

City of Oak Harbor

**City Council
Meeting Agenda**

for

**September 7, 2010
6:00 p.m.**

School is back in session

Oak Harbor City Council
Tuesday, September 7, 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 Lemuel Villano, Southern Baptist

ROLL CALL

MINUTES

NON-ACTION COUNCIL ITEMS:

1. Commendation from Police Department – Devin Brooks.
2. Proclamation – United Way Month.
3. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

4. Consent Agenda:
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 - a. Park Board Appointment – Daisy Sapida.
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 - b. Planning Commission Appointment – Jeff Wallin.
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 - c. Planning Commission Appointment – Gerry Oliver.
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 - d. Civil Service Appointment – Patty Encinas.
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 - e. Arts Commission Re-appointment – Nora O'Connell-Balda.
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 - f. Arts Commission Re-appointment – Fern Miller.
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 - g. Excused Absence – Councilmember Beth Munns.
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 - h. Noise Permit – Richard Bond/Click Music.
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 - i. Noise Permit – First United Methodist Church.
 - j. Approval of Accounts Payable Vouchers (Pay Bills).
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5. Public Hearing and Final Consideration – Ordinance, Water Rates and Charges.
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6. Public Hearing and Final Consideration – Ordinance, Sewer Utility Charges.
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7. Public Hearing – Adult Entertainment Work Plan (Zoning Code Amendment).
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8. Public Hearing – Release of Easement.
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9. Bid Award – Fuel Island Equipment Installation.

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10. Bid Award – Scenic Heights Trailhead.

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11. Bid Award – Marina Dredging.

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12. Interlocal Agreement – Island County, Pioneer Way Street Improvements.

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13. 2011 – 2012 – Strategy Statement.

14. City Administrator's Comments.

15. Councilmembers' Comments.

- Standing Committee Reports.

16. Mayor's Comments.

ADJOURN

*"Without continual growth and progress, such words as improvement, achievement, and success have no meaning."
- 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
Wednesday, August 4, 2010, 6:00 p.m.
City Hall – Council Chambers**

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

INVOCATION Paul Orritt, St. Stephens Anglican Church

ROLL CALL

Mayor Jim Slowik
Six Members of the Council,
Rick Alberg
Jim Campbell
Beth Munns
Danny Paggao, Mayor Pro Tem
Jim Palmer
Bob Severns

Paul Schmidt, City Administrator
Margery Hite, City Attorney
Cac Kamak, Senior Planner
Ethan Spoo, Senior Planner
Cathy Rosen, Public Works Director
Steve Bebee, Public Works Operations Manager
Eric Johnston, City Engineer
Arnie Peterschmidt, Project Engineer
Rick Wallace, Chief of Police
Mark Soptich, Fire Chief
Mike McIntyre, Senior Services Director
Renée Recker, Executive Assistant to the Mayor

Councilmember Scott Dudley was absent and formally excused from this meeting. Finance Director, Doug Merriman and Development Services Director, Steve Powers were absent and formally excused from this meeting.

MINUTES

MOTION: Councilmember Munns moved to approve the 7/6/10 regular meeting minutes and 7/15/10 special meeting minutes. The motion was seconded by Councilmember Campbell.

Councilmembers Alberg, Campbell, Munns, Paggao and Severns voted to approve the 7/6/10 regular meeting minutes. Councilmember Palmer abstained from the vote since he did not attend the 7/6/10 regular meeting. The motion carried.

Councilmembers Alberg, Campbell, Munns, Paggao, and Palmer voted to approve the 7/15/10 special meeting. Councilmember Severns abstained from the vote since he did not attend the 7/15/10 special meeting. The motion carried.

NON-ACTION COUNCIL ITEMS

Proclamation – Summer Reading Program

Councilmember Campbell read and presented this proclamation to Jane Lopez-Santillana, Children's Librarian. This summer's program has 850 participants and Ms.

Lopez-Santillana talked about upcoming reading program events at the Library including the August 17th Rocky the Shark Program which Mayor Slowik will attend. She thanked the City for its support and the sponsors who help make this program possible.

Employee Recognition – Chuck Brannan, Public Works, 15 Years

Public Works Director Cathy Rosen introduced Mr. Brannan, talked about his employment history with Public Works, and thanked him for 15 years of service. Mr. Brannan is an expert on sewer systems and inspection, has extensive knowledge of the City's sewer system, and is a tremendous employee and asset to the City. Mr. Brannan introduced his wife and mother noting that Oak Harbor has been his home since he was four years old.

Public Comments

Fred Henninger, 580 SE Ireland. Dr. Henninger is concerned about Council actions downtown and felt that taxpayers are not receiving the services they deserve from the City. Ordinances are enforced for some but not all citizens. Remove unlicensed vehicles and trailers that are parked in front of houses. People are living in their cars. Deployed personnel can park their vehicles on the base. Citizens on Patrol could help note these problems. Overgrown sidewalks are unsafe.

Dana Conklin, 32595 SR 20. Ms. Conklin spoke on behalf of Joel Douglas and read a letter titled *Funding for AICUZ Zone Acquisition* into the record. That letter and the accompanying capital budget request form are attached to these minutes as Exhibit A.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS

Consent Agenda

- a. Noise Permit – Pregnancy Care Clinic – Walkathon
- b. Noise Permit – 16th Birthday Party
- c. Noise Permit – First Reformed Church
- d. Noise Permit – Class Reunion
- e. Approval of Accounts Payable Vouchers

Councilmember Campbell asked that Item B – Noise Permit for a 16th Birthday Party be removed for discussion.

MOTION: Councilmember Campbell moved to approve Consent Agenda Items A, C, D, and E with Item E paying accounts payable check numbers 142130 – 142354 in the amount of \$693,212.56, accounts payable check numbers 142355 – 142356 and 142370 – 142373 in the amount of \$31,665.82, accounts payable check numbers 142374 – 142534 in the amount of \$426,190.79; payroll check numbers 93964 – 93973 in the amount of \$360,933.89, payroll check numbers 93974 – 94008 in the amount of \$652,196.76, and payroll check numbers 94009 – 94034 in the amount of \$48,838.75. The motion was seconded by Councilmember Palmer and carried unanimously.

Item B – Noise Permit for a 16th Birthday Party

Councilmember Campbell asked that all noise permits require amplified sound speakers to be pointed away from the RV Park. This permit did not show that requirement and should be changed.

MOTION: Councilmember Campbell moved to approve the noise permit for the 16th birthday party. The motion was seconded by Councilmember Palmer and carried unanimously.

City Attorney Hite asked if the motion should be clarified regarding amplified sound.

MOTION: Councilmember Campbell moved to require that amplified sound in Windjammer Park be pointed away from the RV Park. The motion was seconded by Councilmember Palmer and carried unanimously.

Public Hearing and Final Consideration – Utility Policy Ordinance, Stormwater

Public Works Director Cathy Rosen presented this agenda bill for final consideration of the utility policy ordinance for the storm drain utility. 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 storm water regulation. 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.

Ms. Rosen also mentioned the effective date of this ordinance which will be December 20, 2010.

Mayor Slowik opened the Public Hearing at 6:20 p.m.

Fred Henninger, 580 SE Ireland. Dr. Henninger noted that funding was not attached to this ordinance and that the drainage system has not changed in his neighborhood since it was built. Dr. Henninger's home is at the lowest point of his block and he built a cement wall to deter water. Single family residents will be burdened with this ordinance. There are changes for multi-family and duplex units which are more beneficial than what is provided for single-family residences. Work toward stormwater treatment which is worthwhile.

Mel Vance, P.O. Box 2882. Mr. Vance objected to the use of an equivalent residential unit. Someone with more impervious surface pays the same rate as someone with less impervious surface. Use a square foot calculation to establish the rate. We should be paying for maintenance and upgrades, but I will pay more than someone with a larger house.

With no other comments coming forth, Mayor Slowik closed the public hearing at 6:25 p.m.

Council Discussion

Councilmember Munns asked Public Works Director Rosen to address Dr. Henninger's concerns. Ms. Rosen talked about the NPDES permit process and requirements such as: public education, street sweeping, OHMC enforcement including illicit discharge, erosion, ditch maintenance and many other things that have caused the City to change this utility. Mayor Slowik also talked about the deteriorated 42-inch outfall and the effect of storm events on the pipe. Single-family rates have been averaged and the cost to prorate individually was considered but would be cost-prohibitive since individual properties and their rates would need to be reviewed annually since properties can change. Phase II cities are burdened with unfunded mandates.

Discussion continued about customer differences, square footage requirement, run-off from streets, the number of public meetings and workshops which have been held regarding this ordinance, monetary incentives, Puget Sound Partnership and the eventuality of cleaning water at the source, standards of control necessary for a NPDES city, and enforcement authority.

MOTION: Councilmember Munns moved to adopt the storm drain utility ordinance amending Chapter 12.40 of the Oak Harbor Municipal Code. Councilmember AlMBERG seconded the motion. Councilmembers AlMBERG, Campbell, Munns, Paggao, and Severns voted in favor of the motion. Councilmember Palmer abstained from the vote. The motion carried.

Public Hearing and Final Consideration – 2010 Solid Waste Franchise

Public Works Director Cathy Rosen presented this agenda bill for an ordinance which will provide a solid waste franchise to Island Disposal for areas annexed under ordinance numbers 1500, 1528, and 1557. Pursuant to RCW 35A.14.900, the City is required to award a franchise for a term of not less than seven years to a garbage disposal firm which has been operating pursuant to permit or franchise 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. Island Disposal was operating a solid waste disposal firm pursuant to Washington UTC certificate at the time of annexations and is, therefore, entitled to a franchise from the City. The ordinance also provides an additional three-year term in satisfaction of any claim for "measurable damages" providing a ten-year franchise agreement with Island Disposal.

Mayor Slowik opened the public hearing at 6:35 p.m. but there were no comments so the public hearing was closed.

Council Discussion

Discussion followed about the franchise if Island Disposal is sold, a ten-year franchise versus seven years, recent case law regarding measurable damages (three additional years would settle a claim for damages), yard waste pick up, recycling pick up, and that at the end of ten years the City could provide service to these areas. Annexations require a franchise or purchase and Island Disposal has the right under state law for seven years plus three years for measurable damages. The effective date is five days after publication and neighborhoods are given advance notice about service changes.

MOTION: Councilmember Munns moved to adopt the ordinance granting a franchise for solid waste disposal services to Island Disposal for a period of ten years in recently annexed portions of the City. The motion was seconded by Councilmember Severns and carried unanimously.

Public Hearing – Ordinance, Fairway Point Division 4 Overlay Zone

Senior Planner Cac Kamak presented this agenda bill and ordinance which will amend the City's official zoning map and indicate a PRD overlay zone over the underlying R-1 Single-Family Residential zoning for the Fairway Point Division 4 Planned Residential Development. Adoption of the PRD overlay zone and amending the zoning map, is the last step in the approval process for the Fairway Point Division 4 PRD.

Mayor Slowik opened the public hearing at 6:45 p.m. but there were no comments so the public hearing was closed.

MOTION: Councilmember Severns moved to approve the ordinance amending the zoning map for the Fairway Point Division 4 PRD. The motion was seconded by Councilmember Campbell and carried unanimously.

Public Hearing – Transportation Improvement Program (TIP)

Project Engineer Arnie Peterschmidt presented this agenda bill and resolution for the 2011 – 2016 Six-Year Transportation Improvement Program (TIP). The City is required by state law to submit an approved six-year Transportation Improvement Program (TIP). The primary purpose of the TIP is to facilitate use of federal transportation funds awarded to the City. Projects that have federal funding must appear in the six-year TIP at the local and State level so that the City can obligate and eventually use the federal funds. The projects listed on the TIP are coordinated with those listed in the Transportation Element of the Comprehensive Plan. Three projects listed on the previous TIP and in the Transportation Element of the Comprehensive Plan are under construction and will be completed this summer. These projects are: The North Oak Harbor Street Improvement, the NE 7th Avenue Intersection Improvement and the Arterial Sidewalk Phase II projects. The NE 7th Avenue Intersection Improvement and

Arterial Sidewalk Phase II projects were listed separately in the TIP but were included under the North Oak Harbor Street Improvement in the Transportation Element. No new projects have been added to the TIP.

Mayor Slowik opened the public hearing at 6:50 p.m.

Fred Henninger, 580 SE Ireland. The Pioneer Way Improvement Project became number one on the list this year, but it was not number one last year. SR-20 Improvements between Beeksma and Swantown was the project at the top of the list. You assured me the funds were earmarked for this and now this project is at the bottom of the list. Swantown Road needs more attention than Pioneer. This is on the backs of the people who pay taxes and it is unbelievable and ludicrous that you feel this should be the last priority.

Mel Vance, P.O. Box 2882. Mr. Vance agreed with Dr. Henninger's comments. SR-20 is a state highway and the City may not have control over it. Most of these projects have been brought forward over the last eight or ten years. Should they really be on the six-year plan?

With no other comments coming forth, Mayor Slowik closed the public hearing at 6:55 p.m. Mayor Slowik noted that he had attended a recent RTPO meeting and a repaving project from Cackle Corner to the Best Western is on their agenda.

Council Discussion

Council discussion followed about the SR-20 Improvement Project (listed last year and for three prior years) which was listed at number one because of a one million dollar RTPO grant for the widening of SR-20; the second project was the unsecured funding balance. City Engineer Eric Johnston noted that the unused funds were returned to RTPO so this project now becomes a single TIP project and was given a different priority because of funding availability. Priority is somewhat arbitrary. Pioneer Way gained higher priority because funding is secured and the project can move forward. SR-20 is in the Comp Plan and TIP but there is no state funding to do this type of project. The thirteen million dollars for the SR-20 project is funding that was estimated four years ago. Mr. Johnston talked about the submittal process for the TIP (City to RTPO and then to the state for the regional TIP). Most of the projects that do not have an S designation do not make it beyond the regional TIP. Prioritization is best dealt with through the Capital Improvement Program. The Marina and Pioneer Way are the top two projects for the Capital Improvement Program. Discussion continued about NE 7th Avenue and its needs and Mr. Peterschmidt will be actively seeking funding for this project. Councilmember Paggao noted an error; the TIP should show "from Oak Harbor Street to SR-20" for the NE 7th Avenue project. Councilmember Campbell was concerned with the turning radius needed by a large vehicle (school bus, truck, RV) from Crosby onto Oak Harbor Street due to the island placement. Mr. Peterschmidt noted that changes are going to be made to the islands at that intersection and he has talked to the OHSD transportation director. Although there was a significant design effort to make this intersection correct for large vehicles, Engineering has since decided to make some modifications to these islands and change the curb type. City Engineer Johnston talked about the high number of accidents at the intersection of Seventh

Avenue and Oak Harbor Street. Mr. Johnston also talked about improvements to Oak Harbor Road and making it safer for both pedestrians and vehicles. Medians are intended to help pedestrians cross safely but can also help reduce accidents for both pedestrians and vehicles, especially on high-volume streets. Engineering will be looking at changes to accommodate larger vehicles but it is difficult to design for every single vehicle size.

MOTION: Councilmember Almberg moved to adopt Resolution 10-19 approving the 2011 – 2016 Six-Year Transportation Improvement Program. The motion was seconded by Councilmember Campbell and carried unanimously.

Break

Mayor Slowik called for a break at 7:05 p.m. and the meeting reconvened at 7:10 p.m.

Regular Meeting

Mayor Slowik also noted that this is a regular meeting as defined in OHMC 1.04.010 (2) and not a special meeting as announced earlier in the evening.

Introduction – Ordinance, Criteria for Water Rates and Charges

Cathy Rosen presented this agenda bill and introductory ordinance which would amend Chapter 13.32 of the Oak Harbor Municipal Code entitled "Rates and Charges." It establishes the criteria to be used in determining water utility rates and establishes administrative costs and consumptions for various classes of customers. The ordinance also provides that the water rates and charges be used exclusively for providing water utility services.

Mayor Slowik called for public comments.

Fred Henninger, 580 SE Ireland. There is a discrepancy on how many meters there are and a meter should not have anything to do with consumption. Why is multi-family different? We are dividing this utility into residents and then all others including all kinds of businesses. Single-family residents pay a greater rate than multi-family housing. This is the same for the sewer rate. People with a single meter should have a break for gardening. The Navy water has been excluded. There could be a conflict of interest. Dr. Henninger would like to see Navy contracts for sewer and water. (This will be considered a formal public records request.)

Mayor Slowik noted that the City signed a new sewer contract for more revenue from the Navy and water rates are separate.

Mel Vance, P.O. Box 2882. Connection fees for new growth should be the primary source of funds for expansion of utility systems. Not sure if they are high enough. Existing customers do not drive the system. New connections do and should pay for the vast majority of costs. I like that we are going to an inclining block. We collect rainwater for our garden and do not water the lawn at all to conserve water.

There were no other public comments.

Mayor Slowik noted that these are policy ordinances; no fees/rates in tonight's presentation.

Council Discussion

Discussion followed about consumption and rates, how the base rate is calculated, and how multi-family buildings are metered and billed. When actual rates are established they will be based on December water usage since irrigation does not occur in December. Deduct meters were also discussed. The new bill format will have a conservation graph.

MOTION: Councilmember Campbell moved to schedule a public hearing for September 7, 2010 for the Ordinance amending Chapter 13.32 of the Oak Harbor Municipal Code entitled "Rates and Charges." The motion was seconded by Councilmember Alberg and carried unanimously.

Introduction – Ordinance, Sewer Utility Charges

Public Works Director Cathy Rosen presented this agenda bill which introduced an ordinance establishing the policies for rates, charges, and customer classes for sewer service. This ordinance amends Chapter 14.05 of the Oak Harbor Municipal Code entitled "Rates and Collections" for sewer. It establishes the criteria to be used in determining sewer utility rates and establishes four classes of customers based on treatment, collection, and administrative costs.

Mayor Slowik called for public comments.

Fred Henninger, 580 SE Ireland. For the billing of sewer and ready to serve water, there is a problem whether ready to serve is more for single family than multi-family so why is sewer treated any differently? We all use sewer for the same purpose and there is a difference in rate.

There were no other public comments.

Council Discussion

Councilmember Munns asked Ms. Rosen to comment on Dr. Henninger's remarks. Ms. Rosen noted that, regarding cost of service, the City looked at amount of flow from various customer classes. Multi-family is generally smaller and produces less sewer. The other thing which is considered is strength of volume. All of these elements were considered in establishing the rate structure.

MOTION: Councilmember Severns moved to schedule a public hearing for September 7, 2010 for the Ordinance amending Chapter 14.05 of the Oak Harbor Municipal Code entitled "Rates and Collections" for sewer. The motion was seconded by Councilmember Alberg and carried unanimously.

Homeland Security Grant Agreement

Fire Chief Mark Soptich presented this agenda bill for approval of an agreement between the City and Island County authorizing the City to receive \$27,270 from the State Homeland Security Grant Program. Formalizing the City's Department of Emergency Services through the State of Washington, has made the City eligible to apply for and receive funding from grant sources. The Department of Homeland Security (DHS), Office of Grants and Training, is one grant that provides funds to enhance the capability of state and local government to prevent, deter, respond to, and recover from incidents of terrorism. This grant is provided to nine Regional Homeland Security Districts (Regions) to address unique equipment, exercises, training, planning, and administrative needs of local emergency responders. The grant is based on the City's population and totals \$27,270 for the period of September 2008 through October 2010. This agreement is required with Island County and utilizes the vetting and reimbursement process to receive the funds. These funds will make improvements in the City's Emergency Operations Center and a mobile command unit enhancing the City's ability to maintain interoperable communications during emergencies.

Mayor Slowik called for public comments.

Mel Vance, P.O. Box 2882. Mr. Vance complimented the Fire Department for pursuing these funds and would like to see the Emergency Manager seek additional grant funds for public education. Public knowledge can help in a disaster and reduce the load on emergency personnel.

There were no other comments.

Mayor Slowik talked about the success of National Night Out which was held the day before this Council meeting. 3,000 people attended this multiple agency event.

Council Discussion

Council thanked Chief Soptich and staff for finding these grants.

MOTION: Councilmember Palmer moved to authorize the Mayor and the Director of Emergency Services to sign the agreement with Island County. The motion was seconded by Councilmember Severns and carried unanimously.

Pioneer Way Right-of-Way Acquisition – Additional Legal Fees

City Administrator Paul Schmidt presented this agenda bill seeking authorization to increase the allowable legal fees for acquisition of the undedicated right-of-way for the Pioneer Way Improvement Project. The law firm of Langabeer & Tull, P.S. has been actively working on the quiet title action for the sidewalk areas in the Pioneer Way right-of-way but has had to expend additional hours due to the number of parties with an interest in the undedicated areas. These include banks, heirs of earlier property owners, and other lien-holders. A professional services agreement amendment was submitted for Council approval for additional legal fees. The summary judgment motion

has been filed and is scheduled to be heard in late August. Depending upon the response of the remaining parties, legal counsel expects that the legal fees from May through the summary judgment motion will not exceed \$75,000. While this means that staff requests an amendment to authorize \$75,000 under the current contract, the total fees include the prior contract of \$30,000 and so come to \$105,000. To account for unforeseen legal contingencies, supplemental authority for the Mayor to authorize up to \$10,000 is also requested. In order to obtain authority to expend these supplemental fees, the law firm would have to make a specific request for authorization to the Mayor but it would not require further Council action. In all, this would authorize a maximum of \$115,000 in legal fees to quiet title the public right-of-way on the sidewalks on SE Pioneer Way. The Council was advised that only that amount necessary to complete the litigation will actually be expended. It should be noted that the additional fees incurred beyond the original estimate have been necessary to locate and come to an agreement with the many parties with a potential interest in the right-of-way.

