

**City of Oak Harbor
City Council Meeting
Agenda for
January 19, 2010
6:00 p.m.**

Oak Harbor City Council
Tuesday, January 19, 2010, 6:00 p.m.

Welcome to the Oak Harbor City Council Meeting

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

Thank you for participating in your City Government!

CALL TO ORDER

NATIONAL ANTHEM – Will be sung by the Oak Harbor High School Choir

INVOCATION

ROLL CALL

MINUTES 1/5/2010 Regular Meeting

NON-ACTION COUNCIL ITEMS:

1. Recognition of Myrna Wilson, Human Resources Director.
2. American Planning Association (APA) Award - For the Windjammer Project.
3. Presentation – U. S. Census Bureau Information.
4. Proclamation – Big Brothers Big Sisters of Island County Mentoring Appreciation Day.
5. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

6. Consent Agenda:

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- a. Waterline Over-sizing Reimbursement - To Landed Gentry, Inc.

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- b. Wallen Appeal

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

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7. Public Hearing – Shoreline Substantial Development Permit for 42” Outfall.

8. CANCELLED Public Hearing – Sub-Division Code Amendments.

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9. Grant Awards – 2% Hotel/Motel Tax Program.

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10. Assessment of the Pioneer Way Improvements Project – By Council Motion during the 1/5/2010 Council Meeting.

11. City Administrator's Comments

12. Councilmembers' Comments
Standing Committee Reports

13. Mayor's Comments

ADJOURN

"I am not young enough to know everything."
- Oscar Wilde

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.

**Regular City Council Meeting
Tuesday, January 5, 2010, 6:00 p.m.
City Hall – Council Chambers**

- CALL TO ORDER** Mayor Slowik called the meeting to order at 6:00 p.m.
- OATHS OF OFFICE** City Clerk Wheeler administered the Oaths of Office to Councilmembers James M. Campbell, Scott Dudley, and Danny Paggao.
- INVOCATION** Pastor David Lura, First United Methodist Church

ROLL CALL

Jim Slowik, Mayor	Paul Schmidt, City Administrator
Six Members of the Council,	Margery Hite, City Attorney
Rick Almberg	Doug Merriman, Finance Director
James M. Campbell	Steve Powers, Development Services Director
Scott Dudley	Cathy Rosen, Public Works Director
Jim Palmer	Eric Johnston, City Engineer
Beth Munns	Russ Pabarcus, Engineer
Danny Paggao, Mayor Pro Tem	Rick Wallace, Chief of Police
	Mark Soptich, Fire Chief
Councilmember Bob Severns was absent and formally excused from this meeting.	Mike McIntyre, Senior Services Director
	Renée Recker, Executive Assistant to the Mayor

MINUTES

Councilmember Campbell asked for a correction to the 12/15/09 regular meeting minutes: In public comments, change Paul Wolvey's name to Paul Bovey.

MOTION: Councilmember Palmer moved to approve the 12/15/09 regular meeting minutes as corrected and the motion was seconded by Councilmember Munns. Councilmembers Almberg, Campbell, Palmer, Munns and Paggao moved to approve the corrected minutes; Councilmember Dudley abstained from the vote. The motion carried.

NON-ACTION COUNCIL ITEMS

Proclamation – Navy League Sailors and Marine of the Year Recognition

Councilmember Danny Paggao read this proclamation which had been presented earlier to:

- Petty Officer First Class Brian J. Boyle, Shore Sailor of the Year
- Petty Officer First Class Amanda Sue Hackford, Sea Sailor of the Year
- Sergeant Lee Robert Oliveira Jones, Marine of the Year

Petty Officer First Class Boyle was the only recipient able to attend this evening's meeting.

Introduction/Recognition – Fire Department, Ron Hancock

Fire Chief Mark Soptich presented this recognition of OHFD POC Captain Ron Hancock for his 36 years of service to the community. Mr. Hancock has also accepted the Volunteer Chaplain's position with the Fire Department. Chief Soptich also read the letters of recognition for Mr. Hancock which had been received from Governor Gregoire and Representative Larsen. Mr. Hancock talked about his years of service to the community and Fire Department, thanked many members of the Fire Department, and introduced and thanked his family for their support. Mayor Slowik presented the crystal sculpture in honor of Mr. Hancock's 36 years of service.

Proclamation – North Whidbey Relay for Life Day

Councilmember Munns read and presented this proclamation to Karla Sharkey, 2010 Event Chair, and Ms. Sharkey introduced organizing members Heidi Hauan, April Williamson-Stach, Gail Seelow, and Kim Perrine and invited everyone to attend the kick-off celebration on Wednesday, January 6th, 6:30 p.m. at the Oak Harbor Elks Club. This year's theme is, "Celebrating Life with more Birthdays." The Relay will be held on June 4th and June 5th at the Oak Harbor Middle School track.

Soroptimist International of Oak Harbor

Mayor Slowik introduced members of Oak Harbor Soroptimist who spoke about the "Human Trafficking in Western Washington" presentation which will be held on January 14, 2010, 7:00 p.m. at the Oak Harbor Elks Club. This will be a no-cost evening of awareness, education, and prevention featuring four keynote speakers: Det. Oscar Ramos, Vancouver, B.C.; Det. Raymond Payette, Vancouver, B.C.; Margie Porter, Executive Director of CADA; and Det. Sgt. Teri Gardner, Oak Harbor Police Department.

Gerry Oliver

Mayor Slowik invited Mr. Oliver to the podium and congratulated him on his fine campaign for City Council. Mr. Oliver will be named to the Civil Service Commission during this evening's meeting.

Public Comments

Frank Scelzi, P.O. Box 2249. Mr. Scelzi gave credit to the Council for their attention to revitalizing downtown, but spoke with concern over the one-way decision for Pioneer Way's traffic flow which would impair downtown's ability to thrive. Impacts on connecting streets, how or when construction will be performed, and the loss of sales tax, licensing, and property tax has not been considered. An inclusive plan for all of these elements along with traffic congestion should be considered. Time-specific daytime deliveries are not realistic. Perteet was not asked to revise its two-way design for more viable parking such as shown in the one-way plan. Re-assess the one-way decision; two-way is the most beneficial option. Mr. Scelzi supports the decision to improve downtown but this must include a complete plan. Downtown property owners and merchants have established a website: www.oakharborstrong.org

Jill Schacht, 690 SE Pioneer Way. Ms. Schacht had prepared a survey for City Council members which was distributed to them and attached to these minutes as Exhibit A.

Of 41 out of 50 businesses surveyed:

- 8 own their building
- 33 rent the space where their business is located
- 201 jobs/employees, including the owner/operators, are represented by these businesses
- 9.4 years is the average number of years in business
- 33 prefer two-way traffic
- 7 prefer one-way traffic
- 1 is undecided

Ms. Schacht asked City Council to reconsider the one-way decision and move forward with a new and improved two-way plan for downtown.

Terry LeDesky, 411 NW 3rd. Mr. LeDesky asked Council to rescind the close 4 to 3 vote on the one-way Pioneer Way design. This topic is creating a context of uneasiness and City trust is at stake. Look where the real common ground is and how we can make our community better. Don't leave businesses behind. Look at the impact of this decision. Maximizing parking stalls should not be the overwhelming criteria; need to look at all perspectives. I believe that my tax dollars should be invested in our community.

Mel Vance, P.O. Box 2882. Mr. Vance spoke about the 15th anniversary of the Pang Warehouse fire in Seattle, the recent loss of deputies in Pierce and Grant Counties, and expressed his support and sympathy to the fire and law enforcement communities both locally and statewide.

Helen Chatfield-Weeks, 1415 SE 9th. I love the number 2010. City Council has the chance to change a vote; bring back a vote on the two-way design for Pioneer Way.

Gloria Carothers, 2130 Stoney Beach Lane, owner of the Jewelry Gallery. Ms. Carothers thanked the Council for their vision and commitment to the revitalization of downtown which has been 40 years in the making. Revisit your decision on the one-way option and its impact on neighboring residential streets, the economics of traffic counts on Pioneer Way, and the impact on SR-20. Ms. Carothers had the petitions in hand which had been signed by 1,150 residents and community members. Please consider their opinion and support of a two-way design.

Jill Johnson, Executive Director, Oak Harbor Chamber of Commerce. On December 8th, the Chamber Board voted to support the Harborside Merchants' Association's decision in reconsideration of the two-way plan. The Chamber Board believes in a strong Merchants' Association and applauds the City's desire to improve the downtown. Underground infrastructure must be addressed along with sidewalks. Enhance the Harborside Shops with this experience. Partner with the Chamber and Merchant's Association during construction. The Chamber is asking Council to provide additional marketing dollars and a group coordinator. And finally, the Chamber would like the Council to work with the Chamber and merchants on an economic revitalization plan.

Sylvia Salgato, 997 NW Longview Drive, owner of the Sports Shop in Harborside Village. Ms. Salgato expressed her happiness in working with this merchants group and how they care for downtown. Be on our side; support a two-way design.

Kristi Jensen, 1380 SE 8th. Ms. Jensen strongly believes that everyone can be happy with a revisited two-way plan. Do some nice improvements on that design and make it a win-win option.

Chris Pantoleon, downtown business and property owner. Revote for the two-way design. **Amy Jones, 2766 Laurel Lane, and has a business on Pioneer Way.** Reconsider the two-way design. One-way is limiting and confusing to shoppers.

With no other comments coming forth, Mayor Slowik closed this portion of the meeting at 7:00 p.m.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS

Consent Agenda

- A. Appointment – Civil Service Commission, Gerry Oliver
- B. Approval of Accounts Payable Vouchers (Pay Bills)

MOTION: Councilmember Campbell moved to approve Consent Agenda items A and B with Item B paying Accounts Payable Check Numbers 139758 – 139764 in the amount of \$70,453.50, Accounts Payable Check Numbers 139765 – 139778 in the amount of \$1,508.83, Accounts Payable Check Numbers 139779 – 139954 in the amount of \$350,182.21, Accounts Payable Check Numbers 139955 – 139965 in the amount of \$111,264.92, and Payroll Check Numbers 93450 – 93512 in the amount of \$978,033.76. The motion was seconded by Councilmember Munns and carried unanimously.

Council Selection of Mayor Pro Tempore

MOTION: Councilmember Munns moved to re-appoint Danny Paggao as Mayor Pro Tempore for the term of 2010 - 2011; the motion was seconded by Councilmember AlMBERG and carried unanimously.

Break

Mayor Slowik called for a short break at 7:05 p.m. and the meeting reconvened at 7:10 p.m.

Nightclub License – TOCG's, tabled from the 12/15/09 City Council Meeting

City Attorney Margery Hite noted that Councilmember Dudley should participate in the appearance of fairness and quasi-judicial procedure which had been asked of Council Members during the 12/14/09 Council meeting.

As stated in RCW 42.36.060:

During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

- Places on the record the substance of any written or oral ex parte communication concerning the decision of the action; and
- Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence

is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.

Ms. Hite asked Councilmember Dudley to state, for the record, what ex parte contacts he might have had, whether written or oral, concerning the matter to be decided. Mr. Dudley stated that he had no ex parte contacts regarding TOCG's.

Ms. Hite continued to these appearance of fairness questions:

1. Do you have knowledge of having conducted business with either the proponents or opponents of this project?	Mr. Dudley No
2. Do you have either a pecuniary or a non-pecuniary interest in the outcome of this proceeding?	Mr. Dudley No
3. Do you know whether or not your employer has a financial interest in the land or area which will be impacted by the decision in this proceeding?	Mr. Dudley No
4. Do you live or own property within 300 feet of the area which will be impacted by the decision in this proceeding?	Mr. Dudley No
5. Do you have any special knowledge about the substance of the merits of this proceeding which would or could cause you to prejudge the outcome of this proceeding?	Mr. Dudley No
6. Do you believe that you cannot sit and hear this matter fairly and impartially, both as to the respective positions of the proponents and the opponents in this proceeding?	Mr. Dudley No
7. Is there any member of the audience who because of the "Appearance of Fairness" doctrine wishes to disqualify this Council Member from hearing this matter? If so, please state the reason or reasons why you believe this Council Member should be disqualified.	
No audience members came forward.	

Chief Wallace presented this agenda bill which had been tabled during the December 15, 2009 Council meeting. As requested by Council, an addendum to the original agenda bill was included in this presentation which was based on information and comments received during the December 15th Council meeting. The addendum addressed potential restriction of music or other noise coming from the nightclub which can be heard from the apartment above TOCGs.

1. The Building Code section of the Oak Harbor Municipal Code is silent on this issue.
2. Neither state law nor municipal code specifically authorize nor prohibit music to be played in an otherwise lawful location, in this case TOCG's nightclub, where the same building also has an apartment and this music, although played in an otherwise legal manner, might be considered a nuisance to that apartment occupant.

Considering the uncertainties of this issue, the Police Department and the Legal Department looked at separating the times in which the music is being played. Since there is no legal or business reason for TOCG's to play any music or make any other non-business related noise after closing time, TOCG's would be subject to the enforcement of the OHMC noise ordinance. Music or any other noise specifically prohibited under OHMC 6.56 Public Nuisance Noises, not associated with reasonable routine cleaning or maintenance of the nightclub after the hours of 2:00 a.m. until the business reopens, will be considered a violation of OHMC 6.56.030 – Specific Noises Prohibited.

Mayor Slowik called for public comments but there were none. The public hearing had been opened and closed during the December 15th Council meeting.

Council Discussion

An address typo was referenced on page 36 of the agenda packet, Chief Wallace explained the differences in conditions for each nightclub, the use of security inside and out, how loitering is regulated, and the condition requesting a nightclub to provide a list of banned patrons to the Police Department.

MOTION: Councilmember Almberg moved to approve and issue a nightclub license to TOCGs with the following conditions:

The nightclub license-holder shall:

- 1. Adhere to all laws, regulations, ordinances and zoning conditions of the State of Washington and the City of Oak Harbor applicable to the nightclub business located at 880 SE Pioneer Way, Oak Harbor, Washington.**
- 2. With the exception of ingress and egress to and from the building, ensure that doors and windows remain closed at all times while any type of music or entertainment is playing.**
- 3. Ensure that there is no smoking within twenty-five feet of any door or window located at 880 SE Pioneer Way, Oak Harbor, Washington as described in RCW 70.160.075.**
- 4. Provide two designated and visible security personnel and implement security measures sufficient to reduce the potential for illegal activity, noise violations or any other public health and safety violation as described in the Oak Harbor Municipal Code, inside and outside the business to include the front sidewalk and the adjacent properties.**
- 5. The license-holder shall implement and enforce a ban policy, that will ban patrons from the club, for a three month period, who:**
 - a. Engage in activities in the business and/or parking lot which either result in arrest or would constitute probable cause for arrest.**
 - b. Create noise violations in the business and parking lot.**
 - c. Loiter in the parking lot for more than ten minutes.**
 - d. Engage in illegal activity immediately adjacent to the business property, after leaving the club.**
 - e. The license-holder will provide the Oak Harbor Police Department with a copy of the list of banned patrons on a weekly basis.**
 - f. The license-holder shall implement and enforce a policy which requires club employees to call the police, as soon as possible, when they witness potentially criminal activity in the business, in the parking lot, and adjacent to the club property.**

Any violation of the above conditions shall subject the license-holder to the penalties of Oak Harbor Municipal Code 5.22.065 and may subject the license-holder to license revocation per Oak Harbor Municipal Code Section 5.22.070 or revision of license conditions pursuant to OHMC 5.22.090.

The motion was seconded by Councilmember Palmer and carried unanimously.

Public Hearing – Block Grant Application for Pioneer Way

City Engineer Eric Johnston presented this agenda bill which outlined a strategy to fund the relocation of overhead utilities as part of the Pioneer Way Improvements Project. Additionally, this agenda bill requested authorization to submit a grant application to the Washington State Department of Commerce together with the necessary public hearing and resolutions. Staff has identified two potential sources of grant funds for use on the Pioneer Way Project:

1. U.S. Department of Housing and Urban Development Program administered through the Washington State Department of Commerce known as the Community Development Block Grant (CDBG).
2. Island County Economic Development Grant Program.

It is recommended that the City pursue grants from both sources in the amount of \$1 million each for the Pioneer Way Project. Mr. Johnston discussed the funding strategy spreadsheet attached to the agenda bill and presented as a PowerPoint slide for this meeting. In order to proceed with the CDBG grant application which is due on January 21, 2010, certain requirements must be met in the application process:

1. The applicant's local legislative body must pass a resolution authorizing the chief administrative official to submit the CDBG application to the Department of Commerce and certify compliance with state and federal laws and specific program requirements.
2. Establish a grievance procedure as applicable to this project.

A handout describing the CDBG program was available to the public attending this meeting and is attached for inclusion with the official record as Exhibit B.

Mr. Johnston also noted that the application does not identify a one-way or two-way design option which is not the purpose of applying for these funds. The application will address and answer these questions:

1. Is it in the City's interest to apply for funds for downtown improvement and does this benefit the community as a whole?
2. Would this disadvantage low/moderate income or minority groups?

Mayor Slowik opened the public hearing at 7:25 p.m.

Kristi Jensen, 1380 SE 8th. It is important to get power underground to revitalize downtown. The power poles are huge and right in the middle of the sidewalks.

Jill Johnson, Executive Director, Oak Harbor Chamber of Commerce. Ms. Johnson was also speaking as resident of 9th Avenue and supported submittal of both grant applications. It is vital to aesthetically improve our community and important to the revitalization effort.

Mel Vance, P.O. Box 2882. Mr. Vance cautioned against putting all of your eggs in one basket. Find additional sources of funding if this doesn't come through

Frank Scelzi, P.O. Box 2249. It is critical for aesthetic values and for visitors to downtown. Mr. Scelzi spoke in favor of the block grant application.

Gloria Carothers, 2130 Stoney Beach Lane. Ms. Carothers spoke in favor of the block grant application both from an aesthetic and safety viewpoint.

Jill Schacht, 690 SE Pioneer Way. Ms. Schacht also agreed that the block grant application is important to downtown's revitalization.

With no other public comments coming forth, Mayor Slowik closed the public hearing at 7:30 p.m.

Council Discussion

Discussion followed about design efforts and funding, the timeline for CDBG and Island County response to the grant applications, if these funds require that they be paid back and what would define pay back, and availability, if any, of other grant funds. Discussion continued about secondary services off of Pioneer Way, the cost of design (scope is being worked on with Pertect), the \$5.5 million in REET funding that the City holds, and expense to merchants for underground utilities. Mayor Slowik noted that this last concern had been discussed with the merchants during the open house forums for this project.

MOTION: Councilmember Munns moved to adopt Resolution 10-01 authorizing the Mayor to submit the CDBG application and certifying compliance with state and federal laws and specific program requirements. The motion was seconded by Councilmember Palmer.

Councilmember Dudley remarked that he was not optimistic about the outcome and would like to see the City move forward with alternative funding rather than wait till May or August to find out that the City does not have this funding.

VOTE ON THE MOTION:

Councilmembers AlMBERG, Campbell, Munns, Paggao, and Palmer voted in favor of the motion. Councilmember Dudley abstained from the vote. The motion carried.

MOTION:

Councilmember Munns moved to adopt Resolution 10-02 establishing grievance procedures related to the CDBG application. The motion was seconded by Councilmember Palmer.

VOTE ON THE MOTION:

Councilmembers AlMBERG, Campbell, Munns, Paggao, and Palmer voted in favor of the motion. Councilmember Dudley abstained from the vote. The motion carried.

Agreement with Washington State Arts Commission for Marina Park's bronze statue titled "Waiting"

Development Services Director Steve Powers presented this agenda bill and proposed agreement with the Washington State Arts Commission to transfer ownership of a bronze sculpture entitled "Waiting" to the City of Oak Harbor. In 1975, the Washington State Arts Commission (WSAC) commissioned Daniel Sowards to create an artwork for the Catalina Shores Park by the Marina. The work was funded through the Comprehensive Employment and Training Act (CETA) along with local funding from the City. The commissioning process was coordinated through CETA staff at WSAC and the resulting artwork, "Waiting," is owned by WSAC. This sculpture is now over 30 years old and in need of repair. In discussion with the WSAC representative, it was proposed that ownership of the sculpture be transferred to the City under conditions outlined in the proposed agreement (Assignment of State's Interest in Artwork). WSAC would arrange for a conservator to examine the sculpture and prepare a condition report and treatment proposal. It was also agreed that WSAC would pay for any necessary repairs or treatment as a part of the transfer of ownership.

Mayor Slowik called for public comments.

Treva Carter, Waterloo Avenue. Ms Carter spoke about 1970's funding for art in public places. As a Navy community, "Waiting" represents the many women who are waiting for men to come home.

K.C. Pohtilla, Chair of the Oak Harbor Arts Commission. Ms. Pohtilla was happy to see the City accept the sculpture.

With no other comments coming forth, Mayor Slowik closed comments at 7:55 p.m.

Council Discussion

Discussion followed about who/what department would take care of the sculpture's maintenance (Public Works / Parks Department; care can be funded through the budgeting process).

MOTION: Councilmember Dudley moved to approve the agreement and authorize the Mayor to sign the Assignment of State's Interest in Artwork. The motion was seconded by Councilmember Munns and carried unanimously.

Executive Session – Property Acquisition, Collective Bargaining

MOTION: Councilmember Campbell made a motion to move the Executive Session to the end of this meeting. The motion was seconded by Councilmember AlMBERG and carried unanimously.

City Administrator's Comments

City Administrator Paul Schmidt reviewed upcoming meetings and conference dates. Mr. Schmidt also thanked Karen Crouch for her hard work on securing the agreement for the sculpture, "Waiting."

Councilmembers' Comments

Council Members gave respective standing committee reports along with an AWC report from Councilmember Munns. Councilmember Campbell asked if the City is constantly searching for grant opportunities. Mr. Schmidt noted that City is always searching for grant sources but there are few available right now. In reference to the CDBG grant application, there are only 12 counties with cities eligible for these grant funds and Oak Harbor will compete well with the money leveraged. 2010 will present an opportunity to talk about funding with the National League of Cities. Mayor Slowik also noted that the City has been working on the Pioneer Way project over the last two years and had met with officials last year to discuss funding for this project.

Councilmember Dudley made the following motion based on what had been heard about the one-way / two-way design options for Pioneer Way.

MOTION: Councilmember Dudley moved, to put on the agenda for the next Council meeting, taking a look and assessing our decision on the one-way issue for Pioneer (Way).

The motion was seconded by Councilmember Campbell.

Mayor Slowik noted that this motion did not require a vote, but asked City Attorney Hite if it was a motion he could accept.

City Attorney Hite:

Yes, I believe it is. It's not a motion to reconsider but it is a new motion with respect to it. Under the existing rules, a motion to reconsider would not be timely at this point. However, a motion to rescind would be. He is making a motion to put it on the agenda which is appropriate under 1.04.

Councilmember Paggao asked Ms. Hite:

The decision made by the Council can be brought back only for reconsideration by motion from a member who voted for the motion.

Ms. Hite responded:

That would be the rule under Roberts Rules of Order but the City Council did adopt a special rule on reconsideration and that rule didn't require that it be brought by any particular person but did require that it be brought no later than the next meeting. It would not be timely at this point. The difference between a motion to reconsider and the motion to make a new decision is that the motion to reconsider actually holds in abeyance the old decision. This motion would not do that. The motion will be heard on its own merits at the next Council meeting.

Mayor's Comments

Mayor Slowik welcomed Councilmember Dudley and wished everyone a happy and prosperous New Year.

Executive Session – Property Acquisition, Collective Bargaining

At 8:15 p.m., Mayor Slowik announced that Council would go into Executive Session for 15 minutes to discuss property acquisition. After this Executive Session discussion, Council would continue discussing collective bargaining which is not subject to the Open Public Meetings Act. At 8:30 p.m., the Executive Session was extended for 5 additional minutes. At 8:35 p.m., the Executive Session had concluded. Council then went into collective bargaining discussion.

ADJOURN

Mayor Slowik adjourned the regular meeting at 8:35 p.m.

Connie T. Wheeler
City Clerk

Business Name	Contact	Rent/ Own	# Employed	Years in	1 or 2 Way
	Name		include Self	Business	
Allure	Jessica	Rent	4	New	2
Mr. Music	Jim	Rent	3	18	2
Popsies	Kay	Rent	1	4	1
Captured Moments	Ryan	Rent	5	2	2
Sweet Rice	Lek	Rent	5	2	2
Kaffehuis	Mabel	Rent	4	3	2
Mikes Mini Mart	Bogi	Rent	2	1	2
Lava	Jason Youngsman	Own	15	2	2
Enterprise	Deserie	Rent	3	10	2
Whidbey Coffee	Leah -Mgr	Own	5	8	2
WAIF	Mary Anna Cummings	Rent	3	9	2
Brenda's Front Porch	Brenda Marti	Rent	1	5	2
Zorba's	Chris	Rent	14	9	2
Maurices	Linda	Rent	7	26	2
Posh	Tara	Rent	5	3	2
New Image Salon	Jennifer	Rent	6	14	?
Northwest Cabinets	Rob	Own	4	9	1
Van Cleve Opticle	Gary	Rent	3	29	2
World Group Security	Patty	Rent	3	11	2
Casual House	Jill	Own	8	46	2
Fox Pointe	Jill	Own	3	5	2
China Harbor	Sam	Rent	11	15	2
Pearlas	Pearla	Rent	4	6	2
Lincare	Robert	Rent	8	3	2
Angelos	Kathy	Own	7	7	1
Skinner & Saar PS Law	Chris	Own	13	14	1
Queen Nail	Angie	Rent	3	12	2
Whidbey Island Gift	Mercy	Rent	3	7	1
& Bayview Embroidery	Mercy				
Oak Tree Antiques	Les	Rent	2	6	2
Paint Your World	Ron	Rent	3	6	2
Whidbey Wild Bird	Phil & Lydia	Rent	4	7	2
Purple Moon	Kristi	Own	2	2	2
Good Times Pizza	Scott	Rent	6	1	2
Mickey	Mickey	Rent	1	17	2
Jewelry Gallery	Gloria Carothers	Rent	2	18	2
Bay City Bistro	Dave	Rent	8	3	2
Baby N Me	Sandy	Rent	1	14	2
Wind & Tide	Diane	Rent	4	22	2
Eileen's Creative Kitchen	Eileen	Rent	2	6	1
Bayleaf	Cynthia	Rent	4	3	1
A+ Computers	Raymond	Rent	3	8	2

Compilation Of Survey

This form represents a compilation of data from a survey of Pioneer Way businesses located between City Beach Street and Midway Blvd. The survey was completed between December 10, 2009 and January 5, 2010. This survey was conducted for Citizens for a Strong Downtown by Jill Schacht and Ann Oldham.

41 of 50 Businesses were surveyed. Each business signed or initialed the original form to verify this information with the exception of three businesses contacted by phone. In most cases Business Owners were questioned with the exception of four authorized managers.

41 Businesses Surveyed

8	own the building where their business is located
33	rent the space where their business is located
201	Jobs / Employees, which includes the owner/operators
9.4	average number of years in business
33	prefer Two-Way Traffic
7	prefer One -Way Traffic
1	Undecided



Department of Commerce
Innovation is in our nature.

PUBLIC HEARING HANDOUT

Community Development Block Grant Program

For More Information:

Bill Cole
CDP Managing Director
360.725.3005
bill.cole@commerce.wa.gov

Kaaren Roe
CDBG Program Lead
360.725.3018
kaaren.roe@commerce.wa.gov

Lynn Kohn
General Purpose Grant Manager
360.725.3042
lynn.kohn@commerce.wa.gov

Janea Eddy
Administrative Assistant
360.725.3006
janea.eddy@commerce.wa.gov

Laurie Dschaak
CDBG Contract Assistant
360.725.5020
laurie.dschaak@commerce.wa.gov

Steve Saylor
Economic Development
Grants & Loan Services
360.725.4046
steve.saylor@commerce.wa.gov
www.commerce.wa.gov/cdbg

Dates and amounts are proposed in the 2010 Action Plan

Introduction

The Washington State Community Development Block Grant (CDBG) program provides funds on a competitive basis for public facilities, community facilities, economic development, housing rehabilitation, public services and planning projects that principally benefit low- and moderate-income households.

Since 1982, the Washington State CDBG Program has distributed and managed over \$419 million from the U.S. Department of Housing and Urban Development (HUD). With this funding, the CDBG Program improves and maintains the environment of eligible, rural cities and counties to enhance the quality of life for low- and moderate-income residents, and as a result, make a difference for the entire community.

