

City of Oak Harbor
City Council Meeting

Agenda for
April 5, 2011

6:00 p.m.

Oak Harbor City Council
REGULAR MEETING
6:00 p.m.
Tuesday, April 5, 2011

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 3/22/2011 Meeting

NON-ACTION COUNCIL ITEMS:

1. Proclamation - Arbor Day.
2. Proclamation – Earth Day.
3. Tree City USA Recognition.
4. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

5. Consent Agenda:

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- a. Reappointment to Community Police Advisory Board – Cathy Niiro.

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- b. Appointment to Community Police Advisory Board – Lauren Nelson.

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- c. Agreement – Oak Harbor School District – Safe Routes to School.

Page 34

- d. Annual Interlocal Agreements – North Whidbey Parks and Recreation for Lifeguard, Boating, and Recreational Services.

- e. Approval of Accounts Payable Vouchers (Pay Bills).

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6. Resolution – Waste Water Treatment Plant Facility Site Selection.

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7. L.I.D Petition – Driftwood Beach Addition, Dillard Neighborhood.

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.

*“Life is a great big canvas, and you should throw all the paint on it you can.”
~Danny Kaye*

**City Council Regular Meeting
Tuesday, March 22, 2011, 6:00 p.m.
City Hall – Council Chambers**

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

INVOCATION Pastor Dave Johnson, First United Methodist Church

ROLL CALL

Mayor Jim Slowik
Seven Members of the Council,
Rick Almberg
Jim Campbell
Scott Dudley
Beth Munns
Jim Palmer
Bob Severns

Paul Schmidt, City Administrator
Margery Hite, City Attorney
Steve Powers, Development Services Director
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

Danny Paggao, Mayor Pro Tem, was formally excused from this meeting.

Doug Merriman, Finance Director, was not in attendance.

MINUTES

Councilmember Dudley asked that the 3/1/2011 meeting minutes be corrected in these sections.

Page 3 of the minutes, Consent Agenda Item B, Appointment to Planning Commission, Jill Johnson

The second sentence will now read: *Councilmember Dudley was concerned that Ms. Johnson might not question staff recommendations regarding land use.*

Page 6 of the minutes, Grant Agreement – Approval of EPA Grant Agreement for the Waste Water Treatment Plant (WWTP) Facility

Under Council Discussion for this agenda item, Councilmember Dudley stated: *What I wanted to do is make sure that the record showed that on August 4th we entered into, we made a motion to have the Mayor enter into an agreement, a contract with Carollo for \$1,089,561. On August 5th, the next day, we applied for a grant showing that the dollars that were spent to Carollo was \$1,075,329 for a typo or an error of \$14,232. If there is a way to show that, that would be great. This will be added to that section of the 3/1/2011 Council minutes excluding the last sentence of this statement.*

MOTION: Councilmember Dudley moved to approve the 3/1/2011 minutes as corrected, the 3/9/2011 minutes, and the 3/9/2011 workshop minutes. The motion was seconded by Councilmember Munns.

VOTE ON THE MOTION:

Councilmembers Almberg, Dudley, Campbell, Palmer, Munns, and Severns voted to approve the 3/1/2011 minutes as corrected. The motion carried unanimously.

Councilmembers Dudley, Campbell, Palmer, Munns, and Severns voted to approve the 3/9/2011 minutes and the 3/9/2011 workshop minutes. Councilmember Almberg abstained from this vote since he had not attended the 3/9/2011 meetings. The motion carried.

NON-ACTION COUNCIL ITEMS

Public Comments

Sue Karahalios, P.O 144, Oak Harbor. Ms. Karahalios spoke with concern about the need for recusal, as advised by past City legal counsel, if a Council Member had past close association or may have had past/current/future expectations of compensation from involved parties. Ms. Karahalios' complete statement is attached to these minutes as Exhibit A. In closing, Ms. Karahalios thanked the Council for their due diligence.

Mel Vance, P.O. Box 2882, Oak Harbor. Mr. Vance spoke about disaster preparedness in light of the 9.0 magnitude earthquake which has devastated Japan: This is a wake up call, have your disaster kit ready and be aware of the resources available to help prepare for a disaster in our area.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS

Consent Agenda

- A. Noise Permit – Whidbey Island Tea Party, date changed from 4/15/11 to 4/16/11
- B. Noise Permit – Island County National Day of Prayer Committee
- C. Surplus – Past Whidbey Island Marathon Shirts and Medals
- D. Excused Absence – Councilmember Rick Almberg from the 3/9/11 and 4/19/11 Council Meetings
- E. Approval of Accounts Payable Vouchers

MOTION: Councilmember Campbell moved to approve Consent Agenda Items A through E with item E paying Accounts Payable Check Numbers 145030 – 145255 in the amount of \$517,966.02, and Payroll Check Numbers 94559 – 94573 in the amount of \$403,085.82. The motion was seconded by Councilmember Palmer and carried unanimously.

Public Hearing and Final Ordinance – Adult Entertainment Facilities Overlay Zone Ordinance

Development Services Director Steve Powers gave a PowerPoint presentation and led the discussion regarding an ordinance which would finalize the City's adult entertainment facilities overlay zone code (which is currently an interim code). The proposed ordinance would adopt the interim code as the City's final code. The resulting overlay zone is 18.7 acres in size with 9.7 acres zoned Planned Industrial Park and 9

acres zoned Industrial. With respect to the adult entertainment facilities overlay zone, key findings include:

1. The Goldie Road corridor is the area most suitable to locate the adult entertainment facilities overlay zone given the land use layout in the city and the need to avoid locating adult uses near sensitive uses (residences, churches, schools and parks).
2. The 750 foot buffer utilized in the interim ordinance to determine the location and size of the overlay zone is the largest buffer that can be utilized and still retain a sufficient number of locations.
3. The 750 foot buffer is consistent with that used in other communities.
4. A review of the land use distribution identified, by zoning category, the number of parcels, the acreage, the percent of the total parcels and the percent of the total acreage.
5. Work on the UGA capacity analysis determined that the developability of a parcel is "high" if the assessed land value of the property is 90% or greater than the value of the structure.
6. Combining the above two points of information yields that 29.1 acres out of a total of 50 acres (58%) of Industrial zoned land is highly developable and 22.5 acres out of a total of 36.5 acres (62%) of Planned Industrial Park is considered highly developable. These totals are greater than the amount of similarly categorized C-3 (Community Commercial) zoned lands.
7. While the market value of developed and undeveloped properties varies with time and market conditions, Industrial and Planned Industrial Park properties are significantly less expensive than Commercial properties.
8. The subject properties included within the interim overlay zone are located within a developing area and are either served or can be served by urban services and utilities.
9. No unusual development problems or characteristics were identified that would apply only to the subject properties and not to other similarly situated properties in the area.
10. There are no existing adult entertainment facilities in Oak Harbor. Since the adoption of the interim controls, no applications seeking to establish an adult entertainment facility have been submitted to the City; from this it can be inferred that the size of the overlay zone can reasonably accommodate demand for such uses in the foreseeable future.

The Planning Commission also reviewed the existing interim ordinance language in Chapter 19.52 Adult Entertainment Facilities Overlay Zone, determined that no changes are necessary, and recommended that the City Council adopt the interim adult entertainment facilities overlay zone code as the final code. Additional staff analysis supporting the suitability of the interim overlay zone for use as the permanent overlay zone was attached in a separate staff memo to this agenda bill which concluded that designation of an overlay zone for adult entertainment facilities comprised of Industrial and Planned Industrial Park lands is the most appropriate manner to meet the practical, structural and location needs of such establishments in Oak Harbor. A final ordinance

would be published as a finding of emergency and effective immediately so there would be no lapse in regulation.

Mayor Slowik opened the public hearing at 6:20 p.m., but there were no comments so the public hearing was closed.

Council Discussion

Discussion followed about one of the three parcels lacking access to a public road with concern that the City could be challenged (access could be provided through an easement from parcels to the east or south), clarification of the zone's location and existing businesses (not incompatible), and that the properties have met the required criteria. Council thanked and complimented Mr. Powers and staff for their extensive work in bringing forward the final facilities overlay zone ordinance. City Attorney Hite noted that approval would require a majority plus one vote from Council.

MOTION: Councilmember Dudley moved to adopt the ordinance, as set out in Attachment A to this agenda bill, and finalize the Adult Entertainment Facilities Overlay Zone Code. The motion was seconded by Councilmember Palmer and carried unanimously.

2011 Comprehensive Plan Amendment Docket

Development Services Director Steve Powers asked that this agenda item be continued to the April 19, 2011 Council meeting in order to meet the City's fifteen day public hearing advertising requirement.

MOTION: Councilmember Campbell moved to continue the 2011 Comprehensive Plan Amendment Docket agenda bill to the April 19, 2011 City Council meeting. The motion was seconded by Councilmember Munns and carried unanimously.

Construction Engineering Contract Authorization – Perteet, Inc., for SE Pioneer Way

City Engineer Eric Johnston presented this agenda bill which requested approval of an agreement with Perteet, Inc., for on-call design and engineering support services during construction of the SE Pioneer Way Reconstruction project in the not-to-exceed amount of \$50,000. As part of the project management and oversight plan of the City, there are three key groups consisting of the City staff, the construction management professional, and the design engineer of record. During construction, the design engineer of record may be needed from time to time to clarify or adjust the design. The efforts of the engineer are not intended to correct mistakes; rather they are intended to manage unforeseen issues requiring the attention of the responsible design professional. As the design engineer of record, it is appropriate to retain Perteet, Inc., for this type of on-call work. Mr. Johnston called attention to Footnote No. 5 within the agenda bill which stated: *Includes 10% of construction cost as contingency and approximately \$50,000 for engineering design services during construction.*

Mayor Slowik called for public comments but there were none.

Council Discussion

Discussion followed about Council receiving a breakdown on whatever is spent since this is a contingency issue and Mr. Johnston responded that he can report back to Council on how the funds are spent, if funds are used. Discussion continued regarding the scope of services date running through December 2011. Mr. Johnston noted that the anticipated completion date is October/November, and running the date out to December will keep Perteet in place and allow for possible schedule revisions. Council also asked about a breakdown on all project monies and Mayor Slowik responded that Council has been kept apprised of funding as evidenced in the funding tables in this (and the next) agenda bill.

MOTION: Councilmember Munns moved to authorize the Mayor to sign the contract with Perteet, Inc., for services with a not-to-exceed limit of \$50,000. The motion was seconded by Councilmember Severns and carried unanimously.

Puget Sound Energy (PSE) Relocation Agreement – SE Pioneer Way Project

City Engineer Eric Johnston presented this agenda bill which requested approval of the Project Construction Agreement and Project Plan with Puget Sound Energy (PSE) for construction work associated with the relocation of overhead power lines and conversion to an underground system. PSE's Schedule 74 establishes a 40/60 (City/PSE) cost share for the least cost installation. The City has chosen to have improvements made to the installation (above what is considered the least cost alternative) to meet the goals of the project. As example, transformers are planned to be installed below grade or in traffic areas to minimize hazards to pedestrians and to improve the aesthetic appearance of the street. The increased cost over the least cost alternative is not included in the 40/60 cost share and is charged 100% to the City. The total estimated cost to the City to underground PSE facilities is \$312,816. This is approximately 44% of the total \$712,036 cost to underground PSE's facilities. PSE is contributing \$399,220 toward the total estimated cost. This cost share and the dollar amounts shown above are only in relation to the agreement with PSE. The cost includes design, materials, conduit installation, vaults, transformers and wire. In addition to costs to PSE, there are other costs for relocation of facilities owned by Frontier, Comcast, Blackrock, and the Oak Harbor School District. Upon completion of the conversion, actual costs will be determined based on construction costs per Schedule 74, Attachment "B," Section 7 – "Compensation and Payment." City staff and the engineering design team have met with PSE on several occasions and are satisfied that the agreement, proposed costs, and schedule are consistent with the project schedule and are within the project funding levels previously approved by the Council. Note that individual property owners will have responsibility for costs associated with converting their service connection to the new underground system.

Mr. Johnston also noted that the overhead utility undergrounding, as shown in the agenda bill's table, was reduced down to \$1 million, then increased to \$1.4 million, and now this figure has been lowered to \$670,000. 2011's tariff rate has not come into

effect yet and is still based on 2010; expect a \$9,000 to \$15,000 increase which can be accommodated in the funding. Outreach funding has also been reduced from \$170,000 to \$167,500.

Mayor Slowik called for public comments.

Mel Vance, P.O. Box 2882, Oak Harbor. Mr. Vance asked for clarification for what this cost covers: hook up power back to the businesses, up to the property line, whether it includes the customer connection, or just a box?

There were no other public comments.

Council Discussion

Council asked Mr. Johnston to respond to Mr. Vance's questions. As noted in the presentation, property owners will have responsibility for costs associated with their service connection to the new underground system. Notices have been sent to the property owners explaining their responsibilities and the City will continue to work with property owners so they will have enough time to prepare for connection. Discussion continued about REET funds which are not used and if they would return to that account (yes), the use of Real Estate Excise Tax for utility undergrounding, and if the system will be expandable. Discussion followed about the construction contract which is on-schedule, appreciation of Strider, Inc.'s professionalism, and staff's positive interaction with business and property owners.

MOTION: Councilmember Palmer moved to authorize the Mayor to execute the Project Construction Agreement and Project Plan with Puget Sound Energy (PSE) for construction work associated with the relocation of overhead power lines and conversion to an underground system. The motion was seconded by Councilmember Almberg.

VOTE ON THE

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

Mayor Slowik noted that businesses are open and encouraged the community to visit Pioneer Way and patronize the shops and restaurants.

Executive Session on Pending Litigation – Alpine Village Inc. v. City of Oak Harbor, et al

At 6:50 p.m. Mayor Slowik announced that Council would retire into Executive Session for thirty minutes and no action would be taken. Councilmember Severns asked to be recused from the Executive Session. City Attorney Hite noted that this is not a quasi-judicial matter and the appearance of fairness does not apply as it would in a quasi-judicial matter, but Council Members with a connection to this case should recuse. Councilmember Campbell asked Councilmember Almberg if he works for Bill Massey. Council Member Almberg responded that he has no interest in this case. Councilmember Campbell felt the community believes that Councilmember Almberg has

a working relationship and friendship with Mr. Massey. Councilmember AlMBERG asked to clear this perception and any implied conflict of interest since he was not familiar with Councilmember Severns' involvement or the case, and that as a Council Member, he represents the community. It was noted that Council Members could recuse if an interest is discovered during the Executive Session. City Attorney Hite explained that Council would not be sitting in a deciding role, but is being advised about what happens in this land use proceeding. Council Member Palmer had owned property near this property in 2006, but he is not named in this appeal.

With this discussion completed, Council then adjourned into Executive Session at 6:55 p.m. Councilmember Palmer recused himself from the Executive Session at 7:05 p.m. The Executive Session concluded at 7:25 p.m. with no action taken. Mayor Slowik called for a short break and the meeting reconvened at 7:30 p.m.

City Administrator's Comments

City Administrator Paul Schmidt talked about the Scenic Heights Trailhead ribbon cutting on April 7th, and the April 12th Public Forum on the Wastewater Treatment Plant Facility Plan at Hayes Hall, Skagit Valley College, 6:30 p.m. – 8:30 p.m. Future dates to remember: Change the June 21, 2011 Council Meeting to June 28, 2011, and the July 5, 2011 Council Meeting to July 12, 2011. These changes will come forward as a consent agenda item for Council's April 19, 2011 meeting.

Council Members' Comments

Council Members gave their standing committee and board reports. Councilmember Dudley talked about the Great Northwest Glass Quest, held on Camano Island, which has been a very successful marketing event. Mr. Dudley encouraged Council Members to look at this concept; a great and positive idea. Councilmember Campbell noted that Sherrye Wyatt, Whidbey-Camano Island Tourism Board's Public Relations and Marketing Manager, had just received an "Excellence in Destination Marketing" award from the Food and Wine Traveler's Association. Councilmember Palmer talked about the success of the Washington D.C. trip and NLC Conference saying it was a great honor to represent the City along with the others who attended. Councilmember Severns and Councilmember AlMBERG each praised the Pioneer Way Office, staff, and Strider crew. Councilmember Severns also talked about the IDIPIC luncheon he had attended on behalf of the City and the good work that IDIPIC does to educate the public about impaired driving. IDIPIC has a goal to eliminate all traffic deaths involving impaired drivers by 2030. Statistics in Washington are lowering: there were 721 impaired driving deaths in 1980; 400 in 2009. Councilmember Munns talked about AWC's strong contingent in Washington D.C. voicing Washington State's concerns; unfunded mandates are a continuing problem. Ms. Munns thanked Senator Murray for her work on getting the USS Nimitz homeported here, Congressman Larsen for his assistance regarding WWTP funding, and also felt honored to represent the City in Washington, D.C.: we were well-received even though the D.C. appointments coincided with Japan's crisis and establishment of the no-fly zone. There is strong support for our community and military – Whidbey is strong because Oak Harbor considers the Navy a community partner.

Councilmember Alberg had represented the City at the Irish Wildlife Society's Annual St. Patrick's Day Parade – a lot of fun. Councilmember Severns had also attended.

Mayor's Comments

Mayor Slowik talked, in detail, about the NLC Conference and Washington D.C. meetings (along with Councilmembers Palmer, Paggao and Munns). First Lady Michelle Obama was the keynote speaker and had talked about the child obesity project "Let's Move." With Councilmember Munns' assistance, the City will continue its support of this program and contact the school district to assist in getting students to become more active. Mayor Slowik talked about the meetings with senators and congressmen, and the in-depth meeting concerning the Waste Water Treatment Plant (WWTP). Mayor Slowik would expect to see Senator Cantwell's staff here to follow up on this discussion and Oak Harbor's progress. Senator Murray was a strong leader in keeping the P8s and related jobs on Whidbey and Oak Harbor's team met with her military advisor for an hour and a half discussing the history of zoning, APZ zoning, and noise zones. Mayor Slowik talked about the meeting with Congressman Norm Dicks (6th District) regarding the P8 budget. Mayor Slowik also thanked Congressman Rick Larsen for his commitment to this issue, his assistance in coordinating with Admiral Woods (a former Whidbey resident who now oversees base strategies at the Pentagon), and the \$191,000 in funding Congressman Larsen helped obtain for the WWTP study. Even though Oak Harbor's contingency was small, and with the disaster in Japan, everyone met with them. Mayor Slowik did not think there is consideration for closing NASWI in spite of the P8s since other units can be moved in. An Oak Harbor team has been meeting with the Navy in Washington D. C. for twenty years and has continued to take action to protect NASWI at both the City and County levels. Mayor Slowik also talked about meeting with Admiral Greenert, Vice Chief of Naval Operations, who will most likely be appointed as new Chief this next year as Admiral Roughead leaves this position, the meeting with Ray Mabus, Secretary of the Navy, and Secretary Mabus' staff members with thanks for their assistance with berms and levies around the Seaplane Base's Sewer Lagoon Treatment Plant.