Mayor Slowik called for public comments.

Mel Vance, P.O. Box 2882. After reading the published notice in the newspaper, I have concerns. The City is talking about use of sidewalks but the City is also seeking space above the sidewalks. The City could tell property owners to take down their awnings and they should be allowed to remain in place.

There were no other comments.

Council Discussion

Discussion followed about acquiring an easement right, not the fee title, and not everything above (air rights and the awnings) and under the ground. 31 properties with 26 solved is good news and moving from property acquisition to right-of-way is less costly. Mr. Schmidt and Mr. Powers noted that Oak Harbor's sign code does allow for awnings over sidewalk and other sections of commercial property. Discussion continued about the law firm's invoices, how many hours this will actually take, that this is the less expensive option, and that fees are well-documented. Discussion followed regarding the two property owners who oppose and if litigation would delay the project. The summary judgment will be held the third week in August but it is difficult to judge what a case will involve. The additional fees are attributable to searching for all parties with interest in this right-of-way. Discussion continued about this agenda bill's presentation to the Finance Standing Committee and the understanding of why these additional costs are not absorbed by the law firm. Final discussion followed about the corrected legal descriptions and the \$4,400 required to redo those descriptions – can this money be recouped. Mr. Schmidt talked about this error and the domino effect it created and that Council could authorize the mayor to seek reimbursement for that mistake; it is Council's prerogative. City Attorney Hite noted that the surveyors have been up front about the error and Langabeer & Tull have carefully tracked their time. The money would have to be recouped from the surveyor. Mayor Slowik noted that the surveyor corrected the error at no charge; the cost was in legal fees. That money went to the attorneys. Discussion continued about recovering this money, whether staff should negotiate with the surveyor, and the pro bono work which was done by the

surveyor on the Boardwalk. Rather than a formal motion, Council consensus was to have staff discuss the \$4,400 with the survey firm.

MOTION: Councilmember Severns moved to authorize the Mayor to sign the Amendment to the Professional Services Agreement with Langabeer & Tull, P.S. The motion was seconded by Councilmember Campbell and carried unanimously.

MOTION: Councilmember Severns moved to authorize a \$10,000 contingency fund for unforeseen additional legal fees and costs which may be expended if approved in writing by the Mayor. The motion was seconded by Councilmember Campbell and carried unanimously.

Construction Design Contract – New Reservoir

City Engineer Eric Johnston presented this agenda bill which requested approval of a design services agreement with the engineering firm of Gray & Osborne, Inc., for developing construction plans for a new water storage reservoir and associated piping and facilities. The reservoir is identified as a necessary improvement in the City of Oak Harbor Water System Plan and the need for additional storage based on demands of the City water supply. Early in 2008 the City entered into an agreement with Gray and Osborne, Inc., (G&O) for engineering design and planning of a new water reservoir. Additional capacity is required to meet the State Department of Health requirements for standby storage, operation storage, and fire suppression storage. Adequate water supply storage has long been an issue of concern for many citizens of Oak Harbor and is commonly expressed as it relates to the number of new developments that have been brought into the water system since the late 1980s without additional storage capacity. Through proactive policies and programs that promote water conservation, the City has been able to defer the construction of the new reservoir until now. The initial contract with G&O centered on the location and size of the new reservoir. As was presented to the Council in September 2008, the preferred site for the reservoir project is the Gun Club Road site. The recommended size of the steel reservoir is a nominal 4.0 million gallon tank. Associated with the reservoir are several other improvements that will fundamentally alter how the City of Oak Harbor water system functions. The improvements, which include transmission mains, pump station construction and alterations, and pressure reducing valve installations, will improve fire flow capacities, increase residual system pressures and increase system reliability. Over the long term the improvements will allow for the elimination of smaller less efficient elements of the water system such as the Redwing Booster Pump Station and the small water reservoir on Regatta Drive.

Moving forward requires the design and construction of three basic elements which are as follows:

Project No.	Projected Construction Date	Project	Description	Length/Quantity	Estimated Project Cost
1	2010-2011	North Reservoir Connection Mains	18-inch pipe connection from Oak Harbor Street to new reservoir and return	5,800 Feet	\$ 2,306,000
2	2011-2012	North Reservoir	New reservoir at Gun Club Road Site	4,000,000 Gal	\$ 3,400,000
3	2011-2012	Ault Field Pump Station Alterations	Replace Pumps and Control Updates	1	\$ 300,000

These three projects will be constructed using two separate construction contracts. The proposed engineering design services agreement with G&O will produce the final plans and specifications for all three projects with bidding documents prepared by G&O for two separate construction contracts. The first construction contract is the transmission main construction, and the second is the pump station alterations combined with the reservoir construction. Mr. Johnston talked about the funding sources and existing reserves are in place for this project.

Mayor Slowik called for public comments.

Mel Vance, P.O. Box 2882. Mr. Johnston mentioned 60% /40% and I think it should be 75% or 80% coming from new development. Growth-driven system expansion should be paid for by connection fees. G&O should continue since they have been involved from the start.

There were no other comments.

Mr. Johnston noted that this project is not just growth-driven; it will be replacing a half million gallon tank that will come down and this project benefits existing customers, fire flow, and system reliability.

Council Discussion

Discussion followed about the project's funding and HDR's analysis, and if there is flexibility if the project were delayed. Mr. Johnston noted that this is the right time to move forward, particularly with today's bidding climate. Discussion continued about the

savings from the Regatta Water Main Project, the pipe costs (two pipes – fill and drain) from Oak Harbor Road to the reservoir, the design costs and the use of reserves. Discussion followed about how a reservoir is sized, planning for future growth, and the prohibitive costs of restoring the old tank. Timing was discussed along with a correction in the agreement to the management reserve figure (will be corrected from the standard amount of \$50,000 to \$10,000). The use of the phrase “reserves” was clarified; this is not the operating budget reserve; these are funds that have been accrued for this project over a number of years. The estimated project cost is a 2007 estimate yet in today’s dollars, this figure may come down.

As chair of the Finance Standing Committee, Councilmember Palmer asked that these types of agreements and contracts come before the Finance Standing Committee prior to presentation before the full Council.

MOTION: Councilmember AlMBERG moved to authorize the Mayor to sign an agreement with Gray and Osborne, Inc., for engineering design services with a not-to-exceed limit of \$233,434.00 for the Gun Club Reservoir Project. The motion was seconded by Councilmember Campbell and carried unanimously.

Consultant Contract – Wastewater Facilities Plan

City Engineer Eric Johnston presented this agenda bill and Brian Matson, P.E., Carollo Engineers was also in attendance. The agenda bill requested approval of a design services agreement with the engineering firm of Carollo Engineers, for the preliminary engineering and facilities plan necessary for development of a new wastewater treatment facility for the City. The development of a new wastewater facility is identified as a necessary improvement in the City of Oak Harbor Wastewater Comprehensive System Plan and is needed due to the age and condition of the existing plants. The 2007 Comprehensive Wastewater Plan identified the need for the City to add additional capacity to the wastewater treatment facilities by 2017. In order to meet that target date, the Comprehensive Plan programmed a substantial planning effort to begin in 2011. In addition to the predicted need for additional capacity, the City’s two existing treatment plants are showing signs of distress due to age. It is also likely that changes in the regulatory climate driven by Puget Sound Partnership’s mandate to clean up Puget Sound will require modifications to the treatment plants to increase the effluent quality as the permit conditions become more stringent. The 2008 Comprehensive Sewer Plan included a recommendation to replace the existing lagoon plant and the RBC plant with a new activated sludge plant to be located at the Seaplane Base lagoon site. However, changes in the surrounding land areas resulting in frequent flooding and deterioration of the Crescent Harbor outfall bring the assumptions used in the Sewer Plan and consequently, the resulting recommendations into question. The City is obligated, from a regulatory and due diligence perspective, to look at alternative sites and means of providing wastewater treatment. Since the cost of any new wastewater treatment plant is very high, a thorough and well-documented process helps ensure that the utility rate payers are getting the best value for the investment. Preliminary

engineering and planning required by state and federal law for new wastewater facilities is expensive and time-consuming necessitating the use of engineering firms specialized and experienced in wastewater facilities.

Mayor Slowik called for public comments but there were none.

Council Discussion

Discussion followed about the preliminary design, community involvement, the importance of this project, project costs and sub-consultant/prime consultant costs, how tasks are weighted, septic systems in the City, the long-term nature of this project and Carollo Engineers' expertise.

MOTION: Councilmember Munns moved to authorize the Mayor to sign an agreement, in a form approved by the City Attorney, with Carollo Engineers for engineering design services with a not-to-exceed limit of \$1,089,561 for the Oak Harbor Wastewater Treatment Plant Preliminary Engineering and Facilities Plan. The motion was seconded by Councilmember Campbell and carried unanimously.

Break

Mayor Slowik called for a break at 8:40 p.m. and the meeting reconvened at 8:45 p.m.

Consultant Contract – Shoreline Master Program Update

Senior Planner Ethan Spoo presented this agenda bill which requested approval of a consultant contract with the firm of AHBL in the amount of \$120,000 to update the City's Shoreline Master Program (SMP). In 2003, the State of Washington adopted new guidelines and regulations pertaining to SMPs. RCW 90.58.080 requires the City to update its SMP by December 1, 2012 in compliance with the state guidelines. In addition, state law (RCW 90.58.280) requires the Washington Department of Ecology (DOE) to provide adequate funding to local governments "that is reasonable and adequate to accomplish the costs of developing and amending shoreline master programs." At its April 20, 2010 regular meeting, City Council extended approval for staff to pursue a grant from DOE in the amount of \$125,000 to update the City's SMP. Council also authorized staff to enter into the consultant selection process. Following Council's approval, staff formed a selection committee composed of one City Council member, a Planning Commissioner, the Navy Liaison Officer, and two staff members. The selection committee interviewed three consultant teams on June 4, 2010 and selected AHBL as the consultant most qualified to help the City update the SMP. Since the selection was made, staff has been working to negotiate a contract with AHBL in the amount of \$120,000. All of this \$120,000 will be funded by the DOE grant. No City funds are proposed to be used to reimburse the consultant. The remaining \$5,000 of the \$125,000 grant will be set aside for City administrative expenses. In addition to having a contract with the consultant, the City will also have a contract with DOE. The DOE contract is a standard template contract with non-negotiable project deliverables. DOE uses this same contract to manage SMP updates for jurisdictions across Washington.

Mayor Slowik called for public comments.

Mel Vance, P.O. Box 2882. There is silting going on in Oak Harbor and most of it comes from the Skagit River which is changing the aspect of the bay. Can Skagit County resources help with this?

There were no other comments.

Council Discussion

Discussion followed about the grant's status, the shoreline area (within the City's limits), the County's timelines and if the City/County can share information, and that this is a funded mandate. The grant covers the full amount, but the state has not funded the Shoreline Master Program for the second biennium (true for any area; not just Oak Harbor). It is an expense reimbursement grant and DOE will pay for justified expenses. Similar to what has happened with growth management updates, which are also on hold until 2015, the City will not be required to do the work if the state does not provide the funds. This has been the first update since the 1970s. Returning to discussion of the AHBL agreement, City Attorney Hite noted that section 16.1 of the agreement addresses termination: The City may terminate the AHBL agreement, in whole or in part, at any time by giving thirty days written notice to the service provider.

MOTION: Councilmember Campbell moved to authorize the Mayor to sign the agreement with AHBL, Inc., for assistance with the Shoreline Master Program update in a not-to-exceed amount of \$120,000. The motion was seconded by Councilmember Palmer and carried unanimously.

The above motion was modified (not through an amending motion) by Councilmember Almberg, with Councilmember Campbell's and Councilmember Palmer's agreement, to include the words "Shoreline Master Program."

City Administrator's Comments

City Administrator Schmidt reviewed the schedule of upcoming meetings and talked about the flag lowering in memory of U. S. Navy Petty Officer 3rd Class Jarod Newlove noting that future flag lowerings will be mentioned during Council meetings.

Council Members' Comments

Council members gave their standing committee reports. Councilmember Campbell talked about the Pioneer Way newsletter and asked that a Pioneer Way update be provided for Council noting that communication and updates for this and other issues need to be improved. Mayor Slowik noted that a Pioneer Way update was going to be presented by City Engineer Johnston as part of Mayor's comments this evening. Councilmember Palmer asked about the standing committee rules for additional Council members and if it would be part of a future agenda. Mayor Slowik responded that he is waiting for the Attorney General's response. Councilmember Munns talked about the AWC Regional Meeting on October 20th, her two-hour conference call discussing initiatives, and the potential loss of liquor tax/liquor profit sharing which could amount to

a \$250,000 loss from Oak Harbor's general fund. The AWC website is a good information source regarding the initiatives.

Mayor's Comments

Mayor Slowik deferred to City Engineer Johnston for an update on Pioneer Way. Mr. Johnston talked about Pioneer Way and the Green Roads Project (sustainability) that is offered through the University of Washington and CH2M Hill, administered by the Green Buildings Council, which has now extended LEEDS certification to roads. The Pioneer Way Street Improvements Project has been accepted into this program as a pilot project which is a significant accomplishment and will help define sustainability attributes, gain market recognition, and rating points. The City has been working with Perteet, Inc. on this objective and just received notification from the University of Washington. At this early stage of the project, the City is only sixteen points shy of certification. Engineering has already received an inquiry from Evanston, Illinois about this project. Mr. Johnston encouraged everyone to look at the Pioneer Way blog site and talked about the drop-in sessions for public comment. The newsletter is being mailed tomorrow. Design is moving forward, renderings and streetscape are being finished, and the City is working on underground utilities and a mailing to property owners; the team will also be contacting property owners. A lot has been happening; information will be repeated at standing committee meetings and the drop-in sessions. Mayor Slowik also talked about the streetscape trees and that a more appropriate tree has been selected – the flowering pear. This change came from community comments about the size and number of trees. Mayor Slowik also thanked Oak Harbor's Police Department and Fire Department for their great efforts toward the success of National Night Out.

ADJOURN

With no other business coming before the Council, the meeting adjourned at 9:30 p.m.

Connie T. Wheeler
City Clerk

USMAIL	FAX	EMAIL	OTHER
DELIVERY			

27 July 2010

Revised Letter

This letter contains amendments/changes to the July 26, 2010 letter which was faxed and mailed.

Mayor Slowik
 City Council Members
 City of Oak Harbor
 865 SE Barrington Dr
 Oak Harbor, WA 98277
 Fax (360) 279-4507

DANA
Return to Public Comment
Aug 4

Dear Mayor Slowik and Council Members:

RE: Funding for ACUZ zone acquisition

This letter is being sent to all parties by 1st class mail and fax on 27 July 2010 and will be presented in public comments during the Wednesday August 4, 2010 Council meeting.

We ask that this matter be considered by the Council members and acted upon by voting in favor of authorizing the City of Oak Harbor to complete the attached 2011 Capital Budget Request Form.

As you are aware, the "Boyer property" received funding from the (1) Washington State - Military Communities Infrastructure Projects program; (2) Island County; and (3) U.S. Navy. Harbor Lands LP property which adjoins the "Boyer property" was also being considered at the same time. However, for unknown reasons, an application for Harbor Lands LP was not submitted to the State. Subsequently, the State's Military Communities Infrastructure program and funds have ended.

This is a timely opportunity for the City of Oak Harbor to make it up to Harbor Lands LP.

Sincerely,



Joel Douglas
 Harbor Lands LP

Encl: 2011 Capital Budget Request Application Form and Instructions
 (to be read into public comment at August 4th Council meeting by Dana Conklin)



Coachman Inn
 Grandview Business Center
 Harbor Business Center



Harbor Lands Co.
 Harbor Enterprises
 Pacific Resources, Inc.

P.O. Box 4082
 Bellingham, WA 98227
 (360) 734-8191 734-2222
 FAX (360) 647-9223

2011 Supplemental Capital Budget Request Form

Local or Community Project Information

This is not a formal grant program. This form is used to collect information that may be used in evaluating requests for funding of local and community projects in Washington State's Capital Budget. Projects requests will be reviewed beginning October 1, 2010.

Requests for funding will only receive further consideration if they are made by a 501(c)3 non-profit organization in accordance with the United States Internal Revenue Code or by a local jurisdiction.

If the project receives funding, the following conditions will apply:

Prevailing wages will be required for all construction labor costs starting on the date the capital budget takes effect.

State funds will not be released until the non-state share of the project costs have been expended, or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for its intended purpose.”

High performance building requirements (Chapter 39.35D RCW).

<http://apps.leg.wa.gov/RCW/default.aspx?cite=39.35D>

Executive Order 05-05 regarding Archeological and Cultural Resources.

(http://www.governor.wa.gov/execorders/eo_05-05.pdf)

This form contained drop-down fields and fields with limits on characters. Include additional information as a separate attachment.

This form must be returned in its original MS Word-version. Please contact Lucy Castillo at 360-902-3063 or Lucy.Castillo@ofm.wa.gov to return this form or obtain it an alternate format.

Project Title

Recipient Organization Information

Organization Description (Purpose, mission, etc.):

Is the organization a nonprofit organization with a current 501(c)3 Internal Revenue Service registration or a local jurisdiction? 501(c)3

21

Project Contact Information

NAME	
TITLE	
ORGANIZATION	
PHONE	
EMAIL	
STREET ADDRESS	
CITY	
COUNTY	
ZIP CODE	

Project Information

Project Description (Currently requested phase only if there are multiple phases. *Limit to 100 characters*):

Address of Project Site (if no address is available please send a map indicating location with form):

Street
City
Zip

Is the site owned, have an option to purchase, or under a long term lease of 10 years or more. No *(If the organization does not have control of the project site, either through ownership or an executed long-term lease (at least 10 years), all partners must sign and submit a letter of intent completed prior to July 1, 2010.)*

Is a US Green Building Council's Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ certification of Silver, or higher, being sought for the project? No

Describe any other factors that could affect the project and the project timelines? (Examples: environmental impact statements, permitting, site issues, and community opposition. Limit to 100 characters.)

Project components and phases (Select where the project is in development):

Conceptual Design

Funding Information

Total estimated project cost:

Funding Request:

PROJECT TYPE OR PHASE		START DATE	COMPLETION DATE	PERCENT OF REQUEST
Land Acquisition				
Demolition or Site Preparation				
Design				
New Construction				
Renovation				
Other	Provide Description			

Have previous phases of this project been completed? Yes

If yes, please describe:

If future phases of this project are not included in this request, describe:

- a.) The future phases will include:
- b.) Timelines for completion of the future phases:
- c.) How will the remaining phases be funded:

Is this a joint project? No

If yes, has a joint operating agreement been signed?
(Additional documentation will be required prior to funding.)

Has the organization initiated a capital fundraising campaign? No

If yes,
 What is the capital fundraising goal?
 How much has been committed?
 Describe timelines for fundraising goals:

Has the organization received previous state or federal funding for this project? No

If yes, When?
 What program ?
 Amount Received?

Has the organization previously applied for and **NOT** received state or federal funds for this project? No

If yes, When?
 What program ?
 Amount Requested?

Are there current applications or planned future applications for state or federal grants or loans? No

If yes, When?
What program ?
Amount of Request?
Status of Request?

What source(s) of non-state funds exist for the completion of the project and its ongoing maintenance and operations?

Economic Benefit

a. What is the public benefit?

b. What are the linkages to state services and clients?

What is the estimated number of construction jobs associated with this project?

Will this project promote or otherwise support jobs from related industries? No
If yes, please describe.

Is Tourism a potential outcome of this project? No
If yes, please describe.

Please send completed form and any attachments to Lucy Castillo at Lucy.Castillo@OFM.WA.GOV before September 1, 2010.

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

Bill No. 1
Date: September 7, 2010
Subject: Oak Harbor Police Department
Civilian Certificate of
Appreciation

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 Oak Harbor Police Department wish to recognize Devin Brooks with a Civilian Certificate of Appreciation for assisting a family involved in a car accident.

AUTHORITY

As set by the Oak Harbor Police Department's Manual of Standards, any civilian who shall render services to the community and citizens of the City of Oak Harbor, in the interest of better law enforcement, shall be eligible to receive the Civilian Certificate of Appreciation.

SUMMARY STATEMENT

On March 31, 2010, Mr. Brooks was in his vehicle at the intersection of SW Fairhaven and SW 3rd. As another vehicle entered the intersection, he could see that it was driving erratically. The vehicle left the roadway, entered a resident's yard and hit a tree. He saw that the car was fully engulfed in smoke, with the rear tires still engaged and spinning. As he approached the car, he saw that the driver appeared to be having a seizure. He also noted that there was a ten-year-old girl in the back seat.

