

**City of Oak Harbor
City Council
Meeting
Agenda**

for

**July 6, 2010
6:00 p.m.**

**Race Week
July 17th - 23rd**

Oak Harbor City Council
Tuesday, July 6, 2010, 6:00 p.m.

Welcome to the Oak Harbor City Council Meeting

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

CALL TO ORDER

INVOCATION Brent Sorlein – Oak Harbor Assembly of God

ROLL CALL

MINUTES 6/15/2010 Regular Meeting

NON-ACTION COUNCIL ITEMS:

1. Proclamation - Christmas in July.
2. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

3. Consent Agenda:

Page 32

- a. Noise Permit – Oak Harbor Rotary Car Show.

Page 35

- b. Noise Permit – Island Classic Mustang Club.

Page 38

- c. Noise Permit – North Whidbey Sunrise Rotary – Challenge Series.

Page 41

- d. Noise Permit – Fidalgo Merchant's Association – Pig Roast.

Page 44

- e. Noise Permit – Living Faith Christian Center.

Page 47

- f. Noise Permit – NOPF Whidbey Island.

Page 50

- g. Appointment – Community Police Advisory Board – Ethelinda Larcena.

Page 52

- h. Appointment – Community Police Advisory Board – Jo Balda.

Page 54

- i. Disposition of RTPO Grant.

Page 67

- j. Fuel Island Upgrade Equipment Purchase.

Page 69

- k. Authorization to Solicit Bids – Scenic Heights Trailhead.

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

Page 71

4. Recognition and Resolution – Wellness Committee.

Page 75

5. Public Hearing – Ordinance to Amend 2009 – 2010 Biennial Budget.

Page 78

6. Public Hearing and Final Consideration – Ordinance, Change to Monthly Utility Billing.

Page 88

7. Authorization to Solicit Bids – Marina Dredging.

Page 100

8. Fairway Point Division 4 Final Plat.

Page 113

9. Contract with PSE – Pioneer Way Utility Location.

Page 133

10. Introduction – Utility Policy/Rates Ordinance – Stormwater.

Page 146

11. Ordinance – 2010 Solid Waste Franchise.

12. City Administrator's Comments.

13. Councilmembers' Comments.

- Standing Committee Reports.

14. Mayor's Comments.

ADJOURN

"Speak ill of no man, but speak all the good you know of everybody."

- Benjamin Franklin

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.

City Council Meeting
Tuesday, June 15, 2010, 6:00 p.m.
City Hall – Council Chambers

CALL TO ORDER

Mayor Pro Tem Paggao called the meeting to order at 6:00 p.m.

INVOCATION

Ron Eerkes, New Covenant Four Square Church

ROLL CALL

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

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

Mayor Jim Slowik was absent and formally excused from this meeting.

MINUTES

Councilmember Campbell moved to approve the minutes of the 5/27/10 Workshop and 6/1/10 Regular Meeting, Councilmember Severns seconded the motion, and the motion carried. Councilmember Munns did not attend the 5/27/10 workshop but was present for the 6/1/10 regular meeting and asked that this be reflected in the record.

NON-ACTION COUNCIL ITEMS

80th Birthday Recognition for Past Mayor Al Koetje

Mr. Koetje introduced his family and Councilmember Severns read and presented a proclamation to Past Mayor Koetje. Mr. Koetje opened his remarks by saying, "if you live long enough, you are going to do something good;" and, "have a perfect day by doing something for someone else that can never be paid back." Mr. Koetje served as a Council Member for over seven years and, beginning in 1972, served six consecutive terms as Mayor. During his tenure projects included the marina, senior center, Crescent Harbor sewer lagoon, the combined City/Navy water main from Anacortes, the police department expansion and remodel, the library, Rotary lagoon, fire station on Whidbey Avenue, and the public works building on NE 16th Avenue. He also served as President of the Association of Washington Cities, and sat on the Municipal Research and Services Center Board and the National League of Cities Small Cities Steering

Committee. Mr. Koetje's continues his service to the community through participation on the Marina Advisory Committee, Oak Harbor Senior Center Foundation Board, and the NASWI Task Force. In addition to Past Mayor Koetje's family, also attending this meeting in honor of Mr. Koetje were Past Mayor Patricia Cohen, Past Mayor Pro Tem Mike Milat, Past Council Member Joe Jenkins, Past City Attorney Phil Bleyhl, Past Council Member Bob Morrison, Past City Clerk Rosemary Morrison, and Christon and Debbie Skinner.

Employee Recognition – Janet Sabalausky, Parks Division, 15 Years

Public Works Director Cathy Rosen introduced Ms. Sabalausky and talked about her achievements in Oak Harbor's Parks Department which have included supervision of the City's hanging baskets, maintenance and safety of our park's playground equipment, advanced computer skills, and membership in the City's Wellness Committee. Ms. Sabalausky also coaches Little League and serves on the Little League Board. She is hard-working, well-organized and is a tremendous asset to the City. Her contributions to Oak Harbor's Parks Department are greatly appreciated.

Public Comments

Helen Chatfield-Weeks, 1415 SE Ninth. Ms. Chatfield-Weeks spoke to Council's perception of the Multi-Modal Building which was presented as an agenda item during the 6/1/10 Council Meeting. Members of the Municipal Pier Committee worked hard on the design and especially the building's interior. It is for the people of Oak Harbor and is meant to provide a nice place for people to use now and to be the anchor of the future municipal pier. Ms. Chatfield-Weeks talked about working toward funds for tables and chairs and thanked Council for approving this project.

Removal from the Agenda – Fairway Point Division 4 Final Plat

City Administrator Schmidt noted that this agenda item would not be heard this evening.

MOTION: Councilmember Campbell moved to remove the Fairway Point Division 4 Final Plat agenda bill from this evening's meeting. The motion was seconded by Councilmember Severns.

Councilmember Dudley asked why this item was being removed. The development's owner had requested this action in order to have more time to meet needed requirements for the final plat.

VOTE ON THE

MOTION: The motion carried unanimously.

Consent Agenda

- A. Fuel Island Upgrade Equipment Purchase
- B. Noise Permit – Ft. Nugent Homeowners' Association
- C. Noise Permit – Greater Oak Harbor Chamber of Commerce, 4th of July
- D. Noise Permit – Race Week
- E. Approval of Accounts Payable Vouchers

Councilmember Alberg asked that Consent Agenda Item A – Fuel Island Upgrade Equipment Purchase be removed for discussion.

MOTION: Councilmember Alberg moved to approve Consent Agenda Items B, C, D, and E with Item E paying accounts payable check numbers 141812 – 141977 in the amount of \$705,510.28, and payroll check numbers 93895 – 93902 in the amount of \$94,290.00. The motion was seconded by Councilmember Campbell and carried unanimously.

Consent Agenda Item A – Fuel Island Upgrade Equipment Purchase

Councilmember Alberg asked if this represented equipment only or if labor was involved. Public Works Director Rosen clarified that this is a purchase off of the state contract which offers a 10-25% cost savings. This subject will return to Council for bid authorization regarding equipment installation.

MOTION: Councilmember Alberg moved to approve Consent Agenda Item A – Fuel Island Upgrade Equipment Purchase. The motion was seconded by Councilmember Palmer and carried unanimously.

Public Hearing – Biennial Budget Revenue Projections

Finance Director Doug Merriman gave a PowerPoint presentation for this agenda item which showed the City's 2011 – 2012 revenue projections which are the basis for the initial financial structuring of the City's 2011 – 2012 biennial budget. This presentation is attached to these minutes as Exhibit A. Mr. Merriman also gave Council Members the National Advisory Council on State and Local Budgeting publication titled, "Recommended Budget Practices." He noted that budget practices are not only about the numbers but should also be linked to goals.

Council Discussion

Discussion followed about investments and investment percentages, Mr. Merriman's comparison of revenue streams from year to year, the fund balances, and if 2009's 21.43% fund balance included interest income (yes). Discussion continued about housing typically leading core spending and that housing has not yet recovered, use of a lower than average growth rate and projection out by six years, and the projections for property and sales tax. Mr. Merriman noted that the City used to receive \$180,000 to \$190,000 in property taxes but last year's one percent allowed only \$30,000. Mr. Merriman also talked about the school district project skewing 2009 sales tax figures and that the City is probably down to its true sales tax core now. Discussion followed about comparisons to other cities; some have dropped by 25% to 30% (Anacortes, as example, has seen car sales drop which affects their sales tax revenues). Mt. Vernon is Oak Harbor's closest comparable city. Discussion continued about utility taxes (20.54% of general fund revenues), zoning and annexation which are hard to estimate and projected to remain lower, and the low projection for investment earnings in today's

economic climate. Mr. Merriman talked about the growth rate percentages and the effect of growth rates, CAPRON (only 3 cities in the state receive these funds and Oak Harbor is among that number), and REET I and REET II funds. The SWOT Analysis was reviewed: Strengths, Weaknesses, Opportunities, and Threats.

Mayor Pro Tem Paggao opened the public hearing at 7:25 p.m. but there were no public comments so the public hearing was closed.

Council discussion continued about the effect of Internet sales on sales tax, the amount of sales tax Oak Harbor receives (8.7% sales tax nets .85% to the City), what the County may be projecting in sales tax increase, and the intersecting lines of revenues versus expenditures and funds represented by each. Council asked about the three cities receiving CAPRON funding and the amount received (\$650,000 a year in the past; down about 40% now), the amount in the City's REET funds (\$5,594,000), the restrictions on how REET funds may used, and their needed relationship to the City's Capital Facilities Plan.

Introduction – Ordinance, Change to Monthly Utility Billing

Finance Director Merriman presented this agenda bill which proposed amendments to Chapter 3.95 for the purpose of updating City utility billing and collection procedures.

The amendments will:

1. Standardize the City's billing practices.
2. Shift to monthly utility billing which is targeted for July and on track.
3. Solidify our appeals process for customers.
4. Adjust the City's pay calendar. Presently, this is about twice the industry standard and needs to be more manageable and cost effective.

Mr. Merriman noted two corrections to this introductory ordinance:

1. Page 3 of the proposed ordinance, Section 3.95.070, Charges – Due Date. The last part of the ending sentence should read, "...utility charges shall bear interest at the rate of eight percent per annum."
2. Page 5 of the proposed ordinance, Section 3.95.120, Turning Water On – Charges. The last sentence should read: "The charge for turning on the water after 5:00 p.m. on any work day or on weekends shall be \$75.00 except for emergency responses."

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

Council Discussion

Discussion followed about the timing for monthly billing and that the eastside of town will be billed first, the loss of the Finance Director's power as stricken in Section 3.95.030 – Promulgation of Rules, and customer protection if something happens with their payment within the software. Mr. Merriman responded to this last point noting that the system has been tested and that he has the authority to adjust bills and waive fees if there is an electronic problem.

Break

Mayor Pro Tem Paggao called for a break at 7:50 p.m. and the meeting reconvened at 8:00 p.m.

Pioneer Way Improvement Funding Designation

City Engineer Eric Johnston presented this agenda bill which requested adoption of Resolution 10-16 to designate up to \$2 million of REET funds to place electrical and communication utilities underground as part of the Pioneer Way Improvement Project. On January 5, 2010, City Council considered potential funding sources for the additional \$2 million in Pioneer Way improvement costs associated with undergrounding of overhead utilities and authorized the Mayor to apply for Community Development Block Grant (CDBG) funding in the amount of \$1 million for the Pioneer Way Improvement Project. The Island County Economic Development Grant Program was identified as a potential additional source of funding for \$1 million. On May 13, 2010, the City was officially notified that our CDBG application was not selected for funding. In order to complete the final design of the Pioneer Way Improvement Project, a decision regarding the undergrounding of overhead utilities is necessary. A contract with PSE is being developed and will require a funding commitment. If it is decided that undergrounding of the overhead utilities is not a priority, the already identified sources of funding for the remainder of the project are sufficient and final design and construction can proceed. If it is decided that undergrounding of utilities is a priority, an additional funding source in the amount of \$2 million is needed. One possible source of funding is the remaining amount of REET funds available. Currently, the City is holding \$5,594,441 in REET funds, with \$3,500,000 of the amount previously reserved for the Pioneer Way project (Resolution No. 9-26 approved on November 17, 2009), leaving an available balance of \$2,094,441. If the undergrounding of overhead utilities is deemed necessary, staff suggests the additional commitment of \$2 million in REET funds to the Pioneer Way Improvement Project. Doing so will leave an estimated REET fund balance of \$94,441. Note that this choice will limit the amount of future capital projects until future years when the REET funds would be replenished.

Public Comments

Christon Skinner, 740 SE Pioneer Way. Mr. Skinner spoke in favor of undergrounding these utilities and applauded the Council for bringing the project to this point. It makes sense to do the undergrounding at this point and it will be good for the property owners and citizens. Let's move forward with long-term sustainability; I urge adoption of the resolution.

Mel Vance, P.O. Box 2882. Mr. Vance agreed that undergrounding these utilities would look better, but did not agree with putting more money into this project. This is turning into a money pit. Keep REET funds for other projects and stop spending more and more on this project. Another \$90,000 was added for a public relations campaign.

There were no other comments.

Council Discussion

Discussion followed about how REET funds can be used, that these funds can be used on projects that are part of the Capital Facilities Plan, and that historically REET funds have been used for streets and parks projects. Discussion continued about the \$94,441 balance which would be left in REET and the amount of time it would take to rebuild REET funds, the difference between City utilities and franchised utilities and the funding mechanisms for each, and that the Pioneer Way Project is a street projection of which one element is an underground utility conversion. REET funds are not being used for City utilities but are being suggested for street purposes. Discussion followed about the design and design costs for undergrounding, what costs are born by PSE and the City, the difficulty in obtaining grant funding, and that the City will continue to pursue other funding options. Discussion returned to PSE's design fee (approximately \$100,000), whether there should be an MOU with PSE for this fee, and that the Utilities Commission approves use of Schedule 74 and 74A regarding a design agreement. These are prescriptive schedules and an agreement with PSE should come before Council on July 6, 2010. Discussion continued about committing to \$2 million without knowing PSE's participation (the City's understanding is a 60/40 split), that MSA will serve as a sub-consultant, if power could be routed differently without undergrounding, and that it is more cost-effective to underground the utilities along Pioneer Way. Contingencies are built into the \$2 million and the funding commitment confirms that this work will be done. Discussion returned to REET funds and how REET funding was used in the past (Ft. Nugent Park, Windjammer Windmill refurbishment), that REET funding will potentially generate \$300,000 in 2010, the number of years to regenerate this expenditure, and that there might not be another project called out in the CIP which extends out to 2015 for use of these funds. Discussion followed about the difference between REET 1 and REET 2 funds and how they are restricted, the overall cost of the Pioneer Way Street Improvements Project, any possibility for alternative funding and those sources, and the project's schedule as approved by Council. Staff noted that there is a cause and effect of missing the start date, but rejecting this proposal does not say that Council does not want to underground. The CBDG grant was pursued without success and all sources have been diligently pursued. The business surveys did not ask about undergrounding because the survey focus was on the aspect of the businesses and how they operate. Input has been consistently received from businesses and property owners saying that they want utility undergrounding. As asked during the Public Works Standing Committee meeting, the City now knows that PSE will run conduit to the property lines and costs to property owners are being developed. 37 properties will be affected, 21 will require a change in service, and 16 will have a minor change. Some will be totally unaffected (power is supplied to the back of these buildings). This becomes a discussion beyond a projection of revenues and includes a qualitative decision that would aesthetically enhance downtown. Undergrounding is integral to the project's design and proceeding with the street's design and the project's schedule. Final discussion returned to the general fund's 15% reserve and that REET funds are outside of that reserve with this project as part of the Capital Improvement Plan list.

Councilmember Alberg made a motion to adopt Resolution 10-16 but there was no second so Council could continue discussing this matter.

Discussion continued about the funding sources as shown in the resolution, that the existing grant is accounted for in the \$6.35 million, and that the City proposes to ask for additional funds from the County. The County funds are pass-through funds and not dependent on the County's revenue. The City has pursued a wide variety of funding sources and Council committed to REET funds with adoption of the funding plan. It was noted that it would take 6 years to replenish \$2 million in REET funding and 14 years to replenish the full \$ 5.5 million in REET funds (\$3.5 million was previously reserved in 2009 for the Pioneer Way Improvement Project). Discussion followed regarding Past Mayor Koetje's project accomplishments and that part of Council's work is vision for the community and the community's quality of life.

MOTION: Councilmember Alberg moved to adopt Resolution 10-16. The motion was seconded by Councilmember Munns.

VOTE ON THE

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

Break

Mayor Pro Tem Paggao called for a break at 9:10 p.m. and the meeting reconvened at 9:15 p.m.

Final Consideration – Ordinance, Council Standing Committees and Council Meetings

City Attorney Margery Hite presented this agenda bill and ordinance to formalize the rules relating to standing committees, to establish regular public meeting dates, to clarify the means for presenting Council-initiated agenda bills, and to allow for electronic means of public notification of agenda lists. On June 1, 2010, the Council considered this ordinance and amended it orally. It was referred to staff for a final written document. Ms. Hite talked about the four amendments to the introduced ordinance on June 1, 2010.

Mayor Pro Tem Paggao called for public comments.

Public Comments

Mel Vance, P.O. Box 2882. Mr. Vance felt that stopping publication of the agendas in the newspaper was a bad idea. Spending \$5,000 is not a lot compared to other expenditures. Continue to publish it; there are a significant number of people who still get their news from the paper.

There were no other comments.

Council Discussion

In response to Mr. Vance's concern, Ms. Hite noted that the ordinance does not mean the summary agenda will not be published, but this requirement will not now be codified; this is intended to provide flexibility. Council discussion continued about maintaining full disclosure and holding standing committee meetings in the Council Chambers so they could be videotaped and shown on Channel 10. Discussion followed about standing committees as written in this ordinance (what they are and when they meet) and that how Council wants them governed would be part of rules rather than an ordinance. Discussion followed about this ordinance and the Open Public Meetings Act, and Tim Ford's opinion on this ordinance (Mr. Ford had not provided language) with concern that Council Members could be subject to fines if something isn't correct. Other discussion countered that a reasonable person would ask if this is accomplishing a meeting that is open to the public; they have all been open public meetings. Ms. Hite noted that Mr. Ford does not hold a position in the state system and that the authority is the court; the court interprets the law. Ms. Hite expressed confidence in this ordinance as written.

MOTION: Councilmember Munns moved to adopt the ordinance amending Oak Harbor Municipal Code Chapter 1.04 entitled "Council Meetings," and readopting 1.04.030 as a new Chapter 1.30 OHMC. The motion was seconded by Councilmember AlMBERG.

Discussion continued regarding Mr. Ford's opinion and encouraging his guidance while other discussion questioned his issues without providing direction.

VOTE ON THE

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

Jail Contracts

Chief of Police Rick Wallace presented this agenda bill for a proposed interlocal agreement for jail services between the City of Oak Harbor and the City of Anacortes for the purpose of providing occasional Oak Harbor city jail services for the City of Anacortes.

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

Council Discussion

Discussion followed about the \$65 per day fee and how that number was chosen (as part of a review by Bill Hawkins and Lt. Sterkel; a baseline of market value for jail services), if there were liability issues (no), and the net affect of this agreement. Conservatively, this contract can be seen as a revenue neutral, but it should generate revenue. The number of signatures for this agreement was also discussed.

MOTION: Councilmember Palmer moved to approve and authorize the Mayor to sign the interlocal agreement for jail services between the City of Anacortes and the City of Oak Harbor city jail. The motion was seconded by Councilmember Severns and carried unanimously.

Fairway Point Division 4 Final Plat – this agenda bill was not considered this evening.

City Administrator's Comments

Mr. Schmidt talked about upcoming standing committee meetings and next week's AWC Conference. Mr. Powers talked about the upcoming June 23rd Pioneer Way Workshop which will include a presentation and also be participatory. It will be held at the Oak Harbor Yacht Club, 6:30 p.m. – 8:30 p.m.

Councilmembers' Comments

Standing Committee reports were given. Councilmember Campbell talked in detail about the VP-47 members who will be in Oak Harbor for their reunion and the festivities planned for this reunion. Councilmember Palmer talked about the dedication of the PBY Museum and the AWC Conference. Councilmember Dudley thanked Mr. Schmidt for arranging the wastewater treatment plant tours and congratulated Oak Harbor's graduates.

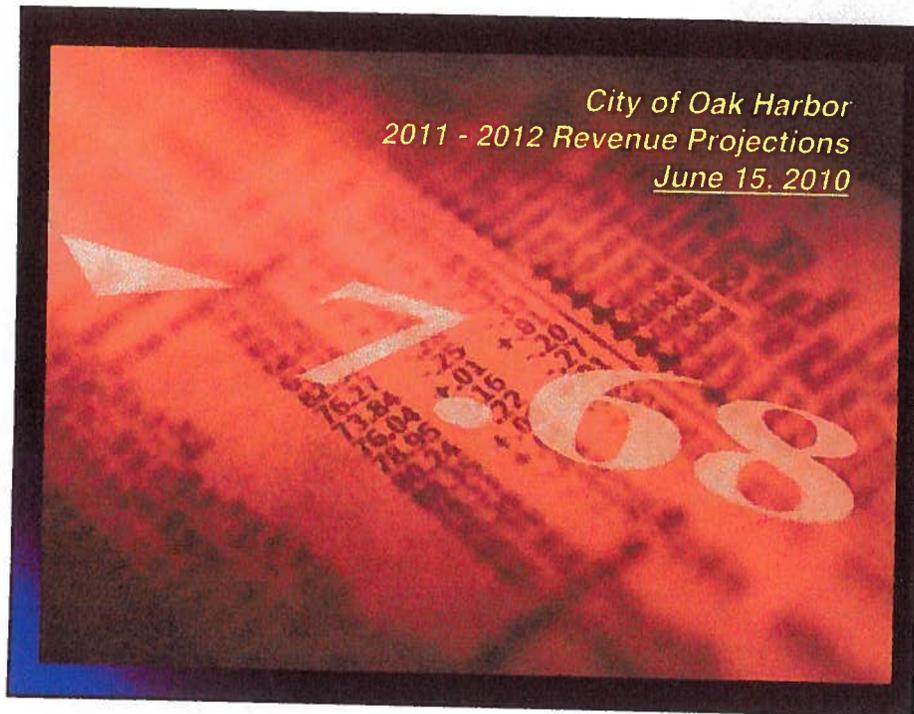
Mayor's Comments

None this evening.

ADJOURN

As moved by Councilmember Campbell and with no further business coming before Council, the meeting adjourned at 10:05 p.m.

Connie T. Wheeler
City Clerk



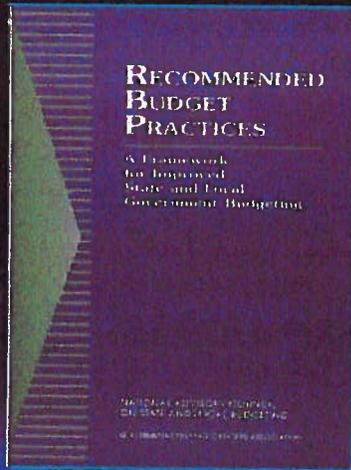
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City of Oak Harbor
2011 - 2012 Revenue Projections

What we need to discuss

- **Recommended Budget Practices.**
- **Budgeting Equation.**
- **Beginning Fund Balance.**
- **Projection of Specific Revenues.**
- **"Big Picture" overview.**

2



*National Advisory
Council on State and
Local Budgeting*

*"Budgeting Best
Practices"*

3



Recommended Budget Practices

- 1) DEVELOP GOALS TO GUIDE DECISIONS
- 2) DEVELOP APPROACHES TO ACHIEVE GOALS
- 3) DEVELOP A BUDGET CONSISTENT WITH APPROACHES
- 4) ASSESS PERFORMANCE AND MAKE ADJUSTMENTS

4

14

Budgeting Equation

Beginning Fund Balance On 1/1/2011
Plus: Revenues to Be Received during the year
Amount Available for Budget

Expenditures to be made during the year
Plus: Retained as Ending Fund Balance at 12/31/2011
Amount Spent or Set Aside with Budget

5

5

Budgeting Equation:

Beginning Fund Balance	\$1,000,000
Plus: Revenues to Be Received	1,300,000
<u>Amount Available for Budget</u>	<u>\$2,300,000</u>

Expenditures to be Made	\$1,500,000
Plus: Ending Fund Balance	800,000
<u>Amount Spent with Budget</u>	<u>\$2,300,000</u>

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Revenue Budget Projections

Beginning Fund Balance

+ Revenues To Be Received

Amount Available for Budget

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*City of Oak Harbor
2011 – 2012 Revenue Projections*

Beginning Fund Balance

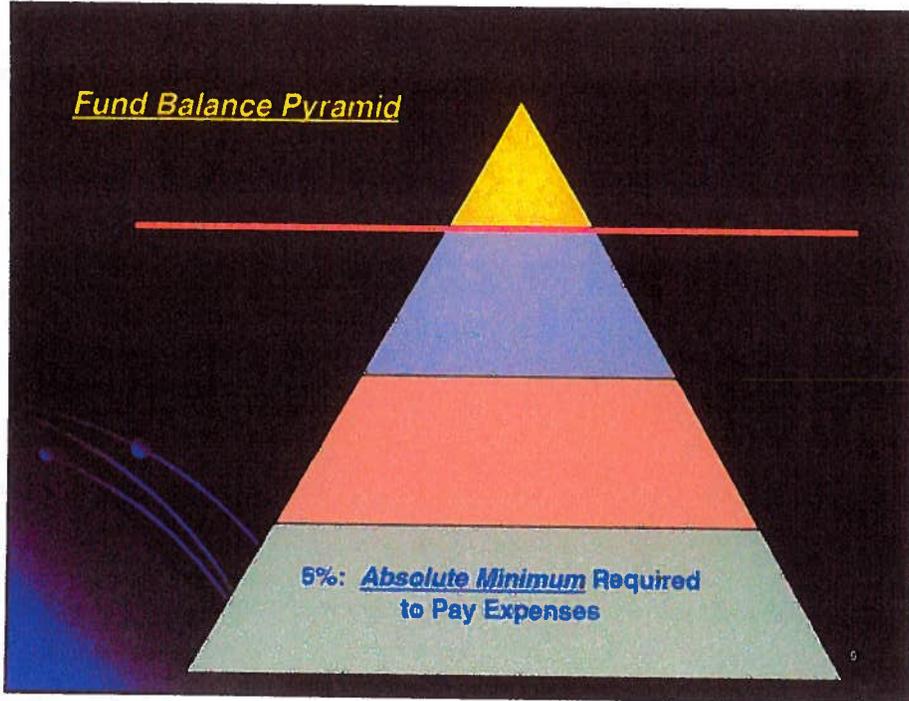
- Equals the amount of resources available on January 1 to fund projected expenditures.
- “Best Practices” Measure: Minimum balance should be 15% of annual expenditure budget.
- Strong barometer of financial health.
- Analysts evaluate this when rating bond capacity.

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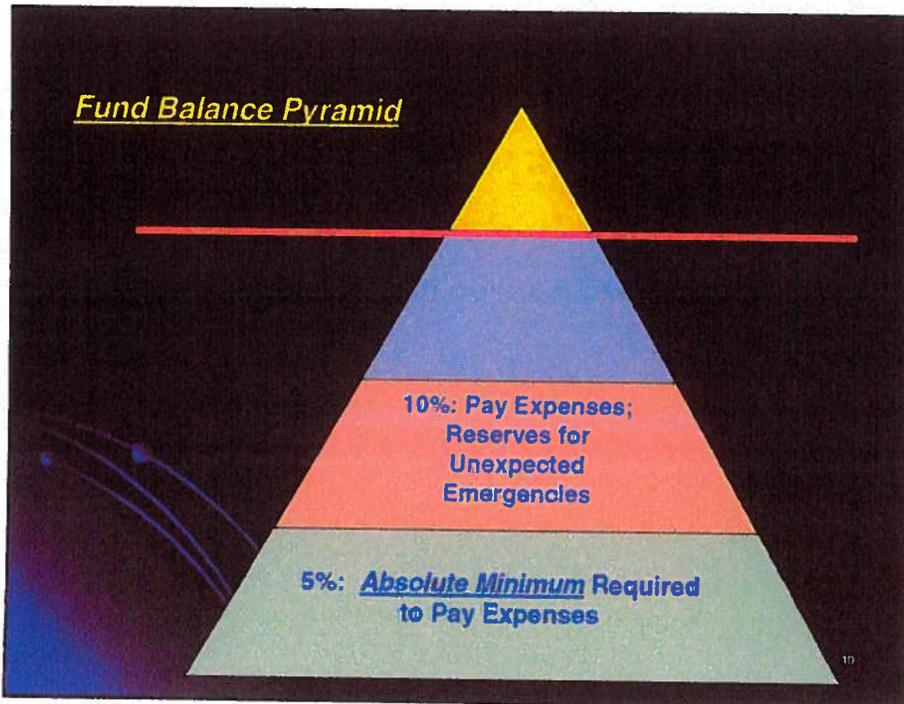
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Fund Balance Pyramid



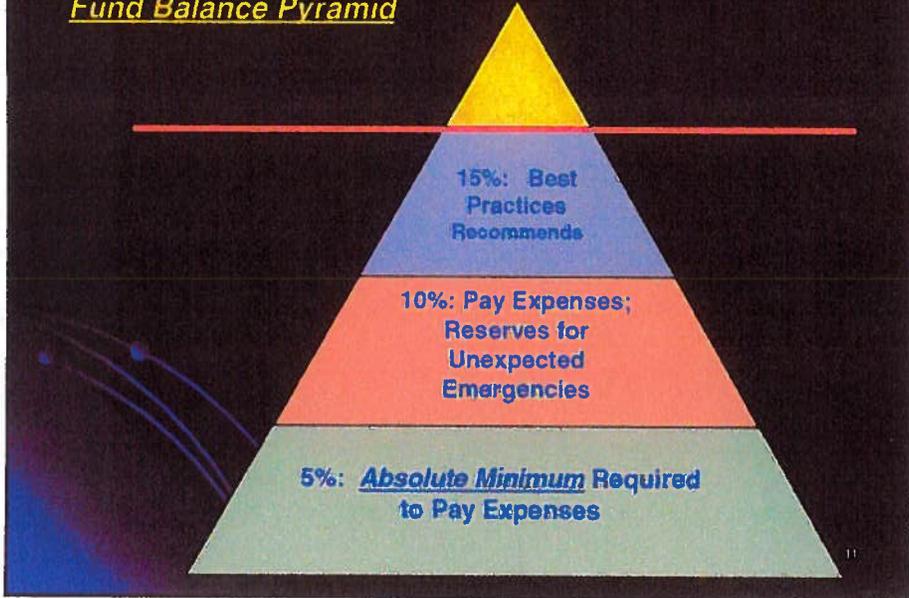
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Fund Balance Pyramid



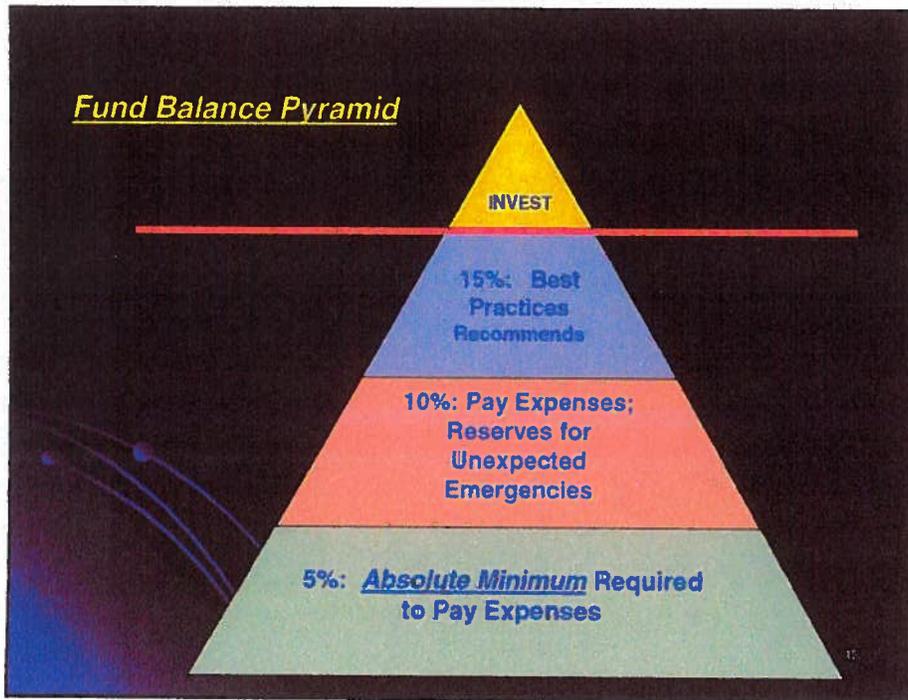
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Fund Balance Pyramid



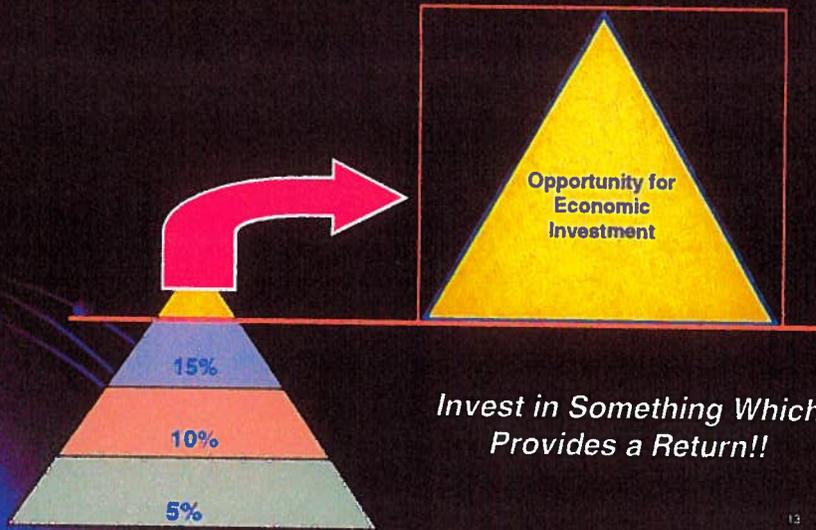
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Fund Balance Pyramid



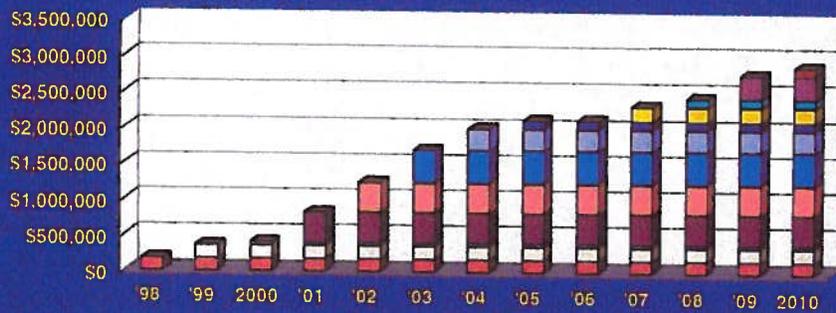
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Fund Balance Pyramid



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History of Fund Balance



1997: \$169,114 or 2.28%
 2001: \$809,012 or 7.92%
 2006: \$2,117,071 or 15.70%
 2009: \$2,765,345 or 21.43%

14

19

7

Projected Revenues-Oak Harbor Economics:

- Economic downturn is now in its 25th month
- Previous recessions typically lasted 18-22 months, with housing leading core spending to recovery.
- *While the decrease in core spending has leveled off and shown some signs of recovery, housing has not shown strength as in past recovery periods.*

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Economic Projection Parameters:

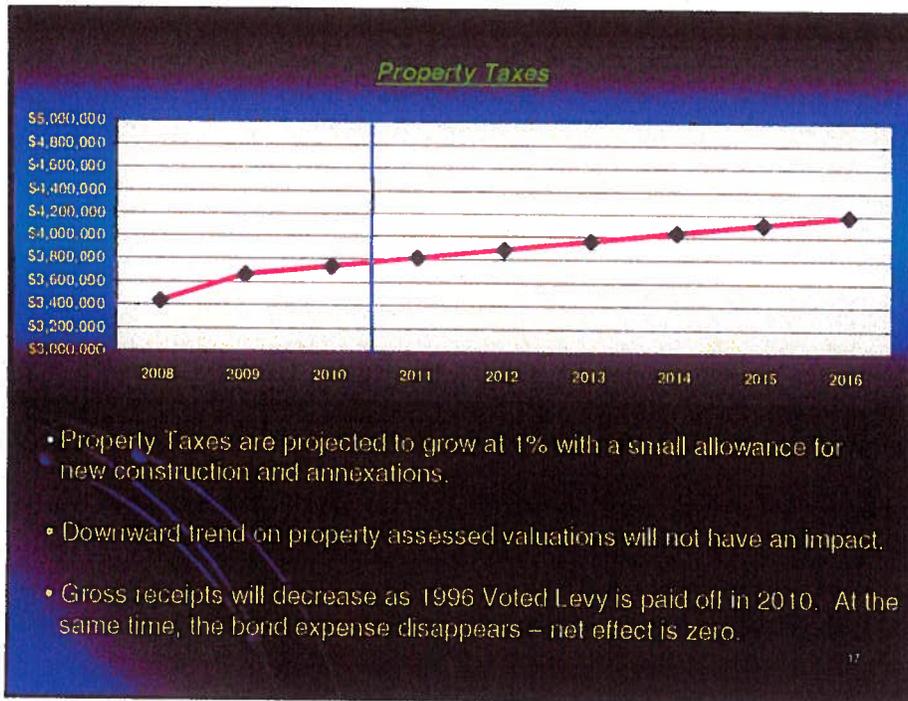
- Finance is projecting revenues out 6-years using a lower than average growth rate.
- Standard economic inflators to be used for each year are as follows:

• 2011:	<u>1.5%</u>
• 2012:	<u>1.8%</u>
• 2013:	<u>2.0%</u>
• 2014:	<u>2.3%</u>
• 2015:	<u>2.5%</u>
• 2016:	<u>3.0%</u>

