CITY OF OAK HARBOR

City Council Meeting
Agenda for
December 1, 2009
6:00 p.m.

Oak Harbor City Council
Tuesday, December 1, 2009, 6:00 p.m.

Welcome to the Oak Harbor City Council Meeting

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION Paul Orritt – St. Stephens Anglican Church

ROLL CALL

MINUTES 11/17/09 Regular Meeting, 11/19/09 Special Meeting

NON-ACTION COUNCIL ITEMS:

1. Wreath Presentation – By Scout Troop 59.
2. Introduction of New Employees – Michael Evans, Jack Robinson.
3. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

4. Consent Agenda.

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   a. Excused Absence Request – Councilmember Bob Severns from the 1/15/10 meeting.

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   b. WAIF Contract.
   c. Pay Bills.

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5. Public Hearing – Third Quarter Report on Element Nightclub.

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6. Public Hearing – Nightclub License, Flyer's.

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7. Public Hearing – Nightclub License, Seven West.

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8. Public Hearing – Ordinance, 2009 Comprehensive Plan Amendment.

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9. Public Hearing – Ordinance, Comprehensive Plan Amendment Process.

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10. Pioneer Way Improvements – Street Configuration.

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11. Fire Department Reorganization Proposal.

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12. Contract Award – RBC Diversion Pump Station Upgrade.

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13. Final Consideration – Resolution, Legislative Priorities.

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14. Introduction – Marina Rate Increase and Project Funding Approach.
15. City Administrator's Comments
16. Councilmembers' Comments
    a. Standing Committee Reports
17. Mayor's Comments

ADJOURN

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

"Doubt is not a pleasant condition, but certainty is absurd. "
- Voltaire

Regular City Council Meeting
Tuesday, November 17, 2009, 6:00 p.m.
City Hall Council Chambers

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

INVOCATION Dave Jenkins, Living Faith Christian Church

ROLL CALL

Jim Slowik, Mayor
Six Members of the Council,
Rick Almberg
James M. Campbell
Eric Gerber
Jim Palmer
Beth Munns
Bob Severns

Paul Schmidt, City Administrator
Margery Hite, City Attorney
Doug Merriman, Finance Director
Steve Powers, Development Services Director
Cathy Rosen, Public Works Director
Eric Johnston, City Engineer
Steve Bebee, Supervisor, Public Works Stormwater
Cac Kamak, Senior Planner
Lt. Tim Sterkel, OHPD
Lt. John Dyer, OHPD
Mark Soptich, Fire Chief
Mike McIntyre, Senior Services Director
Renée Recker, Executive Assistant to the Mayor

Mayor Pro Tem Paggao was not feeling well and was absent from this meeting.

MINUTES

MOTION: **Councilmember Palmer moved to approve the minutes of the 11/4/09 regular meeting; the motion was seconded by Councilmember Campbell and carried unanimously.**

NON-ACTION COUNCIL ITEMS

Presentation of Oak Harbor Police Department Life Saving Awards

Lt. John Dyer introduced the three OHPD officers being recognized with Life Saving Awards and talked about their history with the Department:

- Officer Mel Lolmaugh
- Officer Loyd Carter
- Officer Cedric Niiro

Randy Payne (Oak Harbor Parks Department), who had received CPR from Officer Niiro, was also in attendance.

Certificate of Appreciation

Mayor Slowik read the Certificate of Appreciation for Gregory Maxwell and Councilmember Campbell presented the Certificate and Oak Leaf plaque to Mr. Maxwell.

Mayor and Council took a short break at 6:10 p.m. to congratulate the recipients and the meeting reconvened at 6:20 p.m.

Public Comments

Gloria Carothers, 2130 Stoney Beach Lane. Ms. Carothers owns the Jewelry Gallery on Pioneer Way and spoke with concern about the Pioneer Way one-way option. Tom Beckwith worked on the downtown plan in 2001, and Pioneer Way was voted on and approved as a two-way street. Ms. Carothers talked about the traffic flow going to and coming from the base and the potential for traffic problems with left-hand turns. If sidewalks are widened with the one-way option and that design is not practical, it would be costly to return Pioneer to a two-way street. Please consider a two-way design only; leave Pioneer the way it is.

Mel Vance, P.O. Box 2882. Mr. Vance noted that Pioneer Way and the downtown core is talked about as a destination, yet the majority of traffic is not going downtown but instead using Pioneer Way as an arterial. If the one-way design option is chosen and does not work, it would be expensive and difficult to return Pioneer Way to a two-way street. The best option is two-way.

With no other comments coming before Council, public comments were closed at 6:25 p.m.

Consent Agenda

A. Authorization to Advertise for Bids – Regatta Water Main Extension
B. Authorization to Advertise for Bids – North Oak Harbor Street Improvements
C. Contract for Services – Jail Telephone System
D. Pay Bills

MOTION: **Councilmember Campbell moved to approve consent agenda items A, B, C, and D with item D paying Accounts Payable Check numbers 139259 – 139425 in the amount of $382,176.33, payroll check number 93367 in the amount of $3,431.86, and payroll check numbers 93368 – 93376 in the amount of $88,690.00. The motion was seconded by Councilmember Gerber and carried unanimously.**

Agreement – Caregivers Resource Center

Development Services Director Steve Powers presented this agenda bill and proposed professional services agreement between the City and North Whidbey Caregivers' Cove (NWCC) for maintaining the caregivers' resource center/adult day care services in Oak Harbor. Approval of this agreement would authorize the agreement's start to coincide with the December 2009 departure of the City's current service provider (Senior Services of Island County). Mr. Powers reviewed the history of the City's adult day care program as outlined in the agenda bill.

The proposed agreement sets forth the scope of services, term (three years) and compensation for contracted caregiver support and adult day care services. Notable points of the agreement include:

- NWCC is responsible for providing a five-day a week, eight hours per day program and for providing adequate staffing to operate such a program.

- NWCC is responsible for providing a monthly program report to the City detailing attendance, program days and unduplicated service.
- The City will provide the facility to house the program and provide for maintenance, utilities and insurance associated with the building (Note: This expense is completely funded by Island County's annual contribution to the program).
- The City will compensate NWCC $1,500 per month for the program and will pay one-half of the program insurance covering the program ($1,200 per year).
- The City may terminate this agreement for failure to appropriate funds with 30 days' notice or terminate for convenience with 60 days' notice.

Mr. Powers also reviewed the agenda bill's comparison chart showing the current program and the newly proposed and restructured program and talked about the benefits of the proposed program.

Program Component	**Adult Day Care under Senior Services of Island County**	**Caregiver Support Program under North Whidbey Caregivers' Cove**
Employees	SSIC Program Manager Activities Coordinator(s)	NWCC Program Manager Activities Coordinator(s)
Clients	Open to adults 18 and older	Open to adults 18 and older
Fees	Determined by a sliding scale dependent on family income	Determined by a sliding scale dependent on family income
Days of care	Three per week (6 hrs/day)	Five per week (8 hrs/day)
Facility	•City/Island Thrift contracted building •Current contract good thru Nov 2013	•City/Island Thrift contracted building •Current contract good through November 2013
Facility maintenance	City contractually responsible for building upkeep, utilities and insurance (fully funded by Island County contribution to City)	City contractually responsible for building upkeep, utilities and insurance (fully funded by Island County contribution to City)
Direct City expenditures	•$24,000 – program •$1,200 – insurance	•$18,000 – program •$1,200 – insurance
NWRC support	•$9,500 (given directly to SSIC) •Program oversight/audits by NWRC	•$9,500 (given directly to NWCC) •Program oversight/audits by NWRC
Proposed additional services provided	N/A	•Caregiver Library Resources •Caregiver Training Courses (6 times/yr) •Caregiver Training Workshops (1-2/yr) •Caregiver Support Group involvement

The proposed professional services agreement with North Whidbey Caregivers Cove provides for an expanded level of service at a lower base cost to the City. From simply a cost viewpoint, the proposed agreement offers a better value for the City. The decision as to whether or not the City should be involved with this program, regardless of the expense, is a policy decision for City Council. Staff supports the City's continued involvement with an adult daycare and respite program.

Mayor Slowik noted that representatives from the Senior Center Foundation, Senior Center Advisory Board, Northwest Regional Council, program participants, and Senior Services Director, Mike McIntyre were present this evening.

Public Comment

Mark Wyman, 248 SE Ely Street. Mr. Wyman spoke in support of adult day care on behalf of his mother, Gail Wyman, who suffers from Alzheimer's disease. He and his family are the primary caregivers for his mother and Daybreak Adult Daycare has been a lifesaver for both his mother and his family. They support the proposed agreement with NWCC.

Capt. John Worthington, USN, Ret., 480 SW Muzzal. Capt. Worthington spoke in support of adult day care and the proposed program. His mother is 88, has severe dementia, and would simply be sitting without this program. She has attended Daybreak for 5 years and Capt. Worthington has watched the program mature under great leadership. Please support the proposed program and agreement.

Al Koetje, Oak Harbor, Senior Center Foundation. Mr. Koetje spoke on behalf of the Foundation and talked about the importance of adult day care. Without this service, 24/7 care providers cannot have a break. It is important that the community continue to provide this service. The proposed program and the NWCC agreement are supported by the Foundation.

Mike Radach, 684 SW 2nd. Mr. Radach spoke in favor of the City underwriting this program. His adult daughter, Crystal, has been a program participant for 12 years. Mr. Radach noted that the community takes great pride in the City when it does a good job. Adult day care does an admirable job, is not broken, is well-functioning, fulfills the City's mission, and is offered with professionalism in the spirit of community service. With an aging population, we need this kind of service in the community. Mr. Radach read a letter written in Crystal's voice. We are family that appreciates what Daybreak does.

Shelly Zylstra, Northwest Regional Council. Dr. Zylstra spoke on behalf of Northwest Regional Council which serves three counties including Island County. One of their responsibilities is to develop an area plan which addresses a community's needs. Adult day care not only provides services to its participants, but also provides assistance to caregivers and family members of participants. Four things are necessary for a successful program:

1. For the first time, there is a holistic approach to the program with a diverse funding source including grants and sub-grants to help subsidize the program.
2. Experienced staff. Oak Harbor has an extremely experienced and caring staff.
3. Support of the community.
4. And finally, a board that is solely focused on the program to be provided by NWCC.

This program is not only for older adults. There is also a need for returning military with head injuries. Northwest Regional Council has established an agreement with the Veteran's Administration and the Veteran's Administration will be seeking adult day care services and can help fund these services. Dr. Zylstra concluded by saying, "My hat is off to you and thank you for the work you have done on behalf of this population. Sign the document."

Frank Moore, 1745 W. Beach Road. Mr. Moore spoke as the president of the Oak Harbor Senior Services Advisory Board. Board members represent a unique cross-section of Oak Harbor: services organizations, Chamber of Commerce, Whidbey General, Oak Harbor School District, local ministers (Allan Swan), Island County Treasurer Linda Riffe, and Island County Commissioner Angie Homola. Supporting this program and the associated proposed agreement is the right thing to do.
Fred Henninger, 580 SE Ireland Street. Dr. Henninger talked about the program's funding and felt it should not be provided solely by Oak Harbor residents but should be shared by the County, too. In response, Mayor Slowik noted that the funding comes from diverse and varied sources such as the NW Regional Council, Island County, grants, and private funding.
Carina Smith, 248 Ely Street. Ms. Smith is Gail Wyman's 24/7 caregiver and spoke in support of the adult day care program. Gail Wyman is only 57 years old and has been in the adult day care program for 2 years. Ms. Wyman loves to go there. The present Daybreak program is one of the few services providing adult day care. This program is Ms. Smith's first source when she needs a question answered. As a caregiver, this is vital.

With no other comments coming forward, Mayor Slowik closed comment on this agenda item at 6:50 p.m.

Council Discussion
Comments followed:

- **Councilmember Munns: Dr. Zylstra's comments concerning grant funds. Have they been received?** Yes, this grant is on an annual basis and other grant opportunities are being pursued. 501 (c) (3) status allows for many other grant options. Three other grant applications have been sent out.
- **Councilmember Campbell: We ought to do this and shame on those who disagree. With someone in the family who lives in full-time care, we could not deal with that level of care 24/7. Caregivers can die sooner than the person receiving the care. If there are 50 clients, one time a week, 52 weeks of the year at 1,100 visits, that is 77 dollars per person.**
- **Councilmember Gerber: Thanks to Mike McIntyre for his work on this issue. I sat on the Senior Center Advisory Board and we were talking about the same issues in 2001. Since then, there has been an effort to make the program break even. Information was requested a month ago that was not provided this evening: list of board members, information about the agency, and their business plan. Do not make a decision this evening without it. Referring to past minutes, there were 22 questions that the City needs to ask of a new non-profit group. These questions would need to be answered by any service provider. I think this program will continue to show a deficit and be a burden to the City.** Mr. Powers noted the board members' names: Mark Forbes, President; Mary Bresnick, Vice-President; Jim Self, Treasurer; Allan Swan, Secretary; and Mr. McIntyre introduced those members attending this evening. These members have a background in social work or administration. Mr. Powers noted that staff had presented the information they had available regarding how NWCC will provide

services. City Attorney Hite noted that there is an adequate scope of work in the contract which covers the issues required of a contract.

- **Councilmember Palmer asked about the amount of time Mr. McIntyre would have to devote to the program and the experience level of NWCC.** Mr. McIntyre would dedicate 5 – to 10 percent of his time once the restructuring is in place. The non-profit will handle the adult day care program and, with many years of experience, that is their sole focus. **$18,000 will come from the City with the remaining funds coming from other sources. It appears to be a lot of money, but as our share, it is not that much. Continue the program.**
- **Councilmember Almberg: Our families have had experience with dementia and 24/7 care. As a Councilmember with an obligation to the City, these are difficult decisions. Not speaking from an emotional position, but for the community as a whole and as Councilmember Gerber pointed out, we did ask for a business plan. SSIC will no longer run the program and I want to see the program achieve success and survive. Is NW Regional Council guaranteeing $9,500?** Yes, per Mr. Powers and Dr. Zylstra. **The County's contribution?** Mayor Slowik had been in contact with the County and will email them this evening's results. Mr. McIntyre had testified at the County's budget hearings. **Is the $11,600 from the County guaranteed?** They haven't made their final decision. **Then who would pick up the slack?** There would be a 9% reduction if the County does not participate. The way the program is structured with 5 paying clients, 5 hours a day, 5 days a week, the program would have to raise the paying customer level to 6 to cover that 9%. **What percentage of users are in the City and what percentage are in the county?** Mr. Powers did not have that statistic. **Mr. Almberg responded that this agenda bill is a best guess for expenditures and revenues and he was not in favor of going forward until we have all of the information.** Mr. Powers noted that City Attorney Hite said the contract is appropriately structured and lays out responsibilities. When you enter into a contract, the expectation is that the contractor provides the service and responsibility to conduct themselves in accord with the contract. We believe the contract adequately protects the City's interests and we do not contemplate additional funding. **Mr. Almberg's concerns ran to the City's revenue and expenses with the City now at the intersecting lines of revenues and expenses. That is not the projection for 2011 and 2012 when the City will see an increase in expenses. Will this be a sustainable program and what will happen to the City five years from now without a good business plan.**
- **Councilmember Severns: The City added $6,000 to the $18,000 at SSIC's request. Is the $18,000 budgeted?** Yes. **If SSIC was not able to continue running this program for 18 hours a week (3 days at 6 hours per day), how can NWCC run a 40 hour a week, 5-day program?** Dr. Zylstra responded that the key difference is, this program is the board's sole responsibility while SSIC has a number of other programs; adult day care was not their primary focus. SSIC did not pursue grant opportunities. This board and Mr. McIntyre are already pursuing them.

Council discussion continued about the number of last year's participants, the size of the existing building, that this new provider has raised $15,000 of the $27,000 needed for next year, and contributors are waiting on the City's decision. Caregiver training is provided by Bellingham Technical College via this program with a maximum of 20 students and a projection of 120 graduating students. Currently, 32 students have signed up for this program with 12 students on a waiting list. Discussion followed that this is a developing new program, contractual needs have been met, a smooth transition needs to be made from SSIC to NWCC to ensure participant care, and an important part of government is to help all of our citizens. Considering this is a 501 (c) (3), the contribution line can be increased from $300 which is low. Other Council comments ran to defining this program as a new venture with a local board when City staff had run the program for most of its history, SSIC's letter requesting City assistance and hope that the client base would increase, and if it is possible to raise client demand to meet a 5-day per week schedule with questions about the program's sustainability. It was clarified that using the phrase "new venture" was meant to show that a non-profit board is running the program and only this program while SSIC runs many other programs and could not fully focus on Oak Harbor's adult day care. Staff, to the best of their ability, has demonstrated that it is a sustainable program and also recognize that this is a new organization. Mayor Slowik asked Dr. Zylstra to talk about Oak Harbor being the only city running an adult day care program (MRSC had said the City of Bothell was the only other city running this type of program). Dr. Zylstra responded that there are 55 programs in the state, other rural programs are in place in Burlington, Anacortes, and Bellingham which receive funding from City and County funds, and most are run by non-profits. NW Regional Council can provide technical assistance and Dr. Zylstra could talk further with Councilmember Gerber about past problems. Mr. Powers reiterated that this is not just a City program; it is a program with other participants. Discussion followed about the 30 and 60 day options for failure to appropriate funds and respectively terminate the program.

Discussion continued about the $50,000 purchase of the Whidbey Island Marathon without a business plan, the need for business plans rather than bits and pieces, proof of need, goals and timetables. Other discussion points noted that the program is budgeted for 2010 and Council could vote this evening with the expectation that a business plan could come forward in another year. Dr. Zylstra noted that NW Regional Council received a business plan after looking at the budget and work plans from seven different areas and it was a stellar job given the timeframe. More discussion followed about a business plan and if it would answer some of Council's questions along with discussion to continue this agenda item until Council's next meeting (12/1/09) even though that would be very close for an appropriate transition from SSIC to NWCC and the continuum needs to be maintained.

MOTION: **Councilmember Munns moved to authorize the Mayor to sign a professional services agreement in the amount of $18,000 per year with North Whidbey Caregivers' Cove for the purpose of providing caregivers resource center support services in Oak Harbor. The motion was seconded by Councilmember Campbell.**

Councilmember Almberg asked Councilmember Munns to amend the motion and allow staff time to address a business plan. City Attorney Hite referred to Council Rules, Number 13 (e) allowing for postponement to a set time.

SECOND MOTION: **Councilmember Almberg moved to postpone this decision until the next Council meeting and allow staff time to prepare a business plan. This motion was seconded by Councilmember Gerber.**

VOTE ON THE MOTION: **Councilmembers Almberg and Gerber voted in favor of the motion. Councilmembers Campbell, Palmer, Munns, and Severns opposed this motion. The motion did not carry.**

VOTE ON THE ORIGINAL MOTION: **Councilmembers Campbell, Palmer, Munns, and Severns voted in favor of the original motion. Councilmembers Gerber and Almberg opposed. The original motion to authorize the Mayor to sign a professional services agreement in the amount of $18,000 per year with North Whidbey Caregivers' Cove carried.**

Break

Mayor Slowik called for a break at 7:45 p.m. and the meeting reconvened at 8:00 p.m.

Public Hearing – 2009 Comprehensive Plan Amendments

MOTION: **Councilmember Gerber made a motion to remove Agenda Item 8 – Public Hearing, 2009 Comprehensive Plan, and schedule it for the December 1, 2009 City Council meeting. Councilmember Munns seconded the motion which carried unanimously.**

Introduction – Resolution, Legislative Priorities

City Administrator Paul Schmidt presented this agenda bill for a resolution to convey City Council's wishes to the legislature through a Legislative Priorities List. This is an introduction and draft for Council's consideration. Mayor Slowik corrected item 5 which comes from ICOM. Councilmember Campbell asked to include a point about the Open Meetings Act (Public Records Act) in light of the Shoreline, Washington lawsuit. If Facebook is used, that information cannot be retrieved. Mayor Slowik asked if there was information about Facebook, Twitter, etc. addressing this issue. This item will be added to the resolution as number 13.

Final Consideration – Illicit Discharge Ordinance adding new OHMC Chapter 12.50

City Engineer Eric Johnston presented this agenda bill and ordinance addressing a proposed code change that is required by the National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit issued to the City of Oak Harbor by the Washington State Department of Ecology. Mr. Johnston reviewed the history of the NPDES stormwater permit and noted that since this ordinance's introduction to Council on August 5, 2009, staff has added a change to allow the use of sand, salt, and de-icing agents during inclement weather. Steve Bebee, Public Works Stormwater Division distributed an informational letter to Council as sent to the public which is attached to these minutes as Exhibit A.

Mayor Slowik opened the public hearing at 8:10 p.m.

Fred Henninger, 580 SE Ireland. Dr. Henninger talked about Island Thrift's catchment and slow release of stormwater and noted that the community needs to be able to respond positively to this ordinance.

With no other comments coming forth, Mayor Slowik closed the public hearing at 8:11 p.m.

Council Discussion

Discussion followed about the issue of keeping private detention facilities cleaned and cleared and hope that the market can fill that gap for privately-owned facilities. Both Eric Johnston and Steve Bebee can be contacted if there are questions. This is an unfunded mandate which is required to meet the NPDES permit. Discussion continued about the definition of a spill, whom to notify regarding a spill (City and/or ICOM), and the pragmatic need for awareness. The ordinance's intent is not to threaten but to work toward voluntary compliance.

MOTION: **Councilmember Almberg moved to adopt the ordinance adding a new chapter 12.50 to the Oak Harbor Municipal Code entitled "Illicit Discharge Prohibited." The motion was seconded by Councilmember Campbell and carried unanimously.**

Public Hearing and Final Consideration – Property Tax Ordinance to set 2010 Property Tax Levy

Finance Director Doug Merriman gave a PowerPoint presentation which is attached to these minutes as Exhibit B. Under RCW 84.55.005(1) and RCW 84.55.005(2) (c), the City may increase the collection of property tax revenues by the lower of 1% or the rate of inflation as set by the Implicit Price Deflator (IPD) and published by the Bureau of Economic Analysis (BEA). The IPD measurement to be utilized for 2010 is -.848% (negative). This creates an unusual condition where, for the first time in the City's history of using this index, the cost of living as reflected by the IPD has decreased.

The City has two alternatives to consider in addressing the 2010 property tax levy:

1. Pass an ordinance lowering the 2010 property tax levy by -.848%. The financial impact of this alternative would require a reduction of 2010 budgeted general fund revenues by $70,149.47. Accordingly, this reduction in revenues would require an equal amount of budget cuts in the 2010 general fund budget to maintain a legally required balanced budget.
2. Pass one ordinance declaring a "finding of substantial need" that states specific reasons the City requires a 1% increase to meet the 2010 budget. Pass a second ordinance, with a majority plus one vote, increasing the 2010 property tax levy by 1% over 2009. The financial impact of increasing the property tax levy by 1% has no effect on the currently adopted 2010 general fund budget as the 1% increase was included in the projected revenues for 2010.

Mayor Slowik opened the public hearing at 8:45 p.m.
Fred Henninger, 580 SE Ireland. The City is working hard to keep revenue up to meeting expenses. Dr. Henninger would like to see a decrease in expenses to meet revenue. He talked about travel expenses, the 1% increase, and the fall in the index.

With no other public comments coming forth, Mayor Slowik closed the public hearing at 8:47 p.m.

Council Discussion
Council discussion followed about the choices for the property tax ordinance(s), citizen and Council concern over a raise in taxes, and if this increase had been anticipated for the 2010 budget (yes). Mr. Merriman talked about the layering effect of the 1% increase, the loss of not continuing this increase, and the impact of doing a one-time budget cut vs. a recurring budget cut. Discussion continued regarding a plan to demonstrate an effort to cap expenses. Mr. Merriman re-presented the PowerPoint slide which demonstrated how the 2009/2010 budget was cut by 5.5% and expenses were lowered by $550,000. The City is pulling expenses down. The cap is the City's budget process and this was accomplished this last year.

Discussion continued about banking and unbanking funds, the detrimental effect of banked/unbanked funds (the City does not bank/unbank), and the need to stay consistent. Mr. Merriman talked about the budget process and performance measurement budgeting. Discussion followed about earmarking $70,000 for the Fire Department which would be a visible and direct benefit, the effect of cutting programs, and that the property tax initiative I-747 already caps the City at 1%. Discussion continued about "substantial need" as declared in the separate ordinance, the growth rate differential, and the impact on services with the 1% limitation. Half a million was cut from the budget. In 2010, the City will be dipping into reserves for the first time and will have to consider expenses, budget theory, and teach ourselves how to go to the public to continue our operations. Council talked about continuing the 1%, the public vote, tying the City's operations to inflation, a levy lid lift, tying the City's revenues to the IPD, and applicability of cost of living as presented to the voters.

MOTION: **Councilmember Gerber moved to declare a substantial need and increase the property tax by 1% for public safety use. There was no second to this motion so the motion died.**

MOTION: **Councilmember Campbell moved to pass an ordinance approving the 1% increase in property taxes. The motion was seconded by Councilmember Almberg.**

It was noted that there are two ordinances necessary to adopt the 1% increase: an ordinance declaring a finding of substantial need and a second ordinance increasing the property tax levy.

Councilmember Campbell withdrew his motion and Councilmember Almberg withdrew his second to this motion.

MOTION: **Councilmember Campbell moved to approve an ordinance declaring a substantial need. The motion was seconded by Councilmember Almberg.**

VOTE ON THE MOTION: **Councilmembers Almberg, Campbell, Gerber, Palmer, and Munns voted in favor of the motion. Councilmember Severns opposed. The motion carried.**

MOTION: **Councilmember Campbell moved to adopt the proposed ordinance as set out on pages 145 and 146 of the agenda packet that the City requires a 1% increase in property tax to meet the 2010 budget. The motion was seconded by Councilmember Gerber.**

VOTE ON THE MOTION: **Councilmembers Almberg, Campbell, Gerber, Palmer, and Munns voted in favor of the motion. Councilmember Severns opposed. The motion carried.**

The ordinance title on pages 145 and 146 of the agenda packet reads: An ordinance increase by $37,959.67 the amount to be raised by ad valorem taxes for the 2010 property tax levy which represents a 1% increase over the actual levy assessed in 2009.

Break

Mayor Slowik called for a break at 9:30 p.m. and the meeting reconvened at 9:35 p.m.

Public Hearing – 2009 Comprehensive Plan Amendments

Council consensus was to move this agenda item to the December 1, 2009 City Council meeting. The public hearing notice will be re-published.

Executive Session

MOTION: **Councilmember Gerber made a motion to move the executive session to the end of this meeting. The motion was seconded by Councilmember Campbell and carried unanimously.**

Pioneer Way Improvements Funding Commitment

Finance Director Doug Merriman presented this agenda bill seeking adoption of a resolution to designate the basic funding sources for the Pioneer Way Improvement Project. A resolution designating funding for a specific purpose or project requires that the funds be reserved in a special accounting classification that restricts the funds from being available for appropriation for general purposes. Mr. Merriman gave a PowerPoint presentation which is attached to these minutes as Exhibit C.

Mayor Slowik called for public comments.

Fred Henninger, 580 SE Ireland. Dr. Henninger spoke with concern about the redevelopment of Pioneer Way and talked about goals and outcomes and what is being achieved with this funding. His full statement is attached to these minutes as Exhibit D.

With no other comments coming forth, Mayor Slowik closed public comments.

Council Discussion

Discussion followed about the availability of REET funds, the Utility Fund contribution and the Capital Facilities Plan, and if these funds could be used elsewhere in town. (Yes, if utility-related; the Capital Facilities Plan has earmarked funds, so a resolution would be needed to un-earmark them but another funding direction needs to part of that Capital Facilities Plan.). Discussion followed about undergrounding utilities, if remaining REET funds could be used for that purpose, and that utilities funding has to be incorporated into the City's rates per the Capital Facilities Plan. The Pioneer Way project has been planned for and was incorporated into the last biennial budget. REET funds need to also be preserved for unforeseen capital projects.

MOTION: **Councilmember Palmer moved to adopt Resolution 09-26 designating certain funds for the construction of the Pioneer Way Improvement Project. The motion was seconded by Councilmember Almberg and carried unanimously.**

Executive Session – Acquisition of Real Property

This item was moved to the end of the meeting through an earlier motion.

City Administrator Comments

City Administrator Paul Schmidt talked about upcoming meetings noting the Utility Rates Workshop on November 19th at 6:00 p.m., and Council's February retreat which will include long-term strategic financial planning.

Councilmembers' Comments
Standing committee reports were given along with AWC updates including the upcoming training for newly-elected officials.

Mayor's Comments
Mayor Slowik talked about Sandy Byers and the artwork she has on display in Council Chambers. He also talked about the Community Harvest Thanksgiving Dinner which will be held on Thanksgiving Day from 11:00 a.m. to 5:00 p.m. at the Elks Lodge. 350 people have volunteered to help cook and serve this dinner which is free to the public. Mayor Slowik also thanked the Council for the orderly, dignified, and respectful way they conduct themselves even though there is disagreement during a Council meeting.

Executive Session
At 10:15 p.m., Mayor Slowik announced that Council would go into Executive Session to consider the acquisition of real estate by purchase. After the Executive Session, the Council would then convene a discussion on collective bargaining. Such discussions are exempt from the Open Public Meetings Act under RCW 42.30.140. The Executive Session on real estate purchase would last 15 minutes. The collective bargaining discussion would last 15 minutes.

The regular meeting reconvened at 10:43 p.m.

ADJOURN
With no other business coming before Council, **Councilmember Severns moved to adjourn; the motion was seconded by Councilmember Campbell and carried unanimously.** The meeting adjourned at 10:45 p.m.

_____
Connie T. Wheeler
City Clerk

Exhibit A

CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

Nov. 6, 2009

The City of Oak Harbor will soon be adopting a new city ordinance 12.50 "Illicit Discharge Prohibited" that may affect the way you do business. The ordinance would address storm water pollution. Most storm drains empty directly into open waterways without treatment. Puget Sound receives an estimated 140,000 pounds of toxic pollutants daily. 75% of that is carried by rain running off rooftops and pavement into storm water systems. Our regions economy and ecology are being affected. This proposed ordinance is part of a region-wide effort to turn the tide. It was introduced to the City Council in August. After revisions final approval is expected at the City Council meeting at 6:00pm on Nov. 17, 2009 at Oak Harbor City Hall, 865 SE Barrington Drive. The public is invited to attend.

The Federal Clean Water Act, established in 1972 was the first of a series of laws to protect water quality in the United States. Our State Department of Ecology enforces regional laws. When this new ordinance is approved the City of Oak Harbor will have the authority to enforce regulations locally to prevent storm water pollution which is required by our State Municipal Stormwater II Permit.

In short, the ordinance would make it illegal to discharge anything but rain water onto paved areas or down storm drains. (See a complete list of pollutants on the reverse.) There are a few exceptions and conditions for allowable discharges. Most concern fire fighting or maintenance of the city streets and storm water systems. Connections to the storm water system without a permit would be illegal. Storage, containment, disposal and transportation of contaminants are also addressed in the proposed ordinance.

Accidental spills should be reported immediately by calling 911. The city may be able to assist with the clean-up but the bill would go to the responsible party or property owner.

We ask first for your voluntary compliance. If the ordinance is adopted this would be the process of enforcement. An investigation would follow each report of violation. If it is a first time, minor offense, a written warning would be issued. Failure or refusal to comply would be a misdemeanor. Each day of violation will be a separate offense punishable by the maximum penalty established by RCW 9.92.030.

Our intent is to inform and assist you in this transition. Visit: www.oakharbor.org and click on **Storm Water Ordinance** or **NPDES II Permit Requirements** for more information. Or call us at 279-4764. Your cooperation is greatly appreciated.

Sincerely,
Steve Bebee
Storm Water Division

(1) Illicit Discharges Prohibited. No person shall throw, drain or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the City of Oak Harbor Storm Drainage System, any material other than stormwater. No person, property owner, business or other operation shall allow, either through direct act or through failure to prevent, discharge of any contaminated stormwater into the City of Oak Harbor storm drainage system… The following are examples of prohibited stormwater discharge contaminants:

(a) Trash or debris
(b) Construction and landscaping materials
(c) Petroleum products including, but not limited to, oil, gasoline, grease, diesel, fuel oil and heating oil
(d) Antifreeze and other automotive-fluids and lubricants
(e) Metals, in either particulate or dissolved form
(f) Flammable or explosive materials
(g) Radioactive materials
(h) Batteries
(i) Acids, alkalis or bases
(j) Paints, stains, resins, lacquers or varnishes
(k) Degreasers and/or solvents
(l) Drain cleaners
(m) Pesticides, herbicides or fertilizers
(n) Steam cleaning wastes
(o) Soaps, detergents or ammonia
(p) Car washing soaps, waxes, polishing agents, wheel cleaning products, degreasing agents or engine cleaners
(q) Swimming pool or spa filter backwash
(r) Chlorine, bromine or other disinfectants
(s) Heated water
(t) Domestic animal wastes
(u) Sewage
(v) Recreational vehicle wastes
(w) Animal carcasses
(x) Food wastes
(y) Bark, mulch, compost or other fibrous material
(z) Lawn clippings, leaves, branches, weeds or other yard waste
(aa) Silts, sediment, concrete, cement, clay, gravel or other soil generated from erosion, vehicle tracking, material stockpiles or other similar source
(bb) Dyes
(cc) Chemicals not normally found in rainwater
(dd) Any other process-associated discharge except as others allowed in this section
(ee) Any hazardous material or waste not listed above

City of Oak Harbor

Property Tax Discussion

November 17, 2009

Exhibit B

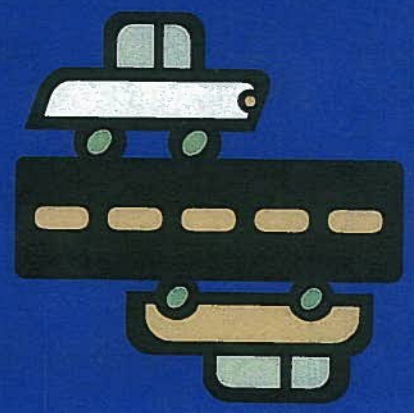
Pioneer Way Funding Schedule

- Action requested is to "earmark" certain REET Funds and utility capital outlay funds for the Pioneer Way Improvement Project.

- Formal action is called a "Designation of Funding" by resolution. This usually occurs when the project may cover more than one year.

- Does not authorize spending of funds. This must be approved later as a budget amendment.

- Funds will be set aside and reserved for this project.



City of Oak Harbor

Property Tax Discussion

November 17, 2009

Property Tax Cost of Living Increase

1) What is it?
2) Why is it needed ?
3) What if we don't do it ?
4) What services does it effect ?
5) What does it cost me ?

Property Tax Cost of Living Increase

1) What is it?
2) Why is it needed ?
3) What if we don't do it ?
4) What services does it effect ?
5) What does it cost me ?

20

Property Tax Cost of Living Increase

1) What is it?

- An allowed cost of living increase in the *current* property tax levy.
- Rules Per I-747 passed by Legislature:

1) If IPD is greater than 1%, limited to 1% or
2) If IPD is less than 1%, the increase can be the IPD, or 1% with a "Finding of Substantial Need", assessed, or
3) Greater than 1% with Public Vote

Property Tax Cost of Living Increase

1) What is it?

2) Why is it needed ?

3) What if we don't do it ?

4) What services does it effect ?

5) What does it cost me ?

Property Tax Cost of Living Increase

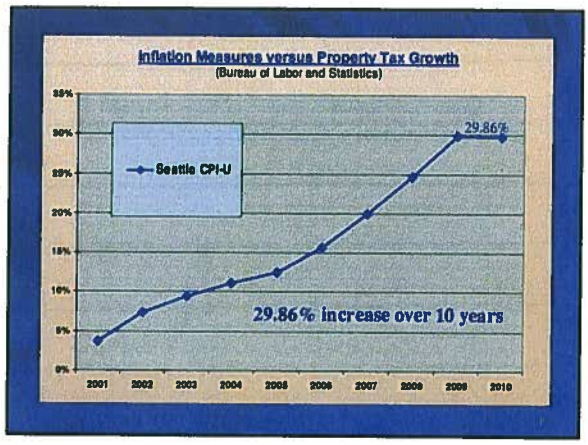
2) Why is it needed ?

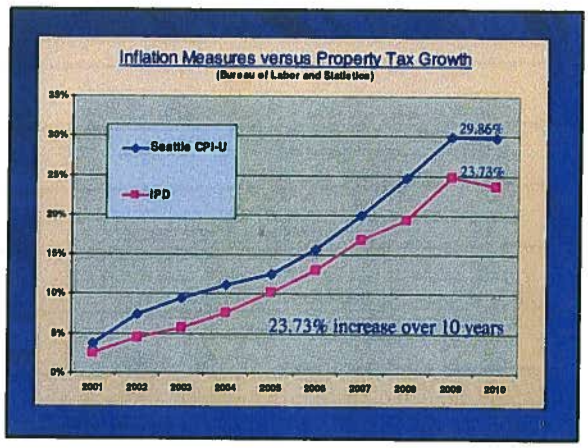
- To keep pace with the long-term effect of inflation.
- To maintain the existing level of services provided by the City to its citizens.
- To ensure long-term financial stability of reserves and ability to pay expenses.

21

Effects of Inflation

The rate of inflation exceeding the growth rate in revenues is the most significant financial challenge facing the City





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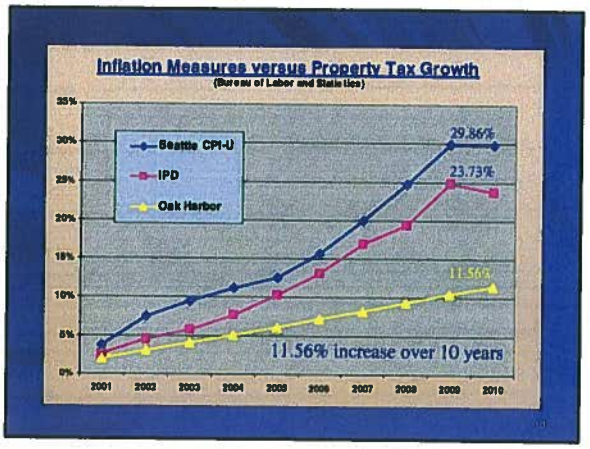
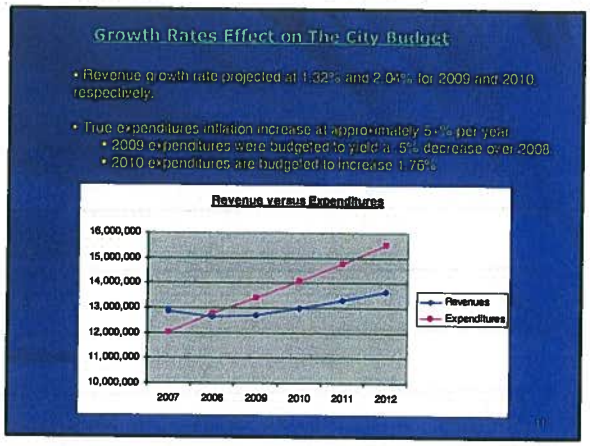
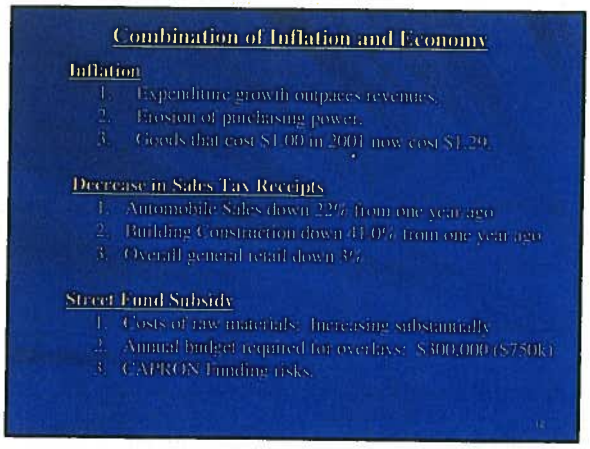

Inflation Measures versus Property Tax Growth
(Bureau of Labor and Statistics)
35%
30%
25%
20%
15%
10%
5%
0%
Seattle CPI-U
IPD
Oak Harbor
29.86%
23.73%
11.56%
11.56% increase over 10 years
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010


Growth Rates Effect on The City Budget
• Revenue growth rate projected at 1.32% and 2.04% for 2009 and 2010 respectively.
• True expenditures inflation increase at approximately 5.4% per year
• 2009 expenditures were budgeted to yield a .5% decrease over 2008
• 2010 expenditures are budgeted to increase 1.76%
Revenue versus Expenditures
16,000,000
15,000,000
14,000,000
13,000,000
12,000,000
11,000,000
10,000,000
2007
2008
2009
2010
2011
2012
Revenues
Expenditures


Combination of Inflation and Economy
Inflation
1. Expenditure growth outpaces revenues.
2. Erosion of purchasing power.
3. Goods that cost $1.00 in 2001 now cost $1.29.
Decrease in Sales Tax Receipts
1. Automobile Sales down 22% from one year ago
2. Building Construction down 41.0% from one year ago
3. Overall general retail down 8%
Street Fund Subsidy
1. Costs of raw materials: Increasing substantially
2. Annual budget required for overlays: $300,000 ($750k)
3. CAPRON Funding risks.

23

Layering Effect of Property Taxes

	Year 1	Year 2	Year 3	Year 4	Every Year Thereafter ------>		
Base	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Total:	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000

Layering Effect of Property Taxes

Inflation

	Year 1	Year 2	Year 3	Year 4	Every Year Thereafter ------>		
1%		$10,000	$10,000	$10,000	$10,000	$10,000	$10,000
Base	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Total:	$1,000,000	$1,010,000	$1,010,000	$1,010,000	$1,010,000	$1,010,000	$1,010,000

Layering Effect of Property Taxes

Inflation

	Year 1	Year 2	Year 3	Year 4	Every Year Thereafter ------>		
1%			$10,100	$10,201	$10,202	$10,202	$10,202
1%		$10,000	$10,000	$10,000	$10,000	$10,000	$10,000
Base	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Total:	$1,000,000	$1,010,000	$1,020,100	$1,020,201	$1,020,202	$1,020,202	$1,020,202

24

Layering Effect of Property Taxes

	Year 1	Year 2	Year 3	Year 4	Every Year Thereafter ------>		
Inflation				1%	$10,201	$10,201	$10,201	$10,201
			1%	$10,100	$10,100	$10,100	$10,100	$10,100
		1%	$10,000	$10,000	$10,000	$10,000	$10,000	$10,000
Base	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Total:	$1,000,000	$1,010,000	$1,020,100	$1,030,301	$1,030,301	$1,030,301	$1,030,301

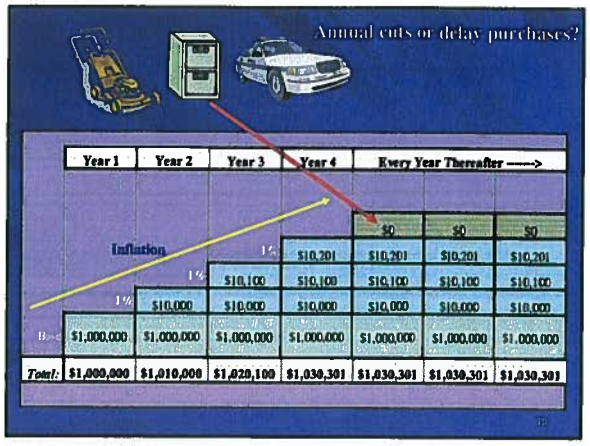
Layering Effect of Property Taxes

	Year 1	Year 2	Year 3	Year 4	Every Year Thereafter ------>		
Inflation				1%	$10,303	$10,303	$10,303
			1%	$10,201	$10,201	$10,201	$10,201
		1%	$10,100	$10,100	$10,100	$10,100	$10,100
		1%	$10,000	$10,000	$10,000	$10,000	$10,000
Base	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Total:	$1,000,000	$1,010,000	$1,020,100	$1,030,301	$1,051,010	$1,051,114	$1,051,115

What happens if you forgo an increase ?

	Year 1	Year 2	Year 3	Year 4	Every Year Thereafter ------>		
Inflation				1%	$10,303	$10,303	$10,303
			1%	$10,201	$10,201	$10,201	$10,201
		1%	$10,100	$10,100	$10,100	$10,100	$10,100
		1%	$10,000	$10,000	$10,000	$10,000	$10,000
Base	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Total:	$1,000,000	$1,010,000	$1,020,100	$1,030,301	$1,051,010	$1,051,114	$1,051,115

25


Annual cuts or delay purchases?
Year 1
Year 2
Year 3
Year 4
Every Year Thereafter ——>
Inflation
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1%
1%
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Base
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Total:
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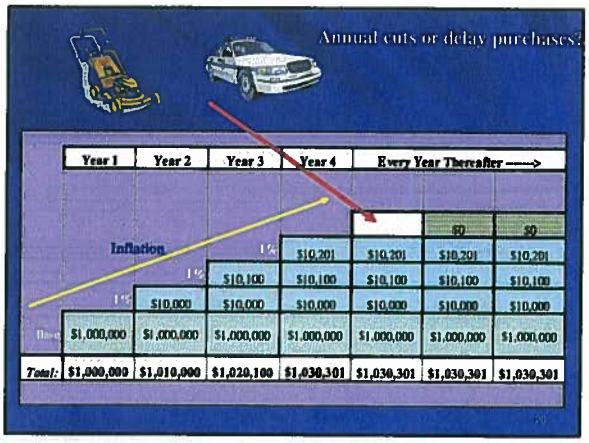
Annual cuts or delay purchases?
Year 1
Year 2
Year 3
Year 4
Every Year Thereafter ——>
Inflation
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1%
1%
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$0
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$10,000
$10,000
$10,000
$10,000
$10,000
$10,000
Base
$1,000,000
$1,000,000
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Total:
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$1,010,000
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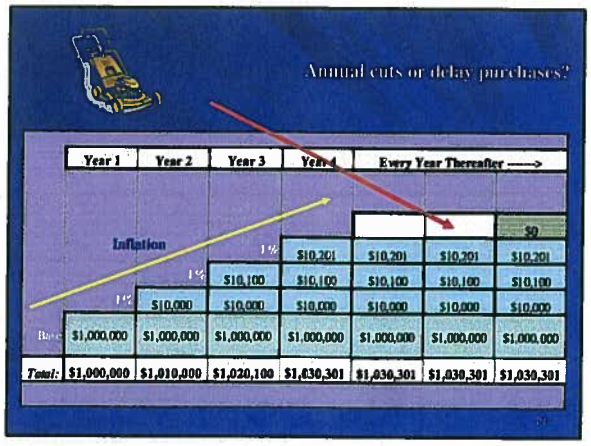
Annual cuts or delay purchases?
Year 1
Year 2
Year 3
Year 4
Every Year Thereafter ——>
Inflation
1%
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Base
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Total:
$1,000,000
$1,010,000
$1,020,100
$1,030,301
$1,030,301
$1,030,301
$1,030,301

24

Annual cuts or delay purchases?

- Will erode service levels
- Still not meeting inflation

	Year 1	Year 2	Year 3	Year 4	Every Year Thereafter ------>		
Inflation				1%	$10,201	$10,201	$10,201	$10,201
			1%	$10,100	$10,100	$10,100	$10,100	$10,100
		1%	$10,000	$10,000	$10,000	$10,000	$10,000	$10,000
Base	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Total:	$1,000,000	$1,010,000	$1,020,100	$1,030,301	$1,030,301	$1,030,301	$1,030,301

Use Existing Reserves ?

	Year 1	Year 2	Year 3	Year 4	Every Year Thereafter ------>		
					$0	$0	$0
Inflation				1%	$10,201	$10,201	$10,201	$10,201
			1%	$10,100	$10,100	$10,100	$10,100	$10,100
		1%	$10,000	$10,000	$10,000	$10,000	$10,000	$10,000
Base	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Total:	$1,000,000	$1,010,000	$1,020,100	$1,030,301	$1,030,301	$1,030,301	$1,030,301

Use Existing Reserves ?

	Year 1	Year 2	Year 3	Year 4	Every Year Thereafter ------>		
						$0	$0
Inflation				1%	$10,201	$10,201	$10,201	$10,201
			1%	$10,100	$10,100	$10,100	$10,100	$10,100
		1%	$10,000	$10,000	$10,000	$10,000	$10,000	$10,000
Base	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Total:	$1,000,000	$1,010,000	$1,020,100	$1,030,301	$1,030,301	$1,030,301	$1,030,301

27

Use Existing Reserves ?

	Year 1	Year 2	Year 3	Year 4	Every Year Thereafter ------>		
							$0
Inflation				1%	$10,201	$10,201	$10,201	$10,201
			1%	$10,100	$10,100	$10,100	$10,100	$10,100
		1%	$10,000	$10,000	$10,000	$10,000	$10,000	$10,000
Base	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Total:	$1,000,000	$1,010,000	$1,020,100	$1,030,301	$1,030,301	$1,030,301	$1,030,301

Use Existing Reserves ?

	Year 1	Year 2	Year 3	Year 4	Every Year Thereafter ------>		
Inflation				1%	$10,201	$10,201	$10,201	$10,201
			1%	$10,100	$10,100	$10,100	$10,100	$10,100
		1%	$10,000	$10,000	$10,000	$10,000	$10,000	$10,000
Base	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Total:	$1,000,000	$1,010,000	$1,020,100	$1,030,301	$1,030,301	$1,030,301	$1,030,301

Use Existing Reserves ?

- Drains reserves
- Still not meeting inflation

	Year 1	Year 2	Year 3	Year 4	Every Year Thereafter ------>		
Inflation				1%	$10,201	$10,201	$10,201	$10,201
			1%	$10,100	$10,100	$10,100	$10,100	$10,100
		1%	$10,000	$10,000	$10,000	$10,000	$10,000	$10,000
Base	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Total:	$1,000,000	$1,010,000	$1,020,100	$1,030,301	$1,030,301	$1,030,301	$1,030,301

Only options:

- Replace the loss with a new **recurring** revenue.
- Replace the loss by eliminating a **recurring** expense.

	Year 1	Year 2	Year 3	Year 4	Every Year Thereafter ---->		
Inflation				1%	$10,201	$10,201	$10,201	$10,201
			1%	$10,100	$10,100	$10,100	$10,100	$10,100
		1%	$10,000	$10,000	$10,000	$10,000	$10,000	$10,000
Base	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Total:	$1,000,000	$1,010,000	$1,020,100	$1,030,301	$1,030,301	$1,030,301	$1,030,301

Property Tax Cost of Living Increase

1) What is it?

2) Why is it needed ?

3) **What if we don't do it ?**

4) What services does it effect ?

5) What does it cost me ?

The IPD has decreased, why do we increase?

- Cost of inflation grows faster than revenues.
- 50-year inflation trend averages about 3%.
- Once you forgo or reduce a cost of living increase, you do not regain it later when inflation picks up.

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Property Tax Cost of Living Increase

What if we don't do it ?

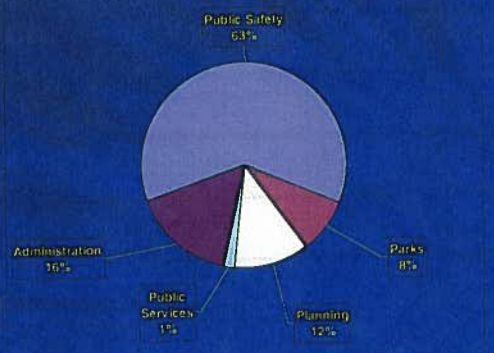
Will require cuts in the amount of $70,250.

- 2010 Budget includes a 1% increase - require cuts in *recurring* expenditures of $37,960.
- Will require addition cuts of $32,290 as the reduction in the IDP will erode into the 2009 property tax assessment.

Property Tax Cost of Living Increase

1) What is it?
2) Why is it needed ?
3) What if we don't do it ?
4) **What services does it effect ?**
5) What does it cost me ?

What property taxes pay for:



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Property Tax Cost of Living Increase

1) What is it?

2) Why is it needed ?

3) What if we don't do it ?

4) What services does it effect ?

5) What does it cost me ?

What does it cost me ?

City: $.26

County, State, Schools, etc: $.74

What does it cost me ?

Home Value	$180,000	$225,000	$400,000
City Property Tax	$359.82	$449.78	$799.60
Increase	1.00%	1.00%	1.00%
Cost For 1 Year:	$3.60	$4.50	$8.00
Senior Exemption	$2.52	$3.16	$5.61

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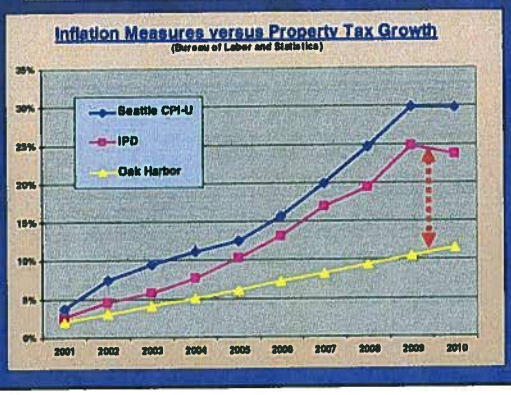
Action required

1) Staff recommendation of passing a 1% cost of living increase.

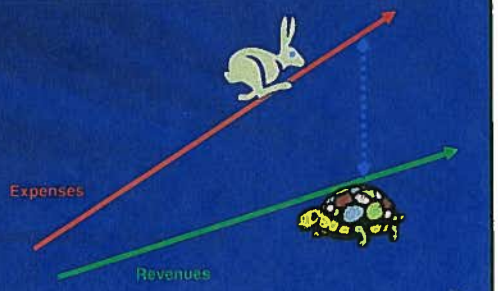
2) Substantial need reasons as presented in substantial need ordinance:
   - Maintain existing levels of service through economic downturn.
   - To keep revenues at pace with actual inflation.
   - To ensure the General Fund continues Street funding.

