

Oak Harbor City Council  
Regular Meeting Minutes  
October 1, 2013

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**CALL TO ORDER**

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

**INVOCATION/PLEDGE OF ALLEGIANCE**

Councilmember Tara Hizon gave the Invocation and Mayor Dudley led the Pledge of Allegiance.

**ROLL CALL**

Present:

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

Staff Present:

City Administrator Larry Cort  
Finance Director Doug Merriman  
Development Service Director Steve Powers  
Public Works Director Cathy Rosen  
Assistant City Attorney Nikki Esparza  
Interim City Attorney Grant Weed  
City Engineer Joe Stowell  
City Clerk Valerie J. Loffler  
Captain Tim Sterkel  
Fire Chief Ray Merrill

**HONORS AND RECOGNITIONS**

Community Planning Month

Development Services Director Steve Powers and Senior Planners Ethan Spoo and Cac Kamack joined Councilmember Rick Almberg as he read the proclamation for Community Planning Month. Also present were Planning Commissioners Keith Fakkema, Bruce Freeman, and Sandi Peterson.

International Day of the Girl Child

Soroptimist International of Oak Harbor President Paige Bates and members joined Councilmember Paggao as he read the proclamation that proclaimed October 11, 2013, as International Day of the Girl Child. President Bates thanked Council for promoting and recognizing girls' rights and the unique challenges girls face around the world.

Honoring Helen Chatfield-Weeks

Helen Chatfield-Weeks joined Parks Manager Hank Nydam and Parks Board Chairman Mike Knight as she was honored with a certificate for her 17 years of service to the Park Board. She thanked City staff for their kindness and direction.

John Hellman led a cheer for Helen.

## APPROVAL OF AGENDA

**Motion:** Councilmember Munns moved, seconded by Councilmember Campbell, to include a discussion on property acquisition to the Executive Session. The motion carried unanimously.

**Motion:** Councilmember Hizon moved to approve the Agenda as amended. The motion was seconded by Councilmember Almberg and carried unanimously.

## CITIZEN COMMENT PERIOD

Mel Vance expressed disappointment in the behavior of his elected officials.

## CONSENT AGENDA

- a. Minutes of the Regular City Council meeting held September 17, 2013
- b. Approval of Accounts Payable Voucher Nos. 155605 through 155609 in the amount of \$702.91; and Nos. 155610 through 155762 in the amount of \$705,388.27
- c. Motion to confirm the appointment of Jeff Malmgren to the Marina Advisory Committee to fill an unexpired term ending December 2014

**Motion:** Councilmember Hizon moved to approve the Consent Agenda as presented. The motion was seconded by Councilmember Severns and carried unanimously.

## STAFF AND COUNCIL COMMENTS

City Administrator Dr. Larry Cort discussed potential workshop dates to discuss financing options for the WWTP and capital facilities. Several Councilmembers had a conflict.

Councilmember Munns briefed Council on the AWC Board of Directors meeting last Friday where legislative priorities were established.

In addition, Mrs. Munns announced that City employees Hank Nydam and Tim Shelley were recognized by the Navy League for their volunteer work at Gateway Park.

Councilmember Severns reported on the Economic Development Council Board meeting held September 18<sup>th</sup> stating the Board will be studying the financial impact of NASWI.

Councilmember Hizon asked about providing input on the City's legislative priorities.

Mayor Dudley responded the subject would be addressed in November.

## ORDINANCES AND RESOLUTIONS

### Ordinance 1671: Relating to Bed and Breakfast Establishments

Senior Planner Ethan Spoo provided the staff report describing the types of bed and breakfast establishments, zoning requirements, parking, lighting, and signage regulations and other operational provisions.

Mel Vance suggested more flexibility in the Commercial Business District (CBD) because the proposed language appears to prevent a bed and breakfast establishment where someone owns a restaurant downstairs and apartments above.

Mr. Spoo clarified the types of bed and breakfast establishments allowed in the Commercial Business District.

Mr. Spoo responded to questions from Councilmembers Munns and Campbell related to prohibiting bed and breakfast establishments in the highest noise zone, which was requested by the Navy.

Councilmember Paggao asked about any revenue generated from bed and breakfast establishments.

Councilmembers Almberg and Severns spoke in support and thanked Mr. Spoo for doing a nice job.

**Ordinance 1671     An Ordinance of the City of Oak Harbor, Washington Amending Chapter 19.08 of the Oak Harbor Municipal Code Entitled “Definitions” and also Amending Chapter 19.20 Entitled “Zoning”**

**Motion:** Councilmember Hizon moved to adopt Ordinance 1671. The motion was seconded by Councilmember Munns and carried unanimously.

At 6:51 p.m. Mayor Dudley announced a five-minute recess.

The meeting reconvened at 6:59 p.m.

**PUBLIC HEARINGS/PUBLIC MEETINGS**

Ordinance 1669: Relating to the Parks Code

Public Works Director Cathy Rosen provided the staff report.

Mayor Dudley opened the public hearing at 7:02 p.m.