Mr. Brooks removed the girl from the car and led her to safety. He then returned to the car, turned off the ignition and opened the doors to release all of the smoke. He assessed the driver, established communication with him, reassured him about his daughter, and kept him in place until medical help arrived.

Mr. Brooks did not hesitate to assist when he saw that someone needed help and was possibly injured. Even with the car fully engulfed in smoke and still running, he jumped right in to ensure the safety of both the driver and his daughter.

The Mayor and City Council will recognize Mr. Brooks for his quick action and for assisting in a life saving event on March 31, 2010.

STANDING COMMITTEE REPORT

None

RECOMMENDED ACTION

Award Devin Brooks the Oak Harbor Police Department Civilian Certificate of Appreciation.

ATTACHMENTS

None

MAYOR'S COMMENTS

None

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR



PROCLAMATION IN RECOGNITION OF

UNITED WAY MONTH SEPTEMBER 1 THROUGH OCTOBER 1, 2010

WHEREAS, In 1887, a Denver priest, two ministers and a rabbi recognized the need for cooperative action in order to address their city's welfare problems and planned the first United Way campaign which benefited ten local health and welfare agencies; and

WHEREAS, over 123 years later, United Way Worldwide is still focused on mobilizing the caring power of communities and creating opportunities for a better life for all by "Living United"; and

WHEREAS, founded in 1970, United Way of Island County brings volunteers, individuals and companies together throughout Island County to mobilize community resources in order to improve people's lives; and

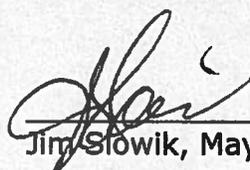
WHEREAS, funds raised benefit our community needs and through local organizations have directly assisted over 50,000 individuals and, indirectly many more; and

WHEREAS, we acknowledge and appreciate all of the United Way volunteers for their generous contributions of time and energy; and

WHEREAS, it takes everyone in the community working together to create a brighter future. Give. Advocate. Volunteer. LIVE UNITED.

NOW, THEREFORE, WE, Jim Slowik, Mayor, and Councilmembers of the City of Oak Harbor do hereby proclaim **September 1 through October 1, 2010** as **United Way Month**.

Signed this 7th day of September, 2010



Jim Slowik, Mayor

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

Bill No. 3

Date: SEPTEMBER 7, 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**

Bill No. 1/A 4A
Date: September 7, 2010
Subject: Appointment – Park Board
Daisy Sapida

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 Parks Department has a five-member Park Board, which meets every month, and has been in existence since 1978.

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 August of 2012.

Mayor Slowik recommends Ms. Daisy Sapida to fill the vacancy. Ms. Sapida has completed a City Board member "Biography Form", a copy of which is attached.

In accordance with Oak Harbor Municipal Code Section 2.30.020, Mayor Slowik is forwarding a recommendation that Daisy Sapida be appointed to the Board to fill the unexpired term.

RECOMMENDED ACTION

Approve the recommendation to appoint Daisy Sapida to the Park Board to fill the unexpired term which will end in August of 2012.

ATTACHMENTS

Biography Form.

MAYOR'S COMMENTS

Biography Form

Recommended Board Appointment for: Park Board.

Name: DAISY SAPIDA Date: July 28, 2010

Address: 573 SW Dyer St.

City, State, Zip: OAK HARBOR, WA 98277-5123

Telephone Number: (360-675-3598) Email Address: daisy.sapida@verizon.net
or daisy.sapida@frontier.

Mailing Address (if different from above): —

Resident of Oak Harbor/Whidbey Island for: 32 years/months

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

Unemployed BY CHOICE - formerly of IDEX Corp as an Accounting Tech / Data Entry Filing Clerk

Local Group or Civic Affiliations: DH First United Methodist Church long time member (31+ yrs.); ACS Relay for Life Participants & Supporter since 1999; Help House & ISLAND THRIFT long-time donors; Habitat Volunteer

Special Interests: Mission trips; Travel & Cruising; Gardening; Home Interior decorating; Books (novels especially)

Other General Comments: Supported school levies as well as library, Island Transit, and local churches, youth sports fund-raising, mission fundraisings, etc.

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 4B
Date: September 7, 2010
Subject: Appointment - Planning
Commission - Jeff Wallin

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 Planning Commission is a seven-member commission, which meets every month, and has been in existence since 1953.

Planning Commission members are appointed by the Mayor, and confirmed by the Council. The term of office is three years. There is currently a vacancy on the Board, due to an expired term. The term of this position expired in May 2010.

Mayor Slowik recommends Mr. Jeff Wallin to fill the vacancy. Mr. Wallin has completed a "Biography Form", a copy of which is attached.

In accordance with Oak Harbor Municipal Code Section 18.04.010, Mayor Slowik is forwarding a recommendation that Jeff Wallin be appointed to the Planning Commission.

RECOMMENDED ACTION

Approve the recommendation to appoint Jeff Wallin to the Planning Commission with his term ending May of 2013.

ATTACHMENTS

Biography Form.

MAYOR'S COMMENTS

Biography Form

Recommended Board Appointment for: Planning Commission

Name: Jeff Wallin

Date: August 2, 2010

Address: 1883 NE 11th Ave

City, State, Zip: Oak Harbor, WA 98277

Telephone Number: 360-679-1671 Email Address: jeff@pnlgencon.com

Mailing Address (if different from above): _____

Resident of Oak Harbor/Whidbey Island for: 18 years

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

Vice President, P&L General Contractors, Inc.

Local Group or Civic Affiliations: Oak Harbor Rotary Club President,

Navy League, Youth Dynamics

Special Interests: Community Service, Trout Unlimited, Wild Steelhead Coalition, Costal Conservation Association

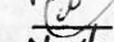
Other General Comments: _____

City of Oak Harbor
City Council Agenda Bill

Bill No. CHA HC
Date: September 7, 2010
Subject: Appointment – Planning
Commission – Gerry Oliver

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 Planning Commission is a seven-member commission, which meets every month, and has been in existence since 1953.

Planning Commission members are appointed by the Mayor, and confirmed by the Council. The term of office is three years. There is currently a vacancy on the Board, due to an expired term. The term of this position expired in August 2010.

Mayor Slowik recommends Mr. Gerry Oliver to fill the vacancy. Mr. Oliver has completed a "Biography Form", a copy of which is attached.

In accordance with Oak Harbor Municipal Code Section 18.04.010, Mayor Slowik is forwarding a recommendation that Mr. Gerry Oliver be appointed to the Planning Commission.

RECOMMENDED ACTION

Approve the recommendation to appoint Gerry Oliver to the Planning Commission with his term ending August of 2013.

ATTACHMENTS

Biography Form.

MAYOR'S COMMENTS

Biography Form

Recommended Board Appointment for: Planning Commission

Name: Gerry Oliver Date: 08/04/2010

Address: 947 NW Prow St

City, State, Zip: Oak Harbor, WA 98277

Telephone Number: 360-675-6173 Email Address: gerry@cbwhidbey.com

Mailing Address (if different from above): _____

Resident of Oak Harbor/Whidbey Island for: 25+ years years/months

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

Coldwell Banker Tara Properties (realtor)

Local Group or Civic Affiliations:

Civil Service Commission & WildcatTV(OHHS)

Special Interests: I have an interest in working with youth on the island.

Other General Comments:

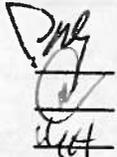
When time permits I like to donate my time to the community and help out anyway I can. I believe volunteering comes from the heart and should not be advertised that you give your time. It's something you do just because you want to.

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

Bill No. N/A 40
Date: September 7, 2010
Subject: Appointment – Civil Service
Commission – Patty Encinas

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 Civil Service Commission is a three-member board appointed for a six-year term and has been in existence since 1983. Appointees must be a citizen of the United States, a resident of the city of Oak Harbor for at least three years preceding his/her appointment and an elector of Island County. RCW 41.12.030 stipulates that at the time of appointment, no more than two members shall be “adherents of the same political party”.

The Commission 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 May of 2014.

Mayor Slowik recommends Ms. Patty Encinas to fill the vacancy. Ms. Encinas has completed a City Board member “Biography Form”, a copy of which is attached. Ms. Encinas is a United States citizen, has been a resident of Oak Harbor for 43 years and is an elector of Island County. She has confirmed no adherence to a political party thus there are no more than two members of a single political party in conformity with RCW 41.12.030.

In accordance with Oak Harbor Municipal Code Section 2.32.010, Mayor Slowik is forwarding a recommendation that Ms. Patty Encinas be appointed to the Board to fill the unexpired term.

RECOMMENDED ACTION

Approve the recommendation to appoint Ms. Patty Encinas to the Civil Service Commission to fill the unexpired term which will end in May of 2014.

ATTACHMENTS

Biography Form.

MAYOR'S COMMENTS

Biography Form

Recommended Board Appointment for: Civil Service Commission

Name: Patty Encinas Date: August 30, 2010

Address: 1676 SW 16th Avenue

City, State, Zip: Oak Harbor, WA 98277

Telephone Number: 675-0873 Email Address: prencinas@frontier.com

Mailing Address (if different from above): _____

Resident of Oak Harbor for: 43 years/months

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

Business Owner, Credit Bureau of Island County, 675-5971

Local Group or Civic Affiliations: Oak Harbor Rotary Club, Oak Harbor

Booster Club

Special Interests: Hiking, Golfing and Boating

Other General Comments: Cell Phone - 360-929-5232

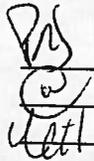
**City of Oak Harbor
City Council Agenda Bill**

Bill No. CJA 4E
Date: September 7, 2010
Subject: Arts Commission
Re-Appointment – Nora
O'Connell-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

PURPOSE

The purpose of this agenda bill is to recommend the re-appointment of Nora O'Connell-Balda to the Oak Harbor Arts Commission.

AUTHORITY

Per Oak Harbor Municipal Code **Chapter 2.29 Oak Harbor Arts Commission:**

2.29.010 Creation of Arts Commission

The Oak Harbor Arts Commission shall consist of eleven members, to serve as an advisory body to the Mayor and City Council.

2.29.040 Membership of Commission.

The majority voting membership of said Commission must reside within the City of Oak Harbor or work within the City.

2.29.050 Terms of office.

The term of office shall be four years.

2.29.060 Appointment, vacancy or removal.

2.29.060(1) In appointing members and filling vacancies, the Mayor and Council should endeavor to obtain a diverse cross-section of Oak Harbor's residents as members and also appoint members from groups having an interest in the arts and cultural activities, practicing artists and other persons employed in artistic endeavors.

SUMMARY STATEMENT

Ms. O'Connell-Balda has served on the Arts Commission since 2006 and has confirmed that she will serve another term if re-appointed. If re-appointed, her term will expire in March, 2014.

Ms. O'Connell-Balda lives and works within the City limits. She is an active, valued member of the Commission, attends meetings regularly and has a keen interest in the arts.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Approve the re-appointment of Nora O'Connell-Balda to the Oak Harbor Arts Commission for a four-year term.

ATTACHMENTS

None.

MAYOR'S COMMENTS

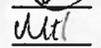
**City of Oak Harbor
City Council Agenda Bill**

Bill No. CLA 4F
Date: September 7, 2010
Subject: Arts Commission
Re-Appointment – Fern Miller

FROM: Jim Slowik
Mayor



INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:


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

PURPOSE

The purpose of this agenda bill is to recommend the re-appointment of Fern Miller to the Oak Harbor Arts Commission.

AUTHORITY

Per Oak Harbor Municipal Code **Chapter 2.29 Oak Harbor Arts Commission:**

18.04.010 Membership.

The Oak Harbor Arts Commission shall consist of eleven members, appointed by the Mayor, subject to approval of the City Council.

2.29.040 Membership of Commission.

The majority voting membership of said Commission must reside within the City of Oak Harbor or work within the City.

2.29.050 Terms of office.

The term of office shall be four years.

2.29.060 Appointment, vacancy or removal.

2.29.060(1) In appointing members and filling vacancies, the Mayor and Council should endeavor to obtain a diverse cross-section of Oak Harbor's residents as members and also appoint members from groups having an interest in the arts and cultural activities, practicing artists and other persons employed in artistic endeavors.

SUMMARY STATEMENT

Ms. Miller has served on the Arts Commission since 2006 and has confirmed that she will serve another term if re-appointed. If re-appointed, her term will expire in March, 2014. At the time of Ms. Miller's original appointment she worked within the City of Oak Harbor. As Ms. Miller lives outside the City limits and is now retired, she still meets the criteria for membership as the voting majority of the Commission does either work or live with the City limits. Ms. Miller is an active, valued member of the Commission, attends meetings regularly and has a keen interest in the arts.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Approve the re-appointment of Fern Miller to the Oak Harbor Arts Commission for a four-year term.

ATTACHMENTS

None.

MAYOR'S COMMENTS

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

Bill No.

CA 46

Date:

September 7, 2010

Subject:

Excused Absence Request
Councilmember Beth Munns

FROM: Jim Slowik
Mayor



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



Paul Schmidt, City Administrator



Doug Merriman, Finance Director



Margery Hite, City Attorney as to form

PURPOSE

The purpose of this agenda bill is to present and approve Councilmember Beth Munns' excused absence request for the October 19, 2010 City Council meeting.

AUTHORITY

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

SUMMARY STATEMENT

Councilmember Munns has submitted an excused absence request since she will not be able to attend the October 19, 2010 City Council meeting.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Approve Councilmember Beth Munns excused absence from the October 19, 2010 City Council meeting.

ATTACHMENTS

None

MAYOR'S COMMENTS

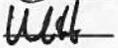
**City of Oak Harbor
City Council Agenda Bill**

Agenda Bill No. C/A 44
Date: September 7, 2010
Subject: Noise Permit – Richard
Bond/Click Music

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 Richard Bond of Click Music for amplified sound associated with a "Celebration of the Ukulele" 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.

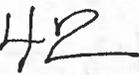
SUMMARY STATEMENT:

Richard Bond of Click Music has submitted a Noise Permit request for amplified sound associated with an event scheduled for September 18, 2010 from 10:00 a.m. to 10:00 p.m. The amplified sound will consist of a sound system to support live bands.

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

STANDING COMMITTEE REVIEW:

Not required.



RECOMMENDED ACTION:

Grant a noise permit for amplified sound to Richard Bond of Click Music.

ATTACHMENTS:

Noise Permit.

MAYOR'S COMMENTS:

CITY OF OAK HARBOR

NOISE PERMIT

Name of Organization: Richard Bond/Click Music

Location of Event: Kitchen A and surrounding area

Date of Event: September 18, 2010

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

Permitted Noise: Amplified sound associated with sound system to support live bands

Approval Conditions: Face speakers away from the 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**

Agenda Bill No. CHA 41
Date: September 7, 2010
Subject: Noise Permit – First United
Methodist Church

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 First United Methodist Church 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:

First United Methodist Church has submitted a Noise Permit request for amplified sound associated with an outdoor worship service scheduled for Sunday, September 12, 2010 at Smith Park. This outdoor worship service will be held from 8:30 a.m. to 12:30 p.m. The amplified sound will consist of a sound system for microphones and possibly a keyboard.

The Application was reviewed by Fire, Police, and Public Works Departments. As this event will be held in Smith Park the standard condition of approval for Windjammer Park to face the speakers away from the campground does not apply.

STANDING COMMITTEE REVIEW:

Not required.

RECOMMENDED ACTION:

Grant a noise permit for amplified sound to First United Methodist Church.

ATTACHMENTS:

Noise Permit.

MAYOR'S COMMENTS:

CITY OF OAK HARBOR
NOISE PERMIT

Name of Organization: First United Methodist Church

Location of Event: Smith Park

Dates of Event: September 12, 2010

Hours of Operation: 8:30 a.m. to 12:30 p.m.

Permitted Noise: Sound system for microphones for singing and possibly a keyboard.

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**

Bill No. 5
Date: September 7, 2010
Subject: Public Hearing re Ordinance
on Water Rates and Charges

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

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

This ordinance was introduced at the August 4, 2010 City Council meeting. The ordinance amends Chapter 13.32 of the Oak Harbor Municipal Code entitled "Rates and Charges." It establishes the criteria to be used in determining water utility rates and establishes administrative costs and consumptions for various classes of customers. The ordinance also provides that the water rates and charges be used exclusively for providing water utility services.

AUTHORITY

RCW 35.92.010 provides the authority for cities to construct and operate waterworks and fix rates and charges for these systems.

SUMMARY STATEMENT

The City contracted with HDR Engineers, Inc. to prepare a comprehensive rate study for the City's water utility. This included an analysis of the revenue requirements for the utility, a cost of service analysis to determine the cost of providing water service to the various classes of customers, and a rate design to provide a fair and equitable means to distribute costs to the various classes of customers and to meet the City's goal of encouraging water conservation.

The key changes that the proposed ordinance will make to the rate structure for the water utility include:

- Establishing a rate structure that encourages conservation by transitioning over a five year period from a declining block to an inclining block structure. An inclining block structure encourages conservation by charging more per unit as consumption increases.
- The cost of service analysis established the administrative cost of service which includes but is not limited to meter reading, meter installation and maintenance, billing, consumer confidence reports, water quality testing, customer notifications of water outages, and other customer related services.

- Charging a flat monthly fee based on meter size. This is the most efficient and effective way to cover the administrative costs.
- Reducing the administrative charges for multi-family residential customers that have a single meter due to reduced costs associated with the consolidated nature of single meter-based costs for meter reading, billing and the installation and maintenance of the meters. To account for this, the cost associated with water service to a multi-family residential building with a single meter are most equitably represented by 85% of the meter charge times the number of units available for occupancy.

STANDING COMMITTEE REPORT

These issues were discussed at City Council workshops that were held on November 17, 2009 and May 27, 2010, and at the July 21, 2010 Finance Standing Committee meeting.

RECOMMENDED ACTION

- 1) Open the public hearing and receive public testimony.
- 2) Adopt the Ordinance amending Chapter 13.32 of the Oak Harbor Municipal Code entitled "Rates and Charges."

ATTACHMENTS

Ordinance amending Chapter 13.32 of the Oak Harbor Municipal Code entitled "Rates and Charges."

MAYOR'S COMMENTS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING OAK HARBOR MUNICIPAL CODE CHAPTER 13.32 ENTITLED "RATES AND CHARGES" TO ESTABLISH CLASSES OF CUSTOMERS AND BASES FOR CUSTOMER RATES FOR WATER

WHEREAS, the City of Oak Harbor wishes to encourage conservation and careful use of its water resources; and

WHEREAS, the prior rate structure for water consumption by City water customers encouraged water consumption by charging less per unit of consumption the more that a customer used; and

WHEREAS, an "inclining block" method of payment for water use encourages conservation of water by charging more per unit that a customer uses; and

WHEREAS, City staff and consultants have performed a cost of service analysis using the "base-extra capacity method" endorsed by the American Water Works Association which establishes administrative costs of service such as meter-reading, billing, and other customer services as well as costs of installation and maintenance of water meters; and

WHEREAS, the administrative costs of water service to single-family residential, commercial, schools and irrigation users are best represented as a flat monthly fee because the administrative costs per meter are constant regardless of the amount of water consumed; and

WHEREAS, the administrative costs associated with single-family residential, commercial, schools and irrigation users are best reflected by the number and size of meter which indicates the committed demand on the system from each user; and

WHEREAS, the administrative costs associated with multi-family residential users apply to each residential unit for administrative tasks such as water quality testing as required by DOH, sending consumer confidence reports to all addresses in the city, notifying all users of water shutdowns or emergencies, door hangers at apartments or multi-units to notify of non-payment, and treatment of each household as a separate customer when it comes to water quality, pressure, water leaks or other complaints; and

WHEREAS, the administrative costs per unit of multi-family residential housing that is served by a single meter are reduced due to the consolidated nature of single meter-based costs for meter-reading, billing, installation and maintenance of water meters; and

WHEREAS, the administrative costs associated with water service to a multi-family residential building are most equitably represented by eighty five percent (85%) of the meter charge times the number of units available for occupancy to reflect the costs for each unit; and

WHEREAS, reasonable consumption rates should be established for all users as a first tier of consumption prices to account for necessary and prudent water usage; and

WHEREAS, higher consumption rates should be charged at higher prices to encourage conservation; and

WHEREAS, utility rates must be set by ordinance but are more customer-friendly if established in a single rate ordinance which may be posted and accessed as a single document; and

WHEREAS, this ordinance was introduced at the City Council meeting on August 4, 2010; and

WHEREAS, a public hearing was held on September 7, 2010 in which public comment was taken;

NOW, THEREFORE,

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

Section One. Oak Harbor Municipal Code Chapter 13.32 entitled "Rates and Charges" is hereby amended to read as follows:

Chapter 13.32*
WATER RATES AND CHARGES

Sections:

- 13.32.005 Water utility fund.
- 13.32.010 Connection charge.
- 13.32.025 Water rate – Inside the city limits and state park facilities.
- 13.32.030 Billing and collection procedures.
- 13.32.060 Monthly rate – Naval Air Station.
- 13.32.075 Water rate – Premises beyond city limits—~~Commencing March 20, 1998.~~
- 13.32.083 ~~Monthly rate—Master meter connections (water utility district charges)—~~
~~Commencing March 20, 1998.~~
- 13.32.085 Construction.
- 13.32.115 Certificate of Occupancy permit.