ADJOURN

With no other business coming before the City Council, Mayor Slowik adjourned the meeting at 8:00 p.m.

Connie T. Wheeler
City Clerk

Mayor Slowik & Council members

Exhibit A

I come before you because of some questions I read posed by the WNT a few issues ago. Having double-checked w/ several former City Council members it was remembered clearly we were instructed based upon advice provided by the past City legal Counsel, Council members were advised in the best interest of the City and its citizens to recuse themselves from Council actions/activities if they had past close association or may have had past / current / future expectations of compensation from involved parties. The Mayor, as the WNT posed, is this not the same stipulations placed upon the current Council members?

And, might this also include any informational meetings open / closed to the public, in the interest of the appearance of fairness?

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR



PROCLAMATION IN RECOGNITION OF

ARBOR DAY

WHEREAS, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and;

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and;

WHEREAS, Arbor Day is now observed throughout our nation and the world, and;

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen and provide habitat for wildlife, and;

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and countless other wood products, and;

WHEREAS, trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community, and;

WHEREAS, since 2003, the City of Oak Harbor has been continually recognized by the Arbor Day Foundation as a Tree City, and;

NOW, THEREFORE, WE, Jim Slowik, Mayor, and Councilmembers of the City of Oak Harbor do hereby proclaim **April 13, 2011** as **Arbor Day** in the City of Oak Harbor, and urge all citizens to celebrate Arbor Day, support efforts to protect our trees and woodlands, and to plant trees.

Signed this 5th day of April, 2011



Jim Slowik, Mayor

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR



PROCLAMATION IN RECOGNITION OF

EARTH DAY

WHEREAS, The first Earth Day was celebrated on April 22, 1970, with the goal of inspiring environmental awareness and encouraging the conservation, protection, and appreciation of our nation's natural resources, and;

WHEREAS, the Earth Day movement has created a groundswell of public support, leading to the protection of our nation's land, air and water resources, and;

WHEREAS, in 1990, Earth Day went global and garnered the support of 200 million people from 141 countries in an effort to raise international awareness, and;

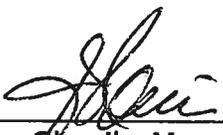
WHEREAS, the global community now faces extraordinary challenges, such as global health issues, food and water shortages, and economic struggles, and;

WHEREAS, there are economic, environmental and social reasons for state and local governments to initiate energy efficiency and renewable energy practices, and;

WHEREAS, Earth Day offers citizens an unprecedented opportunity to take a moment to consider what each of us can do to ensure the long-term sustainability of the environment.

NOW, THEREFORE, WE, Jim Slowik, Mayor, and Councilmembers of the City of Oak Harbor do hereby designate **April 22, 2011** as **Earth Day** in the City of Oak Harbor.

Signed this 5th day of April, 2011



Jim Slowik, Mayor

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

Bill No. 4

Date: APRIL 5, 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

SUMMARY STATEMENT

City Council will accept public comments for items not otherwise on the agenda for the first 15 minutes of the Council meeting. You may also speak to any of the consent agenda items.

City of Oak Harbor
City Council Agenda Bill

Bill No. 4A 5A
Date: April 5, 2011
Subject: Re-Appointment – Community
Police Advisory Board - Niiro

FROM: Jim Slowik, Mayor

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

PS Paul Schmidt, City Administrator
DM Doug Merriman, Finance Director
M Hite Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to recommend the re-appointment of Cathy Niiro to the Community Police Advisory Board.

AUTHORITY

The Community Police Advisory Board is a nine-member board appointed for a four-year term in accordance with OHMC 2.50.030. Board members are appointed by the Mayor, and confirmed by the City Council.

SUMMARY STATEMENT

Ms. Niiro was first appointed to the Community Police Advisory Board in April 2004 to fill an unexpired term on the Board, which expired in 2007. She was then re-appointed for a four-year term which expires April 2011. She has confirmed that she will serve another term if re-appointed. If re-appointed, her term will expire in April 2015. Ms. Niiro is an active, valued member of the Board.

Mayor Slowik recommends that Ms. Cathy Niiro be re-appointed to the Community Police Advisory Board.

RECOMMENDED ACTION

Approve the recommendation to re-appoint Ms. Niiro to the Community Police Advisory Board.

ATTACHMENTS

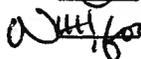
MAYOR'S COMMENTS

City of Oak Harbor
City Council Agenda Bill

Bill No. CJA 5B
Date: April 5, 2011
Subject: Appointment – Community
Police Advisory Board - 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

PURPOSE

The purpose of this agenda bill is to recommend the appointment of Lauren Nelson to the Community Police Advisory Board.

AUTHORITY

The Community Police Advisory Board is a nine-member board, with one member being a currently enrolled high school student. In accordance with OHMC 2.50.030, members will serve a four-year term with the exception of the high-school age student, whose term will be one year. Board members are appointed by the Mayor, and confirmed by the City Council.

SUMMARY STATEMENT

The High School Student member position became available due to the expired term of Joeshua Johnson. Ms. Nelson is currently enrolled in Oak Harbor High School. If appointed, her term would expire April 2012. Mayor Slowik recommends that Ms. Lauren Nelson be appointed to the Community Police Advisory Board as the High School Student member.

RECOMMENDED ACTION

Approve the recommendation to appoint Ms. Nelson to the Community Police Advisory Board.

ATTACHMENTS

Ms. Nelson's biography.

MAYOR'S COMMENTS

Biography Form

Recommended Board Appointment for: Police Community Advisory Board (CAB)

Name: Lauren Nelson Date: 2/19/11

Address: 1483 NW 5th Ave.

City, State, Zip: Oak Harbor, WA, 98277

Mailing Address (if different): _____

Phone: Home _____ Work _____ Cell 360-672-0050

Email: laurennelson23@hotmail.com

Resident of Oak Harbor/Whidbey Island for: 15yrs. 8m. years/months

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

High School Student

Local Group or Civic affiliations: First United Methodist Church youth group.

Special Interests: Traveling, Knitting, Reading, Computers, and learning foreign languages.

Other General Comments: I am hoping to participate in the C.A.B. in order to explore a possible career in Law Enforcement and at the same time, serve my community.

When completed, please return to:

Martha Folsom, Oak Harbor Police Department, 860 SE Barrington Drive, Oak Harbor, WA 98277

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

Bill No. CHA 5a
Date: April 5, 2011
Subject: Interlocal Agreement with Oak Harbor School District for Safe Routes to School

**FROM: Cathy Rosen, Public Works Director
Eric Johnston, City Engineer**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

JS Jim Slowik, Mayor
PS Paul Schmidt, City Administrator
DM Doug Merriman, Finance Director
MH Margery Hite, City Attorney, as to form

PURPOSE

This agenda bill requests approval of an interlocal agreement with the Oak Harbor School District to provide support for the School District's Safe Routes to School program with City staff and resources.

AUTHORITY

The Interlocal Cooperation Act, Chapter 39.34 RCW, authorizes public entities to contract to do jointly that which each is authorized to do individually.

SUMMARY STATEMENT

Safe Routes to School is a Federal, State and local effort to enable and encourage children to walk and bicycle to school safely. The goal of the Safe Routes to School project is to enhance safety of school children walking to and from school and thereby enable more children to walk to and from school. This is consistent with the goals and policies of the Oak Harbor Comprehensive Plan. The Washington State Department of Transportation (WSDOT) Safe Routes to School Program provides funding resources to support local communities with Safe Routes to School. There are three elements to Safe Routes to School – pedestrian education, engineering improvements to the pedestrian transportation network and traffic law enforcement.

The Oak Harbor School District was awarded a grant for a Safe Routes to School on June 8, 2009. The majority of the grant, \$310,925, is designated for engineering improvements to student walking routes in Oak Harbor. The proposed improvements are 8 crosswalk warning systems (flashing crosswalks) to be installed at arterial street crossings frequented by students walking to and from school and a short section of sidewalk near Broad View Elementary School. In addition, the grant includes \$4,000 for purchase of one laser-type speed gun to facilitate speed enforcement in school zones by the Oak Harbor Police Department.

Council approved commitment of City resources in support of the Safe Routes to School program on May 6, 2008. The City engineering staff functions as the School District's engineer for the pedestrian street improvements providing construction plans, specifications and estimates, construction contract documents, construction inspections and support of construction contract administration. The estimated value of the City staff time for these in-kind services is \$30,600. There is no cash match required from City funds to participate in project. The crosswalk warning systems and the new sidewalk will remain City facilities after installation is completed. The City will be responsible for the maintenance and operations costs of these facilities upon completion.

STANDING COMMITTEE REPORT

The Safe Routes to School Project has been presented and updated at the Public Works Standing Committee Meeting on January 8, 2009

RECOMMENDED ACTION

It is recommended that the City Council approve the Interlocal Agreement with the Oak Harbor School District for the Safe Routes to School project and authorize the Mayor to sign the agreement.

ATTACHMENTS

Interlocal Agreement
Project Locations Figure

MAYOR'S COMMENTS

**INTERLOCAL AGREEMENT
SAFE ROUTES TO SCHOOL GRANT FUNDS**

THIS INTERLOCAL AGREEMENT is made and entered into pursuant to Chapter 39.34 of the Revised Code of Washington, by and between Oak Harbor School District No. 201 a political subdivision of the State of Washington, acting by and through its School Board, (the "OHSD") and the City of Oak Harbor, a municipal corporation organized under the laws of the State of Washington, and wholly situated in Island County, Washington, (the "City"), on the date shown below.

RECITALS

- A. The City of Oak Harbor and Oak Harbor School District jointly prepared and applied for a Safe Routes to School grant through a program administered by the Washington State Department of Transportation to improve safety for school age pedestrian walking to and from schools in the City of Oak Harbor
- B. The State of Washington awarded a \$339,925 grant to the Oak Harbor School District for the improvements.
- C. The City of Oak Harbor is a Certified Agency with the Washington State Department of Transportation for the administration of transportation grant funded construction projects
- D. The Project is consist with the goal and policies for pedestrian safety listed in the City of Oak Harbor Comprehensive Plan Transportation Element.
- E. The City has the appropriate statutory authority pursuant to Chapter 35A.11 RCW, and is ready, willing, and able to complete the Project described herein, and the parties are entering into this Agreement to carry out such purpose.
- F. Entry into this Agreement is authorized under Chapter 39.34 of the Revised Code of Washington, the Interlocal Cooperation Act.

AGREEMENT

1. For and in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

2. Purpose. The purpose of this Agreement is to allow the OHSD to reimburse the City for costs of a pedestrian safety improvement Project known as the Safe Routes to School project, said improvements are more particularly described in the Safe Routes to School Grant Application submitted to WSDOT on May 1, 2008 and made part of this Agreement as Exhibit A. In completing the project the City will: Act as the Certified agency AND Design and construct (including all engineering, permitting, administration and all other work) the roadway and sidewalk improvements described in the agreement AND Purchase laser speed detection devices and use said devices for enforcement of speed limits within school zones. The OHSD will retain responsibility for all other aspects and requirements of the grant project.

3. Project Time / Budget. Work on the Project shall be substantially complete within 24 months from the effective date of this Agreement. For purposes of RCW 39.34.030(3)(d), the City will establish and maintain a Project construction budget. The City will be responsible for acquiring, holding and disposing of Project property. Unless otherwise agreed by the parties by subsequent written instrument, the OHSD shall not own any real or personal property acquired with the funds distributed to the City hereunder.

4. Construction. The OHSD shall have no responsibility for the design, construction or Project management of said Project. The City shall have the sole authority to determine its design, construction and Project management, and to enter into partnerships, contracts, or other legal arrangements with potential investors and/or users thereof to assist in financing and/or construction and permitting, in the manner allowed by law.

5. Allowable uses. All funds disbursed by the OHSD to the City under this Agreement shall be used by the City solely for Project costs considered permitted uses under the terms of the Highways and Local Programs State Funding Agreement entered into between the OHSD and the Washington State Department of Transportation which is made part of this Agreement as Exhibit B The City hereby warrants and guarantees that the said Project shall be completed for uses as described therein.

6. Financing. The reimbursement to the City from OHSD for this Project will be in the not to exceed amount of \$314,925. Upon receipt of a request for reimbursement and documentation evidencing that the City has paid Project costs allowable under this Agreement, the OHSD shall pay said reimbursement request within ninety (90) days of receipt.

7. Repayment Guarantee. In the event that it is determined that any portion of the funds provided by the OHSD is used for any purpose not authorized under this Interlocal Agreement, the City hereby guarantees that it will repay to the OHSD all such funds, together with accrued interest at the same rate as if the funds had been invested with the Washington State Local Government Investment Pool. Any repayments due to the County shall be paid by the City within ninety (90) days of written request made by the County.

8. Documentation. The City shall maintain for a period of six (6) years proper records documenting that the funds provided by the County were used solely for the purposes contained herein. The City shall make Project records available for inspection or audit by the OHSD or its duly authorized representatives.

9. Indemnification. The City shall be solely responsible for administration of the Project. The City shall at all times protect, indemnify and save harmless the OHSD from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable counsel fees, and expenses) imposed upon or reasonably incurred by or asserted against the OHSD on account of (i) any failure of the City to comply with any of the terms of this Agreement or (ii) any loss or damage to real or personal property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Project or the use or financing thereof or (iii) any use of the Project in violation of applicable law (including environmental laws); provided, the City has no obligation to indemnify the OHSD for any claim or liability resulting from the County's negligence or willful misconduct. This paragraph shall survive the completion, expiration, and/or termination of this Agreement.

The City shall maintain, during the life of the Agreement, Industry Standard Occurrence Commercial General Liability Insurance in the amount of \$1,000,000.00 Per Occurrence and \$2,000,000.00 Aggregate, including Premises/Operations, Products/Completed Operations, Blanket Contractual Liability and Personal Injury Coverage, to protect the City from claims for damages for bodily injury, including wrongful death, as well as from claims of property damage which may arise from any operations under this contract whether such operations be by the City or by anyone directly employed by or contracting with the City.

The City shall maintain, during the life of this Agreement, Business Automobile Liability Insurance in the amount of \$1,000,000.00 Bodily Injury and Property Damage per combined single limit to protect the City from claims which may arise from the performance of this Contract, whether such operations are by the City or by anyone directly or indirectly employed by the City.

10. No Separate Legal Entity. It is not the intention that a separate legal entity be established to conduct this cooperative undertaking. For purposes of RCW 39.34.030(4)(a), the City's chief administrative officer shall administer the Project.

11. Modification of the Agreement. This Agreement may be modified only by the written consent of each party.

12. Arbitration. Any dispute between the parties concerning the application of or violation of the express terms of this Agreement shall be resolved through arbitration. For purposes of arbitration, each party shall pick its own arbitrator and the two arbitrators within ten (10) days shall pick a third arbitrator. If the two arbitrators do not agree within ten (10) days to pick a third arbitrator, either party may apply to the Superior Court of Island County to select a third arbitrator. A majority decision of the arbitrators shall be final and conclusive.

Except where expressly provided in this Agreement, the arbitration shall be governed by Ch. 7.04A RCW. Washington statutes of limitation apply to arbitration proceedings under this Agreement. The cost of arbitration shall be borne by each party paying for its own arbitrator and its attorney fees and costs. Should all parties participate in an arbitration, those parties' arbitrators shall meet and choose an arbitrator who shall join in deciding the matters in the dispute in the manner set forth above. The arbitrator will be compensated by the parties as follows: Each party shall pay one half the costs of all arbitration including the compensation for the third arbitrator. Each party shall pay the cost for the arbitrator it selects.

13. Term of Agreement and Termination. This Agreement shall become effective on full execution hereof and compliance with Section 14, and shall expire upon the payment in full to the City, if any, owed by the OHSD pursuant to Section 6 of this Agreement.

14. Filing of Agreement. Under RCW 39.34.040, prior to its entry into force this Agreement must be either filed with the Island County Auditor or, alternatively, listed by subject on the City's Internet website.

15. Survival. Sections 5, 7, 8, 9, 10 and 13 of this Agreement shall survive the termination of this Agreement.

OAK HARBOR SCHOOL BOARD

ISLAND COUNTY, WASHINGTON

By: _____ Date: _____

Dave Sherman, Chair

Attest:

Clerk of the Board

CITY OF OAK HARBOR

By: _____ Date: _____

Jim Slowik, Mayor

Attest:

City Clerk

**2008 Safe Routes to School
Grant Application Form**



**Washington State
Department of Transportation**

Project Title and Location: *Safe Routes to Oak Harbor Schools, Oak Harbor, WA*

School Name: *Broad View Elementary School, Oak Harbor Elementary School, Hillcrest Elementary School, Olympic View Elementary School, Crescent Harbor Elementary School, North Whidbey Middle School, Oak Harbor Middle School, Oak Harbor High School*

Lead Agency and Project Manager (Name, address, phone & fax number, email address)

Oak Harbor School District #201
Bruce Worley, Executive Director for Operations
350 S. Oak Harbor Street
Oak Harbor WA, 98277
Phone: (360) 279-5007
Fax: (360) 279-5025
Email: bworley@ohsd.net

Total Grant Request Amount: (Provide the total grant request amount and identify how the funds will be divided for each of the three components: engineering, education and enforcement)

Total grant request: \$339,925
Engineering: \$311,925
Education: \$24,000
Enforcement: \$4000

Legislative District

10th Legislative District

Project Summary (Describe the project specifically in 4 to 5 sentences, be sure to address each of these elements – Engineering/Education/Encouragement/Enforcement)

Our Safe Routes to School Partnership consisting of team members from the Oak Harbor School District, City of Oak Harbor Engineering Department, Oak Harbor Police Department, and Island County Public Health in Island County, Washington, is committed to implementing substantial long-term solutions to increase the number of children who walk and bike safely to Oak Harbor schools. Engineering improvements will include: installing eight lighted crosswalk warning systems at arterial street crossing locations that serve multiple schools in the district, designating a bicycle route along Fairhaven Ave. and SW 6th, installing a missing sidewalk link adjacent to Broad View Elementary, incorporating additional street lighting on Whidbey Avenue, and installing additional bicycle parking racks at several schools. Oak Harbor schools will pilot a new bicycle safety curriculum supported by the state legislature, implement programs for walking and biking to school, start every school year with a walking field trip including pedestrian safety instruction, and promote walk/bike programs through school newsletters, events, and SchoolShare. The partnership is dedicated to sponsoring workshops for school staff and interested community members on opportunities for providing input on and utilizing the existing school walk route maps, which will be incorporated into an educational handout to make them more accessible to parents, students, and staff. The Oak Harbor Police Department will enforce school zones by ensuring that an officer is in the area, following up on all violations, locating a speed trailer at schools, upgrading to laser radar systems, and incorporating more formal training for crossing guards into the existing crossing guard program.

