City Council Special Meeting
(No quorum for the June 19. 2012 regular meeting date)
Monday June 18, 2012, 6:00 p.m.
City Hall – Council Chambers

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

AMENDMENT TO THE AGENDA

MOTION:

Councilmember Almberg moved to amend the agenda and move agenda item no. 10 (Amendments to OHMC Chapter 2.390 - Contract Authority) up to agenda item no. 4's position and move no. 4 (Agreement - Interim City Attorney Services) down to no. 10's position. The motion was seconded by Councilmember Munns and carried unanimously.

INVOCATION Councilmember Danny Paggao gave the invocation.

ROLL CALL

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

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

Larry Cort, Interim City Administrator
Grant Weed, Interim City Attorney
Doug Merriman, Finance Director
Cathy Rosen, Public Works Director
Eric Johnston, City Engineer
Steve Powers, Development Services Director
Melissa Sartorius, Associate Planner
Tim Sterkel, Interim Chief of Police,
Ray Merrill, Fire Chief
Renée Recker, Executive Assistant to the Mayor
Karen Crouch, Executive Assistant to the City Administrator

MINUTES

The **5/30/12 workshop minutes** were accepted as presented.
The **6/7/12 workshop minutes** were accepted as presented.
There are **three corrections to the 6/5/12 regular meeting** reflecting Councilmember Hizon's absence toward the end of that meeting and the 6/5/12 minutes will now read:

VOTE ON THE FRIENDLY AMENDMENT:
*(*Correction from the 6/18/12 Council Meeting for page 13 of the 6/5/12 minutes)*
The friendly amendment was seconded by Councilmember Almberg and carried unanimously.
(*Councilmember Hizon was no longer in the meeting.)

VOTE ON THE AMENDMENT:
*(*Correction from the 6/18/12 Council Meeting for page 14 of the 6/5/12 minutes)*
Councilmembers Almberg, Munns, Paggao, Servatius and Severns voted in favor of the amendment. Councilmember Campbell abstained from the vote. (*Councilmember Hizon was no longer in the meeting.) The motion carried.

VOTE ON THE ORIGINAL MOTION:
*(*Correction from the 6/18/12 Council Meeting for page 14 of the 6/5/12 minutes)*
Councilmembers Almberg, Hizon, Munns, Paggao, Servatius and Severns voted in favor of the original motion. Councilmember Campbell abstained from the vote. (*Councilmember Hizon was no longer in the meeting.) The motion carried.

The 6/5/12 minutes are to be accepted as corrected during the 7/3/12 meeting.

NON-ACTION COUNCIL ITEMS

Public Comments

JoAnn Hellman, IDIPIC Director. Ms. Hellman talked about IDIPIC's successful partnerships and the June 30, 2012 "Evening with IDIPIC" event. www.idipic.org
Shane Hoffmire, Oak Harbor. Mr. Hoffmire spoke about his pride for Oak Harbor, the people of Oak Harbor and Mayor Dudley, and expressed disappointment with Council comments in the newspaper.
Steve Bowder, Oak Harbor. Mr. Bowder spoke with concern regarding the noise at Element Nightclub and felt the noise suppression plan is not being used.
Dave Harrington, Oak Harbor. Mr. Harrington spoke with concern about the condition of Oak Harbor's streets and formally asked the City Attorney to provide an outline for legal requirements, including justifiable cause, to file recall petitions, specifically regarding the Mayor.
Mel Vance, Oak Harbor. Mr. Vance spoke with concern about Council actions during special meetings on items brought forward by Council and not shown on the agenda, and concern with time limits on comments and meeting protocol.
Jeff Trumbler, Oak Harbor. Mr. Trumbler spoke with concern over recent changes in the City and impact on the City's fiscal standing and bond rating.
Gary Jackson, Oak Harbor. Mr. Jackson spoke with concern about the Police Chief's firing and the Mayor's decisions for the City, and said he would initiate a recall petition.
Richard Everett, Oak Harbor. Mr. Everett spoke with concern about the noise at Element Nightclub and asked that Council re-energize their efforts to solicit cooperation from Element Nightclub owner, Mike Kummerfeldt.

