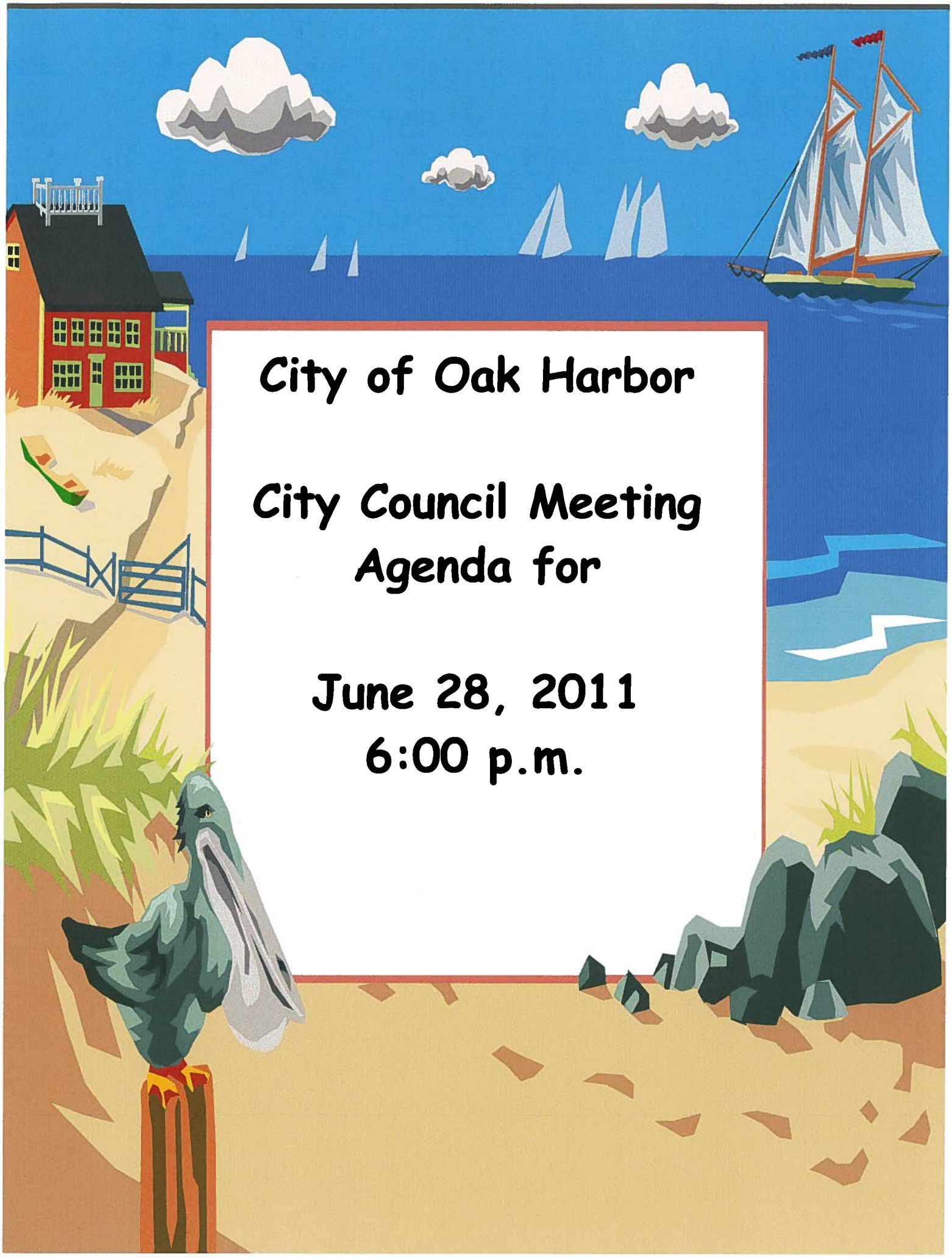

# City of Oak Harbor

# City Council Meeting Agenda for

# June 28, 2011
# 6:00 p.m.

# Oak Harbor City Council
## REGULAR MEETING
## Tuesday, June 28, 2011, 6:00 p.m.

**Welcome to the Oak Harbor City Council Meeting**

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

**CALL TO ORDER**

**INVOCATION**

**ROLL CALL**

**MINUTES**

**NON-ACTION COUNCIL ITEMS:**

1. Public Comments.

**COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:**

2. Consent Agenda:

**Page 34**
   a. Noise Permit – VAQ -130.

**Page 37**
   b. Noise Permit – Whidbey Island Race Week.

**Page 40**
   c. Noise Permit – Fleet Readiness Command Picnic.

**Page 43**
   d. Noise Permit – Pioneer Automotive Services & Whidbey Cruzers Car Show.

**Page 46**
   e. Noise Permit – Living Faith Christian Center.

**Page 49**
   f. Noise Permit – Chamber of Commerce - 4th of July.

**Page 52**
   g. Noise Permit – Family Bible Church.

**Page 55**
   h. Re-Appointment – Lodging Tax Advisory Committee, Rhea Nelson.

**Page 57**
   i. Re-Appointment – Lodging Tax Advisory Committee, John Platt.

**Page 59**
   j. Appointment – Lodging Tax Advisory Committee, Danielle Callendar.

**Page 62**
   k. Appointment – Library Board, Margaret Grunwald.

**Page 64**
   l. Excused Absence – Councilmember Jim Palmer, from the 7/12/11 Council Meeting.

**Page 65**
   m. Introduction – Island Disposal Franchise, Goldie Road Annexation.

   n. Approval of Accounts Payable Vouchers (Pay Bills).

**Page 73**

3. LID Proposal – Driftwood Beach Addition.

**Page 97**

4. Public Hearing – Element Nightclub Quarterly Review.

**Page 101**

5. Public Hearing – 2011 Solid Waste Franchise Ordinance (Seaplane Base) and Franchise Agreement with Island Disposal.

**Page 116**

6. Percich Annexation.

**Page 133**

7. Mitigation Proposal – For Pioneer Way Improvement Project.
8. City Administrator's Comments.
9. Council Members' Comments.
   - Standing Committee Reports
10. 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.*

*"Keep a green tree in your heart and perhaps a singing bird will come."*
*~Chinese Proverb*

**City Council Meeting**
**Tuesday, June 7, 2011, 6:00 p.m.**
**City Hall – Council Chambers**

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

**INVOCATION** Pastor Tim Nigro, Living Word Fellowship

**ROLL CALL**

Mayor Jim Slowik
Seven Members of the Council,
- Rick Almberg
- Beth Munns
- Jim Campbell
- Scott Dudley
- Danny Paggao, Mayor Pro Tem
- Jim Palmer
- Bob Severns

Paul Schmidt, City Administrator
Margery Hite, City Attorney
Doug Merriman, Finance Director
Steve Powers, Development Services Director
Cac Kamak, Senior Planner
Cathy Rosen, Public Works Director
Eric Johnston, City Engineer
Rick Wallace, Chief of Police
Mark Soptich, Fire Chief
Mike McIntyre, Senior Services Director
Renée Recker, Executive Assistant to the Mayor

**MINUTES**

**MOTION:** **Councilmember Palmer moved to approve the 5/17/11 meeting minutes. The motion was seconded by Councilmember Munns and carried unanimously.**

**Removed from the Agenda**
**Public Hearing Oak Harbor Municipal Code Revisions – Low Impact Development**

**MOTION:** **Councilmember Palmer moved to remove this agenda bill and return it to the July 12, 2011 City Council Meeting. The motion was seconded by Councilmember Severns and carried unanimously.**

**NON-ACTION COUNCIL ITEMS**

**Presentation to Sgt. Mike Bailey**
This was postponed to a future meeting.

**Public Comments**
**Pat Gardner, P.O. Box 2067, Oak Harbor.** Ms. Gardner came before Council on 4/19/11 regarding connection to the City's sewer system and thanked the City's Engineering Department for their positive feedback and assistance.

**Mel Vance, PO Box 2882, Oak Harbor.** Mr. Vance spoke about yesterday's 67th anniversary of the D-Day invasion. He also invited Mayor, Council, staff, and the public to visit the Navy's new child development center to see the wind turbines installed in the center's parking lot. Grant money is still available to fund sustainable energy sources and Mr. Vance felt an alternative energy source would be ideal for the City's shops. Mr. Vance suggested bringing this to a ballot if it could not be funded at this time.

**Consent Agenda**

A. Excused Absence – Scott Dudley from the Wednesday, August 3, 2011 Council Meeting
B. Noise Permit – Ft. Nugent Highlands Owner's Association
C. Noise Permit – Kim Derry, Wedding Ceremony
D. Authorization to Advertise for Bids – Safe Routes to School Project
E. Approval of Accounts Payable Vouchers (Pay Bills)

Councilmember Campbell asked to remove Item D – Authorization to Advertise for Bids – Safe Routes to School Project for discussion.

**MOTION:** **Councilmember Campbell moved to approve Consent Agenda Items A, B, C, and E with Item E paying Accounts Payable check numbers 146034 – 146036 in the amount of $47,488.30, Accounts Payable check numbers 146037 – 146233 in the amount of $1,360,402.59, Payroll check numbers 94725 – 94753 in the amount of $591,223.65, and Payroll check numbers 94754 – 94783 in the amount of $40,298.53. The motion was seconded by Councilmember Palmer and carried unanimously.**

**Consent Agenda Item D – Authorization to Advertise for Bids – Safe Routes to School Project**

Councilmember Campbell had questions and concern about the difference in location numbers between the single-sheet colored map, the site map locations, and the seven locations called out in the agenda bill's text. Mr. Campbell specifically asked about Heller Road and SW 8th Avenue which was not listed in the agenda bill text, does not have a safe crosswalk, and was the concern of a citizen who came before Council with a crosswalk/street safety presentation four years ago regarding Whidbey to Swantown Road. City Engineer Eric Johnston noted that the agenda bill text was incorrect and that the Heller Road location is included in this project.

**MOTION:** **Councilmember Campbell moved to authorize staff to proceed with advertisement of the Safe Routes to School Construction Project for competitive bidding. The motion was seconded by Councilmember Palmer and carried unanimously.**

**Public Art Project – SE Pioneer Way Improvement Project**
Councilmember Severns stated that he had a financial interest in a property close to the one of the proposed art sites and asked to abstain from the vote but not recuse from the discussion. City Attorney Hite noted that Mr. Severns is disclosing, as appropriate, and that he should not participate but could remain in the room.

Development Services Director Steve Powers presented the agenda bill and PowerPoint presentation. The SE Pioneer Way Improvement Project was selected by the University of Washington as a Greenroads™ Pilot Project. A Greenroads™ certified project represents a sustainability performance metric for construction of a road project. If at least a minimum of 1% of the total cost of the SE Pioneer Way Improvement Project is dedicated to a public art component, the project will receive 2 points towards a Greenroads™ certification. As part of the overall Greenroads™ project concept, the City has engaged in a process to incorporate public art along SE Pioneer Way. Four locations have been selected, and included in the project plans, for art along SE Pioneer Way. These locations are at City Beach Street, Dock Street, Ireland Street and Midway Boulevard.

Arts Commission Recommendation and Public Input Survey
The Oak Harbor Arts Commission was tasked with the process of soliciting and reviewing art proposals for the project. This process was initiated in November of 2010 with a Request for Proposals (RFP) that was approved by the City Council on November 16, 2010. The RFP requested proposals for four identified locations with the theme of *Water – Above, Below, On and Of* and established a total budget of $80,000, which was approximately equivalent to 1% of the estimated total project cost. The Arts Commission further identified the City Beach Street and the Midway Boulevard locations as prominent entryway sites and therefore proposed allocating a higher dollar amount (up to $30,000) to these locations so that the artists could design more prominent pieces. The deadline for responses to the RFP was January 14, 2011. The City received proposals from 16 artists. Most of the artists submitted proposals for more than one site and therefore there were a total of 43 art pieces.

The Arts Commission determined that a survey would be the most effective way to engage the public for input on the selection of art for the project. A survey was included in the March utility bill that was mailed to residents and property owners. The survey was also made available online through the City's website and a blog that was created for this project. The City received 243 online responses and 399 paper responses (utility bills) for a total of 642.

The overall ranking of the art pieces based on the survey is shown in the table below and also includes costs for each piece as estimated by the artist for the original proposed artwork.

Some of the artists also provided an alternate estimate based on slight variations to the original design in order to provide the City options to consider for budget reasons.

**Rankings Based on the Public Survey**

| Art Piece | Cost estimates (without sales tax) | Production time |
|---|---|---|
| 1. Mermaid | $30,100 (as proposed), or $22,500 for a modified design for SR 20 site | 150-180 days |
| 2. In His Element | $20,000 (estimate on original) or $10,000 for a less intricate design | 90-120 days |
| 3. Sea Life | $30,000 (estimate on original) or $22,500 (for a slightly varied design) | |
| 4. Salmon Window | $30,000 (estimate on original) | 120 – 180 days |
| 5. Moon Waves | $28,500 (estimate on original) | 90 days |
| 6. Fish Out of Water | $30,000 (for 3), $15,000 (for 1 large) | 30-60 days |
| 7. Water Sculpture | $1000 per feet (Currently $21,000 for 3 columns at 9,7 & 5 feet tall) | 60-90 days |
| 8. Rain Column | $10,000 (based on initial proposal) | |
| 9. Vortex | Has been withdrawn by the artist | - |
| 10. Clouds II | Has been withdrawn by the artist | - |
| 11. Spouting Fish | $10,000 (latest estimate) | 90 days |

The Arts Commission met on April 25, May 9 and May 16, 2011 to review the survey results and formulated a recommendation to City Council. Over the course of these three meetings, the Arts Commission considered a number of different factors and a number of different pieces of art before formulating their final recommendation to the Council. Deliberations during the April 25th meeting were confined to those art pieces previously submitted and reviewed during the public process. The May 9th and May 16th meetings considered the addition of a new piece from an artist who had previously submitted a piece for consideration. Two of the art pieces in their final recommendation (Water Sculpture and Moon Waves) were included in each stage of their recommendation. The Arts Commission's final recommendation is reflected in the table below.

**Arts Commission's Final Recommendation**

| Location | Proposed Art Piece | Highlighted Reasons |
|---|---|---|
| City Beach Street (SE Corner) | Water Sculpture - $1000 per feet (Currently $21,000 for 3 columns at 9,7 & 5 feet tall) | Eye catching with the multiple pieces |
| Dock Street (NW Corner) | Sea Life - $22,500 (for a slightly varied design) | The varied design includes seating around it and will provide a plaza type environment |
| Ireland Street (South) | Ducklings - $30,000 | Scale and fit |
| Midway Blvd (NW Corner) | Moon Waves - $28,500 | Scale and prominence, auto oriented |

The Arts Commission also recommended that the City Council consider awarding art for only the Dock Street (Sea Life -$22,500) and the Ireland Street (Ducklings-$30,000) locations if funding for the project is restricted to only the Art Acquisition and Maintenance Fund (approx. $57,191 available).

Art-Specific Funding

The street project budget identified $80,000 as the intended allocation for public art. This figure was based on approximately one percent (1%) of the overall project budget as originally estimated and the amount necessary to earn the cultural outreach points for the Greenroads™ certification. With the actual construction contract amount less than the engineer's estimate, this dollar amount ($80,000) will meet and exceed the 1% threshold. The Council may amend this figure at its discretion so long as at least 1% of the total project cost is allocated towards public art. REET funds were originally identified as a funding source for the art project along Pioneer Way. After consultation with the State Auditor, it was determined that public art was not an eligible expense for this funding source. In light of this information, staff developed another funding approach for Council's consideration. This approach utilizes funds from the Arts Acquisition and Maintenance Fund and from the Waterfront Redevelopment Fund. In order to fund the project staff has matched these specific funding sources to specific art pieces. The Arts Acquisition and Maintenance Fund (Fund 115) accounts for revenues and expenditures related to purchase and preservation of art within the City. The source of funds is a portion of the City's Utility Tax. The amount of allocations is set by the City Council through the adoption of the budget and is currently set at 0.25% of the gross revenue of the utilities. The acquisition of public art for the placement within the SE Pioneer Way Improvement Project is consistent with the intent of the Arts Acquisition and Maintenance Fund. It is recommended that these funds be used to acquire two of the art pieces recommended by the Arts Commission: Moon Waves and Water Sculpture. The Windjammer Plan identified street art as a part of the Pioneer Way project. As such, funds from the Waterfront Redevelopment Fund (the official name of the Windjammer Fund) could be used to acquire public art. Monies for this fund are a combination of General Fund and 2% Hotel/Motel Tax Funds. Only General Fund monies are proposed to be spent on the recommended art piece. In recognition of the public survey results, staff recommended the City Council consider including the Mermaid as part of the public art project and fund its acquisition with a portion of the Waterfront Redevelopment Fund.

Staff Recommendation Based on Funding

Staff formulated a recommendation for Council's consideration based on the recommendation of the Arts Commission, the results of the public survey, and available funding amounts and sources. This recommendation combines two pieces as recommended by the Arts Commission (Moon Waves and Water Sculpture) and the highest rated piece from the public survey (the Mermaid). The recommendation is shown below.

**Staff Recommendation Based on Funding**

| Art | Cost (excluding taxes) | Recommend by | Location | Funding Source |
|---|---|---|---|---|
| Mermaid | $30,100 | Peoples Choice | Dock Street | Waterfront Redevelopment Fund |
| Moon Waves | $28,500 | Arts Commission | Midway Blvd | Arts Acquisition and Maintenance Fund |
| Water Sculpture | $21,00 | Arts Commission | City Beach Street | Arts Acquisition and Maintenance Fund |

Total cost = $79,600 (excluding sales tax) or $86,526 (including sales tax).

The Arts Commission recommended that Council include the Ducklings (at a cost of $32,610, including sales tax) as part of the street art. Since this piece was proposed after the public input process (in the form of the open house and survey) had concluded, staff does not recommend the City Council select this piece at this time. If the Council is interested in including this piece as part of the overall project, staff recommends the City Council direct the Arts Commission to provide public comment opportunity on this piece and provide the results of that process to the Mayor prior to awarding a contract. This direction would allow the Council an opportunity to indicate their interest in the art, but also be sure the public has an opportunity to offer comment. Funding for the Ducklings is not available at the present time in the Arts Acquisition and Maintenance Fund. Should the City Council ultimately approve the acquisition of this artwork, a funding source will need to be identified. Staff is aware of at least two possible funding approaches. The first is to allow funds to accrue in the Arts Acquisition and Maintenance Fund until sufficient funds are available to acquire the piece. The second is to explore the possibility of a short-term interfund loan and repay that loan using Arts Fund monies. Finally, staff recommended that each art piece be treated as its own separate project and proposed that a separate contract be executed for each piece. This approach will allow for working with different artists, and for incorporating different completion and installation dates for the art. The City Council was asked to take a number of actions at this meeting. The first was to authorize the expenditure of funds for the acquisition and installation of public art as part of the SE Pioneer Way Improvements Project. The next was to review the input from the public involvement process and the recommendation of the Oak Harbor Arts Commission and staff and determine which art pieces should be selected. Staff made a recommendation to assist the Council with their decision. The Council was asked to authorize the Mayor to negotiate contracts with the artists for each of the selected pieces. Finally, should the City Council wish to ultimately include the Ducklings as part of the selected art, staff recommended they direct the Arts Commission to provide public comment opportunities and report the results of that process to the Mayor.

Mr. Powers introduced Erica Schumacher, Chair of the Arts Commission who, in turn, introduced Commission members attending this evening's meeting: Rick Lawler, Nora O'Connell-Balda, and Fern Miller.

Public Comments

Mayor Slowik opened the meeting to public comments at 6:30 p.m.

**Mel Vance, P.O. Box 2882, Oak Harbor.** Mr. Vance felt the Arts Commission did a great job but thought the art itself was "luke warm" as evidenced by the public's response. Mr. Vance had heard citizens complain that the Mermaid sculpture is topless. He felt the Mermaid should be at Dock Street, and Moon Waves and the Water Sculpture locations should be swapped. Moon Waves is large and should be placed where you approach downtown. Mr. Vance would like to see another request for proposals if the Ducklings are considered; put this off until another funding source is found.

**Helen Chatfield-Weeks, 1415 SE 9th, Oak Harbor.** Ms. Chatfield-Weeks felt the Mermaid is a beautiful sculpture and the Mermaid's hair falls appropriately. The Mermaid should be facing the water on a large rock.

**Erica Schumacher, Chair – Arts Commission.** The Mermaid is a wonderful piece and best used as a wayfinding piece. Four or five months ago, the Arts Commission moved that overages should come out of the Arts Commission budget. It wasn't until our last Arts Commission meeting that we found out the budget limitations. We decided that the two most important pieces were Ducklings and Sea Life. Care and consideration has been given to the site(s) and the piece(s). We wanted to focus on the center of the construction zone, that's where most of the people and businesses are centered. Midway Boulevard and City Beach Street do not have a lot of foot traffic. Moon Waves would be most effective on Midway Boulevard since it is large. We would be happy to talk about the Arts Commission's choices.
**Rick Lawler, Arts Commission.** Mr. Lawler addressed the public survey and response to the survey. The photos were small and descriptions were limited. It was included in a utility bill. A significant portion of people will not see public art as something of interest which would explain why the "no thanks" section was a large part of the public survey response. The open house responses were very positive.
**Nora O'Connell-Balda. Arts Commission.** Part of the charm of the Mermaid was there would be room for someone to sit beside the sculpture and it would be an interactive piece. We need to acquire a rock and the artist might have difficulty in providing it. We need to be explicit that a rock be provided for seating. Georgia Gerber is a well-known artist who does quality work and has created many pieces of public art. I would hope than when the project is finished, the Ducklings would be a part of it; help us make that happen.
**John Balda, Oak Harbor.** I am partial to the Mermaid.
**Fern Miller, Arts Commission.** We need to have the public interact with the art which was strongly considered by the Arts Commission. The Ducklings invite that kind of participation. It is important that the art piece mean something to people as they walk by. Roche Harbor's sculpture garden has three pieces by Georgia Gerber along with other interactive pieces.
**KC Pohtilla, Arts Commission.** The Ducklings are very interactive and is an excellent piece. You have to see the other pieces to get a feel for them. The Mermaid is interactive. The Arts Commission spent a lot of time going over where the pieces would work.
**Bob Olson, Whidbey Wild Birds, Pioneer Way.** Mr. Olson appreciated the hard work in choosing the art but felt the pieces did not depict Oak Harbor. Why not an orca? The art should depict our heritage, environment, and city.
**Marcia Vandyke, 2700 Scenic Heights, Oak Harbor, Publisher – Whidbey News Times.** I think the Ducklings are appropriate for our area. Each year a reader submits a photo of ducks and/or geese crossing Pioneer Way.

With no other comments coming forth, Mayor Slowik closed comments at 7:50 p.m. Mayor Slowik also noted that, at the staff level, a plan for the Ducklings has been discussed.

Finance Director Doug Merriman addressed Council on funding options for art purchases. The timing on the funding ($57,191 is eligible through the Arts and Acquisition Fund) and through February of next year, would allow the remaining amount to reach $80,000. Projected income through February 2012 from the ¼% utility tax program for the Arts and Acquisition Fund is $23,650. The Windjammer Plan/Fund (officially, the Waterfront Redevelopment Fund) could be used by giving up options

within that fund (kiosks, as example). The Windjammer Plan identified street art as part of the Pioneer Way Project. The City could do an interfund short-term loan for a six-month period to cover funding until the Arts Acquisition and Maintenance Fund has enough in place to pay it off. Mayor Slowik added that, with the interfund loan, the Ducklings could be ordered and paid off inside of a year.

Council Discussion

Discussion followed about the SE Pioneer Way Project budget, 1% needed for public art expenditure to apply for Greenroads™ certification, and the eleventh hour realization that REET funds could not be used as a funding source for public art. Mr. Merriman addressed the highly restrictive nature of the 1% for Arts Program nexus and that this funding would not be eligible for the SE Pioneer Way Project, funding from the Art and Acquisition Fund and the Waterfront Redevelopment Fund (with both Mr. Merriman and Mr. Powers clarifying again that this fund addresses more than Windjammer Park), and the possibility for an interfund loan. Discussion continued around the question: Why do we have to acquire public art pieces today? Mr. Powers noted that there is not a sense of urgency but it was felt the art should track with the project and staff believed it was appropriate to present a means for funding if Council chose to fund this evening. Discussion followed about use of the interfund loan which would allow the Art and Acquisition Fund to cover purchase expenditures, the property tax levy, General Fund, and bleak economic outlook in the face of art purchases if funding is other than Art and Acquisition Fund monies. Discussion moved to the sculptures: what is life-size for the Mermaid, are there plans for illumination (yes, below grade), art is subjective and in the eyes of the beholder, keep a spending balance, consider the Ducklings and familiarity with Georgia Gerber's work in other public places, have a plan to continue art acquisition and if there is an urgency to approve this evening, keep the Mermaid (the popular vote) and keep her in town not on SR-20, what happened with the Seal (In His Element) and Salmon Window, if murals were discussed, the sculptures' durability, similarities between Moon Waves and Water Sculpture, the positive experience of interactive art, and many thanks from the Mayor and all Council Members to the Arts Commission for their months of hard work on this project.

Erica Schumacher addressed the Council:
The Seal (In His Element) was originally proposed as a $10,000 piece, but with durability questions, the artist proposed an alternate, flat metal version that would then cost $20,000. Salmon Window, Georgia Gerber's original work, was identical to a piece in Everett. Changing the angles, adding horizontal pieces, made it seem climbable which then created concern about safety. That is how we ended up with another Gerber piece, the Ducklings. Artists did not return proposals for murals; the Arts Commission would love to do murals, but the Commission was bound to consideration of the proposed pieces.

Discussion continued about the Arts Commission's recommendations and staff's recommendations, the beautification of Pioneer Way which will enhance economic development, public input for the Ducklings, the need to keep art understandable, placement of the Mermaid and the need to keep her interactive and tied to the Pioneer Way project.

These recommendations (but not a motion) were made by Councilmember Campbell for piece placement:

- Put Moon Waves on the corner of City Beach Street. It would be impressive there and its size would seem like a gateway.
- Put the Mermaid at Dock Street.
- Put the Ducklings at Ireland Street.

This becomes a $92,000± arts program purchase (Moon Waves, $28,500; Mermaid $30,100: Ducklings, $32,610) and, based on the staff recommendation for funding sources, would leave a smaller amount needed for an interfund loan.

Final discussion came back to the concept of art: it inspires beauty and imagination, brightens your day, and adds to quality of life. Pioneer Way is an intertwining project and the largest project the City has done in many years. Most of the money is going to infrastructure but it remains important to include art. The Arts Commission stayed with their chosen theme and considered durability and mediums. Mr. Merriman is mindful of the City's funding options. Greenroads™ is important and Oak Harbor would be the first city in the state to obtain this certification which adds to the environmental achievements the City has already realized.

**Break**

Mayor Slowik called for a short break at 7:30 p.m. and the meeting reconvened at 7:40 p.m.

Council Discussion continued

Funding and clarification of an interfund loan mechanism continued to be discussed, the placement of the Mermaid and whether she would remain seated or upright, art as an interactive process, inclusion of the Ducklings, return of Ducklings to the public process, the cost to fund all four pieces and if there are timing restrictions on interfund loans, consideration of not doing all of the pieces at this time, Moon Waves as a gateway piece, consideration of Mr. Campbell's location suggestions, and the nexus'd 1% monies and Seattle case were discussed. City Attorney Hite noted that the court disallowed what Seattle City Lights had done since it was not tied to the 1% fund. Oak Harbor changed its ordinance to use the ¼% utility tax program as a funding mechanism for the Arts Acquisition and Maintenance Fund.

**Motion Number One**

**MOTION:** **Councilmember Campbell moved to approve the expenditure of funds from the Arts Acquisition and Maintenance Fund (0.25% Utility Tax Program) for the purpose of acquiring art for the SE Pioneer Way Improvement Project and to assist in achieving a Greenroads™ certification for the project. The motion was seconded by Councilmember Munns.**

Discussion followed regarding that funding - $57,191 (yes) and if that excludes an interfund loan. Mr. Merriman noted it would only be the funds referenced and any new funds acquired in the Arts Acquisition and Maintenance Fund (projected additional income from the ¼% utility tax program for this fund is $23,650 through February 2012). Discussion also ran back to Greenroads™ certification and if this funding would be enough. Greenroads™ would see this as a strong commitment and certification could still be given but possibly delayed.

**VOTE ON MOTION NUMBER ONE:** **Councilmembers Almberg, Campbell, Dudley, Munns, Paggao, and Palmer voted in favor of the motion. Councilmember Severns abstained from the vote. The motion carried.**

**Motion Number Two**

**MOTION:** **Councilmember Campbell moved to approve the acquisition of public art pieces known as Mermaid and Moon Waves with a not-to-exceed total of $59,000 plus any applicable taxes. The motion was seconded by Councilmember Palmer.**

**AMENDMENT TO MOTION NUMBER TWO:** **Councilmember Almberg moved to relocate Moon Waves to City Beach Street's entrance. The motion was seconded by Councilmember Palmer.**

Discussion followed about returning this consideration to the Arts Commission, the size of this sculpture and if it would fit (per City Engineer Johnston, the footprint is adequate at either location), Arts Commission consideration of future pieces, public input that is needed for the Ducklings, and art as an entrance piece.

Erica Schumacher addressed the Council: Moon Waves is a large piece and Midway Boulevard is more toward the center of the street. It is planned to be placed on a berm and is two-sided. It is a striking piece as you come up Pioneer Way and can be seen from the opposite direction, as well. It is not an interactive piece, the City Beach Street location is paved, and the Commission wanted an interactive piece on City Beach Street.

**AMENDING MOTION WITHDRAWN:**

**Councilmember Almberg withdrew his amendment to the motion. Councilmember Palmer withdrew his second to this motion.**

Discussion continued about the need for an interfund loan (not needed with regard to motion number two) and returning timing and payment back to the Arts Commission.

**VOTE ON MOTION NUMBER TWO:** **Councilmembers Almberg, Campbell, Dudley, Munns, Paggao, and Palmer voted in favor of the motion. Councilmember Severns abstained from the vote. The motion carried.**

**Motion Number Three**

**MOTION:** **Councilmember Campbell moved to direct the Arts Commission to provide public comment opportunity on the Ducklings art piece and provide the results of that process to the Mayor. The motion was seconded by Councilmember Munns.**

**VOTE ON MOTION NUMBER THREE:** **Councilmembers Almberg, Campbell, Dudley, Munns, and Paggao, voted in favor of the motion. Councilmember Palmer opposed. Councilmember Severns abstained from the vote. The motion carried.**

**Motion Number Four**

**MOTION:** **Councilmember Almberg moved to authorize the Mayor to enter into contracts with the appropriate artists for the acquisition of the selected art pieces, Mermaid and Moon Waves. Councilmember Paggao seconded the motion.**

**VOTE ON MOTION NUMBER FOUR:** **Councilmembers Almberg, Campbell, Dudley, Munns, Paggao, and Palmer voted in favor of the motion. Councilmember Severns abstained from the vote. The motion carried.**

Mayor Slowik thanked the Council and Arts Commission with particular note that the Arts Commission held 10 meetings, had to narrow 43 original submissions down to final choices, and that the Commission resiliently worked through this process – the City is very proud of their volunteer efforts. Mayor Slowik also thanked the Council for their fiscal responsibility, and then thanked both the Council and Commission for involving and exciting the community with and about public art.

**Break**

Mayor Slowik called for a break at 8:15 p.m. and reconvened the meeting at 8:25 p.m.

