City of Oak Harbor
City Council
Meeting Agenda

For

Tuesday
October 6, 2009
7:00 p.m.

Oak Harbor City Council
Tuesday, October 6, 2009, 7:00 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. The City Council values your ideas, and sets aside time at the beginning of each meeting, from 6:45 p.m. to 7:00 p.m., to talk to citizens. 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

PLEDGE OF ALLEGIANCE

INVOCATION Ron Lawler – Family Bible

ROLL CALL

MINUTES 9/15/09 Regular Meeting

NON-ACTION COUNCIL ITEMS:

1. Employee Recognition – Ray Merrill– Fire Department, 20 years.
2. Proclamation – New Leaf 40th Anniversary.
3. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

4. Consent Agenda.

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a. Excused Absence – Danny Paggao for 10/21/09 and 11/4/09 Meetings.

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b. Animal Control Truck Replacement.

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c. Department of Ecology (DOE) Pass-through Grant Agreement.

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d. Final Consideration – Amend Oak Harbor Municipal Code Section 1.04.010(3) – Time and Place of Council Meetings.

e. Pay Bills.

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5. Public Hearing – Illicit Discharge Ordinance which will add a new Oak Harbor Municipal Chapter – Chapter 12.50.

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6. Ordinance Introduction – Repealing Breed-Specific Legislation (BSL), Oak Harbor Municipal Code Chapter 7.34.

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7. Right of Way Acquisition – Oak Harbor Street Project.
8. City Administrator's Comments
9. Councilmembers' Comments
   a. 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.

"It is the province of knowledge to speak and it is the privilege of wisdom to listen."
- Oliver Wendell Holmes

Regular City Council Meeting
Tuesday, September 15, 2009, 7:00 p.m.
City Hall Council Chambers

CALL TO ORDER Mayor Slowik called the meeting to order at 7:00 p.m.

INVOCATION Randy Beumer, Christian Reformed Church

ROLL CALL

Jim Slowik, Mayor
Five Members of the Council,
Rick Almberg
James M. Campbell
Eric Gerber
Danny Paggao, Mayor Pro Tem
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
Romy Velasquez, Executive Assistant to Chief Soptich
Mike McIntyre, Senior Services Director
Renée Recker, Executive Assistant to the Mayor

Councilmembers Jim Palmer and Beth Munns were absent and formally excused from this meeting.

MINUTES

MOTION: **Councilmember Severns moved to approve the minutes of the 8/27/09 special meeting and 9/1/09 regular meeting. The motion was seconded by Councilmember Campbell and carried unanimously.**

NON-ACTION COUNCIL ITEMS

Introduction of New Employee – Ed Klaszky, Oak Harbor Fire Department

Oak Harbor Fire Chief Mark Soptich introduced Mr. Klaszky, who is originally from Libertyville, Illinois. Mr. Klaszky, spent twenty-three years in the Navy and retired in April as a Chief Petty Officer. He brings EMT experience from North Whidbey Fire and Rescue and will be a great asset to the Department. Mr. Klaszky, introduced his wife, Josephine; son, James who is an Oak Harbor High School senior; and daughter, Ashley who is a freshman at OHHS.

Employee Recognition – Paul Schroer, Oak Harbor Fire Department, Fifteen Years

Chief Soptich introduced Mr. Schroer who has been with the Department as a paid on-call firefighter for fifteen years. Mr. Schroer moved to Oak Harbor in 1984, is an OHHS graduate, and served in the Navy. He regularly volunteers for the Recruit Academy, teaches classes all over the United States, serves as the Deputy Fire Marshall, and is the President of Oak Harbor Firefighters Local 4504 IAFF.

Council Members' Birthdays
Mayor Slowik noted that Councilmembers Almberg, Campbell, and Munns were all celebrating birthdays between September 17th and September 20th. A rousing "Happy Birthday" was sung, and birthday cake was served.

Mayor Slowik called for a break at 7:10 p.m. and the meeting reconvened at 7:20 p.m.

Proclamation – United Way
This proclamation was read by Councilmember Campbell and presented to Cathy Niiro, Executive Director for United Way of Island County. Ms. Niiro introduced Patty Cohlick, Becky Bolte, and Tom Sundown, who is the "Live United" Campaign Chairman. September 17 – October 17, 2009 is United Way Month, and Mr. Sundown gave a presentation and video that talked about the "Live United" Campaign running through November 15, 2009. This presentation is attached to these minutes as Exhibit A. United Way of Island County hopes to meet or exceed last year's goal of $300,000.

Proclamation – Whidbey Camano Land Trust Week
Councilmember Gerber read this proclamation recognizing the Land Trust's 25th anniversary and noting September 27 – October 3, 2009 as Whidbey Camano Land Trust Month. Elizabeth Guss, the Land Trust's Director of Outreach and Development, Danielle Rideout, Land Trust Office Manager, and Helen Chatfield-Weeks accepted the proclamation and talked about two upcoming celebrations honoring the Trust: an Oak Harbor birthday party at a private residence on September 20th, 2:00 p.m. to 4:00 p.m.; and the Land Trust's 25th Anniversary Celebration at Coupeville High School's Performing Arts Center on October 3rd, 7:00 p.m. – 10:00 p.m. Visit the Land Trust's website for full details: www.wclt.org

Report from Sno-Isle Library – Inter-County Rural Library District Resolution No. 09-03 presentation by Mary Campbell, Managing Librarian, Oak Harbor Library
Ms. Campbell also introduced Becky Bolte, Carol Rice, and Leo Scarpeli, all from Oak Harbor's library. Ms. Campbell's presentation regarding the November 3, 2009 Library Levy election is attached to these minutes as Exhibit B. As example, the proposed levy increase of 9¢ / $1,000 would result in an increase of approximately $27 a year to a homeowner of a $300,000 home. The levy restoration will be combined with additional budget reductions. Mayor Slowik noted that over 1,000 children participated in this summer's reading program and that Oak Harbor also has a library line item in the City's budget.

Council Chambers Art Work presented by Nancy Sanders
Ms. Sanders talked about the series of photographs she had taken during the single evening bloom of her night-blooming cereus and the history of this beautiful and exotic plant.

Public Comments

Mel Vance, P.O. Box 2882, Oak Harbor. Mr. Vance once again invited everyone to the Whidbey Island Kite Festival being held on September 26 and 27, 2009 at Camp Casey's Conference Center. More information can be found at www.whidbeykites.org. Mr. Vance commented on the consent agenda's time and place of Council meetings and suggested that the standing committee meetings' times also be changed. He noted that the consent agenda's beverage vending machine item would bring machines with Coca-Cola or Pepsi but not both beverages.

Jason Hicks, 3300 Old Goldie Road, Oak Harbor. Mr. Hicks spoke with concern and renewed his objections to the lift station on Old Goldie Road and the impact to his property. Signs have been posted per his request, but he would like to see the impact on Goldie Road mitigated to let the public know that businesses are open. Mr. Hicks was also concerned with the number of closed and vacant commercial properties in Oak Harbor. He talked about the City's affordable housing proposal and felt that the next CTED application should indicate more housing units which might help bring favorable consideration from CTED.

Helen Chatfield-Weeks, 1415 SE Ninth, Oak Harbor. Ms. Chatfield-Weeks complimented City Administrator Paul Schmidt for his recognition of the Pier Committee, and the Municipal Pier project. Ms. Chatfield-Weeks spoke in support of the Uplands Project which will transform Flintstone Park.

With no other comments coming forth, Mayor Slowik closed public comments at 8:00 p.m.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS

Consent Agenda

A. Ordinance Introduction – Ordinance to Amend OHMC Section 1.04.010(3) – Time and Place of Council Meetings
B. Authorization to Solicit Bids – Beverage Vending Machines
C. Excused Absences for Mayor and Council Members, and Council Meeting Date Change from October 20, 2009 to October 21, 2009
D. Pay Bills

MOTION: **Councilmember Campbell moved to approve consent agenda items A, B, C, and D with item D paying accounts payable check numbers 138400 – 138596 in the amount of $395,099.90, and payroll check numbers 93218 – 93225 in the amount of $82,265.00. The motion was seconded by Councilmember Gerber and carried unanimously.**

Fire Department Reorganization

Fire Chief Mark Soptich presented this proposal to reorganize the Fire Department. The Fire Department has been discussing its operation and researching options on how to improve services to a growing community since 2006.

Discussion factors include:

- Growing population
- Annexations that have occurred over the last 10 years

- New construction
- Increasing calls for service
- Growing number of required fire and life safety inspections
- Command duty responsibilities

Identifying the Department's strengths and weaknesses, personnel resources, apparatus, and facilities were all considered. A committee representing all facets of the Department was formed to research the Department's options. A proposal was selected and work began to construct an organizational chart. A summary of the differences in total personnel for 2009 compared to 2010 are:

	Full-Time	Part-Time	Paid On-Call	Volunteer
2009	12	0.5	36	0
2010	13	0.0	43	1

Chief Soptich thanked the Law Department for their assistance in reviewing the proposal to assure the reorganization complies with federal and state wage and hour requirements. The proposal includes the following with annual costs identified using 2009's budget figures:

- Eliminating a part-time Pre-Incident Planner position creating a savings of $8,840.
- Eliminating a full-time Maintenance Lieutenant position creating a savings of $91,657.
- Reassigning the current Battalion Chief position to the proposed Deputy Chief position responsible for Fire Prevention. There would be no increase to the budget.
- Providing $54,891 for command pay.
- Creating a full-time Deputy Chief position managing the operations section with a cost of $98,307.
- Creating a Fire Prevention Specialist, Public Educator position with a cost of $53,884.
- Creating a Deputy Chief responsible for the management of paid on-call personnel with a cost of $9,000. The position would have 10 hours per week.
- Creating 4 paid on-call Lieutenant positions with a cost of $3,000.
- Creating a Volunteer Chaplin position with cost for this position covering uniforms, travel, etc. There are no labor costs.
- An increase of paid on-call personnel from the current 36 positions to 43.

Total cost to implement this proposal in 2010 is $118,585. This takes into consideration the costs associated with elimination of the two positions. This proposal is expandable with increases for the initiating factors identified above. It increases the number of personnel available for command duty from 2 to 5. The span of control is improved for personnel management. It better defines responsibilities with positions. It provides promotional opportunities for both full-time and paid on-call personnel. Oak Harbor Fire Department is a combination department comprised of career and paid on-call personnel. This type of organization has served the Department and City well for many years but has not kept up with the demands of a growing community. The City has financially benefited from a combination organization. The Department's ability to function as a combination department is due to the dedication and willingness of OHFD

personnel working together for the benefit of the community they serve. There are many departments that desire to incorporate the programs used by the Oak Harbor Fire Department. Chief Soptich gave a PowerPoint presentation illustrating the Department's reorganization and distributed a handout showing comparable cities and fire department budgets which is attached to these minutes as Exhibit C. These statistics were read in the record. He noted that there are only two full-time positions on the org chart, the other positions are paid on-call positions, and new positions have not been hired since 1997. The proposal does not include the command pay for Ray Merrill. The proposal was originally estimated at a cost of $250,000 but it has been reduced to $118,585.

Mayor Slowik called for public comments but there were none.

Council Discussion

Mayor Slowik asked each Council Member for comments.

Councilmember Campbell. Mr. Campbell stated that he supports streamlining operations but was concerned about the responsibility for maintenance since the Maintenance Lieutenant position would be eliminated. Chief Soptich responded that the Operation Chief would supervise maintenance, but maintenance is now fully incorporated into the Public Works Shops.

Councilmember Paggao. Mr. Paggao noticed that Finance Director Merriman had not initialed the agenda bill and asked where the funds will come from to achieve this reorganization. How would it be supported for this year and succeeding years? Mr. Merriman responded that the funding has not been fully identified. Mr. Paggao asked about the City's reserve fund (21 percent in reserves). Mr. Merriman noted that it would only supply about four years of funding barring any reserves committed for another purpose.

Councilmember Gerber. Mr. Gerber thought the comparables chart was interesting and Mayor Slowik noted that the comparables are for career positions and presented again for that reason. Mr. Gerber asked, if Council passed the proposal this evening, would approval assume that the proposal is included in the 2010 budget. The $118,585 might be all the City has to cover other departments. How will this proposed amount tie into the entire budget process? Mr. Merriman noted that at this time, there is no funding for the $118,585. Options would be to look at operations, find a new revenue source, or find another area in the general fund and cut that item in order to fund this proposal. Mr. Gerber asked if Council could approve the proposal without attaching the funding. Mr. Merriman noted it could be a Council consideration. Mr. Gerber asked about comments from the Firefighter's Association and Chief Soptich responded that both career and paid on-call members of the Association had reviewed the proposal.

Councilmember Almberg. Mr. Almberg felt that the issue raised by the agenda bill is, where is the money coming from? That question has to have an answer. Mr. Almberg also wanted more time to look at the alternatives. We have a good Department, personnel, and equipment. There has to be a balance or revenue stream to cover expenditures. Mr. Almberg also recalled receiving the comparables chart a year or so ago but didn't think it included other elements such as square miles. Some of the communities included as a comparable have more square miles. Do they have more

than one station which would also bring more operating costs and increase the size of their budget? Do they have more on-call volunteers? We need more time to digest this.
Councilmember Severns. Mr. Severns also had questions about the comparables chart. Oak Harbor's current 36 paid on-call personnel – what would that number amount to as a full-time equivalent. Chief Soptich said he could get that information for Mr. Severns. Mr. Severns also felt that he needed more time and asked about the difference between paid on-call and volunteer personnel. Chief Soptich responded that Oak Harbor's paid on-call personnel are paid by the hour and did not know if the comparable departments were using true volunteers. Mr. Severns noted that the City of Aberdeen shows an EMS budget and Oak Harbor does not show an EMS budget. Chief Soptich responded that Oak Harbor does not act as an EMS first-responder and explained the formula used by OHFD when the Department's EMS assistance is requested.

Mayor Slowik called for a second round of questions or comments from Council Members.
Councilmember Campbell. We are going into 2010 without an idea of where the funds are coming from for this reorganization.
Councilmember Paggao. I want the reorganization to proceed, but there are questions of funding. Perhaps we could implement the reorganization with a condition that the Fire Department comes back with a recommendation of where the reorganization's funding will come from.
Mayor Slowik noted that this proposal could also be sent back to standing committees, as well.
Councilmember Gerber. I did not want Council to get hung up on the comparables chart. Regardless of the chart, what has been worked on and proposed is what is being presented tonight and is what we should consider. This has been on everyone's list. Keep in mind it is a biennial budget, and the reorganization would be a quarter of a million dollars for two years.
Councilmember Almberg. Is it sustainable? I don't have that information.
Councilmember Severns. I want to see the reorganization go forward, but I am concerned about voting to do that this evening. I would like to see it go back to standing committees or back to staff.

MOTION: Councilmember Severns moved to send the agenda bill back to staff to identify the source of funds and whatever standing committees necessary to meet that end. The motion was seconded by Councilmember Campbell.

Council Discussion
Councilmember Gerber remarked that staff has worked on the reorganization plan and staff has done their job. It will be Mayor and Council's tough work to balance the plan.

VOTE ON THE MOTION: **Councilmembers Almberg, Campbell, Paggao, and Severns voted in favor of the motion. Councilmember Gerber opposed. The motion carried.**

MOTION: **Councilmember Almberg moved to send the reorganization plan back to each committee to give all Council Members an opportunity to look at the plan including the finance side; specifically, the Finance, Public Safety, and Governmental Services standing committees with a return to Council no later than December 1, 2009. Councilmember Severns seconded the motion.**

Council Discussion

Councilmember Campbell asked if this would create a quorum. City Attorney Hite responded that the standing committees are noticed and posted as public meetings, a vote is not taken in standing committee meetings, and a quorum is not an issue at the standing committee level. Councilmember Gerber objected to the motion and felt that the reorganization plan can be considered with a second step to find the funding. Mr. Gerber felt it was Council's job, and not the standing committees, to find funding and make decisions through the budget process.

VOTE ON THE MOTION: **Councilmember Almberg voted in favor of the motion, Councilmember Gerber opposed, and Councilmembers Campbell, Paggao, and Severns abstained from the vote. The motion died.**

Mayor Slowik again asked for comments from each Council Member.

Councilmember Campbell. I do not have problem with the reorganization plan, but I don't have a clue regarding a funding source. Mr. Campbell was concerned with where the amount would come from short of taking it from another department.

Councilmember Paggao. We seem to have a consensus to move forward with the reorganization plan, but the main issue is finding the funding. Send the plan to the Finance and Public Safety standing committees; Finance for funding, Public Safety for the reorganization plan.

Councilmember Gerber. Mr. Gerber had no other comments.

Councilmember Almberg. Returning the reorganization plan to each standing committee will give each Council Member and staff an opportunity to come up with out-of-the-box thinking. Finding the funds is one issue; another issue may be the need to tweak the reorganization plan. All of these meetings occur in the same month and it would give staff an opportunity to summarize some of their conclusions. We are not all on the same standing committee.

Councilmember Severns. Mr. Severns agreed with Mr. Campbell. We have an experienced, professional Fire Chief who has spent a lot of time on this plan. The difficulty is figuring out how we are going to pay for it. I do not think it is fair to move

forward without going back to staff and standing committees. Two Council Members are not present this evening and they need to be included. The plan may need to be adjusted to find the funds.

MOTION: **Councilmember Paggao moved to bring the agenda bill back to two standing committees: Public Safety and Finance and refer back to staff with a return to Council December 1, 2009. Councilmember Almberg seconded the motion.**

Council Discussion

Councilmember Gerber asked about the budget cycle and Mr. Merriman responded that we are not in a budget cycle.

VOTE ON THE MOTION: **The motion carried unanimously.**

City Administrator's Comments

City Administrator Schmidt talked about the standing committees' schedule and noted that the September 17, 2009 Public Safety standing committee had been cancelled. He also talked about the AWC regional meeting in Mt. Vernon and the cancellation of October 20th's regular City Council meeting to accommodate Council's AWC attendance. The October 20th Council meeting would then be scheduled as a special meeting on October 21, 2009. A Council retreat has been tentatively set for February 27, 2009.

Second Quarter Financial Report

Finance Director Doug Merriman gave a PowerPoint presentation of the City's second quarter financial report which is attached to these minutes as Exhibit D.

Councilmembers' Comments

Council Members gave their respective standing committee reports. Councilmember Campbell talked about the preceding weekend's events and the popularity of Windjammer Park for special events, the fundraising golf tournament held at the Gallery Course, the always-successful Military Appreciation Picnic which fed 1,400 people, and the Interfaith Coalition which collected 2,300 pounds of food and $1,800 to feed the needy. Councilmember Almberg talked about the Tour de Whidbey which will be held on September 26, 2009 (Mr. Almberg is a participant) and is a major fundraiser for the Whidbey General Hospital Foundation.

Mayor's Comments

Mayor Slowik will be presenting his State of the City address before the Chamber of Commerce on Thursday, September 17, 2009.

City Engineer Eric Johnston gave a PowerPoint presentation on the Pioneer Way Improvement project which will also be emphasized in the Mayor's State of the City address. Mr. Johnston's presentation is attached to these minutes as Exhibit E.

Mayor Slowik also talked about the flag ceremony honoring the return of Capt. Scott Speicher (MIA) on September 18th followed by a PBY fly-in celebrating NASWI's 67th birthday. Mayor Slowik also mentioned the luncheon with Capt. Greg Johnson (formerly attached to NASWI and now with NASA). Capt. Johnson piloted the space shuttle Atlantis on the final shuttle mission to the Hubble space telescope. The luncheon is September 21st at the Elk's Club with an RSVP to the Chamber of Commerce.

Councilmember Gerber noted that the City is 6.84 percent ahead of projections for the general fund. If that percentage holds, could that mean $700,000 to $800,000 more for the general fund this year and help address the OHFD reorganization plan's funding? Mr. Merriman clarified that the Fire Department would actually be $21,000 over budget. The City's third quarter report will be available in October.

ADJOURN

With no other business coming before the Council, **Councilmember Gerber moved to adjourn; the motion was seconded by Councilmember Almberg and carried unanimously.** The meeting adjourned at 9:30 p.m.

_____

Connie T. Wheeler
City Clerk

Exhibit A

This year our United Way Campaign runs September 17 through November 15. Our Kick Off Event is on September-17th called " S'mores for United Way" and we invite you to attend and participate.

Our theme this year is: LIVE UNITED. GIVE. ADVOCATE. VOLUNTEER.

The United Way Campaign is the fundraising arm of United Way of Island County, an organization operated by a volunteer group of local citizens.

The object of the United Way campaign is to eliminate the effort and cost of many separate campaigns. It does this by conducting a single, annual campaign for the financial needs of the health, social services, youth and rehabilitation agencies that apply for funding from United Way of Island County.

United Way assures the contributor that maximum value is received for each contributed dollar and that member agencies maintain a high degree of efficiency and quality of service through our Community Investment Team granting process that looks at financial need and logic model outcomes.

This Fall we are doing a Community Needs Assessment, setting our priorities around the building blocks of a good life: Education (Helping Children and Youth Achieve Their Potential) Income (Promoting Financial Stability and Independence) and Health (Improving People's Health)

The advantage of a United Way campaign is that it:

- ***Meets the most serious community needs first;***
- ***Encourages high standards of agency service;***
- ***Frees agency personnel to devote their time to helping people, with minimal time out for fund raising;***
- ***Is the most economical, efficient approach to community fundraising yet devised;***
- ***Allocates funds for services according to need, not popularity;***
- ***Conserves the energy of volunteers; and***
- ***Assures contributors that their contributions will be used effectively and they are doing what their contributor intended them to do.***

We cordially invite you to attend and be one of our celebrity "Chefs" at our Kick Off Event "S'mores for United Way" September 17, 2:00 pm-6:00 pm in the East Field of Whidbey Island Bank on Hwy. 20, Oak Harbor. Please join us.

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Exhibit B

LIBRARY LEVY

Nov. 3

LIBRARY LEVY ELECTION

November 3

Residents of Sno-Isle Libraries district will be asked to consider a measure on the November 3 ballot that would increase the levy that funds the daily operations of libraries throughout Snohomish and Island Counties. The levy increase, combined with additional budget cuts, would provide funding to maintain current library services for five years.

2010 Budget Reductions

Sno-Isle Libraries is making the following additional budget cuts for 2010 – regardless of the outcome of the levy election:

- Reduce by 3% the salary of the six highest paid employees, plus the remainder of the senior administrators, for 2010,
- Freeze salaries for remaining staff for 2010,
- Delay replacing the library computer system until 2011,
- Reduce materials and equipment budgets, and
- Eliminate a number of vacant positions.

Impact of Library Levy

- If the levy passes:
  - Current library services maintained, such as job-search assistance, programs for children and teens, and best-selling materials and other resources,
  - Library funding stabilized through 2014,
  - 2010 planned budget reductions implemented.
- If the levy fails:
  - Library spending reduced by $2.5 million in 2010, and
  - Fewer open hours, and fewer books and computers purchased.