2010 Funding Set-Asides

In 2010, approximately \$15 million in federal CDBG funds will be awarded to Washington State. It is proposed that funds be distributed as follows:

- **General Purpose Grants** **\$12,000,000**
 Contact: Lynn Kohn
 Annual grant cycle during which eligible applicants may request up to \$1 million for public facilities, community facilities, housing rehabilitation, or economic development projects principally benefiting low- and moderate-income persons. If total project costs exceed \$10 million, the maximum grant can be \$1.5 million. Applications are due by January 21, 2010, with awards announced by early May 2010.
- **Planning-Only Grants** **\$400,000**
 Contact: Janea Eddy
 Grants support a range of planning activities that lead to implementation of priority projects for eligible small communities and rural counties. Funding levels vary by type of project, with the maximum grant for a single jurisdiction at \$35,000. Joint planning efforts may receive up to \$50,000. The application handbooks for 2010 will be available by February 2010 and can be submitted year round (on funds available basis) beginning March 2010, with first awards announced by early May 2010.
- **Housing Enhancement Grants** **\$1,000,000**
 Contact: Kaaren Roe
 Companion funds to support priority applications submitted to the Washington State Housing Trust Fund, which fund necessary off-site infrastructure or community facility components of the affordable housing project

PUBLIC HEARING HANDOUT

- **Imminent Threat Grants** **\$200,000**
Contact: Kaaren Roe
Provides funds to address unique emergencies posing a serious and immediate threat to public health and safety on a funds availability basis. Upon formal Declaration of Emergency and completion of an Imminent Threat grant application, costs can be covered for a temporary repair or solution while funding for a permanent fix is secured.
- **Public Services Grants** **\$1,557,612**
Contact: Kaaren Roe
Provides funds to the 12 eligible counties and community action agencies to fund new or expanded direct services for persons with low- and moderate-incomes.
- **CDBG Loan Portfolio** **\$15,000,000**
Contact: Steve Saylor
Provides eligible jurisdictions with short-term loans for economic development/job creation financing on CDBG-eligible activities meeting a HUD National Objective. Applications may be submitted after adoption of the 2010 Action Plan.
 - Float Loan - Economic Development/Job Creation
 - Rural Washington Loan Fund
 - HUD Section 108 Guarantee Loans

HUD National Objectives

CDBG project activities must meet one of three HUD National Objectives:

- Principally benefits low-and moderate-income persons
- Aids in the prevention or elimination of slums or blight
- Addresses imminent threat to public health or safety

CDBG Eligibility Guidelines

- Eligible applicants are Washington State cities and towns with less than 50,000 in population or counties with less than 200,000 in population that are non-entitlement jurisdictions and are not participants in a HUD Urban County Entitlement Consortium.
- Non-profit organizations, Indian tribes, public housing authorities, port districts, community action agencies, and economic development councils, are not eligible to apply directly to the CDBG Program for funding, but may be partners in projects and subrecipients of funding through eligible jurisdictions.
- Applicants may submit one request per fund each program year, except for local microenterprise program applicants seeking a General Purpose Grant.

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

Bill No. 1

Date: January 19, 2010

Subject: Recognition of Myrna Wilson

FROM: **Jim Slowik, Mayor**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

PK

Paul Schmidt, City Administrator

DM

Doug Merriman, Finance Director

MH

Margery Hite, City Attorney, as to form

SUMMARY STATEMENT

The Mayor and City Council will recognize Human Resources Director Myrna Wilson for her 5 years of service as she is retiring as of January 31, 2010.

STANDING COMMITTEE REPORT

None

RECOMMENDED ACTION

Congratulate Ms. Wilson on her retirement.

ATTACHMENTS

None

MAYOR'S COMMENTS

None

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

Bill No. 2
Date: January 19, 2010
Subject: American Planning Assoc.
Award: Windjammer Program

FROM: Steve Powers *SP*
Director, Development Services Department

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

SUMMARY STATEMENT

As part of their 2009 planning awards, the Washington Chapter of the American Planning Association selected the City of Oak Harbor as the honorable mention winner in the category of 'Plan Implementation' for the its Windjammer Program. Mr. Richard Hart, AICP, Co-Chair of the 2009 APA Planning Awards Committee, will present the award to the City at the January 19th meeting.

RECOMMENDED ACTION

This is a non-action item

ATTACHMENTS

Award announcement letter

MAYOR'S COMMENTS



American Planning Association
Washington Chapter

Making Great Communities Happen

received
10-26-09 PR
cc: Paul Schmidt

October 21, 2009

The Honorable Jim Slowik, Mayor
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

Dear Mayor Slowik:

The American Planning Association, Washington Chapter and the Planning Association of Washington are very pleased to announce their 2009 Planning Awards. The City of Oak Harbor has been chosen as the Honorable Mention Winner in the Category of Implementation for its Oak Harbor Windjammer Waterfront/Downtown Redevelopment Program.

The Washington Chapter of APA and PAW will formally present all the 2009 Planning Awards at the Fall Conference in Vancouver, Washington, at the noon luncheon on Friday, November 13, 2009. We certainly hope those involved can attend the conference and be recognized. Your project was excellent among many submittals and shows a strong commitment to improving the planning environment in the State of Washington. The Washington Chapter of the American Planning Association and the Planning Association of Washington congratulate you on your great success.

After the Fall Conference, a representative from either APA or PAW will be happy to visit the Oak Harbor and officially present this award to your City and recognize your effort in your community at a time and place that best works for you.

Respectfully,

Richard Hart, AICP
Co-Chair, 2009 APA Planning Awards Committee
APA Washington Chapter
603 Stewart, Suite 610
Seattle, WA 98101

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

Bill No. 3
Date: January 19, 2010
Subject: US Census 2010 Information

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

SUMMARY STATEMENT

Eric Davenport, Partnership Specialist United States Census Bureau, will give a presentation on the 2010 census.

STANDING COMMITTEE REPORT

None

RECOMMENDED ACTION

None

ATTACHMENTS

None

MAYOR'S COMMENTS

None

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR



PROCLAMATION IN RECOGNITION OF

BIG BROTHERS BIG SISTERS OF ISLAND COUNTY MENTORING APPRECIATION DAY JANUARY 20, 2010

WHEREAS, During National Mentoring Month, we recognize the individuals who dedicate themselves to making a difference in the lives of young Oak Harbor residents; and,

WHEREAS, we underscore our commitment to supporting these dedicated community members; and,

WHEREAS, every day, these volunteers from many different backgrounds work to inspire our next generation by sharing their time and experiences with students in our Oak Harbor schools and the community; and,

WHEREAS, mentors help instill important values that encourage our youth to set high goals and achieve their dreams; and,

WHEREAS, mentors demonstrate that the strength of our community lies in the hearts and souls of our residents and that a positive influence in someone's life helps them secure a more hopeful future.

NOW, THEREFORE, WE, Jim Slowik, Mayor, and Councilmembers of the City of Oak Harbor do hereby proclaim **January 20, 2010** as **Big Brothers Big Sisters of Island County Mentoring Appreciation Day** and call upon the people of Oak Harbor to recognize the importance of mentoring and to look for opportunities to serve as mentors in their communities.

Signed this 19th day of January, 2010



Jim Slowik, Mayor

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

Bill No. 5

Date: JANUARY 19, 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. C/A 6A
Date: January 19, 2010
Subject: Water Line Oversizing
Reimbursement

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

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

This agenda bill requests approval of a water main oversizing reimbursement request by Landed Gentry, Inc. for extension of a 12-inch diameter water main along SW Fort Nugent Road in the amount of \$8,458.67.

AUTHORITY

Oak Harbor Municipal Code 13.28.020 (2) (d) states:

“If adequate money is available in the water department fund, the city shall pay the material cost difference in cases where the comprehensive water plan calls for a main size larger than eight inches.”

SUMMARY STATEMENT

The Fairway Point Phase 4 preliminary plat, along Fort Nugent Avenue, was approved by the City Council in 2006. Consistent with the subdivision improvement requirements of the Oak Harbor Municipal Code, a water line was required to extend along the Fort Nugent Avenue frontage of the plat. The Comprehensive Water System Plan calls for the water line in SW Fort Nugent Avenue to be 12-inches in diameter. The 12-inch diameter line improves fire flow and pressure in the southwestern quarter of the City and is necessary to support development in the Urban Growth Area. Landed Gentry submitted engineering calculations demonstrating that an 8-inch diameter water main would be sufficient to serve the Fairway Point Phase 4 plat. As the plat could be adequately served by the 8-inch diameter line, the 12-inch diameter main is needed to provide benefit to the surrounding Urban Growth Area. Therefore, consistent with OHMC 13.28.020, Landed Gentry is eligible to request the reimbursement for the difference in cost between the minimum requirements to serve the plat and the requirements to be consistent with the Comprehensive Plan.

On August 6, 2008, the City Council gave preliminary approval for the reimbursement as requested by Landed Gentry, Inc. The estimated reimbursement at preliminary approval was \$7,646.72.

Installation, inspection, and acceptance have occurred, and material invoices have been submitted and reviewed. The total length of 12-inch water main eligible for reimbursement is 273.75 feet. The material cost difference between the 8-inch and 12-inch pipe and associated appurtenances is listed below:

8 Inch PVC Cost	\$3,565.84 + \$299.53 (sales tax) = \$3,865.37
<u>12 Inch Ductile Iron Cost</u>	<u>\$11,369.04 + \$955.00 (sales tax) = \$12,324.04</u>

Reimbursement: \$8,458.67

The difference between the estimated reimbursement and the actual reimbursement amount is \$811.95 and is attributed to the small changes in the material costs.

Staff has reviewed the requested reimbursement amount and concur that it is reasonable, that the costs are justified and supported with sufficient documentation, and that reimbursement is consistent with City codes. Funding for oversizing reimbursements comes from system development charges collected at the time of all new connections. System development fees are used to provide for expansion of the water utility in the form of large diameter mains, reservoirs and pumping stations. Sufficient funding is available through the water division budget to pay for this oversizing request.

The staff recommendation is to approve the reimbursement as requested.

STANDING COMMITTEE REPORT

This item was presented to the Public Works Standing Committee on December 3, 2009.

RECOMMENDED ACTION

A motion by the Council granting approval for payment of \$8,458.67 as an oversizing reimbursement to Landed Gentry, Inc. for 273.75 feet of 12-inch ductile iron water main installed on Fort Nugent Avenue,

ATTACHMENTS

None

MAYOR'S COMMENTS

City of Oak Harbor
City Council Agenda Bill

Agenda Bill No. CJA 6B
Date: January 19, 2010
Subject: Wallen Appeal

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

SUMMARY STATEMENT:

Mr. Darrell Wallen appealed the decision of the City Administrator authorizing repayment for overbillings for water service at an apartment building owned by him. A hearing was held before Oak Harbor Hearing Examiner Michael Bobbink on November 6, 2009. After hearing testimony and argument from both the City and Mr. Wallen, Mr. Bobbink rendered a written decision on December 17, 2009. See Attachment "A". The Hearing Examiner upheld the decision of the City Administrator. Pursuant to Oak Harbor Municipal Code, the decision of the Hearing Examiner is reviewed by the City Council which makes the ultimate decision.

The City Council must set a time, date and place to "consider the examiner's report and proposed decision." OHMC 1.24.120(3). The purpose of this agenda bill is to set the time, date and place for the City Council's review of the Hearing Examiner's report and proposed decision. At the hearing, the merits of the claim will be considered but at this time, only the setting of the hearing is before the City Council.

AUTHORITY:

The Finance Director has initial authority to repay utility overbillings. OHMC 3.95.160. Under OHMC 1.24.010(3), an appeal from a department head's decision is to the city administrator. Appeal of the city administrator's decision is to the city council or to the hearing examiner appointed by the city council. In this case, the Hearing Examiner conducted the hearing so the City Council will review the Hearing Examiner's report and proposed decision.

OHMC 1.24.120(3) and (4) provide:

- (3) Consideration of Report by Reviewing Agency – Notice. The reviewing agency shall fix a time, date and place to consider the examiner's report

and proposed decision. Notice thereof shall be mailed to each interested party not less than five days prior to the date fixed, unless it is otherwise stipulated by all of the parties.

- (4) **Exceptions to Report.** No later than two days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner's report and may attach thereto a proposed decision together with a written argument in support of such decision. By leave of the reviewing agency, any party may present oral argument to the reviewing agency.

STANDING COMMITTEE REVIEW:

There was no standing committee review of this matter since the City Council will decide the appeal in a quasi-judicial capacity.

RECOMMENDED ACTION:

Set the review of the hearing examiner's report and proposed decision for public hearing on February 2, 2010 at 6:00 p.m. in the City of Oak Harbor Council Chambers.

ATTACHMENTS:

Attachment "A": Report and Proposed Decision of the Hearing Examiner, dated December 17, 2009.

MAYOR'S COMMENTS:

CITY OF OAK HARBOR
HEARING EXAMINER

received
12/18/09 ctw

RECEIVED
DEC 18 2009
OH City Attys Office

RE: Administrative Appeal) APL2009-000
Application for)
Darrell Wallen) FINDINGS OF FACT,
Appellant) CONCLUSIONS OF LAW,
) AND DECISION

SUMMARY OF APPEAL AND DECISION

Appeal: This matter comes before the Hearing Examiner on the Appeal of Darrell Wallen. Mr. Wallen has appealed a Determination by the City Administrator of the City of Oak Harbor setting a refund amount for the Appellant for overcharges for water service at an apartment building owned by the Appellant and located at 260 NE 7th Avenue, Oak Harbor, Washington.

Decision: The Decision of the City Administrator to refund overpayments for the three year period from July 2006 to July 2009 is upheld.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearing.

I.

Hearing Date: November 6, 2009

Parties of Record:

Darrell Wallen
PO Box 308
Coupeville, Washington 98239

Edward Johnson
144 NE Ernst
Oak Harbor, Washington

Douglas Merriman, Finance Director
City of Oak Harbor

David Anderson, Building Official
City of Oak Harbor

Margery Hite, City Attorney
City of Oak Harbor

Exhibits:

- 1 Letter dated October 16, 2009, from City of Oak Harbor re: Wallen Appeal of Utility Billing Decision, setting hearing date
- 2 Letter dated October 19, 2009 Margery Hite, City Attorney to Michael Bobbink and Darrell Wallen re: Wallen Appeal
- 3 Notice of Appearance, dated October 19, 2009 from Margery Hite
- 4 Notice of Appearance, dated October 26, 2009 from Darrell Wallen
- 5 Certificate of Mailing Record of the City, dated October 28, 2009
- 6 Certificate of Mailing Respondent's Brief, dated October 29, 2009
- 7 Vicinity Site Map
- 8 Oak Harbor Municipal Code, Chapter 13.32, Rate Charges
- 9 Oak Harbor Municipal Code, Chapter 3.95, Utility Billing and Collection Procedures
- 10 Oak Harbor Municipal Code, Chapter 1.24, Appeals
- 11 USPS, Certified Mail Delivered Status, dated June 23, 2009; Notice Left, dated June 20, 2009
- 12 City of Oak Harbor Accounts Payable Invoice Copy, dated June 19, 2009, to Darrell Wallen
- 13 Record of the City, submitted October 27, 2009
 - 13-1 Finance Director's Summary
 - 13-2 Calculated Credit Unpaid
 - 13-3 Note to File, dated June 19, 2009
 - 13-4 Letter dated June 16, 2009 from Darrell Wallen to Doug Merriman re: Phone Call
 - 13-5 Letter dated July 10, 2009, from Darrell Wallen to Doug Merriman re: Adjustments
 - 13-6 Letter dated May 1, 2009 from Darrell Wallen to Edward Johnson re: Units available for occupancy

- 13-7 Letter dated September 22, 2009 from Paul Schmidt to Darrell Wallen re: Utility Billings, with attached Exhibit A, email dated Sept 4, 2009 from David Anderson to Paul Schmidt
- 13-8 Letter dated October 2, 2009 from Darrell Wallen to Paul Schmidt re: Utility Billings
- 13-9 Letter dated October 5, 2009 from Darrell Wallen to Connie Wheeler, City Clerk re: Appeal (2 copies, one with highlighting)
- 13-10 Application for Utility Service, dated April 1, 2002

- 14 Respondent's Brief, dated October 29, 2009

- 15 Respondent's Supplemental Submission, dated December 1, 2009, with attachments
 - 15-1 Letter dated November 18, 2009 from Darrell Wallen to Mayor Slowik re: Ronda Haines
 - 15-2 Computer generated water billing information, handwritten date 6/20/04
 - 15-3 Computer generated water billing information, handwritten date 9/20/04
 - 15-4 Letter dated November 13, 2009 from Darrell Wallen to Ronda Haines
 - 15-5 Certificate of Mailing, dated December 1, 2009

- 16 Certificate of Mailing Respondent's Supplemental Authority, dated November 6, 2009

- 17 Respondent's Supplemental Authority, dated November 6, 2009

II.

The Appellant, Darrell Wallen, is the owner of a 16-unit apartment complex located at 260 NE 7th Avenue, Oak Harbor, Washington. The complex was completed, a Certificate of Occupancy was issued, and the Appellant started renting units in 2002.

Water utility charges under Oak Harbor Ordinances include a base per unit charge. Originally Mr. Wallen was charged for 16-units, the number of apartments in the complex.

In July 2004, based on a decision by a City employee, the City started charging for a 17th unit. The addition of a 17th billing unit was based on the existence of a laundry room servicing those renters in the complex who wished to use it.

III

In May 2009, the Appellant contacted the Finance Department and raised issues about the appropriateness of billing the laundry room as a 17th unit.

After a review of Mr. Wallen's complaint by the Finance Director, and further review by the City Administrator, the City Administrator concluded that it was inappropriate to bill the laundry room as a 17th unit, based on the City Administrator's interpretation of applicable Oak Harbor Ordinances. Originally the Finance Director had issued a Decision limiting the refund to two years based on an interpretation of a City Ordinance. After a further review, the City Administrator

increased the amount to cover three years of the overbilling, which resulted from the billing of the laundry room as the 17th unit, based on the State Statute of Limitations.

The Finance Director sent Mr. Wallen a Certified Letter and a check in the amount of \$3,892.43 for the overbilling for a period of three years. The actual period of overbilling started on July 20, 2004. No credit was given to Mr. Wallen from July 2004 through May 2006, based on the City's determination that the overpayments were subject to a three year Statute of Limitations.

The amount of overpayments not made because of the Statute of Limitation determination is \$1,178.14 (See page 2 of the Finance Director's Summary, Exhibit 13-1 of Exhibit 13, Record of the City in the Hearing Examiner's file).

IV.

Mr. Wallen appealed the Final Decision of the City Administrator limiting the overbilled amounts to three years. The Appeal was set before the Oak Harbor Hearing Examiner, the City submitted a record of the proceedings and a brief prepared on behalf of the City by the City Attorney, and the matter was set for hearing on November 6, 2009. A hearing was held on that date and testimony was taken by the Hearing Examiner from the following persons:

Darrell Wallen, Appellant, 368 Marine Drive, Coupeville, Washington
Edward Johnson, 144 NE Ernst, Oak Harbor, Washington
Douglas Merriman, Finance Director for the City of Oak Harbor
David Anderson, Building Official for the City of Oak Harbor

At the close of the hearing, the record was left open for additional submittals, including a submission by the Appellant dealing with the legal issues raised by the Appeal. Thereafter the City submitted Respondent Supplemental Authority on November 6, 2009, and Respondents Supplemental Submission on December 1, 2009.

Respondents Supplemental Submission included a letter from the Appellant which contained a statement stating the Appellant's decision not to submit a legal brief because of the cost involved.

V.

The Decision by the City of Oak Harbor, concluding that the laundry room could not be billed as an additional unit, is based on OHMC 13.32.025, which provides for a monthly ready to service charge, based on "... the number of units available for occupancy". Ultimately, the City decided that a laundry room does not meet the definition of a unit available for occupancy and agreed that Mr. Wallen had been overcharged.

During the Appellant's discussions with the City Administrator, the Appellant suggested that, for unstated reasons, a number of his 16 apartment units were not "units available for occupancy" at this time and asserted that his monthly water utility billing could be adjusted based on the property

owner's determination of how many family units were available for occupancy at any given time.

Mr. Wallen directed his property manager to withhold utility payments based on Mr. Wallen's determination that certain units within his apartment complex were not available for occupancy.

The City Administrator's response was that the determination of what units are available for occupancy is based on the Certificate of Occupancy issued by the Building Official.

On October 5, 2009, Mr. Wallen sent a letter to the City Clerk, appealing the Administrator's interpretation of "available for occupancy." This letter included Mr. Wallen's assertion ["I say some units are not available for occupancy for one reason or another."] and stated that he could withhold utility payments when he determined units were not available for occupancy. At no place in the written record or during the hearing does the Appellant state his reasons for his determination that certain units were not "available for occupancy."

VI.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following

CONCLUSIONS OF LAW

I.

The Appellant appealed the Determination of the City Administrator to limit the amounts repaid for water utility overbilling to a period of three years based on a Washington State Statute of Limitations, RCW 4.16.080 (3).

The Hearing Examiner concludes that the applicable Statute of Limitations for Mr. Wallen's claim is three years. The claim is not based on a written contract as that term is used for Statute of Limitations purposes.

The question then becomes one of determining factually the point at which the Statute of Limitations started to run. Generally, the Statute of Limitations' period starts when a claimant has discovered, or in the exercise of due diligence should have discovered, the facts that give rise to the claim. A determination of when a Party has discovered, or should have discovered, facts sufficient to let a claimant know it has suffered a principle injury or damage is a question of fact. In this situation, the Hearing Examiner is the fact finder and must determine the appropriate date on which the period of the Statute of Limitations started to run.

The Appellant has the burden of proving by a preponderance of the evidence the material fact establishing the date on which the Statute of Limitations began to run on the overbillings.

In this case, the increased billings for the "17th unit" started in July 2004. Since the Appellant has not established an adequate factual basis on which to find the Statute of Limitations started to run at a date other than the date the overbilling started, the Hearing Examiner concludes that the three year Statute of Limitations' period started to run in the first month where the Appellant was overbilled.

It is possible that the Appellant could have established a factual basis for concluding that the Statute of Limitations began to toll on a later date. However, the Appellant has not established a factual or legal basis to support such a finding.

The City appropriately limited the refund to a three year period based on the Statute of Limitations.

II.

The Appellant claims that the City should pay the Appellant interest at the rate of eight percent [8%] per year for the overbilling. This argument appears based on the Appellant's understanding of OHMC 3.95.160, which reads as follows:

3.95.160 Over or under billing.

- (1) Over Billing. If the finance director, upon investigation or otherwise, finds that the fee for utility charges paid by a utility customer or property owner is more than the amount required of the utility customer or property owner which made the over payment, he or she shall return the amount overpaid by a warrant or check upon the utility fund or funds receiving the over payment.
- (2) Under Billing. If the finance director finds that the fee or utility charges billed to a utility customer or property owner is less than required, the finance director shall send a statement to the utility customer or property owner owing the balance due, and the utility customer or property owner shall, within 30 days, pay the amount shown thereon. Amounts outstanding after the 30 days shall be charged interest at the rate of eight percent per annum, prorated monthly, until paid.
- (3) No increase in billing or reduction of a billing for utility charges due may be made by the finance director for more than two years after the over billing or under billing:
 - (a) Against a utility customer or property owner who has not properly signed up for utility services as required by this chapter and/or OHMC Titles 12, 13, 14, and 15;
 - (b) Upon a showing of fraud or theft of services;
 - (c) Upon a showing of misrepresentation of a material fact by a utility customer or property owner whose property received the utility services; or
 - (d) Where a utility customer or property owner has executed a written waiver of such limitation.

Paragraph 2 of this section allows the City to claim interest on under billings only if the under billings are not paid within thirty days of the date the City sends a statement to the customer who has been under billed. This section does not allow the City to start collecting interest on under billed utility charges until thirty days after the charges are billed.

If the same rule were applied to over billings, then the City should be required to pay interest at the rate of eight percent per annum starting thirty days after the amount due the customer from the over billing has been established.

The Hearing Examiner reads this section to not allow interest to over billed customers or to the City on under billings where repayment is made in a timely manner after a bill or claim is submitted. The City should not be required to pay interest on the over billings since the City submitted to the Appellant the amount due at each stage of the City's review when it was determined the Appellant was entitled to repayment for over billings.

III.

The Appellant argues that he does not have to pay the monthly "ready to service charge" where the Appellant has determined that specific units are not "available for occupancy," as that term is used in OHMC 13.32. Based on this, the Appellant directed his property manager to withhold utility payments on nine different apartments owned by the Appellant, based on the Appellant's determination that they were not available for occupancy [Letter from the Appellant to Edward Johnson, dated May 1, 2009].

The Appellant claims that the unavailability is not due to the fact that the units are vacant and not rented. However the Appellant has not established any other basis for his determination that these units are "unavailable for occupancy."

The City has taken the position that buildings or units are "available for occupancy" at the time the City issues an Occupancy Permit for the building or unit.

The utility payments in question here are based on a set "monthly ready to serve charge," plus a charge for actual usage. The set "monthly ready to serve charge" is, as pointed out by the City, a fee based on making water service available and not a fee based on water usage. The City has made water and sewer service available to all of the Appellant's apartment units.

The Hearing Examiner concurs with the City's reading of the Ordinance regarding the "monthly ready to serve charge" and concurs with the City that the number of units charged this fee is equal to the number of units for which an Occupancy Permit has been granted to a property owner.

IV.

The Hearing Examiner should enter a Decision which upholds the City's Determination that the Appellant is due, without interest, the over billed utility payments for a period of three years from

the date the Appellant brought the claimed over billing to the attention of the City. Additionally, the Hearing Examiner should enter a Decision confirming that the appropriate billing for the units of apartments includes the monthly "ready to serve charge" for all of the units which the Building Official has granted an Occupancy Permit.

V.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following

DECISION

The Decision of the City of Oak Harbor Administrator, dated September 22, 2009, is upheld. The Appeal is denied. The Appellant is entitled to overbilled charges for a three year period, going three years from the date the Appellant brought his claim to the attention of the City. The Appellant is not entitled to interest on the over charges since they were paid as soon as it was determined over billing had taken place and payment for the over billing was due. The term "Units Available for Occupancy" as that term is used in OHMC 13.32.025, when applied to apartment buildings, is applicable to the number of residential units within the Appellant's apartment buildings which have received a Certificate of Occupancy from the Building Official.

DATED this 17th day of December 2009.



Michael Bobbink, Hearing Examiner

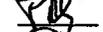
**City of Oak Harbor
Planning Commission Report**

7

Date: January 19, 2010
Subject: Shoreline Substantial
Development Permit:
Windjammer Park 42-inch
Stormwater Outfall Project

FROM: Steve Powers *SP*
Development Services Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

This agenda bill presents the City's application for Windjammer Park 42-inch Stormwater Outfall Project Shoreline Substantial Development Permit (please see Attachment 1). The agenda bill highlights the Shoreline Master Program goals and policies that are relevant to the review of the application. In accordance with Section 10.07 of the Shoreline Master Program, the City Council is asked to conduct a public hearing, make findings and thereupon take action to grant or deny the application. **Please note that this is a quasi-judicial process.**

AUTHORITY

RCW 90.58.050 provides the authority and the responsibility to local governments for the planning and administering the shoreline regulatory program consistent with the Shoreline Management Act.

The City of Oak Harbor Shoreline Master Program, Section 10.07, City Council, reads as follows:

The City Council of the City of Oak Harbor is the sole authority empowered to grant or deny a Substantial Development Permit.

1. Responsibilities and Duties shall include as follows:
 - a. Consider through public hearings or other means, all pertinent data, testimony, correspondence and recommendations related to any application for a Shoreline Management Substantial Development Permit.
 - b. Make findings and thereupon take action to grant or deny applications for permits in full compliance with the City of Oak Harbor's Shoreline Master Program, the Shoreline Management Act, and regulations and requirements adopted pursuant thereto.

The proposed stormwater outfall project requires a Shoreline Substantial Development permit as it does not qualify for an exemption under Section 2.06 of the Shoreline Master Program. The project will further be reviewed by State Agencies and the US Corp of Engineers. Additional conditions and mitigation measures may be imposed on the project as the result of those reviews.

BACKGROUND

Existing Conditions

Currently there are two stormwater outfalls, termed west and east outfall, located in the southwest portion of Windjammer Park. The outfalls provide stormwater drainage from the City's Dry Creek Basin to Oak Harbor Bay. The Dry Creek Basin constitutes the most developed portion of the drainage basins served by the City's stormwater system. It is characterized by highly developed residential and commercial areas with very little open drainage remaining.

The existing west stormwater outfall is a 42-inch corrugated metal (steel) pipe that conveys runoff from an existing upland tide gate structure (in place to restrict salt water from flowing upstream during high tide or storm events) to its discharge point on the beach. This outfall is approximately 320 linear feet long from the tide gate. Its original length was 420 linear feet. Over the years the pipe has deteriorated to its current length.

