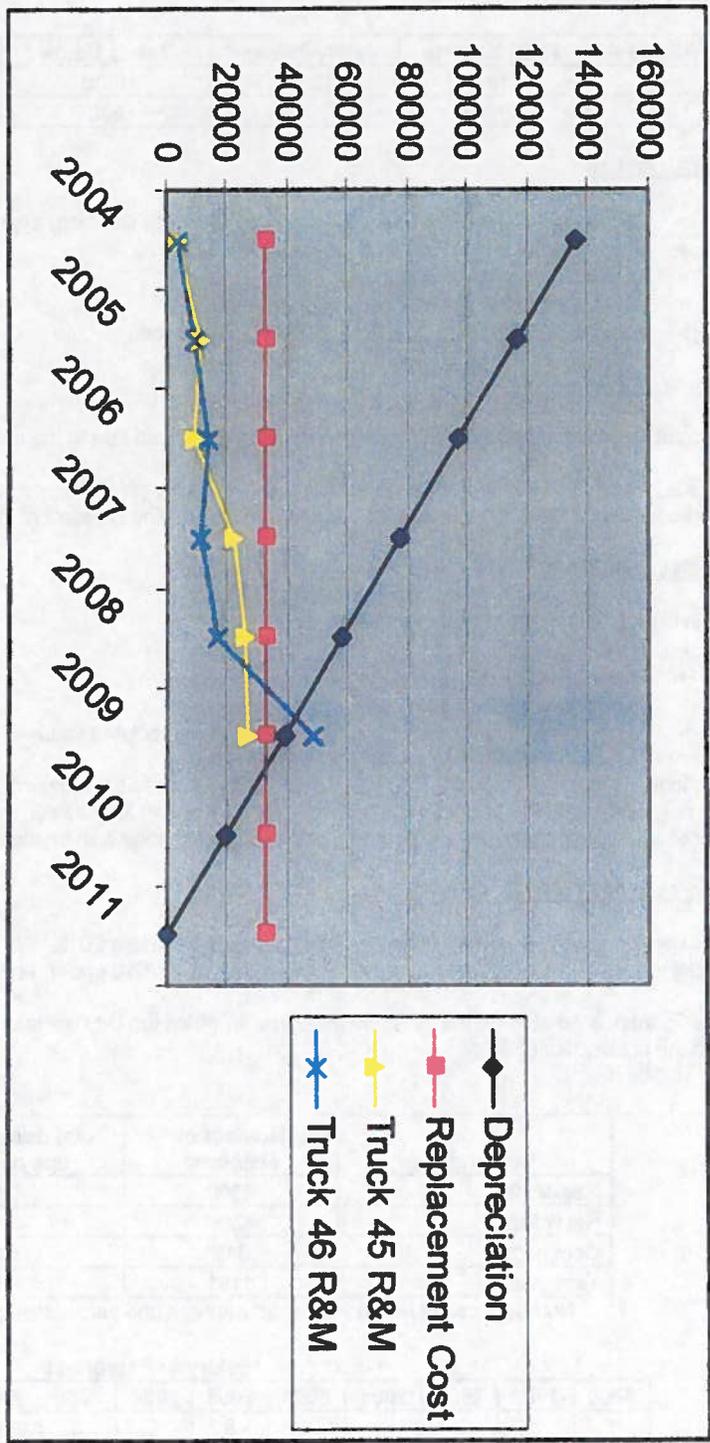
The 3rd truck is needed for the 2012 annexations. In which the City will take on 544 residential and recycling accounts with the potential of 889.

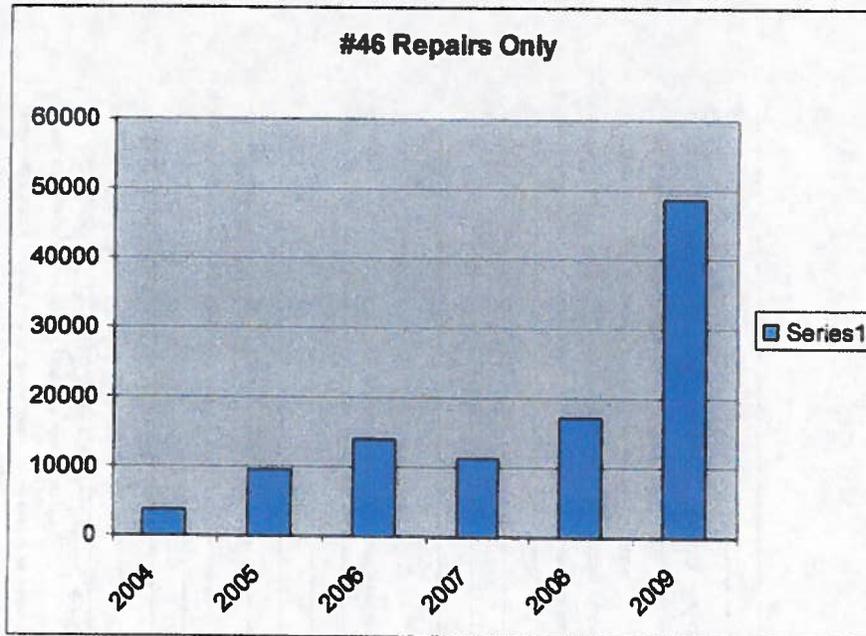
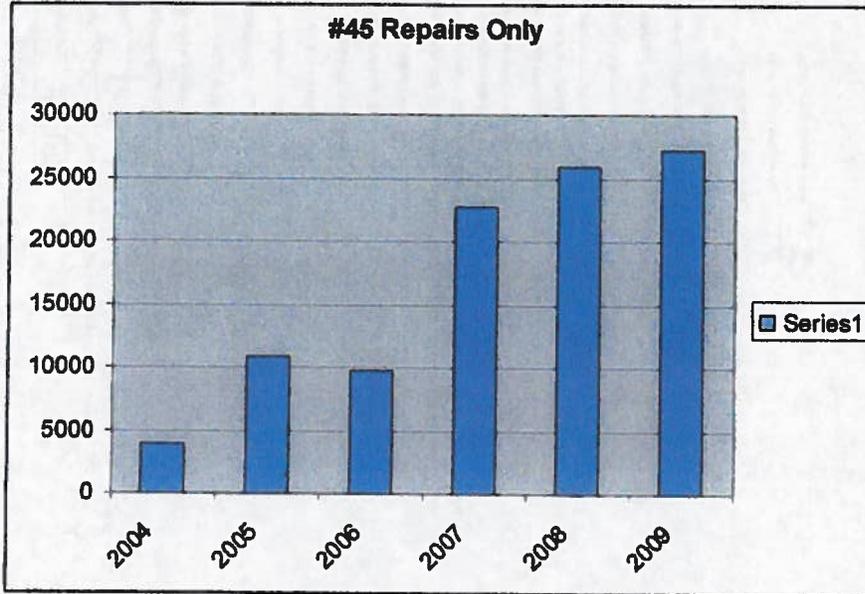
Description	Number of accounts	Total number of pick ups per week	Number of trucks
Residential	4300	4300	2
Recycling	4300	4300	2
Commercial	312	512	3
Yard Waste	1151	1151	1

Numbers do not include the extra garbage and yard waste bags picked up in addition.

History of Personnel

1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7	8	7	6	6	5	5	6	6	6	6	6	6





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Equipment Replacement Review

Dept: PUD

Equip/Vehicle # #45

Model Year: 2004 Year purchased if different than year manufactured: 2004

Description: Peterbilt Side cum loader

Lbs mileage/hour: 71,877

Last 12 months mileage/hour: 12,250 | 130 hrs

Maintenance costs last 12 months: \$9340.43

Lbs maintenance cost: \$109,339.12

Projected replacement cost: \$250,000

Required minimum lbs mileage/hour: 100,000

Required minimum lbs replacement year: 7

- 1) Should equipment be extended? Yes No
- 2) If yes, is it because of mileage/hour? Yes No
- 3) If yes, divide last 12 month mileage/hour into remaining mileage/hour needed to reach required minimum lbs mileage/hour required. The answer is the number of years equipment lbs should be extended (round up). Yes No
- 4) Should equipment be replaced? Yes No

9) If yes, answer questions below and submit with budget request.
 Equip/Vehicle Assignment:
 Assigned to a single user (yes or no): no
 Assigned to a pool of users (yes or no): yes
 Number of users: 6

How often is this equipment used:
 Number of times per day: 1
 Number of times per week: 5
 Number of hours per day: 1
 Number of hours per week: 5

6) What tasks or functions is this equipment primarily utilized for? If you consider these to be specialized functions, tasks, or services, please explain. In the case of an existing pool vehicle, list the major tasks, systems, or features the vehicle is used for.

used for side work
pick up

7) What special feature does this equipment need to perform its major task or function?

Side cum

8) Does this task or function require the vehicle to be identified as a City vehicle? If yes, please explain - please be specific as to why City identification is required.

yes - custom service
related

9) Could a smaller, more economical vehicle be used just as effectively to perform the task or function this vehicle is predominantly utilized for? If no, please explain specifically why not. If your answer is yes, please provide us with your suggestions for a smaller vehicle.

no
running at ~
perfect capacity level

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10) Could an employee use his or her own personal vehicle in place of using this City vehicle? If no, please explain why not. If you have concerns and comments about such a policy, please provide them also: no

11) Could a vehicle from a more centralized "motor pool" be used to perform this predominate task or function? If yes, where should the "pool" of vehicles be located? If no, why not? If you have comments or concerns with utilizing a pool car, please provide them here:

no - specialized equip.