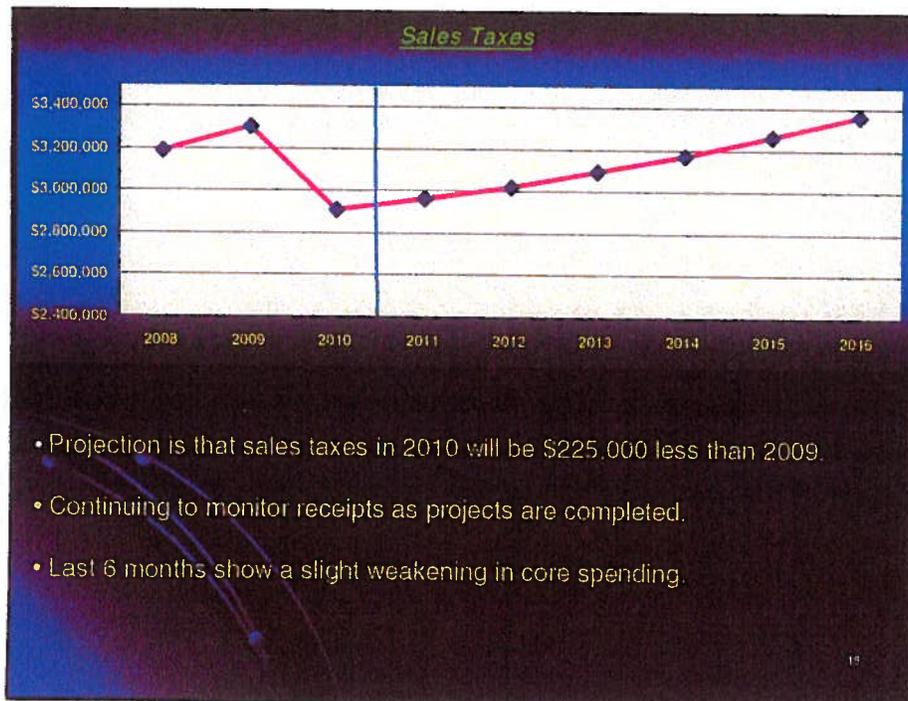
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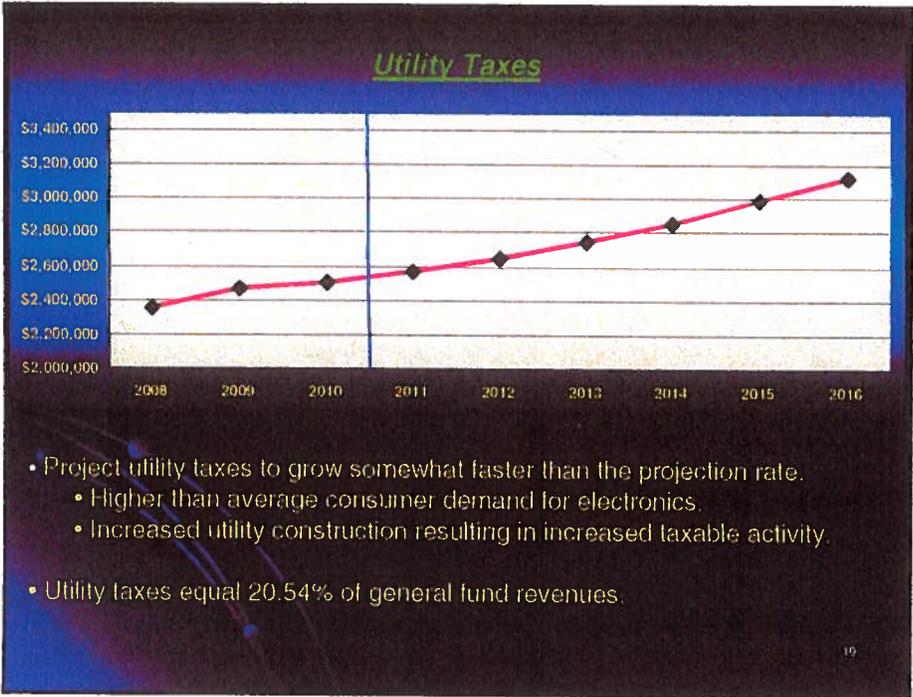
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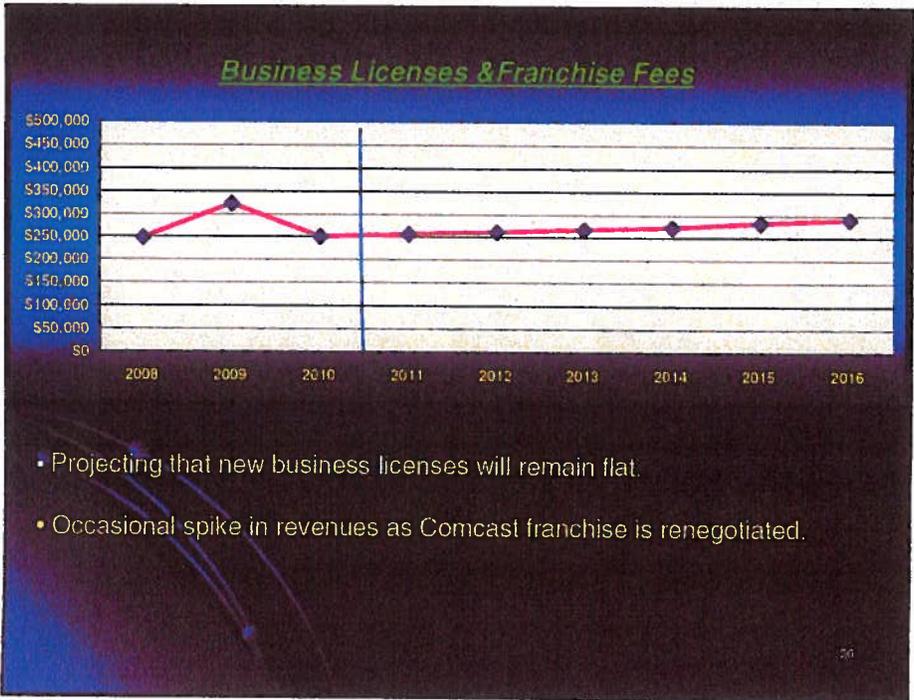
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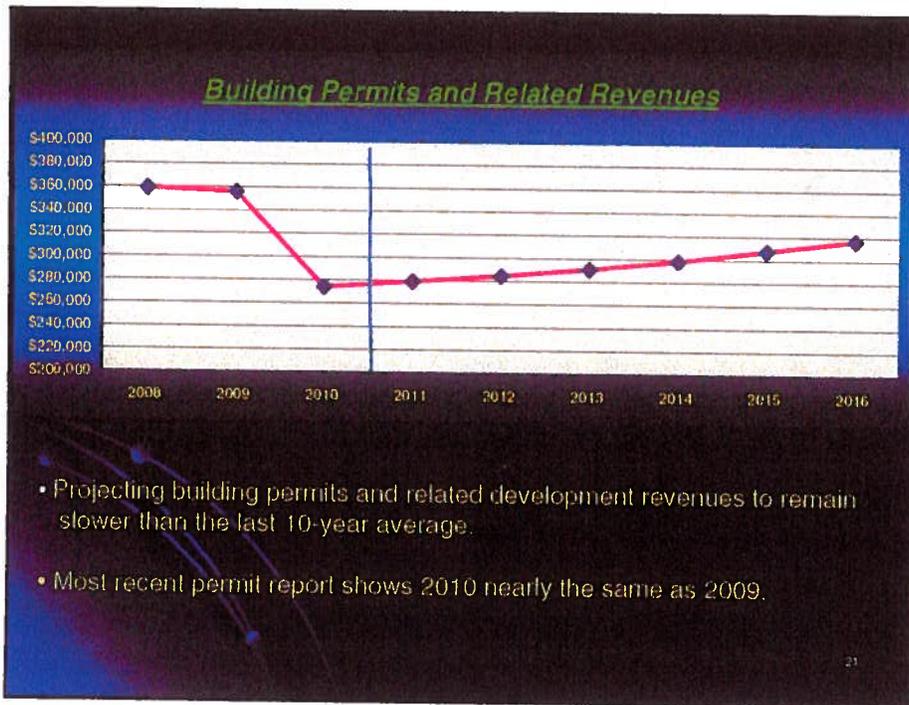
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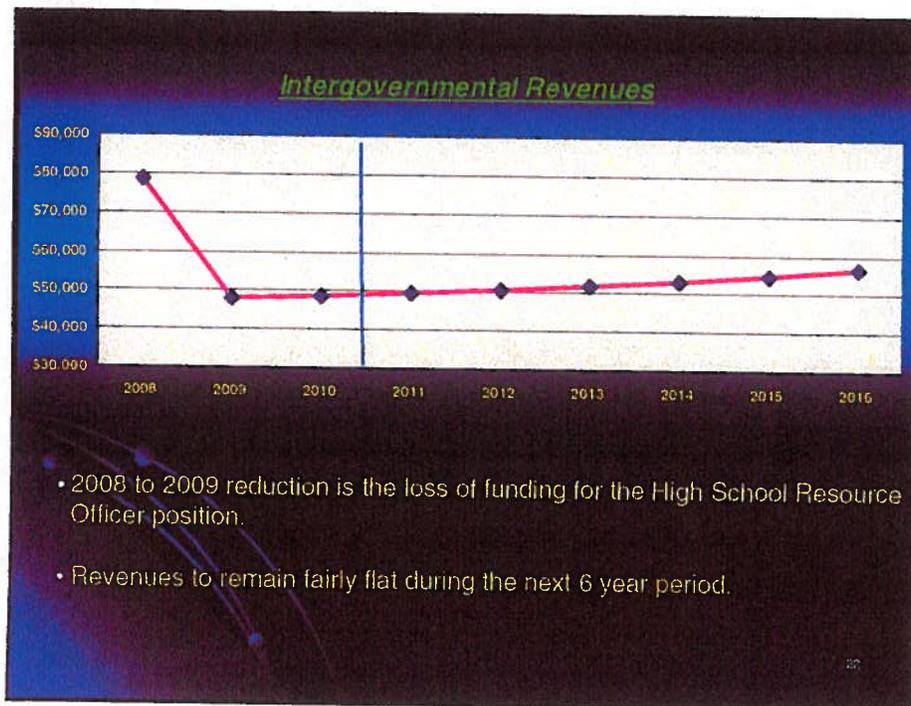
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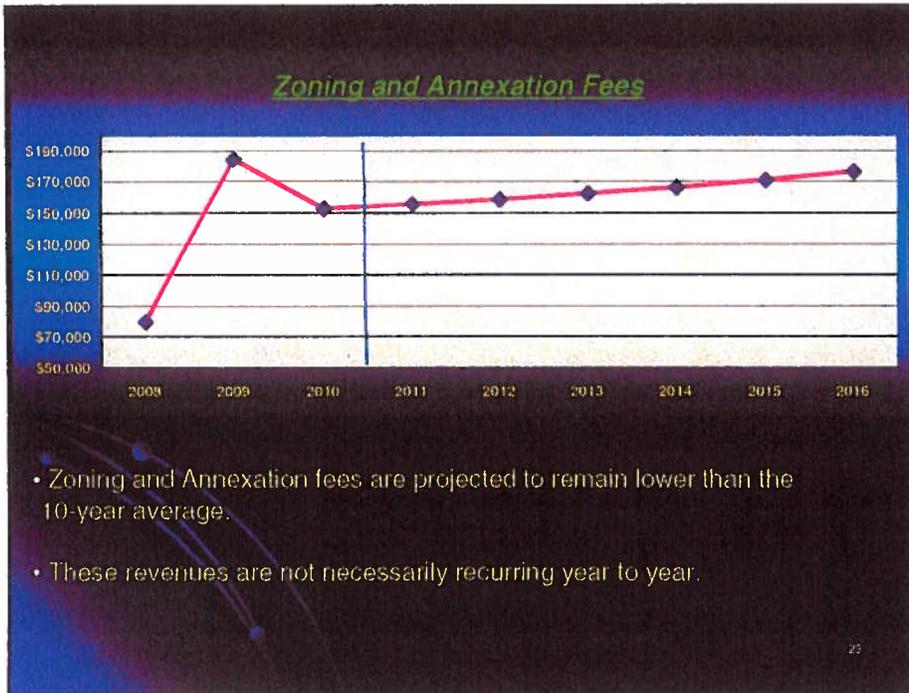
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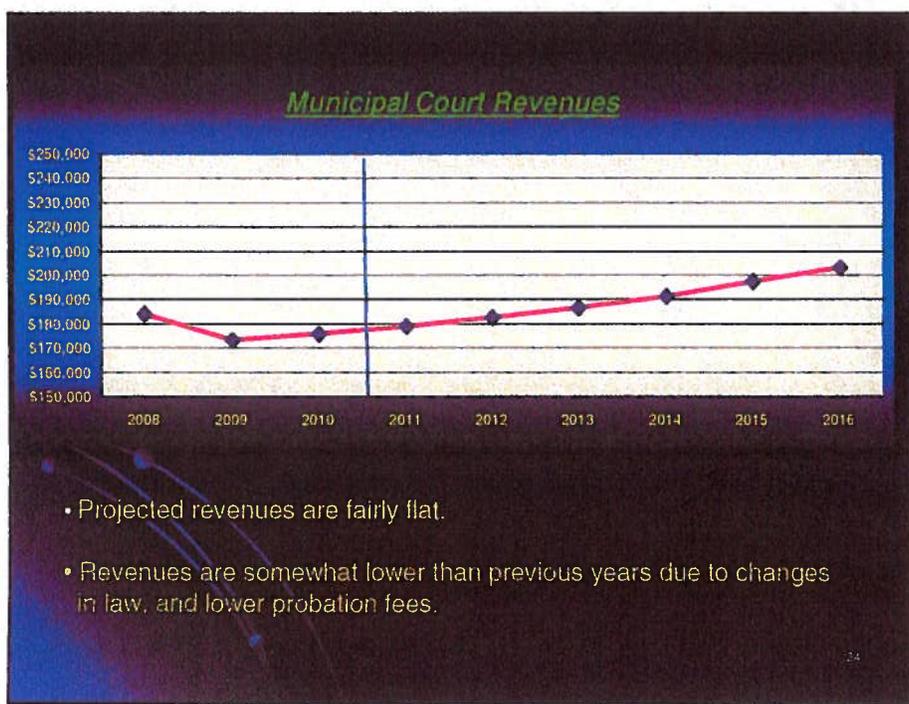
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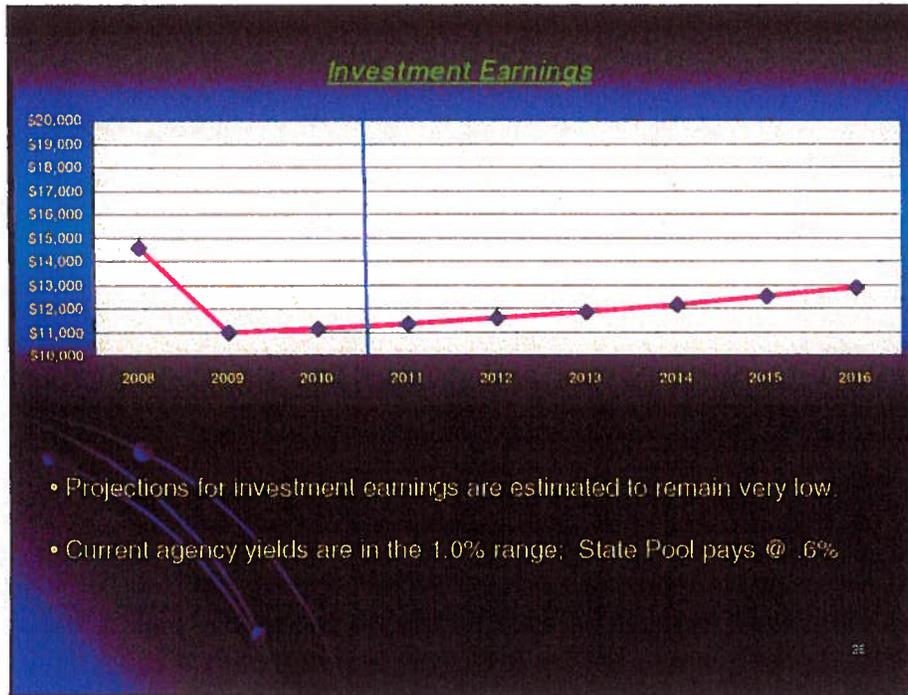
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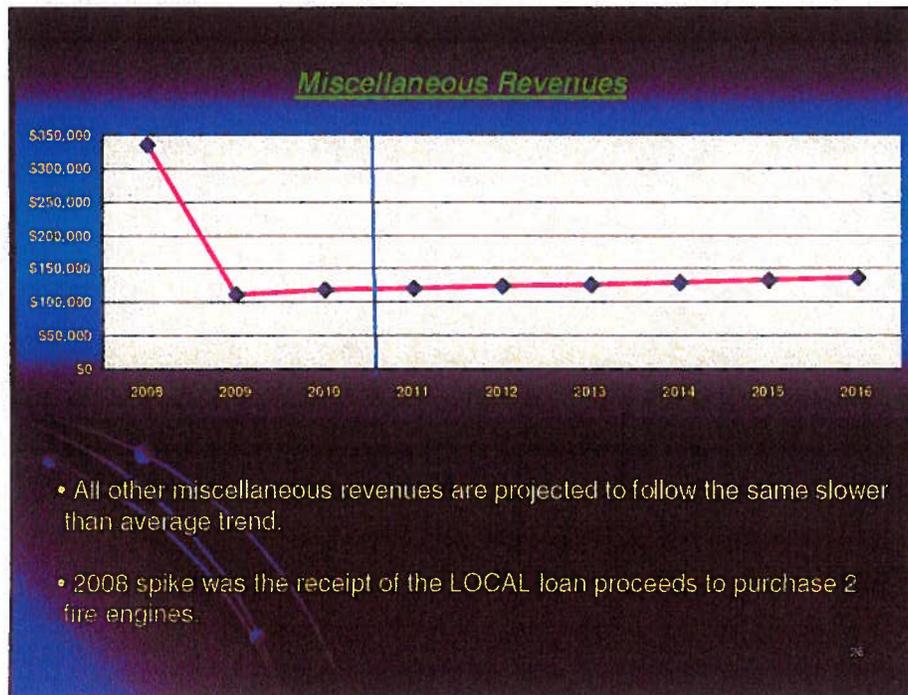
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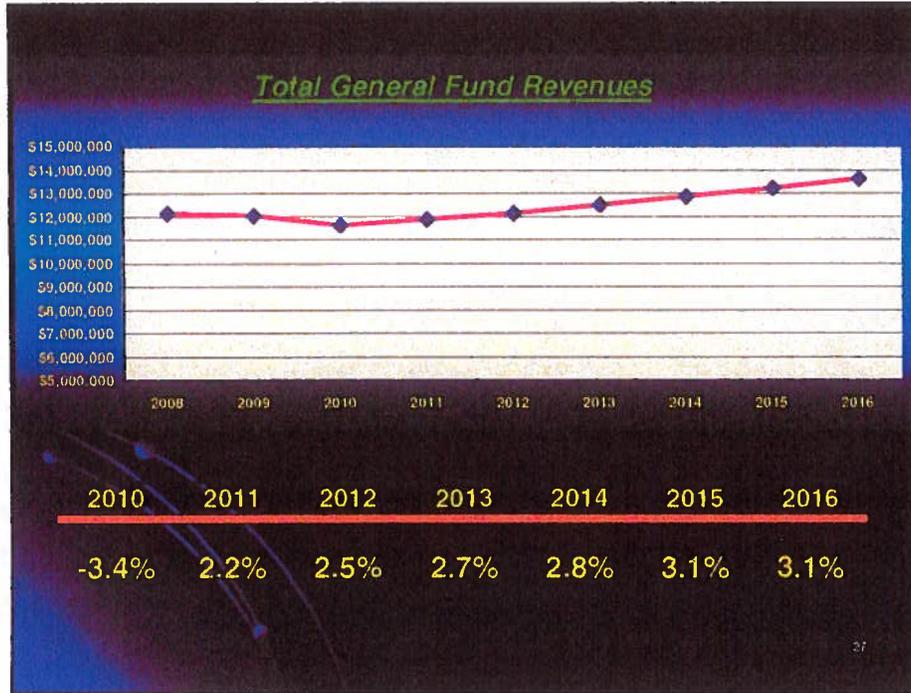


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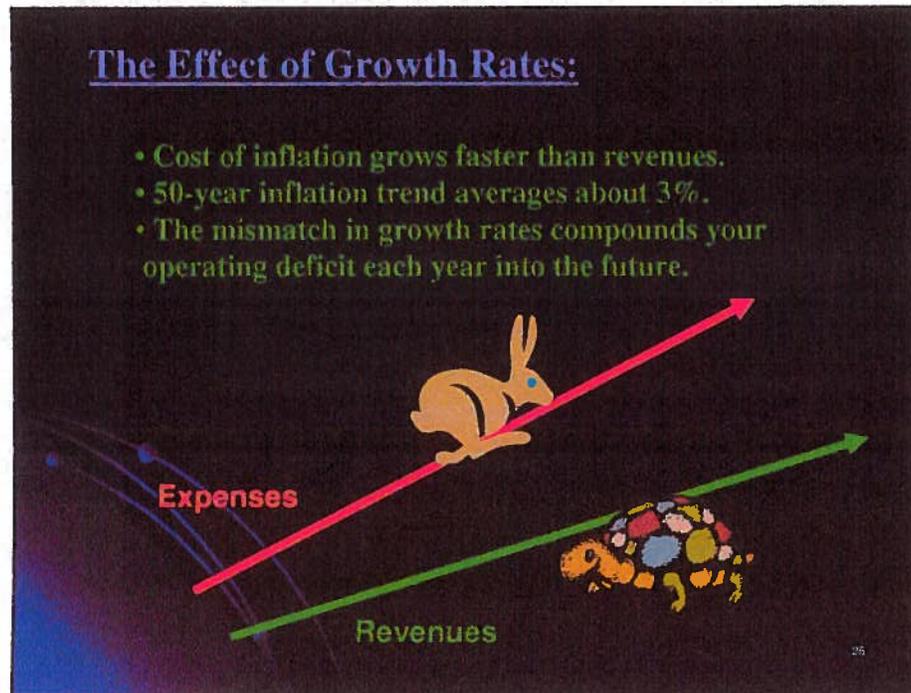


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Mismatch in Growth Rates:

- Revenue growth rate projected at 2.2% and 2.50% for 2011 and 2012, respectively.
- Historically, General Fund expenditures grow approximately 4.0% to 5.5% per year.

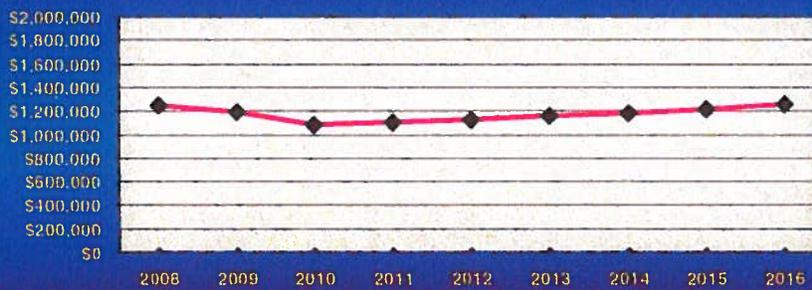


Taken from City Council Retreat February 27, 2010

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29

Motor Vehicle Fuel Tax and CAPRON



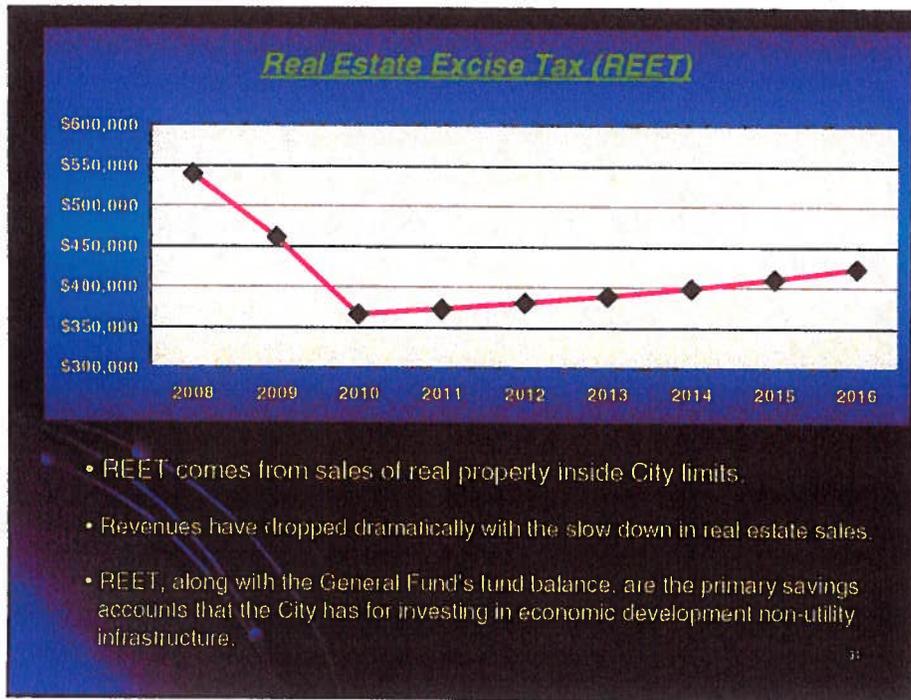
- Motor Vehicle Fuel Tax is the largest funding source for street and Arterial roadway improvements.
- Revenues are reverse of changes in fuel price due to tax being a flat amount.
- When revenue is less than street/arterial budgets, General Fund must subsidize.

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31

SWOT Analysis

Strengths:

- *We have relatively healthy reserves.*
- *Our sales tax base is relatively stable.*

Weaknesses:

- *Housing continues to be slow.*
- *General economic environment is still slow.*
- *Mismatch in revenues versus expenditures in regards to growth rates.*

32

28

16

SWOT Analysis

Opportunities:

- *Invest our resources wisely seeking a return on our investment.*
- *Press forward with economic development.*

Threats:

- *Risks with CAPRON funding.*
- *Long-term economic slowdown.*
- *Focusing on the immediate at the expense of long-term sustainability.*

33

33

City of Oak Harbor
Revenue Projections
June 15, 2010

Open Discussion on Revenue Projections

34

34

29

17

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR



PROCLAMATION IN RECOGNITION OF

CHRISTMAS IN JULY

HELP HOUSE FOOD AND FUND DRIVE

WHEREAS, North Whidbey Help House is a local non-profit food bank that serves northern Whidbey Island; and

WHEREAS, in response to the annual slow down of donations during the summer months, the Christmas in July Food and Fund Drive was developed to help keep the shelves stocked; and

WHEREAS, as of June 11th, North Whidbey Help House had distributed 2,714 food baskets that have fed 6,401 people, an increase of 42% from last year; and

WHEREAS, with food and cash donations down and requests for food greater than before, donations are needed now more than ever; and

WHEREAS, on Saturday, July 17th, volunteers from Soroptimist International of Oak Harbor, Kiwanis Club of Oak Harbor, Oak Harbor Lions Club and NAS Whidbey Island, will be staged at local grocery stores and Wal-Mart asking shoppers to contribute to the Help House Christmas in July Food and Fund Drive.

NOW, THEREFORE, WE, Jim Slowik, Mayor, and Council members of the City of Oak Harbor do hereby proclaim **July 17, 2010** as **Christmas in July Day** and urge all citizens of our City to support North Whidbey Help House and its effort to provide assistance to those in need.

Signed this 6th day of July, 2010



Jim Slowik, Mayor

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

Bill No. 2

Date: JULY 6, 2010

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

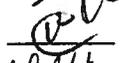
City Council will accept public comments for items not otherwise on the agenda for the first 15 minutes of the Council meeting. You may also speak to any of the consent agenda items.

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

Agenda Bill No. C/A 3A
Date: July 6, 2010
Subject: Noise Permit – Oak Harbor
Rotary Club Car Show

FROM: Paul Schmidt, City Administrator 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from the Oak Harbor Rotary Club for amplified sound associated with an upcoming car show.

AUTHORIZATION:

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

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

SUMMARY STATEMENT:

The Oak Harbor Rotary Club has submitted a Noise Permit request for amplified sound associated with a car show scheduled for August 14, 2010 from 7:00 a.m. – 6:00 p.m. The amplified sound will consist of a PA system and speakers for music and announcements, which will occur between 9:00 a.m. – 5:00 p.m. The speakers will be directed toward the show area and away from the campground.

The Application was reviewed by Fire, Police, and Public Works Departments. The applicant will face the speakers away from the campground area.

STANDING COMMITTEE REVIEW:

Not required.

RECOMMENDED ACTION:

Grant a noise permit for amplified sound to the Oak Harbor Rotary Club.

ATTACHMENTS:

Noise Permit.

MAYOR'S COMMENTS:

Noise Permit – Oak Harbor Rotary Club
Agenda Bill - 2

CITY OF OAK HARBOR

NOISE PERMIT

Name of Organization: Oak Harbor Rotary Club

Location of Event: Windjammer Park between the
treatment plant and west parking
lot

Date of Event: August 14, 2010

Hours of Operation: 9:00 a.m. to 5:00 p.m.

Permitted Noise: PA system and speakers music and
announcements

Approval Conditions: Face speakers away from the
campground

Date of City Council
Approval:

Issued this day of , 2010.

Karen Crouch, Special Events Coordinator

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

Please post this notice on site

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

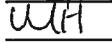
Agenda Bill No. C/A 3B

Date: July 6, 2010

Subject: Noise Permit – Island Classic
Mustang Club

FROM: Paul Schmidt, City Administrator 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:


Jim Slowik, Mayor

Doug Merriman, Finance Director

Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from the Island Classic Mustang Club for amplified sound associated with an upcoming car show.

AUTHORIZATION:

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

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

SUMMARY STATEMENT:

The Island Classic Mustang Club has submitted a Noise Permit request for amplified sound associated with a car show scheduled for September 25th, 2010 from 9:00 a.m. – 5:00 p.m. The amplified sound will consist of a sound system and speakers for music and announcements.

The Application was reviewed by Fire, Police, and Public Works Departments. The applicant will face the speakers away from the campground area.

STANDING COMMITTEE REVIEW:

Not required.

Noise Permit –Island Classic Mustang Club
Agenda Bill - 1

RECOMMENDED ACTION:

Grant a noise permit for amplified sound to the Island Classic Mustang Club.

ATTACHMENTS:

Noise Permit.

MAYOR'S COMMENTS:

CITY OF OAK HARBOR

NOISE PERMIT

Name of Organization: Island Classic Mustang Club

Location of Event: Windjammer Park - Gazebo and surrounding area

Date of Event: September 25, 2010

Hours of Operation: 9:00 a.m. to 5:00 p.m.

Permitted Noise: PA system and speakers for a DJ and announcements

Approval Conditions: Face speakers away from the campground

Date of City Council Approval:

Issued this day of , 2010.

Karen Crouch, Special Events Coordinator

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

Please post this notice on site

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

Agenda Bill No. C/A 3C

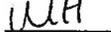
Date: July 6, 2010

Subject: Noise Permit – North Whidbey
Sunrise Rotary – Challenge Series

FROM: Paul Schmidt, City Administrator 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:





Jim Slowik, Mayor

Doug Merriman, Finance Director

Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from North Whidbey Sunrise Rotary for amplified sound associated with the 18th Annual Challenge Series Soap Box Derby.

AUTHORIZATION:

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

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

SUMMARY STATEMENT:

North Whidbey Sunrise Rotary has submitted a Noise Permit request for amplified sound associated with the 18th Annual Challenge Series Soap Box Derby event scheduled for August 7, 2010. The event will be held from 8:00 am – 2:00 pm. The amplified sound will consist of a sound system and microphone to announce each race and event narration.

The Application was reviewed by Fire, Police, and Public Works Departments. No conditions of approval were requested for the noise permit.

STANDING COMMITTEE REVIEW:

Not required.

RECOMMENDED ACTION:

Grant a noise permit for amplified sound to North Whidbey Sunrise Rotary.

ATTACHMENTS:

Noise Permit.

MAYOR'S COMMENTS:

CITY OF OAK HARBOR

NOISE PERMIT

Name of Organization: North Whidbey Sunrise Rotary
Challenge Series

Location of Event: Barrington Drive from Island Thrift
to Dutchmaid laundry

Date of Event: August 7, 2010

Hours of Operation: 8:00 a.m. to 2:00 p.m.

Permitted Noise: Amplified sound associated with a
microphone and sound system.

Approval Conditions: None

Date of City Council
Approval:

Issued this day of , 2010.

Karen Crouch, Special Events Coordinator

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

Please post this notice on site

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

Agenda Bill No. d/A 3D
Date: July 6, 2010
Subject: Noise Permit – Fidalgo Avenue
Merchant’s Association – Pig Roast

FROM: Paul Schmidt, City Administrator 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:



Jim Slowik, Mayor

Doug Merriman, Finance Director

Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from the Fidalgo Avenue Merchant’s Association for amplified sound associated with a Sunday Afternoon Pig Roast event.

AUTHORIZATION:

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

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

SUMMARY STATEMENT:

The Fidalgo Avenue Merchant’s Association has submitted a Noise Permit request for amplified sound associated with a Sunday Afternoon Pig Roast event scheduled for August 8, 2010. The event will be held from 12:00 pm – 7:00 pm. The amplified sound will consist of a PA system and speakers for 2 live bands and announcements.

The Application was reviewed by Fire, Police, and Public Works Departments. No conditions of approval were requested for the noise permit.

STANDING COMMITTEE REVIEW:

Not required.

RECOMMENDED ACTION:

Grant a noise permit for amplified sound to the Fidalgo Avenue Merchant's Association.

ATTACHMENTS:

Noise Permit.

MAYOR'S COMMENTS:

CITY OF OAK HARBOR

NOISE PERMIT

Name of Organization: Fidalgo Avenue Merchant's
Association

Location of Event: Fidalgo Avenue between Dock &
Hathaway

Date of Event: August 8, 2010

Hours of Operation: Noon – 7:00 p.m.

Permitted Noise: PA system and speakers for 2 live
bands and announcements.

Approval Conditions: None

Date of City Council
Approval:

Issued this day of , 2010.

Karen Crouch, Special Events Coordinator

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

Please post this notice on site

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

Agenda Bill No. c/A 3E
Date: July 6, 2010
Subject: Noise Permit – Living Faith
Christian Center

FROM: Paul Schmidt, City Administrator 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:



Jim Slowik, Mayor

Doug Merriman, Finance Director

Margery Hite, City Attorney, as to form

PURPOSE

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

AUTHORIZATION:

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

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

SUMMARY STATEMENT:

Living Faith Christian Center has submitted a Noise Permit request for amplified sound associated with an outdoor worship service scheduled for July 4, 2010 between the hours of 10:00 p.m. – 12:00 p.m. The amplified sound will consist of a PA system and speakers for singing and music.

The Application was reviewed by Fire, Police, and Public Works Departments. No conditions of approval were requested.

STANDING COMMITTEE REVIEW:

Not required.

Noise Permit – Living Faith Christian Center
Agenda Bill - 1

RECOMMENDED ACTION:

Grant a noise permit for amplified sound to Living Faith Christian Center.

ATTACHMENTS:

Noise Permit.

MAYOR'S COMMENTS:

CITY OF OAK HARBOR

NOISE PERMIT

Name of Organization: Living Faith Christian Center

Location of Event: 551 NE Midway Blvd – Parking Lot

Date of Event: July 4th, 2010

Hours of Operation: 10:00 a.m. to 12:00 p.m.

Permitted Noise: PA system and speakers for singing and music.

Approval Conditions: None

Date of City Council Approval:

Issued this day of , 2010

Karen Crouch, Special Events Coordinator

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

Please post this notice on site

City of Oak Harbor City Council Agenda Bill

Agenda Bill No. c/A 3F

Date: July 6, 2010

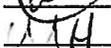
Subject: Noise Permit – NOPF Whidbey Island (Naval Oceanic Processing Facility)

FROM: Paul Schmidt, City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:



Jim Slowik, Mayor

Doug Merriman, Finance Director

Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from NOPF Whidbey Island for amplified sound associated with a command family picnic.

AUTHORIZATION:

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

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

SUMMARY STATEMENT:

NOPF Whidbey Island has submitted a Noise Permit request for amplified sound associated with a command family picnic scheduled for August 6, 2010 between the hours of 10:00 a.m. – 4:30 p.m. The amplified sound will consist of a PA system and speakers for music.

The Application was reviewed by Fire, Police, and Public Works Departments. No conditions of approval were requested.

STANDING COMMITTEE REVIEW:

Not required.

Noise Permit –NOPF Whidbey Island
Agenda Bill - 1

RECOMMENDED ACTION:

Grant a noise permit for amplified sound to NOPF Whidbey Island.

ATTACHMENTS:

Noise Permit.

MAYOR'S COMMENTS:

CITY OF OAK HARBOR

NOISE PERMIT

Name of Organization: NOPF Whidbey Island

Location of Event: Windjammer Park Kitchen A and surrounding area.

Date of Event: August 6, 2010

Hours of Operation: 10:00 a.m. to 4:30 p.m.

Permitted Noise: PA system and speakers for music.

Approval Conditions: Face speakers away from campground area.

Date of City Council
Approval:

Issued this day of , 2010

Karen Crouch, Special Events Coordinator

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

Please post this notice on site

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

Bill No. n/A 3 G
Date: July 6, 2010
Subject: Appointment – Community
Police Advisory Board –
Ethelinda Larcena

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

SUMMARY STATEMENT

The Police Department has a nine-member Citizen's Advisory Board (CAB), which meets every other month, and has been in existence since 1991.

The Board members are appointed by the Mayor, and confirmed by the Council. There is currently a vacancy on the Board, due to a resignation. The term of this unexpired position ends in June of 2012.

The Police Department has a recommendation for Ms. Ethelinda Larcena to fill the vacancy. Ms. Larcena has completed a City Board member "Biography Form", a copy of which is attached.

In accordance with Oak Harbor Municipal Code Section 2.50.030(1), Mayor Slowik is forwarding a recommendation that Ethelinda Larcena be appointed to the Board to fill the unexpired term.

RECOMMENDED ACTION

Approve the recommendation to appoint Ethelinda Larcena to the Community Police Advisory Board to fill the unexpired term which will end in June of 2012.

ATTACHMENTS

Biography Form.

MAYOR'S COMMENTS

Biography Form

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

Name: Ethelinda R. Larcena Date: 5-11-2010

Address: _____

City, State, Zip: Oak Harbor WA 98277

Mailing Address (if different): _____

Resident of Oak Harbor/Whidbey Island for: 15 years years/months

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

Financial Lead Worker

Dept of Social Health Services

Community Services Office

275 SE Pioneer Way Ste 201 Oak Harbor WA 98277

Local Group or Civic affiliations: _____

Special Interests: work with the community, church and school.

Other General Comments: _____

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. C/A 34
Date: July 6, 2010
Subject: Appointment – Community
Police Advisory Board –
Jo Balda

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

SUMMARY STATEMENT

The Police Department has a nine-member Citizen's Advisory Board (CAB), which meets every other month, and has been in existence since 1991.

The Board members are appointed by the Mayor, and confirmed by the Council. There is currently a vacancy on the Board, due to a resignation. The term of this unexpired position ends in March of 2012.

The Police Department has a recommendation for Ms. Jo Balda to fill the vacancy. Ms. Balda has completed a City Board member "Biography Form", a copy of which is attached.

In accordance with Oak Harbor Municipal Code Section 2.50.030(1), Mayor Slowik is forwarding a recommendation that Jo Balda be appointed to the Board to fill the unexpired term.

RECOMMENDED ACTION

Approve the recommendation to appoint Jo Balda to the Community Police Advisory Board to fill the unexpired term which will end in March of 2012.

ATTACHMENTS

Biography Form.

MAYOR'S COMMENTS

Biography Form

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

Name: Jo Balda Date: May 21, 2010

Address: _____

City, State, Zip: Oak Harbor WA 98271

Mailing Address (if different): PO Box 345

Oak Harbor

Resident of Oak Harbor/Whidbey Island for: 87/7 years/months

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

Key Bank - Public Relations - primarily
Volunteer work. They no longer pay me a salary.

Local Group or Civic affiliations: Sceptimist, Navy League,

Republican Women, Is. Co. Republican Central Com.