The existing east stormwater outfall is a 42-inch reinforced concrete pipe that also conveys runoff from upland sites of Oak Harbor. Its current length is approximately 185 linear feet and has remained the same since its original installation.

Proposed project

The City is proposing to replace the existing west stormwater outfall to address the deterioration of the pipe and its susceptibility to frequent blockage by seaweed and sand. The proposed project removes the existing deteriorated corrugated metal pipe from its existing location and replaces it with a new steel pipe aligning it with the existing east stormwater outfall (see Attachment 2). This new steel pipe will be extended approximately 70 feet further into the bay than it currently does at its existing location to minimize potential clogging in the future.

The existing 42-inch reinforced concrete east stormwater outfall will remain in place. However, the proposed project extends it approximately 71 feet to be flush with the relocated and realigned west outfall.

The two outfalls will be held in place by helical anchors. Illustrations have been provided in exhibits supporting the application (Attachment 1). The helical anchors provide minimum environment impacts and are the most efficient and cost effective method of securing the outfalls. The use of the helical anchors will allow the removal of the rip rap and concrete blocks that are currently used to secure the outfalls.

The outfall replacement and realignment construction will impact a section of the waterfront trail and the west parking lot. Therefore, as part of the project, the trail along the waterfront will be enhanced and extended along the shoreline. The parking lot will also be redeveloped and re-striped.

Public Notice

A Notice of Application (NOA) for the proposed project was posted on the property and published in the newspaper, as per the requirement of the Shoreline Master Program for two consecutive weeks, on August 12, 2009 and August 19, 2009. The notice provided a comment period of 30 days with a deadline of September 18, 2009. Property owners within 300 feet of the project were also notified by mail. No letters or comments were received during the comment period.

The Planning Commission public hearing for this application was advertised in the newspaper on November 7, 2009. The hearing notice was also mailed to property owners within 300 feet. Property owners in the Dillard's Addition were included in the mailing list.

SEPA

A SEPA checklist was submitted along with the application. The Notice of Application was published in the local newspaper on August 12, 2009 and August 19, 2009. The deadline for comments was September 2, 2009. Staff did not receive any comments from the public. A Mitigated Determination of Non Significance was issued for the project on October 10, 2009. Notice of the determination was published in the local newspaper with the comment period ending on October 26, 2009 and an appeal period ending on November 10, 2009. No comments or appeals have been received. Please see Attachment 3 for a copy of the Determination and the SEPA checklist.

The mitigation measures included in the determination address short term and long term impacts. Some of the mitigation measures addressing short term impacts include construction techniques such as use of small scale equipment, erosion control, minimum impact to water quality, handling of driftwood, spill response plans, work windows to reduce impact on wildlife, minimizing noise and light during construction, temporary safety fences, and signage to provide detours for trail and ramp users. The mitigation of long term impacts include removal of existing rip rap on the beach, returning the beach to a more natural profile, constructing manholes flush with the ground to avoid visual impact, extension of the trail along the waterfront and the redevelopment of the parking lot using low impact techniques.

DISCUSSION

The outfalls are located within the area designated as an Urban Environment in the Shoreline Master Program. The proposed project is a permitted use within this designation. The review of the project falls primarily under Section 5.20, Utilities, of the Shoreline Master Program. However, the replacement and realignment of the outfall impacts the waterfront trail and the west parking lot of Windjammer Park. Their redevelopment is supported by policies and regulations in other sections of the program.

Stormwater Outfalls

As the proposed project is a utility project, it is appropriate to review it against the policies and regulations of the Utilities Section of the Shoreline Master Program.

5.20 Utilities

Policies

1. Utilities and transportation facilities should be installed in the same rights of way when the effect will be to reduce adverse impacts on the shoreline.
This policy does not directly apply to this proposal. However, the focus of this policy is on reducing impacts to the shoreline. The proposed project realigns the west outfall with the existing east outfall thus reducing the number of points at which the shoreline will be crossed. The realignment will also reduce impact to the shoreline resulting from maintenance activities since the outfalls will be adjacent to each other.
2. Disturbance of the shoreline resulting from installation and/or maintenance of utilities should be minimized.
The SEPA checklist and the MDNS include several conditions and measures to minimize the impact to shoreline during construction. Excavation for installing the pipe will be kept to the minimum required. Small or handheld equipment will be used when feasible. Driftwood will not be dragged along the shoreline. Best management practices for erosion control will be maintained throughout the project. As mentioned above the west outfall is proposed to be realigned with the east outfall and thus reducing the overall points of impact on the shoreline. The realignment and the use of helical anchors will help with the removal of the existing rip rap. This will provide a continuous natural beach profile.
3. New utility facilities should be located underground to prevent adverse effects on scenic views.
The replacement and the realignment of the west outfall will be underground on the upland side of the improvements. As the two outfalls are extended into the bay they will gradually become above ground (seen only during low tide) at the point of discharge. This is necessary for the functionality of the outfalls. The profile of their layouts is provided in the exhibits to the application (Attachment 1). To further this policy, a mitigation measure has been added to the MDNS to require that any upland structures (such as manholes) be constructed flush with the ground.

Regulations

1. Immediately upon completion of utilities installation or maintenance projects, shoreline areas disturbed shall be restored to pre-project configurations, replanting with local vegetation and the vegetation maintained until it is firmly established.
The SEPA checklist includes this requirement and is further re-enforced by including it as a mitigation measure on the MDNS. The SEPA checklist also includes information on retaining a landscape architect or biologist or similarly qualified individual to assist with the re-vegetation.
2. Utility lines, pipes, stations, plants and other apparatus shall not be installed in shoreline areas unless there is no feasible alternative.
There is no other known alternative for the location of discharge points for stormwater drainage from the Dry Creek Basin. The proposed project works within the existing constraints of the need to have stormwater discharge to the bay and includes several improvements and enhancement to the existing conditions.
3. Utility lines shall be installed underground.
This regulation applies primarily to power lines but the focus is on visual impact. As mentioned above, the upland improvements will be underground. However, the outfalls will gradually extend above ground (will be seen only during low tide) at the point of discharge since it is required for the functionality of the system. Conditions are included in the MDNS to keep upland structures below or flush with the ground to protect views.
4. Underwater cables and utility structures which must cross shorelines shall be installed underground from the OHWM mark to a point landward which allows for unimpeded public access.
As mentioned above, the proposed project design indicates that all pipes will be installed underground. The project will have the waterfront trail rebuilt over the pipes and through the project site.
5. Where utility installation on shoreline areas is approved, clearing shall be confined to the minimum necessary for installation and to prevent interference of operation by vegetation.
The SEPA checklist and the MDNS include several measures to keep the impacts to a minimum. This includes, but is not limited to, minimum area of excavation, use of small or hand held equipment, handling of driftwood, erosion plans etc.
6. Where utility lines or similar apparatus must cross shorelines they shall be located within the route which will cause the least

ecological and aesthetic damage to the shoreline.
*The outfalls must cross the shoreline to be functional and safe.
The proposed project will result in an improved shoreline since it reduces the overall footprint of the utility lines by realigning the west outfall so that the two pipes will cross the shoreline in one location. The helical anchors proposed for the project will help allow the removal of the rip rap currently on the shores. This will help the shoreline attain a more natural and uninterrupted profile.*

Waterfront Trail

The replacement and realignment of the stormwater outfall will impact the existing waterfront trail. To offset these impacts the project scope includes rebuilding the waterfront trail and extending it along the shoreline as shown in Attachment 2. The proposed extension will connect the trail to the crossing at Beeksma Drive. The MDNS includes measures to assure that the kayak camping area on the western most edge of the park is not impacted by the trail. The kayak camping area acts as buffer between the trail and the residential structure west of the park. The trail will be approximately 8 feet wide. Listed below are supporting policies within the Shoreline Master Program for improving the trail.

4.02 Urban Environment

Polices

3. Provide public access to the shoreline. New and expanded development should be designed to include physical or visual access.
4. Link public access points by pedestrian routes where practical.

5.17 Recreation

Polices

1. Preference should be given to developments which provide for recreational activities and improvements facilitating public access to the shoreline.
2. A variety of water oriented recreational activities should be encouraged to locate on shorelines to satisfy diverse needs and interests of residents and visitors.
3. Linkage such as walkways, walking and/or bicycle paths between shoreline recreational and public access areas should be provided.
4. Recreational developments should be located, designed and operated to be compatible with adjacent uses and to minimize adverse affects on ecological and aesthetic qualities of the shoreline and the water.
5. Recreational developments should be designed to preserve or create open space and public use of the water and the shorelines.

5.19 Transportation Facilities

Policies

5. Trails and bicycle routes along shorelines should be provided in conformance with the Oak Harbor Comprehensive Parks and Recreation Plan.

Parking

The outfall replacement and realignment project will also impact the west parking lot in Windjammer Park. Portions of the parking lot will be used as a staging area for equipment and project management. Due to these impacts the scope of the project includes redeveloping this parking lot. The parking lot redesign must meet the requirements of OHMC 19.44 and reviewed under the requirements of OHMC 19.44.130 (Administrative Review). The Shoreline Master Program includes some general guidelines for parking. The policies are listed below. The guidelines are primarily targeted toward parking associated with a development (building or use) however the 25-foot setback that is required in bullet "c" should be applied to the redevelopment of this parking lot.

5.02 General Regulations

4. Parking

In addition to parking requirements imposed by other City ordinances the following regulations shall also apply:

- a. Parking areas serving shoreline and over water uses shall be located off the street and landward of uses served unless incorporated into authorized structures, park landscapes or shoreline viewing areas accessible to the public.
- b. Whenever adequate on site parking cannot be provided an upland parking site shall be required. Upland parking sites may serve individual uses or be managed for joint-use.
- c. Where there is no land area available on the landward side of developments or on adjacent uplands, parking areas shall be located no closer than 25 feet from the OHWM and shall be entirely screened from view from the water by plantings or a solid fence of a design consistent with other applicable ordinances. In no case shall a fence or other screen block views of the water from public roads or areas.
- d. Where public access is included as a part of a development proposal, additional parking spaces to serve the general public may be required.

Access Ramp

The project area includes an existing boat ramp for watercrafts. The boat ramp is accessed from the west parking lot. Although the project scope does not include any

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42-inch Outfall Shoreline Substantial Dev. Permit

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modification to the boat ramp, there will be temporary impacts to the access and use of the ramp during construction. This is unavoidable due to its proximity to the outfall pipes. Mitigation measures have been included to the MDNS to provide signs directing ramp users to the boat ramp at the marina.

Consistency with Other Plans

The proposed project is listed in the City of Oak Harbor Comprehensive Stormwater Plan (2006) as a priority project. The proposed mitigation measures, the extension of the trail and the redevelopment of the parking lot are consistent with Goal 4 of the City's Comprehensive Plan, Utilities Element to "Minimize aesthetic and environmental degradation from utility operation, installation, repair and maintenance."

PLANNING COMMISSION

In accordance with Section 10.06 of the Shoreline Master Program, the Planning Commission conducted a public hearing on November 24, 2009 and voted unanimously to adopt the findings of facts and recommended that the City Council approve the Shoreline Substantial Development Permit for the 42-inch outfall project. The Planning Commission's Findings of Facts and minutes from the hearing are included with the agenda bill as Attachment 4.

SUMMARY

The above discussion indicates that the application for the Shoreline Substantial Development Permit for the 42 inch outfall is consistent with the Shoreline Master Program. The proposed project to replace and realign the stormwater outfall to maintain is functionality must cross the shoreline to discharge stormwater into the bay. The application, the SEPA checklist and the Mitigated Determination of Non-significance address the known impacts of the project. The project proposes to use methodologies and construction techniques to minimize the impacts and where possible alleviate current adverse conditions.

CITY ATTORNEY COMMENTS

This is a closed record review of the recommendations of the Planning Commission. The City Council is the final decision-maker for the City on this permit but rests its decision on the record created by the Planning Commission. The closed record hearing is quasi-judicial in nature, so the questions regarding ex-parte contacts and appearance of fairness will be asked of all council members.

RECOMMENDED ACTION

1. Conduct the public hearing.
2. Adopt the Findings of Fact (Attachment 5) and approve the Shoreline Substantial Development Permit for the Windjammer Park 42-inch Stormwater Outfall Project.

ATTACHMENTS

- Attachment 1: JARPA Application (dated 8/03/09)
- Attachment 2: Project site aerial

- Attachment 3: SEPA checklist (dated 8/03/09) and Mitigated Determination of Non-Significance (dated 10/10/09)
- Attachment 4: Planning Commission Findings of Fact and draft minutes (dated 11/24/09)
- Attachment 5: Draft City Council Findings of Fact

MAYOR'S COMMENTS



2009

WASHINGTON STATE Joint Aquatic Resources Permit Application (JARPA) Form [\[help\]](#)



AGENCY USE ONLY

Date received: _____

Agency reference #: _____

Tax Parcel #(s): _____

USE BLACK OR BLUE INK TO ENTER ANSWERS IN WHITE SPACES BELOW.

Part 1—Project Identification

Unique project information that makes it easy to identify. [\[help\]](#)

1a. Unique Project Identifier Number (UPI #) [\[help\]](#)

- Don't have one yet? Get one at <http://www.ecpermits.wa.gov> or call the Washington Governor's Office of Regulatory Assistance at (800) 917-0043.

186169-09-01

1b. Project Name (Examples: Smith's Dock or Seabrook Lane Development) [\[help\]](#)

Windjammer Park Stormwater Outfall Replacement Project

Part 2—Applicant

The person or organization legally responsible for the project. [\[help\]](#)

2a. Name (Last, First, Middle) and Organization (if applicable)

Arnold Peterschmidt P.E., City of Oak Harbor

2b. Mailing Address (Street or PO Box)

865 SE Barrington Drive

2c. City, State, Zip

Oak Harbor, Washington 98277

2d. Phone (1)

(360) 279-4525

2e. Phone (2)

()

2f. Fax

()

2g. E-mail

apeterschmidt@oakharbor.org

Part 3—Authorized Agent or Contact

Person authorized to represent the applicant about the project. (Note: Authorized agent(s) must sign 11b. of this application.) [\[help\]](#)

3a. Name (Last, First, Middle) and Organization (if applicable)

(Schwertner, Margaret, Ann) Environmental Scientist, Moffatt & Nichol

3b. Mailing Address (Street or PO Box)

600 University Street, Suite 610

3c. City, State, Zip

Seattle, Washington 98101

3d. Phone (1)

(206) 622-0222

3e. Phone (2)

(206) 818-2600

3f. Fax

(206) 622-4764

3g. E-mail

mschwertner@moffattnichol.com

Part 4-Property Owner(s) [\[help\]](#)

Contact information for people or organizations owning the property(ies) where the project will occur. [\[help\]](#)

- Same as applicant. (Skip to Part 5.)
- Repair or maintenance activities on existing rights-of-way or easements. (Skip to Part 5.)
- There are multiple property owners. Complete the section below and use [JARPA Attachment A](#) for each additional property owner.

4a. Name (Last, First, Middle) and Organization (if applicable)			
4b. Mailing Address (Street or PO Box)			
4c. City, State, Zip			
4d. Phone (1)	4e. Phone (2)	4f. Fax	4g. E-mail
()	()	()	

Part 5-Project Location(s)

Identifying information about the property or properties where the project will occur. [\[help\]](#)

- There are multiple properties or project locations (e.g., linear projects). Complete the section below and use [JARPA Attachment B](#) for each additional property.

5a. Street Address (Cannot be a PO Box. If there is no address, provide other location information in 5n.) [help]			
1600 S.E. Beeksma Drive			
5b. City, State, Zip (If the project is not in a city or town, provide the name of the nearest city or town.) [help]			
Oak Harbor, Washington 98277			
5c. County [help]			
Island County			
5d. Provide the section, township, and range for the project location. [help]			
¼ Section	Section	Township	Range
SW	2	32	1E
5e. Provide the latitude and longitude of the project location. [help]			
• Example: 47.03922 N lat. / -122.89142 W long.			
48.170134 N lat. / 122.391949 W long.			
5f. List the tax parcel number(s) for the project location. [help]			
Island County Tax Parcel: R13202-106-0750			
5g. Indicate the type of ownership of the property. (Check all that apply.) [help]			
<input type="checkbox"/> State Owned Aquatic Land <input type="checkbox"/> Tribal <input type="checkbox"/> Private <input checked="" type="checkbox"/> Other publicly owned (federal, state, county, city, special districts like schools, ports, etc.)			

5h. Contact information for all adjoining property owners, lessees, etc. (If you need more space, use [JARPA Attachment C.](#)) [\[help\]](#)

Name	Mailing Address	Tax Parcel # (if known)
G & R Investments LLC	201 SE Pioneer Way	S6565-00-00B18-0
	Oak Harbor, WA 98277	
Beach View Plaza LLC	60351 Arnold Market Road	S6565-00-00B34-2
	Bend, OR 97702	
Christon C Skinner	1802 SW Beeksma Drive	S6475-00-00019-0
	Oak Harbor, WA 98277	
Deborah J Skinner	1802 SW Beeksma Drive	S6475-00-0000B-0
	Oak Harbor, WA 98277	

5i. Is any part of the project area within a 100-year flood plain? [\[help\]](#)

Yes No Don't know

Yes, as shown on the Frequently Flooded Areas map in the Oak Harbor Comprehensive Plan. The outfall facilities will be constructed of materials that will not be affected by immersion in floodwaters. The outfall facilities are expected to remain functional following a flood event.

5j. Briefly describe the vegetation and habitat conditions on the property. [\[help\]](#)

The project site includes upland and beach areas (areas on the park beach located below the MHHW line and above 3 feet MLLW). Landscaping and grass is located on the upland portion of the park, along with paved parking areas, walkways, and other city park amenities. Shoreline grasses are also present at the high end of the beach.

The upland portion of Windjammer Park is generally flat and landscaped with grass (see below left photo) (elevations average between 14 and 16 feet relative to the MLLW line). A slight berm extends along the southern edge of the park separating it from the beach below. The slope from the top of bank down to +10 feet MLLW averages from 1:5 (vertical: horizontal) to 1:22 and then levels off to 1:55 waterward of the MHHW line (11.70 feet MLLW, see photo to the right).

Longshore sediment transport at Windjammer Park is to the north and east, towards the Oak Harbor Marina.

Endangered Species Act (ESA) listed fish species (Chinook and bull trout) are present in Oak Harbor Bay. While not federally listed, forage fish such as sand lance and surf smelt are an important resource within Washington, from both a commercial and ecological standpoint. They provide a food source for many fish, including listed salmonids and are considered a high priority by WDFW and other local agencies and entities. Forage fish depend on nearshore marine habitat for spawning and rearing habitat. The shoreline of Windjammer Park has documented sand lance and surf smelt existing and potential habitat within the Project site.

5k. Describe how the property is currently used. [\[help\]](#)

Windjammer Park (28.5 acres) is a major recreational park located in the City of Oak Harbor between Beeksma Drive and City Beach Street. Many people like to use Windjammer Park for their family gatherings such as reunions, birthday parties, weddings and picnics. Additionally, the park beach is the location for two of the City's stormwater outfalls to Oak Harbor Bay.

5l. Describe how the adjacent properties are currently used. [\[help\]](#)

Uses of adjacent properties includes single family residential and a variety of commercial enterprises such as an automobile dealership, banking, and a car wash.

5m. Describe the structures (above and below ground) on the property, including their purpose(s). [help]

Currently, the project site consists of predominantly waterfront park features. These include three Little League baseball fields, two tot lot playgrounds, shoreline picnic tables and barbecue pits with wind breaks, covered picnic facilities and kitchens for large groups, two accessory buildings, a windmill landmark, an exercise course, seasonal gardens, one practice field, two basketball courts, three tennis courts, two volleyball courts (portable), horseshoe pits, one boat launch, a recreational vehicle park with 56 serviced sites and 30 non-serviced sites, a swimming lagoon with dock and slide, two wading pools, 2,100 lineal feet segment of Oak Harbor Waterfront Trail and two public restrooms (one with showers). The west side of the park has a gazebo and covered outdoor barbecue pit. A beach is located along the south edge of Windjammer Park and a boat ramp is located at the west end of the park.

Two stormwater outfalls are located on the park beach. As defined by the City's Comprehensive Stormwater Drainage Plan (Tetrattech, 2006), the two existing east and west stormwater outfalls provide for stormwater discharge directly to Oak Harbor from the City's Dry Creek Basin. Stormwater runoff is piped through an extensive collection system upstream of the two outfalls. The basin, which covers approximately 4.54 square miles, contains the central core of the City and is the most developed of the City's four primary drainage basins. It is characterized by highly developed residential and commercial areas with very little open drainage remaining.

The **existing west stormwater outfall** is a 42-inch corrugated metal (steel) pipe (CMP) that conveys runoff from an existing upland 42-inch tide gate structure (in place to restrict salt water from flowing upstream in the pipe during high tide or storm events) to its discharge point on the beach. The existing west stormwater outfall is approximately 320 linear feet long from the tide gate to the beach. Its original length was approximately 420 linear feet (approximately 100 feet longer than what currently exists). Over the years, regular and emergency maintenance practices have slowly resulted in destroying the last 100 feet of the pipe.

The **existing east stormwater outfall** is a 42-inch re-enforced concrete pipe (RCP) that also conveys runoff from upland sites of Oak Harbor to the Oak Harbor Bay will remain in place. Its current length of approximately 185 linear feet has remained the same since its original installation. This outfall will also be extended approximately 70 feet to be flush with the end of the relocated west outfall).

Extending the lengths of both the replaced west and existing east outfalls is anticipated to minimize clogging of the outfalls by sand and/or seaweed.

5n. Provide driving directions from the closest highway to the project location, and attach a map. [help]

The project site is located along the beach at Windjammer Park on central Whidbey Island, Oak Harbor, WA (see Sheet 1 - Vicinity Map).

From Seattle, WA driving directions to Windjammer Park are as follows:

- Take I-5 North for approximately 60 miles.
- Take Exit 231 for SR-20
- Turn left onto SR-20, continue approximately 12 miles.
- SR-20 turns left toward Whidbey Island and Oak Harbor.
- Continue on SR-20 into Oak Harbor and to Beeksma Drive.
- At the end of Beeksma Dr. turn left into Windjammer Park



Part 6—Project Description

6a. Summarize the overall project. You can provide more detail in 6d. [help]

The City of Oak Harbor (City) proposes to replace the existing west stormwater outfall at its Windjammer Park to address material condition concerns and susceptibility to blockage by beach sand.

Currently two stormwater outfalls (west outfall and east outfall) run through Windjammer Park and its beach to Oak Harbor Bay in Puget Sound (see attached Sheets 1 through 5).

The selected design proposes to replace the last 320 linear feet of the existing **west stormwater outfall** with a 481 linear foot, 42-inch, steel stormwater outfall approximately 245 feet west of its current location (see attached Sheets

1 through 5 for additional details). The selected design provides improvements over the existing design while minimizing environmental impacts to the site and overall Project costs. Both ends of the existing west and east stormwater outfalls will also be extended out of the range of breaking waves on the beach, which is anticipated to minimize clogging of the outfalls by sand and seaweed.

The proposed replacement for the west stormwater outfall will extend approximately 70 feet further waterward than it currently does at its existing location. This will help minimize the potential for clogging in the future.

The 42-inch re-enforced concrete pipe (RCP) existing east stormwater outfall will remain in place. Its current length of approximately 185 linear feet has remained the same since its original installation. This outfall will also be extended approximately 70 feet to be flush with the end of the relocated west outfall). Extending the length of both the replaced west and existing east outfalls is anticipated to minimize clogging of the outfalls by sand and/or seaweed.

6b. Indicate the project category. (Check all that apply.) [help]

- Commercial
 Residential
 Institutional
 Transportation
 Recreational
 Maintenance
 Environmental Enhancement

6c. Indicate the major elements of your project. (Check all that apply.) [help]

- | | | | |
|--|--|--|---|
| <input type="checkbox"/> Aquaculture
<input type="checkbox"/> Bank Stabilization
<input type="checkbox"/> Boat House
<input type="checkbox"/> Boat Launch
<input type="checkbox"/> Boat Lift
<input type="checkbox"/> Bridge
<input type="checkbox"/> Bulkhead
<input type="checkbox"/> Buoy
<input type="checkbox"/> Channel Modification | <input type="checkbox"/> Culvert
<input type="checkbox"/> Dam / Weir
<input type="checkbox"/> Dike / Levee / Jetty
<input type="checkbox"/> Ditch
<input type="checkbox"/> Dock / Pier
<input type="checkbox"/> Dredging
<input type="checkbox"/> Fence
<input type="checkbox"/> Ferry Terminal
<input type="checkbox"/> Fishway | <input type="checkbox"/> Float
<input type="checkbox"/> Geotechnical Survey
<input type="checkbox"/> Land Clearing
<input type="checkbox"/> Marina / Moorage
<input type="checkbox"/> Mining
<input checked="" type="checkbox"/> Outfall Structure
<input type="checkbox"/> Piling
<input type="checkbox"/> Retaining Wall (upland) | <input type="checkbox"/> Road
<input type="checkbox"/> Scientific Measurement Device
<input type="checkbox"/> Stairs
<input type="checkbox"/> Stormwater facility
<input type="checkbox"/> Swimming Pool
<input type="checkbox"/> Utility Line |
|--|--|--|---|

Other: _____

6d. Describe how you plan to construct each project element checked in 6c. Include specific construction methods and equipment to be used. [help]

- Identify where each element will occur in relation to the nearest waterbody.
- Indicate which activities are within the 100-year flood plain.

The section of the existing west stormwater outfall to be replaced will begin at an existing tide gate located approximately 280 feet landward of the MHHW line. A section of HDPE replacement pipe will run 270 linear feet southeast to a new manhole located just landward of the existing beach berm. The remaining 208 linear feet of the steel replacement outfall will be installed east of its original location, adjacent and parallel to another stormwater outfall (the east stormwater outfall) that already exists in this east location.

The proposed replacement for the west stormwater outfall will extend approximately 70 feet further waterward than it currently does at its existing location (will still be 30 feet shorter than the pipe's original length). This will help minimize the potential for clogging in the future.

The 42-inch concrete east stormwater outfall will remain in place but will also be extended approximately 70 feet (the end of the extended east outfall will be flush with the end of the relocated west outfall). Extending the length of both the replaced west and existing east outfalls is anticipated to minimize clogging of the outfalls by sand and/or seaweed.

Both ends of the existing west and east stormwater outfalls are anchored in place with large boulders, similar to

riprap (see photos on page 3).

The extended sections of both outfalls will also require an anchor system to stabilize the outfalls in inclement weather and storms. A total of up to 20, 20-foot long steel helical anchors were selected over riprap or concrete blocks to be installed along the last 140 feet of the east and west outfalls. A pair of helical anchors will be installed on the outside of the east and west outfalls, equally spaced along this 140-foot section. Each helical anchor shaft is up to 4 inches in diameter and will be installed with a small backhoe. The tops of each pair of the helical anchors will be welded to a 3/4 -inch thick steel plate (each steel plate will be 15 feet long and 2 feet wide) installed beneath the outfalls. A steel strap will wrap around the top of the outfall pipe. Helical anchors provide a number of advantages over the addition of more rock riprap or the use of concrete blocks:

- Helical anchors will minimize the overall footprint of the project on shoreline and inwater habitat. The removal of the existing riprap from the shoreline, proposed as part of this project, will improve the beach area, not only for park users, but also for aquatic organisms. Both potential and existing surf smelt and sand lance spawning habitat has been documented along the beach of Windjammer Park.
- Water and sand movement along the beach will not be as impeded as with the designs of other alternatives. The helical anchors will keep the outfalls in place and, at the very end of the outfalls, sand/gravel movement may occur over the outfall structures from one side of the beach to the other.
- Helical anchors will not impact the beach view from the shoreline as much as the use of riprap or concrete blocks. The helical anchor system results in a structure height equal to that of the top of the outfall pipes (from zero (0) to 3.5 feet above the existing ground elevation, depending on the pipe section – refer to Sheet 3 for details). If riprap was used to stabilize the outfalls, a minimum of a 6-foot high mound of rock would be required to provide the same level of stabilization as that of the helical anchor system. If concrete blocks were used to stabilize the outfalls, a maximum of 5-foot high blocks would be required to provide the same level of stabilization as that of the helical anchor system.

Upland Project Elements

One (1) new 9-foot deep manhole will be installed approximately 50 feet landward of the MHHW line within the upland portion of Windjammer Park. It will serve as an access point for the replacement west stormwater outfall.

Upland excavation varies from 3 to 14 feet deep and will be required in Windjammer Park to replace the west outfall section above the MHHW line. The depth of the replacement outfall will gradually decrease once past the beach berm along the shoreline (elevation of the berm is approximately 16 feet relative to MLLW).