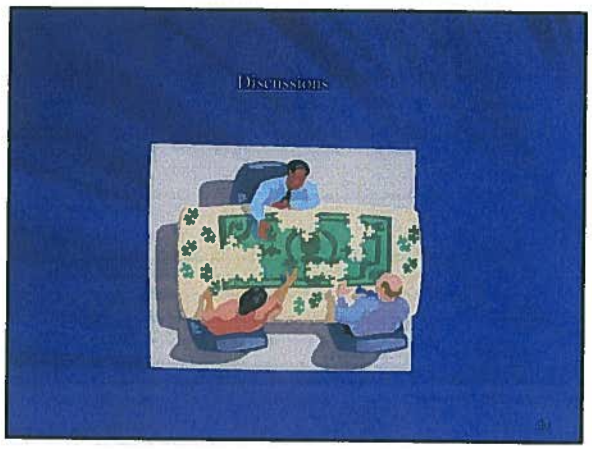
3) To do this:
   - Pass ordinance declaring substantial need with majority plus one vote.
   - Pass ordinance implementing a 1% cost of living adjustment to the 2010 property tax levy with a majority plus one vote.

Most Important Issue: Narrowing the gap



Most Important Issue: Narrowing the gap




Discussions

Pioneer Way Funding Schedule

- Agenda bill addresses funding needs to complete the project.
- Agenda bill is an accounting step to formally reserve funds.
- Agenda bill does not address design alternatives or traffic choices.

Exhibit C

Pioneer Way Funding Schedule

Cost estimates:

Construction cost estimate	$5,600,000
Design fee	650,000
Construction management	100,000
Total cost of construction	$6,350,000

Funding sources:

REET I	$1,500,000
REET II	2,000,000
Island County Econ Development Grant	1,000,000
	4,500,000
Wastewater	1,000,000
Stormwater	650,000
Water	200,000
Total Fund Sources	$6,350,000

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Water	200,000
Total Fund Sources	$6,350,000

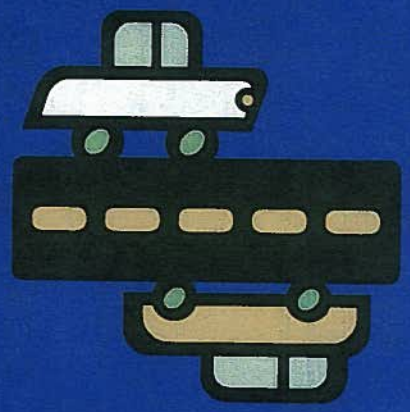
Pioneer Way Funding Schedule

- Action requested is to "earmark" certain REET Funds and utility capital outlay funds for the Pioneer Way Improvement Project.

- Formal action is called a "Designation of Funding" by resolution. This usually occurs when the project may cover more than one year.

- Does not authorize spending of funds. This must be approved later as a budget amendment.

- Funds will be set aside and reserved for this project.



SOUND OFF regarding redevelopment of Pioneer Way

Wednesday, October 28, 2009 9:25:55 PM

From: f.lh@comcast.net
To: www.whidbeynewstimes.com
Cc: f.lh@comcast.net

City government's function is to wisely spend tax money for the health, safety and welfare of its citizens.

The re-re-redevelopment plan for Pioneer Way fails because of two problems.

First is the physical lay out.
Pioneer Way is the only level and direct route between the tax free stores on the east end of town to big box stores on the west end. There is a steep hill on the north side and a mud flat on the south side.
To ameliorate this problem in the late 60s and early 70s, the City built the "Flintstone" street to connect Midway with Dock Street. At the merchants' request, a mini harbor was dredged out so that boat people could stop and shop down town. The dredge spoils were used to fill in the water between Pioneer and "Flintstone". This area is still vacant and the mini harbor has filled in with silt.
In latter years, three parks and three parking lots were added by the tax payers to entice shoppers to this area. (Thankfully the Pier Project for ghost ships was not added also.)
Trees, hanging baskets and pedestrian safety features have made this area a pleasant setting to dine and shop. It does not need a 6 million dollar make over.
The second problem with the Pioneer improvement plan is the socio-economic considerations.
Changing of occupancy of buildings in this area of the City is constant. Successful businesses move out. Banks, real estate offices. restaurants , auto sales and services ,all left for more space and access. Many businesses just died but some small restaurants , stores and offices carry on. The most venerable of these are the book store as well as the Lighthouse and Oak Harbor Taverns.
None of the people who own or operate businesses pay taxes or utility bills. Their businesses pay and add this expense as a deduction from their profits. Residents must pay the fees from their take home pay.
Two-third of present business between Beach St and Midway are on

Pioneer's north side. The south side requires a two story structure to reach street level where parking space is limited. This together with much vacant commercial real-estate, does not bode well for future growth of this area. The City estimate for "the basic project" is $5.5 million. With many options still not known, $6 million may be a stopping point.
Let us do the math.
$6,000,000 divided by 20,000 (Oak Harbor population) equals $300 per person. $6,000,000 divided by 60 merchants in this area equals $100,000 each. Who receives the most benefit ?
A lineal foot of five foot wide sidewalk is $70. Curb and gutter is $25. The addition of trees and hanging baskets, like on Pioneer, is worth $5. This equals $528,000 per mile or 11.36 miles for $6 million plus the tax. Eleven miles of sidewalk would be a nice addition to our sidewalk plans.
Remember this project is after the number one priority which is the Pier Project and/or the Marina Project.
Instead of any of these expensive projects that target small noisy fractions of the population, the funds should be spent for the health, safety and welfare of our citizens in the neighborhoods where the tax money is generated.

F L Henninger

360-675-5409

Nov 16, 2009

P.S There are no measurable goals in place to show a positive result of spending $6,000,000 on redevelopment of Pioneer Way

There appears to be no impute of dollars from the businesses for this project. It even requires the City to buy the easements from these same businesses in order to complete the project

F.H.

City Council Special Meeting
- **Workshop on Utility Rates**

Thursday, November 19, 2009, 6:00 p.m.

CALL TO ORDER

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

ROLL CALL

Jim Slowik, Mayor
Six Members of the Council,
Rick Almberg
James M. Campbell
Danny Paggao
Jim Palmer
Beth Munns
Bob Severns

Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Steve Powers, Development Services Director
Cathy Rosen, Public Works Director
Rhonda Haines, Water Service Coordinator
Shawn Koorn, HDR Engineering
Renée Recker, Executive Assistant to the Mayor

Councilmember Eric Gerber was absent and formally excused from this meeting.

HDR Presentation – Rate Study Draft Results

Public Works Director Cathy Rosen introduced Shawn Koorn, HDR Engineering who led this evening's workshop. Mr. Koorn had given a similar presentation to the Finance Standing Committee on October 13, 2009 regarding water and solid waste rates. This evening's presentation introduced the study results for sewer and storm drain and reviewed water and solid waste. Mr. Koorn gave a 79-slide PowerPoint presentation, (attached to these minutes as Exhibit A) and each slide was thoroughly discussed as presented in this attachment.

- Overview of a comprehensive study
- Results of the sewer, storm drain, water, and solid waste rate study
- Revenue requirements
- Cost of service
- Rate design
- System Development Charges (SDCs)
- Summary conclusions and recommendations
- Discussion and/or feedback

Without repeating Mr. Koorn's presentation, these minutes reflect discussion highlights.

Sewer

The wastewater treatment facility (WWTP) is the largest capital component in this utility and a revenue bond will be needed to fund this project with a balance funded through rates. Discussion continued about the ramp-up minimal rate increases over the next few years with a larger jump between 2016 and 2018, the positive impact of grant funding, the impact of revenue bonds, and for every million dollars borrowed the debt service payment would be approximately $80,000. Inflation factors for 2010 to 2016 are 3% to 4%.

Mayor Slowik asked City Administrator Schmidt to talk about wastewater treatment plant funding. Mr. Schmidt noted that, in the past, cities could secure outside funding sources more easily and there were low-interest funding loans available. Loans are now at 5.5% rather than .5%. We will determine if WWTP funding is a hardship to rate payers. Access to grant funds can buy down residential rates. This evening's presentation is a conservative, "worst case" scenario. There is a lack of outside funding. DOE has some state funding available at 5.5%, and there is not a federal source for funding at this time. The Centennial Clean Water Fund addresses smaller jurisdictions but is limited to $1 – 2 million and this is a $70 million project.

Discussion continued about the rate model for long-term and short-term projects (they would be the same model), funding components, the Public Works Trust Fund Loan program (hopefully it will return), and the monthly rate to customers as shown in slide 19. Mayor Slowik asked about the WWTP's treatment for the Navy and if that could carry any weight for federal funding. Mr. Koorn noted that the Navy is under a separate contract.

Discussion followed about debt service coverage, the need for revenues to be in excess of the 25% debt service payment, the four target reserves, the ending SDC balance which can be used to offset debt service related to the WWTP, and the adequate available reserve funds. Even though 2018 seems a long way out, time moves quickly and the bonding community will review the City's past history, rate setting, and coverage ratio. Mr. Merriman noted that the City has this bonding capacity and talked about rate affordability and what rate payers can handle. Council discussion followed about the Navy's contract with the City and that it renews every three years now (two-year renewal clause).

There will be no adjustment to sewer rates in 2010 with a ramp up beginning in 2011 to fund the debt service. Discussion continued about multi-family, commercial, schools, and SDCs (SDC rates were compared to 2009), funding sources, the impact of pollution control on cities, the impact of inflation, and rate ramp up. Timing is everything. Mayor Slowik noted that he had spoken with the Navy and Rep. Larsen with positive feedback from each. Oak Harbor and the Navy have partnered for a number of years regarding wastewater.

Discussion continued about speeding the process up, the debt service credit, and that Council will be reviewing a consultant agreement for the facility plan which in itself is a year to 18 month project. Funding and two years of design, can quickly eat up six years of timing. The City is on-schedule.

Council noted that command structures can change on the base and even though the base is sympathetic today, the City needs to continue cultivating new commands and base cooperation in the future. Mayor Slowik added that this subject has been assigned to the base's public works department which will help with new commands. The annual trip to Washington, D.C. is important in maintaining this relationship.

Storm Drain
Mr. Koorn noted that there are a number of larger capital projects in this utility. Default funding is through revenue bonds, and there are not adequate reserves to fund these projects; capital funding will be phased in through rates. Discussion followed about the 4% adjustment, increment consideration in a two to three-year period rather than an annual increment, and the cumulative rate impact. Purchases through this utility will be simple pipe replacements, the outfall, Pioneer Way storm drain, storm drain rehabilitation, storm drain at Windjammer Park and Freund Marsh, and storm water improvements. The Liszak issue on Scenic Heights Road has not been factored into this figure. Discussion continued about regional drainage and future development paying a portion through capital facility funds, SDCs for the storm drain utility, and residential concern if they are paying for a utility not in front of their property. Discussion moved to equivalent resident unit (ERU) calculation (2,500 sf of impervious surface will be adjusted to 3,300 sf of impervious surface), the use of credits/discounts, how credits/discounts will be achieved, old vs. new detention ponds and systems, how to administer credits/discounts and improve the quality of water leaving a site, and setting up rates based on zones. As a waterfront city, EPA is looking at effluents which will be considered in the next permitting process. The County is not affected by the NPDES II permitting process since they were not rated as NPDES II. Oak Harbor is an NPDES II city and has to meet strict requirements. Discussion followed about annexation, notably Goldie Road, and the loss of tax revenue without annexation.

Break
Mayor Slowik called for a break at 7:40 p.m. and the meeting reconvened at 7:50 p.m.

Meeting Time Extended
Mayor Slowik asked that this meeting's ending time be extended to 8:30 p.m.

Solid Waste
Mr. Koorn discussed each slide and reviewed the solid waste revenue requirement and cost of service. Discussion followed about the 2.75% increase beginning in 2011 (which will cover the next five years), that this utility is meeting the City's minimum fund balances and is financially strong. There is a minor cost of service difference but HDR is not proposing any changes at this point in rate structure; current objectives are being met. Discussion followed about comparable cities (slide 53), the use of Island Disposal, and recycling practices among the comparables.

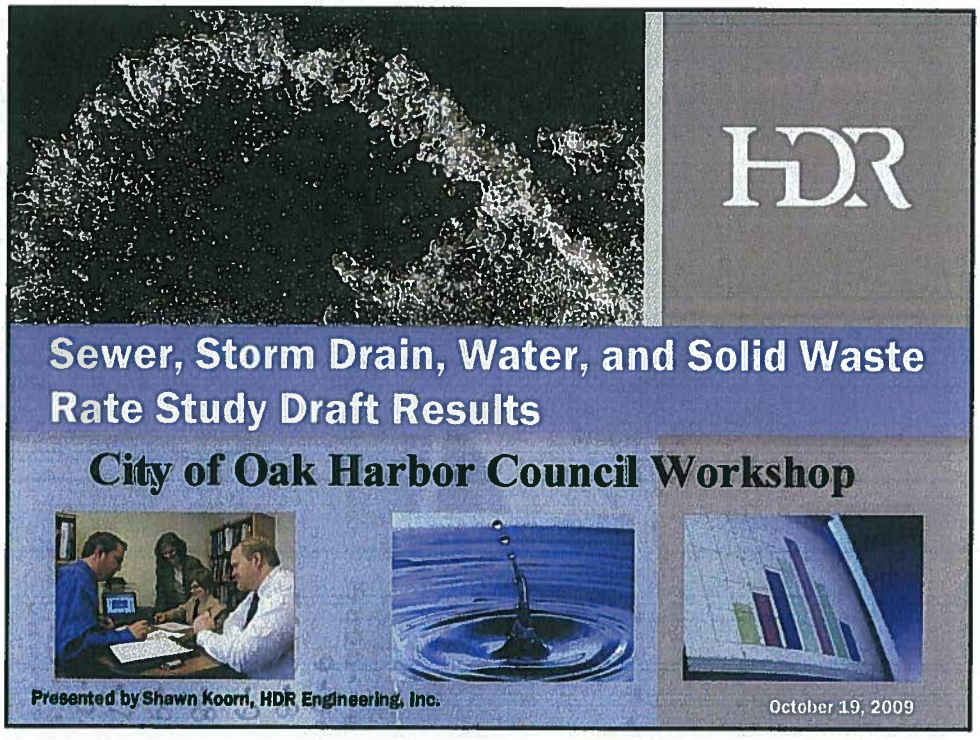
Water
Mr. Koorn reviewed the water utility and noted the capital improvement projects and revenue requirements for this utility. Mr. Koorn and Ms. Rosen had recently been notified by Anacortes that their new treatment plant costs will be reflected in Oak Harbor's water purchase rate. It will cost $360,000 in 2011 to purchase water from Anacortes based on a 5% bond. That is reflected in the column for 2011 showing an 8% increase (slide 58). Discussion followed about revenues and expenses, SDCs (no growth-related projects), and that the Anacortes impact on costs will be firmed up this

next year. Mr. Koorn also noted the Lane vs. Seattle fire protection case and that public fire protection costs cannot be funded through a water utility. The transition from a declining to an inclining block was explained, CCFs were discussed, how the number of units determining block size for multi-family units is reached, and the benefit to multi-family rates.

Summary
Mr. Koorn's ending slides present a summary of all four utilities, their revenue requirements, cost of service analyses for these utilities, relative rate impacts, and next steps.

Adjourn
The workshop adjourned at 8:35 p.m.

_____
Connie T. Wheeler
City Clerk



Overview and Purpose of the Presentation

- Overview of a Comprehensive Rate Study
- Review the results of the sewer, storm drain, water, and solid waste rate study
  - ✓ Revenue requirement
  - ✓ Cost of service
  - ✓ Rate design
  - ✓ System Development Charges (SDCs)
- Summary Conclusions and Recommendations
- Discussion and/or feedback

HDR 2

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Overview of the Rate Setting Process

Revenue Requirement → **Cost of Service** → **Rate Design**

Compares the revenues of the utility to its expenses to determine the overall level of rate adjustment

Equitably allocates the revenue requirements between the various customer classes of service

Design rates for each class of service to meet the revenue needs of the utility, along with any other rate design goals and objectives

HDR 3

Developing the Revenue Requirements

A "Step by Step" Approach

HDR 4

45

Detail of the "Cash Basis" Approach

+ O&M Expenses
+ Taxes/Transfer Payments
+ Debt Service (P&I)
+ Capital Projects Funded from Rates
= Total Revenue Requirements
– Miscellaneous Revenues
= Balance Required from Rates

(i + Term)

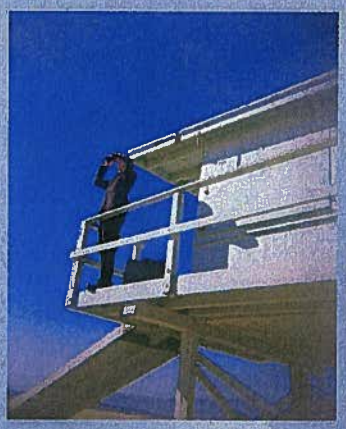
(≥ Annual Deprec. Exp.)

+ Total Capital Projects
– Revenue Bonds (Bond Proceeds)
– Grants
– Customer Contributions (e.g. SDC's)
= Capital Projects Funded from Rates

HDR

5

Financial Planning Considerations



- **Meeting financial policies**
- **Debt service coverage (DSC) ratios**
- **"Minimum" reserve levels**
- **Financing of capital projects - levels and methods**
  - ✓ **Proper use of growth related revenues**
- **Adequate Funding of Renewal and Replacement Capital Projects (Existing Facilities)**

HDR

6

46

Cost of Service Studies

"Splitting the Pie"

HDR

7

Why Cost of Service?

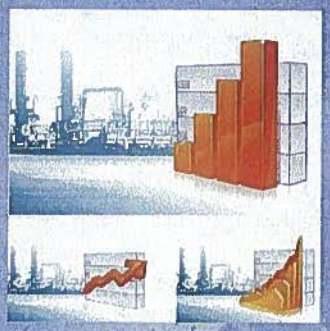
- Utilized a generally accepted methodology
- Generally accepted as "fair and equitable"
- Avoids subsidies
- Revenues track costs
- Can provide an accurate "price signal"

HDR

8

47

Results of the Cost of Service Analysis



- An equitable allocation of costs that considers:
  - ✓ Usage characteristics
  - ✓ Facility requirements
- Average unit costs
  - ✓ Cost-based rate designs

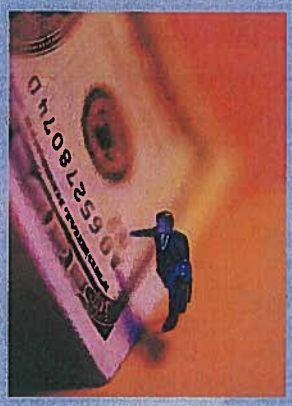
HDR 9

Rate Design

HDR 10

48

Goals of Rate Design



- Easy to Understand
- Easy to Administer
- Continuity in Philosophy
- Equitable and Non-Discriminating (Cost-Based)
- Provide Revenue Stability
- Promote Efficient Allocation of Resources

HDR 11

Key Issues With Rate Design

- Level vs. Structure
- Price elasticity (sensitivity)
- In theory, all rate designs should collect the same level of revenue
- Customer bill comparisons

HDR 12

49

A Working Definition

- SDCs are defined as a:
  - ✓ Charge for new customer capacity demands only
  - ✓ Charge required of all new customers desiring service or existing customers requesting increased service capacity
  - ✓ Charge based on the value of the capacity and the amount of capacity needed by the new customer

HDR 13

Financial Objectives of System Development Charges

- SDCs Are:
  - ✓ Not a user fee or revenue raising device
  - ✓ Not used to pay for O&M
- Development creates the need for expansion
  - ✓ Absent SDCs, the utility would be unable to expand facilities and meet growth needs
  - ✓ Building moratoriums result when capacity is unavailable for expansion
- *Key Objective – Equity*
  - ✓ Issue of timing; when new development connects
    - Year 1, 10 and 20
  - ✓ Rates – avoids the need for "old" and "new" customer rates
  - ✓ Equity between existing and new customers - "growth pays for growth"

HDR 14

50

Criteria in the Determination of Impact Fees

- System Planning Criteria (planning documents)
- System Financing Criteria
- State and Local Laws

HDR

15

Sewer Analysis

HDR

16

51

Summary of the Sewer Capital Improvement Plan ($000's)

	2010	2011	2012	2013	2014	2015	2016	2017	2018
Capital Improvement Projects									
Upgrades to Existing Collection System	$1,150	$260	$160	$170	$170	$180	$180	$190	$190
Collection System Expansions:	0	0	150	2,200	0	0	0	0	0
Wastewater Treatment Facilities	1,133	290	0	297	0	4,000	25,000	25,000	16,000
Unidentified Future Capital Projects	0	335	515	0	600	400	0	0	0
Transfer to Operating Fund (402)	0	300	516	0	640	100	0	0	0
Total Capital Improvement Projects	$2,283	$1,185	$1,341	$2,667	$1,410	$4,380	$25,180	$25,190	$16,190
Capital Improvement Project Funding									
Operating Fund-Sewer (402)	$718	$0	$0	$144	$0	$2,895	$3,120	$3,555	$1,280
System Development Charges (SDC - 412)	380	0	81	1,188	0	0	0	0	0
Revenue Bonds	0	0	0	0	0	0	20,500	20,000	13,200
NET CIP FROM RATES	1,185	1,185	1,260	1,335	1,410	1,485	1,560	1,635	1,710
Total Capital Improvement Project Funding	$2,283	$1,185	$1,341	$2,667	$1,410	$4,380	$25,180	$25,190	$16,190

HDR

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Summary of the Sewer Revenue Requirement ($000's)

	2010	2011	2012	2013	2014	2015	2016	2017	2018
Sources of Funds									
Retail Rate Revenues	$3,977	$4,017	$4,057	$4,098	$4,139	$4,180	$4,222	$4,264	$4,307
Other Revenues	637	672	730	763	810	836	800	726	664
Total Sources of Funds	$4,614	$4,689	$4,787	$4,860	$4,948	$5,015	$5,022	$4,990	$4,970
Application of Funds									
O&M Expenses	$2,837	$2,819	$2,938	$3,060	$3,187	$3,319	$3,457	$3,601	$3,751
Taxes	199	202	205	207	210	213	214	215	215
CIP from Rates	1,185	1,185	1,260	1,335	1,410	1,485	1,560	1,635	1,710
Debt Service									
Existing	618	614	212	212	212	212	212	211	210
New	0	0	0	0	0	0	1,687	3,431	4,582
Change in Working Capital	0	0	490	775	1,340	1,990	1,030	122	0
Total Application of Funds	$4,639	$4,819	$5,104	$5,590	$6,360	$7,219	$8,160	$9,214	$10,468
Balance/(Deficiency) of Funds	($25)	($130)	($317)	($730)	($1,412)	($2,204)	($3,138)	($4,225)	($5,498)
Plus: Additional Taxes w/ Rate Increase	$2	$13	$32	$74	$143	$223	$317	$427	$555
Net Balance/(Deficiency) of Funds	($27)	($144)	($349)	($804)	($1,554)	($2,427)	($3,455)	($4,651)	($5,053)
Balance as a % of Rates	0.7%	3.6%	8.6%	19.8%	37.6%	58.1%	81.8%	109.1%	140.5%
Proposed Rate Adjustment	0.0%	3.5%	5.0%	10.0%	15.0%	15.0%	15.0%	15.0%	15.0%

HDR

18

52

Summary of the Sewer Rate Transition Plan

		2010	2011	2012	2013	2014	2015	2016	2017	2018
2009 Average Residential Bill	$36.52									
Proposed Rate Adjustments		0.0%	3.5%	5.0%	10.0%	15.0%	15.0%	15.0%	15.0%	15.0%
Average Residential Bill After Rate Adjustment		$36.52	$37.80	$39.69	$43.66	$50.21	$57.74	$66.40	$76.36	$87.81
Monthly Difference In Bill		$0.00	$1.28	$1.89	$3.97	$6.55	$7.53	$8.66	$9.96	$11.45
Cumulative Difference In Bill		$0.00	$1.28	$3.17	$7.14	$13.69	$21.22	$29.88	$39.84	$51.29

HDR

19

Summary of the Sewer Financial Planning Considerations

	2010	2011	2012	2013	2014	2015	2016	2017	2018
Debt Service Coverage Ratio (all debt)									
Before Rate Adjustment	2.88	2.72	7.78	7.51	7.30	6.99	0.68	0.31	0.21
After Needed Rate Adjustment	2.92	2.95	9.42	11.29	14.62	18.41	2.40	1.56	1.44
After Proposed Rate Adjustment	2.88	2.95	9.44	11.28	14.60	18.42	2.40	1.56	1.44
Target Reserve Levels ($000's)									
Operating Fund - 45 Day O&M	$325	$348	$362	$377	$393	$409	$426	$444	$462
Emergency Reserve	500	500	500	500	500	500	500	500	500
Capital Reserve	350	350	350	350	350	350	350	350	350
Rate Stabilization Reserve	444	482	510	559	636	722	816	921	1,047
Target Minimum Fund Balance	$1,619	$1,679	$1,723	$1,786	$1,879	$1,981	$2,092	$2,215	$2,359
Ending Cash Fund Balance	$6,073	$6,373	$7,379	$8,010	$9,990	$9,185	$7,095	$3,662	$2,382
Ending SDC Fund Balance	$4,016	$4,063	$4,071	$2,955	$3,029	$3,107	$3,088	$3,073	$3,060

HDR

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Summary of the Sewer Revenue Requirement

- Utility is financially strong
- Rate adjustments needed to fund capital needs
  - ✓ Annual debt service
  - ✓ No "outside" funding assumed
  - ✓ Timing of adjustments
- Adequate renewal and replacement capital currently funded through rates, SDCs, and bonding
- Adequate reserve funds available
  - ✓ Increasing to fund portion of treatment plant

HDR 21

Sewer Cost of Service

- Allocated 2010 expenses
- Minor cost differences do exist
  - ✓ 1st cost of service
- Takes into consideration customer volumes and strength of wastewater
- Recommend minor interclass adjustments through the rate design process at this time

HDR 22

54

Sewer Rate Design

- **Proposed adjustments**
  - ✓ 0% 2010, 3% 2011, 5% 2012, 10% 2013, 15% per year starting in 2014
- **Ramping up rates to fund the debt for the treatment plant**
- **Across the Board adjustment**
  - ✓ Minor cost of service adjustments through the rate design process
- **Maintained current rate structure**
  - ✓ Meets current goals and objectives
  - ✓ Proposing adjustments to multi-family and schools rate structure

HDR

23

Residential Present and Proposed Sewer Rates

	Present	Proposed					
	2009	2010	2011	2012	2013	2014	2015
Monthly Sewer Base Rate							
Residential	$36.52	$38.00	$40.00	$42.25	$46.75	$53.50	$62.00

Note: Outside City Limits rates are 1 1/2 times the inside City Limits rates.

HDR

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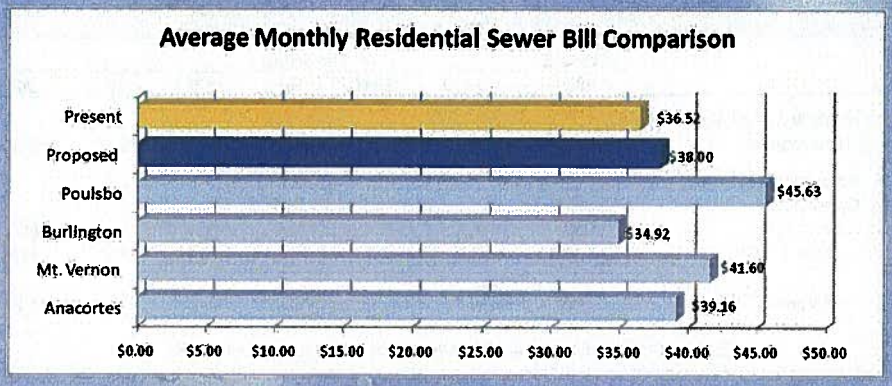
55

Local Sewer Rate Comparison



HDR

25

Multi-Family Present and Proposed Sewer Rates

	Present	Proposed					
	2009	2010	2011	2012	2013	2014	2015
Monthly Sewer Base Rate							
Multi-Family/Unit	$36.52	$32.30	$34.00	$35.90	$39.75	$45.50	$52.70

Note: Outside City Limits rates are 1 1/2 times the Inside City Limits rates.

HDR

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Commercial Present and Proposed Sewer Rates

	Present	Proposed					
	2009	2010	2011	2012	2013	2014	2015
Monthly Sewer Base Rate							
Commercial	$36.55	$37.75	$39.00	$40.50	$44.00	$49.00	$55.00
Volume/Flow ($/CCF)							
Commercial							
First CCF	$0.00	N/A	N/A	N/A	N/A	N/A	N/A
Above 1 CCF	4.34	N/A	N/A	N/A	N/A	N/A	N/A
All Volume/CCF	N/A	$4.35	$4.50	$4.75	$5.25	$6.05	$6.95

Note: Outside City Limits rates are 1 1/2 times the inside City Limits rates.

HDR

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Schools Present and Proposed Sewer Rates

	Present	Proposed					
	2009	2010	2011	2012	2013	2014	2015
Monthly Sewer Base Rate							
Schools	$3.87	$15.00	$20.00	$25.00	$30.00	$35.00	$40.00
Volume/Flow ($/CCF)							
All CCF	$4.34	$4.35	$4.50	$4.75	$5.25	$6.05	$6.95

Note: Outside City Limits rates are 1 1/2 times the inside City Limits rates.

HDR

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57

Allowable Net Sewer System Development Charge at 1 ERU [1]

Sewer System Development Charge Results

Treatment	$1,258
Pumping	$137
Collection	3,330
General Plant	7
Debt Service	(2,084)
Credit	
Total	$2,647
Net Allowable Sewer System Development	**$2,650**
Existing System Development Charge - $/ERU	**$3,081**
$ Change per ERU	**-$431**

[1] – ERU = Equivalent Residential Unit

HDR

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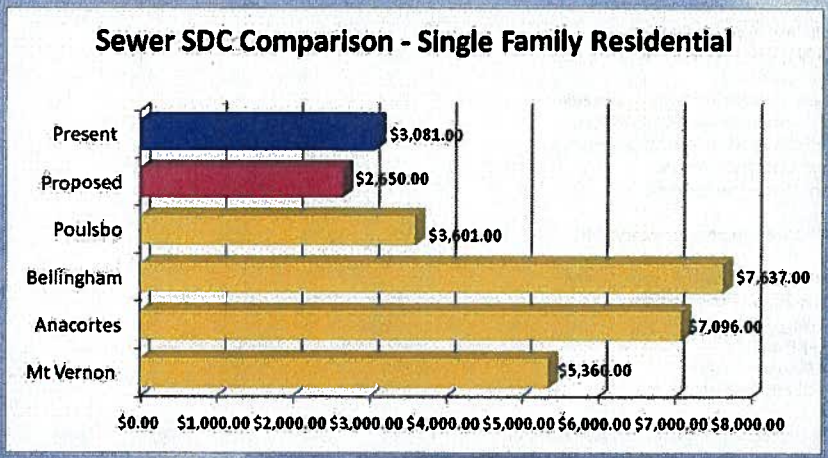
Local SDC Comparison



HDR

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Storm Drain Utility Analysis

HDR

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Summary of the Storm Drain Capital Plan ($000's)

	2010	2011	2012	2013	2014	2015
Capital Improvement Projects						
Pipe Replacement on Oak Harbor Street	125	0	0	0	0	0
Liszak Outfall	0	0	0	0	155	0
Pioneer Way storm drainage rehabilitation	650	0	0	0	0	0
42-in. storm drain (Windjammer Park)	1,000	506	0	100	658	0
Freund Marsh stormwater improvements	0	198	198	0	0	0
Annual Main Replacements	38	38	38	38	38	38
Future Unidentified Projects	0	0	0	0	0	113
Total Capital Improvement Projects	$1,813	$742	$236	$138	$851	$150
Capital Improvement Project Funding						
System Development Charges	$0	$0	$0	$0	$0	$0
Operating Reserves	0	0	0	38	0	0
Capital Reserves	0	0	0	0	0	0
New Revenue Bonds	1,813	692	161	0	726	0
NET CIP FROM RATES	0	50	75	100	125	150
Total Capital Improvement Project Funding	$1,813	$742	$236	$138	$851	$150

HDR

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Summary of the Storm Drain Revenue Requirement ($000's)

	2010	2011	2012	2013	2014	2015
Sources of Funds						
Retail Rate Revenues	$1,314	$1,327	$1,340	$1,354	$1 367	$1,381
Other Revenues	18	24	30	32	34	35
Total Sources of Funds	$1,331	$1,351	$1,370	$1,386	$1,401	$1,416
Application of Funds						
O&M Expenses	$937	$1,018	$1,063	$1,108	$1,155	$1,203
Taxes	79	80	80	81	82	83
CIP from Rates	0	50	75	100	125	150
Debt Service						
Existing	0	0	0	0	0	0
New	158	218	232	232	296	296
Change in Working Capital	208	88	83	88	30	38
Total Application of Funds	$1,382	$1,454	$1,533	$1,609	$1,687	$1,769
Balance/(Deficiency) of Funds	($50)	($102)	($162)	($223)	($286)	($354)
Plus: Additional Taxes w/ Rate Increase	$3	$6	$10	$13	$17	$21
Net Balance/(Deficiency) of Funds	($53)	($109)	($172)	($237)	($303)	($375)
Balance as a % of Rates	4.1%	8.2%	12.8%	17.5%	22.2%	27.2%
Proposed Rate Adjustment	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%

HDR

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Summary of the Storm Drain Rate Transition Plan

		2010	2011	2012	2013	2014	2015
2009 Average Residential Bill	$9.14						
Proposed Rate Adjustments		4.0%	4.0%	4.0%	4.0%	4.0%	4.0%
Average Residential Bill After Rate Adjustment		$9.51	$9.89	$10.28	$10.69	$11.12	$11.57
Monthly Difference in Bill		$0.37	$0.38	$0.40	$0.41	$0.43	$0.44
Cumulative Difference in Bill		$0.37	$0.75	$1.14	$1.55	$1.98	$2.43

HDR

34

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Summary of the Storm Drain Financial Planning Considerations

	2010	2011	2012	2013	2014	2015
Debt Service Coverage Ratio (all debt)						
Before Rate Adjustment	1.99	1.16	0.98	0.85	0.55	0.44
After Needed Rate Adjustment	2.33	1.66	1.72	1.86	1.58	1.71
After Proposed Rate Adjustment	2.33	1.67	1.72	1.86	1.58	1.71
Target Reserve Levels ($000's)						
Operating Fund - 45 Day O&M	$116	$126	$131	$137	$142	$148
Emergency Reserve	75	75	75	75	75	75
Capital Reserve	75	75	75	75	75	75
Rate Stabilization Reserve	137	144	151	159	167	176
Target Minimum Fund Balance	$402	$419	$432	$446	$459	$474
Ending Cash Fund Balance	$301	$376	$446	$484	$501	$526
Ending Capital Fund Balance	$47	$59	$72	$84	$97	$109
Ending SDC Fund Balance	$307	$307	$307	$307	$307	$307

HDR

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Summary of the Storm Drain Revenue Requirement

- **Rate adjustments are necessary to adequately fund operating and capital needs**
  - ✓ **Starting in 2010 – 4.0% per year**
- **Adjustments are the result of funding capital through rates and new long-term debt**
- **Need to continue to:**
  - ✓ **Adequately fund renewals and replacements**
  - ✓ **Maintain minimum fund balance**
  - ✓ **Meet capital market requirements/preserve bonding ability**

HDR

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61

Summary of the Storm Drain Cost of Service Analysis

- Allocated 2010 expenses
- Minor cost differences do exist between the current customer classes of service
- Policy issue of discount to schools and non-profits
  - ✓ Propose transitioning schools and non-profits rates away from discount over a five year period
- Recommend minor interclass adjustments at this time
  - ✓ Change in ERU calculation

HDR 37

Storm Drain Rate Design

- Proposed rate adjustment of 4% per year
  - ✓ 2010 through 2015
- Maintained current rate structures
- Proposed adjustment to the size of the ERU
  - ✓ 2,500 sq. ft. to 3,300 sq. ft
- Transition away from school discount over the five-year period
  - ✓ Current 25% discount
- Transition non-profit over five-year period
  - ✓ To 50% discount

HDR 38

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Storm Drain Rate Design
Credits and/or Discounts

- Purpose – encourage installation of facilities and use of best management practices
  - ✓ Not all utilities provide credit
- Based on design criteria
  - ✓ Generally exceeding requirements
- Determination of eligibility
  - ✓ Typically non-residential accounts
- Basis for credit/discount
  - ✓ "Rainwater harvesting" – RCW 10% discount
  - ✓ Onsite detention/retention which exceed
    - DOE requirements
    - City standards – current or time of development
    - 25/50/100 year event

HDR 39

Storm Drain Rate Design
Credits and/or Discounts (cont'd)

- Basis for other credit/discount
  - ✓ NPDES permit
  - ✓ Quality of discharge or quantity
  - ✓ "Regional" facility
  - ✓ Vacant or undeveloped land
- Maximum Credit
  - ✓ Varies by entity
  - ✓ Varies by rate structure
- Key Issues
  - ✓ Development of criteria for credit/discount program
  - ✓ Level of incentive to promote storm drain facilities
  - ✓ Administrative concerns
  - ✓ Application process
  - ✓ Minimum charge

HDR 40

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Present and Proposed Storm Drain Rates

	Present 2009	Proposed 2010	2011	2012	2013	2014	2015
Proposed Rate Adjustment		*4.00%*	*4.00%*	*4.00%*	*4.00%*	*4.00%*	*4.00%*
Residential	per customer						
Single Family	$9.14	$11.15	$11.60	$12.06	$12.54	$13.04	$13.56
Multi Family	$9.14	$11.15	$11.60	$12.06	$12.54	$13.04	$13.56
Commercial	per ERU						
Commercial	$9.14	$11.15	$11.60	$12.06	$12.54	$13.04	$13.56
Multi-Commercial	9.14	11.15	11.60	12.06	12.54	13.04	13.56
Hotel/Motel	9.14	11.15	11.60	12.06	12.54	13.04	13.56
Commercial/Residential	9.14	11.15	11.60	12.06	12.54	13.04	13.56
Schools	6.86	8.92	9.86	10.85	11.91	13.04	13.56
Church	2.29	3.35	4.06	4.82	5.64	6.52	7.46
Irrigation	9.14	11.15	11.60	12.06	12.54	13.04	13.56

HDR

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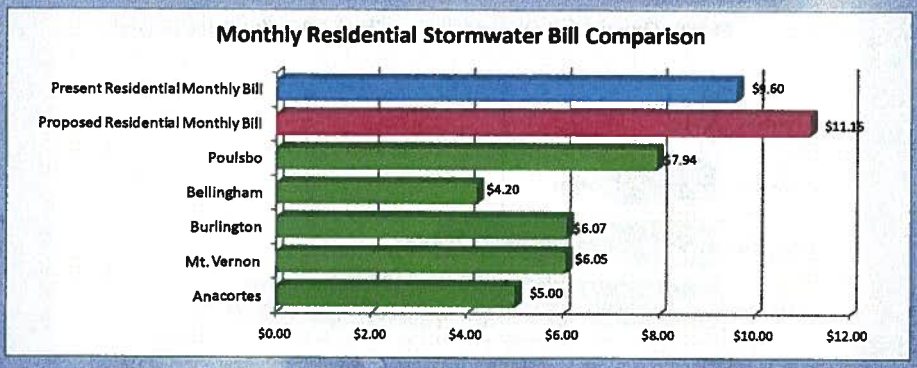
Local Storm Drain Rate Comparison



HDR

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Allowable Net Storm Drain System Development Charge at One (1) ERU [1]

Storm Drain System Development	
Collection	$238
General Plant	2
Debt Service Credit	0
Total	$241
Net Allowable System	**$240**
Existing System Develop	**$0**
$ Change per ERU	**$240**

[1] – ERU = Equivalent Residential Unit

HDR

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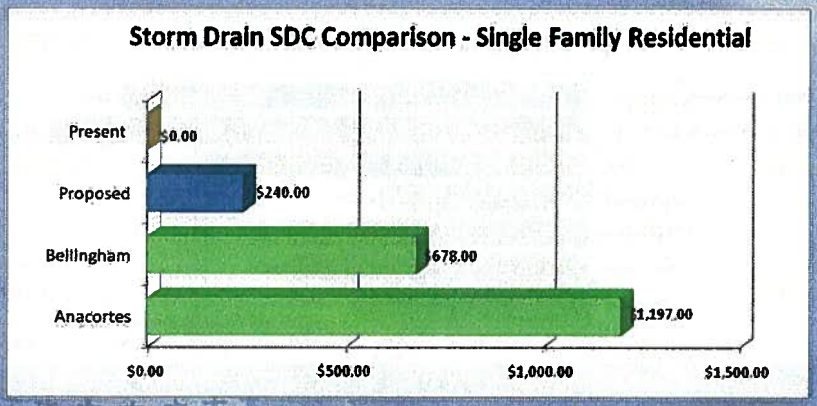
Local SDC Comparison



HDR

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Solid Waste Analysis

HDR

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Summary of the Solid Waste Revenue Requirement

($000's)

	2010	2011	2012	2013	2014	2015
Sources of Funds						
Retail Rate Revenues	$3,050	$3,057	$3,195	$3,203	$3,211	$3,219
Other Revenues	60	70	76	72	72	72
Total Sources of Funds	$3,110	$3,127	$3,271	$3,275	$3,283	$3,291
Application of Funds						
O&M Expenses	$2,784	$2,873	$3,005	$3,181	$3,254	$3,329
Taxes	347	348	364	364	365	366
CIP from Rates	0	0	0	0	0	0
Debt Service						
Existing	0	0	0	0	0	0
New	0	0	0	0	0	0
Change in Working Capital	0	0	0	0	0	0
Total Application of Funds	$3,131	$3,221	$3,369	$3,545	$3,619	$3,696
Balance/(Deficiency) of Funds	($21)	($94)	($98)	($270)	($336)	($405)
Plus: Additional Taxes w/ Rate Increase	$2	$11	$11	$31	$38	$46
Net Balance/(Deficiency) of Funds	($24)	($104)	($109)	($301)	($374)	($451)
Balance as a % of Rates	0.8%	3.4%	3.4%	8.4%	11.7%	14.0%
Proposed Rate Adjustment	0.0%	2.75%	2.75%	2.75%	2.75%	2.75%

HDR

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Summary of the Solid Waste Rate Transition Plan

		2010	2011	2012	2013	2014	2015
2009 Average Residential Bill	$29.06						
Proposed Rate Adjustments		0.0%	2.75%	2.75%	2.75%	2.75%	2.75%
Average Residential Bill After Rate Adjustment		$29.06	$29.86	$30.68	$31.52	$32.39	$33.28
Monthly Difference in Bill		$0.00	$0.80	$0.82	$0.84	$0.87	$0.89
Cumulative Difference in Bill		$0.00	$0.80	$1.62	$2.46	$3.33	$4.22

HDR 47

Summary of the Solid Waste Financial Planning Considerations

	2010	2011	2012	2013	2014	2015
Debt Service Coverage Ratio (all debt)						
Before Rate Adjustment	0.00	0.00	0.00	0.00	0.00	0.00
After Needed Rate Adjustment	0.00	0.00	0.00	0.00	0.00	0.00
After Proposed Rate Adjustment	0.00	0.00	0.00	0.00	0.00	0.00
Target Reserve Levels ($000's)						
Operating Fund - 45 Day O&M	$343	$354	$371	$392	$401	$410
Emergency Reserve	250	250	250	250	250	250
Capital Reserve	200	200	200	200	200	200
Rate Stabilization Reserve	305	314	337	347	358	369
Target Minimum Fund Balance	$1,098	$1,116	$1,158	$1,190	$1,209	$1 229
Ending Cash Fund Balance	$2,048	$2,027	$1,746	$1,746	$1,746	$1,746
Equipment Replacement Reserves	$114	$114	$114	$114	$114	$114
Ending Emergency Reserves	$0	$0	$0	$0	$0	$0

HDR 48

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Summary of the Solid Waste Revenue Requirement

- Utility is financially strong
- Inflationary rate adjustments to fund operating and capital needs
  - ✓ 2.75% per year starting in 2011
- Renewal and replacement capital currently funded through rates (budgeted)
- Meeting minimum reserve fund requirements

HDR 49

Solid Waste Cost of Service

- Allocated 2010 expenses
- Cost of service based on tonnage by class of service and collection frequency
- Minor cost differences do exist
- Recommend no interclass adjustments at this time

HDR 50

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Solid Waste Rate Design

- **Proposed inflationary adjustments**
  - ✓ 2.75% per year starting in 2011
- **Across the Board adjustment**
  - ✓ No cost of service adjustments
- **Maintained current rate structure**
  - ✓ Meets current goals and objectives

HDR

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Residential Present and Proposed Solid Waste Rates

	Present	Proposed					
	2009	2010	2011	2012	2013	2014	2015
Proposed Rate Adjustment		0.00%	2.75%	2.75%	2.75%	2.75%	2.75%
Residential							
Roll-Car Charges							
1 - 20 Gal.	$14.53	$14.53	$14.93	$15.34	$15.76	$16.19	$16.64
1 - 35 Gal.	19.90	19.90	20.45	21.01	21.59	22.16	22.79
1 - 65 Gal.	33.36	33.36	34.28	35.22	36.19	37.19	38.21
1 - 95 Gal.	44.37	44.37	45.59	46.84	48.13	49.45	50.81
Xtra Garbage Bag	2.43	2.43	2.50	2.57	2.64	2.71	2.76
Yardwaste							
Mar-Nov	$9.72	$9.72	$9.99	$10.26	$10.54	$10.63	$11.13
Dec-Feb	3.25	3.25	3.34	3.43	3.52	3.62	3.72

HDR

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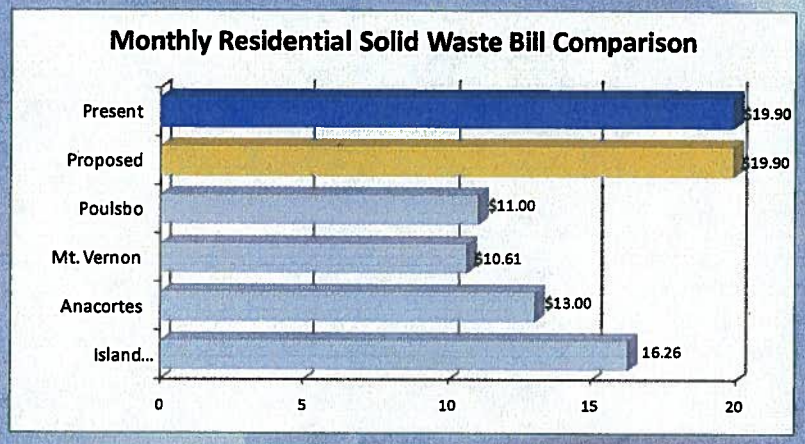
Local Solid Waste Rate Comparison



HDR

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Summary of the Commercial Present and Proposed Solid Waste Rates

	Present 2009	Proposed 2010	2011	2012	2013	2014	2015
Proposed Rate Adjustment		0.00%	2.79%	2.79%	2.79%	2.79%	2.79%
Commercial							
Permanent Dumpsters							
1 Cubic Yard							
Monthly Rent	$9.60	$9.60	$10.07	$10.35	$10.63	$10.92	$11.22
1 X per Week	41.59	41.59	42.70	43.67	45.08	46.32	47.59
2 X per Week	63.10	63.10	65.39	67.74	69.15	92.63	95.18
3 X per Week	124.88	124.88	128.09	131.81	135.23	138.95	142.77
4 X per Week	168.21	168.21	170.78	175.48	180.31	185.27	190.36
2 Cubic Yard							
Monthly Rent	$11.33	$11.33	$11.64	$11.96	$12.29	$12.63	$12.98
1 X per Week	76.28	76.28	78.36	80.54	82.75	85.03	87.37
2 X per Week	152.56	152.56	156.75	161.07	165.50	170.05	174.73
3 X per Week	228.84	228.84	235.13	241.60	248.24	255.07	262.08
4 X per Week	305.11	305.11	313.50	322.12	330.98	340.08	349.43
3 Cubic Yard							
Monthly Rent	$12.85	$12.85	$13.20	$13.56	$13.93	$14.31	$14.70
1 X per Week	110.28	110.28	113.31	116.43	119.63	122.92	126.30
2 X per Week	220.55	220.55	226.62	232.85	239.25	245.83	252.59
3 X per Week	330.82	330.82	339.92	349.27	358.87	368.74	378.88
4 X per Week	441.10	441.10	453.23	465.69	478.50	491.66	505.18
5 X per Week	551.37	551.37	566.53	582.11	598.12	614.57	631.47

	Present 2009	Proposed 2010	2011	2012	2013	2014	2015
Proposed Rate Adjustment		0.00%	2.79%	2.79%	2.79%	2.79%	2.79%
Commercial							
Permanent Dumpsters							
4 Cubic Yard							
Monthly Rent	$14.38	$14.38	$14.78	$15.19	$15.61	$16.04	$16.48
1 X per Week	142.74	142.74	146.67	150.70	154.84	159.10	163.48
2 X per Week	285.48	285.48	293.33	301.40	309.69	318.21	326.96
3 X per Week	428.22	428.22	440.00	452.10	464.53	477.30	490.43
4 X per Week	570.96	570.96	586.66	602.79	619.37	636.40	653.90
5 X per Week	713.70	713.70	733.33	753.50	774.22	795.51	817.39
6 Cubic Yard							
Monthly Rent	$14.38	$14.38	$14.78	$15.19	$15.61	$16.04	$16.48
1 X per Week	183.47	183.47	188.52	193.70	199.03	204.50	210.12
6 Cubic Yard							
Monthly Rent	$17.44	$17.44	$17.92	$18.41	$18.92	$19.44	$19.97
1 X per Week	192.34	192.34	197.63	203.05	208.64	214.38	220.28
2 X per Week	384.68	384.68	395.26	406.13	417.30	428.78	440.57
3 X per Week	577.01	577.01	592.89	609.18	625.93	643.14	660.83
4 X per Week	769.35	769.35	790.51	812.25	834.59	857.54	881.12
5 X per Week	961.69	961.69	988.14	1,015.31	1,043.23	1,071.92	1,101.40

HDR

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Water Utility Analysis

HDR

55

Summary of the Water Capital Plan

($000's)

	2010	2011	2012	2013	2014	2015
Capital Improvement Projects						
North Reservoir Connection Mains	$1,153	$1,153	$0	$0	$0	$0
North Reservoir	1,700	1,700	0	0	0	0
Ault Field Pump Station Alterations	300	0	0	0	0	0
North Booster Pump Station	0	855	1,045	0	0	0
N.E. Pressure Transmission Main	0	1,073	1,073	0	0	0
N.E. O'Leary Pressure Zone Main and Connections	0	213	639	0	0	0
Main Replacement	175	175	188	188	200	200
West Side Reservoir Connections to Mainland Zone	0	0	0	780	0	0
West Pressure Transmission Main	0	0	0	0	0	1,426
Unidentified Future Capital Projects	0	0	0	329	800	0
Transfer to Cash Reserves	0	0	0	63	200	291
Total Capital Improvement Projects	$3,328	$5,169	$2,944	$1,359	$1,200	$1,917
Capital Improvement Project Funding						
Reserves - Operating Fund - Water (403)	$420	$902	$471	$0	$0	$0
System Development Charges (SDCs)	1,608	1,791	424	234	0	642
Revenue Bonds	0	1,500	1,000	0	0	0
NET CIP FROM RATES	1,300	975	1,050	1,125	1,200	1,275
Total Capital Improvement Project Funding	$3,328	$5,169	$2,944	$1,359	$1,200	$1,917

HDR

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Summary of the Water Revenue Requirement

($000's)

	2010	2011	2012	2013	2014	2015
Sources of Funds						
Retail Rate Revenues	$4,029	$4,069	$4,110	$4,151	$4,192	$4,234
Other Revenues	711	680	642	626	643	654
Total Sources of Funds	$4,739	$4,748	$4,752	$4,777	$4,835	$4,889
Application of Funds						
O&M Expenses	$2,865	$3,052	$3,173	$3,296	$3,423	$3,555
Taxes	488	491	493	497	503	508
CIP from Rates	1,300	975	1 050	1,125	1,200	1,275
Debt Service						
Existing	60	55	55	55	55	54
New	0	131	218	218	218	218
Change in Working Capital	25	173	26	0	0	0
Total Application of Funds	$4,737	$4,877	$5,015	$5,191	$5,398	$5,610
Balance/(Deficiency) of Funds	$2	($128)	($263)	($415)	($563)	($721)
Plus: Additional Taxes w/ Rate Increase	$0	$14	$30	$47	$64	$81
Net Balance/(Deficiency) of Funds	$2	($143)	($293)	($461)	($627)	($803)
Balance as a % of Rates	0.0%	3.5%	7.1%	11.1%	15.0%	19.0%
Proposed Rate Adjustment	0.0%	3.5%	3.5%	3.5%	3.5%	3.5%

HDR

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Alternative Water Revenue Requirement Increased Purchased Water

($000's)

	2010	2011	2012	2013	2014	2015
Sources of Funds						
Retail Rate Revenues	$4,029	$4,069	$4,110	$4,151	$4,192	$4,234
Other Revenues	711	675	638	632	650	661
Total Sources of Funds	$4,739	$4,743	$4,747	$4,782	$4,842	$4,895
Application of Funds						
O&M Expenses	$2,865	$3,052	$3,173	$3,296	$3,423	$3,555
Adjustment to Purchased Water	0	360	360	360	360	360
Taxes	488	490	493	497	503	508
CIP from Rates	1,300	975	1,050	1,125	1,200	1,275
Debt Service						
Existing	60	55	55	55	55	54
New	0	131	244	244	244	244
Change in Working Capital	25	(27)	(13)	65	180	305
Total Application of Funds	$4,737	$5,036	$5,362	$5,643	$5,965	$6,301
Balance/(Deficiency) of Funds	$2	($293)	($615)	($860)	($1,123)	($1,406)
Plus: Additional Taxes w/ Rate Increase	$0	$33	$69	$97	$127	$159
Net Balance/(Deficiency) of Funds	$2	($326)	($684)	($957)	($1,249)	($1,564)
Balance as a % of Rates	0 0%	8.0%	18.6%	23.1%	29.8%	36 9%
Proposed Rate Adjustment	0.0%	8.0%	8.0%	5.5%	5.5%	5.5%

HDR

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Summary of the Water Rate Transition Plan