Time Extension for Public Comments

MOTION:

> **Councilmember Hizon moved to extend public comments for an additional fifteen minutes. The motion was seconded by Councilmember Almberg and carried unanimously.**

Brian Jones, Oak Harbor. Mr. Jones spoke with concern regarding the dismissal of Police Chief Wallace and asked the Mayor to consider what is best for community. Mr. Jones also spoke with concern regarding the working relationship between the Council and Mayor.

There were no other public comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS

MOTION ONE:

Councilmember Almberg moved that the Council declare an emergency and direct the Mayor and Finance Director to prepare an ordinance creating a Stabilization Account establishing a minimum reserve of $3,000,000 or 25% of the general budget whichever is greater. This account shall have set parameters and policies regarding its use. The Stabilization Account, with set parameters and policies, shall be presented to the Council for action at the next Council Meeting on July 3, 2012. The motion was seconded by Councilmember Severns.

Discussion followed about ordinance introductions with subsequent final consideration at a second meeting, OHMC Chapter 1.04 allowing for final consideration at a single meeting if an emergency is declared, and continued discussion regarding first declaring an emergency or fiscal emergency.

VOTE ON MOTION ONE:

The motion was unanimously opposed.

MOTION TWO:

Councilmember Almberg moved to declare a fiscal state of emergency. Councilmember Paggao seconded the motion and the motion carried unanimously.

MOTION THREE:

Councilmember Almberg moved to direct the Mayor and Finance Director to prepare an ordinance creating a Stabilization Account establishing a minimum reserve of $3,000,000 or 25% of the general budget whichever is greater. This account shall have set parameters and policies regarding its use. The Stabilization Account, with set parameters and policies, shall be presented to the Council for action at the next Council Meeting on July 3, 2012. The motion was seconded by Councilmember Munns.

Discussion followed regarding parameters and policies, GASB 54, the decline in City revenues, and use of stabilization accounts in other cities.

VOTE ON MOTION THREE:

The motion carried unanimously.

MOTION FOUR:

Councilmember Almberg moved that the Council declare a state of emergency and add 15A to the June 18, 2012 agenda to discuss and/or take action on the following questions:

1. **The Mayor/Staff shall state the authority (OHMC) which allows the Mayor to appoint interim department heads without Council's approval.**
2. **The Mayor/Staff shall state the authority (OHMC) which allows the Mayor to appoint interim department heads who do not meet the minimum requirements for a department head.**

City Attorney Weed noted that a general discussion could be held at that time.

SECOND AND VOTE ON MOTION FOUR:

The motion to amend the agenda was seconded by Councilmember Servatius and carried unanimously.

Consent Agenda

A. Noise Permit – 2012 Rotary Car Show
B. Noise Permit – Jessica Kimani Wedding
C. Noise Permit – Life Church
D. Noise Permit – Adrenaline Lacrosse
E. Noise Permit – Chamber of Commerce – 4th of July
F. Noise Permit – Race Week – Clear Ahead Marine Productions
G. Reappointment – Arts Commission, Kit Christopherson
H. Reappointment – Planning Commission, Kristi Jensen
I. Professional Services Agreement – Tamra Sipes, Whidbey Island Marathon
J. Excused Absence Request – Bob Severns from the July 3, 2012 Council Meeting
K. Approval of Accounts Payable Vouchers

Councilmember Servatius removed Item E - Noise Permit for the Chamber of Commerce and Councilmember Paggao removed Item A - Noise Permit for the Rotary Car Show.