Recent Progress (Describe any efforts or portions of the project that have been completed or are underway)

Engineering – The City of Oak Harbor, through the Transportation Element of the City of Oak Harbor Comprehensive Plan, has established goals and policies for improving the pedestrian environment city-wide. A pedestrian corridor map has been developed which depicts routes through the City that are or will become enhanced pedestrian thoroughfares. The Oak Harbor City Council has formally agreed to support the OHSD in this proposal by authorizing City Engineering Division to provide engineering services to the School District. The Engineering Division has prepared preliminary cost estimates for the engineering improvements proposed in this application.

Education & Encouragement — Oak Harbor Elementary currently operates a walking school bus program, and is the first school outside of Seattle to participate in piloting the SchoolShare program. Broad View Elementary instituted "Fun Feet" Friday, a program that encourages students to pledge to walk or bike to school on Fridays. Broad View Elementary is still developing their walking school bus program during "Fun Feet" Friday. Hillcrest and Broad View Elementary Schools promote the "No-Idle Zone" program. Their walking/biking programs are designed to get more families involved through distribution of educational materials in parent take-home packets, school newsletters, and at such events as "Get Moving" Family Fun Night. Broad View Elementary conducts a spring enrichment class to improve more kids' skills and confidence in biking. Recently, the Washington State legislature approved funding for a new bicycle safety program in schools. Oak Harbor School District will be one of three districts in the state to conduct the pilot program. The funds will be used to purchase about 30 bicycles, helmets, and vests, and to set up a safe bicycle course. PE teachers will instruct students in safe practices, including paying attention to the rules of the road, maintaining bicycles in safe working conditions, and wearing helmets and safety vests. Oak Harbor Middle School currently has a small bicycle safety program for a small group of its students. Oak Harbor School District submitted a PEP grant proposal for a project called *Island Fit for Life*, which aims to bring PE and nutrition programs into alignment with the Washington State EALRs. Partners include Island County Public Health, Skagit Valley College, Whidbey General Hospital, and the Naval Air Station Physical Activity Center. Grant recipients are announced in June.

Enforcement – The Oak Harbor Police Department has an on-going program of enhanced traffic law enforcement in school zones. The law enforcement program consists of a patrol officer stationed in a school zone for approximately ½ hour prior to the start of the school day and again in the afternoon when school is dismissed. The OHPD has been awarded 5 grants in the past 4 years, 4 from the Washington State Traffic Safety Commission and one from the Washington Association of Sheriffs and Police Chiefs for school zone law enforcement. The grant funds have been used to purchase radar speed guns, a mobile speed display sign, flashing school zone lights and motor cycle video cameras. This equipment is primarily used for traffic enforcement in school zones.

PROJECT SCHEDULE AND COST SUMMARY SECTION

Safe Routes to School Project Milestones

- Grant award to OHSD
- OHSD implements project
- OHSD initiates staff workshops and training
- OHSD aligns safe walking curriculum with current educational curriculum
- Completion of construction plans and specifications for engineering improvements
- Construction contract awarded
- Construction of engineering improvements completed
- Laser speed guns purchased and deployed by OHPD
- Students walking to school increases, education and encouragement programs mature and evolve to meet increased demand.

Project Element	Scheduled	Amount
Education/Encouragement	Mo/Yr On-Going	\$24,000
Enforcement	Mo/Yr On-Going	\$4000
Project Definition (agreement signed)	Mo/Yr 09/09	n/a
Begin PE	Mo/Yr 10/09	\$30,000 (local match, not grant)
Environmental Docs Approved	Mo/Yr 03/10	\$1,000 (local match, not grant)
ROW Complete (certification)	Mo/Yr 04/10	\$0.00

Exhibit "A" to Interlocal Agreement
Safe Routes to School Grant Funds

Contract Advertised		Mo/Yr 05/10	\$5,000 (local match, not grant)
Open to Public (operationally complete)		Mo/Yr 09/10	n/a
Project Cost Summary Note applicable costs	Dollars in thousands	Percent of total	2009-12 Cash Flow (expenditures billed to WSDOT):
Engineering:			<u>Date</u> <u>Planned</u>
Preliminary Engineering	\$5,000	1.47%	9/09 \$ 7,464
Right-of-Way	\$0	0%	12/09 \$3,464
Construction	\$305,925	89.99%	3/10 \$ 8,464
Operations/Services	\$0	0%	6/10 \$ 54,592
			9/10 \$ 255,511
Education/Encouragement Program	\$24,000	7.06%	12/10 \$ 3,465
			3/11 \$ 3,465
Enforcement Program	\$4,000	1.17%	
Evaluation	\$1,000	0.29%	
Total Grant Request:	\$339,925		
			Est. Re-appropriation \$ _____
			Future Biennium \$ _____
			TOTAL \$ 339,925

PROJECT DESCRIPTION SECTION

Type of School (Check schools that apply):

Primary School (K-6 grade) 5
 Middle School 2
 High School 1

Current Conditions. Describe the current conditions (e.g., existing roadway conditions, speed, risk factors).

There are arterial streets adjacent to or near all of the schools of the Oak Harbor School District. These streets convey larger traffic volumes than other City streets. Arterial speed limits are 30 and 35 MPH and in school zones between the hours of 7:00 am and 4:00 pm, 20 MPH. There are 7 locations where student pedestrians attending OHSD schools cross arterial streets at unsignalized intersections and one mid-block arterial crossing. It is not possible to implement an effective Safe Routes to School program based on routes that do not cross arterial streets. Many parents have serious concerns regarding student pedestrian safety at arterial crossings and are reluctant to allow their children to walk to school.

Distance from project site to school. (Please check):

Less than ¼ mile 7
 ¼ to ¾ mile
 ¾ mile to 2 miles 1

Comments:

Posted Travel Speed. (Please check):

35-45 mph 1
 25-35 mph 5
 Less than 25 mph 3*

If operating speed is different, please list operating:
 *School Zone speed 20 MPH during attendance hours.

Prior vehicle/bike/pedestrian crashes at location within past three years. (Please check):

Number of Crashes _____

Comments:

Signalized Intersection Spacing or Distance to Alternate Crossing Facility. (Please check):

Greater than 1,320 feet 4
 1,319 - 660 feet. 3
 Less than 660 feet 1

Comments:

Exhibit "A" to Interlocal Agreement
Safe Routes to School Grant Funds

<p>Width of Roadway (Please check): 4 or more lanes (w/ two way left turn lane) _____ 4 lanes _____ <u> 1 </u> 2 or 3 lanes _____ <u> 7 </u> Comments:</p>	<p>Existing Traffic Volumes. (Please check): Greater than 15,000 ADT _____ 10,000 to 15,000 ADT _____ 5,000 to 10,000 ADT <u> 7 </u> Less than 5,000 ADT <u> 1 </u> Comments:</p>
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Horizontal and/or Vertical Stopping Sight Distance: (AASHTO green book or Design Manual)

	<u>Required (Feet)</u>	<u>Actual</u>
Doesn't meet minimum stopping distance requirements	_____	_____
Meets desirable to minimum stopping distance requirements	<u> 205 </u>	<u> 279 or more </u>

Comments: All proposed crossing locations meet sight distance design criteria

Project Impact. How will the project increase the number of children walking and biking to school safely. Describe the following project elements: Engineering, Education, Encouragement, and Enforcement.

Engineering – Lighted cross walk warning systems will alert drivers to the presence of pedestrians in the roadway from greater distances and increase the visibility of pedestrians. The greater sight distance and visibility from the warning systems will provide more time and stimulus for drivers to react thereby increasing the tendency to yield to pedestrians. The crosswalk warning systems and other improvements proposed will be designed and installed in appropriate locations in accordance with applicable Federal, State and Local requirements and current transportation engineering practices.

Education & Encouragement — This project proposes to make substantial long-term education and encouragement solutions, such as policy changes and adoption of safe walking and biking curriculum, which will continue after the project is complete. District elementary schools will start the school year with a walking field trip to include pedestrian safety instructions for parents and students. Secondary schools may use walking field trips if desired. Maps of suggested walking routes and pedestrian safety instructions will be made available for all parents and students in a handout provided. Interested schools will pilot a bicycle safety program. An enrollment safe walking handout, incorporating safe school walking routes and the positive health effects of walking and biking and modeled after the Island County Trails Pocket Guides, will be distributed to all students in the district. Schools will encourage students and their families to eat healthier and be more active, including walking and biking to school safely, following Broad View Elementary’s model for “Get Moving” Family Fun Night. Safe walking and safe biking routes will be available from the administrative office of every school and from the district web site. The school district will contract with Jim Denton to offer training and workshops for the staff on safe school walking and biking routes and will work with their partners to expand the number of walking school bus programs within the district. The district proposes to enroll in the SchoolShare program as soon as it is made available. As part of their Chronic Disease Prevention program, Island County Public Health will support the school district in evaluating and strengthening school wellness policies, especially as they relate to increasing physical activity and healthy eating opportunities for K-12 students. A Safe Routes to School committee will be organized and will be chartered to make recommendations on safe walking and biking to the Superintendent. The program will be evaluated for success by determining the increase in the number of students walking and biking and if the program has a high degree of interest from the local community. Other signs of success will be determining the numbers of hits on the district web page for Safe Routes to School and the interest of volunteers willing to help with programs for walking and biking to school.

Enforcement – The Oak Harbor Police Department has an effective and on-going enhanced traffic enforcement

Exhibit "A" to Interlocal Agreement
Safe Routes to School Grant Funds

program in the school zones. Laser speed measuring equipment will enhance the ability of the OHPD to enforce speed limits in the school zones.

It is anticipated that the combination of education and encouragement provided through the schools, improved pedestrian facilities and continued school vicinity traffic enforcement will result in greater numbers of students walking and bicycling safely to school. Crosswalk warning systems will increase the visibility of pedestrians in the roadways. Pedestrian education will enable the students to safely use the pedestrian facilities. The Oak Harbor Police Department will maintain a strong presence in the vicinity of the schools to reinforce traffic laws. These programs will increase pedestrian safety which, in turn, will alleviate some parental concerns regarding the safety of their children walking to school.

Implementation. Discuss the factors that ensure this project is ready to proceed (i.e., partnerships in place).

We established a Safe Routes to School Partnership consisting of team members from the Oak Harbor School District, City of Oak Harbor Engineering Department, Oak Harbor Police Department, and Island County Public Health that is committed to implementing substantial long-term solutions to increase the number of children who walk and bike safely to Oak Harbor schools. The School District has committed to role of lead agency for this grant application. The City Council voted to approve active participation in this project by the City engineering staff. City staff will provide all engineering services required to complete the engineering portions of this project. The work done by the City engineering staff will not be charged to the School District which provides, in effect, local matching funds to any grant funds awarded. Oak Harbor School District and the City of Oak Harbor developed school walk route maps, which have been uploaded to the district website and individual school websites. Broad View Elementary has collected baseline data for the number of students walking and biking to school. Other schools are ready to do the same. The Center for Safe Routes to School named a teacher at Oak Harbor Elementary as the Safe Routes to School Coordinator and supported her with a small stipend to coordinate local efforts. The Chronic Disease Prevention Specialist at Island County Public Health serves on the Center for Safe Routes to School Coordinating Committee to provide a link between state and local efforts. For the last two school years, Island County Public Health and community volunteers from the Environmental Health Assessment Team (EHAT) have been working closely with staff from the district to implement walking and biking programs in the schools. Additionally, the Oak Harbor Police Department will continue the program to emphasize traffic law enforcement in the vicinity of the schools.

The district has sought additional funding sources to foster increased physical activity opportunities, including safe routes to school initiatives, for its students. The legislature recently approved \$76,000 in funding to pilot a new bicycle safety program in the schools. Oak Harbor will be one of three districts in the state to conduct the pilot program. If OHSD's PEP grant proposal is accepted in June '08, the district would receive \$620,574 to establish *Island Fit for Life*, a project designed to change the daily physical and dietary habits of students to focus on lifelong fitness and health and help to meet the dire need for teacher training in fitness activities, nutrition, fitness assessments, and standards-based physical and nutrition education.

Schedule of Expected Expenditures for Education/Encouragement:

Safe Routes to School Program training and workshops (Jim Denton) - \$2500
Handouts (Maps, Stickers, letters, memos) - \$5000
Reproduction and miscellaneous supplies - \$500
School Program Coordinator Stipends - \$10,000
Safety related equipment for crossing guards and Walking School Bus supervisors - \$2000
Bike rodeo and other events that are focused on walking and bike riding for students - \$500
Cost for Bike racks for 5 elementary schools - \$3500
Total expected expenditures for Education and Encouragement - \$24,000

Island County Public Health will contribute staff time to evaluating and strengthening school wellness policies and the

Exhibit "A" to Interlocal Agreement
Safe Routes to School Grant Funds

Island Fit for Life project team, if established. All elementary teachers and physical education teachers are fully supportive of this effort and will assist in making it a permanent part of the district's safety program.

APPLICATION CONCURRENCE

School Principal/School District Official	
Name: Joyce Swanson Title: Principal, Broad View Elementary Address: 473 SW Fairhaven Drive, Oak Harbor, WA 98277 Email: jswanson@ohsd.net Phone: (360) 279-5250	Date: May 1, 2008
Lead Agency Approving Authority	
Name: Bruce E. Worley Title: Executive Director for Operations, Oak Harbor School District #201 Address: 350 S. Oak Harbor Street, Oak Harbor, WA 98277 Email: bworley@ohsd.net Phone: (360) 279-5007	Date: May 1, 2008
Local Law Enforcement Official	
Name: John Dyer Title: Lieutenant, Oak Harbor Police Patrol Division Address: 860 SE Barrington Drive, Oak Harbor, WA 98277 Email: jdyer@oakharbor.org Phone: (360) 279-4644	Date: May 1, 2008
WSDOT Region Administrator (if project is on a State Highway)	
Name: Title: Address: Email: Phone:	Date



**Washington State
Department of Transportation**
Paula J. Hammond, P.E.
Secretary of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

February 25, 2010

MAR 1 2010

Mr. Bruce E. Worley, Executive Director
Oak Harbor School District #201
350 South Oak Harbor Street
Oak Harbor, Washington 98277

**Oak Harbor School District #201
Safe Routes to Oak Harbor Schools
HLP-SR09(015)
2009 Safe Routes to School Program**

Dear Mr. Worley:

The above project has received fund authorization, effective February 23, 2010, as follows:

PHASE	TOTAL	STATE SHARE
Preliminary Engineering	\$28,000	\$28,000
Construction	\$311,925	\$311,925

Enclosed for your information and file is a fully executed copy of Highways & Local Programs State Funding Agreement LA-7132 between the state and your agency. All costs exceeding those shown on this agreement are the sole responsibility of your agency.

All future correspondence relating to the project is to be submitted to your Region Local Programs Engineer, Ed Conyers at (206)440-4734.

Sincerely,

Stephanie Tax
Manager, Program Management
Highways & Local Programs Division

ST:jg:ac
Enclosures

cc: Ed Conyers, Northwest Region Local Programs Engineer, MS NB82-121

EXHIBIT B

30



AGENCY

Highways and Local Programs State Funding Agreement Work by Public Agencies		Agency and Address Oak Harbor School District #201 350 S. Oak Harbor Street Oak Harbor, WA 98277
Agreement Number <i>HLP-5209(015)</i>	Maximum Amount Authorized \$339,925.00	Location and Description of Work (See also Exhibit "A") Install eight lighted crosswalk warning systems, install missing sidewalk link, incorporate added street lighting, install bicycle racks at various schools, Pilot a bicycle safety curriculum in Schools.
Participating Percentage	Project Number LA 7132	

This AGREEMENT is made and entered into this 23rd day of February, 2010, between the STATE OF WASHINGTON, Department of Transportation, acting by and through the Secretary of Transportation, hereinafter called the "STATE," and the above named organization, hereinafter called the "AGENCY."

WHEREAS, the AGENCY is planning the work shown above, and in connection therewith, the AGENCY has requested financial assistance for the project or program, and

WHEREAS, the AGENCY has requested funds for the above shown project or program, which has been selected by the STATE for funding assistance.

NOW THEREFORE, in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

Type of Work	Estimate of Funding		
	(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated State Funds
PE			
a. Agency - Education/Encouragement	23,500.00	0.00	23,500.00
b. Other - Enforcement	4,000.00	0.00	4,000.00
c. Other			
d. State - Education/Encouragement	500.00		500.00
e. Total PE Cost Estimate (a+b+c+d)	28,000.00	0.00	28,000.00
Right of Way			
f. Agency			
g. Other			
h. Other			
i. State			
j. Total RW Cost Estimate (f+g+h+i)			
Construction			
k. Contract	309,000.00	0.00	309,000.00
l. Other			
m. Other			
n. Other City of Oak Harbor	1,000.00		1,000.00
o. Agency	1,000.00		1,000.00
p. State	925.00		925.00
q. Total CN Cost Estimate (k+l+m+n+o+p)	311,925.00	0.00	311,925.00
r. Total Project Cost Estimate (e+j+q)	339,925.00	0.00	339,925.00

**I
General**

The AGENCY agrees to perform the above described work in accordance with the Project Application attached hereto as "Exhibit A" and made a part of this AGREEMENT.

Plans, specifications, and cost estimates shall be prepared by the AGENCY in accordance with the current State of Washington Standard Specifications for Road, Bridge, and Municipal Construction and adopted design standards, unless otherwise noted. The AGENCY will incorporate the plans and specifications into the AGENCY's project and thereafter advertise the resulting project for bid and, assuming bids are received and a contract is awarded, administer the contract, or if the project is of a size which the AGENCY is authorized to perform with its own forces under the laws of the State of Washington, the AGENCY may proceed with its own

All work performed under this AGREEMENT shall comply with the applicable provisions of state law.