12) Would keeping this equip/vehicle longer before replacement have any impact on service or delivery? yes Comments or concerns:

potential downtime
Safety issues w/ wear & tear

Equipment Replacement Review

Date: 1/24/10

Equipment # #416

Model Year 2004 Year purchased if different from year manufactured: 2004

Description: Petabit Slider can loader

Lbs mileage/hour: 59,473

Last 12 months mileage/hour: 8,000 800 hours

Maintenance costs last 12 months: \$1,285.00

Lbs maintenance cost: \$15,135.51

Projected replacement cost: \$250,000

Required minimum lbs mileage/hour: 100,000

Required minimum lbs replacement year: 7

- 1) Should equipment lbs be extended? Yes No
- 2) If yes, to what because of mileage/hour? Yes No
- 3) If yes, divide last 12 month mileage/hour into remaining mileage/hour needed to reach required minimum lbs mileage/hour requested. The answer is the number of years equipment lbs should be extended (round up). Yes No
- 4) Should equipment be replaced? Yes No

9) If yes, answer questions below and submit with budget request.
 Equipment Assignment:
 Assigned to a single user (yes or no): no
 Assigned to a pool of users (yes or no): yes
 Number of users: 6

How often is the equipment used:
 Number of times per day: 1
 Number of times per week: 4
 Number of hours per day: 5
 Number of hours per week: 25

6) What tasks or functions is this equipment primarily utilized for? If you consider these to be specialized functions, tasks, or services, please explain. In the case of an existing pool of vehicles, list the major tasks, functions, or services the vehicle is used for.

used for slider can loader
pick up

7) What special features does this equipment need to perform its major task or function?

Slider can

8) Does this task or function require the vehicle to be identified as a City vehicle? If yes, please explain - please be specific as to why City identification is required.

yes - customer service
related

9) Could a smaller, more economical vehicle be used just as effectively to perform the task or function this vehicle is predominantly utilized for? If no, please explain specifically why not. If your answer is yes, please provide us with your suggestions for a smaller vehicle.

no, running at a
perfect capacity level

04

10) Could an employee use his or her own personal vehicle in place of using this City vehicle? If no, please explain why not. If you have concerns and comments about such a policy, please provide them also: no

11) Could a vehicle from a more centralized "motor pool" be used to perform this predominate task or function? If yes, where should the "pool" of vehicles be located? If no, why not? If you have comments or concerns with utilizing a pool car, please provide them here:

no - specialized equip'

12) Would keeping this equip/vehicle longer before replacement have any impact on service or delivery? yes Comments or concerns:

potential downtime
Safety issues w/ wear & tear

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

Bill No. 5
Date: January 18, 2011
Subject: 2011 2% Lodging Tax Grant
Program Recommendations

FROM: Doug Merriman 
Finance Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Jim Slowik, Mayor
 Paul Schmidt, City Administrator
 Margery Hite, City Attorney, as to form

PURPOSE

To receive and approve the funding recommendations from the Lodging Tax Advisory Committee for the City's 2011 Lodging Tax Grant Program.

AUTHORITY

RCW 67.28.180 Lodging tax authorized – Conditions: Establishes City authority to levy the “basic” hotel-motel tax of 2%.

RCW 67.28.181 Special excise taxes authorized: Establishes City authority to levy an “additional” hotel-motel tax of 2%.

RCW 67.28.1817 Establishes a Lodging Tax Advisory Committee in large municipalities. Submission of a proposal for imposition of or change in tax or use establishes that before proposing a change in the use of revenue received under this chapter, a municipality with a population of five thousand or more shall submit the proposal to the Lodging Tax Advisory Committee for review and comment. The submission shall occur at least forty-five days before final action on or passage of the proposal by the municipality. The advisory committee shall submit comments on the proposal in a timely manner through generally applicable public comment procedures.

SUMMARY STATEMENT

The City of Oak Harbor sponsors an annual grant program funded by revenues from 2% lodging tax proceeds, more commonly known as the Lodging Tax Grant Program. Organizations are encouraged to apply for funding if they feel that their activity promotes tourism in a manner that attracts visitors to Oak Harbor from other localities.

The Lodging Tax Advisory Committee met in November of 2010 and City Council approved beginning the 45-day review period during Council's November 16, 2010 regular meeting.

The projected 2011 hotel/motel 2% revenues and related expenditures are as follows:

Projected Revenues

Basic 2%	\$84,000
Additional 2%	84,000
Interest Earnings	2,000
Total Projected Revenues	<u>\$170,000</u>

Projected Expenditures

Chamber of Commerce Interlocal	\$80,000
Island-wide Marketing Support	20,000
<u>Lodging Tax Grant Program</u>	<u>16,000</u>
Whidbey Island Marathon Purchase	12,000
Banner Program	18,000
Windjammer, Kiosks	24,000
	<u>\$170,000</u>

Four applications were reviewed by the Lodging Tax Advisory Committee. These are the four requests:

Total Requests

Oak Harbor Arts Commission – Driftwood Day	\$4,090
26 th Annual North Whidbey Car Show	6,000
Whidbey Island Marathon	10,000
Chamber of Commerce Branding and Marketing	42,000
	<u>\$62,090</u>

Total Awarded (\$16,000 available)

Oak Harbor Arts Commission – Driftwood Day	\$2,500
26 th Annual North Whidbey Car Show	4,450
Whidbey Island Marathon	4,350
Chamber of Commerce Branding and Marketing	4,700
	<u>\$16,000</u>

STANDING COMMITTEE REPORT

This issue was presented to the Finance Standing Committee on January 12, 2011.

RECOMMENDED ACTION

1. Pass Resolution 11-01 awarding the 2011 Lodging Tax Grants and authorize payment of funds.

ATTACHMENTS

1. Resolution 11-01
2. Agenda and minutes of the Lodging Tax Advisory Committee November 4, 2010 meeting.
3. Grant application cover sheet summaries from the four applicants.
4. Pertinent RCW cites for lodging tax authorization and procedural requirements.

MAYOR'S COMMENTS

1/18/2011 Lodging Tax Grant Program Recommendations

RESOLUTION NO. 11-01

A RESOLUTION OF THE CITY OF OAK HARBOR COUNCIL REGARDING THE ACCEPTANCE AND APPROVAL OF THE RECOMMENDATIONS OF THE LODGING TAX ADVISORY COMMITTEE FOR THE 2011 LODGING TAX GRANT PROGRAM AWARDS.

WHEREAS, the City of Oak Harbor has imposed both the "basic" hotel-motel tax of 2% (RCW 67.28.180) and the additional lodging tax if 2% (RCW 67.28.181) upon the sale of, or change made for the furnishing of lodging.

WHEREAS, cities, with a population of 5,000 or more, must establish a lodging tax advisory committee to ensure that interested parties have a forum for debating the merits of a proposed imposition of a lodging tax, of a proposed increase in a lodging tax rate, of a proposed removal of a tax exemption, or a proposed "change in use" of tax revenues. Proposals for change must be submitted to the lodging tax advisory committee for review and comment at least 45 days prior to taking action on the proposal.

WHEREAS, the City Council of the City of Oak Harbor submitted the proposal for the 2011 Lodging Tax Grant Program to the Lodging Tax Advisory Committee on November 16, 2010.

WHEREAS, the Lodging Tax Advisory Committee reviewed the applications submitted for the 2011 Lodging Tax Grant Program, and makes the following recommendations for funding to the City Council:

Oak Harbor Arts Commission – Driftwood Da	\$2,500
26 th Annual North Whidbey Car Show	4,450
Whidbey Island Marathon	4,350
Chamber of Commerce Branding and Marketi	<u>4,700</u>
	<u>\$16,000</u>

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR, WASHINGTON, ACCEPTS THE RECOMMENDATIONS OF THE LODGING TAX ADVISORY COMMITTEE TO PROVIDE 2% FUNDING TO THE LISTED APPLICANTS FOR THE AMOUNTS AS SHOWN, AND AUTHORIZES THE AWARDS RECOMMENDED BY THE LODGING TAX ADVISORY COMMITTEE.

PASSED and approved by the City Council this _____ day of _____ 2011.

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney



Lodging Tax Advisory Committee



Thursday, November 4, 2010

4:00 p.m.

City Hall Conference Room

4:00 p.m.

CALL TO ORDER

DISCUSSION

**Four Applications for the City of Oak Harbor's 2011
Lodging Tax Grant Program:**

1. Rotary Club of Oak Harbor – 26th Annual Car Show
2. Greater Oak Harbor Chamber of Commerce –
Tourism and Community Promotion
3. City of Oak Harbor Arts Commission – Six Annual
Driftwood Day
4. City of Oak Harbor – Whidbey Island Marathon

OTHER BUSINESS

ADJOURN

CITY OF OAK HARBOR
Lodging Tax Advisory Committee
Meeting Minutes
November 4, 2010 4:00 PM.

- 1) Meeting Called to order at 4:00 pm.
- 2) Reviewed packets and discussed budgets, application requests, and 2% applicability.
- 3) Motion by Sue Sebens, seconded by Rhea Nelson to award the following:

a. North Whidbey Car Show:	\$4,450
b. Oak Harbor Arts Commission Driftwood Days:	2,500
c. Whidbey Island Marathon	4,350
d. Chamber of Commerce	<u>4,700</u>
Total	<u>\$16,000</u>

Motion passed unanimously

Meeting adjourned at 4:40 pm.

received
9/28/10

**CITY OF OAK HARBOR
HOTEL-MOTEL EXCISE TAX GRANT PROGRAM**

GRANT APPLICATION FORM
2011 GRANT YEAR

PROJECT

Project Title: Driftwood Day
Name of Organization: Oak Harbor Arts Commission
Contact Person: Karen Crouch Title: City Liaison to Arts Commission
Address: 865 SE Barrington Ave
City: Oak Harbor State: WA Zip: 98277
Phone: 360 679-5551 Fax: _____
Amount Requested: \$4,090.00 Applicant's Match: _____
Total Project Budget: \$5,453.00
Previous Funds Received: _____
Pending Grant Applications: None
Expected Start Date for the Project: Preparations begin in October 2010
Expected Completion Date: September 30, 2011

PROJECT SUMMARY

In the below, please provide a one paragraph, concise summary of project and what it will accomplish and how it will promote future benefits to tourism.

The Oak Harbor Arts Commission is presenting its sixth annual Driftwood Day, a one day event held at Windjammer Park, in Oak Harbor. Individuals or teams sign up to participate the day of the event. They then use driftwood and any other items found on the beach that day to create beach sculptures, which are later judged by a panel of experts and local celebrities. An Artist Consultant/guest judge is brought in to help expand the knowledge of Oak Harbor within the arts community and off Island artists. Driftwood Day attracts visitors and artists to Oak Harbor where they can discover how wonderful our town and natural setting are. The Oak Harbor Arts Commission would like Driftwood Day to grow into a two day festival that will bring large numbers of people to experience Oak Harbor, stay in area lodging and visit Oak Harbor restaurants and shops.