MOTION:

Councilmember Munns moved to approve Consent Agenda Items B,C, D, F, G, H, I, J, and K with Item K paying Accounts Payable Check Numbers 150303 - 150461 in the amount of $543,195.30, and Payroll Check Numbers 95606 - 94620 in the amount of $416,179.07. The motion was seconded by Councilmember Servatius and carried unanimously.

Item A - 2012 Rotary Car Show
Councilmember Paggao asked for confirmation that the car show will be held at Windjammer Park (yes).

MOTION:

Councilmember Munns moved to approve Consent Agenda Item A, the motion was seconded by Councilmember Almberg and carried unanimously.

Item E - Chamber of Commerce Fourth of July
Councilmember Servatius sits on the Chamber's Board and would abstain from this vote.

MOTION:

Councilmember Severns moved to approve Consent Agenda Item E and the motion was seconded by Councilmember Munns. Councilmembers Almberg, Hizon, Munns, Paggao, and Severns voted in favor of the motion. Councilmember Servatius abstained. The motion carried.

Councilmember Hizon's Absence from the July 3, 2012 Council Meeting
Councilmember Hizon will also be out of town on July 3, 2012 and asked that Council Rule No. 4 (2) be suspended so she could participate by electronic means; a conference phone call.

MOTION:

Councilmember Servatius moved to suspend Council Rule No. 4 (2) and allow Councilmember Hizon to participate in the July 3, 2012 meeting. The motion was seconded by Councilmember Munns.

Discussion followed about State provisions which might preclude this participation and City Attorney Weed cited MRSC's interpretation (there are no case decisions yet) that this would not be a violation of the Open Public Meetings Act. Other cities have adopted policies which address and allow such participation.

VOTE ON THE MOTION:

The motion carried unanimously.

Easement Agreement – Navy Fuel Line
Development Services Director Steve Powers presented this agenda bill for a proposed easement with the United States of America/Department of the Navy allowing the Navy to construct a new jet fuel pipeline within the Regatta Drive right-of-way. Mr. Powers introduced Robert Tull, Langabeer and Tull, Commander Michael Dysart, USN, Angela Stanton, Naval Facilities Northwest, and Don Hill, Naval Facilities Northwest.

Mayor Dudley called for public comments but there were none.

Council Discussion
Discussion followed about liability, pipeline size, a formal opinion from Langabeer and Tull, and the long-standing and positive relationship between the City and Navy.

MOTION:

Councilmember Munns moved to grant an easement to the United States of America and the Department of the Navy for the purposes of constructing a new jet fuel pipeline within the Regatta Drive right-of-way. The motion was seconded by Councilmember Severns.

FRIENDLY AMENDMENT TO THE MOTION:

Councilmember Almberg made a friendly amendment to the motion to approve the motion subject to receipt of a formal opinion from the law firm of Langabeer and Tull. The motion was seconded by Councilmember Hizon.

VOTE ON THE FRIENDLY AMENDMENT:

The amendment carried unanimously.

Discussion followed about insurance and liability, the use of a tort claim, and insurance and bond requirements for contractors.

VOTE ON THE MOTION AS AMENDED:

The motion carried unanimously.

Amendment to OHMC Chapter 2.390 - Contract Authority
Finance Director Doug Merriman presented this agenda bill, as requested by a motion and second during the June 5, 2012 Council meeting, to discuss amending OHMC Chapter 2.390 to reduce the spending and contracting authority for the Mayor, City Administrator, and Department Heads to $10,000 per individual or subject matter.

Mayor Dudley called for public comments.

Mel Vance, Oak Harbor. Mr. Vance spoke about the $50,000 limit (not the correct amount, see Mr. Merriman's correction below*), Council-Manager form of government instead of Council-Mayor, and the need to have a reasonable spending authority.
Dave Harrington, Oak Harbor. Mr. Harrington spoke in favor of a $10,000 limitation.
Brian Jones, Oak Harbor. Mr. Jones spoke in support of existing limits and the City's good fiscal record.

There were no other public comments.