SNO-ISLE LIBRARIES

Additional facts on back

LIBRARY LEVY

Nov. 3

Cost

- Sno-Isle Libraries Proposition 1 requests an increase to the library district's levy rate of 9 cents per $1,000 of assessed property value, raising the levy rate from 31¢ to 40¢/$1,000 of assessed value
- Cost to homeowners:
  - $200,000 home — approximately $18 more a year
  - $300,000 home — approximately $27 more a year

Quick Library Levy Facts

- Election: November 3, 2009
- Simple majority required to pass
- Proposed levy increase of 9¢/$1,000, resulting in increase of approximately $27 a year to owner of $300,000 home
- If approved, effective on January 1, 2010
- Registered voters in the Sno-Isle Libraries district

For More Information

- www.sno-isle.org
- Email: levyelection2009@sno-isle.org
- Call 1-877-766-4753

SNO-ISLE LIBRARIES

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7312 - 35th Avenue NE
Marysville, WA 98271-7417
(360) 651-7000 (877) SNO-ISLE FAX (360) 651-7151

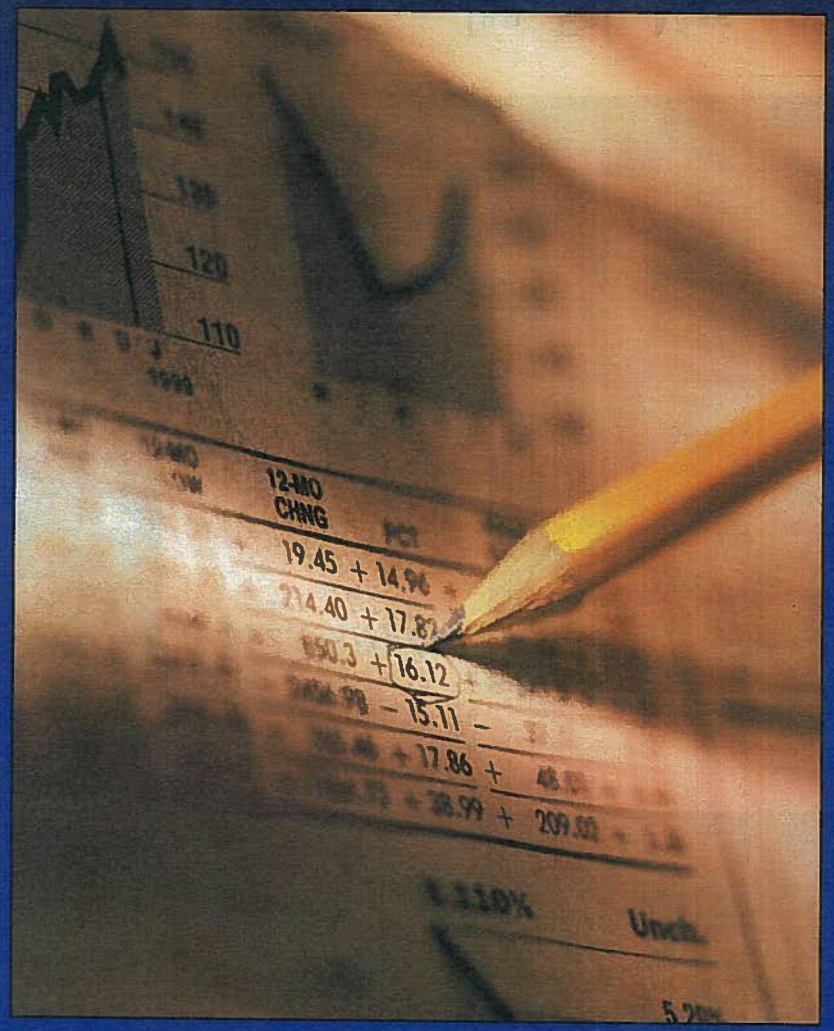
CITY FIRE DEPARTMENT	COUNTY	SERVICE AREA POPULATION	SQ. MILES	VALUATION FOR TAXES	STAFFING FULL	STAFFING PART	STAFFING OTHER	2008 CALLS FOR SERVICE	2009 FIRE DEPT BUDGET
ABERDEEN Population and Square Miles - City only. AFD also covers parts of the county.	Grays Harbor	16,641	10.8	$824,973,122	37	0	0	405 4,201	$1,603,178 FIRE $2,703,815 EMS
ANACORTES	Skagit	16,640	14.0	$2,983,402,408	24	0	5 Volunteers	421	$3,055,188
ARLINGTON	Snohomish	18,000	13.8	$2,239,293,774	27	25	0	2,869	$4,501,539
CENTRALIA RIVERSIDE FIRE AUTHORITY Fire protection services provided by Riverside Fire Authority.	Lewis	~~15,540~~ 26,000	~~9.0~~ 186.0	~~$1,025,481,485~~ $2,274,040,895	30	1	50 Volunteers	3,385	$4,004,545
DES MOINES Annexed into South King Fire & Rescue	King	29,180 150,000	7.0 41.0	$3,239,586,031 $14,565,211,982	161	1	0	16,152	$20,921,920
MOUNT VERNON	Skagit	30,150	12.0	$2,749,420,127	19	0	22 Volunteers	3,498	$4,949,738
PORT ANGELES	Clallam	19,170	13.9	$1,992,154,225	23	0	21 Volunteers	3,635	$2,500,000
TUMWATER Provides service to Thurston County Fire District 15 (Munn Lake)	Thurston	16,710	14.5	$2,051,638,822	34	0	11 Volunteers	2,430	$3,983,802
OAK HARBOR	Island	22,980	9.4	$1,953,613,398	12	1	36 Paid on Call	1,183	$2,057,713

PM 09.15.2009

Exhibit C

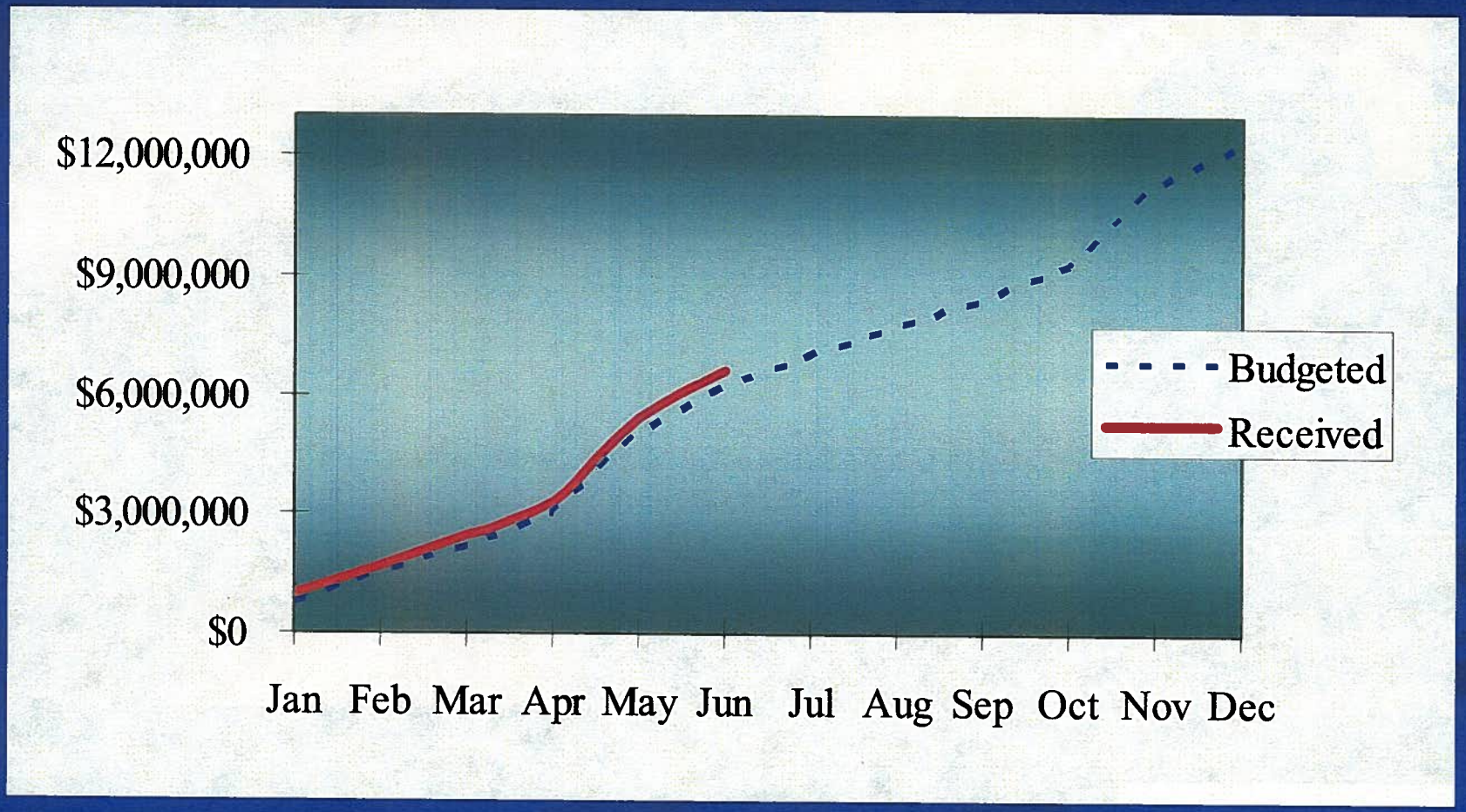
Exhibit D

City of Oak Harbor
2nd Quarter Financial Results
September 15, 2009



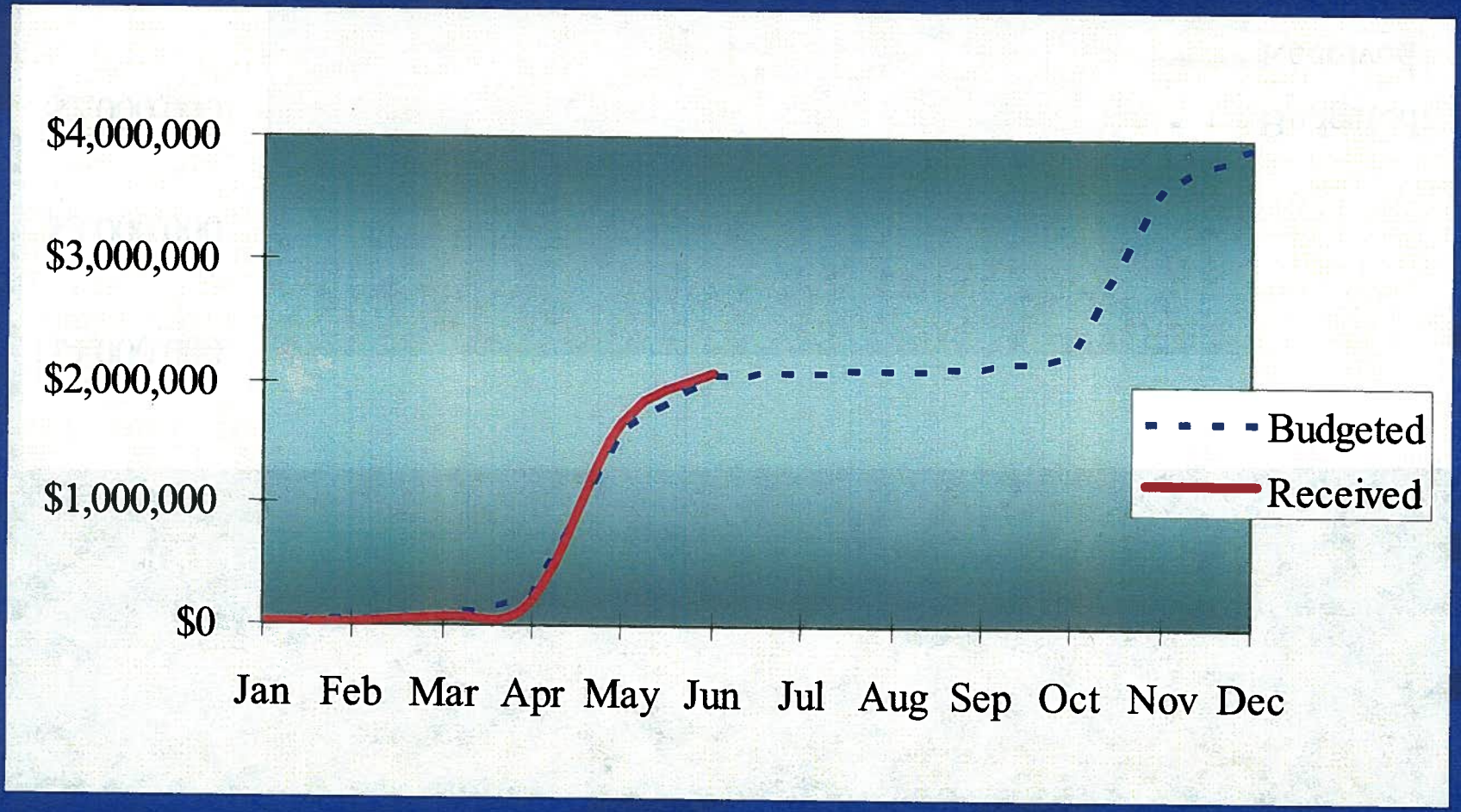
Total General Fund Revenues

- Actual revenue receipts are 6.84% ahead of budgeted projections.



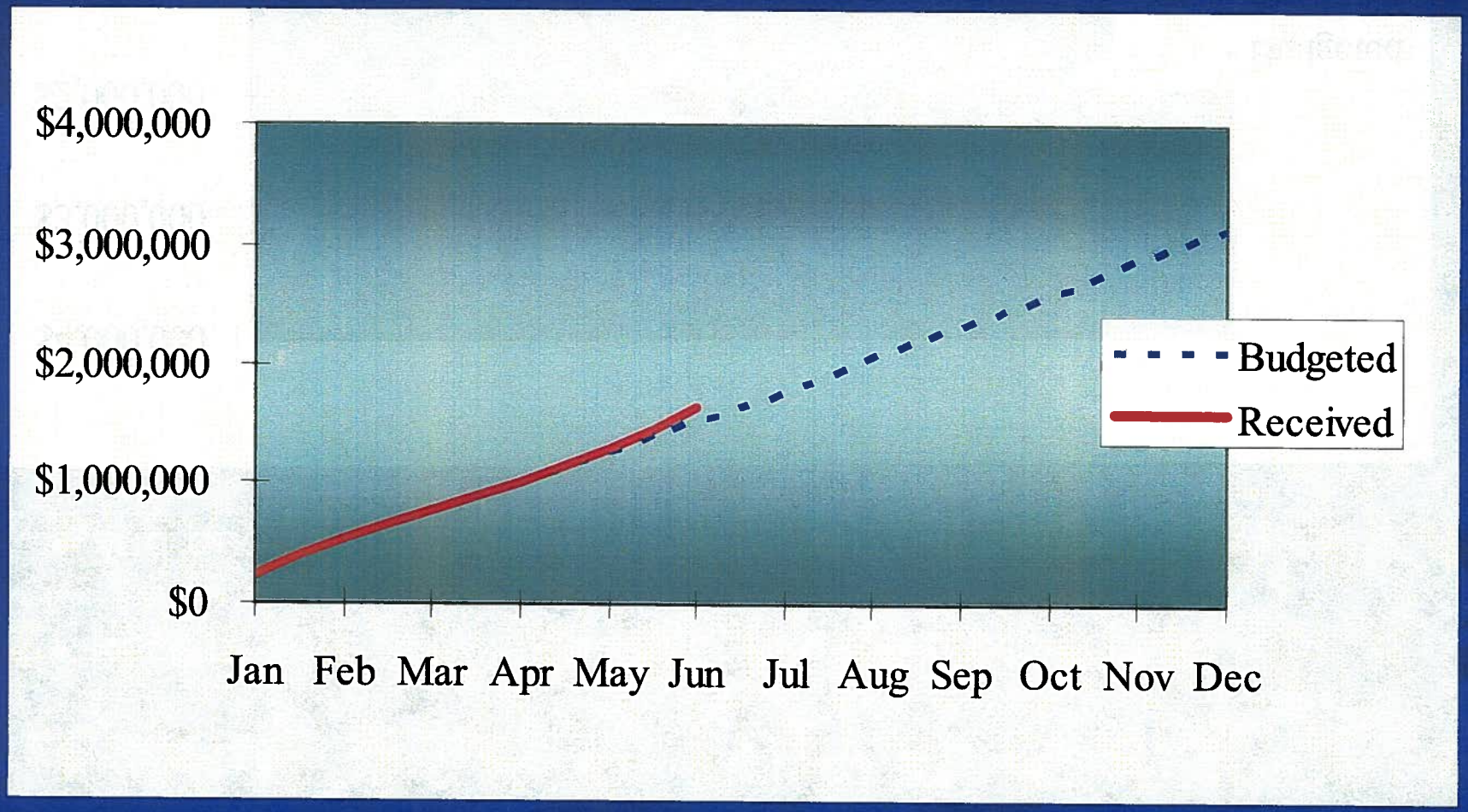
Property Tax Revenues

- Receipts are 0.17% ahead of budgeted projections.
- 2nd quarter receipts include 1st half payments.



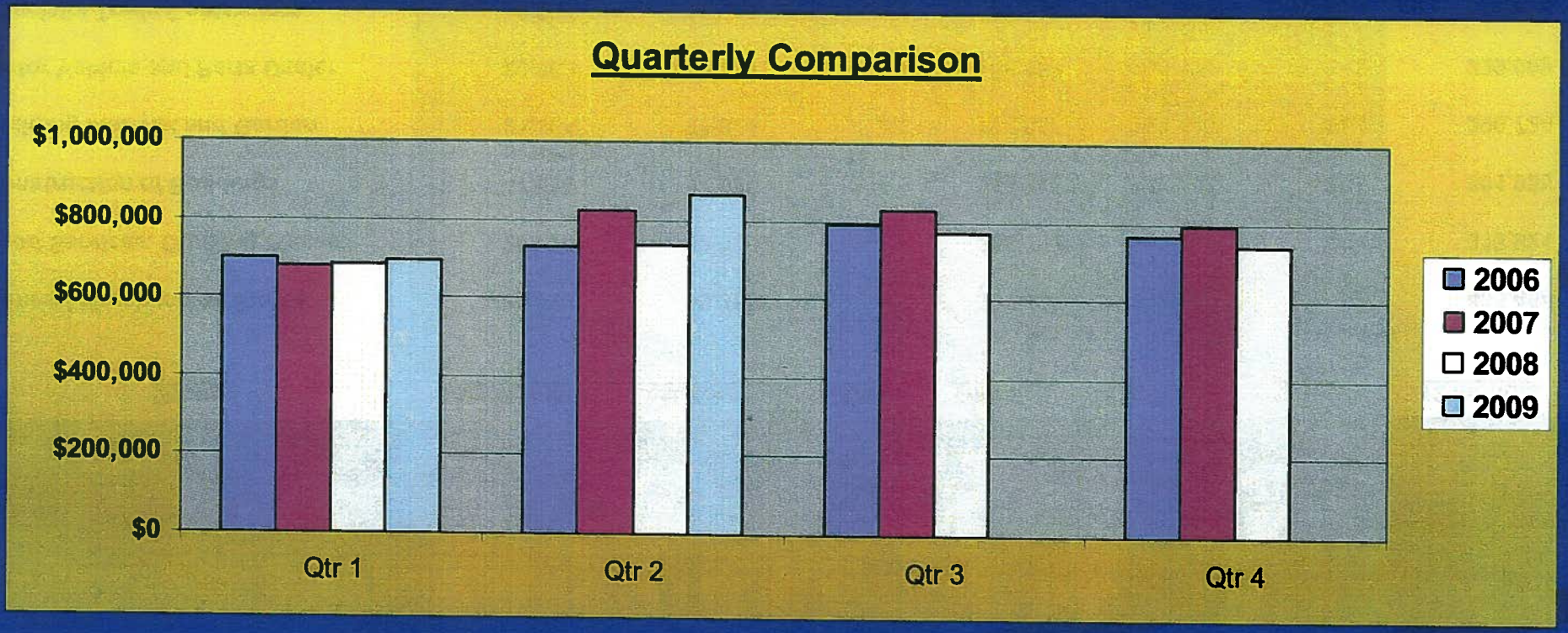
Sales Tax Revenues

- Receipts are 7.75% ahead of budgeted projections.
- 2009 Budget was set at 7% below 2007 receipts.



Sales Tax Revenues

- Receipts are 7.75% ahead of budgeted projections.
- 2009 Budget was set at 7% below 2007 receipts.

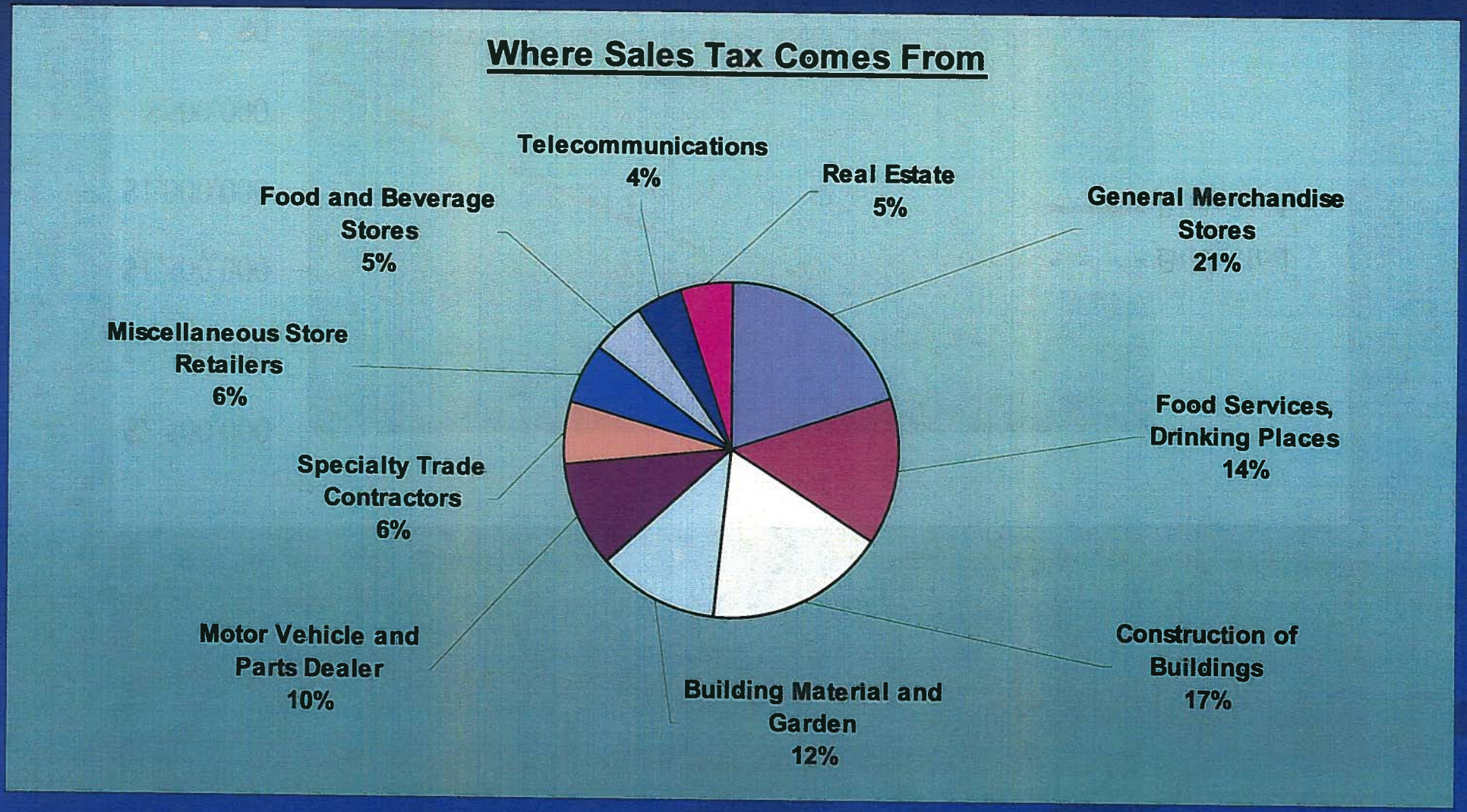


Sales Tax Revenues

- Top 10 Standard Industry Sectors

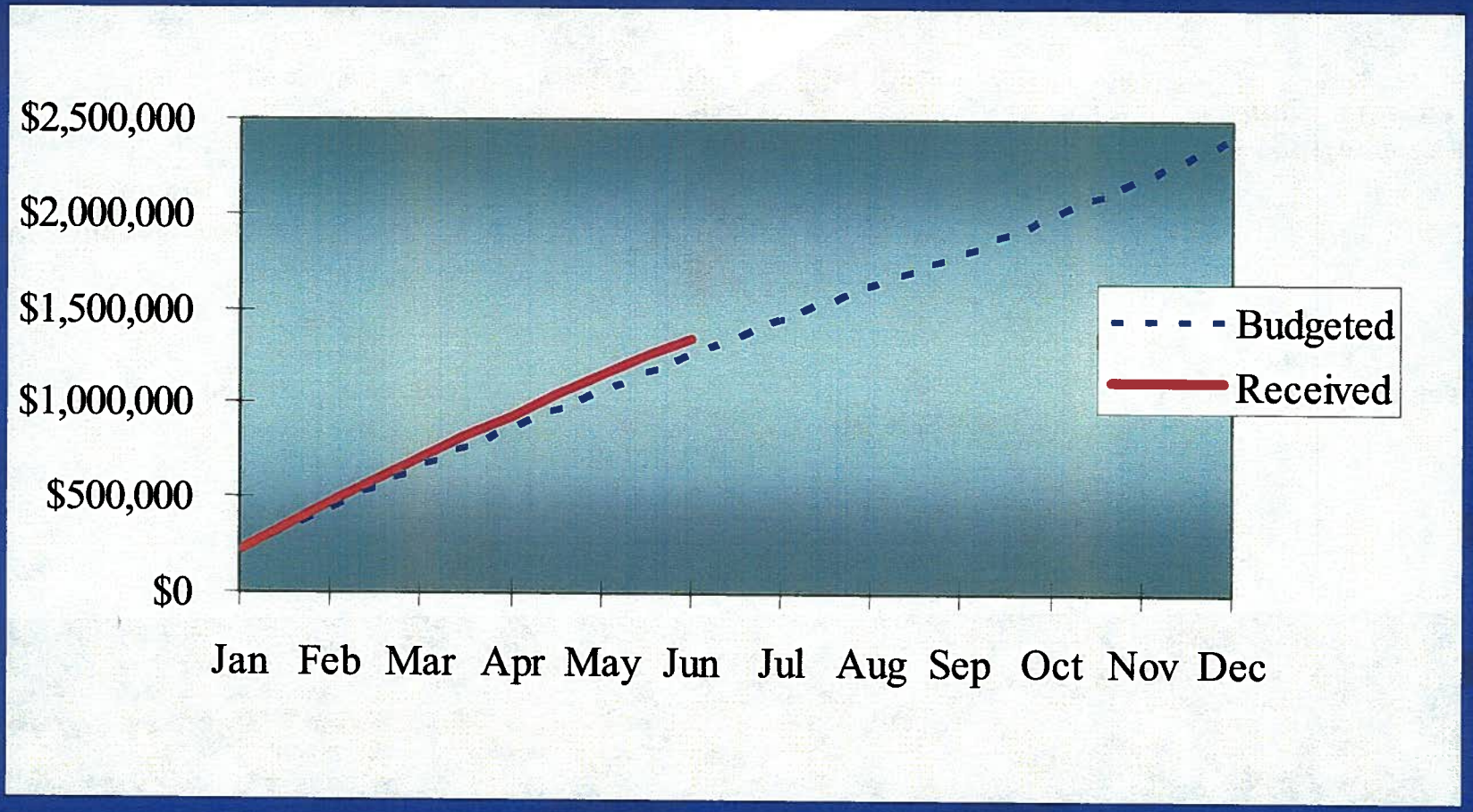
Group	This Month	Last Year	% Chg	This Year	Last Year	% Chg	12 months
General Merchandise Stores	36,091	39,365	-8.3	292,933	302,864	-3.3	435,454
Food Services, Drinking Places	29,670	32,935	-9.9	208,282	210,514	-1.1	318,921
Construction of Buildings	47,039	14,009	235.8	254,313	87,249	191.5	301,955
Building Material and Garden	21,364	20,814	2.6	172,057	153,440	12.1	290,724
Motor Vehicle and Parts Dealer	20,962	24,720	-15.2	145,152	198,814	-27.0	229,009
Specialty Trade Contractors	10,993	17,735	-38.0	91,721	109,605	-16.3	152,999
Miscellaneous Store Retailers	10,649	11,613	-8.3	82,599	82,831	-0.3	122,191
Food and Beverage Stores	9,098	9,557	-4.8	79,112	77,831	1.6	120,626
Telecommunications	8,403	9,424	-10.8	64,122	65,134	-1.6	96,098
Real Estate	173,550	1,257	9999.9	74,075	5,512	1243.9	76,236

Sales Tax Revenues



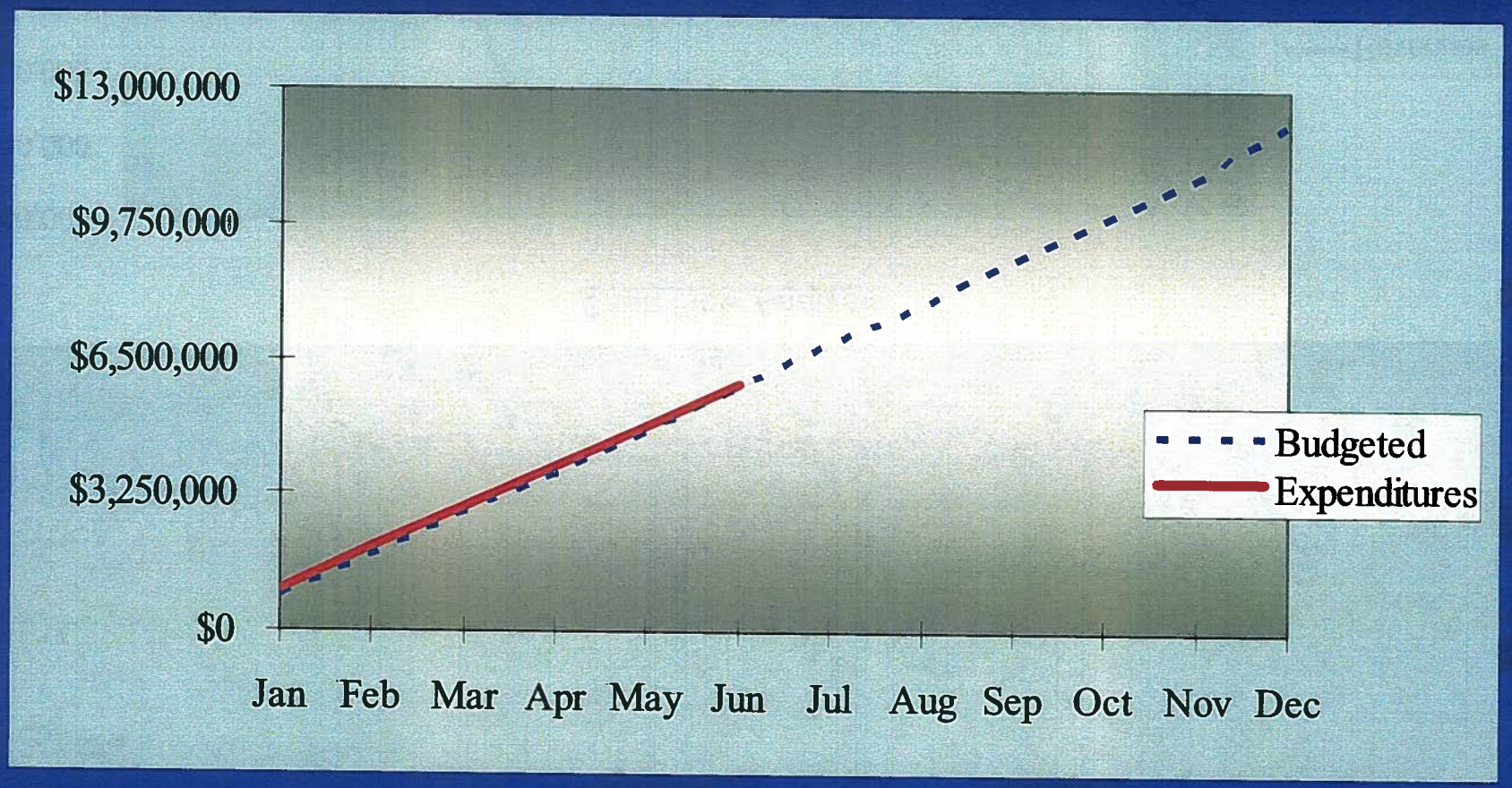
Business and Utility Taxes

- Receipts are running 7.71% ahead of budgeted projections.
- Utility taxes on wireless, phone, and other utilities.



