



City of Oak Harbor City Council Agenda

For

March 1, 2011
6:00 p.m.



Oak Harbor City Council
REGULAR MEETING
Tuesday, March 1, 2011, 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

ROLL CALL

MINUTES

NON-ACTION COUNCIL ITEMS:

1. Patrol Officer of the Year Award – Lisa Powers.
2. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

3. Consent Agenda:

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- a. Re-Appointment – Community Police Advisory Board– Barbara Buchanan.

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- b. Appointment to Planning Commission – Jill Johnson.

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- c. Appointment to Marina Advisory Committee – Chris Skinner.

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- d. Appointment to Marina Committee– Ken Hulett.

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- e. Noise Permit – Irish Wildlife Parade.

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- f. Noise Permit – March of Dimes.

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- g. Standing Committee Format

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- h. City Council Meeting Continuance

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- i. Excused Absence – Councilmember Danny Paggao from the 3/22/11 meeting.

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

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4. Public Hearing and Final Consideration – Bond Ordinance, Marina Redevelopment Project, Phase 2/Dredging.

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5. Grant Agreement – Approval of EPA Grant Agreement for WWTP Facility.

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6. 2011 Radio Read Water Meters Purchase

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7. Mitigation Proposal – For Pioneer Way Improvement Project

8. City Administrator's Comments

9. Council Members' Comments.

- Standing Committee Reports

10. Mayor's Comments.

ADJOURN

If you have a disability and are in need of assistance, please contact the City Clerk at (360) 279-4539 at least two days before the meeting.

**City Council Special Meeting
Monday, February 14, 2011, 6:00 p.m.
City Hall – Council Chambers**

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

INVOCATION Mia Wallgren, First Church of Christ Scientists

ROLL CALL

Mayor Jim Slowik
Six Members of the Council,
Rick AlMBERG
Jim Campbell
Scott Dudley
Danny Paggao, Mayor Pro Tem
Jim Palmer
Bob Severns

Paul Schmidt, City Administrator
Margery Hite, City Attorney
Doug Merriman, Finance Director
Steve Powers, Development Services Director
Cathy Rosen, Public Works Director
Eric Johnston, City Engineer
Rick Wallace, Chief of Police
Mark Soptich, Fire Chief
Mike McIntyre, Senior Services Director
Renée Recker, Executive Assistant to the Mayor

Councilmember Beth Munns was formally excused from this meeting.

MINUTES

MOTION: Councilmember AlMBERG moved to approve the 1/27/11 workshop minutes and 2/1/11 regular meeting minutes. The motion was seconded by Councilmember Campbell.

VOTE ON THE

MOTION: Councilmembers Paggao and Severns abstained from the vote on the 1/27/11 workshop minutes. Councilmembers AlMBERG, Campbell, Dudley, and Palmer voted in favor of the motion. The 1/27/11 workshop minutes were approved.
Councilmember Palmer abstained from the vote on the 2/1/11 minutes. Councilmembers AlMBERG, Campbell, Dudley, Paggao, and Severns voted in favor of the motion. The 2/1/11 minutes were approved.

NON-ACTION COUNCIL ITEMS

Public Comments

Gerry Oliver, 740 SE Pioneer Way. Mr. Oliver is now a downtown merchant and has always supported the one-way configuration for Pioneer Way. He has concerns about the downtown marketing effort and its different factions and cautioned against falling back into a normal and less aggressive marketing strategy (i.e. print advertising as a normal marketing strategy). \$30,000 on print marketing is not a smart way to spend money.

Mr. Oliver suggested these advertising ideas which could reach beyond print advertising:

- A truck for moving billboards.
- Signage saying downtown is open for business and the area is being revitalized.
- Sandwich board signage (use people to wear the sandwich boards).

Mr. Oliver asked about how marketing personnel will be paid. The City is doing a great job but should embrace new technologies. Mr. Oliver also spoke about the “wall of shame” which does not represent his views or the views of other downtown merchants. Mr. Oliver challenged the City Council to have it removed; it makes Oak Harbor’s downtown look bad. Mayor Slowik noted that the marketing plan will be coming forward on City Council’s March agenda.

There were no other public comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS

Consent Agenda

- A. Noise Permit – Click Music
- B. Noise Permit – Kiwanis Club
- C. Excused Absence – Jim Campbell from the 5/3/11 and 5/17/11 City Council Meetings
- D. Introduction – Draft Ordinance, LTGO Bond for the Marina Redevelopment Project, Phase 2/Dredging. Mayor Slowik noted that the public hearing will be continued until the next Council meeting (3/1/2011).
- E. Approval of Accounts Payable Vouchers

MOTION: Councilmember Severns moved to approve Consent Agenda Items A through E with Item E paying Accounts Payable Check Numbers 144702 – 144880 in the amount of \$1,290,928.19, Payroll Check Number 94484 in the amount of \$.27, and Payroll Check Numbers 94485 – 94499 in the amount of \$398,323.74. The motion was seconded by Councilmember Almberg. Councilmember Palmer abstained from the vote. Councilmembers Almberg, Campbell, Dudley, Paggao, and Severns voted in favor of the motion. The motion carried.

Public Hearing – Report on Element Nightclub

City Attorney Hite talked about City Council Rule 19A: Quasi-Judicial Procedure – Appearance of Fairness, and City Council Rule 19B: Quasi-Judicial Procedure – Ex Parte Contacts. Rule 19A: Prior to staff’s presentation of a quasi-judicial matter, Council Members shall each determine whether the appearance of fairness doctrine requires that the Council Member recuse himself or herself from sitting on the quasi-judicial matter. Rule 19B: Ex Parte Contacts. Ex parte contacts are contacts about the quasi-judicial matter occurring outside of the open public hearing at which it is decided. Every Council Member shall disclose any ex parte contact(s) he or she had and describe them on the record prior to the quasi-judicial hearing. Unless the Council Member feels that the ex parte contact(s) have affected his or her ability to be fair, the

fact that the Council Member has had ex parte contacts shall not disqualify a Council Member provided that the Council Member discloses those contacts on the record prior to the quasi-judicial hearing. In any case in which a Council Member has disclosed ex parte contacts, any party to the quasi-judicial hearing shall be allowed to rebut the substance of the ex parte contact(s) either prior to or during the quasi-judicial hearing.

Ms. Hite asked Council if they would prefer to begin with Rule 19B – Ex Parte Contacts. **Councilmember Dudley** – Several contacts with Billie Cook, condominium homeowner, and had spoken with another property owner about Element’s closing time. Councilmember Dudley had also attended a condominium homeowner’s association meeting on February 13, 2011 and had spoken with the deacon of the church next to Element. Mr. Dudley had also spoken with Councilmember Campbell. City Attorney Hite asked Councilmember Dudley to disclose his discussions and Mr. Dudley deferred to those citizens attending this meeting who would speak to the physical impact of Element: The nightclub’s financial impact on surrounding properties, loitering, swearing, cigarette butts, noise issues, the club’s closing time, and ongoing negative impact on the condominium owners’ lives. Councilmember Dudley stated that these contacts would not affect his ability to be fair.

Councilmember Severns – No contacts.

Councilmember Alberg – No contacts.

Councilmember Palmer – No contacts.

The letters presented at this evening’s meeting will become part of the record and are attached as Exhibit A.

Councilmember Paggao – No contacts.

Councilmember Campbell – In addition to a conversation with Councilmember Dudley, Councilmember Campbell had conversations with condominium owners at Angelo’s concerning late night noise which keeps them awake, Element patrons urinating on the street, and intoxicated activity. Councilmember Campbell stated that these contacts would not affect his ability to be fair.

Returning to Rule 19A – Appearance of Fairness, in non-land use quasi-judicial matters, City Attorney Hite asked each Council Member to identify:

1. If they stand to gain or lose any financial benefit as a result of the outcome of the hearing.

Councilmembers Alberg, Dudley, Campbell, Paggao, Palmer and Severns each answered no.

2. If they have any personal, family or other connection to any party such that their ability to be impartial might be called into question.

Councilmembers Alberg, Dudley, Campbell, Paggao, Palmer and Severns each answered no.

3. If there is any reason why they could not be fair and impartial in deciding this matter.

Councilmembers Alberg, Dudley, Campbell, Paggao, Palmer and Severns each answered that they could be fair and impartial.

The parties and the public then had the opportunity to object to any Council Member sitting on this matter based on the appearance of fairness doctrine. **There were no objections.**

City Attorney Hite asked Police Chief Rick Wallace, as the proponent, to present the agenda bill. As the opponent, Element Nightclub owner, Mike Kummerfeldt, would speak after Chief Wallace's presentation.

On March 2, 2010, the Oak Harbor City Council approved the issuance of the 2010 Nightclub License for Element Nightclub. In addition to the conditions attached to the license, (including some changes to the conditions from the previous year's license), the Council also directed the Chief of Police to present a report on any calls for police service occurring at Element during 2010 upon the issuance of Element Nightclub's License for 2011. The report included information on all calls for police service to Element paying specific attention to the calls for service that may pertain to the conditions of the Element Nightclub license as set by City Council.

There were a total of seventy (70) calls for police service. Twenty (20) of those calls had no significant bearing on this issue and should not be viewed as having a negative connotation towards the nightclub as these types of calls for police service could occur at any business or private residence. The remaining fifty (50) calls for service do pertain to the license conditions and are described as follows:

16 Assault Complaints:

- Four (4) were closed as settled by contact
- Six (6) were closed as unfounded
- Six (6) were closed by arrest

3 Disorderly Conduct Complaints:

- Two (2) were closed as all were gone when the officer arrived
- One (1) was settled with a trespass from the property

1 Domestic Violence Complaint:

- Unfounded

1 Fireworks Complaint:

- Settled by contact

15 Noise Complaints (In 7 of the 15 complaints officers were present prior to the call):

- Six (6) were settled by contact
- Six (6) were closed as unfounded
- Three (3) were closed as they were gone when the officers arrived

1 Theft Complaint:

- Report taken on a stolen cell phone.

4 DUI Complaints (All four were called in by the Element security staff):

- Two (2) the officers were unable to locate the vehicle(s)
- Two (2) resulted in arrest(s)

1 Trespass Complaint:

- Arrest – subject previously trespassed by security staff returned to the club

4 Liquor Violation Complaints:

- One (1) referred to Liquor Control Board
- Two (2) unfounded (medical responses)
- One (1) settled by contact – (intoxicated female)

3 Narcotics Complaints:

- Three (3) information only (not enough information to take action)

1 Weapons Complaint:

- Arrest (one of the parties arrested for assault also had brass knuckles)

Mike Kummerfeldt, Element Nightclub owner, was sworn in by City Attorney Hite and then responded: I hereby swear and affirm that the testimony shall be the truth and the whole truth. I am not a bad guy, I just run a business. We personally sweep the parking lot and try to be a good neighbor. We had no noise violations last year. We are in the downtown business core and Element has a 500-person occupancy rate. The condominium association did not call me to attend their 2/13/11 meeting. I don't like problems, I like solutions. I have not had one call from the neighbors. I am open, I am not running or hiding. Because of all of this, it has made us a better business. We sweep up every single night outside and not just the parking lot. Our surveillance is open to the Oak Harbor Police Department and I have been complimented by two officers. I have not done anything illegal. I have a lot of state agencies to answer to and we abide by them. My phone number is: (360)682 5649 if you would like to contact me.

Mayor Slowik opened the public hearing at 6:30 p.m.

All of the following speakers were sworn in by City Attorney Hite and they stated: I hereby swear and affirm that the testimony shall be the truth and the whole truth.

Kathy Harbour, 651 SE Bayshore Drive. We are not a good mix, the condominiums and the nightclub. I am trying to sleep at night. Consider holding off your decision to renew the license. The conditions of approval of this licensing are just window dressing. Loitering: has any patron been banned because of this rule? The noise from people hanging out is loud. I use earplugs and a white noise machine. My evening consists of this: earplugs, a pillow over my head, and then at 2:00 a.m., a loud noise, a loud car. I call I-COM and the police are on their way but by that time everyone has left. You could add another hundred conditions of approval and it wouldn't make a difference. The noise is quick and loud and then it is over and I am awake. Element is in the wrong location and something needs to be done this year.

Billie Cook, 651 SE Bayshore Drive. I also live across the street from Element. I am awakened from my sleep at 2:00 a.m. and it is affecting my health and well-being. I do not think the Chief's report represents what is going on at Element. Most, if not all calls for service at Element, contain a noise component. When someone calls in, there are others who are also awakened by the occurrence. While the Chief's report shows a drop in the amount of calls, it is not because the noise has reduced. People are not calling in since it doesn't do any good. Nothing is done to quiet the club. I have no animosity toward Mr. Kummerfeldt, but he has no incentive to quiet the premises. I

would get a noise citation if I had a barking dog. Why isn't a club owner held to the same level as a pet owner? Are they incapable of keeping the premises quiet? You can invoke civil penalties to keep the premises quiet. I request that City Council investigate the ongoing and disturbing and often violent noise at the club. Delay approval of the license renewal until an investigation has been accomplished.

Chuck Fagan, 651 Bayshore. I thought my condo was in an ideal spot on the beach for retirement. Things started to go downhill when Element moved in across from the Waterside Condominiums. Why do we have to put up with this? Noise has been so loud that it vibrates things on my shelf. By the time the police arrive, nothing is going on. Guests staying with me have commented on the noise. This is not the ideal spot for a nightclub in Oak Harbor. Most casinos or clubs are out in the country.

Steve Boughner, 651 Bayshore. These are my own observations: My mother is the owner; I've lived there for four years. I made a lot of calls to I-COM while I was still smoking and stood outside to smoke. I've stopped smoking so I've made fewer calls now that I'm inside. The noise waxes and wanes. Their parking lot is full. You hear vehicle noise, engine-revving noise, vehicles racing up and down Bayshore, squealing tires, car alarms; usually all of this noise occurs after the club closes. The most common noise is from boom cars and they rattle our windows. People noise or crowd noise worsens at closing. There is yelling, some fighting, loud conversations, and swearing. People are waiting for rides and hanging out in front for a half hour or longer. Men are urinating. There is vomit in the gutter. Sometimes they park in our parking lot. This last Friday night, there was a lot of trash including broken bottles on the street. I have made far fewer calls and have decided it didn't accomplish much. Until this year, all of my calls went to dispatch unless I called 911 if it seemed serious (fights or a riot).

Gray Giordan, 651 SE Bayshore. I don't have a problem with the business. We have a problem with the activity outside. This business should not be in a residential neighborhood. We don't have a problem with Mike Kummerfeldt; we have a problem at 2:00 a.m. There is a huge disconnect with where our problem starts and where the Police Department can take over. (Mr. Giordan repeated the same concerns as prior speakers). I used to use a camera and confront people but I don't do that anymore. We can't ignore it because we live there. You wouldn't allow that from your neighbors. There is a reduction in the number of calls because we are not calling as much. That business shouldn't be in a residential neighborhood. 400 calls have come into the non-emergency number, not the Police Department's 70 calls listed in the report. Have Council Members seen the list of banned patrons? You allow Element to police itself and then report on itself. Two residents who live near the club have health problems. More than 50% of the residents are directly affected. The conditions of approval are not enough. You should ask:

- Does Element have a list of banned patrons and has it been submitted?
- Do they move people out in ten minutes?
- You should see it in action at 1:50 a.m. in the morning or later, do you really have enough information to go forward?

Go there and then make an informed decision. I'd love to see the business moved. Consider the effort it takes for senior citizens to get up and complain. We don't like to complain, we thought it was a great place to live but things have changed.



Mel Vance, P.O. Box 2882. I feel for the condominium owners down there but Element is not in a residential area, it is adjacent to it and in a business zone. It is appropriate for the zoning. Is it the best location? Probably not. There is only so much that Element can do especially when patrons are off their property. I haven't seen urinating on the side of the condominiums. I do see OHPD patrol vehicles there. There is less noise there than I have in my neighborhood. We have vehicles spinning tires, racing up streets, and boom box vehicles. We have this late at night and in the morning going to work, and I live in a residential neighborhood close to the high school. Element is in a business area. They have bent over backward to comply with these conditions. They are doing everything they can. Neighbors will not be happy until Element is gone.

City Attorney Hite asked Mr. Kummerfeldt if he had a rebuttal to the public comments.

Mike Kummerfeldt, Element Nightclub owner. I am willing to help out and do everything I can. I can't change human nature. We do have security. It was a good comment about noise and a pet but that is loud and continuous noise. We do a good job of rectifying our noise within ten minutes. Nine times out of ten the parking lot is cleared right after 2:00 a.m.

With no other comments coming forth, Mayor Slowik closed the public hearing at 7:00 p.m.

Council Discussion

Discussion followed regarding the list of banned patrons and the conditions of approval providing for a list of banned patrons on a weekly basis. Chief Wallace has seen the list and noted that the club may not ban patrons each week and that one of the arrests in this report was a person who was trespassed by the club itself. Discussion continued about licensing conditions 5c (3) and (4) which address loitering in the parking lot for more than ten minutes, and engaging in illegal activity immediately adjacent to the business property after leaving the club which can lead to noise. Current zoning was discussed along with questions about creating a buffer zone much the way the adult entertainment ordinance calls out a buffer. City Attorney Hite asked Councilmember Dudley to hold continuing remarks and decide whether he would be speaking as a witness or decision-maker. It was asked if the Police Department has a presence at the club when it closes, and Chief Wallace noted that OHPD officers are often at the club at closing unless another call comes in for officer response elsewhere. Chief Wallace also talked about the barking dog example. If noise is coming from the club, the Police Department can take action. This is noise coming from patrons outside the club and the issue is whether the club is responsible for everything that the patrons do once they leave the club. Discussion followed about using 911 or the dispatch number and Chief Wallace clarified that, if either number is called, the information is counted toward a report. Multiple calls on the same issue are also individually counted. There seems to be no evidence that problems are occurring at 4:00 a.m. Virtually all of the calls about problems come in from midnight to 2:30 a.m. With the closure of Lava Lounge, there would be more activity at Element. Chief Wallace also noted that this

evening's presentation addresses the nightclub licensing conditions, the license is renewed. Revocation would occur through the ordinance's expressed language (known infractions, fraud, etc.). Returning to discussion about noise, this noise is caused by the patrons as they leave the club. The conditions require that the owner provide an efficient response and the club does that. Mayor Slowik asked if uniformed security would make a difference and Chief Wallace noted that Element staff wears identifying security apparel and there are usually two or three uniformed OHPD officers there on Friday and Saturday nights as the club closes. Element security also calls the police department. Discussion continued about this area's zoning and Development Services Director Steve Powers confirmed that this is Central Business District (CBD) zoning and the condominiums are in CBD-1. Once a business is established in a zone as a permitted use, that business cannot be excluded. Element is a permitted use. The City cannot arbitrarily decide we do not want that business. The zoning code would have to be amended. It would become a non-conforming use and would not necessarily go away. Civil penalties cannot be imposed by Council. Chief Wallace again noted that Element is effective and efficient in its response, and the club is meeting the licensing conditions. It is the patron noise at closing which affects the homeowners. It was suggested that off-duty law enforcement officers might be hired as security and be better uniformed. Island-wide, law enforcement departments are small and officers may not want to work as off-duty security personnel. However, off-duty personnel would free up on-duty officers who are present at the club. Council talked about noise in other neighborhoods (loud vehicles, boom cars), and that the club noise is not emanating from Element, it is noise from patrons in the parking lot at closing time. Council suggested that this continue to be monitored and corrective action taken outside to minimize noise pollution, increase security personnel, create a buffer between the building and residents, and review the license's conditions. City Attorney Hite noted that the license is valid through December 2011 and the Council would have to revoke on specific charges. Council asked if they could dictate that Element hire uniformed security and Ms. Hite responded that it could be a condition if uniformed security is available. It was also noted that this is a quasi-judicial procedure and a decision for further consideration has to be conducted in this setting.

Mr. Kummerfeldt noted that he has put \$400,000 into the building and has no plans to move the business.

MOTION: Councilmember Campbell made a motion to return this issue back to staff to find a better solution. The motion was seconded by Councilmember Palmer.

Continued Discussion

Council asked for a list of banned patrons when this issue returns, if OHPD could drive by between 1:15 a.m. and 4:00 a.m., if there are designated and visible security personnel, and if all conditions are being met. Loitering for more than ten minutes was also mentioned and Chief Wallace noted that this is part of the nightclub's conditions but not against the law. Council discussed another review of this issue in 90 days which would also allow the homeowners to come up with recommendations for staff. This was

not a formal amendment to the motion. Mayor Slowik asked that Chief Wallace meet with the property owners and then staff can return this issue to Council in 90 days.

VOTE ON THE MOTION: The motion carried unanimously.

The public hearing was concluded at 7:50 p.m.

Break

Mayor Slowik called for a short break at 7:50 p.m. and the meeting reconvened at 7:55 p.m.

Construction Surveying Agreement with Fakkema and Kingma for SE Pioneer Way Reconstruction Project

City Engineer Eric Johnston presented this agenda bill which requested approval of a consultant agreement in the amount of \$103,177.84 (increased from the original contract amount of \$91,403.22 as presented with the agenda bill) with Fakkema and Kingma, a Harmsen Company, for surveying services on the SE Pioneer Way Reconstruction Project. A professional surveyor is needed to stake lines and grades, replace property corners, set survey monuments and determine quantities for contractor payments. City staff has determined that Fakkema and Kingma is the most qualified applicant for the work. A smaller contract with Fakkema and Kingma in the amount of \$14,207.16 was approved by Mayor Slowik in January 2011. Under that contract, the surveyor provided rough survey of the proposed improvements for review. Contractors were encouraged to use this information to help understand the scope of the construction project. The information was also used to double-check elevations at business thresholds and intersections. Surveying costs are actually less than anticipated even with this increased contract amount.

Mayor Slowik called for public comments but there were none.

Council Discussion

Discussion followed about the increased contract amount and what it represents (change to the scope of work adding more direct involvement in project management and maintenance of stakes), the previous scope of work, if property owners on both sides of the street have been located (yes, and monuments will be restored for their properties), and if work under the \$14,207.16 has been completed (yes). Discussion continued about the timing of this presentation and if it could have been presented earlier, and the effect of delaying this approval. Mr. Johnston noted that delaying tonight's decision would delay the project. He noted that there are two parts: the work prior to construction which prepares for construction and occurs prior to the award of the construction contract. Until that was awarded, we did not know for certain the expenses related to actual construction work. The \$14,207.16 contract moved the project along and allowed the contractor to see this in the field. Once the award was made to Strider, Inc., this drives the need for this next step and contract. This is a commonly-used

practice in roadway improvements. Discussion continued about signing this contract so quickly or delaying the project.

MOTION: Councilmember Alberg moved to authorize the Mayor to sign a consultant contract with Fakkema and Kingma in the amount of \$103,177.84. The motion was seconded by Councilmember Palmer.

VOTE ON THE

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

Construction Management Agreement with KBA, Inc. for Pioneer Way Reconstruction Agreement

City Engineer Eric Johnston introduced Mr. K. Adams of KBA, Inc., and presented this agenda bill which requested approval of an agreement with KBA, Inc., for construction management services on the SE Pioneer Way Reconstruction Project in the amount of \$398,975. City staff is recommending that a construction management company be used on this project because of the scope of the work to be completed and the limited amount of time to get it accomplished. A construction management company can support the City through their experience on similar projects. In particular, KBA, Inc. has proposed to prepare a written construction management plan for the SE Pioneer Way Reconstruction Project. The plan will outline the roles and responsibilities of all parties, indicate a chain of communications, and outline a proposed schedule of work to be completed. Further, KBA will assist the City by providing an inspector and administrative support specifically for this project. The inspection staff will provide day to day assurance that all materials and workmanship are installed in compliance with the plans, project manual and WSDOT standards. The administrative support will provide recordkeeping on all change orders, request for information, payments and payroll monitoring. The paperwork will be organized in both hard copy and electronic formats. KBA will also provide a construction manager for the project who will assist with technical aspects of construction ranging from approval of materials to resolving problems with accessibility. The construction manager will also review contractor scheduling, prepare pay estimates, and support inspection staff when needed. The project funding plan had noted \$511,000 for construction management which has now been reduced by \$236,000. Envirolssues has been eliminated as a subcontractor in KBA's contract.

Mayor Slowik called for public comments but there were none.

Council Discussion

Discussion followed regarding public outreach and the loss of Envirolssues, City staff now assisting with outreach, and City and KBA staffing in the City's Pioneer Way office. This office's open house will be February 22, 2011 at 5:30 p.m. There will also be regular morning coffee and donuts on Tuesday mornings, and merchants are being contacted directly. Envirolssues had planned to reach a larger audience and this

outreach approach will talk with people directly affected by the project. Mr. Adams also noted that KBA, Inc., is not a design firm; KBA handles construction management only.

MOTION: Councilmember Campbell moved to authorize the Mayor to sign the contract with KBA, Inc. Construction Management for services with a not-to-exceed limit of \$398,975. The motion was seconded by Councilmember Severns.

VOTE ON THE

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

Resolution – Marina Interfund Loan

Finance Director Doug Merriman presented this agenda bill for authorization of an interfund loan from the Equipment Replacement Fund No. 502 to the Marina Fund No. 410 to provide short-term financing for the Marina Redevelopment Project. The City wants to obtain available funding for the Marina Redevelopment Project, Phase 2/Dredging with the issuance of municipal bonds in an amount sufficient to fund the construction project and the related costs of the bond issue. The bond closing date is anticipated to occur March 1, 2011 with the receipt of funds scheduled for March 15, 2011. This interfund loan would be temporary to allow payment of interim billing costs of the construction project as they come due. Draws for the exact amount of the invoices will be made, with the aggregate limit set at \$2,560,000. The interfund loan will be paid off, along with any accrued interest, at the time the final bond proceeds are received. The interfund loan will mature on December 31, 2011 with payment required in full with any accrued interest on the outstanding balances during the loan period. It is anticipated that the interfund loan will be paid off on March 16, 2011, however it is wise to provide an overlapping maturity date. The interest rate will be at 1.0% which closely approximates the City's current external marginal investment rate for a one-year investment.

Mayor Slowik called for public comments but there were none.

Council Discussion

Discussion followed regarding the process to draw up loan documents, the current invoice for this project (\$768,000), and the option to refinance, if needed, which would come back to Council for approval. If the interfund loan is not approved this evening the Marina Fund would be in a cash-deficit position. Mr. Merriman noted his call this morning with Standard and Poor's; the bond rate is still pending. Insurance will be purchased with LTGO bonds.