Meetings for Driftwood Day begin in January one a month through July. Starting in August the meetings are once a week until the scheduled date.

**CITY OF OAK HARBOR
HOTEL-MOTEL EXCISE TAX GRANT PROGRAM**

**GRANT APPLICATION FORM
2011 GRANT YEAR**

PROJECT

Project Title:	26 th Annual North Whidbey Car Show		
Name of Organization:	Rotary Club of Oak Harbor		
Contact Person:	Jeff Wallin	Title:	Club President
Address:	P.O. Box 442		
City:	Oak Harbor	State:	WA Zip: 98277
Phone:	675-6674 wk or 679-1671 hm	Fax:	
Amount Requested:	\$6,000	Applicant's Match:	\$5,966 *
Total Project Budget:			
Previous Funds Received:			
Pending Grant Applications:			
Expected Start Date for the Project:			
Expected Completion Date:			

* \$4,000.00 plus \$1,966.00 Vendor Donated service(s) or value(s) reducing cash paid prizes.

PROJECT SUMMARY

In the space below, please provide a one paragraph, concise summary of project and what it will accomplish and how it will promote future benefits to tourism.

The North Whidbey Car Show has been a major event attracting people to the City of Oak Harbor for the past twenty-five years. This event draws spectators and participants from all over the Northwest who in turn patronize our local restaurants, retail stores and shops and stay in our motels. The 2010 show attracted entries from as far away as Montana, Oregon and British Columbia as well as most cities around the Puget Sound such as Port Angeles, Bellingham, Burien, Everett, Port Townsend, Shelton, Kirkland, Sultan, Woodinville, Seattle, and many more. Typically the Car Show has over 200 vehicles and approximately 5,000 spectators and requires over 800 Rotary man-hours over the year to make it possible. In 2010 the show had over 280 cars entered surpassing the 2009 event by over 40 cars thereby hosting the second largest show in the 25 year history. Vendors and other long time participants also said that this show reached an all time high for community attendance (*estimated at 6,000*). The 2010 Rotary Club Car Show raised over \$6,000 which will be used to support community organizations and projects such as the Help House, Oak Harbor High School, 4th of July Parade, scholarships, Skagit Valley College to name a few. The Show consistently receives laudatory acclaim from both entrants and spectators alike for the beauty of the location and the friendliness of the organizers. The success of this event can only be possible thanks to the support of the City of Oak Harbor and its beautiful Windjammer Park as well as the involvement of many local businesses. This is a one of a kind family-friendly activity that makes the City of Oak Harbor a desirable place to live and a joy to visit.

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**CITY OF OAK HARBOR
HOTEL-MOTEL EXCISE TAX GRANT PROGRAM**

**GRANT APPLICATION FORM
2011 GRANT YEAR**

PROJECT

Project Title:	Whidbey Island Marathon		
Name of Organization:	City of Oak Harbor		
Contact Person:	Tamra Sipes	Title: Race Coordinator	
Address:	865 SE Barrington Dr.		
City:	Oak Harbor	State:	WA Zip: 98277
Phone:	360-914-0800	Fax:	360-279-4507
Amount Requested:	\$10,000.00	Applicant's Match:	\$163,000.00
Total Project Budget:	\$173,000.00		
Previous Funds Received:	\$0.0		
Pending Grant Applications:	None		
Expected Start Date for the Project:	October 2010		
Expected Completion Date:	April 2011		

PROJECT SUMMARY

In the space below, please provide a one paragraph, concise summary of project and what it will accomplish and how it will promote future benefits to tourism.

The Whidbey Island Marathon weekend starts out on the morning of April 9, 2011 with a 5K fun run/walk. This is followed by a free health and fitness expo for all race participants to pick up their registration packets and is open to the public, which draws vendors from all over the state. Last year there were a little over 1,900 registered participants from all over the world. In addition, participants bring with them their families and friends to cheer them on with an average of 2 people attending for every 1 registered race participant. This equates to a draw of approximately 5,700 people to the Oak Harbor community during the "shoulder season." With the added 5K race the day before the marathon we are promoting tourism even further by encouraging people to come and stay in Oak Harbor and spend more than one night in our local hotel/motels. Last year's event was extremely successful and we expect this event to grow even further attracting new, repeat and extended stay visitors to our community. The marathon is a USA Track and Field (USATF) certified course and it is a qualifier for the Boston Marathon, which makes the event appealing to runners from all over the world.

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CITY OF OAK HARBOR
HOTEL-MOTEL EXCISE GRANT APPLICATION
2011 GRANT YEAR



received
9/30/10

Project Title **City of Oak Harbor Tourism and Community Promotion**
Organization **Greater Oak Harbor Chamber of Commerce**
Contact **Jill Johnson, Executive Director**
Address **32630 State Route 20, Oak Harbor, WA 98277**
Phone **(360) 675-3755**
Fax **(360) 679-1624**

Amount Requested **\$42,000** Applicant's Match **\$54,921**
Total Project Budget **\$194,921** Previous Funds Received **\$8,500**

Pending Grant Applications: **Island County 2% Funds**
(Requested \$49,920: estimated funds received: \$20,000)

Start Date **January 2011** Expected Completion Date **December 2011**

PROJECT SUMMARY

The Greater Oak Harbor Chamber of Commerce (Chamber) is requesting 2% funds for 2011 to implement the branding and marketing efforts on behalf of the City of Oak Harbor. The Chamber is asking for funding for three specific programs and tourism needs that it has determined will raise awareness of the Oak Harbor community as a family-friendly tourism destination. These programs are the production and distribution of lure brochures on the Washington State and British Columbia ferry system as well as in corporate locations in the Seattle and Portland areas, including the production and distribution of a :15 second digital ad that plays on three designated ferry routes promoting the community of Oak Harbor; an on-line advertising and social media strategy including enhanced content development to be used on the Chamber's website and on other community social media sites and funding for new electronic signage on SR 20.

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RCW 67.28.180**Lodging tax authorized -- Conditions.**

(1) Subject to the conditions set forth in subsections (2) and (3) of this section, the legislative body of any county or any city, is authorized to levy and collect a special excise tax of not to exceed two percent on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW.

(2) Any levy authorized by this section shall be subject to the following:

(a) Any county ordinance or resolution adopted pursuant to this section shall contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed pursuant to this section upon the same taxable event.

(b) In the event that any county has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such county shall be exempt from the provisions of (a) of this subsection, to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160: PROVIDED, That so much of such pledged tax revenues, together with any investment earnings thereon, not immediately necessary for actual payment of principal and interest on such bonds may be used: (i) In any county with a population of one million or more, for repayment either of limited tax levy general obligation bonds or of any county fund or account from which a loan was made, the proceeds from the bonds or loan being used to pay for constructing, installing, improving, and equipping stadium capital improvement projects, and to pay for any engineering, planning, financial, legal and professional services incident to the development of such stadium capital improvement projects, regardless of the date the debt for such capital improvement projects was or may be incurred; (ii) in any county with a population of one million or more, for repayment or refinancing of bonded indebtedness incurred prior to January 1, 1997, for any purpose authorized by this section or relating to stadium repairs or rehabilitation, including but not limited to the cost of settling legal claims, reimbursing operating funds, interest payments on short-term loans, and any other purpose for which such debt has been incurred if the county has created a public stadium authority to develop a stadium and exhibition center under RCW 36.102.030; or (iii) in other counties, for county-owned facilities for agricultural promotion until January 1, 2009, and thereafter for any purpose authorized in this chapter.

A county is exempt under this subsection with respect to city revenue or general obligation bonds issued after April 1, 1991, only if such bonds mature before January 1, 2013. If any county located east of the crest of the Cascade mountains has levied the tax authorized by this section and has, prior to June 26, 1975, pledged the tax revenue for payment of principal and interest on city revenue or general obligation bonds, the county is exempt under this subsection with respect to revenue or general obligation bonds issued after January 1, 2007, only if the bonds mature before January 1, 2021. Such a county may only use funds under this subsection (2)(b) for constructing or improving facilities authorized under this chapter, including county-owned facilities for agricultural promotion, and must perform an annual financial audit of organizations receiving funding on the use of the funds.

As used in this subsection (2)(b), "capital improvement projects" may include, but not be limited to a stadium restaurant facility, restroom facilities, artificial turf system, seating facilities, parking facilities and scoreboard and information system adjacent to or within a county owned stadium, together with equipment, utilities, accessories and appurtenances necessary thereto. The stadium restaurant authorized

by this subsection (2)(b) shall be operated by a private concessionaire under a contract with the county.

(c)(i) No city within a county exempt under subsection (2)(b) of this section may levy the tax authorized by this section so long as said county is so exempt.

(ii) If bonds have been issued under RCW 43.99N.020 and any necessary property transfers have been made under RCW 36.102.100, no city within a county with a population of one million or more may levy the tax authorized by this section before January 1, 2021.

(iii) However, in the event that any city in a county described in (i) or (ii) of this subsection (2)(c) has levied the tax authorized by this section and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such city may levy the tax so long as the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160.

(3) Any levy authorized by this section by a county that has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160 shall be subject to the following:

(a) Taxes collected under this section in any calendar year before 2013 in excess of five million three hundred thousand dollars shall only be used as follows:

(i) Seventy-five percent from January 1, 1992, through December 31, 2000, and seventy percent from January 1, 2001, through December 31, 2012, for art museums, cultural museums, heritage museums, the arts, and the performing arts. Moneys spent under this subsection (3)(a)(i) shall be used for the purposes of this subsection (3)(a)(i) in all parts of the county.

(ii) Twenty-five percent from January 1, 1992, through December 31, 2000, and thirty percent from January 1, 2001, through December 31, 2012, for the following purposes and in a manner reflecting the following order of priority: Stadium purposes as authorized under subsection (2)(b) of this section; acquisition of open space lands; youth sports activities; and tourism promotion. If all or part of the debt on the stadium is refinanced, all revenues under this subsection (3)(a)(ii) shall be used to retire the debt.

(b) From January 1, 2013, through December 31, 2015, in a county with a population of one million or more, all revenues under this section shall be used to retire the debt on the stadium, or deposited in the stadium and exhibition center account under RCW 43.99N.060 after the debt on the stadium is retired.

