

**The City of Oak Harbor  
Regular City Council Meeting  
6:00 p.m. City Hall Council Chambers  
Tuesday, November 20, 2012**

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**CALL TO ORDER**

The Mayor called the regular meeting of the City Council to order at 6:00 p.m.

**PLEDGE OF ALLEGIANCE**

The Mayor led the pledge of allegiance to the flag.

**INVOCATION**

Councilmember Campbell gave the invocation.

**EXECUSED ABSENCE:**

It was moved by Councilmember Servatius and seconded by Councilmember Munns to excuse Councilmember Severns from this meeting. The motion carried.

**ROLL CALL**

The clerk called the roll.

**Present:**

Mayor Scott Dudley  
Mayor Pro Tempore Danny Paggao  
Councilmember Tara Hizon  
Councilmember Beth Munns  
Councilmember Jim Campbell  
Councilmember Rick Almberg  
Councilmember Joel Servatius

**Staff Present:**

Interim City Administrator Larry Cort  
Public Works Director Cathy Rosen  
Development Services Director Steve Powers  
Finance Director Doug Merriman  
Human Resources Manager Cheryl Lawler  
Chief of Police Edgar Green  
Interim City Attorney Grant Weed  
Interim City Clerk Nacelle Heuslein  
Fire Chief Ray Merrill  
Ethan Spoo Senior Planner

**Approved Absence:**

Councilmember Bob Severns

**ACCEPTANCE OF AGENDA:**

**MOTION:** It was moved by Councilmember Munns and seconded by Councilmember Campbell to hold an Executive Session after the Citizen Comments Period to discuss labor negotiations. When there were no other changes or additions to the corrected agenda, it was accepted unanimously as amended.

**MINUTES** of the Regular City Council meeting held November 7, 2012 will be presented at the December 4, 2012 meeting.

## **PROCLAMATIONS**

Councilmembers Munns read the proclamation declaring November as Pancreatic Cancer Month.

## **PRESENTATIONS OF OTHER NON-ACTION COUNCIL ITEMS**

**Jason McFadden, President of the Chamber** provided a power point presentation for the Council.

**Anthony Steadman former president** of the chamber expressed how proud he is of the Chamber and what they have accomplished.

**Ron Hancock** would like to see more of a Navy presence in the Chamber's advertising.

## **CITIZEN COMMENTS PERIOD**

**Marshall Goldberg, a resident** in north Oak Harbor represented a group of Island County residents called Island County Citizens Ignited against Citizens United. He expressed an interest in meeting with the Council at some future time.

**Mel Vance, Oak Harbor Resident** talked about the compromising of city information on the web.

**Shane Hoffmire, Oak Harbor resident** requested the Council consider amending the animal control ordinance to allow some backyard urban chickens.

## **RECESSED TO EXECUTIVE SESSION:**

The Mayor recessed the meeting at 6:28 p.m. to go into executive session. The Mayor stated the meeting would reconvene at 6:45 p.m.

## **RECONVENE:**

The Mayor reconvened the meeting at 6:49 p.m. no formal action was taken at that time.

## **CONSENT AGENDA**

- a. Approval of Accounts Payable Vouchers # 152000 in the amount of \$ 49,168.85 and # 152001 - # 152154 in the amount of \$491,218.42
- b. Appointment of Daisy Sapida to a three-year term on the Park Board
- c. Appointment of Mike Wright to a three-year term on the Park Board
- d. Appointment of Georgette Anglum to fill unexpired term Youth Commission
- e. Appointment of Raenette Wood to the OH Youth Commission
- f. Appointment of Andrea Thomas to the OH Youth Commission
- g. Resolution No. 12-31 replacing duplicate Resolution 12-10
- i. Set a public hearing to consider Ordinance 1648 REET I
- j. Set a public hearing to consider Ordinance 1649 REET II
- k. Approval of 9/14/12 Payroll checks # 95822 – # 95836 in the amount of \$385,610.01
- l. Approval of 9/19/12 Payroll check # 95837 in the amount of \$4,420.00
- m. Approval of 9/28/12 Payroll checks # 95838 – # 95867 in the amount of \$571,677.24
- n. Approval of 9/28/12 Payroll check # 95868 - #95889 in the amount of \$93,486.74
- o. Approval of 10/15/12 Payroll checks # 95890 - # 95902 in the amount of \$378,678.64
- p. Approval of 10/31/12 Payroll checks # 95903 - # 95935 in the amount of \$572,806.78
- q. Approval of 10/31/12 Payroll checks # 95936 – # 95955 in the amount of \$43,572.22.