MOTION: Councilmember Alberg moved to pass Resolution 11-02 authorizing an interfund loan from the Equipment Replacement Fund No. 502 to the Marina Fund No. 410 based on the terms of the interfund loan agreement. The motion was seconded by Councilmember Palmer and carried unanimously.

Oak Harbor Firefighters Local 4504 IAFF Labor Agreement

Fire Chief Mark Soptich presented this agenda bill and proposed labor agreement by and between the City of Oak Harbor and the Oak Harbor Firefighters Local 4504 IAFF for City Council consideration and approval. Chief Soptich noted that the cost of living adjustment will be 0% for 2011 with a wage reopener to begin no later than October 1, 2011 to address wages in 2012. Chief Soptich also reviewed other items which were changed or amended for clarification with no significant impact.

Mayor Slowik called for public comments but there were none. He also noted that he and Council did all business concerning this agreement in an open meeting rather than adjourning into a strategy session.

Council Discussion

Discussion followed about the wage reopener. If there is no reopener, this would not return to Council. Discussion continued about remaining competitive with other cities, donating a portion of dues to charity or other lobbying purposes, how compensatory time off is paid and calculated, non-duty sick leave, and that Article 13.3 addresses family sick leave and the Medical Leave Act.

Council Members and Mayor Slowik complimented the bargaining unit, Ms. Neill-Hoyson, and Mr. Schmidt for their good work on this agreement.

MOTION: Councilmember Campbell moved to approve and authorize the Mayor to sign the agreement by and between the City of Oak Harbor and the Oak Harbor Firefighters Local 4504 IAFF for the term of January 1, 2011 through December 31, 2012. The motion was seconded by Councilmember Dudley and carried unanimously.

City Administrator Comments

City Administrator Paul Schmidt talked about the upcoming President's Day Holiday (City Hall will be closed), and attendance at the AWC Legislative Action Conference in Olympia. Mr. Schmidt also talked about the Pioneer Way Open House on February 22, 2011, 5:30 p.m., and the ongoing public art proposal process for the Pioneer Way Project. March 1, 2011 will be the groundbreaking date for the Pioneer Way Redevelopment Project. Mr. Schmidt also noted that the March 15, 2011 Council meeting will be continued to March 22, 2011. Development Services Director Steve Powers gave a PowerPoint presentation on 2010's Building Permit Summary which is attached to these minutes as Exhibit B. Although Oak Harbor is often viewed as a

single-family housing community, approximately 46% of units in Oak Harbor are multi-family now. We do have a significant amount of affordable housing in this community.

Council Members' Comments

Council Members gave their respective standing committee reports. Councilmember Almberg asked about the time extension for the Marina dredging, funds spent to date, and quantity removed. Mr. Powers had received a message from the Corps only today and the request for an extension could not be processed before the fish window closed. We are done with dredging. Mr. Powers is waiting for a post-dredging survey and report but the main portion of the contract was finished. Councilmember Dudley talked about Whidbey Avenue Dental Care - Dr. Timothy Wezeman and Dr. Luke Wezeman and staff, who open their clinic "pro bono" each Valentine's Day. Last year, their dental practice saw 64 patients on Valentine's Day. It is special people like this who make our community unique.

Mayor's Comments

Mayor Slowik talked about the conference call meeting with Congressman Larsen today regarding the P-8s. The CNO released information that NASWI is not charted to receive the P-8s and will keep the P-3s. The President's Budget holds a lower number of P-8s; 92 have been ordered. Whidbey Island is still in the running; the operations side has not been considered. NASWI's Commanding Officer is working on an operations plan to convert P-3 hangars to house P-8s. Congressman Larsen will be releasing a statement via email. This makes our Washington D.C. trip that much more important. We will meet with the Secretary of Navy, Congressman Larsen, both Senators, and the CNO.

ADJOURN

With no other business coming before the Council, Mayor Slowik adjourned the meeting at 9:25 p.m.

Connie T. Wheeler
City Clerk

Feb. 11th, 2011

TO: Oak Harbor City Council

FROM: N.L.Myers, 651 SE Bayshore Dr. E- 301

RE: ELEMENT

REQUEST: DENY license for ELEMENT at present location

REASON: Continual NOISE pollution from and around
ELEMENT during normal sleeping hours of the surrounding
residences. There are (60) residences or more affected by this
NOISE pollution and potential danger from intoxicated clients.

SIGNED:



360-682-6552

Dear City Council Members,

I, Faye Konopik, live at 651 SE. Bayshore Drive Unit A301, directly across from the Element Nightclub. I am unable to attend your meeting because I am preparing for surgery in the morning, but I would urge you not to renew the license of the Element.

- ① The noise and disorderly conduct coming from there, almost nightly, interrupts my sleep and has raised my blood pressure to a dangerous level. (My doctor has me on three different blood pressure medications)
- ② I have seen men urinate beside their cars before getting into them. (I feel that creates a health issue.)
- ③ I have even seen one couple having sex on the hood of a car parked in our condo's parking lot.
- ④ I sometime wonder if the Element has a police scanner and can hear when they are about to be visited by a patrol car because the noise seems to quiet down just before the police arrive and resumes after they leave.

⑤ I am not against young people having a good time but when it is at the expense of others' health and well being it is time to move them to a less populated area.

I'm certain each of you have been awakes from a deep sleep once or twice in your lifetime and have found it quite difficult to get back to sleep. Imagine having this occur two or three times a week!

Please, I urge you once again,
Do Not renew the Elements license!

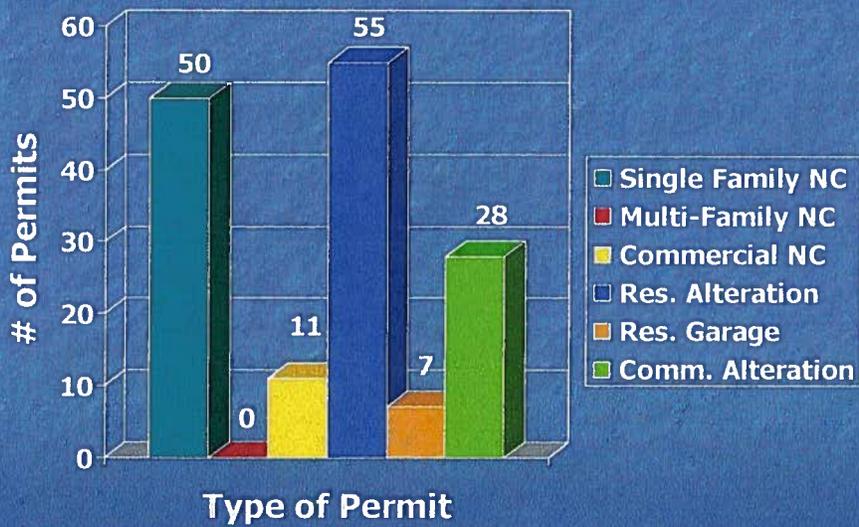
Respectfully,
Faye Konopik

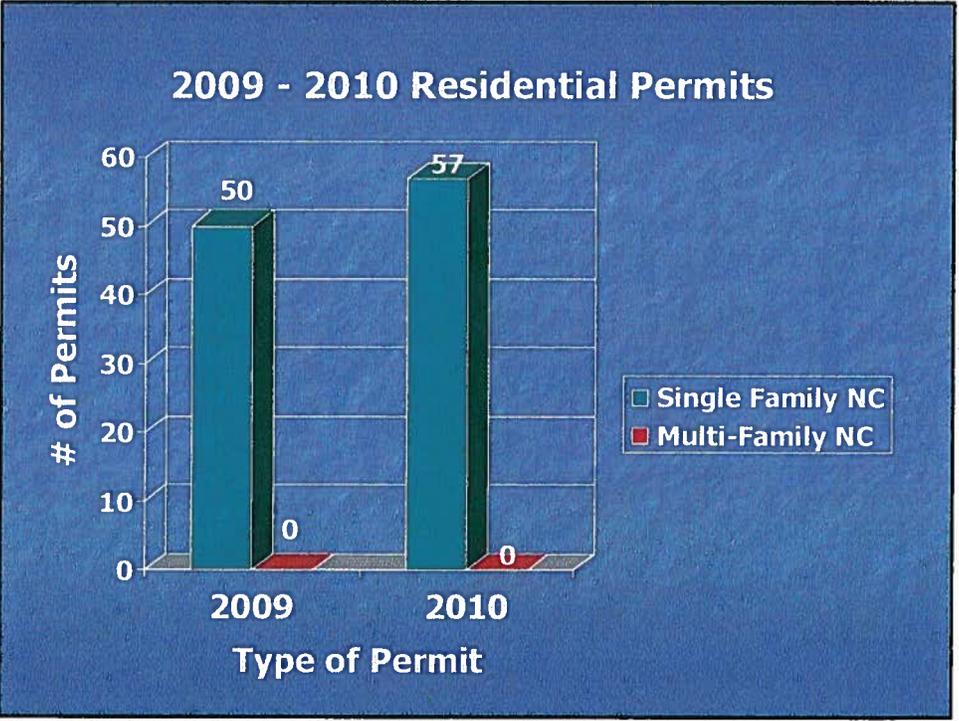
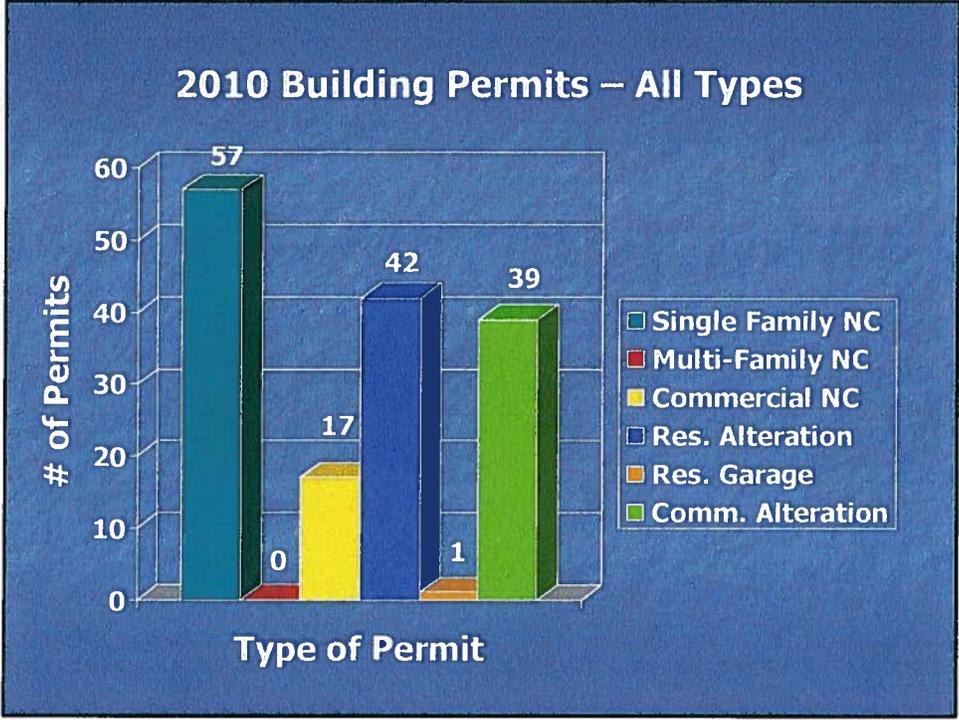
Exhibit B

City of Oak Harbor 2010 Building Permit Summary

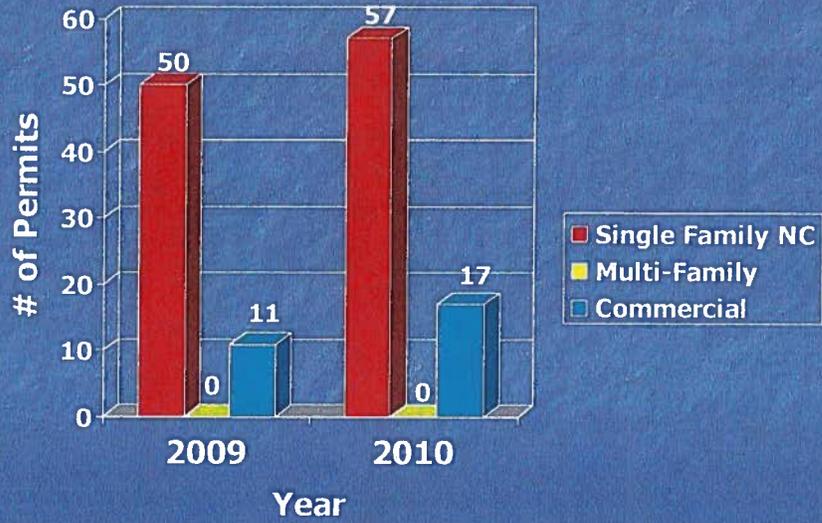
City Council Meeting
February 14, 2011

2009 Building Permits – All Types

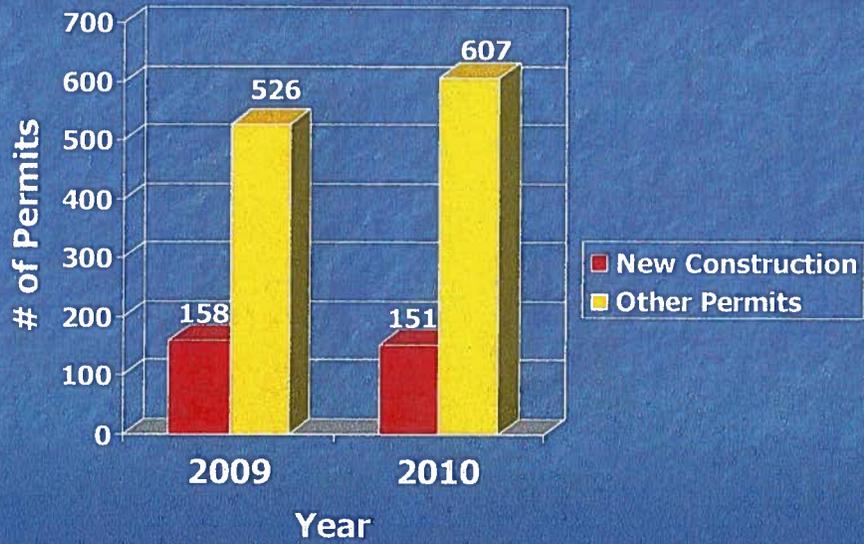




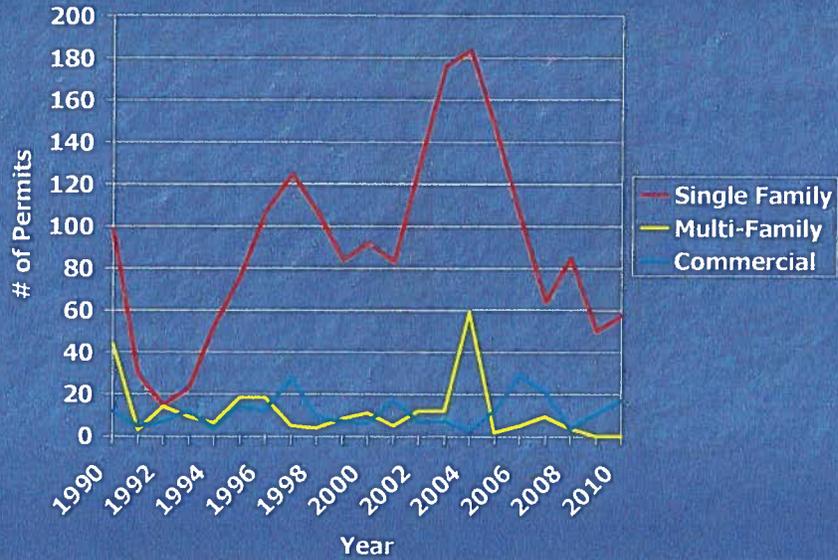
2009 & 2010 New Construction Building Permits By Type



Total Building Permits – All Types

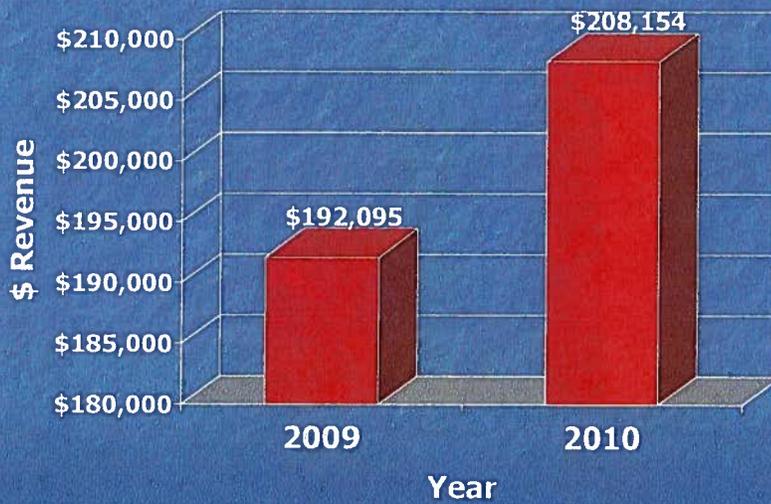


1990 – 2010 New Construction Building Permits By Type



Construction Permit Revenue by Year

(Building Permit Fees & Plan Check)



1990 – 2010 Construction Permit Revenue (Building Permit Fees & Plan Check)



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

Bill No. 1
Date: March 1, 2011
Subject: Patrol Officer of the Year

FROM: Rick Wallace
Chief of Police

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

Patrol Officer of the Year selection.

AUTHORITY

SUMMARY STATEMENT

The men and women of the Oak Harbor Police Patrol Division are dedicated to the service of the citizens of Oak Harbor. In order to highlight this dedication, in 2009 we instituted a "Patrol Officer of the Year" Award. The purpose of the award is to recognize an officer who exemplifies the qualities and attributes that make this profession one of which we can all be proud.

The Patrol Officer of the Year for 2010 is **Officer Lisa Powers**.

In order to be nominated for this award an officer needs to be one of the top four officers, as measured by several categories that we use to measure efficiency and activity in the Patrol Division. Once those four officers are identified, a series of surveys are sent out to different groups within the Department in order to measure how the officers interacted with those groups. They were also asked to rate each officer in the areas of investigations, report writing, case management and motivation.

These surveys were sent to the following:

- The City Attorney's Office
- The Detective Sergeant
- The Records Division Supervisor
- All of the Patrol Sergeants

Officer Powers was consistently rated at the top of these categories in the selection process. Lisa is a very dedicated and motivated officer who strives to increase her knowledge and improve her skills and abilities. She has shown a strong desire to be a police officer by her two years invested as an OHPD Reserve Officer prior to her selection as a full-time Oak Harbor Police Officer. She is well-liked and respected within the law enforcement community and she demonstrates qualities and characteristics of an officer with far more time in service than what she has. Lisa has my (and the entire Department's) utmost trust and confidence.

I congratulate Officer Powers for her selection as 2010's Patrol Officer of the Year.

STANDING COMMITTEE REPORT

RECOMMENDED ACTION

ATTACHMENTS

MAYOR'S COMMENTS

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

Bill No. 2

Date: MARCH 1, 2011

Subject: **PUBLIC COMMENTS**

FROM: Jim Slowik, Mayor

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:



Jim Slowik, Mayor

Paul Schmidt, City Administrator

Doug Merriman, Finance Director

Margery Hite, City Attorney

SUMMARY STATEMENT

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

City of Oak Harbor
City Council Agenda Bill

Bill No. N/A 3A
Date: March 1, 2011
Subject: Re-Appointment – Community
Police Advisory Board

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 Barbara Buchanan to the Community Police Advisory Board.

AUTHORITY

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

SUMMARY STATEMENT

Ms. Buchanan was first appointed to the Community Police Advisory Board in March 2000 to fill the remainder of a term created by a resignation. Her current term will expire March 2011. She has confirmed that she will serve another term if re-appointed. If re-appointed, her term will expire in March 2015. Ms. Buchanan is an active, valued member of the Board.

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

RECOMMENDED ACTION

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

ATTACHMENTS

MAYOR'S COMMENTS

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 3B
Date: March 1, 2011
Subject: Appointment – Planning
Commission – Jill Johnson

FROM: Jim Slowik, Mayor 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

The purpose of this agenda bill is to recommend the appointment of Jill Johnson to the Planning Commission.

AUTHORITY

The Planning Commission is a seven-member commission appointed for a three-year term in accordance with OHMC 18.04.020. Commissioners are appointed by the Mayor, and confirmed by the Council.

SUMMARY STATEMENT

A seat on the commission became available due to the resignation, and subsequent term expiration, of Ms. Julie Dale. Ms. Johnson is a resident of Oak Harbor. If appointed, Ms. Johnson's term would commence March 2011 and would expire March 2014. Mayor Slowik recommends that Ms. Johnson be appointed to the Planning Commission.

RECOMMENDED ACTION

Approve the recommendation to appoint Ms. Johnson to the Planning Commission.

ATTACHMENTS

Ms. Johnson's biography form.

MAYOR'S COMMENTS

Biography Form

Recommended Board Appointment for: Planning Commission

Name: Jill Johnson

Date: February 22, 2011

Address: 1499 SE 9th Ave, #101

City, State, Zip: Oak Harbor, WA 98277

Telephone Number: 360.632.2558 Email Address: Jill@oakharborchamber.com

Mailing Address (if different from above): SAME

Resident of Oak Harbor/Whidbey Island for: 20 years (non-consecutive) years.

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

Greater Oak Harbor Chamber of Commerce, Director

Local Group or Civic Affiliations: Island Thrift Board, Oak Harbor Rotary,
and First Reformed Church.

Special Interests: I have a particular interest in planning and land use, a
moderate obsession with real estate. I enjoy shopping and spending time with
my niece.

Other General Comments: I served on the Comprehensive Planning Task Force
for two years, until that committee was revamped.

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

Bill No. C/A 3C
Date: March 1, 2011
Subject: Appointment – Marina Advisory
 Committee – Chris Skinner

FROM: Jim Slowik, Mayor 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

The purpose of this agenda bill is to recommend the appointment of Chris Skinner to Position 5 on the Marina Advisory Committee. Members are appointed by the Mayor and confirmed by the Council.

AUTHORITY

Per Oak Harbor Municipal Code **Chapter 2.39 Marina Advisory Committee:**

2.39.090 Composition of the marina advisory committee.

The Marina Advisory Committee shall consist of five members, who shall meet the following qualifications:

1. At least four of the marina advisory committee members shall reside in or own businesses within the Oak Harbor city limits and the fifth member shall reside in the state of Washington.
2. Four of the members of the marina advisory committee shall be customers of the marina facility (Position Nos. 1, 3, 4 and 5). One of the marina advisory committee members (Position No. 2) shall be a member of the public who need not be a customer of the moorage facility. For the purpose of this provision, a “customer of the moorage facility” shall mean a boat owner/lessee or storage lessee of the marina facility. Use of guest moorage only shall not constitute being “a customer of the moorage facility.” (Ord. 1541 § 2, 2008).

SUMMARY STATEMENT

Position 5 became available due to the resignation of Debbie Skinner. Mr. Skinner meets the qualifications for Position 5 as he is a resident of Oak Harbor and a Marina customer. If appointed, Mr. Skinner would complete Ms. Skinner’s term, which expires December 2011. Mayor Slowik recommends that Mr. Skinner be appointed to the Marina Advisory Committee.

RECOMMENDED ACTION

Approve the recommendation to appoint Mr. Skinner to the Marina Advisory Committee.

ATTACHMENTS

Mr. Skinner's biography form.

MAYOR'S COMMENTS

Biography Form

Recommended Board Appointment for: MARINA ADVISORY COMMITTEE

Name: CHRISTON C. SKINNER

Date: February 22, 2011

Address: 1802 SW BEEKSMA DRIVE

City, State, Zip: OAK HARBOR, WA 98277

Telephone Number: 360-679-1240 Email Address: chris@skinnerlaw.net

Mailing Address (if different from above): same

Resident of Oak Harbor/Whidbey Island for: 31 years 6 months

Occupation and Place of Employment (if retired, reference previous occupation): ATTORNEY – LAW OFFICES OF SKINNER & SAAR, P.S.

Local Group or Civic Affiliations: Oak Harbor Rotary Club; Oak Harbor Area Council – Navy League; Oak Harbor Yacht Club; Island County Bar Association

Special Interests: Boating, bicycling, community/charitable fund raising

Other General Comments: My wife, Debbie, and I have been tenants at the Oak Harbor Marina in connection with our ownership of several different vessels since approximately 1983. We have occupied slip C-48 since 2004. We currently own a 44' Ocean Alexander, a twin diesel power boat. In addition to my specific concerns about the operation and appearance of the marina, I am also very interested in promoting the marina's continued upkeep and development as a major asset for the City of Oak Harbor. Not only does it represent a significant investment for the City, it has been the source of considerable tourist related revenue, an active youth sailing program sponsored by the Oak Harbor Yacht Club and a facility that is and can be widely utilized by the public for many activities that do not require ownership of a boat.

City of Oak Harbor
City Council Agenda Bill

Bill No. CJA 3D
Date: March 1, 2011
Subject: Appointment – Marina Advisory
Committee - Ken Hulett

FROM: Jim Slowik, Mayor 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

The purpose of this agenda bill is to recommend the appointment of Ken Hulett to Position 3 of the Marina Advisory Committee. Members are appointed by the Mayor and confirmed by the Council.

AUTHORITY

Per Oak Harbor Municipal Code **Chapter 2.39 Marina Advisory Committee:**

2.39.090 Composition of the marina advisory committee.

The Marina Advisory Committee shall consist of five members, who shall meet the following qualifications:

1. At least four of the marina advisory committee members shall reside in or own businesses within the Oak Harbor city limits and the fifth member shall reside in the state of Washington.
2. Four of the members of the marina advisory committee shall be customers of the marina facility (Position Nos. 1, 3, 4 and 5). One of the marina advisory committee members (Position No. 2) shall be a member of the public who need not be a customer of the moorage facility. For the purpose of this provision, a “customer of the moorage facility” shall mean a boat owner/lessee or storage lessee of the marina facility. Use of guest moorage only shall not constitute being “a customer of the moorage facility.” (Ord. 1541 § 2, 2008).