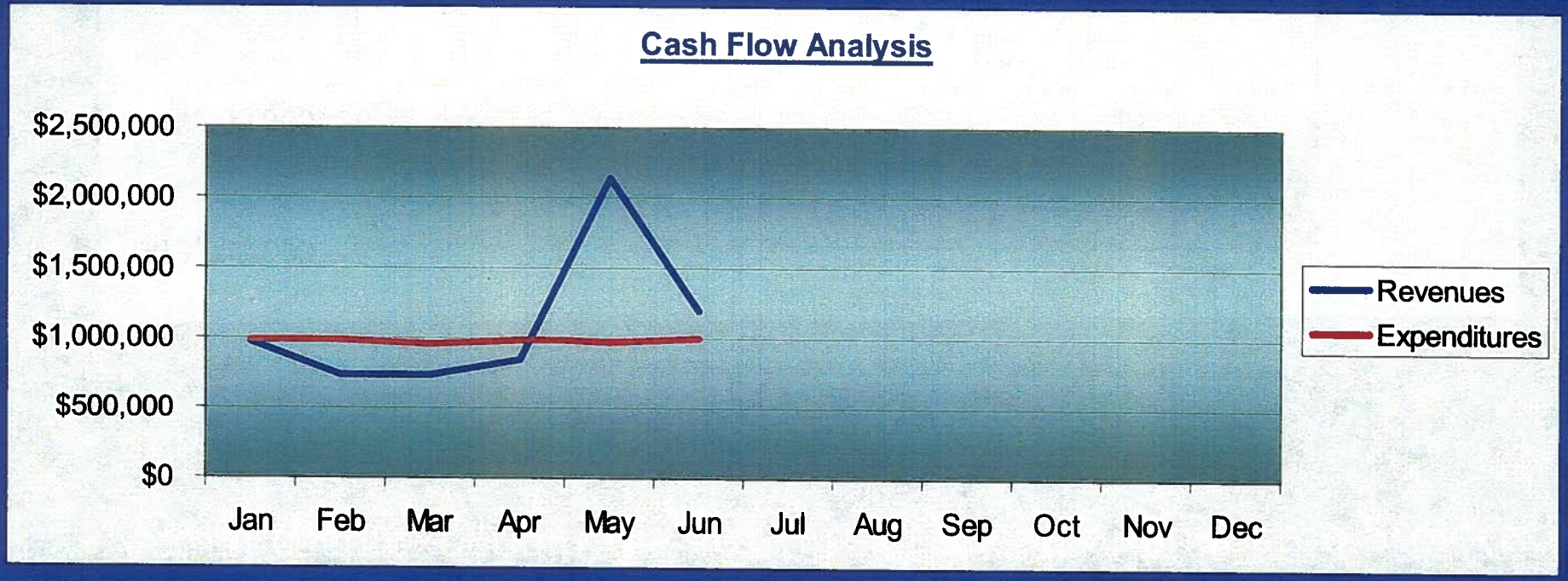
Total General Fund Expenditures:

- Actual cash expenditures are 1.14% ahead of budgeted projections.
- Primarily due to court and prosecution costs.



Cash Flow:

- Cash inflows typically exceed cash outflows during the first quarter.
- Trend will now reverse as the second payment of property tax will occur in November.

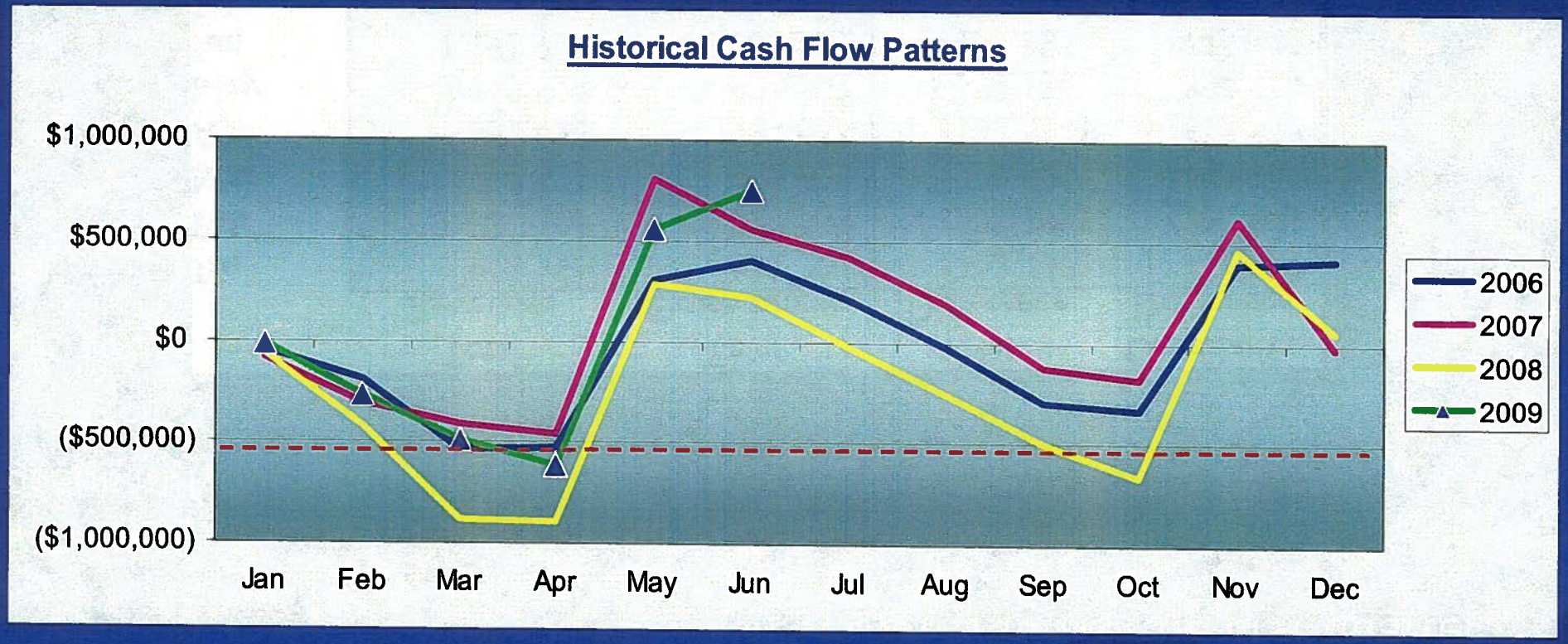


Cash Flow:

- Cash inflows typically exceed cash outflows during the first quarter.
- Trend will now reverse as the second payment of property tax will occur in November.

	Total Revenues	Total Expenditures	Net Difference	Cumulative Difference
Jan	968,950	981,706	(12,757)	(12,757)
Feb	737,346	987,538	(250,192)	(262,949)
Mar	734,629	955,628	(220,999)	(483,948)
Apr	852,428	984,053	(131,624)	(615,572)
May	2,145,629	975,502	1,170,126	554,554
Jun	1,191,920	1,000,535	191,385	745,940
Jul				
Aug				
Sep				
Oct				
Nov				
Dec				
Total	6,630,901	5,884,962	745,940	745,940

Historical Cash Flow:



Other items:

- All utility funds are within budget and on track for revenues.

- CAPRON funds and motor vehicle fuel tax are 47.4% of budget.
  - Primary funding for Streets and Arterials Funds.

- **Impact Fees:**
  - Transportation Impact Fees: 17.5%
    Will need to monitor impact on transportation projects.
  - Park Impact Fees: 30%

- REET Funds (real estate excise tax) 36%
  Similar to impact fee activity.

Questions or comments

Exhibit E

Pioneer Way Improvement Project

City Beach St to Midway Blvd

CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

September 2009

30

Project History

- Harbor Watch Plan early 1980's
  - Beautification focus
- Downtown Circulation Study 1998-2001
  - Pedestrians focus
- Downtown Public Realm Plan 2004
  - Achievable projects focus
- Windjammer Study 2005
  - Focus on Improvements for a stronger community place and to increase tourism
- Emergency waterline replacement 2008
  - Delayed 8 years pending decision on street configuration
- Engineering Design Consultant hired January 2009

Project Update

- Tasks completed since January 2009
  - Geotechnical work
  - Cultural Resources survey
  - Utility survey
  - Topographic survey
  - Right of Way delineation
  - Right of Way Acquisition need
  - Coordination with overhead utility companies
  - Concept design and estimates
  - Presentation of recommendations on alternatives

Alternatives

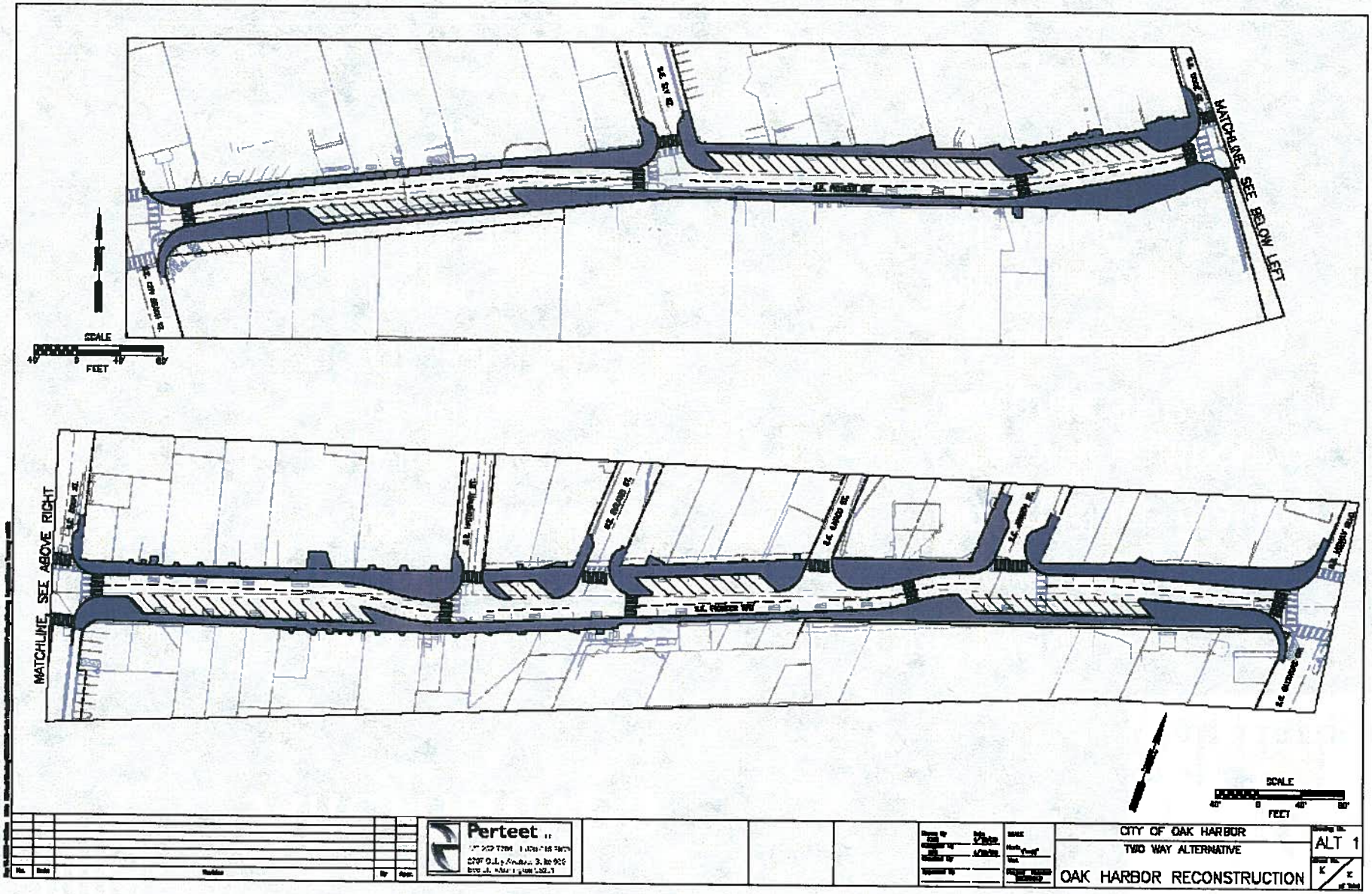
- Alternative 1
  - Two way street
  - Based on Downtown Circulation study
  - Angle parking alternating sides
- Alternative 2
  - One way street, Eastbound
  - Angle parking on one side.

Alternatives

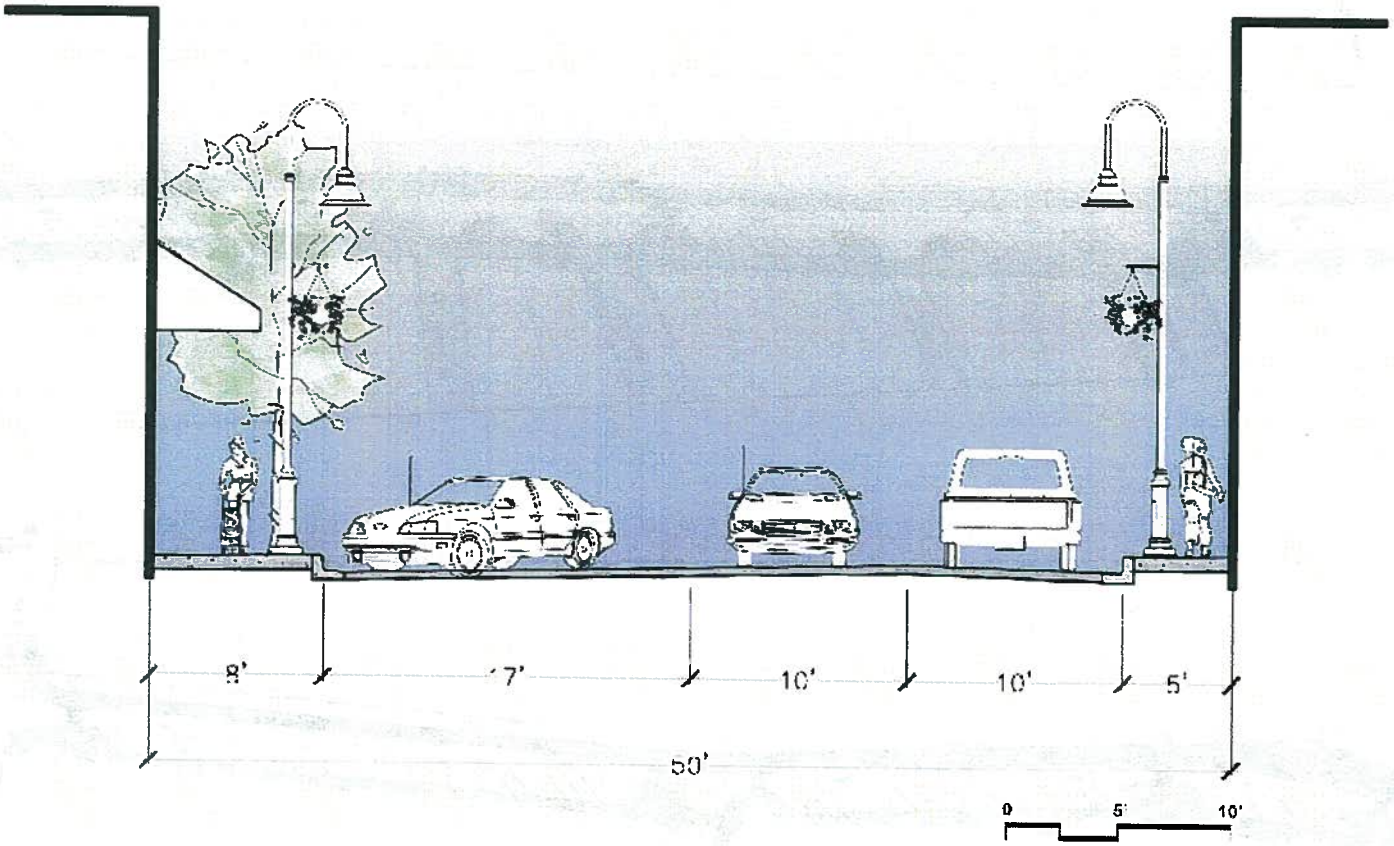
- Two Way
  - 6 to 10 month construction window
  - $5.5 million (excluding overhead utility conversion)
  - No degradation in traffic capacity
- One Way
  - 6 to 10 month construction window
  - $5.5 million (excluding overhead utility conversion)
  - No degradation in traffic capacity

Alternatives

- Two Way
  - Focus on vehicles
  - Moving cars
  - Alternate side angle parking
  - No net change in parking
  - 5-ft sidewalks
- One Way
  - Focus on pedestrian
  - Urban Place making
  - One way eastbound (towards SPB)
  - Increase in parking
  - Minimum 8-ft sidewalks


MATCHLINE SEE BELOW LEFT
SCALE
FEET
MATCHLINE SEE ABOVE RIGHT
SCALE
FEET
Perteet
CITY OF OAK HARBOR
TWO WAY ALTERNATIVE
OAK HARBOR RECONSTRUCTION
ALT 1