The Interim City Clerk read the Consent Agenda items. Councilmember Servatius requested that *Items No. d, e and f* be pulled from the Consent Agenda for comment. Councilmember Campbell requested *Item No. m* be pulled for clarification. Interim City Clerk stated there were two payroll runs with the same date because one run was for direct deposit. Councilmember Campbell withdrew his request to pull *Item m*.

**MOTION:** Councilmember Campbell moved to approve Consent Agenda *Items no. a, b, c, g, l, j, k, l, m, n, o, p and q*. Councilmember Almberg seconded the motion and the motion carried

Councilmember Servatius inquired whether the City performed background checks on those volunteers working on the Youth Commission. Councilmember Hizon stated at a recent Youth Commission Meeting a very in depth discussion was held regarding that exact issue. The members do not work directly with the youth, but with the community to access what the needs of the youth are and provide resources for them.

**MOTION:** Councilmember Servatius moved to approve Consent Agenda *Items No. d, e and f*. Councilmember Munns seconded the motion and the motion carried.

#### **HEARINGS AND ORDINANCES/RESOLUTIONS**

**Public Hearing Shoreline Master Program continued from November 7, 2012 meeting and adoption of Resolution 12-30** <http://www.oakharbor.org/uploads/documents/1588smppacket.pdf>

Senior Planner Ethan Spoo introduced Kevin Gifford, with HBL Consultants & David Pater with the Department of Ecology and provided a staff report and reviewed the changes that did not substantively change any of the document.

#### **Public Hearing**

The Mayor opened the public hearing at 7:04 p.m.

**Duane Dillard, Oak Harbor resident**, thanked Mr. Spoo and Mr. Powers for meeting with the residents of the neighborhood last week regarding the recent finding by DOE of salinity in the east ditch.

#### **In this Shoreline Decision We Do Know That:**

1. The DOE now says that the east ditch of Freund's Marsh is considered Shoreline because they found a small sample of saltwater.
2. This finding affects five properties of the Dillard Neighborhood.
3. According to Mr. Spoo, this sample was taken in August of 2012.

#### **What We Do Not Know is:**

1. What is the source of the salt in the ditch? Is it perking through the soil or coming through the City Tide Gate?
2. Why weren't samples taken throughout the year and not only during the driest period?
3. What will accepting the Shoreline Plan with this finding do to the value of these properties? More than likely, the setbacks and limiting building budgets will limit property use and resale value.

In conclusion, Mr. Dillard stated he encouraged the Council question this portion of the Plan until they know all of the facts. If they approve the Plan as presented, this portion will, more than likely, not be reversible.

**Dan Dillard, Oak Harbor resident** suggested putting in a large check valve which would let the fresh water out, but not let saltwater in. He did not want the Shoreline Master Program approved nor did he want the Dillard property included in the SMP.

**Robin Kolaitis, Oak Harbor resident** thanked staff for the quick turnaround of her public records request. Allowing this designation to remain unchanged would create a very difficult task for the city to eventually improve the now archaic storm water transport system. It currently is a liability for the City. The ditch also doesn't support and protect the natural resources, it is not a natural ditch, it is a manmade ditch and contributes to waste being dumped into the harbor. Thanked DOE for taking another look at the salinity in the ditch again.

**David Glass, Oak Harbor resident** stated the ditch is how Wal-Mart empties its parking lot and is not a tidal pool. He would like council to look at it and appreciates the DOE being at the meeting. Salt doesn't go anywhere it just stays there.

**Ron Hancock, Oak Harbor resident** stated it was a pleasure working with the Planning Commission, they were open and respectful and he complimented Ethan Spoo and his compassion for the citizens.

**Public Hearing Closed:**

The Mayor closed the Public Hearing at 7:17 p.m.

**MOTION:** Councilmember Almberg moved Dillard's Addition Neighborhood East Ditch Meeting be made part of the record. Councilmember Campbell seconded the motion and the motion carried.

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**DILLARD'S ADDITION NEIGHBORHOOD  
EAST DITCH MEETING becoming an official record of the meeting.**

**City Hall  
November 15, 2012**

**ATTENDANCE**

The meeting began at 6:00 p.m. with the following in staff in attendance: Development Services Director, Steve Powers and Senior Planner, Ethan Spoo.

Dillard's Addition residents in attendance: Duane Dillard, Wesley Wilson, Dan Dillard, David Glass, Michele Ippolito-Glass and Robyn Kolaitis.

**STAFF PRESENTATION**

Mr. Spoo provided the residents select pages from the Draft Shoreline Management Program (SMP) that he believed were most applicable to the residents and shared information on the following:

- Historical background regarding the Shoreline Management Act and the City's adoption of its SMP.