**Trailhead Park Naming**

Public Works Director Cathy Rosen led this presentation. The City of Oak Harbor has established a resolution regarding the naming of public parks (Resolution 98-06). The trailhead project located at the entrance to the Waterfront/Freund Marsh Trail on Scenic Heights Street is essentially complete and should now be officially named.

At the February 22, 2011 Park Board meeting, the Board reviewed Resolution 98-06, which states that it is the City's policy to choose names for public parks and park and recreation facilities based upon the site's relationship to the following criteria:

1) Neighborhood, geographic or common usage identification;
2) Natural or geological features;
3) An historical figure, place, event, or other instance of historical or cultural significance;
4) An individual (living or deceased) who has made a significant land and/or monetary contribution to the park system or who has had the contribution made "in memoriam," and when the name has been stipulated as a condition of the

donation;

5) An individual who has contributed outstanding civic service to the City and who has been deceased for a period of at least one year.

The resolution also indicates that the Park Board should seek public input before making a recommendation to the City Council. Subsequently, an advertisement was placed in the Whidbey News-Times and on the City's website soliciting input from the community for naming the newly developed trailhead park. Several suggestions were received prior to the April 4th deadline and copies of these suggestions were forwarded to the Park Board for their review and consideration. At their May 9, 2011 meeting, the Park Board considered the list of suggestions and, after discussion, they chose to recommend two names, first and second choices, based primarily on the neighborhood and common usage identification, due to the fact that the trailhead park is located on Scenic Heights Street (Criteria Number One):

1) Scenic Heights Trailhead, or,
2) Scenic Heights Overlook.

Ms. Rosen noted that eleven suggestions were received and there will be other naming opportunities for the Uplands Multi-Modal Project and the new Smoke House facilities in Windjammer Park.

Mayor Slowik called for public comments.

**Helen Chatfield-Weeks, 1415 SE 9th, Oak Harbor.** Ms. Chatfield-Weeks spoke as chairman of the Park Board: I was gone when the Board voted on this. It was wonderful to have individuals' names suggested - Bert Letrondo, Sr.; he was a great man, his heart was so much in the community; the Freund Family and their land contributions to the City; Dorothy Neil's contributions to the community. Everyone has someone they would like to see remembered. Ms. Chatfield-Weeks thanked those who provided names.

**Ron Hancock, Pioneer Way, Oak Harbor.** Mr. Hancock said that he had been involved in numerous parks and City projects. The trailhead is an introduction to the City and what we stand for. His position as the Fire Department's chaplain has taken a lot of time and Mr. Hancock felt he had not done his best job in presenting suggestions to the Park Board. Mr. Hancock felt the naming should address the community's legacy – our founding fathers, Native Americans, the Dutch community. We owe our children more than nice parks; this generation is inheriting difficult times. Mr. Hancock asked for more time to re-address the naming of the park. It is too important to make a decision tonight.

Mayor Slowik noted that this is a recommendation from the Park Board.

**Mel Vance, P.O. Box 2882, Oak Harbor.** Mr. Vance said that a trailhead is the start of a trail and this will extend further out. This should be a waypoint unless you break it up into a series of trails. People may refer to it in their own way. As an example, Windjammer Park is still referred to as City Beach Park. Mr. Vance felt that Freund Marsh Trailhead or Scenic Heights Trailhead is appropriate. Mr. Vance also suggested, for the future, a park named after Helen Chatfield-Weeks.

**Martha Yount, 364 NE Ronhaar Street, Oak Harbor.** Ms. Yount agreed with Mr. Hancock's suggestion to re-consider the names and liked the legacy perspective. Take more time.

**Ida Martin, 2320 Zylstra Road, Oak Harbor.** Ms. Martin respectfully requested that the Scenic HeightsTrailhead be named after Bert Letrondo. In Ms. Martin's words: 47 years ago, he and his wife and six children came to Oak Harbor so he could serve his twilight tour with the Navy. All of his children and grandchildren are graduates of Oak Harbor High School. He was an ambassador for Oak Harbor and he passed away a year ago. When the family arrived, there was only one traffic light in town. His Christmas letters would always talk about how wonderful Oak Harbor is. He would tour his guests around Oak Harbor, City Beach, fishing in many areas, and he was proud to show his guests the different activities available in Oak Harbor.

Mayor Slowik added that Ms. Martin is the president of the Filipino-American Association of Oak Harbor (Fil-Am) and Mr. Letrondo was a founding member.

Ms. Martin responded that she is proud to have served two terms as Fil-Am's president but this evening she wanted to talk about Mr. Letrondo's pride in Oak Harbor. He worked as the liaison officer at NASWI and noticed the number of Filipinos stationed here or married to Navy personnel. Fil-Am started with a dozen families and then just grew. He was a good friend to the City. He was a humble man of modest means but his wealth was in his family. His extended family visits Oak Harbor often. Please honor him by naming the trailhead after Bert Letrondo.

Mayor Slowik thanked Ms. Martin, who is Mr. Letrondo's daughter, for her presentation.

Council Discussion

Discussion followed about the original number of choices and the number of legacy families in Oak Harbor. The Parks Board decided not to pick a family name and instead focus on common usage and geographical location. The suggested list can be kept for other naming opportunities. Discussion followed about the use of overlook or trail in naming the trailhead, creating a legacy out of the whole trail with plaques along the way, and finding a way to honor Mr. Letrondo. Mayor Pro Tem Paggao had suggested Mr. Letrondo's name to the Parks Board since he was a prominent community figure and made a significant contribution to cultural diversity in Oak Harbor. Mr. Paggao hoped for a future opportunity to use Mr. Letrondo's name and supported Mr. Hancock's suggestions for legacy tributes. The difference between a trailhead and the City's master plan to have a connecting system of trails was discussed along with the permanency of naming as described in Resolution 98-06.

**MOTION:** **Councilmember Munns moved to send the selections for naming back to the Parks Board for further consideration. The motion was seconded by Councilmember Almberg and carried unanimously.**

**First Quarter 2011 Financial Report**
Finance Director Doug Merriman gave a report regarding the status of the City's 2011 budget versus actual expenditures as of March 31, 2011, the first three months of the year. Mr. Merriman's PowerPoint presentation is attached to these minutes as Exhibit A. Mr. Merriman's Financial Report Summary for the First Quarter of 2011 was included in the agenda bill.

Council Discussion
Discussion followed regarding weighted average maturity (Mr. Merriman would be looking at fifteen months if weighted by average), explanation of downturn (unknown at this point), personnel as the largest expense, the definition between current period and year-to-date, lower revenue being received by the Municipal Court (specifically, traffic-related citation revenue and criminal fines), and the timeline for budget adjustments (July or August).

Mayor Slowik and Council thanked Mr. Merriman for an excellent report.

**Update – Pioneer Way Project**
Project Manager Larry Cort led this discussion beginning with a PowerPoint presentation. The Pioneer Way project remains on-schedule and on-budget. Major utility and street work within Phase 1 (Dock to City Beach Streets) is winding down with the focus shifting to landscaping, irrigation and pulling wires for power and telecommunications. In Phase 2 (Dock Street to Midway Boulevard), underground work on City water and sanitary sewer facilities is substantially complete, so most of the effort is now concentrated on the stormwater system improvements and joint utility trench. With respect to expenditures, the project is tracking well within budget, both overall and by major line item. The schedule, which was attached to the agenda bill, is a little outdated since Phase 1 now has new paving and sidewalks. Most of the trenching work in Phase 2 will be wrapped up by next week which is good news since trenching is disruptive to the merchants. Trenching will be followed by excavation of the top eighteen inches of gravel and soil to accommodate good material for the street base of Phase 2. Dr. Cort also noted that 7 underground tanks had been found and the project was costed for 3 tank discoveries. Strider Construction's May invoice came in under what was anticipated. The project will come to substantial completion ahead of schedule.

Council Discussion
Discussion followed about mystery pipe discoveries in this 100-year old street and Council Members' thanks to the team for their good work and for staying on-budget and on-schedule. Councilmember Dudley talked about Mayor Slowik's attendance at a downtown merchants meeting and what might be happening with the mitigation budget in light of personnel changes. City Engineer Johnston clarified that the mitigation budget is not dropping away with the departure of Lesley McConnell. Marcia VanDyke has been working with the City to reassemble project outreach including Whidbey News Times, The Marketplace, The Navigator, T.V. spots via Comcast, and media campaigns to promote Pioneer Way. Discussion followed about the eligibility requirements for REET funding and that direct marketing of specific businesses is not appropriate along with promotion of specific events not tied to the project. Mitigation is still moving forward. Councilmember Dudley expressed his disappointment since the marketing

effort should help drive business to the downtown businesses and he would like to look at the funding for the marketing plan.

**MOTION:** **Councilmember Dudley made a motion to have the (Pioneer Way) Mitigation Proposal come back to City Council's June 28, 2011 agenda. The motion was seconded by Councilmember Campbell.**

**Voting Delegates for AWC Annual Business Meeting**
Three voting delegates need to represent the City at the 2011 Association of Washington Cities (AWC) Annual Business Meeting. Councilmember Almberg asked that his name be removed. Council consensus was to select Councilmember Campbell, Councilmember Munns, and Councilmember Paggao as voting delegates.

**City Administrator's Comments**
City Administrator Schmidt reviewed upcoming meeting dates for workshops and a public forum.

**Council Members' Comments**
Council Members gave their respective standing committee reports and board reports.

**MOTION:** **Councilmember Palmer moved to investigate what art could be used as entrance art for Pioneer Way and bring a recommendation back to Council on an upcoming agenda (no date was specified). The motion was seconded by Councilmember Dudley.**

The NPDES time extension of one year without modifications (to 7/31/2012) along with upcoming Department of Ecology regulations were discussed. It is likely that Island County will become an NPDES county. Larry Cort and Eric Johnston were thanked for their Pioneer Way presentation to the Navy League. Councilmember Dudley read a 1/27/11 letter from the Navy which talked about WAIF's new facility supporting both Oak Harbor and the County. Mr. Dudley talked about the impact of combining the two shelters financially and that WAIF would need to know if building plans should be modified.

**MOTION:** **Councilmember Dudley moved to have an agenda item added to the 6/2811 Council meeting which would discuss what the City's plans are in reference to animal control. The motion died for lack of a second.**

Councilmember Almberg asked for an answer:
Mayor Slowik noted that the City did write to Forest City Management, Inc. asking that the City be provided an animal shelter. We have a meeting scheduled with their vice president and, from that meeting, we will come up with a plan. That letter was sent after the 1/27/11 letter was received. We will come back to Council with more information.

**Mayor's Comments**

This is registration week for elected officials and Mayor Slowik invited anyone interested in running for City Council or Mayor to register this week. Mayor Slowik also talked about the T.V. station that filmed him and Chamber of Commerce Executive Director Jill Johnson and is on the Chamber's Facebook page and KVOS TV. In reference to art at the entrance to Pioneer Way, Mayor Slowik also talked about the recently appointed ad hoc committee for signage which is led by Steve Powers and includes downtown members, an Arts Commission member, and Chamber of Commerce representation.

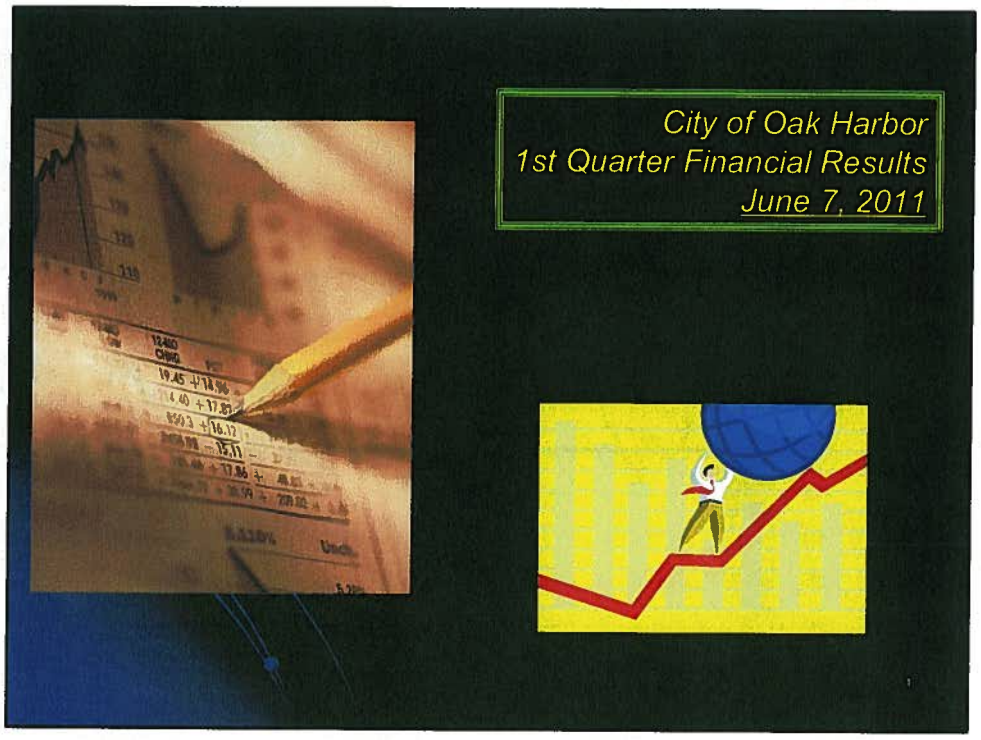
**ADJOURN**

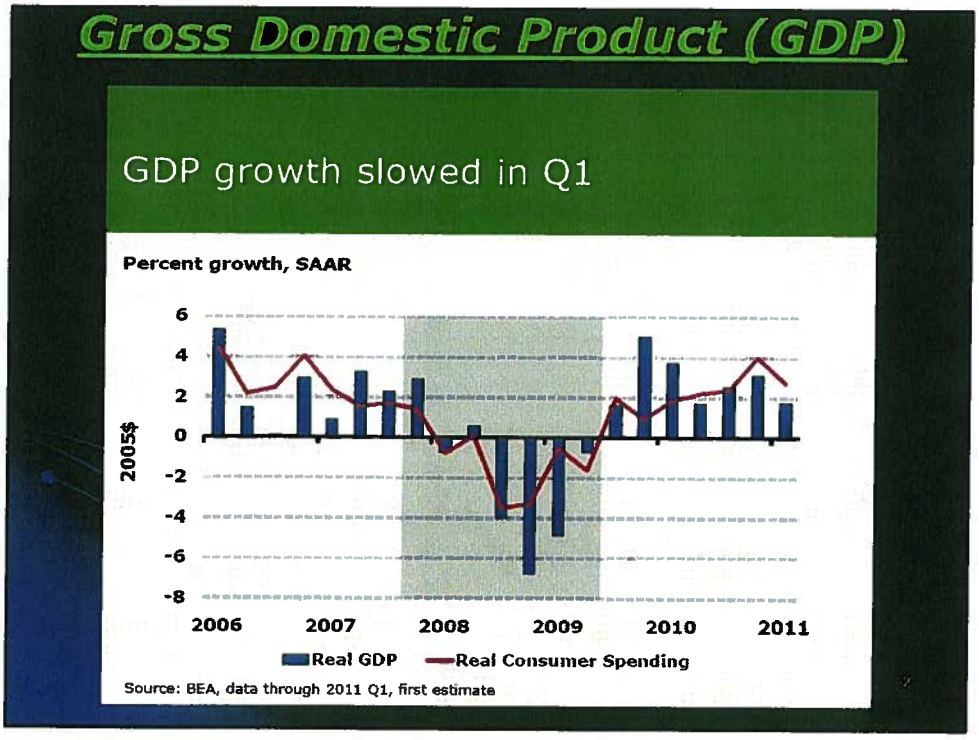
With no other business coming before the City Council, Mayor Slowik adjourned the meeting at 10:10 p.m.

_____

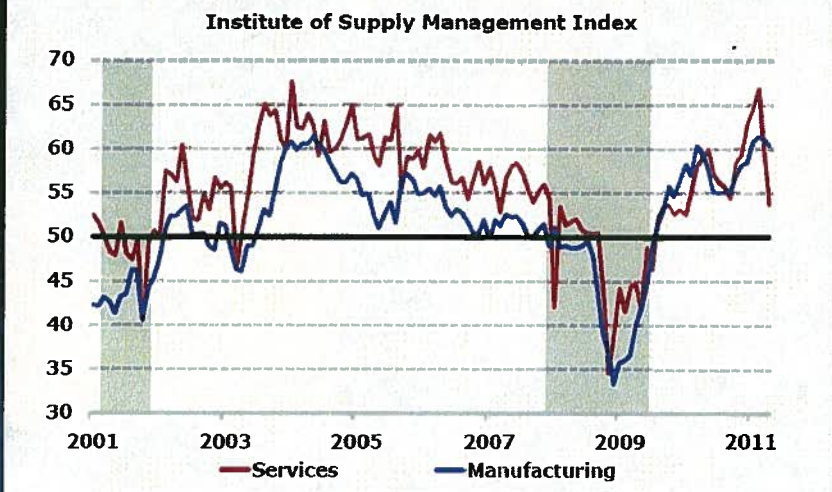
Connie T. Wheeler
City Clerk

**Exhibit A**


City of Oak Harbor
1st Quarter Financial Results
June 7, 2011

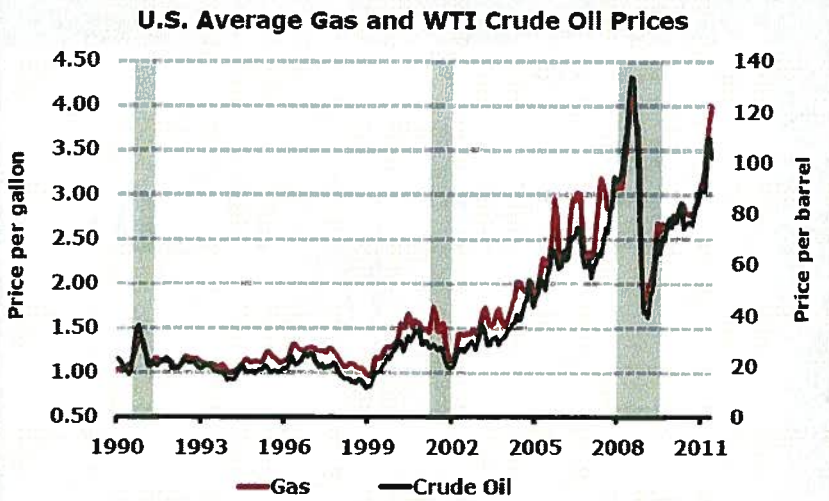

Gross Domestic Product (GDP)
GDP growth slowed in Q1
Percent growth, SAAR
2005$
6
4
2
0
-2
-4
-6
-8
2006
2007
2008
2009
2010
2011
Real GDP
Real Consumer Spending
Source: BEA, data through 2011 Q1, first estimate

## The manufacturing and service sectors are expanding, but at a slower rate



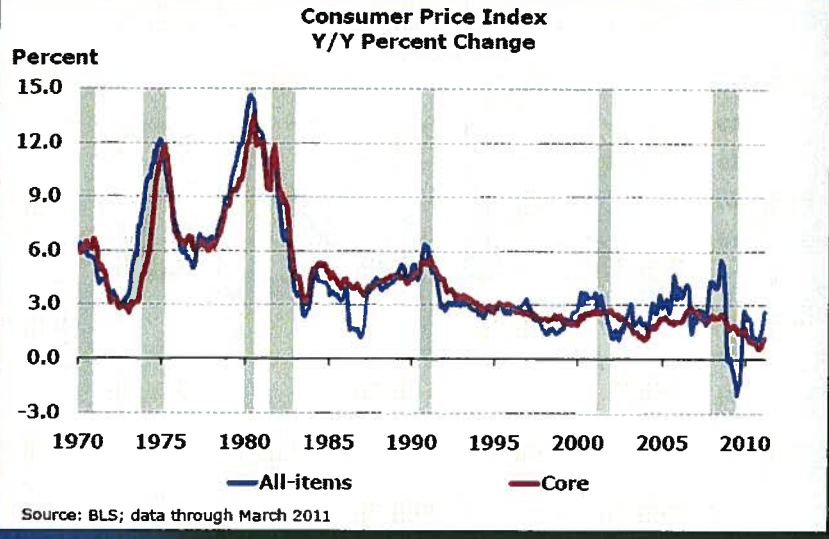

Source: Institute of Supply Management; data through April 2011

## Gas prices are close to their all time high



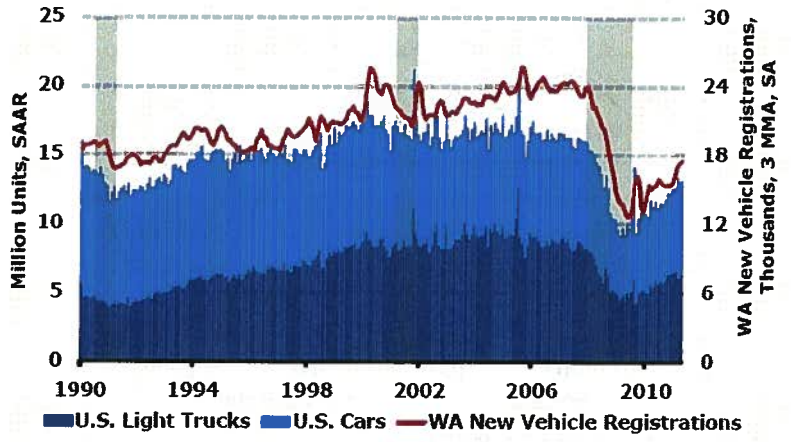

Source: U.S. Energy Information Administration; data through May 20, 2011

## All-items inflation is ticking up, but the "core" remains stable

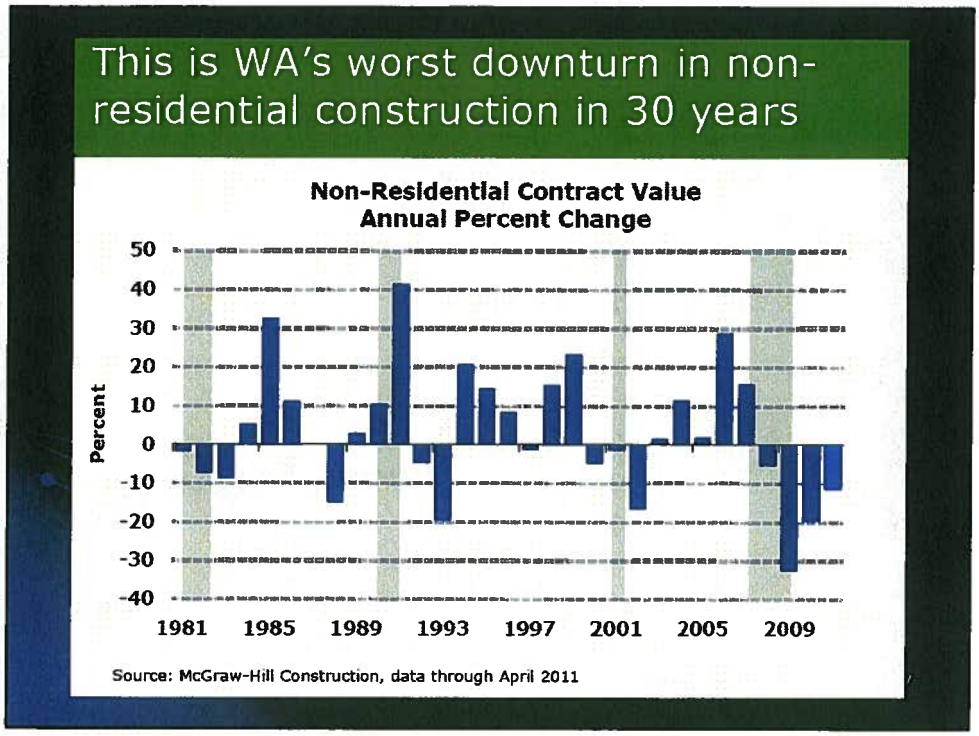


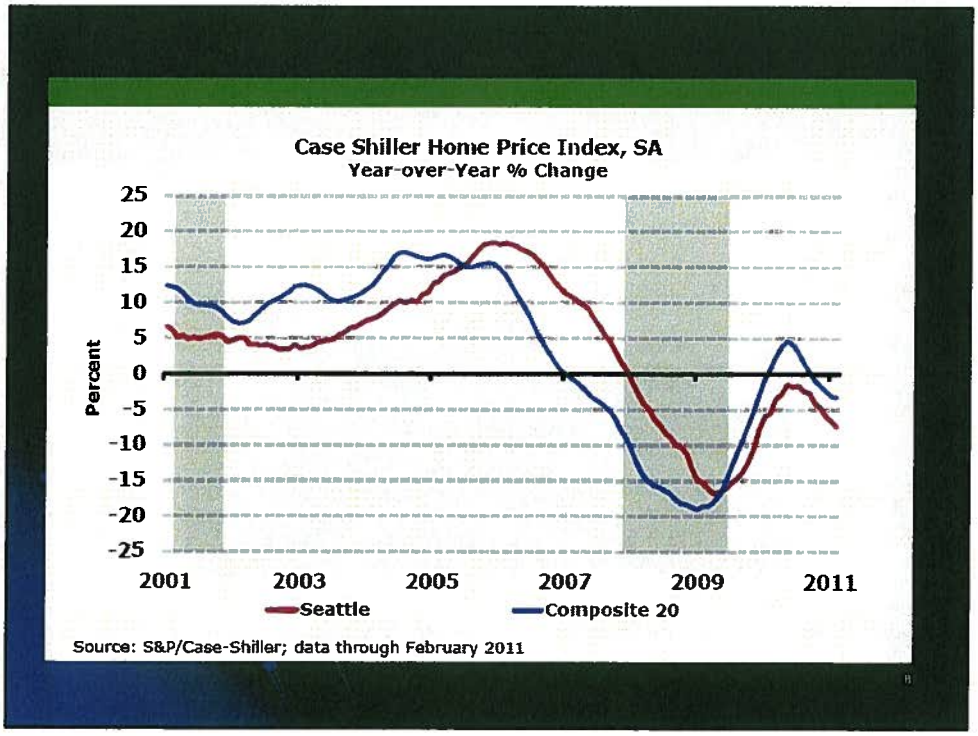

Source: BLS; data through March 2011

## U.S. LMV sales have been the highest since "cash for clunkers" ... in the last three months



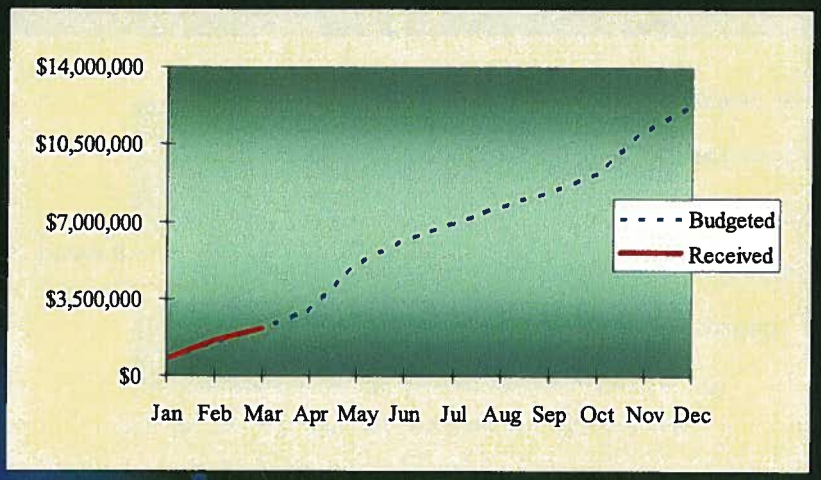

Source: Autodata Corporation, WA DOL; data through April 2011


This is WA's worst downturn in non-residential construction in 30 years
Non-Residential Contract Value
Annual Percent Change
Percent
50
40
30
20
10
0
-10
-20
-30
-40
1981
1985
1989
1993
1997
2001
2005
2009
Source: McGraw-Hill Construction, data through April 2011


Case Shiller Home Price Index, SA
Year-over-Year % Change
Percent
25
20
15
10
5
0
-5
-10
-15
-20
-25
2001
2003
2005
2007
2009
2011
Seattle
Composite 20
Source: S&P/Case-Shiller; data through February 2011

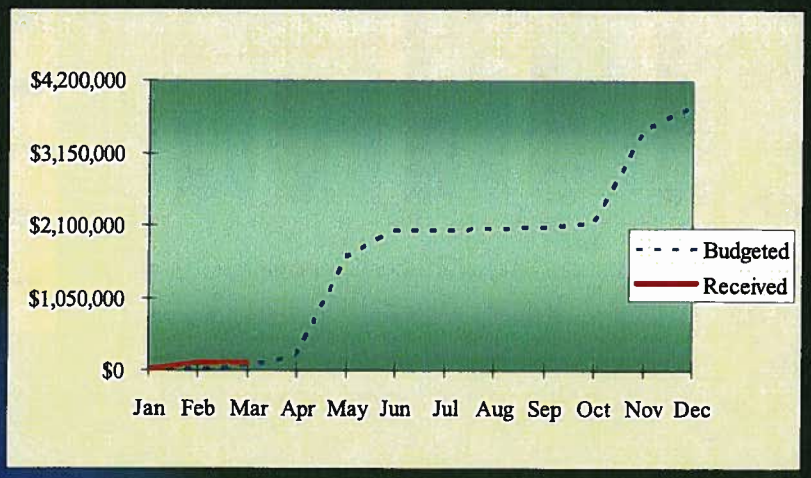
## Total General Fund Revenues

- Actual revenue receipts are 1.09% ahead of budgeted projections.



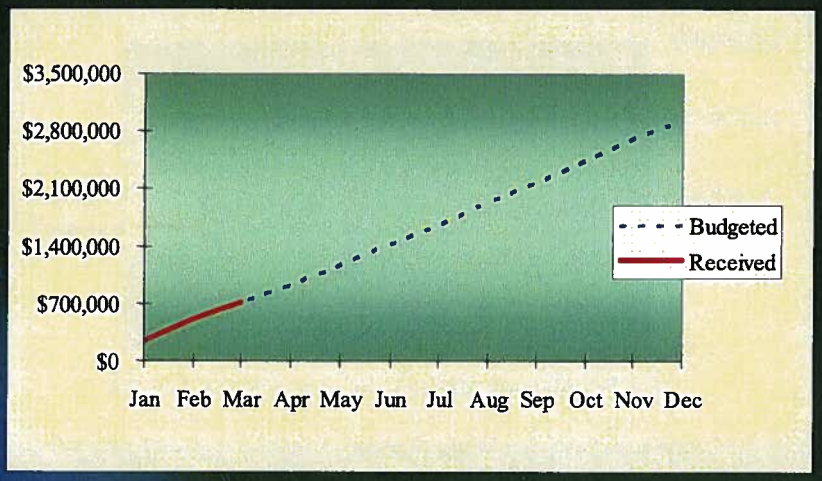

## Property Tax Revenues

- Receipts are 93.52% ahead of budgeted projections.
- While the percentage sounds large, only 2.89% has been received.

