

City of Oak Harbor

City Council
Agenda

for
September 21, 2010

6:00 p.m.

Oak Harbor City Council
REGULAR MEETING
6:00 p.m.
Tuesday, September 21, 2010

Welcome to the Oak Harbor City Council Meeting

As a courtesy to Council and the audience, PLEASE TURN YOUR CELL PHONES OFF before the meeting begins. During the meeting's Public Comments section, Council will listen to your input regarding subjects of concern or interest that are not on the agenda. For scheduled public hearings, please sign your name to the sign up sheet, located in the Council Chambers if you wish to speak. The Council will take all information under advisement, but generally will not take any action during the meeting. To ensure your comments are recorded properly, state your name and address clearly into the microphone. Please limit your comments to three minutes in order that other citizens have sufficient time to speak. Thank you for participating in your City Government!

CALL TO ORDER

INVOCATION

ROLL CALL

MINUTES 9/7/10 Regular Meeting

NON-ACTION COUNCIL ITEMS:

1. Proclamation - Fire Prevention Week.
2. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

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3. Consent Agenda:

- a. Jail Contract – Washington State Department of Corrections.
- b. Excused Absence – Councilmember Bob Severns, from 10/19/10 Council Meeting.
- c. Approval of Accounts Payable Vouchers (Pay Bills).

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4. Public Hearing - West Meadows Final Plat Alteration.

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5. Introduction of Ordinance – Water, Wastewater, Storm Drain Services.

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6. Public Art Site Recommendations – Oak Harbor Arts Commission.

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7. Council Rules Amendment #27 – Standing Committees Rule No. 27.

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8. North Oak Harbor Street Project – Council Agenda Bill per OHMC 1.04.

ADJOURN

*"The invariable mark of a dream is to see it come true."
- Ralph Waldo Emerson*

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

**City Council Meeting
Tuesday, September 7, 2010, 6:00 p.m.
City Hall – Council Chambers**

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

INVOCATION Councilmember James M. Campbell

ROLL CALL

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

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

MINUTES

MOTION: Councilmember Campbell moved to approve the 8/4/10 regular meeting minutes. Councilmember Palmer seconded the motion. Councilmembers Alberg, Campbell, Munns, Paggao, Palmer, and Severns voted to approve the 8/4/10 minutes. Councilmember Dudley abstained from the vote since he did not attend the 8/4/10 meeting. The motion carried.

NON-ACTION COUNCIL ITEMS

Commendation from the Police Department – Devin Brooks

Police Chief Rick Wallace gave this presentation which recognized Devin Brooks with a Civilian Certificate of Appreciation for assisting a family involved in a car accident. Mr. Brooks introduced his family and thanked the Police Department and Council for this honor noting that he hoped that someone would do the same thing for his family.

Proclamation – United Way Month

Councilmember Alberg read and presented this proclamation to Tom Sundown, Chair of this year's United Way Campaign along with Cathy Niir, Executive Director. Mr. Sundown talked about this year's financial goal to exceed last year's \$275,000. The larger goal is to impact the community through United Way's agencies and help more than the 41,000 people assisted by United Way last year. "Live United" is this year's theme and the campaign's kick-off will be September 10th at Oak Harbor High School football game.

Mayor Slowik called for a break at 6:15 p.m. and the meeting reconvened at 6:20 p.m.

Public Comments

Helen Chatfield-Weeks, 1415 SE 9th, Oak Harbor. Ms. Chatfield-Weeks asked Council to revisit their vote on the one-way/two-way designation for Pioneer Way noting the 2,300 petition signatures had been submitted in favor of a two-way street.

Frank Scelzi, P.O. Box 2249, Oak Harbor. Mr. Scelzi presented a Secretary of State's corporation registration sheet, attached as Exhibit A to these minutes, in response to comments about the existence of the Harborside Merchants Association. Regular meetings are scheduled and the Association is planning for Halloween. Mr. Scelzi asked that Council reconsider their actions on the Pioneer Way Improvements Project, asked Council to work with the community, talked about undisclosed Council interests on Pioneer Way, thanked Councilmember Dudley, and talked about the documents posted in the window of 800 SE Pioneer Way.

Mark and Rebecca Logan, 2525 SW Navigator Loop, Oak Harbor. Mr. and Mrs. Logan recently purchased a home and spoke with concern about the City's fencing code. Mr. Logan had visited the Planning Department and was given fencing guidelines and he erected a fence in accordance with his understanding of the code. He has subsequently received a letter in violation of the code, has asked for an extension of time to answer this violation, and asked the City this evening to re-look at the code and address the numerous other fences which would also be in violation of the code.

Fred Henninger, 580 SE Ireland Street, Oak Harbor. Dr. Henninger spoke with concern over ordinance enforcement and the loss of the City's code enforcement officer. Dr. Henninger thanked the Police Department for their effort in the removal of unlicensed vehicles on his street, but he remains concerned with the permanent storage of boats and trailers on lawns and suggested using Citizens on Patrol to help with code enforcement. Mayor Slowik noted that the code enforcement officer had retired, but these duties have been assumed by the City's building official, Dave Anderson.

Gerry Oliver, 947 NW Prow Street, Oak Harbor. Mr. Oliver thanked Mayor Slowik for the opportunity to have served the community on the Civil Service Commission and his appointment this evening to the Planning Commission. Mr. Oliver spoke in support of the Council's Pioneer Way decisions; the one-way design is going to be beautiful.

With no other comments coming forth, Mayor Slowik closed public comments at 6:30 p.m.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS

Consent Agenda

- A. Park Board Appointment – Daisy Sapida
- B. Planning Commission Appointment – Jeff Wallin
- C. Planning Commission Appointment – Gerry Oliver
- D. Civil Service Appointment – Patty Encinas
- E. Arts Commission Re-Appointment – Nora O'Connell-Balda
- F. Arts Commission Re-Appointment – Fern Miller
- G. Excused Absence – Councilmember Beth Munns

- H. Noise Permit – Richard Bond/Click Music
- I. Noise Permit – First United Methodist Church
- J. Approval of Accounts Payable Vouchers

MOTION: Councilmember Alberg moved to approve consent agenda items A through J with item J paying accounts payable check numbers 142535 – 142716 in the amount of \$1,009,795.59, accounts payable check number 142717 in the amount of \$1,261.12, accounts payable check numbers 142718 – 142913 in the amount of \$1,384,493.47, payroll check numbers 94035 – 94043 in the amount of \$373,110.85, payroll check numbers 94044 – 94078 in the amount of \$644,284.30, and payroll check numbers 94079 -94105 in the amount of \$50,603.87. The motion was seconded by Councilmember Severns and carried unanimously.

Public Hearing and Final Consideration – Ordinance, Water Rates and Charges

Public Works Director Cathy Rosen presented this agenda bill and ordinance which amends Chapter 13.32 of the Oak Harbor Municipal Code entitled “Rates and Charges.” It establishes the criteria to be used in determining water utility rates and establishes administrative costs and consumptions for various classes of customers. The ordinance also provides that the water rates and charges be used exclusively for providing water utility services. The City contracted with HDR Engineers, Inc. to prepare a comprehensive rate study for the City’s water utility. This included an analysis of the revenue requirements for the utility, a cost of service analysis to determine the cost of providing water service to the various classes of customers, and a rate design to provide a fair and equitable means to distribute costs to the various classes of customers and to meet the City’s goal of encouraging water conservation. The key changes that the proposed ordinance will make to the rate structure for the water utility include:

- Establishing a rate structure that encourages conservation by transitioning over a five year period from a declining block to an inclining block structure. An inclining block structure encourages conservation by charging more per unit as consumption increases.
- The cost of service analysis established the administrative cost of service which includes but is not limited to meter reading, meter installation and maintenance, billing, consumer confidence reports, water quality testing, customer notifications of water outages, and other customer related services.
- Charging a flat monthly fee based on meter size. This is the most efficient and effective way to cover the administrative costs.
- Reducing the administrative charges for multi-family residential customers that have a single meter due to reduced costs associated with the consolidated nature of single meter-based costs for meter reading, billing and the installation and maintenance of the meters. To account for this, the cost associated with water service to a multi-family residential building with a single meter are most equitably represented by 85% of the meter charge times the number of units available for occupancy.

Mayor Slowik opened the public hearing at 6:35 p.m.

Fred Henninger, 580 SE Ireland, Oak Harbor. Dr. Henninger spoke to the 85 percent figure. Water should be sold by the unit and not by the meter. Meters are paid for and installed; the line is paid for by the residents. I am concerned with how water funds are spent. It is stated that these funds will be solely used for the benefit of the water district and that is not the case. 6 ¼ percent is a tax. The problem with both water and sewer is that there are no impact fees to take care of growth. We advertise for people to come to our island, but then they can tap into everything for just the cost of hooking up. This is burdening the customers of the system and amounts to hundreds of millions of dollars just for water. I strongly recommend an impact fee. We are planning for a 70 million dollar sewer treatment plant but less than 10,000 people are involved with that system. We have made it less expensive for multiple units. We have removed the Naval Air Station which has put in many houses and none are taxed on their meters. With my personal bill, 500 cf, \$26.04 is for my water. If I moved out of town, it would cost me \$10.93 for the same amount of water. It pays not to be in the City. We have run waterlines going out to the north. I had to pay for the water main when it came by my house. Those outside the City must be brought in if we provide services to them.

Mayor Slowik responded to Dr. Henninger's comments. There are two taxes on your water and neither are sales taxes; they are B and O taxes and taxes on the water system itself which is also included in the water the City sells to the Navy. The 6 ¼ percent are taxes to the State for the Public Works Trust Fund. This is not a sales tax. Impact fees will be taken up by this Council. There is a separate contract with the Navy for their water and taxes are paid on that water. I believe that we have these items in hand.

With no other comments coming forth, Mayor Slowik closed the public hearing at 6:45 p.m.

City Attorney Hite was asked to address the B and O tax – there are two taxes, one levied under City code and the other levied by the State.

Council Discussion

Discussion followed regarding administrative costs versus consumption – meter ownership and maintenance, repair and replacement, billing and processing, compliance with State regulations, and the use of an industry standard determined through HDR's analysis. Consumption is per unit. Discussion continued about consumption rates, tiers of consumption, declining/inclining block structures, water conservation, and the Navy contract for water. Discussion followed about the number of utility rates workshops which have been held, the long-term plans for utilities, and this evening's ordinances addressing utility rate policies.

Councilmember Palmer recused himself from this discussion because of his property ownership.

Discussion continued regarding the 85 percent, multi-unit meters and billing accounts, comparisons to other cities as presented in the analysis, the meter installation is paid for by developers/applicants, and there are substantial system development fees for water and sewer that are already in place. Services outside of the City are charged 150% of the City customer rate and the City is not funding development. Discussion followed about the ordinance's reference to water utility districts' service with clarification that this language is meant to specifically address existing service to North Whidbey Water District and to cover any emergency needs. Discussion continued about the presentation schedule for the rates ordinance (potentially within the next two Council meetings) and the suggested use of graphs, charts, statistics and user examples to explain the rates.

MOTION: Councilmember Munns moved to adopt the ordinance amending Chapter 13.32 of the Oak Harbor Municipal Code entitled "Rates and Charges." The motion was seconded by Councilmember AlMBERG. Councilmembers AlMBERG, Dudley, Campbell, Munns, Paggao, and Severns voted in favor of the motion. Councilmember Palmer had recused. The motion carried.

Councilmember Palmer returned to the meeting.

Public Hearing and Final Consideration – Ordinance, Sewer Utility Charges

Public Works Director Cathy Rosen presented this agenda bill and ordinance which amends Chapter 14.05 of the Oak Harbor Municipal Code entitled "Rates and Collections." It establishes the criteria to be used in determining wastewater utility rates and establishes base rates for various classes of customers as well as volumetric rates for commercial and school customers. The ordinance also provides that the wastewater rates and charges be used exclusively for providing wastewater utility services. The City contracted with HDR Engineers, Inc. to prepare a comprehensive rate study for the City's wastewater utility. This included an analysis of the revenue requirements for the utility, a cost of service analysis to determine the cost of collecting and treating wastewater from the various classes of customers, and a rate design to provide a fair and equitable means to distribute costs to the various classes of customers. The cost of service analysis determined that:

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

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

Councilmember Palmer recused himself from this discussion because of his property ownership.

Mayor Slowik opened the public hearing at 7:00 p.m.

Fred Henninger, 580 SE Ireland, Oak Harbor. The surveys have been done in the winter and the multi-family residents leave more often in the winter. Water and sewer are diminished. After I pay \$7.00 for my water, I pay \$36.00 to have that water run through the sewer system. I have lived in the same house for many years. If there is a service fee, water and sewer should parallel each other. I am paying four times more for sewer. Again, single family residences pay the most. Seven different entities are charged seven different fees and single family is being nailed the hardest. What about City parking lots and City toilets and business toilet facilities. These categories and multi-family residents should contribute equally. We have eliminated hospitals, the Marina, and residential/commercial – why aren't these categories special? I understand that effluent strength is of concern to the sewer treatment plant but sewer fees are already higher than water fees.

Mel Vance, P.O. 2882, Oak Harbor. More attention needs to be paid to the future of the sewage treatment plant. I am not surprised by major upgrades in ten years and the change in regulations. There are vehicle replacement funds in other cities. We need a special fund in all of the departments for replacement of buildings; put it into an investment account. I urge including a facilities replacement fund as policy. In my opinion, multi-units are smaller than single-family residences. It depends on the number of occupants which will then produce more effluent. Use the number of residents in each unit rather than the class of unit.

With no other comments coming forth, Mayor Slowik closed the public hearing at 7:15 p.m.

Council Discussion

Discussion followed about hotel/motel classification (commercial), schools and actual wastewater volume, and the policy for rates as discussed in prior workshops. The winter water usage and irrigation was discussed, with that volume as an indicator of what is going to the wastewater treatment plant. It was noted that the ordinance's first page and fourth page has an error – multi-family residential unit should read 85% of the average volume of a single-family residential household instead of 70%.

Discussion continued about Dr. Henninger's remarks and his combination of sanitary sewer with stormwater sewer which are two separate utilities, that multi-family is also based on the provision for occupancy and not vacancy (cannot shut a whole building down), and that the timing is right to establish policy. This is the City's first cost of service analysis; it was suggested that a rate review timeline could be added to the ordinances. Ms. Rosen noted that rates are reviewed annually without a consultant, significant changes are reviewed (tipping fees, Anacortes water rate), with a review every three to five years for a more comprehensive study but not as comprehensive as HDR's analysis. State law determines that this review occur every five to six years.

MOTION: Councilmember Munns moved to adopt the ordinance amending Chapter 14.05 of the Oak Harbor Municipal Code entitled "Rates and Collections." The motion was seconded by Councilmember Almberg.