**II
Payment**

The STATE, in consideration of the faithful performance of the work to be performed by the AGENCY, agrees to reimburse the AGENCY for the percentage of the actual direct and related indirect cost of the work shown above, up to the "MAXIMUM AMOUNT AUTHORIZED". The agency will comply with Governmental Accounting Auditing and Financial Reporting Standards and applicable state law and local regulations, policies and procedures. No payment will be made for work done prior to execution of this AGREEMENT.

Partial payments shall be made by the STATE, upon request of the AGENCY, to cover costs incurred. These payments are not to be more frequent than one (1) per month. It is agreed that any such partial payment will not constitute agreement as to the appropriateness of any item and that, at the time of the final audit, all required adjustments will be made and reflected in a final payment. The AGENCY agrees to submit a final bill to the STATE within forty-five (45) days after the AGENCY has

The AGENCY agrees that all costs in excess of the amount authorized and the AGENCY's matching funds shall be the responsibility of the AGENCY.

**III
Audit**

The AGENCY agrees that an audit may be conducted by the STATE.

During the progress of the work and for a period not less than three (3) years from the date of final payment to the AGENCY, the records and accounts pertaining to the work and accounting thereof are to be kept available for inspection and audit by the STATE and copies of all records, accounts, documents, or other data pertaining to the project will be furnished upon request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the three-year

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the day and year last written below.

AGENCY

By: Richard J. Schultz

Title: Superintendent of Schools

Date: 01-26-2010

**IV
Legal Relations**

No liability shall attach to the AGENCY or the STATE by reason of entering into this AGREEMENT except as expressly provided herein.

**V
Nondiscrimination**

The AGENCY agrees to comply with all applicable state and federal laws, rules, and regulations pertaining to nondiscrimination and agrees to require the same of all subcontractors providing services or performing any work using funds provided under this AGREEMENT.

**VI
Venue**

For the convenience of the parties to this AGREEMENT, it is agreed that any claims and/or causes of action which the AGENCY has against the STATE, growing out of this AGREEMENT or the project or program with which it is concerned, shall be brought only in the Superior Court for

**VII
Termination**

The Secretary of the Department of Transportation may terminate this AGREEMENT if the funding becomes unavailable or if the Secretary determines that it is in the best interest of the STATE.

**VIII
Final Report and Final Inspection**

Within ninety (90) days following the completion of the project and submission of the final billing for the project, a final report and/or final inspection shall be submitted to the Assistant Secretary for Highways & Local Programs containing the following information:

Non-Capital Projects

1. A description of the project or program.
2. A summary of actual costs of the project or program.
3. An evaluation of the project or program. This should address aspects such as transportation and/or other benefits to the public.

Capital Projects

1. A final inspection is required.

**IX
Supplement**

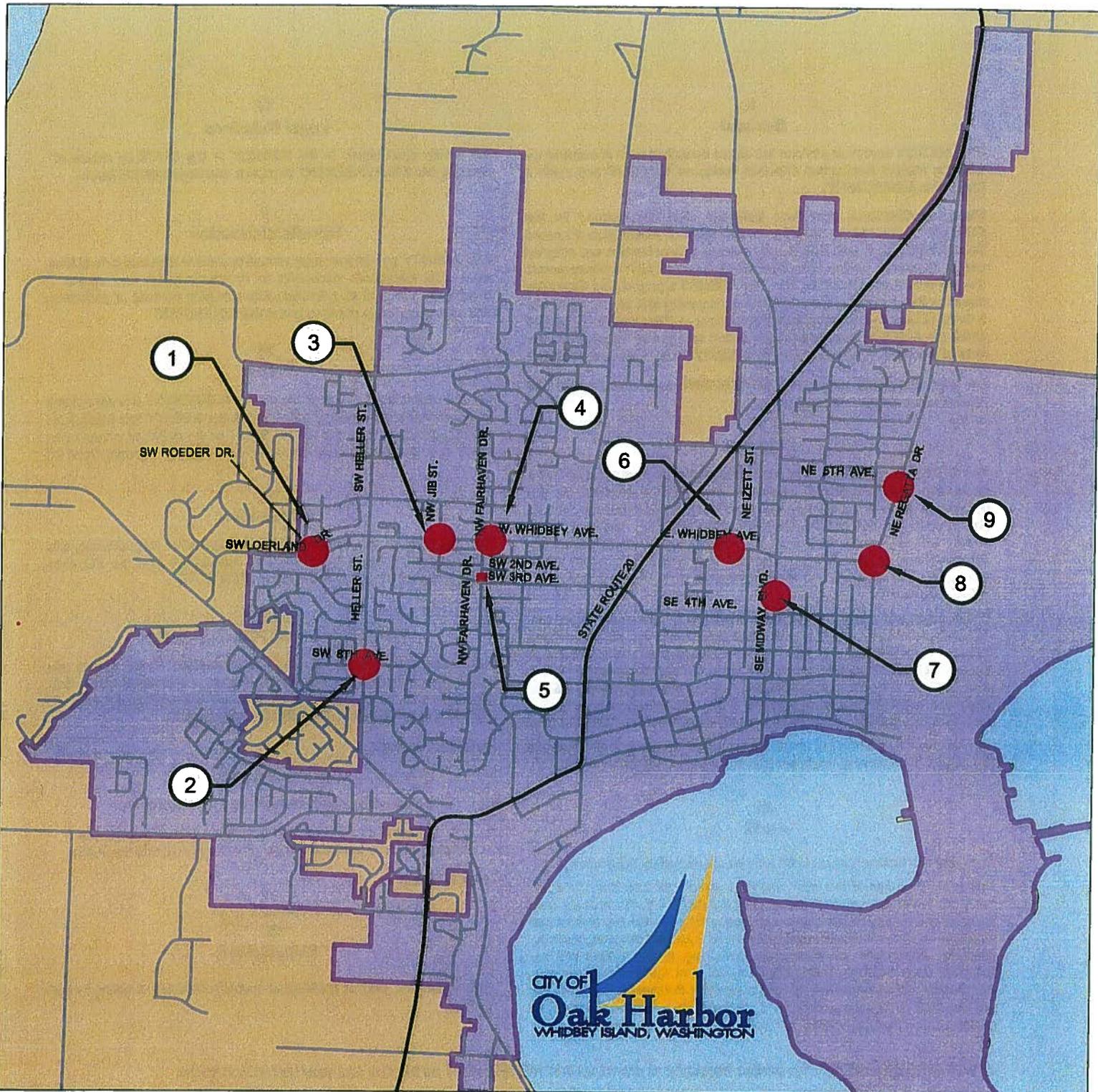
This agreement may be modified or supplemented only in writing by both parties.

STATE

By: [Signature]
Assistant Secretary for Highways and Local Programs

Date: _____

FEB 23 2010



SAFE ROUTES TO SCHOOL LOCATIONS

- | | |
|--|--|
| ① WEST LOERLAND DR. & SW ROEDER DR. | ⑥ E. WHIDBEY AVE. & NE IZETT ST. |
| ② SW HELLER ST. & SW 8TH AVE. | ⑦ SE MIDWAY BLVD. BETWEEN
E. WHIDBEY AVE. & SE 4TH AVE. |
| ③ E. WHIDBEY AVE. & JIB ST. | ⑧ E. WHIDBEY AVE. & REGATTA DR. |
| ④ E. WHIDBEY AVE. & FAIRHAVEN DR. | ⑨ NE REGATTA DR. & NE 5TH AVE. |
| ⑤ SW FAIRHAVEN DR. BETWEEN E. WHIDBEY AVE.
& SE 4TH AVE. (SIDEWALK) | |

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

Bill No. CJA 5D
Date: April 5, 2011
Subject: Interlocal Agreements with North
Whidbey Park and Recreation
District

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, as to form

PURPOSE

It is a goal of the City of Oak Harbor Parks Division to promote recreational activities for all residents. The City has provided, through Interlocal Agreements with the North Whidbey Park and Recreation District (District), Lifeguarding Services at the lagoon, including wading pool maintenance, Boat Rental Services at Windjammer Park and Recreational Services during the summer months for the citizens of Oak Harbor.

AUTHORITY

The Interlocal Cooperation Act, RCW 39.34.080, authorizes public entities to contract with other public entities to perform any governmental undertaking which each is authorized to do individually. The City is authorized to provide recreational services through RCW 35A.11.020. The North Whidbey Parks and Recreation District is authorized to provide recreation through Chapter 36.69 RCW.

SUMMARY STATEMENT

The District will be responsible for all aspects of the lifeguarding program, including providing a Safety Monitor for the lagoon area, scheduling, hiring, training and some general maintenance (housekeeping) responsibilities within a designated area. Also, the District will ensure that all lifeguards are certified, and will provide liability insurance for the lifeguarding program. The District will also be responsible for wading pool maintenance, including daily cleaning, water testing, purification and the daily opening and closing of the pool(s). The District will carry liability insurance on the staff members assigned to maintain and operate the wading pool(s). The 2011-2012 Parks Budget provides funding for these services.

Also, under a separate agreement, the District will once again be providing paddle boat and canoe rentals at the Windmill, and will pay the City \$100 per month for use of the Windmill for this purpose. This fee will cover the cost to the City for utilities and overhead and includes any leasehold excise tax that will be due.

Last year the Parks Division implemented a third Interlocal Agreement with North Whidbey Park and Recreation District for Recreational Services, which includes such programs as a Running Club, Sailing Program, Kids Love Soccer Program, as well as supporting the Teen Activity Council and other mutually agreed upon programs at City owned parks and facilities. This Agreement supports a continuing goal of the City, as stated in the Six Year Parks, Recreation and Open Space Plan, to work with North Whidbey Park and Recreation District to establish recreational programs in the community.

This agreement allows the use of the Marina's facilities in support of the sailing program. The District will insure the sailing program and also name the City as additional insured. There would be no cost to the City for the District to provide these services and there would be no cost to the District to use City facilities.

As the City of Oak Harbor has the facilities available for the recreational programs and the District has the necessary staffing to operate the programs, the City would allow the use of mutually agreed upon locations within the City's parks and facilities for these purposes. Field scheduling will be such as to not interfere with organized sports leagues that have field use agreements with the City.

STANDING COMMITTEE REPORT

These Interlocal Agreements will be discussed at the Public Works and Utilities Standing Committee meeting on April 7, and at the Park Board meeting on April 11, 2011.

RECOMMENDED ACTION

It is recommended that the City Council approve the Interlocal Agreements with the North Whidbey Park and Recreation District for Water Recreational Protection Services, Boat Rental Services and Recreational Services and authorize the Mayor to sign the agreements.

ATTACHMENTS

- ◆ Water Recreational Protection Services Agreement (Lifeguarding)
- ◆ Boat Rental Services Agreement
- ◆ Recreational Services Agreement (Running Club, Sailing Program, Flag Football, Kids Love Soccer Program, Teen Activity Council, etc.)

MAYOR'S COMMENTS

City of Oak Harbor

AGREEMENT WITH NORTH WHIDBEY PARK & RECREATION DISTRICT FOR WATER RECREATIONAL PROTECTION SERVICES AGREEMENT

This Agreement is made this ____ day of _____, 2011, between the City of Oak Harbor ("City") and North Whidbey Park and Recreation District ("District"). Generally, District agrees to furnish and the City agrees to pay for and accept lifeguarding, safety monitoring and water recreation services as described in Section 1 at its lagoon and wading pool facilities located in Windjammer Park, all subject to the terms and provisions of this Agreement.

Section 1. Purposes. The City allows public use of the Windjammer Park lagoon as a swimming area and the use of the wading pool for children. For these purposes, the City requires lifeguard services at the lagoon and general maintenance, oversight and operation of the wading pool. To accomplish these aims, it makes sense to enter into a cooperative arrangement with a service provider who has the skill to run this program and provide the necessary personnel. The District maintains a swimming pool and runs the program all year round. The District has specific experience in recruiting and providing guards; providing and maintaining lifeguarding services, and running water recreation programs. The District is willing to provide these services to the City at the Windjammer Park lagoon and wading pool, in exchange for which the City will provide compensation to the District.

Section 2. Services Provided. The District shall provide lifeguard services and a safety monitoring program for the City of Oak Harbor Parks and Recreation program at Windjammer Park for the term of this Agreement. These services shall include scheduling, hiring and training and oversight of qualified staff to perform lifeguard services in accordance with standards for lifeguard services at public parks and facilities in the state of Washington. The District shall also be responsible for scheduling, hiring and training and oversight of qualified staff to be responsible for safety monitoring for users of the lagoon and wading pool, in accordance with standards for safety monitoring services at public parks and facilities in the State of Washington. The District will provide lifeguarding and safety monitoring services at Windjammer Park during the hours that Windjammer Park is open for the term of this Agreement, to wit: Sunday through Thursday, 12:00 p.m. - 5:00 p.m., and Friday through Saturday, 11:00 a.m. - 6:00 p.m. The District will not provide services on July 4, 2011.

In addition to its primary responsibility for lifeguard services and safety monitoring, the District shall also perform general maintenance (housekeeping) responsibilities within a designated area set out in Exhibit A. These tasks include keeping the windmill office clean; sweeping the pathways around the swimming area of the lagoon and the swimming dock; picking up litter; and discarded clothing, towels, toys and floatation devices. The lifeguarding staff and safety monitor will also be responsible for removing driftwood from the lagoon. The area to be maintained will be designated in the contract (a map will be provided).

The District will assure that all lifeguards are qualified and certified to perform lifeguard services (holding a current Red Cross certificate or equivalent) and will provide liability insurance for the lifeguarding services.

The District shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the District, their agents, representatives, employees or subcontractors.

No Limitation. District's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the District to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

Minimum Scope of Insurance. The District shall obtain insurance of the types described below:

- a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
- b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent Districts, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the District's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage through insurance pool.
- c. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

Minimum Amounts of Insurance. The District shall maintain the following insurance limits:

- a. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- b. Commercial General Liability insurance shall be written with limits no less than \$3,000,000 each occurrence, \$9,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.

Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:

- a. The District's insurance coverage shall be primary insurance as respect the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the District's insurance and shall not contribute with it.
- b. The District's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII or Enduris – Washington.

Verification of Coverage. The District shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the District before commencement of the work.

The program shall run from **June 25, 2011 to September 5, 2011**, Sunday through Thursday from 12:00 to 5:00 p.m. and on Friday and Saturday from 11:00 to 6:00 p.m. Closed on July 4.

The District shall at all times during this Agreement cooperate with the City by assuring that the lifeguards provided are trained and certified to carry out the duties of lifeguard in an outdoor setting. The District shall provide adequate staffing to cover the facilities described. The City will provide lifeguards with a cellular telephone to call for emergency backup from the Police or Fire Department, Parks Division or ambulance.

The District shall provide a bi-weekly invoice to the City showing days and hours of services provided, including for which pay is requested and showing days when the water was too cold or raining to provide lifeguarding services.

Section 3. Duty of City to Pay for Services Provided. The City of Oak Harbor agrees to pay North Whidbey Park and Recreation District a maximum of **Twenty Six Thousand Eight Hundred Fifty Six Dollars (\$26,856)** for providing the services described in this Agreement.

Payment for services at the wading pool and lagoon shall be made per day that those services are provided. It is anticipated that the wading pool and lagoon will be open for **72** days during the summer months. The rate of compensation shall be Three Hundred Sixty Eight Dollars (\$373) per day.

Rainout days, determined by the District, are those days when the weather is reasonably determined to be too cold and/or rainy to open the pool and lagoon. The District will credit Two Hundred Dollars (\$200) per rainout day to the City, leaving the remainder to cover the cost of incidentals, ongoing costs, and the administrative costs of coordinating the shutdown.

The District will be allowed the use of office space in the Windjammer Windmill to use for their operation headquarters. The concession stand contractor will also utilize an area of the windmill.

City shall pay the District on a monthly basis, upon billing.

City and State Auditor shall have a right to audit the accounts and records of the District kept for these services at its offices 85 SE Jerome Street, Oak Harbor, Washington 98277.

Section 4. Maintenance of Grounds. The District's obligations under this Agreement shall also include:

The District shall provide wading pool maintenance. This will include the maintenance and operation of the East and West wading pool located at Windjammer Park. The pool will be open the same days and hours as the swimming lagoon. The District will be responsible for the daily cleaning, water testing-purification and the daily opening and closing of the pool. The District will also carry liability insurance on the maintenance staff members assigned to maintain and operate the wading pool.

City's obligations under this Agreement shall also include:

The City of Oak Harbor ("City") will be responsible for obtaining a Water Recreational Permit from the County; and conduct the initial pre-season clean-up, to include driftwood removal, necessary repairs to the dock and digging out the channel to the bay. The City will be responsible for the installation of the outdoor foot wash, shower and water slide. The City will supply all necessary safety/first aid supplies and equipment. The City will be responsible for all necessary repairs to the water slide, swimming dock, swim ladders, buoys, shower and foot wash. City Parks staff will do a weekly inspection of the swimming area to ensure that all equipment is safe and functional. The District will notify the Oak Harbor Parks Division immediately of any damage or problems with equipment they have identified to

ensure that the repairs are made in a timely manner. The City will assure that all City equipment is operational and in good repair before the District assumes control of operations.

The City will be responsible for the initial pre-season clean-up, which includes pumping out the pool, pressure washing, and ensuring that the circulation lines and pumps are functioning properly. The City will also provide all necessary pool chemicals, cleaning supplies and a chemical test kit.

Section 5. Additional Services. The City will allow the District to operate paddleboat and kayak rentals in the lagoon. City will provide storage of boats and equipment at Windjammer Park. The District will assume full responsibility for this program, including the maintenance of the boats, collection of fees, usage supervision, and will carry liability insurance for this activity as provided for in Section 2.

All collected rental fees will go to the District.

The District shall keep boats in repair and safe for use and shall operate such recreational services in a safe and prudent manner. If the City determines that this cannot be done safely, these services shall be shut down; provided, if there is a dispute on this matter, the District may seek arbitration of this issue.

Section 6. Term of the Agreement.

This Agreement shall be in effect from **June 25, 2011 to September 5, 2011**, unless terminated earlier by one of the parties pursuant to Section 15 herein.

Section 7. Cooperation.