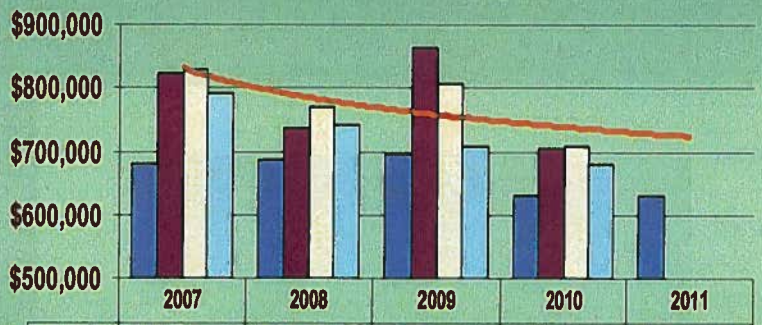


## Sales Tax Revenues

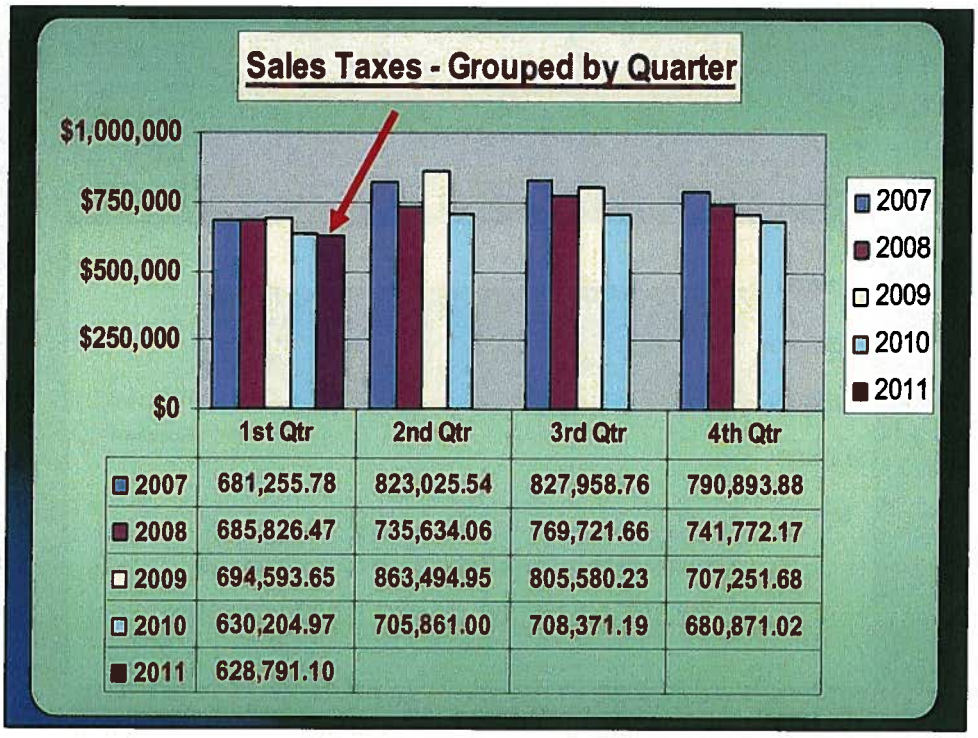
- Receipts are -1.53% behind budgeted projections.
- If trend continues, revenues will be ($45,000) behind projections by end of year.




## Sales Tax Revenues - By Year




| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| 1st Qtr | 681,255.78 | 685,826.47 | 694,593.65 | 630,204.97 | 628,791.10 |
| 2nd Qtr | 823,025.54 | 735,634.06 | 863,494.95 | 705,861.00 | |
| 3rd Qtr | 827,958.76 | 769,721.66 | 805,580.23 | 708,371.19 | |
| 4th Qtr | 790,893.88 | 741,772.17 | 707,251.68 | 680,871.02 | |




| | 1st Qtr | 2nd Qtr | 3rd Qtr | 4th Qtr |
|---|---|---|---|---|
| 2007 | 681,255.78 | 823,025.54 | 827,958.76 | 790,893.88 |
| 2008 | 685,826.47 | 735,634.06 | 769,721.66 | 741,772.17 |
| 2009 | 694,593.65 | 863,494.95 | 805,580.23 | 707,251.68 |
| 2010 | 630,204.97 | 705,861.00 | 708,371.19 | 680,871.02 |
| 2011 | 628,791.10 | | | |

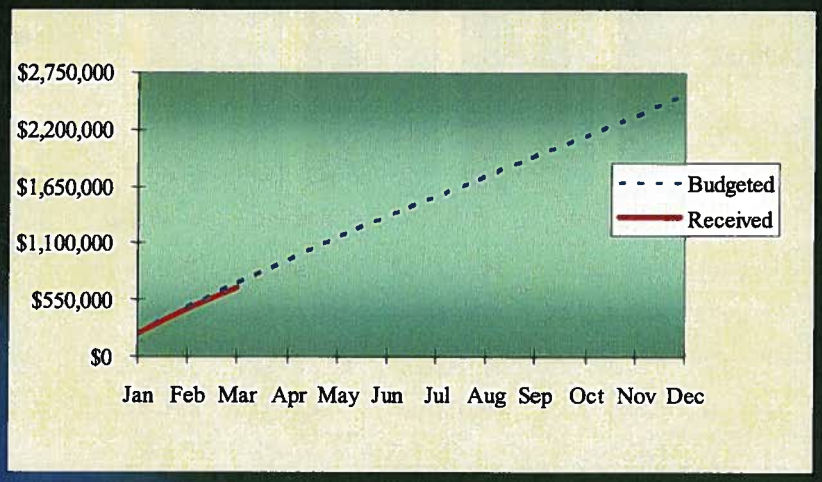
## Sales Tax Revenues

Top 10 Standard Industry Sectors

| Name | Current Period This | Current Period Last | Current Period % | Year To Date This | Year To Date Last | Year To Date % | Last 12 Months |
|---|---|---|---|---|---|---|---|
| General Merchandise | 26,107 | 28,900 | -9.7 | 109,255 | 117,541 | -7.0 | 404,315 |
| Food Services, Drinking | 24,829 | 23,600 | 5.2 | 77,664 | 75,069 | 3.5 | 322,884 |
| Building Material and | 16,116 | 16,668 | -3.3 | 48,458 | 47,867 | 1.2 | 238,123 |
| Motor Vehicle and Parts | 10,674 | 11,737 | -9.1 | 37,932 | 37,855 | 0.2 | 174,674 |
| Construction of Buildings | 9,307 | 10,213 | -8.9 | 34,207 | 55,834 | -38.7 | 157,134 |
| Specialty Trade | 7,601 | 7,342 | 3.5 | 31,771 | 28,924 | 9.8 | 128,915 |
| Food and Beverage Stores | 7,911 | 7,718 | 2.5 | 29,401 | 27,932 | 5.3 | 118,283 |
| Miscellaneous Store | 8,683 | 8,396 | 3.4 | 30,821 | 32,144 | -4.1 | 115,948 |
| Wholesale Trade, Durable | 6,575 | 6,058 | 8.5 | 23,727 | 19,263 | 23.2 | 104,951 |
| Telecommunications | 8,177 | 8,522 | -4.0 | 24,191 | 24,535 | -1.4 | 102,631 |

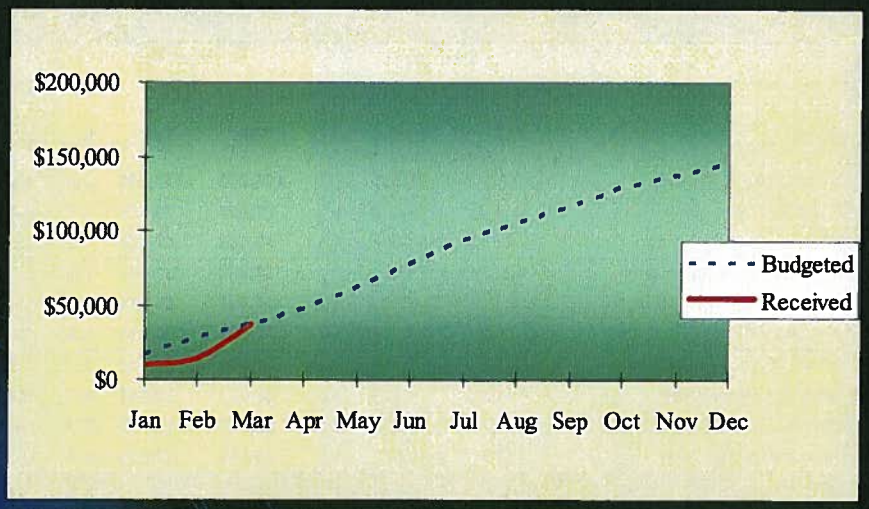
## Business and Utility Taxes

- Receipts are running -6.18% behind budgeted projections.
- Utility taxes on wireless, phone, and other utilities.



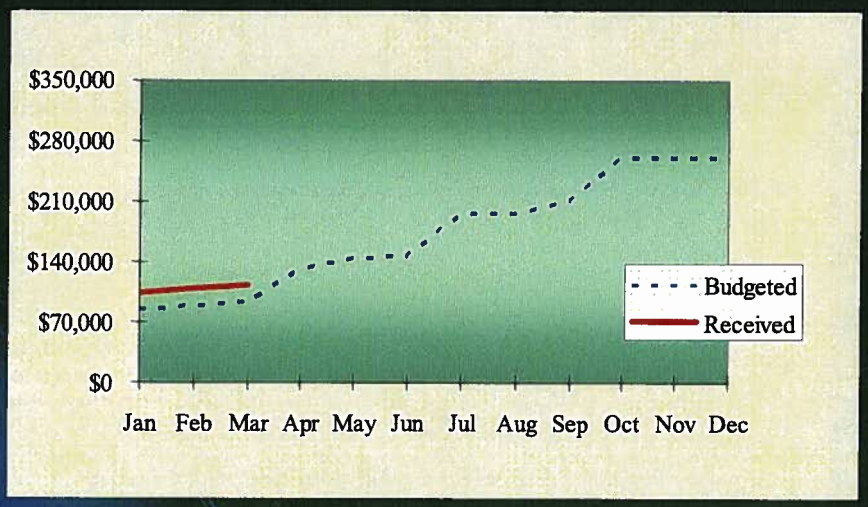

## Building Permits

- Receipts are running -1.54% behind budgeted projections.



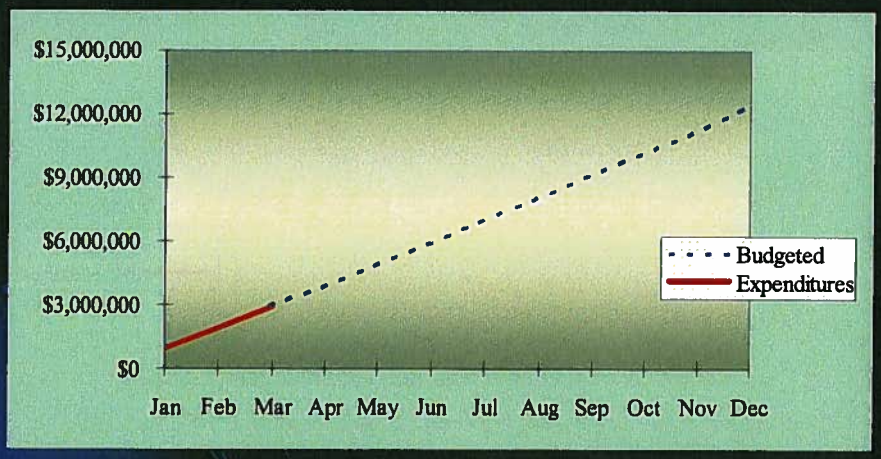
## Licenses and Other Permits

- Receipts are running 20.43% ahead of budgeted projections.



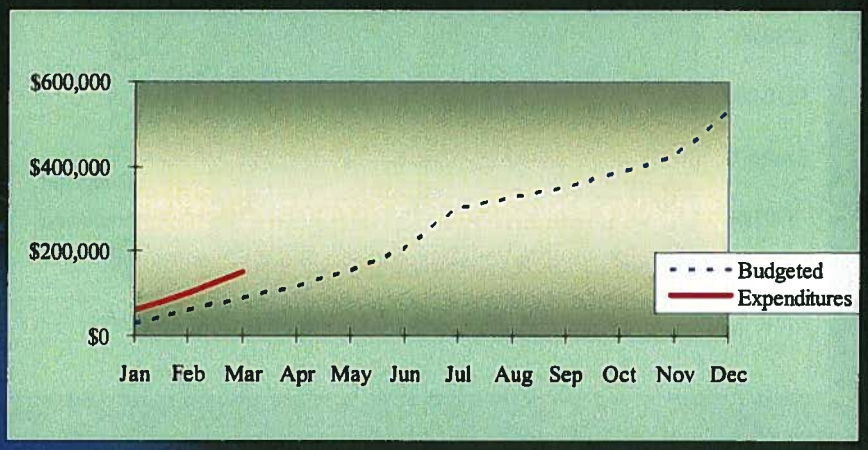

## Total General Fund Expenditures:

- Actual cash expenditures are under budget by 0.77%



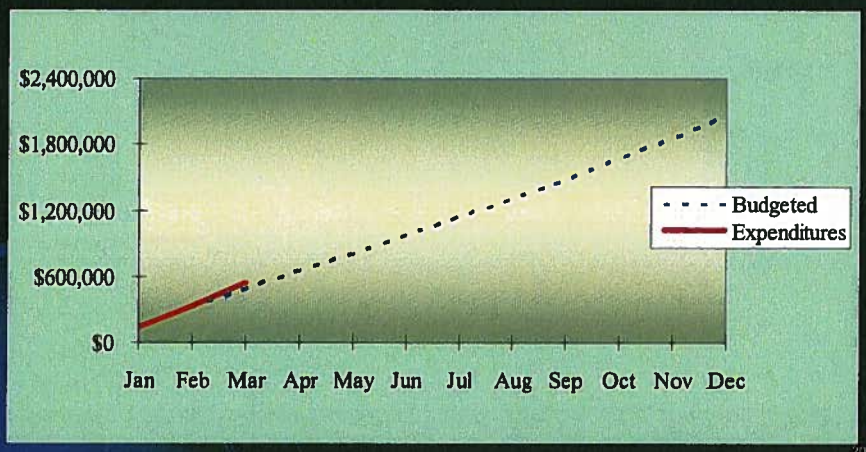
## General Governmental Expenditures (Overhead):

- Actual cash expenditures over budget by $62,247 at this time.
- This is a timing issue: Earlier receipt of invoices from outside agencies (AWC, Clean Air, etc.)



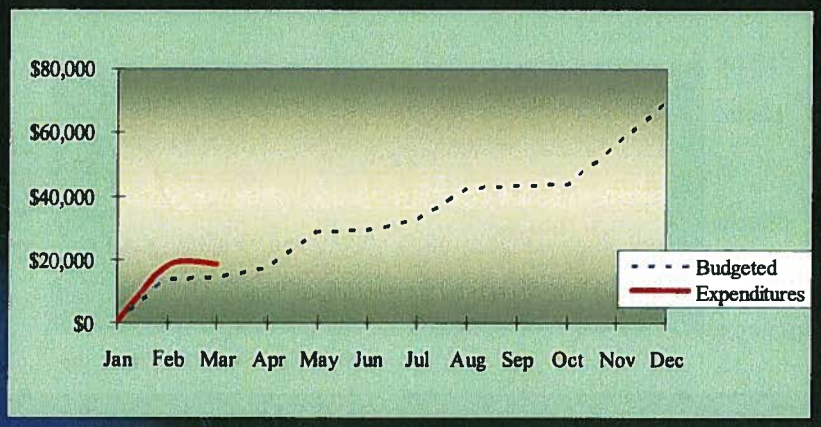

## Fire Department:

- Actual cash expenditures over budget by 10.93% at this time.
- Payment made for employee retirement is primary factor.



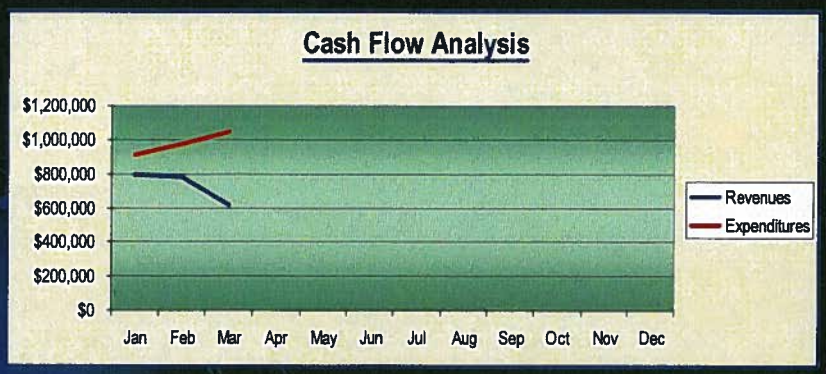
## Library:

- Actual cash expenditures over budget by 25.72% at this time.
- The City participates in maintenance and security at the library.



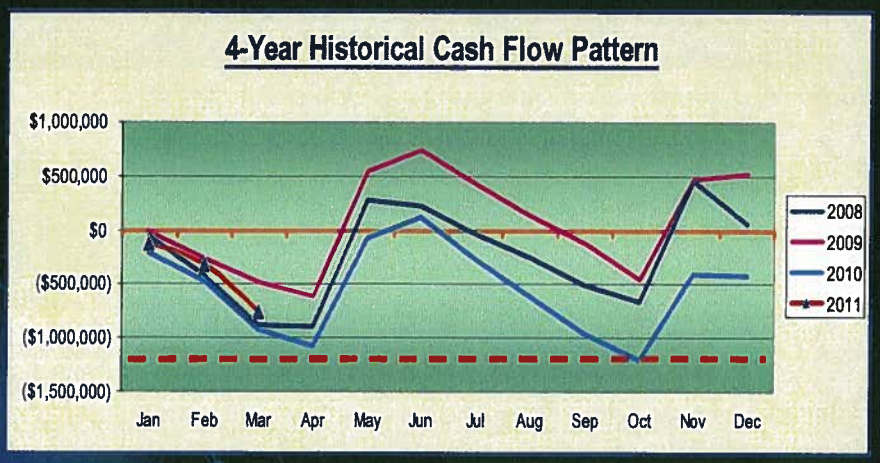

## Cash Flow:

- Cash inflows typically exceed cash outflows during the first quarter.
- Trend will now reverse as the first payment of property tax will occur in May.



## Historical Cash Flow:

- *Cumulative effect on cash*
- *Minimum fund balance reserves*




## Investment Balances:

**Yield/Percentage By Type Analysis**

| Type | Amount | % of Total | Weighted Avg Yield | Weighted Avg Maturity |
|---|---|---|---|---|
| Agencies | 6,244,686.47 | 14.70% | 0.7260% | 147.68 |
| SIP | 24,054,389.28 | 56.62% | 0.2338% | 50.00 |
| MIA | 12,187,301.27 | 28.69% | 0.2000% | 1.00 |
| Total | 42,486,377.02 | 100.00% | 0.2964% | 50.30 |

- Rates offered by the State Investment Pool have continued to decline
- Commercial bank rates have declined dramatically over the last 3 months.
- Investment strategy will shift some funds to shorter-term Federal Agencies.

## Other items:

- **All utility funds are within budget and on track for revenues.**

- CAPRON funds and motor vehicle fuel tax are 24.77% of budget.
  - Primary funding for Streets and Arterials Funds.
  - $268,769 of $1,084,895. Total Street Fund Budget: $2,019,932

- Transportation Impact Fees: 24.94%
  - $9,977 of $40,000

- Park Impact Fees: 21.65%
  - 18,403 of $85,000

- REET Funds (real estate excise tax) 13.66%
  - $46,444 of $340,000
  - Similar to impact fee activity – Real Estate Based.

## Questions or comments

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

**Bill No.** 1

**Date:** JUNE 28, 2011

**Subject:** **PUBLIC COMMENTS**

**FROM:** **Jim Slowik, Mayor**

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

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

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**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**

**Agenda Bill No.** d/A EA
**Date:** June 28, 2011
**Subject:** Noise Permit – VAQ-130

**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, as to form

---

**PURPOSE:**

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from VAQ-130 for amplified sound associated with a squadron picnic/retirement party scheduled for July 15th, 2011.

**AUTHORIZATION:**

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

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

**SUMMARY STATEMENT:**

VAQ-130 has submitted a Noise Permit request for amplified sound associated with a squadron picnic/retirement party scheduled for July 15th, 2011. The amplified sound will consist of a sound system for music.

The Application was reviewed by Fire, Police, and Public Works Departments. A condition of approval for the permit will be to face the speakers away from the campground area.

**STANDING COMMITTEE REVIEW:**

Not required.

**RECOMMENDED ACTION:**

Approve the request for amplified sound by granting the noise permit.

**ATTACHMENTS:**

Noise Permit.

**MAYOR'S COMMENTS:**

# *CITY OF OAK HARBOR*

# *NOISE PERMIT*

| | |
|---|---|
| Name of Organization: | VAQ-130 |
| Location of Event: | Windjammer Park – Kitchen C and surrounding area |
| Date of Event: | July 15th, 2011 |
| Hours of Operation: | 9:00 a.m. – 5:00 p.m. |
| Permitted Noise: | Amplified sound system for music |
| Approval Conditions: | Face speakers away from campground area. |
| Date of City Council Approval: | |

Issued this day of , 2011.

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Karen Crouch, Special Events Coordinator

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

***Please post this notice on site***

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

**Agenda Bill No.** d/A 28
**Date:** June 28, 2011
**Subject:** Noise Permit – Race Week

**FROM:** Paul Schmidt, City Administrator PS

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

Jim Slowik, Mayor

Doug Merriman, Finance Director

WHH for Margery Hite, City Attorney, as to form

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**PURPOSE:**

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from Clear Ahead Marine Productions for amplified sound associated with Race Week scheduled for July 17th – 22nd, 2011.

**AUTHORIZATION:**

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

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

**SUMMARY STATEMENT:**

Clear Ahead Marine Productions has submitted a Noise Permit request for amplified sound associated with Race Week scheduled for July 17th – 22nd, 2011. The amplified sound will consist of a sound system for a band which will be performing each night from 6:00 p.m. – 8:30 p.m. during the event.

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

**STANDING COMMITTEE REVIEW:**

Not required.

**RECOMMENDED ACTION:**

Approve the request for amplified sound by granting the noise permit.

**ATTACHMENTS:**

Noise Permit.

**MAYOR'S COMMENTS:**

# *CITY OF OAK HARBOR*

# *NOISE PERMIT*

| | |
|---|---|
| Name of Organization: | Clear Ahead Marine Productions<br>Whidbey Island Race Week |
| Location of Event: | Oak Harbor Yacht Club and<br>Catalina Park |
| Date of Event: | July 17th – 22nd, 2011 |
| Hours of Operation: | 6:00 p.m. – 8:30 p.m. |
| Permitted Noise: | Amplified sound system associated<br>with live band. |
| Approval Conditions: | None |
| Date of City Council Approval: | |

Issued this day of , 2011.

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Karen Crouch, Special Events Coordinator

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

***Please post this notice on site***

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

**Agenda Bill No.** C/A 2c
**Date:** June 28, 2011
**Subject:** Noise Permit – Fleet Readiness Center Northwest - MWR

**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, as to form

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**PURPOSE:**

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from Fleet Readiness Center Northwest – MWR for amplified sound associated with a command summer picnic scheduled for July 28th, 2011.

**AUTHORIZATION:**

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

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

**SUMMARY STATEMENT:**

Fleet Readiness Center Northwest – MWR has submitted a Noise Permit request for amplified sound associated with a command summer picnic scheduled for July 28th, 2011. The amplified sound will consist of a sound system for announcements, a talent show and possibly a live band.

The Application was reviewed by Fire, Police, and Public Works Departments. A condition of approval for the permit will be to face the speakers away from the campground area.

**STANDING COMMITTEE REVIEW:**

Not required.

**RECOMMENDED ACTION:**

Approve the request for amplified sound by granting the noise permit.

**ATTACHMENTS:**

Noise Permit.

**MAYOR'S COMMENTS:**

# *CITY OF OAK HARBOR*

# *NOISE PERMIT*

| | |
|---|---|
| Name of Organization: | Fleet Readiness Center Northwest - MWR |
| Location of Event: | Windjammer Park – Gazebo, Kitchen C and surrounding area |
| Date of Event: | July 28th, 2011 |
| Hours of Operation: | 8:00 a.m. – 7:00 p.m. |
| Permitted Noise: | Amplified sound system for possible live band, talent show and announcements. |
| Approval Conditions: | Face speakers away from campground area. |
| Date of City Council Approval: | |

Issued this day of , 2011.

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Karen Crouch, Special Events Coordinator

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

***Please post this notice on site***

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# City of Oak Harbor
# City Council Agenda Bill

**Agenda Bill No.** NA 2D
**Date:** June 28, 2011
**Subject:** Noise Permit –Whidbey Cruzers

**FROM:** Paul Schmidt, City Administrator

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

Jim Slowik, Mayor
Doug Merriman, Finance Director
for Margery Hite, City Attorney, as to form

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**PURPOSE:**

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from Whidbey Cruzers for amplified sound associated with a car show scheduled for July 23rd, 2011.

**AUTHORIZATION:**

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

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

**SUMMARY STATEMENT:**

Whidbey Cruzers has submitted a Noise Permit request for amplified sound associated with a car show scheduled for July 23rd, 2011. The show's co-sponsor is Pioneer Automotive Services, and the event will be held at their location on SE Pioneer Way. The amplified sound will consist of a sound system for a DJ to play music and make announcements.

The Application was reviewed by Fire, Police, and Public Works Departments. Due to the close proximity of the event to the campground area, a condition of approval for the permit will be to face the speakers away from the area.

**STANDING COMMITTEE REVIEW:**

Not required.

**RECOMMENDED ACTION:**

Approve the request for amplified sound by granting the noise permit.

**ATTACHMENTS:**

Noise Permit.

**MAYOR'S COMMENTS:**

# *CITY OF OAK HARBOR*

# *NOISE PERMIT*

| | |
|---|---|
| Name of Organization: | Whidbey Cruzers |
| Location of Event: | 201 SE Pioneer Way |
| Date of Event: | July 23rd, 2011 |
| Hours of Operation: | 8:00 a.m. – 4:00 p.m. |
| Permitted Noise: | Amplified sound system associated with a DJ for music and announcements |
| Approval Conditions: | Face speakers away from campground area. |
| Date of City Council Approval: | |

Issued this day of , 2011.

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Karen Crouch, Special Events Coordinator

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

***Please post this notice on site***

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

**Agenda Bill No.** CA 2E
**Date:** June 28, 2011
**Subject:** Noise Permit – Living Faith Christian Center

**FROM:** Paul Schmidt, City Administrator PM

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

Jim Slowik, Mayor
Doug Merriman, Finance Director
for Margery Hite, City Attorney, as to form

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**PURPOSE:**

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from Living Faith Christian Center for amplified sound associated with an outdoor church service scheduled for July 3rd, 2011.

**AUTHORIZATION:**

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

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

**SUMMARY STATEMENT:**

Living Faith Christian Center has submitted a Noise Permit request for amplified sound associated with an outdoor church service scheduled for July 3rd, 2011. The amplified sound will consist of a soundboard, drums, guitars, brass instruments, microphones, speakers and monitors.

The Application was reviewed by Fire, Police, and Public Works Departments. A condition of approval for the permit will be to face the speakers away from the campground area.

**STANDING COMMITTEE REVIEW:**

Not required.

**RECOMMENDED ACTION:**

Approve the request for amplified sound by granting the noise permit.

**ATTACHMENTS:**

Noise Permit.

**MAYOR'S COMMENTS:**

# *CITY OF OAK HARBOR*
# *NOISE PERMIT*

| | |
|---|---|
| Name of Organization: | Living Faith Christian Center |
| Location of Event: | Windjammer Park – Gazebo and surrounding area |
| Date of Event: | July 3rd, 2011 |
| Hours of Operation: | 10:00 a.m. – 4:00 p.m. |
| Permitted Noise: | Soundboard, drums, guitars, brass instruments, microphones, speakers and monitors associated with an outdoor church service. |
| Approval Conditions: | Face speakers away from campground area. |
| Date of City Council Approval: | |

Issued this day of , 2011.

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Karen Crouch, Special Events Coordinator

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

***Please post this notice on site***

# City of Oak Harbor
# City Council Agenda Bill

**Agenda Bill No.** CA 2F
**Date:** June 28, 2011
**Subject:** Noise Permit – Oak Harbor Chamber of Commerce - 4th of July celebration

**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, as to form

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**PURPOSE:**

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from the Oak Harbor Chamber of Commerce for amplified sound associated with the 4th of July festivities.

**AUTHORIZATION:**

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

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

**SUMMARY STATEMENT:**

The Oak Harbor Chamber of Commerce has submitted a Noise Permit request for amplified sound associated with 4th of July activities. The amplified sound will consist of a sound system for announcements during the parade.

The Application was reviewed by Fire, Police, and Public Works Departments. A condition of approval for the permit will be to face the speakers away from the campground area.

**STANDING COMMITTEE REVIEW:**

Not required.

**RECOMMENDED ACTION:**

Approve the request for amplified sound by granting the noise permit.

**ATTACHMENTS:**

Noise Permit.

**MAYOR'S COMMENTS:**

# *CITY OF OAK HARBOR*

# *NOISE PERMIT*

| | |
|---|---|
| Name of Organization: | Oak Harbor Chamber of Commerce |
| Location of Event: | Parade Route – Pioneer Way and along Bayshore Drive |
| Date of Event: | July 4th, 2011 |
| Hours of Operation: | 10:00 a.m. – 2:00 p.m. |
| Permitted Noise: | Sound system for announcements before, during and after the parade |
| Approval Conditions: | Face speakers away from campground area. |
| Date of City Council Approval: | |

Issued this day of , 2011.

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Karen Crouch, Special Events Coordinator

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

***Please post this notice on site***

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

**Agenda Bill No.** NA 2a
**Date:** June 28, 2011
**Subject:** Noise Permit – Family Bible Church

**FROM:** Paul Schmidt, City Administrator

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

Jim Slowik, Mayor
Doug Merriman, Finance Director
for Margery Hite, City Attorney, as to form

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**PURPOSE:**

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from Family Bible Church for amplified sound associated with an outdoor Fil-Am Bible Study picnic scheduled for July 4th, 2011.

**AUTHORIZATION:**

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

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

**SUMMARY STATEMENT:**

Family Bible Church has submitted a Noise Permit request for amplified sound associated with an outdoor Fil-Am Bible Study picnic scheduled for July 4th, 2011. The amplified sound will consist of a sound system for music and karaoke.

The Application was reviewed by Fire, Police, and Public Works Departments. A condition of approval for the permit will be to face the speakers away from the campground area.

**STANDING COMMITTEE REVIEW:**

Not required.

**RECOMMENDED ACTION:**

Approve the request for amplified sound by granting the noise permit.

**ATTACHMENTS:**

Noise Permit.

**MAYOR'S COMMENTS:**

# *CITY OF OAK HARBOR*

# *NOISE PERMIT*

| | |
|---|---|
| Name of Organization: | Family Bible Church |
| Location of Event: | Windjammer Park – Kitchen A and surrounding area. |
| Date of Event: | July 4th, 2011 |
| Hours of Operation: | 8:00 a.m. – 10:00 p.m. |
| Permitted Noise: | Sound system for karaoke and music |
| Approval Conditions: | Face speakers away from campground area. |
| Date of City Council Approval: | |

Issued this day of , 2011.

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Karen Crouch, Special Events Coordinator

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

***Please post this notice on site***

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

Bill No. d/n 2H
Date: June 28, 2011
Subject: Re-Appointment – Lodging Tax Advisory Committee – Rhea Nelson

**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

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## PURPOSE

The purpose of this agenda bill is to recommend the re-appointment of Rhea Nelson to the Lodging Tax Advisory Committee.