AMENDMENT TO THE

MOTION: Councilmember Almberg moved to amend the original motion to change 70% to 85% of the average volume of a single-family residential household on pages one and four of the ordinance as noted. The motion was seconded by Councilmember Severns.

VOTE ON THE AMENDED

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

Discussion continued regarding the original motion and the high-strength surcharge. No customers are currently being charged this surcharge but it pertains to certain types of industrial facilities.

VOTE ON THE ORIGINAL

MOTION: Councilmembers Almberg, Campbell, Munns, Paggao, and Severns voted in favor of the motion. Councilmember Dudley opposed. Councilmember Palmer had recused. The original motion carried.
Councilmember Palmer returned to the meeting.

Mayor Slowik called for a break at 7:30 p.m. and the meeting reconvened at 7:35 p.m.

Public Hearing – Adult Entertainment Work Plan (Zoning Code Amendment)

Development Services Director Steve Powers presented this agenda bill which requested City Council approval of a six-month extension for the interim adult entertainment facilities overlay zone adopted on March 23, 2010. A work plan supporting the request was presented for Council information. The amended interim ordinance adopted by the City Council on May 4, 2010, established an adult entertainment facilities overlay zone over three parcels on NE Goldie Street. One of these parcels is zoned Industrial (9.08 acres in size) and two are zoned Planned Industrial Park (totaling 9.78 acres in size). It is important to note that these parcels were identified as part of the interim ordinance and the size, number and location may not be sufficient for the final ordinance.

Mayor Slowik opened the public hearing at 7:45 p.m.

Mel Vance, P.O. Box 2882, Oak Harbor. Mr. Vance spoke in favor of the extension but wondered if six months is enough time. He suggested the City work with the County to have the regulations match. All of the City's appropriate parcels come up against County parcels. Mr. Vance suggested establishing the facilities overlay zone through zoning rather than identified parcels. Consider planned industrial business parks and well as industrial properties.

With no other comments coming forth, Mayor Slowik closed the public hearing at 7:48 p.m.

Council Discussion

Discussion followed about a time extension beyond the next six months and Mr. Powers clarified that this can be extended again, if needed. In response to a Council question, the Planning Commission will review the three tracts and their potential for subdivision.

MOTION: Councilmember Dudley moved to adopt the ordinance extending the interim regulation for the Adult Entertainment Facilities Overlay Zone for an additional six months. The motion was seconded by Councilmember Severns and carried unanimously.

Public Hearing – Release of Easement

City Engineer Eric Johnston presented this agenda bill. On June 1, 2010, the City Council approved a reimbursement agreement with West Meadows Partners, Inc., for offsite sewer improvements associated with the Plat of West Meadows. As part of the plat approval process, the City required an easement from the property owner for the location of the lift station and this easement was provided to the City. The property owner had previously provided an easement for the lift station in a different location on the same property, however, that location was not acceptable since a lift station there would not meet the requirements of the annexation agreement. With the easement in place for the lift station constructed by the West Meadows Partners, there is no longer a need for the previous easement. The current property owners, Jimmy and Mary

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Forbes, have requested that the City extinguish the easement that is not needed for City utility purposes. The SEPA analysis was done on the proposed Release of Easement and was available for public review nineteen (19) days prior to the public hearing.

Mayor Slowik opened the public hearing at 7:50 p.m. but there were no comments so the public hearing was closed.

Council Discussion

Councilmember Almberg had conversations with the Forbes concerning movement of the lift station to a different location which benefited both the City and the Forbes. Mr. Almberg had no financial interest, did not work for the Forbes, but was paid by the adjoining property owner. The record shows that no one objected to Councilmember Almberg remaining for this matter. Councilmember Severns asked that the word "dedication" be replaced with the word "conveyance" in the fourth paragraph of the Release of Easement. There were no objections to this text replacement.

MOTION: Councilmember Munns moved to authorize the Mayor to sign the Release of Easement. The motion was seconded by Councilmember Palmer and carried unanimously.

Bid Award – Fuel Island Equipment Installation

City Engineer Eric Johnston presented this agenda bill which recommended awarding a contract for the installation of the fuel island upgrade project's material and equipment to ESE Corporation in the amount of \$187,431.41. Staff received and opened four sealed bids on July 28, 2010. The bid totals are tabulated below (amounts include Washington State Sales Tax in the amount of 8.7%):

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

Staff reviewed the bid prices and is knowledgeable of the qualifications and experience of the low bidder, ESE Corporation.

Mayor Slowik called for public comments but there were none.

Council Discussion

Discussion followed about the recommended action phrase, "in a form acceptable to the City Attorney" and asked if the contract would return to Council if changed. City Engineer Johnston noted that the content would not change, nor would the contract

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amount; these would be minor text amendments. City Attorney Hite was asked about the agreement presented in the agenda bill and Ms. Hite explained how the contract documents will be tied to the agreement. Discussion continued about the age of the existing equipment and the needed upgrades.

MOTION: Councilmember Dudley moved to authorize the Mayor to sign a contract in a form acceptable to the City Attorney with ESE Corporation in the amount of \$187,431.41, and authorize the City Engineer to administratively approve changes to the construction contract totaling not more than \$18,743.00. The motion was seconded by Councilmember Campbell and carried unanimously.

Bid Award – Scenic Heights Trailhead

City Engineer Eric Johnston presented this agenda bill which recommended awarding a contract for construction of the Scenic Heights Trailhead Project to C. Johnson Construction, Inc., in the amount of \$233,384.41. Staff received and opened five sealed bids on August 31, 2010. The bid totals are tabulated below (amounts include Washington State Sales Tax in the amount of 8.7%):

Contractor	Location	Bid Total
C. Johnson Construction Inc.	Oak Harbor, WA	\$233,384.41
Taylor's Excavators	Stanwood, WA	\$265,001.46
Advanced Construction, Inc	Mukilteo, WA	\$325,392.93
SRV Construction	Oak Harbor, WA	\$334,624.21
Interwest Construction, Inc.	Burlington, WA	\$348,893.17
<i>Engineer's Estimate</i>	<i>Oak Harbor, WA</i>	<i>\$273,990.97</i>

Staff reviewed the bid prices and is knowledgeable of the qualifications and experience of the low bidder.

Councilmember Dudley stated that he has a working relationship with Corey Johnson. Councilmember Almberg stated that he has a pending contract and other successful projects with C. Johnson Construction, but no financial conflict of interest. Both Councilmember Dudley and Councilmember Almberg asked to be recused from this discussion.

Mayor Slowik called for public comments.

Fred Henninger, 580 SE Ireland, Oak Harbor. This is a parking lot and sidewalk. In other areas, we have to pay for our sidewalks and there are other parks in need of pedestrian access.

There were no other public comments.

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Council Discussion

Discussion followed about the area's size (less than 1/3 acre) which is a large City lot with five parking spaces; one is ADA accessible. The parking lot is required by our own codes along Scenic Heights and the main goal is to provide parking for the Waterfront Trail along the west end, provide a plaza area for public art and Freund Marsh viewing, and incorporate decorative pavers which have been reviewed by the Parks Board, Parks Department, and staff. Vehicles will not have back onto Scenic Heights and funds still remain in the Park Impact Fees account. The Parks Department, Planning Department, and past planner Rob Voight, have been the leads on this project from its inception through today.

Councilmember Campbell still expressed concern about the text, "in a form acceptable to the City Attorney." Both City Attorney Hite and City Engineer Johnston assured Council that the contract documents will be in line and there is no change to the cost of intent of the project.

MOTION: Councilmember Munns moved to authorize the Mayor to sign a contract in a form acceptable to the City Attorney with C. Johnson Construction, Inc., in the amount of \$233,384.41, and authorize the City Engineer to administratively approve changes to the construction contract totaling not more than \$20,000. The motion was seconded by Councilmember Palmer. Councilmembers Campbell, Munns, Paggao, Palmer, and Severns voted in favor of the motion. Councilmembers Almberg and Dudley had recused. The motion carried.

Councilmembers Almberg and Dudley returned.

Bid Award – Marina Dredging

Development Services Director Steve Powers presented this agenda bill and both Mr. Powers and Finance Director Merriman led PowerPoint presentations with Mr. Merriman's PowerPoint attached to these minutes as Exhibit B. The agenda bill recommended awarding a contract for the Marina Redevelopment Project, Phase 2, Dredging, to Northwest Marine in the amount of \$1,893,794.00. This contract involves maintenance dredging of the Oak Harbor Marina, both in open fairways and under and around existing dock structures. Included in the contract is environmental mitigation as required by the project permits. Staff received and opened four sealed bids on August 18, 2010. Bids consisted of a Base Bid (dredging of the landing float, A-dock, near shore area and fuel float plus environmental mitigation), Bid Additive 1 (dredging of F-dock/breakwater area) and Bid Additive 2 (limited dredging near the main walkway intersection with B, C, D and E docks). The bid totals are tabulated below (amounts include Washington State Sales Tax in the amount of 8.7%):

Contractor	Location	Bid Total
Pacific Pile		\$2,371,922
American Construction		\$2,633,010
Northwest Marine		\$1,893,794
Redside Construction		\$2,368,364
<i>Engineer's Estimate</i>	<i>Oak Harbor, WA</i>	<i>\$1,850,325</i>

The bid totals shown above include the contractors' bids for the Base Bid, Bid Additive 1 and Bid Additive 2. Bid details by category and sub-area were shown on Attachment 2 of the agenda bill. The apparent low bid submitted by Northwest Marine is \$43,468 or approximately 2.3% higher than the engineer's estimate. Staff reviewed the bid prices and the qualifications and experience of the low bidder. In addition to the contract amount noted above, staff seeks additional expenditure authority. The contract specification for Bid Additive 2 includes the following language:

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

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

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

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

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

Finance Director's Comments which were part of the agenda bill:

The award of this dredging contract will require funding through the proceeds received via the issuance of a revenue bond. This revenue bond would be entirely repaid through annual payments coming from revenues generated through Marina operations. It is anticipated that the revenue bond term will be for a twenty (20) year period at an interest rate of approximately 4%, depending on the date of closing. Currently, the financial position of the Marina does not allow for the issuance of a revenue bond without a corresponding increase in revenues. Accordingly, the bonds will be supported by the implementation of a dredging fee to be collected from each moorage customer, in addition to their regular moorage fee. *It will be mandatory that the approval of this contract also gives approval to the issuance of the required financing, along with the required rate increase to ensure timely repayment.* While separate action will be brought forward for the debt issue and related rate adjustment, be aware the Council's approval of this contract essentially commits the City to approving these two related functions as well. Caution should be taken regarding the amount of total financing being considered with this project. The recreational boating industry has historically been subject to diverse economic fluctuations, which at times has resulted in the Marina experiencing reductions in revenues as boat owners have curtailed boating activities during difficult financial times. It is critical that the financial assumptions being used are conservative, and reflect the potential economic "perfect storm" scenario that may be experienced during the next twenty year period during which the City will be repaying the bonds. Examples of critical assumptions would be utilizing a model vacancy ratio that is less than the average vacancy ratio, analyzing the financial impact between slip sizes of changes in rate competitiveness against the revenue stream of the Marina, ensuring that the Marina accumulate and maintain sufficient contingency reserves to pay for operations, to repair or replace aging infrastructure, and to have a fallback "bond repayment" reserve should the economy weaken to such a degree that Marina revenues are not sufficient to fully fund one or more annual bond payments. Finally, the Marina should budget to retain the current operating surplus as a capital facilities replacement program funding source. With the proposed bond issue, the Marina will have fully reached its capacity to pay for long-term financing without an additional rate increase that might potentially erode the Marina's competitive rate pricing as compared to neighboring marinas. The current operating rate structure should be maintained to pay for needed repairs and assets replacements on an ongoing basis, or to be used as a potential funding source should any large scale asset failure occur during the next twenty years. It might be tempting to tap into this current surplus to accomplish the dredging project. Again, caution should be exercised as this is the only funding source

available for the Marina for the contingencies referred to previously. In the worst case scenario, if Marina revenues were to fall below required levels to repay the bond, the City's General Fund would be required to subsidize any shortfall, thereby reducing funding for other essential City services.

Mayor Slowik called for public comments at 8:30 p.m.

Robert Nelson, 1415 SE 9th, Oak Harbor. The estimate for \$1.15 a foot extra for the dredging fee is based on an 80 percent occupancy rate. If the occupancy rate lowers, more will be charged per foot. Most of the Marina is used by small boats which are easier to pull in winter and occupancy will drop and fees will not be collected from those who leave. Secondly, it is not just a Marina; it is a City park and fully sponsored by boat owners. It should also be supported by the City Parks Department if the public uses it. I have never understood why there has not been a tax to support it.

Christon Skinner, 1815 SW Beeksma Drive, Oak Harbor. Mr. Skinner complimented Council for their movement forward on large scale projects. The Marina is another project that will take some courage. The Marina is a huge asset to the community and a bookend for downtown. The Marina needs to be well maintained and in good working order; don't let it become an eyesore. Another concern is, as a citizen and Marina tenant, the permit window could close before we can treat this problem. If they expire, we may never get another chance. I recommend an extra step to justify the expenditure. Without dredging, the Marina will not function. City assets would be in the mud and boat owners would be discouraged from coming in. Whidbey Island Race Week could not accommodate larger boats. They would bypass us. Larger boats that are more likely to become our tenants will be discouraged. We could see an increase in Marina use if they don't have to worry about going aground. Think big, I would prefer not to spend this kind of money, but we won't have another chance.

Ken Hulett, 2820 SW Scenic Heights, Oak Harbor. I am a Marina tenant and I agree with the previous speakers. You don't hear about the offsite economic impact. The yard that services the boats, local boat brokers, and a whole raft of independent skilled contractors who support the Marina community would go. Absentee owners and guests spend money in local stores. There are a number of commercial fisherman and recreational fisherman who use the facility. Smelt fishing happens off the docks. All of this is a broader spectrum of economic impact. You risk losing something not completely valued at its top dollar. The three selected comparative marinas are all port districts and taxpayers support them. Oak Harbor is a municipal marina. We need to change the slip configuration. There are a lot of small slips and they hold the highest vacancy rate. This is an important facility and a real asset to the community.

Mel Vance, P.O. Box 2882, Oak Harbor. The \$1.15 figure is based on 10 percent of overrun authorizations. If the extra 10 percent came into play, it would come up to \$1.25. Where would the additional 10 percent come from? Also, there are contingencies on bond approval at a later date. What happens if the rates are not raised and the bonds are not approved? What would be the penalty? In principal, I believe we should do the dredging. Can the Marina tenants pay the \$1.15 or \$1.25? I have been treated in a very unfriendly manner when out on the docks; this is not a

public park for me and this has happened on multiple occasions. We already have problems maintaining the parks we have.

Mayor Slowik asked Mr. Vance to contact the Harbormaster, Mack Funk, if this happens again.

