

**City Council Meeting  
Wednesday, August 4, 2010, 6:00 p.m.  
City Hall – Council Chambers**

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**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 Almberg

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 Almberg, 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 Almberg, 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 17<sup>th</sup> 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 – 16<sup>th</sup> 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 16<sup>th</sup> 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 16<sup>th</sup> 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 16<sup>th</sup> 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 7<sup>th</sup> Avenue Intersection Improvement and the Arterial Sidewalk Phase II projects. The NE 7<sup>th</sup> 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 7<sup>th</sup> 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 7<sup>th</sup> 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 20<sup>th</sup>, 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.

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Connie T. Wheeler  
City Clerk

27 July 2010

## Revised Letter

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

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

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

*DANA  
 ROSE IN  
 PUBLIC  
 COMMENT  
 AUG 4*

# 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](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](mailto: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

## 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](mailto:Lucy.Castillo@OFM.WA.GOV) before September 1, 2010.*