SUMMARY STATEMENT

Position 3 became available due to the expired term of Al Koetje. Mr. Koetje indicated that he was not willing to serve another three-year term. Mr. Hulett meets the qualifications for Position 3 as he is a resident of Oak Harbor and a Marina customer. If appointed, Mr. Hulett’s term would commence March 2010 and expire March 2013. Mayor Slowik recommends that Mr. Ken Hulett be appointed to the Marina Advisory Committee.

RECOMMENDED ACTION

Approve the recommendation to appoint Mr. Hulett to the Marina Advisory Committee.

ATTACHMENTS

Mr. Hulett's biography form.

MAYOR'S COMMENTS

Biography Form

Recommended Board Appointment for: Marina Committee

Name: Ken Hulett Date: 2/15/2011

Address: 2820 SW Scenic Hts St

City, State, Zip: Oak Harbor, WA 98277

Telephone Number: 360-675-9361 Email Address: kthulett@whidbey.net

Mailing Address (if different from above): _____

Resident of Oak Harbor/Whidbey Island for: 27 years/months

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

Retired Banker- Pacific Northwest Bank (formerly called InterWest Bank)

Local Group or Civic Affiliations: Oak Harbor Rotary Club, Oak Harbor Yacht Club, Oak Harbor Youth Sailing Foundation, Whidbey General Hospital Foundation and First Reformed Church

Special Interests: Travel, boating and teaching sailing lessons

Other General Comments: _____

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

Agenda Bill No. CHA 3E

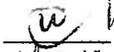
Date: March 1, 2011

Subject: Noise Permit – Irish Wildlife Society

FROM: Paul Schmidt, City Administrator 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:


Jim Slowik, Mayor


Doug Merriman, Finance Director


Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from the Irish Wildlife Society for amplified sound associated with the St. Patrick's Day Parade.

AUTHORIZATION:

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

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

SUMMARY STATEMENT:

The Irish Wildlife Society has submitted a Noise Permit request for amplified sound associated with the St. Patrick's Day Parade scheduled for March 17, 2011 between the hours of 4:00 p.m. – 5:00 p.m. While there will not be amplified sound during the parade, the organizers will utilize a sound system by the Windmill at Windjammer Park. The amplified sound will consist of a PA system and speakers for announcements.

The Application was reviewed by Fire, Police, and Public Works Departments. A condition of approval for the permit will be to face the speakers away from the campground area.

STANDING COMMITTEE REVIEW:

Not required.

RECOMMENDED ACTION:

Find that the activity creating the noise is temporary and for the benefit of the entire community and grant a noise permit for amplified sound to the Irish Wildlife Society.

ATTACHMENTS:

Noise Permit.

MAYOR'S COMMENTS:

CITY OF OAK HARBOR
NOISE PERMIT

Name of Organization: Irish Wildlife Society
Location of Event: Windjammer Park – Windmill area.
Date of Event: March 17, 2011
Hours of Operation: 4:00 p.m. to 5:00 p.m.
Permitted Noise: PA system and speakers for
announcements
Approval Conditions: Face speakers away from the
campground area.
Date of City Council
Approval:
Issued this day of

Karen Crouch, Special Events Coordinator

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

Please post this notice on site

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

Agenda Bill No. d/A 31

Date: March 1, 2011

Subject: Noise Permit – March of Dimes

FROM: Paul Schmidt, City Administrator 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:



Jim Slowik, Mayor

Doug Merriman, Finance Director

Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from the March of Dimes for amplified sound associated with a March of Dimes Charity Walk for Babies.

AUTHORIZATION:

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

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

SUMMARY STATEMENT:

The March of Dimes has submitted a Noise Permit request for amplified sound associated with a March of Dimes Charity Walk for Babies scheduled for March 26, 2011 between the hours of 8:00 a.m. – 2:00 p.m. at Windjammer Park. The amplified sound will consist of a PA system and speakers for announcements.

The Application was reviewed by Fire, Police, and Public Works Departments. A condition of approval for the permit will be to face the speakers away from the campground area.

STANDING COMMITTEE REVIEW:

Not required.

RECOMMENDED ACTION:

Find that the activity creating the noise is for the benefit of a charitable purpose and grant a noise permit for amplified sound to March of Dimes.

ATTACHMENTS:

Noise Permit.

MAYOR'S COMMENTS:

CITY OF OAK HARBOR
NOISE PERMIT

Name of Organization: March of Dimes
Location of Event: Windjammer Park – Gazebo,
Kitchen C and surrounding area.
Date of Event: March 26, 2011
Hours of Operation: 8:00 a.m. to 2:00 p.m.
Permitted Noise: PA system and speakers for
announcements
Approval Conditions: Face speakers away from the
campground area.
Date of City Council
Approval:
Issued this day of

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. 2/A 3 G
Date: March 1, 2011
Subject: Standing Committee Format
(Proposed Amendment)

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, approved as to form

PURPOSE

The purpose of this agenda bill is to propose an amendment to the City Council Rules to assure compliance with the Open Public Meeting Act and City of Oak Harbor Standing Committee procedures.

AUTHORITY

The authority to address the establishment of internal city council committees can be found in RCW 35A.12.120, which provides, in part: *The council shall determine its own rules and order of business and may establish rules for the conduct of council meetings and the maintenance of order.*

SUMMARY STATEMENT

On November 30, 2010, the Attorney General of Washington posted AGO 2010 No. 9, which provided a legal opinion response to State Representative Barbara Bailey's questions surrounding the proper notice of a standing committee meeting when a quorum of elected officials are present at a local government standing committee meeting (see Exhibit A).

In effect, AGO 2010 No. 9 states; *A meeting of the city council may occur if a quorum of the city council members take action at the standing committee meeting, as action is defined in RCW 42.30.020(3). If so, a separate meeting of the city council has occurred (in addition to the standing committee's meeting). In that case, the additional meeting must comply with the Open Public Meetings Act's notice requirements. Where the city council takes action at a standing committee's meeting, it is not sufficient to rely on the notice that was provided for the standing committee meeting.*

So based upon the above statement, Staff recommends that City Council amend Rule No. 28 of the City of Oak Harbor "Administration and Personnel Council Rules" as the most effective and efficient means to comply with the new Attorney General Opinion 2010 No. 9 in consideration of our current Standing Committee procedures. A draft Motion that would amend Rule No. 28 is provided for review (see Exhibit B).

City of Oak Harbor City Council Agenda Bill

The amendment to Rule No. 28 simply requires a city council member who wishes to attend a standing committee, but is not a regularly assigned member of that standing committee, provide at least 72 hours notice to the City Clerk so proper notice of the meeting can be arranged. In that regard, the standing committee meeting can proceed with notice as a special meeting of the City Council, with the added city council member seated in the audience and all other standing committee rules being observed (see Exhibit B, subparagraph (2)).

It should be noted that if there is not adequate notice provided by a city council member wishing to attend a standing committee meeting without being an assigned member of the standing committee, then the chair shall adjourn the meeting until special notice can be provided (see Exhibit B, subparagraph (3)). As requested during City Council's 2/27/11 Special Meeting, the amount of time for noticing has been changed from 48 hours to 72 hours in the motion (Exhibit B).

STANDING COMMITTEE REPORT

None

RECOMMENDED ACTION

Approve the motion amending Resolution No. 04-02, "Administration and Personnel Council Rules" to amend Rule No. 28 to provide notice of a council quorum planning to attend a standing committee meeting.

ATTACHMENTS

Exhibit A – AGO 2010 No. 9

Exhibit B – Motion amending Resolution No. 04-02

Exhibit C – AGO 2006 No. 6

Exhibit D – AGO 1986 No. 16

Exhibit E – MRSC provided list of Washington cities utilizing standing committee formats

MAYOR'S COMMENTS



Rob McKenna

Attorney General of Washington

OPEN PUBLIC MEETINGS ACT—Meetings Of Committee Attended By Other Members Of Governing Body

The Open Public Meetings Act requires that notice be properly given of a meeting of the governing body. This requirement is not satisfied by notice given for a meeting of a standing committee of a city council as a governing body, where a quorum of members of the city council attend the meeting and take action as defined in the act, such that a meeting of the city council as a governing body takes place.

November 30, 2010

The Honorable Barbara Bailey
State Representative, District 10
PO Box 40600
Olympia, WA 98504-0600

Cite As:
AGO 2010 No. 9

Dear Representative Bailey:

By letter previously acknowledged, you requested our opinion on four questions, which we have consolidated into two as follows:

1. **If a meeting of a standing committee of a city council is regularly scheduled, noticed, and open to the public, and a majority of the city council members attend, but do not participate in, the standing committee meeting, is there both a standing committee meeting and a council meeting; and must notice for a special meeting be provided separately for the council meeting, in addition to the notice for the standing committee meeting, in order for the meeting to comply with the Open Public Meetings Act?**
2. **If a meeting of a standing committee of a city council is regularly scheduled, noticed, and open to the public, and a majority of the city council members attend and participate in the meeting, is there both a standing committee meeting and a council meeting; and must notice for a special meeting be provided separately for the council meeting, in addition to the notice for the standing committee meeting, in order for the meeting to comply with the Open Public Meetings Act?**

Attorney General of Washington
Post Office Box 40100
Olympia, WA 98504-0100
(360) 753-6200

A handwritten signature in black ink, appearing to be 'JH', is located at the bottom of the page.

ATTORNEY GENERAL OF WASHINGTON

The Honorable Barbara Bailey

2

AGO 2010 No. 9

BRIEF ANSWER

The answers to your questions depend on whether a meeting of the city council takes place when notice has been given only of a standing committee meeting. A meeting of the city council may occur if a quorum of the city council members take action at the standing committee meeting, as action is defined in RCW 42.30.020(3). If so, a separate meeting of the city council has occurred (in addition to the standing committee's meeting). In that case, the additional meeting must comply with the Open Public Meetings Act's notice requirements. Where the city council takes action at a standing committee's meeting, it is not sufficient to rely on the notice that was provided for the standing committee meeting.

BACKGROUND

Before turning to your precise questions, we explain the general legal framework of the Open Public Meetings Act (Act), RCW 42.30, which governs our answers to your questions. The Act requires that all meetings of the governing body of a public agency shall be open and public. RCW 42.30.030. "Public agency" includes any "subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act . . ." RCW 42.30.020(1)(c). "Governing body" may include the "policy or rule-making body of a public agency [such as the city council], or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment." RCW 42.30.020(2). The Act is only concerned with a meeting where action is taken. RCW 42.30.020(4). "'Action' means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions."¹ RCW 42.30.020(3).

There are two types of meetings contemplated under the Act: regular and special meetings. Regular meetings are scheduled by ordinance, resolution, bylaws, or rule. RCW 42.30.070. The Act does not require that public agencies provide an agenda as part of the notice requirements for a regular meeting. *Hartman v. State Game Comm'n*, 85 Wn.2d 176, 181, 532 P.2d 614 (1975); *Dorsten v. Port of Skagit Cnty.*, 32 Wn. App. 785, 789-90, 650 P.2d 220, review denied, 98 Wn.2d 1008 (1982).² Special meetings are meetings other than regular meetings. See *Mead Sch. Dist. 354 v. Mead Educ. Ass'n*, 85 Wn.2d 140, 142, 530 P.2d 302 (1975). They may be called with at least twenty-four hours' notice to each member of the governing body and to each local newspaper and radio or television station which has previously requested in writing to be notified of special meetings. RCW 42.30.080. The notice for special

¹ "'Final action' means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance." RCW 42.30.020(3).

² However, other statutes may impose additional notice requirements. For example, RCW 35.23.221 requires second class cities to notify the public of the preliminary agenda for the forthcoming council meeting. See also RCW 35A.12.160.

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meetings must specify the time and place of the special meeting and the business to be transacted. RCW 42.30.080.

In your request, you provide factual background that frames the scope of our opinion. For purposes of analyzing your questions, we assume these facts. First, you indicate that city councils have created a number of standing committees by ordinance. You explain that the ordinance requires regularly-scheduled and noticed committee meetings. You further state, in your letter, that “[t]he requirements for standing committee meetings are intended to be the same as or substantially similar to the requirements for full council meetings in order to ensure compliance with the [Act].”

Additionally, as you describe in your letter, the applicable ordinance provides that standing committees are composed of less than a quorum of city council members, however, city council members may attend the standing committee meetings if desired. No votes or final actions may be taken at standing committee meetings.

ANALYSIS

- 1. If a meeting of a standing committee of a city council is regularly scheduled, noticed, and open to the public, and a majority of the city council members attend, but do not participate in, the standing committee meeting, is there both a standing committee meeting and a council meeting; and must notice for a special meeting be provided separately for the council meeting, in addition to the notice for the standing committee meeting, in order for the meeting to comply with the Open Public Meetings Act?**

The Act’s requirements are triggered at any point that the governing body of a public agency has a meeting as defined by the Act. RCW 42.30.030. Since, according to your request, standing committee meetings are already regularly noticed and scheduled,³ a concern arises under the Act only if an additional meeting results from the attendance or participation of other city council members at the standing committee meetings.

A city council is a distinct entity from a standing committee. RCW 42.30.020(3) (defining a “governing body” both as a council and a committee acting on behalf of the

³ Because the ordinances you reference treat standing committee meetings as regular meetings under the Act, we need not explore under what circumstances such meetings would be subject to the Act. For general reference, however, such meetings would be subject to the Act if the standing committee constitutes a public agency under RCW 42.30.020(1)(c) (“public agency” defined to include any “subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act”). *See also* AGO 1971 No. 33, at 8–9 (concluding subcommittees created by statute or ordinance are agencies under the Act). Even if the standing committee does not constitute a public agency, it would be subject to the Act when it acts as a governing body by either acting on behalf of the city council or by conducting hearings, or taking testimony or public comment. RCW 42.30.020(2).

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council). Although a standing committee may be created by and made up of members of the city council, it is a “governing body” when it “acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.” RCW 42.30.020(2); *see also* AGO 1971 No. 33, at 8–9. Meetings of the city council must comply with the Act, and may not rely upon the notice provided of a standing committee meeting.

Your question, therefore, depends on whether a meeting of the city council occurs, despite the fact that notice was given for only a committee meeting. This would occur only if a quorum of the full council takes an “action,” as that term is defined in statute. RCW 42.30.020(4). The statutory definition of “action” is quite broad. *Miller v. City of Tacoma*, 138 Wn.2d 318, 327, 979 P.2d 429 (1999); AGO 1971 No. 33, at 19. The Act defines “action” as “the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions.” RCW 42.30.020(3). As noted by the court in *Eugster v. City of Spokane*, 110 Wn. App. 212, 39 P.3d 380 (2002), the definition includes a list that is not exhaustive of conduct that might constitute action. If an additional meeting occurs because the city council—a governing body distinct from the standing committee—attends and takes action, that new meeting requires separate compliance with the requirements of the Act. To put the matter differently, the Act is not satisfied by giving notice of a meeting of a standing committee, if the meeting turns out to constitute a meeting of the city council itself. Such notice would not satisfy the purpose of the Act—to assure advance notice to the public of meetings of a governing body, so that the actions of a governing body are “taken openly and . . . deliberations [are] conducted openly.” RCW 42.30.010 (declaration of legislative intent). Therefore, in answering your questions, we consider whether either of the described scenarios constitutes a “meeting” of the city council implicating the Act.

Although your request frames the question based on whether or not the council members “participate” in the standing committee’s meeting, the relevant inquiry is whether the council members take action while attending the meeting. RCW 42.30.020(4) (defining a meeting as a meeting at which action is taken). We concluded in 2006 that a quorum of city or county council members could attend a public meeting called by a third party without violating the Act, as long as the council members did not take action. AGO 2006 No. 6.⁴ We emphasized that whether members take action depends on whether the particular circumstances fall within the “transaction of the official business” of the governing body.” AGO 2006 No. 6, at 2. For example, council members are taking action where they deliberate or discuss a decision they might eventually make. AGO 2006 No. 6, at 2 (citing *In re Recall of Beasley*, 128 Wn.2d 419, 908 P.2d 878 (1996)).

Additionally, for example, action occurs where a governing body receives public testimony. AGO 2006 No. 6, at 2. As we cautioned in the 2006 opinion, council members

⁴ Because we cite our 2006 opinion several times during the course of this analysis, a copy is attached for ease of reference.

would need to consider whether they are receiving public testimony or taking other action while attending the meeting. Ultimately, whether a quorum of the city council is taking action is a fact-specific analysis that cannot be answered in the abstract, and accordingly, cannot be answered in the context of this opinion.

However, it bears mentioning that it is more likely in the scenarios you present, than in the situation discussed in the 2006 opinion, that the council members would be taking action while attending the standing committee meeting. In the questions that you present, the standing committee is a subpart of the city council—it is created by the city council and the business it is transacting is almost certainly within the scope of the city council's official business. That makes the present scenario quite different from attendance at a completely unrelated third party's meeting discussed in the 2006 opinion. It is more likely that city council members attending a meeting of the council's own standing committee could be receiving public testimony, considering proposals, or performing other types of action.

This is not to suggest that council members cannot attend committee meetings. We do not conclude that council members who are not members of the committee are disqualified from attending what is otherwise an open public meeting; we merely conclude that if such a meeting is one at which the council takes "action," then compliance with the Open Public Meetings Act is required. Moreover, even where the council members' attendance constitutes a meeting of the council under the Act, they are not prohibited from attending the standing committee meetings by the Act. Rather, as long as the council follows the requirements for a special meeting under RCW 42.30.080, the members may attend and take action at the standing committee meeting. AGO 2006 No. 6, at 3.

2. **If a meeting of a standing committee of a city council is regularly scheduled, noticed, and open to the public, and a majority of the city council members attend and participate in the meeting, is there both a standing committee meeting and a council meeting; and must notice for a special meeting be provided separately for the council meeting, in addition to the notice for the standing committee meeting, in order for the meeting to comply with the Open Public Meetings Act?**

As mentioned above, the relevant question for purposes of analyzing whether the city council members' attendance triggers additional notice requirements under the Act depends on whether the city council takes action (as it is defined by RCW 42.30.020(3)) at the standing committee meeting. Assuming it does, a meeting of the city council has occurred in addition to a meeting of the standing committee. In such a situation, the Act requires notice of the city council's meeting in addition to notice of the standing committee's meeting.

When a quorum of the city council takes action at a standing committee meeting, a city council meeting has occurred, and the city council must provide notice of its meeting consistent with the Act. The standing committee meeting is a separate governing body from the

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city council. It is not sufficient to rely on the notice that was provided for the standing committee meeting.

We trust that the foregoing will be useful to you.



ROB MCKENNA
Attorney General

ALICIA O. YOUNG
Assistant Attorney General
(360) 664-4183

WTOS

MOTION

MOTION AMENDING RESOLUTION NO. 04-02, "ADMINISTRATION AND PERSONNEL COUNCIL RULES" TO AMEND RULE NO. 28 TO PROVIDE NOTICE OF A COUNCIL QUORUM PLANNING TO ATTEND A STANDING COMMITTEE MEETING

WHEREAS, the Council amended Ch. 1.04 OHMC on June 15, 2010 to provide for standing committees; and

WHEREAS, the Council adopted Rule 28 to address procedures to apply during standing committee meetings on October 5, 2010; and

WHEREAS, the Council wishes to ensure that the public is notified if a quorum of the city council plans to attend a standing committee meeting;

NOW, THEREFORE, UPON MOTION, the City Council hereby amends Resolution No. 04-02, "Administration and Personnel Council Rules" to amend Rule No. 28 on Standing Committee Procedures as follows:

RULE NO. 28 -- STANDING COMMITTEE PROCEDURES

- (1) The chair of the standing committee shall preside at standing committee meetings. If the chair is not present, the attending primary committee members shall choose a presiding officer *pro tempore*.
- (2) If a city councilmember wishes to attend a standing committee meeting of a standing committee of which he or she is not a primary member, that city councilmember shall notify the Mayor's office at least 72 hours prior to the standing committee meeting so that special notice of a city council meeting may be issued.
- (3) If a city councilmember appears for a standing committee meeting without having given the notice required in Paragraph (2) above, the meeting shall be adjourned until special notice can be given.
- (42) The council members assigned to the standing committee as primary members shall be seated at the table or dais. Councilmembers who attend standing committee meetings to which they are not assigned as primary member shall not sit at the council table or dais but in the seating designated for observers.

MOTION AMENDING "ADMINISTRATION AND PERSONNEL COUNCIL RULES" ADOPTED MARCH 2, 2004 TO AMEND RULE NO. 28 ON STANDING COMMITTEE PROCEDURES

(53) Public comment shall be allowed, unless the chair finds exceptional circumstances exist.

PASSED by the City Council this _____ day of _____, 2011.

THE CITY OF OAK HARBOR

Jim Slowik, Mayor

ATTEST:

Connie Wheeler, City Clerk

APPROVED AS TO FORM:

Margery Hite, City Attorney

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MOTION AMENDING "ADMINISTRATION AND PERSONNEL COUNCIL
RULES" ADOPTED MARCH 2, 2004 TO AMEND RULE NO. 28 ON STANDING
COMMITTEE PROCEDURES



OPEN PUBLIC MEETINGS ACT – CITIES AND TOWNS – COUNTIES – Applicability of Open Public Meetings Act when a quorum of the members of a governing body are present at a meeting not called by that body.

The presence of a quorum of the members of a city or county council at a meeting not called by the council does not, in itself, make the meeting a “public meeting” for purposes of the Open Public Meetings Act (RCW 42.30); the Open Public Meetings Act would apply if the council members took any “action” (as defined in RCW 42.30) at the meeting, such as voting, deliberating together, or using the meeting as a source of public testimony for council action.

March 28, 2006

The Honorable Alex Deccio
State Senator, 14th District
P. O. Box 40414
Olympia, WA 98504-0414

Cite As:
AGO 2006 No. 6

Dear Senator Deccio:

This letter responds to your request for an opinion with regard to the following question:

When a city or county council or council members are invited to attend a public meeting not called by the city or county council, is it legal for a quorum of such members to be present without violating the Open Meeting law?

BRIEF ANSWER

The presence of a quorum of members of a city or county council does not, of itself, cause the Open Public Meetings Act to apply if council members attend a public meeting called by a third party. The gathering of council members would be a “meeting” for purposes of the Act only if the council members take “action” as defined in the Act, such as voting, deliberating, or other official business of the council. Assuming the Act applied, it would not be violated if the council has followed the advance notice requirements and treated the gathering as a special meeting.

ANALYSIS

The Open Public Meetings Act (the Act) applies to all meetings of a governing body of a public agency. RCW 42.30.030 provides the core requirement of the Act:

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[original page 2] All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.

(Emphasis added.)

City and county councils, as well as numerous other types of state and local multi-member boards, are “governing bodies” of “public agencies” within the meaning of the Act. RCW 42.30.020(1) (defining “public agency”); RCW 42.30.020(2) (defining “governing body”). The Act defines “meeting”, however, as only meetings where an “action” is taken there. See RCW 42.30.020(4) (“ ‘meeting’ means meetings at which action is taken”). The Act then defines an “action” as the “transaction of the official business of the agency”. RCW 42.30.020(3). Some specific examples of “actions” are provided in the Act: “[T]he transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions.” RCW 42.30.020(3).[1]

Your question asks whether the presence of a quorum of the governing body at a third party’s meeting by itself violates the Act, and we conclude that it does not. The fact that a quorum of the council members is present at the same time and place does not “automatically” mean that a “meeting” has occurred for purposes of the Act because an “action” must occur to trigger the Act. See *In re Recall of Estey*, 104 Wn.2d 597, 604, 707 P.2d 1338 (1985). In *Estey*, the Supreme Court rejected proposed recall charges based on alleged violations of the Act because the charges did not sufficiently identify an action taken at a meeting. Similarly, in *Eugsterv. City of Spokane*, 118 Wn. App. 383, 424, 76 P.3d 741 (2003), the Court of Appeals explained the Act as applying when “(1) members of a governing body (2) held a meeting of that body (3) where that body took action”. *Id.*(emphasis added).[2]

We emphasize that whether the members take an “action” depends on if the particular circumstances fall within the “transaction of the official business” of the governing body. Examples of an “action” include members deliberating or discussing a decision they might eventually make. See, e.g., *In re Recall of Beasley*, 128 Wn.2d 419, 908 P.2d 878 (1996) (discussions among school board members regarding contract issue would constitute “meetings”). Another express example of an “action” is when the members take a vote on a matter. RCW 42.30.020(3). “Action” includes “receipt of public testimony”, so council members attending a third party’s public meeting would need to consider whether they are receiving public testimony.[3]

[original page 3] Even if some “action” takes place when council members attend some other entity’s public meeting, the conclusion that the Act applies does not force the members to choose between attendance or violation of the Act. The Act requires that a meeting to which the Act applies be “open and public and all persons shall be permitted to attend”. RCW 42.30.030. If the gathering or event is in fact open to the public, as your question assumes, then even if the Act applies, council members may avoid violating the Act if proper advance notice is given, designating the third party’s event as a “special meeting.”

State law provides for calling a special meeting, setting forth certain requirements for a special meeting, including that (1) the meeting be called by the presiding officer (such as a chairman) or by a majority of the membership, and (2)

notice be given personally or by mail delivery to all of the members, as well as to local media who have requested notice. RCW 42.30.080 (requirements for special meeting). The notice must designate the time and place and the business to be transacted, and final action cannot be taken as to any matter for which notice is not given. *Id.* Therefore, if the council is concerned that, given the nature of any particular gathering, public testimony, discussions, or some other action might take place, the council can designate it in advance as a “special meeting” for the purpose of complying with the Act and removing any doubt as to the legality of any action that might be taken there.

For these reasons, we conclude that the presence of a quorum of members of a city council or county council at a public event, gathering, or meeting does not trigger application of the Act unless the quorum takes an “action” by transacting official business of the city or county. We also conclude that when the Act applies to council members attending a third party’s meeting, the council members do not violate the Act if the meeting is open to the public and if the governing body follows the requirements of the Act for giving notice of a special meeting.

We trust that the foregoing analysis will be helpful to you.

Sincerely,

ROB MCKENNA
Attorney General

JAY DOUGLAS GECK
Deputy Solicitor General

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[1] The statute goes on to define the term “final action”, but it is not necessary to consider that definition in order to respond to your question.

[2] Additionally, before a member of the governing body incurs personal liability for a violation, RCW 42.30.120(1) requires that the person act “with knowledge of the fact that the meeting is in violation” of the Act.