Byron Scubi, 1279 Penn Cove Road, Oak Harbor. I too am worried about running out on our permit time. Reid Middleton mentioned it would likely be impossible to get a near shore dredging permit – anything shallower than 10 feet. I am worried about letting this permit expire since we may not be able to do it in the future.

Dave French, Chair of the Marina Advisory Committee. I have sat on this committee since its inception. In response to Mr Vance, I am astounded. Most people who visit the Marina think it is extremely friendly. If you look at the history of the Marina, it has always paid for itself. Marina tenants will be paying the bill. I agree we need more big boats in the Marina and they have a greater economic stability. That is the case in Marina history around here for the last twenty years. The amount of thinking that has gone into this project is clear and thorough.

With no other comments coming forth, Mayor Slowik closed public comments at 8:45 p.m.

Council Discussion

Councilmember Munns has a boat slipped in the Marina and Councilmember Severns holds a storage unit. The Council and attending public did not feel they need to be recused from this discussion. City Attorney Hite noted that the associated resolution for this agenda bill is for a construction contract and Councilmembers Munns and Severns do not hold a financial interest. There is the potential for an increase in Marina rates, but there were no objections. Discussion followed about the near shore depth at 10 feet (generally speaking, it is minus 10 feet or shallower), environmental permitting, the potential for an extension of this permit, and that if the City begins a project, we would be viewed in a more favorable light but this does not eliminate our mitigation in the future.

MOTION: Councilmember Campbell moved to have the subject of making the Marina part of the parks system returned to Council before last meeting in 2010. Councilmember Palmer seconded the motion.

Discussion continued about adding this to Council's agenda and if there is enough time for staff to consider this subject.

VOTE ON THE

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

Continued Discussion

Discussion continued about funding for this project and if there is a funding shortfall, concern about funding from the General Fund, the \$1.15 dredging fee, vacancy statistics, bonding capacity and how a bond will be put into place, how to position the Marina for the future and looking toward an asset management fund, past repairs and costs, the base bid and bid additives, and inclusion of change orders for all four scenarios. Discussion followed regarding the Marina Redevelopment Plan, competitive rate structures and keeping rates close to the average, the number of small slips, and the need for large boat slip accommodation (a large demand for 30 to 40 foot slips) which also gains more revenue. An ordinance for the rate increase and bonding will be drafted by Mr. Merriman and Mr. Powers, and discussion continued about a 20 year versus 10 year bond (20 years is the preferred bond), the DNR lease, and the amount of area that will be dredged.

Councilmember Dudley asked to be on record that he thought the July 6, 2010 Council meeting (authorization to solicit bids for marina dredging) would allow an opportunity to receive a bid and choose the critical areas and additive numbers to be able to do substantially more than the 35%. Discussion followed about bonding for longer than twenty years and if it would lower linear foot cost for slip tenants, and the need to match bonding to the asset need without extending beyond the time required for this project. It will take six to seven weeks to lock a bond and that will not occur without first approving an ordinance.

MOTION: Councilmember Munns moved to approve Resolution 10-22 awarding the dredging contract. The motion was seconded by Councilmember Almborg.

Discussion followed about smaller slip sizes and the loss of small boats without gaining larger boats.

VOTE ON THE MOTION:
The motion carried unanimously.

Mayor Slowik called for a break at 9:45 p.m. and the meeting reconvened at 10:00 p.m.

Interlocal Agreement – Island County, Pioneer Way Street Improvements

City Engineer Eric Johnston presented this agenda bill and interlocal agreement with Island County related to an economic development grant awarded to the City of Oak Harbor for the SE Pioneer Way Street Improvements Project. In the fall of 2007, the City Council authorized an application to the Island County Board of Commissioners for a \$1,000,000 grant from the Rural County Economic Development Fund to assist in constructing improvements to SE Pioneer Way as part of the Windjammer Plan. The Board of Commissioners unanimously approved the grant. This interlocal agreement confirms the grant award, specifies and limits the use of the funds to the Pioneer Way Street Reconfiguration (also known as the SW Pioneer Way Street Improvements Project), outlines the procedures for reimbursement requests and defines the

responsibilities of the City and County in completing the project. The agreement is typical of reimbursement grant agreements that the City has entered into with other State and Federal agencies for capital projects. The City is required to report to Island County on an annual basis, for a period of 5 years, the beneficial effects of the project in terms of jobs created or retained.

Mayor Slowik called for public comments but there were none.

Council Discussion

Discussion followed about the grant application referring to the Windjammer Plan eighteen times and the Windjammer Plan's reference to Pioneer Way as a two-way street. Councilmember Dudley read a letter and email from Roger Brooks of Destination Development (the consultant for the Windjammer Plan) and Mr. Brooks' use of waterfront redevelopment to attract additional traffic to downtown. Mr. Dudley felt there is a conflict of interest in the grant application and the number of businesses actually served along with conflict of interest with a Council member who could be affected by this project. Mr. Dudley asked about the baseline to report beneficial effects – during or after construction, one-way or two-way? Mr. Johnston noted that page 2 of the interlocal agreement, number 9 – reporting, answers the baseline reporting timeline. Mayor Slowik returned discussion to the interlocal agreement as set out in this evening's agenda. This agreement will be returned to the County for final signature. Councilmember AlMBERG asked that the record show that when he voted on the Pioneer Way Improvements Project, he based this vote on his reliance of the funding source which included this grant from the County. Mr. AlMBERG also noted that page 29 of the Windjammer Plan includes consideration of one-way or two-way. Discussion continued about how the County allocates this funding and its use, and if the report to the County per the interlocal agreement can also be made available to Council (yes). This interlocal agreement was written by the County and this is a reimbursement grant.

MOTION: Councilmember Munns moved to authorize the Mayor to sign an interlocal agreement with Island County for up to \$1,000,000 in Rural County Economic Development Funds for the SE Pioneer Way Street Improvements Project, in substantially the form attached to the agenda bill. The motion was seconded by Councilmember Palmer.

Councilmember Dudley asked that the record show that the grant application and what the County agreed to is far different and a lot of evidence has been presented that changing Pioneer Way from two-way to one-way is an economic detriment.

VOTE ON THE MOTION:

Councilmembers AlMBERG, Campbell, Munns, Palmer, Paggao, and Severns voted in favor of the motion. Councilmember Dudley opposed. The motion carried.

2011 – 2012 Strategy Statement

City Administrator Paul Schmidt presented this agenda bill seeking approval of the draft Strategy Statement for 2011 and 2012. The draft Strategy Statement for 2011 and 2012 is a product of the 2010 City Council Retreat conducted on February 27, 2010. This is a non-mandatory action and not mandated, but it can be used as guideline for budget planning. Mr. Schmidt gave a PowerPoint presentation of the goals and what has been achieved.

Mayor Slowik called for public comments.

Fred Henninger, 580 SE Ireland, Oak Harbor. Dr. Henninger felt the goals are highly weighted toward the Chamber of Commerce and downtown; funneling funds through the Chamber to improve downtown. He also spoke about recycling and the schedule for recycling pick-up suggesting every two weeks rather than weekly, and losing glass pick-up. Dr. Henninger then commented on surplusng the Navy building for a new animal shelter.

Mel Vance, P.O. Box 2882, Oak Harbor. Mr. Vance asked that a building replacement fund be considered and felt that several items could be taken off the list since they have already been completed or will soon be completed. A marketing plan is great for Pioneer Way but does nothing for the other businesses in Oak Harbor. Expand the marketing plan to include all the businesses in town.

There were no other public comments.

MOTION: Councilmember Palmer moved to approve Resolution 10-20 with the strategy statement as Exhibit A in the Resolution. The motion was seconded by Councilmember Almberg. The motion carried unanimously.

In response to public comments, Mayor Slowik noted that Mr. Schmidt wanted to stay true to the Council's retreat and this helps us keep our eye on the target and see how much we have completed.

City Administrator Comments

Mr. Schmidt talked about upcoming standing committee meetings and budget workshop dates. Development Services Director Steve Powers talked about a recent APA/PAW joint planning award for the City's new subdivision code. It was a multi-disciplinary effort to achieve this award.

Council Members' Comments

Council Members gave their respective standing committee reports. Councilmember Palmer asked that the flags at the Veteran's Memorial Park be replaced; they are worn. Mr. Palmer also asked for a west/east sign on the Waterfront Boardwalk advising no skateboarding. There is an existing sign from the other direction only.

Mr. Palmer also felt that a number of people will not shop in downtown now because of the negative signs and complaining. The emergency response tour was mentioned by Council along with use of bike helmets and discussion about the high school resource officer. Councilmember Munns talked about AWC's finalization of items to be sent to the Legislature on September 27th. Ms. Munns also talked about the upcoming Military Appreciation Picnic which will be held on September 11th.

MOTION: Councilmember Dudley moved to have an agenda item on the North Oak Harbor Street Project added to the September 21, 2010 City Council meeting. The motion was seconded by Councilmember Campbell. Mr. Dudley presented a written request for this motion which is attached to these minutes as Exhibit C.

Councilmember Dudley also talked about the Harborside Merchants Association, that the grant application says the City meets with them regularly and have their support, and that the City and EnviroIssues should reach out to them to play a major role. Mr. Dudley talked about the 21 year old who fell off of a wall and complimented those who are generously helping and supporting fund-raising; the home has been made more accessible. Councilmember Palmer reminded everyone that Pioneer Way has been chosen as a Green Roads pilot project which is a great achievement.

Mayor's Comments

Mayor Slowik talked about the art exhibited by Charlotte Graham in Council Chambers.

ADJOURN

With no further business coming before City Council, Mayor Slowik adjourned the meeting at 11:00 p.m.

Connie T. Wheeler
City Clerk

Exhibit A



Ei

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HARBORSIDE MERCHANT'S ASSOCIATION

UBI Number	602525528
Category	REG
Profit/Nonprofit	Nonprofit
Active/Inactive	Active
State Of Incorporation	WA
WA Filing Date	07/28/2005
Expiration Date	07/31/2011
Inactive Date	
Registered Agent Information	
Agent Name	Frank Scelzi
Address	830 Pioneer WAY STE 105
City	OAK HARBOR
State	WA
ZIP	98277
Special Address Information	
Address	PO BOX 2249
City	Oak Harbor
State	WA
Zip	98277

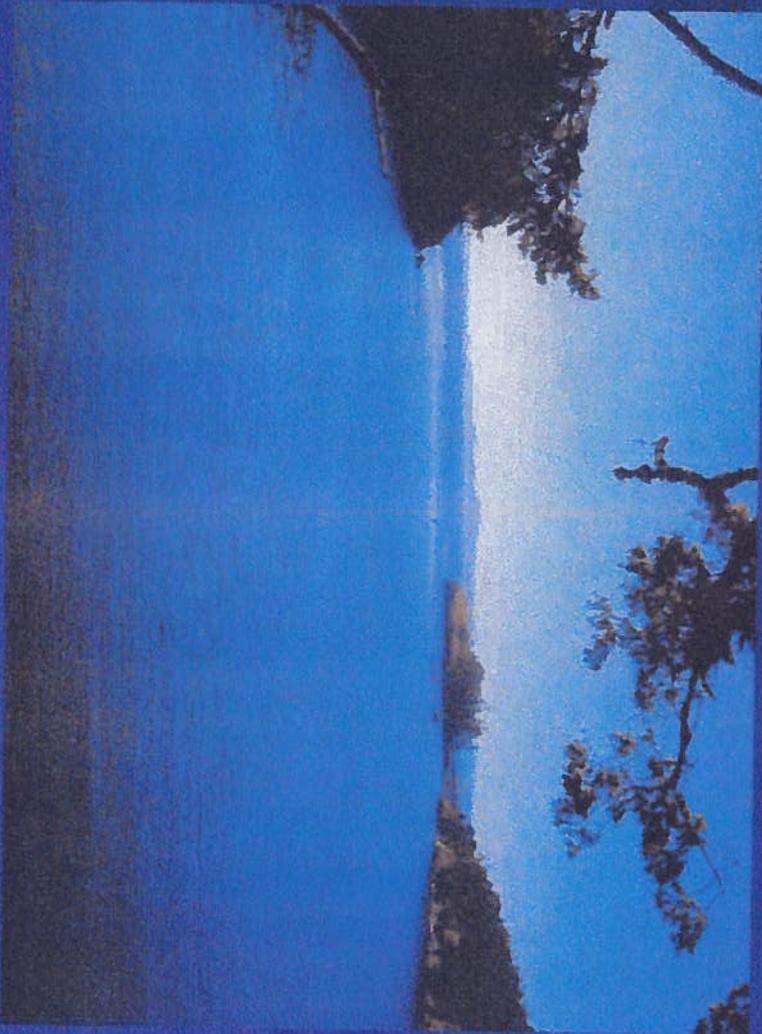
Governing Persons

Title	Name	Address
Vice President	APGAR, RON	860 SE PIONEER WAY #102 OAK HARBOR, WA
President	Scelzi, Frank	830 SE Pioneer Way Oak Harbor, WA
Secretary	Schacht, Jill	690 SE Pioneer way Oak Harbor, WA
Treasurer	Jensen, Kristi	830 SE Pioneer way Oak Harbor, WA

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Marina Debt Discussions

Information on debt level for Marina Dredging project.



Asset Replacement

MARINA DOCKS & BREAKWATER	\$3,374,342
MARINA - FUEL TANK	382,362
MARINA - HARBORMASTER BUILDING	179,353
MARINA - MACHINERY, EQUIP, FIXTURES	1,411,513
MARINA - STORAGE SHEDS	25,716
MARINA - WET STORAGE	972,546
Current Asset List Cost	<u>6,345,832</u>
Average Estimated Useful Life - Years	30
Annual Replacement Contribution	<u>\$211,528</u>

1) Insured Asset Valuation is typically less than new construction cost

2) 30 years may be too high. Current infrastructure is already 35+ years old.

Historical Repairs and Maintenance

2001	\$36,276
2002	35,016
2003	21,348
2004	45,929
2005	34,099
2006	23,000
2007	38,119
2008	56,560
2009	34,679
Average Maintenance	<u>\$36,114</u>

1) Historical repairs and maintenance has been much lower than actual requirements. Limitation has been due to non-availability of funds.

City of Oak Harbor

Marina Asset Listing - MINIMUM Replacement Program

MARINA DOCKS & BREAKWATER	\$3,374,342
MARINA - FUEL TANK	382,362
MARINA - HARBORMASTER BUILDING	179,353
MARINA - MACHINERY, EQUIP, FIXTURES	1,411,513
MARINA - STORAGE SHEDS	25,716
MARINA - WET STORAGE	972,546

Current Asset List Cost

6,345,832

Average Estimated Useful Life

30

Annual Replacement Contribution

\$211,528

Plus: Annual Repair and Maintenance

Program

\$36,114

Total Annual Repair and Replacement

\$247,642

1. The Marina did not generate revenues sufficient to cover its operating costs.

Description of Condition

The Marina did not generate sufficient revenues to cover the cost of repaying its interfund loan debt and to cover necessary capital repairs to the Marina. The Marina incurred additional debt in the amount of \$206,836.