## AUTHORITY

The Lodging Tax Advisory Committee is a five-member committee appointed for a three-year term in accordance with OHMC 2.66.020. One member shall be an elected official of the City who shall serve as chair and two members shall be representatives of businesses required to collect the tax imposed pursuant to Chapter 67.28 RCW, and two members shall be persons involved in activities authorized to be funded by revenue received from the tax imposed pursuant to Chapter 67.28 RCW. Members are appointed by the Mayor, and confirmed by the Council.

## SUMMARY STATEMENT

Ms. Nelson has served on the Lodging Tax Advisory Committee since 2002 as a member involved in activities authorized to be funded by revenue received from the tax imposed. She has confirmed that she will serve another term if re-appointed. If re-appointed, her term will expire in June 2014. Ms. Nelson is an active, valued member of the committee.

Mayor Slowik recommends that Ms. Nelson be re-appointed to the Lodging Tax Advisory Committee.

## RECOMMENDED ACTION

Approve the recommendation to re-appoint Ms. Nelson to the Lodging Tax Advisory Committee.

## ATTACHMENTS

None.

**MAYOR'S COMMENTS**

None.

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

Bill No. dA 2I
Date: June 28, 2011
Subject: Re-Appointment – Lodging Tax Advisory Committee – John Platt

**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

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## PURPOSE

The purpose of this agenda bill is to recommend the re-appointment of John Platt to the Lodging Tax Advisory Committee.

## AUTHORITY

The Lodging Tax Advisory Committee is a five-member committee appointed for a three-year term in accordance with OHMC 2.66.020. One member shall be an elected official of the City who shall serve as chair and two members shall be representatives of businesses required to collect the tax imposed pursuant to Chapter 67.28 RCW, and two members shall be persons involved in activities authorized to be funded by revenue received from the tax imposed pursuant to Chapter 67.28 RCW. Members are appointed by the Mayor, and confirmed by the Council.

## SUMMARY STATEMENT

Mr. Platt has served on the Lodging Tax Advisory Committee since 2005 as a member representing a business required to collect the tax imposed. He has confirmed that he will serve another term if re-appointed. If re-appointed, his term will expire in June 2014. Mr. Platt is an active, valued member of the committee.

Mayor Slowik recommends that Mr. Platt be re-appointed to the Lodging Tax Advisory Committee.

## RECOMMENDED ACTION

Approve the recommendation to re-appoint Mr. Platt to the Lodging Tax Advisory Committee.

## ATTACHMENTS

None.

**MAYOR'S COMMENTS**

None.

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

Bill No. 11A 25
Date: June 28, 2011
Subject: Appointment – Lodging Tax Advisory Committee – Danielle Callendar

**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

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## PURPOSE

The purpose of this agenda bill is to recommend the appointment of Danielle Callendar to the Lodging Tax Advisory Committee.

## AUTHORITY

The Lodging Tax Advisory Committee is a five-member committee appointed for a three-year term in accordance with OHMC 2.66.020. One member shall be an elected official of the City who shall serve as chair and two members shall be representatives of businesses required to collect the tax imposed pursuant to Chapter 67.28 RCW, and two members shall be persons involved in activities authorized to be funded by revenue received from the tax imposed pursuant to Chapter 67.28 RCW. Members are appointed by the Mayor, and confirmed by the Council.

## SUMMARY STATEMENT

A position representing businesses required to collect the tax imposed became available due to the expired term of Randy Bradford. Ms. Callendar is the General Manager of Best Western and Candlewood Suite therefore meeting the qualification. If appointed, Ms. Callendar's term would commence immediately and expire June 2014. Mayor Slowik recommends that Ms. Callendar be appointed to the Lodging Tax Advisory Committee.

## RECOMMENDED ACTION

Approve the recommendation to appoint Ms. Callendar to the Lodging Tax Advisory Committee.

## ATTACHMENTS

Ms. Callendar's biography form.

**MAYOR'S COMMENTS**

None.

# *Biography Form*

Recommended Board Appointment for: Lodging Tax Committee

Name: Danielle Callendar Date: 5-17-2011

Address: 1000 Andis Road

City, State, Zip: Burlington, WA 98233

Telephone Number: 360-720-3179 Email Address:
Danielle@hotelservicesgroup.com Work: 679-4567

Mailing Address (if different from above): _____

Resident of Oak Harbor/Whidbey Island for: 3 (2004-2007) years/months-Reside

Occupation and Place of Employment (if retired, reference previous occupation):

Oak Harbor Area Manager for Best Western Plus Harbor Plaza and Candlewood Suites

Local Group or Civic Affiliations: SIHRMA-Treasurer

Special Interests: My young son and his activities.

Other General Comments: _____

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

Bill No. d/A 2K
Date: June 28, 2011
Subject: Appointment – Margaret Grunwald – Library Board

**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

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## PURPOSE

The purpose of this agenda bill is to recommend the appointment of Margaret Grunwald to the Library Board.

## AUTHORITY

The Library Board is a five-member board appointed for a five-year term in accordance with OHMC 2.31.020. Board members are appointed by the Mayor, and confirmed by the Council.

## SUMMARY STATEMENT

A seat on the board became available due to the resignation of James Golder. Mr. Golder's term is set to expire December 2012.

The Library Board recommends Ms. Grunwald's appointment. She has been a resident of Oak Harbor for 39 years and is an active member of the Friends of the Library.

If appointed, Ms. Grunwald would complete Mr. Golders term, which expires December 2012. Mayor Slowik recommends that Ms. Grunwald be appointed to the Library Board.

## RECOMMENDED ACTION

Approve the recommendation to appoint Ms. Grunwald to the Library Board.

## ATTACHMENTS

Ms. Grunwald's biography form.

## MAYOR'S COMMENTS

None.

# Biography Form

Recommended Board Appointment for: Library Board

Name: Margaret Grunwald Date: June 14, 2011

Address: 2145 Fairway Lane

City, State, Zip: Oak Harbor, WA 98277

Telephone Number: 360-675-2721 Email Address: bigslice1@frontier.com

Mailing Address (if different from above):

Resident of Oak Harbor/Whidbey Island for: 37 years/months
from 1942 – 1961 and then from 1992 to present

Occupation and Place of Employment (if retired, reference previous occupation):

I taugh Kindergarten in the Chesapeak, VA school system and later substituted there. I didnt retire from teaching.

Local Group or Civic Affiliations: Retired Officers Wives, past president and current board member, Past president & secretar of Our Homeowners Assoc., past ~~member~~ board member of Navy League, past board member of Friends of the Oak Harbor Library, council member for United Methodist Church

Special Interests:

reading, traveling, logic problems & crossword puzzles, and volunteering

Other General Comments: I graduated from WSU in 1961 with a double major (English & Education)

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

Bill No. CA 2.L
Date: June 28, 2011
Subject: Excused Absence Request
Councilmember Jim Palmer

**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 Jim Palmer's excused absence request for the July 12, 2011 City Council meeting.

## AUTHORITY

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

## SUMMARY STATEMENT

Councilmember Palmer has submitted an excused absence request for the July 12, 2011 City Council meeting.

## STANDING COMMITTEE REPORT

N/A

## RECOMMENDED ACTION

Approve Councilmember Palmer's excused absence for the July 12, 2011 City Council meeting.

## ATTACHMENTS

None

## MAYOR'S COMMENTS

City of Oak Harbor
City Council Agenda Bill

Agenda Bill No. CJA 2m
Date: June 28, 2011
Subject: 2011 Solid Waste Franchise
(Goldie Road - Wallin)

**FROM:** Cathy Rosen, Public Works Director

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

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

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**SUMMARY STATEMENT:**

*Purpose:* This ordinance provides a solid waste franchise to Island Disposal for areas annexed under Ordinance No. 1603.

*Authority*: Pursuant to RCW 35A.14.900, the City is required to award a franchise for a term of not less than seven (7) years to a garbage disposal firm which had been operating pursuant to permit or franchise in territory that was annexed by the City. Further, such a firm may have a cause of action for "measurable damages" for cancellation of the prior franchise through annexation. Island Disposal was operating a solid waste disposal firm pursuant to Washington UTC certificate in the annexation area at the time of the annexation and is, therefore, entitled to a franchise from the City.

*Description:* This ordinance grants the franchise required by RCW 35A.14.900. The franchise covers territory annexed under the following ordinance:

Ordinance No. 1603

It also provides an additional three-year term in satisfaction of any claim for "measurable damages".

The additional three-year term (a total of 10 years) is an agreed settlement of any claim for "measurable damages" that Island Disposal otherwise might have.

**RECOMMENDED ACTION**:
Introduce the ordinance granting a franchise for solid waste disposal services to Island Disposal for a period of ten (10) years in the recently annexed portion of the City described in Ordinance No. 1603 (Goldie Road - Wallin).

**ATTACHMENTS:**
Ordinance

**MAYOR'S COMMENTS**:

L:\LGLA\WORK\RES-ORD2011\Island Disposal Franchise AB (Goldie Rd Ord#1603).doc

2011 Solid Waste Franchise
Goldie Road (Wallin)
Agenda Bill - 2

**Return to:**
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

**GRANTOR:** City of Oak Harbor

**GRANTEE:** Island Disposal

**LEGAL DESCRIPTIONS:**

- Being a portion of Section 26, Township 33 North, Range 1 East, Willamette Meridian, Island County, Washington, described as follows: (See Exhibit "A" for complete legal description)

**PARCEL NUMBERS:** R13326-363-3630

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR PROVIDING A SOLID WASTE FRANCHISE TO ISLAND DISPOSAL FOR THE AREA ANNEXED UNDER ORDINANCE NO. 1603

WHEREAS, Island Disposal (hereafter referred to as "Grantee") holds a permit from the State of Washington Utilities and Transportation Commission ("WUTC") to collect solid waste in unincorporated areas within Island County; and

WHEREAS, Ordinance No. 1603 annexed certain land subject to the Grantee's franchise from the WUTC into the City of Oak Harbor; and

WHEREAS, RCW 35.13.280 provides that a solid waste collection franchise in unincorporated areas is canceled for that area upon annexation of the area to a city; and

WHEREAS, RCW 35.13.280 requires the annexing city to grant at least a seven (7) year franchise to a business whose franchise was extinguished by annexation or to purchase or condemn the original franchise rights;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

**Section One**. A franchise to provide solid waste disposal services to certain areas within the city limits of the city of Oak Harbor is hereby granted to Island Disposal on the following terms and conditions:

(1) Franchise area. This franchise applies to the area annexed into the city through the adoption of Ordinance No. 1603, described in Exhibit "A" hereto attached.

(2) Nature of the franchise. Grantee shall hereby have an exclusive right during the term of the franchise granted by this ordinance to collect and haul for hire over the streets and alleys of the city all solid waste collected from private customers located within the corporate limits of the city in the franchise area described in paragraph (1) above.

"Solid waste", as used herein, shall be interpreted to mean and include all solid waste, animal and vegetable matter, rubbish, trash, debris, ashes, tin cans, and other waste materials generally, including articles ordinarily and customarily hauled away and dumped.

(3) Duration of the franchise. The franchise shall become effective five (5) days after publication of this ordinance and shall continue for ten (10) years from its effective date. Thereafter, the franchise shall terminate unless extended by written agreement approved by City Council.

(4) Acceptance of franchise. Acceptance of this franchise shall constitute Grantee's agreement that the ten (10) year franchise period provided herein constitutes full and fair compensation to Grantee for any damages that Grantee may have suffered as a result of the annexation of territory pursuant to Ordinance No. 1603.

(5) Utility tax. The Grantee shall pay utility taxes imposed on solid waste utility services by the City of Oak Harbor for all solid waste utility services provided by the franchise within the city of Oak Harbor and all areas listed in this franchise ordinance in which a franchise is granted or extended or both granted and extended.

It is further provided that such taxes shall apply to this franchise upon its effective date.

(6) Collection rates. Grantee's collection rates inside the city shall be at the same levels as those filed with and approved by the WUTC for regulated Island County service by Grantee or its successor; provided, nothing in this section shall be construed as preventing Grantee from increasing the collection rates approved by the WUTC to

account for the cost of any utility taxes or increases in utility taxes imposed by the City on solid waste services.

Grantee will provide notice to the City of applications for changes in rates or charges made to WUTC which affects rates in the franchise area. Grantee will further notify the City if WUTC ceases to regulate rates for Grantee in Island County.

It is further provided, that if the WUTC ceases regulating rates for Grantee in Island County, then the Grantee's rates for solid waste collection services in the franchise area shall be the same as those rates established by the City for customers of the City solid waste utility; provided, that the Grantee shall have the right to request a public hearing within thirty (30) days of notice of the application of City rates to the franchise area to establish a different rate structure for the franchise area. After public hearing on the Grantee's proposed rates, the City shall establish such rates as are reasonable based on the charges last approved by the WUTC to cover the cost of service and to allow for sufficient profit in the provision of solid waste collection service.

At the time of enactment of this franchise, the City requires mandatory accounts within all franchise areas. Grantee will cooperate in providing information in this regard unless and until the franchise expires or the City amends its requirements for mandatory accounts.

(7) Frequency of collections. Grantee shall offer regular collections of solid waste throughout the business areas assigned to the Grantee and shall offer once a week collection in all residential districts assigned to the Grantee in accordance with the franchise issued by the WUTC; provided, that the City may modify this clause as to frequency of collections or solid waste and may prescribe the hours during which collections will be made, and Grantee shall comply with all such regulations so adopted and prescribed.

(8) Service required. Grantee shall furnish collection service to any person or organization, public or private, within the franchise area within thirty (30) days of receipt of a written request for such service.

Grantee shall not, however, be required to furnish service to any household, dwelling, business establishment or other building requiring service unless the owner thereof shall furnish an opening to his yard or grounds from the alley or street where solid waste is customarily collected, and Grantee shall not be required to service any household, dwelling, business establishment or other building, where a private road must be used to obtain access thereto unless such private road is more than twenty (20) feet in width. The Grantee shall notify the City of addresses and locations of any household, dwelling, business establishment or other building in the area which it is

not providing service under this provision with the reason why it is not providing service.

(9) Customer list. Grantee will advise City of lists of customers on a regular basis to be established by the City so that the City may use such information to assure universal collection of solid waste service for the City of Oak Harbor.

(10) Yard Waste Services. The City may provide yard waste collection services in the annexation areas.

(11) Reserved regulations. The City reserves the right to impose additional regulations upon Grantee in its discretion for purposes of health, welfare and safety.

**Section Two.** Notice of Tax on Utility Business. This ordinance shall establish written notice to Island Disposal that the rate for solid waste utilities is presently set at six and one-quarter percent (6.25%) on the gross income derived from doing business in Oak Harbor. This rate is subject to change by Oak Harbor ordinance.

**Section Three**. 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 shall not be affected.

**Section Four**. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication as required by law.

PASSED by the City Council and approved by its Mayor this_____ day of _____, 2011.

THE CITY OF OAK HARBOR

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____

City Attorney

Published: _____

Island Disposal, a Washington corporation, hereby accepts the above franchise as full and fair compensation for any measurable damages caused by the City of Oak Harbor under Washington law with regard to Solid Waste Franchise continuation.

ISLAND DISPOSAL

By Robert A. Nielsen III

Title REGIONAL VICE PRESIDENT

STATE OF WASHINGTON )
) ss:
COUNTY OF ISLAND )

THIS IS TO CERTIFY that on this 3RD day of June, 2010, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared Robert A. Nielsen, to me known to be the Regional Vice President of Island Disposal, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that said individual was authorized to execute said instrument.

WITNESS my hand and official seal the day and year first above written.

D. MICHELE HEIM
COMMISSION EXPIRES
NOTARY
PUBLIC
AUGUST 15, 2012
STATE OF WASHINGTON

D. Michele Heim

Print: D. Michele Heim

NOTARY PUBLIC in and for the State of Washington, residing at Vancouver

Commission expires: August 15, 2012

L:\LGLA\WORK\RES-ORD2011\Island Disposal - Goldie Rd Franchise Ord 1603#1.doc

Island Disposal Solid Waste Franchise
Ordinance (Goldie Rd) - 5
6/3/2011 1:33 PM

# GOLDIE ROAD ANNEXATION
# LEGAL DESCRIPTION

Being a portion of Section 26, Township 33 North, Range 1 East, Willamette Meridian, Island County, Washington, described as follows:

**BEGINNING** at the intersection of the easterly right of way of Goldie Road and the centerline of Gun Club Road, extended easterly, also being an angle point on the existing City of Oak Harbor city limits.

Thence northerly along said easterly right of way of Goldie Road, also being the existing city limits, to an angle point in said city limits;

Thence westerly along said existing city limits, to the westerly right of way of Goldie Road;

Thence northerly along said westerly right of way of Goldie Road, to the centerline of Industrial Avenue;

Thence Northeasterly crossing Goldie Road to the intersection of the easterly right of way of Goldie Road and the westerly right of way of Colin Lane;

Thence northerly along said westerly right of way of Colin Lane, to the southerly right of way of Ault Field Road;

Thence easterly along said southerly right of way of Ault Field Road, to the boundary of the Whidbey Island Naval Air Station;

Thence southerly along said boundary of the Whidbey Island Naval Air Station, to an angle point in said boundary of the Whidbey Island Naval Air Station, also being an angle point in said City of Oak Harbor city limits;

Thence continuing southerly along said existing City of Oak Harbor city limits, to an angle point in said city limits;

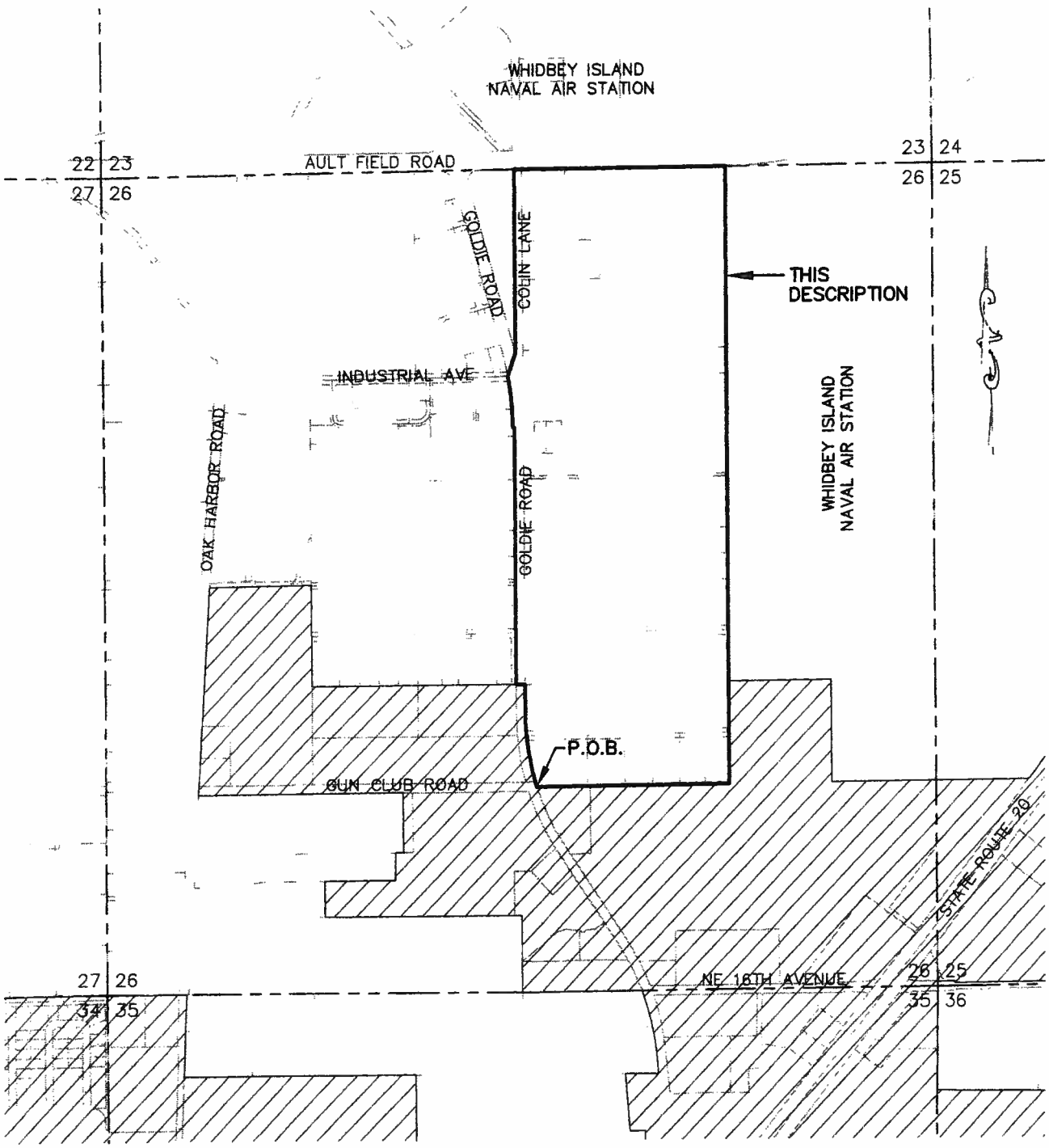
Thence westerly along said existing city limits, to the **TRUE POINT OF BEGINNING**

07/13/10
LE #789-04
Goldie Annex LGL.doc

EXHIBIT A(1)

07/13/10

# MAP TO ACCOMPANY LEGAL DESCRIPTION




EXISTING OAK HARBOR CITY LIMITS

LYON ENGINEERING
Civil Engineers • Land Surveyors

| GOLDIE ANNEXATION LEGAL EXHIBIT | |
|---|---|
| DATE: 07-13-10 | SCALE: 1"=1000' |

EXHIBIT A (2)

# City of Oak Harbor
# City Council Agenda Bill

**Bill No.** 3
**Date:** June 28, 2011
**Subject:** LID Proposal – Driftwood Beach Addition

**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, as to form

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## PURPOSE

The purpose of this agenda bill is to continue to provide information regarding the proposal to form a Local Improvement District for sanitary sewer improvements for the Driftwood Beach Addition.

## AUTHORITY

The proposal to gather information is intended to allow the City Council to make a decision whether and/or how to proceed with a sewer LID in the future. The authority for the City Council to proceed with a sewer LID by resolution is found in RCW 35.43.140.

**Resolutions -- Contents, publication -- Hearing, by whom held.**

Any local improvement to be paid for in whole or in part by the levy and collection of assessments upon the property within the proposed improvement district may be initiated by a resolution of the city or town council or other legislative authority of the city or town, declaring its intention to order the improvement, setting forth the nature and territorial extent of the improvement, containing a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement, or street lighting, adds to the property, and notifying all persons who may desire to object thereto to appear and present their objections at a time to be fixed therein.

In the case of trunk sewers and trunk water mains the resolution must describe the routes along which the trunk sewer, subsewer and branches of trunk water main and laterals are to be constructed.

In case of dikes or other structures to protect the city or town or any part thereof from overflow or to open, deepen, straighten, or enlarge watercourses, waterways and other channels the resolution must set forth the place of commencement and ending thereof and the route to be used.

In the case of auxiliary water systems, or extensions thereof or additions thereto for protection of the city or town or any part thereof from fire, the resolution must set forth the routes along which the auxiliary

water system or extensions thereof or additions thereto are to be constructed and specifications of the structures or works necessary thereto or forming a part thereof.

The resolution shall be published in at least two consecutive issues of the official newspaper of the city or town, the first publication to be at least fifteen days before the day fixed for the hearing.

The hearing herein required may be held before the city or town council, or other legislative authority, or before a committee thereof. The legislative authority of a city or town may designate an officer to conduct the hearings. The committee or hearing officer shall report recommendations on the resolution to the legislative authority for final action.

[1994 c 71 § 2; 1989 c 243 § 2; 1985 c 469 § 29; 1984 c 203 § 1; 1965 c 7 § 35.43.140. Prior: 1957 c 144 § 8; prior: 1953 c 177 § 1. (i) 1929 c 97 § 1, part; 1911 c 98 § 10, part; RRS § 9361, part. (ii) 1911 c 98 § 16, part; RRS § 9368, part. (iii) 1911 c 98 § 17, part; RRS § 9369, part. (iv) 1911 c 98 § 18, part; RRS § 9370, part.]

## SUMMARY STATEMENT

At the May 3, 2011 City Council meeting, a motion was approved stating "to remand the resolution back to staff to include both the gravity and the low pressure sewage systems in the resolution." It was then further clarified by consensus to bring back the sewer information for the proposed Dillard sewer improvements for the June 28, 2011 City Council meeting (see Exhibit A, Council minutes from May 3, 2011).

Given that direction by City Council, Staff retained the engineering firm of Gray & Osborne, Inc., to review and update the engineering information they provided to the City in 2007 concerning costs estimates for a gravity sewer system and low pressure sewer system for the Dillard neighborhood. The updated information is presented in two, separate spreadsheets: one for a gravity system and one for a low pressure system (see Exhibit B). The spreadsheets provide a comparison of the total cost to install all of the improvements necessary in the public right of way to result in a complete gravity sewer system or a complete grinder pump/pressure system. Gray & Osborne notes that the costs summarized do not include the work the property owners would need to undertake to construct a side sewer on their own property and abandon their existing septic tank. Those costs should be the same whichever alternative is chosen.

In addition, our Development Services Department updated the Dillard neighborhood sewer map and corresponding property owner information, which can be considered as a possible benefit area for the LID formation (see Exhibit C). Additional information pertaining to the possible benefit area is found in a letter from the State Auditor (see Exhibit D).

Finally, Staff provided the updated information to Mr. Steve DiJulio of Foster Pepper, PLLC, to revise the original Resolution #11-10 to reflect the additional information that City Council requested (see Exhibit E).

For presentation of this agenda bill, it is planned to have Mr. Steve DiJulio present to answer any further legal questions and also Mr. Doug Jacobson from Gray and Osborne to address any engineering questions.

The proposed resolution does not authorize the sewer LID but instead directs further information be gathered for City Council consideration.

It should also be noted that as of the date June 17, 2011, the preparatory costs for this issue are within the expenditure cap of $25,000 directed by City Council.

## STANDING COMMITTEE REPORT

**N/A**

## RECOMMENDED ACTION

Consideration of Resolution No. 11-10

## ATTACHMENTS

Exhibit A – City Council minutes from May 3, 2011
Exhibit B – Gray & Osborne Report
Exhibit C – Sewer Map and Property Information
Exhibit D – Letter from State Auditor
Exhibit E – Resolution 11-10

**City Council Meeting**
**Tuesday, May 3, 2011**
**City Hall – Council Chambers**

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

**INVOCATION** Bishop Mark Soptich, Church of Jesus Christ of Latter Day Saints

**ROLL CALL**

Mayor Jim Slowik
Seven members of the Council,
- Jim Campbell
- Scott Dudley
- Beth Munns
- Danny Paggao, Mayor Pro Tem
- Jim Palmer
- Rick Almberg
- Bob Severns

Paul Schmidt, City Administrator
Margery Hite, City Attorney
Steve Powers, Development Services Director
Cathy Rosen, Public Works Director
Eric Johnston, City Engineer
Mark Soptich, Fire Chief
Rick Wallace, Chief of Police
Mike McIntire, Senior Services Director
Renee Recker, Executive Assistant to the Mayor
Chris Sublet, Marina Manager

**MINUTES**

Councilmember Palmer asked if steps had been taken to respond to Ms. Gardner's sewer request. Mayor Slowik acknowledged that steps have been taken to look into her sewer issue.

**MOTION:** **Councilmember Palmer moved to approve the 4/19/11 meeting minutes. The motion was seconded by Councilmember Campbell. Councilmembers Paggao, Campbell, Dudley, Munns and Palmer voted in favor of the motion. Councilmembers Almberg and Severns abstained from the vote since they did not attend the 4/19/11 meeting. The motion carried.**

**NON-ACTION COUNCIL ITEMS**

**Proclamation – Nurses Week**

Councilmember Paggao read and presented this proclamation to Capt. Bonnie Bulach. Nurses Week celebrates the ways in which registered nurses strive to provide safe and high quality patient care and map out the way to improve our health care system. Capt. Bulach noted that seven nurses were named to the top 25 women in Modern Heathcare's 2011 Women in Healthcare and for eleven consecutive years the Gallop Poll has chosen the nursing profession as number one for the most trusted profession. Capt. Bulach thanked the Council for helping to celebrate Nurses Week.

Mayor Slowik reported that a Pioneer Way briefing has been added to tonight's agenda and introduced Larry Cort and Lesley McConnell.

**Pioneer Way Update**

Mr. Cort reported that the Pioneer Way project is on schedule and on budget and provided details about current and future construction. Lesley McConnell presented materials that have been prepared to promote the downtown with a focus on the history of Pioneer Way.

Mr. Almberg asked if staff was able to present a list of deliverables and provide a budget of what has been spent, what is left and what will be spent in the future. Ms. McConnell said that the

calendar of events is essentially the deliverables which will be refined. Mr. Johnston said that a budget is forthcoming in the near future. There was further discussion about funding restrictions, construction scheduling and complements to Strider Construction and staff for successfully accommodating Holland Happening while Pioneer Way was under construction.

**Public Comments**

**Mel Vance, P.O. Box 2882**. Mr. Vance expressed his belief that providing security gates at the Marina is a waste of money. The current gate has been adequate for many years for controlling theft problems. Adding more gates would restrict access to the public. If the public is restricted from the dock then Park Funds should not be used to help fund the Marina.

There were no other public comments.

**COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS**

**Consent Agenda**

A. Noise Permit – Beachcomber's Bazaar.
B. Noise Permit – Mission Emanuel.
C. Noise Permit – Relay for Life of North Whidbey.
D. Noise Permit – Christ the King Community Church.
E. Agreement – ICOM.
F. Authorization to Solicit Bids – Marina Gates.
G. Bid Award – Marina Pump Out Boat.
H. Change in Council Meeting Dates – June 21 to June 28, 2011; July 5 to July 12, 2011.
I. Approval of Accounts Payable Vouchers (Pay Bills).

Councilmember Munns asked that Agenda Item F be removed.
Councilmember Severns asked that Agenda Item G be removed.

**MOTION:** **Councilmember Campbell moved to approve Consent Agenda Items A, B, C, D, E, H, and I with Item I paying Accounts Payable Check Numbers 145664 through 145815 in the amount of $1,252,070.90. The motion was seconded by Councilmember Palmer and carried unanimously.**

**Consent Agenda Item F - Authorization to Solicit Bids – Marina Gates**

Councilmember Munns asked Marina Manager Chris Sublet to explain the reasons for the security gates. Mr. Sublet explained the purpose is to protect the private boats while allowing for public use. The gates are planned for A, B, C, D, and E Docks. Mr. Powers added that the main gate will continue to be open as it is today during the regular business hours and the public will have the same access as they have today. The City takes its obligation to maintain general public access very seriously and are trying to find a balance between public access and responding to customer concerns about protecting their private assets. There was a question about whether the funding came from the General Fund or was paid for by the rate payers. Mr. Powers acknowledged that moorage rate payers are paying for the security gates. There was further discussion about the programmable keys.

**MOTION:** **Councilmember Munns moved to approve Consent Agenda Item F, Authorization to Solicit Bids – Marina Gates. The motion was seconded by Councilmember Campbell and carried unanimously.**



EXHIBIT A

**Consent Agenda Item G - Bid Award – Marina Pump Out Boat**
Mr. Severns asked if the grant funds could be used to buy the two motors and if the purchase motors would be under the grant. Ms. Rosen acknowledged that the grant funds would be used to purchase the boat, motors and the pump out units.