- Explained “no net loss”.
- E-mail communication from the Department of Ecology (DOE) to the City stating that they consider the east ditch to be a “tidal water.”
- Salinity readings; Washington State Administrative Code (WAC) defines 0.5 parts per thousand of salt in the water as tidal water.
- How the SMP applies to future development.
- The Ordinary High Watermark (OHW) and how the 200 foot measurement is calculated.
- Explained the shoreline variance process.

**DILLARD’S ADDITION RESIDENT’S COMMENTS**

- The tide gate is faulty or not maintained properly.
- The tide gate should be torn out and install a check valve instead of a tide gate.
- Questions about when the testing was done (testing was done by DOE in August 2011).
- The ditch should be retested, February was suggested.
- The objective is to not have the ditch in the shoreline jurisdiction.
- There is no plant growth in the ditch that is associated with salt water.
- Can the City Council withhold a decision on just the ditch portion of the SMP? (No)
- Concerns that once they are included in the shoreline jurisdiction they can never be removed.

**STAFF RESPONSE**

- The City could pursue DOE to collect more data points to calculate an average level of salt in the water.
- The staff’s preference is to not have the ditch in the shoreline jurisdiction as well.
- Staff encouraged residents to attend the November 20<sup>th</sup> City Council meeting to express their concerns. If unable to attend send an e-mail with concerns.
- Staff can recommend that the Council make a motion that directs staff to contact DOE and request them to do more testing on the ditch and depending on that information have staff respond accordingly (an SMP amendment in a future year if there is no salt in the water).
- David Pater (DOE) will be attending the November 20<sup>th</sup> meeting and staff will request that he bring Paul Anderson (the person that did the tests). The Public Works Director will be available for questions about the tide gate.

**Dillard MEETING CONCLUDED – 7:15 p.m.**

**ADJOURNMENT**

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**MOTION:** Councilmember Hizon moved to direct staff to contact the Department of Ecology and request it measure the salinity in the east ditch again and depending on the results, staff will respond accordingly. Councilmember Servatius seconded the motion and the motion carried.

**MOTION:** Councilmember Hizon moved to approve Resolution 12-30 to approve the Shoreline Master Program. Councilmember Munns seconded the motion and the motion carried.

**RECESSED MEETING:**

Mayor Dudley recessed the meeting at 7:54 p.m.

**RECONVENED MEETING:**

Mayor Dudley reconvened the meeting at 8:02 p.m.

**Public Hearing 2013 – 2014 Biennial Budget - first reading of Ordinance 1645 to adopt 2013 – 2014 Biennial Budget**

Finance Director Doug Merriman provided the staff review focusing on the General Fund.

**Public Hearing:**

Mayor Dudley opened the public hearing at 8:07 p.m. there were no public comments.

**Close of Public Hearing:**

When there was no public comment, the Mayor closed the public hearing.

**MOTION:** Councilmember Munns moved to continue the Budget Public Hearing for the Biennial Budget of 2013 – 2014 to the December 4, 2012 regular Council meeting. Councilmember Campbell seconded the motion & the motion carried.

**Resolution 12-27 Interim Out-of-Class Assignments**

Interim City Administrator Cort provided the staff report.

There were no public comments.

**MOTION:** Councilmember Servatius moved the Interim out-of-class assignments are limited to ninety (90) calendar days. Extensions require approval by the Mayor or City Administrator. Interim department heads (defined as the directors of Public Works, Development Services and Finance, the City Attorney and the Fire and Police Chiefs and City Administrator appointments by the Mayor, are limited to two terms of ninety (90) calendar days each. Extensions beyond two terms require confirmation by a majority vote of the City Council. Councilmember Alberg seconded the motion and the motion carried with Councilmember Campbell voting no.

**Waste Water Treatment Plant Field Study Result**

Joe Stowell, Interim City Engineer stated results from the Field Study would be discussed this evening and either Resolution 12-33 directing the preparation of a wastewater facility plan which would place a new WWTP in the area identified as "Windjammer Vicinity" as defined in Resolution 12-17 or Resolution 12-34 directing the expansion of the area identified as "Windjammer Vicinity" would be adopted.

**EXTENSION OF MEETING:**

**MOTION:** Councilmember Servatius moved to suspend the Council's rules and extend the meeting until 10:00 p.m. Councilmember Alberg seconded motion and the motion carried.

**Public Comments:**

Shane Hoffmire spoke against the options of where the WWTP was being placed.

**Jeff Trumbore, Oak Harbor resident** commended Carollo and their associates with firm engineering data for the Council to consider. Mr. Trumbore inquired if there had been any kind of study on the potential revenue decrease stream from removing the land from the tax rolls and he was curious why the old city shops land was not considered.

**Mel Vance, Oak Harbor resident** wanted the WWTP out of the park, the Windjammer alternative was a better choice of the three presented, but also thought there were better sites.