Cause of Condition

Marina moorage rates have not increased sufficiently to cover expenditures including capital repairs.

Effect of Condition

The Marina took out a \$300,000 interfund loan in 1996 from the Equipment Rental Fund. Repayment was to start in 1997. When the Marina could not pay for unexpected capital repairs, it took out an additional \$206,836 loan from the Fund. All payments and interest due on interfund loans have been deferred until 2005.

Recommendations

We recommend the Marina closely monitor all expenditures so it does not exceed revenues and does not incur additional debt it may not be able to repay. We also recommend that the Marina develop a repayment plan for the borrowed funds.

Financial Cautions

- 1) Base Bid plus Add 2 + 35% pushes available margin for future replacements and repairs to absolute minimum.
- 2) Lower slip sizes, representing 57% of rental revenues exceed market rate average (red boxes).
- 3) Market fluctuations continue to be a concern (SAO Report).

Marina Dredging Funding - Fee Estimate - August 19, 2010
Based on Northwest Marine bids

Project Item	Base Bid Cost	Base Bid Plus Additive Bid 1	Base Bid Plus Additive Bid 2	Base Bid Plus Add. 2 + 35%
Dredging & mitigation	1147694	1441194	1893794	2045344
Change order authority			189380	189380
Mitigation payment	50000	50000	50000	50000
Design & const. admin.	145322	145322	145322	145322
DNR disposal fee (\$0.45/cy)	11655	17955	23805	25853
Sub-total	1354671	1654471	2302301	2455899
Marina offset (see below)	0	0	0	0
Project total	1354671	1654471	2302301	2455899

Estimated bond amount (includes reserve, interest and insurance)	1,530,778	1,869,552	2,601,600	2,775,166
Annual payment (20-years @4.01% interest)	112016	136806	190374	203075
Annual Marina offset	-50,000	-50,000	-50,000	-50,000
Adjusted annual payment	62,016	86,806	140,374	153,075

Monthly fee calculation				
Total lineal feet of slip = 13,367 ft				
83% occupancy rate				
13,367 ft * (83%) = 11,095 ft of occupied slip space				
Annual payment / occupied slip space = per lineal foot annual payment				
Per lineal foot annual payment / 12 months = per lineal foot monthly payment				
Per lineal foot annual payment	5.58954484	7.823884633	12.65200541	13.7967553
Per lineal foot monthly payment	0.465795403	0.651990386	1.054333784	1.149729608
	\$0.47	\$0.65	\$1.05 (Revised)	\$1.15 (Revised)

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Draft 2010 Moorage Rates Comparison
with \$1.15 dredging fee

	24 foot		28 foot		32 foot		36 foot		40 foot		50 foot		60 foot	
	Open	Cov	Open	Cov	Open	Cov	Open	Cov	Open	Cov	Open	Cov	Open	Cov
Cap Santa	N/A	N/A	5.92	N/A	7.27	N/A	7.54	N/A	7.81	N/A	8.35	N/A	9.28	
Everett*	5.97	N/A	5.97	8.63	7.04	9.77	7.61	11.34	8.16	12.11	10.06	12.89	10.06	
Kingslon	4.70	N/A	4.70	N/A	4.70	7.05	4.70	7.05	4.70	7.05	4.70	7.05		
La Conner*	N/A	N/A	N/A	7.50	5.72	7.50	6.05	10.16	6.51	11.51	7.52	13.21	8.64	
Port Townsend*	5.89	N/A	5.89	N/A	6.24	N/A	6.24	N/A	6.62	N/A	7.01	N/A	7.45	
Average (*)	5.83	N/A	5.93	8.07	6.33	8.64	6.83	10.75	7.10	11.81	8.20	13.05	8.72	
OH 2010	4.82	6.59	5.22	7.00	5.32	7.42	5.59	8.30	5.59	8.78	6.02	9.28	6.02	
Difference	1.11		0.71	1.07	1.01	1.22	1.04	2.45	1.51	3.03	2.18	3.77	2.70	
% of Average	81.3%		88.0%	86.8%	84.0%	85.9%	84.3%	77.2%	78.8%	74.3%	73.4%	71.1%	69.1%	
Average (*)	5.83	N/A	5.93	8.07	6.33	8.64	6.86	10.70	7.10	11.81	8.20	13.05	8.72	
OH 2010 fee + dredging fee (\$1.15)	1.15	5.97	7.74	6.37	8.15	6.47	8.57	6.74	9.45	6.74	9.93	7.17	10.43	7.17
Difference	-0.04		-0.44	-0.08	-0.14	0.07	-0.08	1.25	0.36	1.88	1.03	2.62	1.55	
% of Average	100.7		107.4	101.0	102.2	99.2	101.2	88.3	94.9	84.1	87.4	79.9	82.2	

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Schedule of Audit Findings

City of Oak Harbor
January 1, 2002 through December 31, 2002

1. **The Marina did not generate revenues sufficient to cover its operating costs.**

Description of Condition

The Marina did not generate sufficient revenues to cover the cost of repaying its interfund loan debt and to cover necessary capital repairs to the Marina. The Marina incurred additional debt in the amount of \$206,836.

Cause of Condition

Marina moorage rates have not increased sufficiently to cover expenditures including capital repairs.

Effect of Condition

The Marina took out a \$300,000 interfund loan in 1996 from the Equipment Rental Fund. Repayment was to start in 1997. When the Marina could not pay for unexpected capital repairs, it took out an additional \$206,836 loan from the Fund. All payments and interest due on interfund loans have been deferred until 2005.

Recommendations

We recommend the Marina closely monitor all expenditures so it does not exceed revenues and does not incur additional debt it may not be able to repay. We also recommend that the Marina develop a repayment plan for the borrowed funds.

City's Response

In January of 2000, a severe windstorm and accompanying wave action caused substantial damage to the Marina's breakwater infrastructure. While insurance proceeds covered a majority of the damages, the City determined that accelerated scheduling of certain additional capital projects was required to ensure the integrity of the repaired dock system and the covered roofing structures. In addition, the City is under an obligation pursuant to its Interagency Committee for Outdoor Recreation (IAC) grant agreement to maintain the facilities in a pre-designated design to continually assure and encourage the use of the Marina by moorage clients on a transient rental basis. Accordingly, the Marina had no choice as to the timing and nature of the repair work. The substantial cost of these additional repairs proved to be material enough in nature that financing the improvements would be necessary rather than paying for the improvements from year 2002 net operating revenues.

Simultaneously, the City took the opportunity to restructure the Marina Fund's debt service to take advantage of lower interest rates and to more closely match debt service cash outflows with net operating revenues. Under the restructuring plan, the Marina's existing revenue bond debt servicing will be fully retired late in 2004, with the remaining debt service in the form of interfund loans and the related accrued interest to be fully retired by the year 2007 - at which time the Marina will be essentially debt free. In conjunction with the debt restructuring, the City will be

developing a long term capital improvement plan to plan for needed improvements that will ensure both the future integrity of the Marina's dock and breakwater infrastructure and the ability of the Marina to generate sufficient net revenues to meet its debt service obligations as they become due.

The City continues to monitor the variability in the marine pleasure boating industry through an established Marina Committee. The mandate of this committee is to review the market conditions, capital requirements, and operational planning needs of the Marina. The Committee, through the office of the Marina Harbormaster, has recommended rate increase requirements, and the City Council has subsequently adopted the recommendations on an annual basis and will continue to do so in the future.

The City appreciates the Auditor's comments and suggestions regarding this matter.

Auditor's Remarks

We appreciate the steps the City is taking to resolve this issue. We will review the condition during our next audit.

Applicable Laws and Regulations

RCW 43.09.210 states:

All service rendered by, or property transferred from, one department, public improvement, undertaking, institution, or public service industry to another, shall be paid for at its true and full value by the department, public improvement, undertaking, institution, or public service industry receiving the same, and no department, public improvement, undertaking, institution, or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another.

BARS Manual for Category 2 Cities, Chapter 4, Section A, Part 3 states:

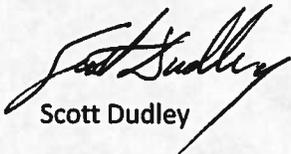
The borrowing fund must anticipate sufficient revenues to be in a position over the period of the loan to make the specified principal and interest payments as required in the authorizing ordinance or resolution.

September 7, 2010

To Those on Oak Harbor's City Council:

I wish to make a motion that an agenda item, North Oak Harbor Street Project, be put on the September 21, 2010 City Council Agenda. I wish to discuss timeline, changes in original proposed work and decisions that were made.

Sincerely,



Scott Dudley

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR



PROCLAMATION IN RECOGNITION OF FIRE PREVENTION WEEK OCTOBER 3 - 9, 2010

WHEREAS, The City of Oak Harbor is committed to ensuring the safety and security our citizens as well as those visiting our city; and

WHEREAS, fire is a serious public safety concern, and homes present the greatest risk to fire; and

WHEREAS, nearly 3,000 people die each year as a result of home fires; and

WHEREAS, roughly two-thirds of home fire deaths resulted in homes where no smoke alarms or no *working* smoke alarms were present; and

WHEREAS, working smoke alarms cut the chance of dying in a reported fire by half; and

WHEREAS, it is recommended to have at least one smoke alarm on every level of the home, including the basement; outside all sleeping areas; and in all bedrooms; and

WHEREAS, informing the public about the importance of smoke alarm installation and maintenance serves an essential step toward increasing the public's safety from home fires; and

WHEREAS, Oak Harbor's first responders are dedicated to reducing the occurrence of home fires and home fire deaths and injuries through prevention and proper education; and

WHEREAS, Oak Harbor's residents are responsive to public education measures and are able to take personal responsibility to increase their safety from fire, especially in their homes; and

WHEREAS, this year's theme, "Smoke Alarms: A Sound You Can Live With!", actively works to motivate Oak Harbor residents to implement smoke alarm recommendations in their homes.

NOW, THEREFORE, WE, Jim Slowik, Mayor, and Councilmembers of the City of Oak Harbor do hereby proclaim, **October 3 - 9, 2010** as **Fire Prevention Week**.

Signed this 21st day of September, 2010


Jim Slowik, Mayor

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

Bill No. 2

Date: SEPTEMBER 21, 2010

Subject: PUBLIC COMMENTS

FROM: Jim Slowik, Mayor

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

SUMMARY STATEMENT

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

City of Oak Harbor
City Council Agenda Bill

Bill No. d/A 3A
Date: September 21, 2010
Subject: Jail Services Contract –
Washington State Department of
Corrections

FROM: Rick Wallace, Chief of Police

INITIALED AS APPROVED FOR
SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE:

This is a proposed Interlocal Agreement for Jail Services between the City of Oak Harbor and the Washington State Department of Corrections for the purpose of providing occasional Oak Harbor City Jail services for the Department of Corrections.

AUTHORITY:

OHMC 2.390.010 Council approval.

Unless otherwise authorized or directed by law, ordinance or council resolution (for example, responding to an emergency), all contracts over \$30,000 require council approval. (Ord. 1470 § 8, 2006).

OHMC 2.310.050 Professional service contracts.

Contracts for professional services, including contracts for legal and consulting services, are not subject to the bidding requirements of Chapters 2.310 through 2.390 OHMC. The mayor or his/her designee shall promulgate procedures and standards for the approval of such contracts. Contracts for architectural and engineering services shall be awarded in accordance with Chapter 2.350 OHMC and Chapter 39.80 RCW. For purposes of this section, "professional services" are those services involving skill, education and special knowledge and where the work is predominately mental and intellectual, rather than physical and mechanical. The mayor shall establish guidelines and procedures for obtaining professional services. Professional service contracts in excess of \$30,000 shall require approval by the city council. Contracts for professional services under \$30,000 shall be reviewed by the finance director or the city attorney prior to signing to assure compliance with the Oak Harbor biannual budget, provisions of Chapter 2.390 OHMC and purchasing.

DESCRIPTION:

Within the last few months the police department was approached by the Supervisor for the Oak Harbor office of the Washington State Department of Corrections inquiring if the Oak Harbor City Jail had the ability to take in prisoners, sentenced and pre-sentenced, for short periods of time. An analysis of the daily population of the jail determined that we have the capability to take in several prisoners, on a daily basis, without compromising the operations of the jail.

The attached interlocal agreement for jail services was prepared and has been approved by the Department of Corrections.

Highlights of the proposed contract are:

- The Oak Harbor City Jail is not guaranteeing cell space. It is space available only.
- The Department of Corrections is responsible for transportation to and from the Jail.
- The Department of Corrections is responsible for medical expenses for their prisoners.
- The fee is \$65.00 per prisoner per day.

RECOMMENDATION

Approve and authorize the Mayor to sign the Interlocal Agreement for Jail Services between the Washington State Department of Corrections and the Oak Harbor City Jail.

ATTACHMENTS

- 1) Proposed Jail Services Contract

MAYOR'S COMMENTS:

**INTERLOCAL AGREEMENT
FOR JAIL SERVICES**

This Agreement is entered into by the City of Oak Harbor (City) and the Department of Corrections (Department) for the purpose of maximizing the efficient and cost effective use of existing resources and to provide adequate facilities and programs for the confinement, care, and treatment of Offenders in accord with the provisions of RCW 72.68.040. The Department and the City specifically find that the Agreement is necessary or desirable in order to provide adequate housing and care to the persons being transferred.

**ARTICLE I
DEFINITIONS**

ADP - Average Daily Population.

City - City of Oak Harbor.

Department - Washington State Department of Corrections.

Facility or Jail - The correctional facility operated by the City for the housing of adult Offenders.

Offender - A person who has been convicted of an offense established by applicable statute or ordinance.

Offender Day - An Offender Day is any day an Offender is in the custody of the City including the first day an Offender is delivered to the City. An Offender Day ends at the time the inmate is either released from the custody of the City pursuant to instructions from the Department or transferred back to the custody of the Department. An Offender Day shall not include any day that is by state law the financial responsibility of the City.

Secretary - The Secretary of the Department or his/her designee.

**ARTICLE II
TERM OF AGREEMENT**

2.01 Term. The term of this Agreement shall begin May 19, 2010 and continue through the last day of December 2011.

2.02 Termination. This Agreement may be terminated by either party, ^{for}~~for cause~~, non-appropriation of funds, or convenience, on sixty (60) days written notice, delivered to the City Police Chief or the Contracts Administrator of DOC. Within 60 days after the receipt of said notice, the Department shall retake physical custody of their Offenders being housed at the City's Facility pursuant to this Agreement. The requirement of ^{advance}~~written~~ notice will not apply if the City/Department, in its sole discretion, determines the cause for termination creates an immediate threat to public safety, health, or welfare. Verbal and written notice shall be given as soon as reasonably practical.

