

**City Council Regular Meeting  
Tuesday, May 15, 2012, 6:00 p.m.  
City Hall – Council Chambers**

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**CALL TO ORDER** Mayor Pro Tem Danny Paggao called the meeting to order at 6:00 p.m.

**INVOCATION** Councilmember Tara Hizon

**ROLL CALL**

Mayor Pro Tem Danny Paggao  
Five Members of the Council,  
Rick Almberg  
Jim Campbell  
Tara Hizon  
Joel Servatius  
Bob Severns

Steve Powers, Interim City Administrator  
Bill Hawkins, City Attorney  
Doug Merriman, Finance Director  
Cathy Rosen, Public Works Director  
Larry Cort, Project and Contract Specialist  
Eric Johnston, City Engineer  
Cac Kamak, Senior Planner  
Lt. John Dyer, OHPD  
Ray Merrill, Fire Chief  
Chris Sublet, Interim Harbormaster  
Renée Recker, Executive Assistant to the Mayor

Councilmember Beth Munns was absent and excused due to illness.

Councilmember Danny Paggao sat as Mayor Pro Tempore in Mayor Scott Dudley's absence.

**MINUTES**

May 1, 2012 Regular Meeting, May 4, 2012 Workshop

**MOTION:** Councilmember Severns moved to approve the May 1, 2012 regular meeting minutes and May 4, 2012 workshop minutes. The motion was seconded by Councilmember Campbell.

**VOTE ON THE 5/1/2012  
REGULAR MEETING  
MINUTES:**

The minutes were unanimously approved.

**VOTE ON THE 5/4/2012  
WORKSHOP MINUTES:**

Councilmembers Campbell, Hizon, and Servatius voted to approve the workshop minutes. Councilmembers Almberg and Severns abstained from the vote since they did not attend the workshop. The motion carried.

## **NON-ACTION COUNCIL ITEMS**

### **Proclamation – National Public Works Week**

Councilmember Severns read and presented this proclamation to Public Works Director Cathy Rosen. Public works services are an integral part of our everyday lives and the staff of Oak Harbor's Public Works Department are qualified, efficient, and dedicated; they understand the importance of the work they perform.

### **Public Comments**

**Mel Vance, Oak Harbor.** Mr. Vance offered these ideas to encourage downtown shopping: Create a local currency; produce shopper's cards through a partnership between the Chamber of Commerce and downtown merchants.

**Cecil Pierce, Oak Harbor.** Mr. Pierce spoke with concern about an upcoming Council special meeting which will include discussion about hats in Council Chambers: This has been going on since the 1600s, the Quakers, and hat removal in front of royalty. You are not royalty. Legislation is totally inappropriate. There will also be discussion about conduct - focus on how you conduct yourself. Mr. Pierce also talked about a meeting with the City Engineer and WSDOT and how intersection push buttons are placed. For Fairhaven and Whidbey, they were done well and the City placed them at the right height. Overall, you are doing a good job.

There were no other comments, so Mayor Pro Tem Paggao closed this portion of the meeting at 6:10 p.m.

### **Consent Agenda**

- A. Appointment – Youth Services Advisory Board, Ron Lawler
- B. Appointment – Youth Services Advisory Board, McKenzie Schneider
- C. Noise Permit – Mision Emanuel – Youth Event
- D. Noise Permit – Whidbey Cruzers
- E. Noise Permit – Living Faith Christian Center
- F. Noise Permit – Seanotes Big Band
- G. Noise Permit – Oak Harbor Key Club
- H. Noise Permit – Relay for Life
- I. Approval of Accounts Payable Vouchers (Pay Bills)

**MOTION:** Councilmember Almberg moved to approve Consent Agenda items A through I with Item I paying Accounts Payable check numbers 149949 - 149953 in the amount of \$2,360.22, Accounts Payable check numbers 149954 - 150142 in the amount of \$882,841.40, and Payroll Check numbers 95538 - 95550 in the amount of \$399,134.06. The motion was seconded by Councilmember Servatius and carried unanimously.