~~*Prior legislation: Ords. 403, 495, 515, 522, 570, 622, 721, 803, 812 and 941.~~

13.32.005 Water utility fund. Fund #401 Water Fund is hereby denominated the water utility fund which is to be used in the operation of the water utility. All water service and water connection 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 water utility 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 water service charges shall be established by ordinance.

13.32.010 Connection charge.

- (1) For property within the city limits of Oak Harbor, a connection charge shall be levied upon any customer prior to connection with city water service. The connection charge

shall be the actual cost of installation. An initial sum, based on the cost estimated by the water superintendent, or his or her designee, will ~~must~~ be paid in advance of service installation. Upon completion of the connection, the actual cost will be determined and if this amount is greater than the ~~original initial~~ estimate, the ~~applicant customer~~ will be billed for the balance. If the actual cost is less than estimated, the overpayment will be refunded to the ~~applicant customer~~. The actual cost of an installation shall include all labor, equipment and material, plus a ~~15 percent~~ charge for overhead as set in the utility rate ordinance.

- (2) For water connections outside the city limits of Oak Harbor, a surcharge of ~~50~~fifty percent (50%) will be added to the charges specified above for the extra costs involved in working beyond the normal service area.

13.32.025 Water rate – Inside the city limits and state park facilities.

- (1) Standard Water Service Charge. The standard~~A water service charge for water supplied by the city for residential, commercial and industrial customers inside the city limits and state park facilities shall consist of a customer charge, also termed a "monthly ready to serve charge," based on the meter size together with the rate for the quantity of water used shall be levied on all water customers. The water service charge shall consist of an administrative charge for service also termed a "monthly ready to serve charge," a consumption charge for actual use, and a monthly charge for sprinkler systems, if any.~~

~~When water is being supplied to an existing multifamily premises (i.e., two or more separate premises being served by one service and meter), the monthly ready to serve charge shall be based on either the existing meter size, or based on a 5/8-inch meter size times the number of units available for occupancy, whichever is the greater charge.~~

~~When more than one service supplies a premises, the consumption of water for each meter shall be computed separately.~~

- (a) Administrative Charge. The administrative charge for water supplied by the city to single-family residential, commercial and industrial customers inside the city limits and state park facilities shall be based on the number and size of the meter(s) serving the customer. A multi-family residential administrative charge shall apply to each meter serving a premise authorized for two or more dwelling units pursuant to a certificate of occupancy. The administrative charge for service to a multi-family residential meter shall be based upon the number of dwelling units served by the meter less a factor reflecting administrative savings due to single meter usage.

- (b) Consumption Charge. The consumption charge shall be based on the quantity of water used and shall increase according to a schedule established by the utility rate ordinance.

(c) Sprinkler System Charge. The monthly charge for sprinkler systems, if any, shall be a flat rate based upon the cost of service of sprinkler systems to the water utility.

(2) Rates to Be Set in the Utility Rate Ordinance. The water service charge shall be set in accordance with the policies and requirements of this chapter in the utility rate ordinance. The utility rate ordinance should be reviewed annually to ensure that it properly reflects the costs of service, operation, maintenance and construction of the water utility services.

~~Monthly Ready to Serve Charge. The monthly ready to serve charge shall be in accordance with the following schedule for residential, commercial and commercial/industrial large volume users:~~

~~Ready to Serve Charge Inside City:~~

Meter (in inches)	Rate
5/8 3/4	\$18.75
1	\$27.22
1 1/2	\$38.22
2	\$54.27
3	\$92.51
4	\$152.82
6	\$234.18
8	\$285.28
10	\$354.75
12	\$434.81

~~(3) Consumption Rates and Billing Methods. The schedule of rates for water used inside the city limits shall be as set out in the following subsections:~~

~~(a) Residential Service. The monthly residential consumption rates for each metered user of water from the water system are as follows:~~

~~(i) For the first five CCF of water consumption per month: \$7.29.~~

~~(ii) For each CCF of water consumption over the first five CCF: \$3.46.~~

~~One bill for each water meter shall be dated and sent to each property owner, or his or her designee, at such times as are prescribed by this chapter.~~

~~(b) Multifamily Residential. The monthly multifamily residential rate is as follows:~~

~~(i) For the first quantity consumed (five CCF) times the number of units available for occupancy, at the rate of \$7.29 per five CCF.~~

~~(ii) For any amounts not charged in the first class, at the rate of \$3.46 per 100 cubic feet.~~

~~One bill for each water meter shall be dated and sent to each property owner, or his or her designee, at such times as are prescribed by this chapter.~~

- ~~(c) Multifamily Residential - Separate Meters. For multifamily residential structures having a water meter for each unit occupied or designated to be occupied by a single tenant or family, the monthly consumption rate per meter for water furnished shall be as set out in subsection (3)(a) of this section, Residential Service.~~

~~One bill for each water meter shall be dated and sent to each property owner, or his or her designee, at such times as are prescribed by this chapter.~~

- ~~(d) Commercial and Industrial - General Service.~~

~~For first two CCF of water consumption, or part thereof - \$1.81~~
~~For the next three CCF of water consumption - \$7.45 per CCF~~
~~For the next 20 CCF of water consumption - \$3.82 per CCF~~
~~For each CCF of water consumption in excess of 25 CCF - \$1.99 per CCF~~

~~Each business entity shall pay a separate billing based on the monthly ready for service charge. The words "business entity" as used in this subsection mean each individual, corporation, association, partnership or other entity having a separate tax number as issued by the state of Washington pursuant to RCW 82.32.030.~~

~~One bill for each water meter shall be dated and sent out to the property owner, or his or her designee, at such times as prescribed by this chapter.~~

- ~~(e) Commercial and Industrial - Large Volume Service. Customers may qualify for this rate based on an established consumption history greater than 100,000 CCF annually.~~

~~For first two CCF of water consumption, or part thereof - \$1.81~~
~~For the next three CCF of water consumption - \$7.45 per CCF~~
~~For the next 20 CCF of water consumption - \$3.82 per CCF~~
~~For each CCF of water consumption in excess of 25 CCF - \$1.99 per CCF~~

~~One bill for each water meter shall be dated and sent out to the property owner, or his or her designee, at such times as prescribed by this chapter.~~

- ~~(f) State Park.~~

~~For each CCF of water consumption - \$2.74~~

- ~~(4) For customers which have a fire sprinkler system, there shall be an additional monthly charge of \$17.59 per month.~~

13.32.030 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.

13.32.060 Monthly rate – Naval Air Station.

(1) ~~The charge for water consumed by the Naval Air Station shall be determined by agreement between the City and the U.S. Navy and shall be reflected in the utility rate ordinance, as follows:~~

~~(a) The rate per 100 cubic feet shall be determined by dividing the total monthly volume in 100 cubic foot increments purchased from the city of Anacortes into the total cost for this amount of water, less any reserve charges. The Naval Air Station's bill shall be determined by multiplying the station's use in 100 cubic foot increments by the average cost as above determined.~~

~~(b) For water reserved but not used, the Naval Air Station will be billed for their share at the same rate that the city pays Anacortes.~~

~~(2) As part of the cost, in addition to the above charges, the Naval Air Station will pay the costs of the city for all applicable business and occupational taxes on the above water service and will also pay such other amounts as provided in a contract between the city and the Navy pursuant to maintenance of the 24-inch water line between Sharp's Corner and the Naval Air Station. Billings will be made monthly for water consumed the previous month and will be payable within 30 days.~~

13.32.075 Water rate – Premises beyond city limits – Commencing March 20, 1998.

(1) ~~Commencing March 20, 1998, the standard charge for water supplied by the city for residential, commercial and commercial/industrial large volume outside of the city limits shall consist of a customer charge, also termed a "monthly ready to serve charge," based on the meter size together with the rate for the quantity of water used.~~

~~(2) The water service charge monthly ready to serve charge commencing March 20, 1998, for customers residing outside the city limits shall be one and one-half times the rate charged for the similar water service underestablished by OHMC 13.32.025, the utility rate ordinance.~~

~~(3) The schedule of rates for water used outside the city limits commencing March 20, 1998, shall be one and one-half times the rate for a similar water service within the city limits for the quantity of water used.~~

13.32.083 Monthly rate—Master meter connections (water utility district charges) — Commencing March 20, 1998.

- (1) ~~Commencing March 20, 1998, the~~ The administrative charge monthly ready to serve charge for master meter connections (water service connections to water districts) shall be based upon meter size, as set out in OHMC 13.32.025. ~~Payments on the ready to serve charge shall be applied to the water consumption charges.~~
- (2) The administrative charge and water usage ~~All water used~~ will be charged at one and one-half times the rate for in-city non-single family residential ~~commercial/industrial large volume~~ customers for equivalent water usage.

13.32.085 Construction. During the construction of any building and before water is installed as herein provided in this title, as amended, the contractor so constructing such building may be permitted to use the city water supply by making application therefor pursuant to OHMC 3.95.040 and paying the charges prescribed by ~~OHMC 13.32.025~~ the utility rate ordinance.

13.32.115 Certificate of Occupancy permit. No water shall be turned on for service in any premises for which a certificate of occupancy permit has not been obtained, in advance, from the city building department; provided, that water may be turned on for construction work in unfinished buildings, subject to the provisions of OHMC 13.32.085.

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 on December 20, 2010.

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: _____

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

Bill No. 6
Date: September 7, 2010
Subject: Public Hearing re Ordinance
on Sewer Rates and 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 14.05 of the Oak Harbor Municipal Code entitled "Rates and Collections." It establishes the criteria to be used in determining wastewater utility rates and establishes base rates for various classes of customers as well as volumetric rates for commercial and school customers. The ordinance also provides that the wastewater rates and charges be used exclusively for providing wastewater utility services.

AUTHORITY

RCW 35.67.020 provides the authority for cities to construct sewerage systems and fix rates and charges for these systems.

SUMMARY STATEMENT

The City contracted with HDR Engineers, Inc. to prepare a comprehensive rate study for the City's wastewater utility. This included an analysis of the revenue requirements for the utility, a cost of service analysis to determine the cost of collecting and treating wastewater from the various classes of customers, and a rate design to provide a fair and equitable means to distribute costs to the various classes of customers.

The cost of service analysis determined that:

- There are three main components of the annual wastewater operational costs: collection, treatment and administrative.
- The volume of wastewater flowing into the collection system and the treatment plant and the strength (biological oxygen demand and total suspended solids) of the wastewater flowing into the treatment plant are the main factors affecting the cost of service.
- Customer strength factors by class of services were based on industry standards by class of service and the average strength of wastewater at the treatment plant.

- In order to more accurately determine the volume of wastewater from each customer class, the analysis was based on annual wastewater volumes that were calculated using the winter water use average so that seasonal uses such as irrigation and other outdoor water needs were not included in the average wastewater use volume calculations.
- The administrative cost of service which includes but is not limited to billing and other customer related services and permit compliance.
- The differences in annual volume and strength of wastewater create a reasonable distinction between single-family residential, multi-family residential, commercial and school customers.
- That multi-family units generally produce less wastewater than single-family units and therefore should pay 85% of the single family rate times the number of units available for occupancy.

STANDING COMMITTEE REPORT

These issues were discussed at City Council workshops that were held on November 17, 2009 and May 27, 2010 and at the July 21, 2010 Finance Standing Committee meeting.

RECOMMENDED ACTION

- 1) Open the public hearing and receive public testimony.
- 2) Adopt the Ordinance amending Chapter 14.05 of the Oak Harbor Municipal Code entitled "Rates and Collections."

ATTACHMENTS

Ordinance amending Chapter 14.05 of the Oak Harbor Municipal Code entitled "Rates and Collections."

MAYOR'S COMMENTS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING OAK HARBOR MUNICIPAL CODE CHAPTER 14.05 ENTITLED "RATES AND COLLECTIONS" TO ESTABLISH CLASSES OF CUSTOMERS AND BASES FOR CUSTOMER RATES FOR SEWER

WHEREAS, the City of Oak Harbor wishes to establish wastewater rates which will cover the costs of operating the wastewater system; and

WHEREAS, the City retained the services of HDR Engineering, Inc., (HDR) to perform a study of the operational, capital and administrative needs of the wastewater system; and

WHEREAS, HDR has concluded that the current rate structure requires amendment to accurately reflect the financial operational needs of the wastewater system and to properly allocate those costs to classes of customers; and

WHEREAS, the analysis performed by HDR indicates that the operational costs which should be paid by customers fall into three general categories: volume-, strength- and customer- related costs; and

WHEREAS, the total annual operational costs of the City's wastewater system are comprised of, but not limited to, collection, treatment, and administrative costs; and

WHEREAS, the sewer utility costs are allocated between the customer classes of service of single-family, multi-family, commercial, and schools; and

WHEREAS, together, the single-family and multi-family residential accounts constitute approximately 91% of the total accounts; and

WHEREAS, the number of commercial accounts/meters are approximately 8% of accounts; and

WHEREAS, the number of school accounts is approximately 1/3 of 1% of accounts; and

WHEREAS, the annual wastewater volumes should be calculated by using the winter water use average so that seasonal uses such as irrigation and other outdoor watering needs are not included in the average wastewater use volume calculations, and

WHEREAS, HDR further concludes that the average monthly volume per multi-family residential unit is 70% of the average volume of a single-family residential household; and

WHEREAS, the cost of service is primarily based on the volume and strength of wastewater flowing into the wastewater collection and treatment system; and

WHEREAS, the major factor affecting the cost of treatment of the wastewater is the strength of the wastewater based on biochemical oxygen demand (BOD) and total suspended solids (TSS); and

WHEREAS, customer strength factors by class of service were based on industry standards by class of service and the average strength of the wastewaters at the treatment plant; and

WHEREAS, the strength of wastewater produced by the customers will vary by class of service; and

WHEREAS, differences in annual volume and strength of wastewater create a reasonable distinction between single-family residential customers, multi-family residential customers, commercial customers, and school customers; and

WHEREAS, this ordinance was introduced at the City Council meeting on August 4, 2010; and

WHEREAS, a public hearing was held on September 7, 2010 in which public comment was taken;

NOW, THEREFORE,

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

Section One. Oak Harbor Municipal Code Chapter 14.05 entitled "Rates and Collections" is hereby amended to read as follows:

Chapter 14.05
SEWER RATES AND COLLECTIONS

Sections:

Article I. Sewerage Rates

- 14.05.010 Policy.
- 14.05.020 Imposition of charges.
- 14.05.030 Rate schedule.
- 14.05.040 High-strength surcharge.
- 14.05.050 Additional connection charges.
- 14.05.060 Monitoring and testing.
- 14.05.064 Metered wastewater volume and metered diversions.

~~Article II. Billing and Collections~~

- ~~14.05.110 Billing delinquent interest.~~
- ~~14.05.120 Charges constitute a lien.~~
- 14.05.135 Sewerage lien – Extension of coverage.

Article I. Sewerage Rates

14.05.010 Policy. It is declared to be necessary for public health and safety to require all persons using or connecting to the OHSS to pay adequate sums for the use of the facilities provided. It is further the policy of the City of Oak Harbor to set policies for rates for use of OHSS so that customer charges adequately fund the operational, capital and administrative costs of the OHSS.

14.05.020 Imposition of charges. The classifications of sewer use shall be as set out below, and schedule of rates and charges for sanitary sewage collection and disposal service are established and shall be collected as established by ordinance. The classes of customers are defined as follows:

- (1) Single-Family Residential: All sewer connections that serve a single-family dwelling units.
- (2) Multi-Family Residential: ~~Apartments with two or more units; mobile homes;~~ All sewer connections to a single meter with the primary purpose of serving that serves a structures containing two (2) or more dwelling units and connections serving or a mobile home trailer parks.
- (3) ~~Hotel/motel: All sewer connections that serve structures which provide as a primary purpose transient lodging.~~
- (4) Schools: All sewer connections that serve a public or /private school facilitiesfacility.
- (5) ~~Marina: All sewer connections that serve customers in a marina setting.~~
- (6) ~~Residential-commercial: All sewer connections with the primary purpose of serving office facilities or commercial activities which also contain one or more residential dwelling units defined by the occupancy of an entity having a separate sales tax identification number.~~

~~If more than one user or class of user is located in any one building or on any one lot or tract of land, each such user or class of users shall separately pay its proper rates and charges for sanitary sewage disposal service.~~

~~The word "user" as pertains to nonresidential sewer services shall mean each individual, corporation, partnership or other business entity having a separate tax number as issued by the state of Washington, pursuant to RCW 82.32.030.~~

- (7) Commercial: All sewer connections ~~with the primary purpose of serving that serve a facilities~~ facility of engaged in commercial activities, explicitly including long-term health care facilities and nursing homes and which are not included in the previous customer classes of service.

14.05.030 Rate schedule. The schedule of rates and charges for sanitary sewage collection and disposal service shall be set by utility rate ordinance and shall be collected as established by utility billing and collections ordinance. The following rates for sewer service shall apply to sewer service set by ordinance to the city of Oak Harbor in accordance with the following principles:

- (1) Single-family residential rates shall be based upon an average of winter water usage rates for those customers and shall assume a low wastewater strength for treatment costs. An administrative fee for customer services and processing shall be included as well. Together, these factors shall be computed as a flat monthly rate for wastewater service charges.
- (2) Multi-family residential rates shall be set by meter and number of units. The meter/account fee shall be based upon the administrative costs for customer services and processing. The estimated annual volume for each unit in a multi-family account shall be computed as seventy percent (70%) of the volume for a single-family residential customer at a low strength level and shall be a flat monthly fee per unit.
- (3) Commercial rates shall be set assuming a high wastewater strength for treatment costs. The commercial rate shall incorporate the costs of treatment and collection costs on a per volume basis. The volume rate shall be based upon actual wastewater volume contributed by each customer to apportion the costs attributable to commercial users based on the variations of types of commercial users in the city. An administrative fee for customer services and processing shall be included as well.
- (4) School rates shall be set assuming a low wastewater strength for treatment costs. The school rate shall be a commercial rate, incorporating the costs of treatment and collection costs on a per volume basis. The volume rate shall be based upon actual wastewater volume from the school. An administrative fee for customer services and processing shall be included as well.

Rate Structure	Monthly Charges		
	Customer Charge per Account	Fixed Capacity Charge/Unit	Volume Charge
Single Family Residential	\$3.87	\$32.65	-
Apartments with two or more units	\$3.87	\$32.65	-
Hotel, motel	\$36.55	-	\$4.34 per 100 cubic feet in excess of 100 cubic feet
School	\$3.87	-	\$4.34 per 100 cubic feet
Marina	\$36.55	-	\$4.34 per 100 cubic feet in excess of 100 cubic feet
Commercial	\$36.55	-	\$4.34 per 100 cubic feet in excess of 100 cubic feet

The rates for customers outside the city limits of Oak Harbor shall be one and one-half (1.5) times the rate for the same class of customers within the city limits.

14.05.040 High-strength surcharge.

- (1) The high-strength surcharge provision shall apply to ~~those commercial~~ any and industrial customers discharging waste-water or wastes with BODs or TSS or both greater than 250 mg/l.
- (2) The surcharge shall be based on monitoring of the waste-water entering the public sewer through the side sewer.
- (3) ~~As of the date of the ordinance codified in this title, the high-strength surcharge rate established for a food preparation business identified in OHMC 14.09.010 which meets the criteria established below shall be as set out therein until by test, the rate shall be changed.~~

High-strength surcharge rates for untested food preparation businesses described in OHMC 14.09.010 shall be:

- (a) The rate (normal rate and surcharge together) for a discharger which (i) has an approved FOG reduction program, (ii) has an appropriately sized grease trap or FOG interceptor, and (iii) does not have a garbage grinder installed shall be the normal rate for a customer of class to which the discharger belongs; it is further provided that businesses with garbage grinders as of July 1, 1995, may obtain the normal rate without removal of the garbage grinder if they follow a program of screening all sinks where food wastes may be discharged so that most food waste will be separated from the sewage stream prior to entry of the garbage grinder. The business shall establish practices of assuring these screens are kept in place and food collected on them will be dumped into solid waste receptacles.
- (b) The rate (normal rate and surcharge together) for a discharger which (i) has an approved FOG reduction program, (ii) has an appropriately sized grease trap or interceptor, but (iii) does have a garbage grinder installed shall be a rate one and one-half times the normal rate of a customer of the class to which the discharger belongs.
- (c) The rate (normal rate and surcharge together) for a discharger which (i) has an approved FOG reduction program, (ii) does not have an appropriately sized grease interceptor or grease trap, and (iii) does not have a garbage grinder shall be two times the normal rate for a customer of the class to which the discharger belongs.
- (d) The rate (normal rate and surcharge together) for a discharger which (i) has an approved FOG reduction program, but (ii) does not have an appropriately sized grease trap or FOG interceptor, if required by this title, and (iii) does have

installed a garbage grinder shall be two and one-half times that of the normal rate for a customer of the class to which the discharger belongs.