Island Thrift, New Leaf, Help House, + Christian Reformed Church.

Special Interests: my organizations.

Other General Comments: I've always been interested in

Police work. I realize my age is against,

however, I am still quite active.

When completed, please return to:

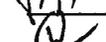
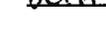
Martha Folsom, Oak Harbor Police Department, 860 SE Barrington Drive, Oak Harbor, WA 98277

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

Bill No. C/A 3 I
Date: July 6, 2010
Subject: Disposition of RTPO Grant

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

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

This agenda bill requests formal Council action regarding the disposition of funding allocated to the City of Oak Harbor from the Island Sub-Regional Transportation Planning Organization (RTPO) for improvements to SR-20. The recommended action is to request that the RTPO reallocate the funds to other projects.

AUTHORITY

The Council is authorized under RCW 35A.11.020 to generally exercise powers allowed for state law to organize and regulate its internal affairs.

SUMMARY STATEMENT

SR-20 is the primary route of travel for most of the north to south traffic on Whidbey Island and as such is a significant element of the region's transportation network. Concerns about traffic safety, capacity and traffic concurrency continue to be on the near horizon as the region continues to grow and place demands on this critical roadway link.

Recognizing the significance of this roadway link, the City and Washington State Department of Transportation have worked closely over the last 10 years to develop a partnership for long-term planning and funding of improvements to SR-20 in the City limits. As part of this partnership effort, the City successfully applied in 2006 to the Island Sub-Region RTPO for a grant of \$1,000,000 towards the approximately \$13 million dollar project to widen SR-20 between Beeksma Drive and Swantown Avenue. A copy of the award letter is attached. The grant application and award are specific as to both location and project extents. These grant funds cannot be used for other projects in the City of Oak Harbor without first, a new call for projects; second, a new application by the City; and finally, approval by the RTPO Policy Board.

Transportation projects of this type are expensive and are rarely funded by a single agency. Given the economics of roadway infrastructure, most major projects require funding from a number of sources. With this project, the intent was to use the RTPO grant as leverage in

pursuing additional funding through the Washington State Department of Transportation, the Washington State Legislature, the Federal Congressional Delegation as well as other state and local sources.

Despite diligent efforts, the City has been unsuccessful in attracting additional funds from other sources for this project. Given the current economic conditions, it is highly unlikely that a significant amount of funding will become available from the State of Washington for this project. Without a major change in the funding situation at the state level, the likelihood of funding coming from a source outside of the City of Oak Harbor is low.

Without an additional source of funds for the larger widening project originally envisioned with the application, the City of Oak Harbor and WSDOT looked at a number of options for smaller scale projects that could be initiated at a significantly reduced project scope. These options included changes in striping patterns, signalization changes, turn lane additions, and isolated intersection modifications. However, none of these options proved viable without additional funding from the State of Washington.

With the anticipated reauthorization of the Federal Highway transportation bill expected from Congress in 2011, it is important that the Island Sub-Region show progress in having used previous STP(R) funding allocations. In addition, the RTPO Technical Committee is considering a recommendation to the RTPO Policy Board that would withdraw the RTPO grant award. (See attached RTPO TAC minutes from April and May.) With a low likelihood of funding of additional funding from the state, it is now appropriate to reconsider the use of the \$1,000,000 allocated to Oak Harbor for this project and consider a reallocation of the funds for other regionally significant projects in Island County.

While the City is committed to partnering with both the RTPO and WSDOT for improvements to SR-20, the realities of funding limitations prevalent at all levels of government will limit opportunities for additional funding. While there is likely not a transportation project of greater significance to the region than an improvement to this section of SR-20, there are needs throughout the county for transportation improvements that could be completed in the near term now using this funding. Rather than continuing to wait for an unknown source of funds the staff recommendation is to request the Island Sub-Region RTPO to consider reallocating these funds to other high priority and regional significant projects in Island County. Reallocating this grant to other projects in Island County will not only help complete other worthy projects but will also promote economic stability in the region and jobs.

In summary, the staff recommendation is to formally request that the Island Sub-Region RTPO Policy Board consider a new call for projects that would include a reallocation of the funds previously allocated to the City of Oak Harbor for the SR-20 Beeksma to Swantown widening project.

STANDING COMMITTEE REPORT

This item was presented to the Public Works Committee on July 1, 2010.

RECOMMENDED ACTION

A motion authorizing the Mayor to formally ask the Island Sub RTPO to consider reallocation of grant funds previously awarded to the City of Oak Harbor for the SR-20 widening project.

ATTACHMENTS

Grant award letter from RTPO
Meeting minutes from the RTPO Technical Committee

MAYOR'S COMMENTS

ISLAND COUNTY PUBLIC WORKS

P.O. Box 5000
Coupeville, Wa 98239
Phone: (360) 679-7331
FAX 360 678-4550

William E. Oakes, P. E., Director, Randy Bracken, P.E., Asst. County Engineer

FAX MEMORANDUM

NOTE: Unless otherwise indicated or obvious from the nature of this transmittal, the information contained in this facsimile message is confidential information intended for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us at the telephone number listed above.

DATE: June 7, 2010

TIME: 2:20 PM

NO OF PAGES (including this page): _6_

TO: Eric Johnston, City of Oak Harbor

FAX NO: 679-3902

FROM: Donna Keeler

SUBJECT: STP Funds – 2006 Approval Letter

Hi Eric,

Attached you'll find the following documents:

1. Letter dated April 27, 2006 addressed to Mayor Patty Cohen approving funds for Oak Harbor's SR-20 Widening project.
2. Letter dated April 27, 2006 addressed to Ed Conyers citing the list of approved local projects.
3. Memorandum to the Island Sub-region RTP Policy Board on April 19, 2006 with a list and descriptions of projects recommended by the TAC for approval.

I hope this is what you need. Let me know if I can send you anything else.

57

**SKAGIT/ISLAND REGIONAL
TRANSPORTATION PLANNING ORGANIZATION**

**P.O. Box 5000
Coupeville, WA 98239-5000**

April 27, 2006

**Mayor Patty Cohen
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277**

RE: STP Funds - Island County Region

Dear Mayor Cohen:

The Island Sub-region RTPO Policy Board met in Coupeville on April 26, 2006 to select FY-2006 and FY-2007 STP Regional projects. Congratulations on having the City of Oak Harbor's *SR-20 Widening* (\$1,000,000) project funded from the Island STP Regional allocation.

Please contact the Washington Department of Transportation for the appropriate forms for further approval and authorization at the below listed address.

**WSDOT NW Region
Edward Conyers, P.E., MS-121
15700 Dayton Avenue N.
P.O. Box 330310
Seattle, WA 98133-9710**

Phone (206) 440-4737

If you have any questions or need any additional information, please feel free to call.

Sincerely,


**Michael D. Morton
RTPO Transportation Planner**

58

**SKAGIT/ISLAND REGIONAL
TRANSPORTATION PLANNING ORGANIZATION**

April 27, 2006

WSDOT
Edward Conyers, P.E., MS-121
15700 Dayton Avenue N.
P.O. Box 330310
Seattle, WA 98133-9710

RE: STP Regional Project Approval

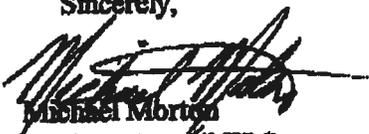
Dear Mr. Conyers:

The Island County STP Selection Committee (Island Sub-region RTPO Policy Board) approved five new STP Regional projects at a meeting held on April 26, 2006. The Island Sub-region programmed STP-Regional projects for FFY-2006 and FFY-2007. The approved projects are listed below.

<u>Agency</u>	<u>Project</u>	<u>STP(R) \$</u>	<u>Cumulative Total</u>
Island County	RTPO Program and Planning	\$ 90,000	\$ 90,000
Oak Harbor	SR-20 Widening	\$1,000,000	\$1,090,000
Island County	Terry's Corner - Phase 3	\$250,000	\$1,340,000
Island County	E. Camano Dr./McElroy Signal	\$300,000	\$1,640,000
Island County	Geodetic Control & Orthoimagery	\$135,000	\$1,775,000

If you have any questions, please call me at (360) 675-8909.

Sincerely,


Michael Morton
Island Sub-regional RTPO
Transportation Planner

Attachments: Project Application Cover Sheets

59

CALL FOR PROJECT
FEB 18

ESTIMATED FUNDING FY-2006 + 2007 \$1,760,11

FY 2006 \$ 819,449

FY 2007 \$ 819,449

FY-2004/05 \$ 121,219
CARRYOVER

2

MEMORANDUM

DATE: April 19, 2006

TO: Island Sub-region RTPO Policy Board Members

FROM: Mike Morton

SUBJECT: FY-2006 and FY-2007 STP Regional Project Ranking and Approval List.

The following projects have been ranked and prioritized in order by the Island Sub-region Technical Advisory Committee at a meeting held on April 12, 2006.

FIVE PROJECT

Rank	Agency	Project	STP Regional \$	Cumulative Total	
	Island County	RTPO Program & Planning	\$90,000	\$ 90,000	
1.	Oak Harbor	SR-20 Widening	\$1,000,000	\$ 1,090,000	
2.	Island County	Terry's Corner -Phase 3	\$250,000	\$ 1,340,000	
3.	Island County	McElroy/E. Camano	\$300,000	\$ 1,640,000	
4.	Island County	Geodetic & Aerial Ortho	\$135,000	\$ 1,775,000	\$ 14,883 OVER
				TOTAL	TARSE
5.	Island County	Main Street Freeland		(Project withdrawn)	w/
6.	Island County	E. Camano Dr./Camano Hill Signal		(Project withdrawn)	2 YEAR RESERVING TO ALLOCATE.

RANK
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BASED
ON
SCORE
SHEET
↓

SCORE SHEET

* MAC'S COMMENTS

(RANKING NUMBER)

60

The Island sub-region RTPPO Technical Advisory Committee (TAC) met on April 12th to consider six projects for funding through the Federal STP-R Program. At the start of the meeting, Island County withdrew two projects, Main Street Freeland and East Camano Dr./Camano Hill Road Signal, from consideration. Four projects were selected by the TAC for the 2-year period (FFY2006-07). . The projects being recommended to the Policy Board for funding are as follows:

1. SR-20 WIDENING

\$1,000,000 STP-R + \$156,000 match

Lead Agency: Oak Harbor

- Funds full design and some environmental permitting for widening SR 20 from Swantown to Beekma (SRMP 30.85 to 31.39). Design includes two-lane roundabouts on SR20 at Swantown Rd. and Erie St. and 4 travel lanes on SR 20 between Swantown and Beekma.

- The design work will lead to the eventual construction of improvements identified as Phase One (roundabouts at Swantown and Erie) in the SR 20 Swantown to Cabot Corridor Predesign Analysis. A 2007 federal appropriations request has been submitted to fund Phase One right-of-way and construction.

- The design work will also complete PE for improvements identified as Phase Three (widening to 4 lanes from Swantown to Beekma) in the Corridor Predesign Analysis). Oak Harbor is not seeking RW or CN funding for Phase Three at this time, but felt it was prudent to design the improvements along with the roundabout improvements in Phase One.

2. TERRY'S CORNER PHASE 3 ROAD IMPROVEMENTS

\$250,000 STP-R + \$1.46 million match (not all match has been secured)

Lead Agency: Island County

Improvements are as follows:

- Widening Sunrise Blvd for a center turn lane and sidewalk on east side of Sunrise Blvd.
- Intersection improvements at Sunrise Blvd and N. Camano Drive
- Widening N. Camano Drive
- Permanent closure of the intersection of N. Camano Drive and SR 532 for eastbound traffic. Westbound traffic remains open.

3. EAST CAMANO DRIVE/CELROY ROAD SIGNAL

\$300,000 STP-R + \$100,000 match

Lead Agency: Island County

- Funds signal at East Camano Drive and Melling Road.

- Existing signal at commercial area at Camano Drive and Melling Road to the right-in-right-out. Local traffic redirected to signal at Melling Road.

4. ISLAND COUNTY GENETIC CONTROL & ANIMAL COMMUNICATION PROGRAM

\$135,000 STP-R + \$76,000 match

Lead Agency: Island County

61

- Funds establishment of GPS-based cadastral reference system as ground control for high-resolution aerial orthoimagery.
- Creation of a geodetic monumentation control network for improved survey control.
- Creation of a regional leveling system, coordinated with state-wide leveling program, and horizontal control network enabled by GPS.
- Funds a high accuracy, ortho-corrected, aerial imagery project at 6" pixel resolution covering all of Island County
- A selection of road segments in Island County will be flown at lower elevation to obtain design scale accuracies.
- Funds GIS guidance and layer creation from the captured high-resolution data with goal of image data available through public web mapping portal.

62

DRAFT

**MINUTES OF MEETING
ISLAND RTPO TECHNICAL COMMITTEE
April 14, 2010**

Attendance List

Roy Daniel, Island Transit
Tom Stacey, WSDOT
Cac Kamak, City of Oak Harbor
Larry Cort, City of Langley
Bill Oakes, Island County
Eric Johnston, City of Oak Harbor
Arnold Peterschmidt
John Everett, Skagit Council of Governments
Curt Gordon, Port of South Whidbey
Mike Morton, RTPO Staff
Donna Keeler, RTPO Staff

Minutes of the February 10, 2010 meeting were discussed. A motion was made and seconded to approve the minutes. Minutes were unanimously approved.

Mike gave an overview of a 4-1-2010 memo (distributed to TAC members) from Stephanie Tax of WSDOT explaining the status of the HIRE Act (Hiring Incentives to Restore Employment). The HIRE Act extends SAFETEA-LU through December 2010, and restores the 2010 funding level to the originally authorized 2009 level without the funding cuts made at the end of the FFY 2009. An allocation letter from WSDOT with the actual funding amounts will be sent the County by the end of April. For planning purposes, Mike recommended sticking with the known 2009 funds for now.

Mike discussed the Transportation Enhancement Program and funds available for both counties. He explained WSDOT will be allocating the TE funds to the regional RTPOs and they will be responsible for their own calls for projects, prioritization and selection of such. In our case, once the Policy Board selects and prioritizes a list of projects, they will be blended with Skagit's projects. Projects must meet at least 1 of 12 categories and there is no match requirement, or points for matching. There will be no oversight by a statewide committee.

Mike proposed to do a call for TE projects in early May. A press release will be sent to media sources and TAC members were encouraged to contact eligible agencies that may be interested.

Mike reviewed the status of the sub-region regional STP projects and noted the majority have been completed. Both phases of the Oak Harbor Pier project have been cancelled and the members discussed the status of the \$1,000,000 set aside for the SR-20 widening. Oak Harbor would like the TAC and the Policy Board to consider using the funds for signal improvements to increase capacity

63

DRAFT

through the area, which is a change from the original project. The question came up as to whether the same funds can be used for a different project. After further discussion the committee agreed to defer their recommendation until the next meeting to provide the City of Oak Harbor more time to present their proposed alternative for use of the funds.

John distributed copies of the Island County Roadway Federal functional Classification Map and asked committee members to review and provide feedback on the most critical routes for operations, moving freight, moving people and any roads that would otherwise provide regional consequences if disrupted; including local roads. John asked for input on the map before the next meeting.

John provided an overview of the modeling work he is conducting for the update of the regional transportation plan. He is currently working on the non-motorized multi-modal section which will tie into local plans. SCOG is also working with an economist to develop 25-year employment forecast. The plan update will have new maps showing additional layers including housing, employment and other key factors. Draft policies and goals will be sent to the TAC over the next two months for review.

TAC members thanked Mike for his excellent work and service over the years. They wished him the best and emphasized he will be missed tremendously.

Meeting was adjourned at 2:15 PM.

64

**MINUTES OF MEETING
ISLAND RTPO TECHNICAL COMMITTEE
May 12, 2010**

Attendance List

Roy Daniel, Island Transit
Cac Kamak, City of Oak Harbor
Larry Cort, City of Langley
Bill Oakes, Island County
Arnold Peterschmidt
Kerri Woehler, WSDOT
James Mastin, Skagit Council of Governments
Donna Keeler, RTPO Staff

Minutes of the April 15, 2010 meeting were discussed. A motion was made and seconded to approve the minutes. Minutes were unanimously approved.

STR-E and STP-R Program Call for Projects:

Donna and James provided an update on the STP Enhancement Program application and distributed a draft application and criteria for the committee to review for final approval by the Policy Board. Applications are due July 9th, 2010. WDOT will be allocating the TE funds to the regional RTPO's and they will be responsible for their own calls for projects, prioritization and selection. In our case, once the Policy Board selects and prioritizes a list of projects, they will be blended with Skagit's projects. Projects must meet at least 1 of 12 categories and there is no match requirement, or points for matching. There will be no oversight by a statewide committee.

A call for STP-R projects is expected at any time. The funding amount is not yet known but Island County is estimated to receive between \$700,000 and \$800,000 for 2010. Donna will notify the TAC by email as soon as the funding amounts are known. The application and criteria will be the same as last year.

Arnie gave an update on the status of funding for Oak Harbor's round-about project. Oak Harbor was initially granted STP-R funds for preliminary engineering however the City was not able to secure funds for construction. Since then the City has been looking for ways to use the funds to make improvements that would be in line with the original application. One option considered is to use the funds for a signalization project however matching funds have not been located. Cac requested if more time could be granted to address this issue. TAC members agreed to provide one more month before making a recommendation to the Policy Board on returning to funds to the local STP-R application fund pool.

Larry said the City of Langley did not use all the STP-R funds for one of their projects and is returning \$74,317. This will be added to the STP-R funds received this year for projects.

Regional Transportation Plan Update:

James discussed the status of the Regional Transportation Plan update. The plan is currently 3 months behind schedule (per the contract) due to issues gathering data. SCOG and the consultants working on the plan (Transpo) will meet with the TAC in June and July to discuss findings to date. As long as the plan is moving forward, Skagit and Island Counties are not out of compliance. Final adoption will likely occur at the end of the year with a workshop in December. John Everett, Modeler for SCOG, has moved to California but will continue working on the plan. In the meantime they are in the process of recruiting a new Transportation Planner/Modeler.

Regional Six Year Transportation Improvement Plan:

James reminded the TAC local jurisdictions should begin working on their 6-year Transportation Improvement Plans. He explained the process by which local plans are used to develop a regional TIP and eventually the State TIP which included projects considered to be regionally significant. Donna will coordinate a workshop with James for training on the new TIP software developed by WSDOT.

New Business:

Kerri discussed WSDOT's rumble strip plan for Island County. Rumble strips have shown to reduce accidents significantly and DOT used the Type 4 design standards for Island County – for areas of high cycling use. DOT has received emails from local cyclists citing concerns which they are addressing individually. A DOT representative is also available to meet with the local cycling club. Arnie inquired if it would be possible to add a bike lane on Hwy. 20 in Oak Harbor when DOT does repairs in that area. Kerri said she would look into it. Cac suggested hanging a framed copy of the Island County Bicycle Touring Map in the ferries to help direct cyclists off the highway and ways for distributing maps to visitors.

Kerri said construction is scheduled to begin at the Mukilteo ferry terminal. WSDOT will provide more information/outreach soon to local jurisdictions and community members to help deal with impacts to users.

Bill asked if TAC members have noticed the new ironwood guardrails on Highway 20, north of Coupeville. He has been getting inquiries as to why the same design is not applied throughout the County and explained they are very costly and exception was made in this case due to this section of the highway being in Ebey's Reserve.

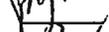
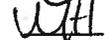
Meeting was adjourned at 2:05 PM.

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

Bill No. CHA 3J
Date: July 6, 2010
Subject: Fuel Island Upgrade Bid
Authorization

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

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

This agenda bill seeks authorization to advertise the Fuel Island Upgrade Project for competitive bidding.

AUTHORITY

The City has authority under RCW 35A.11.020 to enter into contracts for municipal operations such as the construction of capital improvements. OHMC 2.330.010 requires that contracts for costs in excess of \$30,000 that require more than one trade or craft be subject to a competitive bid process.

SUMMARY STATEMENT

On June 15, 2010 City Council authorized staff to purchase the equipment and materials necessary to upgrade the existing fuel island. A construction contractor is needed for installation of the equipment.

Pending Council authorization City staff is ready to proceed with the installation to upgrade the fuel island. The purpose and intent of the Fuel Island Upgrade Project is to add additional fuel storage for both diesel and unleaded fuel, upgrade the monitoring and control systems and to add the required leak monitors and alarms.

All work will be performed in accordance with the contract plans, contract provisions and standard specifications. Funding is available through the Equipment Rental replacement fund.

STANDING COMMITTEE REPORT

The Public Works Standing Committee reviewed this item at their meeting on July 1, 2010.

RECOMMENDED ACTION

It is recommended that City Council authorize staff to proceed with advertisement of the Fuel Island Upgrade Project for competitive bidding.

ATTACHMENTS

None

MAYOR'S COMMENTS

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

Bill No. C/A 3K
Date: July 6, 2010
Subject: Scenic Heights Trailhead Project

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

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:



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

PURPOSE

This agenda bill seeks authorization to advertise the Scenic Heights Trailhead Project for competitive bidding.

AUTHORITY

The City has authority under RCW 35A.11.020 to enter into contracts for municipal operations such as the construction of capital improvements. OHMC 2.330.010 requires that contracts for costs in excess of \$30,000 that require more than one trade or craft be subject to a competitive bid process.

SUMMARY STATEMENT

City staff is ready to proceed with the development of the Scenic Heights Trailhead site. The scope of work includes: the development of a lighted five car parking lot utilizing porous concrete and sidewalk improvements to include curbs and gutters; a plaza and viewing area utilizing pavers and finished concrete with access to the Freund Marsh Trail; native plant landscaping, a rain garden and other aesthetics.

All work to be performed in accordance with the contract plans, contract provisions and standard specifications. The Engineer's estimates (dated June 14, 2010) for the project is \$303,341.09. Funding is available through a combination of Federal Transportation Enhancement Grant and Neighborhood Park Impact Fees.

STANDING COMMITTEE REPORT

The Scenic Heights Trailhead Project has been discussed at several Public Works and Utilities Standing Committee meetings, July 4, 2009, August 6, 2009 and February 4, 2010.

RECOMMENDED ACTION

A motion authorizing staff to proceed with advertisement of the Scenic Heights Trailhead Project for competitive bidding.

ATTACHMENTS

None.

MAYOR'S COMMENTS

A handwritten mark, possibly a signature or initials, consisting of a stylized 'R' or similar character.

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

Bill No. 4

Date: July 6, 2010

Subject: City Wellness Committee
Recognition Resolution

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 Association of Washington Cities annually recognizes those participating cities that meet and exceed AWC Wellness goals and objectives with a WellCity Award. The City of Oak Harbor Wellness Committee has been selected to receive the 2010 WellCity Award. This is the fifth year in a row for such recognition.

AUTHORITY

The State Health Authority authorizes the use of Wellness Programs (RCW 41.05.065). Policy 507 of the City of Oak Harbor's Personnel Policies Manual establishes the Wellness Program.

SUMMARY STATEMENT

The City of Oak Harbor is a member of the Association of Washington Cities, which offers a wellness program for cities in order to promote health and wellness. The City of Oak Harbor has a very active Wellness Committee, offering programs every month. Programs have ranged from flu prevention to nutrition education to yoga.

Our Wellness Committee is composed of Dina Nichols (Chair), Lisa Bebee, Kim Perrine, Janet Sabalausky, Tim Shelley, Romy Velasquez and Jessica Neill Hoyson (Liaison).

STANDING COMMITTEE REPORT

None.

RECOMMENDED ACTION

Approve Resolution No. 10-17 expressing appreciation and recognizing the City of Oak Harbor's Wellness Committee for their dedication and hard work.

ATTACHMENTS

Resolution No. 10-17.

MAYOR'S COMMENTS

None.

RESOLUTION NO. 10-17

A RESOLUTION BY THE CITY OF OAK HARBOR EXPRESSING APPRECIATION AND RECOGNITION TO THE CITY WELLNESS COMMITTEE

WHEREAS, the City of Oak Harbor is a member of the Association of Washington Cities which offers a wellness program for cities to join and participate in to promote city employee health and wellness; and

WHEREAS, the AWC Wellness Program has become a popular program throughout the cities of Washington as a means in which to help control health care costs and help provide for a more productive work force; and

WHEREAS, the City of Oak Harbor does have an organized Wellness Committee and does participate in the AWC Wellness Program and has done so for a number of years; and

WHEREAS, the City of Oak Harbor Wellness Committee does put in considerable effort, thought and organization to promote wellness, fitness and general good health to City employees in accordance to AWC Wellness goals and objectives; and

WHEREAS, the AWC Wellness Program does annually recognize those participating cities who meet and exceed AWC Wellness goals and objectives with a WellCity Award; and

WHEREAS, for the fifth year in a row the City of Oak Harbor Wellness Committee has been selected by AWC to receive a WellCity Award.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Oak Harbor, Washington, that the City of Oak Harbor Wellness Committee consisting of Dina Nichols (Chair), Lisa Bebee, Kim Perrine, Janet Sabalausky, Tim Shelley, Romy Velasquez, and Jessica Neill Hoyson (Liaison) be recognized and appreciated for their dedication and hard work on the City's Wellness Committee.

PASSED by the City Council of the City of Oak Harbor and approved by its Mayor this 6th Day of July, 2010.

CITY OF OAK HARBOR

Mayor

ATTEST:

City Clerk

City of Oak Harbor
City Council Agenda Bill

Bill No. 5
Date: July 6, 2010
Subject: Public Hearing – Ordinance to
Amend 2009 – 2010 Biennial Budget

FROM: Doug Merriman, Finance Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Jim Slowik, Mayor
 Paul Schmidt, City Administrator
 Margery Hite, City Attorney, as to form

SUMMARY STATEMENT:

The Finance Department has completed their final review of the budgetary requirements for fiscal year 2010. The purpose of this review was to re-examine the current cost of operations, special projects, labor costs, projects needing expenditure authority carried over from 2009, and other city functions that may require a budget amendment due to changes that may have occurred since the 2009-2010 budget was originally projected in the fall of 2008.

An important step in preparing the 2009 - 2010 biennial budget was calculating an estimate of financial resources that were projected to be available to be appropriated on January 1, 2010. As can be expected, amounts projected in 2008 will vary from actual financial transactions occurring during 2009. This typically results from the deferment of projects, variations in staffing levels, and planned purchases, or may be from other events such as delaying a grant application or other financing options until 2010. Accordingly, this budget amendment is required to amend the 2010 budget to change the Beginning Fund Balance figures from those estimated in August of 2008 to the actual balances on hand at January 1, 2010.

In addition, there are two operational items that require a budget amendment to 2010. These items are as follows:

- 1) The Fire Department has obtained a State Homeland Security Grant for 2010 after the current budget was adopted. Accordingly, the General Fund #001 requires an increase in budget authority to recognize receipt and expenditure of the grant funds. The \$27,000 grant will be used to purchase equipment to be used in the Emergency Services Center at the fire station. The funding source will be the proceeds of the grant to be received on a reimbursement basis.
- 2) The engineering department was moved to the Public Works Facility in 2009. This amendment incorporates the necessary budget adjustments to move the engineering department from the General Fund #001 to the Facilities Fund #510. Although the move took place in 2009, the City must wait until 2010 to adjust budget figures for this year.

This review has shown that one amendment is required to accomplish all of these budget changes. Per OHMC 1.04.020, ordinances required for budget amendments do not require introduction during the previous Council meeting in order to be considered.

AUTHORIZATION

Under RCW 35A.34 .040, all code cities are authorized to establish by ordinance a two-year fiscal biennium budget. Under RCW 35A.34.200, the legislative authority of a city having adopted the provisions of this chapter shall provide by ordinance for a mid-biennial review and modification of the biennial budget. In addition, the City may amend the second year of the biennial budget at any time during the second year of the biennial period. The budget modification shall be by ordinance approved in the same manner as are other ordinances of the city.

STANDING COMMITTEE REVIEW:

The Finance Standing Committee discussed this agenda bill during their June 9, 2010 meeting.

RECOMMENDED ACTION:

1. Hold a Public Hearing
2. Pass Ordinance

ATTACHMENTS:

1. Draft Ordinance

MAYOR'S COMMENTS:

ORDINANCE NO. ____

AN ORDINANCE TO ADJUST THE 2009-2010 BIENNIAL BUDGET TO APPROPRIATE AND ENCUMBER ADDITIONAL RESOURCES TO RECONCILE 2010 ESTIMATED BEGINNING FUND BALANCES TO ACTUAL RESOURCES ON HAND AS OF JANUARY 1, 2010, AND TO REFLECT ANY INCREASES IN APPROPRIATION AUTHORITY NECESSARY TO MEET OPERATIONAL PROJECTS NOT PREVIOUSLY INCLUDED IN THE 2009-2010 BUDGET.

WHEREAS, due to circumstances not envisioned during the formation of the year 2009-2010 City of Oak Harbor's Biennial Budget, it has become necessary to amend certain portions of the City of Oak Harbor 2010 Budget; and

WHEREAS, the City Council has given proper public notice of the public hearing by posting an advertisement in the Whidbey News Times on June 19, 2010, and has held a public hearing on these adjustments to the 2010 budget; and the City Council, after holding the public hearing, has determined that an amendment to the 2010 City Budget is necessary;

NOW THEREFORE, the City Council of the City of Oak Harbor do hereby ordain as follows:

Section One: That the 2009-2010 budget as presented is hereby adjusted for the budget year 2010 in the appropriation changes set forth below:

<u>Fund</u>	<u>Amended Budget</u>
001 - General Fund	\$16,463,816
101 - Streets	2,010,031
104 - Arterials	6,491,877
105 - Transportation Improvement	991,131
106 - Paths & Trails	17,536
110 - Street Cumulative Reserve	21,063
115 - Art Acquisition	21,423
116 - Civic Improvement Fund	472,518
125 - Neighborhood Parks	246,065
126 - Community Parks	359,773
129 - Senior Center	576,009
201 - Bond Fund: Fire Public Safety	254,040
230 - 2008 Fire Bond	51,711
311 - 1st 1/4% REET	3,333,827
312 - 2nd 1/4% REET	2,804,853
320 - Pier Construction	733,871
325 - Windjammer Park	479,039
401 - Water	7,218,873
402 - Wastewater	10,975,619

403 - Solid Waste	5,025,727
404 - Storm Drainage	1,666,854
410 - Marina	2,063,617
411 - Cumulative Reserve: Water	5,761,619
412 - Cumulative Reserve: Wastewater	5,045,609
413 - Cumulative Reserve: Solid Waste	119,514
414 - Cumulative Reserve: Storm Drainage	367,520
420 - Cumulative Reserve: Marina	50,000
501 - Equipment Repair	959,584
502 - Equipment Replacement	6,593,251
505 - Technology Reserve Fund	472,961
510 - Facilities	1,817,555
	<hr/>
	<u>\$83,466,886</u>

Section Two: Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Three: Effective Date. This ordinance shall take effect five days after publication as provided by law.

Passed by the City Council this 6th day of July, 2010.

Approved by the Mayor this _____ day of July, 2010.

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

Published: _____

2009-2010 Biennial Budget Amendment
Ordinance - 2

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

Bill No. 6
Date: July 6, 2010
Subject: Public Hearing and Final
Consideration - Ordinance
Amendment, Utility Billing and
Collection Procedures

FROM: Doug Merriman, Finance Director 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Jim Slowik, Mayor
 Paul Schmidt, City Administrator
 Margery Hite, City Attorney, as to form

PURPOSE

This ordinance proposes to amend Chapter 3.95 for the purpose of updating City utility billing and collection procedures and was introduced during City Council's June 15, 2010 meeting.

AUTHORITY

The City has authority under RCW 35A.11.020 to regulate its internal affairs and to provide for the improvement and beautification of public ways in the rendering of local social, cultural, recreational, educational, governmental, or corporate services, including operating and supplying of utilities and municipal services commonly or conveniently rendered by cities or towns.

SUMMARY STATEMENT:

This ordinance will update the City's utility billing and collection procedures in accordance to recent changes in State law and to simplify current notification procedures for delinquent accounts.

Some notable proposed changes include allowing property owners to designate "agents" for administering utility accounts in order to prevent confusion on who is managing a City utility account (see Section 3.95.050).

Also in Section 3.95.080 there are revised provisions that better delineate delinquency notices and provide for a seven (7) day notice with a due process hearing provided for disputes.

Finally please note a fully revised section 3.95.160 that provides for an administrative appeal beyond the Finance Director that can end with the City's Hearing Examiner.

The suggested changes from the June 15, 2010 City Council meeting have also been included as shown below:

1. Section 3.95.070, Charges – Due Date. The last part of the ending sentence should read, “...utility charges shall bear interest at the rate of eight percent per annum.”
2. Section 3.95.120, Turning Water On – Charges. The last sentence should read: “The charge for turning on the water after 5:00 p.m. on any work day or on weekends shall be \$75.00 except for emergency responses.”

STANDING COMMITTEE REVIEW:

This item was presented to the Public Works and Utilities Standing Committee on December 3, 2009 and January 7, 2010.

RECOMMENDED ACTION:

1. Conduct a public hearing.
2. Adopt the ordinance amending Oak Harbor Municipal Code Chapter 3.95 “Utility Billing and Collection Procedures.”

ATTACHMENTS:

Proposed ordinance amending Oak Harbor Municipal Code Chapter 3.95 “Utility Billing and Collection Procedures.”

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING OAK HARBOR MUNICIPAL CODE CHAPTER 3.95 ENTITLED "UTILITY BILLING AND COLLECTION PROCEDURES"

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One. Oak Harbor Municipal Code Chapter 3.95 entitled "Utility Billing and Collection Procedures" is hereby amended to read as follows:

**Chapter 3.95
UTILITY BILLING AND COLLECTION PROCEDURES**

Sections:

- 3.95.010 Policy and scope.
- 3.95.020 Definitions.
- ~~3.95.030 Promulgation of rules.~~
- 3.95.040 Application – Account initiation fee.
- 3.95.050 ~~Liability for account transfer to another account~~ Account to be initiated by property owner or agent.
- 3.95.060 Payments applied.
- 3.95.070 Charges – Due date.
- 3.95.080 Delinquency.
- ~~3.95.090 Due process hearings~~ Hearing prior to utility service turn-off.
- 3.95.100 Water cut-offs – Lien enforcement.
- 3.95.110 Disconnect water service – Charge – Unpaid – Payment requisite for reconnect.
- 3.95.120 Turning water on – Charges.
- 3.95.130 Utility connection charges – Waiver for low-income persons.
- 3.95.140 Security deposits for service and late fees.
- 3.95.150 Collection agency.
- ~~3.95.160 Over or under billing~~ Billing error appeals.
- 3.95.170 NSF check – Fee for collection.

3.95.010 Policy and scope.

- (1) The policy of the city is to apply standardized utility billing and collection ~~practice~~ procedures to simplify customer and administrative response to the process involved.
- (2) This chapter shall apply to the water, storm water, sewer and solid waste utilities.

3.95.020 Definitions.

- (1) "Utility" refers to any of the city of Oak Harbor utilities which include storm water utility (rates and regulations which are codified under OHMC Title 12), sewer utility (rates and

regulations which are codified in OHMC Title 14), water utility (rates and regulations which are codified under OHMC Title 13) and the solid waste utility (rates and regulations which are codified in OHMC Title 15).

- (2) "Finance director" means the chief financial officer of the city of Oak Harbor.
- (3) "Lien" is the lien for utilities authorized by state law. For the water utility, the lien statutes are RCW 35.21.290 and 35.21.300. For the solid waste utility, the lien statutes are RCW 35.21.140 and 35.21.150. For the storm water utility and sewer utility, the lien statutes are RCW 35.67.200 through 35.67.290.
- (4) "Supervisor of the Water Department" means the public works director or his or her designee.

~~**3.95.030** — **Promulgation of rules.** The finance director shall have the power to issue rules and regulations not inconsistent with the terms of this chapter in regard to the payment, collection, and remittance of the water charges, the service and general operation of the utility. A copy of such rules and regulations shall be on file and available for public examination at the utility office. Failure to comply with the rules and regulations is a violation of this title.~~

3.95.040 **Application – Account initiation fee.** Application to have utility accounts initiated shall be made during normal working hours in writing on forms directed by the finance director ~~during normal working hours, and shall contain an agreement by the applicant to abide by and accept all of the provisions of this chapter (as amended) as conditions governing the use of the city's water system.~~ An account initiation fee of \$25.00 shall be paid in advance by each applicant for utility service before the utility service is provided. The account initiation fee shall be nonrefundable. The account initiation fee shall only apply to new accounts and not existing accounts or transferring accounts within the city limits of Oak Harbor. ~~All service charges shall be a lien against the property served even though the service shall be contracted for by a tenant. The property owner shall be as responsible as if he had contracted for the service; provided, the property owner's responsibility will be limited by the terms and conditions under which a lien may be filed against the property unless the property owner has contracted for the service and authorized a broader lien.~~

3.95.050 ~~**Liability for account transfer to another account.**~~ **Account to be initiated by property owner or agent**

- (1) Utility accounts shall be opened by and billed to the owner of the property to which the services are rendered or to such property owner's designated agent. Utility accounts for water and sanitary sewer service must be based upon service to at least one meter. No account may be opened for service to a customer unless that customer is responsible for all service to the water meter applicable to that account.
- (2) A "designated agent" may be a tenant, property manager, or other person designated in writing by the property owner as the property owner's agent for all purposes related to the

utility account. The Finance Director shall prescribe the requisite form to be used by property owners wishing to designate an agent pursuant to this section. All owners of property, however, shall remain ultimately and legally liable for the payment of any and all utility charges against the premises to which such utility service has been furnished or is available to the maximum extent allowed by law.. Additional Persons May Be Required to Be Responsible for Accounts. In addition to the person or address billed for service as shown in municipal records, the city may require any other person or address for whom or for whose benefit services are provided, or against whom enforcement action is taken under the authority of this chapter, to be responsible for payment for any municipal services, jointly and severally. With respect to any premises served or involved in an enforcement action, such persons include the respective premises' owner and occupant.

(3) Tenant Accounts. In the event that a tenant meeting the requirements of RCW 35.21.217 requests to open a new account due to non-payment of the existing account by the landlord, the tenant shall be allowed to open such an account PROVIDED that the tenant agrees to pay all charges owing which accrued during the tenant's occupancy of the premises. In no event shall an account be opened for service unless the customer is responsible for all service to the water meter applicable to that account.

(2) ~~Transfer of Payment Responsibility of Accounts. To obtain payment from any person determined responsible by the department for municipal utility service charges, the city reserves the right to transfer a payment obligation from one customer or account to another, or hold charges for payment on one or more accounts, jointly and severally, until full payment is received.~~

3.95.060 Payments applied. Payments received by the city for utility service shall be applied in the following order:

- (1) Outstanding late charges;
- (2) Solid waste charges;
- (3) Storm water utility charges;
- (4) Sanitary sewer charges;
- (5) Water charges.

3.95.070 Charges – Due date. Utility service charges shall be billed monthly ~~or bimonthly~~ for services provided during the previous billing period. ~~For the purpose of billing, the city is divided into two billing areas divided by Oak Harbor Street. Billing will continue on a two-month cycle. Bills shall be due upon billing and payable not later than the eighteenth of the following calendar day of the month after the date of mailing after issue, and, thereafter the utility service charges shall become delinquent, and s~~ Sewer, storm water and solid waste utility charges shall bear interest at the rate of eight percent per annum, prorated monthly, and water utility charges shall bear interest at the rate of ~~one~~ eight percent per ~~month~~ annum.

