

**Oak Harbor City Council  
Minutes of the Regular Meeting  
6:00 p.m.  
Tuesday, October 2, 2012**

**CALL TO ORDER:**

The Mayor called the meeting to order at 6:00 p.m.

**PLEDGE OF ALLEGIANCE:**

The Mayor led the pledge of allegiance to the flag.

**INVOCATION:**

Councilmember Severns gave the invocation.

**ROLL CALL:**

The clerk called the roll with all members present.

**Present:**

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

**Staff Present:**

Interim City Administrator Larry Cort  
Public Works Director Cathy Rosen  
Interim City Clerk Nacelle Heuslein  
Renee Recker, Exec. Assist. To the Mayor

**ACCEPTANCE OF AGENDA:**

**Motion:** Councilmember Almberg moved a memo from the Mayor addressing a ninety – day extension for Interim City Administrator Larry Cort’s position be placed on the agenda for discussion as *Item 5*. Motion seconded by Mayor Pro Tempore Paggao and carried unanimously.

**Motion:** Councilmember Hizon moved to rescind the motion from the September 4, 2012 Regular City Council meeting deferring the decision of purchasing a Fire Rescue Unit until after the City Council has completed their budget for 2013 – 2014 and the city has resolution with the firefighter’s union and place purchasing this Aid Unit as *Item 6* for consideration. Seconded by Councilmember Campbell. Upon vote, the motion carried with Councilmember Almberg voting no.

**Motion:** Councilmember Munns moved to place the Agenda Bill requesting the purchase and installation of two five ton rooftop HVAC units to replace existing units at City Hall as *Item 7*. Councilmember Servatius seconded the motion and the motion carried.

**Motion:** Councilmember Munns moved to add the Agenda Bill for an emergency allocation to purchase a 2012 HP Proliant DL380 G7 High Performance Server in the amount of \$13,950.64 to the agenda as *Item 8*. Councilmember Campbell seconded the motion and the motion carried.

**Motion:** Councilmember Campbell moved to accept the agenda as amended. Councilmember Almborg seconded the motion and the motion carried.

**MINUTES** of the Regular Council Meeting held September 4, 2012, September 18, 2012 and the Special Meeting held September 19, 2012 were presented to the Council for additions or corrections. When there were none, the Mayor declared them approved as presented

**PROCLAMATIONS:**

Councilmember Hizon read the Proclamation declaring October 11, 2012 as the *International Day of the Girl in Oak Harbor* and presented it to Paige Bates, President Elect of the Oak Harbor Soroptimist International.

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

There were none.

**CITIZEN COMMENTS PERIOD**

Marshall Goldberg affiliated with a group called *Island County Citizens Ignited against Citizens United* supports a Constitutional amendment to regulate corporate political spending and campaign financing. He stated the group has 1600 signatures of which 400 are Oak Harbor citizens on the petition they are circulating. Island County, Langley and Coupeville have all passed resolutions supporting this amendment and he is interested in coming back at a future date to speak individually with the council.

Crystal Reed was concerned over panhandlers in the Safeway parking lot. She requested assistance from the Police Department and was pleased with the results. With permission from Safeway, Officer Valenzuela contacted the property managers of the Safeway property and panhandlers are no longer allowed to loiter and panhandle near the Safeway property.

When there were no further comments from the public, the Mayor closed the Citizen Comments Period.

**CONSENT AGENDA**

- a. **Approval of Accounts Payable Vouchers** Claims Vouchers 151413 - 151432 in the amount of \$1,710.61 and Claims Vouchers 151433 – 151600 in the amount of \$740,440.63
- b. **Introduction of Ordinance No. 1635** – for Fire Department changes amending OHMC Chapter 2.24 entitled "Volunteer Firemen's State Relief", Chapter 2.28 Entitled "Firemen's Relief and Compensation Fund Trustees", Chapter 2.44 entitled "Fire Chief", and Chapter 8.12 entitled "Alarm Systems" and adopting this Ordinance at the Council's Regular meeting to be held October 16, 2012.
- c. **Set a Public Hearing for October 16, 2012** for surplus and disposition of Utility Surplus list items.

**Motion:** Councilmember Munns moved to pull Consent Agenda *Item b* to make a correction in the text of the proposed Ordinance No. 1635. Councilmember Servatius seconded the motion and the motion carried.