**MOTION:** **Councilmember Severns moved to approve Consent Agenda Item G, Bid Award – Marina Pump Out Boat. The motion was seconded by Councilmember Munns and carried unanimously.**

**Break**
Mayor Slowik called for a break at 6:57 p.m. and the meeting reconvened at 7:03 p.m.

**Resolution – Sewer LID**
Development Services Director Steve Powers presented this agenda bill which provides information and a resolution in response to a recent submittal of a petition for an LID for sewer submitted by certain property owners within the Driftwood Beach Addition. Mr. Powers introduced Mr. Steve DiJulio of Foster Pepper, PLLC who provided further information and answered written questions submitted to the City by the Driftwood Beach/Dillard's Addition.

Mayor Slowik opened the public hearing at 7:52 p.m.

**Mark Goetz, 2164 SW Dillard Lane**
Mr. Goetz asked Mr. DiJulio if the whole neighborhood were to connect to the grinder pump system, would the City end up owning and maintaining the system, and could the system be financed over a period of 10, 15, or 20 years? Mr. Goetz also commented that Mr. DiJulio indicated that the grinder pump system would be less expensive than a gravity system but all the people who signed the petition disagree with that assertion because it hasn't been proven yet and the neighborhood is still trying to figure out how many potential customers are going to sign up and use a lift station if it's available.

**Robyn Kolaitis, 2141 SW Dillard Lane**
Mrs. Kolaitis thanked the Council for the opportunity and spoke about Mr. Almberg's question to the Driftwood Beach/Dillard's Addition residents at the previous meeting as to why the neighborhood would assess themselves since there is already an adequate system in the ground. Mrs. Kolaitis said that they don't consider what is in the ground adequate and she didn't know many that could afford to write a $16,000 check for the grinder pump system right now.

**Duane Dillard, 2150 SW Dillard Lane**
Mr. Dillard raised questions about the construction of the grinder pump system. His rental home's cleanout was placed 192 feet from the foundation and the system is on the backside of the house. The repair cost should be looked at before pushing the neighborhood onto the low pressure system. Mr. Slowik indicated that he didn't think this would be a question to Mr. DiJulio and asked Mr. Schmidt if that was an Engineering question. Mr. Schmidt noted that there are number of anomalies with connecting to the sewer and those would be considered depending on which system we end up with.

With no other public comments coming forth, Mayor Slowik closed the public hearing at 7:59 p.m.

Council Discussion

Mr. Dudley restated Mr. Goetz's question to Mr. DiJulio. Mr. DiJulio indicated that the City can construct and operate the system as a condition of sewer service and also finance it through the LID process whether it's a gravity system or a low pressure system. Mr. DiJulio also commented that he didn't mean to take a position on the difference in cost but that he read the Gray & Osborn report and wanted the City to be aware of the potential for challenge should the issue come up that the property owners could have connected to the low pressure system for less.

Councilmembers questioned Mr. DiJulio about whether the special benefit could change and the assessment be re-assessed if in the future the properties are developed (DiJuilo - if the property was re-assessed you would have to re-assess all of the properties on a pro rata basis and that this specific statutory authority has never been used and is highly risky); whether the lenders participate in the LID process (DeJuilo - lending institutions have no standing in LID proceedings); whether the City could grandfather the low pressure system owners (DiJulio - it is within the City's authority to mandate a particular sanitary sewer program. The more difficult question is whether or not the City would be able to charge those properties for the pro rata cost of the gravity system because of the question as to how they are specially benefited by that gravity system when they are already fully serviced by the low pressure system); if the special benefits exceed the valuation of the properties does that mean the financial responsibly the City's burden? (DiJulio - in the event that assessments are not sufficient to support the cost of the project, then the city would be left holding the ticket).

Mr. Almberg clarified his question to Ms. Kolaitis regarding why the neighborhood would assesses themselves. Mr. Almberg indicated that all things being equal he would rather have a gravity system subject to the topography, location of transport, water table and cost. If a low pressure grinder pump system cost $6,000 and there was a likelihood that an LID would cost $15,000 or $20,000 for the same purpose he would prefer to have a grinder pump system and he would prefer to pay it privately rather than go through an LID process. As Mr. DiJulio explained earlier, the cost of doing the LID in addition to the construction cost includes the finance, the bonding, the engineering, the City administration and all the process to get to that point. So it's very possible that the difference between a privately funded grinder pump could be substantially cheaper than the same grinder pump system going through the LID. Simply, why do you want to assess yourself when you are basically paying a premium to go through an LID? Mr. Almberg asked Mr. DiJulio for his analysis of the cost associated with an LID project. Mr. DiJulio acknowledged that Mr. Almberg's analysis of the cost was accurate and that State law requires that LIDs be bid competitively in accordance with the public procurement process. The administrative costs for managing the process has additional cost above and beyond a typical public works project.

Mr. Almberg asked Mr. DiJulio if the assessment was included in the formula for special benefit assessment when the low pressure system was made available. Mr. DiJulio said if the City were to form an LID to finance the additional infrastructure (the connections to the low pressure system) that would be considered, but that is only one of the variables. If you're looking back at that time you have additional variables that come to mind; one is that the City didn't require connection. Second we don't know how good the septic systems were in 2006/2007. There are a number of variables that would go into the special benefit calculus, but certainly the availability of a low pressure system may constitute a special benefit to the property would be a factor in determining special benefit if the City were to acquire properties to connect and an LID was formed to assist in that program.

Mr. Almberg ask Mr. DiJulio if the City were to take out the low pressure sewer system and put in a gravity system, can you say that there is a special benefit applied to those properties? You would have to determine that there is a tangible value between the low pressure system and the gravity system and does that really calculate out in your experience? Mr. DiJulio responded that the reason he commented in his initial presentation that the City, in order to protect itself and to be able to defend its assessments, were it to proceed with the gravity system and to preclude connection to the low pressure system, is for that very reason. If property owners have the option of choosing one or the other the City may not be able to demonstrate special benefit. That is why I suggested that the City may consider undertaking improvements with respect to this particular system or area and may choose to say we are not going to allow connections to the low pressure system anymore because we are going to build a gravity system in that area. Then you forget about the special benefit attributable to the low pressure system because it's not available because the City has precluded application.

Mr. Almberg pointed out that there is a publication available to everyone which can be found at www.mrsc.org. Mr. DiJulio is a contributing writer in the manual. The publication is titled The Local and Road Improvement District Manual for Washington Sixth Edition.

Mr. Palmer commented that it is very black and white that the LID assessment cannot exceed the special benefit and that LID assessments must be proportionate to the special benefit derived and that what he has learned tonight is that a gravity system can be installed in addition to the low pressure system in theory. Mr. DiJulio said that from a regulatory standpoint, the City would have to say that only the people that are currently hooked to the low pressure system can use it. If you are going to allow property owners in that area to choose among the systems, depending on what the cost associated with those connection are, will the City be able to demonstrate special benefit and then it starts diluting the participants in the gravity system which will necessarily increase the amount of the assessment potential for those who are participating in the gravity system. A gravity system is going to have a fixed cost spread to a certain number of properties and the fewer number of properties the higher the cost per property assuming it can be justified.

Mr. Palmer said that he wasn't sure that the City could show increased benefit because a system is already there. He said that he understood Mr. DiJulio to say that it wasn't necessary to bring in a certified appraiser to help determine the benefit. Mr. DiJulio said that at this preliminary stage particularly if the City Council wants to keep a $25,000 cap on the initial expense associated with the study you may find that the appraisal effort is may be too costly for this initial phase. A more simplistic analysis may be done as many engineers do with a project, which is to calculate estimated cost of the improvements and divide it by the potential number of parcels that could be serviced by this improvement. There is nothing as a matter of law that precludes the City from using a per parcel method for calculating special benefits and if you come up with a number that says the system is going to cost X and you divide X by the number of properties that would be included in the LID and you may get a number of $40,000 to $45,000 per parcel, that may be cost prohibitive and the City Council may not go forward with it because you know that the property is not going to be able to sustain an assessment at that amount unless you are going to get aggressive and force the mandatory connection requirements. If the City doesn't enforce the mandatory connection requirements, a property owner, presumably from a public health and safety standpoint, can put in an expensive new septic system for that kind of money so why are they special benefitted to that amount.

Mr. Palmer expressed concerned about spending the more taxpayer's money on this but was not sure that an initial appraisal was not a good idea.



EXHIBIT A

Mr. Campbell commented that the resolution being considered doesn't solve the problem because it only talks about a gravity system. Mr. Campbell suggested that the resolution cover information on both systems.

Ms. Munns asked about what could be done for residents that have trouble paying to hook up to the low pressure system and if there was a way to work out billing, without having to do an LID or work out payments over a period of time instead having to pay the hookup fee at once if the City requires them to hook up. Mr. DiJulio said that deferral of collection is contained in RCW 35.43.250 and the qualifying provisions for the low income, elderly and disabled is in Chapter 84.38 RCW. The question is whether the City can issue revenue bonds pledging the revenues of the entire sewer system, put the system in and then somehow collect it back from the property owners through a rate particular to that particular neighborhood and the answer is yes, but that means that the rest of the City is financing the local improvement. If it is a local improvement then it perhaps should be financed by the people who benefit specially compared to the people in other parts of the City of Oak Harbor.

There was discussion about the costs involved getting the side sewer from the main to the residents and the varying conditions. Mr. DiJulio indicated that those cost could be included in the LID. The varying site conditions could be accounted of with the on-site costs being separately accounted for and billed as the on-site cost to the property owner. This would be a separate column of property specific costs in the special assessments spreadsheet.

Mr. Severns questioned whether the City can properly study the issue for $25,000 and how will the City pay for it.

Mayor Slowik thanked Mr. DiJulio for his expertise and returned to Mr. Campbell regarding his earlier suggestion.

**MOTION:** **Councilmember Campbell moved to remand the resolution back to staff to include both the gravity and the low pressure sewage systems in the resolution. The motion was seconded by Councilmember Almberg.**

Mr. Palmer restated the need to have someone examine the costs thoroughly to see if the Council can move forward with either system.

Mr. Campbell reiterated that the Council needs all the data so a decision can be made.

Mr. Almberg said that staff should be able to model a gravity sewer system and the low pressure system information is known. For estimation purposes, the two systems can be costed out. Until there is benefit area Council can't really move forward effectively with costing process because it gets down to the special assessments in the end.

Mr. Dudley suggested approving the resolution and asking staff to come back with another resolution taking a look at the other system as well. Mayor Slowik indicated that the resolution was not an action item, the Council is only considering it and Mr. Campbell is asking to change the resolution for consideration.

Mr. Schmidt suggested bringing the resolution back to the Council on June 2nd. There was consensus by the Council to bring the resolution back for consideration at the June 28th meeting.



EXHIBIT A

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

**Break**
Mayor Slowik called for a break at 8:50 p.m. and the meeting reconvened at 8:59 p.m.

**Bid Award – C-Dock Roof**
City Engineer, Eric Johnston presented this agenda bill which recommends awarding a contract for construction of the Marina C-Dock Roof Repair Project to Roosendaal-Honcoop Const., Inc. in the amount of $139,120.00 plus approximately $12,000 sales tax and authorize the City Engineer to administratively approve changes to the construction contract totaling not more than $20,000. Funding is covered through the City's insurance carrier.

Mayor Slowik opened the public hearing at 9:02 p.m. With no public comments coming forth, Mayor Slowik closed the public hearing.

City Council discussed the bidding process and whether the $84,000 that has already been received from the insurance carrier and whether the funds were spent on Reid Middleton. Mr. Powers said he was not sure at this stage if the entire $84,000 has been expended and there were two contracts with Reid Middleton. The initial contract was recommended by the insurance adjuster was for a structural analysis of the damage of the facility which was roughly $14,800. The second contract with Reid Middleton was in the amount of $29,000 for preparation of the contract and specifications/plans and was also initially intended to cover some construction administration costs roughly $8,000 but as indicated in the agenda bill, City staff has assumed that responsibility so there will be roughly $8,000 savings on the $29,000 contract.

Mr. Dudley noted that the Council didn't see the first or the second contract with Reid Middleton at City Council meetings for approval. Mr. Powers acknowledged that was correct because both contracts were below the $30,000 administrative authority that the Municipal Code grants to the Mayor. Mr. Dudley said that it raises an eyebrow as to why the City would end up contracting multiple contracts with the same firm that ends up putting the expenditures over $30,000 and the City Council never sees it.

Mr. Almberg asked what the start and finish dates were. Mr. Johnston said work will start in June and no construction will be done during the Race Week period in July. Work should be completed in June or August.

**MOTION:** **Councilmember Almberg moved to authorize the Mayor to sign a contract with Roosendaal-Honcoop Const., Inc. in the amount of $139,120 (plus applicable sales tax) for the Marina C-Dock Roof Repair Project and authorize the City Engineer to administratively approve changes to the construction contract totaling not more than $20,000. The motion was seconded by Councilmember Munns.**

Mr. Dudley commented that the multiple contracts with the same firm were not of an emergency nature as the windstorm took place on January 18, 2010. The Mayor would have entered into the first contract on June1, 2010 with the second contract to follow on December 13, 2010.

**VOTE ON THE MOTION:** **The motion carried unanimously.**

**City Administrator's Comments**
Mr. Schmidt talked about the Council meeting changes and noted that the Legislature is in special session and the he is monitoring the session.

**Council Members' Comments**
Council Members gave their respective standing committee and board reports.
Mr. Almberg thanked merchants and the vendors that were on Pioneer Way for Holland Happening. Mr. Almberg also suggested a workshop to look at street improvements for capital improvements-associated funding mechanisms.
Mr. Dudley noted that the selection of artists for the art for the historic downtown and that it would be nice to have some of the art that tie in with the historic downtown.

**Mayor's Comments**
Mayor Slowik thanked the Holland Happening Committee, the Chamber of Commerce and Strider Construction, Larry Cort, and the project staff, Public Works, Fire and the Police Department but especially the community for the turn out which made the 2011 Holland Happening a special event.

**ADJOURN**
With no other business coming before the City Council, Mayor Slowik adjourned the meeting at 9:20 p.m.

_____
Kathy Gifford, Administrative Assistant



EXHIBIT A

Gray & Osborne, Inc.
CONSULTING ENGINEERS
701 DEXTER AVENUE NORTH SUITE 200
SEATTLE, WASHINGTON 98109 • (206) 284-0860

**MEMORANDUM**

| | |
|---|---|
| TO: | PAUL SCHMIDT, CITY ADMINISTRATOR |
| FROM: | DOUG JACOBSON, P.E. |
| DATE: | June 20, 2011 |
| SUBJECT: | DILLARD'S ADDITION SANITARY SEWER CONSTRUCTION COST ESTIMATES |
| G&O#: | 11508 |

As requested I have prepared a construction cost estimate for two alternatives to serve the Dillard's Addition and adjacent properties north and west of the residential subdivision identified as the Freund properties.

The cost estimates are summarized in the two attached spreadsheets. The first spreadsheet summarizes a cost estimate for a gravity sewer system. The gravity system basic layout is the same as identified in 2007 but the lift station has been moved to the west end of SW Beeksma Street. The location of the lift station identified in the 2007 plans would have required the purchasing of private property and been intrusive to the adjacent residential homes. The basic layout of the gravity sewer system is shown on the attached drawing. The unit prices have been updated to reflect publicly bid projects clients are receiving at this time. The unit prices were also compared with the bids the City of Oak Harbor received for the Scenic Heights and Goldie Road lift station projects. The lift station cost has been increased to reflect an updated lift station design that includes the use of the City's standard S&L wet well mounted pumps, a generator, transfer switch, odor control system, with a block wall and gate similar to the Scenic Heights lift station. We have assumed that because of the higher water table in the construction zone that all material removed from the trenches will have to be replaced with new imported backfill. Based on the City's recent experience with similar projects the asphalt quantities reflect a full width overlay rather than a trench patch.

The second spreadsheet estimates the cost to install grinder pumps for each of the properties and connect them to the existing force main pipes. The basic design used for this cost estimate is based on the design prepared by BHC in the April 2011 Grinder Pump Policy Paper. The assumption includes that the individual grinder pumps will be located in the public right of way and be powered with a common electrical service which includes a standby generator.



EXHIBIT B

Both cost estimates reflect the current sales tax rate of 8.7%, a 10% construction contingency and a 20% allowance for preparation of construction plans, specifications, bid documents for a publicly bid project and construction inspection and administration.

In addition to the construction costs identified in the spreadsheets, the property owners would still incur the cost to construct a side sewer to the property line whether the system in the public right of way is a gravity pipe side sewer or an individual grinder pump station. They will also incur the cost to abandon the existing septic tank. The cost estimate does not include the City's System Development fee of $1,680.



EXHIBIT B

**ENGINEER'S PRELIMINARY ESTIMATE OF PROBABLE CONSTRUCTION COSTS**
**Dillard Sewer, June 20, 2011**
**City of Oak Harbor, WA**

Sanitary Sewer Pressure System Improvements

| NO. | ITEM | QUANTITY | UNIT | UNIT PRICE | TOTAL |
|---|---|---|---|---|---|
| 1 | Mobilization | 1 | LS | $47,805.60 | $47,805.60 |
| 2 | Sawcut AC Pavement | 1 | LS | $2,000.00 | $2,000.00 |
| 3 | Crushed Rock for Bedding and Shoulders | 210 | Ton | $28.00 | $5,880.00 |
| 4 | AC Pavement -Trench Patching | 100 | Ton | $110.00 | $11,000.00 |
| 6 | Individual Grinder Pumps | 25 | Each | $8,000.00 | $200,000.00 |
| 7 | Duplex Grinder Pump | 1 | Each | $80,000.00 | $80,000.00 |
| 8 | Electrical | 1 | LS | $99,500.00 | $99,500.00 |
| | | | | Subtotal for Grinder Pump Installation | $446,185.60 |
| | | | | Washington State Sales Tax (8.7%) | $38,818.15 |
| | | | | Construction Contingencies (10%) | $44,618.56 |
| | | | | Engineering, Construction Administration & Inspection (20%) | $89,237.12 |
| | | | | Permits and Fees (Allowance) | $4,500.00 |
| | | | | Total Engineer's Preliminary Estimate of Probable Engineering Costs | $623,359.43 |

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EXHIBIT B

P:\CC\11\6-28-11\Dillard's Add Sewer LID\Pressure System Preliminary Cost Estimate (2) 06-21-11

**ENGINEER'S PRELIMINARY ESTIMATE OF PROBABLE CONSTRUCTION COSTS**
**Dillard Sewer, June 21, 2011**
**City of Oak Harbor, WA**

Gravity/Lift Station Sanitary Sewer System Improvements

| NO | ITEM | QUANTITY | UNIT | UNIT PRICE | TOTAL |
|---|---|---|---|---|---|
| 1 | Mobilization (12%) | 1 | /LS | $77,238.00 | $77,238.00 |
| 2 | Sawcut AC Paving | 1 | /LF | $11,000.00 | $11,000.00 |
| 3 | 8" Sewer Main including trench dewatering | 1950 | /LF | $70.00 | $136,500.00 |
| 4 | 4" Force Main | 1000 | /LF | $25.00 | $25,000.00 |
| 5 | 48" Standard Manhole | 11 | /EA | $2,600.00 | $28,600.00 |
| 6 | Crushed Rock - Bedding & Pavement Patching | 600 | /TON | $28.00 | $16,800.00 |
| 7 | Trench Backfill (assume 100% new backfill material) | 4000 | /TON | $10.00 | $40,000.00 |
| 8 | Traffic Control | 1 | /LS | $10,000.00 | $10,000.00 |
| 9 | AC Pavement Overlay 3" | 650 | /TON | $110.00 | $71,500.00 |
| 10 | Discharge Manhole connection to existing sewer system | 1 | /EA | $3,000.00 | $3,000.00 |
| 11 | 6" Sewer Service Lateral in right of way including restoration | 1350 | /LF | $75.00 | $101,250.00 |
| 12 | Sewer Lift Station | 1 | /EA | $150,000.00 | $150,000.00 |
| 13 | Dewatering Allowance | 1 | /LS | $50,000.00 | $50,000.00 |
| | **SUBTOTAL FOR SEWER SYSTEM IMPROVEMENTS** | | | | $720,888.00 |
| | Washington State Sales Tax (8.7%) | | | | $60,554.59 |
| | Construction Contingencies (10%) | | | | $72,088.80 |
| | Engineering, Administration, & Inspection (20%) | | | | $144,177.60 |
| | Permits and Fees (Allowance) | | | | $4,500.00 |
| | Total Engineer's Preliminary Estimate of Probable Construction Costs | | | | $1,002,208.99 |



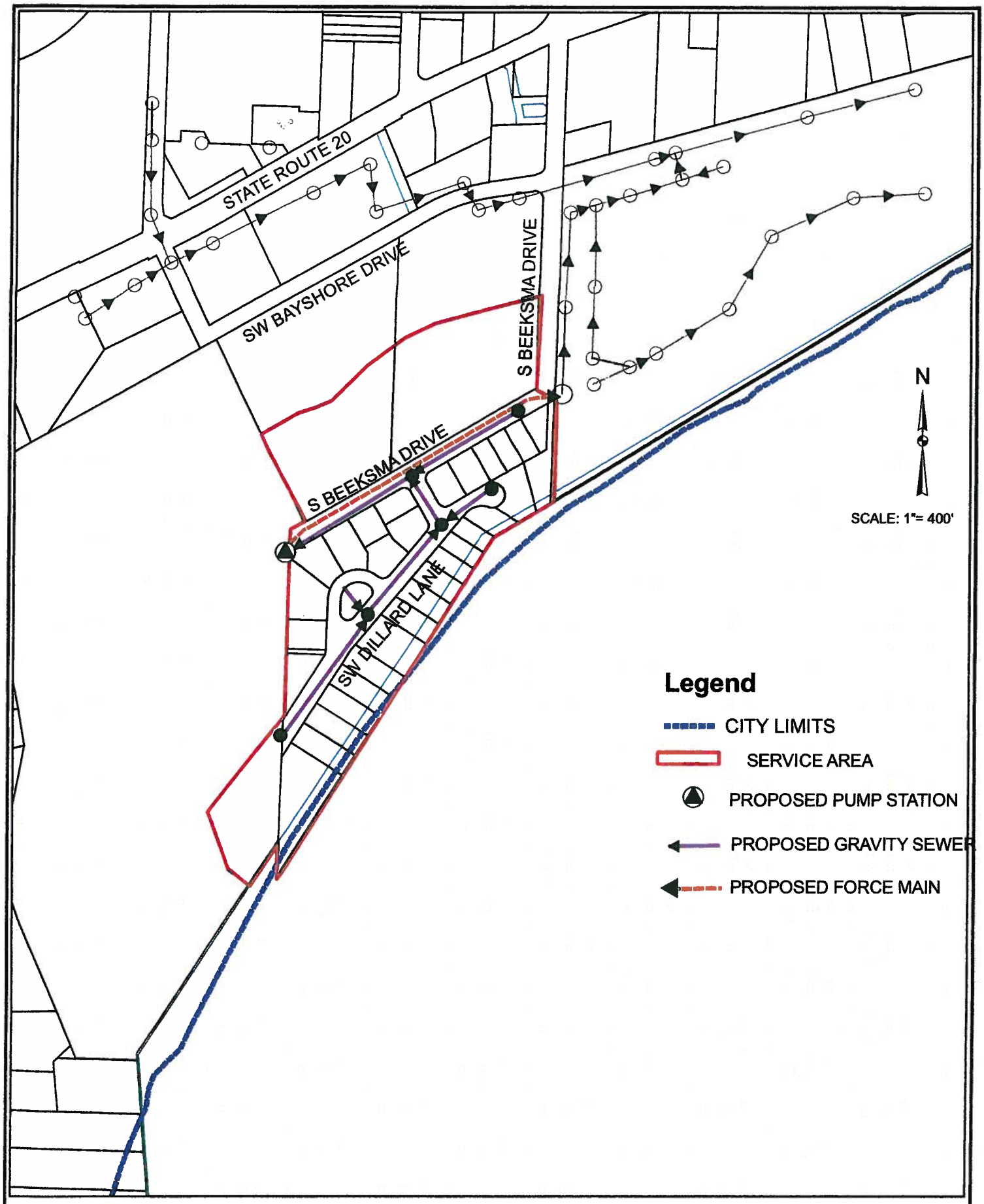
EXHIBIT B

P:\CC\11\6-28-11\Dillard's Add Sewer LID\Gravity Sewer Preliminary Cost Estimate 06-21-11

1 preliminary design drawings dated January 23, 2006 prepared by R.O. Anderson Engineering
2 lift station now located at the west end of SW Beeksma Street in the city owned right of way
3 sales tax rate increased from 8.3% to 8.7%
4 reviewed unit bids for Scienic Heights and Goldie Road projects
5 mobilization, 12% of other bid items
6 force main increased from 3" to 4"
7 imported trench backfill assumption increased from 25% to 100%
8 lift station costs now include S&L wet well mounted pumps, block wall, gate, Bioxide odor control system, generator, transfer switch and dewatering
9 engineering, administration & inspection, 20%



EXHIBIT B




**DILLARD'S ADDITION**
**GRAVITY SEWER SYSTEM**
**JUNE 2011**

89

Gray & Osborne Inc.

EXHIBIT B

# DILLARD AREA SEWER MAP

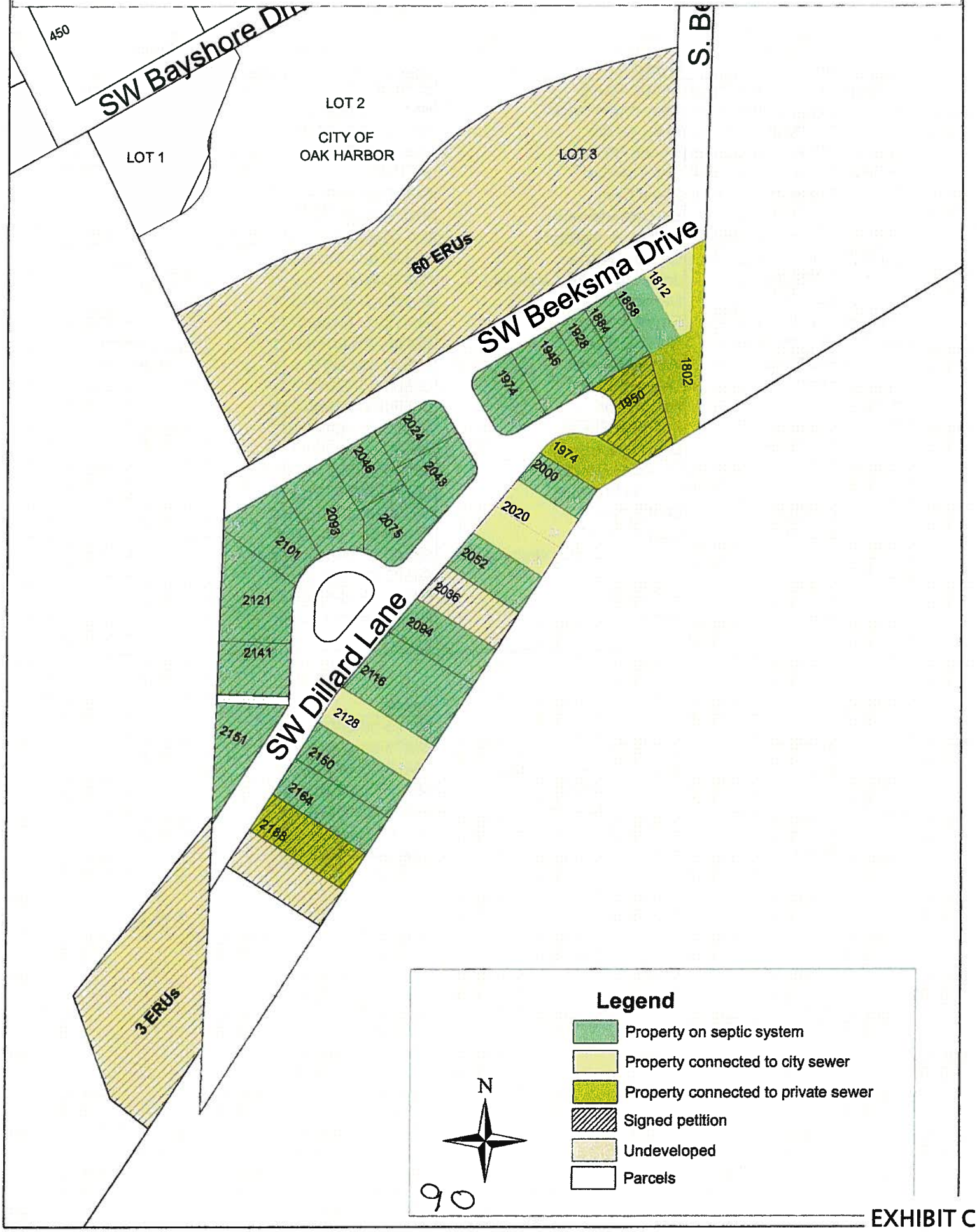



EXHIBIT C

Revised June 16, 2011 P:\Dillard LID 2011\Assessed Values rev 061611

| | Address | Owner | GeoID | Signature | Assessed Value |
|---|---|---|---|---|---|
| 1 | 1884 SW Beeksma Drive | Emma Young | S6475-00-00017-0 | Y | $ 172,640 |
| 2 | 1928 SW Beeksma Drive | Anna Marie Haven | S6475-00-00016-0 | Y | $ 166,153 |
| 3 | 1946 SW Beeksma Drive | Peter Grubb | S6475-00-00015-0 | Y | $ 183,323 |
| 4 | 1974 SW Beeksma Drive | Donna Rollag | S6475-00-00013-0 | Y | $ 158,583 |
| 5 | 2024 SW Beeksma Drive | Carl Gotcher | S6475-00-00012-0 | Y | $ 172,063 |
| 6 | 2046 SW Beeksma Drive | David Cook | S6500-00-00015-0 | Y | $ 271,464 |
| 7 | 1950 SW Dillard Lane | Barbara Saugen | S6475-00-0000A-0 | Y | $ 769,994 |
| 8 | 1974 SW Dillard Lane | William P. Morgan | S6475-00-00022-0 | Y | $ 830,097 |
| 9 | 2000 SW Dillard Lane | George Moshier | S6475-00-00023-1 | Y | $ 452,644 |
| 10 | 2043 SW Dillard Lane | John and Kathy Laneville | S6475-00-00011-0 | Y | $ 221,466 |
| 11 | 2052 SW Dillard Lane | Dennis Faber | S6500-00-00009-0 | Y | $ 603,285 |
| 12 | 2075 SW Dillard Lane | Emma Young | S6475-00-00008-0 | Y | $ 230,879 |
| 13 | 2093 SW Dillard Lane | David B Glass | S6500-00-00014-0 | Y | $ 185,708 |
| 14 | 2094 SW Dillard Lane | Kenneth Manni | S6500-00-00007-0 | Y | $ 841,094 |
| 15 | 2101 SW Dillard Lane | Daniel Dillard** | S6500-00-00013-0 | Y | $ 178,375 |
| 16 | 2116 SW Dillard Lane | Ira Stevens | S6500-00-00006-0 | Y | $ 588,002 |
| 17 | 2121 SW Dillard Lane | Kathleen Steele | S6500-00-00012-0 | Y | $ 302,142 |
| 18 | 2141 SW Dillard Lane | Orin G. Kolaitis | S6500-00-00010-2 | Y | $ 239,363 |
| 19 | 2150 SW Dillard Lane | Duane G Dillard | S6500-00-00013-0 | Y | $ 523,707 |
| 20 | 2151 SW Dillard Lane | Cynthia Brasseur | S6475-00-00001-0 | Y | $ 220,478 |
| 21 | 2164 SW Dillard Lane | Marc Goetz* | S6500-00-00003-0 | Y | $ 518,655 |
| 22 | 2188 SW Dillard Lane | Clark Donnell | S6500-00-00002-0 | Y | $ 701,676 |
| 23 | Driftwood Bch Lot 1 | Wiggins Trustee, Virginia L | S6500-00-00001-0 | Y | $ 264,907 |
| 24 | Driftwood Bch Lot 8 | Alvin Peters | S6500-00-00008-0 | Y | $ 274,343 |
| 25 | Lot 3 OH-SP | Carl Freund | R13203-033-5100 | Y | $ 148,320 |
| 26 | Lot 4 OH-SP | Carl Freund | R13210-430-4530 | Y | $ 440,076 |
| | | **Subtotal** | | | **$ 9,659,437** |

| | Address | Owner | GeoID | Signature | Assessed Value |
|---|---|---|---|---|---|
| 27 | 1802 SW Beeksma Drive | Deborah Skinner | S6475-00-0000B-0 | N | $ 735,593 |
| 28 | 1812 SW Beeksma Drive | Chris Skinner | S6475-00-00019-0 | N | $ 316,561 |
| 29 | 1858 SW Beeksma Drive | Florence E/Jerry L. Tolliver | S6475-00-00018-0 | N | $ 147,522 |
| 30 | 1974 SW Dillard Lane | William P. Morgan | S6475-00-00022-0 | N | $ 830,097 |
| 31 | 2020 SW Dillard Lane | Granite Park Holding Co., LLC | S6475-00-00024-1 | N | $ 803,370 |
| 32 | 2036 SW Dillard Lane | Granite Park Holding Co., LLC | S6475-00-00025-1 | N | $ 219,963 |
| 33 | 2128 SW Dillard Lane | Henry/Marilyn Koetje | S6500-00-00005-0 | N | $ 641,711 |
| | | **Subtotal** | | | **$ 3,694,817** |
| | | **Total Assessed Value** | | | **$ 13,354,254** |
| | | **Signature Percent** | **72%** | | |

* Not shown as owner in assessor's records, but is likely family relation of owner
**Signature not received, but family relation has signed



EXHIBIT C

Brian Monroe

# Washington State Auditor
## Brian Sonntag

March 31, 2008

Robyn Kolaitis
2141 SW Dillard Lane
Oak Harbor, WA 98277

Dear Ms. Kolaitis:

Thank you for your correspondence with our office regarding your concern with the City of Oak Harbor's Dillard Addition sewer line project. We reviewed the following for compliance with City code and policy, and associated state law:

- Did the City comply with the Public Records Act?
- Did the City comply with municipal code(s) and state law when processing a latecomer's agreement, and did the developer receive preferential treatment?
- Did the City inappropriately benefit from the Dillard Addition sewer system installation in adjacent (City-owned) properties?
- Was the developer required to ~~comply with bid~~ and prevailing wage laws?
- Did the City comply with latecomer's agreement public notice requirements?
- Did the developer receive preferential treatment when obtaining building permits?