[3] It goes beyond your question to define what is, and is not, the taking of public testimony. We do not mean to suggest that council members “take public testimony” simply by attending a meeting with information that has general relevance to their council work. Whether council members are taking public testimony depends, at a minimum, on the type of official business facing the council and whether the third party’s meeting falls within the concept of public testimony for purposes of the council’s official business.



MEETINGS -- PUBLIC -- APPLICABILITY OF OPEN PUBLIC MEETINGS ACT TO A COMMITTEE OF THE GOVERNING BODY.

(1) The definition of governing body, including any "committee thereof," covers both committees composed of members of the governing body and committees composed of nonmembers appointed by the governing body.

(2) A committee of the governing body is required to comply with the provisions of the Open Public Meetings Act when it acts on behalf of the governing body by exercising actual or de facto decisionmaking power.

December 31, 1986

Honorable Robert V. Graham
State Auditor
Legislative Building, AS-21
Olympia, Washington 98504

Cite as: AGO 1986 No. 16

Dear Sir:

By letter previously acknowledged, you have requested our opinion regarding an amendment to the Open Public Meetings Act (ACT), chapter 42.30 RCW, which defines the term "governing body." (Section 1, chapter 155, Laws of 1983 amended RCW 42.30.020(2).) The amendment expanded the definition of "governing body" to include "any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment." You have requested our opinion about the meaning of the phrase underscored above.

Your inquiry raises two questions which we phrase as follows:

(1) Does a "committee thereof" include both committees composed of members of the governing body and committees composed of nonmembers of the governing body when appointed by the governing body?

(2) Under what circumstances is a committee of a governing body required to comply with the provisions of the Open Public Meetings Act?

[[Orig. Op. Page 2]]

We answer the first question in the affirmative and the second question in the manner set forth in our analysis.

ANALYSIS

We begin our analysis by reciting two rules of statutory construction we will rely on in answering both questions. The first rule of construction is that words in a statute that are not defined must be accorded their usual and ordinary meaning.

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Pacific First Fed. Sav. & Loan Ass'n v. State, 92 Wn.2d 402, 409, 598 P.2d 387 (1979). In determining the usual and ordinary meaning of words, it is appropriate to consult the dictionary. See Purse Seine Vessel Owners Ass'n v. Moos, 88 Wn.2d 799, 808, 567 P.2d 205 (1977).

The second rule of statutory construction is that where legislative intent is not clear from the language of the statute it is appropriate to consider the legislative history of the statute. Bellevue Fire Fighters Local 1604 v. Bellevue, 100 Wn.2d 748, 751, 675 P.2d 592 (1984). This legislative history can include the sequence of amendments to the statute as well as comments made during the statute's consideration. See State v. Turner, 98 Wn. 2d 731, 735, 658 P.2d 658 (1983).

With these two principles of statutory construction in mind, we turn to your first question:

Does a "committee thereof" include both committees composed of members of the governing body and committees composed of nonmembers of the governing body when appointed by the governing body?

To answer this question, we must first review what committees were subject to the Act prior to the 1983 amendment at issue here. The Open Public Meetings Act was enacted in 1971. Laws of 1971, 1st Ex. Sess., ch. 250. The scope of the Act was set forth in section 3, (now codified as RCW 42.30.030) which stated:

All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this act.

Laws of 1971, 1st Ex. Sess., ch. 250, § 3, p. 1114.

[[Orig. Op. Page 3]]

Under section 3 the Act applied only to the "governing body" of a "public agency." The term "public agency" was specifically defined in section 2(1) to include committees and states:

"Public agency" means:

(a) Any state board, commission, committee, department, educational institution or other state agency which is created by or pursuant to statute, other than courts and the legislature.

(b) Any county, city, school district, special purpose district or other municipal corporation or political subdivision of the state of Washington;

(c) Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, and other boards, commissions, and agencies. (Emphasis supplied)

Laws of 1971, 1st Ex. Sess., ch. 250, § 2(1), p. 1113.

In AGO 1971 No. 33, copy enclosed, we answered a number of questions pertaining to the scope and operation of the Act. Two or those questions dealt

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specifically with whether certain committees and subcommittees were subject to the Act. These two questions were as follows:

Question (2):

Are advisory committees, boards and commissions subject to the provisions of the open meetings act?

...

Question (3):

When a governing body of a public agency forms a subcommittee composed of members of the governing body, is the subcommittee subject to the provisions of the open public meetings act?

AGO 1971 No. 33, at 8-9.

[[Orig. Op. Page 4]]

With regard to question 2, we concluded that advisory committees, boards, and commissions were not subject to the Act unless they were "public agencies" under section 2(1) of the Act. To be a public agency under section 2(1)(a) or (c), a committee or other group must be created "by or pursuant to statute, ordinance or other legislative act." Based on this requirement, AGO 1971 No. 33 concluded: "[W]e do not believe that this definition would include those discretionary ad hoc groups which may be formed pursuant to a general, implied executive authority instead of a specific statute or ordinance." AGO 1971 No. 33, at 8.

We reached a similar conclusion in responding to question 3, where we stated:

Such a subcommittee is normally not created "by or pursuant to a statute, ordinance or other legislative act" and, therefore, it would not be included within the definition of a public agency. If it is not a "public agency," then even though it has a multimember composition its activities would not be subject to the provisions of the act. However, if the subcommittee membership is such that it comprises a majority of the governing body, then the "subcommittee" would have to be considered as the governing body itself, under the act, and would then be subject to all of the notification and meeting requirements of the act.

AGO 1971 No. 33, at 9.

Thus, as enacted in 1971, the Act did not apply to committees, subcommittees, and other groups that were not created by or pursuant to statute, ordinance, or other legislative act.

This gap in the coverage of the Act seems to have been a matter of concern. For example, in 1983 we received a letter from Representative Nelson inquiring whether certain committee meetings of the Washington Public Power Supply System (WPPSS) were subject to the Act. We responded to this inquiry by letter dated March 18, 1983, copy enclosed. In that letter, we referred Representative Nelson to AGO 1971 No. 33 and indicated that only committees created by or pursuant to a statute, ordinance, or other legislative act were subject to the Act.

In 1983 the Legislature amended the definition of "governing body" in RCW 42.30.020(2) to include committees thereof. The amendatory language in question here is as follows:

[[Orig. Op. Page 5]]

"Governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body conducts hearings, or takes testimony or public comment.

Laws of 1983, ch. 155, § 1, p. 669.

It appears to us that the purpose of this amendment was to extend the coverage of the Act to committees, subcommittees, and other groups that are not created by or pursuant to statute, ordinance, or other legislative act. This conclusion is buttressed by the legislative history of the 1983 amendment. In response to a point of inquiry, Senator Thompson, one of the sponsors, stated:

Senator McDermott, this language does, indeed, relate to the WPPSS situation, because another portion of the bill that Senator Lee alluded to, brings committees of governing bodies under the effect of the open meetings act, which is substantial in its effect on WPPSS operations, because they have organized into committees. The executive board is organized into committees and as I understand it, they are substantially conducting their business in that manner. This has caused some concern, because an LBC auditor was even prevented from attending some of those sessions, even though he was under instruction to do so. It does, indeed, apply to the WPPSS situation.

Senate Journal, 48th Legislature (1983), at 880.

Under the 1983 amendment, a committee is considered to be part of the governing body itself, even though the committee does not, in and of itself, constitute a new public agency or subagency because it is not created by or pursuant to statute, ordinance, or other legislative act.

The thrust of your question goes to the scope of the term "committee thereof." In our opinion, the term "committee thereof" includes all committees created by a governing body pursuant to its executive authority as opposed to a specific statute, ordinance, or other legislative act. Thus, a "committee thereof" includes [[Orig. Op. Page 6]] committees composed solely of a minority of the members of the governing body. It also includes committees composed of nonmembers of the governing body.

We reach this conclusion for two reasons. The first is the policy of the Act itself. RCW 42.30.010 states:

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

RCW 42.30.910 further provides that the Act is remedial and shall be liberally construed.

These two provisions were relied upon by the Supreme Court in Cathcart v. Andersen, 85 Wn. 2d 102, 107, 530 P.2d 313 (1975). In that case, the court ruled that the University of Washington Law School is a subagency and its faculty is a governing body subject to the Act.

The second reason for our conclusion is the plain meaning of the words "committee thereof." Neither of these words is defined in the statute. Thus, we must resort to their usual and ordinary meaning. The term "committee" is defined as "2a: a body of persons delegated to consider, investigate, or take action upon and usu. to report concerning some matter of business; . . ." Webster's Third New International Dictionary 458 (1971).

There are two significant points about the definition of the word "committee." The first is that a committee is a body of persons. This definition would apply equally to any group, be it called a committee or some other name such as board or council. The second is that there is nothing in the definition that restricts the composition of the group to members of the governing body or, for that matter, to nonmembers of the governing body. The definition includes both.

The term "thereof" is defined as: "1: of that: of it . . . 2: from that cause: from that particular: Therefrom . . ." Webster's Third New International Dictionary 2372 (1971). There are two definitions of the word "thereof". The first definition would seem to limit the composition of committees to members of the [[Orig. Op. Page 7]] governing body. However, the second definition includes any committee the governing body brings into being.

We find nothing in the language of the Act or its legislative history to indicate that the Legislature intended the more restrictive first definition. Also, the policy of the Act and the legislative declaration that the statute be liberally construed support our application of the broader definition of the word "thereof."

Having concluded that the phrase "committee thereof" includes all committees, regardless of the identity of their members, we turn to your second question:

Under what circumstances is a committee of a governing body required to comply with the provisions of the Act?

The 1983 amendment at issue here added the following words to the term "governing body": "or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment." Laws of 1983, ch. 155, § 1, p. 669.

In responding to your second question, we are concerned with the phrase "when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment." Your question focuses specifically on when a committee "acts on behalf of the governing body." We begin our analysis by again turning to the dictionary. The term "act" or "acts" has a number of definitions. These include:

4: to discharge the duties of a specified office or post: perform a specified function: . . . 5a: to exert power or influence: produce an effect . . . b: to produce a desired effect: perform the function for which designed or employed: work . . .

Webster's Third New International Dictionary 20 (1971). The term "on behalf of" is defined as: "in the interest of: as the representative of: for the benefit of . . ." Webster's Third New International Dictionary 198 (1971).

These definitions present two alternate meanings to the phrase "acts on behalf of." On the one hand, a committee might act on behalf of the governing body whenever it performs a specified function in the interest of the governing body. This would be a [[Orig. Op. Page 8]] very broad definition. Under this construction, all acts of a committee would be subject to the Act, just as a governing body is subject to the Act whenever it meets to take action.

On the other hand, a committee might act on behalf of the governing body only when it exerts power or influence or produces an effect as the representative of the governing body. This is a narrower interpretation of the phrase. Under this construction, a committee acts on behalf of the governing body when it exercises actual or de facto decisionmaking authority for the governing body.

The policy of the Act set out in RCW 42.30.010 and the legislative declaration of liberal construction in RCW 42.30.910 support the broad interpretation of the phrase. However, we are persuaded that the narrower construction correctly reflects the intent of the Legislature.

We reach this conclusion for two reasons. The first is the rule or statutory construction that the Legislature is presumed not to have used superfluous words. If possible, each word in a statute is to be accorded meaning. State v. Lundquist, 60 Wn.2d 397, 403, 374 P.2d 246 (1962). Here, the phrase "when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment" would be superfluous if all committee meetings were subject to the Act.

RCW 42.30.030 provides that "[a]ll meetings of the governing body of a public agency shall be open and public . . ." The term "meeting" is defined as "meetings at which action is taken." RCW 42.30.020(4).

Before 1985, the word "action" was defined in RCW 42.30.020(3) as:

the transaction of the official business of a public agency by a governing body including but not limited to a collective decision made by a majority of the members of a governing body, a collective commitment or promise by a majority of the members of a governing body to make a positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

Laws of 1971, 1st Ex. Sess., ch. 250, § 2(3), p. 1114.

[[Orig. Op. Page 9]]

In AGO 1971 No. 33, we interpreted the term "action" broadly. Under our construction, the Act applied to any meeting of a majority of the members of a governing body, even an informal one, where matters within the ambit of the agency's official business were considered. This interpretation is reinforced by the 1985 amendment to the definition which is even broader than the 1971 definition. Laws of 1985, ch. 366, § 1, p. 1301.1/

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If the Legislature intended a broad interpretation of the phrase "acts on behalf of," it simply would have added the words "or any committee thereof" to the definition of "governing body." Had the Legislature done so, a committee would have been subject to the Act on the same basis as the governing body itself--whenever it conducts a meeting at which action is taken.

However, the Legislature also added the phrase "when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment." These words would be rendered meaningless if a committee is required to comply with the Act when it holds a meeting where action is taken. Under this language a committee of a governing body is required to comply with the Act only "when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment."

We also note that the Legislature selected the word "acts" instead of the word "action," which is broadly defined in RCW 42.30.020(3). If the Legislature intended the phrase "acts on behalf of" to be broadly construed we believe it would have used the word "action."

The second reason we conclude that the phrase should be narrowly construed is the legislative history of the amendment. The 1983 amendment was introduced as part of Senate Bill 3206. That bill would have amended the definition of "governing body" by [[Orig. Op. Page 10]] adding the following language to the definition: "or any committee thereof if the committee is authorized to act on behalf of the governing body in conducting hearings, taking testimony or public comment, or deliberating the making of policy or rules." Senate Bill 3206, 48th Legislature (1983).

Subsequently, Senate Bill 3206 was replaced by Substitute Senate Bill 3206. The substitute bill narrowed the amendment to the term governing body as follows: "or any committee thereof if the committee is authorized to act on behalf of the governing body, conduct hearings or take testimony or public comment." Substitute Senate Bill 3206, 48th Legislature (1983).

The substitute bill eliminated the phrase "or deliberating the making of policy or rules." We believe this change indicates that the Legislature did not intend to extend the coverage of the Act to committees that do nothing more than deliberate the making of policy or rules.

The 1983 amendment to the term "governing body" was modified once more on the floor of the Senate in an amendment proposed by Senator Hemstad. His amendment struck the language: "if the committee is authorized to act on behalf of the governing body, conduct hearings, or take testimony or public comment." In its place Senator Hemstad proposed the following language: "when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment." Senate Journal, 48th Legislature (1983), at 881.

On the floor of the Senate, Senator Hemstad explained the purpose of the amendment as follows:

Frankly, I was thus very uncertain as to how far that would go because it does not limit the situation to where it was acting on behalf of the governing body, conducting hearings or taking public comment but was authorized to. So it would mean that any subcommittee acting in other kinds of capacities would at least

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technically come within the scope of the new language. I think my phrasing now if it says when the committee acts on behalf of the governing body, conducts hearings and takes testimony or public comment, it would then require to be open would limit it, define it, and I think would make it more acceptable.

Senate Journal, March 30, 1983 (transcribed from tape).

[[Orig. Op. Page 11]]

The Senate adopted the Hemstad amendment and this is the language that became law. The Hemstad amendment further demonstrates that the Legislature did not intend all committee meetings to be subject to the Act.

This conclusion is also supported by the legislative history of the 1983 amendment in the House of Representatives. In response to a point of inquiry from Representative Isaacson, Representative Hine described the scope of the 1983 amendment as follows:

Mr. Isaacson: "Representative Hine, would formal notices be required when preliminary discussions were being held by members of the city council and city staff?"

Ms. Hine: "Representative Isaacson, I believe that is not the intent of this legislation."

Mr. Isaacson: "Would the bill apply to the meeting of a budget committee consisting of less than a majority of the governing body, discussing the budget with a department head?"

Ms. Hine: "No, Representative Isaacson."

Mr. Isaacson: "What are the requirements with respect to giving formal notice?"

Ms. Hine: "It's the intent of the legislation, we believe, subject to the deliberations of the governing body, that this apply only to the deliberations of the governing body or subcommittees which the governing body specifically authorizes to act on its behalf, or which policy, testimony or comments are made in its behalf. In other words, it's when making policy or rules, not for general comments or any kind of informal type meeting they may have. Those would not require the official formal notice." (Emphasis supplied.)

House Journal, 48th Legislature (1983), at 1294.

In our judgment, this legislative history establishes that the Legislature intended the narrower definition of the phrase "acts on behalf of." Based on this narrow definition, we conclude that a committee acts on behalf of the governing body when it exercises actual or de facto decisionmaking authority for the governing body. This is in contrast to the situation where the committee simply [[Orig. Op. Page 12]] provides advice or information to the governing body. In our opinion such advisory committees do not act on behalf of the governing body and are therefore not subject to the Act.

Since your question does not pose a specific factual situation, we are unable to say precisely when a committee acts on behalf of the governing body and is thus

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subject to the Act. The line between exercising actual or de facto decisionmaking powers and simply giving advice will obviously depend upon the responsibilities and powers of the particular committee in question. Two decisions by the Supreme Court of Oklahoma interpreting that state's open meeting law, prior to its repeal and reenactment in 1977, illustrate this distinction.

Oklahoma's prior open meeting law provided that all meetings of certain governing bodies must be public meetings. 25 O.S. 1971 § 201. In Sanders v. Benton, 579 P.2d 815 (Okla. 1978) the court considered the application of the open meeting law to a citizens advisory committee impaneled to provide information to assist in determining the site for a community treatment center. The plaintiff claimed that the citizens advisory committee was subject to the open meeting law because it was acting for and on behalf of the Board of Corrections, which was clearly a governing body subject to the Oklahoma law. In Sanders, the court ruled that the citizens advisory committee was not subject to the open meeting law because the citizens advisory committee exercised no governmental powers or decisionmaking authority.

The court in Sanders distinguished its decision in Carl v. Board of Regents, 577 P.2d 912 (Okla. 1978). Carl concerned an admissions board of the University of Oklahoma. The court ruled that the admissions board was subject to the open meeting law because the Board of Regents, which was ultimately responsible for admissions, had delegated decisionmaking authority to the admissions board to select students for the college of medicine.

In our opinion a committee acts on behalf of the governing body when it exercises actual or de facto decisionmaking power, such as the admissions board in Carl. Such a committee is subject to the Act whenever it meets to conduct business related to the exercise of its decisionmaking power. An advisory committee, such as the citizens advisory committee in Sanders, is not subject to the Act.

A committee that exercises decisionmaking power and also serves a separate advisory function is subject to the Act when it [[Orig. Op. Page 13]] meets to conduct business related to the exercise of decisionmaking power. To the extent the committee has a separate advisory role, it is not subject to the Act when it meets to conduct business related to that advisory role. However, where a committee performs both functions it is subject to the Act unless the advisory function can be separated from the exercise of its decisionmaking authority.

We trust that the foregoing will be of assistance to you.

Very truly yours,
KENNETH O. EIKENBERRY
Attorney General

WILLIAM B. COLLINS
Assistant Attorney General

CHRISTINE O. GREGOIRE
Deputy Attorney General

*** FOOTNOTES ***

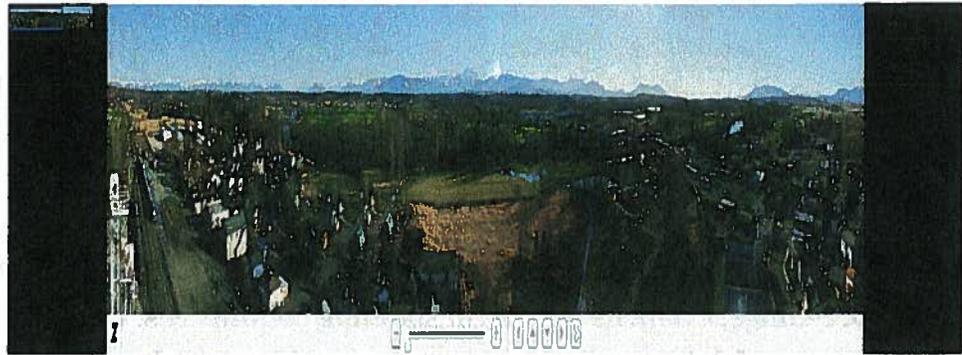
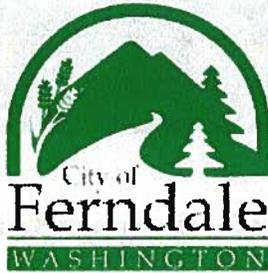
1/" Action" means the transaction of the official business of a public agency by a governing body including, but not limited to, receipt of public testimony, deliberations, discussions.

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considerations, reviews, evaluations, and final actions. "Final action" means a collective ((~~decision made by a majority of the members of a governing body to make~~ a)) positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

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Exhibit E



City Council Committees

In addition to serving as members of the City Council, Council members also participate in various committees which have been created to assist them in examining issues that may come before the Council in greater depth and detail. Every two years the Council organizes itself with respect to the number and makeup of the Committees. Often times, issues are resolved in Committee without further action on the part of the Council. Frequently the Committees make recommendations which are then later considered by the full City Council. The following is a list of Committees, as reorganized in August of 2008: Public Works and Utilities, Finance and Administration, Planning and Land Use, Police Station/Library Ad Hoc, and Public Health and Neighborhood Services.

Council Committees meetings are set by Ordinance and convene on Wednesday mornings prior to the regularly scheduled City Council meetings. Meeting are held in the City Hall Main Conference Room, located at 2095 Main Street.

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Council Committees

In accordance with the broad powers given to a Council to establish rules for the conduct of their proceedings, Councils may form standing committees. Council committees are often assigned tasks of doing preliminary work on problems and serve as advisory boards to the remainder of the Council.

The City of Maple Valley has two standing committees:

1. Audit Committee
2. Public Safety Oversight Committee

All committee meetings are open to the public.

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Council Committees

Council Agenda and Minutes

Regular meetings of the full [Metropolitan King County Council](#) are held Mondays starting at 1:30 p.m. in the Council Chambers on the 10th floor of the King County Courthouse, at 516 Third Avenue between James and Jefferson in Seattle.

Cable broadcast and online video archive

Meetings are carried live on King County Television on Cable Channel 22, and streamed live through the [KCTV Web site](#). Council meetings are scheduled for replay on KCTV on **Monday at 7:00 p.m.** [archived video of Council meetings](#) are available anytime.

Committee Staffing and Information

The County Council functions through the work of its standing committees and regional committees, which scrutinize proposed legislation for consideration by the full Council. Regional committees include elected officials from other jurisdictions. See each [agenda](#) for the time and place of specific committee meetings or call 206-296-1000. [Watch archived Committee meetings.](#)

- [Committee of the Whole](#)
- [Budget and Fiscal Management](#)
- [Environment and Transportation](#)
- [Government Accountability and Oversight](#)
- [Law, Justice, Health and Human Services](#)
- [Regional Policy Committee](#)
- [Regional Transit Committee](#)
- [Regional Water Quality Committee](#)

Special purpose governments

Under legislative authority to counties provided by the state Legislature, members of the King County Council also serve as ex-officio members of the Boards of two special purpose governments.

- [King County Ferry District](#)
- [King County Flood Control District](#)



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City Council

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Most items brought before the Council are referred from a committee. The committees have studied and reviewed issues before being referred to the full Council for their review. More than one committee may have studied an issue. Committee reports are presented on the agenda under the committee's name such as, Transportation, Utilities, General Government and Public Safety, Finance and Economic Development, Land Use, and Community Relations and Public Affairs. Three Councilmembers serve on each committee.

Select the Lacey City Council committee below to view agendas and minutes.

Committee	Schedule	Responsibility
Community Relations & Public Affairs	3rd Wednesday of the month at noon	Lacey's community relations, historic preservation, parks and recreation.
Finance & Economic Development	4th Monday of the month at noon	Budget, financial and economic development matters.
General Government & Public Safety	3rd Wednesday of the month at 2:00 p.m.	General administrative and regulatory functions of the city; licensing and regulation, selected intergovernmental relations matters, cultural activities, social and health services, library services, human rights, public safety matters, including police, fire, criminal justice, emergency services, dispatch and communication systems, disaster and emergency planning and water safety.
Transportation	2nd Friday of the month at noon	Streets, highways, public transit, sidewalks, bicycle routes, traffic safety, rail, parking, and regional transportation plans.
Utilities	1st Tuesday of the month at 11 a.m.	City utilities including water and sewer, and policy on all energy-related matters. Reviews existing and proposed utility service delivery areas and the boundaries for all proposed annexation areas.
Land Use	2nd Wednesday of the month at 7 a.m.	Non-utility items referred by the city's Planning Commission and Thurston Regional Planning Council, as well as urban growth policy, and housing issues.

Special Accommodations

The City of Lacey provides reasonable accommodations to persons with disabilities. We invite any person with special needs to contact the City Clerk at (360) 491-3214 at least seventy-two hours before the meeting to discuss any special accommodations that may be necessary. Citizens with hearing impairment may call the TDD line at (800) 833-6388.

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Council Committees

The Olympia City Council has four standing committees. Public notice for Council Committee meetings is included on the weekly [Agenda](#) of City Council meetings.

Committee of the Chairs

Members: Craig Ottavelli, Rhenda Strub, Stephen Buxbaum

Staff Liaison: Steve Hall, City Manager, shall@ci.olympia.wa.us

General Topics: Council Committee referrals, administrative issues related to the three substantive committees (Finance, General Government, and Land Use/Environment)

Finance Committee

Members: Stephen Buxbaum, Chair; Steve Langer and Karen Rogers

Staff Liaison: Jane Ragland Kirkemo, Administrative Services Director, jkirkemo@ci.olympia.wa.us

General Topics: Budget, Revenues, Expenses

General Government Committee

Members: Craig Ottavelli, Chair; Steve Langer and Jeannine Roe

Staff Liaison: Cathie Butler, Communications Manager, cbutler@ci.olympia.wa.us

General Topics: Public Safety, General City policy, Advisory Committees, Community Relations

Land Use and Environment Committee

Members: Rhenda Strub, Chair; Jeannine Roe and Karen Rogers

Staff Liaison: Keith Stahley, Director of Community Planning & Development, kstahley@ci.olympia.wa.us

General Topics: Community Development, Land Use, Planning, Utilities, Environment and Sustainability

Interjurisdictional Committee Assignments

Councilmembers also represent the Council and City on numerous interjurisdictional and community boards:

[List of 2010 Interjurisdictional Assignments](#)

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Council Committees

Many items brought before the entire Council are referred to a working committee for review. Upon completion of that review, the committee makes a recommendation to the entire Council for a vote at a subsequent Council meeting. Committee reports are presented under "Unfinished Business" on the [agenda](#).