(c) From January 1, 2016, through December 31, 2020, in a county with a population of one million or more, all revenues under this section shall be deposited in the stadium and exhibition center account under RCW 43.99N.060.

(d) At least seventy percent of moneys spent under (a)(i) of this subsection for the period January 1, 1992, through December 31, 2000, shall be used only for the purchase, design, construction, and remodeling of performing arts, visual arts, heritage, and cultural facilities, and for the purchase of fixed assets that will benefit art, heritage, and cultural organizations. For purposes of this subsection, fixed assets are tangible objects such as machinery and other equipment intended to be held or used for ten years or more. Moneys received under this subsection (3)(d) may be used for payment of principal and interest on bonds issued for capital projects. Qualifying organizations receiving moneys under this

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subsection (3)(d) must be financially stable and have at least the following:

- (i) A legally constituted and working board of directors;
 - (ii) A record of artistic, heritage, or cultural accomplishments;
 - (iii) Been in existence and operating for at least two years;
 - (iv) Demonstrated ability to maintain net current liabilities at less than thirty percent of general operating expenses;
 - (v) Demonstrated ability to sustain operational capacity subsequent to completion of projects or purchase of machinery and equipment; and
 - (vi) Evidence that there has been independent financial review of the organization.
- (e) At least forty percent of the revenues distributed pursuant to (a)(i) of this subsection for the period January 1, 2001, through December 31, 2012, shall be deposited in an account and shall be used to establish an endowment. Principal in the account shall remain permanent and irreducible. The earnings from investments of balances in the account may only be used for the purposes of (a)(i) of this subsection.
- (f) School districts and schools shall not receive revenues distributed pursuant to (a)(i) of this subsection.
- (g) Moneys distributed to art museums, cultural museums, heritage museums, the arts, and the performing arts, and moneys distributed for tourism promotion shall be in addition to and may not be used to replace or supplant any other funding by the legislative body of the county.
- (h) As used in this section, "tourism promotion" includes activities intended to attract visitors for overnight stays, arts, heritage, and cultural events, and recreational, professional, and amateur sports events. Moneys allocated to tourism promotion in a class AA county shall be allocated to nonprofit organizations formed for the express purpose of tourism promotion in the county. Such organizations shall use moneys from the taxes to promote events in all parts of the class AA county.
- (i) No taxes collected under this section may be used for the operation or maintenance of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged. Expenditures for operation or maintenance include all expenditures other than expenditures that directly result in new fixed assets or that directly increase the capacity, life span, or operating economy of existing fixed assets.
- (j) No ad valorem property taxes may be used for debt service on bonds issued for a public stadium that is financed by bonds to which the tax is pledged, unless the taxes collected under this section are or are projected to be insufficient to meet debt service requirements on such bonds.
- (k) If a substantial part of the operation and management of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged is performed by a nonpublic entity or if a public stadium is sold that is financed directly or indirectly by bonds to which the tax is pledged, any bonds to which the tax is pledged shall be retired. This subsection (3)(k) does not apply in respect to a public stadium under chapter 36.102 RCW transferred to, owned by, or constructed by a public facilities district under chapter 36.100 RCW or a stadium and exhibition center.

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(l) The county shall not lease a public stadium that is financed directly or indirectly by bonds to which the tax is pledged to, or authorize the use of the public stadium by, a professional major league sports franchise unless the sports franchise gives the right of first refusal to purchase the sports franchise, upon its sale, to local government. This subsection (3)(l) does not apply to contracts in existence on April 1, 1986.

If a court of competent jurisdiction declares any provision of this subsection (3) invalid, then that invalid provision shall be null and void and the remainder of this section is not affected.

[2007 c 189 § 1; (2008 c 264 § 2 expired July 1, 2009); 2002 c 178 § 2; 1997 c 220 § 501 (Referendum Bill No. 48, approved June 17, 1997); 1995 1st sp.s. c 14 § 10; 1995 c 386 § 8. Prior: 1991 c 363 § 139; 1991 c 336 § 1; 1987 c 483 § 1; 1986 c 104 § 1; 1985 c 272 § 1; 1975 1st ex.s. c 225 § 1; 1973 2nd ex.s. c 34 § 5; 1970 ex.s. c 89 § 1; 1967 c 236 § 11.]

NOTES:

Findings -- Intent -- 2008 c 264: "The legislature finds that locally funded heritage and arts programs build vital communities and preserve community history and culture. It further finds that within existing revenue sources, local jurisdictions should have the capability to preserve these programs in the future.

The locally funded heritage and arts program in the state's most populated county was established in 1989 using a portion of hotel-motel tax revenues. This program was structured to provide for inflation and an expanding population of the county.

In 1997, the legislature acted to assure the future of the heritage and arts program by creating an endowment fund using these same local funds. This funding mechanism has proved to be inadequate and unless immediately modified will result in a seventy-five percent reduction of funds for the program.

This act will provide a stable and predictable flow of funds to the program, provide for inflation and an expanding population, and assure the future viability of the program within existing revenue flows." [2008 c 264 § 1.]

Effective date -- 2008 c 264: "This act takes effect July 1, 2008." [2008 c 264 § 5.]

Retroactive application -- 2002 c 178: "This act applies retroactively to events occurring on and after September 1, 2001." [2002 c 178 § 6.]

Effective date -- 2002 c 178: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 27, 2002]." [2002 c 178 § 7.]

Referendum--Other legislation limited--Legislators' personal intent not indicated--Reimbursements for election--Voters' pamphlet, election requirements -- 1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law -- Severability--1997 c 220: See RCW 36.102.900 and 36.102.901.

Severability -- Effective dates -- 1995 1st sp.s. c 14: See notes following RCW 36.100.010.

Severability -- Effective date -- 1995 c 386: See notes following RCW 67.40.130.

Effective date -- 1991 c 336: "This act shall take effect January 1, 1992." [1991 c 336 § 3.]

Purpose -- Captions not law -- 1991 c 363: See notes following RCW 2.32.180.

Effective date -- 1986 c 104: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect April 1, 1986." [1986 c 104 § 2.]

Severability -- 1985 c 272: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 272 § 2.]

Contracts for marketing facility and services: RCW 67.40.120.

Lodging tax imposed in King county for state convention and trade center: RCW 67.40.090.

RCW 67.28.181**Special excise taxes authorized -- Rates -- Credits for city or town tax by county -- Limits.**

(1) The legislative body of any municipality may impose an excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW. The rate of tax shall not exceed the lesser of two percent or a rate that, when combined with all other taxes imposed upon sales of lodging within the municipality under this chapter and chapters 36.100, 67.40, 82.08, and 82.14 RCW, equals twelve percent. A tax under this chapter shall not be imposed in increments smaller than tenths of a percent.

(2) Notwithstanding subsection (1) of this section:

(a) If a municipality was authorized to impose taxes under this chapter or RCW 67.40.100 or both with a total rate exceeding four percent before July 27, 1997, such total authorization shall continue through January 31, 1999, and thereafter the municipality may impose a tax under this section at a rate not exceeding the rate actually imposed by the municipality on January 31, 1999.

(b) If a city or town, other than a municipality imposing a tax under (a) of this subsection, is located in a county that imposed taxes under this chapter with a total rate of four percent or more on January 1, 1997, the city or town may not impose a tax under this section.

(c) If a city has a population of four hundred thousand or more and is located in a county with a population of one million or more, the rate of tax imposed under this chapter by the city shall not exceed the lesser of four percent or a rate that, when combined with all other taxes imposed upon sales of lodging in the municipality under this chapter and chapters 36.100, 67.40, 82.08, and 82.14 RCW, equals fifteen and two-tenths percent.

(d) If a municipality was authorized to impose taxes under this chapter or RCW 67.40.100, or both, at a rate equal to six percent before January 1, 1998, the municipality may impose a tax under this section at a rate not exceeding the rate actually imposed by the municipality on January 1, 1998.

(3) Any county ordinance or resolution adopted under this section shall contain a provision allowing a credit against the county tax for the full amount of any city or town tax imposed under this section upon the same taxable event.

[2004 c 79 § 8; 1998 c 35 § 1; 1997 c 452 § 3.]

NOTES:

Validation of taxes imposed and collected and actions taken -- 1998 c 35: "If a municipality was authorized to impose taxes under chapter 67.28 RCW or RCW 67.40.100 or both with a total rate exceeding four percent before July 27, 1997, any taxes imposed and collected by the municipality on or after July 27, 1997, are validated by this act to the extent the taxes were imposed at rates that would be permitted under chapter 67.28 RCW as amended by this act. All actions taken in connection with the collection and administration of taxes validated under this section, including crediting the taxes against the amount of sales taxes due to the state under chapter 82.08 RCW, are also validated by this act to the extent the actions taken would be permitted under chapter 67.28 RCW as amended by this act." [1998 c 35 § 4.]

Effective date -- 1998 c 35: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes

effect immediately [March 12, 1998]." [1998 c 35 § 5.]

Savings -- 1997 c 452: "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections. As provided in RCW 1.12.020, the sections amended or repealed in this act are continued by section 3 of this act for purposes such as redemption payments on bonds issued in reliance on taxes imposed under those sections. Any moneys held in a fund created under a section repealed in this act shall be deposited in a fund created under section 4 of this act." [1997 c 452 § 23.]

Intent -- Severability--1997 c 452: See notes following RCW 67.28.080.

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

Bill No. 6
Date: January 18, 2011
Subject: Bond Ordinance: Marina Project
Redevelopment Phase 2/Dredge

FROM: Doug Merriman, Finance Director

INITIALED/AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Jim Slowik, Mayor
 Paul Schmidt, City Administrator
Approved to form by bond counsel, Foster Pepper PLLC

PURPOSE

An ordinance of the City of Oak Harbor, Washington, relating to the City's small boat harbor and marina; providing for the issuance of approximately \$2,745,000 par value of Marina Revenue Bonds, 2011, of the City to provide part of the funds with which to pay the cost of making redevelopment improvements and dredging work to the Oak Harbor Marina; to fund a debt service reserve for the bonds herein authorized and to pay the costs of issuance and sale of such bonds; fixing the date, form, maturities, interest rates, terms and covenants of such bonds; establishing a bond redemption account and a construction account; and approving the sale and providing for the delivery of the bonds to Martin Nelson & Company of Seattle, Washington.