3.95.080 Delinquency. If the account is not paid when due, the city shall assess a \$15.00 delinquency payment and give notice that the utility account is delinquent.

In addition, the notice shall:

- (1) Set a date for water turn-off not ~~more than 21~~ less than (7) seven days after giving of notice; and
- (2) Specify that service will be shut off unless payment in full is made to the City within (7) seven days; and
- (3) Advise that a hearing may be requested by contacting the Finance Department prior to the scheduled date for water turn-off; and
- (4) Provide the address and telephone number of the Finance Department; and
- (5) Advise that an additional charge of \$10.00 will be added to the bill if water cut-off or meter removal is implemented as a charge for cutting off the water and/or meter removal; and
- (2) ~~Advise that an additional charge of \$10.00 will be added to the bill if water cut off or meter removal is implemented as a charge for cutting off the water and/or meter removal; and~~
- (63) ~~Payment must be received by 4:30 p.m. on the date prior to cut off in order to prevent cut off and imposition of additional charges~~ Provide that service will not be shut off while a hearing is pending.

3.95.090 ~~Due process b~~ Hearing prior to utility service turn-off. ~~Procedures for protest of billing or utility cut off shall be set by the finance director. Upon customer request of the Finance Director or his/her designee, the customer shall be given the opportunity to explain why the utility service should not be turned off. Service will not be shut off while this hearing is pending. The Finance Director or his/her designee shall set the hearing date to be held within (3) three days of the customer's request for a hearing.~~

3.95.100 Water cut-offs – Lien enforcement.

- (1) Sewer and Storm Water Lien. As an alternative method to enforce the lien for nonpayment of sewer or storm water services or both, the city may cut off water service and refuse to provide water service to premises which were furnished water after the charges have become delinquent and unpaid; provided, that unless the lien is filed with the Island County auditor, the lien shall not be for more than six months' service.
- (2) Water Lien. As a means of enforcement, the lien for water services supplied by the city may cut off and refuse to supply water to the premises which were furnished with the water services after the charges have become delinquent and unpaid; provided, that the lien may not be for more than four months of water services.

- (3) The fee charged for turning off water shall be \$10.00 and shall be assessed by 4:30 p.m. the day before the water is turned off. ~~See OHMC 3.95.080, Delinquency.~~

3.95.110 Disconnect water service – Charge – Unpaid – Payment requisite for reconnect. If the service has been disconnected because the water, sewer or storm water bill has not been paid, the water service shall not be turned on until the charges under the applicable lien or liens have been paid.

3.95.120 Turning water on – Charges. No water from the city water supply shall be turned on for service into any premises by any person except the supervisor of the water department or his/her designee. A fee of \$15.00 shall be charged for turning water on for service. This charge shall not be assessed when turning water on for purposes of account initiation pursuant to OHMC 3.95.040. The charge for turning on the water after 4:30:00 p.m. on any work day or on weekends shall be \$75.00 except for emergency responses.

3.95.130 Utility connection charges – Waiver for low-income persons. The finance director may waive connection charges for properties purchased by low-income persons from organizations exempt from tax under Section 501(c)(3) of the federal Internal Revenue Code as amended prior to July 23, 1995. Waivers of connection charges for the same class of utility service must be uniformly applied to all qualified property. Nothing in this section authorizes the impairment of a contract.

3.95.140 Security deposits for service and late fees.

- (1) Security Deposit for Continuing Service. The finance director may order a deposit as a condition of continuing or restoring any utility service where it appears, in his/her discretion, there is a risk of nonpayment or underpayment or as permitted by 11 USC Section 366 or any other applicable law. The deposit shall be a reasonable amount, but in no case less than four months' established billing.
- (2) Solid Waste Only Billing. Where premises are not served by city water or sewer service, the customer is required to tender a deposit to the utility department equal to four months of the estimated cost of the service to be provided as determined by the utility department.
- (3) Front Load Dumpster Security. The solid waste utility shall collect advance payment for container placement and up to four months of charges for rental. The city finance director may accept satisfactory securities or surety bond in lieu of cash payment. Such payment or security may be applied toward the payment of service charges whenever the same shall become due. The solid waste utility reserves the right to require additional advance payment for subsequent service that may be requested by the customer.
- (4) When a utility deposit required under this section remains unpaid for more than 30 days after giving notice of the same, the city may terminate utility service for the utility requiring deposit including turning off water so long as notice and availability of hearing is provided as per this chapter.

3.95.150 Collection agency.

- (1) The city may refer unpaid accounts for collection to a collection agency approved by the city council for which there is a contract.
- (2) Accounts referred to collection shall be only after written notice has been given to the account holder at his/her last known address by certified mail, return receipt requested, and by regular mail, postage prepaid 30 days in advance of the referral to collection.

3.95.160 ~~Over or under billing~~ Billing error appeals.

- (1) ~~Over Billing. If the finance director, upon investigation or otherwise, finds that the fee for utility charges paid by a utility customer or property owner is more than the amount required of the utility customer or property owner which made the over payment, he or she shall return the amount overpaid by a warrant or check upon the utility fund or funds receiving the over payment.~~ Time for filing. A utility account-holder objecting to any utility service charge billing may request a hearing before the City Administrator by filing a written request with the Finance Director within sixty (60) days of the first service date on the challenged billing.
- (2) Form of appeal. The request shall set forth the name, address and phone number of the person requesting the hearing; the nature of the service charges at issue, such as water, sewer, storm water or solid waste; the amount of the billing; the dates of service; and the basis for the objection.
- (3) Setting of hearing date. The City Administrator or his/her designee shall set a hearing date and time within two (2) weeks of the date of receipt of the request for a hearing, and shall advise the person requesting the hearing of the hearing date, time and location using the address and telephone information provided by the requestor.
- (4) Failure to appear. Failure of the requestor to appear for this hearing without prior notice and excuse shall constitute a waiver of the hearing.
- (5) Format of the hearing. At the hearing, the requestor shall have the opportunity to present evidence and argument in support of requestor's objections to the utility service charge billing.
- (6) Determination of City Administrator. The City Administrator shall consider the evidence and argument submitted by the requestor and make a determination on requestor's challenge in writing within ten (10) days.
- (7) Time for Appeal from City Administrator Determination. The determination of the City Administrator shall be final unless appealed within five (5) business days of the date of mailing the determination to the address provided by the requestor above.

- (8) Appeals to Hearing Examiner. Appeals from the determination of the City Administrator shall be to the Hearing Examiner. The procedures of OHMC 1.24.020 – 1.24.110 shall apply to these appeals.
- (9) Decision of Hearing Examiner Final. The decision of the Hearing Examiner shall be final unless appealed to a court of competent jurisdiction within thirty (30) days of issuance of the Hearing Examiner's decision.
- (10) Amount Owing. In the event that the account-holder's appeal results in a determination that an amount is owing to the City, the amount must be paid within three days of the date of the final decision.
- ~~(2) Under Billing. If the finance director finds that the fee or utility charges billed to a utility customer or property owner is less than required, the finance director shall send a statement to the utility customer or property owner owing the balance due, and the utility customer or property owner shall, within 30 days, pay the amount shown thereon. Amounts outstanding after the 30 days shall be charged interest at the rate of eight percent per annum, prorated monthly, until paid.~~
- ~~(3) No increase in billing or reduction of a billing for utility charges due may be made by the finance director for more than two years after the over billing or under billing:~~
- ~~(a) Against a utility customer or property owner who has not properly signed up for utility services as required by this chapter and/or OHMC Titles 12, 13, 14 and 15;~~
- ~~(b) Upon a showing of fraud or theft of services;~~
- ~~(c) Upon a showing of misrepresentation of a material fact by a utility customer or property owner whose property received the utility services; or~~
- ~~(d) Where a utility customer or property owner has executed a written waiver of such limitation.~~

3.95.170 NSF check – Fee for collection. The fee charged for a nonsufficient fund check (NSF check) shall be \$40.00, or the amount of the NSF check, whichever is less.

Section Two. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Three. Effective Date. This Ordinance shall be in full force and effect five days after publication.

PASSED by the City Council this ____ day of _____, 2010.

APPROVED by its Mayor this ____ day of _____, 2010.

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

Published: _____

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

Bill No. 7
Date: July 6, 2010
Subject: Marina Dredging: Authorization
to Solicit Bids

FROM: Steve Powers, Development Services Director *SP*
Mack Funk, Harbormaster

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 seeks City Council authorization to advertise the Oak Harbor Marina Redevelopment Project, Phase 2, Dredging project for competitive bidding.

AUTHORITY

The City has the authority under RCW 35A.11.020 to enter into contracts for common municipal operations such as the construction of capital improvements. Competitive bids are required for all public works and improvements in excess of \$30,000.00 if more than one trade or craft is involved or \$20,000.00 if only one trade or craft is involved. OHMC 2.330.010

Permits to undertake the proposed dredging were granted by the following agencies:

- Department of the Army, Corps of Engineers – Section 10 and Section 404 Dredge Permit – work must be completed by October 31, 2011
- Washington Department of Fish and Wildlife – Hydraulic Project Approval – work must be completed by January 24, 2013
- Washington Department of Ecology – Shoreline Substantial Development – work must be completed by March 28, 2013

SUMMARY STATEMENT

On December 15, 2009 the City Council approved an engineering services contract with Reid Middleton, Inc. in the amount of \$145,322 for the Marina Redevelopment Project, Phase 2, dredging design and construction administration services. Work is progressing under this contract and the project plans, specifications and bid documents are presently at the 60% complete level. The project schedule anticipates a late July completion date for these documents and a bid advertisement date of July 28, 2010 (please see Attachment 1). The anticipated construction contract award date is September 7, 2010. This schedule is based on the tentative dredging schedule presented to City Council last December and on the dredging permit timeframes.

The project plans include a base bid and three (3) additive bids. The dredging areas site plan (Attachment 2) shows the locations of the various dredge areas/bid items. The design is based on the pre-design dredge analysis completed by Coast & Harbor Engineering and Reid Middleton as part of the Phase 1 contract. The engineer's estimate for the construction project cost (including permit required environmental mitigation) is approximately \$3,995,000 (Attachment 3). Please note there are additional project-related costs including a mitigation payment and a dredge spoils disposal fee imposed by the Department of Natural Resources.

PROJECT BID APPROACH

The bid documents are designed with a base bid and three (3) additive bids. The base bid includes dredging of the nearshore area and mitigation. Additive bid 1 provides for dredging of the breakwater area. Additive bid 2 dredges the areas near Floats B, C, D and E. Additive bid 3 dredges the fairway between the breakwater and Float E. The bid documents are structured in this fashion to provide the City Council the flexibility in choosing which portion(s) should be advertised for bid and/or awarded for construction. This flexibility is necessary due to the estimated dredging costs by area and the probability that these costs will exceed the Marina's ability to fund the complete dredging project. Tables summarizing the estimated dredging costs by area within the marina and the environmental mitigation costs are attached to this agenda bill (Attachments 4 and 5, respectively). This information can be summarized as follows:

Base Bid: Nearshore Area dredging plus mitigation ¹	Additive Bid 1: Breakwater Area dredging	Additive Bid 2: Floats B, C, D, E Area dredging	Additive Bid 3: Fairway between Breakwater and E Area dredging	Project Cost² (estimate)
\$730,000 (dredging) \$342,000 (mitigation) Subtotal: \$1,072,000	\$442,000	\$1,990,000	\$491,000	\$3,995,000

PROJECT FUNDING APPROACH

The City Council approved new rates for several marina fee categories on December 15, 2009. At that time staff presented the Council a funding concept for the dredging project that utilized a separate fee for dredging. The dredging fee is calculated as a function of the project cost, the total lineal footage of slip space and the occupancy rate of the marina. Since last December staff has reviewed and refined the estimated amount of this fee. The 'Marina Dredging Funding – Fee Estimate' table (Attachment 6) is the result of this work and displays several pieces of information. First, it shows the project items included in the estimated total project cost by bid scenario. Next it shows the estimated bond amount and annual payment by bid scenario. Finally, the estimated dredging fees required for the various bid scenarios are shown.

¹ Mitigation includes shoreline enhancement and boat grid removal, but not the \$50,000 payment to Island County Marine Resources Council (MRC) for off-site mitigation.

² Project cost does not include design and construction administration fees or DNR dredge disposal fee. See Attachment 6 for complete estimated costs.

Please note that this dredging fee estimate is based on a 74% occupancy rate for the marina. This rate is the average of the last five years of marina occupancy by dock. Staff also computed the weighted occupancy rate for the marina (83%). This occupancy rate takes into account the relative significance of various slips as determined by their number and revenue generation. Staff chose not to use this higher occupancy rate as part of the dredging fee calculation so as to provide a safety factor in the dredging calculation.

If the proposed fee is implemented the total monthly moorage fee for Marina customers would equal the existing rate plus the dredging fee. The '2010 Moorage Rates Comparison' table (Attachment 7) displays information regarding rates at neighboring marinas, Oak Harbor's existing rates, and Oak Harbor's rates if the required dredging fees are implemented. A review of this table shows that the total moorage fee (existing fee plus dredging fee) necessary to fund operations and the estimated cost of the Base Bid would be less than the average fee of the Marina's competition. The total moorage fee for the Base Bid plus Additive Bid 1 would exceed the average fee in some of the slip categories (as noted by the pink shaded areas on Attachment 7). The total moorage fee for the Base Bid plus Additive Bid 2 or 3 would significantly exceed the average fees in most slip categories.

CONCLUSION

The Oak Harbor Marina Redevelopment Plan adopted in 2006 proposed the dredging of the entire marina as part of its complete reconstruction. As the City began implementation of the plan, it was determined that due to funding limitations a phased construction process was necessary. Dredging has been identified as Phase 2 of the project. The completion of other improvements (such as float reconstruction, additional electrical service upgrades, etc.) will take place in future phases as funding permits.

While from certain perspectives it is desirable to dredge the entire marina as a single project, the estimated cost for this work exceeds the revenue generating capacity of the Marina. This circumstance is expected to be true even in the most favorable of bid climates. After reviewing the estimated costs for the base bid and additive bids, and comparing these amounts to the estimated dredging fees needed to undertake each one, staff recommends the City Council authorize advertising the Base Bid and Additive Bid 1 for competitive bidding.

MARINA ADVISORY COMMITTEE

The dredging project has been discussed at numerous Marina Advisory Committee meetings. It was most recently discussed at the June 7, 2010 meeting.

STANDING COMMITTEE REPORT

The dredging project has been discussed at numerous Governmental Services Standing Committee meetings. The dredging project was most recently discussed on June 8, 2010.

RECOMMENDED ACTION

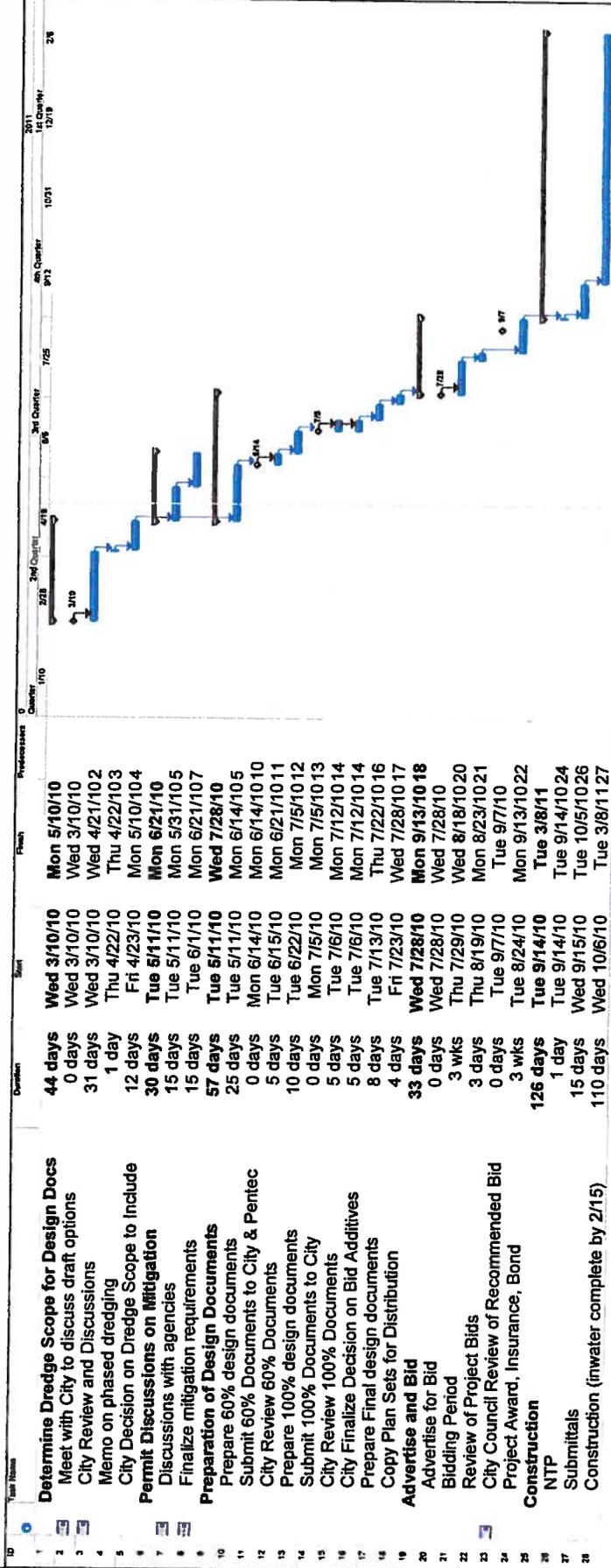
Authorize staff to advertise the Marina Redevelopment Project Phase 2, Dredging, Base Bid and Bid Additive 1 for competitive bidding.

ATTACHMENTS

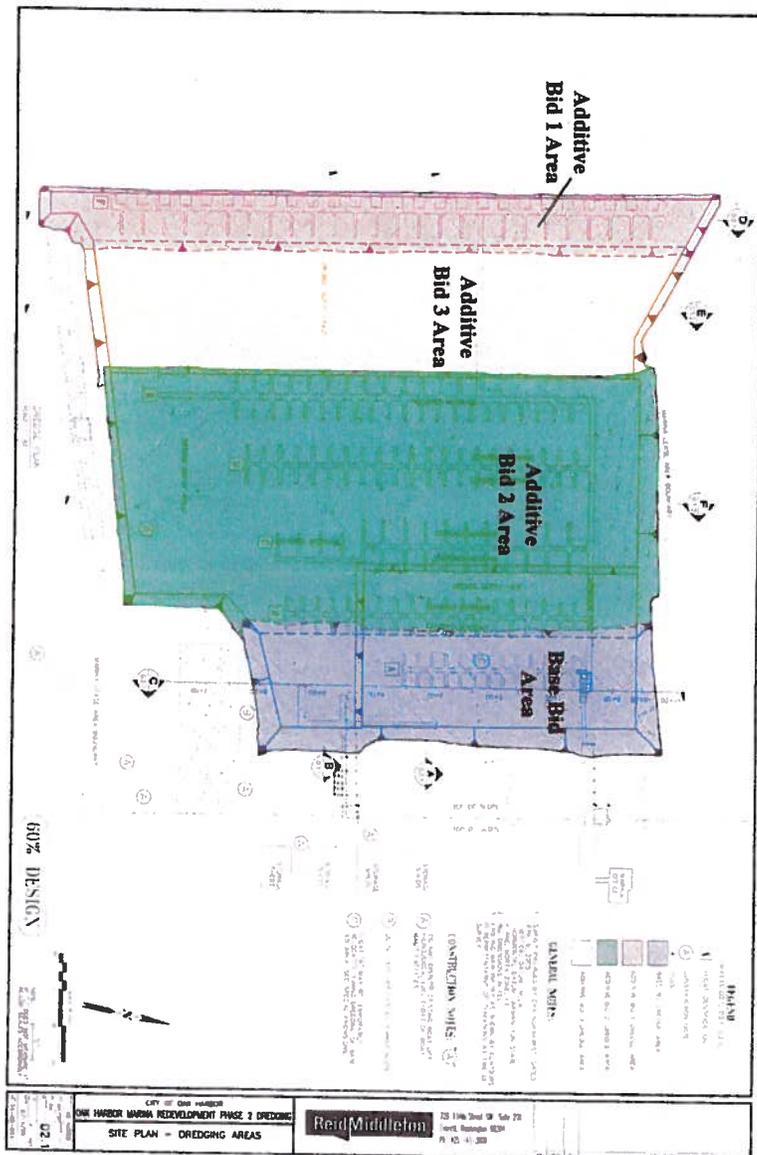
- Attachment 1: Project Schedule
- Attachment 2: Site Plan – Dredging Areas
- Attachment 3: Opinion of Construction Costs
- Attachment 4: Dredging – Estimate of Probable Construction Cost
- Attachment 5: Mitigation Preliminary Construction Cost Estimate
- Attachment 6: Marina Dredging Funding – Fee Estimate
- Attachment 7: 2010 Moorage Rates Comparison – With Estimated Dredging Fees

MAYOR'S COMMENTS

City of Oak Harbor
Oak Harbor Marina Redevelopment Phase 2
Dredging
Preliminary Schedule



92





728 134th Street SW, Suite 200
 Everett, WA 98204

PHASE 2 - DREDGING
OPINION OF CONSTRUCTION COSTS
60% SUBMITTAL
OAK HARBOR MARINA

DREDGING
SHORELINE ENHANCEMENT
BOAT GRID REMOVAL

PROJECT INFORMATION

Project	Oak Harbor
Project description:	Redevelopment Phase 2 - Dredging
Job number:	24-08-014
Client:	City of Oak Harbor
Submittal Status:	60%
Type of estimate :	Construction Cost Estimate
Estimator:	JJS
Project manager:	SMK
Q/A checker:	
File name/path:	\\: DOC 24WP08 014 Oak Harbor PHASE 2 - Dredge Cost Estimate 60% Cost Est Summary 06-14-10.doc
Date:	June 14, 2010

SUMMARY

Note: Construction costs below are dollars rounded to the nearest thousand, include overhead and profit, 10% contingency, and tax.

Bid Item	Description	Total Cost
	BASE BID - Nearshore Area	
	Dredging	\$730,000
	Shoreline Enhancement	\$314,000
	Boat Grid Removal	\$28,000
	Subtotal Base Bid	\$1,072,000
1.0	ADDITIVE BID 1 - Breakwater Area	
1.1	Base Bid	\$1,072,000
1.1	Dredging Breakwater Area	\$442,000
	Subtotal Base + Additive 1	\$1,514,000
2.0	ADDITIVE BID 2 - Floats B,C,D,E Area	
2.1	Base Bid	\$1,072,000
2.2	Dredging Breakwater Area	\$442,000
2.3	Dredging Floats B,C,D,E Area	\$1,990,000
	Subtotal Base + Additive 2	\$3,504,000
3.0	ADDITIVE BID 3 - Fairway Between Breakwater and E Area	
3.1	Base Bid	\$1,072,000
3.2	Dredging Breakwater Area	\$442,000
3.3	Dredging Floats B,C,D,E Area	\$1,990,000
3.4	Dredging Fairway Between Breakwater and E Area	\$491,000
	Subtotal Base + Additive 3	\$3,995,000
	PROJECT COST FOR BASE BID + ADDITIVES 1, 2, 3 (Rounded)	\$4,000,000

94



Oak Harbor Marina Dredging

Estimate of Probable Construction Cost

Item No.	Item Description	Bid Quantity	Unit Cost	Unit	Total Cost
Base Bid - Pier A, Fuel Float, & Landing Float Areas					
1	Mobilization & Demobilization	1	\$175,000	LS	\$175,000
2	Dredge & Dispose Offshore - Fairways	18,100	\$13.00	CY	\$235,300
3	Dredge & Dispose Offshore - Slips	5,500	\$30.00	CY	\$165,000
4	Water Quality Monitoring	1	\$15,000	LS	\$15,000
5	Construction Surveying	1	\$25,000	LS	\$25,000
Base Bid SUBTOTAL					\$615,300
					Contingency (10%)
					\$61,530
					Tax (8.7%)
					\$53,531
TOTAL BASE BID ESTIMATED COST					\$730,361

Additive Bid No. 1 - Floating Breakwater "F" Area					
6	Dredge & Dispose Offshore - Slips	14,000	\$25.50	CY	\$357,000
7	Water Quality Monitoring	1	\$5,000	LS	\$5,000
8	Construction Surveying	1	\$10,000	LS	\$10,000
Additive Bid No. 1 SUBTOTAL					\$372,000
					Contingency (10%)
					\$37,200
					Tax (8.7%)
					\$32,364
TOTAL ADDITIVE BID 1 ESTIMATED COST					\$441,564

Additive Bid No. 2 - Floats B,C,D,E					
9	Dredge & Dispose Offshore - Fairways	37,650	\$13.00	CY	\$489,450
10	Dredge & Dispose Offshore - Slips	25,000	\$46.00	CY	\$1,150,000
11	Water Quality Monitoring	1	\$12,000	LS	\$12,000
12	Construction Surveying	1	\$25,000	LS	\$25,000
Additive Bid No. 2 SUBTOTAL					\$1,676,450
					Contingency (10%)
					\$167,645
					Tax (8.7%)
					\$145,851
TOTAL ADDITIVE BID 2 ESTIMATED COST					\$1,989,946

Additive Bid No. 3 - Fairway between Breakwater & E Float					
13	Dredge & Dispose Offshore - Fairways	37,500	\$10.50	CY	\$393,750
14	Water Quality Monitoring	1	\$5,000	LS	\$5,000
15	Construction Surveying	1	\$15,000	LS	\$15,000
Additive Bid No. 3 SUBTOTAL					\$413,750
					Contingency (10%)
					\$41,375
					Tax (8.7%)
					\$35,996
TOTAL ADDITIVE BID 3 ESTIMATED COST					\$491,121

95

HartCrowser Inc.

Oak Harbor Marina Restoration
12007-64
6/11/2010

PRELIMINARY CONSTRUCTION COST ESTIMATE

ITEM	QUANTITY	UNITS	COST PER UNIT	SUBTOTAL	TOTAL	Note
Bid Item 1						
Mobilization and Demobilization (LS)						
Mobilize/Demobilize	1	Lump Sum	\$ 4,400	\$ 4,400		Assumes 3 pieces of large equipment (50mi R/T) "Call before you dig" & \$80/hr
Utility Locates	1	Each	\$ 1,000	\$ 1,000		
Control Surveying, Insurance, other	1	Lump Sum	\$ 7,000	\$ 7,000		
Signage	10	Each	\$ 20	\$ 200		
Portable Toilet	3	Week	\$ 56	\$ 168		
Subtotal:					\$ 12,768	
TOTAL DIRECT COSTS:					\$ 12,800	
Overhead and Profit at:		25.0%		\$ 3,200		
Subtotal:					\$ 3,200	
Sales Taxes at:		8.4%			\$ 1,344	
TOTAL BID ITEM 1:					\$ 17,300	
ITEM	QUANTITY	UNITS	COST PER UNIT	SUBTOTAL	TOTAL	Note
Bid Item 2						
Environmental Controls (LS)						
Erosion Controls	1	Lump Sum	\$ 2,000	\$ 2,000		
Contractor PPP Plan	1	Lump Sum	\$ 2,000	\$ 2,000		
Additional Labor	80	Hours	\$ 45	\$ 3,600		Additional day laborer to assist
Erosion Control Blanket	3,667	sq yd	\$ 1.56	\$ 5,720		
Installation Erosion blanket	12	Hours	\$ 45	\$ 540		
Subtotal:					\$ 13,860	
TOTAL DIRECT COSTS:					\$ 13,900	
Overhead and Profit at:		25.0%		\$ 3,475		
Subtotal:					\$ 3,475	
Sales Taxes at:		8.4%			\$ 1,480	
TOTAL BID ITEM 2:					\$ 18,800	
ITEM	QUANTITY	UNITS	COST PER UNIT	SUBTOTAL	TOTAL	Note
Bid Item 3						
Habitat mix Import and Placement (per ton)						
Superintendent	18	Days	\$ 810	\$ 14,580		
Excavator & Equipment Costs	18	Days	\$ 1,450	\$ 26,100		Assumes 3 pieces of large equipment
Equipment operating costs	18	Days	\$ 160	\$ 2,880		
Equipment operator labor	18	Days	\$ 1,728	\$ 31,104		Assumes 3 large equipment operators
Laborer/Oiler	18	Days	\$ 480	\$ 8,640		
Habitat mix Import	3,100	cu yds	\$ 31	\$ 96,100		Assumes 50% loss of material
Subtotal:					\$ 179,404	
Estimated # of tons:	130	#/cf	1.60	ton/cy	# of tons: 4960	
TOTAL DIRECT COSTS:					\$ 179,400	
Overhead and Profit at:		25.0%		\$ 44,850		
Subtotal:					\$ 44,850	
Sales Taxes at:		8.4%			\$ 18,837	
TOTAL BID ITEM 3:					\$ 243,100	
	Per Ton:	\$	49.01			
	Per CY:		78			

94

ITEM	QUANTITY	UNITS	COST PER UNIT	SUBTOTAL	TOTAL	Note
Bid Item 5						
Plant Material						
Intertidal plantings	460	per plant	2.25	\$ 1,035		Plant stock and delivery costs
Subtotal:					\$ 1,035	
Compost and Mulch						
Sand	75	cu yds	\$ 25	\$ 1,875		Sand mix delivered and placed
Subtotal:					\$ 1,875	
Labor						
Supervision	20	hours	\$ 90	\$ 1,800		
Plant installation	24	hours	\$ 21.77	\$ 522		3 laborers, 1 day
Sand	15	hours	\$ 21.77	\$ 327		2 laborers, 1 day
Subtotal:					\$ 2,649	
TOTAL DIRECT COSTS:					\$ 5,600	

Overhead and Profit at:		25.0%		\$ 1,400		
Subtotal:					\$ 1,400	
Sales Taxes at:		8.4%			\$ 588	
TOTAL BID ITEM 5:					\$ 7,600	

ITEM	QUANTITY	UNITS	COST PER UNIT	SUBTOTAL	TOTAL	Note
Bid Item 6						
Plant Guarantee						
Plant Replacement Materials	2	Each	\$ 1,092	\$ 2,184		
Plant Replacement Labor for 2 years	24	hours	\$ 21.77	\$ 522		
Annual Maintenance for 2 years	80	hours	\$ 21.77	\$ 1,742		
Subtotal:					\$ 1,742	
Irrigation						
Initial cost	1	each	\$ 800	\$ 1,200.00		
Operation and maintenance costs	2	each	\$ 395.00	\$ 1,185.00		2 years maintenance and operation
Subtotal:					\$ 2,385	
TOTAL DIRECT COSTS:					\$ 4,100	
Overhead and Profit at:		25.0%		\$ 1,025		
Subtotal:					\$ 1,025	
Sales Taxes at:		8.4%			\$ 431	
TOTAL BID ITEM 6:					\$ 5,600	

BOND AMOUNT (125%) :	\$ 16,500
Cost of Bond	\$ 248
TOTAL DIRECT COSTS:	\$ 215,800
TOTAL OH&P:	\$ 53,950
TOTAL SALES TAX:	\$ 22,650
TOTAL CONSTRUCTION AND PLANTING COSTS:	\$ 292,400

Caveats:
 Cost estimate does not include: costs associated with as-built and monitoring plans, construction oversight, or adaptive management activities
 Costs and final total are rounded
 Cost estimate is based on previous 20% design drafted by PND
 The PND design is not optimized to conserve material volume or cost

97

Marina Dredging Funding - Fee Estimate

Project Item	Base Bid Cost	Base Bid Plus Additive Bid 1	Base Bid Plus Additive Bid 2	Base Bid Plus Additive Bid 3
Dredging & mitigation	1072000	1514000	3504000	3995000
Mitigation payment	50000	50000	50000	50000
Design & const. admin.	145322	145322	145322	145322
DNR dredge spoils disposal fee	10620	6300	28192	16875
Sub-total	1277942	1715622	3727514	4207197
Marina offset	-50000	-50000	-50000	-50000
Project total	1227942	1665622	3677514	4157197

Estimated bond amount	1,387,574	1,882,153	4,155,591	4697632.61
(includes reserve, interest and insurance)				
Annual payment	101537	137728	304088	343752
(20-years @4.01% interest)				

Monthly fee calculation				
Total lineal feet of slip = 13,367 lf				
74% occupancy rate				
13,367 lf * (74%) = 9892 lf of occupied slip space				
Annual payment / occupied slip space = per lineal foot annual payment				
Per lineal foot annual payment / 12 months = per lineal foot monthly payment				
Per lineal foot annual payment	10.26455722	13.92317024	30.74080065	34.75050546
Per lineal foot monthly payment	0.855379768	1.160264187	2.561733387	2.895875455
	\$0.86	\$1.16	\$2.56	\$2.89

908

Draft 2010 Moorage Rates Comparison

With Estimated Dredging Fees

	24 foot		28 foot		32 foot		36 foot		40 foot		50 foot		60 foot	
	Open	Cov	Open	Cov	Open	Cov	Open	Cov	Open	Cov	Open	Cov	Open	Cov
Cap Sante	N/A	N/A	5.92	N/A	7.27	N/A	7.54	N/A	7.81	N/A	8.35	N/A	9.28	N/A
Everett*	5.97	N/A	5.97	8.63	7.04	9.77	7.61	11.34	8.16	12.11	10.06	12.89	10.06	
Kingston	4.70	N/A	4.70	N/A	4.70	7.05	4.70	7.05	4.70	7.05	4.70	7.05		
La Conner*	N/A	N/A	7.50	N/A	5.72	7.50	6.05	10.16	6.51	11.51	7.52	13.21	8.64	
Port Townsend*	5.89	N/A	5.89	N/A	6.24	N/A	6.24	N/A	6.62	N/A	7.01	N/A	7.45	
Average (*)	5.93	N/A	5.93	8.07	6.33	8.64	6.63	10.75	7.10	11.81	8.20	13.05	8.72	
OH 2010	4.82	6.59	5.22	7.00	5.32	7.42	5.59	8.30	5.59	8.78	6.02	9.28	6.02	
Difference	1.11		0.71	1.07	1.01	1.22	1.04	2.45	1.51	3.03	2.18	3.77	2.70	
% of Average	81.3%		88.0%	86.8%	84.0%	85.9%	84.3%	77.2%	78.8%	74.3%	73.4%	71.1%	69.1%	

Average (*)	5.93	N/A	8.07	8.64	6.66	10.70	7.10	11.81	8.20	13.05	8.72
OH 2010 fee + dredging fee (\$0.86)											
	0.86	5.88	7.45	6.08	7.96	8.28	6.45	9.16	6.45	9.64	6.88
Difference	0.25		-0.15	0.21	0.36	0.21	1.54	0.65	2.17	1.32	2.91
% of Average	95.8		102.5	97.4	97.6	95.8	96.8	85.6	90.8	81.6	77.7

Average(*)	5.93	N/A	8.07	8.64	6.66	10.70	7.10	11.81	8.20	13.05	8.72
OH 2010 fee + dredging fee (\$1.16)											
	1.16	5.98	8.16	6.48	8.58	6.75	9.46	6.75	9.94	7.18	10.44
Difference	-0.05		-0.45	-0.09	0.06	-0.09	1.24	0.35	1.87	1.02	2.61
% of Average	100.8		107.6	101.1	102.4	99.3	101.4	88.4	95.1	84.2	80.0

Average(*)	5.93	N/A	8.07	8.64	6.66	10.70	7.10	11.81	8.20	13.05	8.72
OH 2010 fee + dredging fee (\$2.56)											
	2.56	7.38	9.56	7.88	9.98	8.15	10.86	8.15	11.34	8.58	11.84
Difference	-1.45		-1.85	-1.49	-1.55	-1.34	-1.49	-0.16	-1.05	0.47	-0.38
% of Average	124.5		131.2	118.5	124.5	115.5	122.4	101.5	114.8	96.0	104.6

Average(*)	5.93	N/A	8.07	8.64	6.66	10.70	7.10	11.81	8.20	13.05	8.72
OH 2010 fee + dredging fee (\$2.89)											
	2.89	7.71	9.89	8.21	10.31	8.48	11.19	8.48	11.67	8.91	12.17
Difference	-1.78		-2.18	-1.82	-1.67	-1.82	-0.49	-1.38	0.14	-0.71	0.88
% of Average	130.0		136.8	122.6	119.3	127.3	104.6	119.4	98.8	108.7	93.3

99

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

Bill No. 8
Date: July 6, 2010
Subject: Fairway Point Division 4
Final Plat

FROM: Steve Powers *SP*
Development Services Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

This agenda bill presents the final plat for Fairway Point Division 4 for City Council consideration.

AUTHORITY

Subdivision in Washington State is a matter of state concern and is regulated by RCW 58.17. Final approval or disapproval of subdivision is determined by the provisions of RCW 58.17.110 through RCW 58.17.170. OHMC 21.40.050 requires the City Council to consider the final plat at a public meeting upon receipt of a recommendation of the Development Services Director.

SUMMARY STATEMENT

This agenda bill presents the Fairway Point Division 4 Final Plat consisting of 40 lots located on the north side of SW Fort Nugent Avenue, west of the Highland Park subdivision (Please see Attachment A). The project was approved under the Planned Residential Development provisions of the Oak Harbor Municipal Code (Chapter 19.31).

Project Information

Developer: Landed Gentry Development
Location: 1464 SW Ft. Nugent Avenue, Oak Harbor, WA 98277.
Parcel Number: R13204-152-1801
Zoning: R-1 Single-Family Residential
Comprehensive Plan Designation: Low Density Residential
Site Area: 8.4 gross acres
Units: 40 single-family residential lots
Density: 4.76 dwelling units per acre
Open space provided: 0.84 acres

Background

On June 19, 2007 the City Council approved the Preliminary Plat and Preliminary and Final Planned Residential Development (PRD) plans for Fairway Point Division 4, a single family subdivision located west of the Highland Park subdivision along SW Fort Nugent Avenue. Please see Attachment B for a copy of the City Council motion and approval of the PRD and Attachment C for the ordinance approving the preliminary plat. This development is a continuation of the previously approved Fairway Point PRD for Divisions 1-3. The plat consists of 40 single family residential lots on 8.4 acres with lot sizes ranging from approximately 5,501 square feet to approximately 7,137 square feet. This PRD is similar in character to the approved PRD for Fairway Point (Divisions 1-3), as the project reflects similar lot sizes, scale, architectural design and incorporated access to adjoining phases.

The primary street access for the preliminary plat is from SW Ft. Nugent Avenue. The plat is connected to SW Fort Nugent Avenue via the new public street named SW Downfield Way. This new street provides connections to Fairway Point Division 2 via SW Berwick Drive and to the Highland Park PRD via SW 18th Avenue.

Fairway Point Division 4 received a Certificate of Transportation Concurrency in 2007. Proponents are required to pay the transportation mitigation fee of \$907 with the issuance of a building permit for each lot. The developer will also pay the required neighborhood and community park impact fees for each lot. As per the Annexation agreement, the developer will pay \$200 per residential unit to contribute to the development of a fire protection station in the area.