- 2.03 Termination Due to Unavailability of Funds. The payment of money by the Department under any provisions hereto is contingent upon the availability of funds appropriated to pay the sums pursuant to this Agreement. In the event funding for this Agreement becomes unavailable, withdrawn, reduced, insufficient, or limited in any way, the Department shall have the right to terminate this Agreement without penalty and without the sixty (60) day notice period, except for services already provided.

ARTICLE III RESPONSIBILITIES

- 3.01 Target Population. Offenders transferred to the City shall be primarily those who are in violation of community supervision requirements, awaiting a hearing on alleged violations, or work release violators.
- 3.02 Offender Housing. The City shall confine and supervise the Department Offenders who are transferred to the City Facility pursuant to this Agreement. Department Offenders may be integrated with the City's jail population. Female Department Offenders, if any, may also be integrated with the City's female jail population. Placement of the Department Offenders in the Facility may occur at any time after the beginning of the term of this Agreement, pursuant to section 3.03 below. Placement of Department Offenders in the Facility is contingent upon availability of space in the Facility. In the event space becomes unavailable, withdrawn, reduced, insufficient or limited, the City shall have the right to return Department Offenders to the Department immediately.
- 3.03 Delivery of Offenders.
- 3.03.1 The Department shall provide or arrange for transportation of its prisoners to and from the Facility except when the transportation is determined by the City staff to be necessary to secure emergency medical evaluation or treatment, or when transportation is required to support the orderly operation of the Jail.
- 3.03.2 The City shall not provide transportation, except in extraordinary situations when the City and the Department mutually agree transportation should be provided by the City rather than by the Department.
- 3.03.3 Transport with Costs. For any transports by the City required by court order or made at the Department's request, the Department shall reimburse the City for all costs associated with such transport.
- 3.03.4 Contract Agency Transport. The Department shall provide at least twenty-four (24) hours written notice to the City prior to transporting a prisoner from the City Jail. The Department shall be responsible for retaking custody of a prisoner at the City Jail and for transporting the prisoner.

3.04 Return of Offenders.

- 3.04.1 Return of Offenders to Department. The Department may demand that its Offenders be returned to its custody at any time. These transfers will be at the Department's expense if made by other than the City's regularly-scheduled trips to the scheduled location.
- 3.04.2 As soon as practical but not later than seven (7) days after receiving a request from the City to return an Offender, the Department will accept custody of any Offender whom the City requests to be returned to the Department's custody. The City shall be responsible for transportation of the Offender to the nearest suitable location as designated by the Department in this event.
- 3.04.3 Should an Offender be returned to the Department as a result of any action by the Department or by a court of competent jurisdiction that prevents the Offender's confinement at the City's Facility, the Department shall bear the cost, if made by other than the City's regularly-scheduled trips to the scheduled location. The Department shall accept custody immediately, under such circumstances.
- 3.04.4 An Offender who completes his sentence, is released by a court order, or is placed on probation or parole may be released directly from the City's Facility. Approximately one (1) week before release, the City shall complete a "Wants and Warrants" check on the Offender and shall notify the Department and the interested jurisdiction if there are any wants or warrants found.

3.05 Jurisdiction. The Department shall maintain jurisdiction over the transferred Offender, but authorizes the City to assume custody of the transferred Offenders on its behalf. DOC will provide the City with documentation of said authority.

3.06 Public Records. The Department shall be subject to all public records requirements under the law for any and all documents generated by and in the physical custody of the Department, whether or not said documents are physically located at City's Facility. The City shall be subject to all public records requirements under the law for any and all documents generated and maintained by the City, regardless of the identity or originating jurisdiction of the inmate and/or Offender.

3.07 Medical Care. The City shall provide health care, to include over-the-counter medications, routine medical/mental health/dental care, regular medical screening, and ~~on-site~~ ~~emergency~~ medical treatment, identical to services provided to other City Offenders as part of the base rate per diem.

The Department shall provide or pay for prescription medications for its Offenders and consistent with the Department's Offender Health Plan and Formulary. Should the Department be able to provide prescription medications for its Offenders at a rate discounted from what the Jail can provide, the Department may choose to do so and

provide those medications to the Jail for the Department Offenders for whom they were prescribed.

Violators will be subject to the co-pay requirements of the City and of RCW 72.10.020.

The Department will only reimburse the City for those costs that are consistent with the Offender Health Plan.

- 3.07.1 Emergency Care. The Department will reimburse the City for medical costs incurred for any emergency department or urgent care visit, to include the hospital fee, physician services, labs, x-rays, etc., with the following proviso: The City will notify the Department within four (4) business hours of transport (Monday through Friday 8 a.m. to 5 p.m. PST) at 360-725-8700.
- 3.07.2 Non-Emergency Admissions and Non-Hospital Care Outside the Facility. The Department will pay for that portion of care that is consistent with the Offender Health Plan, and which has been authorized in advance by the appropriate mechanism as described in the Offender Health Plan.
- 3.07.3 Transport. The Department will pay for the transportation to and from the out of City medical services. For routine medical care that is located within the City, the City shall provide transportation and security/supervision at the expense of the City. In all cases, the City will arrange for the most cost-effective, appropriate method of transportation in transporting an Offender.
- 3.07.4 Documentation. The City will provide medical documentation to accompany the offender upon any transport to another facility. Documentation will include the offender's name, DOC number, date of birth, any known allergies, current medication list, and description of any current medical problems.
- 3.07.5 Medications with Transport. With the exception of controlled substances, the City will send a seven (7) days supply of the Offender's current medications with him/her upon any transport to another facility.
- 3.07.6 Utilization Review. The City shall ensure that all of its contracts for medical services allow for concurrent utilization review by the Department or its agents for any services provided to Department offenders.

Proposed health care will be approved according to the provisions of the Offender Health Plan. Where such provisions call for the proposed care to be reviewed by the Department's Care Review Committee, the City is responsible for coordinating with the Out of State and Jail Facilities Health Services Coordinator. The Department will make available to the City an up-to-date schedule of Care Review Committee meetings.

A record of all medical services provided to Department Offenders shall be kept by the City for the Department's review at its request.

- 3.07.7 Medical Billings. Medical bills for Department Offenders per the above provisions shall be billed directly from the service providers and/or pharmacy to the Department at: Correctional Program Manager Headquarters Classification Unit, Department of Corrections, P. O. Box 41149, Olympia, WA 98504-1149. The Department shall not be responsible for the payment of elective or experimental medical procedures or for medical care required as a result of negligence or intentional misconduct on the part of the City, its employees, subcontractors, or for care which could have foreseeably been prevented. Should the Department determine bills received from the provider and/or pharmacy are for offenders who were not violators on the service date, the bills will not be paid by the Department and will be returned to the provider/pharmacy with instructions to bill the City.
- 3.08 Notification of Release Date. The Department shall calculate the Offender's good time and notify the Offender of his/her release date. The Department shall notify the City, in writing, of the Offender's release date.
- 3.09 Notification of Coordinator. Each party shall identify a coordinator who is responsible for administering the Agreement on behalf of that party. Should the coordinator be absent for an extended period of time, the coordinator shall arrange for, and notify the other party in writing of the alternate contact person during the coordinator's absence.
- 3.10 Billing. The base rate will be Sixty-five Dollars (\$65.00) per day per Offender for the first calendar year of this agreement. Billing will occur monthly for the actual bed days used in the preceding month.

If there are one or more holds, in addition to the Department's, on a Department Offender, the City may bill the other jurisdictions for their proportionate share of the Offender per diem. The Department's share will be determined by dividing the base rate by the number of jurisdictions with holds on the Offender and the Department will be responsible only for its proportionate share of the base rate.

- 3.11 Transportation and Security. The Department shall provide transportation and security for Offenders being transported to and from court appearances unless other arrangements are made with the City.

The Department shall reimburse the City for the cost of any such transportation and security at an hourly rate of Twenty Eight Dollars and Eighty-two Cents (\$28.82) and for time and a half at Forty-three Dollars and Twenty-three Cents (\$43.23) and as the federal mileage rate is hereafter amended.

- 3.12 Inspections. The Department shall have the right to inspect and or audit the City's Facility, including offender interviews and medical records at its discretion, with or without advance notice.
- 3.13 Offender Programs. Department Offenders will have the same access to programs provided to other offenders housed in the Facility. Should the Department elect to provide additional programs for its Offenders, at its expense, the City will provide workspace to conduct those programs, provided that such space is available and not being used by the City.
- 3.14 Orientation. Upon an Offender's arrival at a City Facility, the City shall fingerprint, conduct an NCIC check and provide an orientation for the Offender as if the Offender were a City inmate. This orientation must address the following conditions at the City Facility:
- 3.14.1 Requirements to work;
 - 3.14.2 Facility rules and disciplinary procedures;
 - 3.14.3 Medical care availability;
 - 3.14.4 Visitation rules.
- 3.15 Clothing.
- 3.15.1 The City will be responsible for laundering, repair, and replacement of Offender clothing during the Department Offender's incarceration at the Facility to ensure clean clothes and a minimum of one (1) set of clothing upon admission and with clean clothing and bedding on a weekly basis thereafter. The Department Offenders will receive the same clothing services as City inmates.
 - 3.15.2 The City shall provide work clothing and equipment appropriate to the Offender's assignment. The Department Offenders will receive the same work clothing and equipment as the City inmates are provided.
 - 3.15.3 The City shall furnish Offenders with climate appropriate outerwear. The Department Offenders will receive the same climate appropriate outerwear as provided to City inmates.
 - 3.15.4 The Department Offenders returned to the Department from the City Facility shall have the allotted amount of Offender clothing authorized by the Department.
- 3.16 Transferable Items. The City shall provide to the Department a list of allowable items that may be transferred with an Offender.

- 3.17 Compensation for Work. Offenders transferred to a City Facility who participate in programs of Offender employment shall receive the same reimbursement, if any, as other City Offenders performing similar work.
- 3.18 Rules. The City shall notify the Department Offenders upon arrival of the rules of the jurisdiction and the specific rules of the Facility. Offenders will be required to follow all rules of the City.
- 3.19 Discipline. The City may provide disciplinary detention to the Department Offenders at the discretion of the City. The City will notify and provide documentation to the Department should the Department Offenders be involved in infractions or serious misconduct. In such cases, the Department will have the opportunity to determine if the misconduct and/or infractions should be treated as new violation behaviors prior to the Oak Harbor City Jail disciplinary procedures. Department offenders involved in misconduct may be moved to more secure housing within the Oak Harbor City Jail or to other Department facilities within the jail consistent with Oak Harbor City Jail Policy and Procedures prudent jail management practices, at the discretion of jail staff. The City may require the Department to retake any Offender found guilty of a serious infraction or whose behavior requires segregated or protective housing pursuant to 3.04 herein.
- 3.20 Monthly Reports. The City shall provide monthly reports to the Department on the number of Offenders housed for the Department under the Agreement.
- 3.21 Hold Harmless. The Department shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from and against any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Department in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City shall defend, indemnify and hold the Department, its officers, officials, employees and volunteers harmless from and against any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the City in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Department.
- 3.22 Facility Operations. The City's management of Offenders in the Facility shall be consistent with the management of the other City inmates at the Facility and in accordance with the law. The City shall maintain staffing levels at the Facility in sufficient numbers and rank to maintain the safety of the public, staff, inmates, and Offenders and to reasonably carry out the provisions of this Agreement.
- 3.23 Religious Opportunity. The City shall provide adequate space and opportunity within the Facility for religious services. Department Offenders will receive the same space and opportunity as provided to City inmates.

- 3.24 Telephone. Access to telephone service comparable to that provided to Offenders by the Department shall be provided to all transferred Offenders. Department Offenders will receive the same telephone service as that provided to City inmates.
- 3.25 Mail. Offenders will be provided with mail services as similar as possible in form and price as those found in the Department detention Facilities. Department Offenders will receive the same provisions as that provided to City inmates.
- 3.26 Offender Funds. The City shall be responsible for the administration of and accounting for the funds of any offender transferred under this agreement. Department Offenders will receive the same fund administration as that provided to City inmates.
- 3.27 Visitation. Department Offenders will receive the same visitation opportunities as those provided to City inmates. Should, by mutual agreement, the City agree to house a non-violator population, the City will put into place the appropriate accounting process to accommodate for statutorily mandated deductions.
- 3.28 Grievance Procedures. Initial Department Offender grievances shall be handled by the City, consistent with the City's grievance procedures. The Department staff shall handle appeals or additional review of the Department Offender grievances.
- 3.29 Access to Courts. The Department shall be responsible to provide Department Offenders meaningful access to the courts through: (a) the use of court appointed attorneys to satisfy their Sixth Amendment right to counsel, (b) contracted attorneys, or (c) legal materials at the Receiving Facility. If meaningful access is to be provided through legal materials at the Facility, the Department shall supplement the City's legal materials as required to meet constitutional needs of Offenders. The City will provide the Offender opportunity to access legal materials at the Facility or their attorney in accordance with security and operating needs and consistent with access granted to other inmates.
- 3.30 Death of an Offender. The City will immediately notify the Department via telephone of any Offender death and shall have the death reviewed by the coroner of the local jurisdiction pursuant to Oak Harbor City Jail Policy. The City shall also forward a certified copy of the death certificate, autopsy report, Offender's file and medical records to the Department.
- 3.31 Escape of an Offender. The City will immediately notify the Department via telephone of any Offender escape. The City shall also notify all local law enforcement agencies of the escape.

ARTICLE IV CITY EMPLOYEES

- 4.1 Independent Contractor. Each party shall perform its duties hereunder as an independent contractor and not as an employee. Neither the City nor any agent or employee of the City shall be deemed to be an agent or employee of the Department. Neither the

Department nor any agent or employee of the Department, shall be deemed to be an agent or employee of the City. The City shall pay, when due, all required employment taxes and income tax withholding including all Federal and State income tax and local head tax on any monies paid pursuant to this Agreement. Neither the City nor the Department shall have authorization, express or implied, to bind the other to any agreements, liability or understanding except as expressly set forth herein.

- 4.2 Personnel. The City shall retain sufficient personnel to deliver twenty-four (24) hour care and supervision to Offenders, consistent with Oak Harbor City Jail policy and law, as well as administrative and support service personnel for the overall operation of the Facility. Prior to employment at the Facility, applicants shall be subjected to a thorough background check.
- 4.3 Training. Each party agrees to train all their employees in accordance with its policy and the law. Each party shall be responsible for all claims, damages, liability and court awards including costs, expenses and attorney fees incurred as a result of any action or omission of its employees, agents, subcontractors or assignees incurred in connection with the training.