Upcoming Council committee meetings are announced during the Council meeting. A recorded schedule is available by calling 425.430.6512, or view the schedule on cable T.V. [channel 21](#) within the Renton City limits or on the City of Renton [Public Meetings](#) web page. All committee meetings are open to the public.

Committee of the Whole

Meets for work session Mondays prior to the Council meeting in the Council Chambers
Example Topics: regional issues; policy issues; monitoring proposed local, state and federal legislation; labor negotiations; joint meetings with boards and commissions; budget review; emergency ordinances and resolutions; other items referred by Council.

Chair: Terri Briere

Community Services Committee

Meets 2nd and 4th Mondays at 5:00 p.m. in the 7th Floor Council Conference Room of City Hall
Example Topics: parks, recreation, golf course, community centers, general services, facilities, library, senior services, human services, appointments to boards and commissions.

Chair: Marcie Palmer

Vice-Chair: Randy Corman

Member: Rich Zwicker

Finance Committee

Meets Mondays at 4:00 p.m. in the 7th Floor Council Conference Room of City Hall
Example Topics: financial reports, computer/information systems, insurance issues, claims/vouchers review, organizational and personnel issues and reports.

Chair: Don Persson

Vice-Chair: Greg Taylor

Member: King Parker

Planning & Development Committee

Meets the 2nd & 4th Thursdays at 2:00 p.m. in the 7th Floor Council Conference Room of City Hall
Example Topics: building regulations, zoning, planning, annexations, land use appeals.

Chair: King Parker

Vice-Chair: Rich Zwicker

Member: Greg Taylor

Public Safety Committee

Meets 1st and 3rd Mondays at 5:00 p.m. in the 7th Floor Council Conference Room of City Hall
Example Topics: fire-related issues, police-related issues, emergency communications, public safety facilities.

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Chair: Greg Taylor
Vice-Chair: Don Persson
Member: Marcie Palmer

Transportation/Aviation Committee

Meets the 2nd & 4th Thursdays at 4:00 p.m. in the 7th Floor Council Conference Room of City Hall
Example Topics: streets, airport, HOV/mass transit, signals/lighting.

Chair: Randy Corman
Vice-Chair: Marcie Palmer
Member: Don Persson

Utilities Committee

Meets the 2nd & 4th Thursdays at 3:00 p.m. in the 7th Floor Council Conference Room of City Hall
Example Topics: water utility, wastewater (sewer) utility, surface water (storm drainage) utility, garbage, recycling, flood control.

Chair: Rich Zwicker
Vice-Chair: King Parker
Member: Randy Corman

Email the Renton City Council

NOTICE: The members of the Renton City Council are elected officials. State law provides that all correspondence sent to them (by any means, including email) is a public record. Certain records such as personal information may be exempt from disclosure. Therefore, any correspondence relating to City business sent to the Council (by any means, including email) by any member of the public will be disclosed to any person who makes a request, unless exempt from disclosure under state law.

RULE 9 – COMMITTEES

Rule 9.1 STANDING COMMITTEES

There shall be five standing committees: the Public Safety Committee, the Finance Committee, the Public Works Committee, the Neighborhood Committee and the Planning/Community and Economic Development Committee.

Committee membership shall be comprised of the Council President or his or her designee, and two other Council members nominated by the Council President and approved by the City Council. The Council President or his or her designee shall preside over the committee meetings

A) The Public Safety Committee, upon the request of the City Council or Mayor shall review, consider and make recommendations to the City Council on issues related to the public health, safety and welfare of the citizens of Spokane specifically including, but not limited to, considering and reviewing programs, plans and other non-personnel activities involving the police and fire departments and other public safety activities of the City of Spokane, and making recommendations where appropriate.

The Public Safety Committee shall be the liaison between the City Council and the citizens' review commission, receive reports and complaints and summaries of findings thereon from the commission and instruct the commission on trend monitoring.

B) The Finance Committee is charged with the responsibility to review and report its recommendations on the annual budget and to this end may hold public hearings. The committee shall also consider and report on such other financial matters as may from time to time be referred to it by the Council.

The Finance Committee shall meet not less than quarterly for the purposes of fulfilling its obligations.

C) The Public Works Committee reviews subjects of a public works nature.

D) The Neighborhood Committee shall act as liaison between the City Council and the various neighborhood organizations.

E) The Planning/Community and Economic Development Committee shall review, consider and make recommendations to the City

Council on issues relating to planning, community and economic development including land use planning and programs and policies to improve community and economic development.

F) The Council President shall appoint the members of standing committees at the second meeting in January of each year.

Rule 9.2 SELECT COMMITTEES

Select committees with specified functions may be established for a designated term by motion of the Council. Unless already determined by the Council, such matters as number, members and time for report of a committee shall be declared by the Chair subject to appeal.

Rule 9.3 REFERRAL

By declaration of the Chair (subject to appeal) or by motion of the Council, a matter before the Council may be referred to a committee, except that no committee shall investigate the facts of, nor shall any member or members of the Council take independent action on, any pending or contemplated adjudicative matters.

Rule 9.4 REPORT

9.4.1 A committee shall advise the Council that it is ready to report by making such announcement at a briefing session, at which time the Council may decide on what agenda the matter shall be placed, or by filing the report with the Clerk for placement on an agenda in coordination with the Council President and Mayor as any other agenda item.

9.4.2 A report of a committee recommending that the Council take specific action shall be in writing and pre-filed, except in emergencies, in the manner of a formal resolution. Such pre-filing may substitute for full reading. Any committee member disagreeing with any part of the committee's report shall be given the opportunity to express his or her disagreement, orally or in writing, prior to Council action on the matter. If it be moved and seconded that the minority report be adopted, that motion shall be voted on before a motion to adopt the committee report.

Rule 9.5 INTER-GOVERNMENTAL COMMITTEES AND BOARDS

Unless governed by other regulations, statutes or ordinances, appointment of City Council members to inter-governmental committees or boards shall be made by the Council President with the City Council's consent.

Rule 9.6 OPEN MEETINGS

If a committee be comprised of more than three Council members, or if other Council members attend a meeting so that more than three are present, the meeting shall comply with the Open Public Meetings Act (RCW 42.30).

Adopted October 1, 2001 (Resolution No. 01-84)
Amended March 11, 2002 (Resolution No. 02-27)
Amended September 3, 2002 (Resolution No. 02-83)
Amended March 29, 2004 (Resolution No. 04-27)
Amended December 19, 2005 (Resolution No. 05-0148)

ARTICLE 4 - COMMITTEES, BOARDS & COMMISSIONS**4.1 Committees.**

- (a) All standing committees which are required by state law shall consist of three members of the Council appointed by the Mayor in January of each year, or at such time as new standing committees are required by state law.
- (b) All other Council committees, liaisons and citizen's taskforce groups and rules or operating procedures thereof shall be established by Council directive with special attention to RCW 35A.13.120, and after consultation with the City Manager. Such committees shall be subject to periodic review so as to determine whether the committee and its function continues to be appropriate and necessary.
- (c) Special ad hoc committees for a particular purpose may be appointed by the Mayor, along with a clear task description and "sunset" provision.
- (d) Committees, liaisons and citizen's taskforce groups shall make a recommendation, when appropriate, on proposed ordinances, resolutions and motions within their area of responsibility or interest, before action is taken by the Council. The appropriate spokesperson shall present the recommendation(s) which could lead to final action during the discussion of the business item on Council agenda.
- (e) No committee shall be delegated the authority to take any final action outside of an open public meeting.

4.2 Council Relations with Boards, Commissions and Council Citizen Advisory.

All statutory boards and commissions and Council citizen advisory bodies shall provide the City with copies of minutes of all meetings. Communications from such boards, commissions and bodies to the City Council shall be acknowledged by the Council. Any member of the Council may also bring such communication to the Presiding Officer's attention under the agenda item "Committee, Board and Liaison Reports." Should any member of the Council determine that any such communication be officially answered by the Council, the Presiding Officer shall place the matter on the agenda under New Business for the current meeting or any subsequent meeting.

4.3 Standing committees shall be appointed by Mayor and confirmed by Council:

Finance -- three members

Committee Procedures: Standing Council committees shall have no regular prescribed duties or meetings except the required bills and payroll procedures required by state law, unless specifically charged by the City Council. Members of standing committees constitute a COUNCIL LEADERSHIP POOL wherein each member has a special expertise and/or interest.

Committee meetings (when held) should be open to the public unless discussing matters which would qualify for an executive session if discussed within the whole Council. All Council Committee meetings shall be for the purpose of considering legislative policy matters, rather than administrative matters unless requested by the City Manager. Legislative policy considerations should be brought to the Council-of-the-Whole, unless referred to a committee for pre-study.

The Mayor may appoint such other ad-hoc advisory committees or liaisons from the Council or community for the purpose of advising the Council in legislative policy matters. All ad-hoc committees shall be defined by a clear task and a method of "sunsetting" the committee at the conclusion of the assigned task.

4.4 Council liaison appointees shall be appointed by the Mayor (no confirmation required):

Board and Commission liaisons:

Planning Commission - one member

Park Advisory Board - one member

Lodging Tax Advisory Committee (Sequim Marketing Action Committee (SMAC)) - one member who shall serve as chair

Others as designated and assigned

Liaison Procedures.

Individual members of the Council may be assigned as liaisons whose duties involve keeping current with a group or activity by either attendance when the group or activity takes place or communication with appropriate leaders so the liaison Councilor can keep Council informed. Liaisons may, at times, advocate Council actions on behalf of their assigned group or activity. Extreme care must be taken to avoid appearance of fairness or conflict of interest possibilities with agencies or circumstances where such possibilities may exist (ie: Planning Commission quasi-judicial). Liaisons functions and duties may be further defined and/or directed by the Presiding Officer with concurrence of Council.

4.5 Task Force/Public Forum Steering Procedures.

Upon being commissioned by a motion of the City Council, a Councilor may be appointed by the Mayor as a liaison leader to organize a steering group for a particular task force subject or issue. The steering group shall consist of two Councilors and one member of City administration. The Councilors shall be appointed by the Mayor and the technical support shall be appointed by the City Manager. Such appointments shall identify the task(s) and a method of determining how the group shall "sunset" when the task is completed. The steering group shall serve as a collection point for information and activity pertaining to the task or issue assigned. Various City representation roles and Council liaisons may be involved in bringing information together on the task or issue. The steering group liaison informs Council of the group's activity at Council meetings (when appropriate). Such task force group shall be created by Council motion.

Task Force/Public Forum Procedures.

When major public policy development warrants, and after adequate preparation of issues and alternatives, the steering group may conduct larger citizen forums to help develop a public consensus on the issues. The product of such citizen forums, when held, shall be presented to the City Council prior to the customary City Council deliberations (i.e., agenda actions, public hearings, etc.) which could normally result in final action.

The City Manager may also appoint such ad-hoc or special projects **administrative advisory task groups** as he or she may deem necessary to assist City administrative activity. Such appointments shall identify the task(s) and a method of determining how the group shall "sunset" when the task is completed.

4.6 Citizens Task Force Steering Procedures.

When the nature of a major issue indicates a need for increased citizen involvement or expertise at the steering level of a task force, the Council may, by legislative directive, commission a **Citizens Task Force Steering Group** consisting of one (1) council member, one (1) qualified citizen, and the City Manager. The Citizens Task Force shall function in a manner similar to the Task Force Procedures contained in Sections 4 and 5 above.

4.7 Multi-Agency Coordinating Task Force Steering Procedures.

When a major public/private effort involves key agencies outside of City Government but vital to community coordination, the Council may create by legislative directive, an appropriately named **Coordinating Task Force Steering Group**. Membership shall consist of one (1) council member, the City Manager, one (1) representative from each City Board or Commission key to the issue or project and one (1) member from each private, non-profit agency with key interest or resources vital to the issue or project.

Each agency shall appoint one (1) member to serve on the Steering Group and one (1) member to serve as alternate. Except for the first organizational start-up meeting, alternates shall not attend Steering Group meetings. Steering Group members shall function in a manner similar to the task force procedures described in Sections 4, 5, and 6 above.

4.8 General Town Hall/Neighborhood Meetings.

The public should be encouraged to attend regular and special City Council meetings to participate in their government. The City Council Rules of Procedure are designed to facilitate an open atmosphere for citizen participation. However, any two (2), but not more than three (3), members of the City Council may desire to convene a citizens town hall/neighborhood meeting or series of meetings for the purpose of providing a general forum on city operations. Such town hall meetings shall, when convened, provide information pertaining to any known issues as well as opportunity for citizens to express their views on any subject. The Councilors may request that the City Manager or his/her designee attend these meetings to answer questions on administrative matters. Although

not official council meetings, members of the City Council shall report issues to the City Council. Councilors should avoid discussion or receiving testimony which pertains or may pertain to potential lawsuits, land use issues, or other quasi-judicial proceedings which might later come before the Council.

End of Article 4 - Committees, Boards & Commissions

January 11, 2011

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[City Government](#) » [City Council](#) » [Council Committees](#)

Purpose

Council committees are to be policy review and discussion arms of the city council, providing an opportunity to explore the implications of policy alternatives and the policy development process; to serve in an advisory capacity to the council as a whole in reviewing policy matters referred to them; to inform and educate the council on existing city programs and issues; and other such matters as the committee deems appropriate. The city council committees shall not become involved in the administration of city government.

Links to Council Committees

- [Community and Economic Affairs](#)
- [Finance & Administration](#)
- [Planning & Parks](#)
- [Public Safety](#)
- [Public Works](#)

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Council Committees

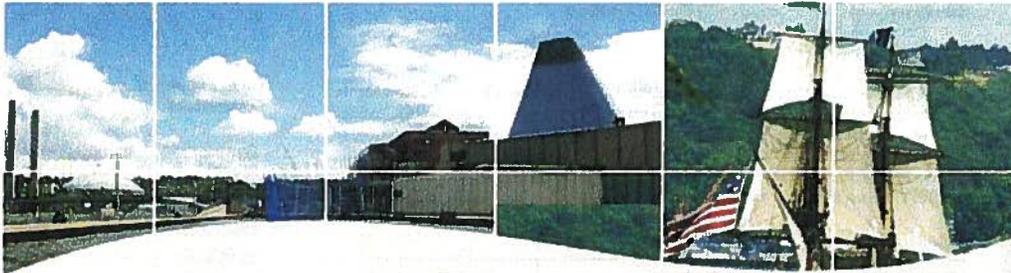
Committees	Committee Members	Times & Locations
Community and Economic Affairs Committee	Maria Henriksen, Chair Bob Jeans and Jeff MacNichols, Members Staff Support: Joan Pliego, Communications Coordinator	<i>Each Tuesday of the month that follows a Council Meeting</i> 5:30 PM ***City Hall
Finance & Administration	Kathi Prewitt, Chair Maria Henriksen and Jeff MacNichols, Members Staff Support: Jodi Warren, City Clerk	<i>1st and 3rd Tuesdays</i> 5:30 PM ***City Hall
Planning & Parks	Kingston Wall, Chair Bryan Holloway & Charles Peterson, Members Staff Support: Gwyn Berry, Administrative Assistant	<i>1st and 3rd Mondays</i> 6:00 PM ***City Hall
Public Safety	Bob Jeans, Chair Kingston Wall, Member Staff Support: Liz Luizzo, Administrative Assistant	<i>2nd and 4th Thursdays</i> 5:00 PM ***Fire Station
Public Works	Bryan Holloway, Chair Charles Peterson and Kathi Prewitt, Members Staff Support: Diane Humes, Administrative Assistant	<i>1st and 3rd Mondays</i> 5:00 PM ***City Hall

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City Hall / Government / City Council / Council Standing Committees

City Council Standing Committees

The Tacoma City Council created the standing committees to explore new policy recommendations and develop recommendations to the full City Council. On September 30, 2003, the Tacoma City Council passed Resolution No. 35969 which established the Neighborhoods Committee and Economic Development Committee.

On January 20, 2004, the Tacoma City Council passed Resolution No. 36084 which established additional Council Standing Committees including the Environment and Public Works Committee, Government Performance Committee, and Public Safety and Human Services Committee. This resolution also renamed the Neighborhoods Committee as the Neighborhoods and Housing Committee. On June 24, 2008, the Council passed Resolution No. 37509 renaming the Public Safety and Human Services Committee as the Public Safety, Human Services, and Education Committee.

Each Council Committee is composed of four Council Members appointed by the Mayor and confirmed by the Council, and each chair and vice-chair are selected by their respective committee.

Scroll down the page for an overview of each Committee, or click on the Committee name below to view the Committee's web page, including agendas, handouts, and minutes.

- Committee of the Whole
Economic Development Committee
Environment & Public Works Committee
Government Performance & Finance Committee
Neighborhoods & Housing Committee
Public Safety, Human Services, & Education Committee

Click here to access on-demand audio archives from recent meetings of the City Council standing committees

Committee of the Whole

The purpose of the City Council Committee of the Whole is to serve as the foundation of the Council standing committees and to provide a forum for detailed analysis and exploration of systemic, Citywide issues. The membership consists of the Mayor and all Council members.

The Committee of the Whole determines which standing committees will review specific issues pending before the Council, including the City Manager's proposed assignment of issues to the standing committees; receive progress reports from the standing committees on their activities;

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and hear final reports of the standing committees on specific issues and the standing committee's recommendations. The Committee of the Whole will not hear staff reports except as requested by Council Members as part of a standing committee report.

Members: Mayor and all Council Members
 Meeting Time/Frequency: 3:00 pm on the first and third Tuesdays of the month
 Location: Tacoma Municipal Building, 9th Floor Visibility Center
 Web site for agendas, handouts, and minutes: <http://www.cityoftacoma.org/COW>

Economic Development Committee

Reviews, evaluates and proposes economic development concepts, initiatives and policies relating, but not limited to, business climate, neighborhood business districts, international trade and development, regional economic issues and opportunities, technology, tourism, workforce development, historic preservation and capital projects planning and development.

Members: David Boe, Jake Fey, Spiro Manthou, Lauren Walker
 (Alternate: Marty Campbell)
 Chair: [Spiro Manthou](#)
 Vice Chair: [Jake Fey](#)
 Term: One Year
 Meeting Time/Frequency: 3:00 pm on the second, fourth, and fifth Tuesdays of the month.
 Location: Tacoma Municipal Building, Room 248
 Web site for agendas, handouts, and minutes: <http://www.cityoftacoma.org/ED>
 Staff Contact Information:
 Executive Liaison - Tansy Hayward, (253) 591-5133,
 Scheduling and Coordination - Christian Clegg, (253) 591-5125
 Clerical Support - April Larsen, (253) 591-5178

Environment and Public Works Committee

Reviews, deliberates and makes recommendations on legislative and policy matters relating to environmental issues, wastewater management, surface water management, solid waste management, arterial streets, and infrastructure funding.

Members: David Boe, Jake Fey, Ryan Mello, Lauren Walker
 (Alternate: Victoria Woodards)
 Chair: [Jake Fey](#)
 Vice Chair: [Lauren Walker](#)
 Term: One Year
 Meeting Time/Frequency: 4:30 pm on the second and fourth Wednesdays of the month.
 Location: Tacoma Municipal Building, Room 248
 Web site for agendas, handouts, and minutes: <http://www.cityoftacoma.org/EPW>
 Staff Contact Information:
 Executive Liaison - Rey Arellano, (253) 573-2500
 Scheduling and Coordination - Shane Pettit, (253) 594-7944
 Clerical Support - April Larsen, (253) 591-5178

Government Performance and Finance Committee

Deliberates and makes recommendations on legislative and policy matters to continuously improve the quality, accountability, cost-effectiveness and efficiency of all governmental services.

Members: Marty Campbell, Joe Lonergan, Marilyn Strickland, Victoria Woodards
 (Alternate: Jake Fey)
 Chair: [Marilyn Strickland](#)
 Vice Chair: [Joe Lonergan](#)
 Term: One Year
 Meeting Time/Frequency: 4:30 pm on the on the first, third, and fifth Wednesdays of the month.
 Location: Tacoma Municipal Building, Room 248
 Web site for agendas, handouts, and minutes: <http://www.cityoftacoma.org/GPF>

Staff Contact Information:

Executive Liaison - Rey Arellano, (253) 573-2500

Scheduling and Coordination - Shane Pettit, (253) 594-7944

Clerical Support - April Larsen, (253) 591-5178

Neighborhoods and Housing Committee

Proposes, deliberates and makes recommendations on legislative and policy matters relating to neighborhoods and housing, including neighborhood plans and their implementation, affordable housing, residential zoning, open space issues and initiatives related to neighborhoods.

Members: Jake Fey, Joe Lonergan, Spiro Manthou, Lauren Walker

(Alternate: David Boe)

Chair: Lauren Walker

Vice Chair: Spiro Manthou

Term: One Year

Meeting Time/Frequency: 4:30 pm on the first and third Mondays of the month.

Location: Tacoma Municipal Building, Room 248

Web site for agendas, handouts, and minutes: <http://www.cityoftacoma.org/NH>**Staff Contact Information:**

Executive Liaison - Tansy Hayward, (253) 591-5133,

Scheduling and Coordination - Gabe Engeland, (253) 591-5590

Clerical Support - Wendy Fowler, (253) 591-5167

Public Safety, Human Services, and Education Committee

Explores new concepts to address an expanded scope of public safety issues including, but not limited to, police, fire, emergency medical, emergency management, law enforcement record services, domestic violence, human services delivery and strategic planning, chronic street population, crime free housing, and civil rights compliance.

Members: Marty Campbell, Joe Lonergan, Marilyn Strickland, Victoria Woodards

(Alternate: Ryan Mello)

Chair: Marilyn Strickland

Vice Chair: Victoria Woodards

Term: One Year

Meeting Time/Frequency: 4:30 pm on the second and fourth Thursdays of the month.

Location: Tacoma Municipal Building, Room 248

Web site for agendas, handouts, and minutes: <http://www.cityoftacoma.org/PSHSE>**Staff Contact Information:**

Executive Liaison - Tansy Hayward, (253) 591-5133,

Scheduling and Coordination - Gabe Engeland, (253) 591-5590

Clerical Support - Jennifer Joyce, (253) 591-5505

If you're interested in attending meetings of the Council Committees or any of our other boards or committees, click on City Hall's current [Schedule of Meetings](#) to view their times and locations.

Citizen involvement continues to define Tacoma as a beautiful, thriving city, and we are always looking for people willing to serve on our many committees, boards and commissions. Please take a look at the City Council's [Committees, Boards & Commissions](#) to learn about these groups and how to apply for membership.

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City of Tumwater, WA

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2010
**CITY OF TUMWATER
 CITY COUNCIL COMMITTEES**

In addition to serving on the City Council, Councilmembers also chair and/or represent the citizens of Tumwater on at least one Council committee. Each year the Mayor polls the Councilmembers for their interest in participating on both Council committees and intergovernmental committees.

The Mayor meets with the full Council to discuss the results and any conflicts. Through consensus, the Council comes to an agreement on the assignments. Once those assignments are made, the representatives on each committee elect their chairperson. The Mayor is the chair of the Budget Committee, which consists of the chairpersons from each of the other three committees: General Government, Public Safety, and Public Works.

The committees will handle numerous issues throughout the year, some of which will go forward for Council consideration. Other issues may not get to the Council level.

As the committees discuss issues and hear testimony, they generally will make a recommendation to the Council for action. This recommendation is a suggestion to Council only. The full Council will vote on issues brought before them and may or may not vote according to the committee recommendation.

The City Administrator attends all committee meetings as a facilitator and liaison to and from all other committees.

Budget Committee:

The Budget Committee handles fiscal issues of the City. Budget appropriations, expenditures and adjustments are the most common issues to come before this committee.

- Mayor Pete Kmet, Chair
- Councilmember Joan Cathey
- Councilmember Ed Stanley
- Councilmember Neil McClanahan

City Contact Person:

- City Administrator, John Doan, 754-4120
- Finance Director, Jim Hendrickson, 754-4130

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General Government Committee:

The General Government Committee tackles environmental concerns, planning and zoning regulations, and annexations.

Councilmember Ed Stanley, Chair
Councilmember Joan Cathey
Councilmember Tom Oliva

City Contact Person:

Planning and Facilities Director Michael Matlock, 754-4210

Public Safety Committee:

The Public Safety Committee deals with law enforcement issues, fire services, animal control, emergency management, police and fire staffing concerns, and other public safety issues.

Councilmember Judith Hoefling, Chair
Councilmember Ed Hildreth
Councilmember Betsy Murphy

City Contact Person:

Fire Chief John Carpenter, 754-4170
Police Chief John Stines, 754-4200

Public Works Committee:

The Public Works Committee is responsible for dealing with water, sewer, storm sewer and street concerns as well as all Public Works construction projects.

Councilmember Neil McClanahan, Chair
Councilmember Ed Hildreth
Councilmember, Tom Oliva

City Contact Person:

Public Works Director Jay Eaton, 754-4140

Updated: February 9, 2010

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WOODLAND CITY COUNCIL STANDING COMMITTEES

Human Resources/Government;

- A. Councilperson Susan Humbyrd Chair
- B. Councilperson Aaron Christopherson Member
- C. The charge of this committee will be to review the current employee policy, hiring policy, and step plans of the City of Woodlands employees with the City Clerk/Treasurer on a needed basis. This committee shall meet monthly with the Clerk/Treasurer to discuss these issues and report their findings at Woodland City Council meetings, and make any recommendations in regards to new or amended ordinances concerning this area. In addition to the above at least one of the members of this committee shall be present at all collective bargaining sessions for the employees of this City.

Finance

- A. Councilperson John Burke Chair
- B. Councilperson Marilee McCall Member
- C. The charge of this committee will be to review and sign off on the City's vouchers each and every month of the fiscal year and to bring back to the City Council any that may be questionable for further review. In addition, to review the budgeting process based on the revenue projections over the past ten (10) years in order to better estimate the Cities revenue and therefore be better enabled to project expenditures. Work with the Clerk/Treasurer on making the budget process more user friendly during the budget season.

Public Safety

- A. Councilperson Marilee McCall Chair
- B. Councilperson Darwin Rounds Member
- C. The charge of this committee will be to work with the civil service commission on matters connected to the Woodland Police Department Members and to the paid Members of the Woodland Fire Department. They will also work with the Police Chief and the Fire Chief on matters connected with safety, protection, and emergency management for the citizens of Woodland, and bring these suggestions to the City Council for their consideration. In addition with the Fire Chief review the Woodland Fire, Rescue, and EMS rules and regulations that were last reviewed in 2003 and bring any recommendations to the City Council for consideration.