TWO-WAY ALTERNATIVE



City of Oak Harbor

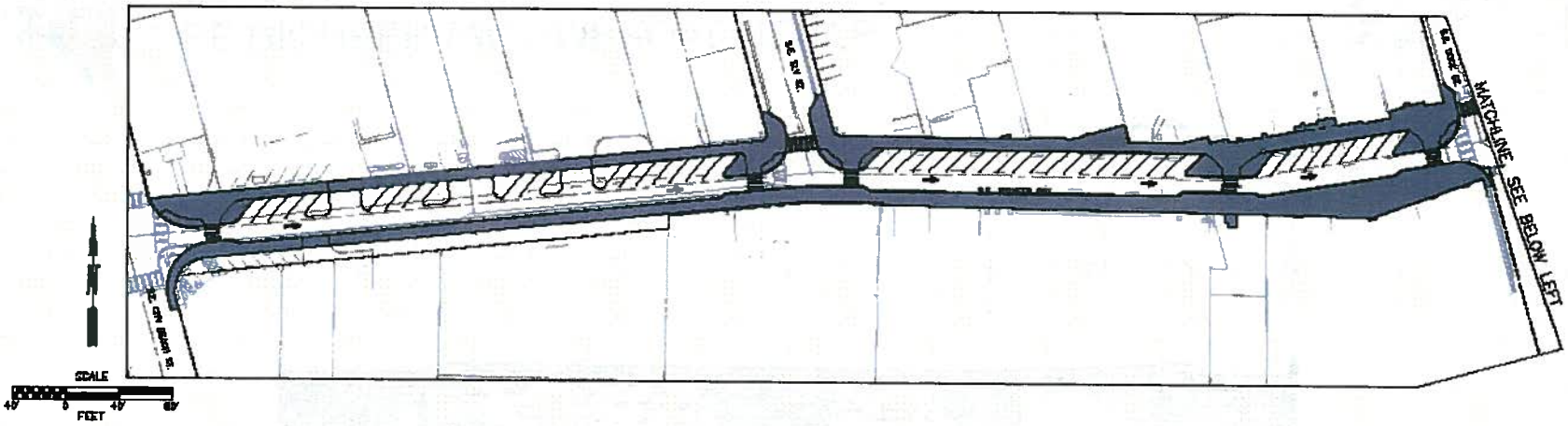
SE PIONEER WAY IMPROVEMENTS

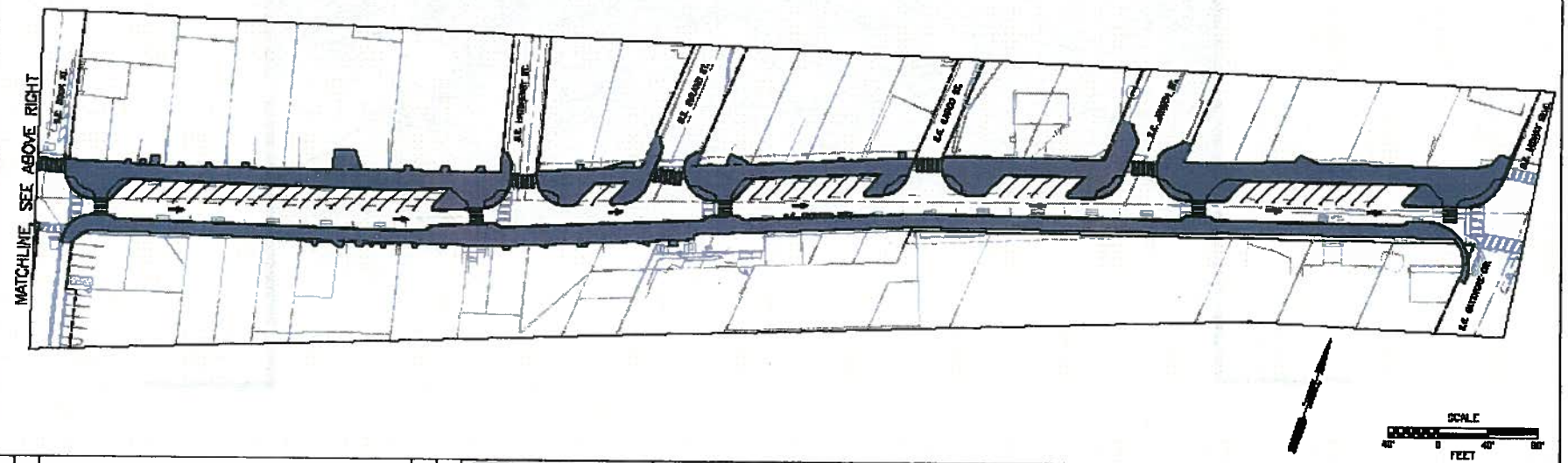
September 2009

Perteet Inc

HBB

38





Perteet

CITY OF OAK HARBOR

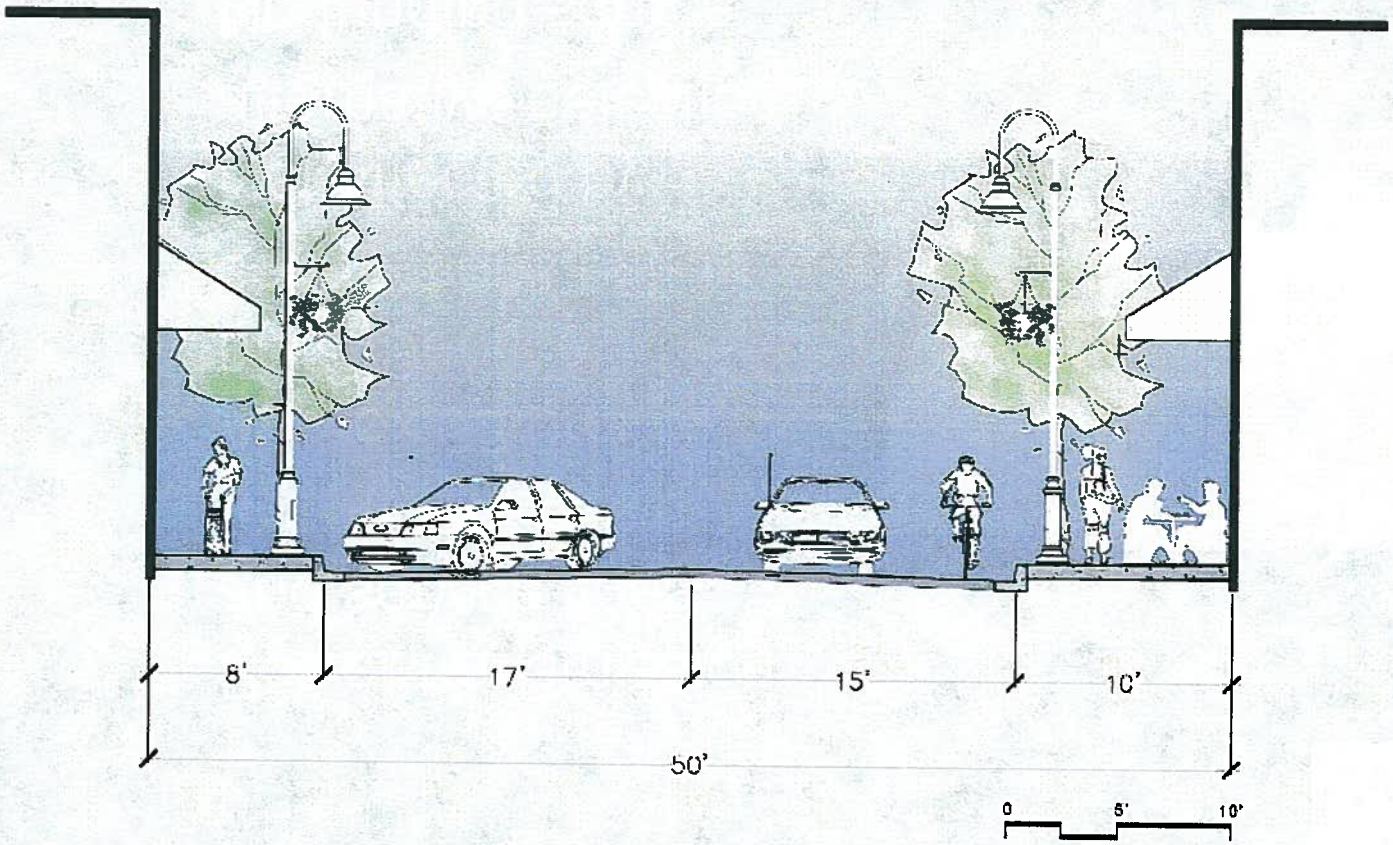
ONE WAY (PREFERRED) ALTERNATIVE

OAK HARBOR RECONSTRUCTION

ALT 2

39

ONE-WAY (PREFERRED) ALTERNATIVE



City of Oak Harbor
WHIDBEY ISLAND, WASHINGTON

SE PIONEER WAY IMPROVEMENTS

September 2009

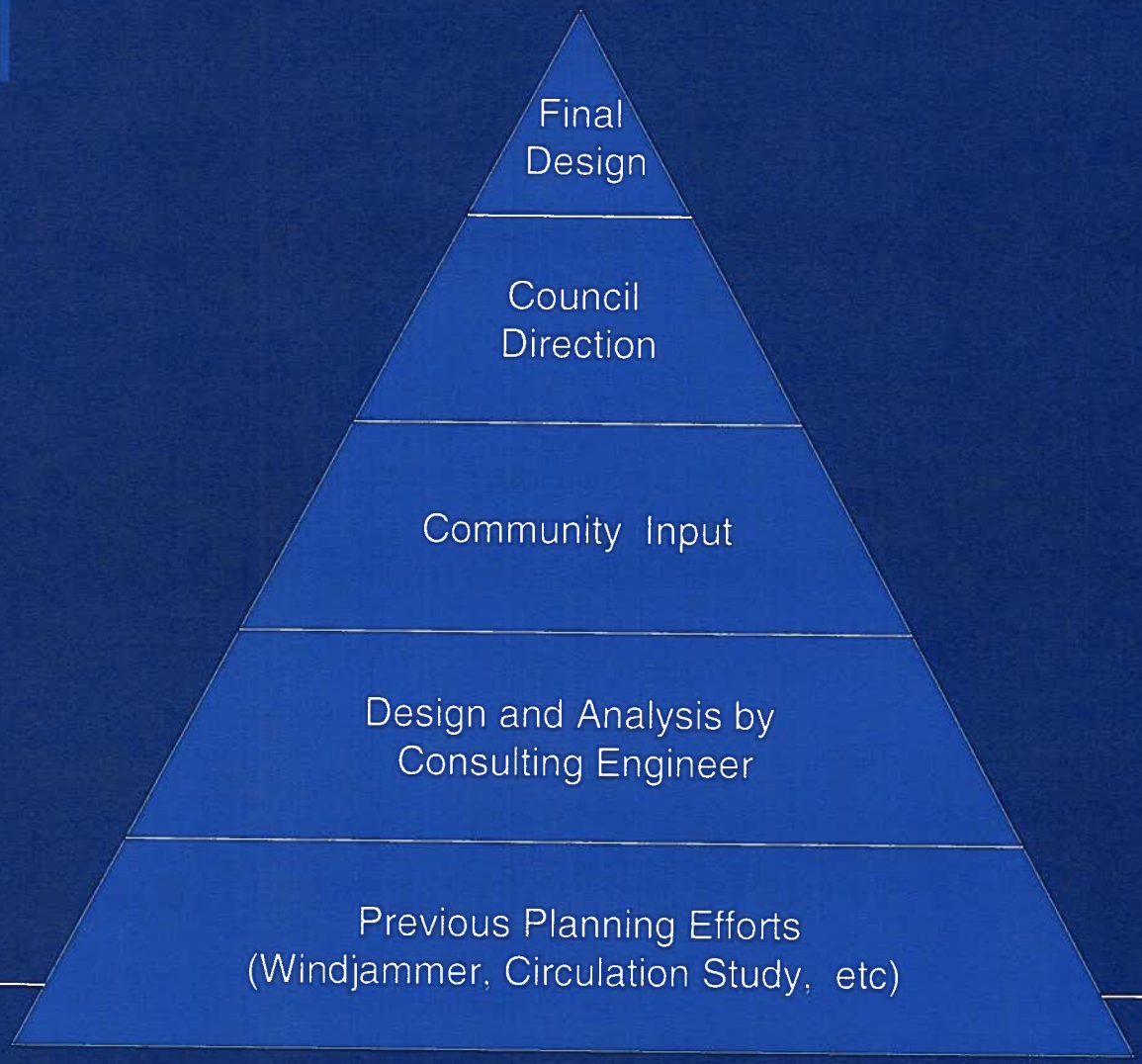
Perteet Inc

HBB

Overhead Utilities???

- Power transmission and service lines, telephone, cable
- Approx $2.0mil to bury, Service connections extra
- Not affected by alternative selection
- No funding source identified yet

Decision Process



CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

Community Forums

- City Council Committee Workshops
  - 9/14 General Government
  - 10/1 Public Works
- City Council meeting
  - 9/15 City Hall
- State of the City address
  - 9/17 Chamber of commerce
- Various Community Groups
  - Noon Rotary, Kiwanis, Lions Club, Harbor Side Merchants, Soroptomists, Navy League
- Community Open House
  - 10/22 7:00 pm City Hall
- City Council Meeting
  - November @ City Hall

Next Steps

- Selection of preferred alternative
- Proceed with necessary Right of Way Acquisition
- Decision process on overhead utilities

Questions

- Contacts
  - Eric Johnston, PE City Engineer
    - 279-4522, ejohnston@oakharbor.org
  - Russ Pabarcus, PE Project Engineer
    - 279-4520, rpabarcus@oakharbor.org

City of Oak Harbor
City Council Agenda Bill

Bill No. 1
Date: October 6, 2009
Subject: Employee Recognition

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

To recognize a City employee for 20 years of service.

AUTHORITY

It is the practice of the City to recognize dedicated employees who have completed 10 years or more of service.

SUMMARY STATEMENT

The Mayor and City Council will recognize the following employee for his years of service with the City:

- Battalion Chief Ray Merrill / Oak Harbor Fire Department – 20 years

STANDING COMMITTEE REPORT

None

RECOMMENDED ACTION

Congratulate Battalion Chief Merrill for completing 20 years of service.

ATTACHMENTS

None

MAYOR'S COMMENTS

None

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR

PROCLAMATION IN RECOGNITION OF

NEW LEAF MONTH

IN CELEBRATION OF THEIR 40TH ANNIVERSARY

AND

NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH

WHEREAS, In 1969, a group of parents of adults with developmental disabilities formed New Leaf, Inc. in order to provide their adult children employment opportunities; and

WHEREAS, throughout its history, New Leaf has remained true to its mission...to promote independence and quality of life through employment; and

WHEREAS, New Leaf has the distinction of being awarded the first service contract under the 1971 Javits-Wagner-O'Day Act, now known as AbilityOne, and as a result created a blueprint for ensuing service contracts under this program; and

WHEREAS, New Leaf has grown to nearly 150 employees, of which at least 75% of whom are certified as having physical, mental, psychiatric and/or sensory disabilities; who vote, pay taxes and contribute over $3,000,000 in payroll to our community; and

WHEREAS, New Leaf staff support our local, regional, national and global communities by donating their expertise, time and energy; by serving on boards and committees; through scholarships and financial and in-kind contributions; and by ongoing vocational and independent living support and advocacy for people with disabilities.

NOW, THEREFORE, WE, Jim Slowik, Mayor, and Councilmembers of the City of Oak Harbor do hereby proclaim **October 2009** as **New Leaf Month** in celebration of their 40th anniversary and **National Disability Employment Awareness Month** in the City of Oak Harbor.

Signed this 6th day of October, 2009

Jim Slowik, Mayor

City of Oak Harbor
City Council Agenda Bill

Bill No. 3

Date: OCTOBER 6, 2009

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. CA 4A
Date: October 6, 2009
Subject: Excused Absence Request
Mayor Pro Tem 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 Mayor Pro Tem Danny Paggao's excused absence request for October 21 and November 4, 2009.

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

Mayor Pro Tem Danny Paggao has submitted an excused absence request since he will not be able to attend the October 21, 2009 or the November 4, 2009 City Council meetings.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Approve Mayor Pro Tem Danny Paggao's excused absence from the October 21, 2009 and November 4, 2009 City Council meetings.

ATTACHMENTS

None

MAYOR'S COMMENTS

City of Oak Harbor
City Council Agenda Bill

Bill No. d/A 4B
Date: October 6, 2009
Subject: Animal Control Truck Replacement

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

The purpose of this agenda bill is to authorize the purchase of a half ton pickup and the purchase and installation of a four compartment aluminum body for animal control.

AUTHORITY

Oak Harbor Municipal Code Section 2.320.050 - Small purchases of materials, supplies and equipment.

Any purchase not exceeding $30,000 shall be considered a "small purchase" and may be made in accordance with small purchase procedures to be adopted by the mayor. The requirements of OHMC 2.320.040 shall not apply to such purchases. Insofar as it is practical, three businesses shall be solicited to submit quotations. The purchasing coordinator shall keep a record of all small purchases and quotations submitted in competition thereon and such records shall be open for public inspection during regular office hours. The purchasing coordinator, with the department director's concurrence, shall award to such vendor to have submitted the lowest responsible quotation, in accordance with the provisions of this chapter; provided, that the mayor may authorize any or all purchases through designated purchasing coordinator. (Ord. 1470 § 3, 2006).

SUMMARY STATEMENT

In May of 2005 the Police Department purchased from the Water Division a 1997 S-10 pickup to be used by the animal control officer. In order to utilize this S-10 pickup for animal control a canopy was purchased and the animal control officer transports various animals in portable cages.

The S-10 pickup has 118,000 miles and is experiencing multiple issues including, but not limited to, a failing transmission and continual body wear and tear. The animal control vehicle is continually on the road and used daily.

Many organizations have purchased custom vehicles similar to what staff is requesting for their field personnel because of the low floors that are easier on the backs of the animal control officers, who may strain themselves when lifting heavy animals into other truck units.

Over the past four years funds have been set aside in anticipation of replacing the current animal control vehicle.

Staff researched multiple options and found that there are several sizes of bodies that had various numbers of compartments which fit onto many different sizes of pickups. Staff explored the available options and determined that the City's needs could be met by utilizing the 4 compartment body (the smallest size available). Once that determination was made, the size of the pickup was determined utilizing the specifications of the body.

The four compartment body was designed to fit on a Ford Ranger or equivalent sized pickup equipped with single rear wheels with the bed removed. The four compartment body can be removed and mounted onto new pickups as they are replaced each life cycle.

Staff researched the current pickups that are available on the State Contract and found a half ton pickup with a short bed would meet the requirements. In addition, staff contacted the local dealerships with a request for quotes for a used and/or new pick up of any make and model that would fit the criteria. No response was received by the deadline of August 27, 2009.

The purchase of the pickup and the purchase of the body do not have to go to formal bid since the amounts fall under the City's bid threshold of $30,000.00. However staff is required to solicit at least three bids. The quotes we received are summarized below.

4 Compartment Body Quotes

Vendor	Total Price
	includes shipping and installation
TriVan Truck Body, LLC	$ 16,097.40
SWAB Wagon Company Inc	$ 17,423.70
Mavron, Inc.	$ 17,550.00

½ Ton Pickup Quotes

Vendor	Total Price
State Contract #04908	$ 20,601.30
Cascade Ford	$ 21,945.00
Skagit Ford Subaru	$ 25,789.00

STANDING COMMITTEE REPORT

The Public Safety Committee reviewed this item at their meeting on August 20, 2009.

The Public Works Standing Committee reviewed this item at their meeting on September 3, 2009.

The Finance Committee reviewed this item at their meeting on September 9, 2009.

RECOMMENDED ACTION

Approve two small purchases: (1) the purchase of a ½ ton pickup from State Contract #04908 in the amount of $20,601.30; and (2) the purchase and installation of one 4 compartment animal control body from TriVan Truck Body, LLC in the amount of $16,097.40.

ATTACHMENTS

Truck Quote
Body Quote

MAYOR'S COMMENTS

TO ORDER COMPLETE PRICE SHEETS AND SUBMIT WITH STATE FORM A-15A PURCHASE REQUISITION TO OFFICE OF STATE PROCUREMENT BEFORE MARCH 31, 2009. ONLINE ORDERS MAY BE PLACED AT https://fortress.wa.gov/ga/inet/vehreq/vehmenu.htm. TO MINIMIZE PRODUCTION DELAYS ORDER AS EARLY AS POSSIBLE.

TRUCK
1/2 TON PICKUP

VEHICLE TYPE: EXTENDED CAB, SHORT BED 1/2 TON PICKUP (4X2)

MAKE/MODEL: **FORD F150**

EQUIPMENT INCLUDED IN NET PRICE

- Four Door Cab Access
- Air Bags, driver and front passenger, front and side impact
- 6700# GVWR
- 4.6 liter, 8 cylinder 2V Gas Engine(248 HP)
- 4 Speed Automatic overdrive transmission
- 6 ½ foot box, wide body
- P235/70R17 all season steel belted radial tires(1)
- Matching spare tire & wheel, carrier, jack & lug wrench
- HD power disc brakes, 4 wheel anti lock braking system
- Air Conditioning
- Power steering
- Power windows(85A)
- Power door locks(85A)
- Intermittent wipers
- AM/FM stereo radio w/clock
- Headliner, door trim panels, vinyl floor covering
- Vinyl 40/20/40 split bench seat w/head rests, folding backrest
- Rear 60/40 Flip-up bench Seat
- Set of Four Keys
- Remote keyless entry with 2 fobs(85A)
- HD rear step bumper
- 650 CCA Battery, Trailer Towing Pkg(535)
- Dome, Map Lights
- 135 AMP alternator
- Auxiliary power source
- Power mirrors(85A)
- Oil pressure, temp, voltmeter gauges
- Maximum fuel capacity (26 gal)
- Light tinted glass all around
- All factory standard equipment including:
  - Tachometer
  - Tilt Steering Wheel
  - Electronic stability control
  - Tire Pressure Monitoring System
  - 3.55:1 rear axle ratio as equipped
  - 3 yr/36,000 mile warranty, 5 yr/60,000 Mile Drivetrain

NHTSA CRASH TEST RATING

FRONTAL (D/P)	5
SIDE (F/R)	5
ROLLOVER	4

CA EMISSION CERTIFICATION ULEV 2 GAS MILEAGE 14 CITY 19 HWY

MERCURY FREE VEHICLE LEAD WHEEL WEIGHTS

DEALER: Columbia Ford(W403)
700 7th Avenue
Longview, WA 98632

DELIVERY: 60-120 Days

DEALER CONTACT: Marie Tellinghiusen or Steve Sari
PHONE: 360-423-4321
EMAIL: mariet@colford.com
FEDERAL TAX ID NO.: 91-0650166
PAYMENT TERMS: **$200 DISCOUNT PER VEHICLE FOR PAYMENT WITHIN 20 CALENDAR DAYS OF DELIVERY, NET 30***

NET PRICE:(Vehicle equipped as above, delivered to any point within the State of Washington, exclusive of Federal Excise and before 8.2% State Sales Tax including a .3% vehicle tax):

COMMODITY CODE	VEHICLE DESCRIPTION	ORDER QTY	PRICE EACH	PRICE EXTENSION
2319-112-001	Truck, 1/2 Ton, Extended Cab Pickup, Wide Box, 6 Ft. (4X2), 2009 Ford F150 (X12/502A)	_____	$17,749.00*	$_____

NO COST EXTERIOR COLORS: *INDICATE QUANTITY OF COLOR(S) SELECTED*
Tuxedo Black ____, Ingot Silver ____, Sterling Gray ____, Vermillion Red____, Blue Flame ____, Oxford White____,

(1)Tire Chain Compatible

COMMODITY CODE	OPTION DESCRIPTION	ORDER QTY	PRICE EACH	PRICE EXTENSION
2319-112-010	Credit for pickup from selling Dealer (Orders for Eastern WA, Area Code 509) (DEDUCT)*		$(135.00)	$
2319-112-011	Credit for pickup from Selling Dealer (Orders for Western WA, Area Codes 206, 253, 360, 425) DEDUCT)*		$(30.00)	
2319-112-012	Alternative Gas Engine, 5.4 Liter 8 Cylinder Flexible Fuel (Gas/Ethanol) Vehicle (7,000# GVWR) Includes 6 speed automatic transmission, 3.15 RAR, 155 Amp Alternator (310 HP, 14/20 MPG) **Meets Alternative Fuel Vehicle Acquisition Requirements of the National Energy Policy Act of 1992 (99V/446)**		$1,291.00	1291.00
2319-112-013	Alternative Seating, Cloth Capt. Chairs w/Console (available only w/crew cab) (TTU)		$249.00	
2319-112-014	Bedliner, Drop in (including over rails & tailgate) (Duraliner) (DLR)*		$220.00	
2319-112-015	Bedliner, Spray On (Including over Rails and tailgate) (Line-X) (DLR)*		$385.00	
2319-112-016	Bedmat, HD Rubber (DLR)*		$116.00	
2319-112-017	Cruise Control (Includes CD & MyKey)(6lx)		$328.00	
2319-112-018	Daytime Running Lights (942)		$37.00	
2319-112-019	Differential, Limited Slip (3.55/3.73)(XH9/XB6)		$254.00	
2319-112-020	Heater, Engine Block (41H)		$75.00	
2319-112-021	Keys Set of 2 Instead of 4 (DLR)* (DEDUCT)		$(20.00)	
2319-112-022	Manuals, Parts & Service, Paper (DLR)*		$204.00	
2319-112-023	Manuals Parts & Service, CD (DLR)*		$221.00	
2319-112-024	Mud Flaps, Rear (DLR)*		$52.00	
2319-112-025	Deleted		$0.00	
2319-112-026	Power Windows, Doors Locks, Mirrors, Remote Keyless Entry, Deleted(not avail w/crewcab)(D85A)(Deduct)		$(796.00)	
2319-112-027	Rear Axle Ratio, 3.73:1(not avail w/Alt Engines) (X26)		$42.00	
2319-112-028	Tailgate Step (63T)		$291.00	
2319-112-029	Seat, Cloth Trim Instead of Vinyl (TTC)		$0.00	
2319-112-030	Spotlight, 6 inch, Clear Lens, Pillar Mounted, Left (DLR)*		$337.00	
2319-112-031	Tow Hooks, Front (DLR)*		$135.00	
2319-112-032	Undercoating (DLR)*		$155.00	
2319-112-033	Warranty, Delayed Start (Order Online at www.Fordwsd.com)(DLR)*		$0.00	
2319-112-034	Manufacturer to Dealer Order Acknowledgement Document Faxed to Customer (DLR)*		$0.00	
2319-112-035	Window, Sliding Rear (433)		$187.00	
COMMODITY CODE	OPTION DESCRIPTION	ORDER QTY	PRICE EACH	PRICE EXTENSION

2319-112-036	Crew Cab Pickup (Includes 6 passenger seating, 5 ½ Ft. Box, XL trim level, 6,800# GVWR, P255/65RX17 OWL All-season, 3.55 Axle, 40/20/40 Front seat w/manual Driver Lumbar, 60/40 Flip-up rear seat, Carpet & front/rear carpeted Floor mats, Rear dome lamp, Overhead console w/small storage bin, 26 gallon tank (W12/502A/145WB)		$2,233.00	$
2319-112-037	Fire Extinguisher 2.5# Dry Chemical ABC rated w/mounting bracket, Delivered w/vehicle, uninstalled (DLR)*		$33.00	
2319-112-038	Crew cab pickup 6 ½ ft box,, 157in WB (also requires 2319-112-036) (157WB)		$270.00	
2319-112-039	Stock Vehicle Up charge, Delivery 7 days when available (call dealer) (DLR)*		$250.00	
2319-112-040	Pickup box access (63S) (not available w/5 ½ ft bed)		$270.00	
2319-112-041	Push Bumper (SETINA PB400) (DLR) *		$278.00	
2319-112-042	Remote Keyless Entry, Extra Transmitter, Programmed (DLR) *		$56.00	
2319-112-043	Trailer Brake Controller (67T)		$191.00	
2319-112-044	Flare Kit, 3 Piece Triangle w/storage box for roadside emergency use, Delivered w/vehicle, uninstalled (DLR)*		$33.00	
			SUBTOTAL	19040.00
			+8.2% SST	1561.30
			TOTAL	20601.30

(1)Tire Chain Compatible

TriVan Truck Body, LLC

1385 West Smith Road
Ferndale, WA 98248

Business: (360) 380-0773
Fax: (360) 312-1398
Web: www.trivan.net

QUOTATION: 3091(p.1/3)
DATE: AUG 18/09

TO
CITY OF OAK HARBOR
1400 NE 16TH AVENUE
OAK HARBOR, WASHINGTON

SHIP TO
ATT'N: GENE SIEFFERT
gsieffert@oakharbor.org

Account: 1	Order Date: AUG 17/09
P.S.Tax:	Order No:
Phone: 360-279-4755	Order Ref: 4-cell animal transporter
Salesman: RVD RYAN VAN DRIEL	Terms:
Ship By:	Deliv.Date:

DESCRIPTION **AMOUNT**

QUOTATION & SPECIFICATION: ANIMAL CONTROL TRUCK BODY:

72"L x 66"W Aluminum Van Body:
Overall height of aluminum body not to exceed height of cab.
Designed specifically for a Ford Ranger pickup equipped with single rear wheels (bed will be removed)

$14,850.00

GENERAL DESCRIPTION:
4 compartment configuration: 2 compartments on each side of the body, with dedicated access doors (8 doors total) plus 1 1 equipment storage locker accessible from a rear door
Exterior doors & interior safety doors included in this quote.

CONSTRUCTION:
Bulkhead wall: constructed of rivet-free, puncture-resistant smooth extruded aluminum wall panels (.100" thick)
Roof: single-piece aluminum. Hat-shaped roof bows 22" o.c.

SKIRTING & DRAIN EXTRUSIONS:
Perimeter SnapLock panel skirt trim (sides & rear)
- skirting to be continuous with wall panels (not an add-on)
Aluminum drip-rails above all exterior doors.

COMPARTMENTS & EXTERIOR ACCESS DOORS:
Aluminum partitions to form (4) cells/kennels (2 per side) and 1 central rear equipment storage closet at rear. All lining is smooth and snag-free. Cell design to be sweepout/washout friendly.
- no exposed fasteners, no exposed wiring, no snag points.
8 exterior access doors: TriVan style extruded aluminum construction (with internal stiffeners) and vents, c/w a 2-point D-style key-lockable handle.
- door faces are equipped with fresh air louvers to exhaust out.

SAFETY-DOORS (INTERIOR DOORS) & SLIDEOUT DRAWERS:

TriVan Truck Body, LLC

1385 West Smith Road
Ferndale, WA 98248

Business: (360) 380-0773
Fax: (360) 312-1398
Web: www.trivan.net

QUOTATION: 3091(p.2/3)
DATE: AUG 18/09

TO
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1400 NE 16TH AVENUE
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SHIP TO
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Salesman: RVD RYAN VAN DRIEL	Terms:
Ship By:	Deliv.Date:

DESCRIPTION	AMOUNT

8 internal cage doors in addition to the 8 exterior cell doors: wire-grille/mesh construction c/w latching heavy-duty door hardware (tamper proof) Doors to open out of body to allow full access to cells. Doors to include arm/pole cutouts.
Equipment storage closet at rear (no cage door)

BUMPER:
10"D non-slip step bumper at rear overlaid in aluminum non-slip Safety-Tread. Corners of rear step bumper tapered at 45 degrees

FLOORING & INTERIOR LINING:
Seamless, smooth aluminum flooring with 6" dishup in each compart ment: fully contained. 1 center drain hole in all 4 cells.
- all welds grinded & buffed to eliminate snag points.
Note: all 12V wiring is hidden between outer & inner wall lining.
Interior fully lined in smooth 14ga aluminum: unpainted.

12V ELECTRICAL:
Exterior lighting to F.M.V.S.S. Recessed Grote 2" clearance lites
2 pairs of stop/tail/turn 4" round lights: 1 lower pair, 1 upper.
1 pair of 4" round reverse lights.
5 - 12V compartment dome lights: 1 in equipment storage locker with switch in cab; 1 in each of the four side compartments with switch in cab for curbside and roadside cells.

PAINTING & FINISHING:
Body painted white to match cab, including roof.
1 exterior grab handle on rear wall. Body undercoated.
1 pair of rubber mudflaps installed.
Mounted on Oak Harbor's supplied pickup chassis, single wheels, with bed already removed.
Includes a 1-hour face-to-face operator's training session.
Includes 1 full set of AutoCad presentation drawings for customer approval prior to build.
F.O.B. TriVan Truck Body Ferndale.