Preliminary Plat Requirements

The Planning Commission's Findings of Fact, Conclusions of Law and Record of Decision (adopted by reference by the City Council through Ordinance No. 1506) for Fairway Point Division 4 PRD and Preliminary Plat included several conditions of approval (Attachment D). These conditions of approval required onsite and offsite infrastructure improvements, the payment of appropriate impact and system development fees and compliance with applicable annexation agreement conditions. The issuance of a SEPA Determination of Non-significance (Exhibit E) is referenced in the Findings of Fact.

Developer's Reimbursement Agreement

A Developer's Reimbursement Agreement, otherwise known as a Latecomer's Agreement for a 12 inch oversized water line was approved by City Council on January 19, 2010.

Discussion

The Oak Harbor Municipal Code provides for final plat approval as a Type VI review process with the City Council responsible for making a final decision. The review standard for final plat approval requires that:

1. The plat must meet all the requirements of RCW 58.17 and;
2. The plat must meet the technical specifications of a final plat per OHMC 21.40.

The submitted final plat's consistency with these requirements is listed below:

The plat must meet all the requirements of RCW 58.17

The provisions of RCW 58.17 cover both the preliminary and final plat approval process. RCW 58.17.110 lists factors to be considered when approving or disapproving a subdivision. Specifically, RCW 58.17.110(2) states a proposed subdivision and dedication shall not be approved unless the city legislative body makes written findings that appropriate provisions are made for the public health, safety and welfare and the public use and interest will be served by the platting of such subdivision and dedication. Through the adoption of Ordinance No. 1506 the City Council adopted the Planning Commission's Findings of Fact which included the necessary findings listed above.

RCW 58.17.150 requires that each preliminary plat submitted for final approval shall be accompanied by the following agencies' recommendations for approval or disapproval:

1. Local health department or other agency furnishing sewage disposal and supplying water as to the adequacy of the proposed means of sewage disposal and water supply;
The subdivision has connected to the Oak Harbor sanitary sewer system and to the water system. The City has reviewed the proposed plans and has found them to adequately address this criterion.

2. Local planning agency or commission, charged with the responsibility of reviewing plats and subdivisions, as to compliance with all terms of the preliminary approval of the proposed plat subdivision or dedication;
The City of Oak Harbor's Planning Commission reviewed and recommended approval to the City Council for the Fairway Point 4 Preliminary Plat, Preliminary PRD, and Final PRD on May 22, 2007. Under OHMC 18.20.280 the review of a final plat is conducted only by the City Council. Staff has reviewed the submitted final plat and concludes that the conditions of preliminary plat approval have been met and recommends the City Council approve the final plat.

3. City, town or county engineer
The City Engineer has reviewed and examined the final plat for conformance with RCW 58.17 and the Oak Harbor Municipal Code. The City Engineer recommends approval of the final subdivision plat subject to the conditions listed below under Recommended Action.

RCW 58.17.160 and 170 outline the requirements for each plat filed for record and for the written approval of a subdivision. Staff has reviewed the submitted final plat and concludes that the appropriate certification, dedication and other statements are included on the face of the plat and that written approval of the plat can take place.

The plat must meet the technical specifications of a final plat per OHMC 21.40.

The final plat meets all of the application requirements and prescribed form as listed in OHMC 21.40. It is worth noting that the applicant has shown the PRD-approved building setbacks on

the plat (as required by OHMC 21.40.040(2)(f)) and provided the City with a typical building setback detail (Exhibit F) to clearly show how the building setbacks apply to this plat.

Planned Residential Development (PRD) Overlay Zone Ordinance

Whenever a PRD permit has been granted, the boundary of the PRD shall be indicated on the zoning map of the City of Oak Harbor as "subdistrict PRD." (OHMC 19.31.260). This agenda bill introduces an ordinance (Exhibit G) that once adopted will direct the zoning map to be so amended for the Fairway Point Division 4 Planned Residential Development. Staff recommends that the ordinance be scheduled for City Council final action on July 6, 2010.

Conclusion

The final plat is in conformance with the preliminary plat approval conditions, with the technical requirements for a final plat and with the appropriate zoning and land use controls. Approval of the final plat is recommended by staff.

RECOMMENDED ACTION

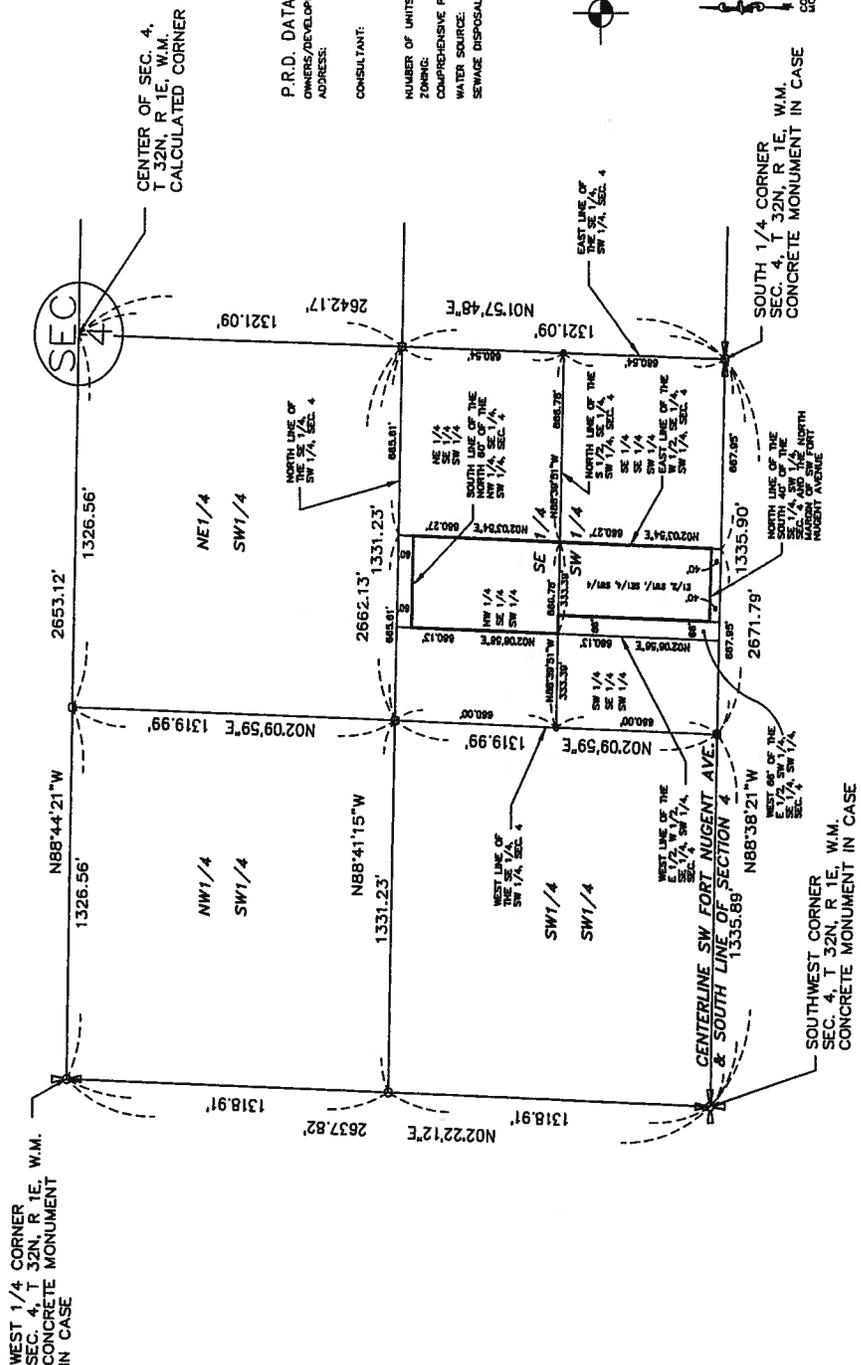
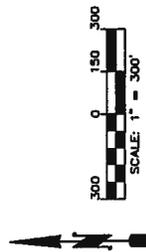
1. Adopt resolution approving the Final Plat of Fairway Point Division 4 PRD.
2. Set August 4, 2010 as the date for final consideration of the PRD Overlay Zone for Fairway Point Division 4 PRD ordinance.

ATTACHMENTS

- A. Final plat; Sheet 1 dated June 22, 2010, Sheet 2 dated April 9, 2010 and Sheets 3 & 4 dated April 21, 2010.
- B. Copy of City Council motion and approval of the Fairway Point Division 4 PRD dated June 19, 2007
- C. Ordinance 1506 approving the Fairway Point Division 4 Preliminary Plat dated June 19, 2007.
- D. Planning Commission's Findings of Fact, Conclusions of Law and Entry of Order dated May 22, 2007.
- E. SEPA Determination of Non-Significance dated April 7, 2006.
- F. Typical Building Setback Detail.
- G. Resolution approving the Fairway Point Division 4 PRD Final Plat.
- H. Ordinance approving the PRD Overlay Zone for Fairway Point Division 4 PRD.

MAYOR'S COMMENTS

PLAT OF FAIRWAY POINT DIVISION 4 P.R.D.
SECTION 4, TOWNSHIP 32 N., RANGE 1 E., W.M.
OAK HARBOR, WASHINGTON



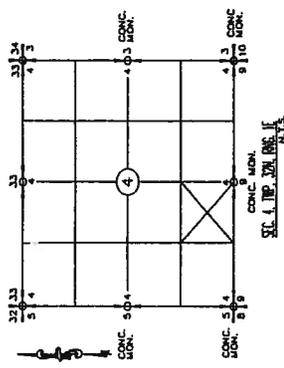
CENTER OF SEC. 4,
T. 32N, R. 1E, W.M.
CALCULATED CORNER

P.R.D. DATA
OWNERS/DEVELOPERS:
ADDRESS:
CONSULTANT:
NUMBER OF UNITS:
ZONING:
COMPREHENSIVE PLAN:
WATER SOURCE:
SEWAGE DISPOSAL:

FP 4, LLC
504 E. FAIRHAVEN AVE.
BAYVIEW SURVEYING & ENGINEERING
138 SHARON AVENUE
BELLINGHAM, WA 98223
(360) 707-2580
40
P-1
LOW DENSITY, RESIDENTIAL
CITY OF OAK HARBOR
CITY OF OAK HARBOR

RECEIVED
APR 09 2010
CITY OF OAK HARBOR
Department of Public Works

BENCH MARK:
TOP OF MONUMENT IN CASE AT SOUTH
QUARTER SECTION, SECTION 4, TOWNSHIP 32
NORTH, RANGE 1 EAST, W.M. IN SW FORT
NUGENT, OAK HARBOR,
WASHINGTON
ELEVATION: 220.20



MAP OF SECTION BREAKDOWN



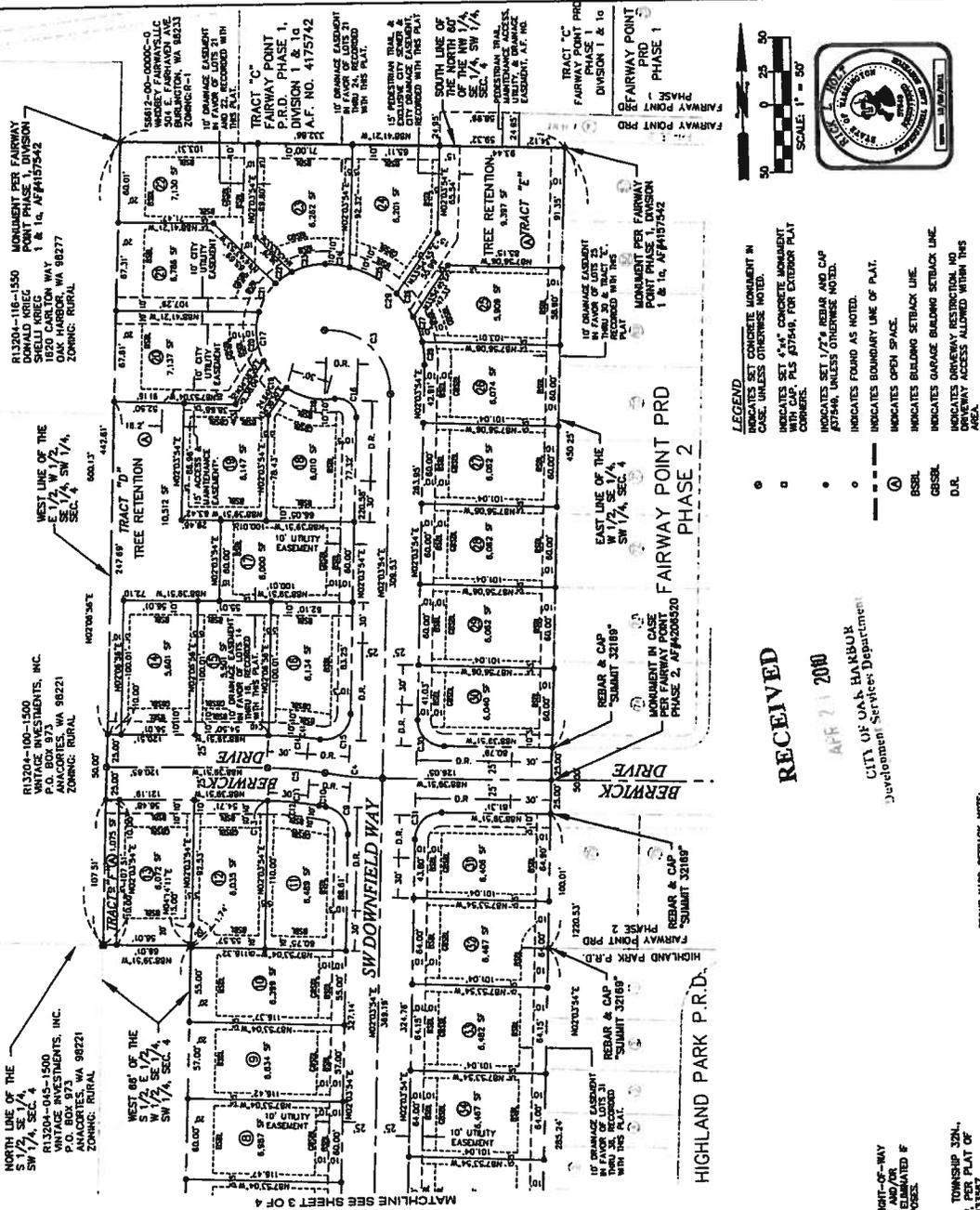
DRAWN BY:	SCB		BAYVIEW SURVEYING & ENGINEERING INC. 138 Sharon Avenue, Bellingham, WA 98223 Tel: 360-707-2580 Fax: 360-757-3878 www.bayview-surveying.com
DATE:	02/28/2010		
FIELD BOOK:	PAGE:		

B-SHEET NO.	2 OF 4
SCALE:	1" = 300'
JOB NO.	

105

PLAT OF FAIRWAY POINT PHASE 4 P.R.D.
SECTION 4, TOWNSHIP 32 N., RANGE 1 E., W.M.
OAK HARBOR, WASHINGTON

CURVE	DATA	LENGTH	PERCENT
C1	213.31	80.00	37.52
C2	213.31	80.00	37.52
C3	213.31	80.00	37.52
C4	213.31	80.00	37.52
C5	213.31	80.00	37.52
C6	213.31	80.00	37.52
C7	213.31	80.00	37.52
C8	213.31	80.00	37.52
C9	213.31	80.00	37.52
C10	213.31	80.00	37.52
C11	213.31	80.00	37.52
C12	213.31	80.00	37.52
C13	213.31	80.00	37.52
C14	213.31	80.00	37.52
C15	213.31	80.00	37.52
C16	213.31	80.00	37.52
C17	213.31	80.00	37.52
C18	213.31	80.00	37.52
C19	213.31	80.00	37.52
C20	213.31	80.00	37.52
C21	213.31	80.00	37.52
C22	213.31	80.00	37.52
C23	213.31	80.00	37.52
C24	213.31	80.00	37.52
C25	213.31	80.00	37.52
C26	213.31	80.00	37.52
C27	213.31	80.00	37.52
C28	213.31	80.00	37.52
C29	213.31	80.00	37.52
C30	213.31	80.00	37.52
C31	213.31	80.00	37.52
C32	213.31	80.00	37.52
C33	213.31	80.00	37.52
C34	213.31	80.00	37.52
C35	213.31	80.00	37.52
C36	213.31	80.00	37.52
C37	213.31	80.00	37.52
C38	213.31	80.00	37.52
C39	213.31	80.00	37.52
C40	213.31	80.00	37.52
C41	213.31	80.00	37.52
C42	213.31	80.00	37.52
C43	213.31	80.00	37.52
C44	213.31	80.00	37.52
C45	213.31	80.00	37.52
C46	213.31	80.00	37.52
C47	213.31	80.00	37.52
C48	213.31	80.00	37.52
C49	213.31	80.00	37.52
C50	213.31	80.00	37.52
C51	213.31	80.00	37.52
C52	213.31	80.00	37.52
C53	213.31	80.00	37.52
C54	213.31	80.00	37.52
C55	213.31	80.00	37.52
C56	213.31	80.00	37.52
C57	213.31	80.00	37.52
C58	213.31	80.00	37.52
C59	213.31	80.00	37.52
C60	213.31	80.00	37.52
C61	213.31	80.00	37.52
C62	213.31	80.00	37.52
C63	213.31	80.00	37.52
C64	213.31	80.00	37.52
C65	213.31	80.00	37.52
C66	213.31	80.00	37.52
C67	213.31	80.00	37.52
C68	213.31	80.00	37.52
C69	213.31	80.00	37.52
C70	213.31	80.00	37.52
C71	213.31	80.00	37.52
C72	213.31	80.00	37.52
C73	213.31	80.00	37.52
C74	213.31	80.00	37.52
C75	213.31	80.00	37.52
C76	213.31	80.00	37.52
C77	213.31	80.00	37.52
C78	213.31	80.00	37.52
C79	213.31	80.00	37.52
C80	213.31	80.00	37.52
C81	213.31	80.00	37.52
C82	213.31	80.00	37.52
C83	213.31	80.00	37.52
C84	213.31	80.00	37.52
C85	213.31	80.00	37.52
C86	213.31	80.00	37.52
C87	213.31	80.00	37.52
C88	213.31	80.00	37.52
C89	213.31	80.00	37.52
C90	213.31	80.00	37.52
C91	213.31	80.00	37.52
C92	213.31	80.00	37.52
C93	213.31	80.00	37.52
C94	213.31	80.00	37.52
C95	213.31	80.00	37.52
C96	213.31	80.00	37.52
C97	213.31	80.00	37.52
C98	213.31	80.00	37.52
C99	213.31	80.00	37.52
C100	213.31	80.00	37.52



- LEGEND**
- INDICATES SET CONCRETE MONUMENT IN CASE UNLESS OTHERWISE NOTED.
 - INDICATES SET 4"x4" CONCRETE MONUMENT WITH CAP, PLS. AF#494, FOR EXTERIOR PLAT CHANGE.
 - INDICATES SET 1/2" REBAR AND CAP AF#94, UNLESS OTHERWISE NOTED.
 - INDICATES FOUND AS NOTED.
 - INDICATES BOUNDARY LINE OF P.A.T.
 - INDICATES OPEN SPACE.
 - INDICATES GARAGE BUILDING SETBACK LINE.
 - INDICATES DRIVEWAY RESTRICTION, NO DRIVEWAY ACCESS ALLOWED WITHIN THIS AREA.

RECEIVED

APR 7 2000
CITY OF OAK HARBOR
Development Services Department

FRONT YARD SETBACK NOTES:
FRONT YARD SETBACKS FOR LOTS 1 THROUGH 40, INCLUSIVE, SHALL BE A MINIMUM OF 10 FEET INTO THE LOT, OR GARAGE WHICH MUST BE A MINIMUM OF 20 FEET FROM S&O PROPERTY LINE, IN ORDER TO ALLOW PARKING IN FRONT OF THE GARAGE.

* 1/2" ACCESS & MAINTENANCE EASEMENTS IN FAVOR OF THE HOMEOWNER'S ASSOCIATION, RECORDED WITH THIS PLAT.
DRIVEWAY RESTRICTION (D.R.) NO DRIVEWAYS SHALL BE ALLOWED WITHIN THAT PORTION OF THE STREET PLANS AFFECTS LOTS 11, 16, 18, 30, 31, 36, & 37.
NOTE:

ALL LANDSCAPED AREAS IN THE PUBLIC RIGHT-OF-WAY SHALL BE MAINTAINED BY THE HOMEOWNER OR ELIMINATED & REPAVED DETRIMENTAL TO CITY ROAD PURPOSES.
BASIS OF BEARING
SOUTHLINE OF SW 1/4 OF SECTION 4, TOWNSHIP 32N., RANGE 1E., BEARING N 89° 36' 22" E BY PLAT OF PRECED. DIVISION NUMBER 5, AF# 403387.

SURVEY EQUIPMENT & PROCEDURE

DRAWN BY: SUB
DATE: 02/28/2010
FIELD BOOK: PHASE 4

SHEET NO. 4 OF 4
SCALE: 1" = 50'
JOB NO.

BAYVIEW SURVEYING & ENGINEERING INC.
128 West Main Street, Washington, WA 98083
Tel: 206-725-7970
Fax: 206-725-7970

At 8:55 p.m., Mayor Cohen separately opened the public meetings for each of the three proposed rezonings: Area 5, Area 6, and Blue Heron. With no comments coming forth, public comments were closed on each area at 9:00 p.m.

Discussion followed about egress onto Ely Street (Blue Heron), and if there were existing structures.

MOTION: COUNCILMEMBER CRIDER MOVED TO ADOPT AN ORDINANCE REZONING AREA 5 PROPERTIES GENERALLY LOCATED ALONG SE MIDWAY BOULEVARD BETWEEN SE 6TH AVENUE AND SE 4TH AVENUE FROM R-O RESIDENTIAL OFFICE TO C-1 NEIGHBORHOOD COMMERCIAL AS STIPULATED. THE MOTION WAS SECONDED BY BREWER AND CARRIED UNANIMOUSLY.

MOTION: COUNCILMEMBER CRIDER MOVED TO ADOPT AN ORDINANCE REZONING AREA 6 PROPERTIES GENERALLY LOCATED EAST OF SR-20 BETWEEN SE 11TH AVENUE AND SE 8TH AVENUE FROM R-4 MULTIPLE FAMILY RESIDENTIAL TO C-3 COMMUNITY COMMERCIAL AS STIPULATED. THE MOTION WAS SECONDED BY KARAHALIOS AND CARRIED UNANIMOUSLY.

MOTION: COUNCILMEMBER CRIDER MOVED TO ADOPT AN ORDINANCE REZONING BLUE HERON EAST OF SR-20 AND WEST OF 165TH SE ELY STREET FROM R-O RESIDENTIAL OFFICE TO C-5 HIGHWAY CORRIDOR COMMERCIAL AS STIPULATED. THE MOTION WAS SECONDED BY BREWER AND CARRIED UNANIMOUSLY.

FAIRWAY POINT DIVISION 4 – PRELIMINARY PLAT AND PRD

Steve Powers, Development Services Director presented this agenda bill for Fairway Point Division 4's proposal consisting of a 40-lot Planned Residential Development (PRD) located southwest of the Whidbey Golf and Country Club at 1464 SW Ft. Nugent Avenue. This development is a continuation of the previously approved Fairway Point PRD for Divisions 1 – 3.

Mayor Cohen opened the meeting for public comments at 9:05 p.m. but none came forth so comments were closed.

Discussion followed about fire impact fees, minimum lot size, and the practical threshold for lot sizes.

MOTION: COUNCILMEMBER EATON MOVED TO ADOPT THE PLANNING COMMISSION RECOMMENDATION FOR THE FAIRWAY POINT DIVISION 4 PRELIMINARY PLAT AND PRELIMINARY AND FINAL PRD AND APPROVE THE FAIRWAY POINT DIVISION 4 PRELIMINARY PLAT AND PRELIMINARY AND FINAL PRD ORDINANCE. THE MOTION WAS SECONDED BY CAMPBELL AND CARRIED UNANIMOUSLY.

ORDINANCE NO. 1506

An ordinance approving the preliminary plat of Fairway Point Division 4 PRD and authorizing filing thereof subject to conditions imposed.

WHEREAS, a public hearing was held by the Planning Commission on May 22nd, 2007, on the below described plat and the City Council having approved the same and adopted the Findings of Fact, Conclusions of Law and Record of Decision of the Planning Commission by reference;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Oak Harbor, Washington:

Section 1: The preliminary plat of Fairway Point Division 4 consisting of 40 single-family residential lots on 8.4 acres (Parcel Number R13204-072-1860) under City file number PPL 05-00002, a copy of the map which is hereto attached and by reference made a part hereof, is hereby approved subject to the conditions contained in the Planning Commission Record of Decision, or satisfactory assurances are provided to meet the requirements, before the final plat may be filed.

PASSED by the City Council and approved by its Mayor this 19th day of June, 2007.

THE CITY OF OAK HARBOR

Patricia A. Wilson
Mayor

Attest:

Constance Kuehl
City Clerk

Approved as to Form:

Philip B. [Signature]
City Attorney

Published: JUNE 27, 2007

BEFORE THE CITY OF OAK HARBOR PLANNING COMMISSION

STATE OF WASHINGTON

In Re Landed Gentry Development, Inc.) FINDINGS OF FACT
Preliminary Plat, PRD and Final PRD #05-00002) CONCLUSIONS OF LAW
Fairway Point Division 4) ENTRY OF ORDER

This matter having come on a special hearing before the Oak Harbor Planning Commission on the 22nd day of May, 2007 upon application of Landed Gentry Development, Inc., petitioner, represented by Brian Gentry appearing in person; Development Services Department of the City of Oak Harbor appearing by its Director; and the City of Oak Harbor Planning Commission being advised and having considered the evidence and testimony presented now make the following:

I. FINDINGS OF FACT

1.1 Jurisdiction herein was obtained by an application for Preliminary Plat, Preliminary PRD, Final PRD #05-00002 located on Ft. Nugent Avenue west of the Whidbey Golf and Country Club, more particularly shown on the map attached to the application which is appended hereto as Exhibit "A" and by reference made a part hereof.

1.2 The City of Oak Harbor Planning Commission after due notice of hearing did consider the application of Landed Gentry Development, Inc. for the Preliminary Plat, Preliminary PRD, Final PRD for Fairway Point Division 4 at a regular meeting on May 22, 2007. The relevant minutes of the City of Oak Harbor Planning Commission are attached hereto as Exhibit "B" and by reference made a part hereof. The hearing was recorded and a written transcript may be prepared therefrom.

1.3 The City of Oak Harbor Planning Commission discussed all matters presented thereto and concluded that:

i. An Environmental Impact Assessment was made of the project in accordance with the checklist requirements of the State Environmental Policy Act of 1971. This proposal has been determined to not have a significant impact upon the environment. An Environmental Impact Statement is not required under RCW 43.21C.030(2)C.

ii. A Determination of Non-Significance was issued for the proposal on April 7, 2006.

iii. The Fairway Point Division 4 PRD has integrated trails and open space features, similar architectural design and landscape design as Fairway Point Divisions 1, 2, and 3.

iv. The location of this plat has been identified in the Oak Harbor Comprehensive Plan as being appropriate for low-density residential uses to accommodate increases in population in Oak Harbor and has been zoned R-1 Single-Family Residential accordingly.

v. The proposal meets the requirements of Chapter 19.31 (including those related to open space, density, access to the development, permissive variation in requirements and off-street parking). The proposal contains acceptable variations in street width, sidewalks, lots sizes and setbacks. The open space is configured in such a way as to provide 1) aesthetic assets, 2) afford areas for tree replanting associated with tree retention requirements, and 3) passive recreation opportunities throughout the plat.

vi. The design of residential lots within the Fairway Point PRD maintains the R-1 Single-Family district densities for the entire project.

vii. The single-family character, landscaping and architectural details of the proposed development will be complementary to the existing neighboring single-family subdivision.

viii. The requirement for the boundary lots of the plat to have a rear yard setback equal the front yard setback for the zone in which the PRD is located (OHMC 19.31.090) continues from Fairway Point PRD Divisions 1, 2 and 3.

ix. All lots within the proposed subdivision provide for adequate building locations.

x. The applicant has agreed to pay \$200 per residential unit to contribute to the development of a fire protection station, as per the Annexation agreement for the area.

xi. The Applicant will install all of the required improvements for the proposed subdivision (including: streets, curbs, gutters, sidewalks, monuments, sanitary and storm sewer, street lights, water mains, street name signs, etcetera).

xii. These improvements provide for the physical and environmental health and welfare of the future residents of the plat, reduce potential adverse impacts on neighboring areas, allow for life-safety service, and support land values.

xiii. As a system of improvements, the utilities provide many necessities and benefits for each of the proposed lots, including: potable water, electrical services, communication services, waste disposal, and safe and efficient connectivity to transportation networks for vehicular and pedestrian traffic.

xiv. The design guidelines for fences, the landscape design including street trees, and the location of the tree retention/replanting areas will provide aesthetically pleasing visual assets for the site and neighboring uses.

xv. Generally the proposed internal and existing street network will provide sufficient capacity for the traffic generated by the subdivision.

xvi. The proposal utilizes the stormwater management system of ponds and swales located on the adjacent golf course. The drainage system plan will be engineered to help protect the natural functioning of the watershed while also avoiding flooding and stormwater damage to the site and other areas located downstream.

xvii. To promote orderly growth and service provision by having new development

)))

pay a proportionate share of the cost of park and recreation facilities that are needed to serve the new population, the Applicant is responsible for paying the community park impact fee and the neighborhood park fee as per OHMC 3.63.

xviii. The Applicant is subject to a transportation impact fee based upon the new trips generated by the site. Payments of the impact fees are due at the time of the final development permit.

xix. The application as submitted by Landed Gentry Development for proposed development of Fairway Point PRD meets the requirements of the subdivision ordinance of the City of Oak Harbor, as may be modified by the Planned Residential Development Process.

xx. The proposed plat meets the zoning requirements for the district in which it is located.

xxiii. The Applicant has submitted all the necessary information as per the filing requirements prescribed in the Oak Harbor Municipal Code (OHMC) for all applications.

xxiv. The proposed project utilizes the planned residential development (PRD) district provisions in Oak Harbor Municipal Code (OHMC) 19.31.

xxv. The proposed project was reviewed by staff and Planning Commission and found to be consistent with the intent of the Oak Harbor Comprehensive Plan and OHMC development regulations.

xxvi. The proposal meets the purpose of the PRD district and the associated Planning Commission review criteria for approval of the Preliminary and Final PRD as per OHMC 19.31, and includes: 1) an open space and tree retention tracts that provide passive recreation areas for the plat and contain naturalistic landscaping, 2) connections to the recreation opportunities available in the larger Fairway Point PRD 3) an on-site trail system is integrated with the sidewalks to provide passive recreation opportunities for pedestrians, 4) reduced street cross-sections that will result in a decrease in the amount of impervious surface and thus reduced stormwater runoff, 5) traffic calming measures, 6) textured crosswalks, 7) design guidelines for fences, a landscape design including street trees, and locations for tree retention/replanting to provide aesthetically pleasing visual assets for the site and neighboring uses.

xxvii. Improvements to Ft. Nugent Ave are required as part of the annexation agreement for this property.

xxviii. Based on the information provided by the Applicant and the review and analysis conducted through the application process, the Planning Commission find the Applicant has sufficiently addressed the requirements of the OHMC relating to Preliminary & Final PRD, Preliminary Plat, and that appropriate provisions for the public health, safety and general welfare have been provided for with the components of the plat, including:

- a) potable water utility improvements;
- b) drainage improvements;
- c) street system improvements including pedestrian walkways, pedestrian crossings, lighting and street connections;

- d) mitigation fees for parks as a proportional share for park services to be provided to the development;
- e) the requirements for a Traffic Concurrency certificate, including the payment of impact fees, and any associated improvements necessary to provide a safe and efficient street system; and,
- f) protecting the public and environmental health of the site and neighboring areas through restrictions placed on potential impacts to a neighboring septic system, wetland and buffer areas, and tree retention/planting areas.

Based on the above analysis, and with the proposed conditions, the Planning Commission finds that the Preliminary Plat, the Preliminary and Final PRD have met the requirements and development regulations of the Oak Harbor Municipal Code, the Comprehensive Plan and the Revised Code of Washington, and as such the public interest will be served by the platting of the subdivision.

1.4 On May 22, 2007 the Oak Harbor Planning Commission did recommend approval of the Preliminary Plat, Preliminary PRD, Final PRD application #05-00002 by Landed Gentry Development, Inc. subject to the following conditions:

- i. The development of the Fairway Point Division 4 PRD shall be in general conformance with the following submitted plans:
 - a. Preliminary Plat Drawing Set – 4 sheets, Submitted May 17, 2007.
 - b. Preliminary & Final PRD Drawing Set – 3 sheets, Submitted May 17, 2007.
 - c. Preliminary & Final PRD Landscaping & Planting Plan, Submitted April 11, 2007.
 - d. Preliminary & Final PRD Tree Retention and Planting Plan Submitted February 9, 2007.
 - e. Preliminary & Final PRD Building Elevations/Typical Streetscape shown on A1.1 Submitted June 7, 2006.
 - f. Preliminary & Final PRD Fence Details and Typical Lot Landscape Plan Submitted June 7, 2006.
- ii. Typical lot landscaping, including street trees, as indicated on the PRD drawings must be installed on each lot at the time they are developed prior to final occupancy being granted.
- iii. There shall be no parking allowed along the entrance to the plat from SW Ft. Nugent Avenue fronting lots 1, 2, 39 and 40. A note shall be provided to this effect within the Final Plat document.
- iv. Tract E will include a pedestrian connection to Fairway Point Division 2.
- v. The developer shall be required to pay the current community park impact fee prior to the issuance of any building permit for each residential lot.

- vi. The developer shall be required to pay the current neighborhood park impact fee for each residential lot prior to the issuance of any building permit.
- vii. The developer shall be required to pay transportation impact fees for each residential unit for each of the 40 new residences proposed prior to the issuance of any building permit.
- viii. The developer shall be required to successfully pass the Traffic Concurrency Test for the proposed plat prior to Final Plat approval.
- ix. All improvements deemed necessary as part of the final traffic analysis and Traffic Concurrency Test must be complete and accepted prior to Final Plat approval.
- x. Following approval of the Preliminary Plat, construction plans must be submitted to and approved by the Engineering Department prior to commencing any construction activities. These plans must include all street and frontage improvements (including sidewalk, curb, gutter, paving, traffic control, storm drainage, and street illumination) and all existing and proposed utilities including, but not limited to water, sewer, storm drainage (including a site drainage analysis), power, telephone, cable, and gas. All proposed improvements must meet the City of Oak Harbor standards for materials and installation practices. (OHMC 21.40.010).
- xi. The Applicant shall provide proof of any and all recorded easements necessary to complete the proposed development and associated utility extensions prior to approval of construction plans and/or Final Plat.
- xii. All proposed on and off site improvements associated with this project must be completed and accepted prior to final plat approval. This includes the half street improvements along Ft. Nugent Ave required as part of the annexation agreement. A Performance Bond, in the amount of 112% of the cost to construct required, uninstalled, improvements may be posted in lieu of installation of the improvements, provided, such a bond is approved by the City Engineer. (OHMC 21.30.010)
- xiii. As per the Annexation agreement, the proposal is subject to and must comply with the Golf Course Drainage Basin Stormwater Mitigation Study. Easements, where applicable, must be provided by the Owner for existing drainage facilities. Owner will be responsible for all required on-site costs of storm water drainage and retention facilities or will provide for alternative off-site drainage per the Golf Course Drainage Basin Stormwater Mitigation Study.
- xiv. As per the Annexation agreement, for each residential unit, or equivalent hereof, developed on the Property, the Owner of the Property shall pay Two Hundred Dollars (\$200.00) for development of a fire protection station in the area.
- xv. Plans and specifications for fire hydrant system shall be submitted to the fire department for review and approval prior to construction as per UFC 901.2.2.2.

1.5 Fairway Point Division 4 Preliminary Plat, PRD and Final PRD #05-00002 has been

processed in accordance with RCW Title 58, the City of Oak Harbor Zoning Ordinance Title 19, the City of Oak Harbor Subdivision Ordinance Title 21, the City of Oak Harbor Environment Ordinance Title 20, the City of Oak Harbor Street and Sidewalks Ordinance Title 11, the City of Oak Harbor Stormwater Ordinance Title 12, the City of Oak Harbor Water Ordinance Title 13, the City of Oak Harbor Sewers Ordinance Title 14, the State Environmental Policy Act RCW 43.21C and the Open Meetings Act of 1971 RCW 42.30 and the action is in accord therewith.

From the foregoing FINDINGS OF FACT, the Oak Harbor Planning Commission makes the following:

II. CONCLUSIONS OF LAW

2.1 The findings of fact as noted in the records of the City of Oak Harbor Development Services Office upon which the recommendation for approval of the Preliminary Plat, Preliminary PRD, Final PRD for Fairway Point Division 4 was made by the City of Oak Harbor Planning Commission are proper and have not been reached in an arbitrary or capricious manner nor without due process of law.

III. ORDER

On the basis of the foregoing Findings of Fact and Conclusions of Law, it is ordered that:

3.1 The City of Oak Harbor Planning Commission hereby recommends to the City Council that the Preliminary Plat, Preliminary PRD, Final PRD #05-00002 for Landed Gentry Development, Inc. be approved subject to the conditions listed in 1.4 of this document.

3.2 This order is advisory to the City Council and may be accepted by the City Council, modified by the City Council, or rejected by the City Council after public hearing.

APPROVED AND ADOPTED THE _____ DAY OF _____ 2007.

PLANNING COMMISSION
CITY OF OAK HARBOR, WASHINGTON

Chairman

Vice-Chairman

Attested:

Kathy Gifford, Administrative Secretary

DETERMINATION OF NONSIGNIFICANCE

Description of proposal Fairway Point Division 4 a plat consisting of 36 single-family residential lots on 8.2 acres.

Proponent Whidbey Westwood, LLC

Location of proposal Approximately 500 feet east of the intersection of Fort Nugent Road and Boon Road, Oak Harbor, WA. Parcel number R13204-072-1860.

Lead Agency City of Oak Harbor

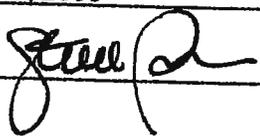
The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment and that an environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). All potential environmental impacts resulting from this proposal can be mitigated to a level of nonsignificance through the application of the City's development standards. This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under WAC 197-11-340(1). There is no comment period for this DNS and the determination should be considered as final on the date listed below.