- (e) The rate (normal rate and surcharge together) for a discharger without an approved FOG reduction program shall be three times that for a customer of the class to which the discharger belongs.
- (4) It shall be the responsibility of each ~~industrial or commercial~~ customer whose waste-water strength exceeds 250 mg/liter ~~that stipulated in subsection (1) of this section~~ to notify the supervisor ~~that the discharge may be subject to high-strength surcharge~~ of the fact of that excess strength. Those users who discharge higher strength wastes without approval from the supervisor are subject to the penalties outlined in OHMC 14.03.330.
- (5) The following surcharges shall be assessed for approved high-strength discharges into the public sewer:
- (a) Two percent (2%) increase in user charge for each 25 mg/l of BODs greater than 250 mg/l;
- (b) One percent (1%) increase in user charge for each 25 mg/l of TSS greater than 250 mg/l;
- (c) One percent (1%) increase in user charge for each one mg/l of total suspended FOG in excess of 100 mg/l.
- (6) Once the city establishes the high-strength surcharge for a particular user, that surcharge shall become effective ten (10) days after notice to the customer, unless an appeal is filed. To effect an appeal, the customer may must file a written appeal with the administrative authority city administrator within thirty (30) days after notification of said surcharge amount. The appeal may be based on an improper calculation of the surcharge rate or inapplicability of the surcharge to the user. Such appeal shall set forth the name, current address and telephone number of the appellant. It shall also specify in reasonable detail the sources nature of the error being appealed alleged and the appellant's ground for modification thereof elimination of the surcharge. Failure to file a written appeal shall constitute a waiver of the right to appeal.

Based on the information provided by the appellant, the administrative authority city administrator shall schedule a meeting with the appellant. This meeting shall be scheduled within five (5) business days of the filing of the appeal unless a later date is agreed by both parties. Failure to attend the scheduled meeting shall constitute waiver of the meeting. Based upon the information submitted by the appellant, the meeting (if held) and investigation by the city administrator, the city administrator shall issue a written decision decide whether such surcharge modification should be approved within 30 ten (10) days of the receipt scheduled meeting one of the written appeal. If the administrative authority city administrator determines that there is no basis for

~~modification acceptable to the appellant~~denies the appeal, the appellant may appeal to the city council.

Appeal to the city council must be filed in writing within fifteen (15) days of the issuance of the city administrator's decision. The procedures of Ch. 1.24 OHMC shall apply to this appeal. ~~In all cases, the~~The decision of the city council shall be final.

14.05.050 Additional connection charges. In addition to the ~~foregoing~~ rates and charges set by utility rate ordinance, and where the city makes the connection from a building or side sewer to its sewage system, the city shall charge the owner, contract vendee or authorized agent of the owner of the particular premises to which such connection has been made according to the provisions of Chapter 14.03 OHMC.

14.05.060 Monitoring and testing. Commercial ~~and industrial~~ users of the OHSS shall pay the costs of all city's testing of sewage effluent from the side sewer if it is determined that the effluent is not in compliance with any discharge standards of Chapter 14.07 OHMC.

14.05.064 Metered wastewater volume and metered diversions.

- (1) Adjustments in Sewerage Rates Due to Irrigation – Administrative Decision. For commercial, multi-family residential and industrial customers whose charges are based on water consumption and from whose premises, in the opinion of the public works superintendent in charge of the water utility, a significant portion of the water received from any metered source does not flow into the sanitary sewer by reason of its use for irrigation or other diversion, the charges and fees will be applied only against the volume of water discharged from such premises into the sanitary sewer. Written notification and proof of the diversion of water must be provided by the user, and approved by the public works superintendent in charge of the water utility, if the user is to avoid the application of the charges and fees against the total amount of water used from all sources.
- (2) Submetering. To establish proof of the diversion, the user shall install a submeter of a type and at a location approved by the public works superintendent and at the user's expense. Such meter shall be located after the main meter and no water passing through the submeter shall be drained into the sewer system. Such meters shall be maintained at the expense of the user and be tested for accuracy at the expense of the user when deemed necessary by the city. Within thirty (30) days of notification by the public works superintendent that meter repair and/or testing, if testing is required, the user shall provide written confirmation that such repair or testing, or both, have been accomplished. Failure to provide such confirmation may result in sanitary sewer charges being based upon the metered water source. It shall be the responsibility of the user to determine the need for submetering to effect a reduction of sewer charges for their operation.
- ~~(3) Charge. The charge for billing adjustments shall be \$2.30 per month payable to the water utility for water reading and billing services. There shall be no system development charge for submeters which are installed after the main meter.~~

Article II. Billing and Collections

14.05.110 — Billing delinquent interest.

- ~~(1) Sewage service charges shall be billed bimonthly on the first day of the billing month applicable to the area being billed.~~
- ~~(2) All rates and charges provided in this chapter shall be billed to the owner, contract vendee or authorized agent of the owner or contract vendee of the particular premises to which the services defined in this chapter are provided. All permits which may be required by the city to be obtained shall be obtained by and issued to such owner, contract vendee or authorized agent; provided, that tenants shall not be deemed agents of the owner or contract vendee by virtue of their tenancy alone, though such owner or contract vendee may in writing authorize the billing of tenants and the issuance of permits to such tenants directly.~~

~~14.05.120 — Charges constitute a lien. All rates and charges provided for in this chapter and Chapters 14.03 and 14.09 OHMC, together with any penalties and interest thereon at the rate of eight percent per year from the date of delinquency and all costs and fees of collecting or foreclosing upon the premises served to collect the same, shall be a lien upon the property and premises with which the connection is made or sewage disposal service furnished, superior to all other liens or encumbrances except those for general taxes and special assessments. Enforcement of such lien or liens shall be in the manner provided by law.~~

14.05.135 Sewerage lien – Extension of coverage. ~~The city of Oak Harbor may, in lieu of the provisions provided for in RCW 35.67.210, provide for a sewerage lien to be effective for a total not to exceed one year's delinquent service charges without the necessity of any writing or recording of the lien with the Island County auditor.~~ In accordance with RCW 35.67.215 and in lieu of the provisions of RCW 35.67.210, a city sewerage lien shall be effective for a total of not to exceed one (1) year's delinquent service charges without the necessity of any writing or recording of the lien with the county auditor.

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 on December 20, 2010.

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

APPROVED ()

VETOED ()

by its Mayor this _____ day of _____, 2010.

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

Published: _____

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

Agenda Bill No. 7
Date: September 7, 2010
Subject: Interim Adult Entertainment
Facilities Overlay Zone Time Extension

FROM: Steve Powers *RSP*
Development Services Director

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

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

PURPOSE

This agenda bill requests City Council approval of a six-month extension for the interim adult entertainment facilities overlay zone adopted on March 23, 2010. A work plan supporting the request is presented for Council information. As approval of the requested time extension is through adoption of an ordinance, a public hearing on this matter is scheduled.

AUTHORITY

RCW 36.70A.390 provides the authority to adopt an interim zoning ordinance which is effective for not longer than six months, but the interim ordinance may be effective for up to one year if a work plan is developed for related studies providing for such a longer period.

DISCUSSION:

City Council Action

On March 23, 2010 the City Council adopted an interim ordinance (Ord. No. 1572) which added a new chapter to the Oak Harbor Municipal Code (Chapter 19.52) regulating the location of adult entertainment facilities. The interim ordinance is in effect until September 23, 2010. In accordance with RCW 36.70A.390 the City Council held a public hearing within 60 days of the adoption of the interim ordinance (May 4, 2010). After the hearing the City Council adopted an amended, interim overlay zone ordinance (Ord. No. 1575) that deleted certain commercial properties from the overlay and increased the buffering distance from residential districts to match that of churches, schools and parks. An amended overlay zone map was adopted to match the amended ordinance. At that same meeting, the City Council adopted Resolution No. 10-12 affirming the City of Oak Harbor's compliance with the public hearing requirements of RCW 36.70A.390 and referring the interim ordinance to the Planning Commission for review and recommendation.

Planning Commission Review of Interim Ordinance

The amended, interim ordinance adopted by the City Council on May 4, 2010 established an adult entertainment facilities overlay zone over three parcels on NE Goldie Street. One of these parcels is zoned Industrial (9.08 acres in size) and two are zoned Planned Industrial Park (totaling 9.78 acres in size). It is important to note that these parcels were identified as part of

the interim ordinance and the size, number and location may not be sufficient for the final ordinance.

As directed by the City Council staff has begun working with the Planning Commission on their review of the interim overlay ordinance. To date that work has included briefing the Commission on the details of the interim ordinance and the process involved in its drafting. For instance they were briefed on how the application of a 750 foot buffer around sensitive uses eliminated certain areas of the community from consideration and “left” certain areas within the overlay district (the parcels noted above).

Staff also provided the Commission background information (in the form of case study summaries) from other communities across the country. These studies document the secondary effects that existing adult entertainment facilities have on their communities and form the basis for their adult entertainment regulations. This information was provided to the Planning Commission to assist them in understanding various approaches to formulating adult entertainment regulations and to assist them in recommending a final ordinance to the City Council. It also supplements the City’s record as to the process undertaken in creating the final ordinance.

Work Plan

The next stages of the review include undertaking some additional background research, an examination of additional parcels that might be added to the inventory (if any) and gathering and assessing information on the parcels included in the interim overlay district as it relates to their ability to develop and/or support adult entertainment facilities. It will also include formulating general conclusions about Oak Harbor’s overall commercial land market. The goal of this work is to determine that the number of identified parcels is adequate to support the demand for adult entertainment facilities and that it can be reasonably stated the identified parcels are within the general commercial market. This work will not be completed before the September expiration of the interim ordinance so additional time is necessary for the Planning Commission to complete their review and make their recommendation. The intended schedule for completing this work is shown below:

September 2010 – November 2010	<ul style="list-style-type: none">•Review interim ordinance and parcel/community research with Planning Commission Public•Revise interim ordinance (if necessary)•Planning Commission conducts public hearings and forwards recommendations to City Council
November 2010 – December 2010	Provide 60 day notification to Department of Commerce
November 2010	SEPA review and determination.
December 2010	SEPA determination public comment period
January 2011	Governmental Services Committee review
January 2011 – February 2011	Public hearing before the City Council

Process

The new Chapter 19.52, Adult Entertainment Facilities Overlay Zone, is a development regulation. The adoption of a development regulation follows the Type V review process outlined in the Municipal Code. This process requires a public hearing before the Planning Commission and City Council. State Environmental Policy Act (SEPA) review and Department of Commerce notification are also necessary.

STANDING COMMITTEE REVIEW:

The work plan for extending the interim regulation for the Adult Entertainment Facilities Overlay Zone was discussed at the Governmental Services Standing Committee on August 10, 2010. Additional briefings will occur as necessary prior to the full Council considering the final ordinance.

RECOMMENDED ACTION:

- Conduct public hearing
- Adopt ordinance extending the interim regulation for the Adult Entertainment Facilities Overlay Zone for an additional six months

ATTACHMENTS:

1. Draft ordinance

MAYOR'S COMMENTS:

ORDINANCE NO. _____

AN ORDINANCE EXTENDING THE INTERIM ADULT ENTERTAINMENT FACILITIES OVERLAY ZONE FOR A SIX-MONTH PERIOD OF TIME AND ESTABLISHING A SCHEDULE FOR COMPLETING WORK ON A FINAL ORDINANCE.

WHEREAS, cities and counties are authorized to adopt interim zoning ordinances in accordance RCW.36.70A.390; and

WHEREAS, on March 23, 2010, the City Council of Oak Harbor adopted Ordinance No. 1572, an interim ordinance creating Chapter 19.52 Adult Entertainment Facilities Overlay Zone to address permissible locations for adult entertainment facilities; and

WHEREAS, the City Council held a public hearing on May 4, 2010 which was within sixty days of the adoption of the interim ordinance in accordance RCW.36.70A.390; and

WHEREAS, on May 4, 2010 the City Council adopted Ordinance No. 1575, amending Ordinance No.1572 to delete certain C-3, Community Commercial zoned properties from the overlay zone and provide for greater buffers around residentially zoned properties; and

WHEREAS, on May 4th the City Council approved Resolution No. 10-12 affirming the City of Oak Harbor's compliance with the public hearing requirements of RCW 36.70A.390 and referring the interim ordinance to the Planning Commission for review and recommendation; and

WHEREAS, the Planning Commission of the City of Oak Harbor opened a public hearing on July 27, 2010 to facilitate early and continuous public input in the consideration of a final ordinance; and

WHEREAS, the City needs additional time to study the adequacy of the interim ordinance to assure that the final regulation will preserve a reasonable opportunity to disseminate the speech at issue; and

WHEREAS, in accordance RCW.36.70A.390, a interim zoning ordinance may be effective for up to one year if a work plan is developed for related studies providing for such a longer period; and

WHEREAS, City staff has outlined a work plan that includes undertaking additional background research, an examination of additional parcels that might be added to the inventory (if any) gathering and assessing information on the parcels included in the overlay district as relates to their ability to develop and/or support adult entertainment facilities; and

WHEREAS, the goal of this work is to determine that the number of parcels included in the overlay zone is adequate to support the demand for adult entertainment facilities and that it can be reasonably stated that the identified parcels are within the general commercial market; and

WHEREAS, the adoption of a final development regulation requires public hearings before the Planning Commission and City Council, requires SEPA review and determination and requires notification to the Department of Commerce; and

WHEREAS, the City has determined that an additional six months time is necessary to complete work on the adult entertainment facilities overlay zone.

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

Section One. Extension of Interim Ordinance. In accordance with RCW.36.70A.390, interim Ordinance No. 1572, adopted March 23, 2010, which created Oak Harbor Municipal Code Chapter 19.52, Adult Entertainment Facilities Overlay Zone, (as amended by Ordinance 1575, adopted on May 4, 2010) is hereby extended for an additional six months until March 23, 2011, subject to general compliance with the work plan shown in Section Two below.

Section Two: Work Plan. The work plan shown below shall generally be followed in completing work on the adult entertainment facilities overlay zone ordinance.

September 2010 – November 2010	<ul style="list-style-type: none">•Review interim ordinance and parcel/community research with Planning Commission Public•Revise interim ordinance (if necessary)•Planning Commission conducts public hearings and forwards recommendations to City Council
November 2010 – December 2010	Provide 60 day notification to Department of Commerce
November 2010	SEPA review and determination.
December 2010	SEPA determination public comment period
January 2011	Governmental Services Committee review
January 2011 – February 2011	Public hearing before the City Council

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 Five. Effective Date. This Ordinance shall be in full force and effect five days following publication.

PASSED by the City Council this 7th day of September, 2010.

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

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

Published: _____

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

Bill No. 8

Date: September 7, 2010

Subject: Release of Easement

**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 for the Mayor to sign a release of utility easement that is no longer needed, since a different location was chosen for the sewer lift station.

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. Pursuant to RCW 35.94.6040, property acquired for a public utility may be released only upon resolution and after a public hearing. Under City Code, disposition of City-owned real property also requires a SEPA review as well as a public hearing – Chapter 1.30 OHMC.

SUMMARY STATEMENT

On June 1, 2010, the City Council approved a reimbursement agreement with West Meadows Partners, Inc., for offsite sewer improvements associated with the Plat of West Meadows. As part of the plat approval process the City required an easement from the property owner for the location of the lift station. This easement was provided to the City. The property owner had previously provided an easement in a different location on the same property for the lift station. However that location was determined to not be an acceptable location as a lift station at that location would not meet the requirements of the annexation agreement.

With the easement in place for the lift station constructed by the West Meadows Partners there is no longer any need for the previous easement. The current property owners, Jimmy and Mary Forbes, have requested that the City extinguish the easement that is no longer needed for City utility purposes.

The City Engineering has reviewed the easement and finds that there is no need for the City to retain the easement given that the lift station is constructed in a different location with a separate easement. The SEPA analysis was done on the proposed Release of Easement and was available for public review nineteen (19) days prior to the hearing. The staff recommendation is a Council

motion authorizing the Mayor to sign the release of the superfluous easement.

STANDING COMMITTEE REPORT

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

RECOMMENDED ACTION

1. Hold a Public Hearing.
2. Authorize (by motion) the Mayor to sign the attached Release of Easement.

ATTACHMENTS

Release of Easement

MAYOR'S COMMENTS

EXHIBIT "A"

**WEST MEADOWS LEGAL DESCRIPTION
PUMP STATION SITE:**

**A PORTION OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER BEING
MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE MONUMENT IN THE CENTERLINE OF AIRLINE WAY AS
CONVEYED TO ISLAND COUNTY BY QUIT CLAIM DEED NO. 129773, RECORDS OF
ISLAND COUNTY, WASHINGTON ON THE NORTH LINE OF HILLCREST VILLAGE
PLAT #2; WHICH POINT IS 170.0 FEET EAST OF THE NORTHWEST CORNER OF
NORTHEAST QUARTER, SOUTHEAST QUARTER OF SAID SECTION 33; THENCE ON
A 6° CURVE TO THE RIGHT OFF A BEARING OF NORTH 0°27'46" EAST THROUGH
A CENTRAL ANGLE OF 14°00' FOR A DISTANCE OF 233.33 FEET; THENCE
NORTH 14°27'46" EAST 116.90 FEET; THENCE ON A 6° CURVE TO THE LEFT
THROUGH A CENTRAL ANGLE OF 14°00' FOR A DISTANCE OF 233.33 FEET;
THENCE NORTH 0°27'46" EAST A DISTANCE OF 425.36 FEET; THENCE NORTH
89°32'14" WEST A DISTANCE OF 30.00 FEET TO THE WESTERLY RIGHT OF WAY
MARGIN OF SAID AIRLINE WAY BEING THE TRUE POINT OF BEGINNING;
THENCE NORTH 89°32'14" WEST A DISTANCE OF 25.00 FEET; THENCE NORTH
0°27'46" EAST A DISTANCE OF 35.00 FEET; THENCE SOUTH 89°32'14" EAST
A DISTANCE OF 25.00 FEET TO THE WESTERLY RIGHT OF WAY MARGIN OF
SAID AIRLINE WAY; THENCE SOUTH 0°27'46" WEST ALONG SAID WESTERLY
RIGHT OF WAY MARGIN A DISTANCE OF 35.00 FEET TO THE TRUE POINT OF
BEGINNING.]**

WHEN RECORDED RETURN TO:

**CITY OF OAK HARBOR
865 SE BARRINGTON DRIVE
OAK HARBOR, WA 98277**

ATTN: Eric Johnston

**SEWER EASEMENT AND AGREEMENT
(Individual)**

Grantors: Jim Forbes and Mary Forbes

Grantee: City of Oak Harbor, a Washington municipal corporation

Tax Parcel No.: R13333-323-4000, R13333-329-3290 and R13333-341-4110

For and in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, ("Grantors") grant, convey and warrant to the City of Oak Harbor, a Washington municipal corporation ("Grantee"), in lieu of condemnation, a perpetual public utility facility/pipeline easement (the "Easement") under, across, and over real property located in Island County, Washington, further described as follows and on the terms and conditions hereafter set forth:

Legal Description of Grantor's Property: Attached hereto as Exhibit "A"

Description of Permanent Easement Area: Attached hereto as Exhibit "B"

1. *Purpose of Easement.* Grantee shall have the right to construct, operate, maintain, repair, and replace a public utility wastewater collection and/or conveyance system/facilities in the Easement Area, together with all necessary or convenient appurtenances therefore, including, without limitation, sewer mains, manholes, cleanouts, side sewers, laterals, and/or a pump station and related equipment and facilities.

2. *Pump Station Construction.* The pump station shall consist of the following major features: A duplex pumping station, electrical control and telemetry panels, on site emergency generator, facilities for odor control, a site obscuring enclosure not to exceed 6-ft in height, perimeter landscaping, an access gate, service lighting, audible alarms and other appurtenant facilities commonly associated with public utility wastewater pumping stations.

EXHIBIT "B"

3. **Access.** Grantee shall have the right to enter upon the Property, by foot or vehicle, for the purposes set forth above. No notice shall be required by identifiable employees, agents or contractors of Grantee.

4. **Obstructions.** Grantee may from time to time remove structures, trees, bushes, or other obstructions within the Easement Area and may level and grade the Easement Area to the extent reasonably necessary to carry out the purposes set forth herein.

5. **Grantors' Use of Easement Area.** Grantors reserve the right to use the Easement Area for any purpose not inconsistent with the rights herein granted; provided that, within the Easement Area, Grantors shall not (i) erect any structure or fixture; (ii) plant trees; (iii) maintain any other obstruction that would interfere with Grantee's use of the Easement Area. Grantors shall not excavate or blast within twenty (20) feet of the Easement Area and shall not undertake any activity on the Property that would disturb the compaction or unearth the Easement Improvements or endanger the lateral support to the Easement Improvements. Grantors shall not alter the surface level or elevation of the ground within the Easement Area or slopes or other grades. If Grantors violate this paragraph, Grantee shall have the right to remove, or require removal of, any obstruction, or to restore, or require restoration of, the Easement Area to the condition which existed before violation of this paragraph; either of which shall be accomplished within a reasonable period of time and at Grantors' expense.