TriVan Truck Body, LLC

Business: (360) 380-0773
Fax: (360) 312-1398
Web: www.trivan.net

1385 West Smith Road
Ferndale, WA 98248

QUOTATION: 3091(p.3/3)
DATE: AUG 18/09

TO
CITY OF OAK HARBOR
1400 NE 16TH AVENUE
OAK HARBOR, WASHINGTON

SHIP TO
ATT'N: GENE SIEFFERT
gsieffert@oakharbor.org

Account: 1	Order Date: AUG 17/09
P.S.Tax:	Order No:
Phone: 360-279-4755	Order Ref: 4-cell animal transporter
Salesman: RVD RYAN VAN DRIEL	Terms:
Ship By:	Deliv.Date:

DESCRIPTION	AMOUNT

OPTIONS:
Add two aluminum slideout drawers, each with (2)
removable cages.....Add $ 1000
Dual-fan air ventilation system with in-cab controls,
(2) 900CFM fans, ducting & door louver system.....Add $ 1750
Add 1 pair of Whelen 810 clear halogen scene lights....Add $ 600

Thank you for choosing TriVan!

Sub-Total... 14850.00
Applicable taxes extra
TOTAL..... 14850.00

$ 16097.40

City of Oak Harbor
City Council Agenda Bill

Bill No. 4c
Date: October 6, 2009
Subject: Department of Ecology (DOE) Pass-through Grant Agreement

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

The purpose of this agenda bill is to authorize staff to submit the FY 2010-2011 Phase II Stormwater Pass-through Grants Program Grant Agreement to the Department of Ecology.

AUTHORITY

2.310.040 Grants.

(1) Nothing in this chapter shall prevent the city from complying with the terms and conditions of any grant, gift or bequest which is otherwise consistent with law.

(2) The mayor or his/her designee is authorized to apply for grants in any amount and to execute grant contracts for grants of not more than $30,000. The mayor or his/her designee shall notify the city council periodically of such grant applications and grant contract approvals.

(3) Grant contracts in excess of $30,000 shall require council approval. (Ord. 1470 § 2, 2006).

SUMMARY STATEMENT

The City of Oak Harbor was recently notified by the Department of Ecology that the City is eligible to receive a $50,000 grant resulting from the new Phase II Stormwater Pass-through Program. The purpose of this grant is to provide assistance to local cities to meet new requirements resulting from the NPDES permit. This grant will be non-matching and the funds received would need to be used by June 30, 2011.

Stormwater regulations have taken a dramatic turn in recent years in order to protect the Puget Sound. Many of the changes have to do with maintenance on surface streets and how to deal with the material once it is removed. Waste materials removed from catch basins are much more toxic than materials that are removed from street surfaces.

Currently the City owns a 2003 Elgin Pelican mechanical sweeper. This mechanical sweeper is not as efficient as a vacuum sweeper and does not meet today's standards for picking up fine particulates as per the NPDES Phase II permit requirements. As the City moves forward in allowing Low Impact Development projects which utilize pervious pavement and pervious concrete, the need for a vacuum sweeper to suction material from the pores of those surfaces to allow infiltration becomes imperative.

Through the combined funds from the trade-in of the 2003 Elgin Pelican sweeper, the replacement funds set aside in the Equipment Rental replacement program and the $50,000.00 grant, a new vacuum type sweeper can be purchased to fulfill the City's needs and meet the NPDES Phase II permit requirements for maintaining pervious pavement and concrete.

The first step is to obtain the grant from the Department of Ecology in the amount of $50,000.00. Therefore, staff is seeking City Council approval to submit the agreement for the Pass-through Grant to the Department of Ecology.

STANDING COMMITTEE REPORT

The Public Works Standing Committee reviewed this item at their meeting on October 1, 2009.

RECOMMENDED ACTION

Authorize the Mayor to submit the attached Grant Agreement to the Department of Ecology.

ATTACHMENTS

Grant Agreement

MAYOR'S COMMENTS

FY 2010-2011 PHASE II STORMWATER PASS-THROUGH GRANTS PROGRAM
GRANT AGREEMENT BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY AND THE CITY OF OAK HARBOR

THIS is a binding agreement entered into, by, and between the state of Washington Department of Ecology (DEPARTMENT), and the City of Oak Harbor (RECIPIENT). The purpose of this agreement is to provide funds to the RECIPIENT to carry out the requirements described herein.

PART I. GENERAL INFORMATION

Project Title:	**Phase II Stormwater Pass-through Grant Program**
Grant Number:	
RECIPIENT Name and Address:	**Steve Bebee** **City of Oak Harbor** **865 SE Barrington Drive** **Oak Harbor, WA 98277**
RECIPIENT Contact:	**Steve Bebee**
Telephone Number:	**(360) 279-4764**
Fax Number:	(360) 679-3902
E-Mail Address:	sbebee@oakharbor.org
RECIPIENT Billing Contact:	Tallie Boyer
Telephone Number:	(360) 279-4536
Fax Number:	(360) 279-4507
E-Mail Address:	tboyer@oakharbor.org
RECIPIENT Federal ID Number:	**91-6001476**
DEPARTMENT Project/Financial Manager:	
Mailing Address:	**Water Quality Program** **Washington State Department of Ecology** **P.O. Box 47600** **Olympia, WA 98504-7600**
Telephone Number:	**360- 407-6502**
Fax Number:	**360- 407-7151**
E-Mail Address:	
DESIGNATED LOCAL GOVERNMENT PARTNERS (if applicable)	

For partnerships, the lead government and partners must submit a copy of the signed agreement in Appendix B with each copy of the grant agreement.

DEPARTMENT Funding Source: **2010-2011 Biennial Operating Budget/Local Toxics Control Account**

Total Cost (up to $50,000 each recipient): **$ 50,000**
Total Eligible Cost (up to $50,000 each Recipient): **$ 50,000**

DEPARTMENT Share ($50,000 each Recipient): **$ 50,000**

DEPARTMENT Maximum Percentage: **100%**

The effective date of this grant agreement is July 1, 2009. Any work performed prior to the effective date of this agreement will be at the sole expense and risk of the RECIPIENT.

This agreement expires on **June 30, 2011**.

PART II. PERFORMANCE MEASURES

A. Water Quality Goal.

Improved stormwater management and water quality protection associated with development and implementation of a stormwater management program.

B. Project Outcomes.

Local Government Stormwater Grants for local governments to receive grants for municipal stormwater programs, including but not limited to implementation of Phase II municipal stormwater National Pollutant Discharge Elimination System (NPDES) permits.

C. Post Project Assessment.

The RECIPIENT agrees to submit a brief survey three years after project completion regarding the key project outcomes and the status of environmental results or goals from the project. The DEPARTMENT's Performance Measures Lead will e-mail the RECIPIENT the Post Project Assessment Survey.

The DEPARTMENT may conduct on-site interviews and inspections, and may otherwise evaluate the Project. The DEPARTMENT will enter the information provided into its performance measures database to be provided to the Washington State Legislature, United States Environmental Protection Agency, and other natural resource agencies.

Approximate Post Project Assessment Date: June 30, 2012

PART III. PROJECT DESCRIPTION

The RECIPIENT's stormwater project will address implementation or management of municipal stormwater programs.

PART IV. PROJECT BUDGET

Phase II Stormwater Pass-through Grant Program	
ELEMENTS	**TOTAL ELIGIBLE COST (TEC)***
Task 1 – Project Administration/Management (limited to 10% of total)	$
Task 2 – Implementation and management of Stormwater Program	$ 50,000
Total (limited to $50,000 per Recipient partner)	$ 50,000
***The DEPARTMENT's Fiscal Office will track to the Total Eligible Project Cost.**	
MATCHING REQUIREMENTS (There are no matching requirements)	
DEPARTMENT Share FY 2010-11 (100% of TEC)	$

Payment Request Submittals. Payment requests will not be submitted more often than monthly, unless allowed by the DEPARTMENT's Project/Financial Manager. The DEPARTMENT's Project/Financial Manager may require the RECIPIENT to submit regular payment requests to ensure efficient and timely use of funds.

Payment Schedule. Payments will be made on a cost-reimbursable basis.

PART V. SCOPE OF WORK

The RECIPIENT shall ensure that this project is completed according to the details of this agreement. The RECIPIENT may elect to use its own forces or it may contract for professional services necessary to perform and complete project related work. The RECIPIENT certifies by signing this agreement that all applicable requirements have been satisfied in the procurement of any professional services. Eligible and ineligible project costs are separate and identifiable for billing purposes. If professional services are contracted, the RECIPIENT shall submit a copy of the final contract to the DEPARTMENT's Project/Financial Manager.

Task 1 - Project Administration/Management

A. The RECIPIENT shall administer the project. Responsibilities will include, but not be limited to: maintenance of project records; submittal of payment vouchers, fiscal forms, and progress reports; compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required

permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

B. The RECIPIENT shall manage the project. Efforts will include: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; the DEPARTMENT; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

C. The RECIPIENT shall submit all invoice voucher submittals and supportive documentation, to the DEPARTMENT's Project/Financial Manager. Copies of all applicable forms shall be included with an original A19-1A, and shall be submitted to the DEPARTMENT. Blank forms are found in Administrative Requirements for Recipients of Ecology Grants and Loans at http://www.ecy.wa.gov/biblio/9118.html

Required Forms:	**Where Eligible Costs Have Incurred**:
Form A19-1A (original signature)	Form E (ECY 060-12)
Form B2 (ECY 060-7)	Form F (ECY 060-13)
Form C2 (ECY 060-9)	Form G (ECY 060-14)
Form D (ECY 060-11)	Form H (F-21)
	Form I (ECY 060-15)

D. If work conducted results in a report, the RECIPIENT shall submit the following to the DEPARTMENT's Project/Financial Manager and in the quantities identified:

- Draft project completion reports – one electronic copy
- Final project completion reports – five copies
- Electronic copy of final project completion report

The RECIPIENT shall submit two copies of any document(s) which requires DEPARTMENT approval. Once approval is given, one copy will be returned to the RECIPIENT. If the RECIPIENT needs more than one approved copy, the number of submittals should be adjusted accordingly.

Task 2 – Implementation of Stormwater Planning and Management Needs

A. The RECIPIENT shall address stormwater management needs that protect or restore water quality. The RECIPIENT may conduct work related to implementation of activities required by the municipal stormwater National Pollutant Discharge Elimination System (NPDES) permits.

B. Check the boxes that represent the activities funded under this grant:

- ☐ Public education and outreach activities
- ☐ Public involvement and participation activities
- ☐ Illicit discharge detection and elimination (IDDE) program activities, including:
  - ☐ Mapping or geographic information systems of municipal separate storm sewer systems (MS4s);
  - ☐ Staff training
  - ☐ Activities to identify and remove illicit stormwater discharges;
  - ☐ Dry weather outfall screening procedures and field activities;
  - ☐ Complaint hotline database or tracking system improvements.
- ☐ Activities to support programs to control runoff from new development, redevelopment, and construction sites, including:
  - ☐ Development of an ordinance and associated technical manual
  - ☐ Inspections before, during, and upon completion of construction, or for post-construction long-term maintenance.
  - ☐ Training for plan review and/or inspection staff
- ☐ Pollution prevention, good housekeeping, and operation and maintenance program activities, such as:
  - ☐ Inspecting and/or maintaining the MS4 infrastructure
  - ☐ Developing and/or implementing policies, procedures, or stormwater pollution prevention plans at municipal properties or facilities.
- ☐ Annual reporting activities, including developing a summary of identified barriers to the use of low impact development.
- ☐ Establishing and refining stormwater utilities, including stable rate structures.
- ☐ Water quality monitoring to implement permit requirements for a Water Cleanup Plan (TMDL). Note that any monitoring funded by this program requires submittal of a Quality Assurance Project Plan that Ecology approves prior to awarding funding for monitoring.
- ☐ Developing a report to plan for monitoring the next permit cycle.
- ☒ Equipment purchases that result directly in improved compliance with permit requirements. Allowed costs for equipment purchases must be specific to implementing a permit requirement (such as a vactor truck) rather than general use (such as a general us pick-up truck). Qualified equipment purchases include but are not limited to:
  - ☐ Illicit discharge testing equipment and materials
  - ☒ Vactor truck or sweeper truck for MS4 maintenance activities
  - ☐ Electronic devices dedicated to mapping of MS4 facilities and attributes
  - ☐ Software dedicated to tracking permit implementation activities
- ☐ Other activities consistent with the funding purposes of this program that support stormwater management programs or permit compliance, which can be completed by the June 30, 2011, deadline. Provide brief description in the space below:

PART VI. SPECIAL TERMS AND CONDITIONS

A. Commencement of Work. In the event that the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date mutually agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.

B. DEPARTMENT Funding Recognition. The RECIPIENT shall acknowledge and inform the public about DEPARTMENT funding participation in this project as appropriate. Examples include project signs and/or acknowledgement in published materials and reports, the news media, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs.

C. Equipment Purchase. The purchase of equipment may be eligible under this project. If the RECIPIENT determines that equipment is needed to achieve the project outcomes, a request must be made to the DEPARTMENT. All equipment purchases must have prior approval by the DEPARTMENT. Allowable equipment purchases include equipment needed to implement permit requirements (such as a vactor truck) rather than for general use (such as general use pick-up truck).

D. Indirect Rate. To acknowledge overhead costs, the RECIPIENT may charge an indirect rate up to 25 percent based on RECIPIENT employee's direct salary and benefit costs incurred while conducting project related work, provided that prior to signature of this agreement, the DEPARTMENT's Project/Financial Manager may require a list of items included in the indirect rate during negotiations or thereafter. Items that are generally included in an indirect rate are identified in Administrative Requirements for Recipients of Ecology Grants and Loans.

E. Meetings/Light Refreshments. The RECIPIENT may spend up to $50 per meeting for light refreshments associated with this project. The total amount spent for light refreshments under this agreement cannot exceed $300.

F. Minority and Women's Business Participation. The RECIPIENT agrees to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this agreement.

Contract awards or rejections cannot be made based on MBE or WBE participation. M/WBE participation is encouraged, however, and the RECIPIENT and all prospective bidders or persons submitting qualifications should take the following steps, when possible, in any procurement initiated after the effective date of this agreement:

1. Include qualified minority and women's businesses on solicitation lists.
2. Assure that qualified minority and women's businesses are solicited whenever they are potential sources of services or supplies.
3. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.

4. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
5. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

The RECIPIENT shall report to the DEPARTMENT at the time of submitting each invoice, on forms provided by the DEPARTMENT, payments made to qualified firms. Please include the following information:

1. Name and state OMWBE certification number (if available) of any qualified firm receiving funds under the invoice, including any sub-and/or sub-subcontractors.
2. The total dollar amount paid to qualified firms under this invoice.

G. Progress Reports. The RECIPIENT shall submit quarterly Progress Reports to the DEPARTMENT's Project/Financial Manager. Payment requests will not be processed without a Progress Report.

Reporting Periods.

- January 1 through March 31
- April 1 through June 30
- July 1 through September 30
- October 1 through December 31

Reporting Due Date. Quarterly Progress Reports are due 15 days following the end of the quarter.

Report Content. At a minimum, all Progress Reports must contain a comparison of actual accomplishments to the objectives established for the period, the reasons for delay if established objectives were not met, analysis and explanation of any cost overruns, and any additional pertinent information specified in this agreement.

H. Water Quality Monitoring. Prior to initiating water quality monitoring activities, the RECIPIENT must prepare a Quality Assurance Project Plan (QAPP) that follows Ecology's *Guidelines and Specifications for Preparing Quality Assurance Project Plans for Environmental Studies*, February 2001 (Ecology Publication No. 01-03-003).

The RECIPIENT must submit the QAPP to the DEPARTMENT for review, comment, and must be approved before starting the environmental monitoring activities.

The RECIPIENT must use an environmental laboratory accredited by Ecology to analyze water samples for all parameters to be analyzed that require bench testing.

The RECIPIENT should manage all monitoring data collected or acquired under this agreement in order to be available to secondary users and meet the "ten-year rule."

Monitoring Data Submittal / Environmental Information Management System. Funding recipients that collect water quality monitoring data must submit all appropriate data to Ecology through the Environmental Information Management System (EIM).

PART VII. ALL WRITINGS CONTAINED HEREIN

This agreement, the appended GENERAL TERMS AND CONDITIONS, the DEPARTMENT's current edition of *Administrative Requirements for Recipients of Ecology Grants and Loans ("Yellow Book"),* and the *Local Government Stormwater Grants Program FY 2008* contain the entire understanding between the parties, and there are no other understandings or representations other than as set forth or incorporated by reference, herein. No subsequent modification(s) or amendment(s) of this agreement shall be of any force or effect unless signed by authorized representatives of the RECIPIENT and DEPARTMENT and made a part of this agreement, EXCEPT that in response to a request from the RECIPIENT, the DEPARTMENT may redistribute the grant budget. The DEPARTMENT or RECIPIENT may change their respective staff contacts without the concurrence of either party.

IN WITNESS WHEREOF, the parties hereby execute this Grant:

STATE OF WASHINGTON DEPARTMENT OF ECOLOGY	City of Oak Harbor JURISDICTION
_____ DATE	_____ DATE
KELLY SUSEWIND, P.E., P.G. WATER QUALITY PROGRAM MANAGER	NAME: Jim Slowik TITLE: Mayor

APPROVED AS TO FORM ONLY
ASSISTANT ATTORNEY GENERAL

(Revised 8/14/09)

Appendix A

GENERAL TERMS AND CONDITIONS
Pertaining to Grant and Loan Agreements of the Department of Ecology

A. RECIPIENT PERFORMANCE

All activities for which grant/loan funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT's employees. The RECIPIENT shall only use contractor/consultant assistance if that has been included in the agreement's final scope of work and budget.

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and conditions of this agreement.

C. THIRD PARTY BENEFICIARY

The RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this agreement, the state of Washington is named as an express third-party beneficiary of such subcontracts with full rights as such.

D. CONTRACTING FOR SERVICES (BIDDING)

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

E. ASSIGNMENTS

No right or claim of the RECIPIENT arising under this agreement shall be transferred or assigned by the RECIPIENT.

F. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits.

Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.

2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. If the agreement is federally-funded, the RECIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to women or minority owned businesses.

3. Wages And Job Safety. The RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.

4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the

DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

G. KICKBACKS

The RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this project to give up any part of the compensation to which he/she is otherwise entitled or, receive any fee, commission or gift in return for award of a subcontract hereunder.

H. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object.

All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this agreement shall be maintained by the RECIPIENT.

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.

3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this agreement and for at least three years following grant/loan termination or dispute resolution hereunder.

4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECIPIENT expends $500,000 or more in a year in Federal funds. The $500,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECIPIENT must forward a copy of the audit along with the RECIPIENT'S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. PERFORMANCE REPORTING

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted.

Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within thirty (30) days following the end of the quarter being reported.

J. COMPENSATION

1. . Method of compensation. Payment shall normally be made on a reimbursable basis as specified in the grant agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and approved as satisfactory by the Project Officer.

The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work. Instructions for submitting the payment requests are found in "Administrative Requirements for Ecology Grants and Loans", part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee.

Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this agreement.

2. Period of Compensation. Payments shall only be made for actions of the RECIPIENT pursuant to the grant/loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.

3. Final Request(s) for Payment. The RECIPIENT should submit final requests for compensation within forty-five(45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.

4. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.6. herein.

5. Unauthorized Expenditures. All payments to the RECIPIENT may be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.

6. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.

7. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this agreement, the DEPARTMENT may refuse to pay any further funds thereunder and/or terminate this agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this agreement, at the option of the DEPARTMENT, shall become Department property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Despite the above, the RECIPIENT shall not be relieved of any liability to the DEPARTMENT for damages sustained by the DEPARTMENT and/or the State of Washington because of any breach of agreement by the RECIPIENT. The DEPARTMENT may withhold payments for the purpose of setoff until such time as the exact amount of damages due the DEPARTMENT from the RECIPIENT is determined.

2. Insufficient Funds. The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. When this agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be good cause to terminate this agreement as provided in paragraph K.1 above.

When this agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent upon appropriation of funds by the RECIPIENT's governing body; Provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section O herein.

3. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date mutually agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.

L. WAIVER

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this agreement is not a waiver of any subsequent breach and will not be construed as a modification of the terms of this agreement unless stated as such in writing by the authorized representative of the DEPARTMENT.

M. PROPERTY RIGHTS

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes.

Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.

2. Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.

3. Tangible Property Rights. The DEPARTMENT's current edition of "Administrative Requirements for Ecology Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.

4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.

5. Acquisition Projects. The following provisions shall apply if the project covered by this agreement includes funds for the acquisition of land or facilities:

a. Prior to disbursement of funds provided for in this agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.

b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this agreement.

6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this agreement bear to the total acquisition, purchase or construction costs of such property.

N. SUSTAINABLE PRODUCTS

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is encouraged to implement sustainable practices where and when possible. These practices include use of clean energy, and purchase and use of sustainably produced products (e.g. recycled paper). For more information, see www.ecy.wa.gov/sustainability..

O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the

DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform.

Interest shall accrue at the rate of twelve percent (12%) per year from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL

The extent and character of all work and services to be performed under this agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Officer or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Officer or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

Q. DISPUTES

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal.

In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

R. CONFLICT OF INTEREST

No officer, member, agent, or employee of either party to this agreement who exercises any function or responsibility in the review, approval, or carrying out of this agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.

S. INDEMNIFICATION

1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

2. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

T. GOVERNING LAW

This agreement shall be governed by the laws of the State of Washington.

U. SEVERABILITY

If any provision of this agreement or any provision of any document incorporated by reference

V. PRECEDENCE

In the event of inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for Ecology Grants and Loans"; and (e) the General Terms and Conditions.

SS-010 Rev. 04/04

Appendix B

PARTNERSHIP AGREEMENT FOR ECOLOGY GRANTS

FY2010-2011 PHASE II STORMWATER PASS-THROUGH GRANTS

The cities, towns, and counties listed below agree to partner under one grant agreement for the FY2010 -2011 Phase II Stormwater Pass-through Grants. The grant shall be administered on behalf of the partners by the Lead Phase II Local Government. Each partner local government is a city, town, or county permittee under the Phase II Western Washington Municipal Stormwater General Permit or the Phase II Eastern Washington Municipal Stormwater General Permit.

Lead Phase II Local Government: _____

Phase II permit coverage number: _____

Signature of authorized representative: _____
Title

Date _____

Partner Local Government #1: _____

Phase II permit coverage number: _____

Signature of authorized representative: _____
Title

Date _____

Partner Local Government #2: _____

Phase II permit coverage number: _____

Signature of authorized representative: _____
Title

Date _____

Partner Local Government #3: _____

Phase II permit coverage number: _____

Signature of authorized representative: _____
Title

Date _____

Partner Local Government #4: _____

Phase II permit coverage number: _____

Signature of authorized representative: _____
Title

Date _____

If you require special accommodations or need this document in a format for the visually impaired, call the Water Quality Program at 360-407-6502. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

City of Oak Harbor
City Council Agenda Bill

Bill No. N/A 4D
Date: October 6, 2009
Subject: Final Consideration - Amend OHMC Section 1.04.010 – Time and Place of Council meetings

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 for final consideration an Ordinance to amend Oak Harbor Municipal Code (OHMC) Section 1.04.010 – Time and Place of Council meetings.

AUTHORITY

In accordance with RCW 35A.12.110 – City Council shall meet at such times as may be designated by the City Council.

SUMMARY STATEMENT

On September 15, 2009, the City Council considered an Ordinance which would amend OHMC Section 1.04.010 to change the City Council meeting time to begin one hour earlier at 6:00 p.m. instead of 7:00 p.m.

The Ordinance is now before City Council for final consideration.

STANDING COMMITTEE REPORT

This item was presented and discussed at the Governmental Services Standing Committee on August 10, 2009.

RECOMMENDED ACTION

Approve Ordinance amending OHMC Section 1.04.010 – Time and Place of Council meetings.

ATTACHMENTS

Ordinance

MAYOR'S COMMENTS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING OAK HARBOR MUNICIPAL CODE SECTION 1.04.010 CONCERNING THE TIME AND PLACE OF COUNCIL MEETINGS

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

Section One. Oak Harbor Municipal Code Section 1.04.010 entitled "Time and place of council meetings" and last amended by Ordinance No. 1407 §1 in 2005, is hereby amended to read as follows:

1.04.010 Time and place of council meetings.

(1) The council of the city of Oak Harbor shall meet on the first Tuesday of each month. There shall be a second regular council meeting each month, except in the months of July and August, on the second Tuesday following the first monthly council meeting.

(2) If the date of any of the council meetings above scheduled falls on an official holiday, as set forth in the statutes of the state of Washington, or on a day on which a general election or on a day of a primary for a general election is to be conducted or on National Night Out, the council meeting shall be held at the same time on the following day.

(3) Regular meetings will be held at City Hall in the city of Oak Harbor and shall start at ~~7:00~~6:00 p.m.

~~(4) Before each regularly scheduled council meeting, there shall be a regularly scheduled workshop starting at 6:45 p.m., and lasting until the regular meeting starts. No motion may be made or passed during such workshop and the time shall be primarily used for the council to ask questions of administration, to receive short reports on projects and to discuss agenda items other than quasi-judicial items such as preliminary plat approval, rezones and PRD overlay zonings.~~

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

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

PASSED by the City Council this _____ day of _____, 2009.

APPROVED by the Mayor this _____ day of _____, 2009.

THE CITY OF OAK HARBOR

_____
Mayor

Attest:

_____

City Clerk

Approved as to Form:

_____

City Attorney

Published: _____

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City of Oak Harbor
City Council Agenda Bill

Bill No. 5
Date: October 6, 2009
Subject: Revised Illicit Discharge Prohibition Ordinance

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

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

This item was introduced on August 5, 2009 as a new chapter to Title 12 of the Oak Harbor Municipal Code related to stormwater management in the City of Oak Harbor. The proposed code change is required by the National Pollutant Discharge Elimination System (NPDES) Phase II, Municipal Stormwater Permit issued to the City of Oak Harbor by the Washington State Department of Ecology. At the August 5 meeting, the strict language in the code was discussed and Council recommended that staff rewrite portions of code and bring it back at the October 6 City Council meeting.

AUTHORITY

The City Council is granted authority under RCW 35A.11.020 to adopt and enforce ordinances of all kinds relating to and regulating its local or municipal affairs and appropriate to the good government of the City.

SUMMARY STATEMENT

In February of 2007, the City of Oak Harbor was formally issued an NPDES Phase II Municipal Stormwater Permit by the Washington State Department of Ecology (DOE). The DOE is required to issue the NPDES stormwater permits under the terms of the Washington State Water Pollution Control Law and the Federal Water Pollution Control Act (the Clean Water Act). The NPDES permit requires the City of Oak Harbor to undertake a significant number of operational changes as well as policy and code changes in order to reduce or eliminate sources of pollution through the City's stormwater drainage system. It is important to note that the NPDES permit is issued to the City as the governmental jurisdiction, but that much of the content of the NPDES permit is directed towards the actions of private parties, businesses, developers and property owners with the City acting as the policing agent for the protection of water resources.