*Mr. Merriman noted that current authority limit is $30,000 for the Mayor, $20,000 for the City Administrator, and $10,000 for Department Heads; not the $50,000 Mr. Vance stated in his comments.

Council Discussion
Discussion followed regarding how the spending authority is used, if the authority could be used in perpetuity, Council's prerogative to set spending limits, and impact on contracts and staffing.

MOTION ONE:

Councilmember Almberg made a motion to delete the entirety of number four and substitute another motion in its place.

Councilmember Servatius called for a point of order and asked for a copy of Mr. Almberg's text for the motion before it had been fully stated.

MOTION ONE WAS WITHDRAWN:

Councilmember Almberg withdrew his motion.

MOTION TWO:

Councilmember Almberg made a motion to delete the entirety of number four. The motion was seconded by Councilmember Servatius and carried unanimously.

MOTION THREE:

Pursuant to OHMC 1.04.020 (3) (a), Councilmember Almberg moved that:

A. The Council declare an emergency, and,

B. Immediately amend OHMC 2.390.010 - OHMC 2.390.090 so that the authority to contract permitted the Mayor, City Administrator and Department Heads be limited to no more than $10,000 without prior City Council approval, and,

C. That no contract or expenditure shall be authorized by more than one person, nor shall spending authority be cumulated among persons authorized to enter into contracts or expend funds pursuant to OHMC 2.390.010 - OHMC 2.390.090, without prior City Council approval, and,

D. Immediately amend OHMC 2.310.050 so that the authority of the Mayor, or his or her designee, to enter into professional service contracts, including legal and consulting services, be limited to contracts for professional services totaling no more than $10,000 per vendor or provider, without prior approval of the City Council. In addition, contracts for professional services under $10,000 shall be reviewed by the Finance Director or the City Attorney prior to signing to assure compliance with the Oak Harbor Biennial Budget, provisions of Chapter 2.390 OHMC and purchasing policies promulgated by the Mayor.

The motion was seconded by Councilmember Severns.

Discussion followed about identifying individual sections rather than a spread of sections, if there was a need to limit the spending authority to $10,000 since there are varying limits already in place, the benefit of this limitation and better control until a stabilization plan is in place, potential adverse impacts of losing a $30,000 limitation, and the use of special meetings.

VOTE ON MOTION NUMBER THREE:

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

Public Hearing – Six-Year TIP, 2013 – 2018

City Engineer Eric Johnston presented this agenda bill and six-year transportation improvement program (TIP) for 2013 - 2018.

Mayor Dudley opened the public hearing at 8:25 p.m. but there were no comments so the public hearing was closed.

Council Discussion

Discussion followed regarding grant or Federal funding and how the list would be prioritized, and the progression of this document from the City, to the County, and then to the State.

MOTION:

Councilmember Munns moved to adopt Resolution 12-15 approving the 2013 - 2018 Six-Year Transportation Improvement Program. The motion was seconded by Councilmember Almberg and carried unanimously.

Public Hearing – Plat Alteration, Fairway Point PRD

Associate Planner Melissa Sartorius presented this agenda bill and PowerPoint for Council approval of an alteration to the Fairway Point Planned Residential Development (PRD) Divisions 1 and 1A Final Plat. The alteration was requested by the owner (Fairway Point 1, Inc., represented by Mr. Kendall Gentry) and would expand the driveway access for Lot 19, located at 2919 SW Fairway Point Drive, by 10 feet to accommodate a specific house plan.

Mayor Dudley opened the public hearing at 8:28 p.m..

Kendall Gentry, Fairway Point 1, Inc. 30 foot accesses are designed for two-car garages and the customer wants a three-car garage.

There were no other comments so the public hearing was closed at 8:30 p.m.

MOTION:

Councilmember Almberg moved to approve the resolution approving an alteration to the final plat of Fairway Point PRD, Divisions 1 and 1A, Lot 19 for the purposes of widening the driveway access of Lot 19. The motion was seconded by Councilmember Severns and carried unanimously.