AUTHORITY

The City has authority under RCW 35A.11.020 to regulate its internal affairs and to provide for the improvement of public ways in the rendering of local social, cultural, recreational, educational, governmental, or corporate services, including operating and supplying of utilities and municipal services commonly or conveniently rendered by cities or towns.

SUMMARY STATEMENT:

This ordinance is the guiding document authorizing the sale of the revenue bonds required to finance the Oak Harbor Marina Redevelopment Phase 2/Dredge Project. The ordinance specifies all of the financial terms and agreements pertaining to the bond issue, including the proposed use of the bond proceeds and the proposed repayment schedule. The ordinance was introduced at the January 4, 2011 City Council meeting.

Jim Nelson from Martin Nelson and Company will be in attendance to answer questions.

STANDING COMMITTEE REVIEW:

This item was reviewed by the Finance Standing Committee on January 12, 2011.

RECOMMENDED ACTION:

1. Hold a public hearing on this matter.
2. Approve ordinance authorizing issuance of Marina revenue bonds.

ATTACHMENTS:

Proposed bond ordinance.

CITY OF OAK HARBOR, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE of the City of Oak Harbor, Washington, relating to the City's small boat harbor and marina; providing for the issuance of \$2,745,000 par value of Marina Revenue Bonds, 2011, of the City to provide part of the funds with which to pay the cost of making improvements to that small boat harbor and marina, including dredging, to fund a debt service reserve for the bonds herein authorized and to pay the costs of issuance and sale of such bonds; fixing the date, form, maturities, interest rates, terms and covenants of such bonds; establishing a bond redemption fund and a construction fund; and approving the sale and providing for the delivery of the bonds to Martin Nelson & Company of Seattle, Washington.

This document prepared by:

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CITY OF OAK HARBOR, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE of the City of Oak Harbor, Washington, relating to the City's small boat harbor and marina; providing for the issuance of \$2,745,000 par value of Marina Revenue Bonds, 2011, of the City to provide part of the funds with which to pay the cost of making improvements to that small boat harbor and marina consisting of dredging, to fund a debt service reserve for the bonds herein authorized and to pay the costs of issuance and sale of such bonds; fixing the date, form, maturities, interest rates, terms and covenants of such bonds; establishing a bond redemption fund and a construction fund; and approving the sale and providing for the delivery of the bonds to Martin Nelson & Company of Seattle, Washington.

The City Council of the City of Oak Harbor, Washington, do ordain as follows:

Section 1. Recitals and Findings. The City Council of Oak Harbor, Washington (the "City") makes the findings and determinations set forth below. Capitalized terms have the meanings given in Section 2.

1.1 Background. The City now owns, operates and maintains a small boat harbor and marina (the "Marina") constructed pursuant to Ordinance No. 372, as the Marina has been added to, bettered and extended.

1.2 Project Description. The City's Marina requires various improvements, additions, and betterments including dredging, the estimated cost of which is \$2,745,000 and the City does not have available sufficient funds to pay the cost.

1.3 Project Description. The City Council specifies, adopts and orders the carrying out of the improvements to the Marina, comprising the Project described in Exhibit A, which is incorporated by this reference. The life of the improvements comprising the Project is declared to be at least equal to the term of the Bonds. The cost of carrying out the improvements shall

be paid from the proceeds of the Bonds and from other money available to the City for such purpose.

1.4 Sufficiency of Gross Revenue. The City Council finds and determines that the Gross Revenue and benefits to be derived from the operation and maintenance of the Marina at the rates to be charged for use of and services provided at the Marina will be more than sufficient to meet all of the Maintenance and Operation Expense and to permit the setting aside into the Bond Fund out of the Gross Revenue of amounts sufficient to pay the principal of and interest on the Bonds when due. The City Council declares that in fixing the amounts to be paid into the Bond Fund under this ordinance it has exercised due regard for Maintenance and Operation Expense and has not obligated the City to set aside and pay into the Bond Fund an amount of Gross Revenue of the Marina that in its judgment will be available over and above such Maintenance and Operation expense.

1.5 Purchase Offer. Martin Nelson & Company has presented a Bond Purchase Agreement offering to purchase the Bonds under the terms and conditions as set forth in this ordinance.

1.6 Issuance of Bonds. Based on the foregoing, the City Council therefore determines that it is necessary and in the best interest of the City to issue and sell the Bonds to pay the cost of constructing such improvements to the Marina, to fund a reserve for the Bonds and to pay the costs of issuance and sale of the Bonds;

Section 2. Definitions. As used in this ordinance, the following words shall have the following meanings:

“Annual Debt Service” means, in any calendar year, all amounts required to be paid in that year (including mandatory redemption amounts of Term Bonds) in respect of principal of and interest on the Parity Bonds outstanding or maturing in that year.

“Average Annual Debt Service” means, as of the date of its calculation, the sum of the Annual Debt Service with respect to the Parity Bonds outstanding (including all Parity Bonds maturing in the calendar year of calculation) for all calendar years during which those Parity Bonds are scheduled to remain outstanding, divided by the number of those calendar years (without regard to bond years).

“Bond Counsel” means Foster Pepper PLLC or any firm of lawyers nationally recognized and accepted as bond counsel and so engaged by the City for that purpose.

“Bond Fund” means the Marina Revenue Bond Fund, 2011, created in Section 11 of this ordinance in the office of the Finance Director, for the purpose of paying and securing the principal of and interest on the Parity Bonds.

“Bond Insurer” means, for any Future Parity Bonds, such provider of bond insurance as may be approved by the City Council.

“Bond Register” means the books or records maintained by the Bond Registrar containing the name and mailing address of the owner of each Bond and the principal amount and number of Bonds held by each owner.

“Bond Registrar” means the fiscal agent of the State of Washington as the same may be designated by the State from time to time.

“Bonds” means the \$2,745,000 par value Marina Revenue Bonds, 2011.

“City” means the City of Oak Harbor, Washington, a municipal corporation duly organized and existing under and by virtue of the laws of the State of Washington.

"Code" means the United States Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

"Construction Fund" means the special fund created in Section 23 of this ordinance in the office of the Finance Director designated as the Marina Construction Fund.

"Coverage Requirement" means for any calendar year, that Net Revenue in that calendar year, plus all amounts on deposit in the Principal and Interest Account on the last business day prior to the commencement of that calendar year, shall be equal to at least 1.25 times the Average Annual Debt Service on all outstanding Parity Bonds.

"DTC" means The Depository Trust Company, New York, New York.

"Finance Director" means the Finance Director of the City.

"Future Parity Bonds" means all revenue bonds and other obligations of the City for borrowed money (including, without limitation, financing leases) issued or incurred after the date of the issuance of the Bonds, the payment of which constitutes a lien and charge on the Net Revenue in equal rank with the lien and charge upon such revenue required to be paid into the Bond Fund to pay and secure the payment of the principal of and interest on the Parity Bonds.

"Government Obligations" means those obligations described under the definition of government obligations in RCW 39.53.010(4), as it now reads or hereafter may be amended, and which otherwise lawful investments for the City at the time of such investment.

"Letter of Representations" means the Blanket Issuer Letter of Representations dated December 8, 1997, between the City and DTC.

"Marina" means the small boat harbor and marina owned and operated by the City constructed pursuant to Ordinance No. 372 and any additions and betterments and extensions

thereof at any time made, including the improvements acquired and constructed with the proceeds of the Bonds.

“Marina Revenue” or ***“Gross Revenue”*** means the gross operating income received from the operation and maintenance of the Marina.

“Maintenance and Operation Expense” means all reasonable expenses incurred by the City in causing the Marina to be operated and maintained in good repair, working order and condition.

“MSRB” means the Municipal Securities Rulemaking Board.

“Maximum Annual Debt Service” means, as of any calculation date, the maximum amount of Annual Debt Service that will mature or become due in any future calendar year with respect to all the outstanding Parity Bonds.

“Net Revenue” for any calendar year means the Gross Revenue for that calendar year less Operations and Maintenance Expenses for that calendar year. In calculating Net Revenue, the City shall not take into account any non-cash gains or losses with respect to any real or personal property, investment or agreement that it may be required to recognize under generally accepted accounting principles, such as unrealized mark-to-market gains and losses.

“Operating Fund” means the Marina Construction and Operating Fund established by Ordinance No. 372 in the office of the Finance Director, into which fund the City has pledged to pay all Marina Revenue as received.

“Parity Bonds” means the Bonds and any Future Parity Bonds.

“Parity Conditions” means those conditions for the issuance of Future Parity Bonds, as such conditions are set forth in Exhibit B attached to this ordinance and incorporated by this reference.

“Permitted Investments” means investments that are legal investments for the City at the time of such investment.

“Principal and Interest Account” means the account of that name created in the Bond Fund.

“Project” means the improvements and betterments to the Marina specified in Exhibit A, which is incorporated by this reference.

“Rating Agency” or “Rating Agencies” means any nationally-recognized securities rating agency or agencies providing a rating on any of the Parity Bonds at the request of the City.

“Registered Owner” means a person shown on the Bond Register as the owner of a Parity Bond.

“Reserve Account” means the account of that name created in the Bond Fund.

“Reserve Requirement” means, as of any date of calculation, the lesser of Maximum Annual Debt Service on the outstanding Parity Bonds or 125% of Average Annual Debt Service on the outstanding Parity Bonds, but at no time shall the Reserve Requirement exceed an amount equal to 10% of proceeds of the Parity Bonds secured by the Reserve Account.

“Reserve Security” means any bond insurance, security, letter of credit, guaranty, surety bond or similar credit enhancement device providing for or securing the payment of all or part of the principal of and interest on the Parity Bonds, issued by an institution which has been assigned a credit rating at the time of issuance of the device in one of the two highest rating categories of each of at least two Rating Agencies (without regard to graduations within a rating category).

“Rule” means paragraph (b)(5) of Rule 15c2-12 promulgated by the SEC pursuant to the Securities Exchange Act of 1934, as such Rule may be amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“State” means the State of Washington.

“Term Bond Maturity Year” means the year in which a Term Bond matures.

“Term Bonds” means Parity Bonds that are subject to mandatory redemption prior to their scheduled maturity date or dates.