The permit requires that adoption of the code changes related to illicit discharge be in place by August of 2009. However, DOE did not provide a model ordinance on which smaller cities could rely before the due date. City staff has therefore drafted the ordinance using a variety of sources, and the latest version reflects efforts to incorporate Councilmember suggestions. The proposed ordinance adds a new Chapter 12.50 to Title 12, entitled "Illicit Discharge Prohibited" which meets the requirement that the City prohibit illicit discharges.

OHMC 12.50 Illicit Discharge Prohibited

The NPDES permit requires that the City enact an ordinance that not only prohibits the discharge of all non-stormwater discharges through the City of Oak Harbor stormwater drainage system, but also provides for enforcement actions if an unlawful discharge occurs. The goal of the permit requirement is to reduce both point source and non-point source pollution discharges to storm drainage conveyances. The attached ordinance proposes a new Chapter in Title 12 of the OHMC that identifies and prohibits certain discharges, identifies allowable discharges and provides for enforcement actions. The list of prohibited discharges, allowable discharges and conditional discharges was adapted from DOE-provided guidance.

STANDING COMMITTEE REPORT

This revised ordinance was brought to the Public Works Standing Committee on October 1, 2009.

RECOMMENDED ACTION

1) Open the public hearing.
2) Continue the public hearing to the November 17, 2009 Council meeting to allow for additional review by the council standing committees.

ATTACHMENTS

Draft Ordinance - Chapter 12.50 OHMC.

Exhibit A - Legislative Draft Ordinance which outlines changes made to the version of the Ordinance introduced at the August 5, 2009 Council meeting.

MAYOR'S COMMENTS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR ADDING A NEW CHAPTER 12.50 TO THE OAK HARBOR MUNICIPAL CODE ENTITLED "ILLICIT DISCHARGE PROHIBITED" WHICH PROHIBITS THE DISCHARGE OF CERTAIN MATERIAL INTO THE CITY'S STORMWATER DRAINAGE SYSTEM; PROHIBITS ILLICIT CONNECTIONS TO THE CITY'S STORMWATER DRAINAGE SYSTEM; AND ESTABLISHES ENFORCEMENT PROCEDURES AND PENALTIES

WHEREAS, protection of the environment, sustainable development and responsible stewardship and preservation of the water resources in Oak Harbor and Whidbey Island are a high priority for the citizens of the city of Oak Harbor.

WHEREAS, regulation of illicit discharges into and illicit connections to the City's stormwater drainage system is necessary for the public health, safety and general welfare of Oak Harbor residents; and

WHEREAS, the City of Oak Harbor has been included as a Phase II city for purposes of the Phase II Municipal Stormwater General Permit for Western Washington under the National Pollutant Discharge Elimination System ("NPDES") program; and

WHEREAS, as a Phase II city, the City of Oak Harbor is required to adopt pollution prevention measures including regulation of illicit discharges into and illicit connections to the City's stormwater drainage system or "municipal separate storm sewer system" ("MS4") ; and

WHEREAS, the present deadline to adopt Illicit Discharge Detection and Elimination regulations is August 15, 2009;

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

Section One. There is hereby added to Title 12 of the Oak Harbor Municipal Code a new Chapter 12.50 entitled "Illicit Discharge Prohibited" to read as follows:

CHAPTER 12.50
ILLICIT DISCHARGE PROHIBITED

Sections:

12.50.005 Definitions
12.50.010 Discharges to Water Resources
12.50.015 Spills
12.50.020 Illicit Connections
12.50.030 Administration
12.50.040 Public Nuisance
12.50.050 Summary Abatement

12.50.060 Penalties
12.50.070 Enforcement

12.50.005 Definitions. For the purposes of this chapter, the following words shall have the meanings set forth below:

(1) AKART – All Known, Available, and Reasonable methods of prevention, control, and Treatment. See also the State Water Pollution Control Act, RCW 90.48.010 and RCW 90.48.520.

(2) "Best management practices (BMPs)" mean schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and structural or managerial practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

(3) "Clean Water Act" means the federal Water Pollution Control Act (33 USC Section 1251 et seq.), and any subsequent amendments thereto.

(4) "Contaminant" or "stormwater discharge contaminant" means any material other than stormwater, an allowable discharge as defined in OHMC 12.50.010(2), or a conditional discharge allowed pursuant to OHMC 12.50.010(3).

(5) "Department" shall mean the Department of Public Works.

(6) "Director" shall mean the Director of the Department of Public Works.

(7) "Ground water" means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

(8) "Hazardous materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(9) "Hyperchlorinated" means water that contains more than 10mg/Liter chlorine.

(10) "Illicit discharge" means any direct or indirect non-stormwater discharge to the city's storm drain system, except as expressly allowed by this chapter.

(11) "Illicit connection" means any man-made connection to the City's storm drain system without a permit, excluding roof drains and other similar type connections. Examples

include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate stormwater system.

(12) "Municipal separate stormwater system" (MS4) means a conveyance or system of conveyances (including roads with ditches, man-made channels, or storm drains):

(a) Owned or operated by the City of Oak Harbor;
(b) Designed or used for collecting or conveying stormwater;
(c) Which is not part of a Publicly Owned Treatment Works (POTW). POTW" means any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned; and
(d) Which is not a combined sewer. "Combined sewer" means a system that collects sanitary sewage and stormwater in a single sewer system.

(13) "National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit" means a permit issued by the Environmental Protection Agency (EPA) (or by the Washington Department of Ecology under authority delegated pursuant to 33 USC Section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(14) "Non-stormwater discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.

(15) "Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law.

(16) "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

(17) "Premises" means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(18) "Storm drainage system" means publicly owned facilities, including the City's municipal separate stormwater system, by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

(19) "Stormwater" means runoff during and following precipitation and snowmelt events, including surface runoff and drainage.

(20) "Stormwater pollution prevention plan" means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

12.50.010 Discharges to Water Resources.

(1) Illicit Discharges Prohibited. No person shall throw, drain or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the City of Oak Harbor Storm Drainage System, any material other than stormwater. No person, property owner, business or other operation shall allow, either through direct act or through failure to prevent, discharge of any contaminated stormwater into the City of Oak Harbor storm drainage system, Persons or operations shall use AKART to prevent the discharge of contaminants into the City of Oak Harbor Storm Drainage System. The following are examples of prohibited stormwater discharge contaminants:

(a) Trash or debris
(b) Construction and landscaping materials
(c) Petroleum products including, but not limited to, oil, gasoline, grease, diesel, fuel oil and heating oil
(d) Antifreeze and other automotive-fluids and lubricants
(e) Metals, in either particulate or dissolved form
(f) Flammable or explosive materials
(g) Radioactive materials
(h) Batteries
(i) Acids, alkalis or bases
(j) Paints, stains, resins, lacquers or varnishes
(k) Degreasers and/or solvents
(l) Drain cleaners
(m) Pesticides, herbicides or fertilizers
(n) Steam cleaning wastes
(o) Soaps, detergents or ammonia
(p) Car washing soaps, waxes, polishing agents, wheel cleaning products, degreasing agents or engine cleaners
(q) Swimming pool or spa filter backwash
(r) Chlorine, bromine or other disinfectants
(s) Heated water
(t) Domestic animal wastes
(u) Sewage
(v) Recreational vehicle wastes
(w) Animal carcasses
(x) Food wastes

(y) Bark, mulch, compost or other fibrous material
(z) Lawn clippings, leaves, branches, weeds or other yard waste
(aa) Silts, sediment, concrete, cement, clay, gravel or other soil generated from erosion, vehicle tracking, material stockpiles or other similar source
(bb) Dyes
(cc) Chemicals not normally found in rainwater
(dd) Any other process-associated discharge except as others allowed in this section
(ee) Any hazardous material or waste not listed above

(2) Allowable Discharges to Stormwater Drainage System. The following types of discharges shall be permitted unless the City determines that these discharges (whether singularly or in combination with others) are causing significant contamination of water resources:

(a) Diverted stream flows
(b) Rising ground waters
(c) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(2))
(d) Uncontaminated pumped ground water
(e) Foundation drains
(f) Air conditioning condensation
(g) Irrigation water from agricultural sources that is commingled with urban stormwater
(h) Springs
(i) Water from crawl space pumps
(j) Footing drains and roof drains, from non-pollution generating roofing materials, drains
(k) Flows from riparian habitats and wetlands
(l) Non-stormwater discharges covered by another NPDES Permit
(m) Discharges from emergency fire fighting activities and fire department training activities
(n) Accidental discharges from breaks in potable water mains, damage to fire hydrants or other failure of any potable water facilities or structure
(o) Any discharge specifically authorized in writing by a local, state or federal agency for remedial action in an agreed order, a consent decree or a voluntary cleanup effort

(3) Conditional discharges. The following types of discharges shall not be considered illicit discharges for the purposes of this chapter if they meet the stated conditions, or unless the City determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

(a) Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system;

(b) Lawn watering and other irrigation runoff are permitted but shall be minimized;

(c) De-chlorinated swimming pool discharges. These discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system;

(d) Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street;

(e) Non-stormwater discharges covered by another NPDES permit, provided, that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that written approval has been granted for any discharge to the storm drain system; and

(f) Other non-stormwater discharges. The discharges shall be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the City, which addresses control of such discharges by applying AKART to prevent contaminants from entering surface or ground water.

12.50.015 Spills.

(1) Spills, whether intentional or accidental, of stormwater contaminants released, discharged to, or having the potential to release or discharge to the City of Oak Harbor Storm Drainage System, surface waters or ground waters, shall be contained, controlled, collected, cleaned up and properly disposed. All affected areas shall be restored to their preexisting condition to the maximum extent practical.

(2) All costs incurred by the City of Oak Harbor in assisting with containing, controlling, collecting, cleaning up and properly disposing of spilled materials together with all restoration costs shall be the responsibility of the persons, organization, entities or other parties in control of the stormwater contaminants immediately prior to their release or discharge.

(3) Persons in control of the stormwater contaminants immediately prior to their release or discharge, and persons owning the private property, vehicles, equipment or vessels, on or from which, the substances were released or discharged, shall immediately notify the Oak Harbor Stormwater Utility and Oak Harbor Fire Department of the release or discharge, as well as making any required notifications under state and federal law. Notification of a spill shall be made by contacting the emergency dispatch center, (ICOM at 911) or the City of Oak Harbor spill notification hotline which shall be published together with City telephone numbers and on the City website. Notification shall not relieve any person of

any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability, civil penalty or criminal offense which may be imposed by state or other law.

12.50.020 Illicit Connections.

(1) Any connection that could allow conveyance of any illicit discharge is prohibited, except:

(a) Connections conveying allowable discharges as set forth at Section 12.50.010(2);

(b) Connections conveying discharges pursuant to a National Pollutant Discharge Elimination System (NPDES) Permit or a State Waste Discharge Permit; and

(c) Connections conveying effluent from permitted or authorized onsite sewage disposal systems to subsurface soils provided that said system is properly operating and in conformance with all relevant Washington State and Island County regulations for use, operation, maintenance and inspection.

12.50.030 Administration. The Director, or designee, shall be responsible for the administration and enforcement of this Chapter.

12.50.040 Public Nuisance. Illicit discharges and illicit connections which exist within the city limits are hereby found, deemed, and declared to be dangerous or prejudicial to the public health or public safety and are found, deemed, and declared to be unlawful and public nuisances.

12.50.050 Summary Abatement. Notwithstanding any other authority granted herein, the City may summarily abate an illicit discharge or illicit connection which is an immediate threat to the safety, health or welfare of the public or is a contamination threat to any surface or ground water and for which any delay might cause irreparable loss. All costs borne by the City in undertaking a summary abatement shall be, following passage of a lawful resolution by the Council, charged against the owner of the property, responsible person, or responsible operation and a lien against any real property. Notice of the lien herein authorized shall as nearly as practicable be in substantially the same form, filed with the same officer within the same time and manner, and enforced and foreclosed as is provided by law for liens for labor and materials.

12.50.060 Penalties.

(1) The failure to comply with the provisions of this chapter is a civil offense, classified as a Class 1 infraction pursuant to Ch. 1.20 OHMC. Each day of violation shall be a separate offense. This is an absolute liability offense. No mental element as defined in law is required for proof of violation.

(2) The knowing or intentional failure or refusal to comply with an abatement order of an illicit discharge or an illicit connection is a misdemeanor which shall be punishable by the maximum penalty established by RCW 9.92.030 as now or hereafter amended.

(3) An intentional or repeated violation of this chapter by the person responsible shall be a misdemeanor.

12.50.070 Enforcement.

(1) Provisions of this chapter will be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

(2) Investigation required. Upon information received that a violation of this chapter has occurred or is occurring, the Director or designee shall investigate the alleged violation., If it is determined that a violation has occurred or is occurring, enforcement action shall be taken in accordance with the terms of this section.

(3) Voluntary compliance. Unless the violation poses an immediate threat to the safety, health or welfare of the public or is a contamination of the City's storm drainage system for which delay may cause irreparable loss or harm, the Director or designee may attempt to secure voluntary compliance.

(a) If the Director or designee determines that the violation is a first-time minor offense, a written warning may be issued, advising the property owner of the violation, the requirements to achieve compliance and the time by which compliance is required to prevent further enforcement action. The stipulated time period for compliance may not exceed thirty (30) days. The Director or designee shall make a written record of the reasons for treating the violation as a minor offense. If the Director or designee is satisfied that compliance has been achieved in the stipulated time period, no further enforcement action is required and a record shall be created of the outcome of the written warning.

(b) If the Director or designee determines that the violation is not a first-time minor offense but that the violation also does not pose an immediate threat to the safety, health or welfare of the public or is a contamination of the City's storm drainage system for which delay may cause irreparable loss or harm, then a voluntary correction agreement may be entered with the person responsible for the violation. A voluntary correction agreement is a contract between the City and the person responsible for the violation under which such person agrees to abate the violation within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

(i) The name and address of the person responsible for the violation; and

(ii) The street address or other description sufficient for identification of the land upon which the violation has occurred or is occurring; and

(iii) A description of the violation and a reference to the code section which has been violated; and

(iv) The necessary corrective action to be taken, and a date or time by which correction must be completed; and

(v) An agreement by the person responsible for the violation that the City may inspect the property as may be necessary to determine compliance with the voluntary correction agreement; and

(vi) An agreement by the person responsible for the violation that the city may abate the violation and recover its costs and expenses (including attorney fees, expert witness fees, and court costs) and impose a monetary penalty pursuant to this chapter and Ch. 1.28 OHMC from the person responsible for the violation if the terms of the voluntary correction agreement are not satisfied; and

(vii) An agreement that by entering into the voluntary correction agreement, the person responsible for the violation waives the right to a hearing on the violation and the required corrective action.

Execution of a voluntary correction agreement shall not relieve the person responsible for the violation of liability for any violations not specifically included in the voluntary correction agreement. The outcome of the voluntary correction agreement shall be noted in the records of the department.

(4) Civil Infraction Procedures Applicable. If voluntary compliance is not achieved with respect to a violation or if the Director or designee determines that voluntary compliance is not appropriate due to the nature of the violation, prior civil offenses on the part of the person responsible for the violation or for other reasons, the civil infraction procedures of Ch. 1.28 OHMC shall be followed. The reasons for the decision to seek a civil infraction shall be noted in the records of the department.

(5) Criminal Prosecution. A criminal complaint may be brought by the City Attorney or a citation may be issued by a duly commissioned law enforcement officer for violation of the misdemeanor provisions of this chapter, in accordance with CrRLJ 2.1.

(6) Nothing in this section shall limit the authority of the City to take any action, including emergency actions, civil infractions, criminal prosecutions or any other enforcement action, without first seeking voluntary compliance.

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

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

PASSED by the City Council and approved by its Mayor this_____ day of _____, 2009.

THE CITY OF OAK HARBOR

_____

Mayor

Attest:

_____

City Clerk

Approved as to Form:

_____

City Attorney

Published:_____

L:\LGLA\WORK\RES-ORD2009\Stormwater Illicit Discharge Ord 10 6 09 clean.doc

EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR ADDING A NEW CHAPTER 12.50 TO THE OAK HARBOR MUNICIPAL CODE ENTITLED "ILLICIT DISCHARGE PROHIBITED" WHICH PROHIBITS THE DISCHARGE OF CERTAIN MATERIAL INTO THE CITY'S STORMWATER DRAINAGE SYSTEM; PROHIBITS ILLICIT CONNECTIONS TO THE CITY'S STORMWATER DRAINAGE SYSTEM; AND ESTABLISHES ENFORCEMENT PROCEDURES AND PENALTIES

WHEREAS, protection of the environment, sustainable development and responsible stewardship and preservation of the water resources in Oak Harbor and Whidbey Island are a high priority for the citizens of the city of Oak Harbor.

WHEREAS, regulation of illicit discharges into and illicit connections to the City's stormwater drainage system is necessary for the public health, safety and general welfare of Oak Harbor residents; and

WHEREAS, the City of Oak Harbor has been included as a Phase II city for purposes of the Phase II Municipal Stormwater General Permit for Western Washington under the National Pollutant Discharge Elimination System ("NPDES") program; and

WHEREAS, as a Phase II city, the City of Oak Harbor is required to adopt pollution prevention measures including regulation of illicit discharges into and illicit connections to the City's stormwater drainage system or "municipal separate storm sewer system" ("MS4") ; and

WHEREAS, the present deadline to adopt Illicit Discharge Detection and Elimination regulations is August 15, 2009;

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

Section One. There is hereby added to Title 12 of the Oak Harbor Municipal Code a new Chapter 12.50 entitled "Illicit Discharge Prohibited" to read as follows:

CHAPTER 12.50
ILLICIT DISCHARGE PROHIBITED

Sections:

12.50.005 Definitions
12.50.010 Discharges to Water Resources
12.50.015 Spills
12.50.020 Illicit Connections
12.50.030 Administration
12.50.040 Public Nuisance
12.50.050 Summary Abatement

12.50.060 Penalties
12.50.070 Enforcement

12.50.005 Definitions. For the purposes of this chapter, the following words shall have the meanings set forth below:

(1) AKART – All Known, Available, and Reasonable methods of prevention, control, and Treatment. See also the State Water Pollution Control Act, ~~sections~~ RCW 90.48.010 ~~RCW~~ and RCW 90.48.520 ~~RCW~~.

(2) "Best management practices (BMPs)" mean schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and structural or managerial practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

(3) "Clean Water Act" means the federal Water Pollution Control Act (33 USC Section 1251 et seq.), and any subsequent amendments thereto.

(4) "Contaminant" or "stormwater discharge contaminant" means any material other than stormwater, an allowable discharge as defined in OHMC 12.50.010(2), or a conditional discharge allowed pursuant to OHMC 12.50.010(3).

(5) "Department" shall mean the Department of Public Works.

(6) "Director" shall mean the Director of the Department of Public Works.

(~~7~~5) "Ground water" means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

(~~8~~6) "Hazardous materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(~~9~~7) "Hyperchlorinated" means water that contains more than 10mg/Liter chlorine.

(~~10~~8) "Illicit discharge" means any direct or indirect non-stormwater discharge to the city's storm drain system, except as expressly allowed by this chapter.

(~~11~~9) "Illicit connection" means any man-made connection to the City's storm drain system without a permit, excluding roof drains and other similar type connections. Examples

include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate stormwater system.

(120) "Municipal separate stormwater system" (MS4) means a conveyance or system of conveyances (including roads with ditches, man-made channels, or storm drains):

(a) Owned or operated by the City of Oak Harbor;

(b) Designed or used for collecting or conveying stormwater;

(c) Which is not part of a Publicly Owned Treatment Works (POTW). POTW" means any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned; and

(d) Which is not a combined sewer. "Combined sewer" means a system that collects sanitary sewage and stormwater in a single sewer system.

(131) "National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit" means a permit issued by the Environmental Protection Agency (EPA) (or by the Washington Department of Ecology under authority delegated pursuant to 33 USC Section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(142) "Non-stormwater discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.

(153) "Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law.

(164) "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

(175) "Premises" means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(186) "Storm drainage system" means publicly owned facilities, including the City's municipal separate stormwater system, by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

(197) "Stormwater" means runoff during and following precipitation and snowmelt events, including surface runoff and drainage.

(20~~18~~) "Stormwater pollution prevention plan" means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

~~(1) "Contaminant" or "stormwater discharge contaminant" means any material other than stormwater, an allowable discharge as defined in OHMC 12.50.010(2), or a conditional discharge allowed pursuant to OHMC 12.50.010(3).~~

~~(2) "Illicit connection" means any man-made conveyance that is connected to the City of Oak Harbor Stormwater Drainage System that either facilitates any illicit discharge or any connection to the City system made without a permit. Examples include, but are not limited to, sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets or outlets that are connected directly or indirectly to the City of Oak Harbor Stormwater Drainage System.~~

~~(3) "Illicit discharge" means any discharge, directly or indirectly, to the City of Oak Harbor Stormwater Drainage System and/or to surface waters or ground waters under the jurisdiction of the City of Oak Harbor, that is not composed entirely of stormwater except discharges pursuant to a NPDES Permit and discharges resulting from fire fighting activities.~~

~~(4) "Stormwater Drainage System", "City system", "municipal separate storm sewer system" or "MS4" means the conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, and storm drains) owned or operated by the City, designed or used for collecting or conveying stormwater.~~

12.50.010 Discharges to Water Resources.

(1) Illicit Discharges Prohibited. No person shall throw, drain or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the City of Oak Harbor Storm~~water~~ Drainage System, ~~surface waters or ground waters,~~ any material other than stormwater. No person, property owner, business or other operation shall allow, either through direct act or through failure to prevent, discharge of any contaminated stormwater into the City of Oak Harbor storm drainage system, ~~any storm drain conveyance, surface water or ground water.~~ Persons or operations shall use AKART~~all known, available, and reasonable methods~~ to prevent the discharge of contaminants into the City of Oak Harbor Storm~~water~~ Drainage System ~~or any surface or ground waters~~. The following are examples of prohibited stormwater discharge contaminants:

(a) Trash or debris
(b) Construction and landscaping materials

(c) Petroleum products including, but not limited to, oil, gasoline, grease, diesel, fuel oil and heating oil
(d) Antifreeze and other automotive-fluids and lubricants
(e) Metals, in either particulate or dissolved form
(f) Flammable or explosive materials
(g) Radioactive materials
(h) Batteries
(i) Acids, alkalis or bases
(j) Paints, stains, resins, lacquers or varnishes
(k) Degreasers and/or solvents
(l) Drain cleaners
(m) Pesticides, herbicides or fertilizers
(n) Steam cleaning wastes
(o) Soaps, detergents or ammonia
(p) Car washing soaps, waxes, polishing agents, wheel cleaning products, degreasing agents or engine cleaners
(q) Swimming pool or spa filter backwash
(r) Chlorine, bromine or other disinfectants
(s) Heated water
(t) Domestic animal wastes
(u) Sewage
(v) Recreational vehicle wastes
(w) Animal carcasses
(x) Food wastes
(y) Bark, mulch, compost or other fibrous material
(z) Lawn clippings, leaves, branches, weeds or other yard waste
(aa) Silts, sediment, concrete, cement, clay, gravel or other soil generated from erosion, vehicle tracking, material stockpiles or other similar source
(bb) Dyes
(cc) Chemicals not normally found in rainwater
(dd) Any other process-associated discharge except as others allowed in this section
(ee) Any hazardous material or waste not listed above

(2) Allowable Discharges to Stormwater Drainage System. The following types of discharges shall be permitted unless the City determines that these discharges (whether singularly or in combination with others) are causing significant contamination of water resources:

(a) Diverted stream flows
(b) Rising ground waters
(c) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(2))
(d) Uncontaminated pumped ground water
(e) Foundation drains
(f) Air conditioning condensation
(g) Irrigation water from agricultural sources that is commingled with urban stormwater

(h) Springs
(i) Water from crawl space pumps
(j) Footing drains and roof drains, from non-pollution generating roofing materials, drains
(k) Flows from riparian habitats and wetlands
(l) Non-stormwater discharges covered by another NPDES Permit
(m) Discharges from emergency fire fighting activities and fire department training activities
(n) Accidental discharges from breaks in potable water mains, damage to fire hydrants or other failure of any potable water facilities or structure
(o) Any discharge specifically authorized in writing by a local, state or federal agency for remedial action in an agreed order, a consent decree or a voluntary cleanup effort

~~(3) Conditional Discharges. The following categories of non-stormwater discharges are allowed under the conditions listed below:~~

~~(a) Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing and pipeline hydrostatic test water with a chlorine residual greater than 0.1 ppm, pH adjusted, if necessary, and volumetrically and velocity controlled to prevent re-suspension of sediments in the City of Oak Harbor Stormwater Drainage System.~~

~~(b) Incidental discharges from lawn watering and other irrigation runoff provided that said discharge is the result of weather, equipment malfunction or other uncontrollable act and is not the result of excessive irrigation or sprinkler patterns that direct water towards impervious surfaces.~~

~~(c) Dechlorinated swimming pool discharges with a residual chlorine concentration less than 0.1 ppm, pH adjusted and re-oxygenated if necessary, volumetrically and velocity controlled to prevent re-suspension of sediments in the City of Oak Harbor Stormwater Drainage System.~~

~~(d) Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents, soaps or other cleansing agent Street and sidewalk wash water discharges shall be permitted only if street sweeping is performed prior to washing.~~

~~(e) Other non-stormwater discharges in compliance with the requirements of a stormwater pollution prevention plan, in accordance with Section 12.30, reviewed and approved by the City, which addresses control of discharges by applying all known and available resources and technology (AKART) to prevent contaminants from entering surface or ground waters.~~

(3) **Conditional discharges.** The following types of discharges shall not be considered illicit discharges for the purposes of this chapter if they meet the stated conditions, or unless the

City determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

(a) Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system;

(b) Lawn watering and other irrigation runoff are permitted but shall be minimized;

(c) De-chlorinated swimming pool discharges. These discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system;

(d) Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street;

(e) Non-stormwater discharges covered by another NPDES permit, provided, that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that written approval has been granted for any discharge to the storm drain system; and

(f) Other non-stormwater discharges. The discharges shall be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the City, which addresses control of such discharges by applying AKART to prevent contaminants from entering surface or ground water.

12.50.015 Spills.

(1) Spills, whether intentional or accidental, of stormwater contaminants released, discharged to, or having the potential to release or discharge to the City of Oak Harbor Storm~~water~~ Drainage System, surface waters or ground waters, shall be contained, controlled, collected, cleaned up and properly disposed. All affected areas shall be restored to their preexisting condition to the maximum extent practical.