### **Public Hearing – Youth Services Advisory Board Code Revision**

City Administrator Steve Powers presented this agenda bill and talked about the history of the Youth Services Advisory Board and Youth Coordinator position (no longer a City position). Following a hiatus since 2006, the Board has begun meeting again and determined that the code establishing the Board's makeup and defining its tasks needed updating. The makeup and purpose of City boards can and should change over time to better respond to new opportunities and circumstances. The draft ordinance with this agenda bill contained amendments proposed by the Board which were forwarded by Councilmember Tara Hizon, the Board's Council representative, and Lieutenant John Dyer, the Board's staff representative. The ordinance would amend Chapter 2.250 of the Municipal Code entitled "Youth Services Advisory Board" to rename the body the "Oak Harbor Youth Commission" and make other revisions to reflect an updated purpose for the Commission.

Mayor Pro Tem Paggao opened the public hearing at 6:20 p.m.

**Lt. John Dyer, Oak Harbor Police Department and Commission Member.** Thank you for the opportunity to be part of the Youth Commission. Lt. Dyer talked about the Board's changes and the past Board which sat as an advisory body for the Youth Coordinator. Circumstances have changed. Two members were appointed this evening and one of those appointments is a student. Lt. Dyer also talked about planning future community forums.

There were no other comments so Mayor Pro Tem Paggao closed the public hearing at 6:25 p.m.

**MOTION:** Councilmember Severns moved to adopt the ordinance amending OHMC 2.250 "Youth Services Advisory Board" to rename the body the "Oak Harbor Youth Commission" and make other revisions to reflect an updated purpose for the Commission. The motion was seconded by Councilmember Hizon and carried unanimously.

### **Introduction – Personnel “Housekeeping” Code**

Human Resources Director Jessica Neill Hoyson presented this agenda bill. An ordinance repealing and readopting OHMC Chapter 2.34 was introduced to the City Council on April 17, 2012. That proposed ordinance is intended to clearly establish the Council's legislative policy regarding City employment. During its introduction, staff noted that a separate ordinance (referred to as a "housekeeping ordinance") proposing a variety of changes to other related sections of the Code would be forthcoming. The draft ordinance attached to this agenda bill was that "housekeeping ordinance." The draft ordinance amends various chapters of the OHMC regarding the employment status of the City's department directors. The proposed ordinance clarifies that all department directors are appointed by the Mayor and confirmed by the City Council, that all directors serve at the pleasure of the Mayor and that they all have or are offered employment contracts approved by the City Council. This

ordinance corrects a deficiency in the code by creating the Public Works Department as a City department. It also amends the Marina Code (OHMC Chapter 2.38), by adding that the Harbormaster may report to the City Administrator's designee. This change is required to reflect the current reporting relationship.

Ms. Neill Hoyson also noted that Council will be provided an update on the personnel code in relation to the employee meeting notes and responses to submitted questions. Ms. Neill Hoyson will be working to incorporate these into the handbook, provide a draft, and then a follow up meeting with employees. Since Council has made no recommendations, this may be presented at Council's 6/5/12 regular meeting.

Mayor Pro Tem called for public comments but there were none.