Public Utilities

- A. Councilperson Darwin Rounds Chair
- B. Councilperson John Burke Member
- C. The charge of this committee will be very broad with regards to the Cities infrastructure, water treatment, waste water treatment, streets, curbs, gutters, sidewalks, and street lighting. The Cities facilities including building and maintenance issues that will need to be addressed by the Council. In addition land use issues such as comprehensive land use planning, storm water runoff planning, critical areas planning, and environmental and zoning issues. With the Public Works Director look into the possibility of creating a fifth department for the City of Woodland, consisting of Building, Planning, and Engineering. The overall charge of the Public Works Committee will be to assess the needs of the Cities infrastructure, facilities, and land use elements and to bring to the Woodland City Council recommendations for any new or the updating of current ordinances. In addition to the above responsibilities one of the members of this committee, to be determined by the Chairman, is to be assigned to work with the reestablished Horseshoe Lake Management Committee covered under Title 2 WMC, Chapter 2.80, as a non-voting member, and to report their findings and requests at Council meetings.

Parks and Recreation

- A. Councilperson Aaron Christopherson Chair
- B. Councilperson Susan Humbyrd Member
- C. The charge of this committee shall be to assist the Park Board with recommended improvements, operation and maintenance of the City of Woodlands Park systems. Assist with the Cowlitz-Wahkiakum Council of Governments, Woodlands Community Development Planner, and Public Works Director in the acquisition and development of new open space for Parks, a plan for pedestrian and bicycle paths through out the City, and the recommendation for the enforcement of reasonable rules and regulations necessary in the operation of Parks. Assist in the development of an annual Park budget, staffing levels to maintain the Park system, and bring this information to the Council for its consideration. In addition the Park committee is to co-ordinate and to communicate on issues to where parks may be involved with projects with relation to the Downtown Woodland Revitalization Committee, and to the Horseshoe Lake Management Committee and to work as a unit to move these projects forward.

Ad Hoc Committees

1. 50 year Comprehensive plan review committee, this committee should consist from five to nine members and their charge would be to advise the Woodland City Council and Planning Commission, on issues of growth, growth management, environmental, open space, critical areas, transportation, and zoning. They should be residents from within the Woodland Zip Code area. Councilperson Marilee McCall and the Mayor are to form this committee.
2. Cowlitz-Wahkiakum Council of Governments, This committee should consist of at least one elected official as well as the Public Works Director, and Planning. This Committee meets at least once per month in Kelso, and the City of Woodland needs to be represented. At this time the Mayor will represent the City, unless a Councilperson would like to volunteer.
3. AWC/Legislative, a resource committee for the Woodland City Council, to keep the Council informed of their lobbying efforts on behalf of Cities, up coming training sessions, workshops, and annual convention for elected officials. Aaron Christopherson to Chair.
4. Woodland Chamber of Commerce, This committee reports to the Council and the City concerning issues and events of the business community. The Chamber appoints one of their members to do this.
5. Downtown Woodland Revitalization, Chairperson Tom Golik, who or someone he should appoint, reports to the Council concerning issues and needs of this committee, which is a private group of citizens.

City of Oak Harbor
City Council Agenda Bill

Bill No.

N/A 3H

Date:

March 1, 2011

Subject:

March 15, 2011 City Council Meeting
Continuance

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 request approval of the continuance of the March 15, 2011 City Council Meeting to March 22, 2011 at 6:00 p.m.

AUTHORITY

Continuances of City Council meetings are addressed by RCW 42.30.100.

SUMMARY STATEMENT

Mayor Jim Slowik, and Council Members Beth Munns, Danny Paggao and Jim Palmer are scheduled to attend the National League of Cities Congressional City Conference and meet with Pentagon Officials March 14 - 17, 2011. Therefore, they will not be able to attend the regularly scheduled Council Meeting on March 15, 2011.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Approve Resolution No. 11-03.

ATTACHMENTS

Resolution No. 11-03.

MAYOR'S COMMENTS

RESOLUTION NO. 11-03

A RESOLUTION BY THE CITY OF OAK HARBOR FOR THE CONTINUANCE OF THE MARCH 15, 2011 REGULAR CITY COUNCIL MEETING TO A REGULAR CITY COUNCIL MEETING TO BE HELD ON MARCH 22, 2011.

WHEREAS, each year the City of Oak Harbor sends representatives to Washington DC in order to attend the National League of Cities (NLC) Congressional City Conference and to meet with Pentagon Officials; and

WHEREAS, March 13-17, 2011, Mayor Jim Slowik and Councilmembers Beth Munns, Danny Paggao and Jim Palmer will be attending the NLC Congressional City Conference and meeting with Pentagon Officials; and

WHEREAS, as a result, Mayor Jim Slowik and Councilmembers Beth Munns, Danny Paggao and Jim Palmer will not be able to attend the regularly scheduled City Council Meeting on March 15, 2011.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Oak Harbor, Washington, that the regularly scheduled City Council meeting scheduled for March 15, 2011 shall be continued to a Regular City Council Meeting on March 22, 2011, at 6:00 pm in the City Council Chambers.

This Resolution shall be posted on the door of the City Council Chambers on March 15, 2011.

PASSED by the City Council of the City of Oak Harbor and approved by its Mayor this 1st Day of March, 2011.

CITY OF OAK HARBOR

MAYOR

ATTEST:

Approved as to Form:

City Clerk

City Attorney

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

Bill No.
Date:
Subject:

c/A 31
March 1, 2011
Excused Absence Request
Councilmember Danny Paggao

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 Danny Paggao's excused absence request from the March 22, 2011 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 Paggao has submitted an excused absence request since he will not be able to attend the March 22, 2011 City Council meeting.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Approve Councilmember Danny Paggao's excused absence from the March 22, 2011 City Council meeting.

ATTACHMENTS

None

MAYOR'S COMMENTS

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

Bill No.

4

Date:

March 1, 2011

Subject:

Public Hearing and Final Consideration of
Bond Ordinance – Marina Redevelopment
Project, Phase 2 / Dredging

FROM: Doug Merriman, Finance Director 

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



Jim Slowik, Mayor

Paul Schmidt, City Administrator

Approved as to form by bond counsel, Foster Pepper PLLC

PURPOSE

An ordinance of the City of Oak Harbor, Washington, relating to the City's small boat harbor and marina; providing for the issuance of approximately \$2,560,000 par value of Limited Tax General Obligation (LTGO), 2011, of the City to provide part of the funds with which to pay the cost of making redevelopment improvements and dredging work to the Oak Harbor Marina; to fund a debt service reserve for the bonds herein authorized and to pay the costs of issuance and sale of such bonds; fixing the date, form, maturities, interest rates, terms and covenants of such bonds; establishing a bond redemption account and a construction account; and approving the sale and providing for the delivery of the bonds to Martin Nelson & Company of Seattle, Washington.

AUTHORITY

The City has authority under RCW 35A.11.020 to regulate its internal affairs and to provide for the improvement of public ways in the rendering of local social, cultural, recreational, educational, governmental, or corporate services, including operating and supplying of utilities and municipal services commonly or conveniently rendered by cities or towns and authority under RCW 35A.40.080 to issue bonds, coupons and warrants and other forms of debt.

SUMMARY STATEMENT

This ordinance is the guiding document authorizing the sale of the LTGO bonds required to finance the Oak Harbor Marina Redevelopment Phase 2 / Dredge Project. The ordinance specifies all of the financial terms and agreements pertaining to the bond issue, including the proposed use of the bond proceeds and the proposed repayment schedule.

STANDING COMMITTEE REPORT

This item was reviewed by the Finance Standing Committee on February 9, 2011.

3/1/11 Agenda Bill – LTGO Bond Issue: Marina Redevelopment Phase 2/Dredging

Page 1 of 2

RECOMMENDED ACTION

1. Conduct a Public Hearing.
2. Approve the ordinance relating to contracting indebtedness, providing for the issuance of \$2,560,000 par value of Limited Tax General Obligation Bonds, 2011, of the City to provide funds with which to pay a part of the cost of improvements to the City's Marina.

ATTACHMENTS

Proposed bond ordinance

MAYOR'S COMMENTS

CITY OF OAK HARBOR, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE of the City of Oak Harbor, Washington, relating to contracting indebtedness; providing for the issuance of \$2,560,000.00 par value of Limited Tax General Obligation Bonds, 2011, of the City for general City purposes to provide funds with which to pay a part of the cost of improvements to the City's Marina; fixing the date, form, maturities, interest rates, terms and covenants of the bonds; establishing a bond redemption fund and a construction account; and approving the sale and providing for the delivery of the bonds to Martin Nelson & Company of Seattle, Washington.

Passed March 1, 2011

This document prepared by:

*Foster Pepper PLLC
1111 Third Avenue, Suite 3400
Seattle, Washington 98101
(206) 447-4400*

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CITY OF OAK HARBOR, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE of the City of Oak Harbor, Washington, relating to contracting indebtedness; providing for the issuance of \$2,560,000.00 par value of Limited Tax General Obligation Bonds, 2011, of the City for general City purposes to provide funds with which to pay a part of the cost of improvements to the City's Marina; fixing the date, form, maturities, interest rates, terms and covenants of the bonds; establishing a bond redemption fund and a construction account; and approving the sale and providing for the delivery of the bonds to Martin Nelson & Company of Seattle, Washington.

THE CITY COUNCIL OF THE CITY OF OAK HARBOR, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Recitals and Findings. The City of Oak Harbor, Washington (the "City") makes the findings and determinations set fort below.

(a) Background. The City now owns, operates and maintains a small boat harbor and marina (the "Marina") constructed pursuant to Ordinance No. 372, as the Marina has been added to, bettered and extended.

(b) The City's Marina requires various improvements and additions, described in Exhibit A, the estimated cost of which is \$ _____, and the City does not have available sufficient funds to pay the cost.

(c) The City Council specifies, adopts and orders the carrying out of the improvements to the Marina, comprising the Project described in Exhibit A, which is incorporated by this reference. The life of the improvements comprising the Project is declared to be at least equal to the term of the Bonds. The cost of carrying out the improvements shall be paid from the proceeds of the Bonds and from other money available to the City for such purpose.

(d) Martin Nelson & Company has presented a Bond Purchase Agreement offering to purchase the Bonds under the terms and conditions as set forth in this ordinance.

(e) Based on the foregoing, the City Council therefore determines that it is necessary and in the best interest of the City to issue and sell the Bonds to pay the cost of constructing such improvements to the Marina and to pay the costs of issuance and sale of the Bonds.

Section 2. Debt Capacity. The assessed valuation of the taxable property within the City as ascertained by the last preceding assessment for City purposes for the calendar year 2011 is \$[1,640,900,593], and the City has no outstanding general indebtedness evidenced by either limited tax general obligation bonds incurred within the limit of up to 1-1/2% of the value of the taxable property within the City permitted for general municipal purposes without a vote of the qualified voters therein or unlimited tax general obligation bonds incurred within the limit of up to 2 1/2% of the value of the taxable property within the City for capital purposes only, and the amount of indebtedness for which bonds are authorized herein to be issued is \$2,560,000.00.

Section 3. Authorization of Bonds. The City shall borrow money on the credit of the City and issue negotiable limited tax general obligation bonds evidencing that indebtedness in the amount of \$2,560,000.00 for general City purposes to provide the funds to pay part of the cost of making improvements to the Marina as provided in the City's Oak Harbor Marina Redevelopment Phase 2 – Dredging, more particular described in Exhibit A to this ordinance (the "Project") and to pay the costs of issuance and sale of the bonds (the "costs of issuance"). The general indebtedness to be incurred shall be within the limit of up to 1-1/2% of the value of the taxable property within the City permitted for general municipal purposes without a vote of the qualified voters therein.

Section 4. Description of Bonds. The bonds shall be called Limited Tax General Obligation Bonds, 2011, of the City (the "Bonds"); shall be in the aggregate principal amount of \$2,560,000.00; shall be dated their date of initial delivery; shall be in the denomination of \$5,000 or any integral multiple thereof within a single maturity; shall be numbered separately in the manner and with any additional designation as the fiscal agent of the State of Washington (as the same may be designated by the State of Washington from time to time) (the "Bond Registrar") deems necessary for purposes of identification; shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) payable semiannually on each June 1 and December 1, commencing December 1, 2011, to the maturity or earlier redemption of the Bonds; and shall mature on December 1 in years and amounts and bear interest at the rates per annum as follows:

<u>Maturities</u>	<u>Principal Amounts</u>	<u>Interest Rates</u>	<u>Maturities</u>	<u>Principal Amounts</u>	<u>Interest Rates</u>
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The life of the capital facilities to be financed with the proceeds of the Bonds exceeds the term of the Bonds.

Section 5. Registration and Transfer of Bonds. The Bonds shall be issued only in registered form as to both principal and interest and shall be recorded on books or records maintained by the Bond Registrar (the "Bond Register"). The Bond Register shall contain the name and mailing address of the owner of each Bond and the principal amount and number of each of the Bonds held by each owner. Bonds surrendered to the Bond Registrar may be exchanged for Bonds in any authorized denomination of an equal aggregate principal amount and of the same interest rate and maturity. Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall

be without cost to the owner or transferee. The Bond Registrar shall not be obligated to exchange or transfer any Bond during the 15 days preceding any principal payment or redemption date.

The Bonds initially shall be registered in the name of Cede & Co., as the nominee of The Depository Trust Company, New York, New York ("DTC"). The Bonds so registered shall be held in fully immobilized form by DTC as depository in accordance with the provisions of a Blanket Issuer Letter of Representations dated December 8, 1997 between the City and DTC (as it may be amended from time to time, the "Letter of Representations"). Neither the City nor the Bond Registrar shall have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Bonds regarding accuracy of any records maintained by DTC or DTC participants of any amount in respect of principal of or interest on the Bonds, or any notice which is permitted or required to be given to registered owners hereunder (except such notice as is required to be given by the Bond Registrar to DTC).

For as long as any Bonds are held in fully immobilized form, DTC, its nominee or its successor depository shall be deemed to be the registered owner for all purposes hereunder and all references to registered owners, bondowners, bondholders or the like shall mean DTC or its nominee and, except for the purpose of the City's undertaking herein to provide continuing disclosure, shall not mean the owners of any beneficial interests in the Bonds. Registered ownership of such Bonds, or any portions thereof, may not thereafter be transferred except: (i) to any successor of DTC or its nominee, if that successor shall be qualified under any applicable laws to provide the services proposed to be provided by it; (ii) to any substitute depository appointed by the City or such substitute depository's successor; or (iii) to any person if the Bonds are no longer held in immobilized form.

Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository, or a determination by the City that it no longer wishes to continue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the City may appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

If (i) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (ii) the City determines that the Bonds are to be in certificated form, the ownership of Bonds may be transferred to any person as provided herein and the Bonds no longer shall be held in fully immobilized form.

Section 6. Payment of Bonds. Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be paid by checks or drafts of the Bond Registrar mailed on the interest payment date to the registered owners at the addresses appearing on the Bond Register on the 15th day of the month preceding the interest payment date or, if requested in writing by a registered owner of Bonds prior to the applicable record date, by wire transfer on the interest payment date. Principal of the Bonds shall be payable upon presentation and surrender of the Bonds by the registered owners to the Bond Registrar. Notwithstanding the foregoing, for as long as the Bonds are registered in the name of DTC or its nominee, payment of principal of and interest on the Bonds shall be made in the manner set forth in the Letter of Representations.

Section 7. Redemption Provisions and Open Market Purchase of Bonds. Bonds maturing in the years 2011 through 20__, inclusive, shall be issued without the right or option of the City to redeem those Bonds prior to their stated maturity dates. The City reserves the right

and option to redeem the Bonds maturing on or after December, 20__, prior to their stated maturity dates at any time on or after December 1, 20__, as a whole or in part (within one or more maturities selected by the City and randomly within a maturity in such manner as the Bond Registrar shall determine), at par plus accrued interest to the date fixed for redemption.

Bonds maturing in 20__ are Term Bonds and, if not redeemed under the optional redemption provisions set forth above or purchased in the open market under the provisions set forth below, shall be called for redemption randomly (in such manner as the Bond Registrar shall determine) at par plus accrued interest on December 1 in years and amounts as follows:

Mandatory Redemption Years	Mandatory Redemption Amounts
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*
*Maturity

If the City redeems under the optional redemption provisions, purchases in the open market or defeases Term Bonds, the par amount of the Term Bonds so redeemed, purchased or defeased (irrespective of their actual redemption or purchase prices) shall be credited against one or more scheduled mandatory redemption amounts for those Term Bonds. The City shall determine the manner in which the credit is to be allocated and shall notify the Bond Registrar in writing of its allocation at least 60 days prior to the earliest mandatory redemption date for that maturity of Term Bonds for which notice of redemption has not already been given.

Portions of the principal amount of any Bond, in installments of \$5,000 or any integral multiple thereof, may be redeemed. If less than all of the principal amount of any Bond is redeemed, upon surrender of that Bond to the Bond Registrar, there shall be issued to the registered owner, without charge therefor, a new Bond (or Bonds, at the option of the registered

owner) of the same maturity and interest rate in any of the denominations authorized by this ordinance in the aggregate principal amount remaining unredeemed.

Notwithstanding the foregoing, for as long as the Bonds are registered in the name of DTC or its nominee, selection of Bonds for redemption shall be in accordance with the Letter of Representations.

The City further reserves the right and option to purchase any or all of the Bonds in the open market at any time at any price acceptable to the City plus accrued interest to the date of purchase.

All Bonds purchased or redeemed under this section shall be canceled.

Section 8. Notice of Redemption. While the Bonds are held by DTC in book-entry only form, any notice of redemption shall be given at the time, to the entity and in the manner required by DTC in accordance with the Letter of Representations, and the Bond Registrar shall not be required to give any other notice of redemption. If the Bonds cease to be in book-entry only form, the City shall cause notice of any intended redemption of Bonds to be given by the Bond Registrar not less than 20 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the registered owner of any Bond to be redeemed at the address appearing on the Bond Register at the time the Bond Registrar prepares the notice, and the requirements of this sentence shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by the owner of any Bond.

In the case of an optional redemption, the notice may state that the City retains the right to rescind the redemption notice and the related optional redemption of Bonds by giving a notice of rescission to the affected registered owners at any time prior to the scheduled optional redemption date. Any notice of optional redemption that is so rescinded shall be of no effect,

and the Bonds for which the notice of optional redemption has been rescinded shall remain outstanding.

Interest on Bonds called for redemption shall cease to accrue on the date fixed for redemption unless the Bond or Bonds called are not redeemed when presented pursuant to the call. In addition, the redemption notice shall be mailed within the same period, postage prepaid, to the MSRB, to any nationally recognized rating agency which at the time maintains a rating on the Bonds at the request of the City, and to such other persons and with such additional information as the City [Finance Director] shall determine, but these additional mailings shall not be a condition precedent to the redemption of Bonds.

Section 9. Failure To Redeem Bonds. If any Bond is not redeemed when properly presented at its maturity or call date, the City shall be obligated to pay interest on that Bond at the same rate provided in the Bond from and after its maturity or call date until that Bond, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the bond redemption fund hereinafter created and the Bond has been called for payment by giving notice of that call to the registered owner thereof.

Section 10. Pledge of Taxes. For as long as any of the Bonds are outstanding, the City irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of the electors of the City on all of the taxable property within the City in an amount sufficient, together with other money legally available and to be used therefor, to pay when due the principal of and interest on the Bonds, and the full faith, credit and resources of the City are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.. Form and Execution of Bonds. The Bonds shall be prepared in a form consistent with the provisions of this

ordinance and state law and shall be signed by the Mayor and City Clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon. Only Bonds bearing a Certificate of Authentication in the following form, manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance:

CERTIFICATE OF AUTHENTICATION

This Bond is one of the fully registered City of Oak Harbor, Washington, Limited Tax General Obligation Bonds, 2011, described in the Bond Ordinance.

WASHINGTON STATE FISCAL AGENT
Bond Registrar

By _____
Authorized Signer

The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

If any officer whose facsimile signature appears on the Bonds ceases to be an officer of the City authorized to sign bonds before the Bonds bearing his or her facsimile signature are authenticated or delivered by the Bond Registrar or issued by the City, those Bonds nevertheless may be authenticated, issued and delivered and, when authenticated, issued and delivered, shall be as binding on the City as though that person had continued to be an officer of the City authorized to sign bonds. Any Bond also may be signed on behalf of the City by any person who, on the actual date of signing of the Bond, is an officer of the City authorized to sign bonds, although he or she did not hold the required office on the date of issuance of the Bonds.

Section 12. Duties of Bond Registrar. The Bond Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bonds, which shall be open to

inspection by the City at all times. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and City Ordinance No. 789 establishing a system of registration for the City's bonds and obligations.

The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's Certificate of Authentication on the Bonds. The Bond Registrar may become the owner of Bonds with the same rights it would have if it were not the Bond Registrar and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as members of, or in any other capacity with respect to, any committee formed to protect the rights of Bond owners.

Section 13. Preservation of Tax Exemption for Interest on Bonds. The City covenants that it will take all actions necessary to prevent interest on the Bonds from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Bonds or other funds of the City treated as proceeds of the Bonds at any time during the term of the Bonds which will cause interest on the Bonds to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirement of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), is applicable to the Bonds, take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with the Bonds, including the calculation and payment of any penalties that the City has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section

148 of the Code to prevent interest on the Bonds from being included in gross income for federal income tax purposes.

Section 14. Small Governmental Issuer Arbitrage Rebate Exception and Designation of Bonds as “Qualified Tax-Exempt Obligations.” The City finds and declares that (a) it is a duly organized and existing governmental unit of the State of Washington and has general taxing power; (b) no Bond which is part of this issue of Bonds is a “private activity bond” within the meaning of Section 141 of the United States Internal Revenue Code of 1986, as amended (the “Code”); (c) at least 95% of the net proceeds of the Bonds will be used for local governmental activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City); (d) the aggregate face amount of all tax-exempt obligations (other than private activity bonds and other obligations not required to be included in such calculation) issued by the City and all entities subordinate to the City (including any entity that the City controls, that derives its authority to issue tax-exempt obligations from the City, or that issues tax-exempt obligations on behalf of the City) during the calendar year in which the Bonds are issued is not reasonably expected to exceed \$5,000,000; and (e) the amount of tax-exempt obligations, including the Bonds, designated by the City as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code during the calendar year in which the Bonds are issued does not exceed \$10,000,000. The City therefore certifies that the Bonds are eligible for the arbitrage rebate exception under Section 148(f)(4)(D) of the Code and designates the Bonds as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code.

Section 15. Refunding or Defeasance of the Bonds. The City may issue refunding bonds pursuant to the laws of the State of Washington or use money available from any other lawful source to pay when due the principal of and interest on the Bonds, or any portion thereof

included in a refunding or defeasance plan, and to redeem and retire, refund or defease all such then-outstanding Bonds (hereinafter collectively called the "defeased Bonds") and to pay the costs of the refunding or defeasance. If money and/or "government obligations" (as defined in chapter 39.53 RCW, as now or hereafter amended) maturing at a time or times and bearing interest in amounts (together with money, if necessary) sufficient to redeem and retire, refund or defease the defeased Bonds in accordance with their terms are set aside in a special trust fund or escrow account irrevocably pledged to that redemption, retirement or defeasance of defeased Bonds (hereinafter called the "trust account"), then all right and interest of the owners of the defeased Bonds in the covenants of this ordinance and in the funds and accounts obligated to the payment of the defeased Bonds shall cease and become void. The owners of defeased Bonds shall have the right to receive payment of the principal of and interest on the defeased Bonds from the trust account. The City shall include in the refunding or defeasance plan such provisions as the City deems necessary for the random selection of any defeased Bonds that constitute less than all of a particular maturity of the Bonds, for notice of the defeasance to be given to the owners of the defeased Bonds and to such other persons as the City shall determine, and for any required replacement of Bond certificates for defeased Bonds. The defeased Bonds shall be deemed no longer outstanding, and the City may apply any money in any other fund or account established for the payment or redemption of the defeased Bonds to any lawful purposes as it shall determine.

If the Bonds are registered in the name of DTC or its nominee, notice of any defeasance of Bonds shall be given to DTC in the manner prescribed in the Letter of Representations for notices of redemption of Bonds.

Section 16. Bond Account and Deposit of Bond Proceeds. By Ordinance No. 1540 there previously has been created and established, and the City shall continue to maintain, in the office of the City Finance Director a Marina Fund (the "Operating Fund"). There shall be created and established within the Operating Fund special principal and interest accounts together designated as the Limited Tax General Obligation Bond Account, 2011 (the "Bond Account"), for the purpose of paying principal of and interest on the Bonds. All taxes and other money legally available and allocated to the payment of the principal of and interest on the Bonds shall be deposited in the Bond Account.

There also is created and established within the Operating Fund a special account designated as the Marina Construction Account, 2011 (the "Construction Account"). The principal proceeds received from the sale and delivery of the Bonds shall be paid into the Construction Account and used for the purposes specified in Section 2 of this ordinance. Until needed to pay the costs of the Project and costs of issuance of the Bonds, the City may invest principal proceeds temporarily in any legal investment, and the investment earnings may be retained in the Construction Account and be spent for the purposes of that fund except that earnings subject to a federal tax or rebate requirement may be withdrawn from the Construction Account and used for those tax or rebate purposes.

Section 17. Approval of Bond Purchase Contract. Martin Nelson & Company of Seattle, Washington, has presented a purchase contract (the "Bond Purchase Contract") to the City offering to purchase the Bonds under the terms and conditions provided in the Bond Purchase Contract, which written Bond Purchase Contract is on file with the City Clerk and is incorporated herein by this reference. The City Council finds that entering into the Bond

Purchase Contract is in the City's best interest and therefore accepts the offer contained therein and authorizes its execution by City officials.

The Bonds will be printed at City expense and will be delivered to the purchaser in accordance with the Bond Purchase Contract, with the approving legal opinion of Foster Pepper PLLC, municipal bond counsel of Seattle, Washington, regarding the Bonds.

The proper City officials are authorized and directed to do everything necessary for the prompt delivery of the Bonds to the purchaser and for the proper application and use of the proceeds of the sale thereof.]