Approximately 250 cubic yards of soil will be excavated to install the 270 linear feet of upland HDPE pipe. The soil will be stored onsite and used to cover the pipe once it has been installed. It is anticipated that none of the excavated soil will need to be removed from the site as any displaced soil will be used to fill the voids left by the removal of the existing west stormwater outfall above the MHHW and OHW lines.

Due to the depth required for outfall installation, upland excavation will most likely require dewatering of soil material as it is excavated. All required construction and stormwater BMPs necessary to conduct dewatering will be strictly adhered to during project construction. Further project design will determine if dewatering is necessary and how much will be anticipated but dewatering will most likely require short-term storage of the water in a mobile tank located at the park until the water can be released into a stormwater outfall. Turbidity and other water quality criteria will most likely be required and water quality monitoring prior to water release is anticipated.

Up to 300 cubic yards of imported gravel for pipe bedding will be imported for use in the upland trench to install the 270 linear feet of HDPE pipe for the west outfall. Pipe bedding material is necessary to provide a flat, level, and stable foundation for the replacement outfall.

The existing west stormwater outfall will be removed. Much of it is located upland of the MHHW line. Any disturbed landscaping or asphalt will be replaced following its removal. As mentioned previously, any excess soil from the realignment of the west stormwater outfall will be used to backfill the voids left by the removed section of pipe.

Project construction activities could damage the existing west parking area and the nearby waterfront trail. Both of these facilities are paved with asphalt pavement. Reconstruction of affected portions of these facilities is part of the project. The total asphalt area that will most likely require repair is expected to be between 3,000 and 6,000 square yards. Reconstruction will replace existing impervious surfaces with pervious hard surfacing to the extent feasible. The intent of the reconstruction is to replace damaged existing facilities with new facilities incorporating improved form and function.

Shoreline Project Elements

Excavation of beach material (gravel and sand) waterward of the MHHW line will involve approximately 1,500 cubic yards (most excavation will occur between 6 and 14 feet MLLW. Most of this material will also be stored onsite and used as backfill once the west stormwater replacement outfall and the extended east stormwater outfall section have been installed. Any displaced beach material will also be used to rework the west outfall site back to more natural beach contours once the existing stormwater outfall structure has been removed.

Up to 200 cubic yards of existing riprap will be removed from the beach where it currently anchors the existing west and east outfalls. Riprap will be removed to an elevation consistent with the surrounding beach slope. This project is not proposing to remove any riprap that may be buried below the surface of the beach. Any displaced gravel and sand remaining after pipe removal will be used to fill in holes created by the removal of the riprap. Any displaced gravel and sand (resulting from removal of the west outfall) may also be used to rework the beach to more natural conditions (similar elevations to that of the surrounding beach) once the outfall has been removed.

The existing beach slope is extremely gradual (averaging a slope of 1:22 vertical: horizontal) except for the areas which incorporate existing riprap. It is not the intention of this project to modify the slopes of the beach, but to remove the existing riprap and rework the remaining native sand and gravel material to more natural contours of the beach. The proposed slope of the beach will remain at approximately 1:5 below the beach berm and above the MHHW line, and will also remain at approximately 1:22 below the MHHW line.

Up to 150 cubic yards of imported gravel for pipe bedding will be imported for use in the shallow zero to 2-foot trench dug to install the west outfall and the east outfall extension. Pipe bedding material is necessary to maintain the footing for the outfalls.

Up to 50 cubic yards of riprap from the existing piles of riprap on the beach will be reused for scour protection of the modified outfall ends of the east and west outfalls. The scour blanket will protect the outfall foundation from the formation of scour holes, which can result in instability and failure of the outfall structures.

6e. What are the start and end dates for project construction? (month/year) [\[help\]](#)

- If the project will be constructed in phases or stages, use [JARPA Attachment D](#) to list the start and end dates of each phase or stage.

Start date: July 16, 2010

End date: Sept. 16, 2010

See JARPA Attachment D

A start date for the Windjammer Park Stormwater Outfall Replacement Project has currently been anticipated above but may change depending on project scheduling and permit conditions.

Regardless of the actual start date, it is anticipated that the Project will be completed within one continuous work phase of approximately 2 months (8 weeks) in duration (estimated using a 5-day work week). The estimated duration includes mobilization of equipment, construction of the replacement west outfall, lengthening of the existing east outfall, deconstruction of the existing west outfall, restoration of the beach project area (at both the east and west sites) to more natural conditions, landscape replacement of the upland project area, and demobilization of construction equipment.

6f. Describe the purpose of the work and why you want or need to perform it. [\[help\]](#)

The existing west stormwater outfall is a 42-inch corrugated metal (steel) pipe that conveys runoff from an existing upland 42-inch tide gate structure (in place to restrict salt water from flowing upstream in the pipe during high tide or storm events) to its discharge point on the beach. The outfall and channel (see below photos) are both within the normal tide range of the harbor. However, the west stormwater outfall invert elevation is below the natural elevation of the beach sand. The west outfall lies within the intertidal zone and is regularly exposed to breaking waves. The invert of the outfall lies between 4 to 5 feet relative to Mean Lower Low Water (MLLW) and the pipe crest is exposed a few inches above the water. Clogging of the existing west stormwater outfall has been linked with upstream flooding issues, such as at the intersection of Beeksma Drive and SR 20, as documented in the Draft Comprehensive Stormwater Drainage Plan (Tetra Tech/KCM, January 2006). Plugging occurs due to large accumulations of sand, and occasionally seaweed, at the outfall. It is often necessary for the City to excavate the discharge point and channel several times a week during the winter months, and periodically during the summer months, to maintain the function of the west stormwater outfall. (The east outfall also lies within the intertidal zone but requires less periodic maintenance than the west outfall.)

The periodic maintenance work is difficult during the winter, when the west stormwater outfall is only accessible at

night due to the seasonal tide cycles.

A number of west outfall repair/replacement alternatives were developed and assessed to determine the most effective, efficient, cost effective and least impactful design to complete the Project.

The selected design proposes to replace the last 320 linear feet of the existing 42-inch CMP west stormwater outfall with a 481 linear foot, 42-inch, stormwater outfall approximately 245 feet west of its current location (see attached Sheets 1 through 5 for additional details). The selected design provides improvements over the existing design while minimizing environmental impacts to the site and overall Project costs.

The section of the existing west stormwater outfall to be replaced will begin at an existing tide gate located approximately 280 feet landward of the MHHW line. A section of HDPE replacement pipe will run 273 linear feet southeast to a new manhole located just landward of the existing beach berm. The remaining 208 linear feet of steel pipe will be installed east of its original location, adjacent and parallel to another stormwater outfall (the east stormwater outfall) that already exists in this east location.

The proposed replacement for the west stormwater outfall will extend approximately 70 feet further waterward than it currently does at its existing location (will still be 30 feet shorter than the pipe's original length). This will help minimize the potential for clogging in the future.

The 42-inch re-enforced concrete pipe (RCP) east stormwater outfall will remain in place. Its current length of approximately 185 linear feet has remained the same since its original installation. This outfall will also be extended approximately 71 feet (the extension pipe will be 42-inch steel) to be flush with the end of the relocated west outfall). Extending the length of both the replaced west and existing east outfalls is anticipated to minimize clogging of the outfalls by sand and/or seaweed.

6g. Fair market value of the project, including materials, labor, machine rentals, etc. [\[help\]](#)

Total Project Cost Estimate (2009 dollars):

- Design and Permitting \$300,000
- Construction (including mobilization, demobilization, labor, materials, equipment rentals, etc.) \$700,000

6h. Will any portion of the project receive federal funding? [\[help\]](#)

- If yes, list each agency providing funds.

Yes No Don't know

Part 7--Wetlands: Impacts and Mitigation

- Check here if there are wetlands or wetland buffers on or adjacent to the project area.
(If there are none, skip to Part 8.)

7a. Describe how the project has been designed to avoid and minimize adverse impacts to wetlands. [\[help\]](#)

Not applicable

7b. Will the project impact wetlands? [\[help\]](#)

Yes No Don't know

7c. Will the project impact wetland buffers? [\[help\]](#)

Yes No Don't know

7d. Has a wetland delineation report been prepared? [\[help\]](#)

- If yes, submit the report, including data sheets, with the JARPA package.

Yes No

7e. Have the wetlands been rated using the Western Washington or Eastern Washington Wetland Rating System? [\[help\]](#)

- If yes, submit the wetland rating forms and figures with the JARPA package.

Yes No Don't know

7f. Have you prepared a mitigation plan to compensate for any adverse impacts to wetlands? [\[help\]](#)

- If yes, submit the plan with the JARPA package.

Yes No Not applicable

7g. Use the table below to list the type and rating of each wetland that will be impacted; the extent and duration of the impact; and the type and amount of compensatory mitigation proposed. If you are submitting a compensatory mitigation plan with a similar table, you may simply state (below) where we can find this information in the mitigation plan. [\[help\]](#)

Activity causing impact (fill, drain, excavate, flood, etc.)	Wetland type and rating category ¹	Impact area (sq. ft. or acres)	Duration of impact ²	Proposed mitigation type ³	Wetland mitigation area (sq. ft. or acres)
n/a					

¹ Ecology wetland category based on current Western Washington or Eastern Washington Wetland Rating System. Provide the wetland rating forms with the JARPA package.

² Indicate the time (in months or years, as appropriate) the wetland will be measurably impacted by the activity. Enter "permanent" if applicable.

³ Creation (C), Re-establishment/Rehabilitation (R), Enhancement (E), Preservation (P), Mitigation Bank/In-lieu fee (B)

Page number(s) for similar information in the mitigation plan, if available: n/a

7h. For all filling activities identified in 7g., describe the source and nature of the fill material, the amount in cubic yards that will be used, and how and where it will be placed into the wetland. [\[help\]](#)

n/a

7i. For all excavating activities identified in 7g., describe the excavation method, type and amount of material in cubic yards you will remove, and where the material will be disposed. [\[help\]](#)

n/a

7j. Summarize what the compensatory mitigation plan is meant to accomplish, and describe how a watershed approach was used to design the plan. [\[help\]](#)

n/a

Part 8—Waterbodies (other than wetlands): Impacts and Mitigation

In Part 8, "waterbodies" refers to non-wetland waterbodies. (See Part 7 for information related to wetlands.) [\[help\]](#)

Check here if there are waterbodies on or adjacent to the project area. (If there are none, skip to Part 9.)

8a. Describe how the project is designed to avoid and minimize adverse impacts to the aquatic environment. [\[help\]](#)

Not applicable

The project is designed to avoid and minimize adverse impacts to the environment as a whole (see project SEPA checklist for a list of all of the proposed avoidance and mitigation strategies). The Project does not change the overall function of the east and west stormwater outfalls. Those outfalls will remain. With respect to the aquatic environment, the following measures have been or will be imposed on the project:

- Replacing and moving the west outfall to be located directly adjacent to the

east outfall, and in extending both outfalls, improvements to the existing beach will be completed as part of the Project. Habitat improvements to the beach include:

- Once the west stormwater outfall has been removed, existing riprap from the end of the outfall will be removed and the beach reworked to more natural conditions. Once the replacement west outfall has been installed adjacent and parallel to the existing east outfall, the same will be done at this location. Any existing riprap (currently used to anchor the end of the east outfall) will be removed (some of which will be used to create the proposed outfall scour pad flush with the beach). Any disturbed areas of the beach (such as the area where riprap is removed) will be reworked to more natural beach conditions.
- An overall net decrease in beach shading (below MHHW and within the intertidal zone) of approximately 360 sf. The project consolidates two outfall sites to one site.
- An improvement in overall slope characteristics of the beach (the riprap will be removed to minimize impacts to the natural 1:22 slope of the beach).
- Less maintenance is anticipated for both outfalls after completion of the project. This will reduce the times that equipment and City maintenance staff will be out on the beach cleaning or repairing the outfalls, thereby minimizing disturbances on the beach.
- A number of west outfall repair/replacement alternatives were developed and assessed to determine the most effective, efficient, cost effective and least impactful design to complete the Project. The use of helical anchors will provide a number of advantages over the addition of more rock riprap to the outfalls or the use of concrete blocks.
 - Helical anchors will minimize the overall footprint of the Project on shoreline and in-water habitat. The removal of the existing riprap from the shoreline, proposed as part of this Project, will improve the beach area, not only for park users, but also for aquatic organisms. Both potential and existing surf smelt and sand lance spawning habitat has been documented along the beach of Windjammer Park.
 - Water and sand movement along the beach will not be as impeded as with the designs of other alternatives. The helical anchors will keep the outfalls in place and, at the very end of the outfalls, sand/gravel movement may occur over the outfall structures from one side of the beach to the other.
 - Helical anchors will not impact the beach view from the shoreline as much as the use of riprap or concrete blocks. The helical anchor system results in a structure height equal to that of the top of the outfall pipes (from zero (0) to 3.5 feet above the existing ground elevation, depending on the pipe section – refer to Sheet 5 for details). If riprap was used to stabilize the outfalls, a minimum of a 6-foot high mound of rock would be required to provide the same level of stabilization as that of the helical anchor system. If concrete blocks were used to stabilize the outfalls, a maximum of 5-foot high blocks would be required to provide the same level of stabilization as that of the helical anchor system.
- Construction activities on the shoreline and beach that could result in short-term erosion will be avoided and minimized by the use of Best Management Practices (BMPs) during construction. For example, an erosion control plan will be completed as required pursuant to the Oak Harbor Municipal Code

(OHMC) which adheres to Ecology guidelines. Implementation of spill response procedures during construction will also be required (contractor requirement to submit and follow a Spill Prevention, Control, and Countermeasure (SPCC) Plan).

- The Project will utilize Ecology's Stormwater Manual and the City's OHMC BMPs to complete an erosion control plan prior to commencement of construction. Construction will also be restricted seasonally to avoid any increase risk in erosion during generally more rainy times of the year. Foot traffic and use of the Project areas will be restricted during construction to reduce the risk of additional erosion.
- All construction will utilize small-scale equipment wherever possible to minimize erosion. This will be especially important for shoreline and beach work below the MHHW line. Many of the shoreline and in-water permits necessary to complete this Project will require strict construction mitigation measures when working below the MHHW line. Specific mitigation measures will be determined as part of the permitting process but may include (but is not limited to) measures such as:
 - Work below the MHHW line will be completed "in the dry" or at low tide whenever possible.
 - Work will only be permitted for certain times of the year to minimize any possible impacts to migrating juvenile salmonids or their habitat.
 - Any moved beach material (gravel and sand, rock) will be stockpiled in a manner that does not impact water quality (including turbidity requirements) of the bay.
 - The disturbance of any driftwood on the beach will be minimized as much as possible. Any driftwood pieces that must be moved to provide room for the replacement pipe to be installed will be stored and placed along the shoreline after construction is complete. Any driftwood pieces that must be moved during construction will not be dragged along the beach. Large pieces of driftwood may need to be cut so that they do not need to be removed from the beach.
- No discharge of waste materials to surface water will occur as part of this Project. Debris from either upland or shoreline construction will not be permitted to run into Oak Harbor Bay.
- Turbid water from upland construction will not be allowed to run directly into the bay without meeting all necessary local and state water quality standards. In general, water quality impacts from shoreline and near-water work would be limited to temporary localized conditions of turbidity in the immediate area of the construction at the end of the modified outfalls.
- No in-water work will occur during fish migration periods established by the regulatory agencies. Consideration for forage fish spawning may also be required. Proposed work will be conducted during appropriate seasons and work windows to avoid infringements upon wildlife behaviors and systems. In-water work (work below the MHHW line) will most likely not be allowed to occur between February 16 and July 15 and of any given year to comply with existing agreements between the Corps and NMFS/USFWS on in-water work windows for listed salmon and bull trout (Corps Programmatic BE, 2001). Additional state enforced work windows may be required to protect forage fish spawning activities and habitat and could restrict any work proposed for the beach below MHHW even further (work below MHHW may be restricted to be completed between October 15 and January 31).
- Native grasses and plants will be used whenever appropriate along the beach berm area after construction.

- Closer to the end of the east and west outfalls, the rocks used to construct the outfall scour pad will be supplemented with "fish mix." Fish mix can provide some improvement to fish habitat by increasing the complexity of the rock size and by filling the interstitial spaces of the larger rocks (see photo of fish mix example at right). This can result in an increase in macro-invertebrate production in this location. Often fish mix is required as part of the WDFW permit for projects and could be required specifically for this Project.
- The helical anchors will not be "driven" into the beach and are not anticipated to propagate significant noise during construction that could impact nearby aquatic fish, birds, and animals.
- None of the proposed work will begin prior to completing all of the necessary environmental review and public notice requirements or prior to receiving all necessary local, state, and federal permits and/or approvals for the entire Project.
- Construction staging will be located as close as possible to the site but away from any wetlands or other sensitive areas (such as the shoreline).
- The Project is consistent with the City of Oak Harbor's Comprehensive Plan, the City's Comprehensive Storm Drainage Plan, and the City's Shoreline Master Program.
- Temporary fencing around the construction site will be installed to both minimize the area closed to park users and enhance public safety.

8b. Will your project impact a waterbody or the area around a waterbody? [help]

Yes No

No significant impacts are proposed as part of this project. Project mitigation measures, as described in this JARPA and the Project SEPA checklist have been developed to avoid and minimize potential minor negative impacts that could result from the Project.

8c. Summarize impact(s) to each waterbody in the table below. [help]

Activity causing impact (clear, dredge, fill, pile drive, etc.)	Waterbody name	Impact location ¹	Duration of impact ²	Amount of material to be placed in or removed from waterbody	Area (sq. ft. or linear ft.) of waterbody directly affected
Excavation below MHHW mark	Oak Harbor Bay	Below MHHW and above +3 MLLW on the beach at Windjammer Park.	Periodic over approx. 24 8-hour days.	Up to 200 cubic yards of rock riprap to be removed and disposed of offsite from the beach (No sand or gravel will be removed from the beach).	1,740 square feet
Fill below MHHW mark	Oak Harbor Bay	Below MHHW and above +3 MLLW on the beach at Windjammer Park.	Periodic over approx. 24 8-hour days.	Up to 150 cubic yards of gravel for pipe bedding material.	659 square feet

¹ Indicate whether the impact will occur in or adjacent to the waterbody. If adjacent, provide the distance between the impact and the waterbody and indicate whether the impact will occur within the 100-year flood plain.

² Indicate the time (in months or years, as appropriate) the waterbody will be measurably impacted by the work. Enter "permanent" if applicable.

8d. Have you prepared a mitigation plan to compensate for the project's adverse impacts to non-wetland waterbodies? [help]

- If yes, submit the plan with the JARPA package.

Yes No Not applicable

A mitigation plan has not been prepared for the project but a number of avoidance and minimization measures have been proposed and will be completed as part of the Project to reduce or eliminate the possibility of negative impacts to any waterbodies. No significant adverse impacts have been identified as part of this repair and maintenance project.

The Project is required based on the needs of the City of Oak Harbor and complies with guidance from the City's planning documents and will comply with all appropriate shoreline state and federal regulation for the geographic area of the project. Best available science has been reviewed for the Project and in the development of the avoidance and mitigation measures listed for the response to Question 8a. In summary:

Short-term: Impacts to threatened, endangered or sensitive birds and other animals observed in the project area, or in the general site vicinity, are not expected to be significant due to the temporary nature of construction disturbance.

Proposed work will be completed during appropriate seasons and work windows to avoid infringements upon wildlife behaviors and systems. In-water work (work below the MHHW line) will most likely not be allowed to occur between February 16 and July 15 and of any given year to comply with existing agreements between the Corps and NMFS/USFWS on in-water work windows for listed salmon and bull trout (Corps Programmatic BE, 2001). Additional state enforced work windows may be required to protect forage fish spawning activities and habitat and could restrict any work proposed for the beach below MHHW even further (work below MHHW may be restricted to be completed between October 15 and January 31).

The helical anchors will not be "driven" into the beach and are not anticipated to propagate significant noise during construction that could impact nearby aquatic fish, birds, and animals.

None of the proposed work will begin prior to completing all of the necessary environmental review and public notice requirements or prior to receiving all necessary local, state, and federal permits and/or approvals for the entire project.

Long-Term: The project does not change the overall function of the east and west stormwater outfalls. Those outfalls will remain.

In replacing and moving the west outfall to be located directly adjacent to the east outfall, and in extending both outfalls, improvements to the existing beach will be completed as part of the Project. Habitat improvements to the beach include:

- Once the west stormwater outfall has been removed and the east stormwater outfall extended, any existing riprap from the end of the outfalls will be removed so that the beach can return to more natural conditions.
- An overall net decrease in beach shading (below MHHW and within the intertidal zone) of approximately 360 sf.
- An improvement in overall slope characteristics of the beach (the rock riprap will be removed to minimize impacts to the natural 1:22 slope of the beach).

8e. Summarize what the compensatory mitigation plan is meant to accomplish. Describe how a watershed approach was used to design the plan.

- If you already completed 7j., you do not need to restate your answer here. [help]

The two existing east and west stormwater outfalls provide for stormwater discharge directly to Oak Harbor from the City's Dry Creek Basin. Stormwater runoff is piped through an extensive collection system upstream of the outfalls. The basin, which covers approximately 4.54 square miles, contains the central core of the City and is the most developed of the City's four primary drainage basins. It is characterized by highly developed residential and commercial areas with very little open drainage remaining.

Short-term construction impacts and long-term impacts to the beach area at the project site will be mitigated for as described in the response to 8d. The project was developed to avoid and minimize any potential short-term and long-term impacts to the project site.

8f. For all activities identified in 8c., describe the source and nature of the fill material, amount (in cubic yards) you will use, and how and where it will be placed into the waterbody. [\[help\]](#)

Waterward of the MHHW line:

- Up to 200 cubic yards of existing riprap will be removed from the beach where it currently anchors the existing west and east outfalls. Riprap will be removed to an elevation consistent with the surrounding beach slope. This project is not proposing to remove any riprap that may be present below the top of the existing beach. Any displaced gravel and sand remaining after pipe removal will be used to fill in holes created by the removal of the riprap.
- Up to 150 cubic yards of imported gravel for pipe bedding will be imported for use in the shallow zero to 2-foot trench dug to install the west outfall and the east outfall extension. Pipe bedding material is necessary to maintain the footing for the outfalls.

8g. For all excavating or dredging activities identified in 8c., describe the method for excavating or dredging, type and amount of material you will remove, and where the material will be disposed. [\[help\]](#)

For any excavation and/or fill work completed below the MHHW mark or the OHW mark, a small backhoe will be used at low-tide only during approved work windows. Trucks necessary to bring materials to and from the site will not be allowed to access the beach.

The small backhoe used on the beach will be able to access the site from the adjacent public boat ramp facility (located at the west end of Windjammer Park, directly adjacent to the existing west stormwater outfall). The existing ramp will be used for equipment access during de-construction of the existing west outfall, installation of the replacement west outfall, extension of the east outfall, and removal of the rock riprap at the ends of both existing outfalls.

Part 9—Additional Information

Any additional information you can provide helps the reviewer(s) understand your project.

9a. If you have already worked with any government agencies on this project, list them below. [\[help\]](#)

Agency Name	Contact Name	Phone	Most Recent Date of Contact
		()	
		()	
		()	

9b. Are any of the wetlands or waterbodies identified in Part 7 or Part 8 on the Washington Department of Ecology's 303(d) List? [\[help\]](#)

- If yes, list the parameter(s) below.
- If you don't know, use Washington Department of Ecology's Water Quality Assessment tools at: <http://www.ecy.wa.gov/programs/wa/303d/>.

Yes No

n/a

9c. What U.S. Geological Survey Hydrological Unit Code (HUC) is the project in? [\[help\]](#)

- Go to <http://cfpub.epa.gov/surf/locate/index.cfm> to help identify the HUC.

Puget Sound Watershed – 17110019

9d. What Water Resource Inventory Area Number (WRIA #) is the project in? [help]

- Go to <http://www.ecy.wa.gov/services/gis/maps/wria/wria.htm> to find the WRIA #.

WRIA 6

9e. Will the in-water construction work comply with the State of Washington water quality standards for turbidity? [help]

- Go to <http://www.ecy.wa.gov/programs/wq/swqs/criteria.htm> for the standards.

Yes No Not applicable

9f. If the project is within the jurisdiction of the Shoreline Management Act, what is the local shoreline environment designation? [help]

- If you don't know, contact the local planning department.
- For more information, go to: http://www.ecy.wa.gov/programs/sea/sma/laws_rules/173-26/211_designations.html.

Rural Urban Natural Aquatic Conservancy Other _____

9g. What is the Washington Department of Natural Resources Water Type? [help]

- Go to http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesApplications/Pages/fo_watertyping.aspx for the Forest Practices Water Typing System.

S F Np Ns

9h. Will this project be designed to meet the Washington Department of Ecology's most current stormwater manual? [help]

- If no, provide the name of the manual your project is designed to meet.

Yes No

Name of manual: Stormwater Management Manual for Western Washington (revised 2005)

9i. If you know what the property was used for in the past, describe below. [help]

The property has been a public park for more than 40 years.

9j. Has a cultural resource (archaeological) survey been performed on the project area? [help]

- If yes, attach it to your JARPA package.

Yes No

- Cultural Resources Assessment of the City of Oak Harbor's 42-inch Storm Water Outfall Reconstruction Project, Island County, Washington, Windjammer Park – 2008*
- An Addendum to the *Cultural Resources Assessment of the City of Oak Harbor's 42-inch Storm Water Outfall Reconstruction Project* will be completed prior to the start of the Project.

9k. Name each species listed under the federal Endangered Species Act that occurs in the vicinity of the project area or might be affected by the proposed work. [help]

- Murrelet, marbled CA, OR, WA (*Brachyramphus marmoratus*) – Threatened; unlikely to occur in project vicinity.
- Salmon, chinook Puget Sound (*Oncorhynchus (=Salmo) tshawytscha*) – Threatened; may be present in project vicinity.
- Sea-lion, Steller western pop. (*Eumetopias jubatus*) – Endangered; unlikely to occur in project vicinity.
- Trout, bull U.S.A., conterminous, lower 48 states (*Salvelinus confluentus*) – Threatened; may be present in project vicinity.
- Whale, humpback (*Megaptera novaeangliae*) – Endangered; unlikely to occur in project vicinity.

Whale, killer Southern Resident DPS (*Orcinus orca*) – Endangered; may be present in project vicinity.

91. Name each species or habitat on the Washington Department of Fish and Wildlife's Priority Habitats and Species List that might be affected by the proposed work. [\[help\]](#)

Puget Sound Nearshore
Surfsmelt
Chinook Salmon
Pacific Sand Lance

Part 10—Identify the Permits You Are Applying For

Use the resources and checklist below to identify the permits you are applying for.

- Online Project Questionnaire at <http://apps.ecy.wa.gov/opas/>.
- Governor's Office of Regulatory Assistance at (800) 917-0043 or help@ora.wa.gov.

10a. Compliance with the State Environmental Policy Act (SEPA). (Check all that apply.) [\[help\]](#)

- For more information about SEPA, go to www.ecy.wa.gov/programs/sea/sepa/e-review.html.

A copy of the SEPA determination or letter of exemption is included with this application.

A SEPA determination is pending with the City of Oak Harbor (lead agency). The expected decision date is October 6, 2009

I am applying for a Fish Habitat Enhancement Exemption. (Check the box below in 10b.)

- Submit the Fish Habitat Enhancement Project form with this application. The form can be found at <http://www.epermitting.wa.gov/Portals/JarpaResourceCenter/images/default/fishenhancement.doc>

This project is exempt (choose type of exemption below).

Categorical Exemption. Under what section of the SEPA administrative code (WAC) is it exempt?

Other: _____

SEPA is pre-empted by federal law. [\[help\]](#)

10b. Indicate the permits you are applying for. (Check all that apply.) [\[help\]](#)

LOCAL GOVERNMENT

Local Government Shoreline permits:

Substantial Development Conditional Use Variance

Shoreline Exemption Type (explain): _____

Other city/county permits:

Floodplain Development Permit Critical Areas Ordinance

STATE GOVERNMENT

Washington Department of Fish and Wildlife:

Hydraulic Project Approval (HPA) Fish Habitat Enhancement Exemption

http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=Home_Page

Washington Department of Ecology:

Section 401 Water Quality Certification

Washington Department of Natural Resources:

Aquatic Resources Use Authorization

FEDERAL GOVERNMENT

United States Department of the Army permits (U.S. Army Corps of Engineers):

Section 404 (discharges into waters of the U.S.) Section 10 (work in navigable waters)

United States Coast Guard permits:

General Bridge Act Permit Private Aids to Navigation (for non-bridge projects)

Part 11—Authorizing Signatures

Signatures required before submitting the JARPA package.