**Motion:** Councilmember Severns moved to approve Consent Agenda *Item a* and *Item c*. The motion was seconded by Councilmember Campbell and it carried unanimously.

**Motion:** Councilmember Munns moved to amend Chapter 2.28 of proposed Ordinance No. 1635 from "Comptroller" to "Finance Director". Councilmember Hizon seconded the motion and the motion carried unanimously.

**Motion:** Councilmember Munns moved to accept *Item b* from the Consent Agenda as amended. Councilmember Campbell seconded the motion and the motion carried.

## **HEARINGS AND ORDINANCES**

**Public Hearing Marin Annexation and Adoption of Ordinance 1634 annexing certain real property and County right-of-way to the City of Oak Harbor, assessing all property within the annexation area at the same rate and basis as other property within the City, requiring the subject properties to assume their proportionate share of City indebtedness and assigning zoning for the annexed property consistent with the Oak Harbor Comprehensive Plan.**

Development Services Director Powers stated tonight's meeting will be the final consideration for the Marin annexation along with a public hearing per RCW 35A.14.130. The location of the property is located at 1292 SW Swantown Road, approximately 0.85 miles west from the SW Swantown Avenue and Fort Nugent Avenue intersection. The proposed annexation area is located within the Oak Harbor Urban Growth Area (UGA) and is designated Low Density Residential on the City's Future Land Use Designation Map (please see Attachment 1). If the property is annexed, it would be assigned R-1-Single Family Residential zoning per the City's Comprehensive Plan.

As way of background he provided the following information: in September 2010 the Marins submitted their annexation petition. In November, 2010 the council reviewed the 10% Letter of Intent for Annexation and followed staff's recommendation to expand to include the enclave area east of this property with the intent to avoid the creation of an island enclave following along with the City's Comprehensive Plan Goals and Policies where the City should avoid annexations that would result in unincorporated enclaves. The City may make exceptions to Policy 4.b, in cases where the potential enclave is already characterized by urban density, in such cases the city should first encourage the petitioners to work with property owners from within the enclave to include them in the annexation area, failing this preferred option only then should the council consider whether annexation would further other Comprehensive Plan goals and policies.

After hearing from the applicant and staff, City Council expanded the annexation to include the unincorporated enclave area to the east and authorized the applicant to circulate the "60% annexation petition."

Following the November, 2010 meeting, the applicant approached all of the property owners within the proposed annexation area. The applicant obtained signatures of only five additional property

owners within the enclave area. This number of signatures did not meet the 60% minimum assessed value threshold required by state law to annex the Marin Property and the entire enclave. Because the minimum threshold for annexation of the enclave area was not met, staff sought Council's input on alternative annexation scenarios at the August 8, 2012 regular Council meeting. Council chose to further consider annexing only the Marin Property.

Council did authorize the annexation to move forward to the next step which was a submittal of the petition that met the 60% assessed valuation requirement. Staff took the petition to the Island County Assessor and received the Determination of Sufficiency as required by state law. The annexation does meet the Comprehensive Plan goals and policies of the city, the infrastructure will be provided with the development of the area and all city services are adequate or will be so when development occurs.

Staff's recommendation is to conduct a public hearing and adopt Ordinance No. 1634 annexing the Marin Property.

#### **Public Hearing Marin Annexation**

The Mayor opened the public hearing at 6:32 p.m. when there were no comments from the public; he declared the public hearing closed.

Council discussion ensued regarding failing septic or wells; the city limits surrounding one neighborhood; the annexation not going back to the county for further review; a favorable decision request to the annexation received in a letter; no apprehension for public safety being provided within the enclave; the city has in place a natural vegetation area that is part of a development review process, is applied as part of the platting process.

Upon a disclosure from Councilmember Hizon that she had family living adjacent to the proposed annexation, the public was asked if they preferred her recusing herself from voting. There was no response from the audience. The same question was posed to the Council. There was no response from the Council.

**Motion:** Councilmember AlMBERG moved to adopt Ordinance No. 1634 as it relates to the Marin Annexation. Councilmember Campbell seconded the motion and the motion carried unanimously.