#### Council Discussion

Discussion followed about the emails from Human Resources and feedback, the reporting relationship for the Marina, use of the phrase "at the pleasure of the Mayor" (Mr. Hawkins responded that this is classic "at will" language), and if the City's organization chart will be need to be changed (no, this language would not change reporting relationships on a day-to-day basis). Discussion continued regarding *Section Five, 2.40.020 Director - Appointment and Removal* and that the last sentence seems inconsistent with Council approval. Mr. Hawkins noted that an interim appointment would not come before Council and the standard timeline is ninety days. Discussion followed about classifying the City Engineer as an "at will" employee with Ms. Neill Hoyson responding that the Engineering Department is a division of the Public Works Department and the City Engineer's position would not be among department heads classified as "at will." This could be changed if Council chose to make Engineering its own department. Discussion returned to this section and the difference between the words "approval" and "confirmed." Ms. Neill Hoyson responded that this is meant to show that the Director of the Department of Development Services would be confirmed by the City Council. The last sentence's phrase, "such other person or person designated by the Mayor" - could this be clarified to specify that this scenario would only apply to an interim position. Mr. Powers noted that the code, in reference to the Development Services Department and the Development Services Director, at one time referred to the Planning Director. This sentence was meant to update the code, by reference, when the phrase Planning Director is used. The last portion of the sentence could be removed.

**MOTION: Councilmember Hizon moved to amend the last sentence of *Section Five, 2.40.020 Director - Appointment and Removal* by striking the sentence's ending phrase: "or such other person or persons designated by the Mayor." The motion was seconded by Councilmember Almberg and carried unanimously.**

Discussion continued regarding the effective date of this proposed ordinance and how it would affect staff who are not currently "at will." Ms. Neill Hoyson responded that this ordinance does not change the employment status of directors who are currently "at will" employees.

Council asked about Mr. Merriman's review since he did not initial the agenda bill (Mr. Merriman was out of the office when the agenda bill was circulated but has reviewed this item), and if other staff and directors have given their input (they have not but this could be done before Council's 6/5/12 meeting).

**MOTION: Councilmember AlMBERG moved to set June 5, 2012 as the public hearing date for this ordinance. The motion was seconded by Councilmember Hizon and carried unanimously.**

**Agreement – Reimbursement for Services, Swinomish Indian Tribal Community**

Larry Cort presented this agenda bill and Reimbursement for Services Agreement noting that today marks two weeks for Pit Road's archaeological recovery. This work is very labor-intensive and going well. Representatives from the Lummi, Upper Skagit, and Swinomish Tribal Communities are on-site and will soon be joined by Tulalip representatives. All Tribal representatives are working through this one agreement.

On September 20, 2011, the City County authorized the Mayor to sign a Reimbursement for Services Agreement between the Swinomish Indian Tribal Community and the City of Oak Harbor. This agreement stipulated the terms for reimbursing the Swinomish Tribe for work performed on Pioneer Way (Site No. 45IS45) under Archaeological Excavation Permit No. 2011-33. All work under this agreement concluded by the end of December of 2011. With the field work now complete on Site 45IS45 (Pioneer Way), the City in partnership with Equinox Research and Consulting International (ERCI) applied for a new Archaeological Excavation Permit to perform recovery work on Site 45IS300 (Pit Road plus four outlier sites). On April 30, 2012, the Washington State Department of Archaeology and Historic Preservation issued Permit No. 2012-19 authorizing this work.

In common with the Pioneer Way portion of the work, the City would once again welcome the participation of Tribal community members in helping to fulfill the requirements in Permit No. 2012-19. This Reimbursement for Services Agreement is almost identical to the agreement approved by the City on September 20, 2011 in that it provides for reimbursement for Tribal spiritual leaders, Tribal handlers and monitors, benefits and indirect costs, mileage and archival and funerary boxes. The estimated costs for the services rendered are shown in Section 4 and are based on two assumptions supplied by the City's archaeological consultant, Kelly Bush of ERCI. First, Ms. Bush has estimated that the work will take approximately 32 weeks to complete (160 working days). Second, the estimate assumes that up to 15 Tribal community members will be available to support the archaeological recovery work. The total estimated cost for services rendered under the Permit is \$548,301.85. Staff recommended that the agreement establish a not-to-exceed contract amount of \$600,000.00. The archaeological work to be performed under this agreement will be paid for out of the same combination of funds that paid for the Pioneer Way project (i.e., water, sewer, storm, arterial, REET). The proportion charged to each fund for archaeology will be based on the percentage that each of these funds was used to cover expenditures incurred during the Pioneer Way construction. In other words, if 8% of the total project cost for Pioneer Way was paid by the water fund, then 8% of the archaeology costs would be charged to the water fund.