		2010	2011	2012	2013	2014	2015
2009 Average Residential Bill	$29.50						
Proposed Rate Adjustments		0.0%	3.5%	3.5%	3.5%	3.5%	3.5%
Average Residential Bill After Rate Adjustment		$29.50	$30.53	$31.60	$32.71	$33.85	$35.04
Monthly Difference in Bill		$0.00	$1.03	$1.07	$1.11	$1.14	$1.18
Cumulative Difference in Bill		$0.00	$1.03	$2.10	$3.21	$4.35	$5.54

HDR

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Summary of the Water Financial Planning Considerations

	2010	2011	2012	2013	2014	2015
Debt Service Coverage Ratio (all debt)						
Before Rate Adjustment	23.05	6.48	3.98	3.60	3.34	3.03
After Needed Rate Adjustment	23.05	7.25	5.05	5.30	5.64	5.98
After Proposed Rate Adjustment	23.08	6.48	3.97	3.57	3.31	3.01
Target Reserve Levels ($000's)						
Operating Fund - 45 Day O&M	$353	$376	$391	$406	$422	$438
Emergency Reserve	500	500	500	500	500	500
Capital Reserve	350	350	350	350	350	350
Rate Stabilization Reserve	435	453	472	492	513	535
Target Minimum Fund Balance	$1,638	$1,679	$1,713	$1,748	$1,785	$1,823
Ending Cash Fund Balance	$2,710	$1,981	$1,536	$1,599	$1,799	$2,090
Ending SDC Fund Balance	$3,377	$1,798	$1,594	$1,589	$1,827	$1,433

HDR

60

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Summary of the Water Revenue Requirement

- Inflationary rate adjustments are necessary to adequately fund operating and capital needs
  - ✓ Starting in 2011 - 3.5% per year
- Adjustments are the result of assumed inflationary increases in O&M and funding of capital through rates and new long-term debt
- Need to continue to:
  - ✓ Adequately fund renewals and replacements
  - ✓ Maintain minimum fund balance
  - ✓ Meet capital market requirements/preserve bonding ability

HDR 81

Summary of the Water Cost of Service Analysis

- Allocated 2010 expenses
- Minor cost differences do exist between the current customer classes of service
- Recommend minor cost of service adjustment at this time
  - ✓ 1st cost of service
  - ✓ Adjustments can be made through rate structure changes
- Legal decision needed on the Lane vs. Seattle fire protection cost allocation

HDR 82

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Water Rate Design

- Revenue Neutral for 2010
- Reviewed several rate structures for implementation
- Proposed rate structure adjustments in 2010
  - ✓ Residential
    - Conservation oriented
    - Billing on all consumption
  - ✓ Multi-Family
    - Conservation oriented
    - Per unit charge is 85% of residential ¾" meter charge
  - ✓ Commercial and Irrigation
    - Transition from declining block to inclining block over five years

HDR 63

Present and Proposed Water Rates

Present Rates	
Monthly Water Base Rate	
5/8" or 3/4"	$18.75
1"	27.22
1 1/2"	38.22
2"	54.27
3"	92.51
4"	152.82
Consumption - $/CCF	
Single Family	
First 5 CCF	$7.29
Over 5 CCF	3.46
Multi-Family / Unit	
First 5 CCF	$7.29
Over 5 CCF	3.46
Commercial, Irrigation, and Schools	
First 2 CCF	$1.81
Next 3 CCF	7.45
Next 20 CCF	3.62
Rest of Consumption ($/CCF)	1.99

	Proposed					
	2010	2011	2012	2013	2014	2015
Proposed Rate Adjustment	0.0%	3.8%	3.8%	3.8%	3.8%	3.8%
Monthly Water Base Rate (Res, Comm, Schools, Irr)						
5/8" or 3/4"	$21.00	$21.50	$22.00	$22.50	$22.50	$22.50
1"	26.25	29.55	33.00	36.55	39.40	42.20
1 1/2"	52.50	59.15	66.00	73.15	78.75	84.40
2"	84.00	94.60	105.60	117.00	126.00	135.00
3"	157.50	177.40	198.00	219.40	236.25	253.15
4"	262.50	295.65	330.00	365.65	393.75	421.90
Monthly Water Base Rate (Multi-Family & Multi-Commercial)						
Per Unit Base Rate	$17.85	$18.25	$18.70	$19.15	$19.15	$19.15
Consumption - $/CCF						
Single Family & Multi Family (per Unit)						
0 - 3 CCF	$1.50	$1.55	$1.60	$1.70	$1.80	$1.95
4 - 6 CCF	2.30	2.45	2.60	2.75	3.00	3.25
Above 6 CCF	3.90	4.20	4.50	4.75	5.05	5.25
Commercial (per unit) & Schools						
0 - 10 CCF	$4.55	$4.35	$3.90	$3.55	$3.55	$3.60
11 - 20 CCF	3.90	3.75	3.65	3.55	3.65	3.75
Above 20 CCF	2.40	2.80	3.20	3.55	3.70	3.85
Irrigation						
0 - 10 CCF	$5.00	$4.40	$4.15	$3.75	$3.75	$4.00
Above 10 CCF	2.50	3.10	3.35	3.75	4.15	4.50

***Outside rates are subject to a 1 1/2 rate differential

HDR 64

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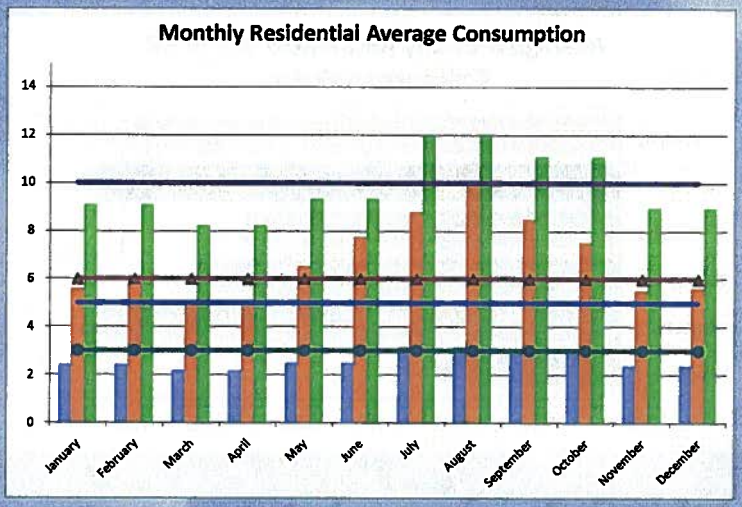
Summary of Residential Usage



HDR

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Residential Water Bill Comparison (2010)

Size	Consumption per CCF	Present Rates	Proposed Rates	Difference Amount	Difference Percent
3/4"					
	0	$26.04	$21.00	($5.04)	-19.35%
	1	26.04	22.50	(3.54)	-13.59%
	2	26.04	24.00	(2.04)	-7.83%
	3	26.04	25.50	(0.54)	-2.07%
	4	26.04	27.80	1.76	6.76%
	5	26.04	30.10	4.06	15.59%
	6	29.50	32.40	2.90	9.83%
	7	32.96	36.30	3.34	10.13%
	8	36.42	40.20	3.78	10.38%
	9	39.88	44.10	4.22	10.58%
	10	43.34	48.00	4.66	10.75%
	11	46.80	51.90	5.10	10.90%
	12	50.26	55.80	5.54	11.02%
	13	53.72	59.70	5.98	11.13%
	14	57.18	63.60	6.42	11.23%
	15	60.64	67.50	6.86	11.31%
	16	64.10	71.40	7.30	11.39%
	17	67.56	75.30	7.74	11.46%
	18	71.02	79.20	8.18	11.52%
	19	74.48	83.10	8.62	11.57%
	20	77.94	87.00	9.06	11.62%

HDR

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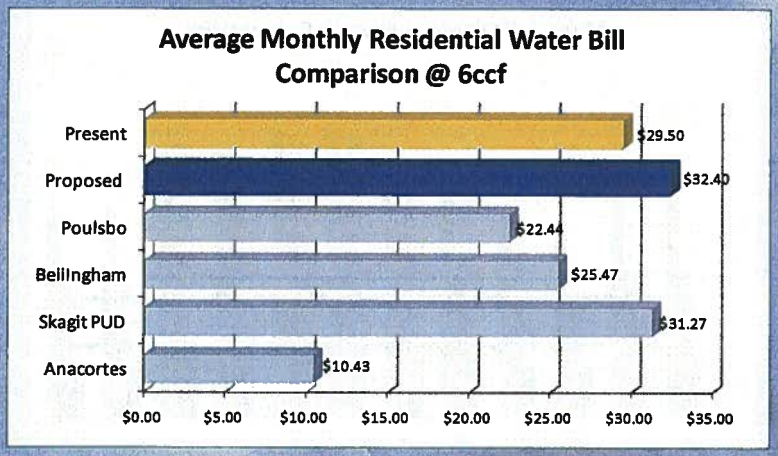
Local Residential Water Rate Comparison



HDR

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Multi-Family Water Bill Comparison (2010)

Number of Units	Consumption per CCF/Unit	Present Rates	Proposed Rates	Difference Amount	Difference Percent
4	0	$104.16	$71.40	($32.76)	-31.45%
	2	114.54	90.60	(23.94)	-20.90%
	4	142.22	121.80	(20.42)	-14.36%
	6	169.90	153.00	(16.90)	-9.95%
	8	197.58	184.20	(13.38)	-6.77%
	10	225.26	215.40	(9.86)	-4.38%
	12	252.94	246.60	(6.34)	-2.51%
6	0	$156.24	$107.10	(49.14)	-31.45%
	2	180.46	141.90	(38.56)	-21.37%
	4	221.98	188.70	(33.28)	-14.99%
	6	263.50	235.50	(28.00)	-10.63%
	8	305.02	282.30	(22.72)	-7.45%
	10	346.54	329.10	(17.44)	-5.03%
	12	388.06	375.90	(12.16)	-3.13%
8	0	$208.32	$142.80	(65.52)	-31.45%
	2	246.38	193.20	(53.18)	-21.58%
	4	301.74	255.60	(46.14)	-15.29%
	6	357.10	318.00	(39.10)	-10.95%
	8	412.46	380.40	(32.06)	-7.77%
	10	467.82	442.80	(25.02)	-5.35%
	12	523.18	505.20	(17.98)	-3.44%

HDR

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77

Commercial Water Bill Comparison (2010)

Size	Consumption per CCF	Present Rates	Proposed Rates	Difference Amount	Difference Percent
1"					
	0	$29.03	$26.25	($2.78)	-9.58%
	5	51.38	49.00	(2.38	-4.63%
	10	70.48	71.75	1.27	1.80%
	15	89.58	91.25	1.87	.86%
	20	108.68	110.75	2.07	1.90%
	25	127.78	122.75	(5.03)	-3.94%
	30	137.73	134.75	(2.98)	-2.16%
	35	147.68	146.75	(0.93)	-0.63%
	40	157.63	158.75	1.12	0.71%
	45	167.58	170.75	3.17	1.89%
	50	177.53	182.75	5.22	2.94%
	75	227.28	242.75	15.47	6.81%
	100	277.03	302.75	25.72	9.28%
	125	326.78	362.75	35.97	11.01%
	150	376.53	422.75	46.22	12.28%
	175	426.28	482.75	56.47	13.25%
	200	476.03	542.75	66.72	14.02%
	225	525.78	602.75	76.97	14.64%
	250	575.53	662.75	87.22	15.15%
	275	625.28	722.75	97.47	15.59%
	300	675.03	782.75	107.72	15.96%

HDR

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Irrigation Water Bill Comparison (2010)

Size	Consumption per CCF	Present Rates	Proposed Rates	Difference Amount	Difference Percent
3/4"					
	0	$20.56	$21.00	$0.44	2.14%
	5	42.91	46.00	3.09	7.20%
	10	62.01	71.00	8.99	14.50%
	15	81.11	83.50	2.39	2.95%
	20	100.21	96.00	(4.21)	-4.20%
	25	119.31	108.50	(10.81)	-9.06%
	30	129.26	121.00	(8.26)	-6.39%
	35	139.21	133.50	(5.71)	-4.10%
	40	149.16	146.00	(3.16)	-2.12%
	45	159.11	158.50	(0.61)	-0.38%
	50	169.06	171.00	1.94	1.15%
	75	218.81	233.50	14.69	6.71%
	100	268.56	296.00	27.44	10.22%
	125	318.31	358.50	40.19	12.63%
	150	368.06	421.00	52.94	14.38%
	175	417.81	483.50	65.69	15.72%
	200	467.56	546.00	78.44	16.78%
	225	517.31	608.50	91.19	17.63%
	250	567.06	671.00	103.94	18.33%
	275	616.81	733.50	116.69	18.92%
	300	666.56	796.00	129.44	19.42%

HDR

70

78

Allowable Net Water System Development Charge at One (1) ERU [1]

Water System Development Charge Results

Source of Supply/Treatment	$202
Pumping	$396
Storage	684
Transmission/Distribution	4,575
General Plant	13
Debt Service Credit	0
Total	$5,871
Net Allowable Water SDC (Rounded)	**$5,870**
Existing System Development Charge - $	**$3,081**

[1] – ERU = Equivalent Residential Unit

HDR

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Allowable Net Water System Development Charge By Meter Size

Meter Size	Current Weighting Factor	SDC
5/8 X 3/4"	1.0	$5,870
3/4"	1.5	8,805
1	2.5	14,675
1 1/2	5.0	29,350
2	8.0	46,960
3	15.0	88,050
4	25.0	146,750
6	50.0	293,500
8	80.0	469,600
10	110.0	645,700

Notes:
[1] Weighting factor based on AWWA 5/8" meter equivalencies.

HDR

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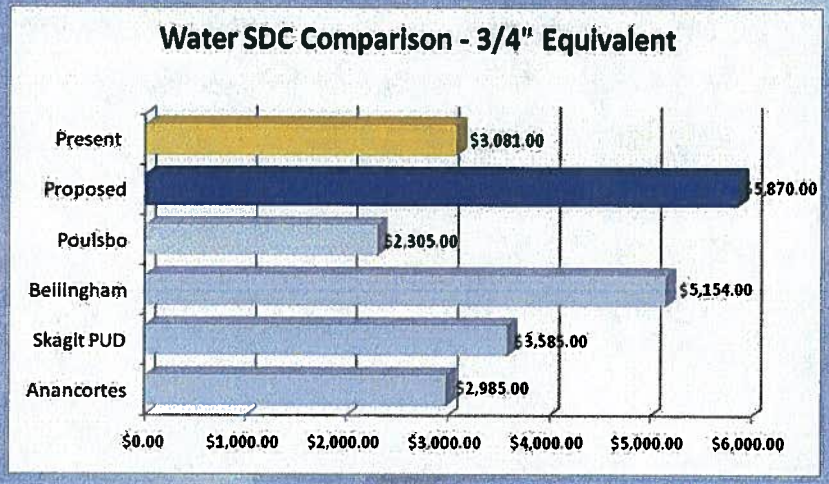
79

Local SDC Comparison



HDR

73

Summary of the Utilities Revenue Requirements

- Rate adjustments are necessary to fund the operating and capital needs of the utilities
  - ✓ Sewer – ramping up to capital funding needs - 2011
  - ✓ Storm Drain – 4.0% per year - 2010
  - ✓ Solid Waste – Inflationary 2.75% per year - 2011
  - ✓ Water – Inflationary 3.5% per year - 2011
- Continue to adequately fund reserves and capital through rates
  - ✓ Maintain bonding capacity
- Recommend rate adjustments
  - ✓ Based on the rate transition plans

HDR

74

80

Summary of the Utilities Cost of Service Analyses

- Minor cost of service differences do exist between the customer classes of service
  - ✓ 1st cost of service analysis
- Recommend minor cost of service adjustments at this time
  - ✓ Accomplished through the rate structure adjustments

HDR 75

Summary of the Utilities Rate Design Analyses

- Developed five-year rate transition plan
  - ✓ Focus on next 2-3 years for rate setting purposes
- Proposed water rate structure changes
- Proposed storm drain change to discount for schools and non-profit/churches
- Maintain sewer and solid waste rate structures

HDR 76

Relative Rate Impacts

REVENUE REQUIREMENT RESULTS

	Present	2010	2011	2012	2013	2014	2015	Cumulative
Water		0.00%	3.50%	3.50%	3.50%	3.50%	3.50%	17.5%
Sewer		0.00%	3.50%	5.00%	10.00%	15.00%	15.00%	48.5%
Solid Waste		0.00%	2.75%	2.75%	.75%	2.75%	2.75%	13.8%
Storm Drain		.00%	4.00%	4.00%	4.00%	4.00%	4.00%	24.0%
Water	$29.50	$32.40	$33.53	$34 70	$35.91	$37.17	$38.47	
Sewer	36.52	38.00	39.33	41.30	45.43	52.24	60.08	
Solid Waste	19.90	19.90	20.45	21.01	21.59	22.18	22.79	
Storm Drain	9.14	11.15	11.60	12.06	12.54	13.04	13.56	
Tota Ave. Monthly Res. Bill	$95.06	$101.45	$104.91	$109.07	$115.47	$124.63	$134.90	
Water		$2.90	1.13	$1.17	$1.21	$1.26	$1.30	$8.97
Sewer		1.48	1.33	1.97	4.13	6.81	7.84	23.56
Solid Waste		0.00	0.55	0.56	0.58	0.59	0.61	2.89
Storm Drain		2.01	0.45	0.46	0.48	0.50	0.52	4.42
Total $ Change per Month		$6.39	$3.46	$4.16	$6.40	$9.16	$10.27	$39.84
Total % Change - Combined Utilities Bill		6.7%	3.4%	4.0%	5.9%	7.9%	8.2%	36.1%

HDR 77

Next Steps

- Finalize analyses
  - ✓ Proposed rate transition plan
  - ✓ Proposed rate structure changes
- Finalize SDCs
- Final presentation to the City Council

HDR 78

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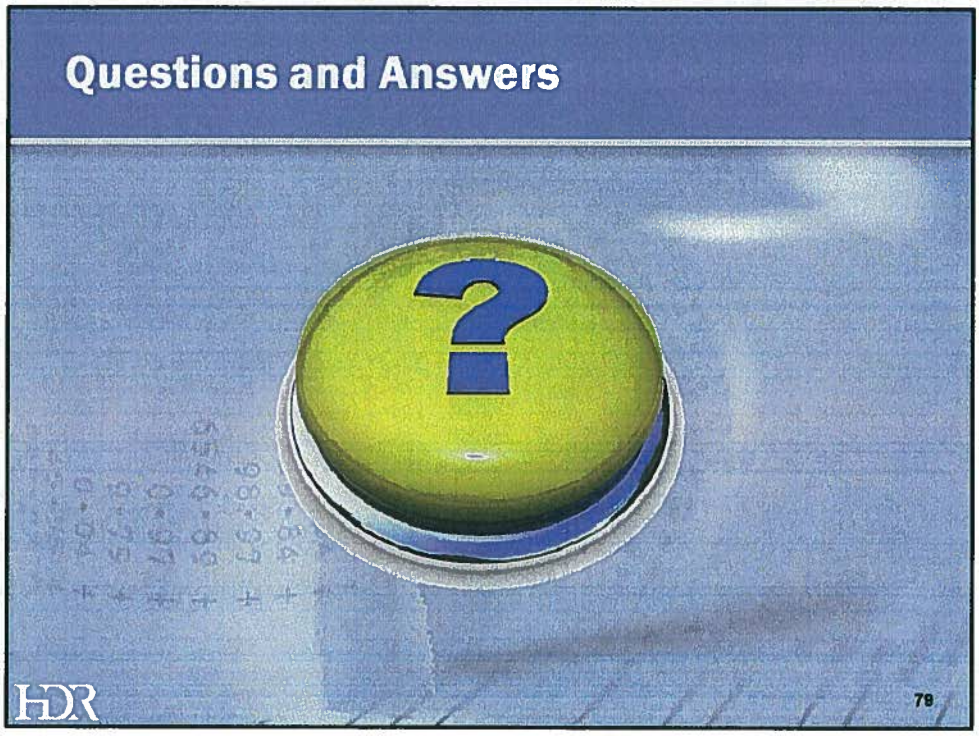

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City of Oak Harbor
City Council Agenda Bill

Bill No. 1
Date: December 1, 2009
Subject: Wreath Presentation by Scout Troup 59

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

SUMMARY STATEMENT

Scout Troop 59 will present a holiday wreath to Mayor Slowik and City Council. This is the 50th year that Troop 59 has presented a wreath.

RECOMMENDED ACTION

No action required.

City of Oak Harbor
City Council Agenda Bill

Bill No. 3

Date: DECEMBER 1, 2009

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 4A
Date: December 1, 2009
Subject: Excused Absence Request
Councilmember Bob Severns

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 Bob Severns' excused absence request for the January 5, 2010 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 Bob Severns has submitted an excused absence request since he will not be able to attend the January 5, 2010 City Council meeting.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Approve Councilmember Bob Severns' excused absence from the January 5, 2010 City Council meeting.

ATTACHMENTS

None

MAYOR'S COMMENTS

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 48
Date: December 1, 2009
Subject: 2010 Animal Services Contract with Whidbey Animal Improvement Foundation (WAIF)

FROM: Rick Wallace
Chief of Police

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 is a proposed contract between the City of Oak Harbor and the Whidbey Animal Improvement Foundation for the purpose of providing animal shelter services for the City of Oak Harbor.

AUTHORITY

OHMC 7.04.040 Animal control authority.
"Animal control authority" means the department of the city charged with the responsibility of administering the provisions of this chapter, or the department and any other agency to which this responsibility is contractually delegated and which is thereby charged with the duty of enforcing the animal control laws of the city and/or with the shelter and welfare of animals. (Ord. 1478 § 3, 2006; Ord. 401 § 1, 1974).

OHMC 2.390.010 Council approval.
Unless otherwise authorized or directed by law, ordinance or council resolution (for example, responding to an emergency), all contracts over $30,000 require council approval. (Ord. 1470 § 8, 2006).

SUMMARY STATEMENT

In late October 2009, the City of Oak Harbor and the WAIF Executive Director, on behalf of the WAIF Board of Directors, tentatively agreed to use the terms and conditions of the existing 2009

agreement for 2010. The current agreement expires December 31, 2009. This proposed Contract would expire December 31, 2010.

The City shall pay to Contractor monthly payments of Seven Thousand and Eighty Three Dollars, and Thirty Three Cents ($7,083.33) for services under the contract after the month for which the services are rendered.

Additionally, City shall pay $30.00 per call-out for after hours (before 8 a.m. and after 5 p.m. or on holidays) for service requests deemed necessary by Oak Harbor Police Department, upon proper billing by Contractor within 30 days of service. City shall verify that the Contractor has provided the services required under this agreement in a form acceptable to the City.

The City of Oak Harbor and Whidbey Island Animal Foundation originally came to the terms of agreement in 2005 following a request for proposal and contract bidding process and has been agreed to in one year increments since then.

STANDING COMMITTEE REPORT

The Public Safety Standing Committee reviewed this agenda item on November 19, 2009.

RECOMMENDED ACTION

Approve and authorize the Mayor to sign this Contract on behalf of the City of Oak Harbor.

ATTACHMENTS

Proposed 2010 WAIF Contract

MAYOR'S COMMENTS

ANIMAL SHELTER SERVICES CONTRACT
WHIDBEY ANIMALS' IMPROVEMENT FOUNDATION
AND CITY OF OAK HARBOR

THIS CONTRACT is between the CITY OF OAK HARBOR, a Washington State Municipal Corporation, hereinafter referred to as "City" and Whidbey Animals' Improvement Foundation (WAIF), hereinafter referred to as "Contractor," jointly referred to as the "Parties."

WHEREAS, the City is authorized by law to regulate the licensing and welfare of animals within the City limits; and

WHEREAS, the Contractor has proposed to operate the City animal shelter and to provide trained staff and volunteers to administer the operation of the shelter; and

WHEREAS, the City Council finds it is in the best interests of the City and its citizens to provide trained staffing and administrative services for the shelter of animals.

NOW, THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. PURPOSE: The City and the Contractor enter into this Contract to provide animal shelter services to the City of Oak Harbor.

2. CONTRACT DOCUMENTS: This contract, and so much of the Contractor's proposal that is not inconsistent with the Agreement, comprise the contract documents and are intended as a final expression of the understanding of the parties. There are no promises, terms, obligations, or conditions other than those contained in the contract documents. In the event of conflict between the contract documents, the documents control in the order listed.

3. SERVICES:

   A. Contractor Services: The Contractor shall provide animal shelter services for all animals subject to the City's jurisdiction that are surrendered, impounded or quarantined. For the purpose of this contract, "animal" or "animals" is defined as domestic cats, domestic cat hybrids, domestic dogs and domestic dog hybrids only. Services relating to other mammals, birds, reptiles and amphibians are addressed in Subsection A (17) under this Section. The services provided in this Section are material to the City and failure to perform shall constitute a material default. Such services shall include the following:

      (1) Quarantine animals, per municipal and state ordinances.

      (2) Have available the services of a local veterinarian for emergency medical attention for injured, sick, or diseased animals housed at the shelter.

(3) Act as the animal shelter operator by furnishing and maintaining the shelter for the handling of all animals as defined herein from the City, whether they are stray, impounded, or otherwise turned over or surrendered to the Contractor by City residents, law enforcement officers, animal control, or NAS personnel.

(4) Accept animals for surrender at shelter facility in timely manner.

(5) Maintain a minimal kill philosophy that assures no animal will be euthanized for space or time limits.

(6) Arrange for the humane destruction and disposal of animals euthanized by Contractor or under its direct care and control at Contractor's expense, and based upon humane practices.

(7) Provide proper food, water, housing and humane care for all animals under its control pursuant to this contract.

(8) Maintain sanitation and cleaning protocols as stated in Contractor's proposal, to minimize disease transmission.

(9) Provide basic medical care, including vaccinations, de-worming and flea treatment, if needed, to incoming animals.

(10) The Contractor shall require any person adopting an animal to obtain a license from the jurisdiction in which the animal will reside.

(11) The Contractor shall require any person reclaiming an animal to obtain a license and pay any fees or fines before removal from the shelter.

(12) Contractor will establish and maintain a foster care program for unwanted animals.

(13) Contractor will operate a spay and neuter program for adopted animals to reduce the number of unwanted animals.

(14) Contractor will establish and maintain a volunteer program to help operate and staff programs.

(15) Contractor will establish an exercise program for animals kept at the shelter, within the geographical boundaries designated by the Navy or City.

(16) Contractor will assist the City in an aggressive licensing program for dogs and cats.

(17) As noted above, Contractor's services apply to companion dogs and cats only. In the case of other mammals, birds, reptiles and amphibians, Contractor will provide referral services to local rescue groups for the care and handling of these animals wherever possible.

(18) Provide sufficient, competent and trained staff to assume the responsibilities of this contract.

(19) Adopt out stray or unclaimed animals with animal licenses, as required by City law.

(20) Provide monthly reports to the Chief of Police regarding shelter activities including number of incoming animals, including those animals deemed unadoptable and disposition of same, as well as animals refused intake to the animal shelter, and those placed on any "waiting lists."

(21) Provide quarterly financial reports to the Chief of Police.

(22) Maintain the name and address of every person to whom an animal is released and provide same on request to the City.

(23) Contractor, along with designated employees and volunteers, will undergo a criminal background check prior to beginning work at the facility, per Navy regulations for admission onto the Naval Base facility.

B. Shelter Facility: The City operates an animal shelter on NASWI-SPB which is subject to regulation, control and ownership by the United States. See Section 5 below. The Contractor is authorized to use the City's existing animal shelter on NAS Whidbey Island Property during the term of this Contract, as long as it is made available by the Navy, the City and provided that the Navy allows the Contractor to use the shelter facility during the term of this Contract. The shelter will not exceed current capacity except for reasonable periods of time. City personal property located at the City's animal shelter may be used by the Contractor upon consent of the City and inventory of items to be used. Shelter facility shall be operated and maintained in a neat, clean and sanitary condition, and in compliance with all applicable governmental laws, rules and regulations. Contractor will not permit any condition to exist which might constitute a nuisance. The City and the Navy, through its authorized agents and representatives, shall have the right to enter upon and inspect the facility during regular business hours, without prior notice, for the purpose of inspecting the shelter facility for compliance with this contract. The Contractor shall obtain City approval from the Chief of Police or his designee before making improvements to the Navy-owned facility. Contractor accepts property "as is." Contractor to make space and access available for after-hours drop offs of animals as defined herein by animal control, NAS personnel and city police.

No tenancy in favor of Contractor in the premises is created by this contract. The City and Navy allow use of the animal shelter by the Contractor to facilitate performance of this agreement. Contractor may not use the facility upon termination of this agreement. Upon termination of this agreement, Contractor will remove all animals Contractor has accepted into the animal shelter and remove all of its property. The City may dispose of any animal or Contractor's property left behind upon termination, as the City deems appropriate. Expenses which the City incurs for such disposition are chargeable to Contractor, and the City may deduct such funds from any payment due the Contractor. Contractor shall not alter or improve the premises without prior written approval of the Chief of Police. All City-approved improvements must comply with the bidding and public works laws applicable to the City.

Any improvement to the premises and fixtures left behind by Contractor becomes the property of the City without extra payment by the City. Contractor shall provide janitorial service to the shelter. Contractor shall be responsible for any damage to the premises Contractor causes, normal wear and tear excepted. Contractor may not use the premises for any purpose except the animal shelter authorized by this agreement.

C. Costs: Contractor shall be responsible for all shelter service costs of animals brought to the facility. Shelter costs shall include all costs of care of such animals, including, but not limited to, food, cleaning supplies, veterinary care and grooming. City will continue to pay heat, electricity, water and sewer at current facility. Contractor will pay for telephone service. Contractor shall maintain the grounds at facility. Due to the access difficulties with garbage service, the Contractor will ensure that solid waste will be packaged in a manner that will allow for disposal by the Animal Control Officer (ACO).

D. Medical Costs for Sick/Injured Animals Picked Up By Animal Control:
On occasion, the ACO may come into contact with an animal in need of immediate medical attention. The ACO will attempt to contact the Shelter Manager before obtaining medical treatment if possible. If unable to contact the Shelter Manager, the ACO should attempt to make contact with the Lead Animal Care Technician. If unable to contact either party, the ACO will ensure that such emergency treatment to relieve pain/suffering is limited to $200.00, and will notify WAIF of action taken.

E. Shelter Procedures:

(1) Licensed Stray Animals: The Contractor shall obtain owner information. Contractor shall then attempt to give notice to the owner by way of personal contact, telephone or mail that the animal is being held at the shelter. If the owner is notified via telephone, this notice, including the time and name of the person contacted shall be noted. The animal shall be held for a minimum period as outlined by City Ordinance unless written instructions to the

contrary are provided by animal control requesting Contractor to maintain the animal in protective custody pending legal action. If not claimed during the applicable holding period, an animal immediately becomes the property of Contractor. Disposition of the animal is then at Contractor's sole discretion.

(2) Unlicensed Stray Animals: The animals shall be held for a period as outlined by City Ordinance. If not claimed during the applicable holding period, an animal immediately becomes the property of Contractor. Disposition of the animal is then at Contractor's sole discretion.

(3) Severely Injured or Diseased Animals: These animals do not have a specific holding period, but may be disposed of at any time at the sole discretion of the Contractor or his or her designee.

(4) Other Animals: These animals do not have a specific holding period, but those that may be stray pets should be held as above.

(5) Animal Redemption: Impounded animals shall be released to owners or custodians only upon proof of ownership, current license and payment of applicable fees and fines. Those individuals representing themselves as a custodian must also provide written authorization for release from the owner.

(6) Animal Quarantine: Animals that have bitten people, or are suspected of having bitten people, shall be kept a minimum of 10 days from date of bite, for observation. Shelter will house such animals in the absence of other available alternatives such as owner's home or a veterinary board facility. The animal's owner, if known, shall be responsible for payment of the applicable fees.

(7) Waiver of Fees: The Contractor agrees to release any animal without payment of impound fees and other charges, when ordered in writing by the Chief of Police.

(8) Animal Destruction and Disposal: The disposal and destruction of animals shall be accomplished at Contractor's expense, and in a manner approved by the State which will not subject the animal to unnecessary pain.

(9) Sterilization: All animals which fall under Contractor's ownership following any applicable holding period will be altered as long as service is available. Contractor agrees to pursue a one-hundred percent (100%) effective spay/neuter rate.

(10) Feral Cats Trap, Neuter and Release: Contractor will provide spay and neuter to feral cats trapped under its trap and release program.

(11) Citizen Complaints: All citizen complaints regarding animals shall be referred to the Animal Control Officer upon receipt.

4. CITY RETAINED AUTHORITY:

A. Licensing: All licensing fees shall be established by the City.

B. Animal Control: The City retains authority to enforce animal control services.

C. Independent Fees: The City retains authority to establish impound fees for animals impounded pursuant to City ordinances. The Contractor may recommend changes in City fees.

D. Contractor retains the right to set all adoption, medical and surrender fees, and such other fees not governed by City ordinance.

5. HOURS OF OPERATION: The contractor shall submit to the City, as Attachment A to this contract, a schedule of its operating hours which shall include:

A. Days and hours when the office and shelter facility are open to the public (a minimum of 3 hours per day Monday through Friday for animal redemption as required by Navy MOU.)

B. A location where animals can be delivered by animal control officer, NAS personnel and Oak Harbor Police Department personnel 24-hours per day.

C. Days the office and shelter facility will be closed for City observed holidays.

All changes to the schedule must receive approval of the Chief of Police or his designee prior to becoming effective.

6. TREATMENT OF PUBLIC: Contractor and City shall use good public relation processes so as to treat the public fairly and courteously in carrying out services required under this Contract.

7. CITY-FIRST PROVISION: Contractor may accept animals for sheltering from persons residing outside the City, but Contractor shall give first priority and always maintain space for sheltering animals brought to the City shelter by Animal Control, NAS Personnel, Oak Harbor Police Department and citizens of the City of Oak Harbor. Animals shall be documented as to the jurisdiction they came from (City or County). The housing of such animals will not interfere with space needed for animals impounded by animal control and shall present no danger to the impounded animals, nor create a nuisance due to overcrowding.

8. NAVY MOU: The City currently has an agreement with the Navy, authorizing use of their facility on the Seaplane Base located in Oak Harbor. In exchange, the Contractor is responsible for hours of operation as stated in the MOU. A copy of the current Memorandum of Understanding with the U.S. Navy is attached to this document as Attachment B. Should those facilities become unavailable, either party to this agreement may terminate this Contract within thirty days after they become unavailable. The Navy may restrict access to the base and/or this facility as it deems appropriate and the Contractor's use of the facility is subject to such restriction. Restrictions may include, but are not limited to, delay and access requirement of security clearance for employee. The City is not responsible for damages or costs incurred by reason of Navy actions.

9. COMPENSATION:

A. The City shall pay to Contractor monthly payments of Seven Thousand and Eighty Three Dollars, and Thirty Three Cents ($7,083.33) for services under the contract after the month for which the services are rendered.

B. Additionally, City shall pay $30.00 per call-out for after hours (before 8 a.m. and after 5 p.m. or on Holidays) for service requests deemed necessary by Oak Harbor Police Department, upon proper billing by Contractor within 30 days of service. City shall verify that the Contractor has provided the services required under this agreement in a form acceptable to the City.

C. City shall pay the cost of heat, water, sewer for the current shelter while it is located at Bldg 297 NAS Seaplane Base, as long as the Contractor is not in default of this agreement.

D. City shall be responsible for replacement of equipment purchased by the City due to normal wear and tear. Contractor will be responsible for notifying the City of replacement needs of City equipment in a timely manner to allow for inclusion in the annual City budget.

E. All monies obtained by the Contractor for impound, boarding and surrender fees, adoption and medical fees and other administration and redemption fees shall be retained by the Contractor. It is the desire of the City to initiate an aggressive licensing program.

F. The City shall retain all fines or penalties arising out of the issuance of citations for violation of the City's animal control ordinance, as now enacted or hereafter adopted.

10. CONTRACT TERM: This contract shall begin on January 1, 2010 and end on December 31, 2010. Either party may terminate this Contract earlier by sixty (60) days written notice, with or without cause. The City reserves the right to immediately terminate this Contract without hearing or notice in the event of material default by the Contractor.

11. HOLD HARMLESS/INDEMNIFICATION:

A. Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Contractor in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

B. For purposes of this indemnification and hold harmless agreement, the Contractor waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW. The parties expressly agree that this waiver of workers' compensation immunity has been negotiated.

C. An animal shall become the responsibility of Contractor at the point that the animal is placed or released into the care and/or custody and control of the Contractor. Contractor shall hold the City harmless under the terms of this section for all claims arising out of the detention and custody of the animal. Accordingly, Contractor shall be held harmless by the City under the terms of this Agreement for claims arising out of the arrest or detention of the animal or arising out of any situation occurring prior to the time that Contractor assumes responsibility for the animal(s).

12. THE PARTIES REPRESENTATIVES AND NOTICES: The Chief of Police shall be responsible for administration of this contract. All reports, recommendations, and other correspondence will be directed to the Chief. It shall be the duty of the Chief of Police to see that the terms of this contract are complied with, and to forward to the City Council all requests for changes in the policy requested by the Contractor. The Contractor's Executive Director shall act as the Contractor's liaison with the City.

All notices to the City shall be mailed or personally delivered to the City of Oak Harbor Police Chief at his/her address:

860 SE Barrington Drive
Oak Harbor, WA 98277

All notices to the Contractor shall be mailed or personally delivered to its executive director at:

20168 SR 20
Coupeville, WA 98239

Either party may change its address by providing written notice by certified mail, return receipt requested.

13. TAXES: Contractor will be responsible for payment of taxes applicable to its operations, including but not limited to business and occupation tax, sales tax, excise tax, income tax, employer's social security tax, employer's industrial insurance premium, employer's unemployment compensation premium. Contractor will be solely responsible to collect and

transmit to the correct government office any employee taxes, assessments, or contributions which an employer is required to collect from employees and transmit, including but not limited to, social security and income tax withholding.

14. INSURANCE: The Contractor shall assure that it and its employees and volunteers in connection with the contract are protected against the risk of loss by the following insurance coverage:

A. Worker's Compensation Insurance to the statutory limits.

B. General Commercial Liability Insurance of at least $1,000,000 per occurrence; $1,000,000 aggregate, combined Single Limit (CSL) and naming the City of Oak Harbor as an Additional Insured. The policy shall be primary to any policy the City may otherwise carry (Primary Coverage), and treat employees of the City in the same manner as members of the general public (Cross Liability Coverage).

C. Commercial Automobile Liability Insurance of at least $1,000,000 per accident. (CSL), and naming the City of Oak Harbor as an Additional Insured. The policy shall be primary to any policy the city may otherwise carry (Primary Coverage), and treat employees of the City in the same manner as members of the general public (Cross Liability Coverage).

D. The above policies shall be issued by companies that meet with the approval of the City's Finance Director. The policies shall not be cancelled without at least 30 days written notice to the City as Additional Insured.

E. The Contractor shall provide a Certificate of Insurance and upon request a certified copy of the insurance policies with all endorsements as evidence of coverage. Approval of insurance is a condition precedent to full execution of this contract. Such proof shall be received by the City prior to beginning performance of the contract.

15. RECORDS: Along with records specified in Section 3, the Contractor shall maintain accurate and complete records of all animals brought to the shelter in the performance of this Contract. The records shall contain the following information:

A. Description of the animal, including its breed, color, size, sex, disposition, where and how the animal was obtained and the animal's owner, if known.

B. Record of any citizen complaints regarding animals which have been referred to the Animal Control Officer.

C. All dangerous or potentially dangerous animals received by Contractor.

D. Date, time, location, reason and manner in which the animal was obtained.

E. Length of time the animal was placed in the animal shelter facility.

F. Final disposition of animals, including number of animals euthanized, adopted or redeemed.

G. Records of animals refused placement at the animal shelter by shelter staff, and the reason/s for refusal.

H. Records of animals placed on any "waiting lists," as well as any subsequent intake into the animal shelter.

I. Any additional information that may be required by the City through its regulatory laws. The above information shall be accessible to the City during normal business hours, upon request.

16. REPORTS: At the close of each month, the Contractor shall provide the Chief of Police monthly statistical reports which will include the number of animals handled, adoptions made, strays returned, euthanasia performed and overall program results consistent with Contractor's current reporting format.

17. FINANCIAL RECORDS AND AUDITS: The Contractor shall maintain complete and accurate records concerning the revenues derived by the Contractor under this Contract and/or shelter operations from whatever source including, but not limited to, revenues from impound, administrative, boarding, reclaim and adoption fees. The records shall be maintained on a generally accepted accounting basis and shall be clearly identified and readily accessible. The Contractor shall allow the Finance Director or his designee, to examine and audit all of the Contractor's books and records which relate to this contract during regular business hours on regular business days. In addition, a financial statement of operations, in a format currently used by Contractor, will be provided for review to the City's Chief of Police and Finance Director each quarter. Within reasonable time after submittal of the report, the Contractor shall be available to discuss the report with the Chief of Police and City Council if requested.

18. CONFIDENTIALITY: The Contractor, to the extent allowed by law, will keep all information it receives concerning complaints, names, addresses and phone numbers of complainants and the names and addresses and phone numbers of license holders confidential. The Contractor will, to the greatest extent possible, protect an individual's right of privacy and shall not circulate or permit the circulation of this information for purposes other than those related to the duties undertaken in this Contract. However, the Contractor is not prevented from releasing that information which may be necessary for the location of an animal's owner, or for the gaining of consent for medical treatment.

19. NONDISCRIMINATION:

A. The City is an equal opportunity employer.

B. Nondiscrimination in Employment. In the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability; provided that the prohibition against discrimination in employment because of disability, or the use of a trained dog guide or service animal by a person with a disability, shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Contractor shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Contractor shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

C. Nondiscrimination in Services. The Contractor will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability.

D. If any assignment and/or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Contractor shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

20. AMENDMENTS: This contract may be amended at any time by mutual written agreement between the parties.

21. PROHIBITED INTERESTS:

A. Conflict of Interest: No officer, employee, member or agent of either the City or the Contractor who exercises any functions or responsibilities in connection with

the carrying out of this Contract shall have any personal interest, direct or indirect, in providing goods or services at a profit to the Contractor.

B. Contractor's Employees: No personnel employed by the Contractor shall acquire any rights or status in the City's Civil Service, or have any other form of governmental employment, nor shall they be deemed employees or agents of the City or any other government for any purpose other than as specified in this Agreement. The Contractor shall be responsible in full for the payment of its employees, including Worker's Compensation, insurance, payroll deductions, and all related costs.

22. OAK HARBOR MUNICIPAL CODE CHANGES: The City Council reserves the right to amend, add or delete Title 7 of the Oak Harbor Municipal Code or other provisions of the Oak Harbor Municipal Code concerning animal control or care of animals at any time on its motion. The City Council also reserves the right to pass such general rules and regulations as it may deem necessary for the operation of the shelter and/or disposal area; provided, further, that changes in rules, regulations, ordinances and Title Seven which result in additional work or change indirectly compensation, do not have to be undertaken by the Contractor unless mutually agreed to. It is further provided that changes in ordinances of the City or Title 7 of the Oak Harbor Municipal Code which cause additional work or change directly or indirectly compensation levels for the Contractor, that these occurrences shall be the basis for the re-evaluation of compensation levels under this Contract. Such changes shall be to reasonably compensate the Contractor and must be consistent with the principles and levels of compensation set out in this Contract. If the parties cannot reach agreement, the issues involved shall be determined by arbitration as described below.

If the parties cannot agree, they mutually agree to submit to arbitration under this subsection any controversy or dispute arising out of such changes identified in this section.

Either party shall give written notice to the other of the existence and nature of any dispute proposed to be arbitrated in sufficient detail. If, within twenty days, the dispute is not resolved through negotiations pursued diligently in good faith, then either party may initiate arbitration by appointing a person to serve as one of the arbitrators and so advising the other party in writing. Within ten calendar days thereafter, the other party shall by written notice appoint a second person as an arbitrator and the two thus appointed shall select a third arbitrator to serve as chairperson of the panel of arbitrators. Such three arbitrators shall determine all matters by majority vote, provided, however, if the two arbitrators appointed by the parities shall be unable to agree upon the appointment of the third arbitrator within ten days after the appointment of the second arbitrator, both shall give written notice of such failure to agree to the parties, and, if the parties fail to agree up on the selection of such third arbitrator within ten days after the arbitrators appointed by the parties give such notice, then either of the parties upon written notice to the other may require such appointment from and pursuant to the rules of the American Arbitration Association.

The determination of the majority of the arbitrators shall be conclusive upon the parties. The majority of the arbitrators shall give written notice to the parties stating their determination and their findings of fact and conclusions of law, and shall furnish to each party a copy thereof signed by them within seven calendar days from the date of such determination.

Each party shall pay the cost of its own arbitrator. The parties shall each pay half of the cost of the third arbitrator.

Notwithstanding the availability of the dispute resolution mechanisms described above, the parties shall attempt to resolve all controversies or disputes arising under or related to this contract document through negotiations pursued diligently in good faith.

23. INDEPENDENT CONTRACTOR: All activities performed by the Contractor, employees, volunteers or representatives are, for all purposes under this Contract performed as an independent contractor and shall not be deemed to be an employee or agent or representative of the City, and none of them shall be entitled to any benefits to which City employees are entitled including but not limited to, overtime, retirement benefits, unemployment insurance, worker's compensation benefits, injury leave or other leave benefits. Contractor will pay all taxes as are connected with this operation including but not limited to employee taxes (such as industrial insurance and FICA) and federal, state and local taxes (such as income, excise and sales taxes). Contractor shall file a federal tax return showing expenses and any profits of the enterprise and shall maintain an account with the Washington State Department of Labor and Industries.

Contractor acknowledges that it is an independent contractor and that it is not a City of Oak Harbor agency or the agent of a City of Oak Harbor officer and agrees not to represent itself as such. All volunteers and any paid staff are volunteers and staff of Contractor and not of the City of Oak Harbor. Any uniforms or insignia used by Contractor shall not use the words "Oak Harbor."

24. ASSIGNABILITY: The Contractor will use its best efforts, skill and independent judgment in providing high quality shelter service for the City. Contractor may not assign this contract or any part of it to any other person or firm. The Contractor may hire employees; provided, the Contractor recognizes that it's right to use employees of its choice is necessarily limited by the Navy's needs and authority to control access to NASWI-SPB. The Contractor is responsible for supervision of any employees or volunteers.

25. THIRD PARTIES: This contract is for the purpose of providing animal shelter services for the City of Oak Harbor and is for the general benefit of Oak Harbor and should not be construed as creating a right or benefit for any particular person or class of persons not a party to this contract.

26. NO WAIVER: Any failure or delay by City or Contractor in strictly enforcing the terms of this Contract shall not operate to waive or be deemed a waiver of the rights of the City or Contractor to require compliance that is full and to the letter of the Contract, or to thereafter

require performance by City or Contractor in strict accordance with the terms of this Contract.

27. INTERPRETATION: As a further condition of this Contract, the parties acknowledge that this Contract shall be deemed and construed to have been prepared and mutually agreed upon by each party and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against any party. In the event that any party shall take an action, whether judicial or otherwise, to enforce or interpret any of the terms of the Contract, the prevailing party shall be entitled to recover from the other party all expenses which may be reasonably incurred in taking such action, including attorney's fees and costs, whether incurred in a court of law or otherwise.

EXECUTED, this _____ day of _____, 20__ for the **WHIDBEY ANIMALS' IMPROVEMENT FOUNDATION**

_____

President of the Whidbey Animals' Improvement Foundation

_____

Executive Director of the Whidbey Animals' Improvement Foundation

EXECUTED, this the _____ day of _____, 20__ for the **CITY OF OAK HARBOR:**

_____

Jim Slowik, Mayor

ATTEST:

_____

Connie Wheeler, City Clerk

APPROVED AS TO FORM:

_____

Margery Hite, City Attorney

DEPARTMENTAL APPROVAL:

_____

Richard W. Wallace, Chief of Police

ATTACHMENT "A"

ANIMAL SHELTER SERVICES CONTRACT
WHIDBEY ANIMALS' IMPROVEMENT FOUNDATION AND CITY OF OAK HARBOR

Whidbey Animals' Improvement Foundation Operating Schedule

Open to Public for Viewing and Adoption
Wednesday through Sunday – 12 p.m. to 4 p.m.

Open for redemption and Surrender of Animals
Monday through Sunday – 9 a.m. to 4.p.m.

Animals being delivered to City can be left in the outside kennel which can be seen to the left of building when facing front of facility.

Holiday Closures
Shelter will be closed on the following holidays:

New Year's Eve
New Year's Day
Easter
Memorial Day
Fourth of July
Labor Day
Thanksgiving Day
Christmas Eve
Christmas Day

All changes to the schedule must receive approval of the Chief of Police or his designee prior to becoming effective.

ATTACHMENT "B"

ANIMAL SHELTER SERVICES CONTRACT
WHIDBEY ANIMAL IMPROVEMENT FOUNDATION AND CITY OF OAK HARBOR

The following is the text of the Navy MOU:

U.S. NAVY LICENSE FOR NONFEDERAL USE OF REAL PROPERTY
LICENSE NUMBER N4425596RP00T31 (series)
WITH THE CITY OF OAK HARBOR, WASHINGTON

OPERATING MEMORANDUM OF UNDERSTANDING FOR THE
USE OF NAVY FACILITIES FOR AN ANIMAL SHELTER

1. The City of Oak Harbor ("City") use of Navy facilities for an animal shelter, pursuant to License Number N4425596RP00T31, shall be subject to the following conditions:

   a. Routine inspection of the premises by authorized naval personnel shall be performed on a not-to-interfere basis.

   b. The building and surrounding area shall be maintained in a clean and orderly manner at all times.

   c. City animal control shall be limited to the following areas of Naval Air Station (NAS), Whidbey Island:

      (1) All areas of the NAS Whidbey Island Seaplane Base;

      (2) Maylor Point Housing;

      (3) Victory Housing

      (4) Saratoga Heights Housing;

      (5) Rockhill Terrace Housing;

      (6) Crescent Harbor Housing; and

      (7) Whidbey Apartments

      All other areas on the naval reservation will be controlled by NAS Whidbey Island Security.

   d. Animals taken by NAS Whidbey Island Security will be turned over to the City attendant, who will keep them for 5 days prior to disposal. Return of animals so taken will not include the impound fee, but all other fees are applicable.

e. The animal shelter facility shall be open for recovery of pets during the hours of 1:00 p.m. to 3:00 p.m., Monday through Friday.

f. City residents will be allowed entry to the Seaplane Base to recover pets.

g. The City animal shelter attendant shall double-bag all dead animals, and shall transport said animals to the transfer station on board the NAS Whidbey Island Ault Field Base for disposal. The City will assure compliance with applicable sanitary requirements.

2. The Navy will provide necessary utility services and will bill the City for these services on the basis of engineering estimates. Reimbursement by the City shall be due upon receipt of bills.

3. The terms of this Memorandum of Understanding may be modified by mutual agreement.

4. This Memorandum of Understanding shall remain in effect throughout the existence of License Number N4425596RP00T31 and any successor licenses for the use of Building 297 on board NAS Whidbey Island.

5. This Memorandum of Understanding supersedes all previously executed memoranda of understanding concerning the City's use of Navy facilities for an animal shelter.

For Naval Air Station, Whidbey Island	For the City of Oak Harbor
/s/	/s/
Name Gerral David, Captain, U.S. Navy Title: Commanding Officer	Name: Jim Slowik Title: Mayor
Date: _____	Date: _____

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AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE			PAGE OF PAGES 1 / 1
2. AMENDMENT/MODIFICATION NO. ONE (1)	3. EFFECTIVE DATE 01 JAN 2006	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable) NW05-032
6. ISSUED BY CODE 05LR Commanding Officer Engineering Field Activity, Northwest 19917 7th Avenue NE Poulsbo, WA 98370-7570		7. ADMINISTERED BY (If other than Item 6) CODE	

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and Zip Code)

CITY OF OAK HARBOR
865 SE BARRINGTON DRIVE
OAK HAROR, WA 98277

CODE | FACILITY CODE

(X)	
☐	9A. AMENDMENT OF SOLICITATION NO.
	9B. DATED (SEE ITEM 11)
☑	10A. MODIFICATION OF CONTRACT/ORDER NO. N4425501RP00T12
	10B. DATED (SEE ITEM 11) 13 July 2001

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended, ☐ is not extended.
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:
(a) By completing items 8 and 15, and returning _ __ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment your desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

CHECK ONE	
☐	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO : (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
☐	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR.103(b).
☒	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: MUTUAL AGREEMENT OF THE PARTIES
☐	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor ☐ is not, ☒ is required to sign this document and return 2 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)
The purpose of this modification is to extend the term of this license for an additional five (5) years through 31 December 2010.

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)	
Patricia A. Cohen Patricia A. Cohen, mayor		MICHAEL D. BRADY REAL ESTATE CONTRACTING OFFICER	
15B. CONTRACTOR/OFFEROR (Signature of person authorized to sign)	15C. DATE SIGNED 3/2/06	16B. UNITED STATES OF AMERICA Michael Brady (Signature of Contracting Officer)	16C. DATE SIGNED 3/28/06

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Previous edition unusable

STANDARD FORM 30 (Rev. 10-83)
Prescribed by GSA FAR (48 CFR) 53.243

City of Oak Harbor
City Council Agenda Bill

Bill No. 5
Date: December 1, 2009
Subject: Public Hearing - Report to City Council, Elements Nightclub

FROM: Rick Wallace – Chief of Police

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 is an investigative report to the City Council regarding activities at Elements Nightclub during the third quarter of 2009 required pursuant to City Council direction.

AUTHORITY

5.22.045 License conditions.

(3) The chief of police shall report to the city council the result of his investigation and make recommendations concerning any conditions that should be placed upon the nightclub license to reduce noise, traffic or other similar public health and safety impacts. Allowable conditions may include, but are not limited to, restrictions upon the hours of operation, structural improvements to the premises to reduce noise impacts on neighboring uses, limitations on the numbers of patrons at any one time, landscaping or other screening, and requirements for traffic control. Periodic review of the efficacy of the imposed conditions may also be a condition of the nightclub license.