#### **RESOLUTIONS**

**Special Benefit Analysis – Driftwood Beach Addition (Dillard's) Adoption of Resolution 12-22** regarding Local Improvement District financing for sewer improvements in the Driftwood Beach area.

Public Works Director Cathy Rosen stated the purpose of the agenda bill was to discuss and consider the conclusions of the final Special Benefit Study conducted by Macaulay and Associates, Ltd. as requested by the City Council.

The purpose of conducting the special benefit analysis was to provide information to the City Council as it related to the feasibility of forming a local improvement district (LID). An LID is a financing method authorized under state law for property owners to pay for improvements benefiting their property. The requisite to formation of any LID is the value of benefit derived from the improvements must exceed the assessment levied.

With this requirement in mind, Council action on February 7, 2012 directed that a Special Benefit Study be performed to provide information on the amount of special benefit that could be realized through additional sewer improvement. Questions related to engineering, development potential, types of improvement and constructability are beyond the scope of the Special Benefit Study. In assessing the potential Special Benefit Study, the appraiser considered the following possible scenarios for an LID funded project:

*With LID - Scenario 1 "Privately-Owned Low Pressure System"*

The first scenario assumes that the City will extend the existing low pressure sewer system. Property owners are still responsible to install and maintain their grinder pumps on their private property.

*With LID - Scenario 2 "City-Owned Low Pressure System"*

The second proposed scenario assumes that the City will extend the existing low pressure sewer system as well as install and maintain all required grinder pumps. Grinder pumps will be placed in the City right-of-way.

*With LID - Scenario 3 "City-Owned Gravity System"*

The final scenario requires the City to replace the existing low pressure sewer system with a gravity system. Gravity mains and pump station will be maintained and operated by the City and gravity sewer stubs will be provided to each lot at the time of public main construction.

Consistent with Council direction, two open public meetings with the appraiser (Macaulay and Associates, Ltd.) and Steve Dijulio were held. In addition to the typical public notice, letters were mailed to the property owners, door hangers placed, paid advertising was published in the Whidbey News Times and an announcement was shown on Channel 10. The first meeting, on March 28, 2012, outlined the process of a Special Benefit Study and provided a forum for discussion on process and property specific input. The second meeting, on June 27, 2012, presented the draft study and requested input and feedback on both the assumptions and conclusions contained in the report. Public comment was sought and received on the draft report. All comments received were distributed to the Public Works and Government Services Standing Committees in July and were sent to Macaulay for consideration. Macaulay considered the comments, revised the report and issued a final report.

Based on the Special Benefit Report, the following can be concluded:

- 1) From Scenario #3, the estimated cost of a gravity sewer construction project exceeds the special benefit and therefore cannot proceed as an LID project without significant contributions from the City. Without these contributions, this scenario fails to meet the fundamental pre-requisite that the value of benefit derived from the improvements exceed the assessment level;
- 2) From Scenario #1 and Scenario #2, the greatest benefit to the properties is when the City owns and operates the grinder pumps necessary to serve individual properties. Further, it is questionable that an LID financed project (including all necessary costs) could be developed that would be less than the estimated special benefit.

These conclusions support previous discussions that the City pursue a project to install, own and operate the grinder pumps. The pumps would be located within public right way. Private property owners would be responsible for onsite gravity side sewer connections from their homes to the grinder pump, septic system abandonment and property restoration.

However, while the general concept of such a project appears to make sense, there remain a number of questions and issues warranting resolution. Project specific issues include project scope, type of equipment

Public Works Director Rosen's recommendations to the council at this time would be to adopt Resolution 12-22 finding that the formation of a Local Improvement District for financing the installation of a gravity sewer system in the Driftwood Beach/Dillard's Addition area was not feasible based on the Summary of Preliminary Special Benefit/Proportionate Assessment Study dated July 25, 2012 by Macaulay and Associates, Ltd.; and provide direction to staff whether they should include Driftwood Beach/Dillard's Addition project where the city would install and maintain the grinder pump be included in the 2013-2014 budget or if this project should be included in the overall City-wide plan for installing sewers in areas currently serviced by septic systems which should be presented for Council consideration in late 2012 and early 2013.

Mayor Dudley opened the meeting up for public comments.