Public Hearing Continued from 6/5/12 – Final Consideration, Personnel Code Update

Public Hearing Continued from 6/5/12 – Final Consideration, Personnel Code Housekeeping Ordinance

Employee Policy Manual

Human Resources Director Jessica Neil Hoyson discussed these agenda items together and suggested jointly re-opening the public hearings on both the Personnel Code Update Ordinance and the Personnel Code Housekeeping Ordinance. The Personnel Policy Manual does not require a public hearing since approval would be by resolution.

Before the public hearing was opened, discussion with Council, Mr. Weed, and Ms. Neil Hoyson followed regarding the 6/5/12 motions concerning the Police Chief and Public Works Director in light of Chief Wallace's termination last week (the Personnel Code Housekeeping Ordinance) and if Council wanted to keep the proposed language, the "grandfathering" language, or consider action at a future time.

Mayor Dudley opened the public hearing at 8:37 p.m. for both the Personnel Code Update Ordinance and the Personnel Code Housekeeping Ordinance.

Mel Vance, Oak Harbor. Mr. Vance spoke with concern about the 6/5/12 motions, the use of a cost benefit analysis which would also add costs, micro-management, legal consequences and proceeding forward at this point.

With no other comments coming forth, Mayor Dudley closed the public hearing at 8:40 p.m.

Mayor Dudley called for public comments on the Employee Policy Manual but there were none.

MOTION ONE:

Councilmember Hizon moved to strike all references to the Police Chief in the revised version of the Personnel Code. Councilmember Almberg seconded the motion.

Mr. Almberg distributed that language (Section 2.34.055 - Management Positions) which shows the stricken text and is attached to these minutes as Exhibit A for purposes of this motion.

Discussion followed about its intent and whether it was to strike the entire ordinance or eliminate references "grandfathering" the Police Chief. Intent is for the language in 2.34.055 (6) only.

VOTE ON MOTION ONE:

The motion carried unanimously.

Discussion continued regarding 2.05.040 (3) of the Personnel Housekeeping Ordinance and the addition of the word "Council," which was Mr. Almberg's intention during the 6/5/12 Council meeting, after the word, "City."

MOTION TWO:

Councilmember Almberg moved to amend 2.05.040 (3) with the addition of the word "Council" after the word "City." The motion was seconded by Councilmember Severns and carried unanimously.

That paragraph would then read:

2.05.040 (3) Assure City Council is provided notice of the reassignment as made to City Council in a manner reasonably calculated to advise them of the changes and provide any cost impacts to the city council as a result of the new assignment.

Discussion continued about 2.70.020 - Director - Appointment and Removal of the Personnel Housekeeping Ordinance being inconsistent with the text of 2.34.055 in the Personnel Code Ordinance "grandfathering" in the Public Works Director. City Attorney Weed suggested language to help craft a motion.

MOTION THREE:

Councilmember Almberg moved that the language for 2.70.020 would begin by saying: *Except as otherwise provided in OHMC 2.34.055 (6),* and then continue with the sentence that says, *the Department of Public Works shall be headed by a Director who shall be appointed by the Mayor and confirmed by the City Council.* The motion was seconded by Councilmember Hizon and carried unanimously.

MOTION FOUR:

Councilmember Almberg moved to approve Resolution 12-14 repealing Resolution No. 07-16 and approving the Employee Policy Manual. The motion was seconded by Councilmember Munns.

Discussion followed about any other changes for employees (none), if Council and Mayor are subject to the manual, nepotism, whistleblower, compassionate leave, domestic partners, and leave of absence.

VOTE ON MOTION FOUR:

The motion carried unanimously.

Meeting Time Extension at 9:00 p.m.

MOTION:

Councilmember Almberg moved to extend the meeting for 45 minutes. The motion was seconded by Councilmember Hizon and carried unanimously.