“Undertaking” means the City’s undertaking pursuant to Section 26 of this ordinance to provide annual financial information and notice of material events.

Section 3. Project. The City Council orders the making of improvements to the Marina, consisting of dredging (collectively, the “Project”).

Section 4. Authorization and Description of Bonds. For the purposes set forth above, the City shall issue the Bonds in the aggregate principal amount of \$2,745,000. The Bonds shall be designated Marina Revenue Bonds, 2011; shall be dated their date of initial delivery; shall be in the denomination of \$5,000 or any integral multiple thereof within a single maturity; shall be numbered separately in the manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification; shall bear interest (computed on the basis of a 360-day year of twelve 30-day months), payable semiannually on each April 1 and October 1, commencing on April 1, 2011, to the maturity or earlier redemption of the Bonds; and shall mature on October 1 in years and amounts and bear interest at the rates per annum as follows:

<u>Maturities</u>	<u>Principal Amounts</u>	<u>Interest Rates</u>	<u>Maturities</u>	<u>Principal Amounts</u>	<u>Interest Rates</u>
2011	\$	%	2018	\$	%
2012			2019		
2013			2020		
2014	To Be Determined		***		
2015			2025		
2016			***		
2017			203		

The life of the capital facilities finance with the proceeds of the Bonds exceeds the term of the Bonds.

Section 5. Registration and Transfer of Bonds. The Bonds shall be issued only in registered form as to both principal and interest and recorded on the Bond Register. The Bond Register shall contain the name and mailing address of the owner of each Bond and the principal amount and number of each of the Bonds held by each owner. Bonds surrendered to the Bond Registrar may be exchanged for Bonds in any authorized denomination of an equal aggregate principal amount and of the same interest rate and maturity. Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the owner or transferee. The Bond Registrar shall not be obligated to exchange or transfer any Bond during the 15 days preceding any principal payment or redemption date.

The Bonds initially shall be registered in the name of Cede & Co., as the nominee of DTC. The Bonds so registered shall be held in fully immobilized form by DTC as depository in accordance with the provisions of the Letter of Representations. Neither the City nor the Bond Registrar shall have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Bonds regarding accuracy of any records maintained by DTC or DTC participants of any amount in respect of principal of or interest on

the Bonds, or any notice which is permitted or required to be given to registered owners hereunder (except such notice as is required to be given by the Bond Registrar to DTC).

For so long as any Bonds are held in fully immobilized form, DTC or its successor depository shall be deemed to be the registered owner for all purposes hereunder and all references to registered owners, bondowners, bondholders or the like shall mean DTC or its nominees and shall not mean the owners of any beneficial interests in the Bonds. Registered ownership of such Bonds, or any portions thereof, may not thereafter be transferred except: (i) to any successor of DTC or its nominee, if that successor shall be qualified under any applicable laws to provide the services proposed to be provided by it; (ii) to any substitute depository appointed by the City or such substitute depository's successor; or (iii) to any person if the Bonds are no longer held in immobilized form.

Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository, or a determination by the City that it no longer wishes to continue the System of book entry transfers through DTC or its successor (or any substitute depository or its successor), the City may appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

If (i) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (ii) the City determines that the Bonds are to be in certificated form, the ownership of Bonds may be transferred to any person as provided herein and the Bonds no longer shall be held in fully immobilized form.

Section 6. Payment of Bonds. Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be paid

by checks or drafts of the Bond Registrar mailed on the interest payment date to the registered owners at the addresses appearing on the Bond Register on the 15th day of the month preceding the interest payment date or, if requested in writing by a Registered Owner of Bonds prior to the applicable record date, by wire transfer on the interest payment date. Principal of the Bonds shall be payable upon presentation and surrender of the Bonds by the Registered Owners to the Bond Registrar. Notwithstanding the foregoing, as long as the Bonds are registered in the name of DTC or its nominee, payment of principal of and interest on the Bonds shall be made in the manner set forth in the Letter of Representations. The Bonds shall be payable solely out of the Bond Fund and shall not be general obligations of the City.

Section 7. Redemption and Open Market Purchase of Bonds.

7.1 Optional Redemption. Bonds maturing in the years 2011 through 2020, inclusive, shall be issued without the right or option of the City to redeem those Bonds prior to their stated maturity dates. The City reserves the right and option to redeem Bonds maturing on or after October 1, 2025, prior to their stated maturity dates at any time on or after October 1, 2020, as a whole or in part within one or more maturities selected by the City, at a price equal to the principal amount to be redeemed, without premium, plus accrued interest to the date fixed for redemption.

7.2 Mandatory Redemption. If not previously redeemed as described above or purchased in the open market under the provisions set forth herein, the Term Bonds due on October 1 in the years 2025 and 2030 will be called for redemption randomly (in such manner as the Bond Registrar shall determine) at a price of par, plus accrued interest, on October 1 in the years and amounts as follows:

2025 Term Bonds

<u>Mandatory Sinking Fund Redemption Dates</u>	<u>Mandatory Sinking Fund Redemption Amounts</u>
2021	\$
2022	
2023	
2024	
2025 (<i>Maturity</i>)	

2030 Term Bonds

<u>Mandatory Sinking Fund Redemption Dates</u>	<u>Mandatory Sinking Fund Redemption Amounts</u>
2026	\$
2027	
2028	
2029	
2030 (<i>Maturity</i>)	

7.3 **Partial Redemption of the Bonds.** Portions of the principal amount of any Bond, in installments of \$5,000 or any integral multiple thereof, may be redeemed. If less than all of the principal amount of any Bond is redeemed, upon surrender of that Bond at either of the principal offices of the Bond Registrar, there shall be issued to the registered owner, without charge therefor, a new Bond (or Bonds, at the option of the registered owner) of the same maturity and interest rate in any of the denominations authorized by this ordinance in the aggregate principal amount remaining unredeemed.

7.4 **Open Market Purchase.** The City further reserves the right and option to purchase any or all of the Bonds in the open market at any time at any price acceptable to the City plus accrued interest to the date of purchase.

7.5 **Cancellation of Bonds.** All Bonds purchased or redeemed under this section shall be canceled.

Section 8. Notice of Redemption. While the Bonds are held by DTC in book-entry only form, any notice of redemption shall be given at the time, to the entity and in the manner

required by DTC in accordance with the Letter of Representations, and the Bond Registrar shall not be required to give any other notice of redemption. If the Bonds cease to be in book-entry only form, the City shall cause notice of any intended redemption of Bonds to be given by the Bond Registrar not less than 20 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the registered owner of any Bond to be redeemed at the address appearing on the Bond Register at the time the Bond Registrar prepares the notice, and the requirements of this sentence shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by the owner of any Bond.

In the case of an optional redemption, the notice may state that the City retains the right to rescind the redemption notice and the related optional redemption of Bonds by giving a notice of rescission to the affected registered owners at any time prior to the scheduled optional redemption date. Any notice of optional redemption that is so rescinded shall be of no effect, and the Bonds for which the notice of optional redemption has been rescinded shall remain outstanding.

In addition, the redemption notice shall be mailed within the same period, postage prepaid, to the MSRB and to such other persons and with such additional information as the Finance Director shall determine, but these additional mailings shall not be a condition precedent to the redemption of Bonds.

Interest on Bonds called for redemption shall cease to accrue on the date fixed for redemption unless the Bond or Bonds called are not redeemed when presented pursuant to the call.

Section 9. Failure to Redeem Bonds. If any Bond is not redeemed when properly presented at its maturity or call date, the City shall be obligated to pay interest on that Bond at

the same rate provided in the Bond from and after its maturity or call date until that Bond, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the bond redemption fund hereinafter created and the Bond has been called for payment by giving notice of that call to the registered owner of each of those unpaid Bonds.

Section 10. Operating Fund. By Ordinance No. 372 there previously has been created and established, and the City shall continue to maintain, in the office of the Finance Director a Marina Construction and Operating Fund (the "Operating Fund"), into which fund the City pledges to pay all Marina Revenue as received. Money on deposit in the Operating Fund shall be spent and used by the City only in the manner and order specified by Ordinance No. 372 and this ordinance. Provision shall first be made for the payment from the Operating Fund of the debt service requirements of the Bonds and any Future Parity Bonds in each year and making up any deficiency in the Reserve Account arising from any withdrawal of cash therefrom. After provision has been made for the payment of that debt service and making up any deficiency in the Reserve Account, current expenses shall be paid from the Operating Fund. Current expenses shall include all necessary operating expenses, current maintenance charges, expenses of reasonable upkeep and repairs, properly allocated share of charges for insurance and all other expenses incident to the operation of a small boat harbor and marina, but shall exclude depreciation and all general administrative expenses of the City. If in any year Marina Revenue is insufficient to pay the debt service requirements on the Bonds and any Future Parity Bonds and such current expenses, the deficiency in the payment of such current expenses shall be paid from other revenues of the City legally available for that payment.

Section 11. Bond Fund. The Bond Fund is created and established in the office of the Finance Director as a special fund of the City to be designated the Marina Revenue Bond

Fund, 2011, which fund is hereby divided into two accounts, namely a Principal and Interest Account and a Reserve Account. The City may create sinking fund accounts or other accounts in the Bond Fund for the payment or securing the payment of Parity Bonds as long as the maintenance of such accounts does not conflict with the rights of the owners of Parity Bonds.

Section 12. Flow of Funds. The funds deposited in the Operating Fund shall be used only for the following purposes in the following order of priority:

(a) Payment of debt service requirements of the Bonds and any Future Parity Bonds in each year and making up any deficiency in the Reserve Account arising from any withdrawal of cash therefrom;

(b) Current expenses, which will include all necessary operating expenses, current maintenance charges, expenses of reasonable upkeep and repairs, properly allocated share of charges for insurance and all other expenses incident to the operation of a small boat harbor and marina, but will exclude depreciation and all general administrative expense of the City. If in any year Marina Revenue is insufficient to pay the debt service requirements on the Bonds and any Future Parity Bonds and such current expenses, the deficiency in the payment of such current expenses will be paid from other revenues of the City legally available for that payment.