Based on our review of public records requests and City responses, we determined the City complied with records request requirements.

We also determined the City complied with its own code for latecomer's agreements and that no preferential treatment was given to the developer during the process. The City also complied with code regarding public notification with of a latecomer's contract. We also learned the City is considering modification of the municipal code regarding public notice. Public notification would be required for the "preliminary" and "final" consideration of the agreement.

We determined the City did not in appropriately benefit from construction of the sewer line in areas adjacent to Dillard's Addition. , We learned the City owns two wetland areas and a park next to Dillard's Addition. We determined that the two wetland areas cannot be built on and the City park is already connected to the City public sewer line. So the City will not be receiving an additional benefit from the Dillard Addition project.

We also reviewed the City's municipal code related to latecomers agreements and state law applicable to public works projects to determine if the City was required to comply

Insurance Building, PO Box 40021 • Olympia, Washington 98504-0021 • (360) 902-0370 • (866) 902-3900 • TDD Relay (800) 833-6388
FAX (360) 753-0646 • http://www.sao.wa.gov



EXHIBIT D

with bid law for the sewer construction project. We determined that this project was initiated by a private contractors and therefore not subject to public bid laws.

We determined the developer did not receive preferential treatment during the building permit application process. We reviewed permit charges, required documentation, and the timeliness to process the permits and determined no preferential treatment occurred. .

Thank you again for writing this office with your concerns. We also received additional concerns from you prior to us being off site. We can look into those concerns during our next regularly scheduled audit. Participation of all citizens is vital to maintaining a responsive and efficient government. Should you have any further questions or concerns, please contact Audit Manager Sadie Armijo at (360) 676-2165 ext. 100.

Sincerely,

BRIAN SONNTAG, CGFM
STATE AUDITOR

BS:SA:jc No. 2007-309



EXHIBIT D

CITY OF OAK HARBOR, WASHINGTON

RESOLUTION NO. 11-10

A RESOLUTION of the City Council of the City of Oak Harbor, Washington, relating to the City's system of utilities; authorizing and directing the continued consideration of alternative systems of sewage collection (both gravity and low pressure) in the Driftwood Beach/Dillard's Addition area of the City; authorizing and directing the continued consideration of the formation of a Local Improvement District for the improvements to the City's sanitary sewer system; and, authorizing up to $25,000 to carry out the purposes of this Resolution.

THE CITY COUNCIL OF THE CITY OF OAK HARBOR, WASHINGTON DOES HEREBY RESOLVE AS FOLLOWS.

Section 1. RECITALS AND FINDINGS.

1.1 The City of Oak Harbor, Washington ("City") owns and operates a water works system and a sanitary sewer system. The systems were combined by City Ordinance No. 853 into a combined utility (the "Water Works Utility").

1.2 The City's sanitary sewer system includes a sewage (wastewater) collection system and wastewater treatment facilities. The City's sanitary sewer system serves the greater Oak Harbor community, including Naval Air Station Whidbey Island.

1.3 The City sewage collection system is composed primarily of City-owned gravity collection sewer pipes ranging in diameter from 6 to 24 inches. Wastewater from the City flows through the collection system to the City's wastewater treatment facilities.

1.4 In addition to a gravity system, the City sewage collection system includes a low pressure system in the Driftwood Beach/Dillard's Addition neighborhood of the City. That low pressure system serves only a few properties. By Ordinance No. 1521 (December 18, 2007), the City deferred mandatory connection of properties to that low pressure sewage collection system pending further consideration by the City of expansion of the City's gravity sewage collection system. Ordinance No. 1521 followed a City-commissioned report entitled "Post Installation Review of Sewer Service Alternatives and Latecomer Contributions for the Driftwood





EXHIBIT E

Beach/Dillard's Addition Development" (Gray & Osborne, Inc., September 2007). Recital No. 4 of Ordinance No. 1521 expressed the City Council's desire "to allow residents to have the opportunity to form [a Local Improvement District (LID)] to install a gravity system in lieu of the low pressure sewer system." Further, the City's Comprehensive Plan (Utilities Element), at page 91, specifically provides that LIDs are a recognized method of funding public projects that benefit discreet areas of the City.

1.5 The City has received a petition from property owners in the Driftwood Beach/Dillard's Addition neighborhood to proceed with the planning for a gravity sewage collection system and for a Local Improvement District to finance that system. The City Council considered the matter at its regular meeting of May 3, 2011; and, further cost estimates for both low pressure and gravity sewage collection systems were received from Gray & Osborne, Inc.

1.6 It is the purpose of this Resolution to provide for further consideration of the development of a sewage collection system within the Driftwood Beach/Dillard's Addition area of the City, and for a Local Improvement District to finance such a system.

Section 2. AUTHORIZATION AND DIRECTION.

The City's Development Services and Public Works Departments are hereby authorized to engage in such continued consultation and analysis as may be appropriate for consideration of the development of a gravity sewage collection system or the further development of the existing low pressure system in the Driftwood Beach/Dillard's Addition area of the City. Further, the Public Works and Development Services Departments, in conjunction with the Finance Department, are authorized to prepare for further City Council consideration of a Local Improvement District to provide for a system of sewage collection within the Driftwood Beach/Dillard's Addition area of the City.

Section 3. FUNDING.

To carry out the purposes of this Resolution, the City may expend up to $25,000 of unencumbered and unexpended funds of the City's Cumulative Reserve Fund-Sewer System, as such Fund is maintained by Chapter 3.48 OHMC.

Section 4. AUTHORITY RESERVED.

Nothing in this Resolution shall limit the discretion of the City in its consideration of the project and proposals identified herein.

Section 5. RATIFICATION AND CONFIRMATION.

Any act prior to and consistent with this Resolution is hereby ratified and confirmed.

PASSED by the City Council of the City of Oak Harbor, Washington, and approved by its Mayor this 28th day of June, 2011.

_____
Jim Slowik, Mayor

ATTEST:

_____
Connie Wheeler, City Clerk

APPROVED AS TO FORM:

_____
Margery Hite, City Attorney





EXHIBIT E

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

Bill No. 4
Date: June 28, 2011
Subject: Public Hearing – Report to City Council on 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 informational report to the City Council regarding activities at Elements Nightclub during March, April and May of 2011.

## 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

On February 14, 2011, after hearing a report regarding the conditions attached to the Nightclub Permit for the Elements Nightclub, the Oak Harbor City Council directed the Chief of Police to report back to the Council after 90 days regarding activities at Elements Nightclub.

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 June 16, 2011.

## 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

2011 Investigative Report

## MAYOR'S COMMENTS

# Report to the City Council
# Elements Nightclub
# License - 2011

On February 14, 2011, after hearing a report regarding the conditions attached to the Nightclub Permit for the Elements Nightclub, the Oak Harbor City Council directed the Chief of Police to report back to the Council after 90 days regarding activities at Elements Nightclub.

The following report includes those calls for service to or from the Elements Nightclub during March, April and May of 2011:

There were a total of 45 calls for police service. Six (6) of those calls had 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 thirty-nine (39) calls for service do pertain to the license conditions and are described as follows:

**4 Assault Complaints –**

1) **Settled By Contact – Victim did not want to pursue charges.**
1) **Settled By Contact - Insufficient evidence based on staff and witness statements.**
1) **Complaint Taken – Unable to locate suspect.**
1) **Information Only - Not an assault, security was removing customer from casino.**

**3 Disorderly Conduct Complaints –**

1) **Arrest – HBD Male Disorderly in Parking Lot. (Initially called in as noise complaint).**
1) **Arrest – Two females arguing outside 7-West Nightclub.**
1) **Settled By Contact – Called by Security to escort trespassed customer off site.**

**1 Domestic Violence Complaint –**

1) **Complaint Taken – Actually occurred on Pioneer Way. Called in from Elements.**

**23 Noise Complaints –**

**<u>Information Only – 10</u>**

1) **Information Only – Small group of people yelling, Security handled.**
9) **Information Only – There was crowd noise but did not rise to the level of a violation of the noise ordinance by any one person.**

**<u>Unfounded - 6</u>**

1) **Unfounded – Two females arguing in 7-West parking lot, (arrested there).**
5) **Unfounded - There was crowd noise but did not rise to the level of noise violation by any one person. Security was effective in moving crowd out of area.**

**Settled By Contact – 5**

1) **Settled By Contact - Valid Complaint . Security was not effective. Officers had to instruct security to get the crowd moving.**
1) **Settled By Contact - Car alarm activated, security was able to find the owner of vehicle.**

2) **Settled By Contact – Crowd Noise but did not rise to level of a noise violation by any one individual. Security was effective in moving crowd.**

**Gone On Arrvial – 2**

2) **Gone on Arrival – In both incidents officers were not at the location, upon their Arrival there was no noise occurring. Crowds were gone.**

1 **DUI Complaint –**

**Information Only - Vehicle was located unoccupied in another part of town.**

1 **Traffic Complaint –**

**Gone On Arrival – Vehicle was gone when officers arrived.**

3 **Trespass Complaint –**

1) **Gone On Arrival – Called by security. Trespassed customer left prior to officers arrival.**
2) **Settled By Contact – In both incidents the subjects were trespassed by officers.**

1 **Liquor Violation Complaint –**

1) **Arrest – Customer arrested for liquor violation.**

1 **Minor Attempting To Enter –**

1) **Arrest - Minor attempting to enter with fake ID.**

1 **Narcotics Complaints –**

1) **Arrest – Security found a wallet with marijuana in it. Located owner, arrested by officers.**

**SUMMARY**

I am not recommending that the Council make any changes to the Conditions described in the Nightclub License for the Elements Nightclub.

Respectfully Submitted,

Richard W. Wallace
Chief of Police
Oak Harbor Police Department
Tuesday, June 7, 2011

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

Agenda Bill No. 5
Date: June 28, 2011
Subject: 2011 Solid Waste Franchise Ordinance (Seaplane Base) and Franchise Agreement

**FROM:** Cathy Rosen, Public Works Director

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

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

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**SUMMARY STATEMENT:**

*Purpose:* This ordinance provides a solid waste franchise to Island Disposal for areas subject to private contract with the Navy's housing contractor, Forest City, L.L.C. The accompanying franchise agreement settles the outstanding utility tax liability of Island Disposal for solid waste services provided on the Seaplane Base prior to January 2011 in the sum of $52,679.02.

*Authority*: Pursuant to RCW 35A.14.900 and 81.77.020, the City assumed jurisdiction over solid waste services within its city limits. The area known as the Seaplane Base was annexed into the city limits in 1969. However, prior to 2008, the Navy provided its own solid waste disposal services on the Seaplane Base. Forest City L.L.C., who manages housing on the Seaplane Base, contracted with Island Disposal to provide solid waste services in December 2008. Because Island Disposal is providing such services within the city limits, it requires a franchise from the City and is subject to utility tax on its services pursuant to OHMC 3.71.010(3).

*Description:* This ordinance grants a franchise to Island Disposal to continue to provide solid waste disposal services pursuant to its contract with Forest City L.L.C. on the Seaplane Base. Because the City has asserted jurisdiction over solid waste services within the city limits, it is necessary for Island Disposal to obtain a franchise in order to continue to provide service.

The franchise ordinance is coupled with a franchise agreement which provides that Island Disposal will pay utility taxes on its gross revenues earned on the Seaplane Base for the period December 1, 2008 through December 31, 2010. Island Disposal was providing service on the

Seaplane Base during that period under the assumption that the lands were not within the city limits. This agreement provides that Island Disposal will pay the City utility tax for that period in the sum of $52,679.02 to settle its liability for that period. Since January, 2011 Island Disposal has been paying utility tax for its solid waste disposal services on the Seaplane Base. This agreement and franchise ordinance will bring Island Disposal current with its utility tax obligations and provide that it may continue to provide service for a ten-year period as contracted with Forest City L.L.C.

Island Disposal has agreed to make its payment under the settlement agreement by July 1, 2011. A public hearing is required to meet the city code requirements for adoption of an ordinance at a single meeting. OHMC 1.04.020(2).

**RECOMMENDED ACTION**:

1. Adopt the franchise agreement settling Island Disposal's tax liability for the period from December 2008 through December 2010.
2. Hold a public hearing on the franchise ordinance.
3. Adopt the ordinance granting a franchise for solid waste disposal services to Island Disposal for a period of ten (10) years on the Seaplane Base.

Adoption of a franchise requires an affirmative vote of the entire membership of the Council, i.e., at least four votes. RCW 35A.12.120.

**ATTACHMENTS:**
Franchise Agreement
Ordinance

**MAYOR'S COMMENTS**:

L:\LGLA\WORK\RES-ORD2011\Island Disposal Franchise AB (Seaplane Base).doc

**Return to:** **City of Oak Harbor**
**865 SE Barrington Drive**
**Oak Harbor, WA 98277**

# FRANCHISE AGREEMENT

**Grantor:** City of Oak Harbor

**Grantee:** Island Disposal

**Legal Description:** As set out in Schedule A to Oak Harbor Ordinance No. 266, annexing certain portions of the Naval Air Station into the City of Oak Harbor (See Exhibit "A" for complete legal description)

**Assessor's Tax Parcels:** R13201-093-2050, R13201-418-1950, R13212-140-1330, R13336-080-1500, R13336-120-2770, R23206-024-5240, R23331-240-4370, R23331-345-0240, R23332-240-2810 and R2333-166-2260

This Franchise Agreement, dated _____day of _____ 2011, is between the City of Oak Harbor, a municipal corporation of the State of Washington herein referred to as "City", and Island Disposal, Inc., a corporation doing business in the State of Washington, herein referred to as "IDI". This Agreement shall be binding upon IDI, its heirs, successors and assigns.

1. Introduction.

1.1 Whereas, the City has notified the Washington Utilities and Transportation Commission that it has decided to contract or provide for solid waste collection, transportation and/or disposal services itself pursuant to RCW 35.13.280 and has assumed responsibility for solid waste collection, transportation and/or disposal services ("solid waste disposal services") in Ch. 15.04 of the Oak Harbor Municipal Code; and

1.2 Whereas, IDI provides solid waste disposal services within the city limits of the City of Oak Harbor pursuant to various franchises granted by the City; and

1.3 Whereas, IDI has been providing solid waste disposal services to the property known as the "Seaplane Base" and described as:

Parcel Nos: R13201-093-2050, R13201-418-1950, R13212-140-1330, R13336-080-1500, R13336-120-2770, R23206-024-5240, R23331-240-4370, R23331-345-0240, R23332-240-2810 and R2333-166-2260
(See Exhibit "A" for Legal Description)

1.4 Whereas, the "Seaplane Base" was annexed into the city limits of the City by Ordinance No. 266 on March 31, 1969; and

1.5 Whereas, IDI provided solid waste disposal services on the "Seaplane Base" from December 2007 through December 2010 under contract with the property management company for the "Seaplane Base" housing; and

1.6 Whereas, IDI provided those utility services on the "Seaplane Base" under the assumption that it was not within city limits; and

1.7 Whereas, IDI wishes to continue to provide such services to the "Seaplane Base" provided it has the authority to do so for a period of time sufficient to allow IDI to amortize its investments in equipment; and

1.8 Whereas, the City is willing to grant a franchise to allow IDI to provide solid waste disposal services on the "Seaplane Base" for a period of ten (10) years under terms and conditions set by ordinance provided IDI agrees to pay the utility tax for that area owing on solid waste disposal services from December 2007 through December 2010; and

1.9 Whereas, IDI and the City agree that the utility tax owing from IDI for the period from December 2007 through December 2010 is Fifty-two Thousand Six Hundred Seventy-nine Dollars and Two Cents ($52,679.02);

NOW, THEREFORE, the parties agree as follows:

2. Effective Date. This Franchise Agreement shall become effective upon adoption by the City Council of a franchise ordinance with IDI for a ten (10) year period for solid waste disposal services to the "Seaplane Base". A copy of the proposed franchise ordinance is attached hereto and incorporated by reference in this Franchise Agreement as Exhibit B.

3. City's Obligations.

3.1 The City's obligations under this Agreement shall be fulfilled by the granting of the franchise ordinance described in Paragraph 2, above, and by effecting the

release in Paragraph 3.2, below. The terms and conditions of the franchise shall be as set forth in Exhibit B to this Agreement.

3.2 Upon payment in full of the sum set forth in Section 1.9 above, the City releases, holds harmless and forever discharges IDI, its predecessors, successors, parent, affiliates and/or assigns from any utility tax obligation arising from solid waste disposal services on the "Seaplane Base" prior to January 1, 2011 alleged by the City to be due for solid waste collection, transportation and/or disposal services therein.

3.3 The City reserves the right to provide solid waste disposal services to the current City-owned animal shelter and waste water treatment plant and any replacement of those facilities on the "Seaplane Base" during the franchise period.

4. Obligations of IDI. IDI agrees that on or before July 1, 2011 it shall pay to the City utility taxes for solid waste collection, transportation and/or disposal services rendered by IDI on the "Seaplane Base" for the period December 2007 through December 2010 in the amount of Fifty-two Thousand Six Hundred Seventy-nine Dollars and Two Cents ($52,679.02).

5. Amendments and Notices. This Agreement may be amended only by written agreement of both parties. Notice shall be sent to the parties at the following addresses:

**For the City:**

Office of the Mayor
865 SE Barrington Drive
Oak Harbor, WA 98277

**For IDI:**

Robert Nielsen
Regional Vice President
501 SE Columbia Shores Blvd #350
Vancouver, WA 98661

6. Interpretation.

6.1 Nothing herein shall be construed as relieving IDI or its successors or assigns of the applicability of any portion of the Oak Harbor Municipal Code as now or hereafter amended to the operations of IDI within the jurisdiction of the City except as set forth in Section 3.2, above.

6.2 Except for the general release in Section 3.2, this Agreement is for the sole and exclusive benefit of the City and IDI and is not intended for the benefit of any other person, group or class.

6.3 This Agreement contains the entire agreement of the parties.

CITY OF OAK HARBOR

By_____
Jim Slowik, Mayor

STATE OF WASHINGTON )
) ss:
COUNTY OF ISLAND )

THIS IS TO CERTIFY that on this _____ day of _____, _____, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared Jim Slowik, to me known to be the Mayor of the City of Oak Harbor, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of the City of Oak Harbor for the uses and purposes therein mentioned, and on oath stated that said individual was authorized to execute said instrument.

WITNESS my hand and official seal the day and year in this certificate first above written.

_____
Print: _____
NOTARY PUBLIC in and for the State of Washington, residing in _____
Commission expires: _____

IDI

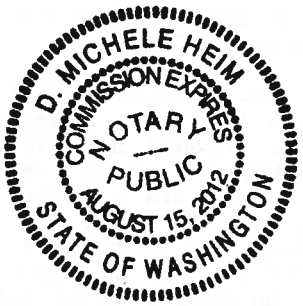
By_____
Print: ROBERT A. NIELSEN III

STATE OF WASHINGTON )
) ss:
COUNTY OF ISLAND )

THIS IS TO CERTIFY that on this 17th day of June, 2011, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared Robert A. Nielsen, to me known to be the R.V.P. of IDI, that executed the within and foregoing instrument, and acknowledged said instrument to be

the free and voluntary act and deed of said Corporation for the uses and purposes therein mentioned, and on oath stated that said individual was authorized to execute said instrument.

WITNESS my hand and official seal the day and year in this certificate first above written.




D. Michele Heim

Print: D. Michele Heim
NOTARY PUBLIC in and for the State of Washington, residing in Vancouver
Commission expires: August 15, 2012

L:\LGLA\WORK\CIV2011\Island Disposal Seaplane Base Franchise Agreement(3).DOC

SCHEDULE "A"

Beginning at a point on the meander line of Oak Harbor at the NW corner of the Samuel Walker D.L.C.; thence North along the West boundary of said D.L.C. to a point which is 2067.8 feet South of the NE corner of the Z.M. Taftezon D.L.C.; thence East 41.9 feet to center of county road; thence Northeasterly along county road to a point described as follows:

North 89° 55' East 1399.86 feet and South 7° 21' West 1027.00 feet from a monument marking the NE corner of Sec. 36; thence from said described point Easterly along the Frostad-Haller county road through Sec. 36,31 and 32 to the NE corner of the James Mounts DLC; thence East to a point on the East boundary of the William Wallace DLC 1400 feet more or less South of the NE corner of said DLC; thence North 80 feet more or less to the North line of the SW¼ of NW¼ of Sec. 33; thence East along the North line of the SW¼ of NW¼ and the SE¼ of NW¼ and the SW¼ of NE¼ of Sec. 33 to the NE corner of the SW¼ of NE¼ of Sec. 33; thence South along the East line of the SW¼ of NE¼ and NW¼ of SE¼ and Lot 1 of Sec. 33 to the SE corner of Lot 1, Sec. 33; thence South along the East line of Lot 4, Lot 3, and Lot 2, Sec. 4, to the SE corner of Lot 2, Sec, 4, this point being on the North boundary of the Charles Miller D.L.C.; thence South to a point on the South meander line of the Charles Miller D.L.C.; thence Southwesterly along the meander line to a point 1.63 chains East of the SW corner of the Charles Miller D.L.C.; thence along the Crescent Harbor meander line to the SW corner of the Charles Miller DLC; thence along the West meander line of the Charles Miller DLC to the SE corner of the James Buzby DLC; thence Northwesterly along the South meander line of the James Buzby DLC to the SE corner of the William Wallace DLC; thence Northwesterly along the South meander line of the said Wallace DLC to the SW corner of said DLC; thence Southwesterly along the South meander line of Sec. 31 and Sec. 6; thence Southwesterly along the South Crescent Harbor meander line of the Samuel Walker DLC to the SE corner of the Samuel Walker DLC; thence along the Crescent Harbor meander line of the Thomas Maylor and Samuel Maylor D.L.C.; thence along the Oak Harbor meander lines of Sections 1 and 12 to a point where the South line of the Samuel Walker D.L.C. intersects the Oak Harbor meander line; thence Northwesterly along the South Oak Harbor meander line of the Samuel Walker D.L.C. to point of beginning."

Said land being situated in Sections 1, 2, and 11 and 12, Twp. 32 NR1 EWM; Section 36, Twp. 33 NR1 EWM; Sections 31, 32 and 33, Twp. 33 NR 2 EWM; and Sections 6, 5, 4 and 9, Twp. 32 NR 2 EWM. Also any portion of land that lay between the West boundary of Samuel Walker D.L.C. and the East Corporate limits of Oak Harbor, also any part of a county road running Northerly from the intersection of 700 Ave. East except that portion beginning at a point located on the east right-of-way fence line for 70th NE St. (Simard St) and 50 feet Northerly from its intersection with a prolongation of the center line of 875 Street; said point being 258± feet southerly along the Z M. Taftezon D.L.C. line and 587± feet easterly or at right angles to the above mentioned line from the northeast corner of the Taftezon D.L.C. and is the true point of beginning for this property description; thence east (Washington State Co-ordinate System Bearing) 529 feet to the northeast corner; thence southerly 1036.13 feet along a line parallel to the east right-of-way fence line for Simard St. to the southeast corner; thence west (Washington State Co-ordinate Bearing) to its intersection with the West boundary line of 70th N.E. St. (Simard Street); thence Northerly along the West boundary of the above mentioned street to its intersection with a prolongation of the North boundary of this school tract; thence east ( Washington State Co-ordinate Bearing) to the true point of beginning for this property description. This tract is all located in Section 36, T33N, RI, EW.M.

EXHIBIT "A"

**Return to:**
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

**GRANTOR:** City of Oak Harbor

**GRANTEE:** Island Disposal, Inc.

**LEGAL DESCRIPTION:**

As set out in Schedule A to Oak Harbor Ordinance No. 266, annexing certain portions of the Naval Air Station into the City of Oak Harbor (See Exhibit "A" for complete legal description)

**PARCEL NUMBERS:** R13201-093-2050, R13201-418-1950, R13212-140-1330, R13336-080-1500, R13336-120-2770, R23206-024-5240, R23331-240-4370, R23331-345-0240, R23332-240-2810 and R2333-166-2260

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR PROVIDING A SOLID WASTE FRANCHISE TO ISLAND DISPOSAL, INC. FOR AREA KNOWN AS THE "SEAPLANE BASE"

WHEREAS, Island Disposal, Inc. (hereafter also referred to as "Grantee") holds a certificate from the State of Washington Utilities and Transportation Commission ("WUTC") to collect solid waste in unincorporated areas within Island County; and

WHEREAS, Grantee has been granted various exclusive franchises for solid waste disposal services within the Oak Harbor city limits as a result of annexations of territory formerly in unincorporated Island County; and

WHEREAS, the area described in Exhibit "A" hereto and known as the "Seaplane Base" was annexed into the City of Oak Harbor by Ordinance No. 226 on March 31, 1969; and

WHEREAS, in 2007, the property management company responsible for privatized housing on the Seaplane Base contracted with Island Disposal, Inc. to serve the Seaplane Base; and

WHEREAS, Island Disposal failed to pay utility tax on its solid waste disposal activities on the Seaplane Base from December 2007 through December 2010; and

WHEREAS, Island Disposal wishes to now remit the missed utility taxes for that period in the Seaplane Base at the same time it secures permission from the City to continue to provide solid waste disposal services on the Seaplane Base for a sufficient period of time to amortize its investment in serving that area; and

WHEREAS, the City would have to acquire additional equipment and staff hours to provide solid waste disposal services to the Seaplane Base; and

WHEREAS, the service historically provided by Island Disposal has met the City's standards for solid waste disposal services; and

WHEREAS, by separate agreement, Island Disposal has promised to pay utility taxes for the period of December 2007 through December 2010 in the total amount of $52,679.02;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

**Section One**. A franchise to provide solid waste disposal services to certain areas within the city limits of the city of Oak Harbor is hereby granted to Island Disposal on the following terms and conditions:

(1) Franchise area. This franchise applies to the "Seaplane Base", described in Exhibit "A" hereto attached.

(2) Nature of the franchise. Grantee shall hereby have the right during the term of the franchise granted by this ordinance to collect and haul for hire over the streets and alleys of the city all solid waste collected from private customers located within the corporate limits of the city in the franchise area described in paragraph (1) above PROVIDED that the City may serve its own animal shelter and/or a wastewater treatment plant operated by the City or its contractor(s) on the Seaplane Base.

"Solid waste", as used herein, shall be interpreted to mean and include all solid waste, animal and vegetable matter, rubbish, trash, debris, ashes, tin cans, and other waste materials generally, including articles ordinarily and customarily hauled away and dumped.

(3) Duration of the franchise. The franchise shall become effective five (5) days after publication of this ordinance and shall continue for ten (10) years from its effective date. Thereafter, the franchise shall terminate unless extended by written agreement approved by City Council.

(4) Acceptance of franchise. Acceptance of this franchise shall constitute Grantee's agreement to abide by all the terms and conditions of this ordinance and the applicable terms and conditions of the Oak Harbor Municipal Code.

(5) Utility tax. The Grantee shall pay utility taxes imposed on solid waste utility services by the City of Oak Harbor for all solid waste utility services provided by the Grantee within the city of Oak Harbor and all areas listed in this franchise ordinance in which a franchise is granted or extended or both granted and extended.

It is further provided that such taxes shall apply to this franchise effective January 1, 2011.

(6) Collection rates. Grantee's collection rates inside the city shall be at the same levels as those filed with and approved by the WUTC for regulated Island County service by Grantee or its successor; provided, nothing in this section shall be construed as preventing Grantee from increasing the collection rates approved by the WUTC to account for the cost of any utility taxes or increases in utility taxes imposed by the City on solid waste services or in assessing rates at other levels specified by the SeaPlane Base Naval housing entity.

Grantee will provide notice to the City of applications for changes in rates or charges made to WUTC which affects rates in the franchise area. Grantee will further notify the City if WUTC ceases to regulate rates for Grantee in Island County.

It is further provided, that if the WUTC ceases regulating rates for Grantee in Island County, then the Grantee's rates for solid waste collection services in the franchise area shall be the same as those rates established by the City for customers of the City solid waste utility except for any rates applicable to solid waste utility services provided to the SeaPlane Base Naval housing entity; provided, that the Grantee shall have the right to request a public hearing within thirty (30) days of notice of the application of City rates to the franchise area to establish a different rate structure for the franchise area. After public hearing on the Grantee's proposed rates, the City shall establish such rates as are reasonable based on the charges last approved by the WUTC to cover the cost of service and to allow for sufficient profit in the provision of solid waste collection service.

At the time of enactment of this franchise, the City requires mandatory accounts within all franchise areas. Grantee will cooperate in providing information in this

regard unless and until the franchise expires or the City amends its requirements for mandatory accounts.

(7) Frequency of collections. Grantee shall offer regular collections of solid waste throughout the business areas assigned to the Grantee and shall offer once a week collection in all residential districts assigned to the Grantee in accordance with the franchise issued by the WUTC or by separate agreement with the SeaPlane Base Naval housing entity; provided, that the City may modify this clause as to frequency of collections of solid waste and may prescribe the hours during which collections will be made, and Grantee shall comply with all such regulations so adopted and prescribed to the extent applicable.