5.22.090 Revision of license conditions. *The city council also reserves to itself the power to revise the conditions of the nightclub license upon information received indicating that the existing conditions are not sufficient to mitigate the noise, traffic and public health and safety impacts associated with the nightclub business location. A revision proceeding shall be initiated by an investigative report by the chief of police, fire chief, building official or other city official.*

In the event that such investigative report is filed, the license holder shall be sent a copy of the complaint and/or report and provided at least 10 days' notice of a hearing to determine whether the conditions of the license shall be modified. At a public hearing

before the city council, the license holder shall have the opportunity to respond to the investigative report, and to present any evidence in opposition to a modification of conditions. The city council shall base any change in conditions on the license upon noise, traffic or other similar public health and safety impacts. In no event shall the expressive content of any music, singing or dancing be the basis for denial of a nightclub license or any conditions placed thereon. The decision of the city council, after a public hearing on the proposed change in conditions, shall be final.

SUMMARY STATEMENT

During the April 7, 2009 Oak Harbor City Council Meeting, following the Council's approval of the Nightclub License for Elements Nightclub and as part of the conditions attached to the Nightclub License, the Council directed the Police Chief to issue a quarterly report on any activities that may be in violation of the conditions of the license. This report includes information on all calls for police service to that business but pays specific attention to the calls for service that may pertain to the conditions of the Elements Nightclub License as set by the Council.

STANDING COMMITTEE REPORT

This report was brought before the Public Safety Standing Committee on November 19, 2009.

RECOMMENDED ACTION

This report is for purposes of the scheduled revision hearing pursuant to OHMC 5.22.090. However, the recommendation is to maintain the existing license conditions, as they are "sufficient to mitigate the noise, traffic and public health and safety impacts associated with the Elements Nightclub."

ATTACHMENTS

2009 Third Quarter Investigative Report.
2009 Second Quarter Investigative Report.

MAYOR'S COMMENTS

Third Quarter 2009 Report
to the City Council
Elements Nightclub License

On April 7, 2009 the Oak Harbor City Council approved the issuance of a Nightclub License for Elements nightclub. In addition to the conditions attached to the license, the Council also directed the Chief of Police to present a quarterly report on any calls for police service occurring at the Elements.

The following report includes all calls for service to or from the Elements nightclub during July, August and September 2009.

In the third quarter of 2009 there were a total of 40 calls for police service. Ten of those calls have no significant bearing on this issue and should not be viewed as having a negative connotation towards the nightclub as these types of calls for police service could occur at any business or private residence. The remaining 30 calls for service do pertain to the license conditions and are described as follows:

Assault Complaints (7 total - 5 in the parking lot – 2 inside the business)

(2) Arrest – In both incidents assaults did occur with one person arrested in each case.

(1) Unfounded – No assault occurred.

(2) Information Only Complaints – One victim reported was assaulted by unknown subject then refused to cooperate with officers. One victim reported was assaulted then changed his statement denying he was assaulted.

(2) Settled by Contact – Both cases involved business employees thinking that a fight was starting. These two situations were properly handled by Security Staff prior to arrival of officers.

Disorderly Conduct Complaints (1 total- Occurred in the parking lot)

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

Theft (1 total - Inside the building)

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

DUI – (1 - In the area of the business)

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

Noise – (20 – All in the parking lot – All at closing time)

(10) Information Only or Settled by Contact – In these ten incidents there probably was a violation of the City's Noise Ordinance at the time of the complaint but the officers reported that the Security staff responded quickly and effectively to mitigate the noise.

(2) Gone on Arrival - the officers were delayed in their response by other pending calls but there was no noise or violation upon their arrival.

(8) Unfounded - Officers were in the parking lot area prior to and at the time of these complaints and there were no violations of the noise ordinance occurring.

SUMMARY

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

Respectfully Submitted,

Richard W. Wallace
Chief of Police
Oak Harbor Police Department
October 26, 2009

Second Quarter 2009 Report
to the City Council
Elements Nightclub License

On April 7, 2009 the Oak Harbor City Council approved the issuance of a Nightclub License for Elements nightclub. In addition to the conditions attached to the license the Council also directed the Chief of Police to present a quarterly report on any calls for police service occurring at the Elements.

The following report includes all calls for service to or from the Elements nightclub during April, May and June 2009.

In the second quarter of 2009 there were a total of 45 calls for police service. Ten of those calls have no significant bearing on this issue and should not be viewed as having a negative connotation towards the nightclub as these types of calls for police service could occur at any business or private residence. The remaining 35 calls for service do pertain to the license conditions and are described as follows;

Assault Complaints (9 total - 1 off the property completly – 2 in the parking lot – 5 inside)

(1) Arrest – This assault did occur but actually happened off the property that the Elements is responsible for, (closer to Island Transit).

(2) Unfounded – No assault occurred. One was a disorderly subject in the parking lot. The second was actually two loud patrons in their parking lot. Both situations were properly handled by the security staff.

(2) Gone on arrival – In both cases all parties involved were gone when the officers arrived.

(1) Information Only Complaints – One victim reported she was struck by something. Unknown by what or by whom. There was no other information available to officers.

(2) Settled by Contact – Security Staff called officers to remove a customer for trying to start fights. Suspect ran off when officers arrived. In the second case the victim called police then became uncooperative with responding officers. Both cases were properly handled by Security Staff

Disorderly Conduct Complaints (2 Total- Both in the parking lot)

(1) Settled by Contact - Verbal argument – properly handled by the security staff.
(1) Unfounded - This was not a disorderly conduct but a theft victim that was unhappy with the police for PR'ing, (releasing), the suspect in his theft. Properly handled by security staff.

Harassment Complaint (1 – Inside the building)

(1) Unfounded – Verbal argument, police were called by security staff.

Kidnapping Complaint (1 – Parking Lot)

(1) Unfounded – A husband was unhappy that his wife left with other people.

Malicious Mischief (City Park next to parking lot)

(1) Referred for Charges – Female was picking the flowers in the park next to the parking lot.

Indecent Exposure (1 – Off the property, closer to Pioneer Way)

(1) Arrest - Officer arrested a male for urinating in public, up the stairway from the parking lot.

Suspicious Activity - (1 – Parking Lot)

(1) Settled By Contact – Called by Security Staff to verify ID of customer. Properly handled by Security Staff.

Theft – (2 – Inside the building)

(1) Complaint Taken – Victim reported her purse stolen while in the Business.

(1) Settled By Contact – Suspect attempted to take property from the business. Management did not want to file charges.

DUI – (2 - In the area of the business)

(2) Gone on arrival – No further information was available to the responding officers.

Trespass – (1 – Parking Lot)

(1) Trespass Warning Issued – Called by Security Staff to issue a trespass warning to a customer who had violated their rules.

Noise – (18 – All in the parking lot – 16 at closing time - 2 at or near midnight)

(11) Settled By Contact or Information Only – There probably was a Violation of the City's Noise Ordinance but the officers reported that the Security staff responded quickly and effectively to mitigate the noise.

(2) Gone On Arrival – the officers were delayed in their response by other pending calls but there was no noise or violation upon their arrival.

(5) Unfounded – Officers were in the parking lot area prior to and at the time of the complaints, there were no violations of the noise ordinance occurring.

SUMMARY

While there is always room for improvement, on the whole, it appears that the management and staff of Elements is doing an effective job of adhering to the license conditions ordered by the City Council. **While 35 complaints is a fairly large number and improvement in preventing these types of complaints does need to occur,** as noted in the report, there was not a single case reported where the officers felt they could have taken action as a violation of the license conditions. Additionally, the officers reported that the business had between 5 and 8 designated security personnel working during the required times but especially near closing time.

Respectfully Submitted,

Richard W. Wallace
Chief of Police
Oak Harbor Police Department
July 6, 2009

City of Oak Harbor
City Council Agenda Bill

Bill No. 6
Date: December 1, 2009
Subject: Public Hearing - Nightclub License Flyer's Restaurant and Brewery

FROM: Rick Wallace, Chief of Police

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE:

This is an application for a nightclub license pursuant to OHMC Chapter 5.22. The applicant is Greg Tritt. Since no disqualifying restrictions prevent the issuance of a nightclub license to the applicant, the City Council will hold a public hearing to determine what conditions should be imposed to mitigate noise, traffic and other similar public health and safety impacts on operation of Flyer's Restaurant and Brewery.

AUTHORITY:

OHMC 5.22.045(4) states:

> *"The city council shall hold a public hearing with respect to the issuance of the nightclub license. The applicant(s) shall be entitled to respond to any findings of the police chief or other city officials and any proposed conditions on the nightclub license. Unless the applicant is restricted from holding a nightclub license pursuant to OHMC 5.22.030, the city council shall then determine whether the noise, traffic and other similar public health and safety impacts of the nightclub require mitigation through specified conditions and, if so, shall impose such conditions on the license. In no event shall the expressive content of any music, singing or dancing be the basis for denial of a nightclub license or any conditions placed thereon."*

DESCRIPTION:

On September 15, 2009, Greg Tritt, owner of Flyer's Restaurant and Brewery, located at 32295 SR 20 Oak Harbor, Washington, applied for a nightclub license. A temporary license was issued at the time of application as provided for in OHMC 5.22.040.

As required in OHMC 5.22.045(2), an investigation was conducted by the Oak Harbor Police Department. The business is located at 32295 SR 20 Oak Harbor, Washington.

The business is located in a single-story building on SR 20 near Whidbey Avenue. Flyer's Restaurant is made up of a large restaurant area with a smaller but separate area closed to those under the age of 21 that is designated for alcohol sales. This area has an access doorway inside the main entryway where their security can check the identification of their customers.

From October 1, 2008 through October 31, 2009, there were 20 calls for service at that address. Eighteen (18) of those calls have no significant bearing on this issue and should not be viewed as having a negative connotation towards the nightclub as these types of calls for police service could occur at any business or private residence. The two (2) remaining calls for service were both noise complaints regarding music coming from the business, both near the hours of twelve midnight.

As a result of my investigation, which included a review of the police responses to Flyer's Restaurant and Brewery from October 1, 2008 through October 31, 2009 and an interview with the owners and managers, there are no circumstances that would lead me to believe that any of the public health and safety issues described in OHMC 5.22.045(4) were a concern at this time and that their staff is operating with the appropriate levels of security staffing to handle or prevent issues relating to security, traffic, noise and litter.

In a review with the Director of Development Services and the Oak Harbor Fire Chief regarding this business, it was determined there were no issues about the building that were of concern as related to the issuance of the nightclub license.

PUBLIC SAFETY STANDING COMMITTEE RECOMMENDATIONS:

This agenda item was reviewed by the Public Safety Standing Committee on November 19, 2009.

RECOMMENDED ACTION:

(1) Hold a public hearing pursuant to OHMC 5.22.045(4).

(2) Consider approval and issuance of the nightclub license to Flyer's Restaurant and Brewery with the following conditions:

1. Adhere to all existing laws, regulations, ordinances and zoning conditions of the State of Washington and the City of Oak Harbor applicable to the nightclub business located at 32295 SR 20 Oak Harbor, Washington.

2. Ensure that the current practice consisting of at least one designated security person, either from existing on duty employees or in addition to, will be on duty on Fridays and Saturdays, between the hours of 10:00PM and 2:00AM.

3. With the exception of ingress and egress to and from the building, doors and windows are to remain closed at all times while any type of music or entertainment is playing.

Any violation of the above conditions shall subject the license-holder to the penalties of Oak Harbor Municipal Code 5.22.065 and may subject the license-holder to license revocation per Oak Harbor Municipal Code Section 5.22.070 or revision of license conditions pursuant to OHMC 5.22.090.

ATTACHMENTS:

1. Temporary License and License Application.
2. Investigative Report.
3. Oak Harbor Municipal Code Chapter 5.22.

MAYOR'S COMMENTS:

CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

September 15, 2009

Greg Tritt

Oak Harbor, WA 98277

RE: Temporary Nightclub License
Location: Flyer's Restaurant and Brewery
32295 SR-20
Oak Harbor, WA 98277

Dear Mr. Tritt:

In accordance with City of Oak Harbor Ordinance No. 1544, please find enclosed a temporary nightclub license for your nightclub license application submitted on September 14, 2009. This temporary nightclub license shall be in effect until the Oak Harbor City Council takes action on your pending application. We will notify you well in advance of that Council meeting date once it has been set.

Please feel free to contact me or our Chief of Police, Rick Wallace if you have any questions regarding the status of your pending nightclub license application.

Sincerely,

Connie Wheeler
City Clerk

cc: Chief of Police Wallace
City Administrator Schmidt
D. Nichols

CITY OF OAK HARBOR
865 S.E. BARRINGTON DR.
OAK HARBOR, WA 98277
(360) 679-5551

Temporary License

EXPIRATION DATE	
Upon final Council action on pending applicati	
DATE ISSUED	LICENSE NUMBER
9/15/09	NC-0009 Nightclub
SIC NUMBER	SALES TAX CODE
	1503

BUSINESS LICENSE

Flyer's Restaurant and Brewery
32295 SR-20
Oak Harbor, WA 98277

LOCATION OF BUSINESS

THIS CERTIFIES that the business or individual listed below is hereby licensed to do business within the **CITY OF OAK HARBOR**

Greg Tritt

Oak Harbor, WA 98277

FINANCE DIRECTOR

This license is to be displayed conspicuously at the location of business, and is not transferable or assignable.

City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277
Phone: (360)279-4500
Fax: (360)279-4507

Application for Nightclub License
Oak Harbor Municipal Code Chapter 5.22
Ordinance No.: 1544

Application Fee: $200 plus $10 for WATCH background check = $210

Personal Information

Name of Business: FLYERS RESTAURANT & BREWERY

Address of Business: 32295 SR 20
Where nightclub will be conducted. OAK HARBOR WA 98277

Owner of Business: GREG TRITT

Owner's Address: OAK HARBOR WA 98277

Owner's Phone/Cell Number:

Date of Birth:

Social Security No.:

Driver's License No.:

Please answer the following questions:

1. Are you a citizen of the United States of America? YES
2. Have you been convicted of a felony within the last five years? NO
3. Have you been convicted of a violation of any federal or state law or city ordinance concerning the manufacture, possession, or sale of liquor subsequent to the passage of the Washington State Liquor Act? NO
4. Have you ever been convicted of a violation of any federal or state law, or city ordinance concerning the manufacture, possession, or sale of narcotics? NO
5. Have you ever forfeited a bond to appear in court to answer charges of any violations as stated above? NO
6. Are you the owner X manager ____ or agent ____ of this business?
   NOTE: Per OHMC Chapter 5.22.030 (2):
   No license shall be issued to a person whose place of business is conducted by a manager or agent, unless such manager or agent also applies and qualifies for a nightclub license for the same business location.

7. Are you a co-partner of this business? LLC
   NOTE: Per OHMC Chapter 5.22.030 (3):
   No license shall be issued to a co-partnership unless all the members thereof shall be qualified to obtain a license as provided herein.
8. Is this business a corporation? NO
   NOTE: Per OHMC Chapter 5.22.030 (4):
   No license shall be issued to a corporation, unless all of the officers, directors and stockholders thereof shall be qualified to obtain a license as provided in this chapter. Such license shall be issued to the manager or other directing head thereof.
9. If this is a partnership or corporation, please include names, addresses, and phone numbers of same. If more space is needed, please attach an additional sheet.
   LLC
10. Indicate the type of musical entertainment you will provide.
   MUSIC THROUGH TV SPEAKER SYSTEM PROVIDED US THROUGH OUR COMMUNICATION CONTRACT WITH COMCAST. THEY PROVIDE OUR TELEPHONE, INTERNET AND TELEVISION SERVICES. OVER →
11. Describe the hours of operation, expected attendance figures, and activities that will take place on the premises. If more space is needed, please attach an additional sheet.
   11AM - 10PM SUNDAY - THURSDAY
   11AM - MIDNIGHT FRIDAY / SATURDAY
12. Describe the floor plan, parking areas, fire exits, and other physical features of the nightclub. If more space is needed, please attach an additional sheet.
   ENTRYWAY. TURN RIGHT TO SMALL HALLWAY/WAITING AREA. TURN RIGHT TO DINING ROOM. TURN SLIGHTLY RIGHT TO BAR AREA. TURN LEFT TO FAMILY DINING AREA. CONTINUE STRAIGHT, TURN RIGHT TO PATIO AREA. KITCHEN, PREP AREA, STORAGE AREA, DISH WASHING AT BACK.
   CONT ON ATTACHED →

I do solemnly swear that I have read the City of Oak Harbor's Ordinance No. 1544 regulating nightclub licensing and that I will abide by the rules set forth therein and I furthermore swear that the facts I have stated in this application are true.

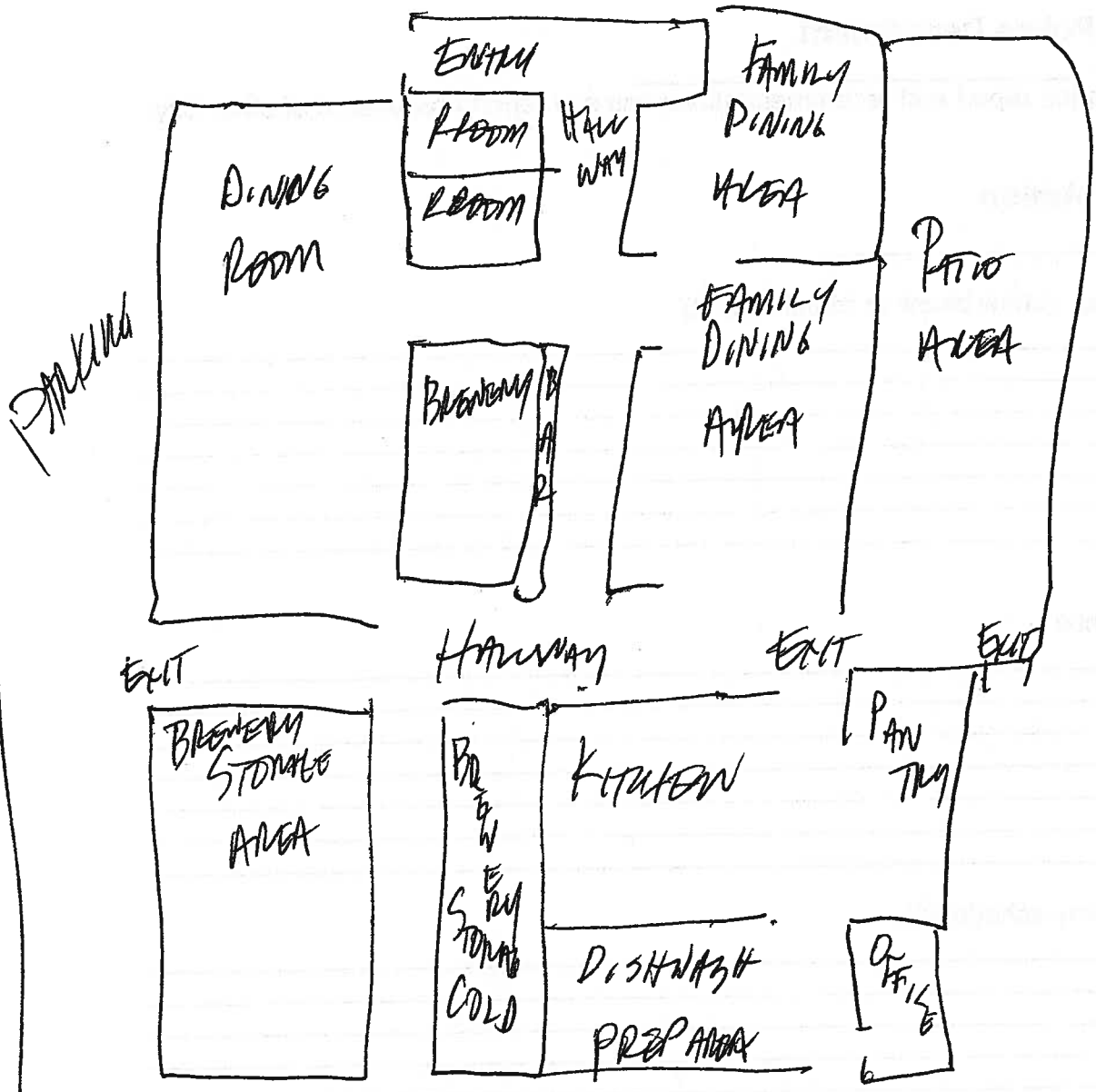
Signature _____ Date 14 Sept 09

Upon application, you will immediately be issued a temporary license. OHMC 5.22.040. After investigation by City officials, you will be notified of their report and the date upon which the City Council will conduct a hearing for issuance of a regular license. OHMC 5.22.045 sets forth these procedures.

12. CONT.....

BREWERY IS BETWEEN DINING ROOM and bar, visible through large glass windows

REAR OF BREWERY is storage areas



— PARKING WRAPS AROUND BUILDING

Background Check Information

DRIVER'S CHECK – Run each state listed on the application and enter state name below.
STATE _____ STATE _____ STATE _____ STATE _____ STATE _____
VEHICLE REGISTRATION/CHECK STOLEN
WATCH _____ WACIC/NCIC _____ LOCAL RECORDS _____
POLICE DEPT. APPROVAL _____ DATE _____

Received by City Clerk and forwarded to Chief of Police, Oak Harbor Police Department on: 9-14-2009.
Date City Clerk's Signature

Oak Harbor Police Department

Date Received: _____
Attach investigation report and recommendations and any reports requested of other City departments.

City Council Action

Date: _____

Decision/Findings (show below or attach report):

License Conditions:

Review Date (if any scheduled):

Background Report – Flyer's Restaurant and Brewery

November 4, 2009

On September 15, 2009, Mr. Greg Tritt, owner of Flyer's Restaurant and Brewery, located at 32295 SR 20 Oak Harbor, Washington, applied for a nightclub license. A temporary license was issued at the time of application as provided for in OHMC 5.22.040.

As required in OHMC 5.22.045 (2), an investigation was conducted by the Oak Harbor Police Department. The business is located in a single-story building on SR 20 near Whidbey Avenue. Flyer's Restaurant is made up of a large restaurant area with a smaller but separate area closed to those under the age of 21 that is designated for alcohol sales.

From October 1, 2008 through October 31, 2009, there were 20 calls for service at that address. Eighteen (18) of those calls have no significant bearing on this issue and should not be viewed as having a negative connotation towards the nightclub as these types of calls for police service could occur at any business or private residence. The two (2) remaining calls were both noise complaints regarding music coming from the business, both near the hours of twelve midnight.

As a result of my investigation, which included a review of the police responses to China Harbor from June 2008 through June 2009 and a meeting with the business owners and managers, I have determined that there are no circumstances that would lead me to believe that any of the public health and safety issues as described in OHMC 5.22.045(4) were a concern at this time and that their staff is operating with the appropriate levels of security staffing to handle or prevent issues relating to security, traffic, noise and litter.

Lastly, in a review with the Director of Development Services and the Oak Harbor Fire Chief regarding this business, it was determined there were no issues about the building that were of concern as related to the issuance of the nightclub license.

I could find no disqualifying restrictions which would prevent the issuance of a nightclub license to the applicant.

Respectfully Submitted,

Richard W. Wallace
Chief of Police
Oak Harbor Police Department

Chapter 5.22 NIGHTCLUBS

Sections:

5.22.010 Definitions.
5.22.020 License required.
5.22.030 Issuance restrictions.
5.22.040 Filing of application.
5.22.045 License conditions.
5.22.050 Annual license fee.
5.22.060 Proration of license fee.
5.22.065 Violation of license conditions.
5.22.070 Revocation of license.
5.22.080 License – Compliance required.
5.22.090 Revision of license conditions.
5.22.100 Appeal to court.

5.22.010 Definitions.

(1) "Nightclub" means any "premises" as defined herein on which any music, singing, dancing or other combination of these activities is permitted as entertainment after 10:00 p.m., on one or more days per week. The playing of incidental music on any premises where the receipts for the sale of food constitute 75 percent or more of the gross business income of the establishment shall not be considered a "nightclub" for purposes of this chapter, unless an opportunity for social dancing is provided on the premises.

(2) "Premises" means any room, place, or space whatsoever in the city of Oak Harbor which is open to the general public in connection with any hotel, restaurant, cafe, club, tavern or eating place directly or indirectly selling, serving, or providing the public liquor, with or without food.

(3) "Liquor" means all beverages defined in RCW 66.04.200.

(4) "Person" means one or more natural persons of either sex, firms, copartnerships and corporations; whether acting by themselves or by servant, agent or employee.
The provisions of this chapter shall not apply to temporary activities conducted pursuant to a city special event permit issued pursuant to Chapter 5.50 OHMC and lasting no longer than 48 hours. (Ord. 1544 § 1, 2008; Ord. 321 § 1, 1972).

5.22.020 License required.

It is declared to be unlawful for any person to conduct, manage or operate a nightclub unless such person is the holder of a valid license from the city of Oak Harbor so to do, obtained in the manner provided in this chapter. A first violation of the requirement to obtain a license shall be a civil infraction filed pursuant to Chapter 1.28 OHMC, punishable by a fine of $250.00. A second violation shall be a civil infraction punishable by a fine of $500.00. A first or second violation of the requirement to obtain a license shall be a civil offense subject to the procedures of Chapter 1.28 OHMC. Thereafter, further violation of the requirement to obtain a license of this chapter shall be a misdemeanor punishable by a fine not exceeding $1,000, up to 90 days in jail, or both such fine and jail time. (Ord. 1544 § 1, 2008; Ord. 321 § 2, 1972).

5.22.30 Issuance restrictions.

No license shall be issued to:

(1) A person who has not resided in the state of Washington for at least one month prior to making application.

(2) A person whose place of business is conducted by a manager or agent, unless such manager or agent also applies and qualifies for a nightclub license for the same business location.

(3) A copartnership, unless all the members thereof shall be qualified to obtain a license as provided herein.

(4) A corporation, unless all of the officers, directors and stockholders thereof shall be qualified to obtain a license as provided in this chapter. Such license shall be issued to the manager or other directing head thereof. (Ord. 1544 § 1, 2008; Ord. 588 § 1, 1981; Ord. 321 § 3, 1972).

5.22.40 Filing of application.

Application for a nightclub license shall be made to the city clerk, together with a receipt from the city finance director or designee for the amount of the license in full. The license application shall include personal identification information requested by the city including date of birth and Social Security number. The application shall also specify the business location upon which the nightclub will be conducted. The application fee includes the fee to cover the cost of a WATCH criminal background check, as provided in OHMC 3.64.100. Upon filing of the application and fees, the applicant(s) shall be issued a temporary license which shall expire upon the city council determination set forth in OHMC 5.22.045, unless stayed by filing of a judicial appeal within 30 days of the city council decision appealed. (Ord. 1544 § 1, 2008; Ord. 321 § 4, 1972).

5.22.045 License conditions.

(1) Upon receipt of an application for a nightclub license, the city clerk shall transmit the application to the chief of police, who shall immediately conduct a WATCH criminal background check of the applicant(s).

(2) The chief of police shall also investigate the business location to determine whether there are any features of the establishment which pose noise, traffic or other similar public health or safety concerns for the operation of a nightclub. The chief of police may request the assistance of other city departments, including the fire department and/or the building official, in assessing the impacts of the proposed business location if used as a nightclub.

(3) The chief of police shall report to the city council the result of his investigation and make recommendations concerning any conditions that should be placed upon the nightclub license to reduce noise, traffic or other similar public health and safety impacts. Allowable conditions may include, but are not limited to, restrictions upon the hours of operation, structural improvements to the premises to reduce noise impacts on neighboring uses, limitations on the numbers of patrons at any one time, landscaping or other screening, and requirements for traffic control. Periodic review of the efficacy of the imposed conditions may also be a condition of the nightclub license.

(4) The city council shall hold a public hearing with respect to the issuance of the nightclub license. The applicant(s) shall be entitled to respond to any findings of the police chief or other city officials and any proposed conditions on the nightclub license. Unless the applicant is restricted from holding a nightclub license pursuant to OHMC 5.22.030, the city council shall then determine whether the noise, traffic and other similar public health and safety impacts of the nightclub require mitigation through specified conditions and, if so, shall impose such conditions on the license. In no event shall the expressive content of any music, singing or dancing be the basis for denial of a nightclub license or any conditions placed thereon.

(5) The decision of the city council shall be the final decision of the city. (Ord. 1544 § 1, 2008).

5.22.50 Annual license fee.

Any person desiring to operate a nightclub shall first procure a nightclub license. The annual fee for a nightclub license shall be $200.00 plus $10.00 for an annual WATCH criminal background check. (Ord. 1544 § 1, 2008; Ord. 321 § 5, 1972).

5.22.60 Proration of license fee.

There shall be no prorating of the fee mentioned in OHMC 5.22.050, and such license fee shall expire on December 31st of each year; except that in the event that the original application be made subsequent to June 30th, then one-half of the annual license fee may be accepted for the remainder of the year. The license shall not be assignable. (Ord. 1544 § 1, 2008; Ord. 321 § 6, 1972).

5.22.065 Violation of license conditions.

A license holder who violates any license condition of his/her nightclub license shall be subject to civil penalties as follows:

(1) First violation of a license condition: $500.00 fine per violation;

(2) Second violation of same license condition: $750.00 fine per violation;

(3) Third violation of same license condition: $1,000 fine per violation.

First, second and third violations of license conditions shall constitute civil offenses and shall be governed by the procedures of Chapter 1.28 OHMC.
The fourth or greater violation of the same license provision shall constitute a misdemeanor punishable by a fine not exceeding $1,000, up to 90 days in jail, or both such fine and jail time. (Ord. 1544 § 1, 2008).

5.22.70 Revocation of license.

The city council reserves unto itself the power to revoke any license issued under the provisions of this chapter at any time upon a finding that:

(1) The license was procured by fraud or false representation of fact; or

(2) The applicant is barred from holding a nightclub license due to violation of any of the restrictions of OHMC 5.22.030; or

(3) The conditions imposed upon the license pursuant to OHMC 5.22.045 were knowingly and willfully violated by the person holding such license or at his/her direction; or

(4) A crime or offense involving moral turpitude is committed on the premises in which the nightclub is conducted with knowledge of the licensee. Before revoking any such license, the city council shall, upon at least 10 days' notice to the licensee, hold a public hearing concerning such revocation, at which time the licensee shall be entitled to be heard and introduce the testimony of witnesses. Members of the public may also be permitted to testify at such public hearing. The action of the city council after such hearing, relative to such revocation, shall be final. (Ord. 1544 § 1, 2008; Ord. 996 § 1, 1995; Ord. 321 § 7, 1972).

5.22.80 License – Compliance required.

In addition to the conditions imposed pursuant to OHMC 5.22.045, all nightclub licensees shall comply with the rules or regulations of the Washington State Liquor Control Board relating to the sale of intoxicating liquor. A finding of violation by the Washington State Liquor Control Board shall also constitute a violation of license conditions pursuant to OHMC 5.22.065. (Ord. 1544 § 1, 2008; Ord. 321 § 8, 1972).

5.22.90 Revision of license conditions.

The city council also reserves to itself the power to revise the conditions of the nightclub license upon information received indicating that the existing conditions are not sufficient to mitigate the noise, traffic and public health and safety impacts associated with the nightclub business location. A revision proceeding shall be initiated by an investigative report by the chief of police, fire chief, building official or other city official.
In the event that such investigative report is filed, the license holder shall be sent a copy of the complaint and/or report and provided at least 10 days' notice of a hearing to determine whether the conditions of the license shall be modified. At a public hearing before the city council, the license holder shall have the opportunity to respond to the investigative report, and to present any evidence in opposition to a modification of conditions. The city council shall base any change in conditions on the license upon noise, traffic or other similar public health and safety impacts. In no event shall the expressive content of any music, singing or dancing be the basis for denial of a nightclub license or any conditions placed thereon. The decision of the city council, after a public hearing on the proposed change in conditions, shall be final. (Ord. 1544 § 1, 2008; Ord. 321 § 9, 1972).

5.22.100 Appeal to court.

Appeal of any final decision of the city under this chapter shall be to superior court. The city's decision shall be stayed upon appeal filed within 30 days of the city council decision appealed, pending judicial review. (Ord. 1544 § 1, 2008).

City of Oak Harbor
City Council Agenda Bill

Bill No. 7
Date: December 1, 2009
Subject: Public Hearing - Nightclub License Seven West, LLC

FROM: Rick Wallace, Chief of Police

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE:

This is an application for a nightclub license pursuant to OHMC Chapter 5.22. The applicant is Darnell Allen. Since there are no disqualifying restrictions to prevent the issuance of a nightclub license to the applicant, the City Council will hold a public hearing to determine what conditions should be imposed to mitigate noise, traffic and other similar public health and safety impacts on operation of Seven West LLC.

AUTHORITY:

OHMC 5.22.045(4) states:

> *"The city council shall hold a public hearing with respect to the issuance of the nightclub license. The applicant(s) shall be entitled to respond to any findings of the police chief or other city officials and any proposed conditions on the nightclub license. Unless the applicant is restricted from holding a nightclub license pursuant to OHMC 5.22.030, the city council shall then determine whether the noise, traffic and other similar public health and safety impacts of the nightclub require mitigation through specified conditions and, if so, shall impose such conditions on the license. In no event shall the expressive content of any music, singing or dancing be the basis for denial of a nightclub license or any conditions placed thereon."*

DESCRIPTION:

On April 7, 2009, Darnell Allen, owner of Seven West LLC located at 780 SE Bayshore Drive Suite 101, Oak Harbor, Washington, applied for a nightclub license. A temporary license was issued at the time of application as provided for in OHMC 5.22.040. (It should be noted that the actual issuance of the nightclub license was held until Seven West received a Washington State Liquor License, which was issued on October 27, 2009.)

As required in OHMC 5.22.045(2), an investigation was conducted by the Oak Harbor Police Department. The business is located 780 SE Bayshore Drive, Suite 101, Oak Harbor, Washington.

Seven West LLC is located on the first floor of a two-story building, (the upper level is located on Pioneer Way and this business is on Bayshore Drive). This is a restaurant and lounge open only to patrons 21 years of age and older. The business is comprised of two main rooms, a dining area and lounge and a separate lounge area. Music will be played for the purposes of social dancing. Patron identification will be checked at the main entrance to the business.

This is a new business so there are no prior calls for police service to review.

There are no circumstances that would lead me to believe that any of the public health and safety issues described in OHMC 5.22.045(4) were a concern at this time or that their staff is not operating with the appropriate levels of security staffing to handle or prevent issues relating to security, traffic, noise and litter.

In a review with the Director of Development Services and the Oak Harbor Fire Chief regarding this business, it was determined there were no issues about the building that were of concern as related to the issuance of the nightclub license.

PUBLIC SAFETY STANDING COMMITTEE RECOMMENDATIONS:

This agenda item was reviewed by the Public Safety Standing Committee on November 19, 2009.

RECOMMENDED ACTION:

(1) Hold a public hearing pursuant to OHMC 5.22.045(4).

(2) Consider approval and issuance of the nightclub license to Seven West LLC with the following conditions:

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

2. Ensure that at least two designated security personnel in addition to existing on duty employees, will be on duty on Fridays and Saturdays, between the hours of 10:00PM and 2:00AM.

3. Ensure that there are security measures sufficient to prevent noise violations or any other nuisance violation as included and described in the City of Oak Harbor Municipal Code, inside and outside the business to include the parking lot and adjacent properties and that with the exception of ingress and egress to and from the building, doors and windows are to remain closed at all times while any type of music or entertainment is playing.

Any violation of the above conditions shall subject the license-holder to the penalties of Oak Harbor Municipal Code 5.22.065 and may subject the license-holder to license revocation per Oak Harbor Municipal Code Section 5.22.070 or revision of license conditions pursuant to OHMC 5.22.090.

ATTACHMENTS:

1. Temporary License and License Application.
2. Investigative Report.
3. Oak Harbor Municipal Code Chapter 5.22.

MAYOR'S COMMENTS:

To: Paul Schmidt
City Administrator

From: R.Wallace
Police Chief

Date: November 3, 2009

Subject: Nightclub License – Seven West LLC
Investigative Report

On April 7, 2009, Darnell Allen, owner of Seven West LLC located at 780 SE Bayshore Drive Suite 101, applied for a nightclub license. A temporary license was issued at the time of application as provided for in OHMC 5.22.040. (It should be noted that the actual issuance of the Nightclub License was held until Seven West received a Washington State Liquor License, which was issued on October 27, 2009).

As required in OHMC 5.22.045(2), an investigation was conducted by the Oak Harbor Police Department. The business is located 780 SE Bayshore Drive, Suite 101.

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This is a new business so there are no prior calls for police service to review.

There are no circumstances that would lead me to believe that any of the public health and safety issues described in OHMC 5.22.045(4) were a concern at this time and that their staff is operating with the appropriate levels of security staffing to handle or prevent issues relating to security, traffic, noise and litter.

CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

April 7, 2009

Darrell R. Allen

Oak Harbor, WA 98277

RE: Temporary Nightclub License
Location: Seven West
780 SE Bayshore Drive, Suite 101
Oak Harbor, WA 98277

Dear Mr. Allen:

In accordance with City of Oak Harbor Ordinance No. 1544, please find enclosed a temporary nightclub license for your nightclub license application submitted on April 1, 2009. This temporary nightclub license shall be in effect until the Oak Harbor City Council takes action on your pending application. We understand that you are still in the early stages of developing Seven West and obtaining other licensing (liquor license) too.

Please feel free to contact me or our City Administrator, Paul Schmidt if you have any questions regarding the status of your pending nightclub license application.

Sincerely,

Connie Wheeler
City Clerk

cc: Chief of Police Wallace
City Administrator Schmidt
D. Nichols

865 S.E. Barrington Drive • Oak Harbor, Washington 98277-4092 • City Hall (360) 279-4500

CITY OF OAK HARBOR
865 S.E. BARRINGTON DR.
OAK HARBOR, WA 98277
(360) 679-5551

Temporary License

BUSINESS LICENSE

EXPIRATION DATE	
Upon final Council action on pending application.	
DATE ISSUED	LICENSE NUMBER
4/7/09	NC-0005 Nightclub
SIC NUMBER	SALES TAX CODE
	1503

Seven West
780 SE Bayshore Drive, Suite 101
Oak Harbor, WA 98277
LOCATION OF BUSINESS

THIS CERTIFIES that the business or individual listed below is hereby licensed to do business within the **CITY OF OAK HARBOR**

Darnell Allen
For Seven West

Oak Harbor, WA 98277

FINANCE DIRECTOR

This license is to be displayed conspicuously at the location of business, and is not transferable or assignable.

City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277
Phone: (360)279-4500
Fax: (360)279-4507

Application for Nightclub License
Oak Harbor Municipal Code Chapter 5.22
Ordinance No.: [redacted] 1544

Application Fee: $200 plus $10 for WATCH background check = $210

Personal Information

Name of Business: Seven West

Address of Business: 780 SE Bayshore Ste 101
Where nightclub will be conducted. Oak Harbor WA 98277

Owner of Business: Darnell B. Allen

Owner's Address: Oak Harbor, WA 98277

Owner's Phone/Cell Numb

Date of Birth:

Social Security No.:

Driver's License No.:

Please answer the following questions:

1. Are you a citizen of the United States of America? Yes
2. Have you been convicted of a felony within the last five years? No
3. Have you been convicted of a violation of any federal or state law or city ordinance concerning the manufacture, possession, or sale of liquor subsequent to the passage of the Washington State Liquor Act? No
4. Have you ever been convicted of a violation of any federal or state law, or city ordinance concerning the manufacture, possession, or sale of narcotics? No
5. Have you ever forfeited a bond to appear in court to answer charges of any violations as stated above? NO
6. Are you the owner ✓ manager _____ or agent _____ of this business?
   NOTE: Per OHMC Chapter 5.22.030 (2):
   No license shall be issued to a person whose place of business is conducted by a manager or agent, unless such manager or agent also applies and qualifies for a nightclub license for the same business location.

City of
Oak Harbor
APR 01 2009
PAID
Finance Department

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7. Are you a co-partner of this business? No
   NOTE: Per OHMC Chapter 5.22.030 (3):
   No license shall be issued to a co-partnership unless all the members thereof shall be qualified to obtain a license as provided herein.
8. Is this business a corporation? Yes
   NOTE: Per OHMC Chapter 5.22.030 (4):
   No license shall be issued to a corporation, unless all of the officers, directors and stockholders thereof shall be qualified to obtain a license as provided in this chapter. Such license shall be issued to the manager or other directing head thereof.
9. If this is a partnership or corporation, please include names, addresses, and phone numbers of same. If more space is needed, please attach an additional sheet.
   Darnell B. Allen, 1520 SW 17th Ave, Oak Harbor WA 360 302 0214
10. Indicate the type of musical entertainment you will provide.
   7 west will have an MP3 music application where we play music such as Rock, Pop, Classical, Jazz and Hip Hop.
11. Describe the hours of operation, expected attendance figures, and activities that will take place on the premises. If more space is needed, please attach an additional sheet.
   See attached page
12. Describe the floor plan, parking areas, fire exits, and other physical features of the nightclub. If more space is needed, please attach an additional sheet.
   See attached page

I do solemnly swear that I have read the City of Oak Harbor's Ordinance No. 15[redacted] regulating nightclub licensing and that I will abide by the rules set forth therein and I furthermore swear that the facts I have stated in this application are true.

Signature: Darnell B. Allen

Date: 31 Mar 09

Upon application, you will immediately be issued a temporary license. OHMC 5.22.040. After investigation by City officials, you will be notified of their report and the date upon which the City Council will conduct a hearing for issuance of a regular license. OHMC 5.22.045 sets forth these procedures.

Background Check Information

DRIVER'S CHECK – Run each state listed on the application and enter state name below.
STATE _____ STATE _____ STATE _____ STATE _____ STATE _____
VEHICLE REGISTRATION/CHECK STOLEN
WATCH _____ WACIC/NCIC _____ LOCAL RECORDS _____
POLICE DEPT. APPROVAL _____ DATE _____

Received by City Clerk and forwarded to Chief of Police, Oak Harbor Police Department on: 4/1/09.

Date City Clerk's Signature

Oak Harbor Police Department

Date Received: _____

Attach investigation report and recommendations and any reports requested of other City departments.

City Council Action

Date: _____

Decision/Findings (show below or attach report):

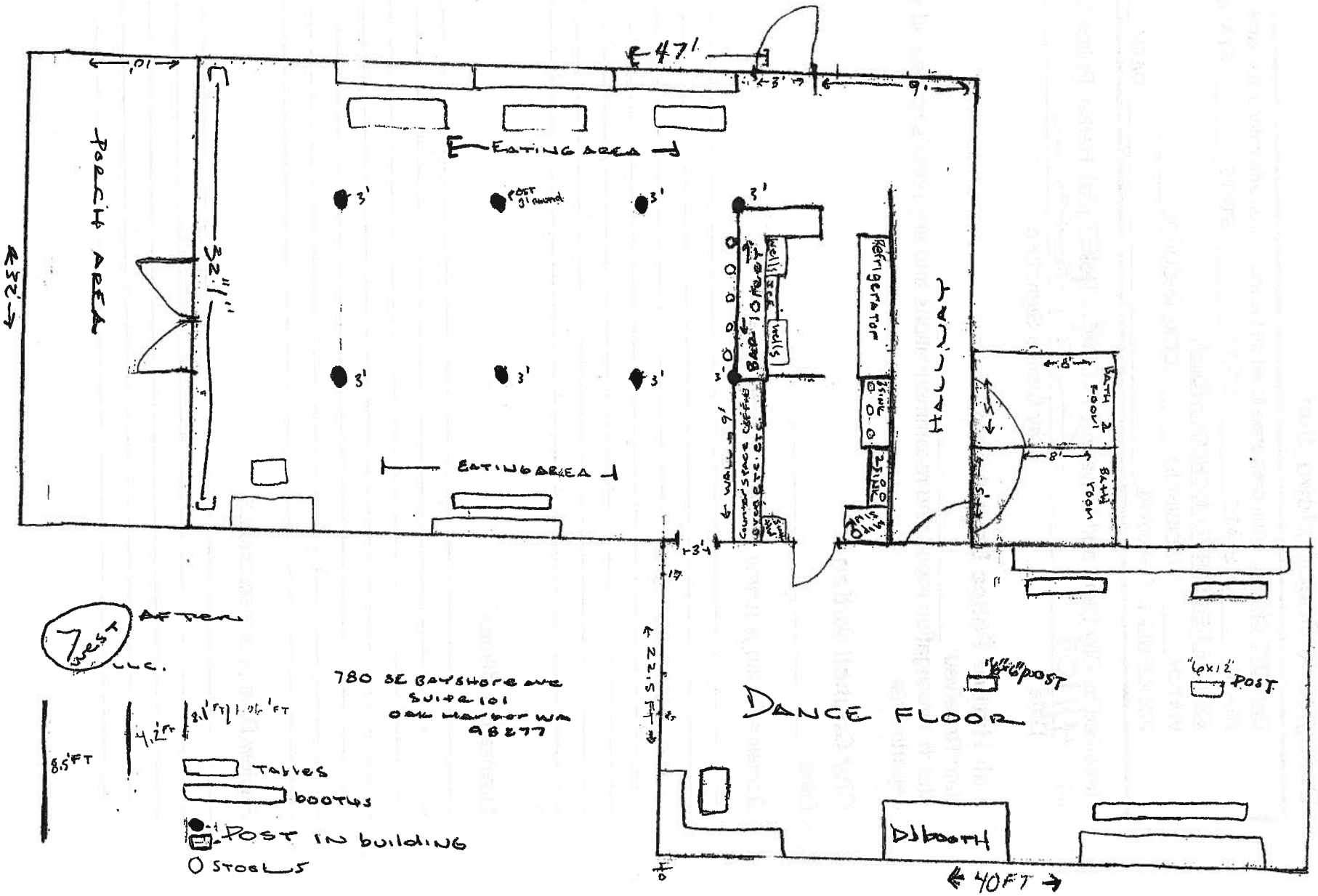
_____

License Conditions:

_____

Review Date (if any scheduled):

_____


Z →
47'
9'
3'
EATING AREA
PORCH AREA
10'
32'
22'1"
POST in ground
3'
BAR 10 feet
Refrigerator
HALLWAY
Walls
Sink
Counter space coffee cigarettes etc.
WALL
BATH ROOM
BATH ROOM
8'
5'
3'4
17
22.5 FT
DANCE FLOOR
"6x6" POST
"6x12" POST
DJ booth
40FT
7 West LLC.
780 SE BAYSHORE AVE
SUITE 101
OAK HARBOR WA
98277
8.5'FT
4.2'FT
2.1'FT
1.06'FT
Tables
booths
POST IN building
STOOLS

Se7en West
780 SE Bayshore Ste 101
Oak Harbor, WA 98277
(360)302-0214 se7en.west@yahoo.com

March 31, 2009

From: Darnell B. Allen, President

Question #11
Describe the house of operation, expected attendance figures and activites that will take place on the premises.

Hours of operation:

7 West Coffee bar hours of operation will be Sunday to Sunday from 6 am to 3pm. Everything else for 7 West will be open from Tuesday to Sunday the Bistro will be serving breakfast and lunch from 9am to 3pm. The Bistro will reopen at 4pm till 10pm for dinner and Art Gallery exhibits unless it is Friday or Saturday where we will remain open till 4 am.

Expected attendance:

Although we have yet to have been told our official occupancy we are aware that we are a smaller location than other places in town and do not expect to have more than a 100 people there at any given time.

Activities:

7 West from 6am on will provide a Coffee bar that includes everything from espressos, lattes to biscotti and muffins. From 4 pm on 7 West will emphasize more on our Bistro, Martini bar and Art Gallery. We will also have a variety of local and imported wines and appetizers. During nightclub hours, Friday and Saturday from 10pm to 4am 7 West will provide a VIP experience with private security and personal service in a private section of the lounge.

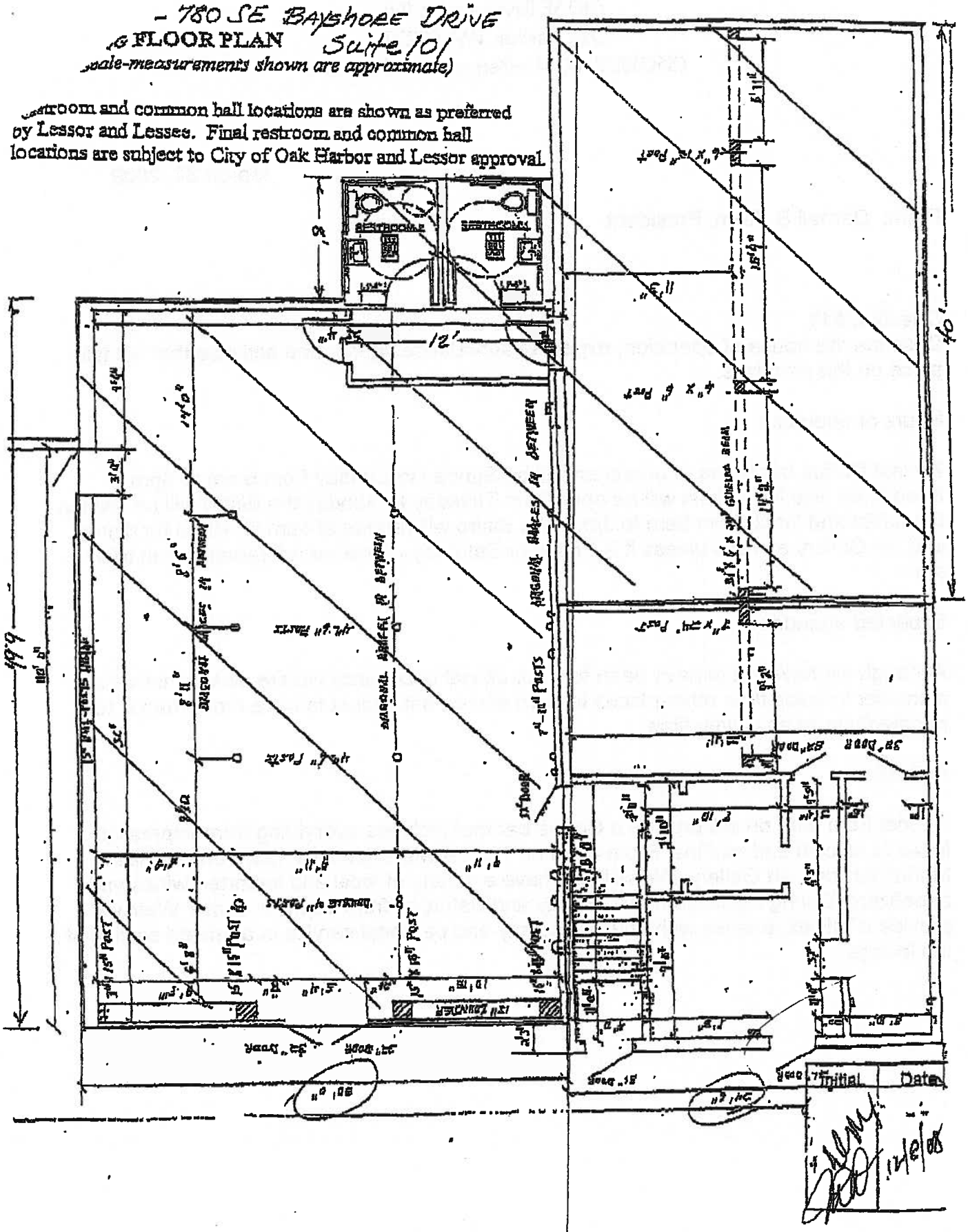
Exhibit D

- 780 SE Bayshore Drive

FLOOR PLAN Suite 101

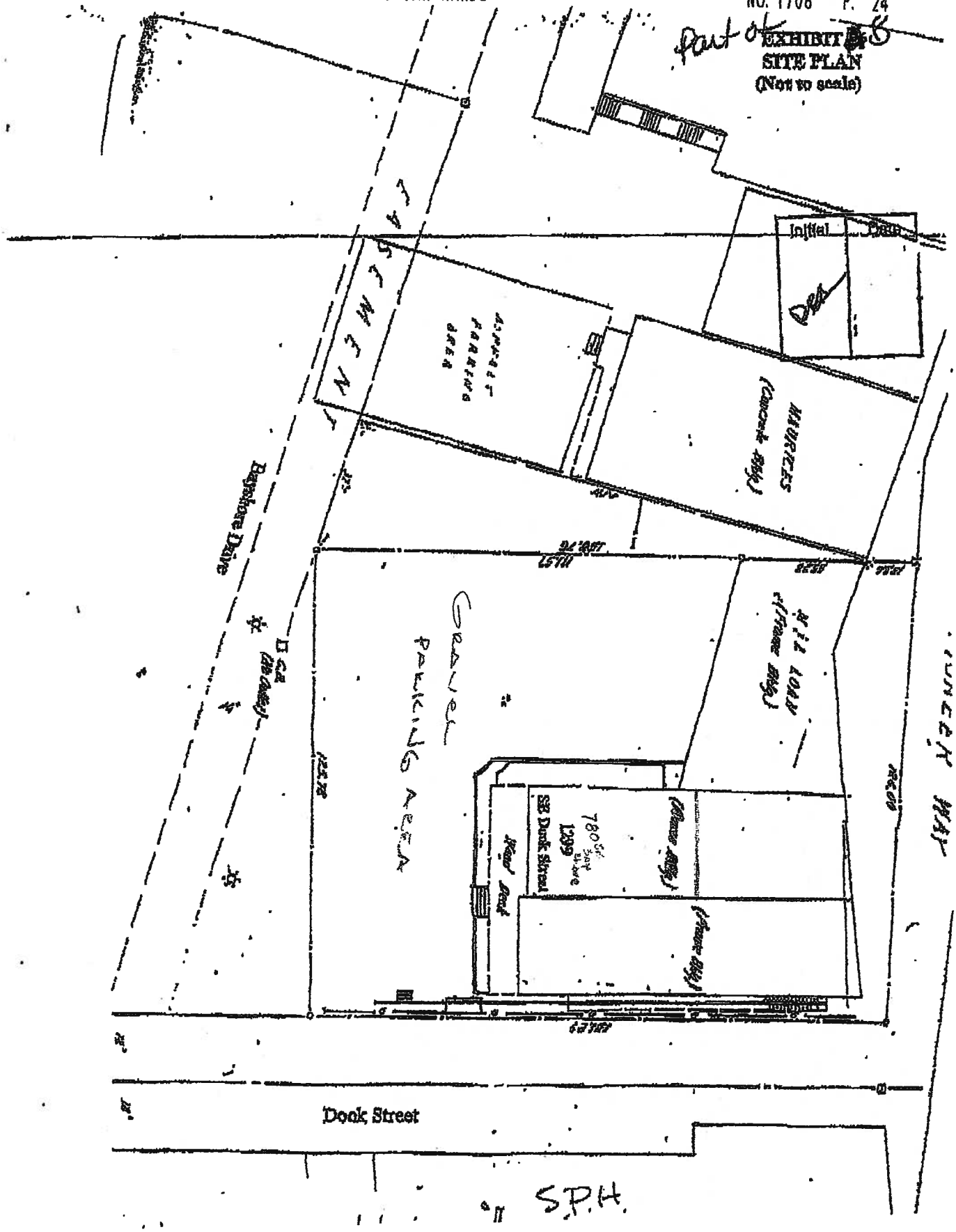
(Scale-measurements shown are approximate)

Restroom and common hall locations are shown as preferred by Lessor and Lessee. Final restroom and common hall locations are subject to City of Oak Harbor and Lessor approval.