Emma Young, a Dillard's Addition resident spoke in favor of being included in the city-wide Comprehensive Sewer Plan and rescind any ordinances currently in existence requiring hooking up to the sewer within a certain timeframe.

David Glass also a resident of the Dillard subdivision cannot refinance his home because the city says there are sewers available and the VA says he needs to hookup. There also seems to be confusion regarding what he can and cannot build on his property because it may conflict with the city's Shoreline Master Program.

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

Upon a question from Councilmember Hizon, Public Works Director Rosen did say that the timeline to hookup to sewers had been extended for five years.

There was general consensus from the council to support a City-wide Comprehensive Sewer Plan study and not to fund a gravity sewer system in the Driftwood Beach area in the 2013 – 2014 budget process. It was also suggested there be no time limit for the Dillard Subdivision to hook up to sewers.

**Motion:** Councilmember Munns moved to adopt Resolution 12.22 finding the formation of a Local Improvement District for financing the installation of a gravity sewer system in the Driftwood Beach/Dillard's Addition area as not feasible based on the Summary of Preliminary Special Benefit/Proportionate Assessment Study dated July 25, 2012 by Macaulay and Associates, Ltd. Councilmember Almberg seconded the motion and the motion carried unanimously.

**Motion:** Councilmember Almberg moved to provide direction to staff that the Driftwood Beach/Dillard's Addition project should not be included in the 2013-2014 budget, but the project should be included in the overall City-wide plan for installing sewers in areas currently served by septic systems which will be presented for Council consideration in late 2012 and early 2013. Councilmember Munns seconded the motion and the motion carried unanimously.

**Recess:** The Mayor declared a 5 minute recess and reconvened the meeting at 7:13 p.m.

**Introduction:** Mayor Dudley introduced Cheryl Beyer attorney with Weed, Graafstra & Benson, Inc. the City's interim City Attorney firm who did Public Records Request training for City staff that afternoon and is filling in for Grant Weed this evening.

**Presentation of Surplus List** - approve the surplus list and authorize the disposal of non-utilities obsolete equipment.

Public Works Director Rosen stated the purpose of the agenda bill is to approve the non-utility surplus list and authorize the disposal of obsolete equipment as the equipment has been determined to no longer be of practical use to the City.

The Mayor asked for public comments and there were none.

**Motion:** Councilmember Severns moved to approve the surplus list as presented and authorize the disposal of such items. Councilmember Campbell seconded the motion and the motion carried.

**Interim City Administrator Status.**

Councilmember Almberg questioned whether a 90-day interim position can be extended by the Mayor or the City Administrator depending on the position unlimited times. Councilmember Almberg requested Interim City Attorney Grant Weed to report back to the Council and Mayor on these extensions.

The Council expressed their appreciation to Dr. Cort for accepting the position of Interim City Administrator for another ninety days. There was concurrence amongst the Council to advertise for the City Administrator position as quickly as possible. The Mayor informed Council his goal is to appoint a City Administrator as soon as some of the other key positions are filled.

Councilmember Almberg questioned if there is a legal reason why the Mayor needs to advertise for the City Administrator's position. Interim City Administrator stated he would pose this question to the Interim City Attorney as well.

Councilmember Hizon stated she had made an inquiry to MRSC back in June regarding the Mayor appointing and extending interim ninety day appointments. State statute says the mayor shall have the power of appointment and removal of appointive offices and employees are subject to applicable laws and regulations relating to civil service. Upon a question by Councilmember Hizon, Public Works Director Rosen stated KBA is assisting with construction projects and staff is filling in for work that would have been performed by Interim City Administrator Cort.

### **Fire Rescue Unit**

Councilmember Hizon moved to rescind the motion from the September 4, 2012 Regular City Council meeting that deferred the decision of purchasing a Fire Rescue Unit until after the City Council has completed their budget for 2013 – 2014 and the city has resolution with the firefighter's union. Motion was seconded by Councilmember Campbell. Discussion ensued. Councilmember Hizon called for a point of order. The motion failed with Mayor Pro Tempore Paggao and Councilmembers Hizon and Campbell voting yes and Councilmembers Servatius, Munns, Severns and Almberg voting no.

Councilmember Campbell went on record that somebody could get hurt with the present Fire Department aid rescue vehicle.