Council returned to the **Personnel Ordinances.**

MOTION FIVE:

Councilmember Hizon moved to adopt, as amended, the Personnel Code Ordinance. The motion was seconded by Councilmember Almberg and carried unanimously.

See Motion One for the adopted, amended language. This motion approved the ordinance, as amended, repealing and re-adopting OHMC Chapter 2.34 to set policy with respect to City employment.

MOTION SIX:

Councilmember Almberg moved to adopt, as amended, the Personnel Code Housekeeping Ordinance. The motion was seconded by Councilmember Servatius and carried unanimously.

See Motion Two and Motion Three for the adopted, amended language. This motion approved the ordinance revising various sections of the Oak Harbor Municipal Code, as amended, regarding the employment status of the Department Directors and regarding other personnel administration matters.

Retainer Agreement for Interim City Attorney Services

City Administrator Larry Cort presented this agenda bill to discuss issues related to the retainer agreement for interim City Attorney services with the firm of Weed, Graafstra and Benson, including approval or amendment or disapproval of the agreement.

Council Discussion

Discussion followed about the agreement's first paragraph, second sentence: *The City Attorney shall serve at the pleasure of the Mayor, provided that all decisions relative to such employment, or termination of the same, shall be subject to confirmation by a majority vote of the City Council.* Discussion continued about the law firm's provided résumés and experience, positive support from the Mayors of Coupeville, Langley and Larry Cort, and potential conflict of interest if Mr. Weed advises Council regarding this agreement. Mr. Weed could speak to the firm's qualifications but would not provide legal advice about entering into the agreement. Discussion followed about Police Department personnel, costs for Interim City Attorney Services, the agreement's term, and actions this evening limiting contract authority amounts. Discussion also followed regarding case back log, other legal needs of Oak Harbor, the differences between an interim City Attorney and an in-house City Attorney, and Council's desire for

an assessment of the City's needs and City Attorney costs in July or August. Since the agreement has been signed by Mr. Weed and Mayor Dudley, Council expressed concern regarding a breach of contract if changes are made or the agreement is rescinded; independent legal advice was suggested.

Meeting Time Extension at 9:45 p.m.

MOTION:

Councilmember Almberg moved to extend the meeting for another 15 minutes. The motion was seconded by Councilmember Munns. Councilmembers Almberg, Hizon, Munns, Servatius, and Severns voted in favor of the motion. Councilmember Paggao opposed. The motion carried.

Council returned to the **Retainer Agreement for Interim City Attorney Services.**

MOTION ONE:

Councilmember Almberg moved to approve the agreement with an effective date of June 1, 2012 as presented and a termination date effective through July 3, 2012. The motion died for lack of a second.

MOTION TWO:

Councilmember Munns moved to approve the agreement through August 8, 2012. The motion was seconded by Councilmember Severns.

Discussion followed about the current agreement's last paragraph saying the agreement can be renegotiated "by either party upon 60 days' written notice" and if the agreement would be confirmed as amended then. Discussion continued that the agreement also says "the contract may be renewed automatically upon the mutual agreement of the City and City Attorney" (not an automatic renewal) and a new agreement could be considered in August, or to leave the agreement in place until July 3, 2012 so remaining questions could be answered.

MOTION TWO WAS WITHDRAWN:

Councilmember Severns withdrew his second and Councilmember Munns withdrew her motion.

MOTION THREE:

Councilmember Almberg moved to reconsider August 8, 2012 as the termination date. The motion was seconded by Councilmember Severns. Councilmembers Almberg, Hizon, Munns, Servatius, and Severns voted in favor of the motion. Councilmember Paggao opposed. The motion carried.