Part of EXHIBIT B

SITE PLAN
(Not to scale)


Initial
Date
Dock Street
Bayshore Drive
Gravel Parking Area
Wharf Roof
SE Dock Street
1209
780 SF
Warehouse Bldg
Warehouse Bldg
Warehouse Bldg

Chapter 5.22 NIGHTCLUBS

Sections:

5.22.010 Definitions.
5.22.020 License required.
5.22.030 Issuance restrictions.
5.22.040 Filing of application.
5.22.045 License conditions.
5.22.050 Annual license fee.
5.22.060 Proration of license fee.
5.22.065 Violation of license conditions.
5.22.070 Revocation of license.
5.22.080 License – Compliance required.
5.22.090 Revision of license conditions.
5.22.100 Appeal to court.

5.22.010 Definitions.

(1) "Nightclub" means any "premises" as defined herein on which any music, singing, dancing or other combination of these activities is permitted as entertainment after 10:00 p.m., on one or more days per week. The playing of incidental music on any premises where the receipts for the sale of food constitute 75 percent or more of the gross business income of the establishment shall not be considered a "nightclub" for purposes of this chapter, unless an opportunity for social dancing is provided on the premises.

(2) "Premises" means any room, place, or space whatsoever in the city of Oak Harbor which is open to the general public in connection with any hotel, restaurant, cafe, club, tavern or eating place directly or indirectly selling, serving, or providing the public liquor, with or without food.

(3) "Liquor" means all beverages defined in RCW 66.04.200.

(4) "Person" means one or more natural persons of either sex, firms, copartnerships and corporations; whether acting by themselves or by servant, agent or employee.
The provisions of this chapter shall not apply to temporary activities conducted pursuant to a city special event permit issued pursuant to Chapter 5.50 OHMC and lasting no longer than 48 hours. (Ord. 1544 § 1, 2008; Ord. 321 § 1, 1972).

5.22.020 License required.

It is declared to be unlawful for any person to conduct, manage or operate a nightclub unless such person is the holder of a valid license from the city of Oak Harbor so to do, obtained in the manner provided in this chapter. A first violation of the requirement to obtain a license shall be a civil infraction filed pursuant to Chapter 1.28 OHMC, punishable by a fine of $250.00. A second violation shall be a civil infraction punishable by a fine of $500.00. A first or second violation of the requirement to obtain a license shall be a civil offense subject to the procedures of Chapter 1.28 OHMC. Thereafter, further violation of the requirement to obtain a license of this chapter shall be a misdemeanor punishable by a fine not exceeding $1,000, up to 90 days in jail, or both such fine and jail time. (Ord. 1544 § 1, 2008; Ord. 321 § 2, 1972).

5.22.30 Issuance restrictions.

No license shall be issued to:

(1) A person who has not resided in the state of Washington for at least one month prior to making application.

(2) A person whose place of business is conducted by a manager or agent, unless such manager or agent also applies and qualifies for a nightclub license for the same business location.

(3) A copartnership, unless all the members thereof shall be qualified to obtain a license as provided herein.

(4) A corporation, unless all of the officers, directors and stockholders thereof shall be qualified to obtain a license as provided in this chapter. Such license shall be issued to the manager or other directing head thereof. (Ord. 1544 § 1, 2008; Ord. 588 § 1, 1981; Ord. 321 § 3, 1972).

5.22.40 Filing of application.

Application for a nightclub license shall be made to the city clerk, together with a receipt from the city finance director or designee for the amount of the license in full. The license application shall include personal identification information requested by the city including date of birth and Social Security number. The application shall also specify the business location upon which the nightclub will be conducted. The application fee includes the fee to cover the cost of a WATCH criminal background check, as provided in OHMC 3.64.100. Upon filing of the application and fees, the applicant(s) shall be issued a temporary license which shall expire upon the city council determination set forth in OHMC 5.22.045, unless stayed by filing of a judicial appeal within 30 days of the city council decision appealed. (Ord. 1544 § 1, 2008; Ord. 321 § 4, 1972).

5.22.045 License conditions.

(1) Upon receipt of an application for a nightclub license, the city clerk shall transmit the application to the chief of police, who shall immediately conduct a WATCH criminal background check of the applicant(s).

(2) The chief of police shall also investigate the business location to determine whether there are any features of the establishment which pose noise, traffic or other similar public health or safety concerns for the operation of a nightclub. The chief of police may request the assistance of other city departments, including the fire department and/or the building official, in assessing the impacts of the proposed business location if used as a nightclub.

(3) The chief of police shall report to the city council the result of his investigation and make recommendations concerning any conditions that should be placed upon the nightclub license to reduce noise, traffic or other similar public health and safety impacts. Allowable conditions may include, but are not limited to, restrictions upon the hours of operation, structural improvements to the premises to reduce noise impacts on neighboring uses, limitations on the numbers of patrons at any one time, landscaping or other screening, and requirements for traffic control. Periodic review of the efficacy of the imposed conditions may also be a condition of the nightclub license.

(4) The city council shall hold a public hearing with respect to the issuance of the nightclub license. The applicant(s) shall be entitled to respond to any findings of the police chief or other city officials and any proposed conditions on the nightclub license. Unless the applicant is restricted from holding a nightclub license pursuant to OHMC 5.22.030, the city council shall then determine whether the noise, traffic and other similar public health and safety impacts of the nightclub require mitigation through specified conditions and, if so, shall impose such conditions on the license. In no event shall the expressive content of any music, singing or dancing be the basis for denial of a nightclub license or any conditions placed thereon.

(5) The decision of the city council shall be the final decision of the city. (Ord. 1544 § 1, 2008).

5.22.50 Annual license fee.

Any person desiring to operate a nightclub shall first procure a nightclub license. The annual fee for a nightclub license shall be $200.00 plus $10.00 for an annual WATCH criminal background check. (Ord. 1544 § 1, 2008; Ord. 321 § 5, 1972).

5.22.60 Proration of license fee.

There shall be no prorating of the fee mentioned in OHMC 5.22.050, and such license fee shall expire on December 31st of each year; except that in the event that the original application be made subsequent to June 30th, then one-half of the annual license fee may be accepted for the remainder of the year. The license shall not be assignable. (Ord. 1544 § 1, 2008; Ord. 321 § 6, 1972).

5.22.065 Violation of license conditions.

A license holder who violates any license condition of his/her nightclub license shall be subject to civil penalties as follows:

(1) First violation of a license condition: $500.00 fine per violation;

(2) Second violation of same license condition: $750.00 fine per violation;

(3) Third violation of same license condition: $1,000 fine per violation.

First, second and third violations of license conditions shall constitute civil offenses and shall be governed by the procedures of Chapter 1.28 OHMC.
The fourth or greater violation of the same license provision shall constitute a misdemeanor punishable by a fine not exceeding $1,000, up to 90 days in jail, or both such fine and jail time. (Ord. 1544 § 1, 2008).

5.22.70 Revocation of license.

The city council reserves unto itself the power to revoke any license issued under the provisions of this chapter at any time upon a finding that:

(1) The license was procured by fraud or false representation of fact; or

(2) The applicant is barred from holding a nightclub license due to violation of any of the restrictions of OHMC 5.22.030; or

(3) The conditions imposed upon the license pursuant to OHMC 5.22.045 were knowingly and willfully violated by the person holding such license or at his/her direction; or

(4) A crime or offense involving moral turpitude is committed on the premises in which the nightclub is conducted with knowledge of the licensee. Before revoking any such license, the city council shall, upon at least 10 days' notice to the licensee, hold a public hearing concerning such revocation, at which time the licensee shall be entitled to be heard and introduce the testimony of witnesses. Members of the public may also be permitted to testify at such public hearing. The action of the city council after such hearing, relative to such revocation, shall be final. (Ord. 1544 § 1, 2008; Ord. 996 § 1, 1995; Ord. 321 § 7, 1972).

5.22.80 License – Compliance required.

In addition to the conditions imposed pursuant to OHMC 5.22.045, all nightclub licensees shall comply with the rules or regulations of the Washington State Liquor Control Board relating to the sale of intoxicating liquor. A finding of violation by the Washington State Liquor Control Board shall also constitute a violation of license conditions pursuant to OHMC 5.22.065. (Ord. 1544 § 1, 2008; Ord. 321 § 8, 1972).

5.22.90 Revision of license conditions.

The city council also reserves to itself the power to revise the conditions of the nightclub license upon information received indicating that the existing conditions are not sufficient to mitigate the noise, traffic and public health and safety impacts associated with the nightclub business location. A revision proceeding shall be initiated by an investigative report by the chief of police, fire chief, building official or other city official.
In the event that such investigative report is filed, the license holder shall be sent a copy of the complaint and/or report and provided at least 10 days' notice of a hearing to determine whether the conditions of the license shall be modified. At a public hearing before the city council, the license holder shall have the opportunity to respond to the investigative report, and to present any evidence in opposition to a modification of conditions. The city council shall base any change in conditions on the license upon noise, traffic or other similar public health and safety impacts. In no event shall the expressive content of any music, singing or dancing be the basis for denial of a nightclub license or any conditions placed thereon. The decision of the city council, after a public hearing on the proposed change in conditions, shall be final. (Ord. 1544 § 1, 2008; Ord. 321 § 9, 1972).

5.22.100 Appeal to court.

Appeal of any final decision of the city under this chapter shall be to superior court. The city's decision shall be stayed upon appeal filed within 30 days of the city council decision appealed, pending judicial review. (Ord. 1544 § 1, 2008).

City of Oak Harbor
City Council Agenda Bill

Bill No. 8
Date: December 1, 2009
Subject: 2009 Comprehensive Plan Amendments

FROM: Steve Powers RSP
Development Services 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

SUMMARY STATEMENT

This report presents the 2009 Comprehensive Plan Amendments. The amendments include updates to the Capital Improvements Plan (CIP) as per the requirements of Oak Harbor Municipal Code (OHMC) 18.10.030 and an update to the Open Space Element with the recently adopted goals and policies of the 2009 Parks, Recreation and Open Space Plan. This year there were no applications filed for land use changes.

AUTHORITY

The City is required by the Growth Management Act (GMA) to adopt a Comprehensive Plan and to review and revise it pursuant to RCW 36.70A.130. Under the Oak Harbor Municipal Code (OHMC 18.20.270), amendments to the Comprehensive Plan are a Type V process. The code requires that the Planning Commission hold a public hearing and make a recommendation to the City Council.

BACKGROUND

The 2009 Comprehensive Plan amendment process began early this year with a call for applications for amendments to the comprehensive plan. Public notices were published in the local newspaper and announcements were made at the City Council. Notices were also posted on the local cable channel for the community. As part of a broader out reach approach, the City used a blog site (http://cohcomrehensiveplan09.blogspot.com) to inform people about the amendments. However, no applications from the public were filed this year.

The proposed 2009 Comprehensive Plan amendments are in two areas: the Capital Improvement Plan and the Open Space Element. The review and updating of the CIP was undertaken to meet the requirements of the GMA (RCW 36.70A.070(3)(d)) and of the Municipal Code (OHMC 18.10.030). The amendments proposed to the Open Space Element are those necessary to update that element with the goals and policies contained in the recently adopted 2009 Parks, Recreation and Open Space Plan.

CAPITAL IMPROVEMENTS PLAN 2009-2014

The Oak Harbor Municipal Code (HMC 18.10.030) requires the Planning Commission to conduct an annual review of the Capital Improvements Plan (CIP) and to make a recommendation to the City Council. Staff assists with this review by updating the current version of the CIP to reflect changes in projects, revenues and expenditures. This year's update includes:

- Revisions to the current and projected revenues
- Amending the list of street projects to reflect the adopted Transportation Improvement Plan (TIP)
- Updated project list for the water, sewer and the stormwater system
- Removal of projects that have been completed (e.g. Windjammer Park to Flintstone Park trail connections)

The update to the Capital Improvements Plan was done with input from various City departments, with reliance on other adopted plans (e.g. the TIP). The financial information is based on the most recent information available and the adopted budget.

A brief description of the various sections contained within the Capital Improvements Plan is provided below.

- Section 1 provides an introduction to the CIP, its link to the Growth Management Act and the Revised Code of Washington (RCW).
- Section 2 provides the planning context for the CIP and lists the goals and policies that provide the framework for the CIP.
- Section 3 inventories the existing capital facilities within the City. It provides the basic foundation for the CIP.
- Section 4 of the CIP contains the list of projects for the non-enterprise funded systems such as Streets, Parks and Recreation, Windjammer etc., as well as the enterprise funded systems such as Sewer, Water, Stormwater and Marina. The section has been amended as part of this year's update. The updated projects can be found on pages 23 and 26 of the CIP. The expenditures related to these projects are provided in Table 4.3 (page 24) and Table 4.5 (page 26). The non-growth related capital facility projects are listed in Table 4.4.
- Section 5 on page 28 includes the prioritization process for the non-growth related capital facilities listed in Table 4.4. The prioritization process was done in 2007. Prioritizations of these projects are not recommended every year since it would create the sense of a moving target. The process to update this section should be considered if the City Council or the community feels that priorities or criteria to determine priorities have changed. Therefore, no changes have been made to any of the priorities as part of this year's update.
- Section 6 provides information on revenues sources for the various funds and includes projections for these revenues over the next six years. This section was updated to reflect the Finance Departments most recent projections.

- Section 7 is the implementation plan for the non-growth related projects that are listed in Table 4.4 and prioritized in Section 5. This section was updated to reflect changes in schedules and fine tune project descriptions were applicable.

Information was updated in the Appendix of the Plan to reflect some of the changes in the Sections mentioned above. Appendix B was updated with the most recent information available on existing inventory. Appendix C was also updated to reflect changes in schedules and project costs.

PARKS, RECREATION AND OPEN SPACE ELEMENT

This year's amendments include an update to the Comprehensive Plan Open Space Element with material from the 2009 Parks, Recreation and Open Space Plan (approved January 2009). The adoption of the 2009 Parks, Recreation and Open Space Plan combined the previously existing Parks and Recreation Plan with the goals and policies of the Open Space Element from the current Comprehensive Plan. This approach was used so as to place the vision, goals and policies for parks and open space in the same document.

The City Council may recall that the 2009 Parks, Recreation and Open Space plan was formatted into 3 major sections (referred to as 'tiers') with the intention that Tier I would become an element of the Comprehensive Plan. Tier I of the Parks, Recreation and Open Space Plan contains the vision, guiding principles, comprehensive planning goals and recommended plan for open spaces, trails and parks. The current Open Space Element of the Comprehensive Plan is therefore proposed to be replaced with the Park, Recreation and Open Space Element.

NOTICES

SEPA

SEPA review of comprehensive plan amendments is required by WAC 197-11. The amendment of a comprehensive plan is defined as a non-project action under WAC 197-11-704(2)(b)(i). The SEPA checklist and the determination have been attached to the report for your reference as Exhibit 1. The SEPA determination was advertised and opened to the public for comments; no comments were received.

Department of Commerce (formerly CTED)

Cities, under the GMA, that propose to amend their Comprehensive Plans are required to provide a 60 day notice to the Department of Commerce on the amendments proposed for adoption. The 60 day notice was provided on September 16, 2009. A copy of the letter from the Department of Commerce on the receipt of our amendments has been included with this report as Exhibit 2. The 60 day period ends on November 16, 2009. The adoption of the amendments must be done after the 60 day review period ends.

PLANNING COMMISSION ACTION

The Planning Commission conducted a public hearing on the proposed 2009 Comprehensive Plan Amendments at their October 22, 2009 meeting. The hearing was advertised as per the requirement of OHMC 18.20.380 (5). No public comments were offered during the hearing. The Planning Commission, after closing the public hearing, made unanimously recommended

approval of the 2009 Comprehensive Plan Amendments as proposed.

SUMMARY

The 2009 Comprehensive Plan Amendments consist of amendments to the Capital Improvement Plan (CIP) and to the Open Space Element. The changes to the CIP reflect the most recent project and financial information. The overall project priorities list was not amended with this effort. It is proposed that the Open Space Element be replaced in its entirety with a portion of the 2009 Parks, Recreation and Open Space Plan, to form the new Parks, Recreation and Open Space Element. This will place the vision, guiding principles, comprehensive planning goals and recommended plan for open spaces, trails and parks all in the Comprehensive Plan.

Approval of the proposed amendments is accomplished through the adoption of an ordinance (Exhibit 3). As it references the comprehensive plan it is necessary to attach the complete plan to the ordinance, using a legislative edit approach to show the deletions and additions. In an effort to conserve resources only one paper copy of the revised Comprehensive Plan was produced. The Mayor, City Council and others received the draft documents on a CD-ROM.

RECOMMENDATION

•Conduct public hearing

•Adopt ordinance approving the 2009 Comprehensive Plan amendments.

EXHIBITS:

1. SEPA Determination of Non-significance (dated October 7, 2009) and checklist
2. Department of Commerce acknowledgement letter dated September 17, 2009
3. Draft Ordinance amending OHMC 18.10.010, with draft 2009 Comprehensive Plan (including 2009-2014 Capital Improvements Plan and new Parks, Recreation and Open Space Element) as exhibits

SEP 09-00005

DETERMINATION OF NON-SIGNIFICANCE

Description of proposal *City of Oak Harbor Comprehensive Plan Amendments 2009. The amendments include updates to the Capital Improvements Plan and an update to the Open Space Element of the Comprehensive Plan. The Open Space Element is being updated with the goals and policies of the Parks, Recreation and Open Space Plan that was adopted in January of 2009. The Parks, Recreation and Open Space Plan was reviewed using the SEPA process and no changes have been made since the adoption.*
This is non-project action and no adverse impacts are expected with the adoption of the amendments. However, there are projects that may result from the adoption of the 2009 Comprehensive Plan Amendments and these individual project will be reviewed in more detail prior to implementation.

Proponent *City of Oak Harbor*

Location of proposal *City of Oak Harbor*

Lead Agency *City of Oak Harbor*

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

X This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted by October 21, 2009.

Responsible Official: Steve Powers, AICP Position/Title: Development Services Director
Phone: 279-4511

Address 865 SE Barrington Drive Date October 7, 2009

Signature

This determination of non-significance shall be final unless otherwise modified after the comment period, and/or appeal is made and perfected within fourteen days of the date of action set out above.

\\City1\planning\SEPA\Determinations\2009\Comp Plan Amendment\DNS 2009 COmprehensive Plan Amendments.doc

EXHIBIT 1
152

SEP-09-00005

WAC 197-11-960 Environmental checklist.

ENVIRONMENTAL CHECKLIST

Purpose of checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable: *2009 Comprehensive Plan Amendments*

2. Name of applicant: *City of Oak Harbor, Development Services Department*

3. Address and phone number of applicant and contact person:

865 SE Barrington Drive, Oak Harbor, WA 98277.
Phone: (360) 279-4514
Contact Person: Rajesh Kamak, AICP

4. Date checklist prepared: *September 16, 2008*

5. Agency requesting checklist: *City of Oak Harbor*

6. Proposed timing or schedule (including phasing, if applicable):

The amendments to the Plan will go into effect five days after the adopted ordinance is published.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

Adoption of some policies may require changes to work programs, codes, or other documents. No specific schedule or changes have been identified at this time. Revisions to the Capital Improvements Plan will result in projects and some may trigger changes to the budget.

EXHIBIT 1

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

The amendments include the Capital Improvements Plan and the Parks, Recreation and Open Space Plan. The Parks, Recreation and Open Space Plan documents have already been adopted and therefore have individual SEPA reviews and determinations already completed. The projects in the Capital Improvements Plan will undergo the necessary evaluations and analysis at the time of implementation.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

None

10. List any government approvals or permits that will be needed for your proposal, if known.

No other governmental approvals are required for the Comprehensive Plan Amendments.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

The update to the Capital Improvements Plan include updates to the project list to reflect adopted plans such as the Transportation Plan, Stormwater Plan, Sewer Plan etc. It also includes updates to the revenues and expenditures based on currently available financial information. The impacts of the amended Capital Improvements Plan are no different from the current plan and all projects listed within the Plan will need to do a SEPA review before implementation.

The update to the Parks, Recreation and Open Space Plan Element includes replacing the existing language in the Open Space Element of the Comprehensive Plan with the Goals and Policies of the already adopted Parks, Recreation and Open Space Plan.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The location of projects within the Capital Improvements Plan and the Parks, Recreation and Open Space Plan are distributed throughout the city and Urban Growth Area.

As per WAC 197-11-235 (3)(b) Part B of the checklist is not required for non-project related actions.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

B. ENVIRONMENTAL ELEMENTS

1. **Earth**

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other . . . . . .

b. What is the steepest slope on the site (approximate percent slope)?

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

a. **Air**

a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

3. **Water**

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

b. Ground:

1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

2) Could waste materials enter ground or surface waters? If so, generally describe.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

4. Plants

a. Check or circle types of vegetation found on the site:

———— deciduous tree: alder, maple, aspen, other

———— evergreen tree: fir, cedar, pine, other

———— shrubs

———— grass

———— pasture

———— crop or grain

———— wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other

———— water plants: water lily, eelgrass, milfoil, other

———— other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

c. List threatened or endangered species known to be on or near the site.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

5. Animals

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

birds: hawk, heron, eagle, songbirds, other:
mammals: deer, bear, elk, beaver, other:
fish: bass, salmon, trout, herring, shellfish, other:

b. List any threatened or endangered species known to be on or near the site.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

c. Is the site part of a migration route? If so, explain.

d. Proposed measures to preserve or enhance wildlife, if any:

6. **Energy and natural resources**

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

7. **Environmental health**

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

1) Describe special emergency services that might be required.

2) Proposed measures to reduce or control environmental health hazards, if any:

b. **Noise**

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

3) Proposed measures to reduce or control noise impacts, if any:

8. **Land and shoreline use**

a. What is the current use of the site and adjacent properties?

b. Has the site been used for agriculture? If so, describe.

c. Describe any structures on the site.

d. Will any structures be demolished? If so, what?

e. What is the current zoning classification of the site?

f. What is the current comprehensive plan designation of the site?

g. If applicable, what is the current shoreline master program designation of the site?

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

i. Approximately how many people would reside or work in the completed project?

j. Approximately how many people would the completed project displace?

k. Proposed measures to avoid or reduce displacement impacts, if any:

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

9. **Housing**

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

c. Proposed measures to reduce or control housing impacts, if any:

10. **Aesthetics**

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

b. What views in the immediate vicinity would be altered or obstructed?

c. Proposed measures to reduce or control aesthetic impacts, if any:

11. **Light and glare**

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

b. Could light or glare from the finished project be a safety hazard or interfere with views?

c. What existing off-site sources of light or glare may affect your proposal?

d. Proposed measures to reduce or control light and glare impacts, if any:

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

12. **Recreation**

a. What designated and informal recreational opportunities are in the immediate vicinity?

b. Would the proposed project displace any existing recreational uses? If so, describe.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

13. **Historic and cultural preservation**

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

c. Proposed measures to reduce or control impacts, if any:

14. **Transportation**

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.

b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

c. How many parking spaces would the completed project have? How many would the project eliminate?

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

g. Proposed measures to reduce or control transportation impacts, if any:

15. **Public services**

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

b. Proposed measures to reduce or control direct impacts on public services, if any.

16. **Utilities**

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: .....

Date Submitted: ..... Sept 16, 2009 .....

EXHIBIT 1

1 of 2

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

The vision, goals, policies and proposals within the Parks, Recreation and Open Space Plan is unlikely to increase discharge to water, air or lead to the production of noise.

The update to the Capital Improvements Plan(CIP) will update projects lists for the next six years. The comprehensive project lists include improvements to utilities (water, sewer and stormwater), streets and City owned improvements. Transportation projects are primarily improvements to existing streets that may include some widening. Water, sewer and stormwater projects include improvements to the existing infrastructure as well as expansions. It is likely that these improvements can have a cumulative increase of discharge to water. These impacts will be addressed at the time of project implementation.

None of the amendments include production, storage, or release of toxic or hazardous substances.

Proposed measures to avoid or reduce such increases are:

Best management practices and adhering to the Federal, State and City requirements for individual projects within the Plan will help in avoiding or reduce any impacts created by the projects. Implementation will require project specific review and mitigation.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

It is unlikely that the amendments will drastically change the affect to plants, animals, fish or marine life. The Parks, Recreation and Open Space Plan identifies natural areas for preservation and protection of natural resources. More detailed studies and strategies would have to be developed as the time of individual project implementation based on the site and surrounding conditions.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

Best management practices and adhering to the Federal, State and City requirements for individual projects within the Plan will help in avoiding or reduce any impacts created by the projects. Implementation will require project specific review and mitigation.

3. How would the proposal be likely to deplete energy or natural resources?

The amendments will not have a significant change to the current use of energy and natural resources. However, policies adopted with the updates will provide opportunities to be more efficient and conservative use of energy and natural resources. The projects upgrading existing facilities are primarily programmed to reduce or eliminate poor infrastructure that can deplete energy and natural resources.

The Parks, Recreation and Open Space Plan identifies natural areas for preservation and protection of natural resources.

Proposed measures to protect or conserve energy and natural resources are:

The upgrading of infrastructure listed in the Capital Improvements Plan and the The Parks, Recreation and Open Space Plan is a measure to protect and conserve energy. For example: replacement of a water line or a sewer line helps prevent breakages of old lines that lead to erosion, contamination etc. A storm system will help reduce and prevent erosion. Building pedestrian and bicycle path help reduce the dependency of automobiles that contribute to air pollution.

Best management practices and adhering to the Federal, State and City requirements for individual projects within the Plan will help in avoiding or reduce any impacts created by the projects. Implementation will require project specific review and mitigation.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

The Parks, Recreation and Open Space Plan identifies natural areas and environmentally sensitive areas such as wetlands and forests for preservation and protection as natural resources. The vision and policies within the Parks, Recreation and Open Space Plan recognizes the importance of these areas and being close to urban areas identifies general strategies to incorporate them as open spaces for protection as well as enjoyment. The amendments do include projects in the Capital Improvements Plan for the Marina and Parks.

Proposed measures to protect such resources or to avoid or reduce impacts are:

Best management practices and adhering to the Federal, State and City requirements for individual projects within the Plan will help in avoiding or reduce any impacts created by the projects. Implementation will require project specific review and mitigation.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

The proposed amendments to the Comprehensive Plan does not support any changes to policies related to shoreline uses. Projects proposed with the Capital Improvements Plan do include upgrades to utilities along the shoreline such as storm water outlets etc. The CIP also includes dredging and upgrades to the existing Marina which is compatible with existing plans.

Proposed measures to avoid or reduce shoreline and land use impacts are:

Best management practices and adhering to the Federal, State and City requirements for individual projects within the Plan will help in avoiding or reduce any impacts created by the projects. Implementation will require project specific review and mitigation.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

The CIP includes transportation and utility system upgrades to decrease the impacts faced on the current system. The Parks, Recreation and Open Space Element includes plans and strategies for alternative transportation routes that will contribute towards providing easy choices for alternative transportation methods and contribute towards the health and safety of community residents.

Proposed measures to reduce or respond to such demand(s) are:

Policies and projects includes in both the Capital Improvements Plan and the Parks, Recreation and Open Space Element are intended to reduce the demand and impact on existing transportation and public services by providing a more efficient, durable and affordable infrastructure system. These can range from designing systems and projects to last longer to selecting durable environmentally sensitive material in project construction.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

The Comprehensive Plan Amendments do not have any known conflicts with local, state or federal laws. Some projects proposed in the Capital Improvements Plan may require permits from the State and Federal Agencies and will therefore have to meet their requirements.

STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
128 - 10th Avenue SW • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000

September 17, 2009

Cac Kamak
Senior Planner
City of Oak Harbor Development Services
865 Southeast Barrington Drive
Oak Harbor, Washington 98277-4092

Dear Mr. Kamak:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

City of Oak Harbor - Proposed amendments to the Capital Improvements Plan and update the goals and policies in Parks, Recreation and Open Space Element of the Comprehensive Plan. These materials were received on September 16, 2009 and processed with the Material ID # 14870.

We have forwarded a copy of this notice to other state agencies.

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment, then final adoption may occur no earlier than sixty days following the date of receipt by Commerce. Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please call me at 360.725.3058.

Sincerely,

Cynthia L Ritchey
for

Tim Gates
Senior Planner
Growth Management Services

EXHIBIT 2
165

ORDINANCE NO. _____

AN ORDINANCE AMENDING OAK HARBOR MUNICIPAL CODE SECTION 18.10.010 ENTITLED "COMPREHENSIVE PLAN" THEREBY ADOPTING A REVISED COMPREHENSIVE PLAN FOR THE CITY OF OAK HARBOR THAT UPDATES THE OPEN SPACE ELEMENT WITH THE PARKS, RECREATION AND OPEN SPACE ELEMENT AND AN UPDATE TO THE CAPITAL IMPROVEMENTS PLAN

WHEREAS, the City of Oak Harbor first adopted a Comprehensive Plan consistent with the requirements of the Washington State Growth Management Act (Chapter 36.70A RCW) in 1995 by Ordinance 1027, and adopted amendments to the plan in 1997 by Ordinance 1100, in 1998 by Ordinance 1161, in 2000 by Ordinance 1215, in 2001 by Ordinance 1287, in 2003 by Ordinance 1340, in 2004 by Ordinance 1396, in 2005 by Ordinance 1439 and in 2007 by Ordinance 1488 and in 2008 by Ordinance 1542; and

WHEREAS, the City of Oak Harbor initiated the 2009 Comprehensive Plan amendments in March 2009 to amend the Capital Facilities Plan and to amend the Open Space Element of the Comprehensive Plan with the Parks, Recreation and Open Space Element; and

WHEREAS, the City of Oak Harbor, in the public interest, may adopt amendments as revisions to the Comprehensive Plan no more frequently than once per year in accordance with the State of Washington Growth Management Act RCW 36.70A.130(2); and

WHEREAS, a SEPA Determination of Nonsignificance was issued for the 2009 Comprehensive Plan amendments on October 7, 2009; and

WHEREAS, the 2009 Comprehensive Plan amendment review process beginning in July 2009 and continuing through the adoption of this Ordinance involved early and continuous public involvement through public meetings, blogs, and hearings, as required by the Growth Management Act and the City's public participation plan; and

WHEREAS, as required by RCW 36.70A.106, the City provided 60-days' notice to the Department of Commerce on September 16, 2009 and received no substantive comments from the Department; and

WHEREAS, changes in conditions have occurred in the community since adoption of the previous 2008 Comprehensive Plan making it desirable to amend the plan; and

WHEREAS, after due and proper notice, public hearings were conducted by the Planning Commission on October 27, 2009 and City Council on December 1, 2009 covering all proposed changes in the update of the Comprehensive Plan;

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

Section One. Section 18.10.010 of the Oak Harbor Municipal Code last amended by Ordinance 1542 in 2008 is amended to read as follows:

EXHIBIT 3

The comprehensive plan, a copy of which is attached to this ordinance and was on file with the city clerk prior to the date of the meeting at which the ordinance codified in this section was adopted, and is available for inspection, is hereby adopted as Oak Harbor's comprehensive plan amending and revising the comprehensive plan as adopted under Ordinance No. 1542.

Section Two. The Oak Harbor Comprehensive Plan Open Space Element is hereby amended and renamed as the Parks, Recreation and Open Space Element as shown in the complete copy of the Comprehensive Plan attached as Exhibit A and incorporated by reference.

Section Three. The Oak Harbor Comprehensive Plan Future Land Use Designation Map, as shown in Exhibit A, while not amended is hereby adopted separately under this Section for the purposes of facilitating future amendments to the Land Use Map.

Section Four. The Capital Improvements Plan. The document titled "2008-2013 Capital Improvements Plan" is hereby repealed and replaced with a new document as shown in Exhibit B titled "Capital Improvements Plan 2009-2014" which is hereby adopted pursuant to RCW 36.70A.070(3)(d).

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

Section Six. Effective Date. This Ordinance shall be in full force and effect (5) five days after its passage and publication as required by law.

PASSED by the City Council this ___ day of _____ 2009.

CITY OF OAK HARBOR

Approved ( ) _____
Vetoed ( ) Jim Slowik, Mayor

_____
Date

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Published:_____

City of Oak Harbor
City Council Agenda Bill

Bill No. 9
Date: December 1, 2009
Subject: Comprehensive Plan Amendment Process Code

FROM: Steve Powers RSP
Development Services 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 agenda bill introduces a new chapter to the Oak Harbor Municipal Code, Chapter 18.15, entitled "Comprehensive Plan Amendment Process." The purpose of this new chapter is to codify the process and schedule by which annual amendments to the Comprehensive Plan are submitted, processed and acted upon.

AUTHORITY

The City has the authority to adopt new material to its code as provided in RCW 35.21.560.

The proposed code amendments are intended to further the requirements of RCW 36.70A.130 that require comprehensive plans be subject to continuing review and evaluation. The proposed code also furthers the requirements of RCW 36.70A.035 and 36.70A.140 that require public notification and public input procedures on comprehensive plans.

BACKGROUND

The existing process to amend the comprehensive plan is depicted in the attached flow chart (Attachment 1). The process is initiated with a publication/notification in the local newspaper calling for applications to amend the comprehensive plan. This call for applications usually occurs after the adoption of the previous years amendments by City Council. In the past the timing of this initiation has varied between December and March, since the previous year's adoption of the comprehensive plan amendments varied.

The amendments that are considered in a given year are determined by the applications received and the direction provided by City Council on specific mandatory and discretionary items. Currently, Resolution No. 07-12 (Attachment 2) provides this direction. Based on these inputs, staff lays out a work program and a schedule for the amendment process. Once the amendments are reviewed and analyzed, public meetings and discussions are held for public input opportunities. The amendments are then formerly considered through the public hearing process established by OHMC 18.20.270.

DISCUSSION

The proposed code introduces the concept of an annual docket system. The docket system allows the Planning Commission and the City Council to formally review and act on the scope of amendments proposed each year to the comprehensive plan. The review of a docket provides the opportunity for early public participation as prescribed in RCW 36.70A.140.

The proposed code language outlines a process and schedule for the amendment process, public notification and provides consistency and predictability for public input opportunities. The proposed code amendment includes:

- opportunities for early community input on the docket through public hearings
- notification by publication of proposed and approved docket
- recommends a general time frame for public meetings and open discussions
- codifies the formal consideration of amendments through a hearing process

The proposed language also includes a framework for docket management, threshold criteria for agenda items and evaluation criteria for the amendments.

Proposed Process

The proposed process (Attachment 3) recommends the use of a docket system to determine the scope of the amendments to the comprehensive plan in a given year. Applications for comprehensive plan amendments from the public and recommendations from the Planning Commission and the City Council are compiled into a preliminary docket. The preliminary docket then moves through a formal public hearing process before the Planning Commission and the City Council.

The proposed process includes publication of the preliminary docket before the public hearing process. The approved annual docket will also be published. The proposed code also includes a general timeframe for public meetings and discussions regarding the amendments to provide some predictability to the general public on opportunities for input. Final review of the amendments will be similar to the existing process and will follow the notification and review procedures set forth in OHMC 18.20.270.

In summary the proposed process is intended to:

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

Public Participation, Input and Notification

The proposed process provides greater opportunity for public input than the existing process. It is crafted to provide "early and continuous public participation" in the amendment process as prescribed by the Growth Management Act. This is in part achieved by the docket review process. As mentioned above, a preliminary docket is compiled with applications from the

public, and recommendations from the Planning Commission and the City Council. The preliminary docket is then advertised in the local newspaper and reviewed through a formal public hearing before the Planning Commission and the City Council. The final approved annual docket is then advertised in the local newspaper to notify the public on the scope of amendments for the year.

The proposed process also provides an option to consider formation of a technical advisory group for a topic specific amendment if needed. The decision to form a technical advisory group will be made along with the approval of the docket. If approved, the Mayor will have the authority to choose the members of the technical advisory committee and the group would remain in place only for the duration of the specific amendment they were chosen to assist in. This provides additional opportunities for the public to be continually involved in the amendment process.

The proposed code recommends a general time frame for public meetings and discussion on the comprehensive plan amendments. This is intended to provide consistency and predictability for public input and discussion opportunities each year. The proposed code also provides the general forms of public input methods that can be used for public participation, input and discussion regarding the amendments. The final review of amendments will be done through a public hearing process before the Planning Commission and the City Council similar to the current process.

Schedule

The proposed code amendment establishes a schedule with deadlines to follow in the consideration of the comprehensive plan amendments. This is intended to bring consistency and predictability to the process. The table below summarizes the process and schedule:

Initiate amendment process by publishing notice in newspaper	October
Deadline for applications	December 1
Preliminary docket published in local newspaper	December
Planning Commission to hold public hearing and make a recommendation on the preliminary docket to the City Council	Before January 31
City Council to hold public hearing and approve the annual docket	Before March 31
Review and analysis of approved amendments	April - July
Neighborhood meeting, public discussions, open houses etc	August - September
Notice to Department of Commerce	August 31
Planning Commission to hold public hearing on amendments and make a recommendation to the City Council	Before October 31
City Council to hold public hearing on amendments and take action	December 31

Amendments

The recommended code requires categorizing all amendments into three categories – sponsored, mandatory and discretionary. The categories help in assigning priorities to the amendments. The categorization and priority setting is intended to help make decisions when the scopes of amendments are larger than resources available to review them.

The proposed code includes language to distinguish between private amendments such as land use map changes, and public amendments to amend policies such as density ranges or open space requirements. Since the latter impacts the city as a whole, a higher level of public involvement in making the application is prescribed. The public involvement/hearing/notification requirements during the consideration of the preliminary docket are included in the process so that the community need for such amendments can be documented in the review process.

Review Criteria

The proposed code includes threshold criteria to evaluate proposals on the preliminary docket. The review criteria combined with public input is intended to provide the Planning Commission and the City Council a sound basis to make a final determination on the annual docket. Decision-making criteria are included to assist with review and action on proposed amendments.

Repealing OHMC 18.10.030

Currently Chapter 18.10 includes language requiring the annual review of the Capital Improvements Plan and land use applications. Since the new process will address the scope of amendments for a given year this language can be repealed from the existing code. Repealing this section also provides the flexibility of considering the Capital Improvements Plan along with the budget.

SUMMARY

The proposed code, as mentioned earlier, formalizes the methodology to amend the comprehensive plan and applies a structure and schedule to the process. More importantly, it provides for public input and participation early in the process as prescribed by the GMA. The proposed code also establishes the public notification process and a timeline so that the process can be consistent and predictable to the public.

STANDING COMMITTEE REPORT

The proposed ordinance was presented to the Governmental Services Committee at their November 9, 2009 meeting. The Committee did not raise any significant questions or concerns.

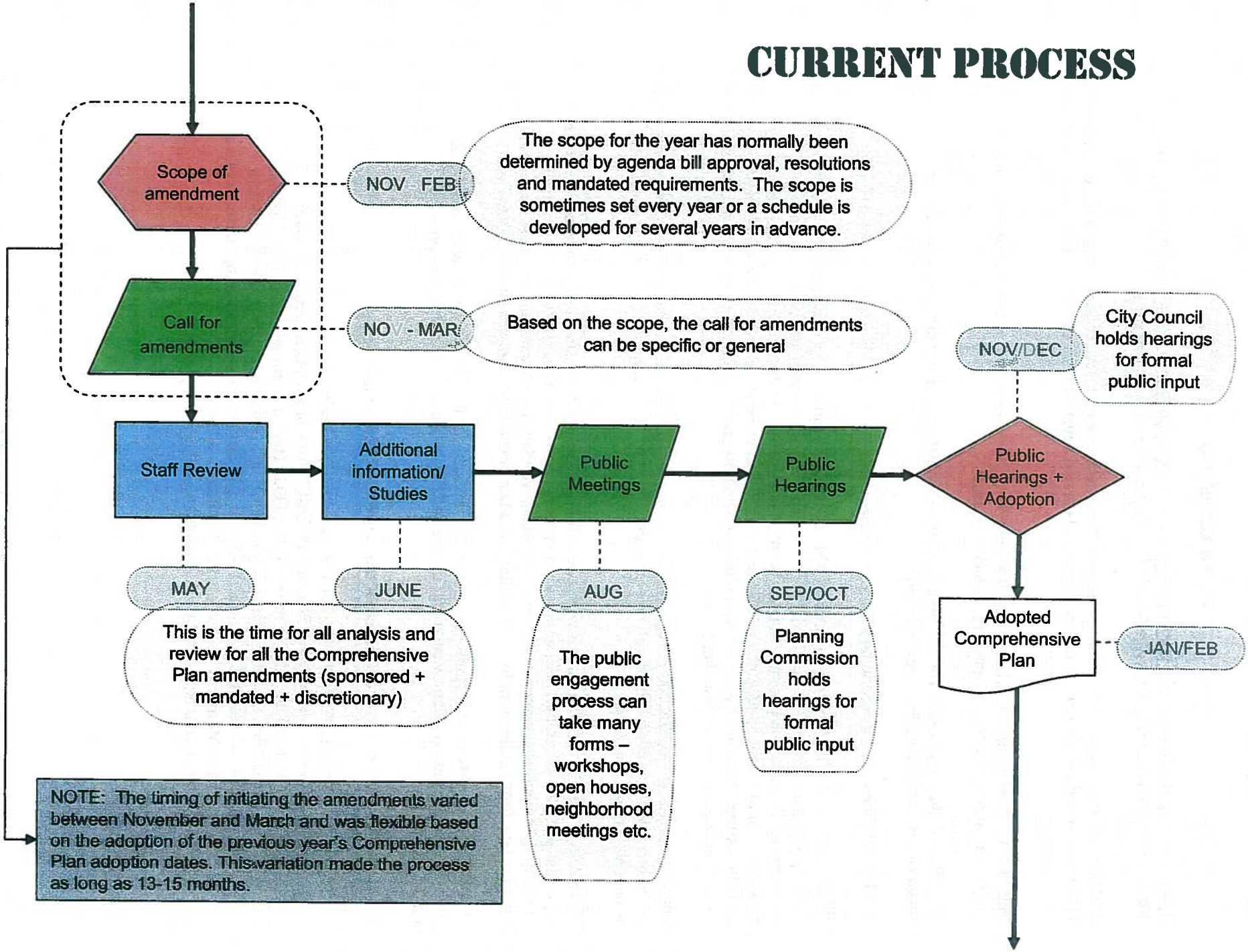
RECOMMENDATION

Conduct the public hearing and continue the proposed ordinance to the December 15, 2009 City Council meeting.

ATTACHMENTS:

Attachment 1 – Flow chart of existing process
Attachment 2 – Copy of Resolution No. 07-12
Attachment 3 – Flow chart of proposed process
Attachment 4 – Draft ordinance adopting OHMC Chapter 18.15 and repealing OHMC Section 18.10.030.

CURRENT PROCESS



ATTACHMENT 1

RESOLUTION NO. 07-12

A RESOLUTION ESTABLISHING THE CITY OF OAK HARBOR PUBLIC PARTICIPATION PROCEDURES FOR THE COMPREHENSIVE PLAN PLANNING PROCESS

WHEREAS, the City of Oak Harbor desires to obtain citizen's opinions, concerns and input during the development and amendment of comprehensive plans and development regulations that implement those plans; and

WHEREAS, the City of Oak Harbor wants to keep the citizens informed so that they will be able to understand and advise their elected representatives; and

WHEREAS, the City of Oak Harbor would like the City staff to respond effectively to concerns, comments or complaints from citizens; and

WHEREAS, the City Council would like to encourage citizens to provide written comments; and

WHEREAS, RCW 36.70A.140 requires the City to establish and broadly disseminate to the public a public participation program identifying procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans. The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written communication programs, information services and consideration of, and response to, public comments; and

WHEREAS, RCW 36.70A.140 provides that errors in exact compliance with the established program and procedures shall not render the development regulations invalid if the spirit of the program and procedure is observed; now, therefore,

WHEREAS, the City of Oak Harbor wishes to follow the policy established by Resolution No. 2002-04 by designating the Planning Commission as the lead advisory body tasked with the responsibility of conducting the public review process for Comprehensive Plan amendments and updates; and convening a separate task force, subcommittee or focus groups when considering complex major updates; and

WHEREAS, the City of Oak Harbor believes it is beneficial for the community at-large that the City follow a Comprehensive Plan amendment, update and implementation schedule that promotes predictability; and

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

(1) The attached policy entitled "City of Oak Harbor Public Participation Policy for the Comprehensive Plan Planning Process" (Attachment A) is hereby adopted.
(2) The attached policy entitled "City of Oak Harbor Comprehensive Plan Update, Amendment and Implementation Schedule" (Attachment B) is hereby adopted.
(3) The attached policy entitled "City of Oak Harbor Policy for the Appointment of Task Force Members" (Attachment C) is hereby adopted.
(4) Resolution Nos. 2002-04 and 2000-13 are hereby repealed.

PASSED and approved by the City Council this 19th day of June, 2007.

THE CITY OF OAK HARBOR

Paula A. Cohen
Mayor

Attest:

City Clerk

Approved as to Form

City Attorney

ATTACHMENT A

CITY OF OAK HARBOR
PUBLIC PARTICIPATION POLICY
FOR THE COMPREHENSIVE PLAN PLANNING PROCESS

1. **Background**

One of the stated goals of the Growth Management Act is to "encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts." Community involvement will play a key role as the Comprehensive Plan for Oak Harbor is implemented and refined. The public involvement process is designed to ensure that:

a. The decisions of government reflect the preferences of the people.
b. Government is responsive and accountable to its citizens.
c. Oak Harbor residents are actively involved in the decision-making process in planning for their community.
d. Citizens support the Comprehensive Plan and its long-term implementation.
e. Citizens are educated on the value of planning, of participating in the formation of the Comprehensive Plan vision, on the relationship between the Comprehensive Plan and the implementing development regulations.
f. Citizens are able to help make informed decisions on issues relating to growth, development and community building.

Early and continuous involvement of the public in the planning process is crucial to creating good plans and generating support for the plans. The City of Oak Harbor has strived to inform Oak harbor urban area residents about planning activities and to provide opportunities for participation throughout the growth management planning process. Such participation is essential not only during the creation, amendment and updating of Comprehensive Plans, but also for the development regulations that implement them. The City will continue this high standard of public involvement in the future through several notification and outreach programs.

2. **Planning Commission**

The Planning Commission shall be responsible for the development of GMA Comprehensive Plan amendments and updates during such years as amendments and updates will be considered. The Commission shall hold such public workshops, meetings and hearings as are useful for obtaining enhanced public participation. The Planning Commission is also responsible for conducting the public hearing process for development regulation amendments as prescribed by the Oak Harbor Municipal Code.

3. **Task Forces, Subcommittees and Focus Groups**

The City intends to form community task forces, subcommittees and/or focus groups as necessary when considering updates to the Comprehensive Plan. Such community groups will also be used when reviewing the UGA capacity. These groups will generally consist of member representatives of the varied interests of the Oak Harbor community, including citizens, business owners, members of community organizations and public agency staff. Composition of task forces shall be determined by the City Council and Mayor consistent with the "City of Oak Harbor Policy for the Appointment of Task Force Members" (see Attachment C).

4. **Public Open Houses, Workshop, Meetings and Hearings**

The City of Oak Harbor intends to utilize a combination of open houses, workshops, meetings and public hearings to provide opportunities for public input and participation in the Comprehensive Plan amendment, update and implementation process. The number and types of these meetings and hearings will vary based on the amendment, update or implementation topics considered during any given review cycle. The City also intends to utilize the Internet as a tool to distribute and receive information.

5. **Notices**

The City will strive to notify the community of open house, workshop, meeting and hearing dates through a variety of procedures, including the following:

a. Notification in the Whidbey News Times through public meeting or hearing notices, advertisements, and/or press releases.
b. Posting notices and agendas at City Hall, Sno-Isle Library and other public places as may be available.
c. Advertising the meeting and hearing dates on Channel 10, the community interest channel and on the City's website.
d. Copies of proposed amendments, updates and implementation products (such as proposed development regulations) will be available for review at City Hall, at the Oak Harbor branch of the Sno-Isle Library and, as possible, on the City's website.
e. To the extent practical, an electronic mail address list will be kept by the City and they will provide notice to interested parties in this fashion.

Based upon the scope of the proposal, the City may elect to perform some or all of the above notification procedures. At times the City will also be responsible for performing notification standards specified in the Oak Harbor Municipal Code for comprehensive plan amendments, code amendments or other applicable permits.

6. **Comment Periods**

In addition to pubic involvement elements listed above, complex planning projects such as Comprehensive Plan updates and certain city-wide development regulations may warrant a specified public review and comment period, in addition to the public review periods usually established with a public hearing.

When the City specifies a public review and comment period for a GMA related document, citizens are encouraged to file written comments for the proposal during the allotted time period. Notice of the comment period will utilize some or all of the procedures noted in Section 5 above.

By submitting comments during this period, the public will allow staff to analyze and address the comments within reports made to the Planning Commission and/or City Council, and the comments will be made early enough in the planning stage for these decision makers to completely review and consider the comments on the proposal. All written comments will be made available to the Planning Commission and City Council, and will become part of the public record on the proposal. Appropriate City staff will respond to all public comments within reasonable constraints of resources and time.

7. **Speakers Bureau**

The City staff will make presentations to interested citizen groups, committees or other agencies as needed based on written request. Various City staff will be included based on the subject of the request. Efforts will be made to coordinate these presentations at the dates and times of most value to the citizen groups.

8. **Mailing Lists for Parties of Interest**

For those proposals that staff believes will have a long development and review process, staff will maintain a mailing list of interested parties (physical address and/or electronic mail address). It is the City's aim to distribute public meeting notices, or other notices of process milestones, to person on this list. Continual notification will help inform the public of meetings, hearings or other events of interest.

9. **Administration of this Policy**

The Director of Development Services or his/her designee is responsible for establishing the procedures necessary to implement and further this policy. The Director shall keep on file and maintain all documentation necessary to show compliance with this policy. Failure to follow the procedure shall not invalidate any proposal as long as the spirit of public participation is followed.

ATTACHMENT B

CITY OF OAK HARBOR
COMPREHENSIVE PLAN UPDATE, AMENDMENT AND IMPLEMENTATION SCHEDULE

Comprehensive Plan Amendments, Updates and Implementation

1. Requirements

Growth Management Act requires the City to review and as may be necessary, update, our Comprehensive Plan every seven (7) years. The first mandated update was completed in 2005. Additionally, the City's Comprehensive Plan states that "Every five years, the City will review development capacity within the designated Urban Growth Area and consider amendments as necessary to meet projected growth as provided by the GMA." The City also recognizes that a key component to the success of a Comprehensive Plan is dedicating time and resources to its implementation.

2. Schedule

With State-mandated reviews and locally established UGA capacity reviews, and a desire to implement the Comprehensive Plan established by the community, it is appropriate to establish a general schedule that the City will strive to follow. The 'Seven Year Review Cycle' is attached as Attachment B. The schedule allows for major updates, amendments, UGA capacity analysis and Plan implementation in the form of code writing or other projects. Please note that this concept draws a distinction between Comprehensive Plan updates and amendments.

> 'Updates' are major bodies of work intended to respond to GMA requirements or significant community-wide issues. They would also typically involve reviewing, and possibly amending, more than one element of the Plan.
>
> 'Amendments' are minor adjustments to specific parts the Plan (e.g. changing goals and policies, without necessarily reviewing the entire plan element, or minor land use adjustments).

This schedule is intended to provide predictability to the citizens of Oak Harbor as to when the City will consider amendments or updates to the Comprehensive Plan. The schedule also is intended to provide opportunity for the City to implement the Comprehensive Plan through sub-area plan drafting, specific planning projects, development regulation and policy drafting and other projects. This schedule is not regulatory and may be modified by the City Council as is necessary to respond to community conditions, new State mandates, or other such similar occurrences.

Comprehensive Plan
Update, Amendment and Implementation Schedule

Seven Year Review Cycle (typical)

Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Major Review and Update (per GMA)	Implementation •Code •Projects	Amendments *Examples:* •Land Use •CIP •Other Review Body •Plan. Comm.	Implementation •Code •Projects	Amendments *Examples:* •Land Use •CIP •Other Review Body •Plan. Comm.	UGA Capacity Analysis (per City's Comp Plan) Review Body •Task Force & Plan. Comm.	Major Review and Update* •Prepare for major review (as necessary) Review Body •Task Force & Plan. Comm. (as necessary)	Major Review and Update (per GMA) Review Body •Task Force & Plan. Comm.

*Note: If Year 6 is not needed for the Major Review preparation it may be used for Implementation or Amendments.

2007-2012 Review Cycle

Note: This schedule is provided as a guide for the next five years of the process.

Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
2005	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*	*2012*
Major Review and Update (per GMA) •*Res. Capacity* •*UGA* •*Critical areas*	*Commercial lands inventory and analysis*	Revise Elements •Transportation Plan •Parks Plan	Amendments *Examples:* •Land Use •CIP •Other Review Body •Plan. Comm.	Implementation •Code •Projects	UGA Capacity Analysis (per City's Comp Plan) Review Body •Task Force & Plan. Comm.	Major Review and Update* •Prepare for major review (as necessary) Review Body •Task Force & Plan. Comm. (as necessary)	Major Review and Update (per GMA) Review Body •Task Force & Plan. Comm.

*Note: If Year 6 is not needed for the Major Review preparation it may be used for Implementation or Amendments.