Mayor Pro Tem Paggao called for public comments.

**Paul Brewer, Oak Harbor.** Mr. Brewer asked about the source for additional funds to pay for Pit Road: Will the City's insurance cover this cost or will the cost be added to utility costs and paid by utility consumers?

There were no other public comments.

#### Council Discussion

Council asked Dr. Cort to address Mr. Brewer's question. Dr. Cort responded that he could answer a portion of Mr. Brewer's question in that additional monies would come from the original funding sources that paid for the Pioneer Way project; a package of funding sources broken out as a percentage from water, sewer, stormwater, REET, and arterial funds. Costs will be allocated according to the percentage formulas used for the main construction of the Pioneer Way project. Dr. Cort could not address use of the City's insurance pool but could not think of a method to apply for such coverage. These costs were unexpected but remain part of the construction costs.

Council asked that since these costs are known, could an impact on utility rates be estimated. Finance Director Merriman responded that staff has been discussing this issue but the difficulty lies in the estimated range of costs and the actual impact on rates; perhaps 1 to 2 percent spread over a five-year period. Dr. Cort showed a PowerPoint slide detailing Pioneer Way project cost updates which is attached to these minutes as Exhibit A.

Discussion followed on how pending archaeological costs at \$1.02 million to \$1.93 million will be covered. Mr. Merriman talked about GASB inquiries on allocating costs noting that the cost of an asset, construction costs, or other costs (archaeological costs) are capitalized into the asset. The State Auditor agreed with Mr. Merriman's methodology for the cost share and again noted the funds affected and 1 to 2 percent impact (potentially one to two additional dollars a month on citizens' utility bills).

Council asked about other projects which will be curtailed because of these costs and Mr. Merriman noted that Shawn Koorn, HDR Engineering will return to talk about rates, but with the next budget cycle, capital facility plan, and schedule, the City will have to analyze this impact on other City projects.

**MOTION:** Councilmember Campbell moved to authorize the Mayor to sign the Reimbursement for Services Agreement between the Swinomish Indian Tribal Community and City of Oak Harbor for services rendered under the terms of Archeological Excavation Permit No. 2012-19 as issued by the State Department of Archaeology and Historic Preservation. The motion was seconded by Councilmember Hizon and carried unanimously.

### **Contract Award – Gun Club Road Water Main**

City Engineer Eric Johnston presented this agenda bill. The Gun Club Road Water Main Construction project involves the installation of new water mains to serve the future North Reservoir. The scope of the water main project includes installation of approximately 5,500 feet of 18-inch and 24-inch ductile iron water main pipe, a pressure reducing valve station, connections to the existing system, valves, pipe fittings, and street repairs. The project will extend water mains west of Oak Harbor Street along Gun Club Road and then north into the reservoir site. Water mains installed along Gun Club Road will be within Island County right-of-way (ROW) by permit and franchise. North of Gun Club Road, the mains will be installed in a utility and access easement held by the City. All work is to be performed in accordance with the contract plans, contract provisions, and standard specifications. Funding is included in the approved 2011-2012 budget, water utility capital fund, and system development fees. Island County has issued the permit for the installation along Gun Club Road ROW and all City permits and SEPA procedures have been completed. An archaeology investigation has been completed and the results suggest there is a low probability of encountering cultural resources. An inadvertent discovery plan has been developed and is included in the construction contract provisions.