Section 13. Payments into the Bond Fund. So long as any of the Bonds are outstanding against the Bond Fund, the City pledges and irrevocably binds itself to set aside and pay into the Bond Fund from the Marina Revenue, certain fixed amounts without regard to any fixed proportion, namely:

(a) Into the Principal and Interest Account on or before each debt service payment date an amount which, together with other money on deposit therein, will be sufficient to pay the debt service coming due and payable on that next debt service payment date, including mandatory redemption amounts due on that date with respect to any Term Bonds; and

(b) Into the Reserve Account, either:

(1) on the date of issue, and thereafter annually in regular installments over a period of not to exceed five years an amount, which together with other money and Reserve Securities on deposit therein, will equal the Reserve Requirement for the outstanding Parity Bonds; or

(2) one or more Reserve Securities the value of which, together with any amount deposited under subsection (1), above, are equal to the Reserve Requirement for the outstanding Parity Bonds. of the Bonds from the proceeds of the Bonds, the Reserve Requirement for the Bonds.

Section 14. Covenant to Maintain Reserve Account. The City covenants and agrees that it will at all times maintain in the Reserve Account an amount (including the value of all Reserve Securities deposited therein) equal to the Reserve Requirement, except for withdrawals as authorized in this subsection, until there is a sufficient amount in the Principal and Interest Account and Reserve Account to pay the principal of and interest on all outstanding Parity Bonds, at which time the money in the Reserve Account may be used to pay any such principal and interest so long as the money remaining on deposit in the Reserve Account is not less than the Reserve Requirement calculated based on the remaining outstanding Parity Bonds. If there are sufficient funds in the Bond Fund to pay all outstanding Parity Bonds and the Reserve Requirement as to those outstanding Parity Bonds is met, excess money in the Bond Fund may be used for any Marina purpose.

In the event that the amounts in the Bond Fund are insufficient to make any debt service payment on any outstanding Parity Bonds, amounts shall be withdrawn from the Reserve Account to make up that deficiency. Any deficiency created in the Reserve Account by reason of such a withdrawal shall then be made up from Net Revenue, but only after necessary provision has been made for Operations and Maintenance Costs and for the required payments into the Principal and Interest Account.

Section 15. Investment of Funds. All money in the Bond Fund may be kept in cash or may be invested in any investment lawful for the City. Interest earned on investments in the Reserve Account allocable to the Bonds shall be deposited in and become a part of the Principal and Interest Account, or be deposited in an appropriate fund and used for capital purposes of

the Marina as determined by the City. Interest earned on the investment of funds on deposit in the Principal and Interest Account for payment of debt service on the Bonds shall be retained in the Principal and Interest Account.

If the City fails to set aside and pay into the Bond Fund the amounts above set forth, the registered owner of any of the outstanding bonds payable out of the Bond Fund may bring an action against the City to compel the setting aside and payment of such money.

Section 16. Pledge of Revenue and Lien Position. Gross operating income received from the operation and maintenance of the City's Marina is pledged for the payment of the Bonds and any Future Parity Bonds which may be issued hereafter. This pledge constitutes a lien and charge upon the Marina Revenue prior and superior to any other liens and charges whatsoever, except that the charge and lien of the Bonds will be on a parity with the charge and lien thereon for any Future Parity Bonds. After fulfilling the requirements each year for payment of debt service on the Bonds and maintaining the Reserve Requirement, the Marina Revenues may be used to pay operation and maintenance expenses of the facilities and capital expenditures for the Marina. In the event that Marina Revenue is insufficient to pay the operation and maintenance expenses of the Marina, the deficiency in the payment of such expenses will be paid from other revenues of the City legally available for that payment.

Section 17. Form and Execution of Bonds. The Bonds shall be printed or lithographed on good bond paper in a form consistent with the provisions of this ordinance and state law and shall be signed by the Mayor and City Clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon.

Only Bonds bearing a Certificate of Authentication in the following form, manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance:

CERTIFICATE OF AUTHENTICATION

This Bond is one of the fully registered City of Oak Harbor, Washington, Marina Revenue Bonds, 2011, described in the Bond Ordinance.

WASHINGTON STATE FISCAL AGENCY
Bond Registrar

By _____
Authorized Signer

The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated and delivered and are entitled to the benefits of this ordinance.

If any officer whose facsimile signature appears on the Bonds ceases to be an officer of the City authorized to sign bonds before the Bonds bearing his or her facsimile signature are authenticated or delivered by the Bond Registrar or issued by the City, those Bonds nevertheless may be authenticated, delivered and issued and, when authenticated, issued and delivered, shall be as binding on the City as though that person had continued to be an officer of the City authorized to sign bonds. Any Bond also may be signed on behalf of the City by any person who, on the actual date of signing of the Bond, is an officer of the City authorized to sign bonds, although he or she did not hold the required office on the date of issuance of the Bonds.

Section 18. Duties of Bond Registrar. The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient books for the registration and transfer of the Bonds, which shall be open to inspection by the City at all times. The Bond Registrar is

authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and City Ordinance No. 789 establishing a system of registration for the City's bonds and obligations.

The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's Certificate of Authentication on the Bonds. The Bond Registrar may become the owner of Bonds with the same rights it would have if it were not the Bond Registrar and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as members of, or in any other capacity with respect to, any committee formed to protect the rights of Bond owners.

Section 19. Covenants. The City covenants and agrees with the owner of each of the Bonds for as long as any of the same remain outstanding as follows:

(a) It will duly and punctually pay or cause to be paid out of the Bond Fund the principal of and interest on the Bonds at the times and places as provided in this ordinance and in the Bonds, and it will faithfully do and perform and at all times observe any and all covenants, undertakings and provisions contained in this ordinance and in the Bonds.

(b) It will at all times keep and maintain or cause to be kept and maintained the Marina facilities in good repair, working order and condition and will at all times operate the same and the business in connection therewith in an efficient manner and at reasonable cost.

(c) It will at all times establish, maintain and collect rentals, tariffs, rates and charges for the use, operation and lease of its Marina facilities that will produce Net Revenue which each year will be sufficient to meet the Coverage Requirement.

(d) It will not allow the use of the Marina without charge for any purpose for which by ordinance or regulation charges must be made, nor shall it permit the use of the Marina by any person on a basis different than permitted to all members of the general public or that otherwise results in "private business use" of the Marina under the Code.

(e) It will keep and maintain proper books of accounts and accurate records of all of its Marina Revenue received and all costs of maintenance and operation of the Marina.

(f) It will at all times keep and arrange to keep all of its Marina properties producing material amounts of Marina Revenue insured against loss or damage by fire, extended coverage or other casualties usually insured against in the ordinary course of business in an amount equal to not less than 90 percent of the full insurable value of such property, and it will further keep such property covered by war risk insurance to the extent the same is or may become available.

(g) It will at all times keep or arrange to keep in force and effect policies of public liability and property damage insurance insuring against damages that may result from the use of such property and which will protect the City against anyone claiming damages of any kind or nature arising from the use, occupancy or operation of those properties.

Section 20. Preservation of Tax Exemption for Interest on Bonds. The City covenants that it will take all necessary actions to prevent interest on the Bonds from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Bonds or other funds of the City treated as proceeds of the Bonds at any time during the term of the Bonds which will cause interest on the Bonds to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirement of Section 148 of the Code is applicable to the Bonds, take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with the Bonds, including the calculation and payment of any penalties that the City has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 148 of the Code to prevent interest on the Bonds from being included in gross income for federal income tax purposes.

Section 21. Small Governmental Issuer Arbitrage Rebate Exception and Designation of Bonds as "Qualified Tax-Exempt Obligations." The City finds and declares that (a) it is a duly organized and existing governmental unit of the State of Washington and has general

taxing power; (b) no Bond which is part of this issue of Bonds is a "private activity bond" within the meaning of Section 141 of the United States Internal Revenue Code of 1986, as amended (the "Code"); (c) at least 95% of the net proceeds of the Bonds will be used for local governmental activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City); (d) the aggregate face amount of all tax-exempt obligations (other than private activity bonds and other obligations not required to be included in such calculation) issued by the City and all entities subordinate to the City (including any entity that the City controls, that derives its authority to issue tax-exempt obligations from the City, or that issues tax-exempt obligations on behalf of the City) during the calendar year in which the Bonds are issued is not reasonably expected to exceed \$5,000,000; and (e) the amount of tax-exempt obligations, including the Bonds, designated by the City as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code during the calendar year in which the Bonds are issued does not exceed \$10,000,000. The City therefore certifies that the Bonds are eligible for the arbitrage rebate exception under Section 148(f)(4)(D) of the Code and designates the Bonds as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code.. Refunding or Defeasance of the Bonds. The City may issue refunding bonds pursuant to the laws of the State of Washington or use money available from any other lawful source to pay when due the principal of and interest on those Parity Bonds, or any portion thereof included in a refunding or defeasance plan (the "Defeased Bonds"), and to redeem and retire, refund or defease such Defeased Bonds and to pay the costs of such refunding or defeasance.

If the City deposits irrevocably with an escrow agent money and/or Government Obligations sufficient in amount, together with the earnings thereon, sufficient to pay the

principal of and premium, if any, on any particular Parity Bond or Parity Bonds or portions thereof becoming due (the "Defeased Bonds"), together with all interest accruing thereon to the due date or redemption date, and pays or makes provision for payment of all fees, costs and expenses of that escrow agent due or to become due with respect to the Defeased Bonds, all liability of the Marina with respect to the Defeased Bonds shall cease, the Defeased Bonds shall be deemed not to be outstanding hereunder and the Registered Owners of the Defeased Bonds shall be restricted exclusively to the money or Government Obligations so deposited, together with any earnings thereon, for any claim of whatsoever nature with respect to the Defeased Bonds, and that escrow agent shall hold that money, Government Obligations and earnings in trust exclusively for those Registered Owners and that money, Government Obligations and earnings shall not secure any other Parity Bonds under this ordinance. After establishing such an escrow account, the City may apply any money in any other fund or account established for the payment or redemption of the Defeased Bonds to any lawful purposes as it shall determine, subject only to the rights of the owners of any other Parity Bonds then outstanding. Defeased Bonds shall be excluded from computation of the Coverage Requirement and other covenants under this ordinance.