6. **Title.** Grantors covenant that they are the lawful owners of the Property and that they have the right to execute the instrument.

7. **Zoning Issues.** The Grantee agrees that the Easement Property shall be considered a part of the Grantor's property for purposes of calculating density and lot frontage under applicable zoning codes and other development codes of the City. Nothing in this agreement shall be construed to guarantee, imply or vest any development rights or approvals for land subdivision or other land use action. Furthermore nothing in this agreement shall relieve either party from the obligations to comply with development regulations that apply at the time of application for development permits.

8. **No Duty to Perform City Obligations.** The Grantee, covenants and agrees that the Grantor and Grantor's heirs, successors and assigns shall have no personal liability for the observance or performance of the City's obligations under this agreement.

9. **Indemnification and Hold Harmless Against Third Parties.** The Grantee shall hold harmless and indemnify and defend the Grantor and Grantor's heirs, personal representatives, successors and assigns against any and all liability, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments from other persons or entities, including without limitation reasonable attorney's fees arising from or in any way connected with the City's use of the Easement Property resulting in injury to or the death of any person, or physical damage to personal property, resulting from any act, omission conditions, or other matter relating to or occurring on or about the Easement Property, regardless of cause, unless due solely to the gross negligence or willful misconduct of Grantor or Grantor's heirs, personal representatives, successors or assigns.

10. **Binding Effect; Successors and Assigns.** Grantee shall have the right to assign, apportion, or otherwise transfer any or all of its rights, benefits, privileges, and interests arising herein. Without limiting the generality of the foregoing, the rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors and assigns and shall be deemed to run with the land. This instrument may be amended or modified only by written instrument, executed and acknowledged by the parties hereto or their successors or assigns, recorded with the Island County Auditor.

DATED this 25th day of MARCH, 2010.

GRANTORS:

Jimmy L Forbes
SIGNATURE

Jimmy L. FORBES
NAME

Mary L Forbes
SIGNATURE

MARY L. FORBES
NAME

GRANTEES:

Eric Johnson
SIGNATURE

ERIC Johnson
NAME

City Engineer
TITLE

J. Slouis
SIGNATURE

J. Slouis
NAME

MAYOR
TITLE

STATE OF WASHINGTON)
) ss
COUNTY OF San Juan)



I certify that I know or have satisfactory evidence that Mary L Forbes is the person who appeared before me, and said person acknowledged that he/she signed this instrument, and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 3-25-2010

Kathleen Kantrud

Notary Public
Print Name Kathleen A. Kantrud
My commission expires 10-27-2013

(Use this space for notarial stamp/seal)

STATE OF WASHINGTON)
) ss
COUNTY OF San Juan)



I certify that I know or have satisfactory evidence that Jimmy L Forbes is the person who appeared before me, and said person acknowledged that he/she signed this instrument, and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 3-25-2010

Kathleen Kantrud

Notary Public
Print Name Kathleen A. Kantrud
My commission expires 10-27-2013

(Use this space for notarial stamp/seal)

STATE OF WASHINGTON)
) ss
COUNTY OF Island)

Notary Public
State of Washington
LISA K. BEBEE
My Appointment Expires Jan. 18, 2012

I certify that I know or have satisfactory evidence that Eric Johnston is the person who appeared before me, and said person acknowledged that he/she signed this instrument, and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: March 29, 2010
Lisa K Bebee
Notary Public
Print Name Lisa K Bebee
My commission expires Jan. 18, 2012

(Use this space for notarial stamp/seal)

STATE OF WASHINGTON)
) ss
COUNTY OF ISLAND)

I certify that I know or have satisfactory evidence that Tim SLOWIK is the person who appeared before me, and said person acknowledged that he/she signed this instrument, and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

NOTARY PUBLIC
STATE OF WASHINGTON
CONNIE T WHEELER
My Appointment Expires April 01, 2012

DATED: JUNE 11, 2010
Connie T Wheeler
Notary Public
Print Name CONNIE T. WHEELER
My commission expires APRIL 1, 2012

(Use this space for notarial stamp/seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF GRANTOR'S PROPERTY

Page 1

PARCEL A:

That portion of the South Half of the Northeast Quarter of Section 33, Township 33 North, Range 1 East of the Willamette Meridian; described as follows:

Beginning 75 feet East of the Southeast corner of the Southwest Quarter of the Northeast Quarter;
thence West to the center of Section 33, Township 33 North, Range 1 East of the Willamette Meridian;
thence North along the centerline to a point which is South 805 feet from the Northwest corner of the Southwest Quarter of the Northeast Quarter;
thence Northeasterly to a point on the North line of said Southwest Quarter of the Northeast Quarter a distance of 357.5 feet East of the Northwest corner of said subdivision;
thence East along the North line of the South Half of the Northeast Quarter to the County Road;
thence along the County Road in a Southeasterly direction to a point North of the point of beginning;
thence South to the point of beginning;

EXCEPT those portions deeded to Island County for Crosby Road by instruments recorded June 16, 1988, under Auditor's File Nos. 88008931 and 88008933, records of Island County, Washington.

PARCEL B:

That portion of the Southeast Quarter of the Northeast Quarter of Section 33, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said Southeast Quarter of the Northeast Quarter;
thence South $89^{\circ}22'17''$ East a distance of 75.00 feet along the South line of said Southeast Quarter of the Northeast Quarter;
thence Northerly, parallel with the West line of said Southeast Quarter of the Northeast Quarter a distance of 400.00 feet to the true point of beginning of this description;
thence continue Northerly parallel with said West line to the South line of County Road No. 11;
thence Easterly along said South line to the West line of the County Road conveyed to Island County by Deed recorded under Auditor's File No. 129773, records of Island County, Washington;

thence Southerly along said West line to a point which lies South $89^{\circ}22'17''$ East from the true point of beginning;
thence North $89^{\circ}22'17''$ West to the true point of beginning;

EXCEPT that portion deeded to Island County for Crosby Road by instrument recorded June 6, 1988, under Auditor's File No. 88008932, records of Island County, Washington.

EXHIBIT "A"

LEGAL DESCRIPTION OF GRANTOR'S PROPERTY

Page 2

PARCEL C:

The South 400 feet of that portion of the Southeast Quarter of the Northeast Quarter of Section 33, Township 33 North, Range 1 East of the Willamette Meridian lying West of the County Road known as Airline Way, as deeded to Island County by instrument recorded under Auditor's File No. 128773, records of Island County, Washington;

EXCEPT the West 75 feet thereof.

Situated in Island County, Washington.

EXHIBIT "B"

Description of Permanent Easement Area

7-27-07

Easement for Sewer Pump Station

Tax Parcels: R13333-329-3290

R13333-323-4000

R13333-341-4110

That portion of the Northeast Quarter of Section 33, Township 33 North, Range 1 East, WM, described as follows:

Commencing at the North Quarter corner of said Section 33; Thence South $88^{\circ} 11' 22''$ East 1324.92 feet to a found concrete monument in case; Thence South $1^{\circ} 32' 55''$ West 1405.56 feet to a point hereinafter referred to as point "A"; Thence North $54^{\circ} 52' 00''$ East 28.69 feet to the Southwesterly margin of Crosby road and the **TRUE POINT OF BEGINNING**; Thence South $54^{\circ} 52' 00''$ West 28.69 feet to the aforementioned point "A"; Thence continue South $54^{\circ} 52' 00''$ West 23.68 feet; Thence South $35^{\circ} 08' 00''$ East 65.69 feet; Thence North $53^{\circ} 19' 05''$ East 53.05 feet to the Southwesterly margin of Crosby road; Thence Northwesterly along said margin on a non-tangent curve concave to the Northeast whose radius point bears North $49^{\circ} 21' 11''$ East a distance of 374.01 feet through a central angle of $9^{\circ} 51' 20''$ an arc distance of 64.33 feet to the **TRUE POINT OF BEGINNING**.

Situate in the county of Island, State of Washington



7-27-07

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

Bill No. 9
Date: September 7, 2010
Subject: Fuel Island Upgrade
Contract Award

**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

The purpose of this agenda bill is to recommend awarding a contract for the installation of the fuel island upgrade project's material and equipment to ESE Corporation, in the amount of \$187,431.41.

AUTHORITY

Oak Harbor Municipal Code Chapter 2.330.010 provides for contracting for Public Works and Improvements as follows:

Except as otherwise authorized by Chapters 39.04 and 39.28 RCW, or RCW 35.22.620, relating to emergency public works, or other applicable general state law, as now enacted or as hereafter amended, all public works and improvements shall be done by contract pursuant to public notice and call for competitive bids in accordance with this chapter whenever the estimated cost of such public work or improvement, including the cost of materials, supplies, equipment and labor, will exceed the sum of \$30,000 if more than one craft or trade is involved with the public works project, or in excess of \$20,000 if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting; provided, the city may use a small works roster pursuant to RCW 35.22.620. It is further provided, that the council may authorize public works construction projects without bid up to the bid limitation in RCW 35.22.620 as now in effect or as hereafter amended.

SUMMARY STATEMENT

On July 6, 2010 City Council authorized staff to solicit bids for the installation of the fuel island upgrade project's materials and equipment. 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.

The project was advertised for bidding in the Daily Journal of Commerce and Whidbey News-Times.

Amount of the Contract:

Staff received and opened four sealed bids on July 28, 2010. The bid totals are tabulated below (amounts include Washington State Sales Tax in the amount of 8.7%):

Contractor	Location	Bid Total
ESE Corporation	Tacoma, WA	\$187,431.41
Saybr Contractors, Inc.	Tacoma, WA	\$209,247.50
Razz Construction, Inc.	Bellingham, WA	\$220,661.00
Pacific Environmental Services Co.	Port Townsend, WA	\$256,787.44
<i>Engineer's Estimate</i>	<i>Oak Harbor, WA</i>	<i>\$150,000.00- 200,000.00</i>

Staff reviewed the bid prices and is knowledgeable of the qualifications and experience of the low bidder. It is recommended that a contract in the amount of \$187,431.41 be awarded to ESE Corporation, who is the lowest responsible bidder.

Funding:

The funding for the project has been set aside in the Equipment Rental Replacement Fund.

Justification:

The project is necessary 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.

STANDING COMMITTEE REPORT

The Public Works Standing Committee reviewed this item at their meeting on August 12, 2010.

RECOMMENDED ACTION

Authorize the Mayor to sign a contract in a form acceptable to the City Attorney with ESE Corporation in the amount of \$187,431.41. Authorize the City Engineer to administratively approve changes to the construction contract totaling not more than \$18,743.00.

ATTACHMENTS

Contract Form

MAYOR'S COMMENTS

AGREEMENT

THIS AGREEMENT is entered into by and between the CITY OF OAK HARBOR (hereinafter called the Owner) and _____ (hereinafter called the Contractor).

The Owner and the Contractor agree as follows:

ARTICLE 1. WORK.

The City of Oak Harbor proposes to make improvements to an existing fuel island at their Municipal Shops Facility. The work includes installing a new 10,000 gallon fuel tank, 4 new fuel dispensers and replacing an existing proximity card reader. The work also includes converting an existing 2,000 gallon diesel tank to unleaded fuel and replacing all existing below grade piping. A new leak monitoring system connected to the city's network will be included in the scope of work.

The City of Oak Harbor will be providing most of the equipment needed to complete the project (see Appendix 1 for a complete list of items); The Contractor will be responsible for all other items necessary to complete the project.

ARTICLE 2. CONTRACT TIME.

The Contractor shall physically complete the Work within ninety (90) calendar days (the Physical Completion Date) of a date specified in the Notice to Proceed.

ARTICLE 3. ROAD CLOSURE

ARTICLE 4. LIQUIDATED DAMAGES.

The Owner and the Contractor recognize that time is of the essence of this Agreement and that the Owner will suffer financial loss if the Work is not completed within the Contract Time, plus any extensions thereof allowed in accordance with the Contract Documents. They also recognize the inconvenience, expense, and difficulties involved a legal proceeding to prove the actual loss suffered by the Owner if the Work is not completed within the Contract Time. Accordingly, the Owner and the Contractor agree that as liquidated damages for delay, and not as a penalty, the Contractor shall pay the Owner \$200.00 (US) for each working day beyond the Physical Completion Date that the Contractor achieves physical completion of the Work.

ARTICLE 5. CONTRACT PRICE.

The Owner shall pay the Contractor the amount(s) set forth in the Proposal (in United States dollars) for completion of the Work in accordance with the Contract Documents.

AGREEMENT – Continued

ARTICLE 6. CONTRACT DOCUMENTS.

The Contract Documents, which comprise the entire agreement between the owner and the Contractor concerning the Work, consists of the following:

- This Agreement;
- The Call for Bids;
- The Contractor's Proposal including the bid, bid schedule(s), information required of bidder, and all required certificates and affidavits;
- The performance bond and the labor and material payment bond;
- The Plans (or drawings) as listed in the index on sheet 1 of the Plans;
- The Special Provisions;
- Addenda number 1, NorthWest Pump Equipment List
- WSDOT Standard Specifications for Road, Bridge and Municipal Construction, 2008 edition;
- Amendments;
- Change Orders and written Change directives issued after the effective date of this Agreement;
- City of Oak Harbor Standard Details;
- WSDOT Standard Plans;
- Appendices

There are no Contract Documents other than those listed in this Article 6. The Contract Documents may be amended only in writing by Change Order or Change Directive as provided in the Contract Documents.

ARTICLE 7. MISCELLANEOUS.

The Contractor specifically waives its immunity under applicable worker's compensation statutes, including, but not limited to RCW Title 51, which is specifically acknowledged by the Contractor. _____ (Contractor's initials)



AGREEMENT – Continued

No assignment of any of the Contractor's rights under or interests in the Contract Documents, including but not limited to rights to payment, will be allowed without the prior written consent of the Owner. Unless specifically stated in a written consent to an assignment, no assignment will release or discharge the Contractor-assignor from any duty or responsibility under the Contract Documents.

The Contract Documents are binding upon the Owner and the Contractor, and their respective partners, successors, assigns and legal representatives.

ARTICLE 8. INDEMNIFICATION

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

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

IN WITNESS WHEREOF, Owner and Contractor have caused this Agreement to be executed the day and year first above written.

CITY OF OAK HARBOR

CONTRACTOR

By _____

By _____

Date _____

Title _____

Attest _____

Address for giving notices

License No. _____

Agent for service of process: _____

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

Bill No. 10
Date: September 7, 2010
Subject: Scenic Heights Trailhead
Project Contract Award

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, approved as to form

PURPOSE

This agenda bill recommends awarding a contract for construction of the Scenic Heights Trailhead Project to C. Johnson Construction, Inc. in the amount of \$233,384.41.

AUTHORITY

Oak Harbor Municipal Code Chapter 2.330.010 provides for the contracting for Public Works and Improvements as follows:

Except as otherwise authorized by Chapters 39.04 and 39.28 RCW, or RCW 35.22.620, relating to emergency public works, or other applicable general state law, as now enacted or as hereafter amended, all public works and improvements shall be done by contract pursuant to public notice and call for competitive bids in accordance with this chapter whenever the estimated cost of such public work or improvement, including the cost of materials, supplies, equipment and labor, will exceed the sum of \$30,000 if more than one craft or trade is involved with the public works project, or in excess of \$20,000 if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting; provided, the city may use a small works roster pursuant to RCW 35.22.620. It is further provided, that the council may authorize public works construction projects without bid up to the bid limitation in RCW 35.22.620 as now in effect or as hereafter amended.

SUMMARY STATEMENT

On July 6, 2010, Council authorized staff to solicit bids for construction of the Scenic Heights Trailhead Project. The contract will result in improvements to the west end of the waterfront trail and will include a pervious concrete parking area, landscaping, future public art display area, native plantings, low impact development (LID) storm water management, irrigation, lighting, ADA accessibility features, sidewalks on Scenic Heights Street, irrigation and other site improvements consistent with a park setting. One primary goal of the project is to continue the City's efforts in building sustainable and environmentally responsible projects. The project concepts have been presented to both the Oak Harbor Parks Board and the Oak Harbor Arts Commission. In addition, the project completed a conditional use and site plan permitting process with public hearings based on the site plan improvement described in the contract documents.

DISCUSSION

The project was advertised for bidding in the Daily Journal of Commerce and Whidbey New Times.

Amount of the Contract: Staff received and opened 5 sealed bids on August 31, 2010. The bid totals are tabulated below (amounts include Washington State Sales Tax in the amount of 8.7%):

Contractor	Location	Bid Total
C. Johnson Construction Inc.	Oak Harbor, WA	\$233,384.41
Taylor's Excavators	Stanwood, WA	\$265,001.46
Advanced Construction, Inc	Mukilteo, WA	\$325,392.93
SRV Construction	Oak Harbor, WA	\$334,624.21
Interwest Construction, Inc.	Burlington, WA	\$348,893.17

<i>Engineer's Estimate</i>	<i>Oak Harbor, WA</i>	<i>\$273,990.97</i>
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Staff reviewed the bid prices and is knowledgeable of the qualifications and experience of the low bidder. It is recommended that a contract in the amount of \$233,384.41 be awarded to C. Johnson Construction, Inc., who is the lowest responsible bidder.

Construction Contingency: Most construction projects involve change orders and modifications to the contract plans. Delays in processing change order requests can result in costly delay claims against the City. To minimize the possibility of delays and the resulting claims, staff requests that the City Engineer be authorized to administratively approve up to \$20,000, approximately 10% of the contract amount, for change orders.

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Funding: The funding for the project is comprised of a \$154,000 grant from the Federal Aid Transportation Enhancement Grant awarded through the Island Sub-Regional Transportation Organization (RTPO) with the balance coming through park impact fees for neighborhood parks.

Justification: The project is identified in the Capital Improvement Plan, which is adopted as part of the City of Oak Harbor Comprehensive Plan - Capital Facilities Element and will function as the anchor for the west end of the City of Oak Harbor Waterfront Trail.

STANDING COMMITTEE REPORT

This project was presented to the Public Works and Utilities Committee at the September 2, 2010 meeting.

RECOMMENDED ACTION

Authorize the Mayor to sign a contract in a form acceptable to the City Attorney with C. Johnson Construction, Inc. in the amount of \$233,384.41. Authorize the City Engineer to administratively approve changes to the construction contract totaling not more than \$20,000.

ATTACHMENTS

Bid Tabulation
Contract Form

MAYOR'S COMMENTS

Basic Heights Trailhead Project
 City of Oak Harbor
 Contract No. ENG 06-18-A
 Oak Harbor, WA
 August 31, 2010 11:35am.