The North Reservoir project will add four million gallons of standby storage to the City's water system. The site for the new reservoir was selected based on the overall short and long term benefits to the City. The North Reservoir site is a City-owned property, located between N Oak Harbor and NW Heller Streets, and north of the Gun Club Road ROW. In addition to the reservoir site property, the City has a 30-foot easement for access and utility installation across private property between the Gun Club Road ROW and the reservoir site. The City acquired the property through a court settlement in the 1990s. As part of the settlement, the City currently owns 10 acres but is required to give back 5 acres. A boundary line adjustment application process has been started to execute the required property action. The boundary line adjustment process is not required in order to begin construction of the water mains along Gun Club Road.

The project was advertised for bidding in the Daily Journal of Commerce and Whidbey News Times. In addition, the project was posted to the Builders Exchange of Washington Online Plan Center. Staff received and opened fifteen sealed bids on April 24, 2012. The bid totals are tabulated below.

Contractor	Location	Bid Total
C Johnson Construction, Inc.	Oak Harbor, WA	\$1,143,575.63
Colacurcio Brothers, Inc.	Blaine, WA	\$1,328,828.15
Jennings Northwest, LLC	Sumner, WA	\$1,351,126.87
RRJ Company LLC	Monroe, WA	\$1,377,235.52
Faber Construction Corp.	Lynden, WA	\$1,401,460.06
SRV Construction, Inc.	Oak Harbor, WA	\$1,420,944.34
Strider Construction Co., Inc.	Bellingham, WA	\$1,431,644.22
Tiger Construction Ltd	Everson, WA	\$1,477,394.42
Buno Construction, LLC	Snohomish, WA	\$1,521,213.02
Interwest Construction, Inc.	Burlington, WA	\$1,522,645.69
I&E Construction, Inc.	Clackamas, OR	\$1,571,916.14

Krieg Construction, Inc.	Oak Harbor, WA	\$1,587,688.51
Kar-Vel Construction	Renton, WA	\$1,594,802.92
RAM Construction	Bellingham, WA	\$1,629,249.95
NOVA Contracting, Inc.	Olympia, WA	\$1,653,767.24

<i>Engineer's Estimate</i>	<i>Oak Harbor, WA</i>	<i>\$2.2M to \$2.5M</i>
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Mayor Pro Tem Paggao called for public comments.

**Paul Brewer, Oak Harbor.** Mr. Brewer commended the City and Council for moving forward with this project whose history goes back to the Hackney property. Mr. Brewer thought that Gun Club Road was going to be annexed into the City, and if so, will the City do the necessary upgrades to Gun Club Road and sewer connections rather than going through this process twice?

There were no other comments.

Council Discussion

Council asked Mr. Johnston to address Mr. Brewer's questions. Mr. Johnston noted that the reservoir site is within the City limits but Gun Club Road is not proposed for annexation. The City is not planning to do major street or sewer upgrades; this is a utility project associated with the water utility. Council asked about the amendment and change in asphalt. Mr. Johnston responded that warm mix asphalt is better for large street projects and, as a general policy, will continue to be used on major street projects. This was discussed with Gray and Osborne since it was not included, and the change was done by an addendum a week before the bid opening and all bidders were aware of the addendum. The increased cost is less than one percent. Council noted the bids were all below the Engineer's Estimate and this bid's award to a local contractor.

Discussion continued about this project coming in below the Engineer's Estimate and if they can help offset Pioneer Way's archaeological discovery costs (yes), but Mr. Merriman noted that the Gun Club Road Water Main project only addresses the water fund. Council asked about the performance bond (in place) and if this includes the reservoir (no, but the reservoir project should come before Council this August).

**MOTION:** Councilmember Hizon moved to authorize the Mayor to sign a contract with C. Johnson Construction, Inc., in the amount of \$1,143,575.63 plus all applicable taxes and authorize the City Engineer to administratively approve changes to the construction contract totaling not more than \$110,000. The motion was seconded by Councilmember Campbell and carried unanimously.