Section 18. Preliminary Official Statement Deemed Final. The City Council has been provided with copies of a preliminary official statement dated February ___, 2011 (the "Preliminary Official Statement"), prepared in connection with the sale of the Bonds. For the sole purpose of the Bond purchaser's compliance with Securities and Exchange Commission Rule 15c2-12(b)(1), the City "deems final" that Preliminary Official Statement as of its date, except for the omission of information as to offering prices, interest rates, selling compensation, aggregate principal amount, principal amount per maturity, maturity dates, options of redemption, delivery dates, ratings and other terms of the Bonds dependent on such matters.

Section 19. Undertaking to Provide Continuing Disclosure. To meet the requirements of SEC Rule 15c2-12(b)(5) (the "Rule"), as applicable to a participating underwriter for the Bonds, the City makes the following written undertaking (the "Undertaking") for the benefit of holders of the Bonds:

(a) Undertaking to Provide Annual Financial Information and Notice of Material Events. The City undertakes to provide or cause to be provided, either directly or

through a designated agent, to the MSRB, in electronic format as prescribed by the MSRB, accompanied by identifying information as prescribed by the MSRB:

(i) Annual financial information and operating data of the type included in the final official statement for the Bonds and described in subsection (b) of this section (“annual financial information”);

(ii) Timely notice (not in excess of ten business days after the occurrence of the event) of the occurrence of any of the following events with respect to the Bonds:

1. principal and interest payment delinquencies;
2. non-payment-related defaults, if material;
3. unscheduled draws on debt service reserves reflecting financial difficulties;
4. unscheduled draws on credit enhancements reflecting financial difficulties;
5. substitution of credit or liquidity providers, or their failure to perform;
6. adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notice of Proposed Issue (IRS Form 5701 – TEB) or other material notices or determinations with respect to the tax status of the Bonds;
7. modifications to rights of holders of the Bonds, if material;
8. Bond calls (other than scheduled mandatory redemptions of Term Bonds), if material, and tender offers;
9. defeasances;
10. release, substitution, or sale of property securing repayment of the Bonds, if material;
11. rating changes;

12. bankruptcy, insolvency, receivership or similar event of the City (a "Bankruptcy Event"), which is considered to occur when any of the following occur: (A) the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or (i) in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or (ii) if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or (B) the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person;
13. the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. appointment of a successor or additional trustee or the change of name of a trustee, if material.

(iii) Timely notice of a failure by the City to provide required annual financial information on or before the date specified in subsection (b) of this section.

(b) Type of Annual Financial Information Undertaken to be Provided. The annual financial information that the City undertakes to provide in subsection (a) of this section:

(i) Shall consist of (1) annual financial statements prepared (except as noted in the financial statements) in accordance with applicable generally accepted accounting principles promulgated by the Government Accounting Standards Board and made applicable to Washington State local governmental units such as the City, as such principles may be changed from time to time, which statements shall not be audited, except, however, that if and when audited financial statements are otherwise prepared and available to the City they will be

provided; (2) authorized, issued and outstanding balance of general obligation bonds; (3) assessed valuation for the fiscal year; and (4) regular property tax levy rate and regular property tax levy rate limit for the fiscal year;

(ii) Shall be provided not later than the last day of the ninth month after the end of each fiscal year of the City (currently, a fiscal year ending December 31), as such fiscal year may be changed as required or permitted by State law, commencing with the City's fiscal year ending December 31, 2011; and

(iii) May be provided in a single or multiple documents, and may be incorporated by specific reference to documents available to the public on the Internet website of the MSRB or filed with the SEC.

(c) Amendment of Undertaking. The Undertaking is subject to amendment after the primary offering of the Bonds without the consent of any holder of any Bond, or of any broker, dealer, municipal securities dealer, participating underwriter, rating agency or the MSRB, under the circumstances and in the manner permitted by the Rule. The City will give notice to the MSRB of the substance (or provide a copy) of any amendment to the Undertaking and a brief statement of the reasons for the amendment. If the amendment changes the type of annual financial information to be provided, the annual financial information containing the amended financial information will include a narrative explanation of the effect of that change on the type of information to be provided.

(d) Beneficiaries. The Undertaking evidenced by this section shall inure to the benefit of the City and any holder of Bonds, and shall not inure to the benefit of or create any rights in any other person.

(e) Termination of Undertaking. The City's obligations under this Undertaking shall terminate upon the legal defeasance of all of the Bonds. In addition, the City's obligations under this Undertaking shall terminate if those provisions of the Rule which require the City to comply with this Undertaking become legally inapplicable in respect of the Bonds for any reason, as confirmed by an opinion of Bond Counsel, or other counsel familiar with federal securities laws, delivered to the City, and the City provides timely notice of such termination to the MSRB.

(f) Remedy for Failure to Comply with Undertaking. As soon as practicable after the City learns of any failure to comply with the Undertaking, the City will proceed with due diligence to cause such noncompliance to be corrected. No failure by the City or other obligated person to comply with the Undertaking shall constitute a default in respect of the Bonds. The sole remedy of any holder of a Bond shall be to take such actions as that holder deems necessary, including seeking an order of specific performance from an appropriate court, to compel the City or other obligated person to comply with the Undertaking.

(g) Designation of Official Responsible to Administer Undertaking. The Finance Director of the City (or such other officer of the City who may in the future perform the duties of that office) or his or her designee is authorized and directed in his or her discretion to take such further actions as may be necessary, appropriate or convenient to carry out the Undertaking of the City in respect of the Bonds set forth in this section and in accordance with the Rule, including, without limitation, the following actions:

(i) Preparing and filing the annual financial information undertaken to be provided;

(ii) Determining whether any event specified in subsection (a) has occurred, assessing its materiality, where necessary, with respect to the Bonds, and, if material, preparing and disseminating any required notice of its occurrence;

(iii) Determining whether any person other than the City is an “obligated person” within the meaning of the Rule with respect to the Bonds, and obtaining from such person an undertaking to provide any annual financial information and notice of listed events for that person in accordance with the Rule;

(iv) Selecting, engaging and compensating designated agents and consultants, including but not limited to financial advisors and legal counsel, to assist and advise the City in carrying out the Undertaking; and

(v) Effecting any necessary amendment of the Undertaking.

Section 20. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Oak Harbor, Washington, at a regular open public meeting thereof, this ____ day of March, 2011.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CERTIFICATION

I, the undersigned, City Clerk of the City of Oak Harbor, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. ____ (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on March ____, 2011, as that ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect five days after publication in the City's official newspaper; and

2. A quorum of the members of the City Council was present throughout the meeting and a majority of those members present voted in the proper manner for the passage of the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of March, 2011.

CITY OF OAK HARBOR, WASHINGTON

Connie Wheeler, City Clerk

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EXHIBIT A**Project Description**

The proceeds of the Bonds will be used to finance the City's Oak Harbor Marina Redevelopment Phase 2 – Dredging, including maintenance dredging of the Marina, both in open fairways and under and around existing dock structures, disposal of dredge material, near-shore environmental mitigation, including planting of native vegetation and placement of habitat mix fill and beach sand material to support aquatic life, removal of unused in-water structures, and dredge surveys and water quality monitoring, together with such other capital improvements to the Marina as may be determined by the City.

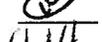
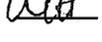
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**City of Oak Harbor
City Council Agenda Bill**

Bill No. 5
Date: March 1, 2011
Subject: EPA Grant Agreement

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 requests approval of a grant agreement with the U.S. Environmental Protection Agency (EPA) for assistance in funding the wastewater facility planning process.

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.

SUMMARY STATEMENT:

The City of Oak Harbor was specifically identified in federal legislation authorizing funding for the State and Tribal Assistance Grant program, administered by the EPA, as the recipient of a \$198,400 grant for assistance with a water and waste water project. Representative Rick Larsen was instrumental in ensuring the City as grant recipient under the program. In choosing a project to apply the grant funds towards, staff identified the Waste Water Facility Planning and eventual construction of a new facility as a good fit for the environmental permitting, documentation and matching fund requirements of the grant.

Accepting the EPA grant will result in requirements for a federal permitting process that may not otherwise be required for projects funded solely with local funding. The Waste Water Facility Plan process will likely have a federal nexus for an environmental permit regardless of the funding source. The scope of work with the consulting firm retained by the City for the facility plan anticipated this level of effort and is reflected in the scope of work currently underway.

There is additional documentation related to grant management and financial record keeping that will be required, however, given the eventual size and cost of the total project, the additional work is worth the effort.

RECOMMENDED ACTION:

Authorize the Mayor to sign EPA grant agreement No. XP-00J27701-0

ATTACHMENTS:

Grant Agreement

MAYOR'S COMMENTS:

	U.S. ENVIRONMENTAL PROTECTION AGENCY Grant Agreement		ASSISTANCE ID NO.			DATE OF AWARD 08/27/2010		
			PRG	DOC ID	AMEND#			
			XP - 00J27701 - 0					MAILING DATE 09/03/2010
			TYPE OF ACTION New					
PAYMENT METHOD:					ACH# PEND			
RECIPIENT TYPE: Municipal			Send Payment Request to: Las Vegas Finance Center FAX # 702-798-2423					
RECIPIENT: City of Oak Harbor 865 SE Barrington Drive Oak Harbor, WA 98277 EIN: 91-6001476			PAYEE: City of Oak Harbor 865 SE Barrington Drive Oak Harbor, WA 98277					
PROJECT MANAGER		EPA PROJECT OFFICER		EPA GRANT SPECIALIST				
Eric Johnston 865 SE Barrington Drive Oak Harbor, WA 98277 E-Mail: ejohnston@oakharbor.org Phone: 360-279-4522		Mike Lehner 1200 Sixth Avenue, Suite 900, OWW-137 Seattle, WA 98101 E-Mail: Lehner.Mike@epa.gov Phone: 206-553-6349		Joanne Brendle 1200 6th Ave., Suite 900, OMP-145 Seattle, WA 98101 E-Mail: Brendle.Joanne@epa.gov Phone: 206-553-6385				
PROJECT TITLE AND DESCRIPTION								
Oak Harbor Infrastructure Grant Development of Preliminary Planning Design and approved Facilities Plan for replacement/extension of wastewater treatment facilities with a capacity of six million gallons per day and serving a projected population of 29,306.								
BUDGET PERIOD 10/01/2010 - 10/31/2012		PROJECT PERIOD 10/01/2010 - 10/31/2012		TOTAL BUDGET PERIOD COST \$1,075,329.00	TOTAL PROJECT PERIOD COST \$1,075,329.00			
NOTICE OF AWARD								
Based on your application dated 08/05/2010, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards \$198,400. EPA agrees to cost-share 18.45% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$198,400. Such award may be terminated by EPA without further cause if the recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Grants Management Office listed below within 21 days after receipt, or any extension of time, as may be granted by EPA. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.								
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE					
ORGANIZATION / ADDRESS			ORGANIZATION / ADDRESS					
EPA Region 10 Mail Code: OMP-145 1200 Sixth Avenue, Suite 900 Seattle, WA 98101			U.S. EPA, Region 10 Office of Water and Watersheds 1200 Sixth Avenue, Suite 900 Seattle, WA 98101					
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY								
SIGNATURE OF AWARD OFFICIAL		TYPED NAME AND TITLE		DATE				
Digital signature applied by EPA Award Official		Armina K. Nolan, Manager - Grants and Interagency Agreements Unit		08/27/2010				
AFFIRMATION OF AWARD								
BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION								
SIGNATURE		TYPED NAME AND TITLE		DATE				
		Jim Slowik, Mayor						

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EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 198,400	\$ 198,400
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$ 876,929	\$ 876,929
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 1,075,329	\$ 1,075,329

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.202 - Congressionally Mandated Projects	Consolidated Appropriations Act of 2005 (PL 108-447)	40 CFR PART 31

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1010MYG065	10	E4C	10M0A9A	202B51E	4192			6,000
-	1010MYG067	10	E4C	10M0GPT	202B51E	4192			192,400
									198,400

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$0
2. Fringe Benefits	\$0
3. Travel	\$0
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$1,075,329
7. Construction	\$0
8. Other	\$0
9. Total Direct Charges	\$1,075,329
10. Indirect Costs: % Base	\$0
11. Total (Share: Recipient <u>81.55</u> % Federal <u>18.45</u> %.)	\$1,075,329
12. Total Approved Assistance Amount	\$198,400
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$198,400
15. Total EPA Amount Awarded To Date	\$198,400

Administrative Conditions

1. Payment Information - Infrastructure

Payment Enrollment Information

All recipients must be enrolled to receive funds electronically via the EPA-EFT Payment Process. This electronic funds transfer process was initiated by EPA in response to the Debt Collection Improvement Act of 1996, P.L. 104-134 that requires all federal payments be made via Direct Deposit/Electronic Funds Transfer (DD/EFT). By signing the assistance agreement you are agreeing to receive payment electronically.

In order to receive payments electronically, the ACH Vendor/ Miscellaneous Payment Enrollment Form (SF3881) must be completed and faxed to Marge Pumphrey at (702) 798-2423.

After reviewing and processing the SF3881, the Las Vegas Finance Center (LVFC) will send you a letter assigning you an EFT Control Number, an EPA-EFT Recipient's Manual, and the necessary forms for requesting funds and reporting purposes.

If you need further assistance regarding enrollment, please contact Marge Pumphrey at (702) 798-2492 or by e-mail to: pumphrey.margaret@epa.gov.

Any recipient currently using the Automated Standard Application for Payments (ASAP) system with another government agency should contact Marge Pumphrey at (702) 798-2492 or e-mail to: pumphrey.margaret@epa.gov.

Recipients must liquidate all obligations incurred within 90 calendar days of the project period end date. Therefore, recipients must submit the final request for payment, and refund to EPA any balance of unobligated cash advanced within 90 calendar days after the end of the project period.

Requesting Reimbursement

The recipient must obtain EPA Project Officer approval before the LVFC processes payments. This approval will be contingent on the recipient submitting appropriate documentation to the EPA Project Officer prior to requesting payment. The information the recipient is to submit to the EPA Project Officer includes Standard Form (SF) 270 and supporting documentation. For recipients using EFT, recipients must also provide EPA Form 190-F-04-001. The SF270 and EPA Form 190-F-04-001 can be found at <http://www.epa.gov/ogd/forms/forms.htm>.

2. Cost Principles/Indirect Costs Not Included (All Organizations)

The cost principles of OMB Circular A-21, "Cost Principles for Educational Institutions," relocated to 2 CFR Part 220, OMB Circular A-87, "State, Local or Indian Tribal Governments," relocated to 2 CFR Part 225, or OMB Circular A-122, "Cost Principles for Non-Profit Organizations," relocated to 2 CFR Part 230, are applicable, as appropriate, to this award. Since there are no indirect costs included in the assistance budget, they are not allowable under this Assistance Agreement.

3. Federal Financial Report (FFR)

Recipients shall submit final Federal Financial Reports (FFR), Standard Form 425 (SF-425), to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at <http://www.epa.gov/ocfo/finservices/forms.htm>. All FFRs must be submitted to the Las Vegas Finance Center: US EPA, LVFC, PO Box 98515, Las Vegas, NV 89193, or by FAX to: 702-798-2423.

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

EPA may take enforcement actions in accordance with 40 CFR 30.62 and 40 CFR 31.43 if the recipient does not comply with this term and condition.

4. Audit Requirements

The recipient agrees to comply with the requirements of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

5. Hotel-Motel Fire Safety Act

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

6. Recycled Paper

INSTITUTIONS OF HIGHER EDUCATION HOSPITALS AND NON-PROFIT ORGANIZATIONS:

In accordance with 40 CFR 30.16, the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

STATE AGENCIES AND POLITICAL SUBDIVISIONS:

In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

STATE AND LOCAL INSTITUTIONS OF HIGHER EDUCATION AND NON-PROFIT ORGANIZATIONS:

In accordance with 40 CFR 30.16, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to EPA's guidelines.

STATE TRIBAL AND LOCAL GOVERNMENT RECIPIENTS:

In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007), the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

7. Lobbying

ALL RECIPIENTS:

The recipient agrees to comply with Title 40 CFR Part 34, *New Restrictions on Lobbying*. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

PART 30 RECIPIENTS:

All contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix at Title 40 CFR Part 30.

Pursuant to Section 18 of the Lobbying Disclosure Act, the recipient affirms that it is not a nonprofit

organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

8. Lobbying and Litigation

ALL RECIPIENTS:

The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of Federal grant funds for litigation against the United States or for lobbying or other political activities.

9. Suspension and Debarment

Recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons)." Recipient is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipient may access the Excluded Parties List System at www.epls.gov. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

10. Drug-Free Workplace Certification for all EPA Recipients

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 40 CFR 36.200 - 36.230. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 40 CFR 36.300.

The consequences for violating this condition are detailed under Title 40 CFR 36.510. Recipients can access the Code of Federal Regulations (CFR) Title 40 Part 36 at http://www.access.gpo.gov/nara/cfr/waisidx_06/40cfr36_06.html.

11. Management Fees

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

12. Reimbursement Limitation

If the recipient expends more than the amount of federal funding in its EPA approved budget in anticipation of receiving additional funds from EPA, it does so at its own risk. EPA is not legally obligated to reimburse the recipient for costs incurred in excess of the EPA approved budget.

13. Trafficking Victims Protection Act of 2000

To implement requirements of Section 106 of the Trafficking Victims Protection Act of 2000, as amended, the following provisions apply to this award:

a. We, as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity: (1) is determined to have violated an applicable prohibition in the Prohibition Statement below; or (2) has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in the Prohibition Statement below through conduct that is either: (a) associated with performance under this award; or (b) imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1532. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in the Prohibition Statement below.

b. Our right to terminate unilaterally that is described in paragraph a of this award term: (1) implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and (2) is in addition to all other remedies for noncompliance that are available to us under this award.

c. You must include the requirements of the Prohibition Statement below in any subaward you make to a private entity.

Prohibition Statement - You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award.

14. Disadvantaged Business Enterprise Requirements (Effective May 27, 2008)

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE (MBE/WBE) participation in procurement under the financial assistance agreements.

Current Fair Share Objective/Goal

The award amount of this assistance agreement is \$250,000 or less; or the total dollar amount of all of the recipient's financial assistance agreements from EPA in the current Federal fiscal year is \$250,000 or less. Therefore, the recipient of this assistance agreement is exempt from the fair share objective requirements of 40 CFR, Part 33, Subpart D, and is not required to negotiate a fair share objective/goal for the utilization of MBE/WBEs in its procurements.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms

to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503

The recipient agrees to complete and submit EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" beginning with the Federal fiscal year reporting period the recipient receives the award, and continuing until the project is completed. **Only procurements with certified MBE/WBEs are counted toward a recipient's MBE/WBE accomplishments.** The reports must be submitted **semiannually** for the periods ending March 31st and September 30th for:

Recipients of financial assistance agreements that capitalize revolving loan programs (CWSRF, DWSRF, Brownfields); and

All other recipients not identified as annual reporters (40 CFR Part 30 and 40 CFR Part 35, Subpart A and Subpart B recipients are annual reporters).

The reports are due within 30 days of the end of the semiannual reporting periods (April 30th and October 30th). Reports should be sent to the EPA Region 10, Grants Administration Unit, 1200 Sixth Avenue, Suite 900, Mailcode: OMP-145, Seattle, WA 98101. For further information, please contact Greg Luchey at (206) 553-2967, email: Luchey.Greg@epa.gov. Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. Your grant cannot be officially closed without all MBE/WBE reports.

EPA Form 5700-52A may be obtained from the EPA Office of Small Business Program's Home Page on the Internet at www.epa.gov/osbp

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients and sub recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

15. Payment to Consultants

EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. As of January 1, 2010, the limit is **\$596.00 per day \$74.50 per hour**. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Subagreements with firms for services which are awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.36(j), as applicable, for additional information.

NOTE: For future years' limits, the recipient may find the annual salary for Level IV of the Executive Schedule on the following Internet site: <http://www.opm.gov/oca>. Select "Salary and Wages", and select "Executive Schedule". The annual salary is divided by 2087 hours to determine the maximum hourly rate, which is then multiplied by 8 to determine the maximum daily rate.

16. Earmark Assistance Agreement – Full Funding

EPA is fully funding this assistance agreement based on the terms of a congressional earmark. If future earmarks are not provided for this project and recipient, supplemental funding for this project is not guaranteed.

17. Additional Recipient Contribution for Non-Competitive Program ONLY

The statutory requirement for recipient contribution is 45% of total project costs. However, in accordance with the application dated 8/5/10, the recipient agrees to contribute an amount greater than the statutory requirement. Reduction to this amount must be negotiated with the EPA Project Officer.

Programmatic Conditions

1. INFRASTRUCTURE CONDITIONS:

NEPA

The U.S. Environmental Protection Agency (EPA) is responsible for compliance with the National Environmental Policy Act (NEPA) promulgated under 40 Code of Federal Regulations (CFR), Part 6. As a recipient of EPA Special Appropriations Act grant funds, the Grantee agrees to furnish information and otherwise cooperate with EPA and the - specific State agency - in any evaluation pursuant to 40 CFR Part 6. This includes compliance with the NEPA analyses and findings specified in the Categorical Exclusion (CATEX) and/or the Finding of No Significant Impact (FONSI).

The Grantee agrees that the project construction shall be undertaken in accordance with the results of the completed NEPA analyses and findings. This includes, but is not limited to, the implementation of mitigation measures, stipulations, and other requirements EPA identifies as necessary to mitigate the potential environmental impacts of the project as well as ensure compliance with all applicable Executive Orders and "cross-cutters" (e.g., the Endangered Species Act, the National Historic Preservation Act, etc.).

Upon completion of the project, the Grantee agrees to provide EPA written confirmation that the Federally funded project was designed and constructed in conformance with the EPA NEPA document (e.g., CATEX or FONSI). In the event the recipient fails to comply with this condition, EPA may implement the remedies contained in 40 CFR Section 31.43.

EPA Guidance Requirements

This grant is subject to all requirements listed in the June 6, 2005 Guidance for Award of Grants and Cooperative Agreements for the Special Projects and Programs Authorized by the Agency's FY 2005 Appropriations Act.

Quarterly Performance Reports

The recipient shall submit quarterly performance reports, which are due 30 calendar days after the end of each Federal fiscal quarter. (Federal fiscal quarters end the last day of March, June, September, and December.) Reports shall be submitted to the EPA Project Officer and may be provided electronically.

In accordance with 40 CFR Part 30.51(d) and 40 CFR Part 31.40, as appropriate, the recipient agrees to submit performance reports that include brief information on each of the following areas:

- (a) A comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period;
- (b) The reasons for slippages if established outputs/outcomes were not met;
- (c) Additional pertinent information, including when appropriate, analysis and information of cost overruns or high unit costs.

In addition to the periodic performance reports, the recipient shall immediately notify the EPA Project Officer of developments that have a significant impact on the award-supported activities. In accordance with 40 CFR Part 30.51(f) and 40 CFR Part 31.40(d), as appropriate, the recipient agrees to inform the EPA Project Officer as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

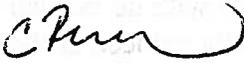
Final Performance Report

In addition to the periodic performance reports, the recipient shall submit a final performance report, which is due no later than 90 calendar days after the expiration or termination of the award. The report shall be submitted to the EPA Project Officer and may be provided electronically. The report shall generally contain the same information as in the periodic reports, but should cover the entire project period. After completion of the project, the EPA Project Officer may waive the requirement for a final performance report if the EPA Project Officer deems such a report is inappropriate or unnecessary.

END OF ASSISTANCE AGREEMENT XP-00J27701-0

City of Oak Harbor
City Council Agenda Bill

Bill No. 6
Date: March 1, 2011
Subject: 2011 Purchase of
Radio Read Water Meters

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:

In May 2005, the City Council approved the purchase of a Radio Read Water Meter Reading System by Master Meter as part of an eight year program to change out all of the existing water meters in the City of Oak Harbor with radio read meters.

The Water Division is requesting authorization to purchase Model DS DIALOG 3G Drive-by Radio Read Water Meters as a continuation of the ongoing replacement program. The radio read meters by Master Meter will be purchased under a previously approved Sole Source determination (RCW 39.04.280 (1) (a) and City Resolution #07-07), as these meters are compatible with the existing water meters and meter reading system.

AUTHORITY:

Funding for this purchase was authorized through the approved 2011-2012 Water Division Budget.

SUMMARY STATEMENT:

The Water Division is in the seventh year of the program to install radio read meters on all of the water service accounts in the City's system. Currently 96% of the water meters have been replaced by radio read meters. We are pleased to say that this replacement program will be completed in 2011, one year earlier than planned, due to the commitment of Water Division staff with the implementation and installation of these meters and the management of the program.

The advantages of converting to a radio read system include:

- Reduced labor required for meter reading. In November of 2010, monthly billing was implemented and we are meeting the goal of completing the meter reading in one week by one employee. The Water Division has not filled an approved full time position due in part to greater efficiency of meter reading with radio read technology.
- Improved water system management. Water consumption can be tracked by computer to detect unusual water consumption, such as backflow (reverse flow), high water consumption, illegal water use, etc., providing a great management tool for water conservation, consumer education and backflow prevention. Since the transition to monthly billing, the tracking feature of this system has been invaluable for timely response to consumption concerns by customers.
- Improved customer service. System problems can be quickly identified through parameters set up in the proposed program and managed by the operator so that customers can be alerted to potential problems, such as unusually high consumption, that may be caused by a water leak or

malfunctioning toilet. This has improved customer service by reducing wasted water and the associated costs to the customers.

- Improved efficiency and accuracy. The reading errors that can occur when meters are read manually and input into a handheld computer will be reduced by using automated radio read, which are read automatically with no manual inputting of reads. The implementation of radio read meter reading has greatly reduced challenges in the transition to monthly billing without having to add field staff.

The approved 2011-2012 budget includes \$100,000 in 2011 to continue implementation of the Radio Read Water Meter Program. This project is necessary to reduce long-term labor costs associated with water meter reading, improve efficiency and accuracy and provide for excellent customer service.

STANDING COMMITTEE REPORT:

The annual purchase of radio read water meters was presented and discussed at the February 3, 2011 Public Works and Standing Committee Meeting.

RECOMMENDED ACTION:

Staff recommends that City Council adopt Resolution No. 11-04.