11a. Applicant Signature (required) [\[help\]](#)

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities, and I agree to start work only after I have received all necessary permits.

I hereby authorize the agent named in Part 3 of this application to act on my behalf in matters related to this application. AP (Initial)

By initialing here, I state that I have the authority to grant access to the property. I also give my consent to the permitting agencies entering the property where the project is located to inspect the project site or any work related to the project. AP (Initial)

Arnold B Peterschmidt

ARNOLD PETERSCHMIDT P.E., CITY OF OAK HARBOR

Applicant

08/03/09

Date

11b. Authorized Agent Signature [\[help\]](#)

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities and I agree to start work only after all necessary permits have been issued.

Margaret Schwertner

MARGARET SCHWERTNER, MOFFATT & NICHOL

Authorized Agent

Aug 3, 2009

Date

11c. Property Owner Signature (if not applicant) [\[help\]](#)

I consent to the permitting agencies entering the property where the project is located to inspect the project site or any work. These inspections shall occur at reasonable times and, if practical, with prior notice to the landowner.

Arnold B Peterschmidt

ARNOLD PETERSCHMIDT P.E., CITY OF OAK HARBOR

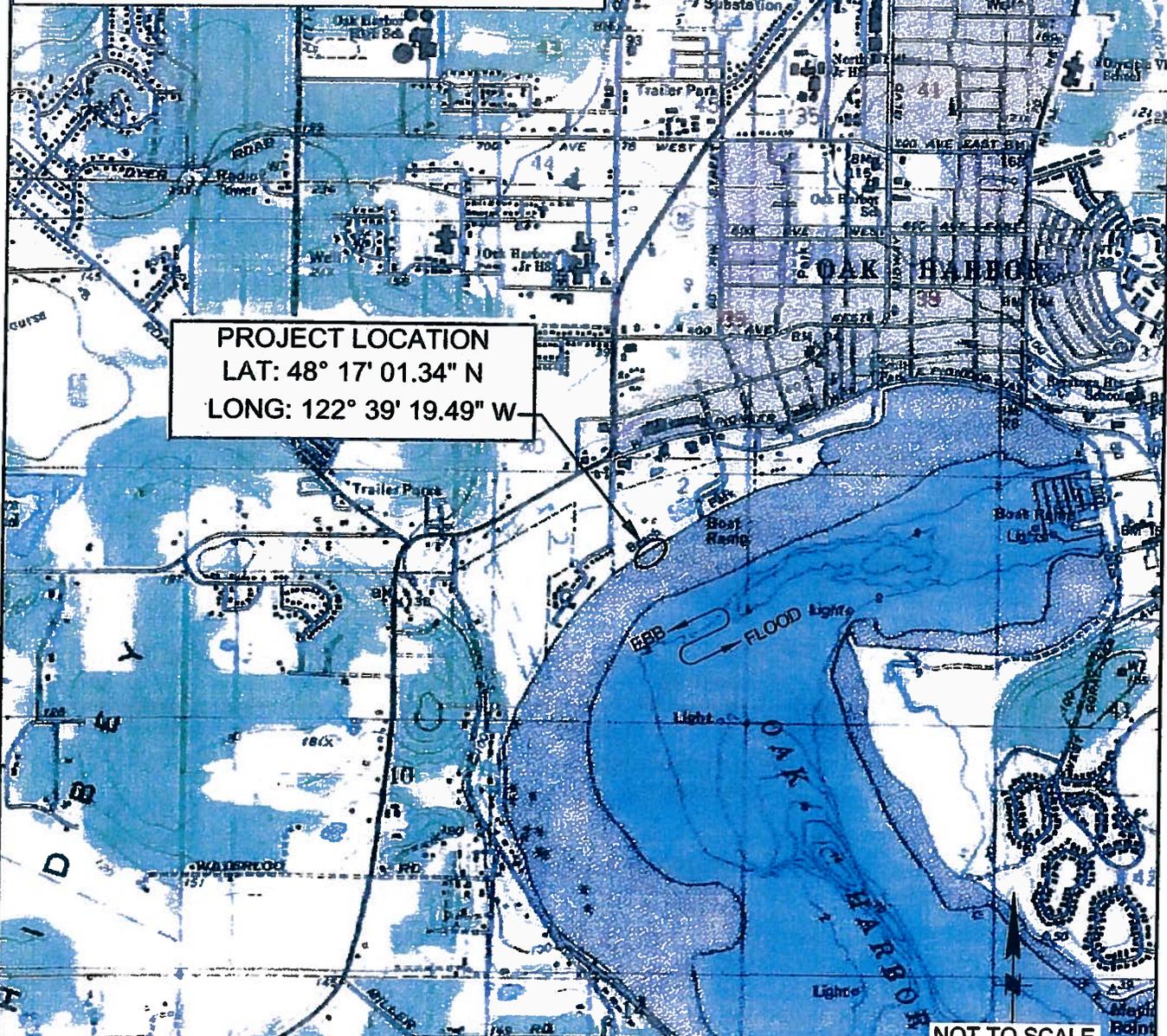
Property Owner

08/03/09

Date

18 U.S.C §1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.

If you require this document in another format, contact The Governor's Office of Regulatory Assistance (ORA). People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341.
ORA publication number: ENV-019-09



PURPOSE: TO REPLACE THE WEST STORMWATER
OUTFALL

DATUM: MLLW = 0.00 FT
MHHW = 11.70 FT

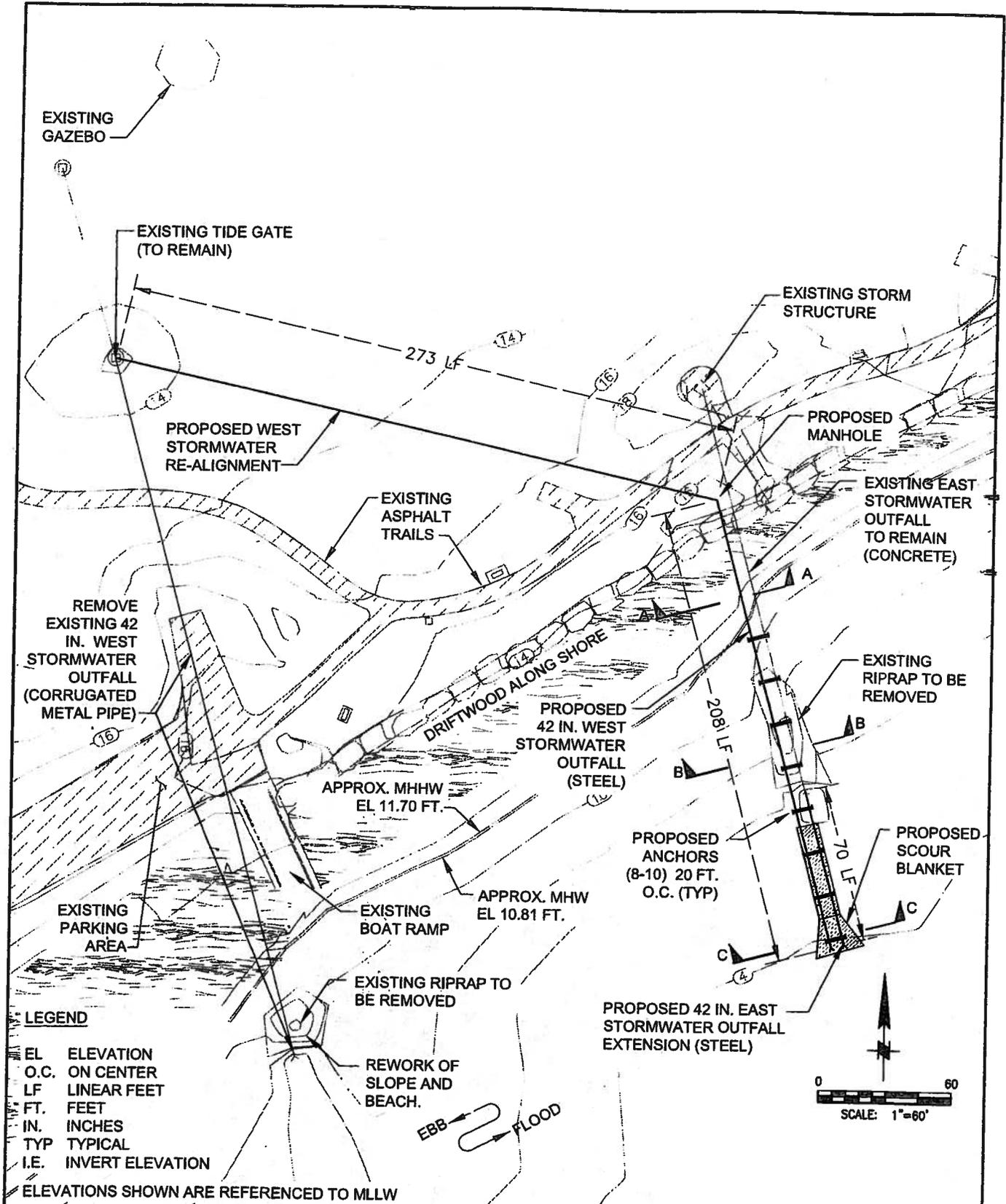
ADJACENT PROPERTY OWNERS:
CITY OF OAK HARBOR

WINDJAMMER PARK
STORMWATER OUTFALL
REPLACEMENT PROJECT

VICINITY MAP

PROPOSED: REPLACE & REALIGN WEST OUTFALL;
LENGTHEN EAST OUTFALL

IN: CITY OF OAK HARBOR
SEC: S2 TW32 R1E
COUNTY OF: ISLAND STATE: WA
SHEET: 1 OF 5
DATE: JUNE 9, 2009



LEGEND

EL ELEVATION
 O.C. ON CENTER
 LF LINEAR FEET
 FT. FEET
 IN. INCHES
 TYP TYPICAL
 I.E. INVERT ELEVATION

ELEVATIONS SHOWN ARE REFERENCED TO MLLW

PURPOSE: TO REPLACE THE WEST STORMWATER
 OUTFALL

DATUM: MLLW = 0.00 FT
 MHHW = 11.70 FT

ADJACENT PROPERTY OWNERS:
 CITY OF OAK HARBOR

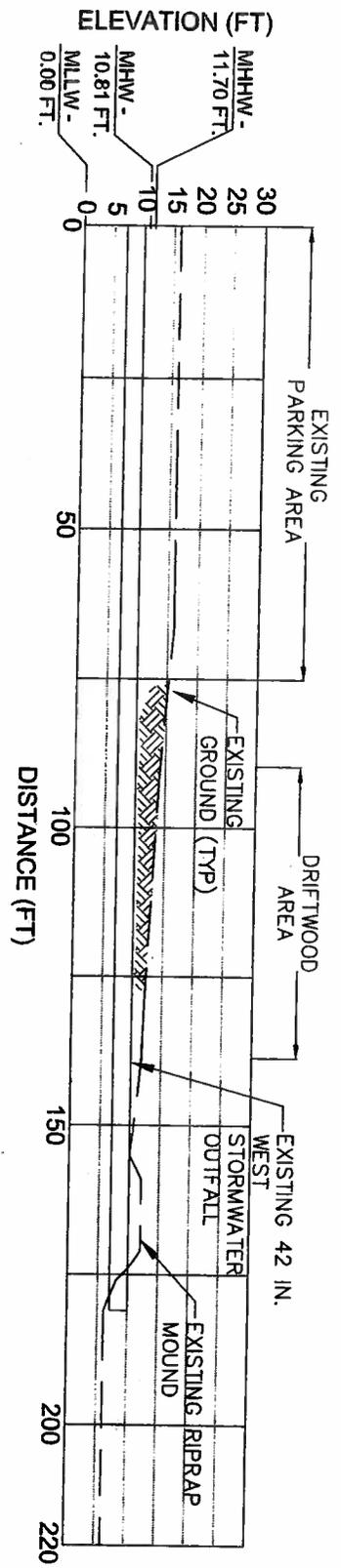
WINDJAMMER PARK
 STORMWATER OUTFALL
 REPLACEMENT PROJECT

PLAN VIEW

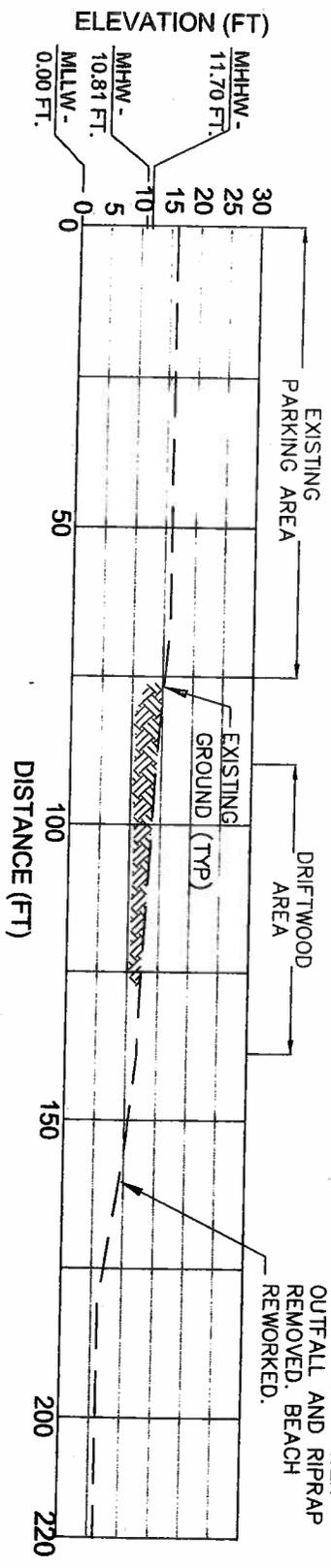
PROPOSED: REPLACE & REALIGN WEST OUTFALL;
 LENGTHEN EAST OUTFALL

IN: CITY OF OAK HARBOR
 SEC: S2 TW32 R1E
 COUNTY OF: ISLAND STATE: WA
 SHEET: 2 OF 5
 DATE: JUNE 9, 2009

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EXISTING BEACH AT WEST OUTFALL LOCATION



PROPOSED BEACH AT WEST OUTFALL LOCATION

LEGEND
 EL. ELEVATION
 O.C. ON CENTER
 LF. LINEAR FEET
 FT. FEET
 IN. INCHES
 TYP. TYPICAL
 I.E. INVERT ELEVATION
 ELEVATIONS SHOWN ARE REFERENCED TO MLLW

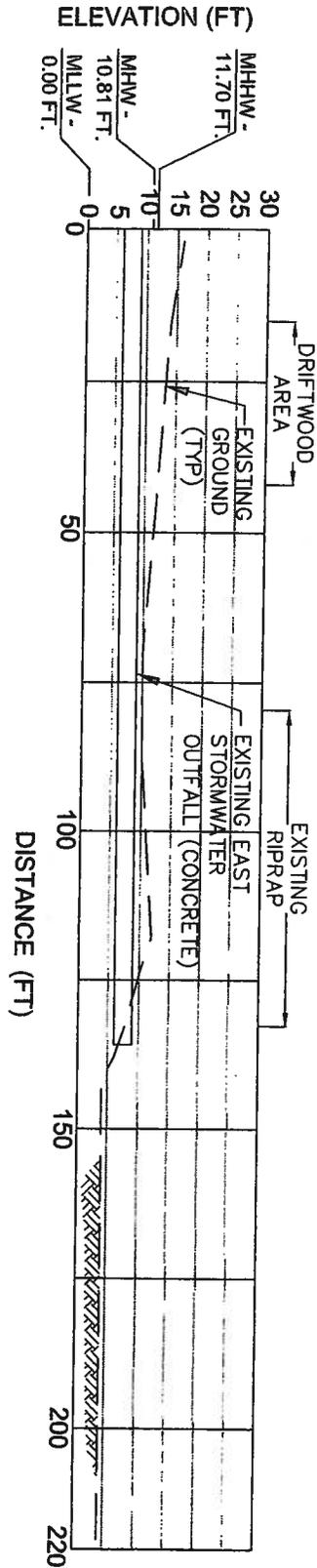


PURPOSE: TO REPLACE THE WEST STORMWATER OUTFALL
 DATUM: MLLW = 0.00 FT
 MHHW = 11.70 FT
 ADJACENT PROPERTY OWNERS:
 CITY OF OAK HARBOR

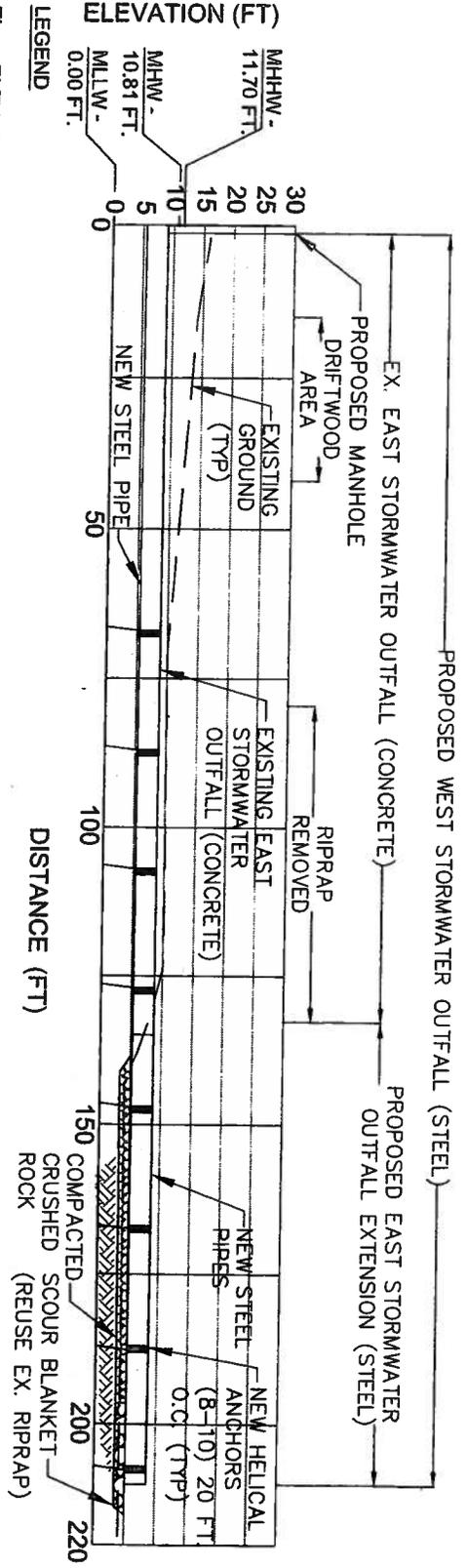
WINDJAMMER PARK
 STORMWATER OUTFALL
 REPLACEMENT PROJECT
 WEST OUTFALL
 PROFILE VIEWS

PROPOSED: REPLACE & REALIGN WEST OUTFALL;
 LENGTHEN EAST OUTFALL
 IN: CITY OF OAK HARBOR
 SEC: S2 TW32 R1E
 COUNTY OF: ISLAND STATE: WA
 SHEET: 3 OF 5
 DATE: JUNE 9, 2009

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EXISTING BEACH AT EAST OUTFALL LOCATION



PROPOSED BEACH AT EAST OUTFALL LOCATION*

LEGEND
 EL. ELEVATION
 O.C. ON CENTER
 LF. LINEAR FEET
 FT. FEET
 IN. INCHES
 TYP TYPICAL
 I.E. INVERT ELEVATION

ELEVATIONS SHOWN ARE REFERENCED TO MLLW

* THE ABOVE PROFILE DEPICTS THE PROPOSED EAST OUTFALL. THE PROPOSED WEST OUTFALL WILL BE PARALLEL AND ADJACENT TO EAST OUTFALL.



PURPOSE: TO REPLACE THE WEST STORMWATER OUTFALL
 DATUM: MLLW = 0.00 FT
 MHHW = 11.70 FT
 ADJACENT PROPERTY OWNERS:
 CITY OF OAK HARBOR

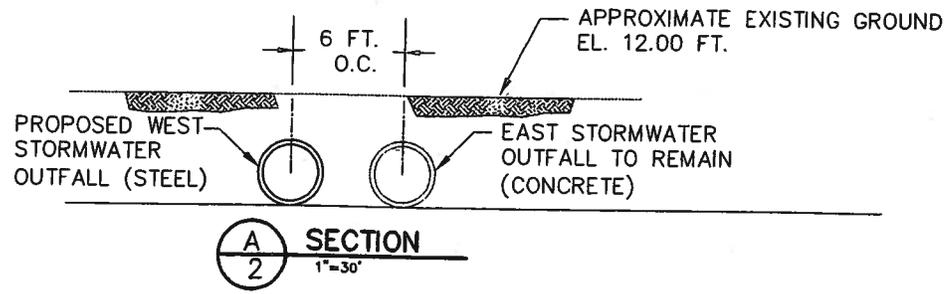
WINDJAMMER PARK
 STORMWATER OUTFALL
 REPLACEMENT PROJECT
 EAST OUTFALL
 PROFILE VIEWS

PROPOSED: REPLACE & REALIGN WEST OUTFALL;
 LENGTHEN EAST OUTFALL
 IN: CITY OF OAK HARBOR
 SEC: S2 TW32 R1E
 COUNTY OF: ISLAND STATE: WA
 SHEET: 4 OF 5
 DATE: JUNE 9, 2009

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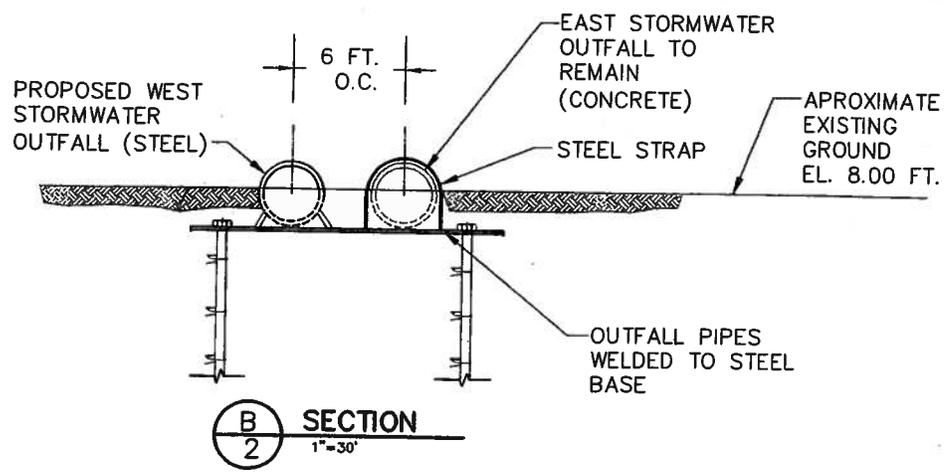
ELEVATION (FT)

MHHW = 11.70 FT.
 MHW = 10.81 FT.
 I.E. = 6.00 FT.
 MLLW = 0.00 FT.



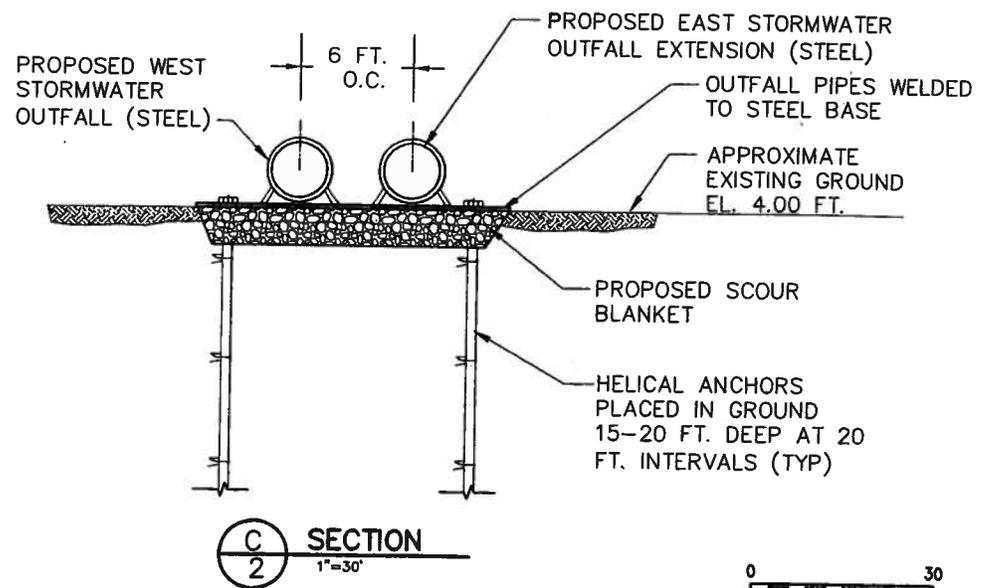
ELEVATION (FT)

MHHW = 11.70 FT.
 MHW = 10.81 FT.
 I.E. = 6.00 FT.
 MLLW = 0.00 FT.



ELEVATION (FT)

MHHW = 11.70 FT.
 MHW = 10.81 FT.
 I.E. = 4.00 FT.
 MLLW = 0.00 FT.



LEGEND

EL ELEVATION
 O.C. ON CENTER
 LF LINEAR FEET
 FT. FEET
 IN. INCHES
 TYP TYPICAL
 I.E. INVERT ELEVATION

ELEVATIONS SHOWN ARE REFERENCED TO MLLW



PURPOSE: TO REPLACE THE WEST STORMWATER OUTFALL DATUM: MLLW = 0.00 FT MHHW = 11.70 FT ADJACENT PROPERTY OWNERS: CITY OF OAK HARBOR	WINDJAMMER PARK STORMWATER OUTFALL REPLACEMENT PROJECT EAST OUTFALL CROSS SECTION VIEWS	PROPOSED: REPLACE & REALIGN WEST OUTFALL; LENGTHEN EAST OUTFALL IN: CITY OF OAK HARBOR SEC: S2 TW32 R1E COUNTY OF: ISLAND STATE: WA SHEET: 5 OF 5 DATE: JUNE 9, 2009
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2009



US Army Corps of Engineers
Seattle District

WASHINGTON STATE
Joint Aquatic Resources Permit
Application (JARPA) Form [\[help\]](#)

JARPA Attachment C:
Contact information for adjoining
property owners, lessees, etc. [\[help\]](#)

Use this attachment only if you have more than four adjoining property owners.

AGENCY USE ONLY

Date received: _____

Agency reference #: _____

Tax Parcel #(s): _____

TO BE COMPLETED BY APPLICANT [\[help\]](#)

UPI #: _____

Project Name: Windjammer Park
Stormwater Outfall Replacement

Use black or blue ink to enter answers in white spaces below or fill in electronically by clicking on fields.