(8) Service required. Grantee shall furnish collection service to any person or organization, public or private, within the franchise area within thirty (30) days of receipt of a written request for such service.

Grantee shall not, however, be required to furnish service to any household, dwelling, business establishment or other building requiring service unless the owner thereof shall furnish an opening to his yard or grounds from the alley or street where solid waste is customarily collected, and Grantee shall not be required to service any household, dwelling, business establishment or other building, where a private road must be used to obtain access thereto unless such private road is more than twenty (20) feet in width. The Grantee shall notify the City of addresses and locations of any household, dwelling, business establishment or other building in the area which it is not providing service under this provision with the reason why it is not providing service.

(9) Customer list. At the end of the term referred to in Section One (3) above, or at a time as mutually extended, Grantee will provide City a list of invoiced customers to be established by the City so that the City may use such information to assure universal collection of solid waste service for the City of Oak Harbor.

(10) Reserved regulations. The City reserves the right to impose additional regulations upon Grantee in its reasonable discretion for purposes of health, welfare and safety.

**Section Two.** Notice of Tax on Utility Business. This ordinance shall establish written notice to Island Disposal that the rate for solid waste utilities is presently set at six and one-quarter percent (6.25%) on the gross income derived from doing business in Oak Harbor. This rate is subject to change by Oak Harbor ordinance.

**Section Three**. 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 shall not be affected.

**Section Four**. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication as required by law.

PASSED by the City Council and approved by its Mayor this_____ day of _____, 2011.

THE CITY OF OAK HARBOR

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Published: _____

Island Disposal, a Washington corporation, hereby accepts the above franchise on the terms and conditions stated therein.

ISLAND DISPOSAL

By_____
Title REGION VICE PRESIDENT

STATE OF WASHINGTON )
) ss:
COUNTY OF ISLAND )

THIS IS TO CERTIFY that on this 17th day of June, 2011, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared Robert A. Nielsen, to me known to be the RVP of Island Disposal, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that said individual was authorized to execute said instrument.

WITNESS my hand and official seal the day and year first above written.

D. MICHELE HEIM
NOTARY PUBLIC
COMMISSION EXPIRES
AUGUST 15, 2012
STATE OF WASHINGTON

D. Michele Heim
Print: D. Michele Heim
NOTARY PUBLIC in and for the
State of Washington, residing at
Vancouver
Commission expires: August 15, 2012

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SCHEDULE "A"

Beginning at a point on the meander line of Oak Harbor at the SW corner of the Samuel Walker D.L.C.; thence North along the West boundary of said D.L.C. to a point which is 2067.8 feet South of the NE corner of the Z.M. Taftezon D.L.C.; thence East 41.9 feet to center of county road; thence Northeasterly along county road to a point described as follows:

North 89° 55' East 1399.86 feet and South 7° 21' West 1027.00 feet from a monument marking the NE corner of Sec. 36; thence from said described point Easterly along the Frostad-Haller county road through Sec. 36,31 and 32 to the NE corner of the James Mounts DLC; thence East to a point on the East boundary of the William Wallace DLC 1400 feet more or less South of the NE corner of said DLC; thence North 60 feet more or less to the North line of the SW¼ of NW¼ of Sec. 33; thence East along the North line of the SW¼ of NW¼ and the SE¼ of NW¼ and the SW¼ of NE¼ of Sec. 33 to the NE corner of the SW¼ of NE¼ of Sec. 33; thence South along the East line of the SW¼ of NE¼ and NW¼ of SE¼ and Lot 1 of Sec. 33 to the SE corner of Lot 1, Sec. 33; thence South along the East line of Lot 4, Lot 3, and Lot 2, Sec. 4, to the SE corner of Lot 2, Sec, 4, this point being on the North boundary of the Charles Miller D.L.C.; thence South to a point on the South meander line of the Charles Miller D.L.C.; thence Southwesterly along the meander line to a point 1.63 chains East of the SW corner of the Charles Miller D.L.C.; thence along the Crescent Harbor meander line to the SW corner of the Charles Miller DLC; thence along the West meander line of the Charles Miller DLC to the SE corner of the James Buzby DLC; thence Northwesterly along the South meander line of the James Buzby DLC to the SE corner of the William Wallace DLC; thence Northwesterly along the South meander line of the said Wallace DLC to the SW corner of said DLC; thence Southwesterly along the South meander line of Sec. 31 and Sec. 6; thence Southwesterly along the South Crescent Harbor meander line of the Samuel Walker DLC to the SE corner of the Samuel Walker DLC; thence along the Crescent Harbor meander line of the Thomas Maylor and Samuel Maylor D.L.C.; thence along the Oak Harbor meander lines of Sections 1 and 12 to a point where the South line of the Samuel Walker D.L.C. intersects the Oak Harbor meander line; thence Northwesterly along the South Oak Harbor meander line of the Samuel Walker D.L.C. to point of beginning."

Said land being situated in Sections 1, 2, and 11 and 12, Twp. 32 NR1 EWM; Section 36, Twp. 33 NR1 EWM; Sections 31, 32 and 33, Twp. 33 NR 2 EWM; and Sections 6, 5, 4 and 9, Twp. 32 NR 2 EWM. Also any portion of land that lay between the West boundary of Samuel Walker D.L.C. and the East Corporate limits of Oak Harbor, also any part of a county road running Northerly from the intersection of 700 Ave. East except that portion beginning at a point located on the east right-of-way fence line for 70th NE St. (Simard St.) and 50 feet Northerly from its intersection with a prolongation of the center line of 875 Street; said point being 258± feet southerly along the Z M. Taftezon D.L.C. line and 587± feet easterly or at right angles to the above mentioned line from the northeast corner of the Taftezon D.L.C. and is the true point of beginning for this property description; thence east (Washington State Co-ordinate System Bearing) 529 feet to the northeast corner; thence southerly 1036.13 feet along a line parallel to the east right-of-way fence line for Simard St. to the southeast corner; thence west (Washington State Co-ordinate Bearing) to its intersection with the West boundary line of 70th N.E. St. (Simard Street); thence Northerly along the West boundary of the above mentioned street to its intersection with a prolongation of the North boundary of this school tract; thence east ( Washington State Co-ordinate Bearing) to the true point of beginning for this property description. This tract is all located in Section 36, T33N, RI, EW.M.

EXHIBIT "A"

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

Bill No. 6
Date: June 28, 2011
Subject: Percich Property – Intent to Annex

**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

| | | | |
|---|---|---|---|
| • Budgeted Item: | Yes | No | N/A |
| • Budget Adjustment Required: | Yes | No | N/A |
| • Funds Available for Appropriation: | Yes | No | N/A |
| • Budget Strategy Approved: | Yes | No | N/A |

Margery Hite, City Attorney

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## PURPOSE

This agenda bill presents the notice of intent to commence annexation proceedings by Mr. William Percich (petitioner) for two properties located on Oak Harbor Road. Within 60 days from receiving the intent to annex, state statute requires the City's "legislative body" (City Council) to hold a meeting to decide whether to allow the petition to go forward (RCW 35A.14.120). If the petition goes forward, the City determines three elements of the petition: (1) whether to accept, reject, or geographically modify the proposed annexation area, (2) if annexation is ultimately approved, whether adoption of zoning simultaneously with annexation will be required, and (3) whether, if annexation is approved, if annexed properties will be required to share City indebtedness.

## AUTHORITY

RCW 35A.14.010 gives cities the authority to annex properties which are contiguous to their boundary.

## BACKGROUND

On May 2, 2011 Mr. William Percich submitted a notice of intent to commence annexation proceedings (Attachment 1) on two properties; the northern property is owned by the petitioner and the southern property is owned by Mr. Robert O'Dell. The properties are located at 2809 and 2843 Oak Harbor Road, respectively, approximately one-quarter mile north of the Crosby Road and Oak Harbor Road intersection and northeast of the Cherry Hill Subdivision. Totaling 6.62 acres in size, the properties are contiguous to the City boundary along the southern border of the proposed annexation area. The proposed annexation area is located within the Oak Harbor Urban Growth Area (UGA) and is designated "Planned Residential Estate" on the City's Future Land

Use Designation Map (see Attachment 2). If the property is annexed, it would be assigned Planned Residential Estate (PRE) in accordance with the Comprehensive Plan. The PRE zoning is intended to preserve existing rural residential uses in the County and be compatible with Navy operations in the area. Minimum lot sizes in this district are 15,000 SF (approx. 1/3rd acre).

The proponent has submitted a letter of intent to annex and his signature represents 69% of the assessed valuation of the area (in excess of the minimum 10% required to initiate an annexation). The other property owner, Mr. O'Dell has not signed the annexation petition. The City Council must conduct a meeting with the initiating party within 60 days after the filing of their notice. The June 28, 2011 Council meeting fulfills this requirement.

The decision of the Council whether to allow the petition for annexation to go forward is entirely within its discretion. By accepting a proposed annexation petition, the Council is not committing itself to ultimately annexing the territory proposed, but staff and applicant resources would be necessary to move forward. If the Council rejects the proposed annexation at this stage, the initiating parties can submit an intent to annex for a different area at any time.

## DISCUSSION

### 1. WHETHER TO ACCEPT THE ANNEXATION PETITION AS PROPOSED; REJECT THE ANNEXATION PETITION; OR GEOGRAPHICALLY MODIFY THE AREA OF THE PROPOSED ANNEXATION.

Staff has identified several policies and service issues pertaining to the Council's decision to accept, reject, or geographically modify the annexation petition. These issues are discussed below.

**City Services (comments from Engineering Division)**
The following service and utility information is being provided to guide Council's decision whether to accept, reject, or geographically modify the proposed annexation.

- **Water.** Water is available in Oak Harbor Road. A 16-inch main fronts the properties and a new reservoir is proposed nearby. The Engineering Division reports that, with installation of water side services, adequate water facilities would be available to serve the property.

- **Sewer.** In the annexation area, the existing homes are served by septic systems. The Oak Harbor sanitary sewer is not currently available to the properties. The closest connection point is in Oak Harbor Street approximately 900 feet south of the proposed annexation area. A gravity line could be extended to the property, but at significant expense to the project applicant. As a minimum, required improvements would include sewer extension within Oak Harbor Street to front the project and may also include offsite improvements or contribution toward increased pipe size costs in Oak Harbor Street.

  While it would be technically possible to serve this property by extending the existing gravity line in Oak Harbor Road, the Comprehensive Sewer Plan (Alternative 1, project 1d) indicates that the existing gravity line south to Whidbey Avenue needs to be upsized.

Extension of the existing gravity line to serve the annexation area would not be sufficient to serve surrounding properties and would not contribute to capacity upgrades identified in the Comprehensive Plan.

- **Streets.** Street improvements along Oak Harbor Road will need to be provided consistent with the City's new minor arterial street section in the 2007 Transportation Plan. This Plan calls for an 80-foot right-of-way for Oak Harbor Road; only a 60-foot right-of-way exists today. The proponent will likely be required to dedicate property for additional right-of-way to meet the Transportation Plan requirement (depending on the nature of any future development proposal). A transportation study will be required at the time of development identifying any necessary capacity improvements. All necessary capital improvements would be provided by the applicant at the time of development.

  Additionally, the City's Transportation Element of the Comprehensive Plan (see Attachment 5) includes a westward extension of 16th Avenue, a minor arterial, through the central part of the proposed annexation area as part of the long range transportation plan. The alignment and future extension of 16th Avenue (a.k.a. "Cemetery Road") has been discussed as far back as 1992. Two different studies, the "1992 Cemetery Road Alignment Feasibility Study" and the "North Oak Harbor Enterprise Area Street Plan" discussed the alignment of the street. "Alternative 2" from the Enterprise Area Street Plan document was adopted as part of the Comprehensive Plan in 2007. That alignment shows 16th Avenue bisecting the O'Dell property to the south. The construction of this street extension is not included in the 2010-2015 Capital Improvement Plan. As such, funding for this project, including the acquisition of right-of-way, has not yet been identified.

- **Stormwater.** There are no stormwater facilities serving the annexation area. Future development or redevelopment of the proposed annexation area is subject to Department of Ecology's (DOE) 2005 Stormwater Management Manual for Western Washington, including wetland protection requirements due to being within the 7th Avenue wetland basin. Because stormwater from any future development in the annexation area or on the surrounding properties would drain to the NE 7th Avenue wetlands, an area-wide stormwater study looking at shared stormwater solutions for these properties is needed. Such a study is not currently included in the City's workplan or budget.

In summary, staff sees capital improvements in the annexation area as requiring an area-wide solution with benefits and costs shared more broadly. Provision of these facilities should be considered for a larger area. It is not usually cost effective for cities to provide services to a single-property especially at the low densities which are planned for this area. Consideration of the annexation as proposed will not lead to an efficient or economical provision of public services.

**Comprehensive Plan Goals and Policies (comments from Planning Division)**
The City has adopted policies in the Oak Harbor Comprehensive Plan for considering annexation requests. Under Goal 4 of the Urban Growth Area Element, thirteen separate policies address issues such as maintaining adopted levels of service, ensuring the annexation area can be served by public services, how those services will be funded, informing owners of their potential future obligations once annexed, and confirming that the annexation serves

to logically extend the municipal limits of Oak Harbor. The complete list of policies is attached to this staff report as Attachment 3. Planning Division staff has addressed the most pertinent of these policies below.

Policies

*Policy 4.a - Land to be annexed should include only areas seen as logical extensions of the City, located adjacent to existing urban development.*

The proposed annexation area is contiguous to city boundaries.

*Policy 4.b(1) - The City should avoid annexations that would result in unincorporated enclaves within the UGA.*

The proposed annexation would not create an enclave. It is worth noting, however, that any properties annexed on the west side of Oak Harbor Road in the PRE zone (see Attachment 2) may contribute toward the eventual creation of an enclave on the east side of this road. Additionally, should the geographic boundary of the annexation be modified (enlarged) to address utility service issues, it is likely that an enclave will be created.

*Policy 4.b(2) - Annexations to the City should be based on evidence that public facilities and service capacities already exist or are planned for and can be efficiently, economically, and practically provided by either public or private sources.*

As discussed above under *City Services*, with the exception of the water lines in Oak Harbor Road, public facilities meeting city standards are lacking within the annexation area. Sewer utilities are located 900 feet south in Oak Harbor Street and the Comprehensive Plan calls for capacity improvements to this line. Extending the existing gravity line to serve the property would not contribute to the ultimate solution of upsizing this line for future development. If the existing line were extended, it would likely have to be removed and replaced when capacity improvements were made. Stormwater for the annexation area drains into the NE 7th Avenue wetlands to the southeast of the project area (as do surrounding properties) indicating that a shared stormwater solution is likely appropriate. Transportation facilities such as the extension of 16th Avenue and Oak Harbor Street improvements are planned for but are not funded at this time. From the staff's perspective, provision of these facilities should be considered for a larger area. It is not usually cost effective for cities to provide services to a single-property especially at the low densities which are planned for this area. Therefore, staff do not believe this annexation request would lead to an efficient or economical provision of public services.

*Policy 4.k - Annex, when possible, areas of sufficient size that square off City boundaries and enhance circulation.*

This policy helps to address the utility issues that are discussed above under City Services. Consideration should be given as to whether it is logical to annex a small, low-density area versus annexing a larger area that shares public infrastructure needs. It is logical to consider a larger geographical area east and west of Oak Harbor Road, but

doing so has some practical obstacles. Annexation of a larger area would help "square off" City boundaries, meeting the intent of this policy.

**2. WHETHER IT WILL REQUIRE THE SIMULTANEOUS ADOPTION OF PROPOSED ZONING.**
If Council authorizes approval of the annexation petition to move forward to the next stage of the process, then simultaneous adoption of PRE zoning in compliance with the Comprehensive Plan should be required upon final annexation approval and noticed in the petition.

**3. WHETHER IT WILL REQUIRE THE ASSUMPTION OF ALL OR ANY PORTION OF EXISTING CITY INDEBTEDNESS BY PROPERTY OWNERS WITHIN THE AREA TO BE ANNEXED.**
If Council authorizes approval of the annexation to move forward to the next stage of the process, then it should require assumption of City indebtedness, and this should be noticed in the petition.

## CONCLUSION

The City Council is required to determine whether to let the petition for annexation go forward. If it does, then the City Council may accept or geographically modify the proposed annexation area. Given the existing infrastructure (or lack thereof) in the immediate area, and the low planned densities for the annexation area, staff does not believe that proposed annexation area can be efficiently or economically served. A larger area including properties east and west of Oak Harbor Road and south of Gun Club Road could be considered if adequate support from property owners in the area exists.

However, based on previous experiences in which small, single-property owner proposed annexations were geographically modified by City Council (in conformance with Comprehensive Plan policies), it is doubtful that adequate support will exist for such an expanded annexation. Additionally, in this instance, logical modification of the annexation boundaries might result in an enclave being created. For these reasons it is difficult to build a case that this annexation meets the policies of the Comprehensive Plan which promote orderly and economical annexations. Given the information presented in this agenda bill staff recommends that City Council reject this annexation. If Council decides not to reject the proposed annexation, it should geographically modify it so that service issues can be considered on an area-wide basis.

## RECOMMENDATIONS:

- Reject the proposed annexation petition as it is proposed in Attachment 1.
- If the City Council authorizes the annexation petition to proceed, staff recommends City Council do the following: (1) geographically modify the area (2) require simultaneous adoption of PRE zoning with annexation (3) require property owners within the annexation area to share in City indebtedness.

## ATTACHMENTS:

1. Letter to commence Annexation
2. Land Use Map for Proposed Annexation Area
3. Annexation Policies
4. Annexation Aerial Map

5. Transportation Element – 16th Avenue alignment

**MAYOR'S COMMENTS**:

5-2-11 RR

# NOTICE OF INTENTION TO COMMENCE ANNEXATION PROCEEDINGS

Steve
FYI

The Honorable Mayor and City Council
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor WA 98277

Dear Mayor and City Council:

The undersigned, who are the owners of not less than ten percent (10%) of the acreage for which annexation is sought, hereby advise the City Council of the City of Oak Harbor that it is the desire of the undersigned owners of the following area to commence annexation proceedings:

> The property herein referred to is legally described on Exhibit "A" attached hereto and is geographically depicted on a Island County Assessor's parcel map on Exhibit "B" further attached hereto.

It is requested that the City Council of the City of Oak Harbor set a date, not later than sixty (60) days after the filing of this request, for a meeting with the undersigned to determine:

1. Whether the City Council will accept, reject, or geographically modify the proposed annexation;
2. Whether the City Council will require the simultaneous adoption of the zoning for the proposed area in substantial compliance with the proposed Comprehensive Plan as adopted by City of Oak Harbor; and
3. Whether the City Council will require the assumption of all or any portion of indebtedness by the area to be annexed.

This page is one of a group of pages containing identical text material and is intended by the signers of the Notice of Intention to Commence Annexation Proceedings to be presented and considered as one Notice of Intention to Commence Annexation Proceedings and may be filed with other pages containing additional signatures which cumulatively may be considered as a single Notice of Intention to Commence Annexation Proceedings.

RECEIVED

MAY 0 2 2011

CITY OF OAK HARBOR
Development Services Department

SINCERELY,

WILLIAM PERRIGO

4/27/2011

P:\Permit Coordinator\Permit Applications\Development Services Permits & Handouts\Annexation Procedures.doc



RR

ATTACHMENT 1

Order No.: LT-93697

**EXHIBIT A**

That portion of the Southwest Quarter of the Southwest Quarter of Section 26, Township 33 North, Range 1 East, W.M., described as follows:

Beginning at the Northwest corner of the Southwest Quarter of the Southwest Quarter of Section 24, Township 33 North, Range 1 East, W.M.;
thence South 483.3 feet;
thence East to State Highway 1-D;
thence South along said highway a distance of 225 feet to the point of beginning;
thence continue South along said highway 325 feet;
thence West to the West line of said Southwest Quarter of the Southwest Quarter;
thence North to a point which is due West of the true point of beginning;
thence East to the true point of beginning.

Situate in the County of Island, State of Washington.



ATTACHMENT 1

| Resident/Owner Signature | Printed Name | Address & Tax Parcel Number | Date Signed |
|---|---|---|---|
| [illegible] | William Perlich | 2845 Oak Harbor Rd #R13326-045-0230 | 4/27/2011 |
| | Robert O'Dell | 2804 Oak Harbor Rd. #R13326-014-0230 | |
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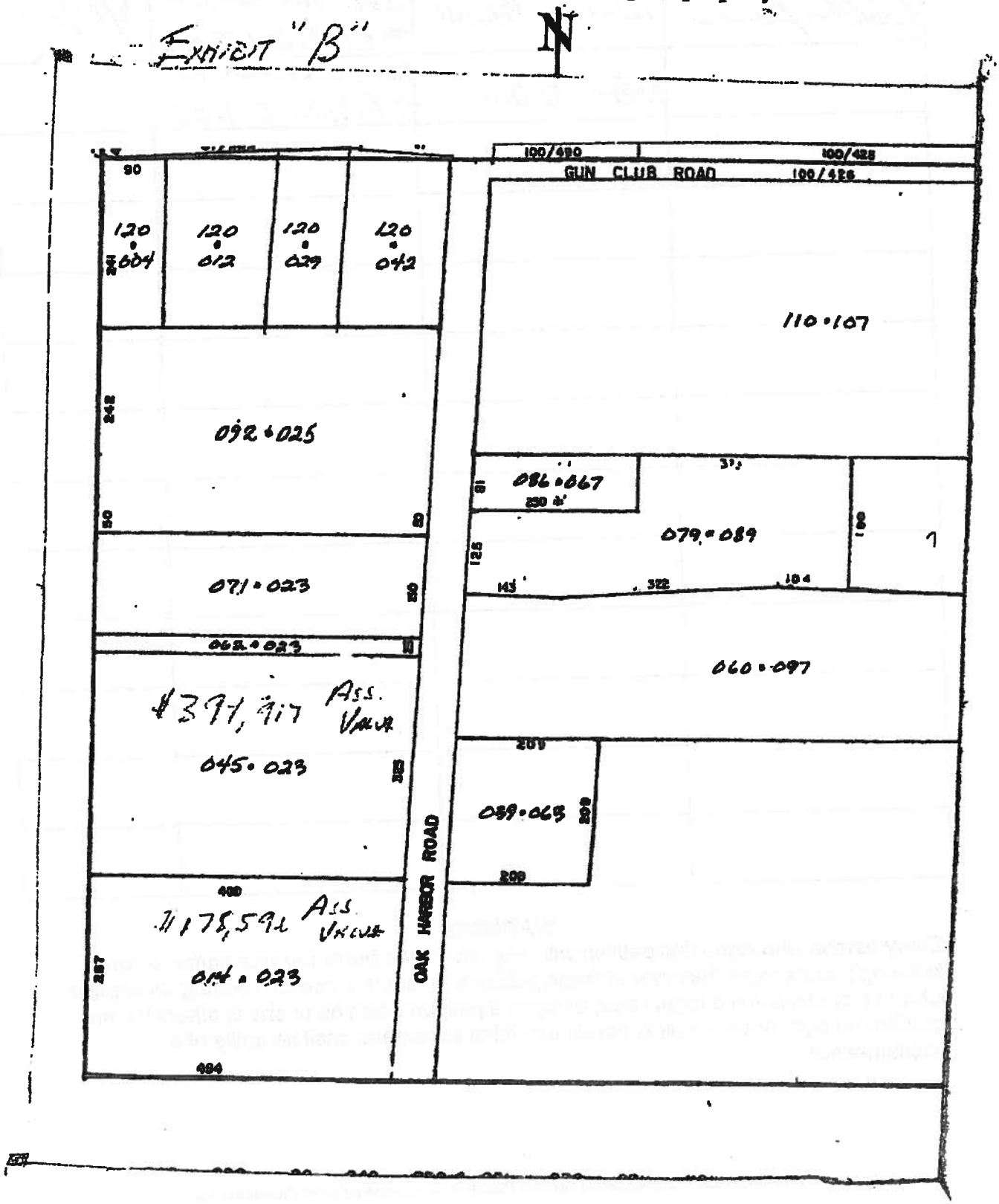
**WARNING**

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

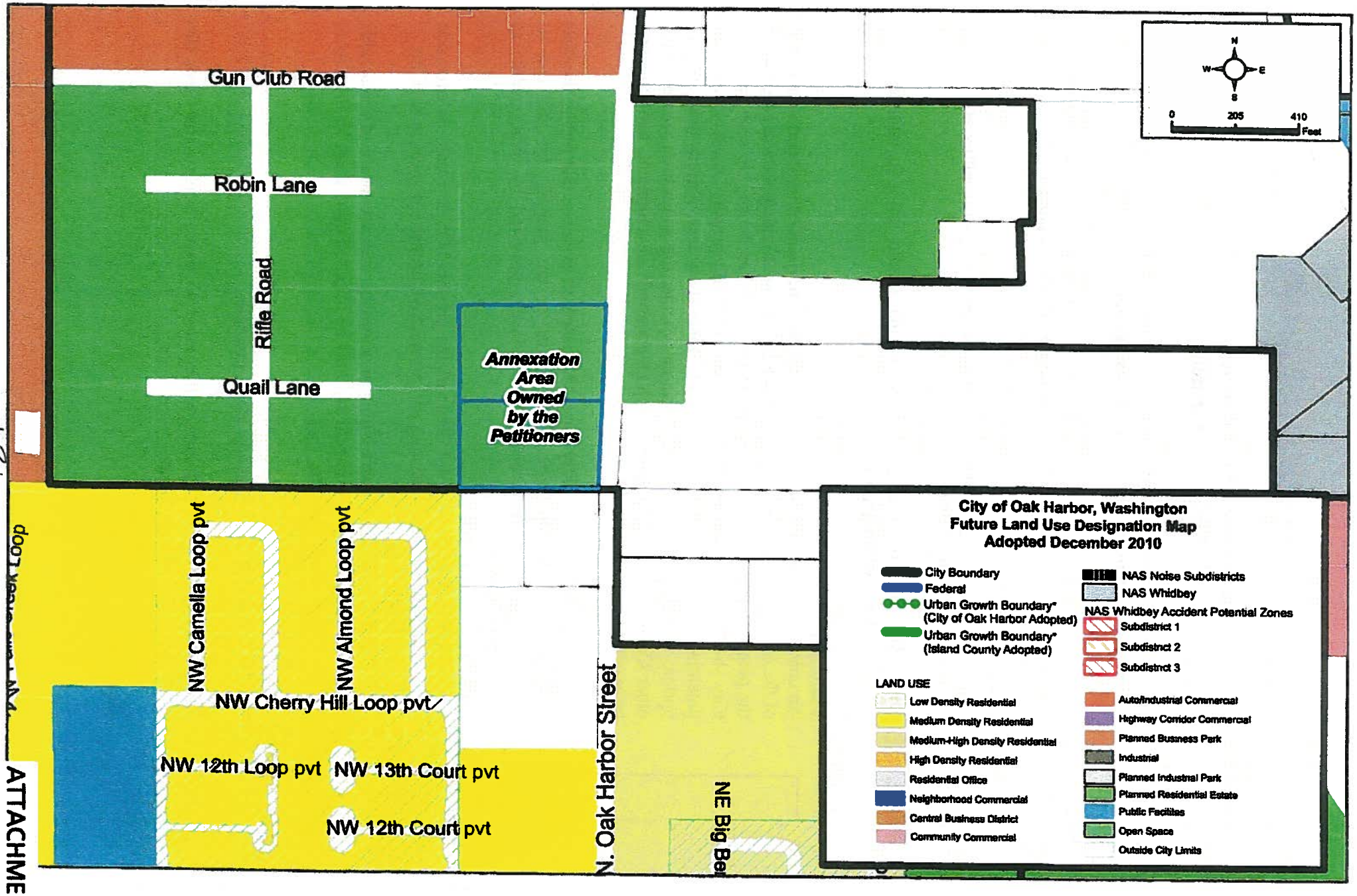
**This sketch is a courtesy of LAND TITLE COMPANY OF ISLAND COUNTY To assist in locating the premises. It is not based on a survey And the company assumes no liability for variations, if any, in Dimensions and locations. This map does not purport to show all highways, Roads or easements affecting the property.**

EXHIBIT "B"






ATTACHMENT 1




ATTACHMENT 2

## Attachment 3: Comprehensive Plan Policies
## Urban Growth Area Element

**Goal 4 - Annexations to the City will occur in compliance with the Washington State Growth Management Act and the following policies.**

**Policy:**

**4.a** Land to be annexed should include only areas seen as logical extensions of the City, located adjacent to existing urban development.

Discussion:
This policy is to be used solely as a guide to prevent leap-frogging and not as a means of preventing growth.

**4.b** The City should avoid annexations that would result in unincorporated enclaves within the UGA.

Discussion:
An unincorporated enclave is an area completely surrounded by incorporated parts of the city. However, the City may make exceptions to this policy in cases where the potential enclave is already characterized by urban density. In such cases, the City should first encourage petitioners to work with property owners inside the potential enclave to include them in the annexation area. Failing this preferred option, only then should the City consider whether the annexation would further other Comprehensive Plan goals, such as economic development, and otherwise be consistent with annexation policies.

**4.b** Annexations to the City should be based on evidence that public facilities and service capacities already exist or are planned for and can be efficiently, economically, and practically provided by either public or private sources.

**4.c** Annexations should not diminish the present LOS or create an excessive financial burden to existing and prospective property owners in the City.

**4.d** Ensure property owners within an annexing area are aware of foreseeable obligations or requirements that may be imposed upon them by the City at the time of annexation.

Discussion:
Provide foreseeable cost estimates where possible.

**4.e** Require existing buildings, within annexed areas, to meet the City's fire and safety requirements.

Discussion:

Public safety shall be ensured by the following:

* An inspection will be conducted of all properties within the proposed annexation area. The Fire Department will identify deficiencies of fire and life safety codes to property owners and City Council. Actions for addressing the deficiencies within specified time frames as recommended by the Fire Department and subject to approval by City Council, will be in the annexation agreement.

* Upon annexation, existing buildings will be required to have minimum fire-flow within three years for mobile home parks, and two years for all other buildings, or by annexation agreement. Smaller, individually developed properties should not be burdened by excessive costs of utility improvements beyond their normal proportional share of costs. Costs should be proportionate to benefit.

* Existing buildings not conforming to the City's requirement for fire sprinkler systems, will not be subject to retrofitting until the building is remodeled, modified or has an occupancy reclassification. Occupancies or portions thereof classified as hazardous and/or required to have fire suppression systems in accordance with the Uniform Building Code will be required to install an approved system within one year.

**4.f** Assure that the City's fire rating is not reduced because of annexation.

Discussion

The intent is to preserve the City's current fire rating and LOS and protect public welfare by providing a water supply of sufficient quantity and pressure for fire protection. In all instances, areas to be annexed should be analyzed for their potential effect on the City's fire rating. Programs should be established to assure improvements are made in the annexed area or to correct identified deficiencies made elsewhere in the City to balance rating deficiencies in the annexed area. Property owners in the annexing area may be required to pay all or a portion of the cost to correct the deficiencies in their area.

**4.g** Maintain the existing level of police service when annexing new areas.

Discussion

The intent is to protect the residents of the City from a reduced level of police services due to annexation. In all instances the areas to be annexed should be analyzed for their potential effect on the City's current level of police protection. Increases in police personnel may be necessary in order to remain at it's present LOS. The City should have a method for analyzing the fiscal impacts of annexation on police services.