**Mark Johnson, Oak Harbor, resident and owner of Pioneer Automotive** wanted to know what piece of land the "Windjammer alternative" included. Mayor Dudley stated the City would be back to him with a clarification.

**Joel Mami resident and owner of Pioneer Automotive** spoke against placing the new WWTP on his property.

**Closed Public Comments**

When there were no further public comments, the Mayor declared the public comments closed.

It was noted, a federal grant can be applied for if all criteria are met.

**MOTION:** Councilmember Servatius moved to adopt Resolution 12-33 directing the preparation of a wastewater facility plan which would place a new wastewater treatment plant in the area identified as "windjammer vicinity" as defined by City of Oak Harbor Resolution 12-17. Councilmember AlMBERG seconded the motion. The motion carried with Councilmember Campbell voting no.

Councilmember AlMBERG called for a point of order.

Mayor Dudley inquired why the Freund property was overlooked in the first place.

**RECESS:**

The Mayor recessed the meeting 10:00 p.m.

**RECONVENE:**

The meeting reconvened at 10:09 p.m.

**Resolution No. 12-32 identifying 2013 Washington State Legislative Priority issues.**

Interim City Administrator Cort gave the staff briefing.

There was no public comment.

**MOTION:** Councilmember Servatius moved to approve Resolution 12-32. The motion was seconded by Councilmember Munns and the motion carried.

**OTHER BUSINESS**

**Interlocal Agreement – Island County Housing Authority, Oak Harbor, Coupeville, and Langley - Affordable Housing.**

Development Services Director Steve Powers provided Council with a staff report.

There was no public comment.

**MOTION:** Councilmember AlMBERG moved to approve the Interlocal Agreement and authorize the Mayor to sign it. Councilmember Munns seconded the motion and it carried.

**Extension of Public Defense Services Agreement Public Defense Administrator Jack Kerr**

The staff report was made by Interim City Administrator Cort.

**MOTION:** Councilmember Servatius moved to approve the extension of the Public Defense Services Agreement with Public Defense Administrator Jack Kerr. Councilmember Munns seconded the motion and the motion carried.

**EMS Agreement with Whidbey General Hospital**

Fire Chief Ray Merrill provided the staff report

**MOTION:** It was moved by Councilmember Hizon to accept the EMS agreement with Whidbey General Hospital. Councilmember AlMBERG seconded and the motion carried.

**FUTURE CITY COUNCIL PENDING ITEMS (included in packet)**

**CITY ADMINISTRATOR COMMENTS:**

Interim City Administrator began by saying Cheryl Lawler has been appointed as Human Resources Manager; on November 28<sup>th</sup> City Clerk interviews will be held; a representative of Prothman Company interviewed Department Directors today and hoped to begin City Attorney interviews in February of 2013. The confirmation and approval of an employment contract for Nikki Esparza, Assistant City Attorney will be brought forward at the December 4<sup>th</sup> meeting.

**COUNCILMEMBER'S COMMENTS**

Mayor Pro Tempore Paggao stated the next Public Works and Utilities Standing Committee meeting will be held on Thursday December 6<sup>th</sup>. He was grateful for all of the volunteers that give their time to the City.

Councilmember Campbell stated December 11<sup>th</sup> will be the next Government Services Standing Committee. He was thankful for a loving wife and that his prostate cancer has been cured.

Councilmember AlMBERG stated the next Finance Standing Committee meeting will be December 12<sup>th</sup> He was thankful for the community, for his family, his wife's support and a new granddaughter.

Councilmember Munns stated the next Public Safety Standing Committee meeting will be on December 20<sup>th</sup>. Thankful for her health, love of community and love of family and thankful for Help House for providing whole Thanksgiving dinners to families.

Councilmember Hizon had a rough couple of year's health wise and she is thankful for getting good news. Ms. Hizon was grateful for the level of participation by citizens in the community. They are engaged and are genuinely interested in their community.

Councilmember Servatius has an incredible family and prioritizes them at the top of his list. He will miss his beloved Grandmother who recently passed at 106 ½ years of age.

#### **MAYOR'S COMMENTS**

The Mayor stated the Council Chambers has new art work from Karen Leeds a photographer. Her travels in the past few years, as well as living in the beautiful northwest, have given her inspiration to take her craft to a high level and focus on the artistic aspects of the medium.

There will be a Community Harvest celebration at the Elks from 11 – 4 p.m. on Thanksgiving Day.

Bus loads of food donations had been provided to the Help House today through the many efforts of children that live in our community.

The Mayor stated he was thankful for living in a safe community and to have drinkable water and that the City is blessed. He closed by wishing everyone a Happy Thanksgiving.

#### **ADJOURNMENT:**

**MOTION:** Councilmember Munns moved and Councilmember Campbell seconded for adjournment of the Council meeting at 10:32 p.m.