### **Construction Management Contract – Gun Club Road Water Main**

City Engineer Eric Johnston presented this agenda bill for approval of an agreement with KBA Construction Management for their services on the Gun Club Road Water Main project. The bid for the construction work is approximately \$1.0 million less than the original planning level budget estimate. Using the savings resulting from the low bid to pay for assistance with the construction management on this project allows staff to focus on other tasks and accelerate work on other capital projects. These other capital projects include the Ely Street sewer main repair, Well No. 9 replacement, and increased public involvement on the Waste Water Facility Plan. Funding is included in the approved 2011-2012 budget, Water Utility Capital Fund and System Development Fees. The City construction inspector will be responsible for the daily inspections with the construction management consultant handling the construction engineering and documentation. The draft contract has language related to the indemnification that has not been fully reviewed by the City Attorney. It was recommended that Council authorize the Mayor to sign the contract once the City Attorney approves the revisions.

Mayor Pro Tem called for public comments but there were none.

### **Council Discussion**

Discussion followed about approving this agreement now or returning it to Council once the indemnification language has been reviewed by the City Attorney (only a small technical change, it can be approved at this meeting and not returned to Council), that this was originally planned as in-house construction management, and that the Ely Street, Well No. 9, and public outreach for the Waste Water Facility Plan will be done in-house. Council asked which staff members were originally slated for the Gun Club Road Water Main project - Larry Cort and Joe Stowell, (Dr. Cort is now becoming the Interim City Administrator), and if funds were being traded or if a consultant will cost more (more cost with a consultant but no comparable estimate is in place if Dr. Cort had remained on this project).

**MOTION: Councilmember AlMBERG moved to authorize the Mayor to sign a contract in a form approved by the City Attorney with KBA Construction Management, Inc., in the amount of \$115,000. The motion was seconded by Councilmember Servatius and carried unanimously.**

### **Marina Rates Resolution – Contract Pricing and New Fuel Pricing Method**

Since Councilmember Severns leases a storage unit at the Marina, he asked to be recused from this agenda item and left Council Chambers. Senior Planner Cac Kamak and Harbormaster Chris Sublet presented this agenda bill and resolution that would revise the Marina Rate Schedule to include contract pricing for moorage and a new fuel pricing methodology. The current rates schedule was adopted in December 2011. The Marina Advisory Committee recommended inclusion of contract pricing and fuel pricing formulas in this latest version as a means to provide incentives to retain existing customers and attract new customers. All of the rates adopted in December 2011 will remain the same and the proposed options are additions to the current rate schedule.

Contract pricing offers a reduced price for a long-term lease at Oak Harbor Marina. Possible fiscal impact is described in terms of the existing customer base and in terms of future customers. Assuming that all existing permanent moorage customers decide to take advantage of the proposed contract pricing and the Marina received no new customers, then the revenue on the annual permanent moorage would drop by approximately \$23,350 in 2012. If the same situation continued into 2013, the revenue would be decreased by approximately \$48,840. This sets the baseline for the fiscal impact if there was no increase or decrease in permanent moorage. Since contract pricing is being considered as an incentive, the expectation is that occupancy will increase in the next few years and will therefore provide a long-term solution for higher occupancy than the current occupancy rate (occupancy has dropped from 80 percent in 2009 to 56 percent today) and therefore higher revenues.

In addition to the current month-to-month moorage pricing, the Marina Advisory Committee has identified three pricing strategies that may help in retaining occupancy levels and a potential to increase occupancy. These pricing strategies consist of small boat, winter moorage, and yearly contract pricing. All of these three new pricing strategies will be offered to existing customers and new customers and offer customers an option for reduced rates over a period of time. For example, a 12 month lease for an 11 month rate, or a lower rate in winter. Signed contracts would be in effect for the duration of the contract. A boat owner could enter into a contract at anytime during the year. The contracts will terminate at the end-of-contract date which will be determined by the type of contract. However, a customer can terminate the contract prior to the contract termination date if they sell their boat, pass away, or receive sudden military orders. In the event that a tenant breaks a contract without one of these events occurring, the tenant would be financially responsible for the remainder of the contract. All of the proposed options for contract pricing apply only to the moorage rates and will not be applied to the dredging fee.