By: Spencer
 For: City of Oak Harbor
 1st: \$ 233,384.41
 2nd: \$ 265,001.46
 3rd: \$ 325,382.83
 Engineer Estimate: \$ 273,890.87

No.	Item	Reference	Unit	Qty	ENGINEER ESTIMATE			CONTRACTOR ESTIMATE			EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
					UNIT PRICE	EXTENSION	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE							
<p>Engineer's total cost \$ 273,890.87 \$ 233,384.41 \$ 265,001.46 \$ 325,382.83 \$ 344,831.17 \$ 315,000.00</p>																	
A1	Mobilization (2001)	1-02.7	LS	1	\$4,000.00	\$4,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	
A2	Removal of Structure and Construction (2050)	2-02.5	LS	1	7,500.00	7,500.00	8,800.00	8,800.00	8,800.00	8,800.00	8,800.00	8,800.00	8,800.00	8,800.00	8,800.00	8,800.00	
A3	Sanitary Estimation Incl. Haul (3100)	2-03.5	CY	60	\$12.00	\$720.00	\$1.00	\$60.00	\$32.00	\$1,920.00	\$1,920.00	\$1,920.00	\$1,920.00	\$1,920.00	\$1,920.00	\$1,920.00	
A4	Soil Mix PVC Storm Sewer Pipe 10 in. Diam. (I)	7-04.5	LF	18.9	28.00	528.00	52.00	975.60	\$28.00	\$528.00	\$528.00	\$528.00	\$528.00	\$528.00	\$528.00	\$528.00	
A5	Backfill (3815)	7-09.5	CY	8	20.00	160.00	8.00	64.00	\$20.00	\$160.00	\$160.00	\$160.00	\$160.00	\$160.00	\$160.00	\$160.00	
A6	Gravel Base (5047)	4-02.5	TON	60	19.00	1,140.00	12.00	720.00	\$19.00	\$1,140.00	\$1,140.00	\$1,140.00	\$1,140.00	\$1,140.00	\$1,140.00	\$1,140.00	
A7	Crushed Sizing Top Course (512)	4-04.5	TON	2	28.00	56.00	17.00	34.00	\$28.00	\$56.00	\$56.00	\$56.00	\$56.00	\$56.00	\$56.00	\$56.00	
A8	Concrete (201)	5-04.5	TON	30	178.00	5,340.00	8.00	240.00	\$178.00	\$5,340.00	\$5,340.00	\$5,340.00	\$5,340.00	\$5,340.00	\$5,340.00	\$5,340.00	
A9	Concrete Traffic Control (6000)	6-01.5	EST	1	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	
A10	Concrete Traffic Control (6700)	6-04.5	LF	128	22.00	2,816.00	3.00	384.00	\$22.00	\$2,816.00	\$2,816.00	\$2,816.00	\$2,816.00	\$2,816.00	\$2,816.00	\$2,816.00	
A11	Concrete Storm Drain Incl. Haul (700)	8-01.5	LS	1	500.00	500.00	1,000.00	1,000.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	
A12	Concrete Storm Drain Incl. Haul (700)	2-02.5	CY	8	17.00	136.00	8.00	64.00	\$17.00	\$136.00	\$136.00	\$136.00	\$136.00	\$136.00	\$136.00	\$136.00	
A13	Concrete Siderails (7053)	8-14.5	SY	42	34.00	1,428.00	13.00	546.00	\$34.00	\$1,428.00	\$1,428.00	\$1,428.00	\$1,428.00	\$1,428.00	\$1,428.00	\$1,428.00	
A14	Concrete Siderails Thickened Edge (I)	8-14.5	SY	22	34.00	748.00	13.00	286.00	\$34.00	\$748.00	\$748.00	\$748.00	\$748.00	\$748.00	\$748.00	\$748.00	
A15	Concrete Siderails Thickened Edge (II)	8-14.5	LS	1	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	
A16	Concrete Siderails Thickened Edge (III)	8-14.5	SY	32	45.00	1,440.00	13.00	420.00	\$45.00	\$1,440.00	\$1,440.00	\$1,440.00	\$1,440.00	\$1,440.00	\$1,440.00	\$1,440.00	
A17	Minor Change (7220)	1-01-4.1	EST	1	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	
B1	Removal of Structure and Construction (2050)	2-02.5	LS	1	7,500.00	7,500.00	8,800.00	8,800.00	8,800.00	8,800.00	8,800.00	8,800.00	8,800.00	8,800.00	8,800.00	8,800.00	
B2	Sanitary Estimation Incl. Haul (3100)	7-01.5	LF	25	18.00	450.00	15.00	375.00	\$18.00	\$450.00	\$450.00	\$450.00	\$450.00	\$450.00	\$450.00	\$450.00	
B3	Sanitary Estimation Incl. Haul (3100)	2-03.5	CY	65	28.00	1,820.00	10.00	650.00	\$28.00	\$1,820.00	\$1,820.00	\$1,820.00	\$1,820.00	\$1,820.00	\$1,820.00	\$1,820.00	
B4	Concrete Inlet (1246)	7-05.5	EACH	1	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	
B5	Catch Basin Type 1 (2081)	7-05.5	EACH	1	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	
B6	Trash Basin Plus (5123)	7-04.5	LF	27	24.00	648.00	15.00	405.00	\$24.00	\$648.00	\$648.00	\$648.00	\$648.00	\$648.00	\$648.00	\$648.00	
B7	PVC Sanitary Sewer Pipe 8 in. Diam. (3780)	7-04.5	LF	65	35.00	2,275.00	15.00	975.00	\$35.00	\$2,275.00	\$2,275.00	\$2,275.00	\$2,275.00	\$2,275.00	\$2,275.00	\$2,275.00	
B8	Backfill (3815)	7-09.5	CY	110	20.00	2,200.00	8.00	880.00	\$20.00	\$2,200.00	\$2,200.00	\$2,200.00	\$2,200.00	\$2,200.00	\$2,200.00	\$2,200.00	
B9	Gravel Base (5047)	4-02.5	TON	60	19.00	1,140.00	12.00	720.00	\$19.00	\$1,140.00	\$1,140.00	\$1,140.00	\$1,140.00	\$1,140.00	\$1,140.00	\$1,140.00	
B10	Crushed Sizing Top Course (512)	4-04.5	TON	2	28.00	56.00	17.00	34.00	\$28.00	\$56.00	\$56.00	\$56.00	\$56.00	\$56.00	\$56.00	\$56.00	
B11	Minor Change (7220)	1-01-4.1	EST	1	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	
B12	Minor Change (7220)	4-04.5	TON	45	28.00	1,260.00	17.00	765.00	\$28.00	\$1,260.00	\$1,260.00	\$1,260.00	\$1,260.00	\$1,260.00	\$1,260.00	\$1,260.00	

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Scenic Heights Trailhead Project
 City of Clark Harbor
 Contract No. ENG DB-48-A
 Clark Harbor, WA
 August 31, 2010 11:35pm

Bill Summary
 No. of Quotes
 Low Bid
 2nd:
 3rd:
 Engineers Estimate:

Engineer's total cost
 \$ 273,990.27

No.	Material	Unit	Qty	Contractor 1		Contractor 2		Contractor 3		Contractor 4		Contractor 5	
				UNIT PRICE	EXTENSION								
C11	Plant Selection - Desmodium	EA	100	\$ 2.00	\$ 200.00	\$ 2.00	\$ 200.00	\$ 2.00	\$ 200.00	\$ 2.00	\$ 200.00	\$ 2.00	\$ 200.00
C12	Plant Selection - Desmodium	EA	100	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00
C13	Plant Selection - Desmodium	EA	100	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00
C14	Plant Selection - Phytolacca	EA	100	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00
C15	Plant Selection - Phytolacca	EA	100	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00
C16	Plant Selection - Phytolacca	EA	100	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00
C17	Plant Selection - Phytolacca	EA	100	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00
C18	Plant Selection - Phytolacca	EA	100	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00
C19	Plant Selection - Phytolacca	EA	100	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00
C20	Plant Selection - Phytolacca	EA	100	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00
C21	Plant Selection - Phytolacca	EA	100	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00
C22	Plant Selection - Phytolacca	EA	100	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00
C23	Plant Selection - Phytolacca	EA	100	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00
C24	Plant Selection - Phytolacca	EA	100	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00	\$ 1.00	\$ 100.00
Subtotal				\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00
Sales Tax (8.75%)				\$ 8.75	\$ 8.75	\$ 8.75	\$ 8.75	\$ 8.75	\$ 8.75	\$ 8.75	\$ 8.75	\$ 8.75	\$ 8.75
Total				\$ 108.75	\$ 108.75	\$ 108.75	\$ 108.75	\$ 108.75	\$ 108.75	\$ 108.75	\$ 108.75	\$ 108.75	\$ 108.75

NOTE: Sales Tax does not apply to Subtotal A

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AGREEMENT

THIS AGREEMENT is entered into by and between the CITY OF OAK HARBOR (hereinafter called the Owner) and _____
(hereinafter called the Contractor).

The Owner and the Contractor agree as follows:

ARTICLE 1. WORK.

The City of Oak Harbor proposes to construct a parking area and pedestrian facilities at the trailhead on Scenic Heights Road. The work includes construction of parking area using pervious concrete, installation of permeable paver walkways, landscaping improvements, and associated work in accordance with the Contract Plans, Contract Provisions, and WSDOT Standard Specifications.

ARTICLE 2. CONTRACT TIME.

The Contractor shall physically complete the Work within the time specified in Section 1-08.5 of the Special Provisions.

ARTICLE 3. LIQUIDATED DAMAGES.

The Owner and the Contractor recognize that time is of the essence of this Agreement. Liquidated damages will be assessed in accordance with Section 1-08.9 of the Standard Specifications.

ARTICLE 4. CONTRACT PRICE.

The Owner shall pay the Contractor the amount(s) set forth in the Proposal (in United States dollars) for completion of the Work in accordance with the Contract Documents.

ARTICLE 5. CONTRACT DOCUMENTS.

The Contract Documents, which comprise the entire agreement between the owner and the Contractor concerning the Work, consists of the following:

- This Agreement;
- Invitation to Bid;
- The Contractor's Proposal including the bid, bid schedule(s), information required of bidder, and all required certificates and affidavits;
- Performance Bond;
- Labor and Material Payment Bond;
- The Plans (or drawings) as listed in the index on Sheet 1 of the Plans;
- The Special Provisions;
- Addenda numbers _____, inclusive;

- WSDOT Standard Specifications for Road, Bridge and Municipal Construction, 2010 edition;
- Amendments;
- Change Orders and written Change directives issued after the effective date of this Agreement;
- City of Oak Harbor Standard Details;
- WSDOT Standard Plans;
- Appendices

There are no Contract Documents other than those listed in this Article 5. The Contract Documents may be amended only in writing by Change Order or Change Directive as provided in the Contract Documents.

ARTICLE 6. MISCELLANEOUS.

The Contractor specifically waives its immunity under applicable worker's compensation statutes, including, but not limited to RCW Title 51, which is specifically acknowledged by the Contractor.

_____ (Contractor's initials)

No assignment of any of the Contractor's rights under or interests in the Contract Documents, including but not limited to rights to payment, will be allowed without the prior written consent of the Owner. Unless specifically stated in a written consent to an assignment, no assignment will release or discharge the Contractor-assignor from any duty or responsibility under the Contract Documents.

The Contract Documents are binding upon the Owner and the Contractor, and their respective partners, successors, assigns and legal representatives.

ARTICLE 7. INDEMNIFICATION

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

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

IN WITNESS WHEREOF, Owner and Contractor have caused this Agreement to be executed the day and year first above written.

CITY OF OAK HARBOR

CONTRACTOR

By _____

By _____

Date _____

Title _____

Address for giving notices

License No. _____

Agent for service of process: _____

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

Bill No. 11

Date: September 7, 2010

Subject: Marina Dredging Contract Award

FROM: Steve Powers *SP*
Development Services Director

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

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

PURPOSE

This agenda bill recommends awarding a contract for the Marina Redevelopment Project, Phase 2, Dredging, to Northwest Marine in the amount of \$1,893,794.00.

AUTHORITY

Oak Harbor Municipal Code Chapter 2.330.010 provides for the contracting for Public Works and Improvements as follows:

Except as otherwise authorized by Chapters 39.04 and 39.28 RCW, or RCW 35.22.620, relating to emergency public works, or other applicable general state law, as now enacted or as hereafter amended, all public works and improvements shall be done by contract pursuant to public notice and call for competitive bids in accordance with this chapter whenever the estimated cost of such public work or improvement, including the cost of materials, supplies, equipment and labor, will exceed the sum of \$30,000 if more than one craft or trade is involved with the public works project, or in excess of \$20,000 if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting; provided, the city may use a small works roster pursuant to RCW 35.22.620. It is further provided, that the council may authorize public works construction projects without bid up to the bid limitation in RCW 35.22.620 as now in effect or as hereafter amended.

The project was advertised for bidding in the Daily Journal of Commerce on July 29 and Aug 5 and Whidbey News Times on July 31. The City's standard construction contract is used for this award. The contract form is included with this agenda bill as Attachment 1.

SUMMARY STATEMENT

This contract involves maintenance dredging of the Oak Harbor Marina, both in open fairways and under and around existing dock structures. Included in the contract is environmental mitigation as required by the project permits. This work is Phase 2 of the Marina Redevelopment Project.

DISCUSSION

Amount of the Contract: Staff received and opened four sealed bids on August 18, 2010. Bids consisted of a Base Bid (dredging of the landing float, A-dock, near shore area and fuel float plus environmental mitigation), Bid Additive 1 (dredging of F-dock/breakwater area) and Bid Additive 2 (limited dredging near the main walkway intersection with B, C, D and E docks). The bid totals are tabulated below (amounts include Washington State Sales Tax in the amount of 8.7%):

Contractor	Location	Bid Total
Pacific Pile		\$2,371,922
American Construction		\$2,633,010
Northwest Marine		\$1,893,794
Redside Construction		\$2,368,364

<i>Engineer's Estimate</i>	<i>Oak Harbor, WA</i>	<i>\$1,850,325</i>
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The bid totals shown above include the contractors' bids for the Base Bid, Bid Additive 1 and Bid Additive 2. Bid details by category and sub-area are shown on Attachment 2. The apparent low bid submitted by Northwest Marine is \$43,468 or approximately 2.3% higher than the engineer's estimate. Staff reviewed the bid prices and the qualifications and experience of the low bidder. It is recommended that a contract in the amount of \$1,893,794 be awarded to Northwest Marine who is the lowest responsible bidder as defined by the contract documents.

In addition to the contract amount noted above, staff seeks additional expenditure authority. The contract specification for Bid Additive 2 includes the following language:

The quantities listed in the Bid Schedule are for the purpose of establishing unit prices. The quantity may be increased or decreased up to 35 percent by the Contracting Agency without re-negotiating the unit prices.

After reviewing the unit prices included in the low bid it is possible that the City could undertake the additional dredging allowed by this quantity increase. However, some additional work is necessary to determine the location and quantity of the additional dredging. With this in mind the proposed contract amount does not include the additional dredging, but the staff recommendation requests Council grant staff the authority to increase the contract by a predetermined amount (\$151,550). This amount is based on a 35% increase over fairway and slip dredging quantities for Bid Additive 2.

Dredging Quantity Decision: The staff's recommendation noted above is based on the following:

1. Although slightly higher than the engineer's estimate the lowest bid is in line with the estimated contract amount previously discussed with the City Council.
2. The estimated dredging fee necessary to support the proposed dredging for the Base Bid, Bid Additive 1 and Bid Additive 2 is slightly higher (\$1.05/linear foot/month) than previously estimated but does not generally increase the total moorage fee to an amount greater than the area average.
3. The total dredging fee necessary fund the work noted above and to increase the quantity in Bid Additive 2 by 35% is estimated at \$1.15/linear foot/month. This fee exceeds the area average for smaller slip sizes but is less than the average for large slip sizes. Please note the actual fee will be determined by the bond financing process (see Finance Director comments below).
4. The proposed contract responds to customer and Council sentiment to undertake as much dredging as possible in this permit window, but without significantly revising the estimated dredging fee amount.

Construction Contingency: Most construction projects involve change orders and modifications to the contract plans. Delays in processing change order requests can result in costly delay claims against the City. To minimize the possibility of delays and the resulting claims, staff requests that the City Engineer be authorized to administratively approve up to \$189,380 or approximately 10% of the contract amount, for change orders.

Construction Administrative Services: Due to the nature of the proposed work it necessary for the City to contract for construction administrative services. This circumstance was anticipated when the City Council authorized the Mayor to sign the dredging design contract with Reid Middleton on December 15, 2009 in the amount of \$145,322. The scope of work included with the contract covers two phases of work. Phase A (\$95,272) was for design, project management and bidding assistance while Phase B (\$50,050) was for construction administrative services and mitigation monitoring. The Phase B amount was only to be expended if the City awarded a dredging contract. Staff recommends that these funds now be authorized for expenditure.

Funding:

Finance Director's Comments:

The award of this dredging contract will require funding through the proceeds received via the issuance of a revenue bond. This revenue bond would be entirely repaid through annual payments coming from revenues generated through Marina operations. It is anticipated that the revenue bond term will be for a twenty (20) year period at an interest rate of approximately 4%, depending on the date of closing. Currently, the financial position of the Marina does not allow for the issuance of a revenue bond without a corresponding increase in revenues. Accordingly, the bonds will be supported by the implementation of a dredging fee to be collected from each moorage customer, in addition to their regular moorage fee. *It will be mandatory that the*

Marina Dredging Contract Award

approval of this contract also gives approval to the issuance of the required financing, along with the required rate increase to ensure timely repayment. While separate action will be brought forward for the debt issue and related rate adjustment, please be aware the Council's approving this contract essentially commits the City to approving these two related functions as well.

Caution should be taken regarding the amount of total financing being considered with this project. The recreational boating industry has historically been subject to diverse economic fluctuations, which at times has resulted in the Marina experiencing reductions in revenues as boat owners have curtailed boating activities during difficult financial times. It is critical that the financial assumptions being used are conservative, and reflect the potential economic "perfect storm" scenario that may be experienced during the next twenty year period during which the City will be repaying the bonds. Examples of critical assumptions would be utilizing a model vacancy ratio that is less than the average vacancy ratio, analyzing the financial impact between slip sizes of changes in rate competitiveness against the revenue stream of the Marina, ensuring that the Marina accumulate and maintain sufficient contingency reserves to pay for operations, to repair or replace aging infrastructure, and to have a fallback "bond repayment" reserve should the economy weaken to such a degree that Marina revenues are not sufficient to fully fund one or more annual bond payments.

Finally, the Marina should budget to retain the current operating surplus as a capital facilities replacement program funding source. With the proposed bond issue, the Marina will have fully reached its capacity to pay for long-term financing without an additional rate increase that might potentially erode the Marina's competitive rate pricing as compared to neighboring marinas. The current operating rate structure should be maintained to pay for needed repairs and assets replacements on an ongoing basis, or to be used as a potential funding source should any large scale asset failure occur during the next twenty years. It might be tempting to tap into this current surplus to accomplish the dredging project. Again, caution should be exercised as this is the only funding source available for the Marina for the contingencies referred to previously. In the worst case scenario, if Marina revenues were to fall below required levels to repay the bond, the City's General Fund would be required to subsidize any shortfall, thereby reducing funding for other essential City services.

Justification: The maintenance dredging that will take place under this contract is necessary to prevent damage to marina structures during low tides, to improve access to the fuel float and to generally improve the usability of the marina.

Staff Recommendation: The staff recommendation is presented to the City Council in the form of a resolution. The resolution addresses contract award specifics and indicates the manner in which the project is to be funded (revenue bonds supported by a moorage rate increase).

STANDING COMMITTEE REPORT

This project was presented to the Governmental Services Standing Committee in various meetings during 2009 and 2010.

Marina Dredging Contract Award
Page 4 of 5

RECOMMENDED ACTION

Approve resolution awarding dredging contract

ATTACHMENTS:

1. Contract Form
2. Bid Tabulation
3. Resolution

MAYOR'S COMMENTS:

**CITY OF OAK HARBOR, WA
CONSTRUCTION CONTRACT COVER SHEET**

Contract Parties: City of Oak Harbor and Northwest Marine

Contract Reference: Oak Harbor Marina Redevelopment Phase 2 #Eng-10-03

Description of Work: This contract involves maintenance dredging of the Oak Harbor Marina, both in open fairways and under and around existing dock structures all in accordance with the Contract Documents. The dredge material will be disposed in open water at a Puget Sound dredge disposal site in accordance with the contract documents and permits. Project also includes near-shore mitigation, including planting and placement of fill material.

Contract Amount: Not to exceed \$ 1,893,794.00

Contract Period: Time for Completion: Work shall be completed within 150 working days of the Notice to Proceed. The in-water work window closes February 15, 2011.

Final Acceptance by City: The date on which the City accepts the work as complete.

Indemnification: Indemnification Addendum

Insurance: SP 1-07.18 (Special Provisions)

Contract Documents: Agreement and Contract
Change Orders
Addenda 1 and Indemnification Addendum
Bid Proposal Form
Special Provisions
Amendments WSDOT Standard Specifications for Road, Bridge and Municipal Construction (2010)
Agency Standard Plans
WSDOT Standard Plans
Appendices
Information/Instructions to Bidders
Bid Solicitation
Performance and Payment Bond
Notice of Award
Notice to Proceed

RE: OAK HARBOR MARINA REDEVELOPMENT PHASE 1

THIS AGREEMENT AND CONTRACT, made this _____ day of _____, 2010, by and between the CITY OF OAK HARBOR, herein called the Owner, and Northwest Marine hereinafter called the Contractor.

ARTICLE I. SCOPE OF WORK. The Contractor shall perform, within the time stipulated, the Contract as herein defined, of which this agreement is a component part, and everything required to be performed, and shall provide and furnish any and all utility and transportation services necessary to perform the contract and complete in a workmanlike manner furnishing materials and installing improvements entitled "OAK HARBOR MARINA REDEVELOPMENT PHASE 2 - DREDGE" CONTRACT ENG-10-03, in strict conformity with the plans and project manual, including any and all Addenda issued by the Owner, with the other contract documents hereinafter enumerated.

It is agreed that said labor, materials, tools, equipment, and services shall be furnished and the contract performed and completed subject to the approval of the Owner or its authorized representative.

ARTICLE II. LUMP SUM PRICES. The Owner shall pay to the Contractor as full consideration for the performance of the contract, an amount equal to the lump prices as set forth in the bid.

ARTICLE III. UNIT PRICES. The Owner shall pay to the Contractor as full consideration for the performance of the contract, an amount computed upon the basis of the quantity of work actually performed at the unit prices set forth in the bid, and, should the quantities be increased or decreased, payment shall be made per 1-04.6 of the Standard Specifications and the Contractor shall make no claim for anticipated profits for any increase or decrease in the quantities. Actual quantities shall be determined upon completion of the work and as described in the bid specifications.

ARTICLE IV. COMPONENT PARTS OF THIS CONTRACT. The Contract entered into by the acceptance of the Contractor's bid and the signing of this agreement consists of the following documents all which are component parts of said Contract and as fully a part thereof as if herein set out in full, and if not attached, as if hereto attached.