ATTACHMENT C

CITY OF OAK HARBOR
POLICY FOR THE APPOINTMENT OF TASK FORCE MEMBERS

When appointing members of a task force, the City intends to adhere to the following:

1. The task force shall consistent of 15 members. Members shall serve for four years and shall serve without compensation.

2. Members shall be residents of Oak Harbor, the UGA or the city/county joint planning area with at least seventy percent being registered voters of the City of Oak Harbor

3. Preliminarily, the Mayor, in consultation with the City Council, shall develop a list of groups which may have an interest in the Oak Harbor community including area community groups, residents, property owners, businesses, construction industry, real estate, union, environmental and any other special or genera organizations operating within the Oak Harbor area having an interest in the Oak Harbor community. This list should include those which have filed with the City of Oak Harbor requesting notices of actions concerning the Comprehensive Plan. Only one member shall be appointed from each group identified.

4. The Mayor, in consultation with the City Council, shall develop list of potential members to serve on the task force. Groups from which members may be selected for appointment to the task force shall include those identified in the process set out in subsection (3) above and area residents.

5. To the extent possible, some of the membership of the task force should reflect the ethnic, gender, age, economic and interest diversity of the Oak Harbor community.

6. To the extent possible, some of the members of the task force should possess expertise in such areas as neighborhood organization and issues, housing, transportation, land use and zoning, economic development, cultural interests, special population needs and environmental concerns.

7. The members shall be chosen as follows:

   a. Council members, subject to Council approval, shall each appoint one member to the task force to serve a four year term, corresponding to the Councilmember's term of office. If a task force member is appointed during a Councilperson's term of office, the task force member shall serve for six months past the Councilperson's term of office.

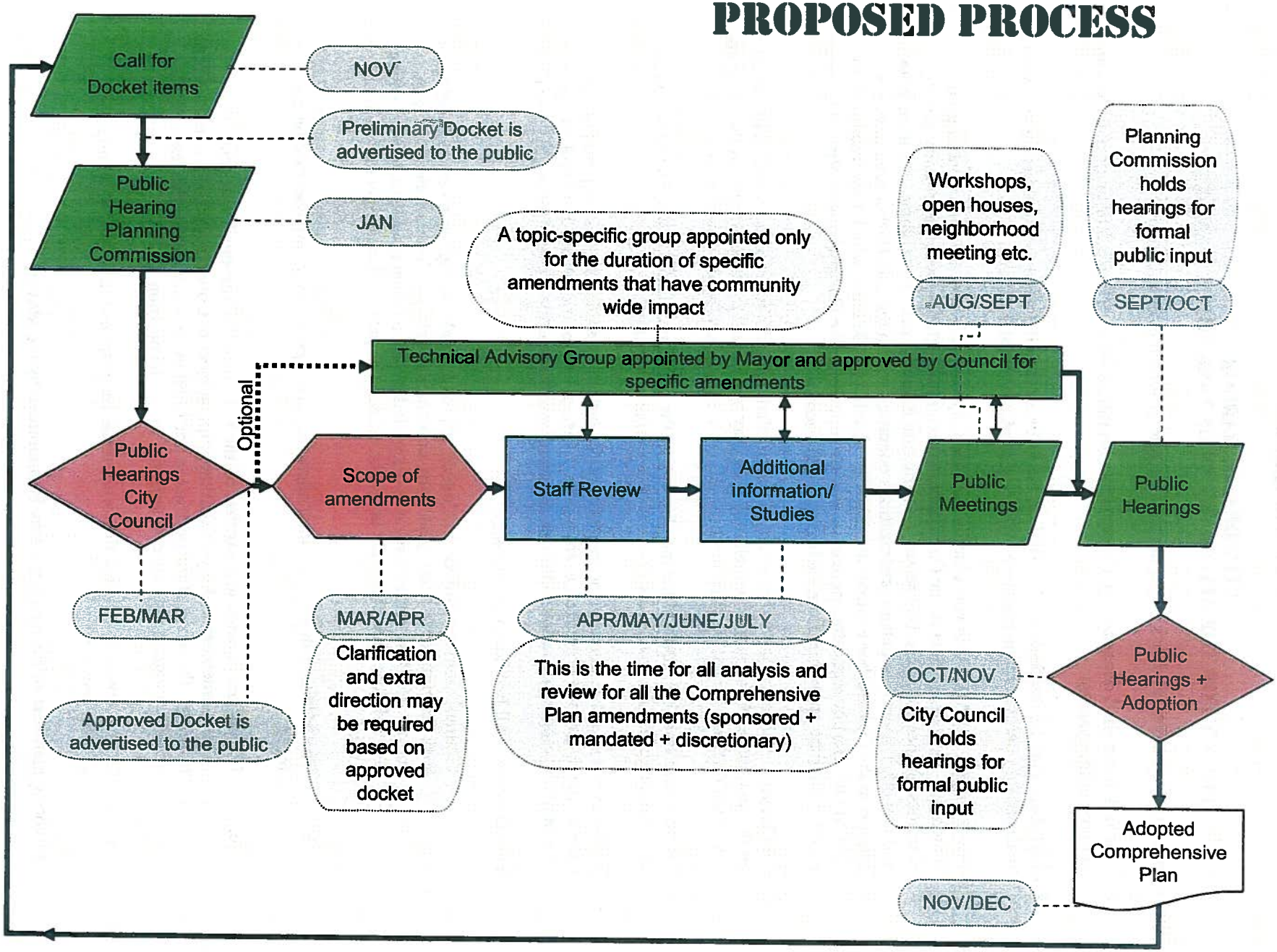
   b. The Mayor, subject to Council approval, shall appoint eight members to the task force.

   c. If a vacancy occurs in a position on the task force, the responsible official (Councilmember or Mayor) shall appoint, subject to Council approval, a replacement to fill out the term. If the position is not filled by appointment by the responsible official, Council may appoint a person to fill the position.

   d. If the Council fails to confirm a nominee, the responsible official shall appoint another member.

8. Non-voting members of the task force may be appointed by the Mayor.

PROPOSED PROCESS



ATTACHMENT 3

ORDINANCE NO. _____

AN ORDINANCE ADDING A NEW CHAPTER 18.15 TO THE OAK HARBOR MUNICIPAL CODE ENTITLED "COMPREHENSIVE PLAN AMENMENT PROCESS" THAT ESTABLISHES THE PROCESS AND SCHEDULE BY WHICH AMENDMENTS TO THE COMPREHENSIVE PLAN ARE SUBMITTED, PROCESSED AND ACTED UPON AND REPEALING SECTION 18.10.030 ENTITLED "UPDATE".

WHEREAS, the City of Oak Harbor first adopted a Comprehensive Plan consistent with the requirements of the Washington State Growth Management Act (Chapter 36.70A RCW) in 1995 by Ordinance 1027, and adopted amendments to the plan in 1997 by Ordinance 1100, in 1998 by Ordinance 1161, in 2000 by Ordinance 1215, in 2001 by Ordinance 1287, in 2003 by Ordinance 1340, in 2004 by Ordinance 1396, in 2005 by Ordinance 1439 and in 2007 by Ordinance 1488 and in 2008 by Ordinance 1542; and

WHEREAS, THE CITY OF OAK HARBOR, in the public interest, may adopt amendments or revisions to the Comprehensive Plan no more frequently than once per year in accordance with the State of Washington Growth Management Act RCW 36.70A.130(2); and

WHEREAS, the City of Oak Harbor in accordance with RCW 36.70A.130 is desirous of establishing a schedule and process to review and amend the Comprehensive Plan; and

WHEREAS, the City of Oak Harbor in accordance with RCW 36.70A.140 is desirous of ensuring early and continuous public participation in the Comprehensive Plan amendment process and wishes to adopt a public participation program; and

WHEREAS, after due and proper notice, public hearings were conducted by the Planning Commission on October 27, 2009 and November 24, 2009 and the City Council on December 1, 2009 and December 15, 2009 on the proposed process to amend the Comprehensive Plan;

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

Section One. There is hereby added a new Chapter 18.15 to the Oak Harbor Municipal Code which shall have the following title and sections:

Chapter 18.15
COMPREHENSIVE PLAN AMENDMENT PROCESS

Sections:

18.15.010 Comprehensive Plan Amendment Process and Public Participation Program
18.15.020 Applicability
18.15.030 Responsibility
18.15.040 Amendment Process and Schedule
18.15.050 Docket
18.15.060 Sponsored Amendments
18.15.070 Preliminary Docket Review Criteria

18.15.080 Annual Amendment Decision Criteria
18.15.090 Public Participation – Notice provisions
18.15.100 Public Participation Program
18.15.110 Technical Advisory Group
18.15.120 Appeals

Section Two. There is hereby added a new Section 18.15.010 entitled "Comprehensive Plan Amendment Process" to the Oak Harbor Municipal Code to read as follows:

18.15.010 Comprehensive plan amendment process and public participation program. This chapter establishes the authority, process, format, and criteria by which the comprehensive plan maybe amended in accordance with Chapter 36.70A RCW. This chapter also establishes the City's public participation program as required by RCW 36.70A.140.

Section Three. There is hereby added a new Section 18.15.020 Entitled "Applicability" to the Oak Harbor Municipal Code to read as follows:

18.15.020 Applicability.

(1) This chapter shall apply to updates, amendments or revisions to the comprehensive plan that are considered by the city council no more frequently than once a year. At the discretion of the Mayor, amendments may be considered more frequently than once a year for the following circumstances:
   (a) The initial adoption of a subarea plan that does not modify the general vision, goals and policies of the comprehensive plan
   (b) The adoption or amendment of a shoreline master program under the procedures set forth in Chapter 90.58 RCW;
   (c) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of the city budget;

(2) Although sometimes referred to as the "annual" docket, nothing in this chapter shall be deemed as requiring that amendments be undertaken every year.

Section Four. There is hereby added a new Section 18.15.030 entitled "Responsibility" to the Oak Harbor Municipal Code to read as follows:

18.15.030 Responsibility.

(1) The director of development services shall have the responsibility to:
   (a) Administer this chapter.
   (b) Establish application and administrative procedures that may also include fee collection, refunds etc.
   (c) Review the applications and make a determination of completeness for inclusion in the preliminary docket for planning commission review.
   (d) Place amendments on the preliminary docket for planning commission and city council consideration.
   (e) Make a recommendation to the planning commission and the city council on the annual docket and work program.

(2) The planning commission shall have the responsibility to:

(a) Review proposed amendments to the comprehensive plan that are included in the annual preliminary docket.
(b) Hold a public hearing, deliberate, and make recommendations to the city council on the said annual preliminary docket.
(c) Place items as determined by majority vote, on the preliminary docket for city council consideration.
(d) Review and study proposed amendments to the comprehensive plan that are included in the city council-approved annual docket for each year and hold a public hearing, deliberate, and make recommendations to the city council on said proposals.

(3) The city council shall have the responsibility to:
(a) Review each proposal on the preliminary docket to amend the comprehensive plan and make a final decision that results in establishing the planning commission's annual docket work program for each year.
(b) Place items, as determined by majority vote, on the annual docket.
(c) Hold a public hearing and make a final decision on the amendments pursuant to this section after the planning commission has provided a recommendation to the city council.

Section Five. There is hereby added a new Section 18.15.040 entitled "Amendment process and schedule" to the Oak Harbor Municipal Code to read as follows:

18.15.040 Amendment process and schedule.
The comprehensive plan shall be amended pursuant to this chapter, no more frequently than once a year as part of the amendment cycle established in this chapter, except as provided in OHMC 18.15.020

(1) The public shall be made aware of the deadline to submit proposed amendments to the comprehensive plan by means of two publications in the local newspaper of general circulation in the city, with the first notice published at least 30 days prior to the deadline.
(2) The deadline for submitting an application for amendments pursuant to this chapter is 5pm, December 1st of each year, or the next business day if December 1st falls on a Saturday or Sunday.
(3) Only applications that fulfill the requirements of OHMC 18.15.060 by the deadline in subsection (2) of this section shall be placed on the preliminary docket for consideration in the next annual amendment process.
(4) The planning commission may recommend amendments be added to the preliminary docket, but such recommendation shall be made before December 1st of each year so that they may be published along with other proposed amendments. Only such amendments that have received a majority vote by the planning commission shall be included in the preliminary docket for consideration.
(5) The director of development services shall review all complete applications submitted by the deadline set forth in subsection (2) of this section based upon the threshold criteria set forth in OHMC 18.15.070 (1) and place them on the preliminary docket along with the discretionary and mandated items in accordance with 18.15.050.

(6) The director of development services shall advertise the preliminary docket in the local newspaper of general circulation prior to its consideration for recommendation by the planning commission.

(7) The planning commission shall hold a public hearing on the preliminary docket and review said docket based on the criteria set forth in OHMC 18.15.070 (2) and make a recommendation to the city council before January 31st of each year.

(8) The city council shall hold a public hearing and review the preliminary docket and, after such review and deliberation, establish an annual docket before March 31st of each year.

(9) The annual docket shall be advertised in the local newspaper of general circulation.

(10) Proposals on the annual docket shall be open for public input throughout the amendment process. However, formal and informal meetings such as but not limited to neighborhood meetings, town hall meetings, open houses etc, will generally be scheduled between August 1st of each year and September 30th of each year to provide consistency and predictability. Public input on the amendments shall be in accordance with OHMC 18.15.090.

(11) A draft of the proposed amendments on the annual docket shall be transmitted to the Washington State Department of Commerce in accordance with the requirements of RCW 36.70A.106 not later than August 31st of each year.

(12) The planning commission shall hold a public hearing on the proposed amendments in the annual docket based on the criteria set forth in OHMC 18.15.080 and make a recommendation on each proposal to the city council before October 31st of each year.

(13) The city council shall hold a public hearing on the proposed amendments in the annual docket and take action on such amendments before December 31st of each year.

Section Six. There is hereby added a new Section 18.15.050 entitled "Docket" to the Oak Harbor Municipal Code to read as follows:

18.15.050 Docket

(1) Responsibility. The director of development services shall have responsibility to manage the preliminary docket as set forth in this section and assure that the process and schedule set forth in OHMC 18.40.040 is followed.

(2) Format.

(a) The docket shall not span a term of more than 1 year.

(b) The items on the preliminary docket shall be categorized by the type of amendments as set forth in subsection (3).

(d) Each agenda item on the preliminary docket shall be assigned a pre-determined priority based on the criteria established in subsection (4).

(3) Types of Amendments.

(a) Sponsored Amendments. These are amendments that are proposed through the application process submitted prior to December 1st of each year for consideration in the annual docket. Sponsored amendments are limited to those amendments as set forth in OHMC 18.15.060

(b) Mandated Amendments. These amendments are proposed for the annual docket in response to existing and scheduled mandates from the state and the countywide planning policies. The director of development services shall be responsible for

placing proposals to meet such mandates on the preliminary docket for the year in which the mandate requires action.

(c) Discretionary Amendments. These amendments are added to the annual docket to proactively add, amend, revise, delete or further goals and policies in the comprehensive plan. Discretionary items can be added to the docket by boards, commissions or council established by the OHMC and by the director of development services. Discretionary items from boards and commissions shall be added to the docket only after such items have received a majority vote by said board, commission or council.

(4) Prioritization. Each item on the preliminary docket shall be assigned a pre-determined priority by the director based on the following criteria:

(a) Priority A - Mandated.

(i) Amendments and updates that are in response to an existing or scheduled mandate from the state or countywide planning polices shall automatically be considered during the appropriate amendment cycle.

(b) Priority B - Sponsored.

(i) Private Amendments that are sponsored by an individual property owner or a group that impacts specific properties.

(ii) Public amendments that meet the requirements set forth in OHMC 18.15.060 (2)

(c) Priority C - Discretionary.

(i) Discretionary amendments that are generated by boards, commission and the council to further the goals and policies of the comprehensive plan.

(5) Approval. The city council shall establish by resolution the annual docket. The annual docket shall specifically apply only to the amendments listed for the current year.

Section Seven. There is hereby added a new Section 18.15.060 entitled "Sponsored Amendments" to the Oak Harbor Municipal Code to read as follows:

18.15.060 Sponsored amendments.

Sponsored amendments are initiated by the public through the application process. Sponsored amendments are classified into two categories as described below.

(1) Private amendments. These are applications initiated by an individual property owner or a group of property owners who are requesting changes that will primarily impact properties that they own or control.

(a) Application requirements.

(i) An application form provided by the department of development services and completed by the applicant that includes, at minimum, the applicant's name, address contact information, property address and location, parcel number(s), existing land use designation, proposed land use designation and zoning designation.

(ii) A map of the property clearly showing the subject properties and its surrounding context.

(iii) A narrative clearly stating the proposal and what the amendment is attempting to accomplish.

(iv) A completed environmental checklist, if required by the director.

(v) An application processing fee in accordance with RCW 82.02.020.

(2) Public Amendments. These are applications initiated by the public requesting changes, additions, or updates to elements, maps, data, goals and policies that have an area-wide or the city-wide significance. Since these requests can have an impact to the community at-large, the application requirements vary from the private amendments.

(a) Application requirements.

(i) A narrative clearly stating the proposal and what the amendment is attempting to accomplish.

(ii) Identification, address and contact information of the lead person or group initiating the proposed amendment.

(iii) Identify the goals and policies within the comprehensive plan that are proposed to be amended.

(iv) Proposed new or replacement language.

(v) Identify goals and policies that support the proposed amendment.

(vi) Supporting studies or findings that justify the proposed amendments.

(vii) A petition supporting the proposed amendment that includes the signatures and names and addresses of one of the following:

(A) No less than 250 residents or property owners of the city and its urban growth area; or

(B) 60% of the property owners impacted by the proposed amendments.

(viii) An application processing fee is waived for public amendments.

Section Eight. There is hereby added a new Section 18.15.070 entitled "Preliminary Docket Review Criteria" to the Oak Harbor Municipal Code to read as follows:

18.15.070 Preliminary docket review criteria

(1) Applications. The director of development services shall review all complete applications submitted by the deadline set forth in OHMC 18.15.040 and make a decision whether each application should be placed on the preliminary docket based upon the following criteria;

(a) The application is complete and all relevant information in accordance with the requirements of OHMC 18.15.060 (1)(a) or (2) (a) has been provided.

(b) The application was submitted by the deadline established in OHMC 18.15.040.

(c) The correct application processing fee has been paid in full by the deadline established in OHMC 18.15.040.

(2) The Preliminary Docket. The planning commission will review the proposed amendments on the preliminary docket and make a recommendation to the city council. Recommendations on whether agenda items shall be included in the annual docket should be based on one or more of the following criteria:

(a) The proposed amendments are consistent with Growth Management Act and the Countywide Planning Policies.

(b) The proposal does not appear to contradict other elements, goals and policies within the comprehensive plan.

(c) The proposal will implement or further existing goals and policies in the comprehensive plan.

(d) The proposal would correct an inconsistency within or make a clarification to a provision of the comprehensive plan.
(e) The proposed amendments have been clearly defined to determine a fairly accurate scope of work.
(f) The proposed amendments respond to an expressed desire by the community.
(g) The public interest would be best served by considering the proposal in the current year.

Section Nine. There is hereby added a new Section 18.15.080 entitled "Annual Amendment Decision Criteria" to the Oak Harbor Municipal Code to read as follows:

18.15.080 Annual amendment decision criteria.
The planning commission shall review and the city council shall decide on all proposed amendments based on the following decision criteria, where applicable:
(1) The amendment will not adversely affect the public health, safety and welfare in any significant way.
(2) The proposed amendment is consistent with the overall goals and intent of the comprehensive plan.
(3) The amendment is in compliance with the Growth Management Act and the Countywide Planning Policies.
(4) The amendment addresses the needs or changing circumstances of the community as a whole or resolves inconsistencies in the city's comprehensive plan.
(5) Environmental impact from the amendments have been addressed through the SEPA review and /or measures have been included that reduce possible impacts.
(6) The amendment is consistent with the land uses and growth projections which were the basis of the comprehensive plan or to subsequent updates to growth allocations.
(7) The amendment is generally compatible with neighboring land uses and surrounding neighborhoods.
(8) The proposed amendment accommodates new policy direction from the city council.
(9) Other specific criteria that may have been identified at the beginning of the process.

Section Ten. There is hereby added a new Section 18.15.090 entitled "Public Participation" to the Oak Harbor Municipal Code to read as follows:

18.15.090 Public participation – Notice provisions
(1) The public participation requirements of this chapter shall include notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations of proposed amendments to comprehensive plans and development regulation. Examples of reasonable notice provisions include:;
(a) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located or that will be affected by the proposal;
(b) Posting the property for site-specific proposals;
(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and

(e) Publishing notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.

(2) Changes to proposed amendments.

(a) Except as otherwise provided in (b) of this subsection, if the legislative body for a county or city chooses to consider a change to an amendment to a comprehensive plan or development regulation, and the change is proposed after the opportunity for review and comment has passed under the city's procedures, an opportunity for review and comment on the proposed change shall be provided before the Council votes on the proposed change.

(b) An additional opportunity for public review and comment is not required under (a) of this subsection if:

(i) An environmental impact statement has been prepared under chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;

(ii) The proposed change is within the scope of the alternatives available for public comment;

(iii) The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;

(iv) The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or

(v) The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.

Section Eleven. There is hereby added a new Section 18.15.100 entitled "Public Participation Program" to the Oak Harbor Municipal Code to read as follows:

18.15.100 Public participation program.

Early, continuing and widespread public participation shall be provided during the comprehensive plan amendment process. The public notices for comprehensive plan amendments shall be in accordance with OHMC 18.20.380 (5) pertaining to the Type V review process and with OHMC 18.20.386, where applicable. In accordance with RCW 36.70A.140 the following public participation program shall be incorporated into the amendment process:

(1) Broad dissemination of proposals and alternatives.

(a) The call for proposals to amend the comprehensive plan shall be advertised in the local newspaper 30 days before the deadline for filing applications in accordance with the schedule in Section 18.15.040.

(b) The preliminary docket shall be advertised in the local newspaper prior to its review by the planning commission.

(c) The annual docket shall be advertised in the local newspaper after approval by city council.

(2) Opportunity for written comment.

(a) Written comments regarding items on the proposed docket or the annual docket can be submitted at anytime during the review process up to the final City Council hearing.

(3) Public meetings after effective notice.

(a) All public hearings regarding comprehensive plan amendments shall follow the public notice provisions provided in OHMC 18.20.380 and 18.20.386, where applicable.

(4) Provisions for open discussions, communication programs and information services.

(a) The director of development services shall determine the appropriate public input forum to discuss items on the annual docket. Forums may include, but not be limited to the following:

(i) Public meeting and workshops. Informal at-large public gatherings to solicit ideas, present proposals and encourage constructive feedback.

(ii) Neighborhood discussions. When a proposed amendment has a clear geographical interest.

(iii) Open houses. Advertised event to display information related to the amendments to the public including informal discussions with staff.

(iv) Display kiosks. Information display at general public events and venues.

(v) Websites and blogs. An internet based information distribution, discussion and input mechanism.

(5) Consideration of and response to comments may vary in form and may include letters, staff reports, responses on the web and web based media. Written comments received after the final staff report on the subject amendment is prepared may not be responded to in writing.

Section Twelve. There is hereby added a new Section 18.15.110 entitled "Technical Advisory Group" to the Oak Harbor Municipal Code to read as follows:

18.15.110 Technical advisory group.

(1) The Mayor has the authority to appoint members to a Technical Advisory Group if the city council approves the need for such a group and approves it as part of the annual docket approval process. The need for a technical advisory group shall be based on whether a specific amendment or amendments require:

(a) Technical expertise; or

(b) Scientific expertise; or

(c) Experience in a specific or unique field; or

(d) Input from 2 or more impacted groups; or

(e) Input from 2 or more public/government entities; or

(f) Any other reason not mentioned above as determined by the Mayor.

(2) The term for members on the Technical Advisory Group is limited to the duration of the specific amendment for which the group was formed.

Section Thirteen. There is hereby added a new Section 18.15.120 entitled "Appeals" to the Oak Harbor Municipal Code to read as follows:

18.15.120 Appeals.

Appeal of a city council decision on a comprehensive plan amendment is governed by state law.

Section Fourteen. The following section of Chapter 18.10 entitled "Comprehensive Plan" is herby repealed.

~~**18.10.030 Update.**~~
~~The planning commission is hereby directed to complete an annual review of the comprehensive plan for at least the land use and capital facilities elements and make a report to the city council with recommendations.~~

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

Section Sixteen. Effective Date. Effective Date. This Ordinance shall be in full force and effect (5) five days after its publication as required by law.

PASSED by the City Council this ___ day of _____ 2009.

CITY OF OAK HARBOR

Approved ( ) _____
Vetoed ( ) Jim Slowik, Mayor

_____
Date

ATTEST:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Published:_____

City of Oak Harbor
City Council Agenda Bill

Bill No. 10
Date: December 1, 2009
Subject: Pioneer Way Improvements Street Configuration

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

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 agenda bill seeks Council direction on the final street configuration, either a one way or two way street, for the Pioneer Way Improvements project.

AUTHORITY

The City has authority under RCW 35A.11.020 to regulate its internal affairs and to provide for the improvement and beautification 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:

The Pioneer Way Improvements project extends along SE Pioneer Way between City Beach Street and Midway Boulevard. The purpose and intent of the project is to promote economic development and revitalization of the City of Oak Harbor, and specifically the Downtown Business corridor, through the improvement and rehabilitation of the public infrastructure and the beautification of the streetscape.

Prior to moving to the next step in the design process that will lead to construction is a decision by the City Council on the street configuration. The recommended action for this evening is for the Council to direct staff to proceed with one of the alternatives.

Background:

The emergency replacement of the water main in 2008 focused attention on the failing underground utilities, sidewalks, drainage, street surfacing and other infrastructure along SE Pioneer Way. With the need to make a significant investment for the rehabilitation of basic infrastructure comes the opportunity to make an improvement beyond basic functionality. A number of studies and plans commissioned by the City have pointed to a need for improvements along the Pioneer Way Corridor. These studies have a recurring theme of beautification,

pedestrian safety as well as amenities within the streetscape. Many of these project goals are captured in the various elements of the City of Oak Harbor Comprehensive Plan.

In March of 2009 the City Council moved beyond the studies and planning efforts and retained the engineering firm Perteet Inc. to develop construction ready project documents. As was described in the March 3rd agenda item, the engineering consultant was asked to look at both one way and two way configurations. Quoting from the agenda bill:

> *"Prior planning studies for improving the "downtown" streetscape have already defined the urban design concepts. What remains to be done is to evaluate the relative cost and functionality of the alternatives accepted by the City developed in previous studies with respect to traffic patterns, parking configurations, existing buildings, doorway threshold elevations, existing utility locations, evaluation of underground structures and availability of public right of way. In order to properly design the core infrastructure (water, sewer, storm drain and pedestrian facilities) the physical geometry of two way traffic with either parallel or diagonal parking and one way traffic eastbound with both parking alternatives needs to be established. In order to establish the geometrics and associated cost estimates, the parameters of actual existing right of way and geotechnical conditions are required. In other words, the significant and beneficial work of project planning as to form needs be expanded with the engineer's perspective on functionality."* (Pioneer Way Improvements Design Services Agreement Approval, City Council Agenda Bill, March 3, 2009)

Upon completing the surveying, site investigations, geometric design and other engineering tasks in the scope of work, Perteet presented the following three alternatives:

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

Discussion

From an engineering design viewpoint, SE Pioneer Way has a number of constraints, most notably the available right-of-way space. Downtown street right of ways are typically a minimum of 60 feet wide and are often 70 to 100 feet wide. Street widths less than 60-ft do not allow for the wide sidewalks, parking on both sides and two way traffic that are commonly seen in downtown areas. The available width on Pioneer Way is approximately 50-ft which means that choices and priorities must be made as to which elements of the streetscape are of highest priority to the community. To assist in this decision process a description and comparison of the alternatives is presented below. It is should be noted that in describing these three alternatives that angle parking and the preservation of as much on street parking were considered to be a priority and a common basis for analysis.

<u>Existing condition or Alternative 0</u>
(See attached figures)

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

Alternative 1—Two Way Street with Angle Parking
(See attached figures)

This option would construct a two way street with angle parking on either side of the street as the travel lanes meander, or shift, from North to South along Pioneer Way. Opportunities for slightly wider sidewalks as well as creation of some limited plaza type spaces would be available. As shown on the typical section, two travel lanes are provided. In providing for the necessary turning radii and other geometrics necessary for larger vehicles, long tapers are provided at the intersections. This allows for all vehicles to safely and efficiently use the roadway however it is especially important for large delivery or service vehicles, including solid waste pickup and emergency vehicles. The number of available on street parking spaces is reduced by approximately one half, below existing, in order to provide the space needed for the two way street configuration.

As a two way street the engineering decision making array focuses on traffic and vehicles. Space for pedestrians and pedestrian comfort level is given a lesser priority in providing spaces for moving vehicles. Spaces for bicycles are eliminated as the priority is given to the motorized vehicle. Sidewalk remain a minimum of 5-feet wide but are widened in some areas. As a two way street the volumes of traffic along SE Pioneer Way, currently at approximately 4,000 ADT could be expected to increase over time. With current average speeds on SE Pioneer at 19 mph, there would not likely be any additional perceived reduction in speed with the two way configuration.

Minimum lane widths of 10 feet are used with this alternative to maximize the use of the remaining space for parking and pedestrian areas. No shoulder, or shy, distance is provided. The standard lane widths for higher volume two lane roads is 12 feet. A 10-ft lane width is used where ROW constraints exist, such as SE Pioneer Way. While a 10-ft lane width is adequate and the minimum for safety it is not optimal for the flow of traffic. Use of narrow lanes is normally limited to lower volume roads. It is worth noting that with the narrow 10-ft lane, cars backing out of the angle parking spaces will often cross the centerline due to the narrow width.

Alternative 2- One Way Street with angle parking
(See attached figures)

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

As a one-way street the decision making array focuses on the pedestrians. Spaces for vehicles

are reduced thereby providing more space for pedestrians and non-motorized modes of transportation.

In some cases traffic engineers propose a one way street configuration to maximize traffic flow. In large urban centers, one way street couplets have been used to maximize traffic flow. In this case however, the one way street will reduce the amount of traffic while maintaining the low average vehicle speeds. The relatively narrow street, the angle parking, the narrow constrictions at the intersections will help maintain relatively low speeds. The one way street alternative maximizes the available right of way space for use by pedestrians and while placing less importance on traffic.

Bayshore Drive would remain a two way street to provide for the alternate circulation route for vehicles. Bayshore Drive has sufficient capacity for the anticipated increase in traffic. Minor modifications to the signalized intersections at Midway Boulevard and City Beach Street would be needed to accommodate the change in traffic pattern however both intersections would continue to operate well within normal level of service, both in terms of delay and safety.

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

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

Table 1– Comparison of Alternative 1 and Alternative 2

Ancillary Issues:

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

Community Input:

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

At the open house, attendees were asked to provide written comments about the project. Based on the written comment sheets, opinion on the two way or one way configuration is evenly split. Those in favor of the one way configuration like the wider sidewalks and pedestrian environment. Those in favor of the two way option are concerned that a drop in traffic will be bad for business. This mirrors the comments and sentiment observed at the public presentations to the various community groups.

Summary:
As requested by the City, Perteet has investigated and analyzed the three previously described alternatives. It is recommended that the Existing Condition alternative not be considered for use on the project. Alternative 1 is focused on provides improvements to support vehicular traffic. Alternative 2 is focused on providing improvements to support and benefit the pedestrian. Both alternatives will provide a benefit to the City as a whole and to the Pioneer Way business area. Perteet has recommended that the one way configuration is the preferred alternative for the project. Normally, staff would provide a recommendation on the choice of an alternative. In this case however, as there is no clear technical choice, staff do not have a recommendation. The recommended action is for the Council to pass a motion directing staff to proceed with either the one way or the two way alternative.

STANDING COMMITTEE REVIEW:
The Public Works Standing Committee reviewed this item at their meeting on November 5, 2009.

RECOMMENDED ACTION:
Direct staff to proceed with design of the two way angle parking alternative for the Pioneer Way Improvements.

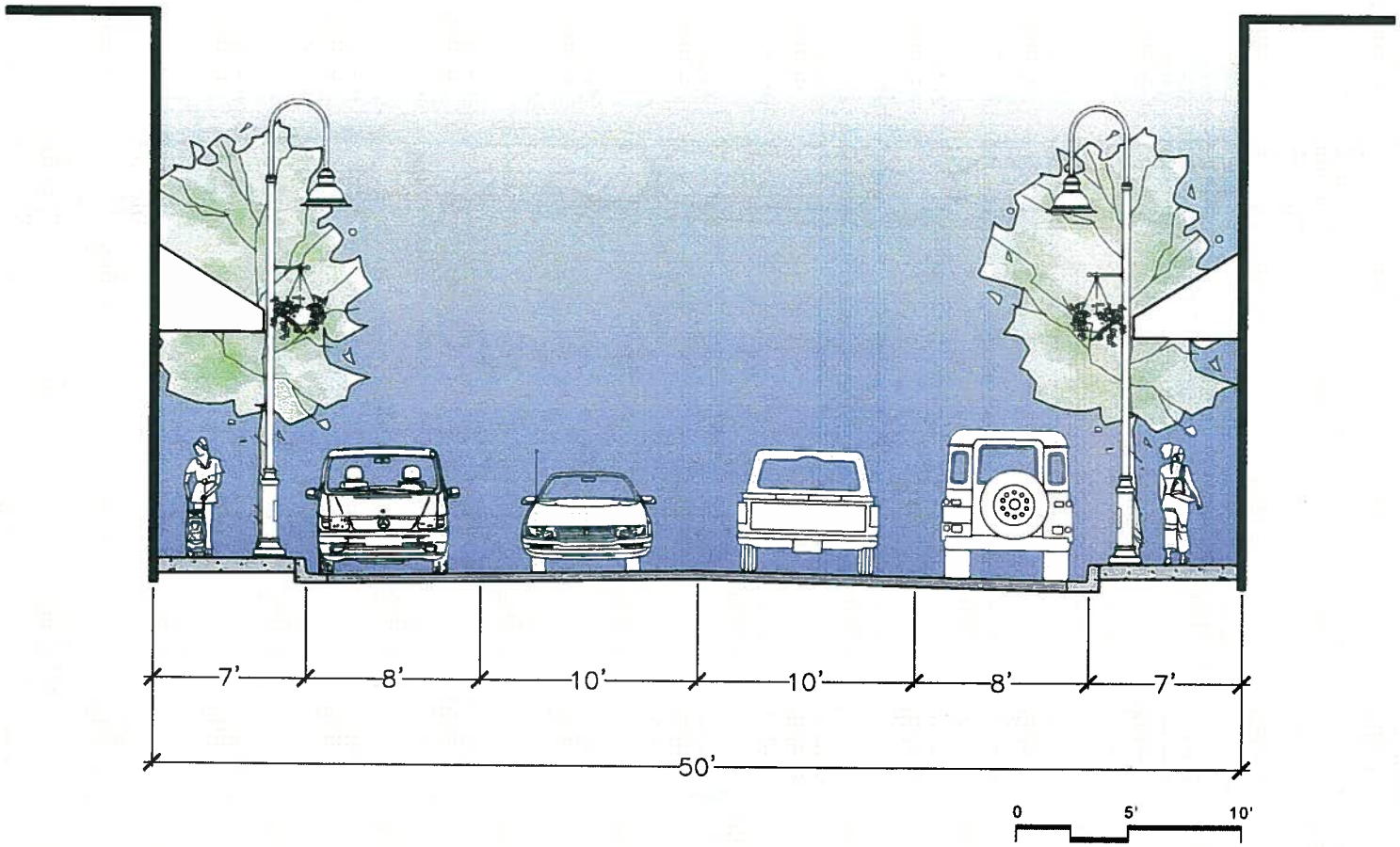
OR

Direct staff to proceed with design of the one way angle parking alternative for the Pioneer Way Improvements.

ATTACHMENTS:
Alternative Plan and Section Figures
Public Comment Sheets

MAYOR'S COMMENTS:

TWO-WAY ALTERNATIVE 0



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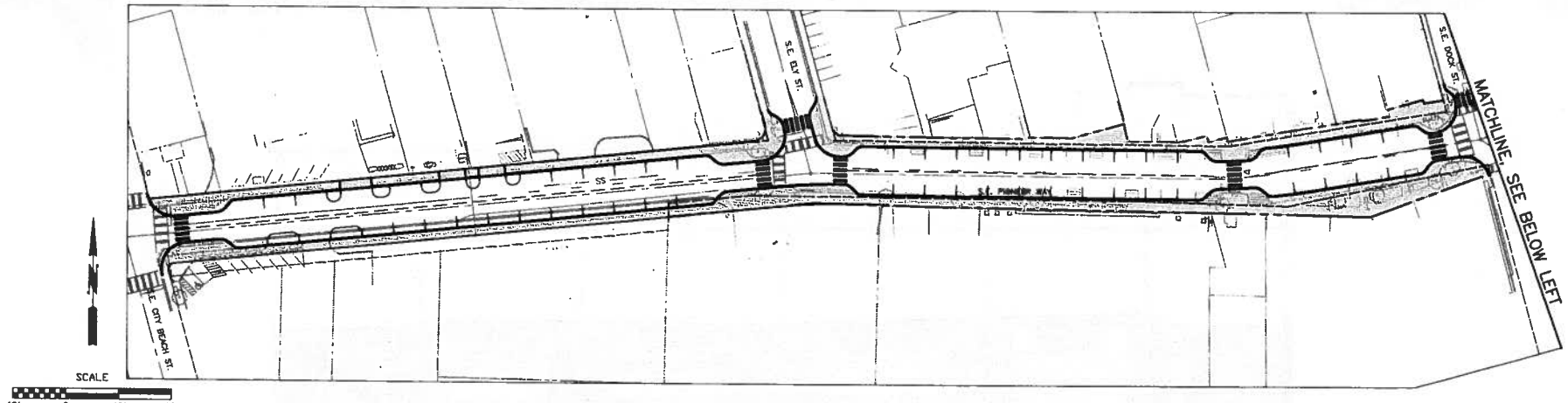
CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

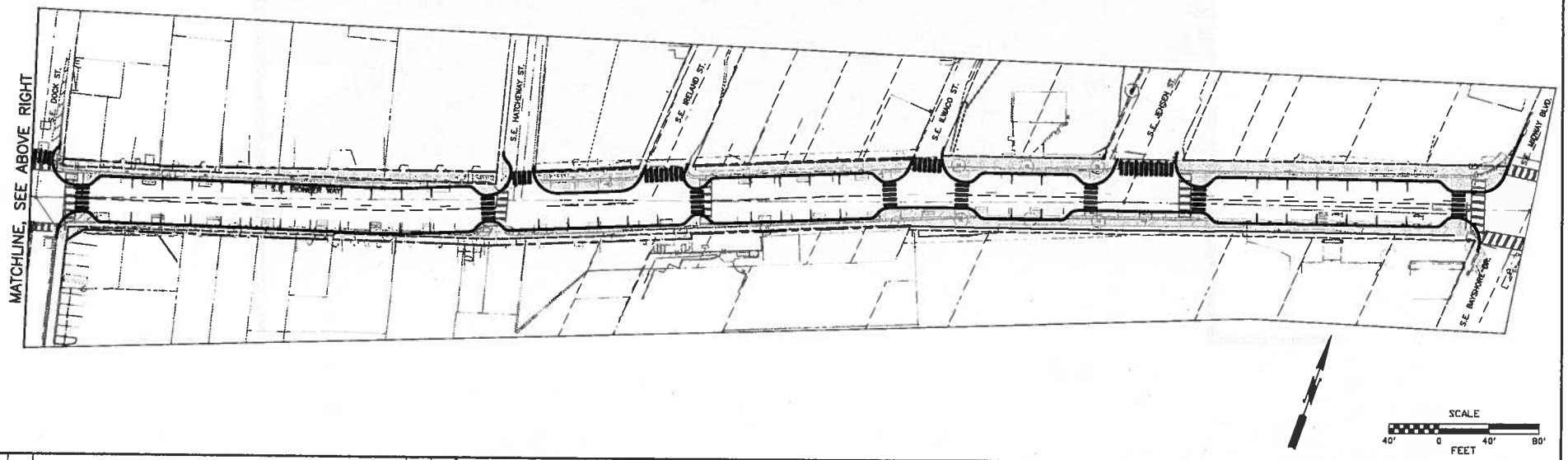
SE PIONEER WAY IMPROVEMENTS

October 2009

Perteet Inc.
425-252-7700 | 1-800-616-9900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

HBB
LANDSCAPE ARCHITECTURE





No.	Date	Revision	By	Appr.

Perteet Inc.
425-252-7700 | 1-800-615-9900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

Drawn By KAH	Date 5/21/09	SCALE
Designed By MM	5/21/09	Horiz. 1"=40'
Checked By		Vert.
Approved By		Project Number 20080013

CITY OF OAK HARBOR

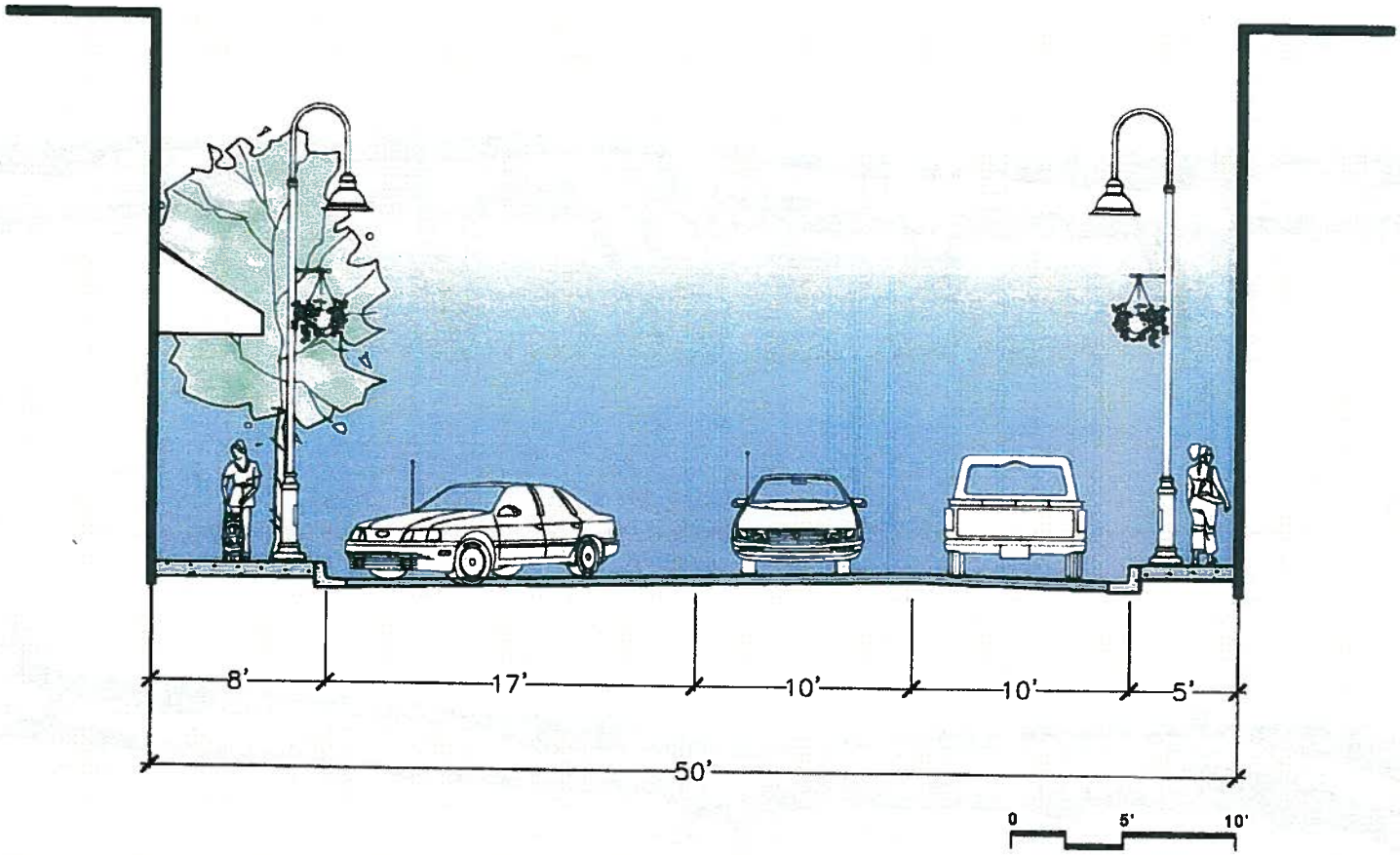
TWO WAY PARALLEL PARKING ALTERNATIVE

OAK HARBOR RECONSTRUCTION

Drawing No. ALT 0

Sheet No. X / X of Total

TWO-WAY ALTERNATIVE



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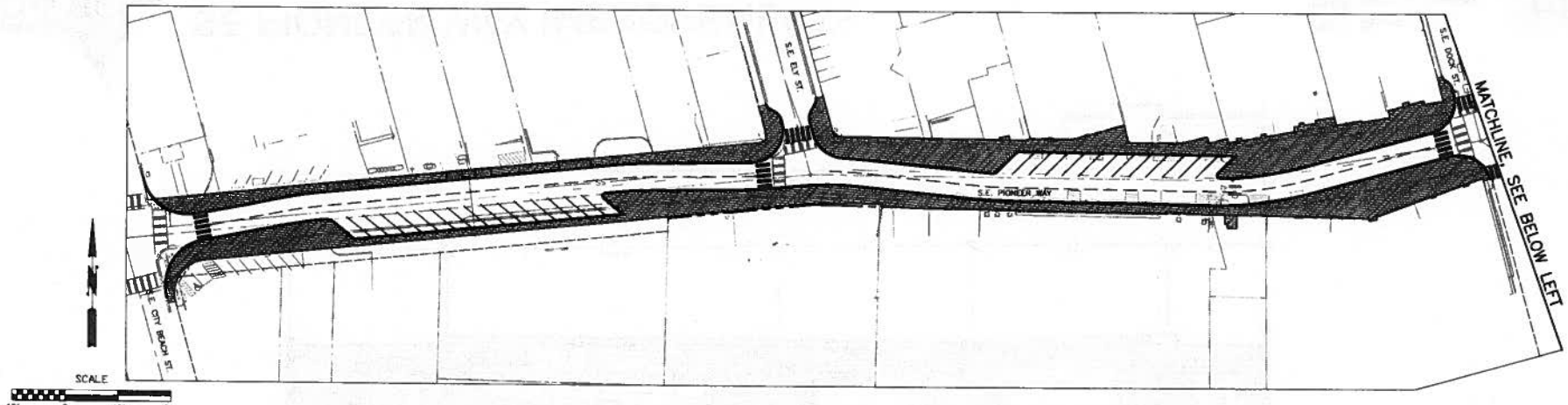
CITY OF Oak Harbor
ISLAND COUNTY, WASHINGTON

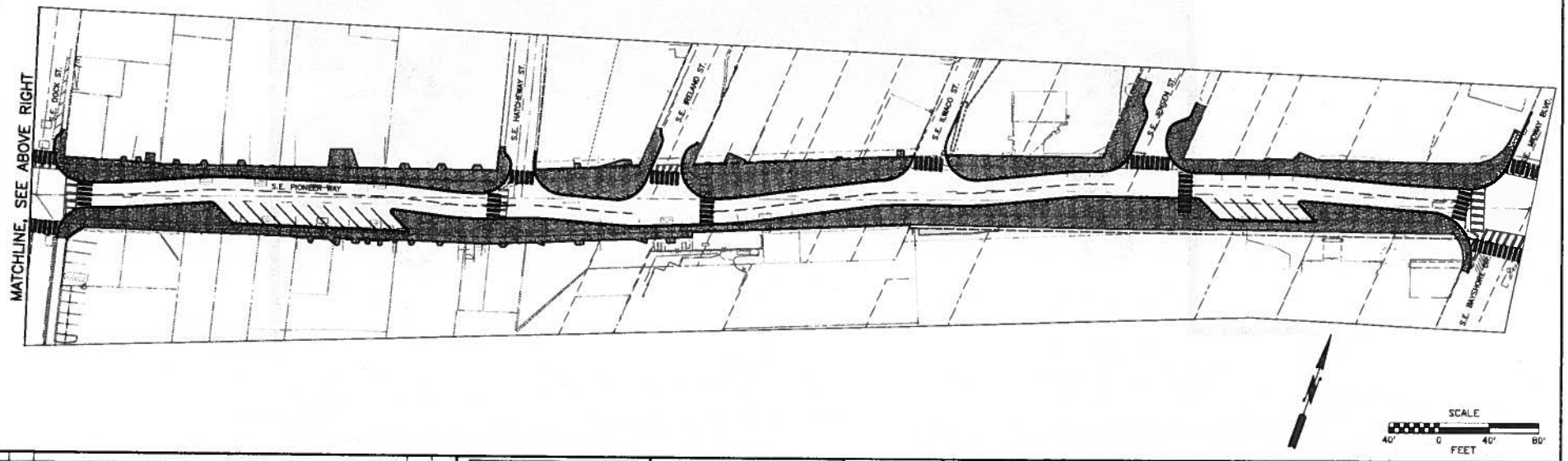
SE PIONEER WAY IMPROVEMENTS

September 2009

Perteet Inc
425-252-7700 | 1-800-615-0900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

HBB
LANDSCAPE ARCHITECTURE





No.	Date	Revision	By	Appr.

Perteet Inc.
425-252-7700 | 1-800-615-9900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

Drawn By MKH	Date 5/21/09	SCALE	CITY OF OAK HARBOR
Designed By MM	5/21/09	Horiz. 1"=40'	TWO WAY FULL TAPER ALTERNATIVE
Checked By		Vert.	OAK HARBOR RECONSTRUCTION
Approved By		Project Number 20080013	

Drawing No. ALT 1
Sheet No. X of X Total

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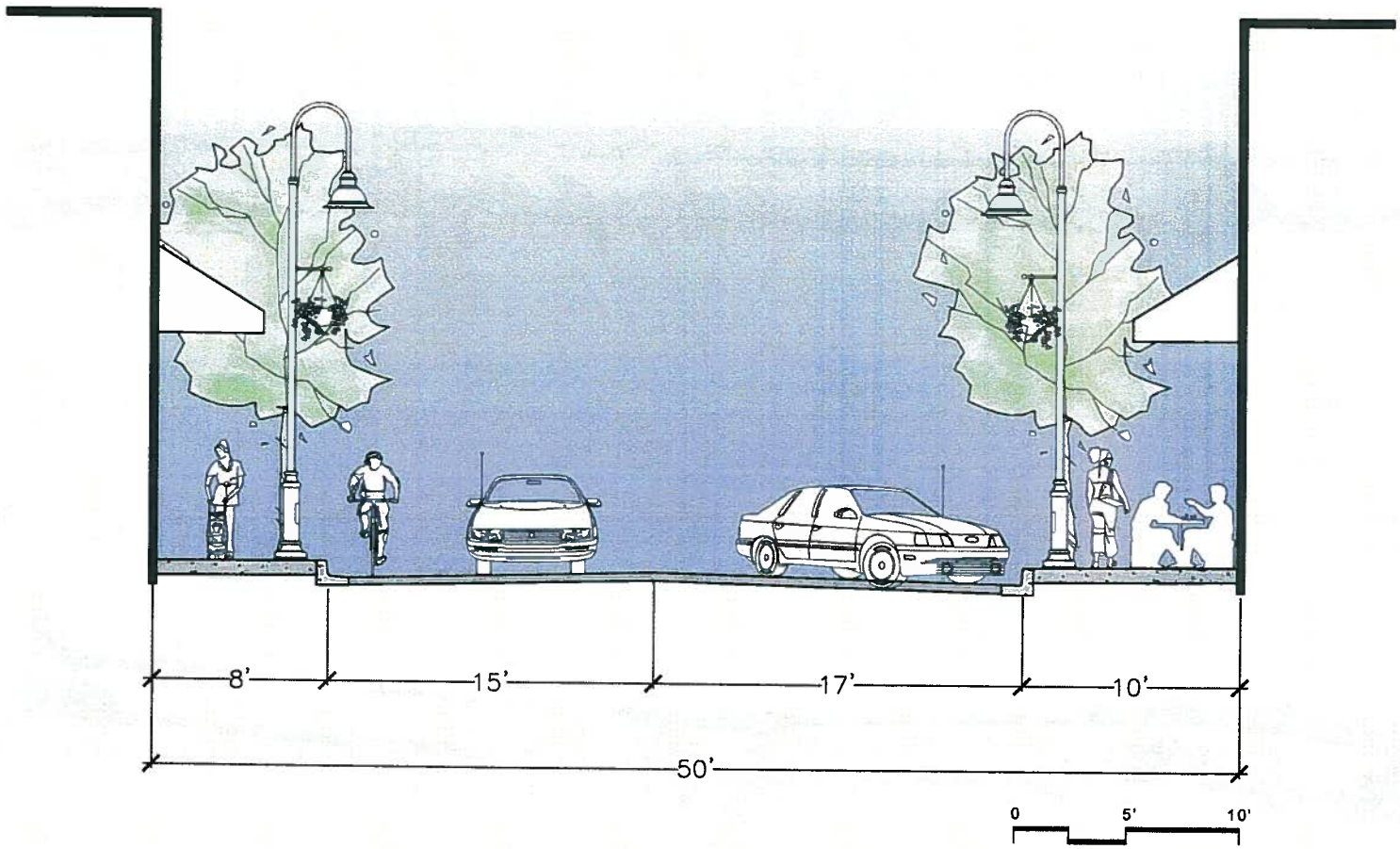
ONE-WAY (PREFERRED) ALTERNATIVE



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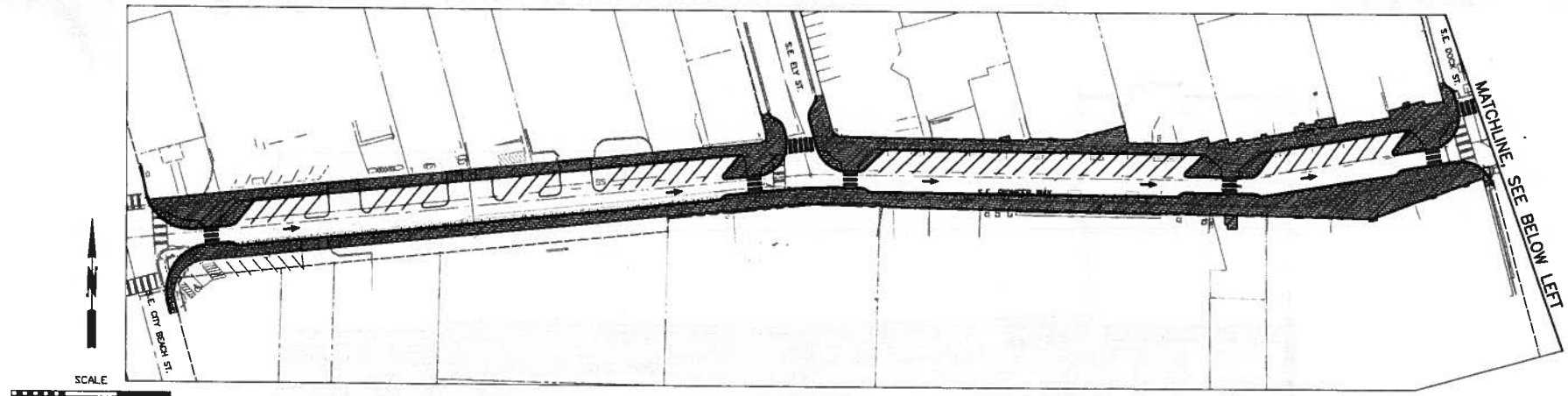
CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

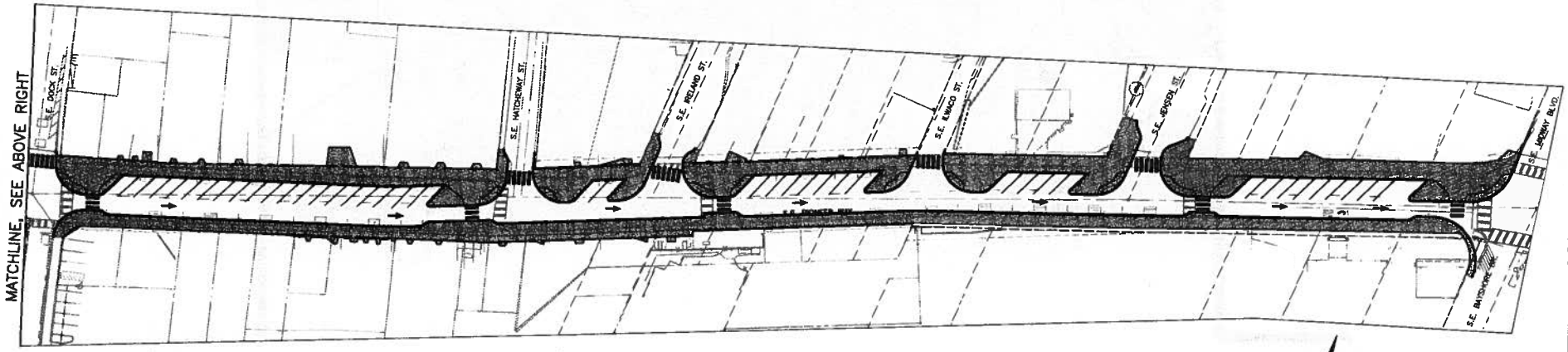
SE PIONEER WAY IMPROVEMENTS

September 2009

Perteet Inc.
425-252-7700 | 1-800-615-9900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

HBB
LANDSCAPE ARCHITECTURE





No.	Date	Revision	By	Appr.