ATTACHMENTS:

- ◆ Capital Outlay Request Form
- ◆ Exclusive Distribution Letter from Master Meter
- ◆ Resolution No. 11-04
- ◆ Purchase Order (Exhibit "A")
- ◆ Request for Sole Source and Justification (Exhibit "B")
- ◆ End of year 2010 Radio Read Meter Inventory Summary

MAYOR'S COMMENT:

Capital Outlay Request Form

City of Oak Harbor
2011/2012 Budget

This form should be used to list all "Capital Outlay" requests for the 2011/2012 budget year. A Capital Outlay has been defined as any single expenditure (improvements to buildings, equipment, and/or construction projects) in excess of \$5,000. If the item requested does not meet this criteria, please just include the expenditure in the proper line (repair & maintenance; small tools & equipment; or office & operating supplies)

Fund/Department: 401 / Public Works Division: Water

Budget Year: 2011 2012 Priority No. _____ of _____

Project Description: Continuation of the Implementation of AMR (Automatic Meter Reading System) water meter replacement program.

Purchase of water meters and related hardware to convert outdated manual water meters for reading efficiency to accommodate monthly utility billing. This was identified in the City of Oak Harbor Water System Plan.

Estimated Cost: \$100,000 BARS Code: 401.00.594.034.6310

What continuing costs will there be after project completion? Operation and maintenance

What is the funding source for this request? Water Operations Fund

Are there any grant funds involved? No

Granting agency and type of grant: _____

Has application been made? Yes _____ No _____

Has the grant been awarded? Yes _____ No _____

Are there any matching requirements? Yes _____ No _____

Source of matching funds: _____ City match: _____ %

Describe the nature and extent of impact this project will have on other departments:

NA

Describe the nature and amount of any revenues that will be generated by this project:
More efficient and accurate meter reading

NA



101 REGENCY PARKWAY
MANSFIELD, TX 76063
817-842-8000
FAX 817-842-8100

1-5-11

To Whom It May Concern:

Ref: Exclusive Distribution

H.D. Fowler Company in the state of Washington and Oregon is currently Master Meter's exclusive distributor.

H.D. Fowler was selected as our exclusive distributor due to their branch locations and willingness to maintain inventory, which allows them to better service Master Meter customers in that area. They have made a commitment to stocking inventory for the various customers in the area and to provide on going support and the sale effort needed to grow our business. H.D. Fowler is classified as a Stocking Distributor, which means they purchase material from Master Meter at the lowest price available as compared to a Non Stocking Distributor.

Exclusive agreements are very common in our industry today due to the complexity of the products being sold. The knowledge needed to properly support a product line such as water meters and electronics is essential to servicing our customers. Working exclusively with one distributor in an area makes it easier to properly track the movement of product and is critical to our ability to respond when a problem occurs.

Many times problems occur when a distributor who is not authorized to sell in a particular area ships or sells product to customers outside their exclusive area. Our past experience dealing with multiple distributors in an area has lead us to working exclusively with distributors like H.D Fowler.

Please feel free to contact me if you should have any question. Master Meter and H.D. Fowler Company look forward to having the opportunity to work with you and thank you for your business.

Regards,

Ronnie Veach
Vice President
Master Meter

RESOLUTION NO. 11-04

RESOLUTION DECLARING HD FOWLER COMPANY A SOLE SOURCE FOR PURPOSES OF PURCHASING MODEL DS DIALOG 3G DRIVE-BY RADIO READ WATER METERS.

WHEREAS, the City is interested in purchasing certain property described in the Purchase Order, Exhibit "A", hereto attached; and

WHEREAS, City staff engaged in research as set out in the Request for Sole Source, Exhibit "B", to determine available sources of the items described in Exhibit "A", and these items specified in Exhibit "A" are only reasonably obtainable from HD Fowler Company, PO Box 180, Bellevue, Washington 98008-0180;

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

1. Pursuant to the facts set out in the Request for Sole Source, Exhibit "B", HD Fowler Company is the sole source supplier of the property identified in Exhibit "A" hereto attached;
2. The City is authorized to purchase the items described in the Purchase Order, Exhibit "A", without proceeding to secure competitive bids.
3. The amount of the purchase shall not exceed \$100,000.

PASSED and approved by the City Council this 1st day of March, 2011.

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

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City of Oak Harbor

865 SE Barrington Drive
 Oak Harbor, WA 98277
 360.279.4500 Fax 360.679.3902

PURCHASE ORDER



Requisition or PO Number: **8553**

Requesting Department:

- | | | |
|---|--|--------------------------------------|
| <input type="checkbox"/> Administration | <input type="checkbox"/> Legal | <input type="checkbox"/> Engineering |
| <input type="checkbox"/> Finance | <input type="checkbox"/> Planning | <input type="checkbox"/> Marina |
| <input type="checkbox"/> Building | <input type="checkbox"/> Senior Center | <input type="checkbox"/> Fire |
| <input type="checkbox"/> Police | <input checked="" type="checkbox"/> Public Works | |

The above number must appear on all related correspondence, shipping papers, and invoices:

Check here if this order has already been given to the supplier.

Suggested Source:
 HD Fowler

Ship To:
 City of Oak Harbor Public Works
 1400 NE 16th Avenue
 Oak Harbor, WA 98277

Attention: Wade Bergley

Attention: Rich or Tim

REQUEST DATE	REQUISITIONER	PHONE	DATE REQUIRED	TERMS
27-Jan-11	Sandra Place	360-279-4757		

ITEM NUMBER OR DESCRIPTION	BARS LINE ITEM	QTY	UNIT PRICE	EXTENDED PRICE
MM Octave Ultrasonic 3" meter read in CU FT	401.00.594.034.6310	9	\$ 1,525.61	\$ 13,730.49
MM Octave Ultrasonic 4" meter read in CU FT	401.00.594.034.6310	5	\$ 1,807.22	\$ 9,036.10
MMMJ44CF3GDS 1" meter read in CU FT	401.00.594.034.6310	12	\$ 293.54	\$ 3,522.48
MMJ66CF3GDS 1.5"meter read in CU FT	401.00.594.034.6310	61	\$ 455.60	\$ 27,791.60
MMJ77CF3GDS 2" meter read in CU FT	401.00.594.034.6310	48	\$ 561.50	\$ 26,952.00
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -

COMMENTS:

Please send two copies of your invoice, to the billing address.

Include the Purchase Order number on the packing slip.

Include the Requisitioner's Name on the package shipping label.

Ship the product to the shipping address not the billing address.

Please notify us immediately if you are unable to ship as specified.

Enter this order in accordance with the prices, terms, delivery method, and specifications listed above.

SHIPPING	\$ -
OTHER	\$ -
SUBTOTAL	\$ 81,032.67
SALES TAX 0.087	\$ 7,049.84
TOTAL	\$ 88,082.51

Approving Signature

Date

J 33



REQUEST FOR SOLE SOURCE

To: City Council

From: Cathy Rosen / Public Works / Water Division
 Name of Department Head Department/Division

Subject: Sole Source Request for the Purchase of Model DS Dialog 3G Drive By Radio Read System

Requested Supplier: HD Fowler Company

Cost Estimate: Not to Exceed \$100,000.00

Sole source purchases are defined as clearly and legitimately limited to a single supplier. Sole source purchases are normally not allowed except when based upon strong technological grounds such as operational compatibility with existing equipment and related parts or upon a clearly unique and cost effective feature requirement. The use of sole source purchases shall be limited only to those specific instances which are totally justified to satisfy compatibility or technical performance needs.

STATEMENT OF NEED:

The Public Works Department's recommendation for sole source is based upon an objective review of the product/service required and appears to be in the best interest of the City. I know of no conflict of interest on my part or personal involvement in any way with this request. No gratuities, favors or compromising actions have taken place. Neither has my personal familiarity with particular brands, types of equipment, materials or firms been a deciding influence on my request to sole source this purchase when there are other known suppliers that exist.

Refer to the attached sole source justification, as prepared by the department, to the attached review of available products/services and to the completed Purchase Requisition.

Requestor	Department Head
_____ / _____ Signature Date	_____ / _____ Signature Date

Finance Director	City Administrator
_____ / _____ Signature Date	_____ / _____ Signature Date

SOLE SOURCE JUSTIFICATION

Requisition Item: Model DS Dialog 3G Drive By Radio Read System

Requisition Number: 8553

1. Please describe the item and its function:

This is the seventh year for implementation of these water meters. The Model DS Dialog 3G Drive-By Radio Read System is the only compatible system that will mesh with the City's existing hand held Touch Read and billing system. This technology allows staff to read water meters with a wand instead of getting out of the vehicle and lifting up the lid to read the meter. This system is efficient and has been a great asset to the City thus far.

2. This is a sole source* because:

- sole provider of a licensed or patented good or service
- sole provider of items that are compatible with existing equipment, inventory, systems, programs or services
- sole provider of goods and services for which the City has established a standard
- sole provider of factory-authorized warranty service
- sole provider of goods or services that will meet the specialized needs of the City or perform the intended function (please detail below or in an attachment)
- the vendor/distributor is a holder of a used item that would represent good value and is advantageous to the City (please attach information on market price survey, availability, etc.)

3. What necessary features does this vendor provide which are not available from other vendors?

HD Fowler Company is the only licensed distributor in Washington State for the Dialog DS 3G Drive-By Radio Read System.

4. What steps were taken to verify that these features are not available elsewhere?

The City has previously used this procedure when securing recent purchases of radio read meters. Steps were taken to call competitors, but no one has this system. The vendors are listed below.

1. Invensys Systems – not compatible with existing hardware and software.
2. Badger Meter Company – not compatible with existing hardware and software.
3. Hersey Meter Company – not compatible with existing hardware and software.

**Sole Source: only one vendor possesses the unique and singularly available capability to meet the requirement of the solicitation. Procurements of items for which the City has established a standard by designating a brand or manufacturer or by pre-approving via a testing shall be competitively bid if there is more than one vendor for the item.*

END OF YEAR 2010 RADIO READ METER INVENTORY SUMMARY

Total 5/8" water meters:	5,186
Total 5/8" 3G water meters:	5,185

Remaining	1 (99.9% completed)
Total 1" water meters:	219
Total 1" 3G water meters:	173

Remaining	46 (78% completed)
Total 1.5" water meters:	122
Total 1.5" 3G water meters:	55

Remaining	67 (45% completed)
Total 2" water meters:	106
Total 2" 3G water meters:	52

Remaining	54 (49% completed)
Total 3" water meters:	12
Total 3" 3G water meters:	3

Remaining	9 (25% completed)
Total 4" water meters:	7
Total 4" 3G water meters:	2

Remaining	5 (28% completed)
<u>Totals</u>	
Total water meters:	5,652
Total 3G water meters:	5,470

Remaining	182 (96% completed)

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

Bill No. 7
Date: March 1, 2011
Subject: Mitigation Proposal for
Pioneer Way Improvement
Project

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 help provide a means to mitigate the impacts of the SE Pioneer Way Improvement Project to the owners of property and businesses located on SE Pioneer Way during the construction of the improvements planned for the summer of 2011.

AUTHORITY

RCW 35.21.703

Economic development programs.

It shall be in the public purpose for all cities to engage in economic development programs. In addition, cities may contract with nonprofit corporations in furtherance of this and other acts relating to economic development. [1985 c 92 § 1.]

RCW 82.14.370

Sales and use tax for public facilities in rural counties.

(c) The definitions in this section apply throughout this section.

(i) "Public facilities" means bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroad, electricity, natural gas, buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, and port facilities in the state of Washington.

(ii) "Economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county.

City of Oak Harbor City Council Agenda Bill

SUMMARY STATEMENT

This agenda bill proposes to provide an “in-house” means in which to have an ongoing effort by a “temporary contract employee” hired by the City as a Communication Specialist to coordinate communication, marketing and promotion activities for the SE Pioneer Way corridor to help offset the construction impacts. This coordination effort will include ongoing meetings with SE Pioneer Way businesses, the Chamber of Commerce and the public in general.

The components of this agenda bill proposal include:

- An eight (8) month employment contract for the communication specialist at \$4,320 per month for 25 hours per week plus expenses – total of \$45,000 (includes L&I, FICA, phone, computer, office supplies) – see Exhibit A
- A budget outline of suggested communication, promotion and marketing activities – total of \$122,500 - see Exhibit B
- A program approach that includes four (4) separate key areas; Event Planning, Merchant Services, Access Logistics and Outreach Services – see Exhibit C

This agenda bill proposal for mitigating the impacts of the SE Pioneer Way construction totals a “not-to-exceed” amount of \$167,500 for the projected eight (8) month project duration. In order to provide the flexibility we think we will need for this proposal, we are recommending that City Council provide a general authorization to the Mayor to expend up to \$167,500 for mitigating the construction impacts caused by the SE Pioneer Way construction. The source of funds for this effort will be from the SE Pioneer Way Improvement Project construction fund.

STANDING COMMITTEE REPORT

There have been non-specific discussions primarily within the Public Works Standing Committee related to the possible impacts of construction to the business community.

RECOMMENDED ACTION

Approve Resolution No. 11-05.

ATTACHMENTS

Exhibit A – Employment Agreement for Communications Specialist

Exhibit B – Proposed Mitigation Budget

Exhibit C – Communications Specialist Program Approach

Exhibit D – Resolution No. 11-05

Exhibit A

**OAK HARBOR
EMPLOYMENT AGREEMENT
For
"Communication Specialist"**

THIS AGREEMENT is entered into on this 1st day of March, 2011, by and between the City of Oak Harbor, hereinafter referred to as "the City," and Lesley McConnell, hereinafter referred to as "Communication Specialist."

WHEREAS, the City has determined the utilization of a Communication Specialist position is a cost effective method to provide directed communications for the purpose of mitigating the impacts to the owners of property and businesses located on SE Pioneer Way during the construction of improvements to SE Pioneer Way; and

WHEREAS, the City has determined that Lesley McConnell is qualified to temporarily fill the Communication Specialist position for the SE Pioneer Way Improvement Project; and

FOR AND IN CONSIDERATION OF the terms and conditions hereinafter set forth, the parties agree as follows:

1. Employment. The City hereby employs the "Communication Specialist" to temporarily serve in the position of Communication Specialist for the SE Pioneer Way Improvement Project under the supervision of the City Administrator. The duties of said position shall be those set out in the job description for Communication Specialist (see Exhibit "A"), together with such other and further duties and special projects as may be assigned to the Communication Specialist by the City Administrator.
2. Duration of Employment. This Employment Agreement shall become effective on March 1, 2011, and shall continue to October 31, 2011, unless terminated earlier at the sole discretion of the City or by request of the "Communication Specialist" or unless mutually extended by written amendment to this Agreement.
3. Compensation: The "Communication Specialist" shall be considered exempt from overtime per the Fair Labor Standards Act and shall be compensated for services rendered during the term of this Agreement as follows:
 - a. Monthly Salary – \$4,320 @ 25 hours per week.
 - b. Benefits – No benefits provided.
 - c. Timing of Bi-Monthly Payments – Deductions. All bi-monthly payments of salary and benefits shall be made at the same time and on the same date as the City's regular payroll. All such bi-monthly payments shall be subject to all required state and federal deductions, including income tax, social security, and any other deduction required and authorized by law. The City agrees to pay all employer contributions to FICA, worker's compensation, and similar programs as required by law.

4. Work Schedule. The "Communication Specialist " shall generally work at 720 SE Pioneer Way Construction Office during regular business hours of the City, Monday through Friday. The "Communication Specialist " will be required to attend SE Pioneer Way "Merchant Meetings" and may also be required to attend meetings of the Oak Harbor City Council and such other Council Committee, City Board, Commission and staff meetings as requested by the City Administrator or as required by the duties of the position.
5. The City may pay for membership in such other associations or organizations, and may reimburse the "Communication Specialist " for attendance at annual conferences or the same and for such other professional development activities as the City Administrator may approve and as may be annually budgeted by the City Council.
6. The City agrees to cover the "Communication Specialist " on the City's liability insurance policies to the same extent as any regular employee of the City is covered for acts, errors, or omissions within the scope of employment. All such liability insurance coverage shall be provided at the City's sole cost and expense.
7. The City of Oak Harbor agrees to hold harmless, indemnify and defend the "Communication Specialist " from any and all actions, claims, lawsuits, proceedings, costs, risk or liability of any nature whatsoever associated with or arising out of acts or failures to act which are or were performed within the scope of his/her employment as the "Communication Specialist ," including the reasonable cost of legal defense.
8. Severability. If any paragraph, sentence, clause or phrase of this Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, said invalidity or unenforceability shall not affect the validity or enforceability of any other paragraph, sentence, clause or phrase and to that end the terms and conditions set forth in this Agreement shall be severable.
9. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties as to the terms and conditions of the "Communication Specialist " temporary employment by the City and no other agreements or understandings, oral or otherwise, exist or shall be deemed binding upon the parties. The Agreement may be amended only by a written instrument duly executed by both parties.

Entered this 1st day of March, 2011.

Jim Slowik, Mayor

Employee name

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CITY OF OAK HARBOR
JOB DESCRIPTION

Title: *Communication Specialist*
Department: *Mayor's Office*
Reports to: *City Administrator*

Job Summary:

To mitigate the impact of construction at SE Pioneer Way during the downtown redevelopment program of work. To provide a comprehensive and engaging program of communications and marketing to ensure that impacts of the project on merchants and the public are reduced and that business along the retail corridor is maintained and improved.

Essential Job Functions:

1. Design, initiate and maintain communication strategies to improve public relations and involvement in the downtown redevelopment program.
2. Develop as key point of contact with merchants for promotion purposes through the use of the downtown office provided to the construction program and through regular personal contact throughout the merchant businesses in the construction zone.
3. To respond to visitors, guests and merchant inquiries related to the project.
4. To maintain positive public relations and credible print and media relations.
5. To be responsible for contracting and project managing temporary, freelance and assistant services and products as required to fulfil the communications and marketing program, within the scope of agreed budget and following approval by the City.
6. To provide information of high quality to all stakeholders about the forthcoming program of activities for all promotions, marketing and communications.
7. To keep up to date with the construction program and ensure that relevant details are shared with the stakeholders.
8. To inform, advise and work with other members of staff, to enable effective publicity, communications and marketing are achieved within, across and beyond stakeholder points of entry to City services.
9. To attend relevant internal and external meetings called by the City or as needed with merchants and stakeholders to ensure reliable and consistent communications and marketing.
10. To deliver any events and activities required of the role, including evenings, weekends or holidays, in keeping with the agreed marketing and promotions plan.
11. To Plan and prepare such reports as may be required by the City.
12. To manage any designated program budget, ensuring compliance with approved financial procedures.

Associated Job Functions:

1. Attend various workshops, continuing education, meetings, seminars and conferences.
2. Perform other duties and responsibilities as assigned.

Performance Requirements (Knowledge, Skills, and Abilities):

Knowledge of:

- Ability to be creative, and have formal training in marketing, design or a related field, combined with two or more years of experience in a similar role.
- Possess excellent computer skills with proficiencies in Adobe CS, CS, Quart, Publisher, Illustrator, PowerPoint and Microsoft Office projects, in a Windows environment.
- Have strong knowledge of print production specifications.
- Experience in web content management an asset.
- Familiar with the construction industry is considered an asset.
- Must be able to work independently, handle multiple tasks, and able to work in an environment with tight timelines/deadlines are normal course and last minute changes a given.

Working Environment and Physical Demands:

Work is performed in an office environment with sitting for extended periods of time (often under stressful situations) and occasionally in the field at construction sites in all types of weather conditions. Access all areas of City buildings, including stairs. Occasional travel to other City locations. Work requires a normal range of hearing and visual acuity, and the ability to be on one's feet, walking on all types of terrain and in all types of weather conditions in situations which can be hazardous, eye/hand coordination bending, twisting, reaching stooping and fine manipulation skills to operate a personal computer, telephone system, and other equipment. Move loads up to 25 pounds. Occasional attendance at evening meetings is required.

Experience and Training Requirements:

- Bachelors Degree in Communications, Marketing, Business administration or related field, or equivalent in coursework, specialized training and experience, **and**
- Proficient computer operation skills and experience with a variety of software programs including Microsoft products, database, customized and menu-driven programs.
- Valid Washington State Driver's License and a good driving record.
- Pass background (criminal records) and driver's abstract check.

A combination of education, training and experience that provides the required knowledge, skills and abilities will be considered.

FLSA: Exempt
Salary Range: Per Contract

The statements contained herein reflect general details as necessary to describe the principal functions of this job, the level of knowledge and skill typically required, and the scope of responsibility, but should not be considered an all-inclusive listing of work requirements. Individuals may perform other duties as assigned including work in other functional areas to cover absences or relief, to equalize peak work periods or otherwise to balance the workload.

EXHIBIT B

Proposed Mitigation Budget

Website	\$10,000
Newspaper Ads	\$12,000
Wayfinding Signs	\$25,000
Temporary Signs	\$10,000
Billboard	\$15,000
Radio Ads	\$10,000
Printing	\$12,000
Stuffers/Posters	\$14,500
Miscellaneous	<u>\$14,000</u>
Subtotal	\$122,500
Contract	\$34,560
Incidentals	<u>\$10,440</u>
Grand Total	\$167,500

EXHIBIT C

Program Approach

General Scope

To mitigate the impact of construction during the SE Pioneer Way Improvement Project. To provide a comprehensive and engaging program of communication and promotion to ensure that impacts of the project to businesses and the public in general are reduced and that commerce along the retail corridor is reasonably maintained.

This program approach generally addresses four key areas:

- 1. Event Planning:** Provide a plan for delivery of regular and varied events aimed at instructing the public and the community about the merchant offer, particularly as a way to mitigate the construction impacts to merchant businesses. Coordinate and deliver events as agreed with merchants and the City, as part of a comprehensive marketing and promotions effort. Book and manage all media, creative and services/products placements to include major new festivals, district branding, monthly events, products and activities geared toward nurturing more foot traffic and shopping, particularly in after hours, clustered events and unique promotions. Deliver a planning document outlining future sustainable development for any community festivals, regional investment and legacy planning.
- 2. Merchant Services:** Provide a variety of merchant services aimed at understanding and communicating with customers, development of

analytics and online communication, networking, skill-building and a comprehensive and tailored marketing program aimed at harnessing existing and new customers during the construction program.

Development of all relevant print, audio, video and electronic collateral to support the program. Act as a primary point of contact for merchants, merchant organizations and the media in presenting information, coordinating activities, collecting historical and archive materials and providing content, photography, audio, visual and information aids for the program.

3. Access Logistics: Maintain communications and provide visual tools to ensure access to and from transportation facilities, parking lots, points of ingress/egress and all pedestrianized locations where the construction program affects merchant and retail access to shops on Pioneer Way and adjacent streets. Coordinate and communicate with all relevant stakeholders.

4. Outreach Services: To identify, create and maintain excellent links with community groups, business and merchants to ensure healthy and positive interactions and to ensure all relevant details regarding the construction program are shared with all stakeholders. Due to a high level of involvement and engagement needed with many stakeholders – merchants, business organizations, community groups, service clubs, churches, schools, learning, historical societies and the public at large, facilitate meetings, planning sessions, design and deliver projects and

publicity geared toward realizing renewal and excitement in the construction zone and historic district. Facilitate meetings and community development goal setting, establish and support various action committees developed to achieve real delivery of agreed projects. Development and delivery of a range of arts-based activities geared toward harnessing the spirit of the past pioneers of the business district, filling empty windows and shop store fronts with temporary exhibits, and telling the story of the current and future "Pioneer Way" merchants. Organizational Development and capacity building of any community / business legacy organization, as needed.

General Communications Duties

1. Design, initiate and maintain communications strategies to improve public relations and involvement in the downtown redevelopment program.
2. Develop as key point of contact with merchants through the use of the downtown office provided to the construction program and through regular personal contact throughout the merchant businesses in the construction zone.
3. To respond to visitors, guests and merchant inquiries related to the project.
4. To maintain positive public relations and credible print and media relations.
5. To be responsible for contracting and project managing temporary, freelance and assistant services and products as required to fulfil the communications and marketing program, within the scope of agreed budget and following approval by the City.
6. To provide information of high quality to all stakeholders about the forthcoming program of activities for all promotions, marketing and communications.
7. To keep up to date with the construction program and ensure that relevant details are shared with the stakeholders.
8. To inform, advise and work with other members of staff, to enable effective publicity, communications and marketing are achieved within, across and beyond stakeholder points of entry to City services.
9. To attend relevant internal and external meetings called by the City or as needed with merchants and stakeholders to ensure reliable and consistent communications and marketing.
10. To deliver any events and activities required of the role, including evenings, weekends or holidays, in keeping with the agreed marketing and promotions plan.
11. To Plan and prepare such reports as may be required by the City.
12. To manage any designated program budget, ensuring compliance with approved financial procedures.

Exhibit D

RESOLUTION NO. 11-05

**A RESOLUTION BY THE CITY COUNCIL OF OAK HARBOR
AUTHORIZING THE MAYOR FUNDING TO PROVIDE VARIOUS
CONSTRUCTION MITIGATION EFFORTS DURING THE SE PIONEER
WAY IMPROVEMENT PROJECT**

WHEREAS, the City of Oak Harbor proposes to reconstruct SE Pioneer Way from City Beach Street to Midway Avenue in 2011; and

WHEREAS, the reconstruction of SE Pioneer Way will cause a significant disruption for pedestrian and vehicle traffic throughout the construction time period of approximately six (6) to eight (8) months; and

WHEREAS, the SE Pioneer Way corridor is recognized as the heart of the Oak Harbor Central Business District where commercial and retail business activities are crucial to the well being of the community; and

WHEREAS, it is the intent of the Oak Harbor City Council to minimize and mitigate the impacts to the Central Business District and in particular to the businesses located on SE Pioneer Way caused by the reconstruction of SE Pioneer Way; and

WHEREAS, it is recognized that additional and concentrated communication efforts, marketing proposals and general commerce promotion directed towards a particular business district should help offset and mitigate impacts caused by the significant construction disruption of SE Pioneer Way; and

WHEREAS, to provide communication, marketing and promotion for construction mitigation it is proposed the City of Oak Harbor hire a temporary communications specialist and authorize funds to perform a concentrated effort of various communication, marketing and promotion in the Central Business District; and

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Oak Harbor, Washington, that the amount of \$167,500 from the SE Pioneer Way construction fund is authorized for the Mayor to undertake the mitigation services and efforts as described by the attached Exhibits "A," "B," and "C."