Schedule for Staff Vacancies

Human Resources Director Jessica Neil Hoyson presented this schedule, as requested by Council during the 6/5/12 meeting. Ms. Neil Hoyson also noted that the City now has an interim Human Resources Manager, Cheryl Lawler and assistance from employment

law attorney, Kimberly Geariety Discussion followed about Human Resources' recommendation to use a recruitment firm for the City Administrator's position (potential cost of $10,000 - $20,000). Council compliments were extended to departing Human Resources Manager Jessica Neil Hoyson for the exemplary and professional work she has done for the City.

Meeting Time Extension at 10:00 p.m.

MOTION:

> **Councilmember Servatius moved to extend the meeting for another 30 minutes. The motion was seconded by Councilmember Almberg and carried unanimously.**

Council returned to the **Schedule for filling Staff Vacancies.**

Mayor Dudley called for public comments.

Mel Vance, Oak Harbor. Mr. Vance spoke with concern regarding the timeline in light of personnel code revisions. Councilmember Hizon responded to Mr. Vance's comments.

There were no other public comments,

MOTION:

> **Councilmember Almberg moved to follow the proposed schedule for filling staff vacancies keeping in mind there may be variables that affect the schedule. The motion was seconded by Councilmember Servatius and carried unanimously.**

Councilmember Beth Munns was excused from the remainder of this meeting.

Sole Source Agreement – Roll Carts Purchase
Public Works Director Cathy Rosen presented this agenda bill seeking the use of sole source procurement to purchase 1,200 customized roll carts for the Solid Waste Division in the amount of $71,380.79.

There were no public comments.

MOTION:

> **Councilmember Hizon moved to approve Resolution 12-12, authorize the sole source purchase of 1,200 roll carts in the amount of $71,380.79 to SSI-Schaefer, and authorize the Mayor to sign. The motion was seconded by Councilmember Almberg. The motion carried unanimously. (Councilmember Munns was no longer in the meeting.)**

Future City Council Pending Items
As noted in the packet.

City Administrator's Comments
Dr. Cort thanked Ms. Neil Hoyson for her work and for securing such qualified Human Resources replacement staff as Ms. Neil Hoyson leaves the City. Dr. Cort and other Council Members will be attending the AWC Conference for the rest of the week.

Councilmembers' Comments
Councilmember Almberg talked about the City Clerk's resignation and thanked the Clerk for her work. As noted in motion four on page 4, Councilmember Almberg asked:

1. The Mayor/Staff shall state the authority (OHMC) which allows the Mayor to appoint interim department heads with Council's approval.
2. The Mayor/Staff shall state the authority (OHMC) which allows the Mayor to appoint interim department heads who do not meet the minimum requirements for a department.

Discussion followed regarding RCW 35A.12.090 which states "the mayor shall have the power of appointment and removal of all appointive officers and employees subject to any applicable law, rule, or regulation relating to civil service" and, Personnel Rules Policy 304 which says interim supervisory assignments may be authorized in the absence of supervisory employees. Comments accompanying Policy 304 do not address guidance or explanation of the policy or the legal effect of that policy. The limitation is 90 days for interim assignments. Discussion continued about an appointment which does not comply with the education requirement (Interim Police Chief) versus an appointment that meets the education requirement but could create a conflict since that appointee is also an applicant. Discussion followed about other potential conflicts along with comments that the interim appointment will need to perform the position's duties and the City is moving ahead to fill the Police Chief position.

(Clerk's note: Policy 304 was part of the existing Employee Personnel Policy Manual; a new Employee Personnel Policy Manual was approved this evening and Interim/Out-of-Class Assignments is now number 4.06).

Mayor's Comments
With the lateness of the hour, Mayor Dudley did not have comments this evening.

ADJOURN
With no other business coming before the Council, Mayor Dudley adjourned the meeting at 10:30 p.m.