- a. City staff and District staff shall cooperate in maintaining safe and reasonable recreational services at the City lagoon and wading pool.
- b. Both parties will work to assure adequate signage is posted concerning safe use of the lagoon and wading pool. It will be the City's responsibility to provide and pay for the necessary signage.

Section 8. Independent Contractor Relationship.

- a. The parties intend that an independent contractor relationship will be created by this Agreement. The City is interested primarily in the results to be achieved; subject to paragraphs herein, the implementation of services will lie solely with the discretion of the District. No agent, employee, servant or representative of the District shall be deemed to be an employee, agent, servant or representative of the City for any purpose, and the employees of the District are not entitled to any of the benefits the City provides for its employees. The District will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.
- b. In the performance of the services herein contemplated, the District is an independent contractor with the authority to control and direct the performance of the details of the work however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

Section 9. Indemnification/Hold Harmless

- a. **Indemnification.** The District shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the District and the City, its officers, officials, employees, and volunteers, the District's liability hereunder shall be only to the extent of the District's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the District's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

- b. Survival. The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

Section 10. Equal Opportunity Employer. Personnel employment shall be as per the existing Districts policy. The District shall not violate any of the terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the American with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state or local law or regulation regarding non-discrimination. Any material violation of this provision shall be grounds for termination of this Agreement by the City and may result in ineligibility for further City agreements.

Section 11. Non-Discrimination in Services. The District shall make all services provided pursuant to this Agreement accessible equally to all members of the public, regardless of disability or membership in any protected class, in conformity with the Americans with Disabilities Act, the Rehabilitation Act, the Washington Law Against Discrimination and all other applicable federal, state and local laws and regulations. The District shall also comply with RCW 49.60.500 – Community Athletic Programs – Sex Discrimination prohibited.

Section 12. Inability to Perform. The District shall not be liable to City for damages in the event the performance of the District service shall be delayed or prevented by fire, flood, earthquake, riot, strike or other labor dispute beyond the control of the District and without fault on its part; that wherever possible the District shall give City at least one hour's prior notice of its inability to perform such services for such reason. The District shall promptly resume performance on removal or cessation of the cause of the interference or delay.

Section 13. Licensing. The District shall maintain necessary licenses for carrying out its activities.

Section 14. Agreements and Covenants. The provisions of this Agreement are not entered into for the benefit of any third party nor are any provisions of this Agreement intended to be a guarantee or warranty of fitness of facilities for use. It is recognized that the swimming areas are open to the public and the weather and other natural conditions cannot be controlled, anticipated or easily detected.

Section 15. Notices.

- a. Except as otherwise provided in this Agreement, all notices given pursuant to this Agreement to City shall be in writing and shall be delivered to its Mayor at the City or at such other place as City may designate to the District in writing. Except as otherwise provided for in the Agreement, all notice given to the District shall be in writing and delivered to its Director at the office at 85 SE Jerome Street, Oak Harbor.
- b. All notices given pursuant to this Agreement to the District shall be in writing and shall be delivered to the address appearing at the beginning of this Agreement or to such other address as the District shall designate to City in writing.

Section 16. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the laws of Washington.

Section 17. Modification of Agreement. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if in writing signed by each party or an authorized representative of each party.

Section 18. Termination. Either party may terminate this Agreement by giving to the other party thirty (30) days' advance written notice of its intention to do so; provided, however, that such termination shall not affect rights acquired or obligations incurred prior to the effective date of termination.

Section 19. Assignment or Substituting of Rights or Obligation. The rights and duties of each party under this Agreement are personal to that party and may not be assigned or substituted or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.

Section 20. Paragraph Headings. The titles to the paragraphs of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

IN WITNESS WHEREOF, each party to this Agreement has caused it to be executed at Oak Harbor, Washington, on the date indicated below.

CITY OF OAK HARBOR

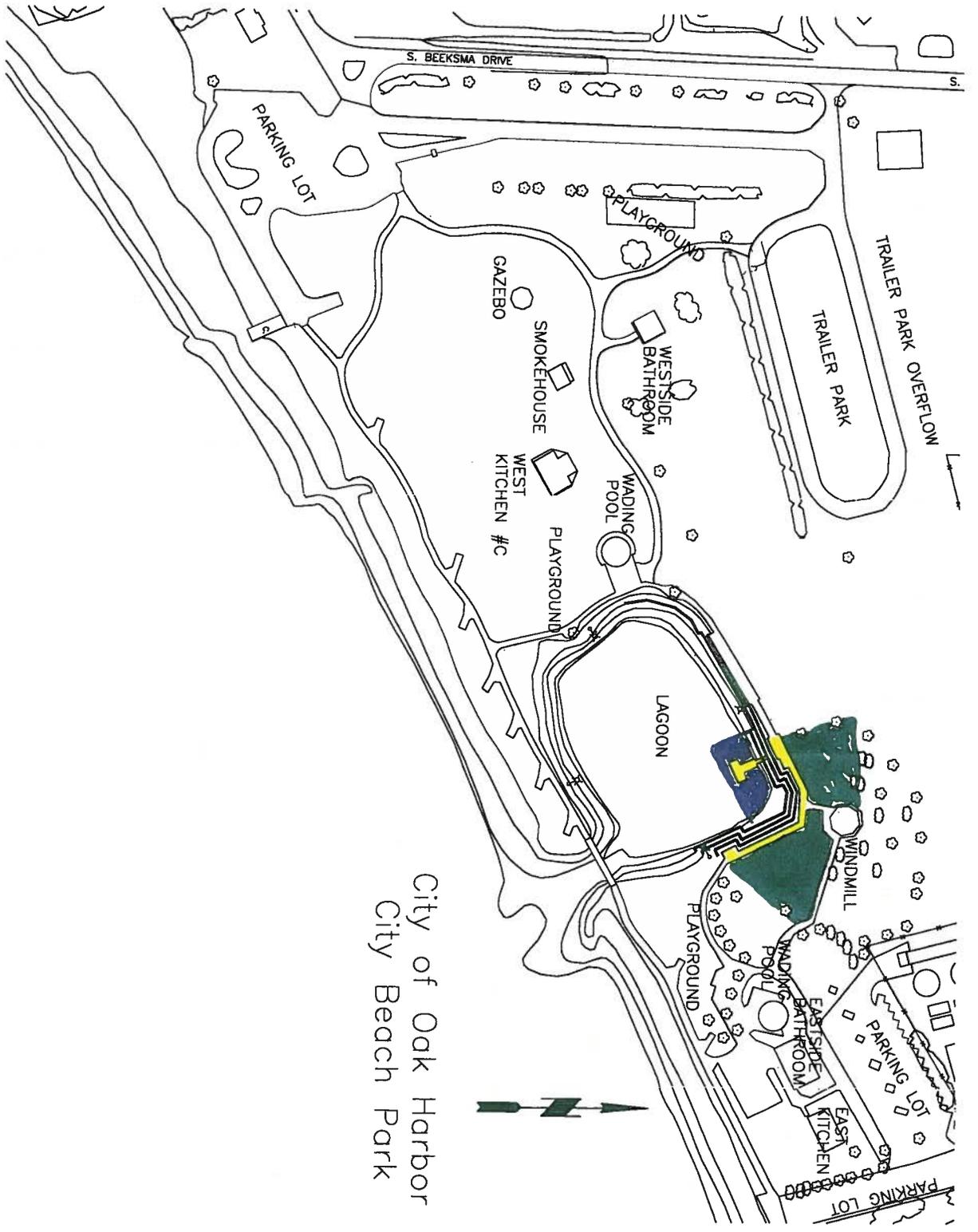
**NORTH WHIDBEY PARK &
RECREATION DISTRICT**

By _____
Jim Slowik, Mayor

By _____
Craig Carlson, Director

Date _____

Date _____



City of Oak Harbor
City Beach Park

72

- Area for Litter Control and removal of discarded clothing towels and toys
- area to be swept
- Swim area to be life guarded
- to include removal of drift wood.

City of Oak Harbor

AGREEMENT WITH NORTH WHIDBEY PARK & RECREATION DISTRICT FOR BOAT RENTAL SERVICES

This Agreement is made this _____ day of _____, 2011, between the City of Oak Harbor ("City") and North Whidbey Park and Recreation District ("District"). Generally, the District agrees to furnish, and the City agrees to accept, boat rental services as described in Section 1 at its lagoon facilities, located in Windjammer Park, all subject to the terms and provisions of this Agreement.

Section 1. Purpose. The City seeks the temporary services of a skilled independent organization capable of providing boat rental services to the general public at Windjammer Park.

Section 2. Services. The District shall provide boat rental services ("Services") located in the Windmill at Windjammer Park, in a manner consistent with the accepted practices for other similar services, performed to the City's satisfaction, within the time period prescribed by the City.

2.1 **Customer Service.** The District's employees, agent, representatives shall provide high quality customer service and shall treat all customers with courtesy and respect.

2.2 **Employee Appearance.** All District employees, agents, representatives or licensees shall have a neat, clean and sanitary personal appearance and those who come in direct contact with the public shall wear clothing or identification which distinguishes them as employees of the District.

2.3 **Staffing.** The Windmill shall be staffed in order to provide boat rental services to the public.

2.4 **Hours of Operation.** The boat rental Stand shall be open during the hours of 12:00 - 5:00 p.m. Sunday through Thursday, and 12:00 - 6:00 p.m. Friday and Saturday, unless the City requests and the District agrees to other hours of operation.

Section 3. Equipment.

3.1 The District shall supply the District's own equipment for purposes of carrying out this Agreement.

3.2 **Alterations.** The District shall not make any alterations, additions or improvements to the Windmill without the City's prior written consent, which consent may be withheld for any reason. In the event the City consents to the making of any alterations, additions or improvements to the Windmill, the same shall be made at the District's sole cost and expense, and in the event such alterations, additions or improvements are made to a structure, building or other improvements attached to the real property, the same will become a part of the real property and be surrendered to the City upon the termination of this Agreement. The City has no obligation to alter, remodel, improve, repair decorate, or paint the Windmill. The City shall provide water and electricity and solid waste disposal.

3.3 **Maintenance.** The District shall, at its sole cost and expense, maintain the Windmill area in good condition and repair, including, but not limited to, maintaining the Windmill in a neat, clean and sanitary condition and removing all garbage, trash or other debris on a regular basis pursuant to the City's instructions.

3.4 **Damage to Windmill.** If the Windmill or any part thereof or surrounding real property is damaged by the District, the District shall at its sole cost and expense, restore the Windmill to a condition equivalent to better than their condition immediately prior to such damage. The City will inspect and provide in writing an inventory of City equipment and condition of Windmill for use by the District as a base line for damage claims.

3.5 Utilities, Taxes and Expenses. The District shall pay all costs and expenses associated with the operation of the Windmill other than utility expenses for water, solid waste and power which will be paid by the City.

Section 4. Exclusive Right. The City hereby grants the District an exclusive right to rent boats in buildings of Windjammer Park, except during City approved special events, during the term of this Agreement. The City reserves the right to grant to other persons or entities any of the remaining rights contained herein or otherwise.

Section 5. Term. The term of this Agreement shall commence **June 25, 2011** and shall continue until the completion of the Services, but in any event no later than **September 5, 2011** ("Term"). This Agreement may be extended for additional periods of time upon the mutual written agreement of the City and the District.

Section 6. Termination. Prior to the expiration of the Term, the City and or the District may terminate this Agreement immediately, with or without cause. Termination shall be in writing, and shall be effective upon service on the signatories to this Agreement.

Section 7. Compensation.

7.1 Total Compensation. The District agrees to pay the City an amount equal to One Hundred Dollars (\$100.00) per month during any month the District occupies the Windmill. This fee includes any leasehold excise tax due to the City.

7.2 Payment Due Date. The District shall pay fees to the City on or before the 5th day of each month that the District occupies the Windmill. Payment for the first month shall be made prior to occupancy.

7.3 The District – Responsible for Taxes. The District shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Agreement. The Leasehold Excise Tax, currently at a rate of 12.84%, is included in the One Hundred Dollar (\$100.00) monthly compensation.

Section 8. Compliance with Laws. The District shall comply with and perform the Services in accordance with all applicable federal, state and City laws including, without limitation all City codes, ordinances, resolutions, standards, and policies, as now existing or hereafter adopted or amended, including, but not limited to, the following:

8.1 Federal, state and local health, safety and licensing laws relating to the boat rentals.

8.2 City code provisions requiring any person or entity doing business in the City to obtain a business registration; and

8.3 City Parks, Recreation and Cultural Services Department policies, including, but not limited to, its concession policy.

8.4 Non-Discrimination in services, as required by the Americans with Disabilities Act, the Washington Law Against Discrimination and all other applicable federal, state and local laws.

Section 9. Warranty. The District warrants that it has the requisite training, skill and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities, including, but not limited to, being registered to do business in the City of Oak Harbor by obtaining a City of Oak Harbor business license.

Section 10. Independent Contractor Relationship.

- 10.1 The parties intend that an independent contractor relationship will be created by this Agreement. The City is interested primarily in the results to be achieved; subject to paragraphs herein, the implementation of services will lie solely with the discretion of the District. No agent, employee, servant or representative of the District shall be deemed to be an employee, agent, servant or representative of the City for any purpose, and the employees of the District are not entitled to any of the benefits the City provides for its employees. The District will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.
- 10.2 In the performance of the services herein contemplated, the District is an independent contractor with the authority to control and direct the performance of the details of the work however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

Section 11. Indemnification/Hold Harmless

- 11.1 Indemnification. The District shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the District and the City, its officers, officials, employees, and volunteers, the District's liability hereunder shall be only to the extent of the District's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the District's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

- 11.2 Survival. The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

Section 12. Equal Opportunity Employer. Personnel employment shall be as per the existing Districts policy. The District shall not violate any of the terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the American with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state or local law or regulation regarding non-discrimination. Any material violation of this provision shall be grounds for termination of this Agreement by the City and, in the case of the District's breach, may result in ineligibility for further City agreements.

Section 13. Insurance. The District shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the District, their agents, representatives, employees or subcontractors.

- 13.1 No Limitation. The District's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the District to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- 13.2 Minimum Scope of Insurance. The District shall obtain insurance of the types described below:
- (i) Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute

form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

- (ii) Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent Districts, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the District's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage through insurance pool.
- (iii) Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

13.3 Minimum Amounts of Insurance. The District shall maintain the following insurance limits:

- (i) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- (ii) Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.

13.4 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:

- (i) The District's insurance coverage shall be primary insurance as respect the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the District's insurance and shall not contribute with it.
- (ii) The District's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

13.5 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII or Enduris - Washington.

13.6 Verification of Coverage. The District shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the District before commencement of the work.

13.7 Third party entities are also required to carry their own insurance, naming the City of Oak Harbor as also insured.

Section 14. Signs. The District shall coordinate placement of any sign, notice or advertising matter in or about the City's real property, with City staff. If required by City code, the District shall obtain all necessary permits in connection with any such signs.

Section 15. General Provisions.

- 15.1 Entire Agreement. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.
- 15.2 Modification. No provision of this Agreement may be amended or modified except by written agreement signed by the Parties.

- 15.3 Full Force and Effect. Any provision of this Agreement, which is declared invalid or illegal shall in no way, affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect.
- 15.4 Assignment. Neither the District nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and right hereunder without the prior written consent of the other party.
- 15.5 Successors in Interest. Subject to the foregoing Subsection, the right and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns.
- 15.6 Attorney Fees. In the event either of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all of its own attorneys' fees, costs and expenses. The venue for any dispute related to this Agreement shall be Island County, Washington.
- 15.7 No Waiver. Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default. Failure or delay of the District to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the District to declare one breach or default does not act as a waiver of the District's right to declare another breach or default.
- 15.8 Governing Law and Venue. This Agreement shall be made in and shall be governed by and interpreted in accordance with the laws of the State of Washington. If suit is brought in this matter, venue shall be Island County District Court or Island County Superior Court.
- 15.9 Authority. Each individual executing this Agreement on behalf of the City and the District represents and warrant that such individuals are duly authorized to execute and deliver this Agreement on behalf of the District or the City.
- 15.10 Notices. Any notice required to be given by the Parties shall be delivered at the addresses set forth below. Any notice may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the address set forth below. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.
- 15.11 Captions. The respective captions of the Sections of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect any of the provisions of this Agreement.
- 15.12 Performance. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor. Adherence to completion dates set forth in the description of the Service is essential to the District's performance of this Agreement.
- 15.13 Remedies Cumulative. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the City at law, in equity or by statute.
- 15.14 Counterparts. This Agreement may be executed in any number of counterparts, which counterparts shall collectively constitute the entire Agreement.
- 15.15 Third-Party Beneficiaries. This Agreement is neither expressly nor impliedly intended to be for the benefit of any third party, and is neither expressly nor impliedly enforceable by any third party.

CITY OF OAK HARBOR

**NORTH WHIDBEY PARK &
RECREATION DISTRICT**

By _____
Jim Slowik, Mayor

By _____
Craig Carlson, Director

Date _____

Date _____

City of Oak Harbor

AGREEMENT WITH NORTH WHIDBEY PARK & RECREATION DISTRICT FOR RECREATIONAL SERVICES

This Agreement is made this _____ day of _____, 2011, between the City of Oak Harbor, a municipal corporation ("City") and North Whidbey Park and Recreation District, a park and recreation district organized pursuant to Ch. 36.69 RCW ("District"). Generally, the City and District mutually agree that recreational programs are important to the health and welfare of the citizens of Oak Harbor. Therefore, the District agrees to operate a Running Club, Sailing Program, Kids Love Soccer Program, as well as supporting the Teen Activity Council and other mutually agreed upon programs for the benefit of Oak Harbor residents and others at City owned parks, all subject to the terms and provisions of this Agreement.

Section 1. Purpose. This Agreement is entered pursuant to the District's authority under RCW 36.69.130(9) to contract with a municipal corporation for the conduct of park and recreation programs. The City has the facilities available for recreational programs to serve Oak Harbor youth, whereas the District has the necessary staffing to operate the programs. The District agrees to operate their recreational programs to include Oak Harbor youth in mutually agreed upon locations within the City's parks and marina.

Section 2. Term. This Agreement shall be effective upon execution and shall continue in effect through April 20, 2012, unless earlier terminated pursuant to Section 7 herein.

Section 3. Services. The District shall provide Recreational Services ("Services") including, but not limited to, the Running Club, Sailing Program, Kids Love Soccer Program, as well as supporting the Teen Activity Council in various City facilities.