ARTICLE V MISCELLANEOUS

- 5.1 Existing State Law. This Agreement shall not be construed to alter the legal responsibilities of the City with regard to the legal and fiscal responsibility for housing of Offenders under state law. This Agreement shall not be construed to alter the legal responsibilities of the Department with regard to any and all responsibilities for housing Offenders under the law including, but not limited to, legal and fiscal requirements.
- 5.2 Disputes. Disputes between the parties may be submitted to arbitration if the parties are unable to resolve any disputes arising hereunder through conference. No disputes may be submitted to arbitration without the agreement of both parties. Nothing in this section is intended to limit either party access to any and all courts of law of this state or country.
- 5.3 Equal Employment Opportunity. The parties ascribe to the principles of equal employment opportunity. Neither party shall discriminate against any employee, applicant for employment, independent contractor, proposed independent contractor, or Offender, on the basis of race, creed, color, national origin, sex, marital status, age, disability, honorably discharged veteran or military status or sexual orientation/gender identity. Neither is responsible for ensuring that the other is in compliance with equal employment statutes or policies.
- 5.4 Invalidity and Severability. To the extent that this Agreement may be executed and performance of the obligations of the parties may be accomplished within the intent of the Agreement, the terms of this Agreement are several and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. In the event that any

provision of this Agreement is held invalid, that provision shall be null and void. However, the validity of the remaining provisions of the Agreement shall not be affected thereby.

- 5.5 Jurisdiction and Venue. The laws of the State of Washington and the rules and regulations issued pursuant thereto shall be applied in the interpretation, execution and enforcement of this Agreement. Venue for any legal action related to the performance or interpretation of this Agreement shall be in the Superior Court in Island County, Washington.
- 5.6 Scope of Agreement. This Agreement and any appendices or exhibits to it incorporate all the agreements, covenants, and understandings between the parties. No prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement. This Agreement shall not be altered, changed, or amended except by mutual consent of the parties in writing.
- 5.7 Compliance with Applicable Laws. The parties shall at all times during the performance of their obligations of this Agreement, strictly adhere to all applicable federal and state laws and regulations.
- 5.8 Events or Default, Change of Circumstance - Termination of Agreement. In the event either party defaults in the performance of any of its obligations under this Agreement, the non-defaulting party shall give the defaulting party written notice of default setting forth with specificity the nature of the event of default. In the event the defaulting party fails to cure such event of default within thirty (30) days from receipt of the notice of default, the non-defaulting party shall have the right to terminate this Agreement and pursue all other remedies available to the non-defaulting party, either at law or in equity. If the performance of this Agreement or any obligation hereunder is interfered with by reason of any circumstances beyond the reasonable control of the parties, including without limitation, fire, explosion, riots, civil unrest, power failures, injunctions, or acts of God, then the party affected shall be excused from such performance on a day-to-day basis to the extent of such interference, provided the party so affected shall use reasonable efforts to remove such causes of non-performance. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other party for failure of appropriation by the Oak Harbor City Council or the Washington State Legislature.
- 5.9 Miscellaneous.
- 5.9.1 No waiver by either party of any event of default under this Agreement shall operate as a waiver of any subsequent default under the terms of this Agreement.
- 5.9.2 Subletting/Assignment of Contracts. The City shall not sublet or assign any of the work without the express, prior written consent of the Department.

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

Bill No. C/A 3B
Date: September 21, 2010
Subject: Excused Absence Request
 Councilmember Bob Severns

FROM: Jim Slowik
Mayor

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

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

PURPOSE

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

AUTHORITY

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

SUMMARY STATEMENT

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

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Approve Councilmember Bob Severns' excused absence from the October 19, 2010 City Council meeting.

ATTACHMENTS

None

MAYOR'S COMMENTS

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

Bill No. 4
Date: September 21, 2010
Subject: West Meadows Final Plat
Alteration – Lot 54 Access
Relocation

FROM: Steve Powers *Call for rep*
Development Services Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

This agenda bill requests City Council approval of an alteration to the West Meadows final plat. The alteration requested by the owner (West Meadows Partners, Inc.) would relocate the driveway access for Lot 54 for the purposes of accommodating a specific house plan.

AUTHORITY

The authority to alter a subdivision is found in RCW 58.17.215. RCW 58.17.100 provides the authority for city councils to approve final plats. The City Council has the authority to approve or deny the alteration pursuant to RCW 58.17.215.

SUMMARY STATEMENT

West Meadows is a recent subdivision consisting of 61 lots located on the southeast corner of NW Crosby Avenue and NW Airline Way. The developer requests an alteration of the final plat to allow driveway access through NW Upsala Drive.

Project Information

Developer: Mark Verbarendse
Owner: West Meadows Partners, Inc
Location: Southeast corner of NW Crosby Avenue and NW Airline Way
Zoning: R-1 Single-family Residential
Comprehensive Plan: Low-Density Residential
Site Area: 15.4 acres
Units: 61 single family residential lots
Density: 3.96 dwelling units per acre
Average Lot Size: 7,887 square feet

Background

On August 15, 2006 the Council approved the preliminary plat for West Meadows and on December 4, 2007 the Council approved the final plat for West Meadows. As shown on the final plat, Lot 54 is a corner lot located at the junction of NW Scenic Vista Street and NW Upsala Drive. The final plat contains both a note (Note #8 under *Notes/Restrictions*) and an access label (Sheet 4 of 5) on the face of the plat restricting driveway access for this lot to NW Scenic Vista Street. The developer requests alteration of the final plat to allow access to the lot from NW Upsala Drive for the purposes of accommodating a specific house plan on the lot. The intended house plan would not fit on the lot and meet the required setbacks if access is restricted as presently shown on the final plat.

Discussion

Driveway access to corner lots is often restricted in order to prevent cars from blocking sight distance as well as to provide some reaction distance for vehicles turning the street corner and encountering vehicles turning into or backing out of a driveway. The basis for such a limitation is found in the American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets which specifically states that "Driveways should not be situated within the functional boundary of at-grade intersections."

During the preliminary and final platting process for the West Meadows subdivision, a decision was made to restrict access for Lot 54 to NW Scenic Vista Street. However, so long as the driveway access is not too near the corner of the lot the intent of the AASHTO policy can be met and the consideration of a plat alteration is possible. The City Engineer has reviewed the proposed alteration and determined that proposed access is acceptable and meets the intent of the access policy.

Process

As was previously noted the authority for the alteration of a subdivision is found in RCW 58.17.215. The review of a subdivision alteration includes:

- The application for subdivision alteration shall be signed by the majority of persons having an ownership interest in lots proposed for alteration.
- The requested alteration must be reviewed to determine if it violates any recorded covenant governing the use of the property.
- Notice of the proposed alteration must be provided to all owners of property within the subdivision. The notice shall set the date for a public hearing or provide that a hearing may be requested by a person within fourteen days of receipt of the notice.
- The legislative body shall determine the public use and interest in the proposed alteration.

In this case West Meadows Partners, Inc. is the owner of Lot 54 and has the authority to request revision of the access restriction. The requested alteration would not violate any recorded covenant. The required notice was provided (see below). The public use and interest of the proposed alteration is met (in the context of still meeting traffic safety policies). It is staff's conclusion that the requirements of RCW 58.17.215 are met. A resolution addressing the items noted above and other requirements of the RCW, and approving the proposed alteration, is

attached for the City Council's consideration.

The Oak Harbor Municipal Code requires City Council approval of final plats (OHMC 18.20.280 and 21.40.050).

Public Notice

A combined Notice of Application and Notice of Public Hearing, advertising the hearing for September 21, 2010 was sent to all of the property owners within the subdivision and within 300 feet of the subdivision on August 19, 2010. A Notice of Public Hearing was published in the Whidbey News Times on September 11, 2010.

Conclusion

The plat alteration is in conformance with the engineering requirements for traffic safety and will not affect other improvements to the lot or within the subdivision. Staff has reviewed the application and has determined that the proposed alteration to the final plat meets the State's subdivision alteration requirements of RCW 58.17.

STANDING COMMITTEE REVIEW

This item was reviewed by the Governmental Services Standing Committee at their August 10th meeting.

RECOMMENDED ACTION

1. Conduct public hearing.
2. Approve resolution

ATTACHMENTS

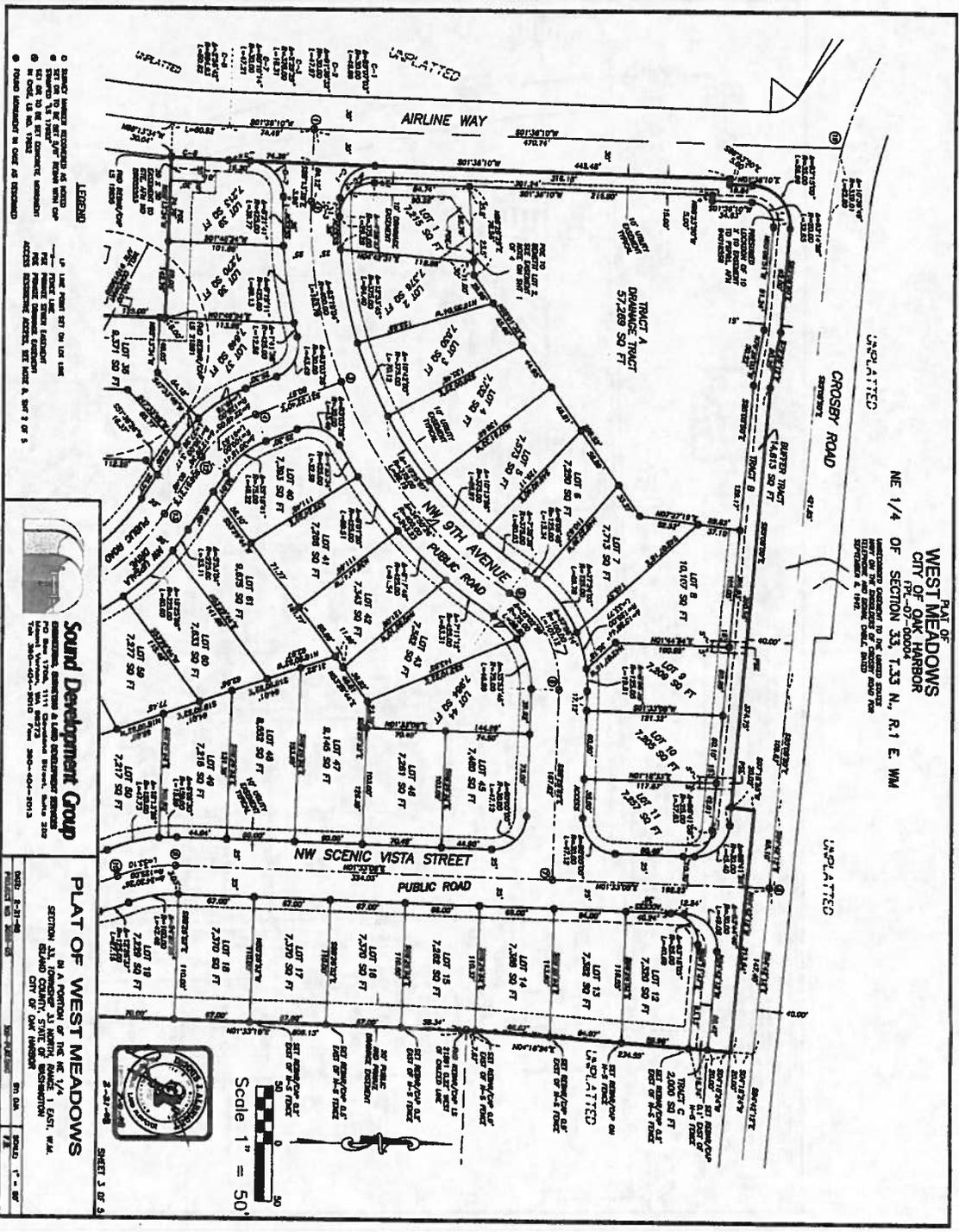
1. Final plat dated December 4, 2007.
2. Plat Alteration to the Final Plat of West Meadows - Lot 54 Access Relocation dated August 16, 2010.
3. Resolution

MAYOR'S COMMENTS

PLATS 2008
WEST MEADOWS

3/5

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5. ENCROACHMENT
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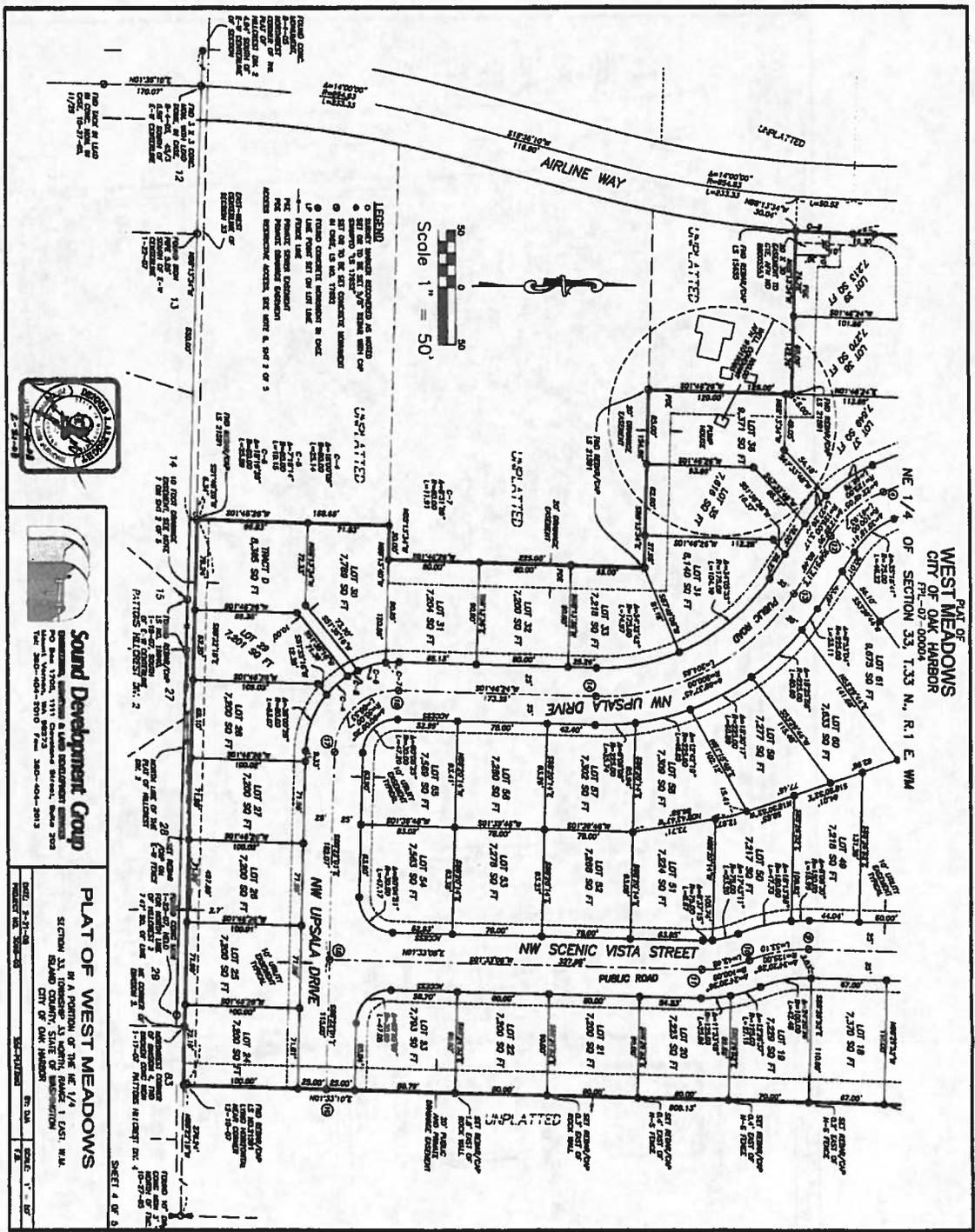
Sound Development Group
COMMERCIAL, RESIDENTIAL & LAND DEVELOPMENT GROUP
1111 COMMERCIAL STREET, SUITE 200
TAMPA, FL 33604
TEL: 813-288-2010 FAX: 813-288-2011