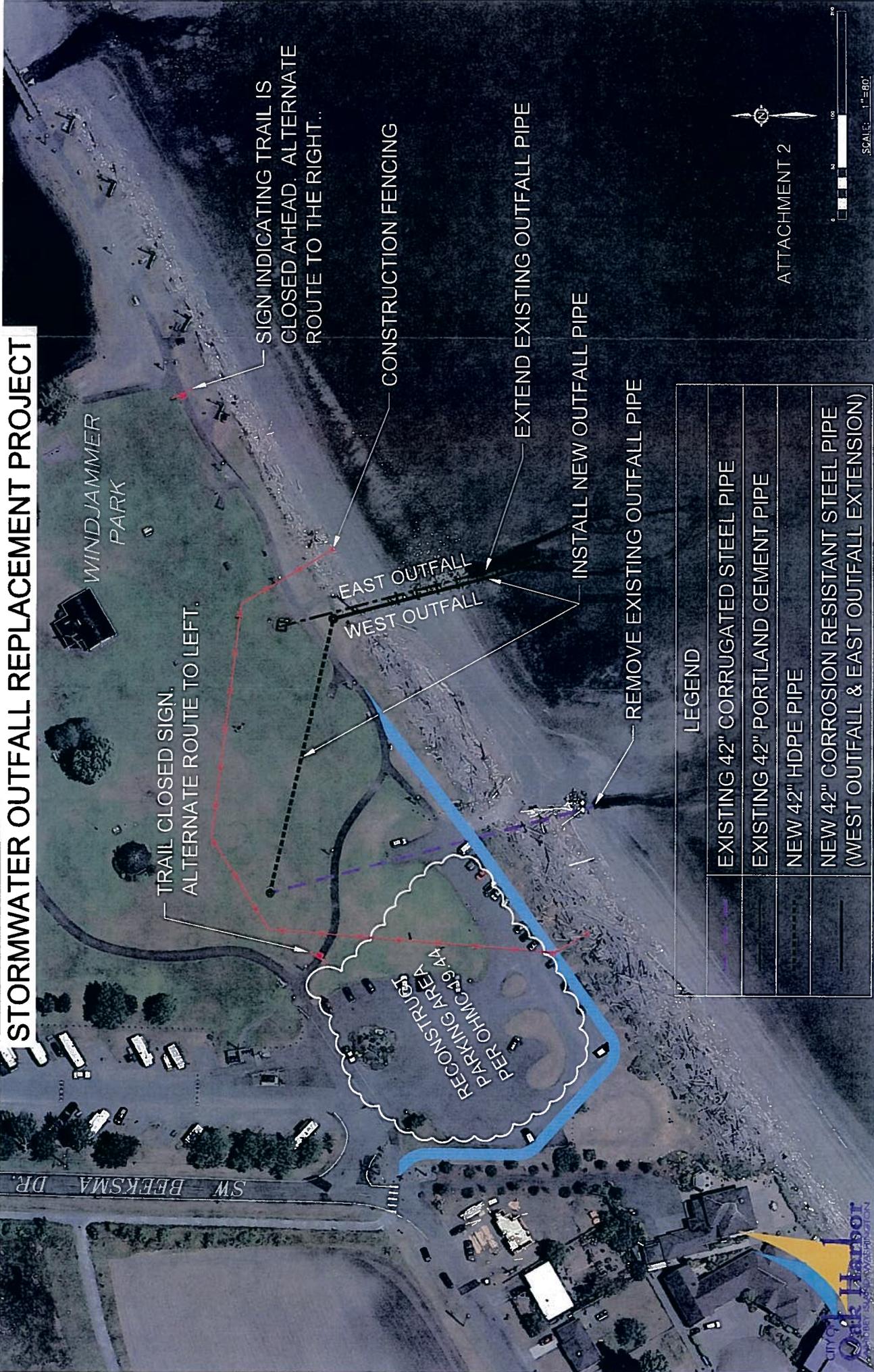
5h. Contact information for all adjoining property owners, lessees, etc. [\[help\]](#)

Name	Mailing Address	Tax Parcel # (if known)
Arnold Freund c/o Carl Freund	31080 SR 20 #D-1	R13203-098-5200
	Oak Harbor, WA 98277	
MICHAEL E / CATHY L HORROBIN	PO BOX 2789	R13202-127-0080
	OAK HARBOR, WA 98277	
Woody's Car Wash / Timothy Wilson	1748 SE 8th Avenue	R13202-132-0070
	Oak Harbor, WA 98277	
Island Auto Body	1500 S Beeksma Dr	S6565-00-00B01-0
	OAK HARBOR, WA 98277	
Frontier Chevrolet / Pontiac	201 SE PIONEER WAY	S6565-00-00B02-0
	OAK HARBOR, WA 98277	
Oak Harbor Motors	PO Box 2789	S6565-00-00B04-0
	OAK HARBOR, WA 98277	
WHIDBEY ISLAND BANK	PO Box 7001	S6565-00-00B05-2
	OAK HARBOR, WA 98277	
WHIDBEY ISLAND BANK	PO Box 7001	S6565-00-00B13-1
	OAK HARBOR, WA 98277	

If you require this document in another format, contact The Governor's Office of Regulatory Assistance (ORA). People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341. ORA publication number: ENV-022-09

608

STORMWATER OUTFALL REPLACEMENT PROJECT



SIGN INDICATING TRAIL IS CLOSED AHEAD. ALTERNATE ROUTE TO THE RIGHT..

CONSTRUCTION FENCING

EXTEND EXISTING OUTFALL PIPE

INSTALL NEW OUTFALL PIPE

REMOVE EXISTING OUTFALL PIPE

TRAIL CLOSED SIGN, ALTERNATE ROUTE TO LEFT.

EAST OUTFALL
WEST OUTFALL

RECONSTRUCT
PARKING AREA
PER OHMC 19.44

LEGEND

	EXISTING 42" CORRUGATED STEEL PIPE
	EXISTING 42" PORTLAND CEMENT PIPE
	NEW 42" HDPE PIPE
	NEW 42" CORROSION RESISTANT STEEL PIPE (WEST OUTFALL & EAST OUTFALL EXTENSION)

ATTACHMENT 2



SCALE: 1"=80'



52P-09-00003

CITY OF OAK HARBOR
MITIGATED DETERMINATION OF NONSIGNIFICANCE

Description of proposal *Currently there are two stormwater outfalls, termed west and east outfall, located on the southwest portion of Windjammer Park. The two outfalls diverge from a location near SR 20 and SE 11th Avenue down to the Windjammer Park Shoreline, however only the west outfall picks up stormwater from areas south of the diversion. The west outfall has deteriorated over the years and has been shortened in length by erosion and constant wave action. This has also lead to frequent blockage with sand and seaweed. The project proposes to replace the existing west outfall and realign it adjacent to the existing east outfall. The project also proposes to extend the existing east outfall by an additional 71 feet so that both outfalls will open beyond the intertidal zone on the beach which will help to minimize clogging.*

The project will require improvements to both upland and inwater areas. The upland improvements will be located near two existing manholes in the park. Upland excavation will be between 3 and 14 feet deep to replace the stormwater pipes. The construction area will impact the existing pedestrian trail and the west parking lot at Windjammer Park. The inwater improvements will include removal of the existing west outfall and the construction of the new and realigned outfall with the extension of the east outfall. Excavation of beach material will involve approximately 1500 cubic yards (most excavation will occur between 6 and 14 feet MLLW). The project proposes to anchor the outfalls using helical anchors. This methodology will be a significant improvement over the existing riprap that is currently placed over the outfalls.

This project will replace aging and deteriorating infrastructure for the City's stormwater infrastructure system and will greatly improve the functionality of the two outfalls and will improve the beach by developing a more natural slope. The project will also minimize the amount of outfall maintenance that is conducted on the beach at night during low tide during the winter stormy month.

Proponent *Arnold Peterschmidt P.E. Project Engineer,*

Location of proposal. *Windjammer Park, Oak Harbor, Island County, WA.*

Lead Agency *City of Oak Harbor*

The lead agency for this proposal has determined that it will not have a probable significant adverse impact on the environment, and an environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c), so long as certain mitigating conditions are applied to this action. These conditions are described below. This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

- X This mitigated DNS is issued under WAC 197-11-340(2) with a fourteen day comment period ending on October 26, 2009; provided there are no substantive comments provided

the MDNS will become final on that date. There will be a 15 day appeal period ending November 10, 2009.

MITIGATION MEASURES:

1. All mitigation measures provided in the SEPA checklist are incorporated into this determination by reference. These mitigation measure include, but are not limited to, those shown below:
 - a. An erosion control plan must be approved prior to commencement of construction.
 - b. Utilize small scale equipment wherever possible.
 - c. Work below the MHHW line will be completed "in the dry" or at low tide whenever possible.
 - d. Hand-held or very small equipment will be used below the MHHW line.
 - e. Work will only be permitted for certain times of the year to minimize any possible impacts to migrating juvenile salmonids or their habitat.
 - f. Turbid water and debris from construction will not be permitted to run directly into Oak Harbor Bay.
 - g. Any moved beach material (gravel and sand, rock) will be stockpiled in a manner that does not impact water quality (including turbidity requirements) of the bay.
 - h. Only enough driftwood along the beach berm and shoreline will be removed to complete the Project. Large pieces of driftwood may need to be cut so that they do not need to be removed from the beach. Any removed driftwood will be replaced once the work in that area has been completed.
 - i. Driftwood and riprap rock will not be dragged along the beach.
 - j. A sanitary sewer main in the park is located near the Project site. Trench water will be able to be pumped to either a nearby upland storage tank (to reduce turbidity) before being released into one of the existing storm drains or to the existing sanitary sewer system via the sewer main. Regardless of the dewatering method that is finally proposed, the resulting water may need to pass through a settling tank or pond prior to final discharge to stormwater or the sanitary sewer system to remove grit and reduce water turbidity. Monitoring may be required to accomplish this measure.
 - k. Construction equipment will be maintained during construction to reduce the potential for increased exhaust emissions. Non-motorized construction methods will be utilized as much as is practicable for the Project.
 - l. Debris from either upland or shoreline construction will not be permitted to run into Oak Harbor Bay.
 - m. A holding tank may be required to support dewatering during upland construction elements. Turbid water will not be allowed to run directly into the bay without meeting all necessary local and state water quality standards and the holding tank would assist in this mitigation measure. The holding tank would allow sediments to settle out of the water, and to be tested if necessary for turbidity levels, before the water is discharged into a nearby stormdrain or the City's sanitary sewer system.

- n. Implementation of spill response procedures during construction (The contractor is required to submit and follow a Spill Prevention, Control, and Countermeasure (SPCC) Plan).
- o. Construction below the MHHW line will be scheduled to avoid the annual out-migration of juvenile salmonids. No in-water work will occur during fish migration periods established by the regulatory agencies. Consideration for forage fish spawning may also be required.
- p. Any disturbed upland landscaping will be replaced immediately following construction.
- q. The disturbance of any driftwood on the beach will be minimized as much as possible. Any driftwood pieces that must be moved to provide room for the replacement pipe to be installed will be stored and placed along the shoreline after construction is complete. Any driftwood pieces that must be moved during construction will not be allowed to be dragged along the beach.
- r. Any necessary replacement landscaping will be designed to maintain visual aesthetics of the site consistent with the surrounding area. No views will be blocked by any landscaping for the Project. Additionally, native grasses and plants will be used whenever appropriate along the beach berm area.
- s. Near the end of the new east and west outfalls, the rocks used to construct the outfall scour pad will be supplemented with "fish mix." Fish mix can provide some improvement to fish habitat by increasing the complexity of the rock size and by filling the interstitial spaces of the larger rocks.
- t. The proposed work will be conducted during appropriate seasons and work windows to avoid infringements upon wildlife behaviors and systems. In-water work (work below the MHHW line) will most likely not be allowed to occur between February 16 and July 15 of any given year to comply with existing agreements between the Corps and NMFS/USFWS on in-water work windows for listed salmon and bull trout (Corps Programmatic BE, 2001).
- u. The helical anchors may not be "driven" into the beach in an effort to minimize significant noise during construction that could impact nearby aquatic fish, birds, and animals.
- v. Once the west stormwater outfall has been removed, existing riprap from the end of the outfall will be removed and the beach reworked to more natural conditions. Once the replacement wet outfall has been installed adjacent and parallel to the existing east outfall, the same will be done at this location. Any existing riprap (currently used to anchor the end of the east outfall) will be removed (some of which will be used to create the proposed outfall scour pad flush with the beach). Any disturbed areas of the beach (such as the area where riprap is removed) will be reworked to more natural beach conditions.
- w. Access to the site will be maintained for local fire, police, aid units or ambulance response if required for construction related accidents or injuries. Additionally, spill prevention and response plans pertaining to fueling and maintenance of construction equipment will be completed for the Project and adhered to as part of the permitting and design process.
- x. Measures to assist in minimizing construction related noise include; installing mufflers on engines, substituting quieter equipment or construction methods,

minimizing times of operation, and locating equipment farther from sensitive receptors whenever possible.

- y. If lighting is employed during construction, every reasonable effort will be made to direct the light on the ground or on the work and away from residential areas.
2. If during excavation or site development, any area of potential archaeological significance is uncovered, all activity in the immediate area shall be stopped and the administrator notified immediately.
3. The waterfront trail shall be extended along the shore, south of the existing parking lot and connected to the trail crossing at Beeksma Drive. Consideration to retain and preserve the existing kayak campground must be given in the redesign and realignment of the waterfront trail.
4. The parking lot impacted by the project boundary and construction equipment shall be rebuilt using low impact development techniques and material.
5. The parking lot shall be re-built and re-striped for a more efficient circulation system. The parking lot redevelopment and re-striping shall be designed and reviewed as per the requirements of OHMC 19.44.130.
6. The project shall be designed to retain the existing boat ramp.
7. Manholes and other utilities that are part of the project construction shall be designed, where possible to be flush with the terrain and existing grade of the park to minimize visual impact and increase the functional aspect of the park.
8. Install temporary detour traffic signs for trail users during the construction phase of the project.
9. Install temporary signs indicating the closure of the boat ramp and the direction to the next nearest boat ramp (Marina).
10. Install temporary fencing around the project site as a measure of public safety.
11. The construction site shall be well lit to prevent vandalism, increase public safety and provide surveillance.
12. Current best management practices to control environmental pollution and erosion shall be applied to all dredging, construction, repair and maintenance activities.
13. Contractors must have an approved health and safety plan including emergency procedures, contacts and a spill response plan to insure that environmental accidents can be dealt with swiftly and correctly.
14. The project must adhere to all other environmental and/or archeological conditions and mitigation measures that may result from the project review and permitting of the State and Federal agencies and all conditions and mitigation measures outlined in the SEPA checklist for this project.
15. All required permits from the State and Federal agencies must be obtained prior to any construction permit application to the City.

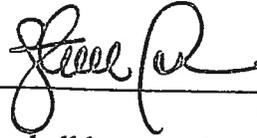
Responsible Official: Steve Powers

Position/Title: Director of Development Services Phone: (360) 279-4512

Address: 865 SE Barrington Drive, Oak Harbor, Washington 98277

Date: October 10, 2009

Signature: _____

A handwritten signature in black ink, appearing to be "Steve R", written over a horizontal line.

This mitigated determination of nonsignificance shall be considered final unless subsequently modified by a major amendment to the proposed project or as a result of comments received by October 26, 2009. You may appeal this determination at Oak Harbor City Hall, 865 SE Barrington Drive, Oak Harbor, WA, 98277 within fifteen days of the date set out above, or no later than close of business November 10, 2009.

ENVIRONMENTAL CHECKLIST

CITY OF OAK HARBOR
865 SE Barrington Drive
Oak Harbor, Washington 98277
Phone: (360) 279-4510

Purpose of Checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the information to help you and the City identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the City decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information you know, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply". Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems the City can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The City may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." In addition, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable:

Windjammer Park Stormwater Outfall Replacement Project (the "Project")

2. Name of Applicant:

City of Oak Harbor

3. Address:

City of Oak Harbor - Engineering Department
865 SE Barrington Drive
Oak Harbor, Washington 98277

Contact: Arnold Peterschmidt P.E.
(360) 279-4525

4. Date checklist prepared:

August 3, 2009

5. Agency requesting checklist:

The City of Oak Harbor (City) is both the Project sponsor and the State Environmental Policy Act (SEPA) lead agency for the Project.

6. Proposed timing or schedule (including phasing, if applicable):

A start date for the Windjammer Park Stormwater Outfall Replacement Project has not yet been determined. However, it is anticipated that the Project will be completed within one continuous work phase of approximately 2 months (8 weeks) in duration (estimated using a 5-day work week). The estimated duration includes mobilization of equipment, construction of the replacement west outfall, lengthening of the existing east outfall, deconstruction of the existing west outfall, restoration of the beach Project area (at both the east and west sites) to more natural conditions, landscape replacement of the upland Project area, and demobilization of construction equipment.

The Project schedule will take into account a number of factors:

- City scheduling priorities and budget considerations
- Anticipated in-water¹ work window restrictions placed on the Project by regulatory agencies during the permitting phase of the Project to protect shoreline and in-water habitat. Elements of the outfall replacement Project occur not only in the upland portion of the park, but also on the adjacent park beach waterward of both the Mean Higher High Water (MHHW) line and the Ordinary High Water (OHW).
- Other city conditions placed on the Project to protect the area from increased erosion due to seasonal rainfall.

¹ For the remainder of this SEPA checklist, in-water habitat refers to the beach at the project site that is located waterward (or below) the MHHW line.

7. **Do you have any plans for future additions, expansion, or future additions, expansion, or further activity related to or connected with this proposal: If yes, explain.**

No future phases, expansions, or activities related to the east and west outfalls on Windjammer Park beach are proposed or planned at this time.

8. **List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.**

The following reports have been completed for this Project:

- Cultural Resources Assessment of the City of Oak Harbor's 42-inch Storm Water Outfall Reconstruction Project, Island County, Washington, Windjammer Park – 2008

Other environmental information that will be prepared to support this Project includes:

- Addendum to the Cultural Resources Assessment of the City of Oak Harbor's 42-inch Storm Water Outfall Reconstruction Project, Island County, Washington, Windjammer Park. It is anticipated that the addendum will be completed for the Project.
- Geotechnical Report – A geotechnical report for the site area is necessary prior to the continuation of further Project design.
- Joint Aquatic Resources Project Application (JARPA) – 2009
- Section 106 Compliance – 2009
- Biological Evaluation (BE) and Essential Fish Habitat Assessment (EFHA) or Modified SPIF BE for NWP # 7 (Outfalls) – 2009
- Local City of Oak Harbor construction permits, stormwater permits and support documentation – 2009

9. **Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal: If yes explain:**

No.

10. **List any government approvals or permits that will be needed for your proposal, if known.**

Permits that are anticipated to be required for this Project include (but are not limited to):

- Substantial Shoreline Development Permit (SSDP) from the City of Oak Harbor (City)
- Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife (WDFW)
- 401 Water Quality Certification (WQC) from the Washington State Department of Ecology (Ecology)
- Section 10/Permit from the U.S. Army Corps of Engineers (USACE)
- Endangered Species Act (ESA) Section 7 Concurrence from the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS)
- Coastal Zone Management Act (CZMA) Consistency Determination from Ecology

- National Pollutant Discharge Elimination System (NPDES) construction permit may be required from Ecology
- Other local permits from the City of Oak Harbor (ex. building permit)

Other permits or additional support documentation may be required and/or requested by government entities or agencies with jurisdiction as the design and permitting phases for the Project progresses.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.

The City of Oak Harbor (City) proposes to replace an existing stormwater outfall at its Windjammer Park to address material condition concerns and susceptibility to blockage by beach sand. Currently two stormwater outfalls (west outfall and east outfall) run through Windjammer Park and its beach to Oak Harbor Bay in Puget Sound (see below graphic).

The existing west stormwater outfall is a 42-inch corrugated metal (steel) pipe (CMP) that conveys runoff from an existing upland 42-inch tide gate structure (in place to restrict salt water from flowing upstream in the pipe during high tide or storm events) to its discharge point on the beach. The outfall and channel (see below photos) are both within the normal tide range of the harbor. However, the west stormwater outfall invert elevation is below the natural elevation of the beach sand. The west outfall lies within the intertidal zone and is regularly



Existing West Stormwater Outfall on October 8, 2007 (left photo) and July 10, 2008 (right photo)

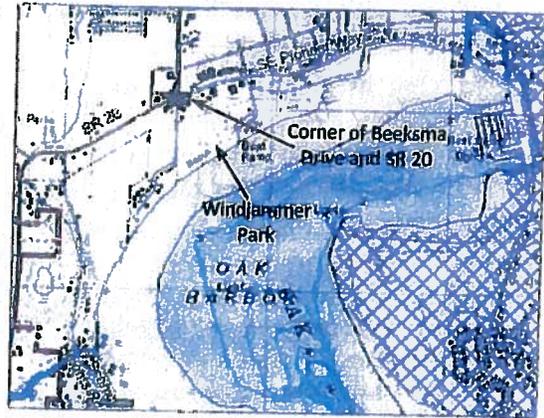
exposed to breaking waves. The invert of the outfall lies between 4 to 5 feet relative to Mean Lower Low Water (MLLW)² and the pipe crest is exposed a few inches above the water. Clogging of the existing west stormwater outfall has been linked with upstream flooding issues, such as at

² All elevations in this SEPA checklist are described relative to MLLW to provide consistency between this document and the JARPA necessary to permit the project.

the intersection of Beeksma Drive and SR 20 (see map below), as documented in the Draft Comprehensive Stormwater Drainage Plan (Tetra Tech/KCM, January 2006). Plugging occurs due to large accumulations of sand, and occasionally seaweed, at the outfall. It is often necessary for the City to excavate the discharge point and channel several times a week during the winter months, and periodically during the summer months, to maintain the function of the west stormwater. (The east outfall also lies within the intertidal zone but requires less periodic maintenance than the west outfall. The frequency of clearing the east stormwater outfall is, however, increasing due to the migration of sediments from clearing of the west stormwater outfall).

The periodic maintenance work is difficult during the winter, when the west stormwater outfall is only accessible at night due to the seasonal tide cycles.

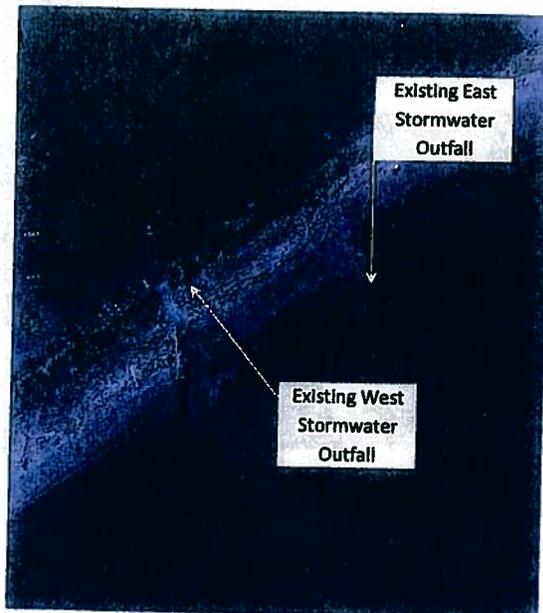
The existing west stormwater outfall is approximately 320 linear feet long from the tide gate to the beach. Its original length was approximately 420 linear feet (approximately 100 feet longer than what currently exists). Over the years, regular and emergency maintenance practices have slowly resulted in destroying the last 100 feet of the pipe.



A number of west outfall repair/replacement alternatives were developed and assessed to determine the most effective, efficient, cost effective and least impactful design to complete the Project.

The selected design proposes to replace the last 320 linear feet of the existing 42-inch CMP west stormwater outfall with a 481 linear foot, 42-inch, stormwater outfall approximately 245 feet west of its current location (see attached Sheets 1 through 5 for additional details). The selected design provides improvements over the existing design while minimizing environmental impacts to the site and overall Project costs.

The section of the existing west stormwater outfall to be replaced will begin at an existing tide gate located approximately 280 feet landward of the MHHW line. A section of HDPE replacement pipe will run 273 linear feet southeast to a new manhole located just landward of the existing beach berm. The remaining 208 linear feet of steel pipe will be installed east of its original location, adjacent and parallel to another stormwater outfall (the east stormwater outfall) that already exists in this east location.



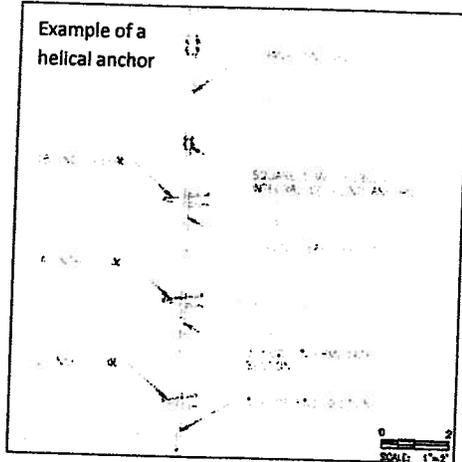
The proposed replacement for the west stormwater outfall will extend approximately 70 feet further waterward than it currently does at its existing location (will still be 30 feet shorter than the pipe's original length). This will help minimize the potential for clogging in the future.

The 42-inch re-enforced concrete pipe (RCP) east stormwater outfall will remain in place. Its current length of approximately 185 linear feet has remained the same since its original installation.

This outfall will also be extended approximately 71 feet (the extension pipe will be 42-inch steel) to be flush with the end of the relocated west outfall). Extending the length of both the replaced west and existing east outfalls is anticipated to minimize clogging of the outfalls by sand and/or seaweed.

Both ends of the existing west and east stormwater outfalls are anchored in place with large boulders, similar to rock riprap (see photos on page 3).

The extended sections of both outfalls will also require an anchor system to stabilize the outfalls in inclement weather and storms. A total of up to 20, 20-foot long steel helical anchors were selected over riprap or concrete blocks to be installed along the last 140 feet of the east and west outfalls. A pair of helical anchors will be installed on the outside of the east and west outfalls, equally spaced along this 140-foot section. Each helical anchor shaft is up to 4 inches in diameter and will be installed with a small backhoe. The tops of each pair of the helical anchors will be welded to a 3/4 -inch thick steel plate (each steel plate will be 15 feet long and 2 feet wide) installed beneath the outfalls. A steel strap will wrap around the top of the outfall pipe. Helical anchors provide a number of advantages over the addition of more rock riprap or the use of concrete blocks:



- Helical anchors will minimize the overall footprint of the Project on shoreline and in-water habitat. The removal of the existing riprap from the shoreline, proposed as part of this Project, will improve the beach area, not only for park users, but also for aquatic organisms. Both potential and existing surf smelt and sand lance spawning habitat has been documented along the beach of Windjammer Park (see WDFW SalmonScape maps in response to Question 5.b).
- Water and sand movement along the beach will not be as impeded as with the designs of other alternatives. The helical anchors will keep the outfalls in place and, at the very end of the outfalls, sand/gravel movement may occur over the outfall structures from one side of the beach to the other.
- Helical anchors will not impact the beach view from the shoreline as much as the use of riprap or concrete blocks. The helical anchor system results in a structure height equal to that of the top of the outfall pipes (from zero (0) to 3.5 feet above the existing ground elevation, depending on the pipe section – refer to Sheet 5 for details). If riprap was used to stabilize the outfalls, a minimum of a 6-foot high mound of rock would be required to provide the same level of stabilization as that of the helical anchor system. If concrete blocks were used to stabilize the outfalls, a maximum of 5-foot high blocks would be required to provide the same level of stabilization as that of the helical anchor system.

Upland Project Elements

One (1) new 9-foot deep manhole will be installed approximately 50 feet landward of the MHHW line within the upland portion of Windjammer Park. It will serve as an access point for the replacement west stormwater outfall.

Upland excavation varies from 3 to 14 feet deep and will be required in Windjammer Park to replace the west outfall section above the MHHW line. The depth of the replacement outfall will gradually decrease once past the beach berm along the shoreline (elevation of the berm is approximately 16 feet relative to MLLW).

Approximately 300 cubic yards of soil will be excavated to install the 270 linear feet of upland HDPE pipe. The soil will be stored onsite and used to cover the pipe once it has been installed. It is anticipated that none of the excavated soil will need to be removed from the site as any displaced soil will be used to fill the voids left by the removal of the existing west stormwater outfall above the MHHW and OHW lines.

Due to the depth required for outfall installation, upland excavation will most likely require dewatering of soil material as it is excavated. All required construction and stormwater BMPs necessary to conduct dewatering will be strictly adhered to during Project construction. Further Project design will determine if dewatering is necessary and how much will be anticipated but dewatering will most likely require short-term storage of the water in a mobile tank located at the park until the water can be released into a stormwater outfall. Turbidity and other water quality criteria will most likely be required and water quality monitoring prior to water release is anticipated.

Up to 250 cubic yards of gravel for pipe bedding will be imported from offsite for use in the upland trench to install the 270 linear feet of HDPE pipe for the west outfall. Pipe bedding material is necessary to provide a flat, level, and stable foundation for the replacement outfall.

The existing west stormwater outfall will be removed. Much of it is located upland of the MHHW line. Any disturbed landscaping or asphalt will be replaced following its removal. As mentioned previously, any excess soil from the realignment of the west stormwater outfall will be used to backfill the voids left by the removed section of pipe.

Project construction activities could damage the existing west parking area and the nearby waterfront trail. Both of these facilities are paved with asphalt pavement. Reconstruction of affected portions of these facilities is part of the project. The total asphalt area that will most likely require repair is expected to be between 3,000 and 6,000 square yards. Reconstruction will replace existing impervious surfaces with pervious hard surfacing to the extent feasible. The intent of the reconstruction is to replace damaged existing facilities with new facilities incorporating improved form and function.

Shoreline Project Elements

Excavation of beach material (gravel and sand) waterward of the MHHW line will involve approximately 1,500 cubic yards (most excavation will occur between 6 and 14 feet MLLW). Most of this material will also be stored onsite and used as backfill once the west stormwater replacement outfall and the extended east stormwater outfall section have been installed. Any displaced beach material will also be used to rework the west outfall site back to more natural beach contours once the existing stormwater outfall structure has been removed.

Up to 200 cubic yards of existing riprap will be removed from the beach where it currently anchors the existing west and east outfalls. Riprap will be removed to an elevation consistent with the surrounding beach slope. This project is not proposing to remove any riprap that may be buried below the surface of the beach. Any displaced gravel and sand remaining after pipe removal will be used to fill in holes created by the removal of the riprap. Any displaced gravel and sand (resulting from removal of the west outfall) may also be used to rework the beach to more natural conditions (similar elevations to that of the surrounding beach) once the outfall has been removed.