- 3.1 Availability to Oak Harbor resident. The District shall make its recreational programs available to Oak Harbor residents on the same terms and conditions as its recreational programs are available to other clients of the District.
- 3.2 Accessibility. The District shall ensure that the programs conducted at City parks and other facilities are accessible to individuals with disabilities in accordance with the Americans with Disabilities Act, the Washington Law Against Discrimination, and all other applicable federal, state and local non-discrimination laws and regulations.
- 3.3 Customer Service. The District's employees, agents, and representatives shall provide high quality customer service and shall treat all customers with courtesy and respect.
- 3.4 Employee Appearance. All District employees, agents, representatives or licensees shall have a neat, clean and sanitary personal appearance and those who come in direct contact with the public shall wear clothing or identification which distinguishes them as employees of the District.
- 3.5 Sex Discrimination Prohibited in Community Athletics Programs. The District shall comply with RCW 49-60.500.
- 3.6 Non-Discrimination in Services. The District shall comply with all applicable non-discrimination laws and regulations in the provision of services under this Agreement.

Section 4. Facilities. The City of Oak Harbor will provide facilities for the recreational services listed in Section 2 in the city of Oak Harbor, as follows:

- 4.1 Parks facilities. At the annual spring league meeting, the District will provide the City with a proposed schedule of recreational programs for the season. The District and the City agree to mutually negotiate the city parks facilities necessary to meet the recreational services to be provided under this Agreement. The City and District will agree upon fields and other facilities to be made available for District use. Field scheduling will be such as to not interfere with organized sports leagues that have field use agreements with the City.
- 4.2 Marina facilities. The City will provide three facilities to the District for its sailing program:
- (i) Marina moorage suitable to accommodate the dinghy docks and vessels stored thereon.
 - (ii) Two Marina storage units.
 - (iii) Up to three parking spaces for storage of trailers and equipment.

Section 5. Equipment. The District shall supply its own equipment.

Section 6. Maintenance. The District shall, at its sole cost and expense, maintain the facilities provided by the City pursuant to this Agreement in good condition and repair, including, but not limited to, removing all garbage, trash or other debris on a regular basis pursuant to the City's instructions.

Section 7. Termination. Either the City or the District may, in its discretion, terminate this Agreement with or without cause. Where there are programs in progress, termination without cause of this Agreement shall be effective upon the completion of the pending program period. If either the City or the District is in breach or default of the terms of this Agreement, the other party may terminate the Agreement for cause upon five (5) days written notice and failure of the other party to cure within the five (5) day period.

Section 8. Compliance with Laws. The District shall comply with and perform the services in accordance with all applicable federal, state and City laws including, without limitation all City codes, ordinances, resolutions, standards, and policies, as now existing or hereafter adopted or amended, including, but not limited to, the following:

- 8.1 Federal, state and local health, safety and licensing laws relating to the boat rentals.
- 8.2 City code provisions requiring any person or entity doing business in the City to obtain a business registration.
- 8.3 City Parks, Recreation and Cultural Services Department policies.
- 8.4 The District shall comply with the head injury protocols set forth in Section 2 of House Bill (HB) and agrees to hold the City of Oak Harbor harmless, indemnify and defend the City, its officers and employees for any legal claims or lawsuits for injury or death arising from the failure of the organization to comply with the requirements of Section 2 of HB 1824.
- 8.5 The City of Oak Harbor has adopted Resolution No. 09-32 establishing a policy which prohibits gender discrimination in community athletics programs using City athletic facilities, per RCW 49.60.505. Discrimination against any person on the basis of sex in the operation, conduct, or administration of community athletics programs for youth or adults utilizing City athletic facilities is expressly prohibited and shall be a basis for denying the discriminating person or organization permission to use City athletic facilities.

Section 9. Warranty. The District warrants that it has the requisite training, skill and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities, including, but not limited to, being registered to do business in the City of Oak Harbor by obtaining a City of Oak Harbor business license.

Section 10. Independent Contractor/Conflict of Interest. It is the intention and understanding of the parties that the District shall be an independent contractor and the City shall be neither liable nor obligated to pay any employees, volunteers, officers or officials of the District sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax which may arise as an incident of employment.

Section 11. Indemnification/Hold Harmless.

11.1 **Indemnification.** The District shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the District and the City, its officers, officials, employees, and volunteers, the District's liability hereunder shall be only to the extent of the District's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the District's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

11.2 **City Indemnification.** The City agrees to indemnify and hold the District, its officers, directors, shareholders, partners, employees, and agents harmless from any and all claims, demands, losses, actions and liabilities (including costs and attorney fees) to or by any and all persons or entities, including without limitation, their respective agents, licensees, or representatives, arising from, resulting from or connected with the Agreement to the extent solely caused by the negligent acts, errors, or omissions of the City, its employees or agents.

11.3 **Survival.** The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

Section 12. Equal Opportunity Employer. The District shall not violate any of the terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the American with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state or local law or regulation regarding non-discrimination in employment. Any material violation of this provision shall be cause for termination of this Agreement by the City and, in the case of the District's breach, may result in ineligibility for further City agreements.

Section 13. Insurance. The District shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the District, their agents, representatives, employees or subcontractors.

13.1 **No Limitation.** The District's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the District to the coverage provided by

such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

13.2 Minimum Scope of Insurance. The District shall obtain insurance of the types described below:

- (i) Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
- (ii) Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent Districts, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the District's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage through insurance pool.
- (iii) Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

13.3 Minimum Amounts of Insurance. The District shall maintain the following insurance limits:

- (i) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- (ii) Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.

13.4 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:

- (i) The District's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the District's insurance and shall not contribute with it.
- (ii) The District's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

13.5 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII or Enduris.

13.6 Verification of Coverage. The District shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the District before commencement of the work.

13.7 Third party entities are also required to carry their own insurance, naming the City of Oak Harbor as also insured.

Section 14. Exclusive Right. This Agreement grants the District the right to offer recreational programs in City parks, except during City approved special events or other organized sports

league activities. The City reserves the right to grant to other persons or entities any of the rights contained herein or otherwise.

Section 15. Signs. The District shall coordinate placement of any sign, notice or advertising matter in or about the City's real property, with City staff. If required by City code, the District shall obtain all necessary permits in connection with any such signs.

Section 16. General Provisions.

- 16.1 **Entire Agreement.** This Agreement contains all of the agreements of the parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.
- 16.2 **Modification.** No provision of this Agreement may be amended or modified except by written agreement signed by the parties.
- 16.3 **Full Force and Effect.** Any provision of this Agreement, which is declared invalid or illegal shall in no way, affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect.
- 16.4 **Assignment.** Neither the District nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and right hereunder without the prior written consent of the other party.
- 16.5 **Successors in Interest.** Subject to the foregoing Subsection, the right and obligations of the parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns.
- 16.6 **Attorney Fees.** In the event either of the parties defaults on the performance of any terms of this Agreement or either party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each party shall pay all of its own attorneys' fees, costs and expenses. The venue for any dispute related to this Agreement shall be Island County, Washington.
- 16.7 **No Waiver.** Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default. Failure or delay of the District to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the District to declare one breach or default does not act as a waiver of the District's right to declare another breach or default.
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- 16.9 **Authority.** Each individual executing this Agreement on behalf of the City and the District represents and warrant that such individuals are duly authorized to execute and deliver this Agreement on behalf of the District or the City.
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- 16.11 **Captions.** The respective captions of the Sections of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect any of the provisions of this Agreement.

- 16.12 **Performance.** Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor. Adherence to completion dates set forth in the description of the Services is essential to the District's performance of this Agreement.
- 16.13 **Remedies Cumulative.** Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the City at law, in equity or by statute.
- 16.14 **Counterparts.** This Agreement may be executed in any number of counterparts, which counterparts shall collectively constitute the entire Agreement.
- 16.15 **No Third-Party Beneficiary.** No third-party beneficiary or beneficiaries are intended nor shall such status be construed as arising out of this Agreement.

CITY OF OAK HARBOR

NORTH WHIDBEY PARK & RECREATION DISTRICT

By _____
Jim Slowik, Mayor

By _____
Craig Carlson, Director

Date _____

Date _____

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

Bill No. 6
Date: April 5, 2011
Subject: Resolution - Wastewater Facility
Plan

**FROM: Cathy Rosen, Public Works Director
Eric Johnston, City Engineer**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

JS Jim Slowik, Mayor
PS Paul Schmidt, City Administrator
DM Doug Merriman, Finance Director
GH Margery Hite, City Attorney, as to form

PURPOSE

This agenda bill proposes adoption of a resolution related to five candidate sites for a new wastewater treatment facility.

AUTHORITY

The City has authority under RCW 35A.11.020 to render governmental services including operating and supplying of utilities and municipal services commonly or conveniently rendered by cities or towns. Planning for those services as may be required under RCW 90.48.110 and Chapter 173-240 WAC is included in this authority.

SUMMARY STATEMENT

On March 9, 2011, a workshop with the City Council was held to present and discuss the status of the wastewater facility planning process and to present four sites for further consideration. As discussed during the workshop, a resolution would be presented for consideration and adoption by the Council. Following the workshop, additional information became available allowing for further consideration of a fifth site. The resolution authorizing and directing the project team to proceed with the five candidate sites is attached.

STANDING COMMITTEE REPORT

This item was presented to the entire City Council at a workshop held on March 9, 2011.

RECOMMENDED ACTION

Adopt Resolution No. 11-07 directing the evaluation of five potential sites for a future wastewater treatment facility.

ATTACHMENTS

- Resolution
- Workshop presentation slides
- Briefing document
- Crescent Harbor site ranking

MAYOR'S COMMENTS



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RESOLUTION NO. 11-07

A RESOLUTION OF THE CITY OF OAK HARBOR DIRECTING THE EVALUATION OF POTENTIAL SITES FOR A FUTURE WASTEWATER TREATMENT FACILITY.

WHEREAS, the 2008 City of Oak Harbor Comprehensive Sewer Plan identifies the need for a new wastewater treatment facility to meet future growth needs and to replace aging and at-risk infrastructure; and

WHEREAS, recognizing that the City of Oak Harbor is connected to the pristine waters of Puget Sound, specifically Oak Harbor Bay and Crescent Harbor Bay, the City's goal is to obtain the highest level of water quality practical while recognizing the limitations of the rate payers of the City to fund the improvements; and

WHEREAS, the City of Oak Harbor Capital Improvement Plan of 2010-2015 specifically lists the Wastewater Treatment Plant Facilities Plan as a prioritized public project to be undertaken within the capital improvement plan time period; and

WHEREAS, on August 4, 2010 the City Council authorized the Mayor to enter into a contract with Carollo, Inc. for development of the aforementioned Facilities Plan required by RCW 90.48.110 and Chapter 173-240 WAC for a new wastewater treatment facility; and

WHEREAS, public input was sought, received and considered on potential wastewater treatment plant locations resulting in the identification of 13 potential locations; and

WHEREAS, input from the U.S. NAVY was sought, received and considered on potential wastewater treatment plant locations; and

WHEREAS, public input was sought, received and considered on the evaluation criteria to be used; and

WHEREAS, input from various stakeholder groups including the U.S. Navy, the Washington State Department of Ecology, Washington State Department of Health, was sought and incorporated into the evaluation criteria; and

WHEREAS, based on input from the public, various stakeholder groups, technical staff, engineering professionals and City staff, four equally weighted categories, being Social, Technical, Environmental and Financial, were developed for the evaluation of all potential site locations, and

WHEREAS, the Social criteria are as follows: 1) Protect Public Health and Safety, 2) Preserve/Enhance Public Amenities, and 3) Minimize Neighborhood Impacts; and

WHEREAS, the Environmental criteria are as follows: 1) Produce Best Water Quality, 2) Protect Environmental Sensitive Areas, and 3) Minimize Carbon Footprint; and

WHEREAS, the Technical criteria are as follows: 1) Reliable Performance, 2) Ease of Construction, and 3) Overall System Efficiency; and

WHEREAS, the Financial criteria are as follows: 1) Low Capital Cost, 2) Low Life Cycle Cost, and 3) Protect Assets for Future Development; and

WHEREAS, in order to efficiently and cost effectively study alternatives it is necessary to narrow the options to five candidate locations; and

WHEREAS, in order to efficiently and cost effectively study alternatives it is necessary to narrow the options to two treatment processes, being membrane bioreactor and conventional activated sludge; and

WHEREAS, after applying the aforementioned criteria to the 13 potential sites there are five candidate locations that best meet the City's goal and objectives;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oak Harbor as follows:

1. That Carollo, Inc., acting on behalf of the City and under the management of the City Engineer, is directed to evaluate five locations for further consideration as part of the wastewater treatment facility planning process.
2. That the five locations to be evaluated further are generally shown on Exhibit A and are referred to as:
 - a. Windjammer Park
 - b. Marina/Seaplane Base
 - c. Old City Shops
 - d. Beachview Farm
 - e. Crescent Harbor
3. That both Membrane Bioreactor (MBR) and Activate Sludge (AS) treatment processes will be considered at all sites except for Windjammer Park where only MBR technology will be considered.
4. That outfalls to Oak Harbor Bay will be considered for all sites.
5. That an outfall to West Beach for the Beachview Farm site will be considered in addition to an Oak Harbor Bay outfall.
6. That additional public input will be sought and incorporated in the analysis and development of all alternatives.
7. That a report will be provided to the City Council comparing the five candidate sites.
8. That, as appropriate, additional sites and process may be considered as may be directed.

PASSED and approved by the City Council this 5th day of April, 2011.

THE CITY OF OAK HARBOR

_____, Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

Oak Harbor's current wastewater facilities and possible site locations

 existing wastewater facility

 proposed site area

Beachview Farm

Windjammer Park

Old City Shops

Crescent Harbor

Marina/Seaplane Base

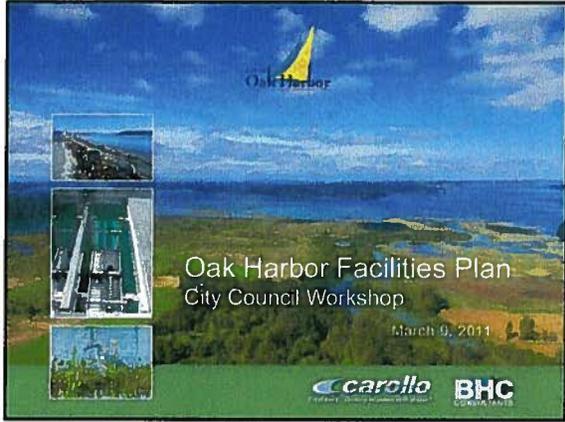
Oak Harbor

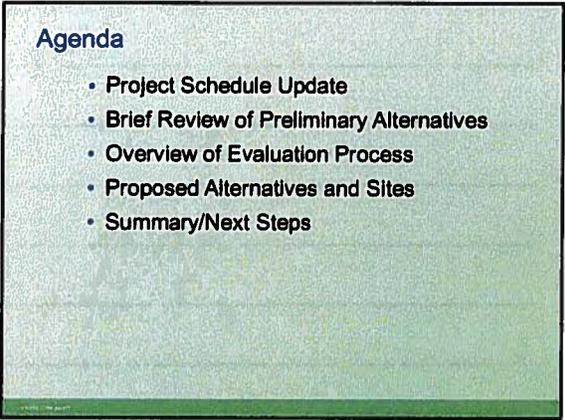
Crescent Harbor

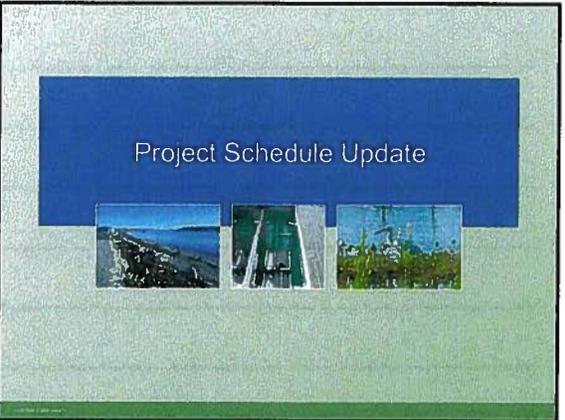
20



EXHIBIT A







2 WWTP Process Options

Advanced Biorotor (ABR) Treatment Process

Activated Sludge (AS) Treatment Process

The image shows two side-by-side diagrams comparing the Advanced Biorotor (ABR) and Activated Sludge (AS) treatment processes. The ABR process is shown with a large tank containing multiple horizontal rotors. The AS process is shown with a large tank containing a large volume of suspended sludge. Both diagrams include text boxes describing the processes and their respective advantages and disadvantages.

8 Candidate Sites (Public/US Navy Input + Technical Requirements)

Legend

- Preference Site
- Excluded for US Navy Input or Technical Requirements
- Excluded from Consideration Based on US Navy Input
- Site Proposed by Public
- City Limits
- US Navy Property
- City Right-of-Way
- City Right-of-Way

The image is a map showing eight candidate sites for a wastewater treatment plant. The sites are labeled with numbers 1 through 8 and their respective sizes in acres. The map includes a legend with various symbols and colors representing different site characteristics and exclusions.

3 Candidate Outfall Locations

West Beach
Mitigate Shellfish Impact With Deep Diffuser

Oak Harbor
Limited Shellfish Impact

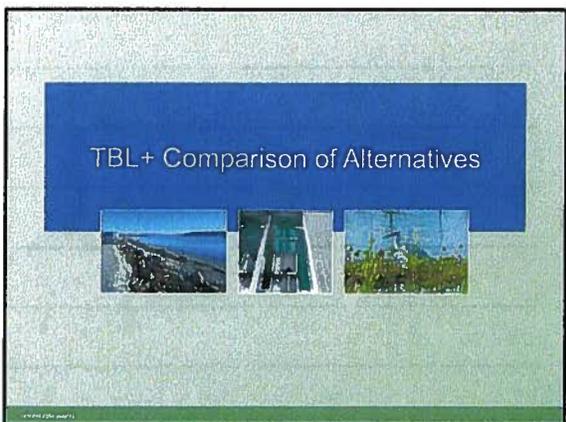
Crescent Harbor
Mitigate Shellfish Impact With Deep Diffuser

The image is a map showing three candidate outfall locations for a wastewater treatment plant. The locations are labeled with callouts: West Beach, Oak Harbor, and Crescent Harbor. Each callout includes a brief description of the location and the proposed mitigation strategy.