PLAT OF WEST MEADOWS
IN A PORTION OF THE NE 1/4, T.33 N., R.1 E., WM.
SECTION 33, T.33 N., R.1 E., WM.
CITY OF OAK HARBOR
SHEET 3 OF 5



ATTACHMENT 1

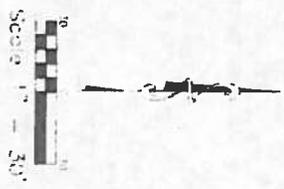
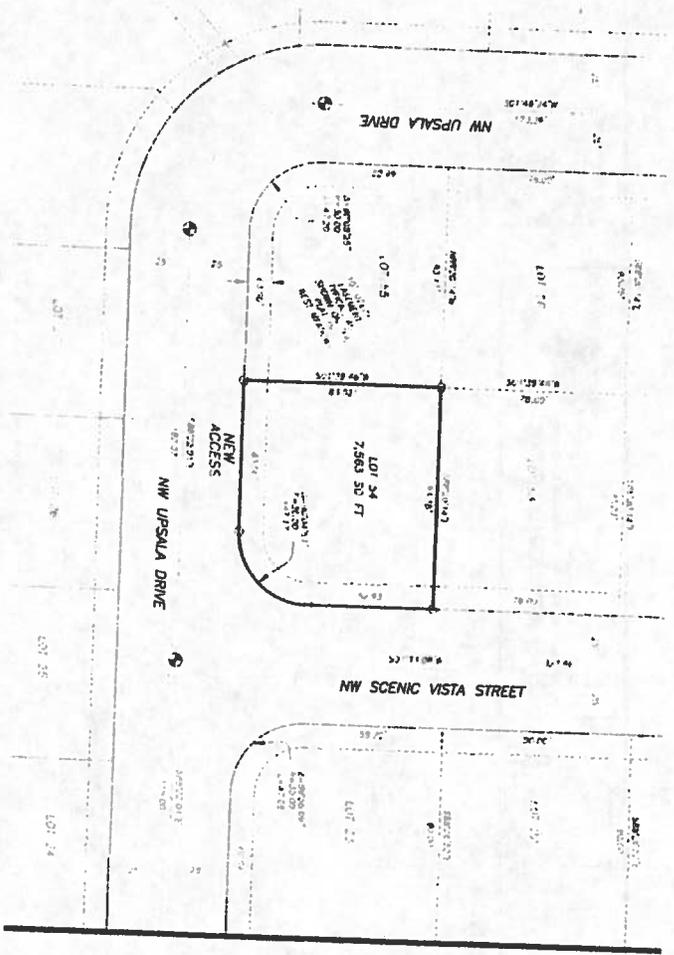
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Sound Development Corp
 11111 111th Street, Suite 200
 Seattle, WA 98148
 Tel: 206-464-2010 Fax: 206-464-2013

PLAT OF WEST MEADOWS
 IN A PORTION OF THE NE 1/4
 SECTION 33, TOWNSHIP 33 NORTH, RANGE 1 EAST, W.M.
 CLATSOP COUNTY, STATE OF OREGON
 CITY OF OAK HARBOR

THE PLAT OF WEST MEADOWS
 LOT 54 ACCESS RELOCATION
 CITY OF OAK HARBOR
 NE 1/4 OF SECTION 33, T.33 N., R.1 E. WM



LEGEND
 ○ CONCRETE MANHOLE (11" DIA., 3' DEEP, 36" DIA. COVER)
 □ 12" DIA. CONCRETE MANHOLE (11" DIA., 3' DEEP, 36" DIA. COVER)
 ● 12" DIA. CONCRETE MANHOLE (11" DIA., 3' DEEP, 36" DIA. COVER)
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 ○ 12" DIA. CONCRETE MANHOLE (11" DIA., 3' DEEP, 36" DIA. COVER)



Sound Development Group
 PROFESSIONAL SERVICES & LAND DEVELOPMENT GROUP
 1000 NE 10th Street, Suite 100
 Astoria, Oregon 97103
 Phone: 503-325-1111
 Fax: 503-325-1112
 Website: www.sounddevelopment.com

LOT 54, ACCESS RELOCATION
 PORTION OF THE PLAT OF WEST MEADOWS
 SECTION 33, T.33 N., R.1 E. WM
 CITY OF OAK HARBOR
 DATE: 11/11/03
 DRAWN BY: [Name]
 CHECKED BY: [Name]

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF OAK HARBOR APPROVING OF ALTERATION OF THE WEST MEADOWS PLAT, LOT 54, FOR THE PURPOSES OF REVISING ACCESS REQUIREMENTS FOR THE LOT

WHEREAS, the City Council granted preliminary plat approval for the West Meadows subdivision on August, 15, 2006; and

WHEREAS; the City Council approved the final plat for West Meadows on December 7, 2007; and

WHEREAS, those approvals restricted vehicular access to Lot 54 of the West Meadows subdivision to NW Scenic Vista Street; and

WHEREAS, West Meadows Partners, Inc., owner of Lot 54, submitted an application to alter the final plat for West Meadows by changing the access restrictions for Lot 54; and

WHEREAS, the requested alteration does not violate any recorded covenant governing the use of the property; and

WHEREAS, written notice of the proposed alteration was provided to all owners of property within the subdivision, and those property owners within 300 feet of the subdivision, on August 19, 2010; and

WHEREAS, the written notice identified September 21, 2010 as the date of the public hearing for the proposed alteration; and

WHEREAS, the proposed alteration does not increase or decrease the number of lots within the West Meadows subdivision, the division of any outstanding assessments it not necessary; and

WHEREAS, the proposed alteration does not affect any dedications to the general use of persons residing within the subdivision.

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

1. The City Council determines the public use and interest in the proposed alteration is met because the alteration conforms with City traffic safety policies.
2. The proposed alteration of the West Meadows final plat to revise Lot 54 to allow access from NW Upsala Drive is hereby approved.
3. The Mayor is authorized to sign and West Meadows Partners, Inc. is ordered to produce a revised drawing of the approved alteration for the West Meadows subdivision, which shall be filed with the County Auditor to become the lawful plat of the property.

PASSED and approved by the City Council this 21st day of September, 2010.

THE CITY OF OAK HARBOR

Jim Slowik
Mayor

Attest:

City Clerk

Approved as to form:

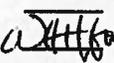
Margery Hite
City Attorney

City of Oak Harbor
City Council Agenda Bill

Agenda Bill No. 5
Date: September 21, 2010
Subject: Introduction of Ordinance
Establishing Utility Rates

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

SUMMARY STATEMENT:

Purpose: Over the past three months, the City Council has adopted ordinances that establish the policies to be used in setting the rates for the Water, Wastewater and Storm Drain utilities. This proposed ordinance sets the rates for the City's Water, Wastewater and Storm Drain utilities for a three year period beginning December 20, 2010 utilizing the rate setting policies recently adopted by the City Council. This bill proposes an introduction of the ordinance and setting a public hearing for the next city council meeting.

Authority: RCW 35.67.020 provides the authority for cities to construct and operate sewerage and storm water systems, and RCW 35.92.010 provides the authority for cities to construct and operate waterworks, as well as fix rates and charges for these systems.

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

The utility rates ordinance uses the policies adopted for water, sewer and storm water to establish classes of customers for each utility service and to set the dollar amount of the fees charged for each utility service.

STANDING COMMITTEE REVIEW:

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

RECOMMENDED ACTION:

It is recommended that the City Council introduce the Ordinance Establishing Rates for Water, Wastewater and Storm Drain Services and schedule a public hearing for October 5, 2010.

ATTACHMENTS:

“The Utility Rates Ordinance” – An Ordinance Establishing Water, Wastewater and Storm Drain Services Rates.

MAYOR'S COMMENTS:

“THE UTILITY RATES ORDINANCE”

AN ORDINANCE OF THE CITY OF OAK HARBOR ESTABLISHING RATES FOR WATER, WASTEWATER, AND STORM DRAIN SERVICES.

WHEREAS, the City of Oak Harbor has adopted a Comprehensive Water System Plan, a Comprehensive Sewer Plan and a Comprehensive Storm and Surface Water Plan which are on file with the City Clerk and which describe the City’s plan for these utilities; and

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

WHEREAS, the City of Oak Harbor is a Phase II city under the NPDES (National Pollutant Discharge Elimination System) Permit administered by the Department of Ecology and is required to meet the conditions of the Phase II NPDES Permit; and

WHEREAS, the City of Oak Harbor wishes to establish water, wastewater and storm drain utility rates which will cover the costs of operating these utility systems and the costs of necessary capital improvements and which are fair and equitable to all classes of customers; and

WHEREAS, the City of Oak Harbor retained the services of HDR Engineering Inc. (HDR) to perform a comprehensive rate study of the City’s Water, Wastewater, Storm Drain and Solid Waste utilities; and

WHEREAS, the comprehensive rate study prepared by HDR considered the operational costs and the costs to provide service to each class of customer in the Water, Wastewater, Storm Drain and Solid Waste utilities; and

WHEREAS, HDR has concluded that the current rate structures for the Water, Wastewater and Storm Drain utilities require amendments to reflect the financial needs for operations and capital improvements for each utility and to properly allocate those costs to classes of customers; and

WHEREAS, the City Council has adopted policies for the establishment of rates for water, wastewater and storm water service; and

WHEREAS, the utility rates must be set by ordinance in accordance with OHMC 12.40.085 (storm water); OHMC 13.32.025(2) (water); and OHMC 14.05.030 (wastewater).

Now, therefore,

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

Section One. Pursuant to the policies established in Ch. 13.32 OHMC, the following rates are set for water service by the City of Oak Harbor Water Utility:

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MONTHLY WATER BASE RATE (Res, Comm, Schools, Irr)	Effective 12/20/2010	Effective 12/20/2011	Effective 12/20/2012
5/8" or 3/4"	\$22.25	\$23.50	\$24.25
1"	\$27.80	\$32.30	\$36.40
1 1/2"	\$55.65	\$64.65	\$72.75
2"	\$89.00	\$103.40	\$116.40
3"	\$166.90	\$193.90	\$218.25
4"	\$278.15	\$323.15	\$363.75
6"	\$367.15	\$387.75	\$400.15
8"	\$587.40	\$620.40	\$640.20
MONTHLY WATER BASE RATE (Multi-Family & Multi-Commercial)			
Per Unit Base Rate	\$18.90	\$19.95	\$20.60
Consumption - \$/CCF			
<i>Single Family & Multi-Family (per unit)</i>			
0 - 3 CCF	\$1.65	\$1.75	\$2.10
4 - 6 CCF	\$2.30	\$2.55	\$2.80
Above 7 CCF	\$4.10	\$4.80	\$5.45
<i>Commercial (per unit) & Schools</i>			
0 - 10 CCF	\$4.40	\$4.20	\$4.25
11 - 20 CCF	\$3.60	\$3.80	\$4.00
Above 21 CCF	\$2.35	\$2.60	\$3.15
<i>Irrigation</i>			
0 - 10 CCF	\$4.75	\$4.50	\$4.50
Above 11 CCF	\$2.55	\$3.00	\$3.60
* Outside City limit rates are subject to a 1 1/2 rate differential			

Section Two. Pursuant to the policies established in Ch.14.05 OHMC, the following rates are set for wastewater (sewer) service by the City of Oak Harbor Wastewater Utility:

MONTHLY WASTEWATER RATE	Effective 12/20/2010	Effective 12/20/2011	Effective 12/20/2012
Residential			
Monthly Base Rate	\$40.00	\$42.00	\$47.00
Multi-Family/Unit			
per Customer	\$30.40	\$31.90	\$35.70
per Account	\$4.00	\$4.20	\$4.65
Commercial			
Monthly Base Rate	\$35.75	\$38.00	\$41.00
<i>Volume/Flow (\$/CCF)</i>			
All Volume/CCF	\$4.55	\$4.70	\$5.00
Schools			
Monthly Base Rate	\$20.00	\$25.00	\$30.00
<i>Volume/Flow (\$/CCF)</i>			
All CCF	\$4.55	\$4.70	\$5.00
* Outside City limit rates are subject to a 1 1/2 rate differential.			
** Commercial Laundromats will receive a 10% reduction in the water consumption rate to accommodate for evapotranspiration that occurs during the drying process.			

Ordinance Establishing Rates for Water, Wastewater and Storm Drain Service

Section Three. Pursuant to Ch. 12.40 OHMC, the following rates are set for storm water service by the City of Oak Harbor Storm Drain Utility:

MONTHLY STORM DRAIN RATE	Effective 12/20/2010	Effective 12/20/2011	Effective 12/20/2012
Residential			
Single Family per account	\$11.00	\$11.20	\$11.45
Multi-Family per unit	\$11.00	\$11.20	\$11.45
Commercial per ERU			
Commercial	\$11.00	\$11.20	\$11.45
Multi-Commercial	\$11.00	\$11.20	\$11.45
Hotel/Motel	\$11.00	\$11.20	\$11.45
Commercial/Residential	\$11.00	\$11.20	\$11.45
Schools	\$8.80	\$9.52	\$10.31
Church	\$4.40	\$6.16	\$8.02

Section Four. Copies of Utility Rate Ordinance Posted and On File. A copy of this utility rate ordinance shall be on file with the city clerk and shall be available for inspection and copying by the public. A copy of this utility rate ordinance shall also be posted on the City's website.