(2) All costs incurred by the City of Oak Harbor in assisting with containing, controlling, collecting, cleaning up and properly disposing of spilled materials together with all restoration costs shall be the responsibility of the persons, organization, entities or other parties in control of the stormwater contaminants immediately prior to their release or discharge.

(3) Persons in control of the stormwater contaminants immediately prior to their release or discharge, and persons owning the private property, vehicles, equipment or vessels, on or from which, the substances were released or discharged, shall immediately notify the Oak Harbor Stormwater Utility and Oak Harbor Fire Department of the release or discharge, as well as making any required notifications under state and federal law. Notification of a spill shall be made by contacting the emergency dispatch center, (ICOM at 911) or the City of Oak Harbor spill notification hotline which shall be published together with City telephone numbers and on the City website. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability, civil penalty or criminal offense which may be imposed by state or other law.

12.50.020 Illicit Connections.

(1) Any connection that could allow conveyance of any illicit discharge is prohibited, except:

(a) Connections conveying allowable discharges as set forth at Section 12.50.010(2);

(b) Connections conveying discharges pursuant to a National Pollutant Discharge Elimination System (NPDES) Permit or a State Waste Discharge Permit; and

(c) Connections conveying effluent from permitted or authorized onsite sewage disposal systems to subsurface soils provided that said system is properly operating and in conformance with all relevant Washington State and Island County regulations for use, operation, maintenance and inspection.

12.50.030 Administration. The Director ~~of Public Works~~, or designee, shall be responsible for the administration and enforcement of this Chapter.

12.50.040 Public Nuisance. Illicit discharges and illicit connections which exist within the city limits are hereby found, deemed, and declared to be dangerous or prejudicial to the public health or public safety and are found, deemed, and declared to be unlawful and public nuisances.

12.50.050 Summary Abatement. Notwithstanding any other authority granted herein, the City may summarily abate an illicit discharge or illicit connection which is an immediate threat to the safety, health or welfare of the public or is a contamination threat to any surface or ground water and for which any delay might cause irreparable loss. All costs borne by the City in undertaking a summary abatement shall be, following passage of a lawful resolution by the Council, charged against the owner of the property, responsible person, or responsible operation and a lien against any real property. Notice of the lien herein authorized shall as nearly as practicable be in substantially the same form, filed with the same officer within the same time and manner, and enforced and foreclosed as is provided by law for liens for labor and materials.

12.50.060 Penalties.

(1) The failure to comply with the provisions of this chapter is a civil offense, classified as a Class 1 infraction pursuant to Ch. 1.20 OHMC. Each day of violation shall be a separate offense. This is an absolute liability offense. No mental element as defined in law is required for proof of violation.

(2) The knowing or intentional failure or refusal to comply with an abatement order of an illicit discharge or an illicit connection is a misdemeanor which shall be punishable by the maximum penalty established by RCW 9.92.030 as now or hereafter amended.

(3) An intentional or repeated violation of this chapter by the person responsible ~~subsequent to a finding of a violation pursuant to the civil infraction procedures of Ch. 1.28 OHMC~~ shall be a misdemeanor.

12.50.070 Enforcement.

(1) Provisions of this chapter will be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

(2) Investigation required. Upon information received that a violation of this chapter has occurred or is occurring, the ~~Public Works~~ Director or designee shall investigate the alleged violation. ~~and~~, If it is determined that a violation has occurred or is occurring, enforcement action shall be taken in accordance -with the terms of this section.

(3) Voluntary compliance. Unless the violation poses an immediate threat to the safety, health or welfare of the public or is a contamination of ~~any surface or groundwater~~the City's storm drainage system for which delay may cause irreparable loss or harm, the ~~Public Works~~ Director or designee may attempt to secure voluntary compliance.

(a) If the ~~Public Works~~ Director or designee determines that the violation is a first-time minor offense, a written warning may be issued, advising the property owner of the violation, the requirements to achieve compliance and the time by which compliance is required to prevent further enforcement action. The stipulated time period for compliance may not exceed thirty (30) days. The Director or designee shall make a written record of the reasons for treating the violation as a minor offense. If the ~~Public Works~~ Director or designee is satisfied that compliance has been achieved in the stipulated time period, no further enforcement action is required and a record shall be created of the outcome of the written warning.

(b) If the ~~Public Works~~ Director or designee determines that the violation is not a first-time minor offense but that the violation also does not pose an immediate threat to the safety, health or welfare of the public or is a contamination of ~~any surface or groundwater~~the City's storm drainage system for which delay may cause irreparable loss or harm, then a voluntary correction agreement may be entered with the person responsible for the violation. A voluntary correction

agreement is a contract between the City and the person responsible for the violation under which such person agrees to abate the violation within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

(i) The name and address of the person responsible for the violation; and

(ii) The street address or other description sufficient for identification of the land upon which the violation has occurred or is occurring; and

(iii) A description of the violation and a reference to the code section which has been violated; and

(iv) The necessary corrective action to be taken, and a date or time by which correction must be completed; and

(v) An agreement by the person responsible for the violation that the City may inspect the property as may be necessary to determine compliance with the voluntary correction agreement; and

(vi) An agreement by the person responsible for the violation that the city may abate the violation and recover its costs and expenses (including attorney fees, expert witness fees, and court costs) and impose a monetary penalty pursuant to this chapter and Ch. 1.28 OHMC from the person responsible for the violation if the terms of the voluntary correction agreement are not satisfied; and

(vii) An agreement that by entering into the voluntary correction agreement, the person responsible for the violation waives the right to a hearing on the violation and the required corrective action.

Execution of a voluntary correction agreement shall not relieve the person responsible for the violation of liability for any violations not specifically included in the voluntary correction agreement. The outcome of the voluntary correction agreement shall be noted in the records of the department.

(4) Civil Infraction Procedures Applicable. If voluntary compliance is not achieved with respect to a violation or if the ~~Public Works~~ Director or designee determines that voluntary compliance is not appropriate due to the nature of the violation, prior civil offenses on the part of the person responsible for the violation or for other reasons, the civil infraction procedures of Ch. 1.28 OHMC shall be followed. The reasons for the decision to seek a civil infraction shall be noted in the records of the department.

(5) Criminal Prosecution. A criminal complaint may be brought by the City Attorney or a citation may be issued by a duly commissioned law enforcement officer for violation of the misdemeanor provisions of this chapter, in accordance with CrRLJ 2.1.

(6) Nothing in this section shall limit the authority of the City to take any action, including emergency actions, civil infractions, criminal prosecutions or any other enforcement action, without first seeking voluntary compliance.

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

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

PASSED by the City Council and approved by its Mayor this_____ day of _____, 2009.

THE CITY OF OAK HARBOR

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Published: _____

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City of Oak Harbor
City Council Agenda Bill

Bill No. 6
Date: October 6, 2009
Subject: Ordinance Introduction – Repeal Oak Harbor Municipal Code Chapter 7.34 - Breed-Specific Restrictions

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

To consider and possibly repeal Oak Harbor Municipal Code Chapter 7.34, Breed-Specific Restrictions (Ord. 1479 passed 11/21/2006).

AUTHORITY

RCW 16.08.070 – Dangerous Dogs and Related Definitions, which sets forth the basic procedures that cities and counties must follow when dealing with dangerous dogs, places significant responsibilities on the owner of a dangerous dog, and provides that local government jurisdictions can impose more restrictive conditions on owners of dangerous dogs.

SUMMARY STATEMENT

On September 20, 2006, the Breed Specific Restriction Ordinance was introduced to the Oak Harbor City Council, and subsequently adopted on November 21, 2006 (Exhibit A). The intent at that time was to include the Breed Specific Restriction proposal as part of an overall update of the existing OHMC Animal Control Chapter. Previously, the City of Oak Harbor listed "pit bull breeds" outright as potentially dangerous animals which were apparently creating enforcement problems. The Breed Specific Restriction was thus meant to soften the harsh restrictions of being designated a "potentially dangerous dog", yet still maintain the "pit bull breed" as a distinct breed warranting some specific restrictions.

Earlier this year, the City was approached by a number of citizens questioning why the City of Oak Harbor places certain restrictions on a certain type of dog solely based on breed. We agreed to review the matter.

In dong so, we discovered that our insurance pool (Washington Cities Insurance Pool) does not recommend breed specific legislation and our own Animal Control Officer is of the same position. The principle reasons are that the burden of breed identification probably rests with the City in enforcement activities; and that the City's experience does not bear out the presumption that pit bulls are the primary source of dog

bites. A secondary reason to question the breed specific restriction voiced loudly by the concerned citizens is the unintended impact of the swelling numbers of pit bull dogs that are surrendered to our animal shelter due possibly to the cost and restrictions associated with maintaining a restrictive breed dog in the City of Oak Harbor. As a result, the animal shelter contains a disproportionately higher population of pit bull dogs which also means they are euthanized at a much greater rate.

The recommendation from Staff based our research findings is to simply repeal all of Chapter 7.34 (Breed Specific Restrictions) and rely instead upon other behavior based dog restrictions in the City Code.

STANDING COMMITTEE REPORT

This issue was brought to the Public Safety Committee on August 27, 2009 and the Governmental Services Committee on September 14, 2009.

RECOMMENDED ACTION

Consider Ordinance that repeals Oak Harbor Ordinance 1479 and set for public meeting on October 21, 2009.

ATTACHMENTS

Ordinance No. _____
Exhibit A - OHMC Chapter 7.34
Exhibit B - Literature Opposing Breed Specific Restrictions provided by staff.
Exhibit C – Citizen comments received regarding Breed Specific Restrictions

ORDINANCE NO. _____

AN ORDINANCE REPEALING OAK HARBOR MUNICIPAL CODE SECTION 7.34 ENTITLED BREED SPECIFIC RESTRICTIONS

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

Section One. Oak Harbor Municipal Code Chapter 7.34 entitled Breed Specific Restrictions, adopted by Ordinance No. 1479 on November 21, 2006 as shown in Exhibit A, is hereby repealed.

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

Section Three. Effective Date. This Ordinance shall be in full force and effect five days after its passage and publication as required by law.

PASSED by the City Council and approved by its Mayor this ___ day of _____, 2009.

THE CITY OF OAK HARBOR

_____
Mayor

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney

Published: _____

EXHIBIT A

ORDINANCE NO. 1479

AN ORDINANCE ADDING A NEW CHAPTER 7.34 TO THE OAK HARBOR MUNICIPAL CODE ENTITLED "BREED SPECIFIC RESTRICTIONS" IMPOSING SPECIFIC RESTRICTIONS ON CERTAIN BREEDS OF DOGS FOR THE PROTECTION OF THE COMMUNITY AT LARGE.

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

Section One. Oak Harbor Municipal Code Chapter 7.34 entitled "Breed Specific Restrictions" is hereby added to the OHMC and codified to have the following title and sections:

CHAPTER 7.34
BREED SPECIFIC RESTRICTIONS

Sections:

7.34.010 Findings
7.34.020 Applicability
7.34.030 Definitions
7.34.040 Restrictions
7.34.050 Exemptions
7.34.060 Penalties

Section Two. Oak Harbor Municipal Code Section 7.34.010 entitled "Findings" is hereby added to the Oak Harbor Municipal Code to read as follows:

7.34.010 Findings. The potential for harm from mishandling of certain breeds of dogs with known aggressive tendencies, such as pit bull terriers, far outweighs the burden of added requirements imposed on owners for the keeping of such dogs.

Section Three. Oak Harbor Municipal Code Section 7.34.020 entitled "Applicability" is hereby added to the Oak Harbor Municipal Code to read as follows:

7.34.020 Applicability. The provisions of this chapter shall apply to adult dogs only, which means any dog over the age of six (6) months.

Section Four. Oak Harbor Municipal Code Section 7.34.030 entitled "Definitions" is hereby added to the Oak Harbor Municipal Code to read as follows:

7.34.030 Definitions. The following definitions shall apply throughout this chapter:

(1) "Animal Control Authority" means the department of the City charged with the responsibility of administering the provisions of this chapter, or the department and any other agency to which this responsibility is contractually delegated and which is, thereby,

charged with the duty of enforcing the animal control laws of the City and/or with the shelter and welfare of animals.

(2) "Animal Control Officer" means any person or agency designated by the City as a law enforcement officer or quasi-law enforcement officer who is authorized to implement the provisions of this chapter and this title.

(3) "Owner" means any person, firm, corporation, organization, or department in possession of, harboring, keeping, having an interest in, or having control or custody of an animal.

(4) "Pit Bull Terrier" means American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier.

(5) "Proper enclosure" of a dangerous dog or a potentially dangerous dog means that while on the owner's property, a dangerous dog shall either be:

(a) securely confined indoors; or

(b) in a securely enclosed and locked pen or structure suitable to prevent the entry of children under the age of ten (10) years and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top and provide protection from the elements for the dog. If such pen or structure does not have a bottom that is secured to the sides, the sides must be embedded at least one (1) foot into the ground.

(6) "Running at large" means to be off the premises of the owner and not under the immediate control of the owner or other competent person authorized by the owner, by means of a leash, cord or chain, except when in or on any vehicle and securely confined to such vehicle.

Section Six. Oak Harbor Municipal Code Section 7.34.040 entitled "Restrictions" is hereby added to the Oak Harbor Municipal Code to read as follows:

7.34.040 Restrictions. The following restrictions apply to all dogs identified in this chapter:

(1) Dogs must be kept in a proper enclosure as defined in OHMC 7.34.030(5);

(2) Dogs may not be allowed outside of a proper enclosure, unless the dog is muzzled in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal, and:

(a) is restrained by a substantial chain or leash and under the physical control of a person over the age of 18 years who is of sufficient size and stature to restrain the animal; or

(b) is secured within a vehicle in a manner that protects the public from harm when the vehicle is parked and the public may have access to the dog and protects the dog from harm when the vehicle is in motion.

Section Seven. Oak Harbor Municipal Code Section 7.34.050 entitled "Exemptions" is hereby added to the Oak Harbor Municipal Code to read as follows:

7.34.050 Exemptions. Owners of dogs falling under the breed(s) defined by this chapter may earn an exemption from the restrictions listed in OHMC 7.34.040 by showing proof that their dog has passed the Canine Good Citizen (CGC) test of the American Kennel Club (AKC), as administered by any AKC certified trainer, and received appropriate certification from the AKC. Such animal shall be retested at least once every two (2) years and must pass each time in order to maintain this exemption. The exemption shall be noted on the dog license application.

Section Eight. Oak Harbor Municipal Code Section 7.34.060 entitled "Penalties" is hereby added to the Oak Harbor Municipal Code to read as follows:

7.34.060 Penalties. Violations of any of the restrictions in this chapter may result in the following penalties:

(1) Impoundment. The Animal Control Officer shall immediately impound any dog restricted by the provisions of this chapter found:

(a) outside a proper enclosure as defined in OHMC 7.34.030(4); or
(b) running at large as defined in OHMC 7.34.030(6); or
(c) under the care and control of a minor; or
(d) off the owner's property without a muzzle.

(2) Crime. In addition to impoundment, the owner of said dog shall be guilty of a misdemeanor punishable by a fine of up to One Thousand Dollars ($1,000) or a jail sentence of up to Ninety (90) days in jail or both fine and jail time.

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

Section Ten. Effective Date. This Ordinance shall be in full force and effect five days after its passage and publication as required by law.

PASSED by the City Council and approved by its Mayor this 21st day of November, 2006.

THE CITY OF OAK HARBOR

Paula A. Cohen

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

Published: December 6, 2006

L:\LGLA\WORK\Res-Ord 13\Breed specific ord #4.doc

EXHIBIT B

Why would the City rescind its breed-specific restrictions (Ord. 1479, 11/21/06) and what is breed-specific legislation (BSL)?

1. Breed-specific legislation (BSL) should be replaced with behavior-based regulations and sanctions to control the potential for canine aggression and encourage owner responsibility. Owners need to take precautions to prevent aggressive situations with their dogs. Whether owners are forced to take precautionary measures by a governing body or choose to initiate proactive measures of their own, these actions can help reduce the need for reactive sanctions, including BSL, by preventing attacks in the first place.

Organizations who do not advocate breed-specific legislation include:

- The Center for Disease Control and Prevention (CDC) which maintains the national database on fatal wounds inflicted by dog bites. CDC encourages dangerous dog laws that focus on individual dogs of any breed that have exhibited aggressive behavior.
- The American Medical Veterinary Association which supports dangerous animal legislation by state, county, or municipal governments provided that legislation does not refer to specific breeds or classes of animals. This legislation should be directed at fostering safety and protection of the general public from animals classified as dangerous.
- The American Kennel Club strongly supports dangerous dog control but states that legislation must be reasonable, non-discriminatory, and enforceable. The AKC's position paper goes on to say, that to provide communities with the most effective dangerous dog control possible, laws must not be breed-specific. Instead of holding all dog owners accountable for their behavior, breed-specific laws place restrictions only on the owners of certain breeds of dogs.
- The Animal Law Coalition which supports passage of dangerous animal ordinances is also organizing attorney groups and animal groups to file legal challenges in communities with BSL based on discrimination against responsible owners, false or non-existent statistics, and that BSL does not improve public safety.
- Best Friends Animal Society which gained national recognition with the rescue and rehabilitation of Michael Vicks' dogs.
- The Westminster Kennel Club.
- National Animal Control Association.
- National Humane Society.
- National Canine Research Council.
- ASPCA.

Statements (see footnotes)

Breed-specific legislation is probably not a practicable approach to regulation of dogs and is generally upheld only when it refers to named breeds of dogs and the standards set by recognized breed clubs. Proving that a particular dog falls

within the ordinance usually requires expert testimony. Application of breed-specific ordinances to mixed breed dogs presents both legal and practical difficulties. Whether even an expert can adequately identify a mixed breed dog is itself subject to controversy. Regulation defining prohibited dog behavior is probably a more practicable approach than breed-specific regulation. [1]

Banning a specific breed will not stop other dogs from attacking someone in the community. What happens if a dog of a different breed harms someone? If you follow the logic of BSL, that dog's breed is then added to a list of banned breeds. Local governments are left continuing to add to a list of forbidden breeds, and animal control officers are forced to become dog experts in order to identify the breeds.[2]

Breed-specific laws also often lead to increased costs to the community as many owners abandon their household pets to a local shelter because of their inability to comply with the strict regulations in these laws. Many of these dogs end up being euthanized at the shelters at the taxpayer's expense. The AKC takes the position of "deed not breed" when dealing with the issue of dangerous dogs. The real problem is not the breed of dog, but its irresponsible owner. We support laws that address this issue. These laws should include provisions such as establishing a fair process by which specific dogs (regardless of breed) are identified as dangerous based on specific, measurable actions. Animal control laws should also impose appropriate penalties on irresponsible owners and establish a well-defined method for dealing with dogs that are proven to be dangerous. [3]

Breed-specific legislation is not an effective approach for regulating dogs' behavior in communities. Although such bans might comfort individuals who have had unpleasant experiences with particular breeds or have heard of attacks by specific dog breeds in the media, the bans do not act to effectively regulate the behavior of any breed or of dogs and their owners collectively. The bans carry with them too much potential for arbitrary or improper enforcement: inaccurate breed identification by officials, difficulty enforcing breed bans against mixed-breed dogs, animal control and court system overload, and the potential for not identifying a genuinely dangerous dog as such because it does not fall in the specified breed categories. Government officials at the local and state level should focus on the problem itself – dangerous canine behavior – and concentrate their efforts on dogs' and owners' conduct. [4]

2. Oak Harbor's Municipal Code has language in place addressing dangerous dogs and potentially dangerous dogs, animals, and animal cruelty. Oak Harbor Municipal

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[1] Diane Blackman, article titled, "Practicality of Breed Specific Legislation in Reducing or Eliminating Dog Attack on Humans and Dogs"
[2] American Kennel Club, "Taking Command"
[3] American Kennel Club, "Taking Command"
[4] Michigan State University College of Law, Animal Legal and Historical Center

Code Chapter 7.32 – Dangerous Dog and Potentially Dangerous Dog, was amended, readopted, and recodified to update this chapter (Ord.1480, 11/21/2006), OHMC Title 7 – Animals, was updated (Ord. 1478, 11/21/2006), and OHMC Chapter 7.32 – Animal Cruelty, was added (Ord. 1477, 11/21/2006). At the state level, statutes rarely prohibit or restrict specific breeds. Statutes tend to focus more on the dogs' and owners' conduct, and on dangerous behavior regardless of breed.

3. Whidbey Island Animal Improvement Foundation is restricted by BSL and adoptions are difficult.

4. As example, other local agencies without breed-specific legislation:
   - Island County
   - King County
   - City of Port Townsend
   - City of Monroe
   - City of Kirkland

Issues

AVMA policy

Dangerous Animal Legislation

(Current as of November 2005)

The AVMA supports dangerous animal legislation by state, county, or municipal governments provided that legislation does not refer to specific breeds or classes of animals. This legislation should be directed at fostering safety and protection of the general public from animals classified as dangerous.

American Veterinary Medical Association
Copyright © 2009

Deed Not Breed!

Would you welcome these well-behaved pooches into your neighborhood?

Of Course!

Staffordshire Bull Terrier

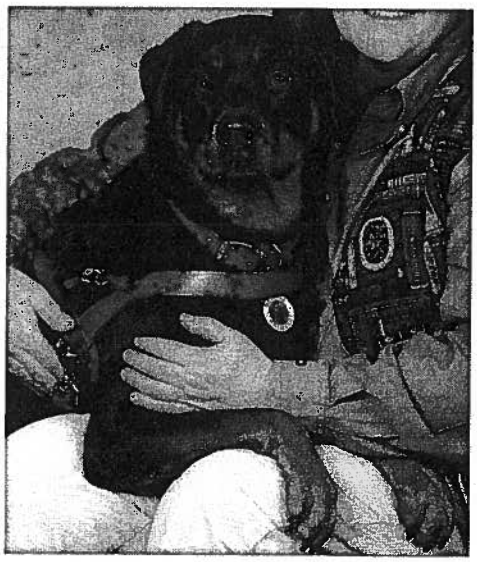
Canine Ambassador "Billy D" visits schools to teach children how to be safe around dogs.

AKC® believes a dog should be judged by its deeds, not its breed. We are dedicated to the passage of reasonable, enforceable, non-discriminatory laws to govern the ownership of dogs.

Colored Bull Terrier Credit: Chet Jezierski ©AKC

Best-in-Show winner "Rufus" is not only a seasoned show dog but a fun-loving family pet.

Unfortunately, some legislators believe they can protect their communities by imposing laws that restrict or completely ban dogs based on breed alone, with little or no consideration of well-mannered canines. AKC knows there are better, more effective alternatives.



Rottweiler Courtesy of: Leana Beasley

AKC ACE Award winner "Faith" is a highly skilled certified service dog trained in seizure, respiratory and cardiac alert and response, mobility assistance and emergency water rescue.

To find out how you can help, please contact the AKC's Canine Legislation department (doglaw@akc.org).

AMERICAN KENNEL CLUB

Support AKC efforts to stop breed-specific legislation.

www.akc.org

GDFLY3 (2/07)

Why Breed-Specific Legislation Doesn't Work

We have all heard the heartbreaking stories: A child brutally attacked by a dog. A beloved family pet or a farmer's livestock killed or injured by a stray dog. Such stories are far too common, and we all agree that something must be done to protect our children, our property, and our communities at large from dangerous animals.

When faced with this dilemma, many state and local governments turn to breed-specific legislation (BSL) as a possible solution. Breed-specific legislation, however, creates extra burdens on the government and dog owners but doesn't solve the underlying problem — irresponsible ownership and the threat to the community. The American Kennel Club agrees that communities must be protected. This is exactly why we oppose breed-specific legislation.

Breed-specific legislation is any bill that seeks to ban or place severe restrictions on a particular breed of dog or dogs with certain physical characteristics. Like racial profiling for dogs, this legislation unfairly penalizes good citizens without holding those responsible for the problem (the owners of dangerous dogs) accountable for it.

Banning a specific breed will not stop other dogs from attacking someone in the community. What happens if a dog of a different breed harms someone? If you follow the logic of BSL, that dog's breed is then added to a list of banned breeds. Local governments are left continuing to add to a list of forbidden breeds, and animal control officers are forced to become dog experts in order to identify the breeds.

Breed-specific laws also often lead to increased costs to the community, as many owners abandon their household pets at local shelters because of their inability to comply with the strict regulations in these laws. Many of these dogs end up being euthanized at the shelters at the taxpayer's expense.

BSL punishes responsible dog owners who choose to own a specific breed. Many owners of the targeted breeds are extremely responsible and their dogs are well-mannered, much-loved family pets. Additionally, many of the targeted breeds serve individuals and their communities as therapy dogs, search-and-rescue dogs, police/military working dogs, and service dogs for the disabled.

The AKC takes the position of *deed not breed* when dealing with the issue of dangerous dogs. The real problem is not the breed of dog, but its irresponsible owner. We support laws that address this issue. These laws should include provisions such as establishing a fair process by which specific dogs (regardless of breed) are identified as "dangerous"

based on specific, measurable actions. Animal control laws should also impose appropriate penalties on irresponsible owners and establish a well-defined method for dealing with dogs that are proven to be dangerous. The AKC also believes that, if necessary, some dogs proven to be "dangerous" may need to be humanely destroyed.

If a community truly wants to fix the problem of dangerous dogs, then it needs to abandon the idea of breed-specific legislation. Time and time again, communities that have enacted BSL get unenforceable and costly laws, but no solution to the problem. Addressing the issue of irresponsible ownership is a much more effective way of addressing animal control.

– Jennifer Clark,
AKC Government Relations Administrator

Click here for a one-page flier opposing BSL that you can distribute.