Responsible Official: Steve Powers Position/Title: Development Services Director

Telephone: (360) 679-4512 Address: 865 SE Barrington Drive, Oak Harbor, WA 98277

Date April 7, 2006

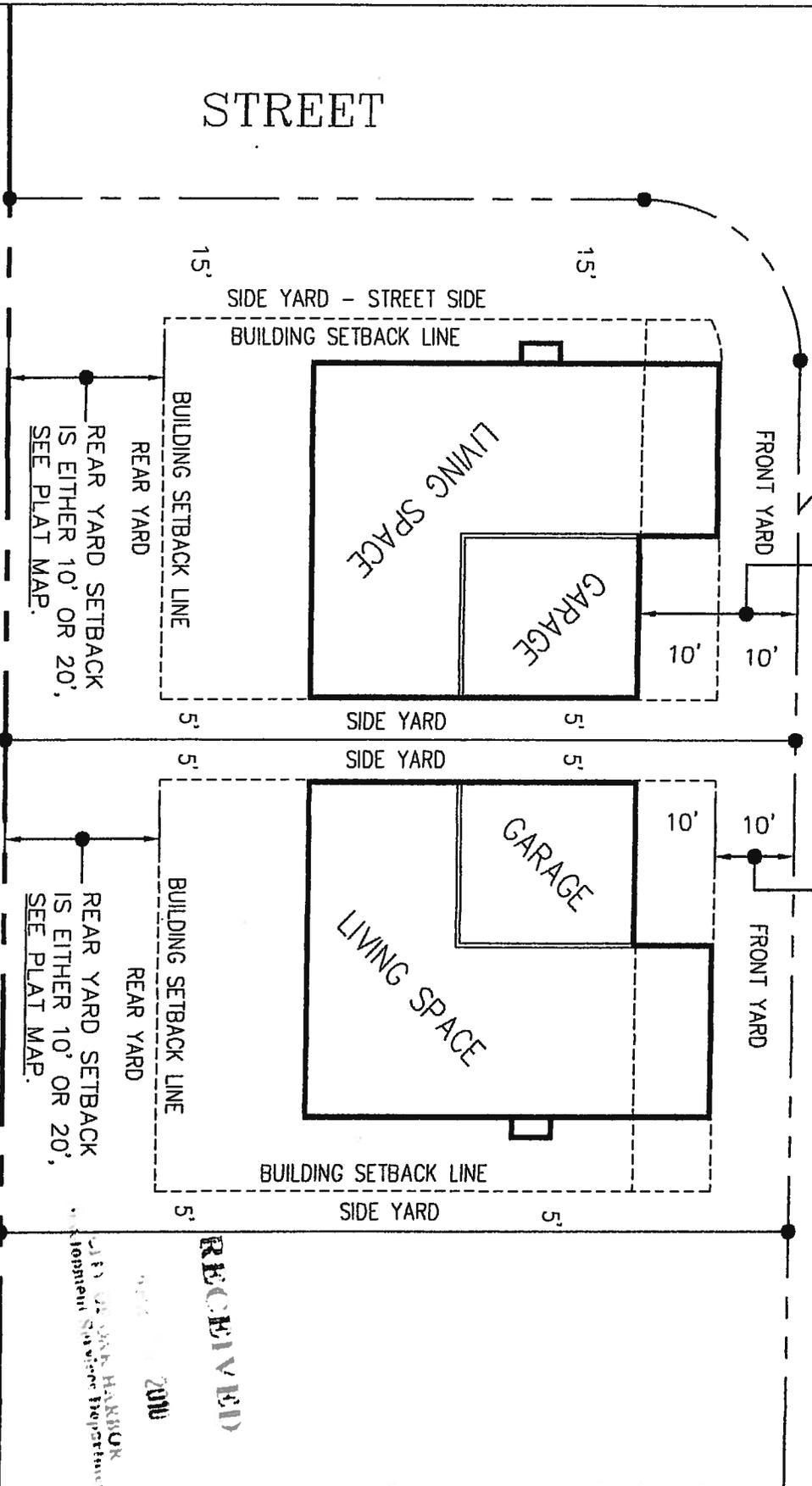
Signature 

This determination may be appealed by submitting written factual objections and the appropriate fee to the above address within fifteen days of the date of action set out above, or no later than April 22, 2006.

FRONT YARD BUILDING SETBACK
 MINIMUM 20 FEET FROM R.O.W. TO
 OUTSIDE FOUNDATION OF GARAGE
 SPACE OF RESIDENCE (TYPICAL).

STREET

FRONT YARD BUILDING SETBACK
 MINIMUM 10 FEET FROM R.O.W.
 (TYPICAL).



TYPICAL BUILDING SETBACK DETAIL
 FAIRWAY POINT DIVISION 4 P.R.D.

RECEIVED
 2010
 CITY OF SAN HARBOR
 Department of Planning and Development

RESOLUTION NO. 10-18

A RESOLUTION OF THE CITY OF OAK HARBOR APPROVING THE FAIRWAY POINT DIVISION 4 PRD FINAL PLAT

WHEREAS, the City Council approved the Preliminary Plat and Preliminary and Final Planned Residential Development (PRD) plans for Fairway Point Division 4 on June 19, 2007; and

WHEREAS, this development is a continuation of the previously approved Fairway Point PRD for Divisions 1-3; and

WHEREAS the plat consists of 40 single family residential lots on 8.4 acres with lot sizes ranging from approximately 5,501 square feet to approximately 7,137 square feet; and

WHEREAS, the PRD is similar in character to the approved PRD for Fairway Point (Divisions 1-3), as the project reflects similar lot sizes, scale, architectural design and incorporated access to adjoining phases; and

WHEREAS, Fairway Point Division 4 received a Certificate of Transportation Concurrency in 2007; and

WHEREAS, a transportation mitigation fee of \$907 is required with the issuance of a building permit for each lot; and

WHEREAS, neighborhood and community park impact fees of \$430 and \$1,243 respectively are required with the issuance of a building permit for each lot; and

WHEREAS, a fee of \$200 per residential unit is required with the issuance of a building permit to contribute to the development of a fire protection station per the Annexation agreement; and

WHEREAS, the final plat meets all of the application requirements and prescribed form for final plats as listed in OHMC 21.40; and

WHEREAS, the final plat has been submitted to the City within five years of the date of preliminary plat approval per RCW 58.17.140; and

WHEREAS, the agencies listed under RCW 58.17.150 have recommended approval of the final plat as to the adequacy of sewage disposal and water supply as well as conformance with the preliminary plat and the Oak Harbor Municipal Code; and

WHEREAS, the City Council has reviewed the final plat and finds that it contains the appropriate certification, dedication, and other statements on the face of the plat as well as a full and correct description of the lands divided per RCW 58.17.160 and 58.17.165; and

WHEREAS, as required by RCW 58.17.170 the City Council finds that the proposed final plat conforms to all terms of the preliminary plat approval and that the subdivision meets the requirements of RCW Chapter 58.17 and other applicable state laws and local ordinances; and

WHEREAS, the City Council has reviewed the final plat and finds it to be in conformity with all of the City's applicable zoning and existing land use controls per RCW 58.17.195.

WHEREAS, upon City Council approval of the final plat, the City shall execute its written approval on the face of the plat per RCW 58.17.170; and

NOW, THEREFORE, the City Council hereby approves the final plat for Fairway Point Division 4 PRD and directs that its written approval shall be written on the face of the plat and filed for record with the County Auditor. Upon the final plat being filed for record, all lots shall be a valid land use notwithstanding any change in zoning laws for a period of seven years from the date of filing per RCW 58.17.170.

PASSED by the City Council this _____ day of _____, 2010.

THE CITY OF OAK HARBOR

Jim Slowik, Mayor

ATTEST:

Connie Wheeler, City Clerk

APPROVED AS TO FORM:

Margery Hite, City Attorney

ORDINANCE NO. _____

AN ORDINANCE APPROVING A PRD OVERLAY ZONE FOR THE FAIRWAY POINT DIVISION 4 PLANNED RESIDENTIAL DEVELOPMENT LOCATED ON ISLAND COUNTY PARCEL NUMBER R13204-152-1801 AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF OAK HARBOR TO REFLECT THE OVERLAY ZONE

WHEREAS, the City Council of the City of Oak Harbor has approved the Final Plat for the Fairway Point Division 4 Planned Residential Development ("PRD");

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One: The zoning for the property generally known as the Fairway Point Division 4 PRD located on Island County Parcel Number R13204-152-1801 is hereby amended to add the Fairway Point Division 4 PRD Overlay Zone to the underlying zoning of R-1 Single-Family Residential.

Section Two: All development within the Fairway Point Division 4 PRD Overlay Zone shall be consistent with the Fairway Point Division 4 Final PRD as approved by the Oak Harbor City Council on June 19, 2007. Development standards not addressed by the Fairway Point Division 4 Final PRD shall be the same as the underlying zoning and/or other applicable provisions of the OHMC. Development shall be to a maximum of 40 residential lots to be placed within the area described by the Fairway Point Division 4 PRD Final Plat.

Section Three: The official zoning map of the City of Oak Harbor is hereby amended to reflect the planned residential development subdistrict for the above mentioned property.

Section Four: Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Five: Effective Date. This Ordinance shall be in full force and effect five days after its passage and publication as required by law and upon recording of the Fairway Point Division 4 PRD Final Plat with the Island County Auditor.

PASSED by the City Council this 4th day of August, 2010.

() APPROVED by its Mayor this _____ day of _____, 2010.
() Vetoed

THE CITY OF OAK HARBOR

Mayor

Fairway Point Division 4 PRD Overlay Zone Ordinance

///

ATTACHMENT H

Attest:

City Clerk

Approved as to Form:

City Attorney

Published: _____

Fairway Point Division 4 PRD Overlay Zone Ordinance

112

ATTACHMENT H

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

Bill No. 9
Date: July 6, 2010
Subject: Pioneer Way Improvements
Design Contract with PSE

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

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

SUMMARY STATEMENT

This agenda bill requests approval to issue a Notice to Proceed letter to Puget Sound Energy (PSE) for design work associated with the relocation of overhead power lines and conversion to an underground distribution system. The agreement for the design work follows the Tariff G Schedule 74 issued by the Washington State Utility Commission to PSE for underground utility conversions.

AUTHORITY

The authority to enter into agreements for improvements or use of real property is granted to the City of Oak Harbor under RCW 35A.11.020. The City specifically has authority to convert electric and communication facilities to underground facilities pursuant to Chapter 35.96 RCW.

SUMMARY STATEMENT

On June 15, 2010, the City Council approved Resolution 10-16 designating funding for the underground utility conversion that is part of the Pioneer Way Street Improvements Project. Following the project schedule the next step is to initiate the design work by Puget Sound Energy for the conversion.

Following the established procedure outlined in the attached Schedule 74, Conversion to Underground Service for Government Entities, the process for the underground conversion occurs in two basic steps. The first is the design as outlined in Schedule 74 Attachment A with the second being the construction as outlined in Schedule 74 Attachment B. As the tariff and associated schedule are issued under the authority of the Washington State Utilities Commission there is little to no negotiation available in the terms of the agreement.

With the Design Agreement under Schedule 74 Attachment A there are several steps leading to a

Notice to Proceed with design. PSE has been working closely with City staff and the project design team for the last several months; however, signature on the agreement was required to formally initiate the request to PSE to prepare the design cost estimate required under Schedule 74 Design Agreement. As there is no cost liability incurred by the City prior to the issue of a Notice to Proceed, the Mayor signed the agreement.

As outlined in paragraph 5 of the Design Agreement, once PSE prepares the design costs the City is asked to consider the proposal and either accept the cost and issue a Notice to Proceed or provide a written notice to terminate the agreement. If the City chooses to terminate the agreement prior to the Notice to Proceed there is no cost to the City.

City staff and the engineering design team have met with PSE on several occasions and are satisfied that the agreement, the proposed costs, and schedule are consistent with the project schedule and are within the project funding levels.

Once the design work is completed, and prior to starting the construction work, the City will need to enter into a Construction Agreement. The Construction Agreement will be specific as to the cost sharing and percentages. If the City chooses to not proceed with the underground conversion, then the City is responsible for 100% of the cost of the Design Agreement. If the City chooses to proceed with the underground conversion, the design costs are rolled into the Construction Cost Sharing Agreement and are proportioned appropriately.

Justification: The City Council has determined the conversion to underground power is desired as part of the Pioneer Way Street Improvements Project. The tariff and Schedule 74 approved by the Washington Utilities Commission mandates the process and requirements for proceeding with the underground power conversion.

Amount of contract: The estimated design cost for this agreement is \$32,800. However, the agreement stipulates the City will be responsible for the total costs.

Funding: Resolution 10-16 and Resolution 9-26 outline the funding plan for the Pioneer Way Street Improvements Project. In summary, the project can be funded through a combination of REET funds totaling \$5,500,000; Island County Economic Development grants totaling \$1,000,000; Sewer Funds totaling \$1,000,000; Storm Drain Funds totaling \$650,000; and, Water Funds totaling \$200,000. Funding for the PSE design work comes from these designated funds.

STANDING COMMITTEE REPORT

This item was presented to the Public Works and Utilities Standing Committee on July 1, 2010.

RECOMMENDED ACTION:

A motion authorizing the Mayor to issue a Notice to Proceed to Puget Sound Energy for design work associated with the underground utility conversion as part of the Pioneer Way Street Improvements Project.

ATTACHMENTS:

Schedule 74

Schedule 74 Attachment A – Design Agreement

Schedule 74 Attachment B – Construction Agreement

MAYOR'S COMMENTS:

**PUGET SOUND ENERGY
Electric Tariff G**

**SCHEDULE 74
CONVERSION TO UNDERGROUND SERVICE
FOR GOVERNMENT ENTITIES**

(N)

1. AVAILABILITY

The Company shall install an Underground Distribution System and shall remove the existing overhead electric distribution system of 15,000 volts or less together with Company-owned poles following removal of all utility wires therefrom under this Schedule when all of the following conditions are met:

- a. The Government Entity has determined that installation of an Underground Distribution System is or will be required and has notified the Company in writing of such determination, and the Company and such Government Entity have agreed upon the provisions of the Design Agreement and the Construction Agreement pursuant to which the Company shall design and install an Underground Distribution System and provide service under this Schedule.
- b. The Company has the right to install, construct, operate, repair and maintain an electrical distribution system (including an Underground Distribution System) within the Public Thoroughfare in the Conversion Area pursuant to a franchise previously granted by the Government Entity requesting such installation and executed by the Company, or, if there is no such franchise, or if such franchise does not provide such right, pursuant to some other grant of rights mutually agreed upon by the Company and the Government Entity.
- c. All customers served by the Company within the Conversion Area will receive electric service through Underground Service Lines from the Underground Distribution System, unless the Company explicitly agrees to other electric service arrangements.

Government Entities that are eligible to receive service under this Schedule are not eligible for service under Schedule 73 of the Company's Electric Tariff G.

2. AGREEMENT PROVISIONS

The Company shall provide and install an Underground Distribution System within the Conversion Area subject to the terms and conditions of a Schedule 74 Design Agreement (the "Design Agreement") and a Schedule 74 Construction Agreement (the "Construction Agreement"), and the following shall apply:

(N)

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Issued By Puget Sound Energy

By:



George Pohndorf

Title: Director, Rates & Regulation

**PUGET SOUND ENERGY
Electric Tariff G**

**SCHEDULE 74
CONVERSION TO UNDERGROUND SERVICE
FOR GOVERNMENT ENTITIES
(Continued)**

(N)

- a. The Design Agreement and the Construction Agreement shall (i) be consistent with this Schedule, and (ii) be substantially in the forms of Attachment A and Attachment B hereto, which attachments are by this reference incorporated in this Schedule as if fully set forth herein. Without limiting the possibility that the Company and the Government Entity may (consistent with this Schedule) mutually agree upon terms that are in addition to those contained in the forms set forth in Attachments A and B hereto, neither the Government Entity nor the Company shall be required to agree to additional terms as a condition of service under this Schedule.
- b. The Design Agreement and the Construction Agreement shall:
- (1) except as otherwise provided in Section 2.b(2), obligate the Government Entity to pay the Company 40% of the total Cost of Conversion and the Company to pay 60% of the total Cost of Conversion;
 - (2) obligate the Government Entity to pay (i) 100% of the total Cost of Conversion for conversion of that portion, if any, of the existing overhead distribution system located, as of the date on which the Government Entity provides the notice referred to in Section 4.a or the date on which the Government Entity commences acquisition or condemnation of real property to facilitate construction of any public improvements related to the conversion project, whichever occurs first, (A) outside of the Public Thoroughfare or (B) pursuant to rights not derived from a franchise previously granted by the Government Entity or pursuant to rights not otherwise previously granted by the Government Entity, less (ii) the distribution pole replacement costs (if any) that would be avoided by the Company on account of such conversion, as determined consistent with the applicable Company distribution facilities replacement program, plus (iii) just compensation as provided by law for the Company's interests in real property on which such existing overhead distribution system was located prior to conversion;
 - (3) obligate the Government Entity to pay the Company 100% of the costs of (i) cancellation as provided herein; (ii) any facilities installed at the time of the conversion to provide Temporary Service, as provided for herein; and (iii) removal of any facilities installed to provide Temporary Service (less salvage value of removed equipment);
 - (4) obligate the Company to pay 100% of the cost of obtaining the rights referred to in Section 3.b; and
 - (5) obligate the Government Entity to (i) perform or to cause to be performed (A) all Trenching and Restoration and job coordination required for the installation of the Underground Distribution System and (B) all surveying for alignment and grades of vaults and ducts and (ii) to pay 100% of the cost of performance under clause (i) of this Section 2.b(5).

(N)

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Electric Tariff G**

**SCHEDULE 74
CONVERSION TO UNDERGROUND SERVICE
FOR GOVERNMENT ENTITIES
(Continued)**

(N)

- c. The Government Entity may, at its option, install ducts and vaults, provided that (i) pursuant to the Design Agreement and the Construction Agreement the Government Entity and the Company have mutually agreed upon (A) the cost of such installation to be included in the Cost of Conversion and (B) the specifications and standards applicable to such installation, and (ii) such installation is accomplished by the Government Entity in accordance with the applicable design and construction specifications provided by the Company for such installation pursuant to the Design Agreement. To the extent the Government Entity installs any of the Facilities pursuant to the Construction Agreement, the Company shall not be required to do so under this Schedule.
- d. A Government Entity that is a municipality shall notify all persons and entities within the Conversion Area that electric service to such persons and entities must be converted from overhead to underground (as provided for in the Company's Electric Tariff G) within the applicable statutory period following written notice from the Government Entity that service from underground facilities is available in accordance with RCW 35.96.050. The Government Entity shall exercise its authority to order disconnection and removal of overhead facilities with respect to persons and entities failing to convert service lines from overhead to underground within the timelines provided in RCW 35.96.050.
3. **INSTALLATION AND OPERATING RIGHTS:**
- a. The Company may install all of the Facilities within a Public Thoroughfare in the locations provided for in a franchise previously granted by the Government Entity or otherwise provided for in the grant of rights referred to in Section 1.b. The Government Entity shall act in good faith and shall use its best efforts to provide space sufficient for the safe and efficient installation, operation, repair and maintenance of all of the Facilities ("Sufficient Space") within the Public Thoroughfare in the Conversion Area, and the Company shall act in good faith and shall use its best efforts to install Facilities in such space within the Public Thoroughfare. If the Company and the Government Entity agree that there is not or will not be Sufficient Space within the Public Thoroughfare in the Conversion Area, then the Government Entity shall provide Sufficient Space by obtaining additional Public Thoroughfare or other equivalent rights mutually agreeable to the Government Entity and the Company, title to which shall be in the Government Entity's name.

(N)

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**PUGET SOUND ENERGY
Electric Tariff G**

**SCHEDULE 74
CONVERSION TO UNDERGROUND SERVICE
FOR GOVERNMENT ENTITIES
(Continued)**

(N)

- b. If, notwithstanding the use of best efforts by each of the Government Entity and the Company as provided in Section 3.a, the Government Entity and the Company do not agree whether there is or will be Sufficient Space within the Public Thoroughfare in the Conversion Area, the Company shall install those Facilities, for which there is not Sufficient Space within the Public Thoroughfare, on property outside the Public Thoroughfare, the rights for which shall be obtained by the Company at its sole expense. Subject to the other provisions of this Schedule, nothing in this section shall excuse the Company from complying with any work schedule agreed to by the Government Entity and the Company pursuant to the Design Agreement and the Construction Agreement.
- c. If the Government Entity requires the relocation of any Facilities installed pursuant to this Schedule in a Public Thoroughfare within five (5) years from the date of the energization for service of such Facilities, the Government Entity shall reimburse the Company for all costs incurred by the Company in connection with the relocation and reinstallation of facilities substantially equivalent to the relocated Facilities.
- d. If the Government Entity requires (or takes any action that has the effect of requiring) a third party not acting as an agent or a contractor of Government Entity to relocate any Facilities installed pursuant to this Schedule in a Public Thoroughfare within five (5) years from the date of the energization for service of such Facilities, the Government Entity shall require the third party, as a condition to the Company's performance of any relocation, to pay the Company for all costs incurred by the Company in connection with the relocation and reinstallation of facilities substantially equivalent to the relocated Facilities.

4. GENERAL

- a. **Timing:** The Company shall commence performance (as contemplated in the forms of Design Agreement and Construction Agreement attached hereto as Attachments A and B) within ten (10) business days of written notice from a Government Entity of its determination that it requires installation of an Underground Distribution System under this Schedule.
- b. **Ownership of Facilities:** Except as otherwise provided in the Company's Electric Tariff G, the Company shall own, operate, and maintain the Underground Distribution System installed or provided pursuant to this Schedule.
- c. **Prior Contracts:** Nothing herein contained shall affect the rights or obligations of the Company under any previous agreements pertaining to existing or future facilities of greater than 15,000 Volts within any Conversion Area.

(N)

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**SCHEDULE 74
CONVERSION TO UNDERGROUND SERVICE
FOR GOVERNMENT ENTITIES
(Continued)**

(N)

d. Temporary Service: Temporary Service shall not exceed a term of 18 months from the date on which service from the Underground Distribution System is available, unless the Company acting reasonably agrees to extend such term. Should a Temporary Service not be removed within such 18-month period or such other period of time that has been approved by the Company acting reasonably, a Government Entity that is a municipality shall exercise its authority under RCW 35.96.050 to order such Temporary Service disconnected and removed within the applicable statutory period following the date of mailing of the Government Entity's notice under RCW 35.96.050. Otherwise, if a Temporary Service is not disconnected or removed within such time approved by the Company acting reasonably, the Government Entity shall pay either (i) 100% of the Cost of Conversion for the entire Underground Distribution System or (ii) 100% of the costs of converting only the Temporary Service to underground, whichever the Government Entity may elect.

5. USE BY OTHER UTILITIES OF TRENCHES PROVIDED BY GOVERNMENT ENTITY

Other utilities may be permitted by the Government Entity to use trenches provided by the Government Entity pursuant to this Schedule for the installation of such other utilities' facilities, so long as such facilities, or the installation thereof, do not interfere (as determined pursuant to the Company's electrical standards) with the installation, operation or maintenance of the Company's Facilities located within such trenches.

6. CANCELLATION

If by written notice or other official action a Government Entity cancels or suspends indefinitely or takes similar official action regarding a conversion project undertaken under this Schedule prior to completion of the conversion to an Underground Distribution System, the Government Entity shall pay the Company all of the costs incurred by the Company to the date of such cancellation consistent with the termination provisions of the Design Agreement and Construction Agreement.

7. STREET LIGHTING

Removal and replacement of existing street lighting or installation of new street lighting within the Conversion Area suitable for service from the Underground Distribution System installed pursuant to this Schedule shall be arranged separately as provided in the Company's Electric Tariff G.

(N)

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Electric Tariff G**

**SCHEDULE 74
CONVERSION TO UNDERGROUND SERVICE
FOR GOVERNMENT ENTITIES
(Continued)**

(N)

8. UNDERGROUND SERVICE LINES

Underground Service Lines shall be installed, owned, and maintained as provided in the Company's Electric Tariff G.

9. GENERAL RULES AND PROVISIONS

Service under this Schedule is subject to the General Rules and Provisions contained in Schedule 80 of the Company's Electric Tariff G.

10. DEFINITIONS

The following terms when used in this Schedule, the Design Agreement or the Construction Agreement shall, solely for purposes of this Schedule and such agreements, have the meanings given below:

- a. **Conversion Area:** The geographical area in which the Company replaces its overhead electric distribution system with an Underground Distribution System.
- b. **Cost of Conversion:** The cost of converting an existing overhead distribution system to an Underground Distribution System shall be the sum of:
 - (i) the actual, reasonable costs to the Company for labor, materials and overheads and all other reasonable costs, not including mark-up or profit of the Company, for design of the Underground Distribution System, such costs to be determined in accordance with the Design Agreement; plus
 - (ii) the actual costs to the Company for labor, materials and overheads and all other costs, not including mark-up or profit of the Company, to construct and install the Underground Distribution System, up to a maximum amount determined in accordance with the Construction Agreement; plus
 - (iii) the actual reasonable design costs to the Company (including costs for labor, materials and overheads and all other reasonable costs), and the actual construction and installation costs to the Company (including costs for labor, materials and overheads and all other costs), less the salvage value to the Company of the facilities removed, up to a maximum amount determined in accordance with the Construction Agreement, in each case not including mark-up or profit of the Company, for removal of the existing electrical facilities; plus

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**SCHEDULE 74
CONVERSION TO UNDERGROUND SERVICE
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(Continued)**

(N)

- (iv) the actual costs to the Government Entity (if any) of installation of ducts and vaults or other Facilities that the Government Entity has agreed to install for the Underground Distribution System pursuant to the Construction Agreement, up to a maximum amount determined in accordance with the Construction Agreement; plus
- (v) the actual, reasonable costs to the Government Entity (if any) of obtaining Public Thoroughfare or other equivalent rights for the Facilities pursuant to Section 3.a.

The Cost of Conversion shall not include any costs of Trenching and Restoration, or of the Company's obtaining rights pursuant to Section 3.b of this Schedule. Company upgrades and expansions, Government Entity requested changes and requested upgrades, the cost of delays and overtime labor costs shall be as provided for in the Design Agreement and the Construction Agreement.

- c. **Facilities:** All components of the Underground Distribution System, including but not limited to, primary voltage cables, secondary voltage cables, connections, terminations, pad-mounted transformers, pad-mounted switches, ducts, vaults and other associated components.
- d. **Government Entity:** The municipality, county or other government entity having authority over the Public Thoroughfare in the Conversion Area.
- e. **Public Thoroughfare:** Any municipal, county, state, federal or other public road, highway or thoroughway, or other public right-of-way or other public real property rights allowing for electric utility use.
- f. **Temporary Service:** Temporary Service shall have the meaning set forth in the General Rules and Provisions of the Company's Electric Tariff G and, in addition, shall mean
 - (i) limited overhead facilities that, at the request of the Government Entity, the Company may elect in its sole discretion to leave in place within the Conversion Area after installation of the Underground Distribution System and/or
 - (ii) limited overhead or underground facilities that, at the request of the Government Entity, the Company may elect in its sole discretion to install concurrently with the installation of the Underground Distribution System, and that, in each case, shall be used to provide overhead distribution service within the Conversion Area for such period as may be approved by the Company acting reasonably under the circumstances, (e.g., to accommodate other demolition or construction projects within the Conversion Area).

(N)

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**PUGET SOUND ENERGY
Electric Tariff G**

**SCHEDULE 74
CONVERSION TO UNDERGROUND SERVICE
FOR GOVERNMENT ENTITIES
(Continued)**

(N)

- g. **Trenching and Restoration:** Includes, but is not limited to, any or all of the following, whether in Public Thoroughfares or on other property: breakup of sidewalks, driveways, street surfaces and pavements; disturbance or removal of landscaping; excavating for vaults; trenching for ducts or cable; shoring, flagging, barricading and backfilling; installation of select backfill or concrete around ducts (if required); compaction; and restoration of Public Thoroughfares and other property; all in accordance with the specifications applicable thereto set forth in the Design Agreement and the Construction Agreement.
- h. **Underground Distribution System:** An underground electric distribution system, excluding "Underground Service Lines" as such term is defined herein, that is comparable to the overhead distribution system being replaced. The Underground Distribution System includes the Facilities as defined herein. For purposes of this Schedule, a "comparable" system shall include, unless the Government Entity and the Company otherwise agree, the number of empty ducts (not to exceed two (2), typically having a diameter of 6" or less) of such diameter and number as may be specified and agreed upon in the Design Agreement and Construction Agreement necessary to replicate the load-carrying capacity (system amperage class) of the overhead system being replaced.
- i. **Underground Service Lines:** The underground electric cables and associated components extending from the service connections at the outside of the customers' structures to the designated primary voltage or secondary voltage service connection points of an Underground Distribution System.

(N)

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SCHEDULE 74 UNDERGROUND CONVERSION

Project Design Agreement

Project Name: City of Oak Harbor – Pioneer Way

Project Number: Notification 10877896

THIS Agreement, dated as of this 10th day of June, 2010, is made by and between the City of Oak Harbor, a municipal corporation (the "Government Entity"), and PUGET SOUND ENERGY, Inc., a Washington Corporation (the "Company").

RECITALS

A. The Company is a public service company engaged in the sale and distribution of electric energy and, pursuant to its franchise or other rights from the Government Entity, currently locates its electric distribution facilities within the jurisdictional boundaries of the Government Entity.

B. The Government Entity is considering conversion of the Company's existing overhead electric distribution system to a comparable underground electric distribution, as more specifically described in the Scope of Work (as defined in paragraph 2, below) furnished to the Company by the Government Entity (the "Conversion Project").

C. The Government Entity has requested that the Company perform certain engineering design services and otherwise work cooperatively with the Government Entity to develop a mutually acceptable Project Plan (as defined in paragraph 6, below) for the Conversion Project, in accordance with and subject to the terms and conditions of this Agreement (the "Design Work").

D. The Government Entity and the Company wish to execute this written contract in accordance with Schedule 74 of the Company's Electric Tariff G ("Schedule 74") to govern the Design Work for the Conversion Project.

AGREEMENT

The Government Entity and the Company therefore agree as follows:

1. Unless specifically defined otherwise herein, all terms defined in Schedule 74 shall have the same meanings when used in this Agreement.
2. The Government Entity shall, within ten (10) business days after the date of this Agreement, provide the Company with a written scope of work for the Conversion Project which includes, among other things, (a) a reasonably detailed description of the scope of the work required for the Conversion Project, (b) a list of the key milestone dates for the Conversion Project, (c) reasonably detailed drawings showing any associated planned improvements to the Public Thoroughfare, and (d) a statement as to whether the Government Entity desires to install the ducts and vaults for the Conversion Project (the "Scope of Work"). The Government Entity shall provide the Company two (2) hard copies of the Scope of Work and a copy of the relevant electronic file(s) in a mutually agreed electronic format.
3. Within ten (10) business days of its receipt of the Scope of Work, the Company shall prepare and submit to the Government Entity (a) a reasonably detailed, good faith estimate of the cost to perform the Design Work (the "Design Cost Estimate"), and (b) a proposed schedule for completion of the

Design Work which, to the extent reasonably practicable, reflects the applicable key milestone dates specified in the Scope of Work and provides for completion of the Design Work within ninety (90) business days from the date the Company receives the Government Entity's notice to proceed under paragraph 5, below (the "Design Schedule"). The proposed Design Cost Estimate and the proposed Design Schedule shall be based upon the then-current Scope of Work. Unless otherwise specified in the Scope of Work, the Design Work shall not include negotiation or acquisition of third party property rights but shall include preliminary planning between the Company and the Government Entity regarding their respective obligations for negotiating and acquiring third party property rights.

4. Within ten (10) business days after the Government Entity's receipt of the proposed Design Cost Estimate and the proposed Design Schedule from the Company, the Government Entity and the Company shall meet in order to (a) review the proposed Design Cost Estimate, (b) review the proposed Design Schedule; (c) review the Scope of Work, and (d) make any changes necessary to create a final Scope of Work, final Design Cost Estimate, and final Design Schedule that are reasonably acceptable to both parties. If the parties are unable to agree upon a final version of the Scope of Work, Design Cost Estimate, and/or Design Schedule, then either party may, by written notice to the other party, submit the matter for resolution pursuant to the dispute resolution procedures in paragraph 16, below. The final Scope of Work, Design Cost Estimate and Design Schedule, once determined in accordance with this paragraph 4, may thereafter be changed or amended only in accordance with the change procedures set forth in paragraph 13, below.
5. The Government Entity shall, within ten (10) business days after determination of the final of the Scope of Work, Design Cost Estimate, and Design Schedule, issue (a) a written notice to proceed which shall delineate the final Scope of Work, Design Cost Estimate, and Design Schedule, or (b) a written notice to terminate this Agreement without cost to the Government Entity. If the Government Entity terminates this Agreement, the costs incurred by the Company in preparing and submitting the Design Cost Estimate and the Design Schedule shall not be reimbursable to the Company, and the rights and obligations of the parties under this Agreement shall be terminated in their entirety and without liability to either party.
6. Following the Company's receipt of the notice to proceed, and within the applicable time period specified in the Design Schedule, the Company shall, with the cooperation and assistance of the Government Entity as outlined in this Agreement, prepare a project plan for the Conversion Project (the "Project Plan") which shall include, among other things, the following: (a) a detailed description of the work that is required to be performed by each party and any third party in connection with the Conversion Project (the "Construction Work"), (b) the applicable requirements, drawings, and specifications for the Construction Work, (c) a description of any operating and other property rights that are required to be obtained by each party for the Conversion Project (and the requirements and specifications with respect thereto), (d) a detailed estimate of the costs to be incurred by each party in its performance of the Construction Work, and (e) a detailed schedule for completing the Construction Work (including, without limitation, the dates for delivery of the ducts and vaults and other materials for use at the site of the Construction Work).
7. The Government Entity shall be responsible for coordinating the Design Work with all other design work to be performed in connection with the Conversion Project and any associated planned improvements to the Public Thoroughfare. The parties shall work together in an effort to mitigate the costs of the Conversion Project to each party, including, without limitation, identifying ways to accommodate the facilities of the Company to be installed as part of the Conversion Project within the Public Thoroughfare.
8. Within the applicable time period specified in the Design Schedule, the Company shall prepare and submit to the Government Entity a proposed initial draft of the Project Plan. The parties understand and acknowledge that the proposed Project Plan submitted by the Company shall be preliminary in nature and shall not include, without limitation, information required to be supplied by the Government

Entity (e.g., scope and estimate of the cost of the Construction Work to be performed by the Government Entity).

9. Within the applicable time period specified in the Design Schedule, the Government Entity shall (a) review the proposed Project Plan submitted by the Company, (b) complete any information required to be supplied by the Government Entity, (c) make any changes required to conform the proposed Project Plan to the Scope of Work and this Agreement, and (d) return the amended Project Plan to the Company.
10. Within the applicable time period specified in the Design Schedule, the Company shall review the amended Project Plan submitted by the Government Entity and notify the Government Entity in writing of either the Company's acceptance of, or the Company's specific objections to, the amended Project Plan. If the Company makes any objection to the amended Project Plan, and the parties are unable to resolve the objections and mutually agree upon the Project Plan prior to the final design date specified in the Design Schedule, then either party may, by written notice to the other party, submit the matter for resolution pursuant to the dispute resolution procedures in paragraph 16, below. The Project Plan, as mutually agreed upon by the parties or established through the dispute resolution process, shall be attached to and incorporated in a Project Construction Agreement substantially in the form attached hereto as Exhibit A (the "Construction Agreement") which is to be signed by the parties prior to commencement of the Construction Work.
11. The parties intend and agree that the Design Work and the Project Plan in its final form shall conform to the following requirements:
 - (a) The Project Plan shall, if requested by the Government Entity in its initial Scope of Work, specify that the Government Entity shall install the ducts and vaults for the Conversion Project; provided that (i) the parties mutually agree upon and set forth in the Project Plan (A) the costs of such installation work to be included in the Cost of Conversion, and (B) the specifications and standards applicable to such installation work, and (ii) such installation work is accomplished by the Government Entity in accordance with the applicable design and construction specifications provided by the Company and set forth in the Project Plan.
 - (b) Each estimate of the costs to be incurred by a party shall, at a minimum, be broken down by (i) the design and engineering costs, (ii) property and related costs, including any costs of obtaining operating rights, and (iii) construction costs, including and listing separately inspection, labor, materials, and equipment.
 - (c) All facilities of the Company installed as part of the Conversion Project shall be located, and all related property and operating rights shall be obtained, in the manner set forth in the applicable provisions of Schedule 74. The Project Plan shall describe in detail the location of such facilities, any related property and operating rights required to be obtained, and the relative responsibilities of the parties with respect thereto.
 - (d) The schedule set forth in the Project Plan for completing the Construction Work shall include, at a minimum, milestone time periods for completion of the Trenching, installation of ducts and vaults, the construction and removal of any Temporary Service, and the removal of overhead facilities.
 - (e) The Project Plan may include the specification of work and requirements for Government-Requested Upgrades and Company-Initiated Upgrades; provided, however, that the costs incurred by the Company with respect to the design and engineering of Company-Initiated Upgrades shall not be included in the costs reimbursable to the Company under this Agreement or the Construction Agreement. For purposes of the foregoing, (i) the term "Government-Requested Upgrade" shall mean any feature of the Underground Distribution System which is requested by the Government Entity and is not reasonably required to make the Underground

Distribution System comparable to the overhead distribution system being replaced, and (ii) the term "Company-Initiated Upgrade" shall mean any feature of the Underground Distribution System which is required by the Company and is not reasonably required to make the Underground Distribution System comparable to the overhead distribution system being replaced. For purposes of subparagraph (ii), above, a "comparable" system shall include, unless the parties otherwise agree, the number of empty ducts (not to exceed two (2), typically having a diameter of 6" or less) of such diameter and number as may be specified and agreed upon in the final Scope of Work necessary to replicate the load-carrying capacity (system amperage class) of the overhead system being replaced. For purposes of subparagraph (i), above, any empty ducts installed at the request of the Government Entity shall be a Government-Requested Upgrade.

- (f) The Project Plan shall set forth all specifications, design standards and other requirements for the Construction Work and the Conversion Project, including, but not limited to, the following: (i) applicable federal and state safety and electric codes and standards, (ii) applicable construction and other standards of the Company, and (iii) applicable street design and other standards of the Government Entity which are in effect as of the commencement of the Conversion Project.

12. Upon request of the Government Entity, and in any event at the times specified in the Design Schedule, the Company shall provide periodic reports which compare the actual costs of the Design Work incurred to that point in time to the Design Cost Estimate, as changed or amended in accordance with paragraph 13, below. Further, if at any time the Company reasonably expects that the actual cost of the Design Work will exceed the Design Cost Estimate, as changed or amended in accordance with paragraph 13, below, the Company shall notify the Government Entity immediately. Upon receipt of the Company's notice, the Government Entity may, at its option,

- (a) notify the Company in writing that this Agreement is terminated; or
- (b) request a reasonably detailed explanation supported by documentation (reasonably satisfactory to the Government Entity) to establish that the actual costs in excess of the Design Cost Estimate are:
- (i) reasonable,
 - (ii) consistent with the Scope of Work, and
 - (iii) consistent with sound engineering practices.

If the Government Entity requests an explanation, the Government Entity shall, within ten (10) business days after receipt of the explanation,

- (a) change the Scope of Work in accordance with paragraph 13, below, or
- (b) direct the Company to continue with the Design Work without a change in the Scope of Work, but reserving to the Government Entity the right to dispute the reasonableness of the costs to be paid the Company under paragraph 14, below, in accordance with the dispute resolution procedures in paragraph 16, below, or
- (c) direct the Company to discontinue performing the Design Work pending resolution, pursuant to paragraph 16, below, of any dispute regarding the reasonableness of the costs, in which event the Design Schedule will be adjusted to reflect the delay, or
- (d) notify the Company in writing that this Agreement is terminated.