_____
Connie T. Wheeler
City Clerk

Exhibit A

Proposed amendments to Oak Harbor Municipal Code section 2.34.055

2.34.055 Management Positions

(1) Except as provided in section (6), below, employees hired to fill the following appointive offices, shall be subject to the direction and supervision of the mayor, and are not covered by the grievance, disciplinary action and appeals provisions of this chapter. Persons employed in these appointive positions shall be "at will" employees of the City and may be terminated from the City's employment at the mayor's discretion.

a. City administrator
b. Finance director
c. City attorney and any assistant city attorneys
d. Chief of Police
e. Fire Chief
f. Development Services Director
g. Public Works Director
h. Executive Assistant to the Mayor

(2) Subject to the provisions of section (6), below, employees holding the above listed positions shall be offered employment contracts which shall govern the terms and conditions of their employment, including the terms of service, compensation and any severance pay allowance. The mayor is authorized to enter into employment contracts with employees holding the above described appointive offices, provided, however, that before any such contract or specific contract terms are offered, the content of the same shall first be approved by the city council.

(3) Employees holding the above listed positions at the time of the adoption of this ordinance who do not already have employment contracts with the city or whose contracts have not been revised in the previous five years, shall be offered employment contracts providing the terms of service and compensation as approved by the city council. Such contracts shall be prepared for city council review and approval no later than six (6) months from the date of the adoption of this ordinance.

(4) Employees who decline to enter into contracts of employment offered to them pursuant to this subsection shall continue in their employment status existing at the time of adoption of this ordinance or as set forth in section (6), below; and continuing until that employee's separation from city employment. An employee who does not enter into a contract of employment as provided herein, shall not be entitled to any of the rights or benefits that may be otherwise conferred upon persons employed in the above listed positions by contracts established pursuant to subsection (2) above.

(5) All other positions are "for cause" (as defined in the Oak Harbor Municipal Code) to focus greater attention on monitoring employee work activity results, the evaluation of employee performance to determine the level of achievement goals; and using performance information to make decisions, allocate resources and communicate whether or not objectives are met.

(6) It is the policy of the City of Oak Harbor to treat its employees fairly and provide equal opportunity in employment to all employees. The "at will" and "for cause" status of the position~~s~~ of employment held by ~~the current chief of police and~~ the current director of the City's public works divisions (Director of Public Works upon enactment of OHMC 2.70.010 et seq.) ~~are~~is unclear at the time this ordinance is being enacted. In order to minimize confusion and in order minimize the risk of litigation related to the enactment of this ordinance, the following exception~~s~~ to this ordinance shall apply for so long as ~~the current Chief of Police and~~ the current director of the City's public works divisions remain~~s~~ in the full time employment of the City of Oak Harbor:

a. ~~The current chief of police shall be a "for cause" employee and shall not be treated as an "at will" employee who may be terminated from employment without proper cause. All other sections and provisions of this ordinance and OHMC Chapter 2.36 shall apply to the chief of police to the extent not inconsistent with this provision. This exceptional designation of "for cause" employment status shall terminate at such time as the current Chief of Police is no longer in the full time employ of the City of Oak Harbor.~~

~~b.~~ The current director of the city's public works divisions shall become the director of the newly created Department of Public Works. At such time as that newly created position of Public Works Director is filled by the current director of the city's public works divisions, the Public Works Director shall be a "for cause" employee and shall not be treated as an "at will" employee who may be terminated from employment without proper cause. With the exception of OHMC Chapter 2.70.020, all other sections and provisions of this ordinance and newly enacted OHMC Chapter 2.70 shall apply to the Public Works Director to the extent not inconsistent with this provision. This exceptional designation of "for cause" employment status shall terminate at such time as the current director of the city's public works divisions/ Public Works Director is no longer in the full time employ of the City of Oak Harbor.

~~c.~~b. ~~The current Chief of Police and t~~The current director of the City's public works divisions may, but shall not be required to enter into the employment contracts referred to in Section (3) above. Provided, however, that in the event that either elects to enter into such a contract, the provisions of section (6)a ~~and (6)b~~ above shall be of no further force and effect.

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