1. This Agreement and Contract
2. Change Orders
3. Addenda No. 1
4. Bid Proposal Form
5. Special Provisions
6. Contract Drawings
7. Amendments
8. WSDOT Standard Specifications for Road, Bridge and Municipal Construction (2008)
9. Agency Standard Plans

City of Oak Harbor
Oak Harbor Marina Redevelopment Phase 2 - Dredge

00500 - 2

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ATTACHMENT 1

- 10. WSDOT Standard Plans
- 11. Appendices
- 12. Instructions to Bidders
- 13. Bid Solicitation
- 14. Performance and Payment Bond
- 15. Notice of Award
- 16. Notice to Proceed

In the event of any conflict or inconsistency between any of the foregoing documents, the conflict or inconsistency shall be resolved upon the basis of the numerical order. The document or documents assigned the small number or numbers being controlling over any document having a larger number in the numerical order set forth above. Provided, however, although the supplemental conditions incorporates standard specifications by reference, in case of conflict or inconsistency, these standard specifications have a numerical order as shown above.

ARTICLE V. SALES TAXES. All applicable taxes associated with this contract shall be submitted under Location Code 1503 (City of Oak Harbor).

IN WITNESS WHEREOF, four (4) identical counterparts of this Agreement, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on this day and year first above written.

City of Oak Harbor
OWNER

Corporate
Seal:

By: _____

Title: _____ Mayor

By: _____

Title: _____

Northwest Marine
CONTRACTOR

Corporate Seal:

By: _____

Title: _____

WITNESS, if individual or partnership

ATTEST, if Corporation

By: _____

By: _____

By: _____

Title: _____

BID SUMMARY

Basic Bid:
Additive Bid 1:
Additive Bid 2:

Estimate's Estimate	Pacific Pile	American Coast	Northwest Marine	Redfish Coast
Total Price	1,101,121.24	1,416,810.00	1,147,684.00	1,181,184.00
1,101,121.24	557,200.00	432,000.00	739,500.00	597,000.00
377,817.00	819,000.00	784,200.00	432,600.00	589,500.00
Total Basic Bid Plus Additives 1 and 2	1,850,252.24	2,371,922.00	1,893,794.00	2,368,364.00

Basic Bid: NEARSHORE AREA
 Mobilization/demobilization
 Dredge & dispose - firmways
 Dredge & Dispose - silt
 Water Quality Monitoring
 Pre- and Post-dredge survey
 Shoreline Enhancement Methods/works
 Shoreline Enhancement By Counts
 Habitat Mx Import and Placement
 Beach Sand Import and Placement
 Furnish and Install Plantings
 Irrigation system
 Boer Chd removal
 Minor Changes

Qty	Unit	Estimate's Estimate	Pacific Pile	American Coast	Northwest Marine	Redfish Coast
1	lb	1.00	196,753.00	175,000.00	140,000.00	317,200.00
21,300	cy	14.16	301,604.00	26.00	533,800.00	34.60
4600	cy	32.67	150,282.00	24.00	110,400.00	49.40
1	lb	16,355.00	16,353.00	30,000.00	1,000.00	1,000.00
1	lb	27,225.00	27,225.00	24,000.00	16,000.00	16,000.00
1	lb	17,400.00	17,400.00	5,000.00	11,000.00	11,000.00
1	lb	18,900.00	18,900.00	16,000.00	13,000.00	13,000.00
5,022	Ton	64.62	374,531.64	11.00	55,242.00	12.00
170	Ton	38.28	4,973.50	30.00	3,900.00	32.20
440	sq	8.40	3,900.00	8.00	3,660.00	9.00
1	lb	2,400.00	2,400.00	7,000.00	6,000.00	6,000.00
1	lb	28,000.00	28,000.00	26,000.00	182,000.00	182,000.00
1	calc	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00
Total Basic Bid		1,101,121.24	1,011,121.24	995,022.00	1,416,810.00	1,147,684.00

Additive Bid 1: BRACKWATER AREA & DOCK
 Dredge and Dispose- silt
 Water Quality Monitoring
 Surveying Dredging

Qty	Unit	Estimate's Estimate	Pacific Pile	American Coast	Northwest Marine	Redfish Coast
14,000	cy	28.31	396,460.00	37.25	529,900.00	30.00
1	lb	8,712.00	8,712.00	18,000.00	18,000.00	11,000.00
1	lb	16,336.00	16,336.00	10,000.00	11,000.00	11,000.00
Total Additive Bid 1		421,507.00	557,900.00	432,000.00	432,000.00	397,000.00

Additive Bid 2: ARBA B, C, D, AND E DOCKS
 Dredge and Dispose- Firmways
 Water Quality Monitoring
 Surveying Dredging

Qty	Unit	Estimate's Estimate	Pacific Pile	American Coast	Northwest Marine	Redfish Coast
10,000	cy	16.54	162,500.00	43.00	290,000.00	39.40
3,000	cy	60.69	150,270.00	63.00	204,000.00	59.40
1	lb	8,712.00	8,712.00	25,000.00	25,000.00	11,000.00
1	lb	16,336.00	16,336.00	10,000.00	10,000.00	11,000.00
Total Additive Bid 2		377,817.00	419,000.00	784,200.00	784,200.00	432,600.00

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RESOLUTION No. _____

A RESOLUTION OF THE CITY OF OAK HARBOR AWARDING A CONTRACT FOR DREDGING OF THE OAK HARBOR MARINA

WHEREAS, the City Council of the City of Oak Harbor approved the Oak Harbor Marina Redevelopment Program on July 5, 2006; and

WHEREAS, maintenance dredging of the Marina was identified in that Program as a necessary project and has been identified as Phase 2 of the redevelopment project; and

WHEREAS, on December 15, 2009 the City Council authorized a contract with Reid Middleton in the amount of \$145,322 for design of the dredging project; and

WHEREAS, on July 6, 2010 the City Council authorized staff to advertise the marina dredging project for public bid; and

WHEREAS, the project was advertised for bidding in the Daily Journal of Commerce on July 29, 2010 and Aug 5, 2010 and Whidbey News Times on July 31, 2010; and

WHEREAS, on August 18, 2010 staff received and opened four sealed bids; and

WHEREAS, the bids consisted of a Base Bid (dredging of the landing float, A-dock, near shore area and fuel float plus environmental mitigation), Bid Additive 1 (dredging of F-dock/breakwater area) and Bid Additive 2 (limited dredging near the main walkway intersection with B, C, D and E docks); and

WHEREAS, the lowest responsible bidder as defined by the contract documents is Northwest Marine who submitted a bid in the amount of \$1,893,794; and

WHEREAS, additional project costs including environmental mitigation, dredging disposal fee and project financing costs apply, bringing the total estimated project amount to \$2,750,546; and

WHEREAS, the City Council approves of funding the Oak Harbor Marina dredging project through the issuance of revenue bonds, the repayment of which will be derived through the Marina's rate structure; and

WHEREAS, the City Council directs staff to prepare, for Council consideration, the required bond issuance and moorage fee increase ordinances needed to fully support the repayment of the revenues bonds referred to above;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Oak Harbor that the following actions be taken:

- 1) Authorize the Mayor to sign a contract with Northwest Marine in the amount of \$1,893,794 for the Marina Redevelopment Project, Phase 2, Dredging.
- 2) Authorize the Development Services Director to increase the dredging quantity in Bid Additive 2 by a dollar amount not totaling more than \$151,550.

- 3) Authorize the City Engineer to administratively approve changes to the construction contract totaling not more than \$189,380.
- 4) Authorize Phase B, construction administrative services, as described in the contract with Reid Middleton, Inc (approved December 15, 2009) in a not to exceed amount of \$50,050.

PASSED and approved by the City Council this 7th day of September, 2010.

THE CITY OF OAK HARBOR

Jim Slowik
Mayor

Attest:

City Clerk

Approved as to form:

Margery Hite
City Attorney

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

Bill No. 12
Date: September 7, 2010
Subject: Island County Interlocal
Agreement for Pioneer Way
Improvements 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 presents an interlocal agreement with Island County related to an economic development grant awarded to the City of Oak Harbor for the SE Pioneer Way Street Improvements Project.

AUTHORITY

The City has authority under RCW 35A.11 and RCW 39.34 to enter into interlocal agreements to “cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities” (cit. RCW 39.34.010).

SUMMARY STATEMENT

In the fall of 2007 the City Council authorized an application to the Island County Board of Commissioners for a \$1,000,000 grant from the Rural County Economic Development Fund to assist in constructing improvements to SE Pioneer Way as part of the Windjammer Plan. The Board of Commissioners unanimously approved the grant.

This interlocal agreement confirms the grant award, specifies and limits the use of the funds to the Pioneer Way Street Reconfiguration (also known as the SW Pioneer Way Street Improvements Project), outlines the procedures for reimbursement requests and defines the responsibilities of the City and County in completing the project. The agreement is typical of reimbursement grant agreements that the City has entered into with other state and federal agencies for capital projects. The City is required to report to Island County on an annual basis, for a period of 5 years, the beneficial effects of the project in terms of jobs created or retained.

Staff have reviewed the agreement and have no exceptions to the conditions or terms and therefore recommend approval of the interlocal agreement.

STANDING COMMITTEE REPORT

This item was presented to the Public Works Standing Committee on September 3, 2010.

RECOMMENDED ACTION

A motion authorizing the Mayor to sign an attached interlocal agreement with Island County for up to \$1,000,000 in rural county economic development funds for the SE Pioneer Way Street Improvements Project, in substantially the form attached to this agenda bill.

ATTACHMENTS

Interlocal Agreement

MAYOR'S COMMENTS

Contractor: City of Oak Harbor
Project: Pioneer Way Street Reconfiguration
Contract No.: RM-BUD-10-0216

INTERLOCAL AGREEMENT RURAL COUNTY ECONOMIC DEVELOPMENT FUNDS

THIS INTERLOCAL AGREEMENT is made and entered into pursuant to Chapter 39.34 of the Revised Code of Washington, by and between Island County, Washington, a political subdivision of the State of Washington, acting by and through its Board of County Commissioners, (the "County") and the City of Oak Harbor, a municipal corporation organized under the laws of the State of Washington, and wholly situated in Island County, Washington, (the "City"), on the date shown below.

RECITALS

A. County is eligible for and receives sales and use taxes for rural counties authorized in RCW 82.14.370 and imposed in Island County Code Chapter 3.02C. Such tax is authorized for the purpose of financing public facilities serving economic development purposes in rural areas.

B. The Island County Council of Governments at its October 24, 2007 meeting by way of a unanimous motion recommended for approval by the County the award of Rural County Economic Development Funds to assist the City in financing the costs of a road improvement project known as the Pioneer Way Street Reconfiguration (the "Project"), said improvements are more particularly described in the Application for Rural County Economic Development Funds, submitted by the City, dated August 6, 2007.

C. The County approved on December 10, 2007 an award of Rural County Economic Development Funds in the amount of One Million Dollars (\$1,000,000.00) for the Project, subject to the City having secured the remaining funding.

D. The Project is listed in the City of Oak Harbor Capital Improvement Plan.

E. The City has the appropriate statutory authority pursuant to Chapter 35A.11 RCW, and is ready, willing, and able to complete the Project described herein, and the parties are entering into this Agreement to carry out such purpose.

F. Entry into this Agreement is authorized under Chapter 39.34 of the Revised Code of Washington, the Interlocal Cooperation Act.

AGREEMENT

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

2. Purpose. The purpose of this Agreement is to allow the County to provide partial funding assistance to the City for costs of a utility improvement Project known as the Pioneer Way Street

Reconfiguration, said improvements are more particularly described in the Application for Rural County Economic Development Funds, submitted to the County by the City, dated August 6, 2007.

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

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

5. Allowable uses. All funds disbursed by the County to the City under this Agreement shall be used by the City solely for Project costs considered permitted uses under RCW 82.14.370 and Island County Code Chapter 3.02C.040(A). The City hereby warrants and guarantees that the said Project shall be completed for uses as described herein.

6. Financing. The contribution to the City from County rural county sales and use tax proceeds for this Project will be in the amount of One Million dollars (\$1,000,000.00). Upon receipt of a request for reimbursement and documentation evidencing that the City has paid Project costs allowable under this Agreement, the County shall pay said reimbursement request within forty-five (45) days of receipt.

7. Repayment Guarantee. In the event that it is determined that any portion of the funds provided by the County is used for any purpose not authorized under this Interlocal Agreement, the City hereby guarantees that it will repay to the County all such funds, together with accrued interest at the same rate as if the funds had been invested with the Washington State Local Government Investment Pool. Any repayments due to the County shall be paid by the City within forty-five (45) days of written request made by the County.

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

9. Reporting. The City shall file a report with the Board of County Commissioners by January 31st of the year succeeding completion of the Project, for 5 years, reflecting the number of jobs and businesses created and retained as a result of the Project, along with other related information reasonably required by the County to measure the economic impact of its financial assistance.

The City shall also file a report with the County Auditor by January 31, 2011 and each year thereafter when the City has been reimbursed in the prior year under Section 6 above. The report must show the following:

- (a) List the name of the project as "Pioneer Way Street Reconfiguration";
- (b) Indicate where the project is listed in the City's economic development plan or the

- economic development section of the City's comprehensive plan;
- (c) List the City's total expenditures for the project from rural county sales and use tax funds received from the County in previous year and in prior years, if applicable;
 - (d) List the actual or estimated number of businesses created/retained by the Project; and
 - (e) List the actual or estimated number of jobs created/retained by the Project.

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

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

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

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

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

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

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

compensated by the parties as follows: Each party shall pay one half the costs of all arbitration including the compensation for the third arbitrator. Each party shall pay the cost for the arbitrator it selects.

14. Term of Agreement and Termination. This Agreement shall become effective on full execution hereof and compliance with Section 15, and shall expire upon the payment in full to the City, if any, owed by the County pursuant to Section 6 of this Agreement.

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

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

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

By: _____ Date: _____
Helen Price Johnson, Chair

Attest:

Elaine Marlow, Clerk of the Board

CITY OF OAK HARBOR

By: _____ Date: _____
Jim Slowik, Mayor

Attest:

Connie Wheeler, City Clerk

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

Bill No.
Date:
Subject:

13
September 7, 2010
Strategy Statement for 2011 - 2012

FROM: Paul Schmidt, City Administrator

**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

The purpose of this agenda bill is to seek approval of the draft Strategy Statement for 2011 and 2012. The draft Strategy Statement for 2011 and 2012 is a product of the 2010 City Council Retreat conducted on February 27, 2010.

AUTHORITY

The City Council has been granted the authority to plan and organize its internal affairs by RCW 35A.11.020.

SUMMARY STATEMENT

On February 27, 2010 in a published and noted special public meeting, the Mayor and City Council gathered with staff for a six-hour retreat to plan a strategy to accomplish set goals and objectives. To a great extent, the retreat format updated the previous SWOT analysis and confirmed the goals accomplished over the previous two years. From the updated SWOT analysis, new objectives were established and a draft action plan was developed. In addition, a financial analysis of the City's resources from previous years was presented to provide a basis for a financial plan.

This agenda bill will now bring forward that information presented at the retreat for City Council review and action as a strategy statement to provide guidance as we prepare the 2011 and 2012 budget process.

STANDING COMMITTEE REPORT

This item was taken to the Governmental Services Standing Committee on August 10 and Finance Standing Committee on August 11, 2010.

RECOMMENDED ACTION

Approve Resolution No. 10-20.

ATTACHMENTS

Resolution No.10-20 with strategy statement as exhibit A in the resolution.

MAYOR'S COMMENTS

RESOLUTION NO. 10-20

A RESOLUTION BY THE OAK HARBOR CITY COUNCIL ADOPTING A STRATEGY STATEMENT FOR FISCAL YEARS 2011 and 2012

WHEREAS, the City of Oak Harbor Mayor and City Council conducted and participated in an open public meeting of a planning retreat session on February 27, 2010 to develop a strategy plan to guide policy decisions for the next two fiscal years of 2011 and 2012; and

WHEREAS, the planning retreat session entailed in-depth discussion on prioritizing community needs and preparing a short term action plan; and

WHEREAS, the culmination of the discussion and agreed upon prioritization of community needs and short term action plan is a developed strategy statement; and

WHEREAS, the City of Oak Harbor Mayor and City Council wish to present the attached EXHIBIT "A" as the Strategy Statement for budget years 2011 and 2012.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Oak Harbor, Washington, that the attached EXHIBIT "A" Strategy Statement is adopted as of the date of this resolution as policy of the City of Oak Harbor.

PASSED by the City Council of the City of Oak Harbor and approved by its Mayor this 7th Day of September, 2010.

CITY OF OAK HARBOR

Mayor

ATTEST:

City Clerk

CITY OF OAK HARBOR
STRATEGY STATEMENT
2011-2012

The City of Oak Harbor Mayor, City Council and Staff met together in a retreat setting on February 27, 2010 to discuss and formulate strategy for the immediate and foreseeable future of the Oak Harbor community. The many important issues discussed and desired objectives identified provided a framework for a revised strategy direction to guide decision-making for the next two years. Those specific strategies that emerged from the retreat are as follows:

STATEMENT

The strategy to optimize our strengths would be to continue building strong relationships with other entities, to remain professional and courteous with each other in our City deliberations and to retain our proficient Staff. New specific strengths the City wishes to embrace are to maintain a strong emergency preparedness, follow a conservative fiscal policy, work towards increasing tourism revenue and to remain focused on our strategy and goals.

The strategy to overcome our most recognized perceived weaknesses is to continue to be mindful of decreasing funding and available resources for community improvements and operations. To counter funding limitations the City should continue to emphasize efficiencies in operations, continue to seek available project funding whenever possible and be open to innovative and alternative means of generating revenue to address public service needs.

The strategy to exploit the apparent opportunities of the City is to continue to utilize the City's efficient organizational structure to be as effective as possible in achieving desired results. The City has successfully completed key priority goals the last two years. New opportunities for the next two years include fostering a public attitude open to new solutions, increase the awareness of business-friendly, and to increase the use of PEG Channel 10 for expanded communication opportunities.

The strategy to combat the primary perceived threat of the City is to continue to work with fellow elected officials to thwart unfunded mandates and save our current funding structure from further impact. A renewed strategy to combat this threat is to remain vigilant against negative actions that do affect the City's ability to sustain our way of life. This strategy will

call for a concerted effort by the City to continue an assertive role with lobbying efforts in Olympia and Washington D.C. to influence funding efforts and counter any further negative mandate attempts.

CITY OF OAK HARBOR
GOALS FOR
2011-2012

1. Complete the Pioneer Way Improvement Project in a safe and timely manner.
2. Complete Phase I and begin Phase II of the Marina Project.
3. Successfully complete and present the Utility Audit to the public.
4. Complete the site selection for the Wastewater Treatment Plant.
5. Complete the 42" outfall project.
6. Search for funding for street overlays.
7. Complete long-term agreement for the Maylor Point Trail.
8. Resolve DNR Tideland ownership.
9. Animal shelter facility.
10. Goldie Road Annexation Project.
11. Complete Oak Harbor Street and 7th Avenue intersection.
12. Economic development overlay zones.
13. Develop long-term plan for channel dredging.
14. Resolve UGA issues with Island County.
15. Complete Bayshore Drive connection.
16. Complete Scenic Heights Trailhead Project.
17. Establish an Enterprise Zone for Goldie Road.
18. Establish downtown designation for Green City of Oak Harbor.
19. Establish permanent marketing plan/tourism for Pioneer Way.
20. Establish an Adult Entertainment Ordinance.
21. Establish grinder pump/low pressure standard.
22. Develop new website.

CITY OF OAK HARBOR
ACTION PLAN
2011-2012

Project Description	Completion	Assigned Party
Pioneer Way Improvement Project	Q3 - '11	Administration
Complete Phase I and begin Phase II of the Marina Project	Q2 - '10 Phase I Q1 - '11 Phase II	Development Services
Utility Audit/Rate Study	Q2 - '11	Public Works/Finance
Wastewater Treatment Plant site selection	Q2 - '11	Public Works
Goldie Road Annexation	Q2 - '10	Development Services

CITY OF OAK HARBOR
STRATEGIC FINANCIAL PLAN
2011-2012

1. Project General Fund Revenues at a conservative rate of between 95% and 98% of last two prior years' trend.
2. Continue to provide for annual 1% allowed increase in property tax levy.
3. Due to the volatility of development activity, assume a 90% revenue projection for building permit fees of last two prior years' trend.
4. Expect no more than a 1% revenue gain from interest investment.
5. Expect no more than a 0.08% to 2.30% overall growth rate for General Fund revenue.
6. Expect a continued trend of General Fund expenditures to grow approximately 4.0% to 5.5% per year.
7. Use a portion of beginning fund balance to augment revenue in order to balance the budget.
8. Continue to stress expenditure restraint in order to balance the budget.
9. Continue to maintain a minimum of a 15% cash balance in the General Fund with a preferred target of 20%.
10. Begin meaningful discussions on how to better address the long-term budget implications of sustaining current public service levels with diminishing resources.