The proposed fuel pricing policy is based on the invoice rate of the purchase and not the rack price that is a frequently fluctuating value. The State's rack price fluctuates every few days and therefore the Marina's fuel price also fluctuates. The Marina Advisory Committee identified problems regarding use of the State's rack price in Oak Harbor's fuel pricing policy since it does not accurately represent the cost the City paid for fuel. In searching for an alternative, the Marina Advisory Committee reviewed other options and eventually thought it best to use the City's invoice price with a flat rate markup and sales tax. This methodology would allow fuel prices at the Marina to stay consistent until the supplies are replenished. The fuel pricing policy also includes a recommendation to offer a 20 cent discount to customers that stay overnight at the marina. The discount of 20 cents is to not exceed the price of guest moorage. For a 40 foot boat on guest moorage, it would offer a 20 cent discount on approximately 175 gallons of fuel. The Marina Advisory Committee believes that this will be an incentive for boaters sailing along Saratoga Pass to spend overnights at Oak Harbor Marina.

In terms of providing an incentive, it must be noted that the proposed change in fuel pricing policy may not always yield a lower price than nearby marinas. Since most nearby marinas' prices fluctuate more often than Oak Harbor, there will be times when Oak Harbor's fuel prices may be higher than other marinas in the region.

Both Mr. Kamak and Mr. Sublet emphasized that these concepts would be heavily marketed through Facebook, 125 yacht clubs, flyers, signs, channel 10, and area boat shows. It is difficult to predict the success of these changes, and if 100% of the Marina's tenants opt for a contract and occupancy remained the same, there would be a drop in revenue. However, these options should generate increased occupancy which would offset the contract discount; it should be a good and popular program and return boats to the Marina.

Mayor Pro Tem Paggao called for public comments.

**Chris Skinner, Oak Harbor.** Mr. Skinner is the Chair of the Marina Advisory Committee and introduced other committee members attending this evening's meeting: Ken Hulett, Dave French, and Bob Nelson. This program is the result of a considerable amount of study. Mr. Kamak and Mr. Sublet have done a great job of keeping us informed. The Marina is an enterprise fund and has been self-supporting for thirty years. We are looking at these plans like the operation of a private marina and want to bring in more revenue through higher numbers of moorage customers and distinguish the Marina through innovative contracting and fuel pricing options. A lot of thought has gone into this; look at the potential rather than the worst case scenario.

**Paul Brewer, Oak Harbor.** Mr. Brewer thanked the committee and staff for "thinking outside the box" during this time of economic decline. Mr. Brewer, using Florida as an example, asked about road tax on fuel. If Washington's fuel carries a road tax, then contact the legislators to find out why.

**Ken Hulett, Marina Advisory Committee.** Mr. Hulett is well aware of the risks but felt this is the best course of action for the Marina. Mr. Hulett answered Mr. Brewer: The State does not charge road tax on dyed diesel (the diesel available at the Marina). Gas is taxed but the State has a methodology in place for application to get the tax back. Mr. Hulett also noted that the main point is not to reduce rates for existing tenants but rather to fill empty slips and be competitive.

**Bob Nelson, Marina Advisory Committee.** Mr. Nelson has had a boat at the Marina since 2005 and is pleased with the fuel pricing strategy: This is an easy decision since the Marina will still be making 20 cents a gallon over the cost. Clubs used to come to Oak Harbor for the fuel costs, but that stopped a few years ago when the fuel policy was changed. Mr. Nelson holds memberships in a number of maritime organizations and will be marketing these changes to those organizations.