In the event the Government Entity terminates this Agreement or discontinues the performance of the Design Work under subparagraph (c), above, for more than ninety (90) days, the Government Entity shall pay the Company for all costs incurred by the Company in its performance of the Design Work

prior to the date the Company receives the Government Entity's notice of termination, plus any costs incurred by the Company for materials and other items ordered or procured by the Company with the prior authorization of the Government Entity in order to meet the schedule for the Conversion Project. The foregoing payment obligation shall survive any termination of this Agreement.

13. (a) Either party may, at any time, by written notice thereof to the other party, request changes to the Scope of Work (a "Request for Change"). No Request for Change shall be effective and binding upon the parties unless signed by an authorized representative of each party. If any approved Request for Change would cause an increase in the cost of, or the time required for, the performance of any part of the Design Work, an equitable adjustment in the Design Cost Estimate and the Design Schedule shall be made to reflect such increase. The parties shall negotiate in good faith with the objective of agreeing in writing on a mutually acceptable equitable adjustment. If the parties are unable to agree upon the terms of the equitable adjustment, either party may submit the matter for resolution pursuant to the dispute resolution procedures in paragraph 16, below. Notwithstanding any dispute or delay in reaching agreement or arriving at a mutually acceptable equitable adjustment, each party shall, if requested by the other party, proceed with the Design Work in accordance with the Request for Change. Any such request to proceed must be accompanied by a written statement setting forth the requesting party's reasons for rejecting the proposed equitable adjustment of the other party.
 - (b) The Design Cost Estimate and/or the Design Schedule shall be equitably adjusted from time to time to reflect any change in the costs or time required to perform the Design Work to the extent such change is caused by: (i) any Force Majeure Event under paragraph 17, below, (ii) the discovery of any condition within the Conversion Area which affects the scope, cost, schedule or other aspect of the Design Work and was not known by or disclosed to the affected party prior to the date of this Agreement, or (iii) any change or inaccuracy in any assumptions regarding the scope, cost, schedule or other aspect of the Design Work which are expressly identified by the parties in the final Scope of Work. Upon the request of either party, the parties will negotiate in good faith with the objective of agreeing in writing on a mutually acceptable equitable adjustment. If, at any time thereafter, the parties are unable to agree upon the terms of the equitable adjustment, either party may submit the matter for resolution pursuant to the dispute resolution provisions in paragraph 16, below.
14. Upon completion of the Design Work (i.e., the date on which the Project Plan is final under paragraph 10, above, either by mutual agreement of the parties or as established through the dispute resolution procedures), the Government Entity shall pay the Company all actual, reasonable costs to the Company for the Design Work (which, if disputed in good faith by the Government Entity, may be submitted by either party for resolution pursuant to the dispute resolution provisions in paragraph 16, below), plus any costs incurred by the Company for materials and other items ordered by the Company with the prior authorization of the Government Entity in order to meet the schedule for the Conversion Project. If, thereafter, the Construction Agreement is executed by the parties and the Conversion Project is completed within five (5) years from the date of this Agreement, the full amount of the costs incurred by the Company in its performance of the Design Work shall be included in the "Shared Company Costs" under the Construction Agreement and any payment of such amounts under this Agreement shall be credited to the Government Entity in calculating the "Net Amount" payable under the Construction Agreement.
 15. Within sixty (60) business days after completion of the Design Work, the Company shall issue to the Government Entity an itemized invoice for the amounts payable under this Agreement. Such invoice shall be in a form mutually agreed upon by the Company and the Government Entity and shall, at a minimum, itemize the design and engineering costs, including and listing separately inspection, labor, materials and equipment. In the event the Government Entity does not verify such invoice within ten (10) business days of receipt, the Government Entity shall provide a written request to the Company specifying the additional information needed to verify the invoice. The Company will provide, within a

reasonable period after receipt of any request, such documentation and information as the Government Entity may reasonably request to verify such invoice. The Government Entity shall pay the Company all amounts payable under this Agreement within thirty (30) days after receipt of the Company's invoice. Payment as provided in this Agreement shall be full compensation for the Company's performance of the Design Work, including without limitation all services rendered and all materials, supplies, equipment, and incidentals necessary to complete the Design Work.

16. Dispute Resolution Procedures:

- (a) Any dispute, disagreement or claim arising out of or concerning this Agreement must first be presented to and considered by the parties. A party who wishes dispute resolution shall notify the other party in writing as to the nature of the dispute. Each party shall appoint a representative who shall be responsible for representing the party's interests. The representatives shall exercise good faith efforts to resolve the dispute. Any dispute that is not resolved within ten (10) business days of the date the disagreement was first raised by written notice shall be referred by the parties' representatives in writing to the senior management of the parties for resolution. In the event the senior management are unable to resolve the dispute within twenty (20) business days (or such other period as the parties may agree upon), each party may pursue resolution of the dispute through other legal means consistent with the terms of this Agreement. All negotiations pursuant to these procedures for the resolution of disputes shall be confidential and shall be treated as compromise and settlement negotiations for purposes of the state and federal rules of evidence.
- (b) Any claim or dispute arising hereunder which relates to the Scope of Work, Design Cost Estimate, and Design Schedule under paragraph 4, above; the Project Plan under paragraph 10, above; or any Request for Change (including, without limitation, any associated equitable adjustment) under paragraph 13, above; and is not resolved by senior management within the time permitted under paragraph 16(a), above, shall be resolved by arbitration in Seattle, Washington, under the Construction Industry Arbitration Rules of the American Arbitration Association then in effect. The decision(s) of the arbitrator(s) shall be final, conclusive and binding upon the Parties. All other disputes shall be resolved by litigation in any court or governmental agency, as applicable, having jurisdiction over the Parties and the dispute.
- (c) In connection with any arbitration under this paragraph 16, costs of the arbitrator(s), hearing rooms and other common costs shall be divided equally among the parties. Each party shall bear the cost and expense of preparing and presenting its own case (including, but not limited to, its own attorneys' fees); provided, that, in any arbitration, the arbitrator(s) may require, as part of his or her decision, reimbursement of all or a portion of the prevailing party's costs and expenses by the other party.
- (d) Unless otherwise agreed by the parties in writing, the parties shall continue to perform their respective obligations under this Agreement during the pendency of any dispute.
17. In the event that either party is prevented or delayed in the performance of any of its obligations under this Agreement by reason beyond its reasonable control (a "Force Majeure Event"), then that party's performance shall be excused during the Force Majeure Event. Force Majeure Events shall include, without limitation, war, civil disturbance; flood, earthquake or other Act of God; storm, earthquake or other condition which necessitates the mobilization of the personnel of a party or its contractors to restore utility service to customers; laws, regulations, rules or orders of any governmental agency; sabotage; strikes or similar labor disputes involving personnel of a party, its contractors or a third party; or any failure or delay in the performance by the other party, or a third party who is not an employee, agent or contractor of the party claiming a Force Majeure Event, in connection with the Work or this Agreement. Upon removal or termination of the Force Majeure Event, the party claiming a Force Majeure Event shall promptly perform the affected obligations in an orderly and expedited manner under this Agreement or procure a substitute for such obligation. The parties shall use all commercially reasonable efforts to eliminate or minimize any delay caused by a Force Majeure Event.
18. This Agreement is subject to the General Rules and Provisions set forth in Tariff Schedule 80 of the Company's electric Tariff G and to Schedule 74 of such Tariff as approved by the Washington Utilities and Transportation Commission and in effect as of the date of this Agreement.

19. Any notice under this Agreement shall be in writing and shall be faxed (with a copy followed by mail or hand delivery), delivered in person, or mailed, properly addressed and stamped with the required postage, to the intended recipient as follows:

If to the Government Entity:

City of Oak Harbor
865 S.E. Barrington Drive
Oak Harbor, WA 98277
Attn: Russ Pabarcus
Fax: 360-279-4519

If to the Company:

Puget Sound Energy, Inc.
PO Box 97034 BOT-01G
Bellevue, WA 98009-9734
Attn: David Matulich
Fax: 425-424-6675

Either party may change its address specified in this paragraph by giving the other party notice of such change in accordance with this paragraph.

- 20. This Agreement shall in all respects be interpreted, construed and enforced in accordance with the laws of the State of Washington (without reference to rules governing conflict of laws), except to the extent such laws may be preempted by the laws of the United States of America.
- 21. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and all other agreements and understandings of the Parties, whether written or oral, with respect to the subject matter of this Agreement are hereby superseded in their entireties.
- 22. This Agreement shall be binding upon and inure to the benefit of the respective successors, assigns, purchasers, and transferees of the parties, including but not limited to, any entity to which the rights or obligations of a party are assigned, delegated, or transferred in any corporate reorganization, change of organization, or purchase or transfer of assets by or to another corporation, partnership, association, or other business organization or division thereof.

Government Entity:

City of Oak Harbor

BY [Signature]

ITS Mayor

Date Signed 6-11-10

Company:

PUGET SOUND ENERGY, INC.

BY _____

ITS _____

Date Signed _____

Approved as to form:

**SCHEDULE 74 UNDERGROUND CONVERSION
Project Construction Agreement**

Project Name: _____

Project Number: _____

THIS Agreement, dated as of this ____ day of _____, 200__, is made by and between _____, a _____ (the "Government Entity"), and PUGET SOUND ENERGY, Inc., a Washington Corporation (the "Company").

RECITALS

A. The Company is a public service company engaged in the sale and distribution of electric energy, and pursuant to its franchise or other rights from the Government Entity, currently locates its electric distribution facilities within the jurisdictional boundaries of the Government Entity.

B. The Government Entity has determined that it is necessary to replace the existing overhead electric distribution system within the area specified in the Project Plan (as defined below) (the "Conversion Area") with a comparable underground electric distribution system, all as more specifically described in the Project Plan (the "Conversion Project").

C. The Government Entity and the Company have previously entered into a Project Design Agreement dated as of _____ (the "Design Agreement"), pursuant to which the parties completed certain engineering design, cost assessment, operating rights planning and other preliminary work relating to the Conversion Project and, in connection with that effort, developed the Project Plan.

D. The Government Entity and the Company wish to execute this written contract in accordance with Schedule 74 of the Company's Electric Tariff G ("Schedule 74") to govern the completion of the Conversion Project, which both parties intend shall qualify as an underground conversion under the terms of Schedule 74.

AGREEMENT

The Government Entity and the Company therefore agree as follows:

1. Definitions.

(a) Unless specifically defined otherwise herein, all terms defined in Schedule 74 shall have the same meanings when used in this Agreement, including, without limitation, the following:

- i) Cost of Conversion;
- ii) Public Thoroughfare;
- iii) Temporary Service;
- iv) Trenching and Restoration;
- v) Underground Distribution System; and
- vi) Underground Service Lines.

(b) "Company-Initiated Upgrade" shall mean any feature of the Underground Distribution System which is required by the Company and is not reasonably required to make the Underground Distribution System comparable to the overhead distribution system being replaced. For purposes of the foregoing, a "comparable" system shall include, unless the Parties otherwise agree, the number of empty ducts (not to exceed two (2), typically having a diameter of 6" or less)

of such diameter and number as may be specified and agreed upon in the Project Plan necessary to replicate the load-carrying capacity (system amperage class) of the overhead system being replaced.

- (c) "Estimated Reimbursable Private Conversion Costs" shall mean the Company's good faith estimate of the Reimbursable Private Conversion Costs, as specified in the Project Plan and as changed and adjusted from time to time in accordance with Section 6, below.
- (d) "Estimated Reimbursable Temporary Service Costs" shall mean the Company's good faith estimate of the Reimbursable Temporary Service Costs, as specified in the Project Plan and as changed and adjusted from time to time in accordance with Section 6, below.
- (e) "Estimated Reimbursable Upgrade Costs" shall mean the Company's good faith estimate of the Reimbursable Upgrade Costs, as specified in the Project Plan and as changed and adjusted from time to time in accordance with Section 6, below.
- (f) "Estimated Shared Company Costs" shall mean the Company's good faith estimate of the Shared Company Costs, as specified in the Project Plan and as changed and adjusted from time to time in accordance with Section 6, below.
- (g) "Estimated Shared Government Costs" shall mean the Government Entity's good faith estimate of the Shared Government Costs, as specified in the Project Plan and as changed and adjusted from time to time in accordance with Section 6, below.
- (h) "Government-Requested Upgrade" shall mean any feature of the Underground Distribution System which is requested by the Government Entity and is not reasonably required to make the Underground Distribution System comparable to the overhead distribution system being replaced. For purposes of the foregoing, any empty ducts installed at the request of the Government Entity shall be a Government-Requested Upgrade.
- (i) "Party" shall mean either the Company, the Government Entity, or both.
- (j) "Private Property Conversion" shall mean that portion, if any, of the Conversion Project for which the existing overhead electric distribution system is located, as of the date determined in accordance with Schedule 74, (i) outside of the Public Thoroughfare, or (ii) pursuant to rights not derived from a franchise previously granted by the Government Entity or pursuant to rights not otherwise previously granted by the Government Entity.
- (k) "Project Plan" shall mean the project plan developed by the Parties under the Design Agreement and attached hereto as Exhibit A, as the same may be changed and amended from time to time in accordance with Section 6, below. The Project Plan includes, among other things, (i) a detailed description of the Work that is required to be performed by each Party and any third party, (ii) the applicable requirements and specifications for the Work, (iii) a description of the Operating Rights that are required to be obtained by each Party for the Conversion Project (and the requirements and specifications with respect thereto), (iv) an itemization and summary of the Estimated Shared Company Costs, Estimated Shared Government Costs, Estimated Reimbursable Private Conversion Costs (if any), Estimated Reimbursable Temporary Service Costs (if any) and Estimated Reimbursable Upgrade Costs (if any), and (v) the Work Schedule.
- (l) "Operating Rights" shall mean sufficient space and legal rights for the construction, operation, repair, and maintenance of the Underground Distribution System.
- (m) "Reimbursable Private Conversion Costs" shall mean (i) all Costs of Conversion, if any, incurred by the Company which are attributable to a Private Property Conversion, less (ii) the distribution pole replacement costs (if any) that would be avoided by the Company on account of such

Private Property Conversion, as determined consistent with the applicable Company distribution facilities replacement program, plus (iii) just compensation as provided by law for the Company's interests in real property on which such existing overhead distribution system was located prior to conversion; provided that the portion of the Reimbursable Private Conversion Costs attributable to the Costs of Conversion under subparagraph (i) of this paragraph shall not exceed the Estimated Reimbursable Private Conversion Costs without the prior written authorization of the Government Entity.

- (n) "Reimbursable Temporary Service Costs" shall mean all costs incurred by the Company which are attributable to (i) any facilities installed as part of the Conversion Project to provide Temporary Service, as provided for in Schedule 74, and (ii) the removal of any facilities installed to provide Temporary Service (less salvage value of removed equipment); provided that the Reimbursable Temporary Service Costs shall not exceed the Estimated Reimbursable Temporary Service Costs without the prior written authorization of the Government Entity.
- (o) "Reimbursable Upgrade Costs" shall mean all Costs of Conversion incurred by the Company which are attributable to any Government-Requested Upgrade; provided that the Reimbursable Upgrade Costs shall not exceed the Estimated Reimbursable Upgrade Costs without the prior written authorization of the Government Entity.
- (p) "Shared Company Costs" shall mean all Costs of Conversion (other than Reimbursable Upgrade Costs, Reimbursable Private Conversion Costs and Reimbursable Temporary Service Costs) incurred by the Company in connection with the Conversion Project; provided, however, that the Shared Company Costs shall not exceed the Estimated Shared Company Costs without the prior written authorization of the Government Entity. For the avoidance of doubt, the "Shared Company Costs" shall, as and to the extent specified in the Design Agreement, include the actual, reasonable costs to the Company for the "Design Work" performed by the Company under the Design Agreement.
- (q) "Shared Government Costs" shall mean all Costs of Conversion incurred by the Government Entity in connection with (i) any duct and vault installation Work which the Parties have specified in the Project Plan is to be performed by the Government Entity as part of the Government Work, and (ii) the acquisition of any Operating Rights which the Parties have, by mutual agreement, specified in the Project Plan are to be obtained by the Government Entity for the Conversion Project, but only to the extent attributable to that portion of such Operating Rights which is necessary to accommodate the facilities of the Company; provided, however, that the Shared Government Costs shall not exceed the Estimated Shared Government Costs without the prior written authorization of the Company.
- (r) "Total Shared Costs" shall mean the sum of the Shared Company Costs and the Shared Government Costs. For the avoidance of doubt, the Total Shared Costs shall not include, without limitation, (i) costs to the Government Entity for Trenching and Restoration, or (ii) costs associated with any joint use of trenches by other utilities as permitted under Section 3(b).
- (s) "Work" shall mean all work to be performed in connection with the Conversion Project, as more specifically described in the Project Plan, including, without limitation, the Company Work (as defined in Section 2(a), below) and the Government Work (as defined in Section 3(a), below).
- (t) "Work Schedule" shall mean the schedule specified in the Project Plan which sets forth the milestones for completing the Work, as the same may be changed and amended from time to time in accordance with Section 6, below.

2. Obligations of the Company.

- (a) Subject to the terms and conditions of this Agreement, the Company shall do the following as specified in, and in accordance with the design and construction specifications and other requirements set forth in, the Project Plan (the "Company Work"):
- i) furnish and install an Underground Distribution System within the Conversion Area (excluding any duct and vault installation or other Work which the Parties have specified in the Project Plan is to be performed by the Government Entity);
 - ii) provide a Company inspector on-site at the times specified in the Work Schedule to inspect the performance of any duct and vault installation Work which the Parties have specified in the Project Plan is to be performed by the Government Entity; and
 - iii) upon connection of those persons or entities to be served by the Underground Distribution System and removal of facilities of any other utilities that are connected to the poles of the overhead system, remove the existing overhead system (including associated wires and Company-owned poles) of 15,000 volts or less within the Conversion Area except for Temporary Services.
- (b) Upon request of the Government Entity, the Company shall provide periodic reports of the progress of the Company Work identifying (i) the Company Work completed to date, (ii) the Company Work yet to be completed, and (iii) an estimate regarding whether the Conversion Project is on target with respect to the Estimated Shared Company Costs, the Estimated Reimbursable Private Conversion Costs (if any), the Estimated Reimbursable Temporary Service Costs (if any), the Estimated Reimbursable Upgrade Costs (if any) and the Work Schedule.
- (c) Except as otherwise provided in the Company's Electric Tariff G, the Company shall own, operate and maintain all electrical facilities installed pursuant to this Agreement including, but not limited to, the Underground Distribution System and Underground Service Lines.
- (d) Subject to the terms and conditions of this Agreement, the Company shall perform all Company Work in accordance with the Project Plan, the Work Schedule and this Agreement.

3. Obligations of the Government Entity.

- (a) Subject to the terms and conditions of this Agreement, the Government Entity shall do the following as specified in, and in accordance with the design and construction specifications and other requirements set forth in, the Project Plan (the "Government Work"):
- i) provide the Trenching and Restoration;
 - ii) perform the surveying for alignment and grades for ducts and vaults; and
 - iii) perform any duct and vault installation and other Work which the Parties have specified in the Project Plan is to be performed by the Government Entity.
- (b) Other utilities may be permitted by the Government Entity to use the trenches provided by the Government Entity for the installation of their facilities so long as such facilities or the installation thereof do not interfere (as determined pursuant to the Company's electrical standards) with the Underground Distribution System or the installation or maintenance thereof. Any such use of the trenches by other utilities shall be done subject to and in accordance with the joint trench design specifications and installation drawings set forth or otherwise identified in the Project Plan, and the Government Entity shall be responsible for the coordination of the design and installation of the facilities of the other utilities to ensure compliance with such specifications and drawings.
- (c) Upon request of the Company, the Government Entity shall provide periodic reports of the progress of the Government Work identifying (i) the Government Work completed to date, (ii) the Government Work yet to be completed, and (iii) an estimate regarding whether the Conversion Project is on target with respect to the Estimated Shared Government Costs and the Work Schedule.

- (d) The Government Entity shall be responsible for coordinating all work to be performed in connection with the street improvement program within the Conversion Area.
- (e) Subject to the terms and conditions of this Agreement, the Government Entity shall perform all Government Work in accordance with the Project Plan, the Work Schedule and this Agreement.

4. Work Schedule.

- (a) The Government Entity and the Company have agreed upon the Work Schedule as set forth in the Project Plan. Changes to the Work Schedule shall be made only in accordance with Section 6, below.
- (b) Promptly following the execution of this Agreement, and upon completion by the Government Entity of any necessary preliminary work, the Government Entity shall hold a pre-construction meeting involving all participants in the Conversion Project to review project design, coordination requirements, work sequencing and related pre-mobilization requirements. Following the pre-construction meeting, the Government Entity shall give the Company written notice to proceed with the Work at least ten (10) business days prior to the commencement date specified in the Work Schedule.
- (c) Subject to the terms and conditions of this Agreement, each Party shall perform the Work assigned to it under this Agreement in accordance with the Work Schedule. So long as the Company performs the Company Work in accordance with the Work Schedule, the Company shall not be liable to the Government Entity (or its agents, servants, employees, contractors, subcontractors, or representatives) for any claims, actions, damages, or liability asserted or arising out of delays in the Work Schedule.

5. Location of Facilities.

All facilities of the Company installed within the Conversion Area pursuant to this Agreement shall be located, and all related Operating Rights shall be obtained, in the manner set forth in the applicable provisions of Schedule 74, as specified by the Parties in the Project Plan.

6. Changes.

- (a) Either Party may, at any time, by written notice thereof to the other Party, request changes in the Work within the general scope of this Agreement (a "Request for Change"), including, but not limited to: (i) changes in, substitutions for, additions to or deletions of any Work; (ii) changes in the specifications, drawings and other requirements in the Project Plan, (iii) changes in the Work Schedule, and (iv) changes in the location, alignment, dimensions or design of items included in the Work. No Request for Change shall be effective and binding upon the Parties unless signed by an authorized representative of each Party.
- (b) If any change included in an approved Request for Change would cause a change in the cost of, or the time required for, the performance of any part of the Work, an equitable adjustment shall be made in the Estimated Shared Company Costs, the Estimated Shared Government Costs, the Estimated Reimbursable Private Conversion Costs (if any), the Estimated Reimbursable Temporary Service Costs (if any), the Estimated Reimbursable Upgrade Costs (if any) and/or the Work Schedule to reflect such change. The Parties shall negotiate in good faith with the objective of agreeing in writing on a mutually acceptable equitable adjustment. If the Parties are unable to agree upon the terms of the equitable adjustment, either Party may submit the matter for resolution pursuant to the dispute resolution provisions in Section 10, below.
- (c) The Work Schedule, the Estimated Shared Company Costs, the Estimated Shared Government Costs, the Estimated Reimbursable Private Conversion Costs, the Estimated Reimbursable Temporary Service Costs and/or the Estimated Reimbursable Upgrade Costs shall be further

equitably adjusted from time to time to reflect any change in the costs or time required to perform the Work to the extent such change is caused by: (i) any Force Majeure Event under Section 11, below, (ii) the discovery of any condition within the Conversion Area which affects the scope, cost, schedule or other aspect of the Work and was not known by or disclosed to the affected Party prior to the date of this Agreement, or (iii) any change or inaccuracy in any assumptions regarding the scope, cost, schedule or other aspect of the Work which are expressly identified by the Parties in the Project Plan. Upon the request of either Party, the Parties will negotiate in good faith with the objective of agreeing in writing on a mutually acceptable equitable adjustment. If, at any time thereafter, the Parties are unable to agree upon the terms of the equitable adjustment, either Party may submit the matter for resolution pursuant to the dispute resolution provisions in Section 10, below.

- (d) Notwithstanding any dispute or delay in reaching agreement or arriving at a mutually acceptable equitable adjustment, each Party shall, if requested by the other Party, proceed with the Work in accordance with any approved Request for Change. Any request to proceed hereunder must be accompanied by a written statement setting forth the requesting Party's reasons for rejecting the proposed equitable adjustment of the other Party.

7. Compensation and Payment.

- (a) Subject to and in accordance with the terms and conditions of this Agreement (including, without limitation, the payment procedures set forth in this Section 7), payment in connection with the Conversion Project and this Agreement shall be as follows:
- i) The Total Shared Costs shall be allocated to the Parties in the following percentages: (A) sixty percent (60%) to the Company, and (B) forty percent (40%) to the Government Entity.
 - ii) The Government Entity shall pay one hundred percent (100%) of all Reimbursable Private Conversion Costs, if any.
 - iii) The Government Entity shall pay one hundred percent (100%) of all Reimbursable Upgrade Costs, if any.
 - iv) The Government Entity shall pay one hundred percent (100%) of all Reimbursable Temporary Service Costs, if any.
 - v) The Government Entity shall pay one hundred percent (100%) of the costs it incurs to perform that portion of the Government Work specified in Section 3(a)(i) and (ii) (i.e., Trenching and Restoration and surveying).
 - vi) The Company shall pay one hundred percent (100%) of the costs it incurs to design, provide and construct any Company-Initiated Upgrade.
 - vii) The Company shall pay one hundred percent (100%) of the costs it incurs to obtain Operating Rights outside the Public Thoroughfare.
- (b) Based on the allocation of responsibilities set forth in Section 7(a), above, the Parties shall determine the net amount payable by the Government Entity or the Company, as applicable, to the other Party under this Agreement (the "Net Amount"). The Net Amount shall be determined by using the amount of the Total Shared Costs allocated to the Government Entity under Section 7(a)(i), and adjusting such amount as follows:
- i) Subtracting (as a credit to the Government Entity) the amount of the Shared Government Costs.
 - ii) Adding (as a credit to the Company) the amount of all Reimbursable Private Conversion Costs, Reimbursable Upgrade Costs and Reimbursable Temporary Service Costs.
 - iii) Subtracting (as a credit to the Government Entity) any payments previously made to the Company by the Government Entity under the Design Agreement which, under the terms of the Design Agreement, are to be credited to the Government Entity under this Agreement.

The Net Amount, as so calculated, (A) will be an amount payable to the Company if it is a positive number, and (B) shall be an amount payable to the Government Entity if it is a negative number.

- (c) Within sixty (60) business days of completion of the Conversion Project, the Government Entity shall provide the Company with an itemization of the Shared Government Costs (the "Government Itemization"), together with such documentation and information as the Company may reasonably request to verify the Government Itemization. The Government Itemization shall, at a minimum, break down the Shared Government Costs by the following categories, as applicable: (i) property and related costs incurred and/or paid by the Government Entity, including any costs of obtaining Operating Rights, and (ii) construction costs incurred and/or paid by the Government Entity, including and listing separately inspection, labor, materials and equipment, overhead and all costs charged by any agent, contractor or subcontractor of the Government Entity.
- (d) Within thirty (30) business days after the Company's receipt of the Government Itemization and requested documentation and information, the Company shall provide the Government Entity a written statement (the "Company Statement") showing (i) an itemization of the Shared Company Costs, (ii) the Parties' relative share of the Total Shared Costs based on the Company's itemization of the Shared Company Costs and the Government Entity's itemization of the Shared Government Costs set forth in the Government Itemization, (iii) any Reimbursable Private Conversion Costs, (iv) any Reimbursable Upgrade Costs, (v) any Reimbursable Temporary Service Costs, (vi) any credits to the Government Entity for payments previously made to the Company by the Government Entity under the Design Agreement which, under the terms of the Design Agreement, are to be credited to the Government Entity under this Agreement, and (vii) the Net Amount, as determined in accordance with Section 7(b), above, together with such documentation and information as the Government Entity may reasonably request to verify the Company Statement. The itemization of the Shared Company Costs included in the Company Statement shall, at a minimum, break down the Shared Company Costs by the following categories, as applicable: (i) design and engineering costs, and (ii) construction costs, including and listing separately inspection, labor, materials and equipment, overhead and all costs charged by any agent, contractor or subcontractor of the Company.
- (e) Within thirty (30) business days after the Government Entity's receipt of the Company Statement and requested documentation and information, the Net Amount shall be paid by the owing Party to the other Party, as specified in the Company Statement.

8. Indemnification.

- (a) The Government Entity releases and shall defend, indemnify and hold the Company harmless from all claims, losses, harm, liabilities, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees) caused by or arising out of any negligent act or omission or willful misconduct of the Government Entity in its performance under this Agreement. During the performance of such activities the Government Entity's employees or contractors shall at all times remain employees or contractors, respectively, of the Government Entity.
- (b) The Company releases and shall defend, indemnify and hold the Government Entity harmless from all claims, losses, harm, liabilities, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees) caused by or arising out of any negligent act or omission or willful misconduct of the Company in its performance under this Agreement. During the performance of such activities the Company's employees or contractors shall at all times remain employees or contractors, respectively, of the Company.
- (c) Solely for purposes of enforcing the indemnification obligations of a Party under this Section 8, each Party expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, and agrees that the obligation to indemnify, defend and hold harmless provided for in this Section 8 extends to any such claim brought against the indemnified Party by

or on behalf of any employee of the indemnifying Party. The foregoing waiver shall not in any way preclude the indemnifying Party from raising such immunity as a defense against any claim brought against the indemnifying Party by any of its employees.

9. Conversion of Service to Customers within Conversion Area.

- (a) Upon commencement of the Work, the Government Entity shall notify all persons and entities within the Conversion Area that service lines to such customers must be converted from overhead to underground service within the applicable statutory period following written notice from the Government Entity that service from underground facilities are available in accordance with RCW 35.96.050. Upon the request of any customer, other than a single family residential customer, within the Conversion Area, the Company shall remove the overhead system and connect such persons' and entities' Underground Service Lines to the Underground Distribution System.
- (b) The Parties acknowledge that single family residences within the Conversion Area must (i) provide a service trench and conduit, in accordance with the Company's specifications, from the underground meter base to the point of service provided during the conversion, and (ii) pay for the secondary service conductors as defined in Schedule 85 of the Company's Electric Tariff G. The Government Entity shall exercise its authority to order disconnection and removal of overhead facilities with respect to owners failing to convert service lines from overhead to underground within the timelines provided in RCW 35.96.050.

10. Dispute Resolution.

- (a) Any dispute, disagreement or claim arising out of or concerning this Agreement must first be presented to and considered by the Parties. A Party who wishes dispute resolution shall notify the other Party in writing as to the nature of the dispute. Each Party shall appoint a representative who shall be responsible for representing the Party's interests. The representatives shall exercise good faith efforts to resolve the dispute. Any dispute that is not resolved within ten (10) business days of the date the disagreement was first raised by written notice shall be referred by the Parties' representatives in writing to the senior management of the Parties for resolution. In the event the senior management are unable to resolve the dispute within twenty (20) business days (or such other period as the Parties may agree upon), each Party may pursue resolution of the dispute through other legal means consistent with the terms of this Agreement. All negotiations pursuant to these procedures for the resolution of disputes shall be confidential and shall be treated as compromise and settlement negotiations for purposes of the state and federal rules of evidence.
- (b) Any claim or dispute arising hereunder which relates to any Request for Change or any equitable adjustment under Section 6, above, or the compensation payable by or to either Party under Section 7, above, and which is not resolved by senior management within the time permitted under Section 10(a), above, shall be resolved by arbitration in Seattle, Washington, under the Construction Industry Arbitration Rules of the American Arbitration Association then in effect. The decision(s) of the arbitrator(s) shall be final, conclusive and binding upon the Parties. All other disputes shall be resolved by litigation in any court or governmental agency, as applicable, having jurisdiction over the Parties and the dispute.
- (c) In connection with any arbitration under this Section 10, costs of the arbitrator(s), hearing rooms and other common costs shall be divided equally among the Parties. Each Party shall bear the cost and expense of preparing and presenting its own case (including, but not limited to, its own attorneys' fees); provided, that, in any arbitration, the arbitrator(s) may require, as part of his or her decision, reimbursement of all or a portion of the prevailing Party's costs and expenses (including, but not limited to, reasonable attorneys' fees) by the other Party.

- (d) Unless otherwise agreed by the Parties in writing, the Parties shall continue to perform their respective obligations under this Agreement during the pendency of any dispute.

11. Uncontrollable Forces.

In the event that either Party is prevented or delayed in the performance of any of its obligations under this Agreement by reason beyond its reasonable control (a "Force Majeure Event"), then that Party's performance shall be excused during the Force Majeure Event. Force Majeure Events shall include, without limitation, war; civil disturbance; flood, earthquake or other Act of God; storm, earthquake or other condition which necessitates the mobilization of the personnel of a Party or its contractors to restore utility service to customers; laws, regulations, rules or orders of any governmental agency; sabotage; strikes or similar labor disputes involving personnel of a Party, its contractors or a third party; or any failure or delay in the performance by the other Party, or a third party who is not an employee, agent or contractor of the Party claiming a Force Majeure Event, in connection with the Work or this Agreement. Upon removal or termination of the Force Majeure Event, the Party claiming a Force Majeure Event shall promptly perform the affected obligations in an orderly and expedited manner under this Agreement or procure a substitute for such obligation. The Parties shall use all commercially reasonable efforts to eliminate or minimize any delay caused by a Force Majeure Event.

12. Insurance.

- (a) PSE shall, and shall require each of its contractors to, secure and maintain in force throughout the duration of the Conversion Project (or, if sooner, until termination of this Agreement) comprehensive general liability insurances, with a minimum coverage of \$_____ per occurrence and \$_____ aggregate for personal injury; and \$_____ per occurrence/aggregate for property damages, and professional liability insurance in the amount of \$_____.
- (b) The Government Entity shall ensure that each of its contractors performing any Government Work secures and maintains in force throughout the duration of the Conversion Project (or, if sooner, until termination of this Agreement) insurance policies having the same coverage, amounts and limits as specified Section 12(a), above.
- (c) In lieu of the insurance requirements set forth in Section 12(a), above, the Company may self-insure against such risks in such amounts as are consistent with good utility practice. Upon the Government Entity's request, the Company shall provide the Government Entity with reasonable written evidence that the Company is maintaining such self-insurance.

13. Other.

- (a) Agreement Subject To Tariff. This Agreement is subject to the General Rules and Provisions set forth in Tariff Schedule 80 of the Company's electrical Tariff G and to Schedule 74 of such Tariff as approved by the Washington Utilities and Transportation Commission and in effect as of the date of this Agreement.
- (b) Termination. The Government Entity reserves the right to terminate the Conversion Project and this Agreement upon written notice to the Company. In the event that the Government Entity terminates the Conversion Project and this Agreement, the Government Entity shall reimburse the Company for all costs reasonably incurred by the Company in connection with the Work performed prior to the effective date of termination. In such event, the costs reimbursable to the Company (i) shall not be reduced by any Shared Government Costs or other costs incurred by the Government Entity, and (ii) shall be paid within thirty (30) days after the receipt of the Company's invoice therefor. Sections 1, 5, 7, 8, 9, 10, 11 and 13 shall survive any termination of the Conversion Project and/or this Agreement.

- (c) Facilities Greater Than 15,000 Volts. Nothing in this Agreement shall in any way affect the rights or obligations of the Company under any previous agreements pertaining to the existing or future facilities of greater than 15,000 Volts within the Conversion Area.
- (d) Compliance With Law. The Parties shall, in performing the Work under this Agreement, comply with all applicable federal, state, and local laws, ordinances, and regulations.
- (e) No Discrimination. The Company, with regard to the Work performed by the Company under this Agreement, shall comply with all applicable laws relating to discrimination on the basis race, color, national origin, religion, creed, age, sex, or the presence of any physical or sensory handicap in the selection and retention of employees or procurement of materials or supplies.
- (f) Independent Contractor. The Company and the Government Entity agree that the Company is an independent contractor with respect to the Work and this Agreement. The Company is acting to preserve and protect its facilities and is not acting for the Government Entity in performing the Work. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the Parties. Neither the Company nor any employee of the Company shall be entitled to any benefits accorded employees of the Government Entity by virtue of the Work or this Agreement. The Government Entity shall not be responsible for withholding or otherwise deducting federal income tax or social security or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to the Company, or any employee of the Company.
- (g) Nonwaiver of Rights or Remedies. No failure or delay of either Party to insist upon or enforce strict performance by the other Party of any provision of this Agreement or to exercise any other right under this Agreement, and no course of dealing or performance with respect thereto, shall, except to the extent provided in this Agreement, be construed as a waiver or, or choice of, or relinquishment of any right under any provision of this Agreement or any right at law or equity not otherwise provided for herein. The express waiver by either Party of any right or remedy under this Agreement or at law or equity in a particular instance or circumstance shall not constitute a waiver thereof in any other instance or circumstance.
- (h) No Third Party Beneficiaries. There are no third-party beneficiaries of this Agreement. Nothing contained in this Agreement is intended to confer any right or interest on anyone other than the Parties, their respective successors, assigns and legal representatives.
- (i) Governmental Authority. This Agreement is subject to the rules, regulations, orders and other requirements, now or hereafter in effect, of all governmental regulatory authorities and courts having jurisdiction over this Agreement, the Parties or either of them. All laws, ordinances, rules, regulations, orders and other requirements, now or hereafter in effect, of governmental regulatory authorities and courts that are required to be incorporated into agreements of this character are by this reference incorporated in this Agreement.
- (j) No Partnership. This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties or to impose any partnership obligations or liability upon either Party. Further, neither Party shall have any right, power or authority to enter into any agreement or undertaking for or on behalf of, to act as or be an agent or representative of, or to otherwise bind the other Party.
- (k) Severability. In the event that any provision of this Agreement or the application of any such provision shall be held invalid as to either Party or any circumstance by any court having jurisdiction, such provision shall remain in force and effect to the maximum extent provided by law, and all other provisions of this Agreement and their application shall not be affected thereby but shall remain in force and effect unless a court or arbitrator holds they are not severable from the invalid provisions.

- (l) Notice. Any notice under this Agreement shall be in writing and shall be faxed (with a copy followed by mail or hand delivery), delivered in person, or mailed, properly addressed and stamped with the required postage, to the intended recipient as follows:

If to the Government Entity:

 Attn: _____
 Fax: _____

If to the Company:

Puget Sound Energy, Inc.

 Attn: _____
 Fax: _____

Any Party may change its address specified in this Section 13(l) by giving the other Party notice of such change in accordance with this Section 13(l).

- (m) Applicable Law. This Agreement shall in all respects be interpreted, construed and enforced in accordance with the laws of the State of Washington (without reference to rules governing conflict of laws), except to the extent such laws may be preempted by the laws of the United States of America.
- (n) Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and all other agreements and understandings of the Parties, whether written or oral, with respect to the subject matter of this Agreement are hereby superseded in their entireties; provided, however, that except as expressly set forth in this Agreement, nothing herein is intended to or shall alter, amend or supersede the Design Agreement and the same shall remain in full force and effect in accordance with its terms.
- (o) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors, assigns, purchasers, and transferees of the Parties, including but not limited to, any entity to which the rights or obligations of a Party are assigned, delegated, or transferred in any corporate reorganization, change of organization, or purchase or transfer of assets by or to another corporation, partnership, association, or other business organization or division thereof.

Government Entity:

Company:

PUGET SOUND ENERGY, INC.