Section Five. 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 Six. Effective Date. This Ordinance shall be in full force and effective on December 20, 2010.

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

THE CITY OF OAK HARBOR

Veto ()
 Approve ()

 Mayor

 Date

Attest:

 City Clerk

Approved as to Form:

 City Attorney

Published: _____
 L:\GLA\WORK\RES-ORD2010\Utility Rates Ordinance 2010 (3).doc

Ordinance Establishing Rates for Water, Wastewater and Storm Drain Service

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

Bill No. 6
Date: September 21, 2010
Subject: Oak Harbor Arts Commission -
Public Art Site
Recommendations

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

This agenda bill represents the Oak Harbor Art Commission's Public Art Site recommendations that identify locations within the City for the placement of public art.

AUTHORITY

Oak Harbor Municipal Code Chapter 2.29.020(4) provides authority for the Arts Commission to develop a program for public art, including identifying sources of funding.

SUMMARY STATEMENT

Established in 2005, the purpose and functions of the Arts Commission is to foster the creative arts in Oak Harbor. The Arts Commission makes recommendations to the Mayor and City Council on activities, projects and programs which the City should sponsor or undertake to promote the following aims:

- Foster arts and cultural programs for the enrichment of the City and its citizens.
- Foster the development of a local arts community, encouraging an environment for the success of working individual artists.
- Coordinate and strengthen new and existing art organizations and develop cooperation with regional entities.
- Develop a program for public art, including identifying sources of funding.
- Further the vision of Oak Harbor as a vibrant and progressive community.

In an effort to address public art management and procedures, the Commission completed a Visual Arts Collection Management Plan Policies and Procedures which was adopted by the City Council in February of 2007. A policy regarding the display and placement of

works of art is contained in the document which states the Commission will establish and recommend an Artwork Site Plan that identifies locations within the City for the placement of public art.

For the past year, the Arts Commissioners have held numerous thoughtful discussions regarding possible art locations throughout the City as well as the types of art that may be appropriate. Site criteria taken into consideration included the need to locate art where people frequent and the importance of placing art within the eyesight of SR 20. The Commissioners would like art to become a part of life in Oak Harbor – a passive encounter. The sites chosen for public art include the Farmer’s Market area by the Chamber of Commerce, Freund Marsh, Pioneer Way, the “Freund Wall” and Pasek Park on Pioneer Way. The “Freund Wall” refers to the large retaining wall located on the corner of SR 20 and Erie on which a mural could be painted or decorative tile work done. The Arts Commissioners acknowledge both the Farmer’s Market area and “Freund Wall” are not located on City property, but feel those locations are highly visible and art would be a welcome addition for those who pass by. Should those sites be accepted, staff would prepare Agreements with the property owners. These site recommendations were presented to the Parks Board in May, 2010 and were unanimously approved.

In discussing priorities, the Commissioners recognize the importance of maintaining an awareness of current projects and are actively involved with suggesting design themes and art locations within the Pioneer Way Improvement Plan. While the proposed locations are in order of preference, as opportunities and design ideas arise, the Commissioners will proceed accordingly as directed by Council.

With regard to funding of public art, in April, 2009 the City Council adopted Ordinance 1548 which changed the funding source for the City’s art program from the initial provision of setting aside 1% of each capital construction project for art-related expenditures associated with the project to the setting aside of a quarter percent utility tax for the funding of public art. Since that time, funding for the arts has steadily grown which will enable the Commission to proceed with the procurement of public art as approved by the City Council.

STANDING COMMITTEE REPORT

This item was presented to the Governmental Services Standing Committee in December, 2009 as an initial introduction of the topic. Further review of the final recommendations was held at the Public Works Standing Committee on September 3, 2010 and the Governmental Services Standing Committee on September 14, 2010.

RECOMMENDED ACTION

Approve the proposed list of art sites as recommended by the Arts Commission: Farmer's Market area by the Chamber of Commerce, Freund Marsh, Pioneer Way, the "Freund Wall" and Pasek Park on Pioneer Way.

ATTACHMENTS

Exhibit "A" - Public Art Site Recommendations Map

Exhibit "B" - Excerpt from Visual Arts Collection Management Plan regarding Policy on Display and Siting Works of Art.

MAYOR'S COMMENTS

Exhibit A



Exhibit B

- G. If the donation is to commission a work of art, the OHAC shall initiate a selection process as outlined above.
- H. Works of art proposed for long term loan (one year or more) to the City shall go through a similar review process. Short term loan proposals shall be reviewed directly by the OHAC, with a recommendation to the Mayor and City Council. If the loan is approved, all terms and conditions shall be set forth in an agreement signed by both parties.

POLICY ON DISPLAY AND SITING WORKS OF ART

I. OBJECTIVES

- A. To establish a plan for the thoughtful display and siting of public works of art.
- B. To establish procedures for the display and siting of public works of art.

II. DEFINITIONS

- A. **Display** - The temporary showing of a work of art
- B. **Siting**: The permanent installation of a work of art



III. POLICIES

- A. The OHAC shall establish and recommend an Artwork Site Plan that identifies and prioritizes locations within the City for the placement of public art. Public art shall contribute to the specific site, and the overall design and character of the community.
- B. The plan shall address permanent locations, as well as the planned movement of appropriate works of art to various locations in the City.

IV. PROCEDURES

- A. The OHAC shall establish and annually update an Artwork Site Plan. The plan shall be annually reviewed by the City Council. Site or location priorities shall be based on specific criteria that include:
 - 1. Maximum visibility and public benefit.
 - 2. Public safety.
 - 3. Integration with formal City plans.
 - 4. Permanence.

5. Appropriateness to the type, scale and scope of potential projects.
 6. Security and ease of maintenance.
 7. Integration and coordination with proposed or potential private sector projects.
- B. Works of art should not be located in areas that are visually inaccessible to the general public.

POLICY ON DOCUMENTATION AND CONSERVATION OF WORKS OF ART

I. OBJECTIVES

- A. To ensure the care of public works of art through systematic record keeping.
- B. To ensure regular examination, preservation and restoration of public works of art.

II. DEFINITIONS

- A. **Conservation** - A broad concept of care encompassing three activities: examination, preservation, and restoration.
- B. **Preservation** - Actions taken to retard or prevent deterioration or damage in works of art, and to maintain them in as unchanging a state as possible.
- C. **Restoration**: The treatment of a deteriorated or damaged work of art to approximate as nearly as possible its original form, design, color, and function with minimal further sacrifice of aesthetic integrity.

III. POLICIES

- A. The City shall systematically document all works of art in the City's collection.
- B. The City shall examine all works of art on a regular basis.
- C. The City shall preserve all works of art in a planned and orderly manner.
- D. When works of art require restoration, the OHAC shall provide a plan for such in cooperation with the City department that houses the work.

IV. PROCEDURES

- A. Each work of art shall be listed on the City's Master Inventory and Maintenance Schedule.

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City of Oak Harbor
City Council Agenda Bill

Bill No. 7
Date: September 21, 2010
Subject: Council Rules Amendment
- Standing Committees

FROM: Margery Hite, City Attorney

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 follows upon the request of Councilmember Jim Palmer that a rule be drafted to deal with procedures to be followed at standing committee meetings.

AUTHORITY

The Council has the authority to determine its own rules and order of business, and establish rules for the conduct of Council meetings and the maintenance of order pursuant to RCW 35A.12.120.

SUMMARY STATEMENT

An ordinance was adopted on June 15, 2010 which formalized the nature and meeting times of standing committees. At the Council discussion, Councilmember Palmer indicated that he would like to establish some procedures for the conduct of standing committee meetings. This agenda bill proposes to adopt standing committee rule (Rule #27) as part of the "Administration and Personnel Council Rules" to address Mr. Palmer's procedural concerns.

The proposed rule has four major provisions:

- Every standing committee will have a chair who will preside at standing committee meetings and provides for selection of a chair *pro tempore* if the chair is not present.
- Only assigned committee members will sit at the dais or at the table for Councilmembers.
- The chair may, but is not required to, allow public comment.
- Councilmembers not assigned to the standing committee as a primary member () may () may not participate in the standing committee discussions.

STANDING COMMITTEE REPORT

This matter is for full City Council discussion and has not been before a Standing Committee.

RECOMMENDED ACTION

Motion to amend the "Administration and Personnel Council Rules" by adding Rule No. 27 – Standing Committees.

ATTACHMENTS

"Administration and Personnel Council Rules" - Standing Committees Rule No. 27.

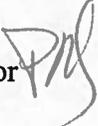
MAYOR'S COMMENTS

**ADMINISTRATION AND PERSONNEL COUNCIL RULES
STANDING COMMITTEES RULE NO. 27**

- (1) The chair of the standing committee shall preside at standing committee meetings. If the chair is not present, the attending primary committee members shall choose a presiding officer *pro tempore*.
- (2) The councilmembers assigned to the standing committee as primary members shall be seated at the council table or dais. Councilmembers who attend standing committee meetings to which they are not assigned as primary members shall not sit at the council table or dais but in the seating designated for observers.
- (3) The chair may, but is not required to, allow public comment.
- (4) Councilmembers not assigned to the standing committee as a primary member () may () may not participate in the standing committee discussions.

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

Agenda Bill No. 8
Date: September 21, 2010
Subject: North Oak Harbor Street Project
Council Agenda Bill per
OHMC 1.04

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

This agenda bill is in response to a motion and second by the City Council on September 7, 2010, to place on the September 21, 2010 City Council Agenda for City Council the North Oak Harbor Street Project, and in particular "timeline, changes in original proposed work and decisions that were made."

AUTHORITY

Oak Harbor Municipal Code 1.04.020 (3) provides: "Matters introduced by a councilmember which are seconded by another councilmember and not on the agenda shall be set over to another meeting for consideration and action, if any."

SUMMARY STATEMENT

To respond to a City Council inquiry request in the time provided and involving a project with such breadth in duration and design complexity as the North Oak Harbor Street Project, Staff has prepared an attachment¹ (see Exhibit B) similar to a response to a public records request.

To that end, Staff has compiled those North Oak Harbor Street records retrievable within the time period allowed in an attempt to provide City Council any and all documents that might provide the information and facts sought in this inquiry. City Council will thus have all the same information and can review from the document files any data deemed pertinent.

City Engineer Eric Johnston has also provided a memorandum (see Exhibit A) which specifically addresses some of the known questions that have surfaced regarding the North Oak Harbor Street Project.

¹ Attachment in this case will be a prepared CD, distributed to each City Councilmember, with the City Clerk retaining a hard copy.

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Hopefully, the combination of Mr. Johnston's memorandum and the public records compiled for this inquiry will answer any remaining questions.

STANDING COMMITTEE REPORT

This item was not taken to any Standing Committee.

RECOMMENDED ACTION

None at this time.

ATTACHMENTS

Exhibit A – Eric Johnston memorandum dated September 14, 2010

Exhibit B – North Oak Harbor Street records – 2003/2010

MAYOR'S COMMENTS



Memo

Date: September 14, 2010
To: Paul Schmidt
CC:
From: Eric Johnston
Re: N. Oak Harbor Street

A number of recent questions have been raised related to the N. Oak Harbor Street Improvements Project. This memo and the associated attachments are intended to help address those questions.

First, however, by way of an update on the status of the project. Effective September 8, 2010, the project has been determined to be substantially complete. In accordance with the project specifications, substantial completion means that the City has use and benefit of the facilities. There remain a number of minor items that will need to be completed prior to granting of a physical completion date and initiating contract closeout. These items will be specified in a "completion punch list" currently being compiled by the staff.

Reid Middleton versus Staff Engineering

The engineering design firm of Reid Middleton was retained by the City in 2005 for the engineering analysis and design of the improvements to N. Oak Harbor Street. As part of the contract and the ensuing supplements to the original contract, Reid Middleton was retained for construction engineering services during the construction phase of the contract. Their services include assisting in responding to questions raised by the contractor related to the design drawings and specifications. The City staff retained and have been responsible for the construction management with a staff engineer designated as the Project Engineer.

As was presented during Council consideration of the construction contract award (see February 16, 2010 agenda bill), staff considered retaining a construction management firm to assist in managing the contract but recommended not doing so because of the considerable cost involved. Consistent with the recommendations made to Council, staff has retained direct control of the contract. Changes, directives, modifications, RFI's and clarifications to the contract drawings and specifications were made at the direction of the City staff with final authority for those changes resting with the City Engineer.

Street Lighting

On March 18, 2010, City Council approved a contract with INTOLIGHT, a division of Puget Sound Energy for street lighting. A copy of the agenda bill as well as the agreement is included with the attachments.

The use of INTOLIGHT to provide street lighting is consistent with City practices on other streets in the City. Generally speaking, the majority of existing streets and all new subdivisions and the associated roads have street lights installed, operated and maintained by INTOLIGHT. The City owns and operates street light circuits on Midway Boulevard and SR-20. Despite the natural monopoly granted to PSE by the Washington State Utility Commission, INTOLIGHT is able to provide a cost competitive service for street lighting.

Traffic Signal vs Roundabout vs. Stop Control at NE 7th Avenue

One of the primary reasons for the project was to provide for safety for both pedestrians and motor vehicles. During project development the intersection of NE 7th Avenue and N. Oak Harbor Street was identified as one of the highest accident locations in the City of Oak Harbor off of SR-20. As described in greater detail in the attached Traffic study prepared by Reid Middleton, a traffic light, in addition to not meeting MUTCD warrants, would have potentially increased the accident potential at this location. A roundabout was the preferred alternative, however as the property acquisition proved to not be feasible within a reasonable time period, the project was moved forward with left turn lane channelization and stop control on NE 7th Avenue. The intersection control as constructed was presented during the November 2009 open house.

In addition to traffic safety, pedestrian and non-motorized vehicle safety and mobility was a primary goal of the project. Due to ROW width constraints a balance was sought for the needs of utility companies, large and small vehicles, pedestrians, cyclists and persons with mobility impairments. As described in the Value Engineering study (see attached) conducted as part of the project, the multi-use asphalt and pervious asphalt pathway on the west side represented not only a cost savings to the City but also a high value in terms of delivering the community desired facilities.

Center Islands

Center traffic and pedestrian refuge islands were placed with the project to provide traffic calming and promote pedestrian safety. Engineering designs analysis, including turning movement analysis, was performed for the targeted design vehicles. The design vehicle is based on the types of vehicles expected to use the roadway based on the majority of vehicles using the roadway. The analysis showed that the appropriate design vehicles could make all necessary turning movements. Once installed staff felt, in part due to feedback from the community, that a modification to the center island curbing was appropriate and issued a change order to direct the contractor to make the change. The cost for the modification was approximately \$6,000 or less than 0.5% of the total project cost (design, construction, ROW, permitting etc)