**4.h** Annexation proposals should describe the method and level of funding for capital facilities needed to serve the annexed area.

**4.i** Proponents of annexation in developed or partially developed areas should pay their fair share of the costs of urban services and public improvements required to meet the City's LOS standards.

Discussion

This commitment to meet the City's LOS standards should be identified by all annexation agreements, including pre-annexation agreements.

**4.j** The City may require the preparation of a fiscal impact study which addresses long and short-term economic impacts to the City.

**4.k** Annex, when possible, areas of sufficient size that square off City boundaries and enhance circulation.

Discussion

This policy makes subarea planning for local roads and utilities more efficient.

**4.l** Proposed annexations shall not result in the long-term reduction of the City's established LOS standards.

**Goal 5 - New neighborhoods annexed into the City should contribute in a positive manner to sustain and enhance the quality of life for all Whidbey Island citizens while promoting a strong sense of place for Oak Harbor.**

**Policy:**

**5.a** Annexation agreements should include a preliminary plan for a transportation network that emphasizes connections to existing neighborhoods, streets and pedestrian facilities.

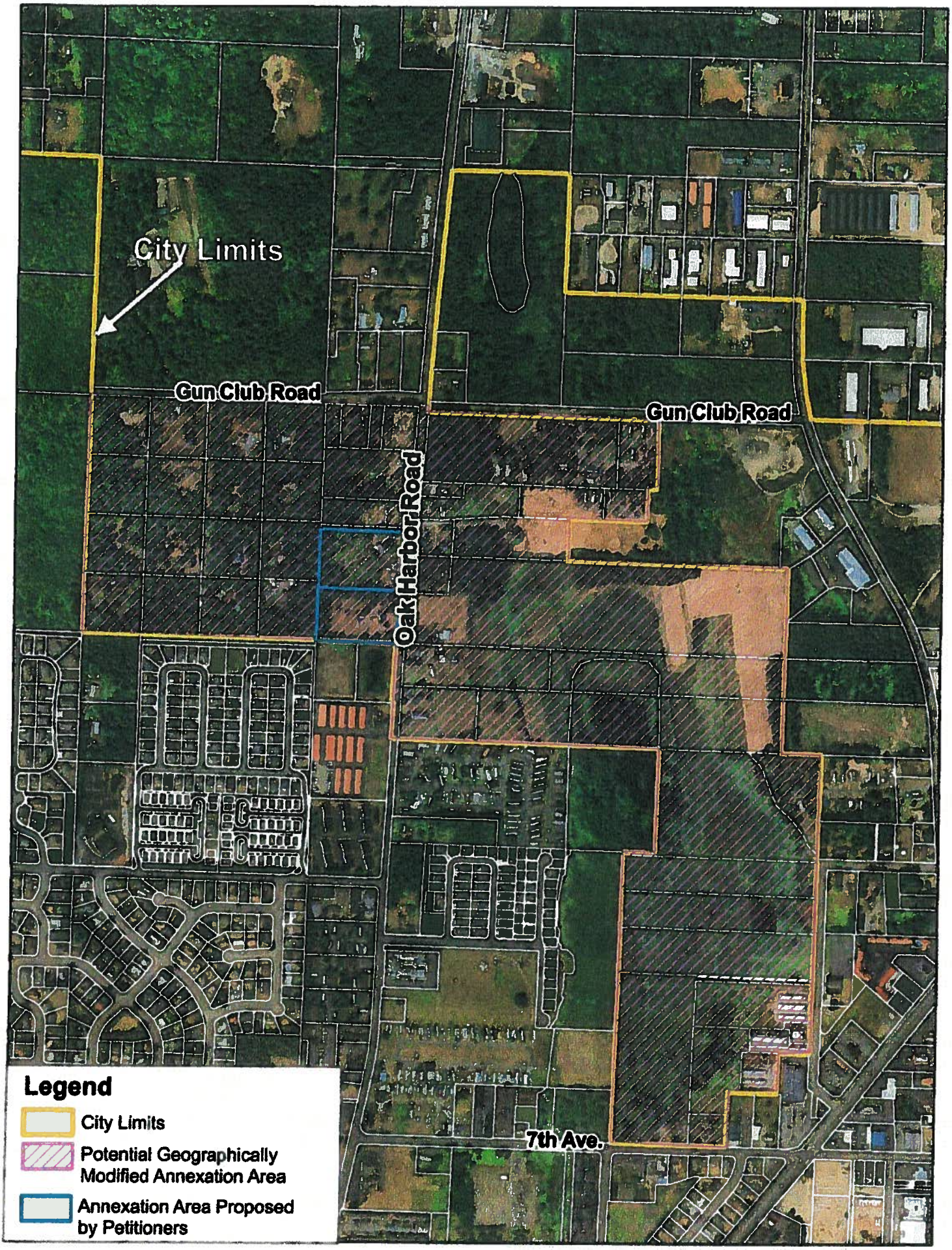
**5.b** Where topography allows, new annexation areas should develop in the traditional lot and block grid pattern that typified early Oak Harbor development and enhances the provision of public facilities and services.

**5.c** The City should consider the desirability of acquiring potential new public facilities, such as trails, parks or open space lands, during the annexation review process with the cooperation of the petitioners.

**5.d** In annexation requests where the surrounding land uses could be significantly affected by the potential land uses in the annexing area, the City should require a greenbelt designation of an appropriate width to ameliorate the negative impacts.

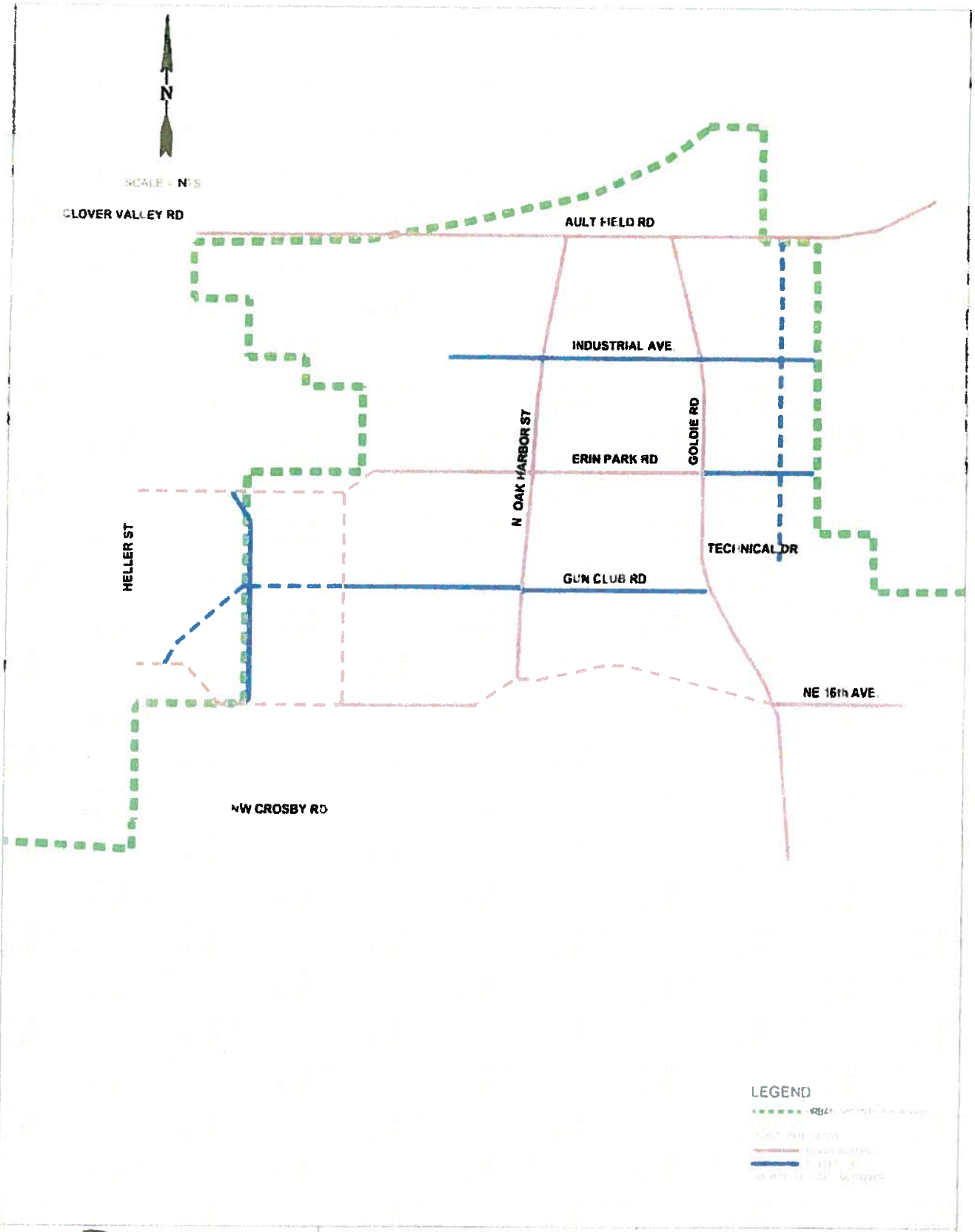
Discussion: This policy would apply to the annexation of new industrial lands that abut properties that have historically been used for residential purposes.

**5.e** The City should adopt standards that support the Comprehensive Plan annexation policies.






ATTACHMENT 4

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|---|---|---|
| BWR Right of Way Center | Figure 7-2b<br>Recommended Functional Classification, Enterprise Area | City of Oak Harbor<br>Transportation Plan |

# City of Oak Harbor
# City Council Agenda Bill

**Bill No.** 7
**Date:** June 28, 2011
**Subject:** Mitigation Proposal for Pioneer Way Improvement Project

**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, as to form

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## PURPOSE

This agenda bill was requested by City Council through a motion, and second to the motion, at the June 7, 2011, regularly scheduled City Council meeting.

## AUTHORITY

**OHMC 1.04.020(3)**
**Public Notice for full council agenda – Introduction of action.**

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

(a) Matters declared an emergency;

(b) Directions to staff to prepare documents or reports or both for consideration; or

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

## SUMMARY STATEMENT

At the June 7, 2011 City Council meeting, Councilmember Dudley made a motion to have the (Pioneer Way) Mitigation Proposal come back to City Council on the June 28, 2011 agenda. The motion was seconded by Councilmember Campbell.

For information purposes, the March 1, 2011 agenda bill titled Mitigation Proposal for Pioneer Way Improvement Project and meeting minutes are attached.

## STANDING COMMITTEE REPORT

N/A

## RECOMMENDED ACTION

N/A

## ATTACHMENTS

Attachment A: March 1, 2011 agenda bill titled Mitigation Proposal for Pioneer Way Improvement Project
Attachment B: Minutes of the March 1, 2011 City Council meeting

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

**Bill No.** _____
**Date:** March 1, 2011
**Subject:** Mitigation Proposal for Pioneer Way Improvement Project

**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, as to form

---

## PURPOSE

The purpose of this agenda bill is to help provide a means to mitigate the impacts of the SE Pioneer Way Improvement Project to the owners of property and businesses located on SE Pioneer Way during the construction of the improvements planned for the summer of 2011.

## AUTHORITY

**RCW 35.21.703**
**Economic development programs.**

It shall be in the public purpose for all cities to engage in economic development programs. In addition, cities may contract with nonprofit corporations in furtherance of this and other acts relating to economic development. [1985 c 92 § 1.]

**RCW 82.14.370**
**Sales and use tax for public facilities in rural counties.**
(c) The definitions in this section apply throughout this section.

(i) "Public facilities" means bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroad, electricity, natural gas, buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, and port facilities in the state of Washington.

(ii) "Economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county.

# City of Oak Harbor City Council Agenda Bill

## SUMMARY STATEMENT

This agenda bill proposes to provide an "in-house" means in which to have an ongoing effort by a "temporary contract employee" hired by the City as a Communication Specialist to coordinate communication, marketing and promotion activities for the SE Pioneer Way corridor to help offset the construction impacts. This coordination effort will include ongoing meetings with SE Pioneer Way businesses, the Chamber of Commerce and the public in general.

The components of this agenda bill proposal include:

- An eight (8) month employment contract for the communication specialist at $4,320 per month for 25 hours per week plus expenses – total of $45,000 (includes L&I, FICA, phone, computer, office supplies) – see Exhibit A
- A budget outline of suggested communication, promotion and marketing activities – total of $122,500 - see Exhibit B
- A program approach that includes four (4) separate key areas; Event Planning, Merchant Services, Access Logistics and Outreach Services – see Exhibit C

This agenda bill proposal for mitigating the impacts of the SE Pioneer Way construction totals a "not-to-exceed" amount of $167,500 for the projected eight (8) month project duration. In order to provide the flexibility we think we will need for this proposal, we are recommending that City Council provide a general authorization to the Mayor to expend up to $167,500 for mitigating the construction impacts caused by the SE Pioneer Way construction. The source of funds for this effort will be from the SE Pioneer Way Improvement Project construction fund.

## STANDING COMMITTEE REPORT

There have been non-specific discussions primarily within the Public Works Standing Committee related to the possible impacts of construction to the business community.

## RECOMMENDED ACTION

Approve Resolution No. 11-05.

## ATTACHMENTS

Exhibit A – Employment Agreement for Communications Specialist
Exhibit B – Proposed Mitigation Budget
Exhibit C – Communications Specialist Program Approach
Exhibit D – Resolution No. 11-05

Exhibit A

**OAK HARBOR**
**EMPLOYMENT AGREEMENT**
**For**
**"Communication Specialist"**

THIS AGREEMENT is entered into on this 1st day of March, 2011, by and between the City of Oak Harbor, hereinafter referred to as "the City," and Lesley McConnell, hereinafter referred to as "Communication Specialist."

WHEREAS, the City has determined the utilization of a Communication Specialist position is a cost effective method to provide directed communications for the purpose of mitigating the impacts to the owners of property and businesses located on SE Pioneer Way during the construction of improvements to SE Pioneer Way; and

WHEREAS, the City has determined that Lesley McConnell is qualified to temporarily fill the Communication Specialist position for the SE Pioneer Way Improvement Project; and

FOR AND IN CONSIDERATION OF the terms and conditions hereinafter set forth, the parties agree as follows:

1. Employment. The City hereby employs the "Communication Specialist" to temporarily serve in the position of Communication Specialist for the SE Pioneer Way Improvement Project under the supervision of the City Administrator. The duties of said position shall be those set out in the job description for Communication Specialist (see Exhibit "A"), together with such other and further duties and special projects as may be assigned to the Communication Specialist by the City Administrator.

2. Duration of Employment. This Employment Agreement shall become effective on March 1, 2011, and shall continue to October 31, 2011, unless terminated earlier at the sole discretion of the City or by request of the "Communication Specialist" or unless mutually extended by written amendment to this Agreement.

3. Compensation: The "Communication Specialist " shall be considered exempt from overtime per the Fair Labor Standards Act and shall be compensated for services rendered during the term of this Agreement as follows:

   a. Monthly Salary – $4,320 @ 25 hours per week.
   b. Benefits – No benefits provided.
   c. Timing of Bi-Monthly Payments – Deductions. All bi-monthly payments of salary and benefits shall be made at the same time and on the same date as the City's regular payroll. All such bi-monthly payments shall be subject to all required state and federal deductions, including income tax, social security, and any other deduction required and authorized by law. The City agrees to pay all employer contributions to FICA, worker's compensation, and similar programs as required by law.



ATTACHMENT A

4. Work Schedule. The "Communication Specialist " shall generally work at 720 SE Pioneer Way Construction Office during regular business hours of the City, Monday through Friday. The "Communication Specialist " will be required to attend SE Pioneer Way "Merchant Meetings" and may also be required to attend meetings of the Oak Harbor City Council and such other Council Committee, City Board, Commission and staff meetings as requested by the City Administrator or as required by the duties of the position.

5. The City may pay for membership in such other associations or organizations, and may reimburse the "Communication Specialist " for attendance at annual conferences or the same and for such other professional development activities as the City Administrator may approve and as may be annually budgeted by the City Council.

6. The City agrees to cover the "Communication Specialist " on the City's liability insurance policies to the same extent as any regular employee of the City is covered for acts, errors, or omissions within the scope of employment. All such liability insurance coverage shall be provided at the City's sole cost and expense.

7. The City of Oak Harbor agrees to hold harmless, indemnify and defend the "Communication Specialist " from any and all actions, claims, lawsuits, proceedings, costs, risk or liability of any nature whatsoever associated with or arising out of acts or failures to act which are or were performed within the scope of his/her employment as the "Communication Specialist ," including the reasonable cost of legal defense.

8. Severability. If any paragraph, sentence, clause or phrase of this Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, said invalidity or unenforceability shall not affect the validity or enforceability of any other paragraph, sentence, clause or phrase and to that end the terms and conditions set forth in this Agreement shall be severable.

9. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties as to the terms and conditions of the "Communication Specialist " temporary employment by the City and no other agreements or understandings, oral or otherwise, exist or shall be deemed binding upon the parties. The Agreement may be amended only by a written instrument duly executed by both parties.

Entered this 1st day of March, 2011.

_____

Jim Slowik, Mayor

_____

Employee name



ATTACHMENT A

# *CITY OF OAK HARBOR*
# JOB DESCRIPTION

| | |
|---|---|
| ***Title:*** | ***Communication Specialist*** |
| ***Department:*** | ***Mayor's Office*** |
| ***Reports to:*** | ***City Administrator*** |

***Job Summary:***

To mitigate the impact of construction at SE Pioneer Way during the downtown redevelopment program of work. To provide a comprehensive and engaging program of communications and marketing to ensure that impacts of the project on merchants and the public are reduced and that business along the retail corridor is maintained and improved.

***Essential Job Functions:***

1. Design, initiate and maintain communication strategies to improve public relations and involvement in the downtown redevelopment program.
2. Develop as key point of contact with merchants for promotion purposes through the use of the downtown office provided to the construction program and through regular personal contact throughout the merchant businesses in the construction zone.
3. To respond to visitors, guests and merchant inquiries related to the project.
4. To maintain positive public relations and credible print and media relations.
5. To be responsible for contracting and project managing temporary, freelance and assistant services and products as required to fulfil the communications and marketing program, within the scope of agreed budget and following approval by the City.
6. To provide information of high quality to all stakeholders about the forthcoming program of activities for all promotions, marketing and communications.
7. To keep up to date with the construction program and ensure that relevant details are shared with the stakeholders.
8. To inform, advise and work with other members of staff, to enable effective publicity, communications and marketing are achieved within, across and beyond stakeholder points of entry to City services.
9. To attend relevant internal and external meetings called by the City or as needed with merchants and stakeholders to ensure reliable and consistent communications and marketing.
10. To deliver any events and activities required of the role, including evenings, weekends or holidays, in keeping with the agreed marketing and promotions plan.
11. To Plan and prepare such reports as may be required by the City.
12. To manage any designated program budget, ensuring compliance with approved financial procedures.



ATTACHMENT A

***Associated Job Functions:***

1. Attend various workshops, continuing education, meetings, seminars and conferences.
2. Perform other duties and responsibilities as assigned.

***Performance Requirements (Knowledge, Skills, and Abilities):***

*Knowledge of:*

- Ability to be creative, and have formal training in marketing, design or a related field, combined with two or more years of experience in a similar role.
- Possess excellent computer skills with proficiencies in Adobe CS, CS, Quart, Publisher, Illustrator, PowerPoint and Microsoft Office projects, in a Windows environment.
- Have strong knowledge of print production specifications.
- Experience in web content management an asset.
- Familiar with the construction industry is considered an asset.
- Must be able to work independently, handle multiple tasks, and able to work in an environment with tight timelines/deadlines are normal course and last minute changes a given.

***Working Environment and Physical Demands:***

Work is performed in an office environment with sitting for extended periods of time (often under stressful situations) and occasionally in the field at construction sites in all types of weather conditions. Access all areas of City buildings, including stairs. Occasional travel to other City locations. Work requires a normal range of hearing and visual acuity, and the ability to be on one's feet, walking on all types of terrain and in all types of weather conditions in situations which can be hazardous, eye/hand coordination bending, twisting, reaching stooping and fine manipulation skills to operate a personal computer, telephone system, and other equipment. Move loads up to 25 pounds. Occasional attendance at evening meetings is required.

***Experience and Training Requirements:***

- Bachelors Degree in Communications, Marketing, Business administration or related field, or equivalent in coursework, specialized training and experience, ***and***
- Proficient computer operation skills and experience with a variety of software programs including Microsoft products, database, customized and menu-driven programs.
- Valid Washington State Driver's License and a good driving record.
- Pass background (criminal records) and driver's abstract check.

*A combination of education, training and experience that provides the required knowledge, skills and abilities will be considered.*

FLSA: Exempt
Salary Range: Per Contract

The statements contained herein reflect general details as necessary to describe the principal functions of this job, the level of knowledge and skill typically required, and the scope of responsibility, but should not be considered an all-inclusive listing of work requirements. Individuals may perform other duties as assigned including work in other functional areas to cover absences or relief, to equalize peak work periods or otherwise to balance the workload.



ATTACHMENT A

# EXHIBIT B

## Proposed Mitigation Budget

| | | |
|---|---|---|
| Website | $10,000 | |
| Newspaper Ads | $12,000 | |
| Wayfinding Signs | $25,000 | |
| Temporary Signs | $10,000 | |
| Billboard | $15,000 | |
| Radio Ads | $10,000 | |
| Printing | $12,000 | |
| Stuffers/Posters | $14,500 | |
| Miscellaneous | $14,000 | |
| Subtotal | | $122,500 |
| Contract | $34,560 | |
| Incidentals | $10,440 | |
| **Grand Total** | | **$167,500** |



ATTACHMENT A

## EXHIBIT C

## Program Approach

**General Scope**

To mitigate the impact of construction during the SE Pioneer Way Improvement Project. To provide a comprehensive and engaging program of communication and promotion to ensure that impacts of the project to businesses and the public in general are reduced and that commerce along the retail corridor is reasonably maintained.

This program approach generally addresses four key areas:

1. **Event Planning:** Provide a plan for delivery of regular and varied events aimed at instructing the public and the community about the merchant offer, particularly as a way to mitigate the construction impacts to merchant businesses. Coordinate and deliver events as agreed with merchants and the City, as part of a comprehensive marketing and promotions effort. Book and manage all media, creative and services/products placements to include major new festivals, district branding, monthly events, products and activities geared toward nurturing more foot traffic and shopping, particularly in after hours, clustered events and unique promotions. Deliver a planning document outlining future sustainable development for any community festivals, regional investment and legacy planning.
2. **Merchant Services:** Provide a variety of merchant services aimed at understanding and communicating with customers, development of

analytics and online communication, networking, skill-building and a comprehensive and tailored marketing program aimed at harnessing existing and new customers during the construction program. Development of all relevant print, audio, video and electronic collateral to support the program. Act as a primary point of contact for merchants, merchant organizations and the media in presenting information, coordinating activities, collecting historical and archive materials and providing content, photography, audio, visual and information aids for the program.

3. **Access Logistics:** Maintain communications and provide visual tools to ensure access to and from transportation facilities, parking lots, points of ingress/egress and all pedestrianized locations where the construction program affects merchant and retail access to shops on Pioneer Way and adjacent streets. Coordinate and communicate with all relevant stakeholders.
4. **Outreach Services:** To identify, create and maintain excellent links with community groups, business and merchants to ensure healthy and positive interactions and to ensure all relevant details regarding the construction program are shared with all stakeholders. Due to a high level of involvement and engagement needed with many stakeholders – merchants, business organizations, community groups, service clubs, churches, schools, learning, historical societies and the public at large, facilitate meetings, planning sessions, design and deliver projects and

publicity geared toward realizing renewal and excitement in the construction zone and historic district. Facilitate meetings and community development goal setting, establish and support various action committees developed to achieve real delivery of agreed projects. Development and delivery of a range of arts-based activities geared toward harnessing the spirit of the past pioneers of the business district, filing empty windows and shop store fronts with temporary exhibits, and telling the story of the current and future "Pioneer Way" merchants. Organizational Development and capacity building of any community / business legacy organization, as needed.

**General Communications Duties**

1. Design, initiate and maintain communications strategies to improve public relations and involvement in the downtown redevelopment program.
2. Develop as key point of contact with merchants through the use of the downtown office provided to the construction program and through regular personal contact throughout the merchant businesses in the construction zone.
3. To respond to visitors, guests and merchant inquiries related to the project.
4. To maintain positive public relations and credible print and media relations.
5. To be responsible for contracting and project managing temporary, freelance and assistant services and products as required to fulfil the communications and marketing program, within the scope of agreed budget and following approval by the City.
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9. To attend relevant internal and external meetings called by the City or as needed with merchants and stakeholders to ensure reliable and consistent communications and marketing.
10. To deliver any events and activities required of the role, including evenings, weekends or holidays, in keeping with the agreed marketing and promotions plan.
11. To Plan and prepare such reports as may be required by the City.
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ATTACHMENT A

Exhibit D

RESOLUTION NO. 11-05

A RESOLUTION BY THE CITY COUNCIL OF OAK HARBOR AUTHORIZING THE MAYOR FUNDING TO PROVIDE VARIOUS CONSTRUCTION MITIGATION EFFORTS DURING THE SE PIONEER WAY IMPROVEMENT PROJECT

WHEREAS, the City of Oak Harbor proposes to reconstruct SE Pioneer Way from City Beach Street to Midway Avenue in 2011; and

WHEREAS, the reconstruction of SE Pioneer Way will cause a significant disruption for pedestrian and vehicle traffic throughout the construction time period of approximately six (6) to eight (8) months; and

WHEREAS, the SE Pioneer Way corridor is recognized as the heart of the Oak Harbor Central Business District where commercial and retail business activities are crucial to the well being of the community; and

WHEREAS, it is the intent of the Oak Harbor City Council to minimize and mitigate the impacts to the Central Business District and in particular to the businesses located on SE Pioneer Way caused by the reconstruction of SE Pioneer Way; and

WHEREAS, it is recognized that additional and concentrated communication efforts, marketing proposals and general commerce promotion directed towards a particular business district should help offset and mitigate impacts caused by the significant construction disruption of SE Pioneer Way; and

WHEREAS, to provide communication, marketing and promotion for construction mitigation it is proposed the City of Oak Harbor hire a temporary communications specialist and authorize funds to perform a concentrated effort of various communication, marketing and promotion in the Central Business District; and

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Oak Harbor, Washington, that the amount of $167,500 from the SE Pioneer Way construction fund is authorized for the Mayor to undertake the mitigation services and efforts as described by the attached Exhibits "A," "B," and "C."



ATTACHMENT A

PASSED by the City Council of the City of Oak Harbor and approved by its Mayor this 1st Day of March, 2011.

CITY OF OAK HARBOR

_____
MAYOR

ATTEST:

_____
City Clerk

Approved as to Form:

_____
City Attorney



ATTACHMENT A

**Mitigation Proposal – For Pioneer Way Improvement Project**
City Administrator Paul Schmidt presented this agenda bill which proposed an in-house, temporary contract employee (a communication specialist) to coordinate communication, marketing and promotion activities for the SE Pioneer Way corridor and help offset construction impacts. This coordination effort will include ongoing meetings with SE Pioneer Way businesses, the Chamber of Commerce, and the public. The proposal includes:

- An eight (8) month employment contract for the communication specialist at $4,320 per month for 25 hours per week plus expenses – total of $45,000 (includes L&I, FICA, phone, computer, office supplies).
- A budget outline of suggested communication, promotion and marketing activities – total of $122,500.
- A program approach that includes four (4) separate key areas; Event Planning, Merchant Services, Access Logistics and Outreach Services .

Mr. Schmidt introduced Lesley McConnell who would be the communication specialist and would work with Larry Cort, Joe Stowell, and Rhonda Severns.

Mayor Slowik called for public comments.

**Jill Schacht, 690 SE Pioneer Way, Casual House owner.** Ms. Schacht was pleased to see that Council was considering a plan to include some marketing funds and the City had found someone qualified to help with marketing. Ms. Schacht urged Council to approve this approach.
**Cathy Collantes, 670 SE Pioneer Way, Angelo's Café owner.** Ms. Collantes also supported this marketing approach and asked Council to approve it.
**Gerry Oliver, 740 SE Pioneer Way, G.O. Realty owner.** Mr. Oliver supported this proposal but also noted that it is vital to know how the City is going to spend that money. Mr. Oliver felt the Ms. McConnell is well-qualified but did not think that $100,000 needs to be spent. Do not spend thousands of dollars on print marketing. There are different ways to approach marketing.
**Kay Coolidge, 3021 Mt. Baker Circle, Popsie's owner.** Ms. Coolidge felt that the Pioneer Way project is a great project but does not support print advertising. Ms. Coolidge does support a trolley.
**Mel Vance, P.O. 2882.** Mr. Vance agreed with Mr. Oliver and also talked about online social networks but also noted there are still a lot of people who don't use social media so more traditional marketing should not be neglected. Mr. Vance asked about the source for these marketing funds and was concerned that, if these funds come from roads funds, there are other roads in Oak Harbor that are in need. Mayor Slowik felt that economic development funds can cover this proposal.
**Jill Johnson, Executive Director, Greater Oak Harbor Chamber of Commerce.** Ms. Johnson liked the title of this proposal – mitigation. Is the marketing money like insurance? No, mitigation implies your best shot, shore up the hillside so rain doesn't take your home. For the merchants, it feels like a rainstorm. Need to shore up the hillside to protect your investment.

There were no other public comments.

Council Discussion

Discussion followed about the mitigation budget and how the amounts were assigned, the differences between Larry Cort's and Lesley McConnell's positions, language in the program approach document, and that it is a dynamic (not static) document.

Ms. McConnell addressed the Council, talked about her professional experience, how she will approach the four key program areas, and the legacy document that will help keep projects moving into the future. Both Ms. McConnell and Mr. Schmidt talked about other marketing efforts beyond print marketing, Ms. McConnell's work schedule, and the cost savings in comparison to earlier, proposed outreach proposals. Wayfinding and temporary signage were discussed, along with the clarification that public funds are not being spent for private marketing viewpoints or businesses.

Council discussion continued regarding the Chamber and merchants forming a marketing committee and Ms. McConnell's anticipated involvement, and the addition of "not-to-exceed $167,000" in the last paragraph of the resolution. Discussion regarding a termination clause was clarified (already referenced in the employment agreement).

**MOTION:** **Councilmember Munns moved to add "not-to-exceed" before $167,000 in the last paragraph of the resolution. The motion was seconded by Councilmember Campbell.**

**VOTE ON THE MOTION:** **Councilmembers Campbell, Dudley, Munns, Paggao, Palmer, and Severns voted in favor of the motion. Councilmember Almberg abstained from the vote. The motion carried.**

**MOTION:** **Councilmember Munns moved to approve Resolution 11-05, and the motion was seconded by Councilmember Campbell.**

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

**City Administrator's Comments**

City Administrator Paul Schmidt talked about the need for a quorum on 3/9/2011 since tonight's meeting is not adjourned and the Marina's bond ordinance will be addressed for final consideration. The Waste Water Treatment Plant special meeting was mentioned along with the next Council meeting on 3/22/2011. Art proposals will come forward in May and the Marathon is coming up 4/9/2011 and 4/10/2011. Larry Cort gave the first of regularly-planned reports to Council about Pioneer Way. Dr. Cort also emails out weekly briefings which are very informative. A construction report can be coordinated with future mitigation reports. The City's downtown storefront office is up and running and staff have met with Strider, KBA, the sub-contractors, PSE, and other utility representatives – good discussions. There will be a two-phase approach to the construction effort: City Beach to Dock Street will kick off next week and will wind down about June.