Speaking in opposition to alcohol in the parks were:

John Hellmann  
Sandi Peterson  
Mel Vance  
JoAnn Hellmann

Speaking in support was Jason Tritt, owner of Flyers Restaurant. Mr. Tritt has operated many beer gardens and spoke of the diligence of the Washington State Liquor Control Board and local law enforcement.

The public hearing closed at 7:15 p.m.

Councilmember Hizon questioned the City’s liability and Interim City Attorney Grant Weed stated there is nothing in state law that forbids a city from making their public properties available for the consumption of alcohol. The decision is at Council’s discretion.

Councilmembers spoke in support of the ordinance although there was concern with special events in Fort Nugent Park where the majority of youth athletic activities are held.

Councilmember Paggao asked what conditions Council would be approving.

Brian Jones, Vice President of the Oak Harbor Youth Football League, recommended prohibiting events that coincide with youth events, in addition to asking participants to turn over their car keys in an effort to monitor alcohol limits.

Councilmember Paggao stated he would like to see standard conditions included on the application for a special event.

Councilmember Campbell spoke in opposition.

Councilmember Munns asked Captain Sterkel to address enforcement concerns.

Captain Sterkel responded that the Washington State Liquor Control Board handles the liquor permit including the background checks and they also provide undercover work. He believes the WSLCB combined with Council approval is sufficient. They've had zero arrests in the City.

**Ordinance 1669    An Ordinance of the City of Oak Harbor, Washington Amending 5.50.020 (6), Repealing Chapters 6.12, "Conduct in Parks and Playgrounds," and 6.14, "Park Code," of the Oak Harbor Municipal Code, and Adopting a New Consolidated Chapter 6.12, Parks Code**

**Motion:** Councilmember Paggao moved to adopt Ordinance 1669 deleting "Fort Nugent Park". The motion was seconded by Councilmember Almberg.

Councilmember Paggao spoke in support of the amendment to delete Fort Nugent Park.

Council and staff discussed organizations who would be interested in utilizing Fort Nugent Park and the limitations on playground access during an event.

Councilmember Munns called for the question.

The motion to adopt Ordinance 1669, as amended, carried 6 to 1; Campbell opposed.

Ordinance 1666: Relating to Medical Marijuana Moratorium

Development Services Director Steve Powers provided the staff report and stated action is necessary following the public hearing to adopt the Findings and Conclusions in support of Ordinance 1666.

Mayor Dudley opened the public hearing at 7:49 p.m.

Lucas Jushinski spoke in support stating his medical cannabis access point located in Freeland has been in business almost two years without any problems or complaints.

The public hearing closed at 7:53 p.m.

Councilmembers spoke in support of the moratorium and expressed the need to get the regulations in place within the 6-month timeframe.

**Motion:** Councilmember Munns moved to adopt the Findings of Fact in support of Ordinance 1666. The motion was seconded by Councilmember Campbell and carried unanimously.

Ordinance 1665: Relating to Initiative 502 Moratorium  
Development Services Director Steve Powers provided the staff report.

Mayor Dudley opened the public hearing at 8:04 p.m. No testimony was provided and the hearing was closed.

In response to questions from Councilmember Hizon, Mr. Powers explained questions about locations were premature and that a recommendation would come from the Planning Commission.

Councilmembers Severns and Servatius indicated public input has been positive.

City Attorney Grant Weed related a Task Force has been formed to reconcile the two statutes and merge the laws.

The public hearing closed at 8:10 p.m.

## **NEW BUSINESS**

SPIN Café/Permaculture Food Forest  
Public Works Director Cathy Rosen provided the staff report.

Councilmembers spoke in support.

Councilmember Munns suggested delivering extra produce to the HELP House.

**Motion:** Councilmember Hizon moved to authorize the Mayor to sign an agreement with SPIN Café for the development of a Permaculture food forest at 658 Bayshore Drive, adjacent to Hal Ramaley Park, with the understanding that the site will remain open to the public, that SPIN Café will not use the site as a for-profit enterprise, and that if the City needs to utilize the property for another purpose the Permaculture food forest may be removed. The motion was seconded by Councilmember Servatius and carried unanimously.

Settlement Agreement with Frontier Communications Northwest, Inc.  
Finance Director Doug Merriman provided the staff report.

Skip Pohilla asked if the refund is for taxes paid and whether or not it's returned to the consumer.

Staff clarified the claims made by AT&T and Verizon were for taxes overpaid and that weren't owed. At the time the utility carrier was paying the tax, the Supreme Court ruled the DSL feature to be non-taxable.

**Motion:** Councilmember Servatius moved to approve and authorize the Mayor to sign the Settlement Agreement with Frontier Communications Northwest, Inc. The motion was seconded by Councilmember Munns and carried unanimously.

## **EXECUTIVE SESSION**

At 8:32 p.m. the Mayor announced an Executive Session to discuss pending litigation and property acquisition. The executive session would last approximately 28 minutes and no action would be taken.

The meeting reconvened at 9:01 p.m.

## **ADJOURNMENT**

**Motion:** Councilmember Hizon moved, seconded by Councilmember Campbell, to adjourn the meeting. The motion carried unanimously.

The meeting adjourned at 9:02 p.m.

Valerie J. Loffler, City Clerk