### **Emergency Purchase of two HVAC units for City Hall**

**Motion:** After a brief statement from Public Works Director Rosen, Mayor Pro Tempore Paggao moved to authorize the emergency purchase of and installation of two five ton rooftop HVAC units to replace existing units at City Hall. Councilmember Almberg seconded the motion and the motion carried.

### **Emergency Allocation to Purchase Server**

**Motion:** After a brief statement from Director Rosen, Councilmember Almberg moved to approve an emergency allocation to purchase a 2012 HP Proliant DL380 G7 High Performance Server in the amount of \$13,950.64. Councilmember Severns seconded the motion and the motion carried.

**Future City Council Pending Items** was included in the packet.

### **City Administrator Comments**

Interim City Administrator stated interviews for the Human Resources Administrator have been scheduled. The City Attorney's position will be returning to the full Council on 10-16-12 to discuss using a professional search firm to assist. City Engineer closes on October 19, 2012. The City Clerk position will close on October 5, 2012.

Lastly he stated Department Head budget meetings will be held in October, 2012

He also noted that Renee Recker will be taking a medical leave and wished her well.

### **Council Comments:**

Mayor Pro Tempore Paggao stated the Public Works Standing Committee will be meeting Thursday, October 4, 2012 at 3:30 p.m. in the Council Chambers.

Councilmember Campbell noted the Governmental Services Standing Committee will be meeting October 9, 2012 in the Council Chambers at 3:30 p.m.

Councilmember Almberg stated that he and Councilmember Severns were not available for the upcoming Finance Standing Committee meeting and Finance Director Merriman would come up with another suitable day.

**Motion:** Councilmember Almberg moved the Council direct the Mayor to instruct the Finance Director to provide an analysis showing the anticipated cost impacts to the 2013 "Beginning Fund



Balance” as a result of all staff changes in 2012. This analysis shall be presented at the first Council meeting in November 2012. In addition, the Finance Director’s analysis shall include, but not be limited to, all known and anticipated recruiting cost, legal costs, interim contract personnel and consultant costs and estimated staff salaries and transition costs. The presentation shall be provided showing the costs both quantitatively and graphically. Councilmember Servatius seconded the motion and the motion carried with Councilmember Campbell voting no.

Councilmember Munns noted the next Public Safety Standing Committee will be held October 18, 2012 at 3:30 p.m. She will be unable to attend, but the remainder of the Committee will be attending. She also stated at a recent AWC Board of Directors Meeting, Legislative Priorities were being developed and encouraged the Council and the Interim City Administrator to look at what the City’s priorities might be. She also hoped councilmembers would be attending the AWC Regional Meeting in Bellingham this month. She will be bringing to Channel 10 the clip of an AWC sponsored forum with the Governor Candidates, State Attorney General and State Auditors concerning city matters. Lastly she was working with HR to appropriately voice an opinion for City Staff about a recent article in the newspaper about benefits.

Councilmember Severns attended Economic Development meeting in Coupeville and an annual business expo was scheduled at the high School on the 6<sup>th</sup> of October. Pioneer Days would be held on Saturday with a salmon barbecue. Tribal dancers and drummers will be entertaining the crowd.

Councilmember Hizon did not have any comments.

Upon a question by Councilmember Servatius, Interim City Administrator Cort stated the presentation on October 16, 2012 would include costs and services for the search firm only and not current expenses to date. Councilmember Servatius requested August and September, 2012 legal costs. The Public Works Director was thanked for the link to the information in the packet that evening.

**Mayor’s Comments:**

A panel that included Councilmembers Servatius, Munns and Mayor Pro Tempore Paggao was formed to interview the Police Chief candidates. He hoped to have an appointment announcement at the October 16, 2012 Council Meeting. The Mayor continued to express his concern over the Council not authorizing the purchase of a Fire Aid Unit for the Fire Department.

**Executive Session:**

The Mayor recessed the meeting for an Executive Session Pursuant to RCW 42.30.110(1)(i): Discussion of Property Issue at 8:32 p.m. At 8:56 p.m. he extended it for another 5 minutes. The regular meeting reconvened at 9:03 p.m.

**Adjournment:**

Councilmember Hizon moved for adjournment. Councilmember Almberg seconded the motion and the motion carried.