Section 23. Construction Fund; Deposit of Bond Proceeds. There is created and established in the office of the City Finance Director a special fund designated as the Marina Construction Fund, 2011 (the "Construction Fund"). The principal proceeds received from the issuance and sale of the Bonds shall be deposited as follows: (1) an amount equal to the Reserve Requirement for the Bonds shall be deposited in the Reserve Account as a reserve for Parity Bonds, and (2) the balance shall be deposited in the Construction Fund and shall be used to pay the costs of carrying out the Project and the costs of issuance of the Bonds. Other

District funds shall be deposited in the Construction Fund as required to accomplish its purpose. Pending the expenditure of the principal proceeds out of the Construction Fund, the Finance Director may temporarily invest such proceeds in any legal investment and the investment earnings may be retained in the Construction Fund and spent for the purposes of that fund except that any earnings subject to the federal rebate requirement may be withdrawn from the Construction Fund and used to meet that rebate requirement.

Section 24. Approval of Bond Purchase Contract. Martin Nelson & Company of Seattle, Washington, has presented a purchase contract (the "Bond Purchase Contract") to the City offering to purchase the Bonds under the terms and conditions provided in the Bond Purchase Contract, which written Bond Purchase Contract is on file with the City Clerk. The City Council finds that entering into the Bond Purchase Contract is in the City's best interest and therefore accepts the offer contained therein and authorizes its execution by City officials. The Bonds will be printed at City expense and will be delivered to the purchaser in accordance with the Bond Purchase Contract, with the approving legal opinion of Foster Pepper PLLC, municipal bond counsel of Seattle, Washington, regarding the issuance of the Bonds. The proper City officials are authorized and directed to do everything necessary for the prompt delivery of the Bonds to the purchaser and for the proper application and use of the proceeds of the sale thereof.

Section 25. Preliminary Official Statement Deemed Final. The City Council has been provided with copies of a preliminary official statement dated January 6, 2011 (the "Preliminary Official Statement"), prepared in connection with the sale of the Bonds. For the sole purpose of the Bond purchaser's compliance with Securities and Exchange Commission Rule 15c2-12(b)(1), the City "deems final" that Preliminary Official Statement as

of its date, except for the omission of information as to offering prices, interest rates, selling compensation, aggregate principal amount, principal amount per maturity, maturity dates, options of redemption, delivery dates, ratings and other terms of the Bonds dependent on such matters.

Section 26. Undertaking to Provide Continuing Disclosure. To meet the requirements of SEC Rule 15c2-12(b)(5) (the "Rule"), as applicable to a participating underwriter for the Bonds, the City makes the following written undertaking (the "Undertaking") for the benefit of holders of the Bonds:

26.1 Undertaking to Provide Annual Financial Information and Notice of Material Events. Undertaking to Provide Annual Financial Information and Notice of Material Events. The City undertakes to provide or cause to be provided, either directly or through a designated agent, to the MSRB, in electronic format as prescribed by the MSRB, accompanied by identifying information as prescribed by the MSRB:

- (a) Annual financial information and operating data of the type included in the final official statement for the Bonds and described in subsection (b) of this section ("annual financial information");
- (b) Timely notice (not in excess of ten business days after the occurrence of the event) of the occurrence of any of the following events with respect to the Bonds:
 - (1) principal and interest payment delinquencies;
 - (2) non-payment-related defaults, if material;
 - (3) unscheduled draws on debt service reserves reflecting financial difficulties;
 - (4) unscheduled draws on credit enhancements reflecting financial difficulties;
 - (5) substitution of credit or liquidity providers, or their failure to perform;
 - (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notice of Proposed Issue (IRS Form 5701 – TEB) or other material notices or determinations with respect to the tax status of the Bonds;
 - (7) modifications to rights of holders of the Bonds, if material;
 - (8) Bond calls (other than scheduled mandatory redemptions of Term Bonds), if material, and tender offers;

- (9) defeasances;
 - (10) release, substitution, or sale of property securing repayment of the Bonds, if material;
 - (11) rating changes;
 - (12) bankruptcy, insolvency, receivership or similar event of the City (a "Bankruptcy Event"), which is considered to occur when any of the following occur: (A) the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or (i) in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or (ii) if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or (B) the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person;
 - (13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
 - (14) appointment of a successor or additional trustee or the change of name of a trustee, if material.
- (c) Timely notice of a failure by the City to provide required annual financial information on or before the date specified in subsection (b) of this section.

26.2 *Type of Annual Financial Information Undertaken to be Provided.* The annual financial information that the City undertakes to provide in subsection (a) of this section:

- (a) Shall consist of (1) annual financial statements prepared (except as noted in the financial statements) in accordance with applicable generally accepted accounting principles promulgated by the Government Accounting Standards Board and made applicable to Washington State local governmental units such as the City, as such principles may be changed from time to time, which statements shall not be audited, except, however, that if and when audited financial statements are otherwise prepared and available to the City they will be provided; (2) a statement of authorized, issued and outstanding Parity Bonds; and (3) debt service coverage ratios;

- (b) Shall be provided not later than the last day of the ninth month after the end of each fiscal year of the City (currently, a fiscal year ending December 31), as such fiscal year may be changed as required or permitted by State law, commencing with the City's fiscal year ending December 31, 2010; and
- (c) May be provided in a single or multiple documents, and may be incorporated by specific reference to documents available to the public on the Internet website of the MSRB or filed with the SEC.

26.3 *Amendment of Undertaking.* The Undertaking is subject to amendment after the primary offering of the Bonds without the consent of any holder of any Bond, or of any broker, dealer, municipal securities dealer, participating underwriter, rating agency or the MSRB, under the circumstances and in the manner permitted by the Rule. The City will give notice to the MSRB of the substance (or provide a copy) of any amendment to the Undertaking and a brief statement of the reasons for the amendment. If the amendment changes the type of annual financial information to be provided, the annual financial information containing the amended financial information will include a narrative explanation of the effect of that change on the type of information to be provided.

26.4 *Beneficiaries.* The Undertaking evidenced by this section shall inure to the benefit of the City and any holder of Bonds, and shall not inure to the benefit of or create any rights in any other person.

26.5 *Termination of Undertaking.* The City's obligations under this Undertaking shall terminate upon the legal defeasance of all of the Bonds. In addition, the City's obligations under this Undertaking shall terminate if those provisions of the Rule which require the City to comply with this Undertaking become legally inapplicable in respect of the Bonds for any reason, as confirmed by an opinion of Bond Counsel, or other counsel familiar with federal securities laws, delivered to the City, and the City provides timely notice of such termination to the MSRB.

26.6 *Remedy for Failure to Comply with Undertaking.* As soon as practicable after the City learns of any failure to comply with the Undertaking, the City will proceed with due diligence to cause such noncompliance to be corrected. No failure by the City or other obligated person to comply with the Undertaking shall constitute a default in respect of the Bonds. The sole remedy of any holder of a Bond shall be to take such actions as that holder deems necessary, including seeking an order of specific performance from an appropriate court, to compel the City or other obligated person to comply with the Undertaking.

(g) ***Designation of Official Responsible to Administer Undertaking.*** The Finance Director of the City (or such other officer of the City who may in the future perform the duties of that office) or his or her designee is authorized and directed in his or her discretion to take such further actions as may be necessary, appropriate or convenient to carry out the Undertaking of the City in respect of the Bonds set forth in this section and in accordance with the Rule, including, without limitation, the following actions:

- (a) Preparing and filing the annual financial information undertaken to be provided;
- (b) Determining whether any event specified in subsection (a) has occurred, assessing its materiality, where necessary, with respect to the Bonds, and, if material, preparing and disseminating any required notice of its occurrence;
- (c) Determining whether any person other than the City is an "obligated person" within the meaning of the Rule with respect to the Bonds, and obtaining from such person an undertaking to provide any annual financial information and notice of listed events for that person in accordance with the Rule;
- (d) Selecting, engaging and compensating designated agents and consultants, including but not limited to financial advisors and legal counsel, to assist and advise the City in carrying out the Undertaking; and
- (e) Effecting any necessary amendment of the Undertaking.

Section 27. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Oak Harbor, Washington, at a regular open public meeting thereof, this 18th day of January, 2011.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CERTIFICATION

I, the undersigned, City Clerk of the City of Oak Harbor, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. ____ (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on January ____, 2011, as that ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect five days after publication in the City's official newspaper; and

2. A quorum of the members of the City Council was present throughout the meeting and a majority of those members present voted in the proper manner for the passage of the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of January, 2011.

CITY OF OAK HARBOR, WASHINGTON

Connie Wheeler, City Clerk

EXHIBIT A

Project Description

EXHIBIT B**Parity Conditions**

The City may issue Future Parity Bonds only for lawful Marina purposes and only if the following conditions are met and complied with at the time of the issuance of those Future Parity Bonds:

(a) All payments then required by this ordinance and any other ordinance hereafter enacted pertaining to the Bonds or to any Future Parity Bonds hereafter issued shall have been made into the Bond Fund and maintained intact therein.

(b) Provision shall be made for payment into the Reserve Account in the Bond Fund of such additional amounts over a period of not to exceed 5 years from the date of issuance of the Future Parity Bonds as may be necessary to maintain a balance in the Reserve Account at least equal to the Reserve Requirement.

(c) The City shall have on file a certificate from a certified public accountant or licensed professional engineer showing that the annual Net Revenue available for debt service on all Bonds, any Future Parity Bonds then outstanding and the Future Parity Bonds proposed to be issued shall be at least equal to 1.25 times Average Annual Debt Service; provided that if such parity computation is based exclusively upon the historical operating revenue of the Marina facilities, the parity certificate may be provided by the Finance Director. The Marina Revenue to be used in such parity computation shall include the historical operating revenue of the Marina facilities for any twelve consecutive calendar months out of the twenty-four calendar months immediately preceding the month of delivery of such Future Parity Bonds, and may be adjusted to include revenue derived from rate changes, if any, placed in effect subsequent to the twelve-month period used in the certificate and estimates of any revenue to be derived from the facilities constructed with the proceeds of the Future Parity Bonds proposed to be issued. In calculating historical operating revenue with respect to any portion of the Marina facilities which was in operation for a portion of but not the entire twelve-month period used in the certificate, the revenue from that portion of the Marina facilities may be adjusted to reflect a reasonable estimate of revenue that would have been produced in a full twelve-month period.