Close Window

EXHIBIT C

Connie Wheeler

From: Bob Baker and Barbara Moran [pitinfotaskforce@yahoo.com]
Sent: Thursday, September 24, 2009 10:21 AM
To: Connie Wheeler; Paul Schmidt
Subject: Fw: Whitehall, OH: Councilwoman who tried to ban pit bulls faces recall

just fyi

Should make you proud in Oak Harbor for the professional manner BSL has been managed.
The circus REALLY came to town in Whitehall :-) Barbara

Pitbull/mix Information Taskforce (PIT) Bob Baker and Barbara Moran, Co-Chairs Based on Whidbey Island, WA Visit PIT blog
http://msbmoran.com/Pets/DOGS.html

----- Forwarded Message ----
From: "SCHULTZ, LENA M (ATTSI)" <LG9993@att.com>
Sent: Thursday, September 24, 2009 10:12:42 AM
Subject: Whitehall, OH: Councilwoman who tried to ban pit bulls faces recall

Interesting article:

Whitehall votes to place Thompson recall on fall ballot It's the first recall vote in the city's history.
By KEVIN CORVO
Published: Wednesday, September 23, 2009 4:07 PM EDT Whitehall City Council members made official at a special meeting Tuesday, Sept. 22, the first recall election in the city's history.
Voters will decide Nov. 3 whether to retain Jackie Thompson, the first-term councilwoman who has challenged the city on numerous issues and raised the ire of some residents in her quest for what she has termed accountability and reform.
The Franklin County Board of Elections validated the petition Sept. 14 and provided Thompson with a certified copy of it Sept. 15. She had until Sept. 22 to resign. When she did not, council members proceeded with the special meeting to officially place the recall on the ballot by a resolution of council.
First, council members voted 5-2 to suspend the rules on the resolution and immediately consider it. Thompson and Councilwoman Leslie LaCorte voted against the measure.
Next, council members voted 6-0-1 to place the issue on the ballot. Thompson abstained from voting.
Now, after almost two years of Thompson standing on the other side of a chasm from a majority of council members, voters will decide whether Thompson will continue to serve on Whitehall City Council.
She was elected in 2007 as an at-large member. Her term expires Dec. 31, 2011.
Perhaps the most contentious matter concerning Thompson revolved around her twice-thwarted effort to ban pit bulls in the city.

Once last year and again earlier this year, Thompson sponsored legislation to ban pit bulls in the city.
With the exception of public support from a handful of residents, it was met with resistance from dozens of residents as well as organized opposition from outside the city.
Lobbyists and opponents of "breed-specific legislation" attended numerous council meetings last year opposing Thompson's effort, including HELP FIDO, an organization that provides microchipping, public education and numerous support programs for dog owners.
The Central Ohio agency was drawn into an associated quagmire when Thompson and resident Jerry Dixon accused the city of purposefully including HELP FIDO in its spring resource guide for residents.
After its publication in March, another Whitehall resident, Cheryl Jo Thompson - no relation to the embattled councilwoman - launched a blog critical of Thompson and LaCorte.
The Web site HELP FIDO provided a link that blog, prompting Councilwoman Thompson to ask for an investigation.
Dixon has continued to challenge the city on the matter, even after it was announced HELP FIDO would not be included in the fall resource guide. Dixon handed out fliers critical of the administration at the Sept. 15 meeting and carried a picket sign at the Sept. 22 meeting.
Brian Cluxton, a HELP FIDO board member, said the organization's Web site still features a link to the blog, and while HELP FIDO remains opposed to any form of breed-specific legislation, it does not participate in, nor does it take a public stance, concerning the recall effort now under way.
While pit bulls received the most media attention, CJ Thompson said her effort to oust Councilwoman Thompson is for other reasons, not the least of which was allegedly getting a Whitehall resident fired from her job.
Janiece Miller lost her job as Glazer Distributors after she sent e-mail from a computer at work to all members of council that was critical of Jackie Thompson's effort to ban pit bulls. Councilwoman Thompson, Miller said, called Miller's local employer, but then called the employer's corporate office in Texas to report the incident, after which Miller was dismissed from her job.
Councilwoman Thompson also has proposed stricter gun control laws and has worked toward equal opportunity for religious displays.
She questioned the display of a nativity at City Hall last Christmas in the absence of other displays, and in the wake of a domestic triple homicide and suicide in February, began asking how guns could be kept away from particular individuals.
"It's about pit bulls and dirty politics," Councilwoman Thompson said last week about the recall. Thompson had no additional comments following the Sept. 22 meeting.
In fact, no additional comments were made, as Council President Brent Howard did not accept public comment or council polling at the special meeting.
Adopting the resolution to place the recall on the ballot was the only action taken at the special meeting.
http://www.snponline.com/articles/2009/09/23/multiple_papers/news/allwhrecal_20090923_0355pm_4.txt
Thanks for all you do to help fight BSL!
Lena Schultz

Connie Wheeler

From: SCHULTZ, LENA M (ATTSI) [LG9993@att.com]
Sent: Friday, September 18, 2009 5:40 AM
To: Connie Wheeler
Subject: Oct 6 Meeting: Repeal BSL

Hi Connie,

I am writing you today to voice my support to repeal the breed-specific legislation currently in Oak Harbor. I would like you to please let the board members know my stance and to also send them the following information.

Why I Don't Support BSL and Do Support the Repeal of It:
* Pit bulls are also the most abused, neglected, and persecuted dogs in the United States.
* In Calgary, there is no breed specific legislation and they have the lowest number of dog attacks in 25 years.
* Italy recently revoked its breed ban stating the ban had no scientific justification.
* Breed profiling often fails. "Pit bull" is not a specific breed. It is a generic term that describes the American pit bull terrier, American Staffordshire terrier and Staffordshire bull terrier. The physical traits and characteristics of "pit bulls" are shared by approximately twenty-five (25) other breeds.
* As recently as 2/22/09, a "pit bull" was put down in a city with BSL. The dog was identified as a pit bull by Animal Control and was euthanized. The owner is now suing as the dog was actually an American Bulldog (http://news.cincinnati.com/article/20090222/NEWS0107/902220334).
* Breed discriminatory laws cause unintended hardship to responsible owners of friendly dogs that happen to fall within the regulated breed category.
* Studies show that an interaction of a broad complex of human, canine, and environmental factors contributed to dog bites-regardless of breed. National Canine Research Council.

Instead of BSL, I ask you to consider:
* Restricting Tethering. 25% of all fatal dog attacks involve tethered dogs. Most dog fighters chain their animals.
* Spay & Neuter programs. The biggest risk factors for dog aggression are irresponsible/cruel dog owners and dogs that are not spayed/neutered. Studies have shown that more than 70% of bite cases come from animals that are not neutered. If a dog is found to be "dangerous," it should be mandated that it be spayed or neutered.
* Micro chipping. If a dog is found to be "dangerous," it should be required to be micro chipped so there is a permanent identification of the dog. Dogs of some breeds are easy to confuse, especially if the owner has multiple dogs of the same breed.
* Prevent Reckless Owners from owning dogs. Minnesota prohibits repeat reckless owners of dogs deemed dangerous from owning dogs in their state. Illinois prevents convicted felons from owning unsterilized dogs.

As an owner of breeds targeted by BSL, this issue is very important to me

wherever it comes up.
Lena Schultz
206-979-6832

Note some organizations that are against BSL:
American Dog Owners Association (ADOA)
American Humane
American Kennel Club (AKC)
American Society for the Prevention of Cruelty to Animals (ASPCA) American Veterinary Medical Association (AVMA) American Working Dog Federation (AWDF) Association of Pet Dog Trainers (APDT) Humane Society of the United States (HSUS) International Association of Animal Behavior Consultants (IAABC) International Association of Canine Professionals (IACP) National Animal Control Association (NACA) National Animal Interest Alliance (NAIA) National Association of Dog Obedience Instructors (NADOI)

Connie Wheeler

From: Bob Baker and Barbara Moran [pitinfotaskforce@yahoo.com]
Sent: Thursday, September 03, 2009 12:30 PM
To: Paul Schmidt
Cc: Connie Wheeler
Subject: Fw: GOOD NEWS: Hutchinson, KS: Hutch won't ban pit bulls

just fyi

Pitbull/mix Information Taskforce (PIT)
Bob Baker and Barbara Moran, Co-Chairs
Based on Whidbey Island, WA
Visit PIT blog http://msbmoran.com/Pets/DOGS.html

----- Forwarded Message ----
From: "SCHULTZ, LENA M (ATTSI)" <LG9993@att.com>
Sent: Thursday, September 3, 2009 6:30:46 AM
Subject: GOOD NEWS: Hutchinson, KS: Hutch won't ban pit bulls

Hutch won't ban pit bulls

Last Update: 9/01/2009 5:29 pm

HUTCHINSON, Kansas – City leaders in Hutchinson won't bother passing a proposed pit bull ban, saying their vicious dogs laws already have enough bite.

After Wichita toughened up its laws regarding pit bulls inside city limits, the Hutchinson City Council took a look Tuesday morning at the proposed pit bull ban. But once council members studied the facts, they say they won't pass any laws that target a specific dog breed.

In July, an elderly woman and her dog were attacked by a pit bull in Hutchinson, leading her grandson to ask the council to ban the maligned breed. But after a hearing, members of the council decided they won't change the city's dog laws.

According to statistics provided by Hutch's animal control officer, out of 229 reported dog bites in the city only around a quarter of them were committed by pit bulls.

The city already has a vicious dog ordinance on the books. When a dog attacks someone, a judge at a court hearing takes a look at the evidence and then decides if the dog is vicious and needs to be put down. City leaders feel their current law does enough to protect folks in Hutchinson from dangerous dogs.

"You know, for the most part we felt like that we have the tools in place with our current vicious dog ordinance and our animal control enforcement efforts," said City Manager John Deardorff. "People need to let us know if they do have suspicion or are worried about a situation in their neighborhood."

The council decided it would be unfair to target pit bulls. For example, out of the 229 bites on record in Hutchinson since 2005, 32 were committed by Labradors. That's nearly 15

percent.

Thanks for all you do to help fight BSL!
Lena Schultz

Connie Wheeler

From: Bob Baker and Barbara Moran [pitinfotaskforce@yahoo.com]
Sent: Monday, July 20, 2009 12:50 PM
To: Paul Schmidt
Cc: Connie Wheeler
Subject: Fw: For Bruce: Thursday 7/23 @ 730 pls come!

Dear Paul,
This (below) is part of the worldwide coalition of groups opposed to BSL. We are asked almost daily by someone about BSL status in Oak Harbor, which is why I keep asking you if we can get some kind of timeline. Oak Harbor is on a list of cities national (and international) groups are planning to target if nothing gets resolved. The current dog of concern is Fergie -- a pit bull who has been in Oak Harbor's shelter for quite awhile now and who probably can't be adopted because of the city's requirements for a special cage, etc. Her description says she just needs a fenced yard, but that's not good enough in Oak Harbor. She has to have a cage.

Fergie
http://www.waifanimals.org/dogs_display.asp?id=1625

People are checking WAIF's site daily to see how she is doing, knowing that if she disappears it means she has been killed.

Meanwhile, George, the pitmix who was in Coupeville shelter, has been able to be adopted.

So please do what you can. We are REALLY trying to keep thing from escalating, but it is getting harder.
Thanks,
Barbara

P.S. I am planning to attend the vigil for Bruce and Snaps, and I know I'll get asked how it's going with Oak Harbor. I'd love to share good news.

From: Yvonne Devereaux [mailto:kidu@cablespeed.com]
Sent: Sunday, July 19, 2009 5:58 PM
To: SCHULTZ, LENA M (ATTSI); Jen Carter; Ted Massart; Nancy; Dona Ozier; Suzanne Miller; Jef Jaisun; Erich Knaak; Secrette Miller; Josh Parks; Lisa Short
Cc: Yvonne Devereaux; Amber Chenoweth
Subject: Thursday 7/23 @ 730 pls come!

Hi guys, some of you are on FaceBook, some are but dont check, and some arent, so Im sending this the old fashioned way!

Bruce is dog who was taken from his family two years ago because he is a "pit bull" type dog and Northern Ireland has BSL (Breed Specific Legislation). He has lived in a cage since then and has lost weight, his tail amputated, his nose is injured, his family is rarely able to visit him. The government is planning to euthanize him because of THE WAY HE LOOKS.

The world is having a candlelight vigil for Bruce on Thursday 7/23, we are organizing one in Seattle, and my friend Caroline has organized a vigil in NYC and is flying out this week. Other countries will be with us and all the photos will be posted on the site in the UK. Please join us this Thursday 7/23 @ 730 @ Westlake Center in Downtown Seattle. Bring a sign, bring a candle, or just come and stand to show your support.

BSL is alive and well in the US, for example: Denver has killed over 1600 "pit bulls" since 2005. Its racial profiling, its racism on four legs, and absolutely unacceptable. We stand united for Bruce as he holds the souls of all those taken due to ignorance. This must stop. Bruce must live. He has done nothing wrong - he will die because of his looks.

Ill see YOU on Thursday...
(And please forward this to everyone you know.)
Thank you,
Yvonne

Please watch this to see Bruce's story:
http://www.youtube.com/watch?v=FRJYVszJ7tE

As a friend so wisely put it, "It is not a matter of will this (World wide candle light vigil) free him, it HAS to free him, our conscience will accept nothing less. And for what they have done to this poor dog, taken him from his happy, well-adjusted environment and allowed him to become a festering mess is beyond comprehension. To euthanize him after all of that is beyond cruel."

Other Videos:

http://www.youtube.com/watch?v=0aQLog460Io

http://www.youtube.com/user/SavingBruce#play/all/uploads-all/1/SH6Vd9n2uOg

PLEASE TAKE A STAND WITH ME TO SAVE BRUCE:

"Paws" for a moment of silence and join me and others around the World in lighting a candle in honor, support and recognition of our beautiful canine friend, "Bruce", an innocent victim and pawn of Northern Ireland's Breed Specific Legislation law.

We can not do many things for Bruce as he still sits - just under 2 years - caged, isolated, and physically neglected at the hands of a government agency. These laws were enacted to decrease harm to its' citizens but is now causing harm to many dogs, including Bruce, and their families.

We can not break him free.

We can not ease his confusion and sadness of being taken from the only home he has ever known.

We can not relieve his suffering, and the pain that he continues to endure, nor can we replace his once-beautiful and healthy tail, now amputated from this government's abuse and neglect.

What we can do is pause "paws" for a moment of silence and light our flame in honor of "Bruce", in support of his steadfast-unwavering courage, continuing trust and devotion, and in recognition of his undeniable "spirit", that continues to touch the world.

We can "paws" to honor all of our canine friends and their families around the world who have lost their lives to Breed Specific Legislation and Dangerous Dog Act Laws, this criminal - breed genocide law, and vow to make a change, worldwide, one goal, one purpose, uniting us all in solidarity to repeal this law of inhumanity.

Meet me on Thursday, July 23rd 2009 and together we will light a candle and "paws" for this powerful moment of silence in honor, in support, and in recognition for all of us fighting to "Bring Bruce Home" and will unite to make a change for "Bruce" and the many lives already lost--so that they did not die in vain.

PLEASE BRING A CANDLE and if possible BRING A SIGN THAT SAYS something like BRING BRUCE HOME or BREED SPECIFIC LEGISLATION HURTS FAMILIES, BRUCE DOES NOT DESERVE THIS, etc.
Capture the moment with a digital photograph or video and please send to: mail@dangerousdogsact.co.uk and/or http://www.facebook.com/group.php?gid=10616243761 or send to me directly via email, so that we may record this historical moment in our fight for justice and publish these touching moments for the world to see. My friend Amber will be photographing each person and sending the photos in to show our Seattle support but please feel free to take your own photos as well.

NOT IN SEATTLE? YOU CAN STILL HELP!!!
Join me in spirit by lighting a candle for Bruce at dusk in your part of the world. Take a photo and send it to me and to mail@dangerousdogsact.co.uk and/or http://www.facebook.com/group.php?gid=10616243761

OTHER WAYS TO HELP:
Sign the Petition to Bring Bruce Home

http://www.thepetitionsite.com/1/BRING-BRUCE-HOME-X

The greatness of a nation and it's moral progress can be judged by the way it's animals are treated. - Ghandi

Connie Wheeler

From: Bob Baker and Barbara Moran [pitinfotaskforce@yahoo.com]
Sent: Friday, July 10, 2009 1:12 PM
To: Paul Schmidt
Cc: Connie Wheeler
Subject: Requesting an appointment

Dear Paul:
Just wondering when we might meet re: moving forward on BSL reform.

Also we are hearing from people who want to know what they can do (write letters, appear before the board?). Would they send letters to you?
Thanks,
Bob

Pitbull/mix Information Taskforce (PIT)
Bob Baker and Barbara Moran, Co-Chairs
Based on Whidbey Island, WA
Visit PIT blog http://msbmoran.com/Pets/DOGS.html

Connie Wheeler

From: Bob Baker and Barbara Moran [pitinfotaskforce@yahoo.com]
Sent: Thursday, July 02, 2009 11:16 AM
To: Paul Schmidt; Connie Wheeler
Subject: Great BSL contact - Monroe councilman running for mayor

Dear Connie and Paul:
Below is an email I received from Mitch Ruth, who might be a great contact for you regarding BSL. He can probably answer many of the practical questions you have, and also give you insights since his city went through a rather well-publicized battle over BSL (which hopefully we can avoid!)

Know that I remain committed to helping Oak Harbor with a customer-service oriented, revenue generating ordinance that is fair to all taxpayers and pet owners. Please let me know what you'd like me to do next.
Thanks,
Barbara

Greetings,

My name is Mitch Ruth, Councilman for the City of Monroe. Most of you folks know me from my fight to stop Breed Bans in the City of Monroe. Working together, we stopped unfair treatment of the owners of specific breeds and brought about a reasonable, responsible and fair dogs law that apply to all breeds in the City of Monroe. Together we put the responsibility where it belonged; on irresponsible dog owners, not on specific breeds! That would not have been possible without the assistance of groups like FABB. But my work is far from done. There are still those who want this law reversed.

Today I need to ask for your help again. I am running for Mayor, City of Monroe. To win, I need your support.

- We need strong leadership that won't back down when and give in to political pressure.
- We need a leader who will find reasonable, cost effective solutions to our problems and not simply wait for the county or state to solve our problems.
- We need a leader who won't raise our taxes, but instead will find ways to reduce government spending and bring new business to our area, creating new jobs putting people back to work.
- We need a leader who will put public safety first and stop gangs from getting a foothold in our community so that our families will remain safe on our streets and in our homes.
- We need a leader who will keep Breed Bans OFF the books in Monroe and encourage other cities to do the same.

My commitment to you is to be that leader.

Please help me continue this fight. I ask for your support of my campaign through your endorsements and contributions.

We are currently planning a event specially geared towards dog/cat owners with the assistance and support of Sam's Cats and Dogs, Naturally, in Monroe.

I will be happy to answer any questions and to hear your concerns on important issues. Any questions may be addressed to either MitchRuth4Mayor@yahoo.com or Rott01@earthlink.net .

Campaign contributions may be made out to; "Mitch Ruth for Mayor" and mailed to; 19916 Old Owen Road, PMB #259 Monroe, WA 98272

Thank you for your support,

Mitch Ruth

This correspondence is confidential to you from:

Pitbull/mix Information Taskforce (PIT)
Bob Baker and Barbara Moran, Co-Chairs
Based on Whidbey Island, WA
phone 360.969-3333 (cell)

Paul Schmidt

From: Ron de Ru [Ron@northwestscientific.com]
Sent: Tuesday, September 01, 2009 12:00 PM
To: Paul Schmidt
Subject: Dog ordinance

Paul,

My wife and I like to take walks. We don't like dogs chasing us especially Rotweilers and Pit Bulls. Almost every newsworthy incident concerning dogs involves a mauling by a Pit Bull.
Anyone who owns one of these types of dogs is intentionally looking for trouble. There are plenty of other breeds to choose from.
Keep the BSL ordinance ... AND ENFORCE IT! Any dog that bites once, yes first time offense, should be euthanized. If you lift this ordinance, and someone gets hurt, you'll wind up being the public target.

Sincerely,

Ron de Ru
Ph: 206-423-9009
Fax: 888-249-9866
942 W. Miller Rd
Oak Harbor WA. 98277
Email: Ron@northwestscientific.com

Paul Schmidt

From: Renee Recker
Sent: Monday, August 31, 2009 2:22 PM
To: Paul Schmidt
Subject: FW: Website Contact Form Submission

Paul:

The Mayor asked that I forward this to you. I will be writing a reply to Mr. Koch but want to make sure that the Dangerous Dog Ordinance will be on the September 15th agenda.

Thanks!

Renée Recker
Executive Assistant
Office of Mayor Jim Slowik
-----Original Message-----
From: Dina Nichols
Sent: Monday, August 31, 2009 8:14 AM
To: Renee Recker
Subject: FW: Website Contact Form Submission

-----Original Message-----
From: info@oakharbor.org [mailto:info@oakharbor.org]
Sent: Saturday, August 29, 2009 10:42 AM
To: Dina Nichols
Subject: Website Contact Form Submission

A user has submitted feedback from the City of Oak Harbor's Website.

From: Richard Koch (d46koch03@verizon.net)
About: Questions for the Mayor

This comment is relative to the article in the 8/29/09 Whidbey News Times: I strenuously support the continuation of Ordinance 1479!! My son and his family live next to a pit bull. The dog aggressively charges the fence whenever anyone is in my son's yard and the dog is not in its home. The containment does not meet Ordinance 1479, as we understand it - and animal control has been notified frequently, to no avail. As for enforcement of a breed specific ordinance, it would seem simple enough to require the identification of an animal's breed at the time of licensing. From our perspective, it is not so much a concern about a bite, it is the maiming or fatal injuries that these animals can (and too often do) inflict, sometimes on their own owners. This breed is dangerous and, quite frankly, does not belong in the City at all. If it is to be allowed, it should be well-contained and the Ordinance should be enforced. Waiting until a child is maimed or killed is too late. Pit bulls have been identified as unusually aggressive and dangerous in too many attacks in too many places to ignore the evidence! We do not want our 2 year old grandson, or his two younger siblings, who live next to an aggressive animal on 8th SE to be the victims that awaken you and other City leaders to this threat! PLEASE CONTINUE ORDINANCE 1479 - AND MODIFY IT, OR OTHER RELEVANT ORDINANCES, TO REQUIRE BREED IDENTIFICATION AT THE TIME OF LICENSING IN THE CITY!

To view the full item, please log into the websites administration and view the "Contact Form" administration area.

City of Oak Harbor
City Council Agenda Bill

Bill No. 7
Date: October 6, 2009
Subject: Right of Way Acquisition- Oak Harbor Street Project

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

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

This agenda bill requests Council authorization for the Mayor to enter into purchase and sale agreements with Muleskinners, Inc. for outright purchase of previously approved right-of-way acquisition instead of exchange for street improvements.

AUTHORITY

The authority to enter into agreements and acquire property for improvements is granted to the City of Oak Harbor under RCW 35A.11.020. The requirement to pay for actual costs of property owners evaluating the City's offer to purchase a right of way arises out of federal and state regulations and may be found in the Local Agency Guidelines, April 2007.

SUMMARY STATEMENT

On June 2, 2009, City Council provided authority for the Mayor to sign a purchase and sale agreement with Muleskinners, Inc. to acquire 5,306 square feet of right-of-way appraised at $44,000 in exchange for "certain street improvement waivers" valued at approximately $35,000.

Staff has been recently informed that Muleskinners, Inc. would now prefer to receive the appraised cash amount of $44,000 instead of exchanging the value of the "certain street improvements waivers" for the right-of-way acquisition.

Acquisition #2 Muleskinner Inc
Located on the east side of Oak Harbor Street and north of NE 10th Avenue, the property owned by Muleskinner, Inc is large tract with one single family residence. Currently zoned for multi-family housing, the property is not developed to its highest and best use (based on the zoning). Muleskinner, Inc has submitted plans to the City to develop the property in accordance with the zoning. However, given the current market conditions, it

may be some time before the applicant moves forward with the project.

In order to construct the Oak Harbor Street improvements project, notably sidewalks, a narrow strip of property, owned by Muleskinner, Inc., is required. Normally, as part of the site development, the owner would be required to provide both the improvements and a dedication of Right of Way (ROW). However, since the City's project is on a faster schedule than the property owner's development plans, the City needs to either purchase the right-of-way property outright or find an alternate means of conveyance. As with the Woodside Condominiums, the City's contracted ROW agent negotiated with the property owner and reached an agreement with the property owner to acquire the property in exchange for waiver of certain City development requirements on the remaining property (known as "Crosby Trace").

The property needed for the right-of-way (5,306 square feet) is appraised at $44,000. In lieu of paying this amount of money, the City would contract to waive the requirements for street improvements to Oak Harbor Street associated with the Crosby Trace site plan approval required by Chapter 11.16 OHMC (Required Street Improvements), OHMC 19.48.037(4)(e)(General evaluation criteria for site plan approval – street improvements), and Chapter 11.17 OHMC (Improvement Standards). The value of these street improvements, based on construction cost estimates, is $35,000. The City would also agree to include the 5,306 square feet of right-of-way for the Oak Harbor Street extension in the density calculations for the Crosby Trace site plan under OHMC 19.08.245; and further agree that the landscaping between the edge of Oak Harbor Street and the sidewalk for that street frontage on the Crosby Trace site plan shall be included as part of the required landscaping for the site plan pursuant to OHMC 19.46.030(1)(a)(vi) and OHMC 19.46.030(1)(c)(i). These last two agreements are consistent with City Development Services regulations and practices.

Staff has no problem with purchasing the right-of-way outright as was the process for the other properties. However, since the original City Council action did specifically refer to the Muleskinner's Inc. as an **exchange** for "certain street improvement waivers", reauthorization for a cash transaction for the right-of-way is in order.

STANDING COMMITTEE REPORT

This item will be presented to the Public Works standing committee on October 1, 2009.

RECOMMENDED ACTION

A motion, for the purpose of improvements to Oak Harbor Street between Crosby Road and Whidbey Avenue, to:

~~1.~~ Authorize the Mayor to sign a purchase and sale agreement with Muleskinners, Inc. to acquire 5,306 square feet of right-of-way appraised for $44,000. ~~in exchange for the~~

~~following City commitments with respect to the pending Crosby Trace site plan as now submitted or subsequently resubmitted for the same property:~~

~~a. Waiver of the requirements for street improvements to Oak Harbor Street associated with the Crosby Trace site plan approval, and/or subdivision required by Chapter 11.16 OHMC (Required Street Improvements), OHMC 19.48.037(4)(e)(General evaluation criteria for site plan approval – street improvements), and Chapter 21.50 OHMC (Improvement Standards). The value of these street improvements, based on construction cost estimates, is $35,000.~~

~~b. Agreement to include the 5,306 square feet of right-of-way for the Oak Harbor Street extension in the density calculations for the Crosby Trace site plan under OHMC 19.08.245.~~

~~c. Agreement that the landscaping between the edge of Oak Harbor Street and the sidewalk for that street frontage on the Crosby Trace site plan shall be included as part of the required landscaping for the site plan pursuant to OHMC 19.46.030(1)(a)(vi) and OHMC 19.46.030(1)(c)(i).~~

All purchase and sale agreements must be approved and signed by the City Attorney prior to execution.

ATTACHMENTS

None.

MAYOR'S COMMENTS