**Mel Vance, Oak Harbor.** Mr. Vance noted: If a customer pulls out of their contract early, they pay a penalty with what is owed. (The City's) marketing incentives on Pioneer Way was controlled by State law. I assume the City Attorney has looked at this closely so the City doesn't step into a legal morass. Look at subcontracting the fuel with one of the gas stations. They get a discount on their wholesale pricing.

There were no other public comments.

### Council Discussion

Discussion followed about gifting with Mr. Powers noting this would not be a gifting issue since Council sets the rates. Discussion continued about the Marina's budget (adopted and provided in December and this agenda bill's attached revenue and expenditure projections extend out to 2015), how to sustain a revenue loss, and that a follow up report to Council will be provided at the end of this year or beginning of next year. Contract enforcement will be pursued through normal legal means. Council congratulated the committee, Mr. Kamak, and Mr. Sublet for this positive plan and detailed presentation.

**MOTION: Councilmember Hizon moved to approve Resolution No. 12-11. The motion was seconded by Councilmember Campbell. The motion carried with Councilmembers AlMBERG, Campbell, Hizon, and Servatius voting in favor of the motion. Councilmember Severns had recused.**

Mr. Severns returned to the meeting.

### **Delegate Selection – AWC Annual Meeting**

Council needed to elect three voting delegates to serve during the 2012 Association of Washington Cities (AWC) Annual Business Meeting. Councilmember Munns sits on AWC's Board of Directors, so Council felt she may not be able to also act as a delegate. Discussion continued about Councilmember AlMBERG (attending but did not wish to be a delegate) and Councilmember Servatius (not attending).

**MOTION: Councilmember AlMBERG nominated Council Members Danny Paggao, Tara Hizon, and Bob Severns as the 2012 voting delegates. The motion was seconded by Councilmember Servatius and carried unanimously.**

### **Future City Council Pending Items**

As noted in the packet.

### **Councilmembers' Comments (presented ahead of the City Administrator's Comments)**

Councilmember AlMBERG talked about the Finance Standing Committee meeting scheduled for the next day, Wednesday, 5/16/12, 3:30 p.m.; Councilmember Hizon noted the Youth Commission was also meeting on Wednesday, 5/16/12, 5:15 p.m., United Way Office, and Councilmember Campbell asked about re-scheduling the 6/19/12 regular Council meeting.

### **City Administrator's Comments**

City Administrator Powers noted the 6/19/12 regular meeting will be held as a special meeting on Monday, 6/18/12, 6:00 p.m., City Hall Council Chambers. City Attorney Hawkins noted that Councilmember Campbell's excused absence request for the 6/19/12 meeting can apply to the 6/18/12 special meeting. The Parliamentary Procedure Workshop will be held on 5/30/12, 6:00 p.m., with Ann Macfarlane facilitating this workshop.

**Mayor's Comments**

Mayor Pro Tem Paggao talked about Mayor Dudley's successful surgery and wished him well with an early recovery.

**ADJOURN**

With no other business coming before the Council, **Councilmember Campbell moved to adjourn, the motion was seconded by Councilmember Severns and carried unanimously.** The meeting adjourned at 8:05 p.m.

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Connie T. Wheeler  
City Clerk

# Pioneer Way Reconstruction Project Cost Update

Project to Date	\$ 7,059,112.73	Amount Paid as of 5/14/2012
Outstanding Invoices	\$ 18,353.43	Pioneer Way Archaeology
	\$ 330,000.00	PSE – Estimate
	\$ 7,500.00	KBA – Final Bill Estimate
	\$ 25,000.00	Other
Pit Road Estimated	\$ 318,758.25	ERCI – Phases 1 & 2 Estimate
	\$ 548,301.85	Swinomish - Estimate
	\$ 50,000.00	Lease, Security Fencing, Power, other
	<b>\$ 8,357,026.26</b>	<b>Subtotal</b>
Archaeology Pending	1.02m – 1.93m	ERCI – Phase 3 Pit Road
	unknown	Reburial Costs

Exhibit A

15-May-12