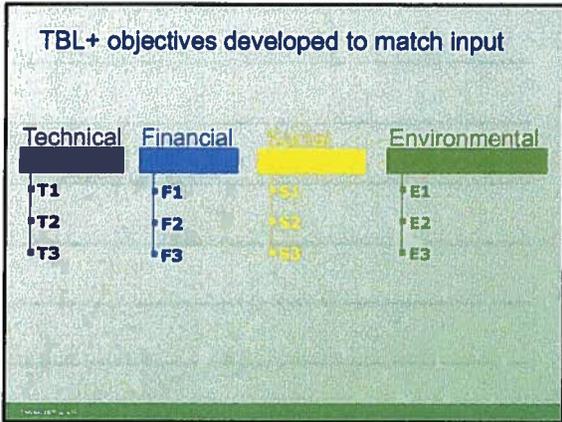
62

Matrix of Preliminary Alternatives 13 Alternatives, 8 Potential Sites

Alternative	1	2A/B	3A/B	4A/B	5A/B	6	7A/B	8
Site	A	B/E	F	I	J	K	L	M
Process	MBR	MBR/AS	MBR/AS	MBR/AS	MBR/AS	MBR	MBR/AS	MBR
Outfall	OH	OH	OH	OH	OH	OH	OH	OH



- ### Technical and community objectives drive alternative selection
- **Technical considerations:**
 - Reliable, safe, efficient treatment facility to meet current and future regulations
 - **Community feedback:**
 - Continue existing level of service
 - Control costs
 - Avoid open space/public impact
 - Implement a long-term solution



Environmental Objectives

E1 Produce Best Water Quality

- Produce the best effluent quality (NTU, TSS, BOD) within a reasonable cost
- Produce "Class A" reclaimed water for beneficial reuse

E2 Protect Environmentally Sensitive Areas

- Protect wetlands, streams, wildlife habitat, forests, and other critical areas
- NOTE: Critical areas defined by OHMC

E3 Minimize Carbon Footprint

- Pursue alternatives that emit the lowest levels of Greenhouse Gases (GHG) (or alternatives that are "reasonably close" to lowest GHG levels)

Criteria matching Oak Harbor Comprehensive Plan

Social Objectives

S1 Protect Public Health & Safety

- Minimize public and City staff exposure to toxins and chemicals
- Reliably meet HPODES permit requirements; provide for safe water quality

S2 Preserve/Enhance Public Amenities

- Preserve existing undeveloped open spaces for public use
- Protect important view corridors in the community

S3 Minimize Neighborhood Impacts

- Construct facilities to match the character of surrounding areas
- Minimize public exposure to noise, odor, and truck traffic

Criteria matching Oak Harbor Comprehensive Plan

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Technical Objectives

- T1** **Reliable Performance**
 - Select treatment processes with many years of proven service
 - Design for adequate redundancy
- T2** **Ease of Construction**
 - Avoid steeply sloped sites and/or sites with difficult access
 - Avoid sites where acquisition/construction could cause excessive, costly delays
- T3** **Overall System Efficiency**
 - Maximize the amount of growth flow to/from the new WWTP
 - Minimize the amount of new conveyance infrastructure

* Criteria matching Oak Harbor Comprehensive Plan

Financial Objectives

- F1** **Low Capital Cost**
 - Pursue alternatives that are lowest in cost (or "reasonably close" to low cost)
 - NOTE: Considers WWTP, conveyance, and outfall costs
- F2** **Low Life Cycle Cost**
 - Pursue alternatives that are lowest in cost (or "reasonably close" to low cost)
 - NOTE: Considers capital cost and annual O&M cost for 20-year period
- F3** **Protect Assets for Future Economic Development**
 - Avoid areas zoned for commercial/business use within downtown urban core

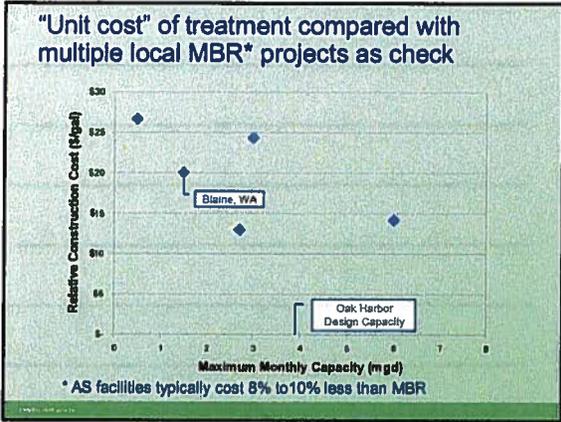
* Criteria matching Oak Harbor Comprehensive Plan

Financial analysis focused on comparing relative cost of alternatives

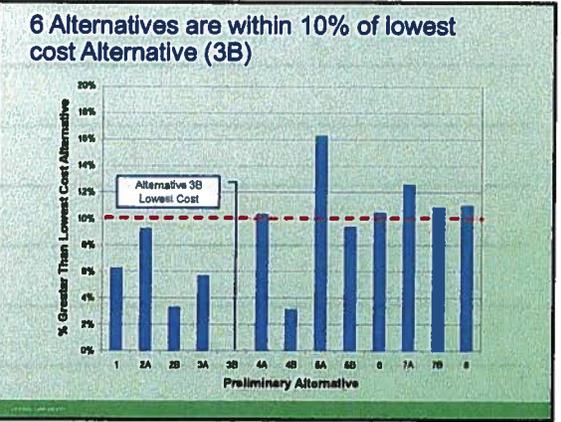
- "Conceptual level" costs developed for 3 major components:

Component	Relative Cost Range
Treatment Plant	80% - 90% of total
Conveyance	3% - 20% of total
Outfall	3 - 5% of total

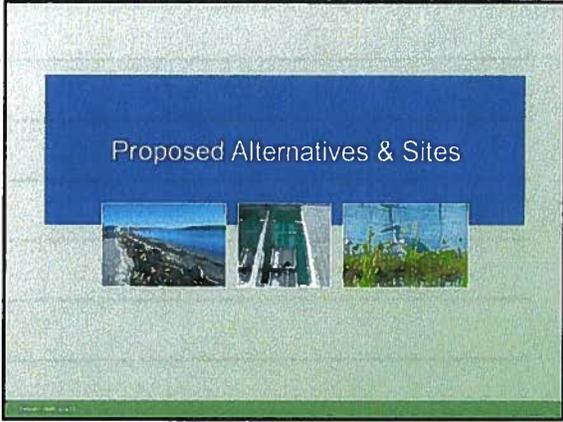
* Expected accuracy is -50% to +30%



- ### Other cost factors considered in comparative analysis
- Project Contingency: 30%
 - Accounts for planning level uncertainty
 - Washington State Sales Tax: 8.7%
 - Allied Costs (Engineering, Legal, Admin): 25%
 - "Soft" project costs not related to construction
 - Escalation to Mid-point of Construction: 3% per yr
 - Assumes bidding in 2014



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Windjammer Park Site
 Alternative 1: MBR with discharge to Oak Harbor outfall

Advantages

- Low relative cost (~ 6% above lowest cost)
- Most efficient use of infrastructure

Challenges

- Facilities located in/near Windjammer Park

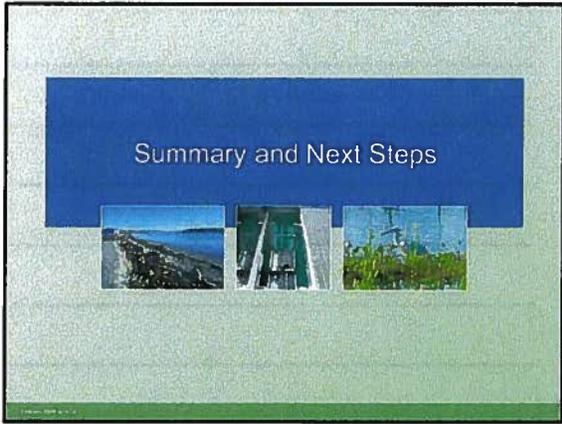
Marina Site
 Alternative 2A/B: MBR/AS with discharge to Oak Harbor outfall

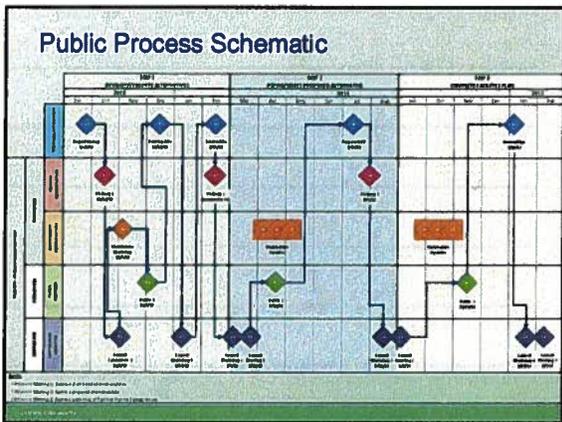
Advantages

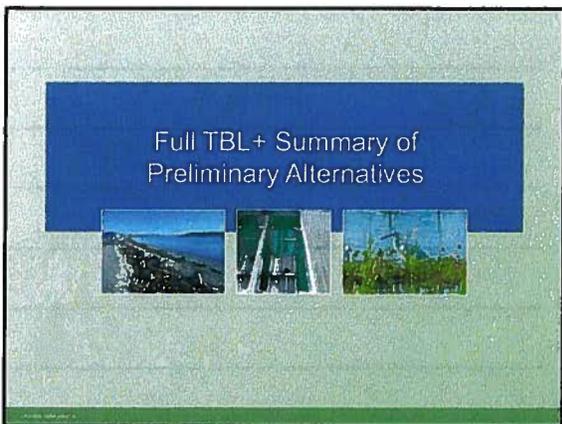
- Low relative cost (3% to 9% above lowest cost)
- Avoids facilities in/near Windjammer Park

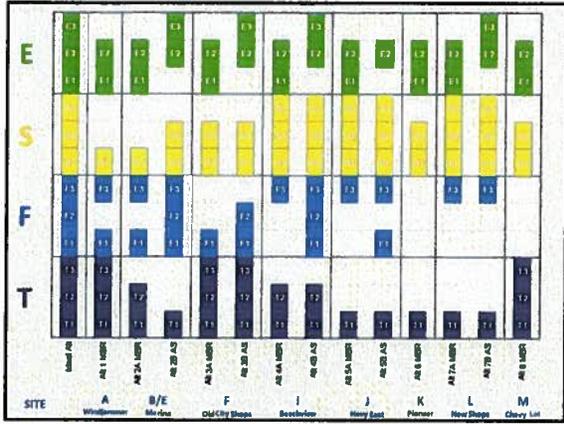
Challenges

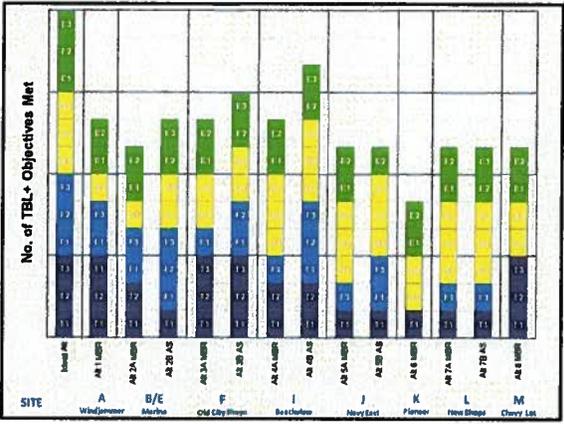
- inefficient use of infrastructure
- Marina impact (MBR) or US Navy property (AS)











City of Oak Harbor
Facilities Plan and Preliminary Engineering Project Briefing Document
March 9, 2011

Project Need: The City of Oak Harbor's wastewater utility provides service to approximately 24,000 people within its City limits, including approximately 4,000 people located on the US Navy's Seaplane Base. The City currently operates two wastewater treatment plants: a Rotating Biological Contactor (RBC) plant adjacent to a public park (Windjammer Park); and a lagoon plant on the Seaplane Base. For many years these two plants have reliably handled Oak Harbor's wastewater. While both plants meet current permit requirements, they are now nearing the end of their useful life. They also lack the technology to meet increasingly stringent water quality standards and the capacity to keep pace with anticipated population growth. The City is currently evaluating alternatives to replace these two aging plants with a modern wastewater facility that will provide reliable, cost effective wastewater service for its customers.

Project Objectives: In September 2010, the City initiated a planning process to meet the following objectives:

1. Provide continued reliable wastewater treatment service.
2. Meet high standards for water quality.
3. Allow phased expansion to meet future demands.
4. Deliver construction and operation of a new facility in a cost effective manner.

Alternatives Being Considered: Following a series of meetings with the community and key stakeholders, the project team prepared a list of 13 preliminary alternatives located on eight potential sites. Potential sites were selected considering public and stakeholder input, plus technical requirements (e.g. environmentally sensitive areas, geotechnical considerations, land use planning, etc). Two treatment processes are considered: membrane bioreactor (MBR), and activated sludge (AS). Preliminary alternatives were developed and evaluated based on their ability to meet a range of specific objectives in four categories: Technical, Social, Environmental, and Financial. Based on this evaluation, the following sites are proposed for further consideration:

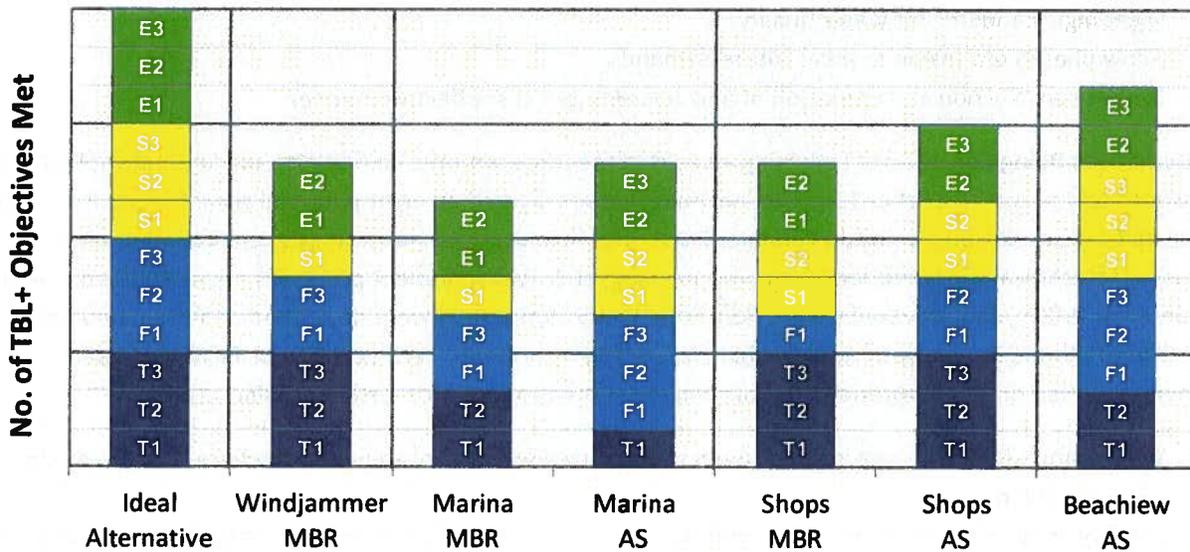
1. Windjammer Park: This site is public open space owned by the City and located adjacent to the existing RBC treatment plant.
2. Old City Shops: This site is near Windjammer Park, and is comprised of approximately 2 acres owned by the City plus adjacent private property.
3. Marina: This site includes approximately 3 acres of City-owned property next to the existing marina, plus adjacent property on the Seaplane Base owned by the US Navy.
4. Beachview Farm: This site is located on a privately owned farm near the City limits, approximately 2.5 miles from the existing RBC plant.

Planning Level Costs: Conceptual level costs have been developed for each preliminary alternative, and used for comparing alternatives on a financial basis. Cost estimates will be refined throughout the planning process. Even the lowest cost alternatives will represent a significant investment for the City. Total project costs for treatment, conveyance, and outfall improvements may be in the range of \$70M to \$90M.

Project Schedule: The current Facilities Planning effort represents the first step in the project development process. The planning team will propose a final alternative in the summer of 2011. Following Council approval, engineering and environmental documents will be submitted for agency review in 2012. After design and construction phases the City desires to place a new wastewater facility into service in 2017.



Figure 1 – Potential Sites



Site/Alternative	Advantages	Challenges
Windjammer MBR	<ul style="list-style-type: none"> • Low relative cost • Efficient use of infrastructure 	<ul style="list-style-type: none"> • Facilities located in/near Windjammer Park
Marina MBR/AS	<ul style="list-style-type: none"> • Low relative cost • Avoids facilities in/near Windjammer Park 	<ul style="list-style-type: none"> • Inefficient use of infrastructure • Marina impact (MBR) or US Navy property (AS)
Shops MBR/AS	<ul style="list-style-type: none"> • Low relative cost • Avoids facilities in/near Windjammer Park • Efficient use of infrastructure 	<ul style="list-style-type: none"> • Facilities located in neighborhood area
Beachview Farm AS	<ul style="list-style-type: none"> • Low relative cost • Avoids facilities in parks/neighborhood areas • Opportunity for beneficial reuse 	<ul style="list-style-type: none"> • Inefficient use of infrastructure

City of Oak Harbor City Council Agenda Bill

Bill No. 7
Date: April 5, 2011
Subject: LID Petition – 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

PURPOSE

The purpose of this agenda bill is to provide information regarding the recent submittal of a Local Improvement District petition by certain property owners within the Driftwood Beach Addition.

AUTHORITY

RCW 35.43.120

Petition - Requirements

Any local improvement may be initiated upon a petition signed by the owners of property aggregating a majority of the area within the proposed district. The petition must briefly describe: (1) The nature of the proposed improvement, (2) the territorial extent of the proposed improvement, (3) what proportion of the area within the proposed district is owned by the petitioners as shown by the records in the office of the county auditor, and (4) the fact 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.

If any of the property within the area of the proposed district stands in the name of a deceased person, or of any person for whom a guardian has been appointed and not discharged, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property on the petition. The petition must be filed with the clerk or with such other officer as the city or town by charter or ordinance may require.

[1989 c 243 § 1; 1981 c 323 § 1; 1969 ex.s. c 258 § 5; 1965 c 7 § 35.43.120. Prior: 1957 c 144 § 6; prior: 1911 c 98 § 9, part; RRS § 9360, part.]

City of Oak Harbor City Council Agenda Bill

OHMC 1.04.020

Public notice for full council agenda – Introduction of action (3).

Matters introduced by a council member 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.