The existing beach slope is extremely gradual (averaging a slope of 1:22 vertical: horizontal) except for the areas which incorporate existing riprap. It is not the intention of this project to modify the slopes of the beach, but to remove the existing riprap and rework the remaining native sand and gravel material to more natural contours of the beach. The proposed slope of the beach

will remain at approximately 1:5 below the beach berm and above the MHHW line, and will also remain at approximately 1:22 below the MHHW line.

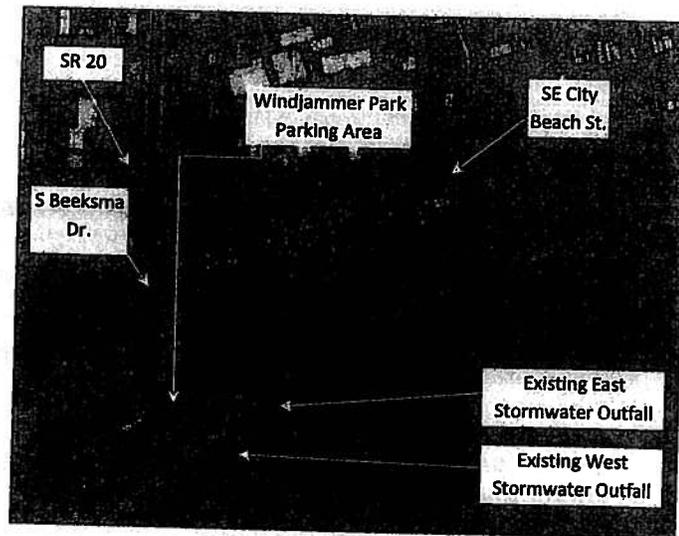
Up to 150 cubic yards of imported gravel for pipe bedding will be imported for use in the shallow zero to 2-foot trench dug to install the west outfall and the east outfall extension. Pipe bedding material is necessary to maintain the footing for the outfalls.

Up to 50 cubic yards of riprap from the existing piles of riprap on the beach will be reused for scour protection of the modified outfall ends of the east and west outfalls. The scour blanket will protect the outfall foundation from the formation of scour holes, which can result in instability and failure of the outfall structures.

- 12. LOCATION OF THE PROPOSAL.** Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

Oak Harbor is the largest city on Whidbey Island with just over 20,000 residents. The Whidbey Island Naval Air Station is located northwest of the City.

The City of Oak Harbor proposes to replace an existing stormwater outfall and extend a section of another existing outfall, located in Township 32 North, Range 1 East, Willamette Meridian, in Section 2 along the beach at Windjammer Park at Oak Harbor on central Whidbey Island, Oak Harbor, WA (see photo at right and attached Sheet .1 for additional details). The site address for the Project is 1600 S.E. Beeksma Drive, Oak Harbor, WA 98277.



ENVIRONMENTAL ELEMENTS

1. EARTH

- a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other

The upland portion of Windjammer Park is generally flat and landscaped with grass (see below left photo) (elevations average between 14 and 16 feet relative to the MLLW line). A slight berm extends along the southern edge of the park separating it from the beach below. The slope from the top of bank down to +10 feet

MLLW averages from 1:5 (vertical: horizontal) to 1:22 and then levels off to 1:55 waterward of the MHHW line (11.70 feet MLLW, see photo to the right).

Longshore sediment transport at Windjammer Park is to the north and east.



b. What is the steepest slope on the site (Approximate percent slope)?

There is very minimal slope within the Project site. The steepest slope at the site is from the top of bank, or beach berm, down to the beach. It averages a slope of 1:5 (vertical: horizontal) but flattens out on the beach to an average slope of 1:22.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

Silty sands and gravels are located below the grass landscaping at Windjammer Park.

d. Are there surface indications or history of unstable soils in the immediate vicinity: if so, describe.

The shoreline is susceptible to some erosion and wave action as common with many dynamic shoreline sites in the Pacific Northwest. However, the MLLW line and the bathymetry offshore of that line have changed little since the late 1960s.

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

As previously described in the response to Question 11, most fill requirements will be provided by displaced material created by installing the replacement west stormwater outfall.

For the upland area of the park, up to 250 cubic yards of imported gravel for pipe bedding will be imported for use in the 10 to 14-foot

deep trench dug to install the 270 linear feet upland section for the west outfall.

Waterward of the MHHW line, up to 150 cubic yards of imported gravel for pipe bedding will be imported.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Short-term: Clearing is not proposed for this Project. Construction activities on the upland portion of the park and on the shoreline could result in short-term erosion if proper Best Management Practices (BMPs) and mitigation measures are not adhered to during construction.

BMPs and appropriate construction practices will be followed during the final design and construction for the Project. Appropriate construction measures are required as part of a number of necessary state and local permits and agency review of all proposed BMPs and erosion and stormwater control measures are common as part of these processes. An erosion control plan will be completed as required pursuant to the Oak Harbor Municipal Code (OHMC) which adheres to Ecology guidelines.

Long-term: Once Project components are complete, erosion is not likely.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Other than the replacement of the west outfall, the extension of the east outfall, and the installation of a new manhole at Windjammer Park, no other impervious materials are proposed for the site. Landscaping will be completed upland of MHHW line in the park to replace grass disturbed during construction and no new impervious surfaces are proposed at the site as part of this Project.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Short-term: The Project will utilize Ecology's Stormwater Manual and the City's OHMC BMPs to complete an erosion control plan prior to commencement of construction. Construction will also be restricted seasonally to avoid any increase risk in erosion during generally more rainy times of the year. Foot traffic and use of the Project areas will be restricted during construction to reduce the risk of additional erosion.

All construction will utilize small-scale equipment wherever possible to minimize erosion. This will be especially important for shoreline and beach work. Many of the shoreline and in-water permits necessary to complete this Project will require strict

construction mitigation measures when working below the MHHW line. Specific mitigation measures will be determined as part of the permitting process but may include (but is not limited to) measures such as:

- Work below the MHHW line will be completed “in the dry” or at low tide whenever possible.
- Hand-held or very small equipment will be used below the MHHW line.
- Work will only be permitted for certain times of the year to minimize any possible impacts to migrating juvenile salmonids or their habitat.
- Turbid water and debris from construction will not be permitted to run directly into Oak Harbor Bay.
- Any moved beach material (gravel and sand, rock) will be stockpiled in a manner that does not impact water quality (including turbidity requirements) of the bay.
- Only enough driftwood along the beach berm and shoreline will be removed to complete the Project. Large pieces of driftwood may need to be cut so that they do not need to be removed from the beach. Any removed driftwood will be replaced once the work in that area has been completed.
- Driftwood and riprap rock will not be dragged along the beach.
- A sanitary sewer main in the park is located near the Project site. Trench water will be able to be pumped to either a nearby upland storage tank (to reduce turbidity) before being released into one of the existing storm drains or to the existing sanitary sewer system via the sewer main. Regardless of the dewatering method that is finally proposed, the resulting water may need to pass through a settling tank or pond prior to final discharge to stormwater or the sanitary sewer system to remove grit and reduce water turbidity. Monitoring is sometimes required to accomplish this measure.

2. AIR

- a. **What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, and industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.**

Short-term: During construction, running construction equipment and the affiliated transportation vehicles will generate some exhaust levels and fuel odors typical of normal operating conditions.

Long-term: No negative long-term impacts are anticipated.

- b. **Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.**

No offsite emission sources have been identified.

- c. **Proposed measures to reduce or control emissions or other impacts to air, if any:**

Short-term: Construction equipment will be maintained during construction to reduce the potential for increased exhaust emissions. Non-motorized construction methods will be utilized as much as is practicable for the Project.

Long-term: Emissions to the air are not anticipated over the long-term. Therefore mitigation measures are not proposed.

3. WATER

a. Surface:

- 1) **Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names on a site map of the project indicating all water bodies which are on the site, including lakes, streams, drainages, and areas that are known to be or thought to be wetlands. If appropriate, state what stream or river it flows into.**

Yes. The Project is located in Windjammer Park and includes an upland area and an adjacent beach located in Oak Harbor Bay, a bay within Puget Sound. The Project involves two existing stormwater outfalls at the site, as described in previous sections of this SEPA checklist.

- 2) **Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach a site map of the project indicating all water bodies which are on the site, including lakes, streams, drainages, and areas that are known to be or thought to be wetlands.**

Yes. The Project is proposed upland and waterward of the MHHW and OHW lines along the shoreline of Windjammer Park in Oak Harbor, as previously described in the response to Question 11 -- Project Description.

- 3) **Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill materials.**

Waterward of the MHHW line, up to 200 cubic yards of existing riprap will be removed from the beach where it currently anchors the existing west and east outfalls. Riprap will be removed to meet the existing beach elevation. This riprap will be moved offsite. The smaller rocks will be able to be re-used as part of the proposed scour blanket to be installed beneath both extended outfalls.

Up to 150 cubic yards of imported gravel for pipe bedding will be imported for use in the shallow zero to 2-foot trench dug to install the west outfall and the east outfall extension.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No surface water withdrawals or diversions are proposed.

With respect to the stormwater outfalls, the replacement, west, stormwater outfall will be installed prior to deconstruction of the existing outfall thereby avoiding any impact to stormwater flow during construction.

The extension of the east stormwater outfall is not anticipated to impact or modify stormwater flow from this pipe.

5) Does the proposal lie within a 100-year flood-plain? If so, note location on the site plan.

Yes, as shown on the Frequently Flooded Areas map in the Oak Harbor Comprehensive Plan. The outfall facilities will be constructed of materials that will not be affected by immersion in flood waters. The outfall facilities are expected to remain functional following a flood event.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

Short-term: No discharge of waste materials to surface water will occur as part of this Project. Debris from either upland or shoreline construction will not be permitted to run into Oak Harbor Bay.

A holding tank may be required to support dewatering during upland construction elements. Turbid water would not be allowed to run directly into the bay without meeting all necessary local and state water quality standards and the holding tank would assist in this mitigation measure. The holding tank would allow sediments to settle out of the water, and to be tested if necessary for turbidity levels, before the water were discharged into a nearby stormdrain or the City's sanitary sewer system.

Water quality impacts from shoreline and near-water work would be limited to temporary localized conditions of turbidity in the immediate area of the construction at the end of the modified

outfalls. BMPs would be utilized during construction, required as conditions on the in-water work permits for the Project, and would include (but are not necessarily limited to):

- Prevention of construction debris from entering surface waters.
- Implementation of spill response procedures during construction (contractor requirement to submit and follow a Spill Prevention, Control, and Countermeasure (SPCC) Plan).
- Construction below the MHHW line will be scheduled to avoid the annual out-migration of juvenile salmonids. No in-water work will occur during fish migration periods established by the regulatory agencies. Consideration for forage fish spawning may also be required.

b. Ground:

1) Will groundwater be withdrawn, or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

No ground water would be withdrawn, nor would water be discharged to groundwater.

As mentioned previously, a holding tank may be required to support dewatering during upland construction elements. Turbid water would not be allowed to run directly into the bay without meeting all necessary local and state water quality standards and the holding tank would assist in this mitigation measure. The holding tank would allow sediments to settle out of the water, and to be tested if necessary for turbidity levels, before the water were discharged into a nearby stormdrain or the City's sanitary sewer system.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

No waste material would be discharged into the ground from septic tanks or other sources.

As mentioned previously, a holding tank may be required to support dewatering during upland construction elements. Turbid water would not be allowed to run directly into the bay without meeting all necessary local and state water quality standards and the holding tank would assist in this mitigation measure. The holding tank would allow sediments to settle out of the water, and to be tested if

necessary for turbidity levels, before the water were discharged into a nearby stormdrain or the City's sanitary sewer system.

c. Water Runoff (including storm water):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow: Will this water flow into other waters? If so, describe.**

Short-term: This Project will generate minimal runoff from construction and will not alter flow rate or quantity of stormwater runoff from the west stormwater outfall. Only the location of the west stormwater location and the length of the east stormwater outfall will be modified to improve maintenance for the outfalls and reduce the potential risk of flooding in upland areas.

Long-term: As defined by the City's Comprehensive Stormwater Drainage Plan (Tetrattech, 2006), the two existing east and west stormwater outfalls provide for stormwater discharge directly to Oak Harbor from the City's Dry Creek Basin. Stormwater runoff is piped through an extensive collection system upstream of the outfalls. The basin, which covers approximately 4.54 square miles, contains the central core of the City and is the most developed of the City's four primary drainage basins. It is characterized by highly developed residential and commercial areas with very little open drainage remaining.

The quantity of stormwater that runs through this system, along with the type of existing treatments, will not be changed or modified as part of this Project.

- 2) Could waste materials enter ground or surface waters? If so, generally describe.**

Short-term: Similar to the response to Question 3.a.6 short-term impacts to water quality around the shoreline work could result if the mandatory and necessary mitigation measures conditioned on the anticipated permits for the Project are not followed (see response to Question 3.a.6 for a list of conditions/measures).

Long-term: No changes to stormwater flow or output are anticipated with this Project.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

Short-term: Similar to the response to Question 3.a.6 short-term mitigation measures, BMPs, and conditions will be required for the Project and could include (but are not necessarily limited to):

- Prevention of construction debris from entering surface waters.

- Implementation of spill response procedures during construction (contractor requirement to submit and follow a Spill Prevention, Control, and Countermeasure (SPCC) Plan).
- Construction below the MHHW line will be scheduled to avoid the annual out-migration of juvenile salmonids. No in-water work will occur during fish migration periods established by the regulatory agencies. Consideration for forage fish spawning may also be required.

Long-term: No changes to stormwater flow or output are anticipated with this Project and therefore mitigation measures are not proposed.

4. PLANTS:

a. Check or circle types of vegetation found on the site:

- deciduous tree: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other
- shrubs
- grass
- pasture
- crop or grain
- wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- other types of vegetation

Shoreline grasses are also present at the high end of the beach. Beigrass has not been observed waterward of the MHHW line within the boundary of the Project.

b. What kind and amount of vegetation will be removed or altered?

Areas "disturbed during construction"³ to replace the stormwater outfall upland of the MHHW line (approximately 3,648 sf or 0.08 acres) will be replaced after construction.

Any grasses removed during replacement of the stormwater outfall along the shoreline will also be replaced following construction. A landscape architect/biologist/or similarly qualified individual with

³ Areas "disturbed during construction" were calculated by calculating the total area of the site that would need to be excavated to complete construction. For example, the trenches necessary to install the replacement pipes were calculated by multiplying the length of the proposed pipe by 6 feet (the width of the area necessary to dig the trench). These calculations vary depending on the nature of the proposed construction and were completed for both upland work (work conducted landward of the MHHW line) and beach or near-water work (work conducted waterward of the MHHW line).

shoreline plant experience will be engaged to assist during this replanting process.

Any marine macro-algal species located within the intertidal zone (between high and low tide) at the Project site could be disturbed during the outfall replacement work conducted below the MHHW line. However, because excavation on the beach below 4 feet MLLW is not anticipated, this disturbance will be limited to the narrow area directly below the replacement pipe.

c. List threatened or endangered species known to be on or near the site.

No listed threatened or endangered vegetative species are known to be at the site.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Short-term: Over the short-term, a number of BMPs (listed in previous sections of this checklist) will be required to minimize onsite erosion and minimize impacts to the existing site. As little vegetative species (located upland or on the beach) will be disturbed as possible.

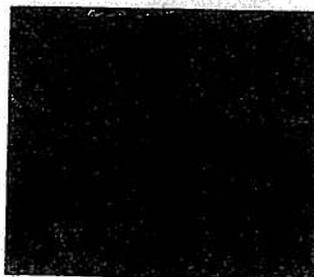
Any disturbed upland landscaping will be replaced immediately following construction and any macro-algae species on the beach are anticipated to recover quickly due to the temporary nature of the proposed Project. No eelgrass will be impacted as part of this Project.

Any driftwood pieces that must be moved during construction will not be dragged along the beach.

Long-term: Any necessary replacement landscaping will be designed to maintain visual aesthetics of the site consistent with the surrounding area. No views will be blocked by any landscaping for the Project. Additionally, native grasses and plants will be used whenever appropriate along the beach berm area.

The disturbance of any driftwood on the beach will be minimized as much as possible. Any driftwood pieces that must be moved to provide room for the replacement pipe to be installed will be stored and placed along the shoreline after construction is complete.

Closer to the end of the east and west outfalls, the rocks used to construct the outfall scour pad will be supplemented with "fish mix." Fish mix can provide some improvement to fish habitat by increasing the complexity of the rock size and by filling the interstitial spaces of the larger rocks (see photo of fish mix example at right). This can



result in an increase in macro-invertebrate production in this location. Often fish mix is required as part of the WDFW permit for projects and could be required specifically for this Project.

5. ANIMALS

- a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

hawk, heron, eagle, songbirds, other

deer, bear, elk, beaver, other

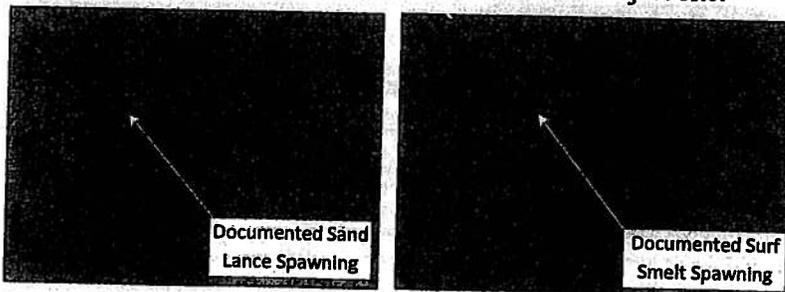
bass, salmon, trout, herring, shellfish, other

- b. List any threatened or endangered species known to be on or near the site.

Endangered Species Act (ESA) listed fish species (Chinook and bull trout) are present in Oak Harbor Bay.

While not federally listed, forage fish such as sand lance and surf smelt are an important resource within Washington, from both a commercial and ecological standpoint. They provide a food source for many fish, including listed salmonids and are considered a high priority by WDFW and other local agencies and entities. Forage fish depend on nearshore marine habitat for spawning and rearing habitat.

The shoreline of Windjammer Park has documented sand lance and surf smelt existing and potential habitat within the Project site.



- c. Is the site part of a migration route? If so, explain.

Although the site is not part of a definitively identified migration route, it is within the greater migration corridor of the marbled murrelet, bald eagle, and a number of terrestrial, marine, and shorebirds. Similar to the entire Puget Sound region, Oak Harbor is part of the Pacific Flyway migration route.

- d. Proposed measures to preserve or enhance wildlife, if any:

Short-term: Impacts to threatened, endangered or sensitive birds and other animals observed in the Project area, or in the general site vicinity, are not expected to be significant due to the temporary nature of construction disturbance.

Propose work will be conducted during appropriate seasons and work windows to avoid infringements upon wildlife behaviors and systems. In-water work (work below the MHHW line) will most likely not be allowed to occur between February 16 and July 15 and of any given year to comply with existing agreements between the Corps and NMFS/USFWS on in-water work windows for listed salmon and bull trout (Corps Programmatic BE, 2001). Additional state enforced work windows may be required to protect forage fish spawning activities and habitat and could restrict any work proposed for the beach below MHHW even further (work below MHHW may be restricted to be completed between October 15 and January 31).

The helical anchors will not be "driven" into the beach and are not anticipated to propagate significant noise during construction that could impact nearby aquatic fish, birds, and animals.

None of the proposed work will begin prior to completing all of the necessary environmental review and public notice requirements or prior to receiving all necessary local, state, and federal permits and/or approvals for the entire Project.

Long-Term: The Project does not change the overall function of the east and west stormwater outfalls. Those outfalls will remain.

However, in replacing and moving the west outfall to be located directly adjacent to the east outfall, and in extending both outfalls, improvements to the existing beach will be completed as part of the Project. Habitat improvements to the beach include:

- Once the west stormwater outfall has been removed, existing riprap from the end of the outfall will be removed and the beach reworked to more natural conditions. Once the replacement wet outfall has been installed adjacent and parallel to the existing east outfall, the same will be done at this location. Any existing riprap (currently used to anchor the end of the east outfall) will be removed (some of which will be used to create the proposed outfall scour pad flush with the beach). Any disturbed areas of the beach (such as the area where riprap is removed) will be reworked to more natural beach conditions.
- An overall net decrease in beach shading (below MHHW and within the intertidal zone) of approximately 360 sf. The project consolidates two outfall sites to one site.
- An improvement in overall slope characteristics of the beach (the riprap will be removed to minimize impacts to the natural 1:22 slope of the beach).
- Less maintenance is anticipated for both outfalls after completion of the project. This will reduce the times that equipment and City maintenance staff will be out on the

beach cleaning or repairing the outfalls, thereby minimizing disturbances on the beach.

6. ENERGY AND NATURAL RESOURCES

- a. **What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**

There are lights located on the existing trail through the project area (upland of the beach). Additional lights are not planned for this Project and no energy needs will be required after Project completion.

- b. **Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**

No.

- c. **What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:**

Short-term: Construction activities often incorporate general measures to control energy impacts and costs during construction. They often include:

- Locating the construction staging area as close as possible to the site but away from any wetlands or other sensitive areas.
- Adhering to all construction BMPs and minimizing impacts to the area (minimizing idling engines when feasible, maintaining equipment in good condition, etc.).

Energy conservation feature such as these will be incorporated into the construction phase for this Project (ex. locating the staging area at the Windjammer parking lot provides an efficient, convenient, and cost effective solution for construction staging).

7. ENVIRONMENTAL HEALTH

- a. **Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.**

Short-term: No environmental health concerns associated with the proposed Project are expected, but accidents and injuries during construction activities are possible.

Long-term: No negative long-term impacts are anticipated.

1) Describe special emergency services that might be required.

Short-term: Construction-related accidents or injuries may require response from local fire, police, aid units or ambulances.

Long-Term: None anticipated.

2) Measures to reduce or control environmental health hazards, if any:

Short-term: Access to the site will be maintained for local fire, police, aid units or ambulance response if required for construction related accidents or injuries. Additionally, spill prevention and response plans pertaining to fueling and maintenance of construction equipment will be completed for the Project and adhered to as part of the permitting and design process.

Long-Term: No negative long-term impacts are anticipated and long-term mitigation measures are not proposed.

b. Noise:

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other):

While the City of Oak Harbor experiences noise levels typical of small urban/suburban areas, and receives noise related to operation of the base Airport, none of these sources are anticipated to affect the Project. Nor are construction related noise anticipated to impact the City.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other): Indicate what hours noise would come from the site.

Short-term: During construction noise will be generated by construction equipment, material delivery trucks, and construction activities. Delivery and support equipment will create engine noise.

The contractor will be required to comply with all federal, state, and local regulations relating to construction noise to reduce the potential for temporary, disruptive noise impacts associated with construction.

Long-term: No negative long-term impacts are anticipated and long-term mitigation measures are not proposed.

3) Proposed measures to reduce or control noise impacts, if any:

Short-term: Measures to assist in minimizing construction related noise include; installing mufflers on engines, substituting quieter equipment or construction methods, minimizing times of operation, and locating equipment farther from sensitive receptors whenever possible.

Long-term: No negative long-term impacts are anticipated and long-term mitigation measures are not proposed.

8. LAND AND SHORELINE USE

a. What is the current use of the site and adjacent properties?

The site is currently used as a public park.

b. Has the site been used for agriculture? If so, describe.

No.

c. Describe any structures on the site.

Currently, the Project site consists of predominantly waterfront park features. These include three Little League baseball fields, two tot lot playgrounds, shoreline picnic tables and barbecue pits with wind breaks, covered picnic facilities and kitchens for large groups, two accessory buildings, a windmill landmark, an exercise course, seasonal gardens, one practice field, two basketball courts, three tennis courts, two volleyball courts (portable), horseshoe pits, one boat launch, a recreational vehicle park with 56 serviced sites and 30 non-serviced sites, a swimming lagoon with dock and slide, two wading pools, 2,100 lineal feet segment of Oak Harbor Waterfront Trail and two public restrooms (one with showers). The west side of the park has a gazebo and covered outdoor barbecue pit. A beach is located along the south edge of Windjammer Park and a boat ramp is located at the west end of the park.

d. Will any structures be demolished? If so, what?

No building structures will be demolished as part of the Project. The existing west stormwater outfall will be removed and a replacement structure installed adjacent to the east stormwater outfall.

e. What is the current zoning classification of the site?

Public Facility.

- f. What is the current comprehensive plan designation of the site?**

Public Facility.

- g. If applicable, what is the current shoreline master program designation of the site?**

Urban shoreline.

- h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.**

Yes, the site is in a frequently flooded area and is also rated as "high susceptibility" to infiltration of contaminants into groundwater. More information on the site can be found in the critical areas mapping of the Oak Harbor Comprehensive Plan.

- i. Approximately how many people would reside or work in the completed project?**

The number of people that currently work at the park would not change as a result of this Project.

- j. Approximately how many people would the completed project displace?**

People will not be displaced by the completed Project.

- k. Proposed measures to avoid or reduce displacement impacts, if any:**

No measures are necessary or proposed for the proposed Project.

- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:**

The Project is consistent with the City of Oak Harbor's Comprehensive Plan and the City's Comprehensive Storm Drainage Plan. The City's Comprehensive Storm Drainage plan adopts, by reference, the Department of Ecology's Stormwater Management Manual for the Puget Sound Basin and the 2005 update, the Stormwater Management Manual for Western Washington.

9. HOUSING

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**

None. The Project does not include the construction of any housing units.

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low income housing.**

None. No units will be eliminated by the proposed Project.

- c. Proposed measures to reduce or control housing impacts, if any:**

As the Project has no impacts on housing, none are proposed.

10. AESTHETICS

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**

No building structures are proposed as part of this Project.

- b. What views in the immediate vicinity would be altered or obstructed?**

No views will be altered or obstructed by the Project. The removal of the existing riprap from the ends of the west and east stormwater outfalls will improve the overall view of the beach from the park as the riprap currently averages a height of two to five feet above the base of the beach.

- c. Proposed measures to reduce or control aesthetic impacts, if any:**

The following improvements are intended to reduce the esthetic impacts of the Project to the park and to mitigate for these impacts:

- The removal of the existing riprap from the ends of the existing west and east stormwater outfalls are proposed, not only to improve forage fish habitat but will also improve the aesthetic view of the beach from the park.
- The replacement west stormwater outfall and the extension of the east stormwater outfall will use helical anchors rather than riprap or concrete blocks to protect the outfalls and anchor them on the beach. These helical anchors will minimize the overall footprint of the replaced and extended

outfalls, thus minimizing the aesthetic impact to the beach and park.

11. LIGHT AND GLARE

- a. **What type of light or glare will the proposal produce? What time of day would it mainly occur?**

Short-term: The Project may require lighting the work area during construction. Night work may be required and would necessitate lighting of the construction site during hours of darkness. It may also be necessary to light the Project site during the night for security and public safety while construction is in progress. Any Project lighting would be temporary and would end when construction was completed.

Long-term: No long term impacts are anticipated as no new lighting, or modifications to existing lighting, has been proposed.

- b. **Could light or glare from the finished project be a safety hazard or interfere with views?**

No.

- c. **What existing off-site sources of light or glare may affect your proposal?**

None.

- d. **Proposed measures to reduce or control light and glare impacts, if any:**

Short-term: If lighting is employed during construction, every reasonable effort will be made to direct the light on the ground or on the work and away from residential areas.

Long-term: As the Project is not proposing to add or modify lighting at the existing Project site over the long-term, mitigation measures are not proposed.

12. RECREATION

- a. **What designated and informal recreational opportunities are in the immediate vicinity?**

Windjammer Park (28.5 acres) is a major park located in the City of Oak Harbor between Beeksma Drive and City Beach Street. It includes three Little League baseball fields, two tot lot playgrounds, shoreline picnic tables and barbecue pits with wind breaks, covered picnic facilities and kitchens for large groups, two accessory

buildings, a windmill landmark, an exercise course, seasonal gardens, one practice field, two basketball courts, three tennis courts, two volleyball courts (portable), horseshoe pits, one boat launch, a recreational vehicle park with 56 serviced sites and 30 non-serviced sites, a swimming lagoon with dock and slide, two wading pools, 2,100 lineal feet segment of Oak Harbor Waterfront Trail and two public restrooms (one with showers). The west side of the park has a gazebo and covered outdoor barbecue pit.

b. Would the proposed project displace any existing recreational uses? If so, describe.

Short-term: Yes, temporarily. During construction of the outfall, it will be necessary to close approximately 3 acres of the park and beach for public safety. There will be an active construction site with multiple pieces of heavy equipment and trucks moving about the site during working hours. Access to the work site will need to be restricted to construction crews and city staff only for safety.

Long-term: No recreational uses will be displaced as part of this Project. Once construction has been completed, even more of the beach will be available to users (as both outfalls will be moved to occupy one location rather than two).