Perteet Inc.
425-252-7700 | 1-800-615-9900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

Drawn By KMB	Date 4/19/09	SCALE Horiz. 1"=40'	CITY OF OAK HARBOR
Designed By MM	4/19/09	Vert.	ONE WAY (PREFERRED) ALTERNATIVE
Checked By		Project Number 20080913	OAK HARBOR RECONSTRUCTION
Approved By			

Drawing No. ALT 2
Sheet No. X / X of Total

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CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

GIVE US YOUR IDEAS!

October 22, 2009

Your opinions and concerns are very important to us. Please take a few moments to fill out this comment sheet. Your responses will help us better address your needs as we design the Pioneer Way improvements. Your input will help us keep the project focused on the features important to you.

Alternative (1 way or 2 way) Comment PREFER "ONE WAY" - MORE PEOPLE FRIENDLY, LESS NOISE, MORE SPACE TO WALK, BROWSE, ETC. LIKE ~~[illegible]~~ WIDE SIDEWALKS; NEED UNDERGROUND POWER -
- WILL BE ATTRACTIVE TO NEW + HIGHER QUALITY BUSINESS IN THE END AND IN THE FUTURE -
(INCORPORATE VIEW OF BAY - IT'S A BIG VALUE AND WE NEED TO USE IT)

How can the City help minimize construction impacts? ONCE WHATEVER IS DECIDED - WE NEED TO UNITE AS A COMMUNITY BEHIND US -
- ENHANCE FESTIVALS, ETC. -
- BUMPER STICKERS TO SUPPORT MERCHANTS DURING THIS PERIOD
- ON GOING PROCESS TO "SELL" ULTIMATE POSITIVE ASPECTS OF PROJECT TO PUBLIC -

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.

- WILL NEED ENTHUSIATIC, ON GOING + POSITIVE CAMPAIGN REGARDING FINAL RESULTS + BENEFITS TO GET COMMUNITY TO HELP THESE MERCHANTS -

- LOCAL FREE BUSES IN DOWNTOWN AREA DURING CONSTRUCTION - TO AND FROM PARKING ON BAYSHORE DR.

Please return this comment sheet tonight or return it by November 6, 2009 to City Engineer Eric Johnston, City of Oak Harbor, 865 SE Barrington Drive, Oak Harbor, WA 98277

(OVER)

** Additional Comment Space on Back **

Additional Comments:

PROMOTE FREE COFFEE IN AM
OR PM (AT BRIEF, LIMITED
PERIODS) FOR SHOPPERS - BROWSERS -

- REDUCE UTILITY BILLS FOR MERCHANTS
DURING CONSTRUCTION PERIODS

- NEED PUBLIC BATHROOMS IN FINAL DESIGN

- "ART WALKS" IN DOWNTOWN AREAS
DURING CONSTRUCTION -
- ATTRACT PEOPLE THRU
OBSTACLES PERIODS

ASK FOR HELP FROM
ARTISTS, CIVIC ORGANIZATIONS
FROM OTHER TOWNS

- HAVE LOTTERIES WITH GIVE AWAYS -
MUST REGISTER DOWNTOWN
+ BE PRESENT TO WIN -

- GIVE AWAY "DOWNTOWN MONEY" AT
THESE LOTTERIES - "MONEY" that can
ONLY SPENT DOWNTOWN -

-

THANK YOU FOR YOUR PARTICIPATION!

CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

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October 22, 2009

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Alternative (1 way or 2 way) Comment 1 Way makes the most sense. It encourages and accommodates foot traffic and destination shopping. It also appears to be safer for Vehicle Parking.

How can the City help minimize construction impacts? Attempt to never shut down one way traffic. Although there will be times when this can not be avoided. Maybe night work when the streets need to be closed completely

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.
Little or no construction between Thanksgiving and New Years. Another busy season is the last week of June thru the 4th of July weekend

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** Additional Comment Space on Back **

Additional Comments: _____

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Alternative (1 way or 2 way) Comment Please don't consider one way. Most towns who have gone this route have changed it back to two way. Once you go one way - our street couldn't be changed back, because of the widened sidewalks

How can the City help minimize construction impacts?

Please keep streets open at all times. We can't be shut

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.

Christmas - the fourth quarter of the year.

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** Additional Comment Space on Back ** over →

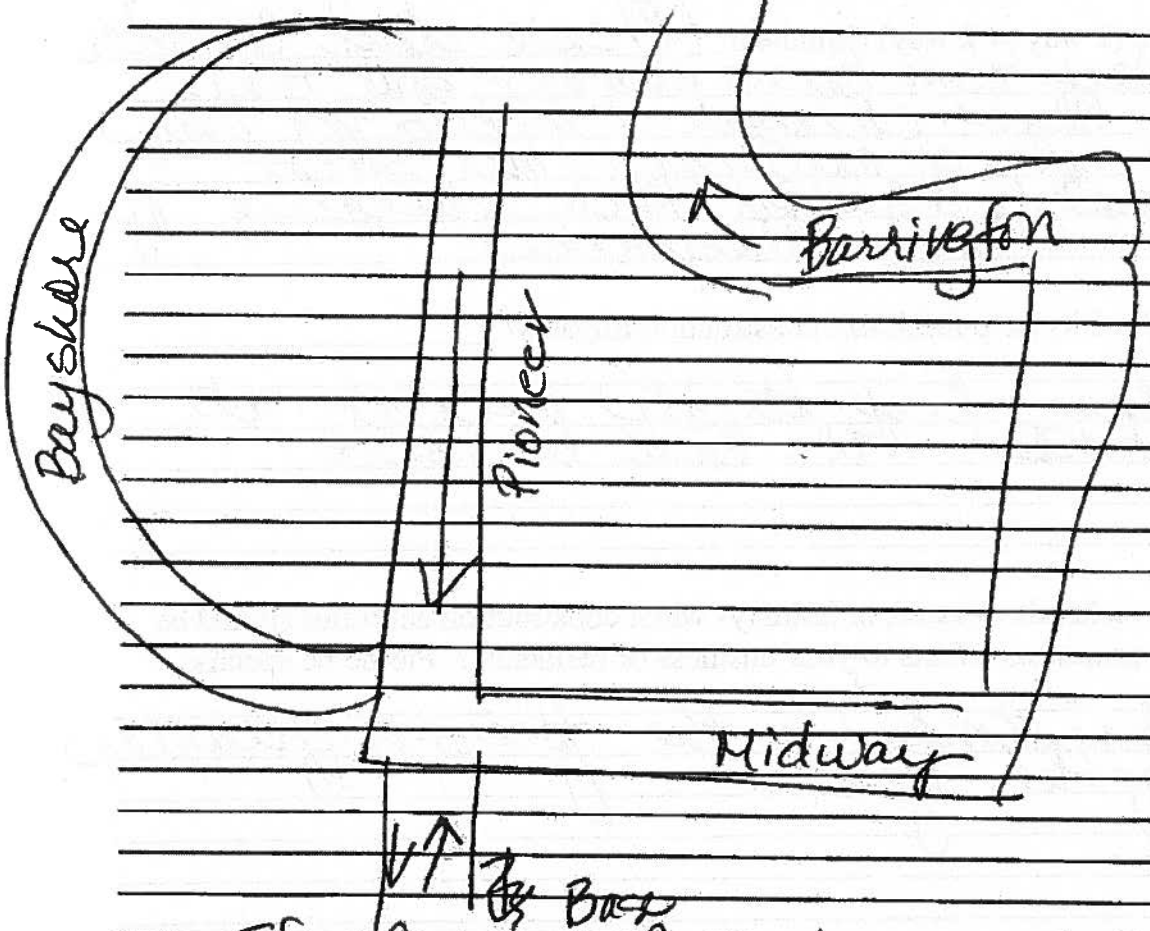
208

Additional Comments:

Please consider the Merchants Opinion as the top priority. Their livelyhood depends on the decisions made.

The communities input is important, but the Merchants live downtown.

Concern about Circulation



If coming from base difficult to get to Pioneer People will not use Bayshore (left hand turn - poor choice) to reroute themselves back to Pioneer. Also if they choose Midway to Barrington to come back to Pioneer Way - What a hassle

THANK YOU FOR YOUR PARTICIPATION!

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Alternative (1 way or 2 way) Comment

One way would provide more parking + be more attractive. Also like the wider sidewalks in one way scenario.

How can the City help minimize construction impacts?

If financially feasible, to do small portions so as not to close whole street

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.

Should avoid Xmas season, summer (ie race week)

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** Additional Comment Space on Back **

Additional Comments: _____

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(see more comments on back.)

Alternative (1 way or 2 way) Comment I think that the one-way street is the best alternative. The one-way street allows for more parking spaces, and creates a much better pedestrian environment (the wider the sidewalk the better). Also I think that a 2 way traffic pattern will cause more accidents from lack of visability, difficult to see street traffic by cars backing out of the angled parkin

How can the City help minimize construction impacts?

Work at night? But is it worth any extra cost? — I think not.

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.

No.

Please return this comment sheet tonight or return it by November 6, 2009 to City Engineer Eric Johnston, City of Oak Harbor, 865 SE Barrington Drive, Oak Harbor, WA 98277

** Additional Comment Space on Back **

Additional Comments:

Additional ideas for the 1 way street.

1. make the street meander with parking on opposite sides of the street - as long as there is no significant loss of parking.

2. get rid of that sandwich signs that the merchants are continually putting out in the sidewalk area.

THANK YOU FOR YOUR PARTICIPATION!

CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

GIVE US YOUR IDEAS!

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Alternative (1 way or 2 way) Comment Changing Pioneer to a 1-way street concerns me because I am not sure of the impact it will have on our customer #'s. My experience has taught me that if an individual is frustrated by not having easy access to his destination site, he will find another alternative & not return. Having no direct access to 2-way turns is also another deterrent.
— See back —

How can the City help minimize construction impacts? (1) By not closing all access to the street i.e. closing it in "blocks" or 1-way traffic patterns w/ alternative routes conducive to getting traffic back to their destination goal.

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.
Holiday Season i.e. Christmas / New years / Thanksgiving.
Summer - July / Aug. / September

Please return this comment sheet tonight or return it by November 6, 2009 to City Engineer Eric Johnston, City of Oak Harbor, 865 SE Barrington Drive, Oak Harbor, WA 98277

** Additional Comment Space on Back **

Additional Comments:

We are a "Navy" town which lends a color to Oak Harbor that does not affect some of the towns surrounding us. If you discourage traffic by closing Pioneer down to 1-way, and direct traffic flow towards the base as is proposed, you are providing direct access to the Navy exchange w/ no way back towards downtown Pioneer w/o having to drive around other side streets. Military are not going to "go searching" for another way — they are going to find another area that provides them direct access to their shopping needs. Let's call it "tunnel focus". Coming from the base towards town would require an alternate drive in order to get back on Pioneer. That's not going to happen! Once you've discouraged the customer from having direct, immediate access to downtown shopping — you've eliminated your customer potential. The addage "if you build it, they will come" — may not be necessarily true.

I'm supportive of the need to improve pioneer, address the sewer, utility concerns & "dress up" the street. I am not convinced that a 1-way street is the answer.

What about doing the above ↑ + adding a parking garage in the area of Dock street for additional parking?

THANK YOU FOR YOUR PARTICIPATION!

CITY OF
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Alternative (1 way or 2 way) Comment _____

How can the City help minimize construction impacts? _____

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.

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** Additional Comment Space on Back **

Additional Comments:

Sounds Like a wonderful idea for the City & Community. Getting the Community together to feel a part of this project is important.

Traffic direction -?

Merchants need to have Employees park away - leave customer parking open.

Getting the Sewer & utilities done the same time is good.

THANK YOU FOR YOUR PARTICIPATION!

CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

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Alternative (1 way or 2 way) Comment

City Beautification with Tourist Draw is Nice. However I feel our infrastructure is very important - Sewer - Sewer plant Expansion or moved.

How can the City help minimize construction impacts?

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.

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** Additional Comment Space on Back **

Additional Comments: _____

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Alternative (1 way or 2 way) Comment I REALLY DON'T HAVE AN OBJECTION TO EITHER WAY AS LONG AS THE ASYMCA'S DRIVEWAYS BOTH OF THEM REMAIN OPEN FOR STAFF, PARENTS AND OUR BUSES FOR TRANSPORTING OUR SCHOOL AGE CHILDREN IN CAME TO THE OAK HARBOR ELEMENTARY SCHOOLS.

How can the City help minimize construction impacts? TRY TO MINIMIZE THE DUST AND OTHER AIR CONTAMINATES SINCE WE HAVE A LOT OF CHILDREN WITH ALLERGIES TO THESE AIR CONTAMINANTS.

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific. SUMMER JUNE - SEPT WHEN WE HAVE 100 CHILDREN AROUND EACH DAY.

Please return this comment sheet tonight or return it by November 6, 2009 to City Engineer Eric Johnston, City of Oak Harbor, 865 SE Barrington Drive, Oak Harbor, WA 98277

** Additional Comment Space on Back **

220

Additional Comments: IT IS IMPERATIVE THAT WE HAVE ACCESS TO BOTH OF OUR DRIVEWAYS COMING INTO OUR FRONT PARKING LOT, WE NEED THEM ACCESS FOR OUR STAFF, PARENTS & BUSES THAT USE THE DRIVEWAYS INTO OUR PROPERTY IN THE FRONT.

I ALSO DON'T UNDERSTAND WHY YOU WOULD WANT TO PUT PARKING SPACES SOUTH OF EGL STREET WHICH IS A LONG WAY FROM THE GENERAL SERVICES AREA.

CAN ANYBODY EXPLAIN TO ME WHAT THE ECONOMIC IMPACT WILL HAVE ON THE CURRENT PROPERTY OWNERS. I SPEND A LOT OF TIME ON PIONEER WAY AND DURING THE SUMMER & NICE DAYS THERE IS A GOOD PEDESTRIAN BASE WALKING THE STREET. BUT IN INCLEMENT WEATHER PIONEER IS A GHOST STREET.

BUTCH LAUBION ASYMCA 675-2777

WSYMCA@OAKHARBOR.NET

THANK YOU FOR YOUR PARTICIPATION!

CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

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Alternative (1 way or 2 way) Comment Every time merchants have been asked, they chose 2-way. They know their customers' habits. If customers can't park in their "target block", they won't stop at all.

How can the City help minimize construction impacts? Listen to the merchants! By it's nature, the "old town" area lends itself to small – the smallest of the small – businesses. Their cash flow is very tight. Many will not survive the construction period, regardless whether it's 6 months or 18 months.

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.
Nov-Dec; Holland Happening; Independence Day; Graduation/ Mother's Day/Father's Day;

Please return this comment sheet tonight or return it by November 6, 2009 to City Engineer Eric Johnston, City of Oak Harbor, 865 SE Barrington Drive, Oak Harbor, WA 98277

Please keep us informed of meetings, issues, progress on this project.

** Additional Comment Space on Back **

Patti Carter (Harbor Pride) feetgottadance@yahoo.com

Additional Comments: _____

THANK YOU FOR YOUR PARTICIPATION!

1

CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

GIVE US YOUR IDEAS!

October 22, 2009

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Alternative (1 way or 2 way) Comment _____

How can the City help minimize construction impacts? Maybe alternation between sides of the street could be possible. For example keep one side of the street open for a few days then let the businesses on the other side be open for a few days and work on the opposite side. Pretty much trade off sides every few days.

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.

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** Additional Comment Space on Back **

On back

224

Additional Comments: These are of course perks of each type, the one way and two way. In my opinion the One Way street would be best for our city. The one way road allows for the driver to focus more on the buildings and businesses around them instead of the cars coming at them in a two way. Also the bike lane allows and encourages people to bike around instead of driving everywhere. The lane itself shows that the option of biking is encouraged.

THANK YOU FOR YOUR PARTICIPATION!

CITY OF
Oak Harbor
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Alternative (1 way or 2 way) Comment 2 way will give us more traffic to notice us and stop and come in. One way traffic will cut are traffic in half and drive around and never come down with the streets and if we go one way will not be able to go back to 2 way if it doesn't work.

How can the City help minimize construction impacts? if you do construction how you will get half of the business out of business

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.

during business hours construction should not be going on.

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** Additional Comment Space on Back **

Additional Comments: _____

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Alternative (1 way or 2 way) Comment 1 way is my preference
I like the ped. friendly. We visit Anacortes and really like the ped. friendly ~~and~~ sidewalks better where a person can sit out at restaurants or at ~~along the~~ benches along the way
I would visit more downtown if it was easier to walk around as well more variety of businesses (see back)

How can the City help minimize construction impacts?
~~Accessible~~ help make it accessible to get to businesses - ~~advertising~~ businesses are open - local bus stop to help transport people special events - Art walks - festivals - special promotions in the summer - movie nights - movie in the park like they have in different areas in Seattle as well as Ferndale

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.
Summer - fall - start after Christmas
I would think winter / early spring better construction time.

Please return this comment sheet tonight or return it by November 6, 2009 to City Engineer Eric Johnston, City of Oak Harbor, 865 SE Barrington Drive, Oak Harbor, WA 98277

** Additional Comment Space on Back **

Additional Comments:

I think the one way would help to bring in business - just look at Anacortes and other cities which have "revitalize" the downtown

Also I ~~think~~ think the 1 way ~~we~~ may help to bring businesses to Bayshore Drive as traffic will increase - Right now Bayshore is a waste -

I am not a business owner but as a customer or consumer I would come downtown more often, - if easier to walk around / sit and enjoy

~~Believe~~ Give the merchants whatever financial break or whatever the city has control over such as utilities

There is a need for restrooms in downtown area - see Tacoma - ~~and~~ Anacortes

THANK YOU FOR YOUR PARTICIPATION!

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Alternative (1 way or 2 way) Comment

TWO WAY AS IS ONLY !

Chris Bense
OAK TREE ANTIQUE

How can the City help minimize construction impacts?

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.

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** Additional Comment Space on Back **

Additional Comments: _____

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Alternative (1 way or 2 way) Comment Downtown must have more parking — either a plan must include more parking spaces.
Please don't "Keystone Cops" us — we already need more parking spaces — don't give us less.

How can the City help minimize construction impacts? the water line repair was done in sections & worked OK

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.
June - July are tourist times for my stores —

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** Additional Comment Space on Back **

Additional Comments: (1) What type of handicap parking is planned? Right now the downtown is not passable at all for wheelchairs or walkers.

(2) Take a field trip to La Canada and see the terrific public restrooms — we need public bathrooms on Pioneer Way.

THANK YOU FOR YOUR PARTICIPATION!

CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

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October 22, 2009

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Alternative (1 way or 2 way) Comment I like the one way option - to promote the foot traffic.

How can the City help minimize construction impacts? Do more of the work after business hour. Is it possible to not start during Olympic season? We may have an overflow of that event.

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.

During Olympic, All major holiday i.e after Thanksgiving, before Christmas -

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** Additional Comment Space on Back **

Additional Comments: _____

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Alternative (1 way or 2 way) Comment I like the two-way traffic to avoid sending cars to Barghum. Parallel or pull in parking is ok by me.

How can the City help minimize construction impacts?
Advertise to help us - Chamber could also help.
Post lots of parking & information signs during construction.
Shop owners also need to

Are there weekends, seasons or holidays when construction activities should be avoided to minimize effects to your business or residence? Please be specific.

We could move holiday happening to the park or somewhere one year. Otherwise - just keep working!
Let's just get it done - 2010 is better than 2011.

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** Additional Comment Space on Back **

over

Additional Comments:

This economy stinks & folks are getting tighter right now. I think we should bite the bullet - go after good bids now when people are crying for work - then the economy comes back in 2011 - we have a new downtown & everyone succeeds. New businesses will be attracted to our downtown.

Lets put people to work now!

THANK YOU FOR YOUR PARTICIPATION!

City of Oak Harbor
City Council Agenda Bill

Bill No. 11
Date: December 1, 2009
Subject: Fire Department Reorganization Proposal

FROM: Mark Soptich, Fire Chief

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 agenda item presents a proposal to reorganize the fire department.

AUTHORITY

This Resolution authorizes payment for two different classes of employee for off-duty command responsibilities. The Fair Labor Standards Act (FLSA) (29 USC §§201-219) and the Washington State Minimum Wage Act (MWA) (Ch. 49.46 RCW) require that non-exempt employees be paid on an hourly basis for all time spent working, which entails overtime compensation when normal work hours are exceeded. On the other hand, management exempt employees under these two statutes are required to be paid on a "salary basis" which is not affected by the number of hours actually worked.

To account for off-duty command responsibilities, therefore, this Resolution authorizes a per-shift amount of "inconvenience pay" for management-exempt employees assuming that duty. Additional compensation does not alter the status of salaried employees if they are otherwise paid on a salary basis. 29 C.F.R. §541.118(b). However, the additional pay represents the additional duties, not the specific number of hours involved, so it is to be paid on the basis of the shifts for which command responsibility is assigned.

In contrast, non-exempt employees must be paid hourly, including overtime when applicable. This proposal anticipates a total of $26,990 per year in compensation for off-duty command responsibilities, half to be paid to the management-exempt Deputy Chiefs on a shift basis and half to non-exempt lieutenants and captains on an hourly basis.

SUMMARY STATEMENT

At the September 15th Council meeting, a proposal was presented to re-organize the fire department. After the proposal was discussed, the Council requested that the proposal be reviewed again by the Public Safety Standing Committee and that a funding source be identified and taken to the Finance Committee for review.

Attachment 1 is the proposal submitted to the City Council on September 15th. Attachment 2 reflects the latest proposal.

The revised proposal includes the following changes to the September 15th proposal:

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

FUNDING SOURCES

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

Deputy Chief of Operations, a FTE position	$5,897	Funding source – 2010 Fire Department Budget
2 POC Captains (pay increase for additional duties)	$2,000	Funding source – 2010 Fire Department Budget
4 POC Captains (new positions)	$3,000	Funding source – 2010 Fire Department Budget
Command Inconvenience Pay	$26,990	Funding source - General Fund
Total	$37,887	

The funding for the additional costs pertaining to the Deputy Chief of Operations, the 2 POC Captains, and the 4 POC Captains will come from the existing 2010 Fire Department Budget. The Command Inconvenience Pay will be a newly budgeted item in 2010 from Ending Fund Balance, with inclusion in future years to be determined during the City's future biennial budget processes.

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

The legal department has reviewed the proposal to assure federal and state labor requirements are met. This process will continue until the proposal is implemented.

STANDING COMMITTEE REVIEW

The Finance Committee reviewed the proposal at its November 12th meeting and the Public Safety Standing Committee at its November 19th meeting.

RECOMMENDED ACTIONS

Approve the proposed reorganization of the fire department and Resolution 09-27 Command Inconvenience pay in the amount of $26,990.

ATTACHMENTS

Organizational Chart
Resolution #09-27

MAYOR'S COMMENTS

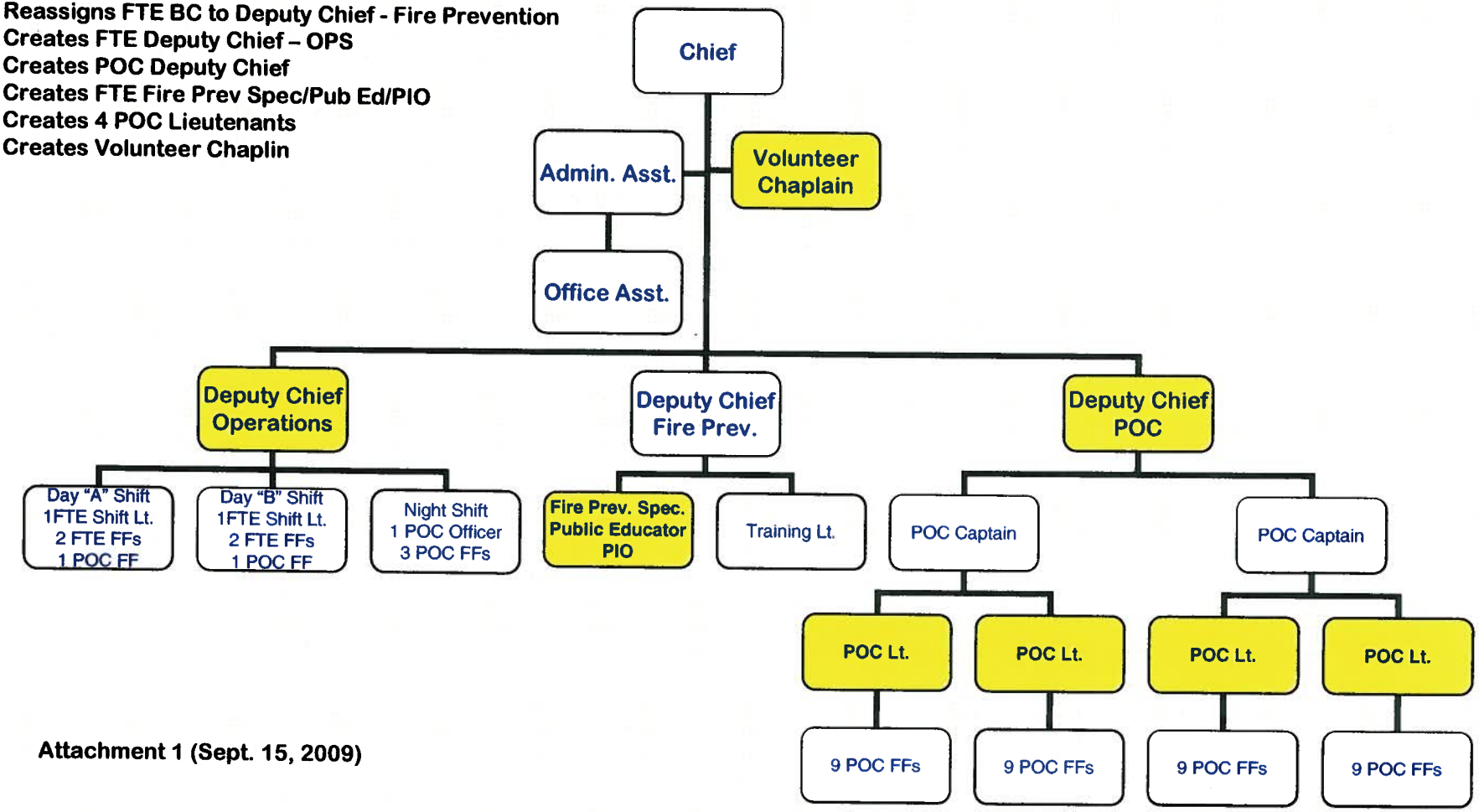
Oak Harbor Fire Dept. Proposed 2010 Organizational Chart

Total Personnel

13 Career **43 Paid On Call (POC)** **1 Volunteer**

Proposal Summary

Reassigns FTE BC to Deputy Chief - Fire Prevention
Creates FTE Deputy Chief – OPS
Creates POC Deputy Chief
Creates FTE Fire Prev Spec/Pub Ed/PIO
Creates 4 POC Lieutenants
Creates Volunteer Chaplin



Attachment 1 (Sept. 15, 2009)

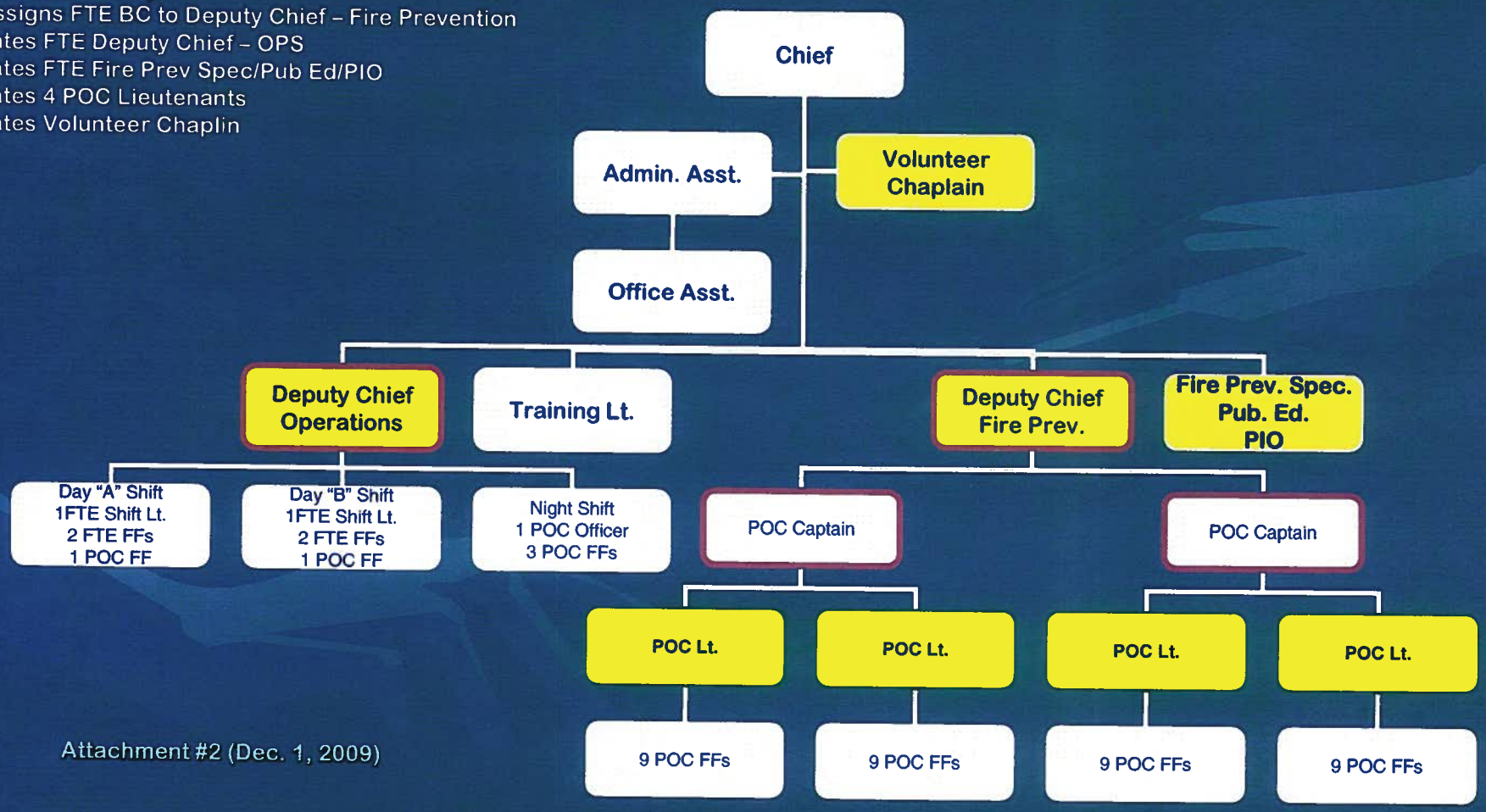
Oak Harbor Fire Dept. Proposed 2010 Organizational Chart

Total Personnel

13 Career 42 Paid On Call (POC) 1 Volunteer

Proposal Summary

Reassigns FTE BC to Deputy Chief – Fire Prevention
Creates FTE Deputy Chief – OPS
Creates FTE Fire Prev Spec/Pub Ed/PIO
Creates 4 POC Lieutenants
Creates Volunteer Chaplin



Attachment #2 (Dec. 1, 2009)

RESOLUTION NO. 09-27

A RESOLUTION APPROVING THE REORGANIZATION OF THE FIRE DEPARTMENT FOR THE REMAINDER OF THE BUDGET PERIOD FROM 2009-2010 TO ALLOW FOR COMMAND INCONVENIENCE PAY

WHEREAS, the Oak Harbor Fire Department (OHFD) is a hybrid fire department utilizing full-time career fire-fighters as well as paid on-call (POC) fire-fighters; and

WHEREAS, the career staff is currently under the supervision of a Battalion Chief to manage the operations of the Day Shift personnel; and

WHEREAS, the management of the OHFD would be improved with the addition of a Deputy Chief position to provide supervision of the paid on-call personnel; and

WHEREAS, the addition of such a Deputy Chief position would result in two Deputy Chief positions in the OHFD that would report directly to the Fire Chief; and

WHEREAS, both of these positions would be exempt from the overtime requirements of the Fair Labor Standards Act (FLSA) and the Washington Minimum Wage Act (MWA) as managerial positions; and

WHEREAS, the Deputy Chief positions will be responsible for off-duty command response responsibilities to emergency calls in addition to their assigned shifts; and

WHEREAS, the City has for many years augmented the pay of management-exempt employees in the OHFD to account for time spent on off-duty command response responsibilities; and

WHEREAS, the City Council wishes to supplement the existing salaries for the Deputy Chief positions to account for the inconvenience of off-duty command responsibilities as "inconvenience pay"; and

WHEREAS, such "inconvenience pay" for management exempt employees should not be set on an hourly basis because they are salaried employees but may be given a value on a per shift basis; and

WHEREAS, the Fire Chief recommends that the "inconvenience pay" for management exempt employees performing off-duty command response responsibilities should be approximately $13,495 per year for the remainder of the 2009-2010 budget period; and

WHEREAS, even with two Deputy Chief positions, the Fire Chief believes it will be necessary to assign off-duty command response responsibilities to other competent personnel to balance the burden of off-duty responsibilities fairly; and

WHEREAS, off-duty command response responsibilities may be assigned to non-exempt personnel such as POC Captains and Lieutenants skilled in supervising fire suppression activities so long as those personnel are paid for their extra duties on an hourly basis; and

WHEREAS, the proposed budget of the OHFD to cover these command responsibilities assigned to non-exempt personnel for the remainder of the 2009-2010 budget period has been set at approximately $13,495.

NOW, THEREFORE, it is hereby resolved by the City Council of Oak Harbor, Washington as follows:

The payment of "inconvenience pay" on a per shift basis to management-exempt Deputy Chiefs who perform off-duty command response responsibilities during the 2009-2010 budget period is authorized in the sum of $50 per weekday shift and $100 per weekend day shift of assigned command duty.

The Fire Chief is further directed to ensure that non-exempt staff assigned to perform off-duty command response responsibilities are properly paid for that duty in accordance with the requirements of the Fair Labor Standards Act (FLSA) and the Washington Minimum Wage Act (MWA).

PASSED by the City Council this _____ day of _____, 2009.

CITY OF OAK HARBOR

_____
Jim Slowik, Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

City of Oak Harbor
City Council Agenda Bill

Bill No. 12
Date: December 1, 2009
Subject: RBC Diversion Pump Station Upgrade Contract Award

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

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE:
This agenda bill recommends awarding a construction contract for the RBC Diversion Pump Station Upgrade to I.M.A.C. Inc. in the amount of $110,729.52.

AUTHORITY
Oak Harbor Municipal Code Chapter 2.330.010 provides for the contracting for Public Works and Improvements as follows:

Except as otherwise authorized by Chapters 39.04 and 39.28 RCW, or RCW 35.22.620, relating to emergency public works, or other applicable general state law, as now enacted or as hereafter amended, all public works and improvements shall be done by contract pursuant to public notice and call for competitive bids in accordance with this chapter whenever the estimated cost of such public work or improvement, including the cost of materials, supplies, equipment and labor, will exceed the sum of $30,000 if more than one craft or trade is involved with the public works project, or in excess of $20,000 if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting; provided, the city may use a small works roster pursuant to RCW 35.22.620. It is further provided, that the council may authorize public works construction projects without bid up to the bid limitation in RCW 35.22.620 as now in effect or as hereafter amended.

SUMMARY STATEMENT
The contract will install a new 750 City-furnished generator to replace two existing aging stationary and portable generators providing emergency power to the RBC Plant and the Diversion Pump

Station as well as make the necessary control and power connections to a new diversion pump installed by City forces.

The Diversion Pump Station has relied on two pumps to run simultaneously to keep up with peak flows. Staff has determined that this current system is inadequate during peak flows and power outages. This system requires an upgrade to be efficient and to provide for future growth. Without the redundancy and reliance of a double pump system, the City could be liable for potential damages and permit violations. The intention of this upgrade is to have the capability to pump six million gallons per day by adding a third pump.

Currently, there are two generators at the RBC Wastewater Treatment Plant and Diversion Pump Station. One generator is on loan from the Department of Natural Resources and the other is stationary at the plant. Together, these two generators are adequate to operate the plant and the Diversion Pump Station in its current configuration. However, they will not be able to handle the load once the third pump is installed.

DISCUSSION:

The project was advertised for bidding in the Daily Journal of Commerce and Whidbey New Times.

Amount of the Contract: Staff received and opened eleven sealed bids on November 24, 2009. The following bids were received (amounts include Washington State Sales Tax in the amount of 8.4%):

Contractor	Location	Bid Total
Innovative Electric Inc.	Lynnwood, WA	$147,915.73
I.M.A.C. Inc.	Mount Vernon, WA	$110,729.52
RTB Electric and Power	Fife, WA	$125,345.16
Dahl Electric Inc.	Burlington, WA	$152,536.66
Seahurst Electric	Everett, WA	$155,447.56
Omega Contractors Inc.	Duvall, WA	$241,531.46
Strouder General Construction, LLC	Ferndale, WA	$124,660.00
Larry Brown Construction	Bellingham, WA	$136,764.49
TL McConnnell Construction Inc.	Port Townsend, WA	$158,071.05
Ebenal General Inc.	Bellingham, WA	$119,277.94
Vertical Inc.	Bellingham, WA	$129,751.55

Engineer's Estimate	*Oak Harbor, WA*	*$124,802.17*

Staff reviewed the bid prices and is knowledgeable of the qualifications, and experience of the low bidder. It is recommended that a contract in the amount of $110,729.52 be awarded to I.M.A.C. Inc., who is the lowest responsible bidder.

Construction Contingency: Most construction projects involve change orders and modifications to the contract plans. Delays in processing change order requests can result in costly delay claims against the City. To minimize the possibility of delays and the resulting claims, staff requests that

the City Engineer be authorized to administratively approve up to $11,000.00, approximately 10% of the contract amount, for change orders.

Funding: The funding for the project is available in the Wastewater 2009 budget.

Justification: The project is necessary to ensure the reliability of wastewater treatment for the City of Oak Harbor.

STANDING COMMITTEE REPORT

This project was presented to the Public Works and Utilities Committee at the October 1, 2009 meeting.

RECOMMENDED ACTION:

1. Authorize the Mayor to sign a contract with I.M.A.C. Inc. in the amount of $110,729.52
2. Authorize the City Engineer to administratively approve changes to the construction contract totaling not more than $11,000.00

ATTACHMENTS:

Contract Form
Bid Tabulation

MAYOR'S COMMENTS:

AGREEMENT

THIS AGREEMENT is entered into by and between the CITY OF OAK HARBOR (hereinafter called the Owner) and _____
_____(hereinafter called the Contractor).

The Owner and the Contractor agree as follows:

ARTICLE 1. WORK.

The City of Oak Harbor has installed a new wastewater pump at its RBC Wastewater Treatment Plant located at 1501 City Beach Street, Oak Harbor, WA. The City will furnish a Cummins 750 DQFAA Generator and two Cummins OTPC open transition Automatic Transfer Switches; one 800 amp and one 600 amp. In accordance with the Proposal submitted by the Contractor in response to the Notice to Contractors, RBC Diversion Station Upgrade, the contractor shall furnish all additional labor and material necessary to complete the installation of the generator and wastewater pump as indicated in the attached plans and specifications including transporting the generator from storage at the City Public Works Shops and setting the generator in place at the project site.

ARTICLE 2. CONTRACT TIME.

The Contractor shall physically complete the Work within 30 working days (the Physical Completion Date) of a date specified in the Notice to Proceed.

ARTICLE 3. LIQUIDATED DAMAGES.

The Owner and the Contractor recognize that time is of the essence in this Agreement and that the Owner will suffer financial loss if the Work is not completed within the Contract Time, plus any extensions thereof allowed in accordance with the Contract Documents. They also recognize the inconvenience, expense, and difficulties involved a legal proceeding to prove the actual loss suffered by the Owner if the Work is not completed within the Contract Time. Accordingly, the Owner and the Contractor agree that as liquidated damages for delay, and not as a penalty, the Contractor shall pay the Owner $1,000.00 (US) for each day of road closure that the contractor requires beyond that allowed in Article 2 and $200.00 (US) for each working day beyond the Physical Completion Date that the Contractor achieves physical completion of the Work.

ARTICLE 4. CONTRACT PRICE.

The Owner shall pay the Contractor the amount(s) set forth in the Proposal (in United States dollars) for completion of the Work in accordance with the Contract Documents.

AGREEMENT – Continued

ARTICLE 5. CONTRACT DOCUMENTS.

The Contract Documents, which comprise the entire agreement between the owner and the Contractor concerning the Work, consists of the following in order of precedence. Any inconsistency in the parts of the contract shall be resolved by following this order of precedence (e.g. 1 presiding over 2, 3, 4, 5, 6, 7, 8,9, 10, 11, and 12; 2 presiding over 3, 4, 5, 6, 7, 8, 9, 10, and 12; and so forth):

1. This Agreement;
2. The Call for Bids;
3. The Contractor's Proposal including the bid, bid schedule(s), information required of bidder, and all required certificates and affidavits;
4. The Plans (or drawings) attached
5. The Special Provisions (pages SP-1 through SP-57)
6. Addenda numbers ___1_____, inclusive; (attached as Exhibits to this Agreement)
7. WSDOT Standard Specifications for Road, Bridge and Municipal Construction, 2008 edition;
8. Amendments to the WSDOT Standard Specifications for Road Bridge and Municipal Construction, 2008 edition;
9. Change Orders and written Change directives issued after the effective date of this Agreement;
10. City of Oak Harbor Standard Details;
11. WSDOT Standard Plans;
12. Appendices

There are no Contract Documents other than those listed in this Article 5. The Contract Documents may be amended only in writing by Change Order or Change Directive as provided in the Contract Documents.

ARTICLE 6. MISCELLANEOUS.

No assignment of any of the Contractor's rights under or interests in the Contract Documents, including but not limited to rights to payment, will be allowed without the prior written consent of the Owner. Unless specifically stated in a written consent to an assignment, no assignment will release or discharge the Contractor-assignor from any duty or responsibility under the Contract Documents.

The Contract Documents are binding upon the Owner and the Contractor, and their respective partners, successors, assigns and legal representatives.

ARTICLE 7. INDEMNIFICATION

Contractor agrees to defend, indemnify and hold the City of Oak Harbor (hereinafter called Owner), its agents, and their sub-consultants harmless from any and all claims, demands, loses and liabilities to or by third parties arising from, resulting from or connected with services performed or to be performed under this contract by Contractor or contractor's agents or employees to the fullest extent permitted by law and subject to the limitations provide below.

Contractor's duty to indemnify Owner, it agents and its Engineer, and their sub-consultants shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of Owner or Owner's agents or employees.

Contractor's duty to indemnify Owner, its agents and its Engineer, and their sub-consultants for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) Owner's agents or employees, and (b) Contractor or contractor's agents or employees, shall apply only to the extent of negligence of Contractor or Contractor's agents or employees.

Contractor specifically and expressly waives any immunity that may be granted it under Washington State Industrial Insurance Act, Title 51 RCW. This waiver has been specifically negotiated by the parties which is acknowledged by the undersigned in signing this agreement. Further, the indemnification obligation under this contract shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under workers compensation acts, disability benefits acts, or other employee benefits acts; provided Contractors waiver of immunity by the provisions of this paragraph extends only to claims against Contractor by Owner and does not include, or extend to, any claims by Contractor's employees directly against Contractor.

Contractor's duty to defend, indemnify and hold Owner, its agents and its Engineer, and their sub-consultants harmless shall include, as to all claims, demands, losses and liability to which it applies, Owner's personnel-related costs, reasonable attorney's fees, court costs and all other claim-related expenses.

ARTICLE 8. NON-DISCRIMINATION

Contractor shall not engage in unfair practices as defined in RCW 49.60.180.

Dated: _____

Owner: CITY OF OAK HARBOR
865 SE Barrington Drive
Oak Harbor, WA 98277

By: _____

Title: _____

Dated: _____

Contractor: _____
_____
_____

By: _____

Title: _____

CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

ADDENDUM NO. 1
RBC Diversion Pump Station Upgrade
Contract No. ENG-08-08

To: All holders of Project Manual and Drawings of Record

This Addendum forms a part of the contract documents and modifies the original specifications and drawings as of November 9, 2009

ACKNOWLEDGE RECEIPT OF THIS ADDENDUM IN THE SPACE PROVIDED ON THE BID FORM. FAILURE TO DO SO MAY SUBJECT BIDDER TO DISQUALIFICATION.

This addendum consists of:

Modification to Article 2, CONTRACT TIME page A-1: Revise working days to "25" to agree with the NOTICE TO CONTRACTORS.

Clarification to work to be performed: The unprotected service conductors & bussing upstream of the main circuit breaker (existing utility wiring) must be separated from the protected conductors downstream of the main breaker (new wiring to ATS). This can be done using conduits, metal barriers, or routing the conductors in a manner that doesn't go through final section of the switchboard. New wiring to/from the ATS must be separated from the wiring/bussing upstream of the main circuit breaker in the existing switchboard. There is room on the right side of the switchboard to route the conduits down to the bottom of the switchboard, thus avoiding the center section above the main circuit breaker.

Information to be available: The manufacturer's data for the 750 KW Generator will be posted on the City's web site when it becomes available. Plan holders of record will be provided with the link by email when it is available.

865 S.E. Barrington Drive • Oak Harbor, Washington 98277-4092 • City Hall (360) 279-4500

RBC Diversion Pump Station Upgrade, Contract No. ENG-06-08
Bid Summary

NO.	ITEM	Unit of Measure	UNITS	Engineer's Estimate Unit Price	Engineer's Estimate Amount	Innovative Electric Inc Unit Price	Innovative Electric Inc Amount	IMAC Inc. Unit Price	IMAC Inc. Amount	RTB electric and Power Unit Price	RTB electric and Power Amount	Dahl Electric Unit Price	Dahl Electric Amount	Seahurst Electric Unit Price	Seahurst Electric Quantity	Omega Construction Unit Price	Omega Construction Amount	Stouder General Const Unit Price	Stouder General Const Amount	Larry Brown Construct Unit Price	Larry Brown Construct Amount	TL McConnell construc Unit Price	TL McConnell construc Amount	Ebenal General Inc. Unit Price	Ebenal General Inc. Amount	Vertical Inc. Unit Price	Vertical Inc. Amount
1	Minor Changes (SS 1-04.4)	MC	1	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00
2	Mobilization, Demolition, Cleanup, and Demobilization (SS 1-09.7)	LS	1	5,500.00	5,500.00	4,258.93	4,258.93	15,663.00	15,663.00	5,637.60	5,637.60	14,200.00	14,200.00	9,531.00	9,531.00	13,000.00	13,000.00	3,000.00	3,000.00	14,000.00	14,000.00	17,207.00	17,207.00	10,000.00	10,000.00	7,441.00	7,441.00
3	Temporary Power/ Temporary Connections (SS 8-31.1(6)A)	LS	1	3,300.00	3,300.00	3,320.52	3,320.52	275.00	275.00	3,718.16	3,718.16	4,350.00	4,350.00	2,323.00	2,323.00	3,000.00	3,000.00	800.00	800.00	1,100.00	1,100.00	1,158.00	1,158.00	2,000.00	2,000.00	1,236.00	1,236.00
4	Concrete, Pads & Sidewalk (SS 8-14)	LS	1	2,840.00	2,840.00	13,679.89	13,679.89	3,189.00	3,189.00	8,890.40	8,890.40	18,750.00	18,750.00	6,927.00	6,927.00	12,000.00	12,000.00	14,000.00	14,000.00	11,600.00	11,600.00	9,634.00	9,634.00	6,000.00	6,000.00	6,314.00	6,314.00
5	Core Drill CMU Walls	EA	9	220.00	1,980.00	125.76	1,131.84	65.00	585.00	250.56	2,255.04	165.00	1,485.00	108.78	979.02	100.00	900.00	250.00	2,250.00	115.00	1,035.00	175.00	1,575.00	100.00	900.00	116.00	1,044.00
6	Asphalt Patch (SS5-04)	LS	1	880.00	880.00	2,849.98	2,849.98		0.00	1,488.00	1,488.00	4,700.00	4,700.00	2,693.00	2,693.00	1,200.00	1,200.00	1,400.00	1,400.00	2,400.00	2,400.00	2,123.00	2,123.00	1,500.00	1,500.00	1,783.00	1,783.00
7	Basic Materials (SS 8-31)	LS	1	3,520.00	3,520.00	5,413.72	5,413.72	2,725.00	2,725.00	3,586.00	3,586.00	10,550.00	10,550.00	4,973.00	4,973.00	38,000.00	38,000.00	14,500.00	14,500.00	10,440.00	10,440.00	20,659.00	20,659.00	5,000.00	5,000.00	11,338.00	11,338.00
8	Unload and set emergency generator	LS	1	2,200.00	2,200.00	13,580.45	13,580.45	9,000.00	9,000.00	6,851.40	6,851.40	15,100.00	15,100.00	11,661.00	11,661.00	14,200.00	14,200.00	5,000.00	5,000.00	6,700.00	6,700.00	8,228.00	8,228.00	5,000.00	5,000.00	4,867.00	4,867.00
9	Soft Starter (SS 8-31)	EA	1	12,925.00	12,925.00	16,675.77	16,675.77	500.00	500.00	15,480.26	15,480.26	4,150.00	4,150.00	6,775.00	6,775.00	20,500.00	20,500.00	17,000.00	17,000.00	9,400.00	9,400.00	9,710.00	9,710.00	3,000.00	3,000.00	10,339.00	10,339.00
10	Controls Labor and Materials (SS 8-31)	LS	1	4,400.00	4,400.00	4,041.68	4,041.68	2,500.00	2,500.00	1,130.58	1,130.58	8,550.00	8,550.00	5,547.00	5,547.00	8,000.00	8,000.00	4,400.00	4,400.00	3,000.00	3,000.00	3,089.00	3,089.00	8,500.00	8,500.00	3,289.00	3,289.00
11	Circuit Breakers Existing Switchboard (SS 8-31)	EA	4	880.00	3,520.00	1,080.20	4,320.80	725.00	2,900.00	375.84	1,503.36	1,250.00	5,000.00	886.00	3,544.00	3,000.00	12,000.00	750.00	750.00	310.00	1,240.00	325.00	1,300.00	1,000.00	4,000.00	336.00	1,344.00
12	Conduit 4" PVC	LF	220	29.15	6,413.00	31.66	6,963.00	17.00	3,740.00	10.93	2,404.60	3.82	862.40	25.47	5,603.40	16.00	3,520.00	11.82	3,000.00	11.45	2,519.00	12.00	2,640.00	20.00	4,400.00	13.00	2,860.00
13	Conduit 4" RGS	LF	210	48.40	10,164.00	111.24	23,360.40	56.00	11,760.00	25.01	5,252.10	18.75	3,937.50	54.42	11,428.20	101.00	21,210.00	27.14	2,600.00	28.15	5,911.50	29.00	6,090.00	25.00	5,250.00	31.00	6,510.00
14	Conduit 4" RGS	LF	310	10.12	3,137.20	0.00	0.00	56.00	17,360.00	25.00	7,750.00	18.75	5,812.50	47.52	14,731.20	101.00	31,310.00	27.10	5,700.00	23.80	7,378.00	25.00	7,750.00	30.00	9,300.00	26.00	8,060.00
15	Wire 350 kcmil	CF	21	1,540.00	32,340.00	987.22	20,731.62	656.00	13,776.00	814.00	17,094.00	925.00	19,425.00	1,113.19	23,376.99	975.00	20,475.00	57.14	8,400.00	1,420.00	29,820.00	1,461.00	30,681.00	685.00	14,385.00	1,556.00	32,676.00
16	Wire 4/0 AWG	CF	2	1,017.50	2,035.00	823.43	1,646.86	422.00	844.00	512.00	1,024.00	460.00	920.00	829.50	1,659.00	1,550.00	3,100.00	4.50	13,800.00	1,020.00	2,040.00	1,050.00	2,100.00	2,000.00	4,000.00	1,120.00	2,240.00
17	Wire 1/0 AWG	CF	4	506.00	2,024.00	345.42	1,381.68	247.00	988.00	286.00	1,144.00	265.00	1,060.00	411.75	1,647.00	200.00	800.00	325.00	900.00	580.00	2,320.00	600.00	2,400.00	500.00	2,000.00	634.00	2,536.00
18	Wire 12 AWG	CF	7	83.60	585.20	52.24	365.68	55.00	385.00	124.00	868.00	45.00	315.00	135.00	945.00	100.00	700.00	27.43	1,900.00	9.00	63.00	866.00	6,062.00	400.00	2,800.00	9.00	63.00
19	Mini Power Zone	EA	1	4,830.00	4,830.00	1,183.10	1,183.10	5,832.00	5,832.00	6,812.73	6,812.73	1,850.00	1,850.00	4,296.00	4,296.00	8,900.00	8,900.00	2,300.00	2,300.00	2,800.00	2,800.00	2,906.00	2,906.00	4,000.00	4,000.00	3,095.00	3,095.00
20	Drill New Lugs in Existing Switchboard	LS	1	2,420.00	2,420.00	1,547.71	1,547.71	127.00	127.00	14,761.84	14,761.84	9,900.00	9,900.00	14,762.00	14,762.00	2,000.00	2,000.00	3,300.00	3,300.00	2,400.00	2,400.00	2,512.00	2,512.00	8,000.00	8,000.00	2,862.00	2,862.00
					114,813.40		136,453.63		102,149.00		115,632.07		140,717.40		143,401.81		222,815.00		115,000.00		126,166.80		145,822.00		110,035.00		119,697.00
	WSST @ 8.4%				9,988.77		11,462.10		8,580.62		9,713.09		11,820.26		12,045.75		18,716.46		9,660.00		10,597.99		12,249.05		9,242.94		10,054.55
					124,802.17		147,915.73		110,729.62		125,345.16		152,537.66		155,447.56		241,531.46		124,660.00		136,764.49		158,071.05		119,277.94		129,751.55

252

City of Oak Harbor
City Council Agenda Bill

Bill No. 13
Date: **December 1, 2009**
Subject: **Legislative Priority Issues**

FROM: Paul Schmidt, City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

Jim Slowik, Mayor
Doug Merriman, Finance Director
Margery Hite, City Attorney

SUMMARY STATEMENT

As a direct means in which to convey City of Oak Harbor wishes to the State Legislature for the upcoming Legislative session, we have prepared a Resolution with an attached list of priority issues.