SUMMARY STATEMENT

At the March 1, 2011 City Council meeting, citizen members representing certain property owners of the Driftwood Beach Addition (SW Beeksma Drive and Dillard Lane) submitted a petition requesting the formation of a Local Improvement District for sanitary sewer (gravity flow) improvements (see Exhibit A).

Oak Harbor Municipal Code Chapter 3.10 regulates the administration of LID petitions and formations, of which Section 3.10.030 requires the city engineer to be the designated officer responsible for LID processes. Therefore City staff has already begun the very initial process and administration of the LID per all State statutes. A very concise guide for following the many steps required for the LID process is published by Foster Pepper & Shefelman, PLLC (see Exhibit B).

A threshold issue has been identified that will require Council action before staff proceeds further with processing the LID petition. Since City sewer is already available in the Driftwood Beach Addition (SW Beeksma Drive and Dillard Lane), a change in the type of public sewer system that will be available to service the Driftwood Beach Addition will require the Council to eliminate the existing public sewer option. That is, there is presently a low-pressure system available; the petition seeks development of a gravity system. With two options available, the City is unlikely to withstand a “special benefits” challenge to the assessments needed for the LID for the new gravity system. Therefore, the LID probably could not be funded unless the Council eliminates the option of connecting to the low-pressure system.

Because of the complexity of the issue of differing types of sewer systems within the City limits, staff is gathering information and will bring the City Council a schedule for consideration, with the potential for extending the date for connection to public sewer in the Driftwood Beach Addition while the Carollo work on the improvements to the City’s sewer system is on-going.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

No Action Required

City of Oak Harbor City Council Agenda Bill

ATTACHMENTS

Exhibit A – Local Improvement District (LID) Petition – Driftwood Beach Addition

Exhibit B – Checklist/outline of Local Improvement District Procedures in Washington Cities, by Foster Pepper & Shefelman, PLLC.



Local Improvement District (LID) Petition

To: The Honorable Mayor and City Council

Mail To: City of Oak Harbor
Engineering Department
865 SE Barrington Drive
Oak Harbor WA 98277

Or Bring To: Engineering Department
at City Hall

We the undersigned, owners of property lying within the following described area: (Give plat name or specify streets or other means to approximately locate project area.)

Driftwood Beach Addition

Do hereby petition for a resolution to create a Local Improvement District for: (Circle one or more improvements that apply.)

Roadway **Gravity Sanitary Sewer** Street Lighting Water Main
Storm Drainage Sidewalk Traffic Signal Other

Property Owner Name (no renters please)	Property Address (Also give mailing address if different)
Marc Goetz <i>Marc Goetz</i>	2164 S.W. Dillard Lane O.H.
Philip Roberts	16007 Larch Way Lynnwood WA 98087
Duane G Dillard	2141 SW Dillard Lane O.H. WA 98277
Duane G Dillard	2156 SW Dillard Lane O.H.
BARBARA SAUGEN	2101 SW Dillard Lane O.H. (2150 SW Dillard Ln. O.H.)
George Musher	1950 SW Dillard Ln. O.H. 98277
Stevens	2000 S.W. DILLARD LN O.H. 98277
Kenneth A. Manni	2116 SW Dillard LN O.H. 98277
Eleanor T. Manni	2094 SW Dillard Ave O.H. 98277
Pengis Fabra	2094 S.W. Dillard Lane O.H. 98277
Cynthia Brasseur	2052 SW Dillard Ln. 98277
John & KATHY Lanerille	2093 SW Dillard Ln 98277
John & KATHY Lanerille	2151 SW Dillard Ln, Oak Harbor 98277
John & KATHY Lanerille	2043 SW Dillard Ln Oak Harbor, 98277

Note: Signing this petition does not commit you to an LID and LID assessments. Signing simply means that you have an interest in the installation of the specified public improvement and that you will consider paying for the improvements through the formation of an LID. Actual commitment will come later through a public hearing process. However, to initiate the process, the property owners must demonstrate sufficient interest. If this happens, the City will prepare and submit to the property owners' additional information for the project including cost data and LID procedures before scheduling a public hearing.



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We the undersigned, owners of property lying within the following described area: (Give plat name or specify streets or other means to approximately locate project area.)

Driftwood Beach Addition

Do hereby petition for a resolution to create a Local Improvement District for: (Circle one or more improvements that apply.)

Roadway
 Storm Drainage
 Gravity Sanitary Sewer Sidewalk
 Street Lighting
 Traffic Signal
 Water Main
 Other _____

Property Owner Name (no renters please)	Property Address (Also give mailing address if different)
Kevin E. Gatchell	2024 Beekma Dr
David Cook	2046 SW Beekma Dr.
Emma C. Young Emma C Young P.O. Box 2051	1884 SW Beekma Dr.
Emma C. Young Emma C Young P.O. Box 2051	2075 SW Dillard Lane
Bonnie Kellay / Monte Kellay	1974 SW Beekma Dr.
Anna Marie Haveni ANNAMARIE HAVENI	1291 Napoleon Dr., O.H. 98277
Ann Denny	1928 SW BEEKMA DR.
Cybil R. Jaupud	2155 SW Dillard Ln, Oak Harbor WA 98277
Virginia Wiggins	2498 SW Freund St, Oak Harbor WA 98277
PETER GRUBBO	P.O. Box 1200 - Oak Harbor WA 98277 2509 MILL AVE BELLINGHAM WA 98225

Note: Signing this petition does not commit you to an LID and LID assessments. Signing simply means that you have an interest in the installation of the specified public improvement and that you will consider paying for the improvements through the formation of an LID. Actual commitment will come later through a public hearing process. However, to initiate the process, the property owners must demonstrate sufficient interest. If this happens, the City will prepare and submit to the property owners' additional information for the project including cost data and LID procedures before scheduling a public hearing.



Local Improvement District (LID) Petition

To: The Honorable Mayor and City Council

Mail To: City of Oak Harbor
Engineering Department
865 SE Barrington Drive
Oak Harbor WA 98277

Or Bring To: Engineering Department
at City Hall

We the undersigned, owners of property lying within the following described area: (Give plat name or specify streets or other means to approximately locate project area.)

Driftwood Beach Addition

Do hereby petition for a resolution to create a Local Improvement District for: (Circle one or more improvements that apply.)

Roadway
Storm Drainage

Sanitary Sewer
 Sidewalk

Street Lighting
Traffic Signal

Water Main
Other _____

Property Owner Name (no renters please)	Property Address (Also give mailing address if different)
<i>KATHLEEN C. STEELE (AKA MEDFORD)</i>	<i>2121 SW Dillard Lane</i>
<i>KATHLEEN C. STEELE</i>	
<i>AKA KATHLEEN C. STEELE</i>	

*O.H.
WA 98277*

Note: Signing this petition does not commit you to an LID and LID assessments. Signing simply means that you have an interest in the installation of the specified public improvement and that you will consider paying for the improvements through the formation of an LID. Actual commitment will come later through a public hearing process. However, to initiate the process, the property owners must demonstrate sufficient interest. If this happens, the City will prepare and submit to the property owners' additional information for the project including cost data and LID procedures before scheduling a public hearing.

*Mailing address: 11415 Mangawite Ct NW
Albuquerque, NM 87114*

City of Georgetown, Texas Local Improvement District #117 Petition

To: The Honorable Mayor and City Council

From: Chief of Police, Police Department
 Engineering Department
 301 SA Barrington Drive
 Georgetown, TX 78627

We the undersigned, owners of property lying within the following described area: (Give street name or street names or other means of identifying said local project area.)

Do hereby petition for a resolution to create a Local Improvement District for the above area for the following improvements (check box):

Roading: Sidewalk Street Lighting Water Main
 Storm Drainage Sidewalk Traffic Signs Other

Property Owner Name (no tenters please)	Property Address (also give mailing address if different)
ALVIN W. PETERS & DORIS M. PETERS	DRIFTWOOD BCH LOT 8 Mailing Address: 310 TRAIL OF THE FLOWERS GEORGETOWN, TX 78633-4839
<i>Alvin W. Peters</i> <i>Doris M. Peters</i>	

Note: Signing this petition does not commit you to an LID and LID assessments. Signing simply means that you have an interest in the installation of the specified public improvement and that you will consider paying for the improvements through the formation of an LID. Actual commitment will come later through a public hearing process. However, to initiate the process, the property owners must demonstrate sufficient interest. If this happens, the City will prepare and submit to the property owners' additional information for the project including cost data and LID procedures before scheduling a public hearing.

FOSTER PEPPER & SHEFELMAN PLLC
ATTORNEYS AT LAW



**CHECKLIST/OUTLINE OF LOCAL IMPROVEMENT DISTRICT
PROCEDURES IN WASHINGTON CITIES**

For transcript documents,
each copy of such document should be certified as a true
and complete copy by the official custodian of the original.

The assistance of an engineer (either an independent consultant or the city engineer), a financial advisor or investment banker, the city attorney, bond counsel and other professionals, including an environmental lawyer and an appraiser, as appropriate, should be secured at the outset to assure that each procedural requirement is timely met and that the council or commission has the information and advice needed to make the necessary decisions.

INITIAL STEPS UNDER PETITION METHOD OF FORMATION

- Filing of a petition signed by owners of property aggregating a majority of the area of the proposed Local Improvement District (LID). RCW 35.43.120.
Property owners' petition with all signatures.
- Certification of sufficiency of petition by the designated officer. RCW 35.43.130.
Engineer's certificate of sufficiency of petition.
- Designated person prepares cost estimate, assembles other statutorily required information and certifies it to the council. RCW 35.43.130.

STEPS UNDER BOTH RESOLUTION AND PETITION
METHODS OF FORMATION

Determine whether LID formation is categorically exempt from procedures of State Environmental Policy Act (SEPA), Chapter 43.21C RCW and Chapter 197-11 WAC. If not categorically exempt, prepare and issue Environmental Checklist and Determination of Non-Significance (DNS) (or Environmental Impact Statement (EIS)) before adopting ordinance creating LID and ordering improvements.

Environmental Checklist and DNS (or EIS).

Adopt resolution declaring intention to form LID, or in response to petition, adopt resolution fixing hearing on forming LID. Resolution provides for hearing on formation whether petition or resolution method is used. RCW 35.43.130-.150; 35.43.125.

Resolution.

Minutes (or excerpts) of council meeting reflecting adoption of such resolution.

If resolution method is being used, designated person prepares cost estimate, assembles other statutorily required information and certifies it to the council. RCW 35.43.130.

Mail notice of hearing at least 15 days before the date fixed for hearing to the owners as shown on the rolls of the County Assessor of all property (a) within the proposed LID and (b) outside of the proposed LID, when such property is required at the time of notice to be connected to the proposed sewer or water facilities as a condition of Federal Housing Administration loan qualification. RCW 35.43.150; 35.43.270. If state-owned property will be assessed, notice must be given by registered or certified mail at least 30 days prior to hearing. RCW 79.44.040.

Affidavit of mailing with form of notices attached.

Publish resolution declaring intention or resolution fixing hearing on forming LID in at least two consecutive issues of the official newspaper, the first publication being at least 15 days prior to the hearing. RCW 35.43.140.

Affidavit of publication of both such publications.

Conduct hearing on formation of LID. RCW 35.43.140.

Minutes of council meeting, committee meeting, or proceedings before hearing officer reflecting such hearing, including recommendation of committee or hearing officer.

Resolution designating hearing examiner or committee, if authorized.

Pass ordinance creating LID and ordering the improvement. RCW 35.43.070.

Ordinance creating LID.

Minutes (or excerpts) of council meeting showing passage of such ordinance.

If SEPA review required for LID formation, give official notice of the date and place for commencing an appeal under SEPA. RCW 43.21C.075(5), 43.21C.080; WAC 197-11-680(5).

Official notice.

Publish ordinance creating LID in official newspaper.

Affidavit of publication of formation ordinance.

Within 15 days after creation of LID, file ordinance creating LID, boundary diagram of LID and preliminary assessment roll with City Treasurer (sometimes referred to as Finance Director). Thereafter, City Treasurer should immediately post the proposed assessment roll upon his or her index of local improvement assessments. RCW 35.50.005.

If LID contains "farm and agricultural land" or "timber land" as defined in RCW 84.34.310, file notice of formation of LID with County Assessor and county legislative body. RCW 84.34.320.

If LID does not contain such farm and agricultural land or timber land, a certificate from the County Assessor to that effect; or

If LID does contain such farm and agricultural land or timber land, a certificate or receipt of filing such notice.

County Assessor shall mail notice of formation of LID to owners of "farm and agricultural land" or "timber land," as defined in RCW 84.34.310. RCW 84.34.320.

Certificate or other evidence of mailing such notice.

Expiration of protest period for LID formed by resolution method 30 days following passage of ordinance forming LID. RCW 35.43.180.

Clerk's or engineer's certificate of maximum percentage of protest during that period.

Expiration of time limitation on litigation. No lawsuit may be maintained challenging formation of the LID if not filed within 30 days after passage of the formation ordinance (if initiated by petition) or after expiration of the 30-day protest period (if initiated by resolution). RCW 35.43.100.

Authorize final design work.

If required, authorize and publish call for bids for construction. RCW 35.22.620, 35.23.352, 35A.40.210, 35.43.190.

Affidavit of publication of bid call.

If required, post call for bids. RCW 35.22.620, 35.23.352, 35A.40.210.

Affidavit or certificate of posting of bid call.

Receive bids.

Engineer furnishes analysis of bids.

All bids received and engineer's tabulation.

Accept best bid and award contract.

Minutes (or excerpts) of council meeting showing action on bids.

Authorize sale of interest-bearing warrants drawn on LID fund or short-term financing by means of a line of credit or notes and establish the interest rate or index by ordinance. RCW 35.45.130; ch. 39.50 RCW.

Ordinance authorizing warrants or notes.

Minutes (or excerpts) of council meeting reflecting passage of such ordinance.

Affidavit of publication of such ordinance.

"Take out" commitment.

Preliminary warrant or note opinion.

Other transcript documents, if required as the basis for such legal opinion.

Periodically issue such interest-bearing warrants, if any, drawn on LID fund to cover costs of improvement, as incurred.

Individual warrant opinions, if any, and supporting vouchers.

On completion of project, obtain necessary state clearances, accept work and determine total cost. RCW 35.44.020, 60.28.040 (Dept. of Revenue), 51.12.050 (Dept. of Labor and Industries).

Direct engineer to prepare final assessment roll and file it with clerk.

Adopt resolution or motion setting time, date and place of assessment roll hearing. RCW 35.44.070.

Resolution, if any.

Minutes (or excerpts) of council meeting reflecting adoption of such resolution or motion.

Mail notice of hearing to the owners of all property listed on the assessment roll as those owners' names appear on the records of the County Treasurer at least 15 days before date fixed for hearing. RCW 35.44.090.

Affidavit or certificate of mailing with copy of notice attached.

Publish notice of hearing at least once a week for two consecutive weeks in the official newspaper, the last publication being at least 15 days before the hearing date. RCW 35.44.090.

Affidavit of such publication.

Conduct final assessment roll hearing, considering objections and overruling them or modifying assessments. RCW 35.55.070, 35.44.100.

Minutes of council meeting, committee meeting, or proceedings before hearing officer reflecting such hearing, including recommendation of committee or hearing officer.

Resolution designating hearing examiner or committee, if authorized.

If any assessments are increased, set a new hearing and publish and mail notice to those properties with increased assessments in the same manner as for the original assessment roll hearing. RCW 35.44.120.

Pass ordinance confirming and levying assessments as finally approved. RCW 35.44.100.

Ordinance confirming assessment roll.

Minutes (or excerpts) of council meeting showing passage of such ordinance.

Publish ordinance confirming assessments.

Affidavit of such publication.

In LID containing any "farm and agricultural land" or "timber land" as defined in RCW 84.34.310, file notice with County Assessor, County legislative authority and City Treasurer of adoption and confirmation of final assessment roll. RCW 84.34.320.

Certificate or receipt of the filing of such notice.

Certified copies of any waivers of assessment exemptions given pursuant to RCW 84.34.320.

Appeal period expires 10 days after the ordinance confirming assessment roll becomes effective. RCW 35.44.190-.210.

City Treasurer publishes in the official newspaper once a week for two consecutive weeks, and (within 15 days after the first such publication) mails to all property owners, notice that roll is filed for collection. RCW 35.49.010.

Affidavit of such publications.

Affidavit or certificate of such mailing with notice attached.

Prepayment period expires 30 days after first publication of Treasurer's notice. RCW 35.49.010; 35.49.050.

Treasurer's certification of amount of prepayment and balance of unpaid assessments.

Sell bonds after expiration of prepayment period (bonds to be dated and delivered no earlier than 20 days after conclusion of prepayment period) at public or private sale. RCW 35.45.010; 35.45.040.

85

A. Public Sale

- (1) Contact financial consultant.
- (2) Pass and publish bond ordinance authorizing sale.

Ordinance.

Minutes (or excerpts) of council meeting reflecting passage of such ordinance.

Affidavit of publication of such ordinance.

- (3) Publish notice of sale.

Affidavit of publication of notice of sale.

- (4) Review bids and accept best bid.

a. *All bids received and tabulation.*

b. *Minutes (or excerpts) of council meeting showing action on the bids received.*

B. Private Sale

- (1) Contact investment banker.
- (2) Receive proposal(s) for bonds and accept or reject.

a. *Proposal accepted.*

b. *Minutes (or excerpts) of council meeting reflecting acceptance of same.*

- (3) Pass and publish bond ordinance.

a. *Minutes (or excerpts) of council meeting reflecting passage of same.*

b. *Affidavit of publication of such ordinance.*

Pass and publish guaranty fund ordinance if none exists.

Ordinance.

Minutes (or excerpts) of council meeting reflecting passage of such ordinance.

Affidavit of publication of such ordinance.

Use prepaid assessments to redeem outstanding LID fund warrants or short-term financing.

Deliver bonds, no earlier than 20 days after conclusion of prepayment period, either in exchange for remaining outstanding warrants or for cash sufficient to redeem such warrants or financing.

Preliminary official statement.

Official statement.

Closing certificate.

Certificates of manual signature and mailing.

Signature identification certificate.

Tax exemption and nonarbitrage certificate.

Internal Revenue Service Form 8038-G.

Specimen bond.

Certificate of bond registrar.

Receipt for Bonds and Receipt for Payment.

Approving legal opinion and reliance letter.

BAN transcript, if applicable.

State Bond Report Form