BY _____

BY _____

ITS _____

ITS _____

Date Signed _____

Date Signed _____

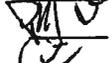
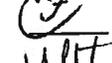
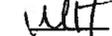
Approved as to form:

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

Bill No. 10
Date: July 6, 2010
Subject: Introduction of Ordinance re
Storm Drain Utility Charges

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

This ordinance amends Chapter 12.40 of the Oak Harbor Municipal Code entitled "Drainage Utility Charges". It establishes the criteria to be used in determining stormwater utility rates and establishes two classes of customers based on impervious surfaces. The ordinance also provides that the stormwater rates be used exclusively for stormwater regulation.

AUTHORITY

RCW 35.67.020 provides the authority for cities to construct sewerage systems which include storm or surface water systems and non-point pollution monitoring programs and to fix rates and charges for these systems.

SUMMARY STATEMENT

The City's stormwater drainage system includes both constructed and natural features which function together to collect and convey stormwater to reduce flooding and to treat or filter storm water. The City has adopted a Comprehensive Storm and Surface Water Drainage Plan that identifies needed capital improvements to the stormwater drainage system.

The City of Oak Harbor is a Phase II city under the NPDES (National Pollutant Discharge Elimination System) permit administered by the Department of Ecology and is required to meet the conditions of the NPDES Phase II permit which includes, but are not limited to, the preparation and implementation of a Stormwater Management Plan and the regulations and enforcement of illicit discharges into the City's stormwater drainage system from all properties within the City.

All developed property within the City burdens the drainage system by virtue of impervious surfaces which increase stormwater runoff into the system. It is appropriate for users of and contributors to the City's stormwater drainage system to pay for the cost of implementing the City's Stormwater Management Plan and for the construction and operation of the City's stormwater drainage system.

In the proposed ordinance, the Council makes findings concerning the imposition of stormwater service charges based on impervious surface, and the creation of two classes of customers – single-family residential and non-single family residential (all others).

The proposed ordinance will make two significant changes in the way stormwater services are determined. The first change increases the square footage of impervious surface for an equivalent residential unit from 2,500 to 3,300 square feet. This change is based on a recent Engineering Division study of the average impervious area on residential lots in the City. The second change involves phasing out the special rate that has been given to public benefit non-profit corporations and schools over a five year period.

The rates charged for stormwater service will be placed in the Storm Drain Fund to be used only for stormwater services.

STANDING COMMITTEE REPORT

Stormwater management issues were discussed at the February 4 and April 1, 2010 Public Works and Utilities Standing Committee meetings. In addition, these issues were discussed at City Council workshops that were held on November 17, 2009 and May 27, 2010.

RECOMMENDED ACTION

Introduce the Ordinance amending Chapter 12.40 of the Oak Harbor Municipal Code entitled “Drainage Utility Charges” and schedule a public hearing for August 4, 2010.

ATTACHMENTS

Ordinance amending Chapter 12.40 of the Oak Harbor Municipal Code entitled “Drainage Utility Charges”.

MAYOR'S COMMENTS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING CHAPTER 12.40 OF THE OAK HARBOR MUNICIPAL CODE ENTITLED "DRAINAGE UTILITY CHARGES" TO ESTABLISH CRITERIA FOR SETTING STORMWATER UTILITY RATES, PROVIDE THAT STORMWATER RATES SHALL BE USED EXCLUSIVELY FOR STORMWATER REGULATION, AND ESTABLISH TWO CLASSES OF CUSTOMERS BASED ON IMPERVIOUS SURFACES

WHEREAS, the City of Oak Harbor has adopted a comprehensive storm and surface water drainage plan which is on file with the City Clerk and which describes the City's plan for its stormwater drainage system; and

WHEREAS, the City's stormwater drainage system includes both constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter stormwater; and

WHEREAS, all developed property within the city burdens the stormwater management system by virtue of impervious surfaces which increase stormwater run-off into the City's stormwater drainage system; and

WHEREAS, the City of Oak Harbor is a Phase II city under the NPDES (National Pollutant Discharge Elimination System) permit administered by the Department of Ecology and is required to meet the conditions of the Phase II NPDES permit; and

WHEREAS, adoption of a stormwater management plan by 2012 is a requirement of the NPDES permit; and

WHEREAS, the City of Oak Harbor is working on a stormwater management plan in compliance with NPDES requirements; and

WHEREAS, the City is responsible for regulation and enforcement of illicit discharges into the City's stormwater drainage system from all property within the city in compliance with NPDES requirements; and

WHEREAS, it is appropriate for users of and contributors to the City's stormwater drainage system by virtue of impervious surfaces constructed, created or added to their real property to pay for the cost of implementing the City's stormwater management plan and for the construction and operation of the City's stormwater drainage system; and

WHEREAS, the rates charged for stormwater service will be placed in the "stormwater system fund", to be used only for stormwater services; and

WHEREAS, a storm drain study conducted by City Engineering in 2010 concludes that the average impervious surface area of a single-family residence in the city limits is 3,300 square feet; and

WHEREAS, the city council finds that there is a rational basis for distinguishing single-family residential customers from all other users. The variation among residential parcels in parcel size and percentage of impervious surface coverage is found to be minor and to reflect only minor differences in increased runoff contributions. The administrative cost of calculating the service charge individually for each residential parcel and maintaining accurate information would be very high. Therefore, a flat charge for single-family residential parcels is less costly to administer than calculating a separate charge for each parcel and is equitable because of the similarities in total parcel size and total impervious surface coverage between residential parcels; and

WHEREAS, the city council has considered the discretionary considerations set out in RCW 35.67.020(2) and finds that two classes of customers are appropriate – single-family residential customers and all other customers (non-single-family residential customers); now, therefore,

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One. Oak Harbor Municipal Code Chapter 12.40 entitled "Drainage Utility Charges" is hereby amended to read as follows:

**Chapter 12.40
DRAINAGE UTILITY CHARGES**

Sections:

- 12.40.010 Definitions.
- 12.40.020 Charge system established – Charges imposed.
- ~~12.40.025 Criteria established.~~
- 12.40.030 ~~Drainage service~~Stormwater system service charges – Schedule – Exemptions.
- 12.40.040 ~~Drainage service~~Stormwater system service charges – Adjustments.
- 12.40.050 Billing.
- 12.40.060 Assessment for charges.
- ~~12.40.065 Rainwater harvesting rate reduction.~~
- 12.40.070 ~~Storm and surface-water~~ system drainage-fund.
- ~~12.40.075 Stormwater system service charges - Sufficiency.~~
- 12.40.080 Revenue disposition and expenditure conditions.
- ~~12.40.085 Annual review of rates.~~
- 12.40.090 Liability disclaimer.
- 12.40.100 Delinquent payments – Enforcement procedures.
- 12.40.105 Billing and collection procedures.

12.40.010 Definitions. For purposes of this chapter, the words or phrases below shall have the following meanings:

- (1) "Administrator" is the person designated by the mayor to manage the utility.

- (2) "Billing year" means the calendar year that bills are sent. ~~The first billing year shall be from January 1, 1997, through December 31, 1997.~~
- ~~(3) "Church" means a property and building used and owned by any religious or apostolic organization that has applied for, received and kept current federal income tax exempt status as a religious organization under 26 USC Section 501(e)(3) as it now exists or is hereafter amended. No property may be designated as a church until proof of church status is filed with the administrator.~~
- ~~(4) "Charitable organization" means a property and building used and owned by any organization that has applied for, received and kept current federal income tax exempt status as a charitable organization under 26 USC Section 501(e)(3) or a property and building used and owned by an organization which is donor supported and has as its purpose the providing for recreational activities for young people under 18 years of age and that has applied for, received and kept current federal income tax exempt status under 26 USC Section 501(e)(3). No property may be designated as a charitable organization until proof of charitable organization status is filed with the administrator.~~
- (35) "City" means the city of Oak Harbor.
- (46) "Condominiums" or "townhouses" means the ownership of single units or apartments in a building containing two or more units or two or more buildings each containing one or more units with common areas and facilities as provided in Chapter 64.32 RCW and permitted pursuant to OHMC 21.80.025, residential properties or parcels which contain more than two residential dwelling units which are individually owned and are billed separately for property taxes.
- (5) "Developed parcel" means any parcel altered from the natural state by the construction, creation, or addition of impervious surfaces.
- (67) "Drainage service charge" and "stormwater system service charge" means the fee imposed by the city upon all parcels of real property, except exempted properties, located within the boundaries of the city.
- (78) "Environmentally sensitive areas" means parcels identified pursuant to Chapter 20.12 OHMC and parcels with trees protected under Chapter 20.16 OHMC.
- (8) "Equivalent residential unit (ERU)" means a configuration of development or impervious surfaces estimated to contribute an amount of runoff to the city's stormwater drainage system which is approximately equal to that created by the average single-family residential parcel. One ERU is equal to 3,300 square feet of impervious surface area or any portion thereof.
- (9) "Impervious surface" or "impervious ground cover" means those hard areas which prevent or retard the entry of water into the soil in the manner that such water entered the

soil under natural conditions pre-existent to development, or which cause water to run off the surface in greater quantities or at an increased rate of flow than that present under natural conditions pre-existent to development including, but not limited to, such surfaces as rooftops, asphalt or concrete paving, driveways, parking lots, walkways, patio areas, storage areas, hardpan, compacted surfaces, or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development.

(10) "NPDES" means the National Pollutant Discharge Elimination System under the Federal Clean Water Act, the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and in Washington State are administered by the Department of Ecology.

(11) "NPDES Phase II municipal stormwater permit" means the permit issued by the Department of Ecology pursuant to the Federal Clean Water Act whose requirements are applicable to the City.

(12) ~~(129)~~ "Non-single-family residential properties or parcels" means properties or parcels which contain ~~more than two~~ or more residential dwelling units and institutional, commercial or industrial properties.

(13) ~~(134)~~ "Parcel" means the smallest separately segregated unit or plot of land having an identified owner(s), boundaries, and area as defined by the Island County assessor and recorded in the Island County assessor real property file or in the Island County assessor maps.

(14) ~~(142)~~ "Property owner of record" shall be the person or persons recorded by the Island County assessor to be the owner(s) of property and to whom property tax statements are directed.

(15) "Public benefit nonprofit corporation" means a corporation that complies with the provisions of the Washington Nonprofit Corporation Act, Ch. 24.03 RCW, and that holds a current tax exempt status as provided under 26 USC §501(c)(3) or is not required to apply for its tax exempt status under 26 USC §501(c)(3) as defined in RCW 24.03.490. No property may be designated as a public benefit nonprofit corporation until proof of public benefit nonprofit corporation pursuant to RCW 24.03.490 status is filed with the administrator.

(16) ~~(163)~~ "Rate category" means the classification of properties, based upon the estimated percentage of impervious surface on the parcel, for purposes of establishing drainage service charges.

(17) ~~(174)~~ "Residence" means a building or structure, or portion thereof, designed to be used as a place of abode for human beings and not used for any other purpose. The term

"residence" includes the terms "residential," "residential unit," and "dwelling unit" as referring to the type of or intended use of a building or structure.

(15) ~~"School" means any property and building used for educational purposes and owned by either a public school as referred to in Article IX of the Washington State Constitution or a state approved private school as referred to in Chapter 28A.195 RCW.~~

(186) "Single-family residential property or parcel" means any property or parcel which contains one or two residential dwelling units.

(1917) "System" or "stormwater drainage system" means the entire system of flood protection and storm and surface water drainage facilities owned or leased by the city or over which the city has right of use for the movement and control of storm and surface water runoff, including both naturally occurring and manmade facilities. The definition also includes the conveyance or storage of storm and surface waters that flow through, under, or over lands, land forms, watercourses, sloughs, streams, ponds, rivers, lakes and wetlands, beginning at a point where storm or surface waters enter the city system and ending at a point where such storm or surface waters exit from the city's storm and surface water system, and in width to the full extent of inundation caused by storm or flood conditions.

Throughout this chapter, the term "drainage facilities" is used to refer to the "storm and surface water drainage facilities."

(20) "Undeveloped parcel" means any parcel which has not been altered from its natural state by the construction, creation or addition of any impervious surfaces.

(2118) "Utility" means the city of Oak Harbor ~~storm and surface water drainage system~~ utility. In this title the term "stormwater" is often used to refer to both "storm and surface water."

12.40.020 Charge system established – Charges imposed. ~~Effective March 1, 1997, A stormwater system service charge shall be imposed by the city of Oak Harbor will impose on all owners of real property located within Oak Harbor city limits and the owners thereof, except those granted exemption as listed in OHMC 12.40.030, a drainage service charge. A system and structure of drainage-stormwater system service charges are hereby established in accordance with the following provisions of this chapter.~~

12.40.025 Criteria established. The council finds that the existence of impervious surfaces on real property within the city limits contributes to and burdens the city's stormwater drainage system. The council further finds that the amount of impervious surfaces, as reasonably determined for a class or parcel of property, shall be the basis for the imposition of a stormwater system service charge.

12.40.030 ~~Drainage service~~ Stormwater system service charges – Schedule – Exemptions.

- (1) A ~~drainage service~~ stormwater system service charge is imposed on every parcel within the city and the owner(s) thereof, except for the following exempted property(ies):
 - (a) City streets, it being expressly found that all such city streets, roads, alleys and rights-of-way collect and transport storm and surface water from multiple individual properties and that the value of such collection and transport is equal to the reasonable charge therefore that would otherwise be charged by the city; and
 - (b) State of Washington highways, so long as the state of Washington shall agree to maintain, construct and improve all drainage facilities associated with state highways as required by the utility in conformance with all utility standards for maintenance, construction and improvement hereafter established by the utility and so far as such maintenance, construction and improvements shall be achieved at no cost to the utility or to the city; and
 - (c) All other streets, so long as such streets provide drainage services in the same manner as city streets and the owner(s) shall agree to maintain, construct and improve all drainage facilities associated with such streets as required by the utility in conformance with all utility standards for maintenance, construction and improvement thereafter established by the utility and so far as such maintenance, construction and improvements shall be achieved at no cost to the utility or to the city; and
 - (d) Undeveloped parcels.
- (2) The ~~drainage service~~ stormwater system service charge established herein shall be based upon the contribution of increased ~~surface and~~ stormwater runoff from a parcel to the system due to impervious surfaces on that parcel. Single-family residential parcels are grouped together in one rate category based on an estimated city-wide average contribution of ~~surface and~~ stormwater runoff from single-family residential parcels. The amount of contribution for other properties is measured by the estimated square footage of impervious surface area on the parcel ~~and the total area of the parcel~~.
- (3) ~~Drainage service~~ Stormwater system service charge rate categories shall be as follows:
 - (a) Single-family residential rates. The single-family residential flat charge shall be based upon the average parcel size and average percentage of impervious surfaces on single-family residential parcels in the city limits. The average impervious surface area attributable to a single-family residence shall be 3,300 square feet. Single-family residential properties in whatever zone they are located shall be assigned to a flat fee rate category. Properties within this rate category will be charged a uniform monthly fee.

- (b) All other properties shall pay a rate based on the amount of impervious surface area to be calculated by multiplying the rate for single-family residential properties by a quotient derived from dividing the total number of square feet of impervious surface area by 3,32,500 ~~(the impervious surface area equivalent of a single family residence)~~. The quotient shall be rounded to the nearest tenth.
- (c) For condominiums ~~and townhouses~~, the drainage service charge shall be based on the amount of impervious surface determined for of the entire parcel. Each condominium shall be responsible for an equal proportional amount of the total impervious surface on the parcel. ~~and then divided evenly among the owners.~~ Land use code, site visits, and other information shall be used to estimate the measurement of impervious area. ~~The rate categories and the corresponding annual drainage service charges are as follows:~~

Single family residential	\$9.14 per month per parcel
Churches and charitable organizations	\$2.28 per month per 2,500 square feet of impervious area
Schools	\$6.85 per month per 2,500 square feet of impervious area
Properties other than single family residences, schools, churches and charitable organizations	\$9.14 per month per 2,500 square feet of impervious area

- (4) Each bill shall be rounded up to the nearest even number of cents.

12.40.040 ~~Drainage service~~ Stormwater system service charges – Adjustments.

- (1) Any person receiving a stormwater system drainage service charge may apply in writing to the utility for a bill adjustment so long as the billing is paid. Filing such a request does not extend the period for payment of the charge. Requests for adjustments on delinquent accounts will not be acted upon until paid in full prior to decision.
- (2) A request for a bill adjustment may be based on one or more of the following:
- (a) The area of the parcel is incorrect;
 - (b) The property is not assigned the proper rate category;
 - (c) The amount of impervious surface on a non-single-family residential parcel is incorrect;
 - (d) The parcel ~~meets~~ is exempt under the provisions of OHMC 12.40.030 ~~the definition of exempted property;~~
 - (e) The parcel is wholly or partially outside the Oak Harbor city limits; or

- (f) The drainage-stormwater system service charge is otherwise erroneous in applying the terms of this chapter.
- (3) Applications for adjustments may be made to the utility and shall be decided by the administrator for the utility or administrator's designee. The burden of proof shall be on the applicant to show that the rate adjustment sought should be granted. All decisions of the utility shall be final.
- (4) Applications for rate adjustment must be filed within one year of the billing date. To receive credit in the current billing year, however, applications for rate adjustment must be made no more than ninety (90) days after the initial billing date for that year. Applications received after ninety (90) days of the billing date shall be effective for subsequent years only.
- (5) If the utility grants an adjustment which reduces the charge for the current year, the applicant shall receive an adjusted bill or be refunded the amount overpaid. If the utility determines that an adjustment should be made which increases the charge due for the current year, the applicant shall receive a supplemental bill that will be due within 45 days of the date of issue. Applicants for rate adjustments shall be notified in writing of the utility's decision.
- (6) Decisions of the administrator on requests for rate adjustments shall be final unless within thirty (30) days of the date the decision was mailed, the applicant files a petition for a writ of certiorari in the superior court with jurisdiction.

12.40.050 Billing. Billing shall be completed by the finance department on a monthly or ~~bimonthly~~ basis as determined to be appropriate by the finance director.

12.40.060 Assessment for charges. All parcels subject to a ~~drainage service~~ stormwater system service charge shall be billed based upon the rate category and acreage applicable to each such parcel as of November 1st of the year prior to the billing year. The administrator shall provide to the finance department by that date changes to the listing of parcels and estimated billings for the changes to be applied for next year starting January 1st.

12.40.065 Rainwater harvesting rate reduction. Pursuant to RCW 35.67.020(3), the stormwater system charge imposed pursuant to this chapter shall be reduced by ten percent (10%) for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system which is properly sized to utilize the available roof surface of the building. Any customer seeking such a rainwater harvesting rate reduction shall have the burden of establishing that there is a qualified rainwater harvesting system and shall present such evidence by application to the administrator.

12.40.070 Storm and surface water drainage system fund. There is hereby created a stormwater system storm and surface water drainage fund which is to be used in the operation of the drainage utility. All stormwater system service charges shall be deposited in this fund, to be

used only for the purpose of paying all or any part of the cost and expense of providing stormwater system services, or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bond issued for such purpose. The stormwater system service charge rates shall be established by ordinance.

12.40.075 Stormwater system service charges - Sufficiency. The stormwater system service charges, inspection and permit fees, application and connection fees, and such other fees and charges as are provided for the support of the stormwater system shall be necessary and sufficient in the opinion of the city council to pay for the following:

- (1) The costs associated with the development, adoption and implementation of a comprehensive storm drainage utility master plan;
- (2) The costs, including debt service and related financing expenses, of the construction and reconstruction of storm drainage and water quality facilities necessary and required for the management of storm and surface waters that benefit the service area;
- (3) The operation, repair, maintenance, improvement, replacement and reconstruction of storm drainage facilities that benefit the service area;
- (4) The purchase of a fee or lesser interest, including easements, in land which may be necessary for the storm drainage system in the service area including, but not limited to, land necessary for the installation and construction of storm drainage facilities and all other facilities which are reasonably required for proper and adequate management of stormwater for the benefit of the service area; and
- (5) The costs of monitoring, inspection, enforcement, and administration of the utility including, but not limited to, water quality surveillance, private maintenance inspection, construction inspection, and other activities which are reasonably required for the proper and adequate implementation of the city's storm and surface water policies.

The fees and charges to be paid and collected pursuant hereto shall not be used for general or other governmental or proprietary purposes of the city except to pay for the equitable share of the costs of accounting, management, and government thereof incurred on behalf of the utility.

12.40.080 Revenue disposition and expenditure conditions. All moneys obtained pursuant to this chapter shall be credited and deposited in the storm and surface water ~~drainage system~~ fund. Moneys deposited in the storm and surface water ~~drainage system~~ fund from stormwater system service ~~drainage service~~ charges shall be expended for administering, operating, maintaining, or improving the drainage system, including all or any part of the cost of planning, designing, acquiring, constructing, repairing, replacing, improving, regulating, educating the public, or operating present or future drainage facilities owned by the utility, or to pay or secure the payment of all or any portion of any debt issued for such purpose and the

related reserve and coverage requirements. Moneys shall not be transferred to any other funds of the city except to pay for expenses attributable to the system.

12.40.085 Annual review of rates. The city council should review the stormwater system service charges annually to ensure the rates charged are sufficient to cover the operational and capital costs of the stormwater drainage system. The rates shall be set by ordinance.

12.40.090 Liability disclaimer. Floods from ~~storm water~~ stormwater runoff may occasionally occur which exceed the capacity of drainage facilities constructed and maintained by funds made available under this chapter. This chapter does not imply that property liable for the drainage service charge established herein will always be free from ~~storm water~~ stormwater flooding or flood damage. The establishment of this utility does not purport to reduce the need or the necessity for the owner obtaining flood insurance.

This chapter shall be administered and enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

No provision of or any term used in this chapter is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action.

12.40.100 Delinquent payments – Enforcement procedures.

- (1) DrainageStormwater system service charges or any part thereof which become delinquent shall bear interest as provided in RCW 35.67.200 at the rate of eight percent (8%) per year, or such rate as may hereafter be authorized by law, computed on a monthly basis from the date of delinquency until paid.
- (2) The city shall have a lien for all delinquent and unpaid ~~drainage-stormwater system~~ service charges, including interest thereon, against any parcel for which the ~~drainage~~stormwater system service charges are delinquent as provided by RCW 35.67.200. The lien shall have superiority as established by RCW 35.67.200 and shall be foreclosed in the manner provided in RCW 35.67.210 through 35.67.290. In the case of foreclosure actions to collect delinquencies, the city shall seek also to collect reimbursement of reasonable costs of collection including, but not limited to, attorney's fees, staff time, and filing fees.
- (3) The city shall have the authority to enforce its lien by cutting off and refusing water service to the premises to which such stormwater sewer services were furnished after the charges become delinquent and unpaid, until the charges are paid, as provided in RCW 35.67.290.

12.40.105 Billing and collection procedures. Billing and collection procedures for the utility shall be as provided in this title and OHMC Title 3 and under state law as now in effect or hereafter amended.

144

Section Two. Transition period for public benefit non-profit corporations and schools. The City Council directs that the special rate established for "churches", "charitable organizations" and "schools" pursuant to former OHMC 12.40.030(3)(c) (enacted in Ordinance No.1084 adopted in 1997) shall be phased out over a five-year period, beginning on the effective date of this Ordinance. This five-year period shall be for the purpose of providing those churches, charitable organizations and schools receiving the discounted special rate as of the effective date of this Ordinance with a transition period to adjust their budgets to the same rate classification as all other non-single family residential users. The special rate shall not be extended to churches, charitable organizations and schools establishing new service after the effective date of this Ordinance.

Section Three. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Four. Effective Date. This Ordinance shall be in full force and effect five days after publication.

PASSED by the City Council this ____ day of _____, 2010.
APPROVED by its Mayor this ____ day of _____, 2010.

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

Published: _____

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City of Oak Harbor
City Council Agenda Bill

Agenda Bill No. 11
Date: July 6, 2010
Subject: 2010 Solid Waste Franchise

FROM: Margery Hite, City Attorney

**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:

Purpose: This ordinance provides a solid waste franchise to Island Disposal for areas annexed under Ordinance Nos. 1500, 1528 and 1557.

Authority: Pursuant to RCW 35A.14.900, the City is required to award a franchise for a term of not less than seven (7) years to a garbage disposal firm which had been operating in territory that was annexed by the City. Further, such a firm has a cause of action for "measurable damages" for cancellation of the prior franchise through annexation.

Description: This ordinance grants the franchise required by RCW 35A.14.900 and provides an additional three-year term in satisfaction of any claim for "measurable damages". The franchise covers annexations under the following ordinances:

Ordinance #1500 -- Wright, Littke and Oak Harbor Church of Christ
Ordinance #1528 -- Foreman
Ordinance #1557 -- Gentry

RECOMMENDED ACTION:

Adopt the ordinance granting a franchise for solid waste disposal services to Island Disposal for a period of ten (10) years in recently annexed portions of the City.

ATTACHMENTS:

Ordinance

2010 Solid Waste Franchise
Agenda Bill - 1

146

MAYOR'S COMMENTS:

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2010 Solid Waste Franchise
Agenda Bill - 2

147

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

GRANTOR: City of Oak Harbor

GRANTEE: Island Disposal

LEGAL DESCRIPTIONS:

- A portion of the G.W.L. Allen Donation Land Claim and the Plat of GOLDIE ROAD ACRES, as per plat recorded in Volume 4 of Plats, Page 31, records of Island County, being in Section 35, Township 33 North, Range 1 East of the Willamette Meridian, Island County, Washington, said portion being more particularly described as follows: (See Exhibit "A" attached for entire legal description)
- SITUATED IN THE COUNTY OF ISLAND, STATE OF WASHINGTON: THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 33 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS: (See Exhibit "B" attached for legal description)
- Situated in the County of Island, State of Washington and contiguous to the City of Oak Harbor, Tracts of land lying within the South ½ of the Northwest ¼ and within the South ½ of the Northeast ¼ of Section 10, Township 32 North, Range 1 East of the Willamette Meridian Parcels within the South ½ of the Northwest ¼ (See Exhibit "C" attached for entire legal description)

PARCEL NUMBERS: S7020-00-00001-1, R13335-394-3060, S7020-00-00002-0, S7020-00-00001-2, S7020-00-00001-3, R13336-508-0480, R13210-298-1650, R13210-298-2300, R13210-324-2530, R13210-364-2330, R13210-364-1900 and R13210-364-1730

Island Disposal Solid Waste Franchise
Ordinance - 1
5/27/2010 4:28 PM

148

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR PROVIDING A SOLID WASTE FRANCHISE TO ISLAND DISPOSAL FOR AREAS ANNEXED UNDER ORDINANCE NOS. 1500, 1528 AND 1557

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

WHEREAS, Ordinance Nos. 1500, 1528 and 1557 annexed certain lands subject to the Grantee's franchise from the WUTC into the City of Oak Harbor; and

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

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

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

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

- (1) **Franchise area.** This franchise applies to the areas annexed into the city through the adoption of Ordinance Nos. 1500, 1528 and 1557, described in Exhibits "A", "B" and "C" hereto attached.

Exhibit "A" -- Legal description of the annexation area under Ordinance No. 1500 (Wright, Littke and Oak Harbor Church of Christ)

Exhibit "B" -- Legal description of the annexation area under Ordinance No. 1528 (Foreman)

Exhibit "C" -- Legal description of the annexation area under Ordinance No. 1557 (Gentry)

- (2) **Nature of the franchise.** Grantee shall hereby have an exclusive right during the term of the franchise granted by this ordinance to collect and haul for hire over the streets

and alleys of the city all solid waste collected from private customers located within the corporate limits of the city in the franchise area described in paragraph (1) above.

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

- (3) Duration of the franchise. The franchise shall become effective five (5) days after publication of this ordinance and shall continue for ten (10) years from its effective date. Thereafter, the franchise shall terminate unless extended by written agreement approved by City Council.
- (4) Acceptance of franchise. Acceptance of this franchise shall constitute Grantee's agreement that the ten (10) year franchise period provided herein constitutes full and fair compensation to Grantee for any damages that Grantee may have suffered as a result of the annexations of territory pursuant to Ordinance Nos. 1500, 1528 and 1557.
- (5) Utility tax. The Grantee shall pay utility taxes imposed on solid waste utility services by the City of Oak Harbor for all solid waste utility services provided by the franchise within the city of Oak Harbor and all areas listed in this franchise ordinance in which a franchise is granted or extended or both granted and extended.

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

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

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

It is further provided, that if the WUTC ceases regulating rates for Grantee in Island County, then the Grantee's rates for solid waste collection services in the franchise area shall be the same as those rates established by the City for customers of the City solid waste utility; provided, that the Grantee shall have the right to request a public hearing within thirty (30) days of notice of the application of City rates to the franchise area to establish a different rate structure for the franchise area. After public hearing

on the Grantee's proposed rates, the City shall establish such rates as are reasonable based on the charges last approved by the WUTC to cover the cost of service and to allow for sufficient profit in the provision of solid waste collection service.

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

- (7) **Frequency of collections.** Grantee shall offer regular collections of solid waste throughout the business areas assigned to the Grantee and shall offer once a week collection in all residential districts assigned to the Grantee in accordance with the franchise issued by the WUTC; provided, that the City may modify this clause as to frequency of collections or solid waste and may prescribe the hours during which collections will be made, and Grantee shall comply with all such regulations so adopted and prescribed.
- (8) **Service required.** Grantee shall furnish collection service to any person or organization, public or private, within the franchise area within thirty (30) days of receipt of a written request for such service.

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

- (9) **Customer list.** Grantee will advise City of lists of customers on a regular basis to be established by the City so that the City may use such information to assure universal collection of solid waste service for the City of Oak Harbor.
- (10) **Yard Waste Services.** The City may provide yard waste collection services in the annexation areas.
- (11) **Reserved regulations.** The City reserves the right to impose additional regulations upon Grantee in its discretion for purposes of health, welfare and safety.

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

Section Three. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

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

PASSED by the City Council and approved by its Mayor this ____ day of _____, 2010.

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

Published: _____

A portion of the G.W.L. Allen Donation Land Claim and the Plat of GOLDIE ROAD ACRES, as per plat recorded in Volume 4 of Plats, Page 31, records of Island County, being in Section 35, Township 33 North, Range 1 East of the Willamette Meridian, Island County, Washington, said portion being more particularly described as follows:

All of Koetje Road, EXCEPT that portion thereof known as Koetje Street lying within the City of Oak Harbor;

ALSO all of Easy Street;

ALSO all of Lots 1 and 2 (also known as Tract 1 and 2) in aforesaid Plat of GOLDIE ROAD ACRES;

ALSO that portion of aforesaid G.W.L. Allen Donation Land Claim described as follows: Commencing at the Northwest corner of Lot 1 (also known as Tract 1) of said Plat of GOLDIE ROAD ACRES; thence West 150 feet to the True Point of Beginning; thence South 347.46 feet, more or less, to Dean A. Davis tract; thence Westerly along North line of said Davis tract to the East right of way margin of aforesaid Koetje Road; thence North along said East Margin and East along South right of way margin of aforesaid Easy Street to the True Point of Beginning.

EXHIBIT "A"

154

SITUATED IN THE COUNTY OF ISLAND, STATE OF WASHINGTON:

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 33 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 36, SAID POINT BEING A DISTANCE OF 390.0 FEET SOUTH OF THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 36; THENCE NORTH ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 36, A DISTANCE OF 390.0 FEET, TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 36; THENCE SOUTH 89°03' WEST, ALONG THE NORTH LINE OF SAID SECTION 36, A DISTANCE OF 380.0 FEET; THENCE SOUTH, PARALLEL WITH THE WEST LINE OF SAID SECTION 36, A DISTANCE OF 155.0 FEET; THENCE SOUTHEASTERLY, IN A STRAIGHT LINE, A DISTANCE OF 247 FEET, MORE OR LESS TO A POINT LYING SOUTH 89°03' WEST, A DISTANCE OF 303.0 FEET FROM THE POINT OF BEGINNING; THENCE EASTERLY ALONG SAID LINE 303.0 FEET TO THE POINT OF BEGINNING;

EXCEPT THAT PORTION LYING EAST OF THE FOLLOWING DESCRIBED LINE AS DESCRIBED IN THREE-PARTY BOUNDARY LINE AGREEMENT RECORDED SEPTEMBER 16, 1987 UNDER AUDITOR'S FILE NO. 87012732 AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 36; THENCE SOUTH 88°35'38" EAST ALONG THE NORTH LINE THEREOF, A DISTANCE OF 667.70 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 36, AND THE TRUE POINT OF BEGINNING, THENCE SOUTH 02°20'07" WEST PARALLEL WITH THE WEST LINE OF SAID SECTION 36, A DISTANCE OF 678.13 FEET TO THE NORTH LINE OF THE PLAT OF UPLANDS WEST, DIVISION NO. 1, AS RECORDED IN VOLUME 12 OF PLATS, PAGE 4, RECORDS OF ISLAND COUNTY, AND SOUTHERLY TERMINUS OF HEREIN DESCRIBED LINE.

ALSO EXCEPT THAT PORTION AS DEEDED TO ISLAND COUNTY FOR ROAD BY DEED RECORDED MARCH 28, 1955 UNDER AUDITOR'S FILE NO. 97977.

ROAD RIGHT OF WAY INCLUDED IN THE ANNEXATION:

A STRIP OF LAND 60 FEET IN WIDTH IN THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 33 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN AND THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 33 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, LYING 30 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 36 FOR A DISTANCE OF 133.3 FEET EAST ALONG THE NORTHLINE OF SAID SECTION 36;

A STRIP OF LAND 50 FEET IN WIDTH IN THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 33 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN AND THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 33 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, LYING 30 FEET NORTH AND 20 FEET SOUTH OF THE FOLLOWING DESCRIBED CENTERLINE BEGINNING AT A POINT 133.3 FEET EAST ALONG THE NORTHLINE OF SAID SECTION 36 THENCE EAST 534 FEET:

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 36; THENCE 88°35'36"E, ALONG SAID NORTH LINE OF SAID SECTION 36 A DISTANCE OF 667.3 FEET TO THE TO THE EASTERLY TERMINUS OF SAID CENTERLINE.

SITUATE IN THE COUNTY OF ISLAND, STATE OF WASHINGTON.

EXHIBIT "B"

155

Tracts of land lying within the South ½ of the Northwest ¼ and within the South ½ of the Northeast ¼ of Section 10, Township 32 North, Range 1 East of the Willamette Meridian Parcels within the South ½ of the Northwest ¼ have the following Parcel Numbers:

R13210-298-1650, R13210-298-2300, R13210-324-2530, R13210-364-2330, R13210-364-1900 and R13210-364-1730. The exterior perimeter boundary of this Land Annexation is further described as follows:

LEGAL DESCRIPTION FOR THE
ANNEXATION OF LAND, INCLUDING
ADJACENT ROAD RIGHTS OF WAY, INTO
THE CITY OF OAK HARBOR,
ISLAND COUNTY, WASHINGTON

THOSE PORTIONS OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 32 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, COUNTY OF ISLAND, STATE OF WASHINGTON, COLLECTIVELY DESCRIBED HEREINAFTER AS PARCELS 3 THROUGH 8, AND THAT PORTION OF GOVERNMENT LOT 2 IN SAID SECTION 10, HEREINAFTER DESCRIBED AS PARCEL 11:

PARCEL 3

THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 32 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN.

ALSO THE EAST HALF OF THE EAST HALF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SUBDIVISION, AS PER BOUNDARY LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NUMBER 4125909, RECORDS OF SAID COUNTY OF ISLAND, STATE OF WASHINGTON.

PARCEL 4

THE EAST 666.97 FEET OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 32 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, COUNTY OF ISLAND, STATE OF WASHINGTON;

TOGETHER WITH THAT PORTION OF THE FOLLOWING DESCRIBED PARCEL LYING SOUTH OF THE CERTAIN FENCE LINE AS IT WAS ESTABLISHED IN ISLAND COUNTY SUPERIOR COURT CAUSE NO. SC-14966:

EXHIBIT "C"-1

THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID
NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 32 NORTH, RANGE 1
EAST, WILLAMETTE MERIDIAN, ISLAND COUNTY, WASHINGTON;

EXCEPT THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST
QUARTER OF SAID SUBDIVISION, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTH HALF OF THE
SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE WEST
ALONG THE NORTH LINE OF SAID SOUTH HALF, 250 FEET; THENCE SOUTH
135 FEET; THENCE EAST 250 FEET; THENCE NORTH 135 FEET TO THE TRUE
POINT OF BEGINNING.

ALSO EXCEPT THAT PORTION OF SAID SUBDIVISION LYING EAST OF THE
STATE ROUTE 20 RIGHT-OF-WAY, AS PER PLAT OF EAGLE CREST, DIVISION
1, RECORDED UNDER AUDITOR'S FILE NUMBER 93005106, AND PER PLAT OF
EAGLE CREST, DIVISION 2, RECORDED UNDER AUDITOR'S FILE NUMBER
94011633, RECORDS OF ISLAND COUNTY WASHINGTON.

PARCEL 5

THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF
SAID NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 32 NORTH, RANGE
1 EAST, WILLAMETTE MERIDIAN, COUNTY OF ISLAND, STATE OF
WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTH HALF OF SAID
SOUTHEAST QUARTER OF SAID NORTHWEST QUARTER; THENCE WEST,
ALONG THE NORTH LINE OF SAID SOUTH HALF OF THE SOUTHEAST
QUARTER OF SAID NORTHWEST QUARTER, 250 FEET; THENCE SOUTH 135
FEET; THENCE EAST 250 FEET TO THE EAST LINE OF SAID SOUTHEAST
QUARTER OF SAID NORTHWEST QUARTER; THENCE NORTH 135 FEET TO
THE POINT OF BEGINNING.

PARCEL 6

THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID
NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 32 NORTH, RANGE 1
EAST, WILLAMETTE MERIDIAN, COUNTY OF ISLAND, STATE OF
WASHINGTON;

EXCEPT THAT PORTION LYING SOUTH OF THE CERTAIN FENCE LINE AS IT
WAS ESTABLISHED IN ISLAND COUNTY SUPERIOR COURT CASE NUMBER
SC-14966;

EXHIBIT "C" - 2

PARCEL 7

THE EAST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 32 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, COUNTY OF ISLAND, STATE OF WASHINGTON, ALSO KNOWN AS PARCEL "A", OF SHORT PLAT 76/55, FILED UNDER AUDITOR'S FILE NUMBER 301894, RECORDS OF ISLAND COUNTY, STATE OF WASHINGTON;

PARCEL 8

THE WEST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 32 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, COUNTY OF ISLAND, STATE OF WASHINGTON, ALSO KNOWN AS PARCEL "B", OF SHORT PLAT 76/55, FILED UNDER AUDITOR'S FILE NUMBER 301894, RECORDS OF ISLAND COUNTY, STATE OF WASHINGTON.

PARCEL 11

THAT PORTION OF GOVERNMENT LOT 2 IN SECTION 10, TOWNSHIP 32 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, LYING WEST OF TRACTS A AND B, AS PER PLAT OF EAGLE CREST, DIVISION 1, RECORDED UNDER AUDITOR'S FILE NUMBER 93005106, TOGETHER WITH THAT PORTION OF SAID GOVERNMENT LOT 2, LYING WEST OF TRACT D, AS PER PLAT OF EAGLE CREST, DIVISION 2, RECORDED UNDER AUDITOR'S FILE NUMBER 94011633, RECORDS OF ISLAND COUNTY WASHINGTON.

Situated in Island County, Washington

Total area for said Parcels 3 through 8, and Parcel 11, is 41.251 acres.

EXHIBIT "C" - 3