A Resolution by City Council conveying its wishes to our Legislators is a more powerful message than by sending or voicing individual requests. Moreover, a Resolution provides a concise listing as a priority of those needs the City Council deems crucial.

The attached 2010 Legislative Priority Issues list is a draft proposal until City Council approves the Resolution, and as such is subject to change by the City Council. This Resolution and Legislative Priority Issues list was introduced to City Council on November 17, 2009, and number 13 was added to the list of Legislative Priority Issues per Council's request.

STANDING COMMITTEE REPORT

The draft 2010 Legislative Priority Issues was presented to the Government Services Committee on November 9, 2009 and the Finance Committee on November 12, 2009.

RECOMMENDED ACTION

Approve Resolution 09-24.

MAYOR'S COMMENTS

RESOLUTION NO. 09-24

A RESOLUTION BY THE CITY OF OAK HARBOR IDENTIFYING 2010 LEGISLATIVE PRIORITY ISSUES

WHEREAS, the City of Oak Harbor has a keen interest on how the Washington State Legislature actions can and do impact the City; and

WHEREAS, it is the City's intention to work with the Governor's Office and Leadership throughout the Senate and House with specific help from the City's 10th District Legislators, and

WHEREAS, the City of Oak Harbor has a good positive working relationship with the current 10th District Legislators; and

WHEREAS, this positive working relationship does depend upon the frequent and ongoing exchange of information where the specific needs and priorities of the City of Oak Harbor are clearly expressed to our 10th District Legislators; and

WHEREAS, it is by the attached Exhibit "A" that the City of Oak Harbor wishes to extend to Washington State Senator Haugen, Representative Smith and Representative Bailey the City of Oak Harbor's 2010 Legislative Priority Issues.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Oak Harbor, Washington, that the attached Exhibit "A" is hereby adopted as the 2010 Legislative Priority Issues of the City of Oak Harbor.

PASSED by the City Council of the City of Oak Harbor this _____ day of December, 2009.

CITY OF OAK HARBOR

_____
MAYOR

ATTEST:

_____
City Clerk

Approved as to Form:

_____
City Attorney

EXHIBIT "A"
CITY OF OAK HARBOR 2010 LEGISLATIVE PRIORITY ISSUES

1. **Retain** CAPRON Transportation funding as a critical resource for Whidbey Island surface transportation needs.

2. **Restore** funding for the Public Works Trust Fund Program which was eliminated by the Legislature in 2009.

3. **Refrain** from supporting any Legislative proposals that would establish a mandate upon local government without providing the necessary funds to fully support the mandate.

4. **Support** City of Oak Harbor affordable housing project effort.

5. **Support** enhanced funding for emergency 911 dispatch communication such as HB 2351.

6. **Support** NPDES II Storm Water funding assistance such as ESHB 1614 which would establish a fee and grant program for NPDES II permit cities.

7. **Support** a Legislative effort to establish a municipal street utility as a new local option to help fund transportation.

8. **Support** a Legislative effort to provide more fiscal flexibility for cities to optimize use of existing fund resources such as eliminating non-supplant language for public safety sales tax use.

9. **Support** a Legislative effort to allow the same list of type projects for the 2nd REET tax as is for the 1st REET tax.

10. **Support** a Legislative effort to expand the use of gambling tax revenue for general public safety purposes.

11. **Support** a Legislative effort to allow greater flexibility for the use of 2% lodging tax proceeds.

12. **Support** a Legislative effort to extend the period of time when GMA impact fees can be spent.

13. **Support** a Legislative effort to limit local government liability and financial burdens caused by unduly burdensome public records requests which now include exposure through use of private electronic social networks.

City of Oak Harbor
City Council Agenda Bill

Bill No. 14
Date: December 1, 2009
Subject: Marina Rate Increase and Project Funding Approach

FROM: Steve Powers, Development Services Director
Mack Funk, Harbormaster

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 agenda bill introduces certain rate increases for the Marina and proposes a funding approach for its redevelopment project.

AUTHORITY
Oak Harbor Municipal Code (OHMC) Section 6.36.020 (2) authorizes the city council to modify rates for service and moorage by resolution.

SUMMARY STATEMENT
The Marina's operations and maintenance, as well as any capital improvements, are funded by the revenue it generates. Permanent moorage rates were last increased at the beginning of 2007 and guest moorage rates were last increased in 2004. The last date of increase for other rate categories varies as well. Although the rates have been somewhat static over time, operational and maintenance costs have obviously increased. An examination of the anticipated expenditures and revenues (as reflected in the 2009-2010 budget) shows that a rate increase is necessary for the Marina if it is to meet both its operation and maintenance needs and to begin to accrue a cumulative reserve to be used for undertaking the redevelopment project.

DISCUSSION
The Marina is operated like an enterprise fund. It supports its operations and maintenance and funds capital improvements through the revenue it generates. As was noted above, it has been some time since these rates have been evaluated for their sufficiency to support Marina operations and its capital replacement needs.

Funding Approach
In undertaking a review of the sufficiency of the existing rates, staff used the following basic assumptions:

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

The above funding approach is generally supported by the *City of Oak Harbor Comprehensive Financial Management Policy*. Specific policies that support this concept include:

General Revenue Policies – Current revenues will be sufficient to support current expenditures.
Enterprise Revenues – To ensure that enterprise funds remain self-supporting, user fees and rate structures will be incorporated to support the total direct and indirect costs of operations, capital facilities maintenance, debt service, depreciation and pass-through rate increase from source of supply vendors.
Long-Term Debt Policies – Where possible, the City will use special assessment revenue or other self-supporting bonds instead of general obligation bonds.
Cumulative Reserve Utilities Fund[1] – A cumulative reserve shall be established by the Water, Wastewater, Solid Waste and Storm Drain Funds to replace utility capital, plant and equipment. The long-term goal of this fund is to accumulate sufficient cash for capital needs appropriate within the scope of operations.

Expenditures and Revenues

The largest normally occurring expenditures within the Marina operations are those for personnel (direct and indirect), items purchased for resale (fuel) and public utility services. These items account for approximately 70 percent of the adopted 2009 expenditure budget. The largest revenue sources are permanent moorage, storage and guest moorage. These total approximately 60 percent of the adopted 2009 revenue budget.

A review of the 2009 budgeted revenues versus expenditures found that the existing rates are sufficient to meet operational and minor maintenance needs. However the existing rates are not sufficient to generate the desired $300,000 per year reserve. A rate increase of approximately eleven (11) percent for certain revenue categories is necessary to meet budgetary and funding goals in 2010. The fees selected for the proposed increase are moorage (permanent and guest), storage sheds, trailer storage, electricity, and environmental compliance and launch/hoist fees. These fees were selected as they are direct user fees for service.

The proposed increase will allow the Marina to 'catch up' to the level necessary to support

[1] While the Marina is not one of the named utilities, this concept should still apply.

current operations and funding goals. It is anticipated that additional cost of living increases will be necessary in 2011 and beyond in order to continue to stay current. Please see the attached spreadsheet for revenue and expenditure details (Attachment 1).

During preliminary discussions on rates, both the Marina Advisory Board and the Governmental Services Standing Committee suggested that the City should find appropriate methods to charge for commercial use of the Marina's facilities. Staff will study this topic and make a separate proposal as to any additional commercial fees that should be charged.

Comparisons

During any rate discussion it is common for the public and City Council to ask how the proposed rates compare to other similar cities or to competitors. A discussion of marina rates is no different. Marinas typically cited as comparable include Port Townsend, La Conner, Everett, Kingston and Cap Sante (Anacortes). Of these staff is of the opinion that Everett, La Conner and Port Townsend offer the closest comparison. A review of the existing rates against the average of these three marinas finds that Oak Harbor's rates are set at are generally between 66 and 84 percent of the average, depending on slip size and type. If the proposed eleven (11) percent rate increase is approved, Oak Harbor's rates would still be generally between 73 and 93 percent of the average. Please see Attachment 2 for a moorage rates comparison.

Please note that these comparisons are offered for informational purposes only and not as a justification to support the proposed increase. The rates for Oak Harbor's marina should be set at a level to achieve the goals for the marina.

Redevelopment Project

As was previously noted staff proposes that rates be set at a level that would build a cumulative reserve fund to be used for the capital replacement portion of the redevelopment project. When the City Council awarded the Phase 1 contract it provided direction to staff to develop a schedule and funding strategy to undertake dredging of the marina. Significant progress has been made in meeting this directive. A proposed engineering services contract for dredging and mitigation design is tentatively scheduled for the December 15th City Council meeting. Reid Middleton has provided the City estimated costs for design, construction administration and construction. These estimated costs have been utilized by staff to develop an estimated dredging fee. **Please note that a dredging fee is not being proposed at this time.** This concept is provided for information purposes only so that the City Council may be made aware of the possible scope of funding needs. Using the estimated costs and a fee based on lineal feet of occupied slip space, a dredging fee of $1.91 per lineal foot per month was calculated (please see Attachment 3). **This dredging fee would be in addition to the base moorage rate.**

Amending the Code

The current marina fees are codified in the Municipal Code. Any revision to the fees requires an amendment to the Code. Staff proposes that the appropriate code sections be revised to indicate that the fees will be established by City Council resolution. This approach still requires City Council approval but does not involve amending the code. To that end a proposed code amendment and a proposed fee resolution are attached to this agenda bill for City Council's consideration (please see Attachments 4 and 5).

SUMMARY

It is necessary for the Marina to generate sufficient revenues to fund its operations and maintenance needs. If the City intends to move forward with the balance of the redevelopment project, rates must be set at more than the minimum level. Staff proposes a funding approach that will use certain revenues to build a cumulative reserve fund. After sufficient funds are generated additional phases of the redevelopment project will be undertaken. If City Council wishes to dredge all or part of the Marina in the near future staff proposes that it be funded with a separate dredging fee.

MARINA ADVISORY COMMITTEE

The proposed rate increase and redevelopment plan funding approach was presented to the Marina Advisory Committee at a special meeting on November 16, 2009.

STANDING COMMITTEE REPORT

The proposed rate increase and redevelopment plan funding approach was presented to the Governmental Services Standing Committee at their meeting on November 9, 2009.

RECOMMENDED ACTION

•Conduct public meeting
•Schedule the item for the City Council meeting of December 15, 2009

ATTACHMENTS

Attachment 1 2009-2010 Expenditures and Revenues Spreadsheet
Attachment 2 Moorage Rates Comparison Table
Attachment 3 Redevelopment Project Funding – Phases 1 and 2
Attachment 4 Draft Ordinance
Attachment 5 Draft Resolution

MAYOR'S COMMENTS

MARINA

REVENUES		2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
410.00.318.020.0000	LEASEHOLD EXCISE TAX	24,385.04	26,753.54	29,062.60	29,793.93	31,493.73	42,131.00	25,877.40	34,000.00	34,000.00	34,112.23	33,284.61	31,948.13	Forecast
410.00.334.002.4000	MARINA PARKS GRANT	-	-	-	20,325.00	-	1,155.00	8,076.42	2,000.00	2,000.00	0.00	0.00	0.00	Forecast
410.00.341.070.0000	SALES OF MERCHANDISE - TAXABLE	-	243.16	235.83	46.56	-	-	335.00	300.00	300.00	100.00	100.00	100.00	Forecast
410.00.346.050.0000	ENVIRONMENTAL COMPLIANCE	4,964.61	4,726.89	4,574.66	4,410.98	4,613.36	4,781.13	4,713.04	10,250.00	11,377.50	11,650.56	11,930.17	12,216.50	Forecast
410.00.347.030.1000	ELECTRICITY	44,947.14	42,676.91	43,632.65	43,342.11	46,783.84	49,008.20	48,009.76	51,000.00	56,610.00	57,968.84	59,359.89	60,784.52	Forecast
410.00.347.030.2000	GASOLINE	88,792.47	103,650.46	117,303.52	129,358.97	131,785.53	129,234.33	119,179.38	203,915.00	224,000.00	224,199.40	255,162.47	289,093.67	Forecast
410.00.347.030.3000	DIESEL	58,486.88	76,590.22	102,183.91	142,668.49	146,409.31	145,529.57	172,609.62	242,991.00	267,000.00	280,049.60	319,397.59	359,496.47	Forecast
410.00.347.030.3100	OTHER PETROLEUM	971.08	1,457.67	1,426.64	1,815.81	1,807.03	1,628.34	1,792.16	2,100.00	2,100.00	2,120.26	2,253.53	2,410.07	Forecast
410.00.347.030.3300	KEY CARDS	2,250.00	460.00	1,924.58	520.00	1,915.00	855.00	250.00	300.00	2,000.00	1,168.33	1,056.56	1,484.59	Forecast
410.00.347.030.3400	DOLLY	-	20.00	(88.00)	-	30.00	30.00	0.00	0.00	0.00	(2.00)	(15.33)	(21.16)	Forecast
410.00.347.030.4000	GRID	-	47.00	(175.00)	-	-	-	0.00	0.00	0.00	0.00	0.00	0.00	Forecast
410.00.347.030.4100	LAUNCHER/HOIST CARD LEASE	5,002.65	5,154.20	1,680.00	1,814.00	1,605.00	1,505.00	1,643.88	2,000.00	2,220.00	2,273.28	2,327.84	2,383.71	Average, Rolling
410.00.347.030.4200	SHOWER - ICE	5,108.03	5,171.45	5,160.00	4,871.59	5,513.73	4,452.52	4,671.40	5,500.00	5,500.00	5,416.85	5,524.41	5,937.11	Forecast
410.00.347.030.4300	GUEST MOORAGE	61,452.54	58,740.79	63,735.26	64,972.43	70,773.18	65,710.38	57,865.54	70,000.00	77,700.00	79,564.80	81,474.36	83,429.74	Average, Rolling
410.00.347.030.4400	OTHER	702.80	830.89	784.06	457.40	524.45	98.17	0.00	0.00	0.00	124.52	44.54	33.81	Average, Rolling
410.00.347.030.4500	LAUNDROMAT	2,354.41	2,108.10	2,414.50	1,774.50	2,990.81	2,859.26	2,066.05	2,500.00	2,500.00	2,583.22	2,501.71	2,430.20	Average, Rolling
410.00.361.011.0000	INVESTMENT INTEREST	6,990.12	7,741.09	10,856.16	15,965.01	31,657.72	33,792.00	31,438.47	25,000.00	25,000.00	29,377.64	28,921.62	27,947.55	Average, Rolling
410.00.361.040.0000	INTEREST ON TAXES (LEASEHOLD)	219.91	56.18	62.87	57.62	182.32	178.57	68.79	0.00	0.00	85.94	66.66	44.28	Average, Rolling
410.00.361.040.0200	INTEREST ON ACCTS RECEIVABLE	-	-	11.77	-	2.80	-	0.00	0.00	0.00	0.56	0.11	0.13	Average, Rolling
410.00.362.020.0000	HOIST CARD LEASE	-	-	3,606.54	2,657.04	2,062.95	1,979.20	552.67	2,100.00	2,400.00	1,698.59	1,897.69	2,104.38	Forecast
410.00.362.050.0000	PERMANENT MOORAGE	600,486.19	585,807.83	613,793.86	612,957.33	663,093.84	725,499.62	720,313.42	764,520.00	848,617.20	868,984.01	889,839.63	911,195.79	
410.00.362.050.1000	LIVE ABOARD FEES	9,765.14	8,674.41	7,393.85	7,157.72	9,162.52	8,762.94	7,652.69	8,625.00	8,625.00	8,792.34	8,474.17	8,686.20	Forecast
410.00.362.050.2000	PARKING-TRAILER STORAGE	11,922.20	13,265.02	14,738.03	14,953.27	15,408.16	15,406.44	11,677.54	14,000.00	15,540.00	15,912.96	16,294.87	16,685.95	Forecast
410.00.362.050.3000	STORAGE SHED	76,963.44	68,232.44	73,743.67	73,049.34	76,231.46	84,944.72	82,044.40	94,875.00	105,311.25	107,838.72	110,426.85	113,077.09	Forecast
410.00.362.050.3100	STORAGE SHED - NO TAX	1,090.55	3,473.65	3,076.32	3,076.32	2,826.32	3,054.60	2,794.40	3,450.00	3,829.50	3,921.41	4,015.52	4,111.89	Forecast
410.00.362.090.0000	OTHER CHARGES	2,592.33	2,575.93	2,535.23	2,535.23	2,535.23	2,535.23	2,738.05	2,500.00	2,500.00	2,549.39	2,532.36	2,501.13	Forecast
410.00.369.010.0000	SALE OF SCRAP	466.00	-	-	-	-	-	983.06	0.00	0.00	0.00	0.00	0.00	
410.00.369.081.0000	OVERAGES/SHORTAGES	35.71	(38.75)	78.25	(30.02)	(6.94)	(49.45)	1,000.96	0.00	0.00	0.00	0.00	0.00	
410.00.369.090.0000	MISCELLANEOUS REVENUE	4,528.25	3,312.67	2,457.27	3,388.01	3,234.53	2,376.33	5,747.82	2,000.00	2,000.00	2,397.23	2,052.99	1,595.55	Forecast
410.00.369.091.0000	MISC REVENUE - TAXABLE		-	-	-	-	243.00	1,053.38	0.00	0.00	0.00	0.00	0.00	
410.00.381.010.0000	Loans Revelved-501 Line of Credit	116,836.00						0.00	0.00	0.00	0.00	0.00	0.00	
410.00.395.020.0000	INSURANCE RECOVERIES	500.00	-	-	-	-	16,077.42	0.00	0.00	0.00	0.00	0.00	0.00	
410.00.395.040.0000	GAIN (LOSS) DISPOSITION OF FA	-	1,875.37	-	-	318.43	-	0.00	0.00	0.00	0.00	0.00	0.00	
410.00.397.000.0000	OPERATING TRANSFERS - IN	-	-	-	101,000.00	101,000.00	-	0.00	0.00	0.00	0.00	0.00	0.00	
		1,131,813.49	1,023,609.12	1,106,209.03	1,282,738.64	1,353,954.31	1,343,778.52	1,315,155.30	1,543,926.00	1,701,130.45	1,742,888.47	1,838,924.80	1,939,677.30	

ATTACHMENT 1

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EXPENDITURES		2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2012	
410.00.501.038.0100	DEPRECIATION EXPENSE	257,094.82	255,810.52	255,810.52	206,721.90	208,722.07	208,464.64	209,108.49	217,765.52	210,156.52	210,843.45	211,267.73	211,828.34	Average, Rolling
410.00.575.070.1100	SALARIES & WAGES	221,383.95	236,094.42	250,231.29	257,014.19	250,587.97	210,753.00	220,435.53	293,093.00	309,771.00	323,710.70	338,277.68	353,500.17	0.045
410.00.575.070.1200	OVERTIME	481.64	-	811.35	288.75	2,428.60	2,060.96	1,003.83	0.00	0.00	500.00	500.00	500.00	Est
410.00.575.070.2100	PERSONNEL BENEFITS	45,684.90	55,975.61	61,403.72	68,068.33	76,433.00	69,661.94	82,545.49	83,882.00	89,420.00	93,443.90	97,848.88	102,043.07	0.08
410.00.575.070.3100	OFFICE & OPERATING SUPPLIES	4,356.06	5,888.94	6,545.08	6,422.56	7,615.92	6,133.43	12,045.40	6,500.00	6,500.00	7,831.36	7,434.17	7,126.88	Forecast
410.00.575.070.3200	OPERATING SUPPLIES	6,291.75	4,159.72	5,230.73	4,830.08	6,958.44	5,419.22	1,133.92	5,000.00	5,000.00	3,792.51	3,228.56	3,631.28	Forecast
410.00.575.070.3400	ITEMS PURCHASED FOR RESALE	125,915.36	154,615.49	182,903.35	248,158.20	259,500.67	241,479.75	283,687.69	401,906.00	442,000.00	443,165.65	504,959.42	570,021.70	Gross Margin
410.00.575.070.3500	SMALL TOOLS & MINOR EQUIPMENT	2,181.34	1,824.20	2,023.52	1,967.83	2,537.33	6,647.42	12,457.34	7,000.00	3,000.00	8,037.53	7,723.41	6,289.67	Forecast
410.00.575.070.4100	PROFESSIONAL SERVICES	6,567.16	6,508.06	3,076.98	60,684.31	129,840.51	22,967.18	242,821.52	10,000.00	10,000.00				
410.00.575.070.4200	COMMUNICATIONS	17,193.96	12,910.07	12,910.63	20,063.14	14,750.01	10,413.67	8,818.53	10,000.00	10,000.00	5,724.80	5,432.61	4,979.62	Forecast
410.00.575.070.4300	TRAVEL	325.00	214.80	560.06	140.86	-	167.36	2,665.91	1,750.00	2,000.00	215.00	220.00	220.00	
410.00.575.070.4400	ADVERTISING	3,379.72	5,870.46	6,667.77	8,573.52	8,100.81	10,007.16	4,846.60	5,000.00	5,000.00	6,590.91	6,268.93	5,545.29	Average, Rolling
410.00.575.070.4500	OPERATING RENTALS & LEASES	70,011.19	70,605.12	49,468.37	52,092.15	55,535.37	58,131.14	45,643.71	7,500.00	7,500.00	8,300.00	8,500.00	8,500.00	est
410.00.575.070.4600	INSURANCE	15,666.01	22,815.14	28,848.14	30,564.95	24,219.34	31,165.56	32,123.71	24,961.00	24,961.00	25,515.60	25,228.19	22,374.73	Forecast
410.00.575.070.4700	PUBLIC UTILITY SERVICES	64,875.17	64,767.94	71,122.52	65,117.08	78,823.96	82,375.46	82,105.08	92,400.00	97,000.00	102,957.50	106,760.62	112,841.42	Forecast
410.00.575.070.4800	REPAIR & MAINTENANCE	33,284.20	19,503.37	44,526.60	29,790.48	20,797.86	36,197.49	53,365.63	40,000.00	40,000.00	49,274.13	53,981.51	53,134.35	Forecast
410.00.575.070.4900	MISCELLANEOUS	946.51	3,271.29	17,417.09	18,644.30	23,297.89	28,116.90	38,877.91	35,000.00	40,000.00	45,920.75	49,690.81	53,000.87	Forecast
410.00.575.070.5000	LEASEHOLD EXCISE TAX	35,204.61	-	-	5,277.00	-	-	13,862.75	0.00	0.00	0.00	0.00	0.00	
410.00.575.070.6000	CAPITAL OUTLAY NON-CAPITALIZED	-	-	-	-	-	-	0.00	0.00	0.00	0.00	0.00	0.00	
410.00.575.070.6400	CAPITAL OUTLAY-EQUIPMENT	-	-	-	13,562.50	1,037.50	-	0.00	0.00	0.00	0.00	0.00	0.00	
410.00.575.070.9800	INTERFUND CHARGES-LABOR POOL	2,011.80	3,348.52	-	27.99	-	32.78	57.73	0.00	0.00	200.00	200.00	200.00	
410.00.575.070.9900	OTHER INTRFUND SERVICES & CHGS	449.73	1,353.77	3,103.14	3,584.00	583.38	509.99	1,185.94	1,000.00	1,000.00	855.86	910.36	990.43	Average, Rolling
410.00.575.075.4800	REPAIR & MAINTENANC3 - CV Grant	-	-	-	-	-	-	311.36						
410.00.575.078.9800	INTRFUND REPAIRS & MAINTENANCE	1,732.31	1,845.26	1,402.81	4,308.83	2,201.91	1,922.18	3,194.55	1,552.00	1,599.00	1,040.43	1,076.39	666.33	Forecast
410.00.575.078.9900	INTRFND CONTRIBUTIONS	5,235.00	6,395.90	6,510.00	7,830.00	7,830.00	4,008.00	5,257.00	4,089.00	4,089.00	2,649.27	1,970.84	1,876.29	Forecast
410.00.575.078.9905	INTRFND TECHNOLOGY CONTRIB.								4,497.00	4,497.00	4,497.00	4,497.00	4,497.00	
410.00.575.080.4900	ENVIRONMENTAL COMPLIANCE	3,958.72	1,842.35	2,634.34	1,807.80	1,453.69	2,342.72	4,814.26	3,000.00	3,000.00	4,043.56	4,419.73	4,410.67	Forecast
410.00.582.079.7200	PRINCIPAL	200,000.00	210,000.00	475,000.00	-	-	-	0.00	0.00	0.00	0.00	0.00	0.00	
410.00.582.080.7900	REPAY OF INTRFND LOAN		-	-	-	450,452.00	-	0.00	0.00	0.00	0.00	0.00	0.00	
410.00.588.080.0000	PRIOR YEAR CORRECTIONS		-	-	-	(3,583.47)	-	0.00	0.00	0.00	0.00	0.00	0.00	
410.00.592.079.8300	INTEREST EXPENSE	84,701.67	77,428.35	49,081.92	43,868.54	21,566.48	-	0.00	0.00	0.00	0.00	0.00	0.00	
410.40.575.070.6300	CAPITAL OUTLAY-IMPROVEMENTS		6,601.45	6,384.90	3,438.86	-	-	0.00	0.00	0.00	0.00	0.00	0.00	Deletes cap exp
410.40.588.080.0000	PRIOR YEAR CORRECTIONS	29,549.02	-	-	-	(2,187.60)	-	0.00	0.00	0.00	0.00	0.00	0.00	
410.00.597.000.0000	OPS TRSF OUT OTHER FINANCING								25,000.00					
410.00.597.099.1100	OPS TRSF OUT I/C/A SALARIES	4,689.43						0.00	78,675.00	82,609.00	88,739.45	91,076.42	95,630.24	0.05
410.00.597.099.2100	OPS TRSF OUT I/C/A BENEFITS							0.00	0.00	0.00	0.00	0.00	0.00	
		1,243,171.03	1,229,650.75	1,543,674.83	1,162,848.15	1,649,503.94	1,038,977.95	1,362,369.88	1,359,570.52	1,399,102.52	1,435,849.34	1,531,293.27	1,623,808.36	
								1,362,369.88						
Surplus (Deficit)		(111,357.54)	(206,041.63)	(437,465.80)	119,890.49	(295,549.33)	304,800.57	(47,214.58)	184,355.48	302,027.93	307,039.13	307,631.54	315,868.94	
Beginning Fund Balance January 1, 2008								1,062,848.58	1,015,434.00	1,199,789.48	1,501,817.40	1,808,856.53	2,116,488.07	
Ending Fund Balance, Estimated 12/31/2008								1,015,434.00	1,199,789.48	1,501,817.40	1,808,856.53	2,116,488.07	2,432,357.00	

Projected Debt Service Margin	300,000.00	300,000.00	300,000.00	300,000.00	300,000.00
Less: (Surplus) deficit	(184,355.48)	(302,027.93)	(307,039.13)	(307,631.54)	(315,868.94)
Revenue Shortfall	115,644.52	(2,027.93)	(7,039.13)	(7,631.54)	(15,868.94)
Rate Sensitive Revenues	1,010,096.00	1,121,205.45	1,148,114.38	1,175,889.13	1,203,885.18
Rate Deficit	**11.4489%**	**-0.1809%**	**-0.6131%**	**-0.6491%**	**-1.3181%**
Proposed Rate Input	**11.0000%**	**2.4000%**	**2.4000%**	**2.4000%**	**1.7000%**

ATTACHMENT 1

MOORAGE RATES COMPARISON 2009

	24 foot		28 foot		32 foot		36 foot		40 foot		50 foot		60 foot	Guest*
	Open	Cov	Open	Cov	Open	Cov	Open	Cov	Open	Cov	Open	Cov	Open	ft per day
Cap Sante	N/A	N/A	5.92	N/A	7.27	N/A	7.54	N/A	7.81	N/A	8.35	N/A	9.28	1.00
														+$4 elect
Everett	5.97	N/A	5.97	8.63	7.04	9.77	7.61	11.24	8.16	12.11	10.06	12.89	10.06	0.75
														Elect incl.
Kingston	4.37	6.55	4.37	6.55	4.37	6.55	4.37	6.65	4.37	6.55	4.37	6.55		0.75
														+$3 elect
La Conner	N/A	N/A	N/A	7.50	5.72	7.50	6.12	10.16	6.51	11.51	7.52	13.21	8.64	
														Elect incl.
Port Townsend	5.89	N/A	5.89	N/A	6.24	N/A	6.24	N/A	6.62	N/A	7.01	N/A	7.45	0.75
														+$3 elect
Best Average	5.93	6.55	5.93	8.07	6.33	8.64	6.66	10.70	7.10	11.81	8.20	13.05	8.72	0.65
OH existing	4.59	6.28	4.97	6.67	5.07	7.07	5.21	7.90	5.32	8.36	5.73	8.84	5.73	0.68
Difference	-1.34	-0.27	-0.96	-1.40	-1.26	-1.57	-1.45	-2.8	-1.78	-3.45	-2.47	-4.21	-2.99	0.03
% of Average	77.4%	95.9%	83.8%	82.7%	80.1%	81.9%	78.3%	73.8%	75.0%	70.8%	69.9%	67.7%	65.7%	104.6%

Best Average	5.93	6.55	5.93	8.07	6.33	8.64	6.66	10.70	7.10	11.81	8.20	13.05	8.72	
OH + 11%	5.09	6.97	5.52	7.40	5.63	7.85	5.78	8.77	5.91	9.28	6.36	9.81	6.36	
Difference	-0.84	0.42	-0.41	-0.67	-0.70	-0.79	-0.88	-1.93	-1.19	-2.53	-1.84	-3.24	-2.36	
% of Average	85.9	106.4	93.0	91.7	88.9	90.8	86.8	82.0	83.2	78.6	77.6	75.2	72.9	

NOTE: RATES GIVEN *DO NOT INCLUDE* THE REQUIRED 12.84% LEASEHOLD EXCISE TAX.

\\City1\planning\Marina - general\Rates\2009 Rate Comparison 112309.xls

ATTACHMENT 2

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REDEVELOPMENT PROJECT FUNDING: PHASES 1 AND 2

Shown below is an estimate of the funding required to complete Phase I (gangway and landing float replacement) and Phase II (dredging) of the Redevelopment Project. A summary of those funding needs for is shown below. **Please note that dredging costs are estimates only.**

Funding Needs

Phase I (contract)	$875,418
Phase II (high estimate)	
Dredge & Mitigation	$3,195,000
Design	+$160,000
	$4,230,418
Cash	-$810,000
	$3,420,418

Debt Service

Different scenarios include:

$3,420,418 @ 3.5% for 10 Years = $408,338 annual payment
$3,420,418 @ 3.5% for 20 Years = $239,238 annual payment
$3,420,418 @ 4% for 10 Years = $418,363 annual payment
$3,420,418 @ 4% for 20 Years = $250,072 annual payment (selected for estimate)

Dredging Fee

Please note that the dredging fee is not being proposed at this time. This concept is provided for information purposes only so that the City Council may be made aware of the scope of funding needs. Shown below is one method for calculating a dredging fee:

Total lineal feet of slip = 12,683 lf

Assume 85% occupancy rate = 10,934 lf

$250,072 annual payment / 10,934 lf = $22.87 per lineal foot annual payment

$22.87 annual payment / 12 months = $1.91 per lineal foot per month

ORDINANCE NO. _____

AN ORDINANCE RELATING TO RATES AND FEES AT THE OAK HARBOR MARINA, AMENDING OAK HARBOR MUNICIPAL CODE SECTIONS 6.36.020, 6.36.021, 6.36.022, 6.36.026, 6.36.027, 6.36.028, AND 6.36.037 TO PROVIDE FOR THE SETTING OF MOORAGE, ELECTRICAL, STORAGE, PARKING AND HOIST RATES BY RESOLUTION RATHER THAN BY ORDINANCE; AMENDING SECTION 6.36.029 TO REPLACE THE BOAT DOLLY FEE WITH AN ENVIRONMENTAL COMPLIANCE FEE; AND REPEALING RENTAL RATES FOR RENTAL OF THE PRESSURE WASHER AND THE TIDAL GRID, SECTIONS 6.36.030 AND 6.36.031.

WHEREAS, the rates for marina services are presently set by ordinance; and

WHEREAS, such rates should be adjusted periodically to ensure that they keep pace with increased operational costs of the marina; and

WHEREAS, setting such rates is fundamentally an operational aspect of the proprietary part of City government rather than a permanent policy appropriate for an ordinance; and

WHEREAS, codification of marina rates for services does not further the goals of periodic adjustment to account for operational cost increases and the operational nature of the marina business; and

WHEREAS, the City Council may act by resolution to set rates; and

WHEREAS, the public may have ready access to current marina rates through posting of those rates on the City's web-site, at the Oak Harbor Marina and at the City Hall Bulletin Board; and

WHEREAS, a copy of the current rates shall also be available at the City Clerk's Office,

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF OAK HARBOR DO ORDAIN AS FOLLOWS:

Section One. Oak Harbor Municipal Code Section 6.36.020, Contract and rates, last amended by §1 of Ordinance 963 in 1993 is hereby amended to read as follows:

(1) All tariff rates for port charges and other charges for services provided by the marina shall be adopted by ~~ordinance~~ resolution of the City Council except as ~~specifically authorized~~ otherwise provided in this Code. Notice of rates adopted shall be by posting them at city hall, on the city's web-site, and at the Oak Harbor Marina. Copies of the current rate schedule shall be made available to the public upon request at a nominal charge.

(2) All moorages at the marina shall be by written contract except for guest moorages or emergency tie-ups. ~~All rates for service and moorage specified in the contract~~ Contract moorage and service rates shall accord with the current rate schedule and shall be subject to change by ~~ordinance or~~ resolution by the City Council. All moorages and storage at the marina shall be subject to lawful regulation issued by the harbormaster of the Marina which may be modified from time to time.

(3) All port charges and other charges owed shall be paid by the tenth of the month in which it is billed.

Section One. Oak Harbor Municipal Code Section 6.36.021, Moorage Rates, last amended by §1 of Ordinance 1476 in 2006, is hereby amended to read as follows:

6.36.021 Moorage rates.

The ~~following~~ rate schedule ~~shall be used~~ for regular moorage at the Oak Harbor Marina~~:~~ shall be set by resolution of the City Council.

~~(1) Covered Moorage. The rates for covered permanent moorage shall be as follows:~~

~~(a) The rate for covered moorage for boats occupying 24-foot covered slips shall be $6.28 per foot, based on the length of the boat. An additional leasehold excise tax of 12.84 percent applies. Including excise tax, this rate is $7.09 per foot.~~

~~(b) The rate for covered moorage for boats occupying 28-foot covered slips shall be $6.67 per foot, based on the length of boat or slip, whichever is longer. An additional leasehold excise tax of 12.84 percent applies. Including excise tax, this rate is $7.53 per foot.~~

~~(c) The rate for covered moorage for boats occupying 32-foot covered slips shall be $7.07 per foot, based on the length of boat or slip, whichever is longer. An additional leasehold excise tax of 12.84 percent applies. Including excise tax, this rate is $7.98 per foot.~~

~~(d) The rate for covered moorage for boats occupying 36-foot covered slips shall be $7.90 per foot, based on the length of boat or slip, whichever is longer. An additional leasehold excise tax of 12.84 percent applies. Including excise tax, this rate is $8.91 per foot.~~

~~(e) The rate for covered moorage for boats occupying 40-foot covered slips shall be $8.36 per foot, based on the length of boat or slip, whichever is longer. An additional leasehold excise tax of 12.84 percent applies. Including excise tax, this rate is $9.44 per foot.~~

~~(f) The rate for covered moorage for boats occupying 50-foot covered slips shall be $8.84 per foot, based on the length of boat or slip, whichever is longer. An additional leasehold excise tax of 12.84 percent applies. Including excise tax, this rate is $9.98 per foot.~~

~~(2) Uncovered Moorage. The rates for uncovered permanent moorage shall be as follows:~~

~~(a) The rate for uncovered moorage for boats occupying 24-foot uncovered slips shall be $4.59 per foot, based on the length of the boat. An additional leasehold excise tax of 12.84 percent applies. Including excise tax, this rate is $5.18 per foot.~~

~~(b) The rate for uncovered moorage for boats occupying 28-foot uncovered slips shall be $4.97 per foot, based on the length of boat or slip, whichever is longer. An additional leasehold excise tax of 12.84 percent applies. Including excise tax, this rate is $5.61 per foot.~~

~~(c) The rate for uncovered moorage for boats occupying 32-foot uncovered slips shall be $5.07 per foot based on the length of boat or slip, whichever is longer. An additional leasehold excise tax of 12.84 percent applies. Including excise tax, this rate is $5.72 per foot.~~

~~(d) The rate for uncovered moorage for boats occupying 36-foot uncovered slips shall be~~

~~$5.21 per foot, based on the length of boat or slip, whichever is longer. An additional leasehold excise tax of 12.84 percent applies. Including excise tax, this rate is $5.88 per foot.~~

~~(e) The rate for uncovered moorage for boats occupying 40-foot uncovered slips shall be $5.32 per foot, based on length of boat or slip, whichever is longer. An additional leasehold excise tax of 12.84 percent applies. Including excise tax, this rate is $6.00 per foot.~~

~~(f) The rate for uncovered moorage for boats occupying 50-foot uncovered slips shall be $5.73 per foot, based on the length of boat or slip, whichever is longer. An additional leasehold excise tax of 12.84 percent applies. Including excise tax, this rate is $6.47 per foot.~~

Section Two. Oak Harbor Municipal Code Section 6.36.022, Guest Moorage Rates, last amended by §2 of Ordinance 1362 in 2003, is hereby amended to read as follows:

6.36.022 Guest moorage rates.

Guest moorage rates apply to stays of one through seven nights. ~~(i.e., one week or less), and are determined solely by length of boat in accordance with the following table. All taxes, fees and utilities are included.~~ The rate schedule for guest moorage at the Oak Harbor Marina shall be set by resolution of the City Council.

~~Length~~	~~Rate~~
~~Less than 20 feet~~	~~$12.00~~
~~20 feet - 24 feet~~	~~15.00~~
~~25 feet - 28 feet~~	~~19.00~~
~~29 feet - 37 feet~~	~~23.00~~
~~38 feet - 45 feet~~	~~27.00~~
~~46 feet - 55 feet~~	~~35.00~~
~~56 feet - 65 feet~~	~~46.00~~
~~66 feet and greater~~	~~57.00~~

Section Three. Oak Harbor Municipal Code Section 6.36.026, Electricity, last amended by §3 of Ordinance 1072 in 1996, is hereby amended to read as follows:

6.36.026 Electricity.

(1) The ~~R~~rates schedule for electrical service ~~are as follows:~~at the Oak Harbor Marina shall be set by resolution of the City Council.

~~(a) Account service charge (applies to all accounts): $4.50~~

~~(b) Charge per kilowatt hour consumed (per meter): $0.105~~

~~(c) Minimum charge, regardless of consumption (includes account service charge): $9.75~~

~~(d) Unmetered slips, nonliveaboard (flat fee):~~

~~Boats to 30 feet: $9.75~~

~~Boats 31 through 36 feet: $15.00~~

~~Boats greater than 36 feet: $22.00~~

~~(e) Unmetered slips, liveaboard (flat fee):~~

~~Boats to 30 feet: $40.00~~
~~Boats 31 through 36 feet: $40.00~~
~~Boats greater than 36 feet: $53.00~~

(2) If a tenant utilizes more than one electrical connection, he shall be charged for all power terminals used in accordance with the above rates.

(3) Special rates for commercial operations, or for vessels with unusual power requirements, may be set by the harbormaster, so long as the same are sufficient to cover the full cost of such electrical service, and that notice of the special rate is filed with the finance director.

Section Four. Oak Harbor Municipal Code Section 6.36.027, Storage Sheds, last amended by §2 of Ordinance 1476 in 2006, is hereby amended to read as follows:

6.36.027 Storage sheds.

Occupancy of a storage shed will in all cases require a written contract, to include the prescribed moorage deposit. The ~~monthly rate~~ rate schedule for dry storage shed leases at the Oak Harbor Marina shall be set by resolution of the City Council. ~~$84.83 per month per shed, plus the required 12.84 percent leasehold excise tax, for a total of $95.75 per month.~~ Additionally, the harbormaster may approve temporary storage at the rate set out in the applicable resolution.~~of $3.50 per day.~~

Section Five. Oak Harbor Municipal Code Section 6.36.028, Use of Hoist, last amended by §~~1~~ 2 of Ordinance 1406 in 2004, is hereby amended to read as follows:

6.36.028 Use of hoist.

(1) The ~~fees~~ rate schedule for hoist services performed for customers by marina staff ~~are:~~ shall be set by resolution of the City Council.

~~(a) For launching boats is $30.00 round trip; $15.00 one-way (load limit for the hoist is 6,500 pounds).~~

~~(b) Hoisting and removing engines and miscellaneous equipment (6,500 pound maximum weight) may be done for a fee of $15.00 one-way. Marina staff assistance is required.~~

(2) Customers may execute a contract with the city wherein the customer uses the hoist on a self-service, ongoing basis, as follows:

(a) A hoist contract must be executed with the harbormaster prior to use of the hoist. Administrative procedures will include a review of rules and safety procedures. First-time users shall make their first run under supervision of marina staff.

(b) Hoist contracts for noncommercial use may be purchased at the rate ~~of $30.00 per month.~~as established by the applicable City Council resolution. The customer will be automatically billed at this rate until the hoist card is returned to the marina office and the contract is terminated.

(c) Hoist contracts for commercial (for profit) use may be purchased at the rate ~~of $50.00 per month.~~as established by the applicable City Council resolution. The contracting user will be automatically billed at the rate ~~of $50.00 per month~~established by City Council resolution until the hoist card is returned to the marina office and the contract is terminated.

Section Six. Oak Harbor Municipal Code Section 6.36.029 last amended by §10 of Ordinance 963 in 1993 is hereby amended to delete the boat dolly rental provisions and impose an environmental compliance fee, to read as follows:

~~**6.36.029 Boat dolly rental.**~~
~~The rate for rental of a boat dolly shall be $15.00 for the first day, and $5.00 per day thereafter.~~
6.36.029 Environmental Compliance Fee.
To help to offset the costs associated with environmental compliance, an Environmental Compliance Fee will be assessed each month on each account (wet moorage, dry moorage, storage sheds). Rates shall be set by City Council resolution

Section Seven. Oak Harbor Municipal Code Section 6.36.030, Pressure Washer Rental and 6.36.031, Tidal Grid Rental, are hereby repealed.

~~**6.36.030 Pressure washer rental.**~~
~~The rate for rental of the marina pressure washer shall be $15.00 per hour. (Note: Pressure washer may not be used to clean boat hulls which have been treated with anti-fouling bottom paint.)~~

~~**6.36.031 Tidal grid rental.**~~
~~The rate for utilization of the tidal grid shall be $27.00 per day. Reservations are required. (Note: The tidal grid may no longer be used for hull cleaning or painting. It may be used for surveys, and for work on propellers, shafts, zincs, through hull fittings, etc., provided that due care is taken to assure that deposits do not enter the water.)~~

Section Eight. Oak Harbor Municipal Code Section 6.36.037 Parking Lot Storage, last amended by §2 of Ordinance 1476 in 2006, is hereby amended to read as follows:

6.36.037 Parking lot storage.

(1) Vehicles, trailers, boats on trailers and recreational vehicles may be stored or placed for sale in specifically designated spaces in the marina parking lot; provided, that a contract for that service has been properly executed and that the provisions of OHMC 6.40.139 have been met.

(2) The ~~fee~~ rate schedule for this storage at the Oak Harbor Marina shall be ~~$46.00 per month, inclusive of leasehold excise tax~~set by resolution of the City Council.

Section Nine. Severability and Savings Clause

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

(2) Deletion or amendment of provisions from the Oak Harbor Municipal Code shall not terminate any obligation to the City already vested or incurred thereunder.

Section Ten. Effective Date. This Ordinance shall be in full force and effect (5) five days after its publication as required by law.

PASSED by the City Council this ___ day of _____ 2009.

CITY OF OAK HARBOR

Approved ( )
Vetoed ( )

_____
Jim Slowik, Mayor

_____
Date

ATTEST:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Published:_____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF OAK HARBOR SETTING CERTAIN MARINA RATES AND CHARGES.

WHEREAS, the Oak Harbor City Council conducted two public meetings, one on December 1, 2009 and the other on December 15, 2009 and determined that certain City of Oak Harbor Marina rates and charges should be increased in order to meet its operation and maintenance needs and to begin to accrue a cumulative reserve to be used for undertaking the redevelopment project.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Oak Harbor that the following rates shall be established pursuant to OHMC 6.36.020 effective January 1, 2010:

MOORAGE RATES

UNCOVERED SLIPS

BOAT OR SLIP LENGTH	RATE	SUBTOTAL MOORAGE	STATE LEASEHOLD EXCISE TAX 12.84%	CUSTOMER TOTAL
15	x $5.0959/ft.	$76.44	$9.81	$86.25
16		$81.53	$10.47	$92.00
17		$86.63	$11.12	$97.75
18		$91.73	$11.78	$103.51
19		$96.82	$12.43	$109.25
20		$101.92	$13.09	$115.01
21		$107.01	$13.74	$120.75
22		$112.11	$14.39	$126.50
23		$117.21	$15.05	$132.26
24		$122.30	$15.70	$138.00
25		$127.40	$16.36	$143.76
26		$132.49	$17.01	$149.50
27	x $5.521/ft.	$149.07	$19.14	$168.21
28		$154.59	$19.85	$174.44
29		$160.11	$20.56	$180.67
30		$165.63	$21.27	$186.90
31	x $5.627/ft.	$174.44	$22.40	$196.84
32		$180.06	$23.12	$203.18
33		$185.69	$23.84	$209.53

BOAT OR SLIP LENGTH	RATE	SUBTOTAL MOORAGE	STATE LEASEHOLD EXCISE TAX 12.84%	CUSTOMER TOTAL
34		$191.32	$24.57	$215.89
35	x $5.787/ft.	$202.55	$26.01	$228.56
36		$208.33	$26.75	$235.08
37		$214.12	$27.49	$241.61
38		$219.91	$28.24	$248.15
39	x $5.902/ft.	$230.18	$29.55	$259.73
40		$236.08	$30.31	$266.39
41		$241.98	$31.07	$273.05
42		$247.88	$31.83	$279.71
43		$253.79	$32.59	$286.38
44		$259.69	$33.34	$293.03
45		$265.59	$34.10	$299.69
46		$271.49	$34.86	$306.35
47		$277.39	$35.62	$313.01
48		$283.30	$36.38	$319.68
49	x $6.363/ft.	$311.79	$40.03	$351.82
50		$318.15	$40.85	$359.00
51		$324.51	$41.67	$366.18
52		$330.88	$42.48	$373.36
53		$337.24	$43.30	$380.54
54		$343.60	$44.12	$387.72
55		$349.97	$44.94	$394.91
56		$356.33	$45.75	$402.08
57		$362.69	$46.57	$409.26
58		$369.05	$47.39	$416.44
59		$375.42	$48.20	$423.62
60		$381.78	$49.02	$430.80

COVERED SLIPS

BOAT OR SLIP LENGTH	RATE	SUBTOTAL MOORAGE	STATE LEASEHOLD EXCISE TAX 12.84%	CUSTOMER TOTAL
15	x $6.975/ft.	$104.63	$13.43	$118.06
16		$111.60	$14.33	$125.93
17		$118.58	$15.23	$133.81
18		$125.55	$16.12	$141.67
19		$132.53	$17.02	$149.55
20		$139.50	$17.91	$157.41

BOAT OR SLIP LENGTH	RATE	SUBTOTAL MOORAGE	STATE LEASEHOLD EXCISE TAX 12.84%	CUSTOMER TOTAL
21		$146.48	$18.81	$165.29
22		$153.45	$19.70	$173.15
23		$160.43	$20.60	$181.03
24		$167.40	$21.49	$188.89
25		$174.38	$22.39	$196.77
26		$181.35	$23.29	$204.64
27	x $7.40/ft.	$199.80	$25.65	$225.45
28		$207.20	$26.60	$233.80
29		$214.60	$27.55	$242.15
30		$222.00	$28.50	$250.50
31	x $7.843/ft.	$243.13	$31.22	$274.35
32		$250.98	$32.23	$283.21
33		$258.82	$33.23	$292.05
34		$266.66	$34.24	$300.90
35	x $8.764/ft.	$306.74	$39.39	$346.13
36		$315.50	$40.51	$356.01
37		$324.27	$41.64	$365.91
38		$333.03	$42.76	$375.79
39	x $9.279/ft.	$361.88	$46.47	$408.35
40		$371.16	$47.66	$418.82
41		$380.44	$48.85	$429.29
42		$389.72	$50.04	$439.76
43		$399.00	$51.23	$450.23
44		$408.28	$52.42	$460.70
45		$417.56	$53.61	$471.17
46		$426.83	$54.80	$481.63
47		$436.11	$56.00	$492.11
48		$445.39	$57.19	$502.58
49		$454.67	$58.38	$513.05
50	x $9.81/ft.	$490.50	$62.98	$553.48
51		$500.31	$64.24	$564.55
52		$510.12	$65.50	$575.62

Guest Moorage Rates

Overall Length of Vessel	Nightly Rate
Less than 20 feet	$13
20 feet – 24 feet	$17
25 feet – 28 feet	$21
29 feet – 37 feet	$26
38 feet – 45 feet	$30
46 feet – 55 feet	$39
56 feet – 65 feet	$51
66 feet and greater	$63

Note: electricity is included.

Electricity

Metered slips

Account service charge (applies to all accounts)	$5.00 per month
Charge per kilowatt hour consumed (per meter)	$0.117 per kwh
Minimum charge, regardless of consumption (includes account service charge)	$10.80 per month

Unmetered slips, nonliveaboard (flat fee)

Boats to 30 feet	$10.80 per month
Boats 31 through 36 feet	$16.60 per month
Boats greater than 36 feet	$24.40 per month

Unmetered slips, liveaboard (flat fee)

Boats to 36 feet	$44.40 per month
Boats greater than 36 feet	$58.80 per month

Note: If a tenant utilizes more than one electrical connection, he shall be charged for all power terminals used in accordance with the above rates.

Storage Sheds

Monthly Rate (subtotal)	State Leasehold Excise Tax (12.84%)	Total Monthly Rental Rate	Temporary Daily Rate
$94.16	$12.09	$106.25	$4.00

Use of Hoist

Fees for hoist services performed for customers by marina staff

Launching or retrieving (one way)	$16.50
Round trip	$33.00

Monthly contract rates

Non-commercial	$33.00
Commercial	$55.50

Environmental Compliance Fee

A monthly fee of $1.11 shall be charged to each moorage and mini-storage account.

Parking Lot Storage Rate

Monthly Rate (subtotal)	State Leasehold Excise Tax (12.84%)	Total Monthly Rental Rate	Temporary Daily Rate
$42.50	$5.80	$51.00	$2.00

PASSED by the City Council this 15th day of December, 2009.

THE CITY OF OAK HARBOR

_____

Jim Slowik
Mayor

Attest:

_____

City Clerk

Approved as to form:

_____

Margery Hite
City Attorney