The proposed parking lot and trail improvements are intended to repair damage caused by any construction activities related to this project.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

Short-term: Temporary fencing around the construction site will be installed to both minimize the area closed to park users and enhance public safety.

The parking area located west of the west stormwater outfall is currently proposed for use by the selected Project Contractor as a staging area for the 2 month construction duration for the Project. It is anticipated that the surface of the parking area will be damaged by construction activity. The parking area will be reconstructed using pervious surfacing (replacing the existing impervious asphalt at the site). The use of pervious pavement will not only improve the surface of the existing parking lot, but could also minimize stormwater runoff.

Long-term: No recreational uses will be permanently displaced as part of this Project. Once construction has been completed, even more of the beach will be available to park visitors (as both outfalls will be moved to occupy one location rather than two). Additionally, any damage to the existing parking lot and shoreline trail, resulting from project construction or construction equipment,

will be repaired following completion of the outfall replacement work.

13. HISTORIC AND CULTURAL PRESERVATION

- a. **Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.**

Coastal zones on Whidbey Island are known to include archaeological sites. There are two known archaeological sites located near the Project site and there is a potential for the presence of cultural resources within the Project area.

- b. **Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.**

Northwest Archaeological Associates, Inc. (NWAA) was hired in the fall of 2008 to examine a number of geotechnical test pits for evidence of archaeological sediments during the investigative phase for this Project.

Prior to field investigations, NWAA contacted the Swinomish Indian Tribal Community, the Lummi Nation, and the Tulalip Tribes by a faxed letter to solicit information and concerns the tribes may have pertaining to cultural resources in or near the Project area and to inform them when the field investigations would take place.

There were no cultural materials observed during the investigation, however, the report was completed for a preliminary design alternative no longer under consideration. An Addendum to the Cultural Resources Assessment of the City of Oak Harbor's 42-inch Storm Water Outfall Reconstruction Project 2008 Report will be completed in 2009 to investigate any possibility of impacts to cultural resources along the proposed re-alignment for the west stormwater outfall.

Given the uncertain location of nearby archaeological sites and local historic activities, and the preliminary findings in the 2008 Cultural Resources Report, the potential for archaeological deposits at the Project site remain. Mitigation measures will most likely be required.

- c. **Proposed measures to reduce or control impacts, if any:**

NWAA currently recommends the following measures to reduce and control the potential for impacts to the site:

- The outfall replacement Project will be archaeologically monitored, following a monitoring and discovery plan devised specifically for the Stormwater Outfall Reconstruction Project.

- The Lummi Nation, the Swinomish Indian Tribal Community and the Tulalip Tribes will be contacted about the Project to solicit any additional concerns about heritage resources and to inform them when field investigations will take place.

These recommendations may be modified once the Cultural Resources Addendum has been completed for the Project.

14. TRANSPORTATION

- a. **Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.**

Road access to Windjammer Park is provided by S. Beeksma Drive which brings vehicles into the park's parking lot located along the west edge of the site. S.E. City Beach Street also provides road access to a parking area east of Windjammer Park.

Any construction equipment that would need to be brought on site to complete the Project would most likely utilize S. Beeksma Drive and the Windjammer Park parking area.

- b. **Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?**

The site is served by Island County Transit. The nearest bus stop is located along S.E. Barrington Drive (approximately 2 blocks north of Windjammer Park. Any construction equipment that would need to be brought on site to complete the Project would most likely utilize S. Beeksma Drive and the Windjammer Park parking area. Another bus stop is located approximately 2 blocks east of the park on S.E. Bayshore Drive.

- c. **How many parking spaces would the completed project have? How many would the project eliminate?**

No changes to the number of existing parking spaces at the current Windjammer Park parking lot are proposed as part of this Project.

- d. **Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).**

Improvements to roads and streets are not proposed as part of this Project.

- e. **Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**

The Project will not utilize any of the above mentioned modes of transportation. A portion of the Project will take place on the Windjammer Park beach, which is directly adjacent to Oak Harbor Bay (a waterbody where both commercial and recreational water transportation for occurs).

Short-term: A concrete public boat ramp facility is located at the west end of Windjammer Park, directly adjacent to the existing west stormwater outfall. The existing ramp will be used for equipment access during de-construction of the existing west outfall, installation of the replacement west outfall, extension of the east outfall, and removal of the rock riprap at the ends of both existing outfalls.

Long-term: Uses of, or impacts to, nearby air, water and rail transportation will not result from this Project.

- f. **How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.**

It is not anticipated that the proposal will generate any new vehicular trips.

The proposed parking lot and trail improvements are primarily intended as mitigation to repair any construction related damage from the Project to these facilities. The parking lot and trail repair efforts are not intended to increase parking lot and trail capacity.

- g. **Proposed measures to reduce or control transportation impacts, if any:**

Short-term: During construction, access to the nearby boat ramp will be restricted. However, a free public boat ramp is available at the local Oak Harbor Marina. The boat ramp will again be accessible to the public once outfall repair construction has been completed.

Long-term: Long-term changes in uses of, or impacts to, nearby air, water and rail transportation will not result from this Project.

15. PUBLIC SERVICES

- a. **Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.**

It is not anticipated that the Project will increase the need for public services from those presently available at the site.

b. Proposed measures to reduce or control direct impacts on public services, if any.

Measures are not proposed to control or direct impacts on public services as impacts are not anticipated.

16. UTILITIES

- a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

All of the above services are available at Windjammer Park.

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

None of the above described utilities are proposed as part of this Project. Modifications to the existing west and east stormwater outfalls are proposed but will not result in any differences in stormwater flows from these facilities other than improving their ability to function correctly throughout the year.

B. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:

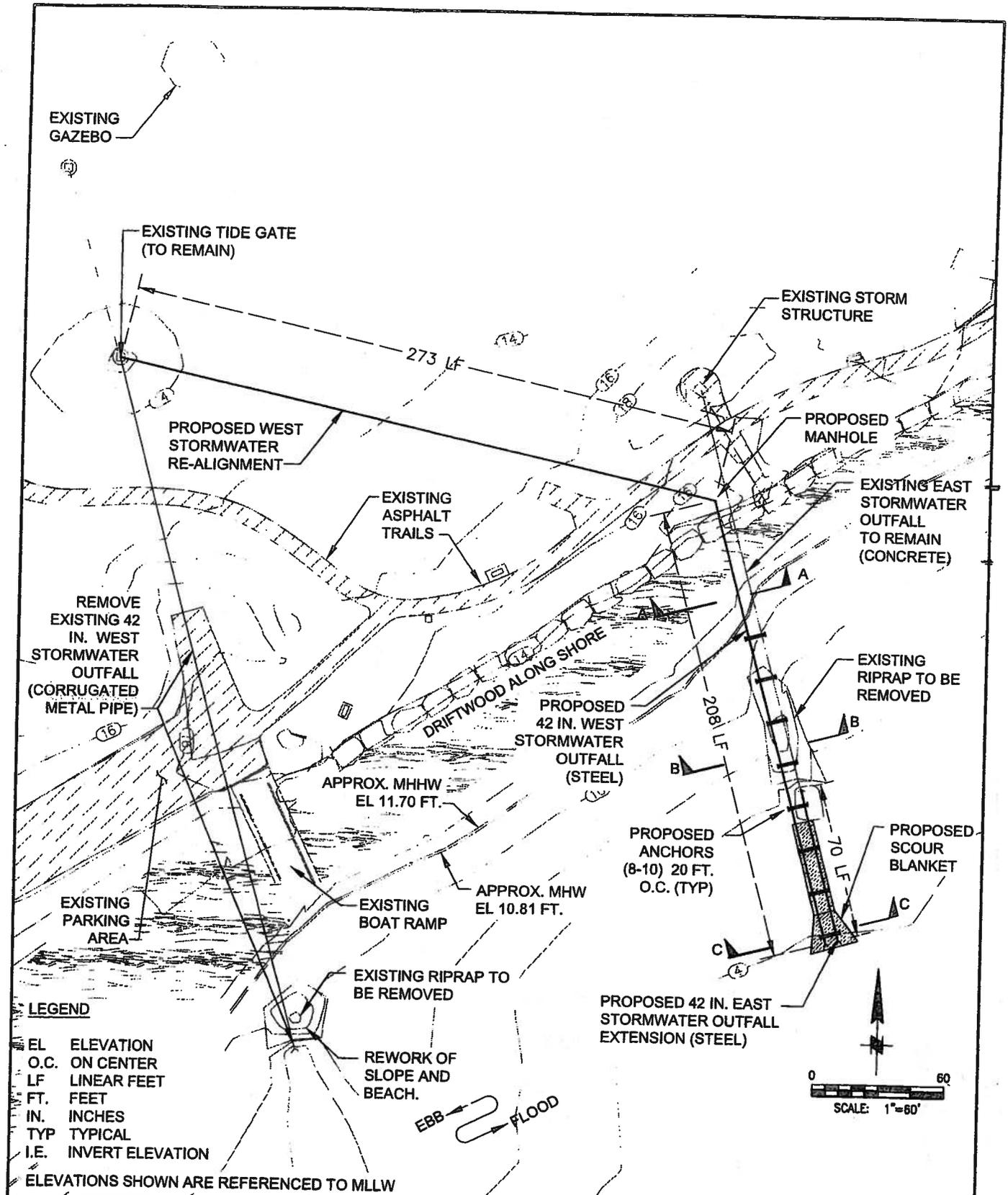


Arnold Peterschmidt P.E., City of Oak Harbor

Date Submitted:

8/3/09

August 3, 2009



LEGEND

EL ELEVATION
 O.C. ON CENTER
 LF LINEAR FEET
 FT. FEET
 IN. INCHES
 TYP TYPICAL
 I.E. INVERT ELEVATION

ELEVATIONS SHOWN ARE REFERENCED TO MLLW

PURPOSE: TO REPLACE THE WEST STORMWATER
 OUTFALL

DATUM: MLLW = 0.00 FT
 MHHW = 11.70 FT

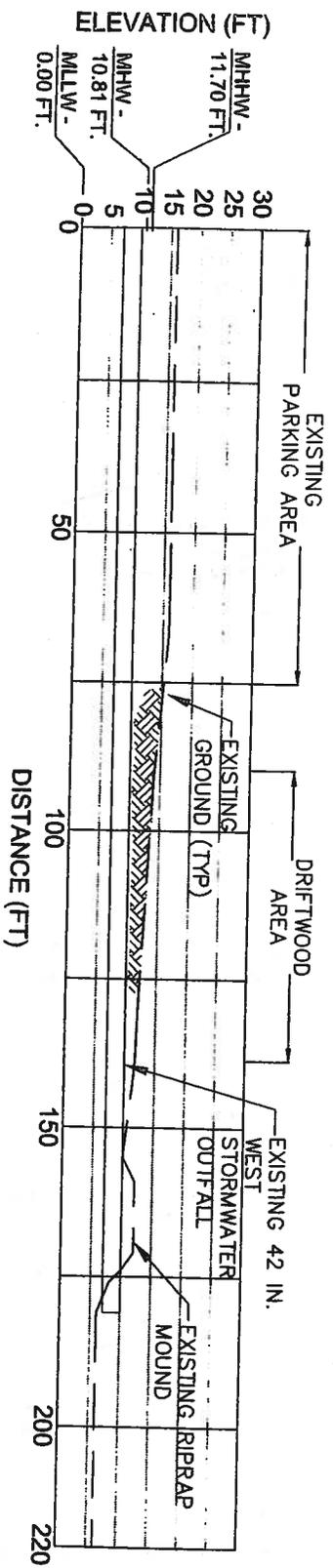
ADJACENT PROPERTY OWNERS:
 CITY OF OAK HARBOR

WINDJAMMER PARK
 STORMWATER OUTFALL
 REPLACEMENT PROJECT

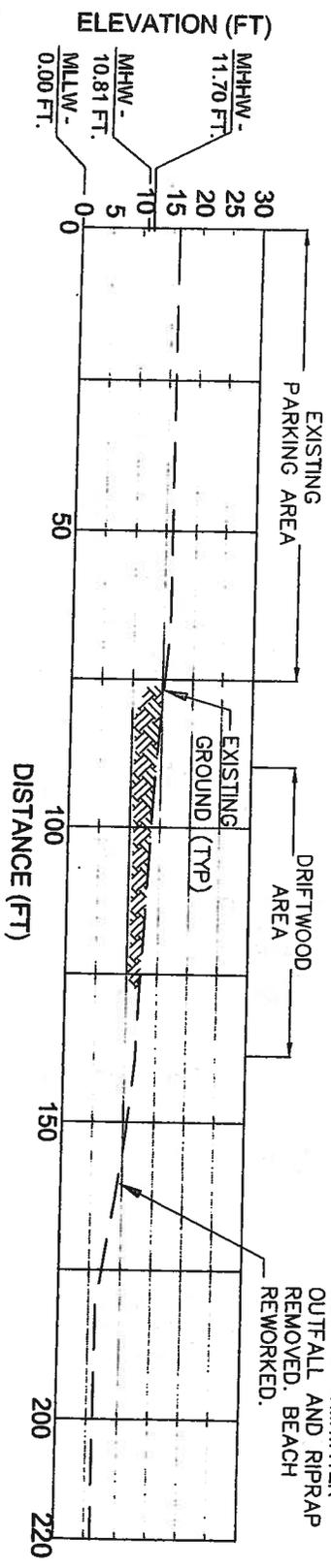
PLAN VIEW

PROPOSED: REPLACE & REALIGN WEST OUTFALL;
 LENGTHEN EAST OUTFALL

IN: CITY OF OAK HARBOR
 SEC: S2 TW32 R1E
 COUNTY OF: ISLAND STATE: WA
 SHEET: 2 OF 5
 DATE: JUNE 9, 2009



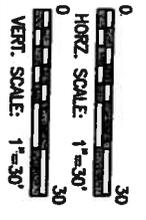
EXISTING BEACH AT WEST OUTFALL LOCATION



PROPOSED BEACH AT WEST OUTFALL LOCATION

LEGEND
 EL ELEVATION
 O.C. ON CENTER
 LF FEET
 FT. FEET
 IN. INCHES
 TYP TYPICAL
 I.E. INVERT ELEVATION

ELEVATIONS SHOWN ARE REFERENCED TO MLLW



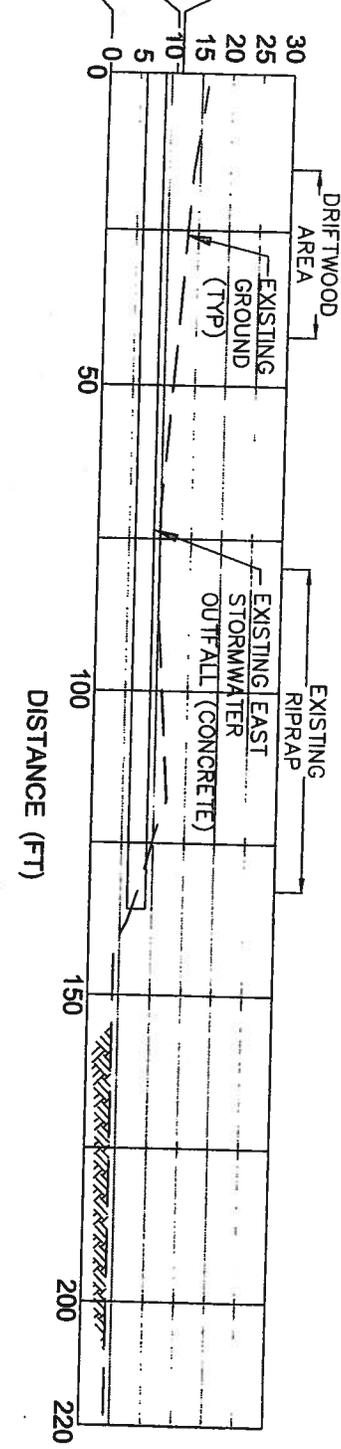
PURPOSE: TO REPLACE THE WEST STORMWATER OUTFALL
 DATUM: MLLW = 0.00 FT
 MHHW = 11.70 FT
 ADJACENT PROPERTY OWNERS:
 CITY OF OAK HARBOR

WINDJAMMER PARK
 STORMWATER OUTFALL
 REPLACEMENT PROJECT
 WEST OUTFALL
 PROFILE VIEWS

PROPOSED: REPLACE & REALIGN WEST OUTFALL;
 LENGTHEN EAST OUTFALL
 IN: CITY OF OAK HARBOR
 SEC: S2 TW32 R1E
 COUNTY OF: ISLAND STATE: WA
 SHEET: 3 OF 5
 DATE: JUNE 9, 2009

ELEVATION (FT)

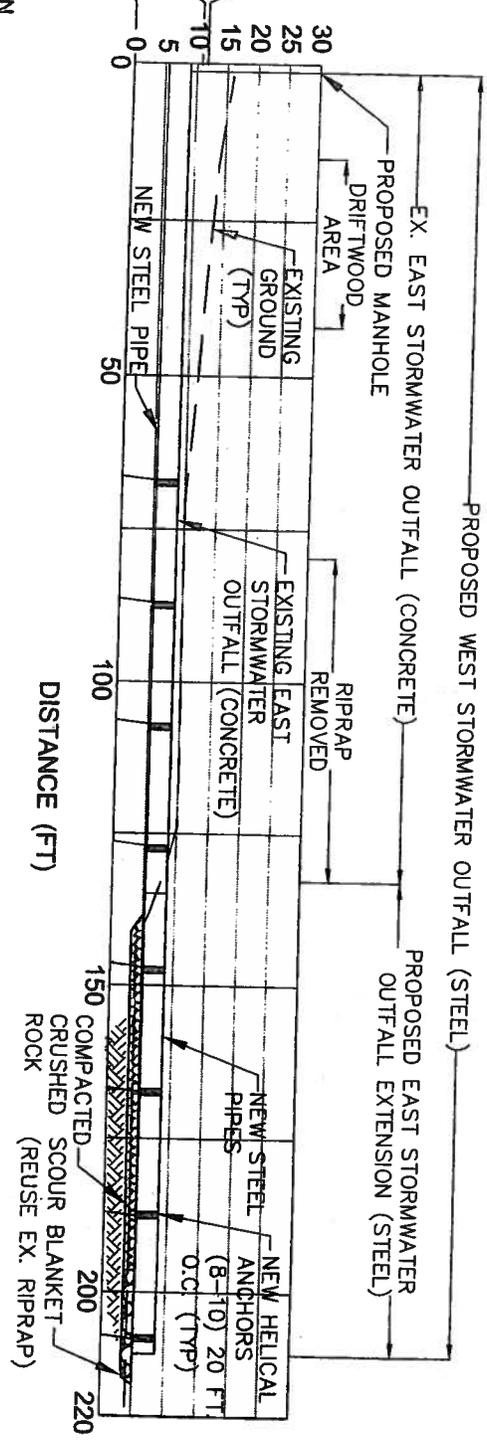
MHHW - 11.70 FT.
 MHW - 10.81 FT.
 MLLW - 0.00 FT.



EXISTING BEACH AT EAST OUTFALL LOCATION

ELEVATION (FT)

MHHW - 11.70 FT.
 MHW - 10.81 FT.
 MLLW - 0.00 FT.

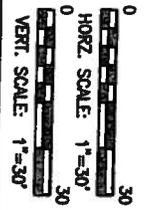


PROPOSED BEACH AT EAST OUTFALL LOCATION*

LEGEND
 EL. ELEVATION
 O.C. ON CENTER
 LF. LINEAR FEET
 FT. FEET
 IN. INCHES
 TYP. TYPICAL
 I.E. INVERT ELEVATION

ELEVATIONS SHOWN ARE REFERENCED TO MLLW

* THE ABOVE PROFILE DEPICTS THE PROPOSED EAST OUTFALL. THE PROPOSED WEST OUTFALL WILL BE PARALLEL AND ADJACENT TO EAST OUTFALL.



PURPOSE: TO REPLACE THE WEST STORMWATER OUTFALL
 DATUM: MLLW = 0.00 FT
 MHHW = 11.70 FT
 ADJACENT PROPERTY OWNERS:
 CITY OF OAK HARBOR

WINDJAMMER PARK
 STORMWATER OUTFALL
 REPLACEMENT PROJECT
 EAST OUTFALL
 PROFILE VIEWS

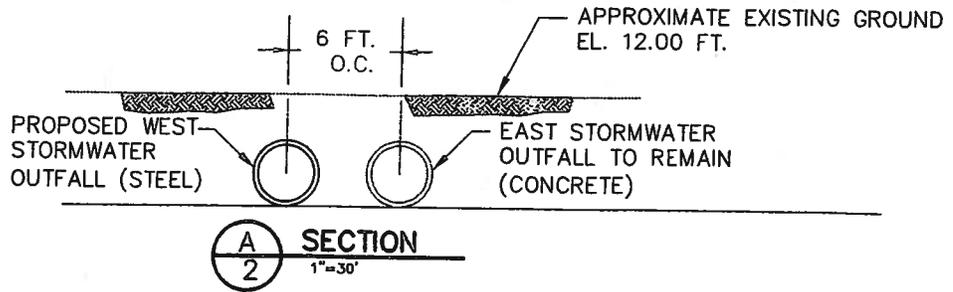
PROPOSED: REPLACE & REALIGN WEST OUTFALL;
 LENGTHEN EAST OUTFALL
 IN: CITY OF OAK HARBOR
 SEC: S2 TW32 R1E
 COUNTY OF: ISLAND STATE: WA
 SHEET: 4 OF 5
 DATE: JUNE 9, 2009

ELEVATION (FT)

MHHW = 11.70 FT.
MHW = 10.81 FT.

I.E. = 6.00 FT.

MLLW = 0.00 FT.

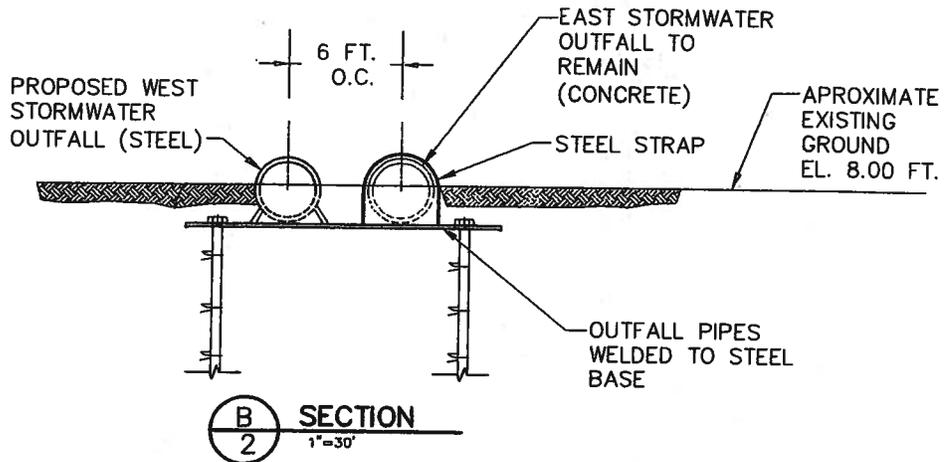


ELEVATION (FT)

MHHW = 11.70 FT.
MHW = 10.81 FT.

I.E. = 6.00 FT.

MLLW = 0.00 FT.

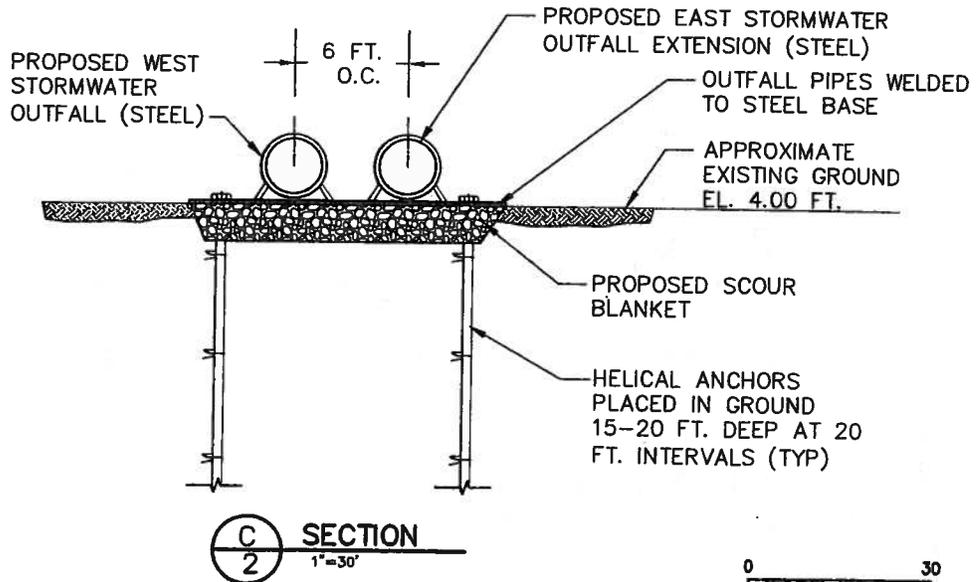


ELEVATION (FT)

MHHW = 11.70 FT.
MHW = 10.81 FT.

I.E. = 4.00 FT.

MLLW = 0.00 FT.



LEGEND

EL ELEVATION
O.C. ON CENTER
LF LINEAR FEET
FT. FEET
IN. INCHES
TYP TYPICAL
I.E. INVERT ELEVATION

ELEVATIONS SHOWN ARE REFERENCED TO MLLW

0 30
HORZ. SCALE: 1"=30'

PURPOSE: TO REPLACE THE WEST STORMWATER OUTFALL

DATUM: MLLW = 0.00 FT
MHHW = 11.70 FT

ADJACENT PROPERTY OWNERS:
CITY OF OAK HARBOR

WINDJAMMER PARK
STORMWATER OUTFALL
REPLACEMENT PROJECT

EAST OUTFALL
CROSS SECTION VIEWS

PROPOSED: REPLACE & REALIGN WEST OUTFALL;
LENGTHEN EAST OUTFALL

IN: CITY OF OAK HARBOR
SEC: S2 TW32 R1E
COUNTY OF: ISLAND STATE: WA

SHEET: 5 OF 5

DATE: JUNE 9, 2009

**BEFORE THE CITY OF OAK HARBOR PLANNING COMMISSION
STATE OF WASHINGTON**

In Re City of Oak Harbor)
Shoreline Development Permit PLN 09-00002)
Windjammer Park 42 inch Stormwater Outfall)

FINDINGS OF FACT
CONCLUSIONS OF LAW
RECORD OF DECISION

This matter having come as a public hearing before the Oak Harbor Planning Commission on the 24th day of November, 2009, upon application of City of Oak Harbor, petitioner, appearing in person; Development Services Department of the City of Oak Harbor appearing by it's Director; and the City of Oak Harbor Planning Commission being advised and having considered the evidence and testimony presented now make the following:

1. FINDINGS OF FACT

1.1 Jurisdiction herein was obtained by an application from City of Oak Harbor for Shoreline Development Application approval of the Windjammer Park 42 inch Stormwater Outfall Project, located along the shoreline on the west side of Windjammer Park east of the parking lot.

1.2 The City of Oak Harbor Planning Commission after due notice of hearing did consider the application from City of Oak Harbor for Shoreline Development Application approval of the Windjammer Park 42 inch Stormwater Outfall at its regular meeting on November 24, 2009. The hearings were recorded and written transcripts may be prepared therefrom.

1.3 The City of Oak Harbor Planning Commission discussed all matters presented thereto and concluded that:

.i An environmental assessment was made of the project in accordance with the checklist requirements of the State Environmental Policy Act of 1971. This proposal has been determined to not have a significant impact upon the environment. An Environmental Impact Statement is not required under RCW 43.21C.030(2)C.

.ii A Mitigated Determination of Nonsignificance (MDNS) was issued for the proposal on October 10, 2009.

.iii The application as submitted by the City of Oak Harbor for the Windjammer Park 42-inch Stormwater Outfall meets the requirements of the Oak Harbor Municipal Code Chapter 19.56 Shoreline Management ordinance.

.iv The application as submitted by the City of Oak Harbor for the Windjammer Park 42-inch Stormwater Outfall meets the requirements of the Oak Harbor Shoreline Master Program.

.v The application as submitted by the City of Oak Harbor for the Windjammer Park 42-inch Stormwater Outfall meets the requirements of the Oak Harbor Comprehensive Plan and Comprehensive Stormwater Drainage Plan.

1.4 The Windjammer Park 42-inch Stormwater Outfall PLN #09-00002 has been processed in accordance with RCW Title 58, the City of Oak Harbor Municipal Code Title 19,

the State Environmental Policy Act RCW 43.21C and the Open Meetings Act of 1971 RCW 42.30 and the action is in accord therewith.

From the foregoing FINDINGS OF FACT, the Oak Harbor Planning Commission makes the following:

2. CONCLUSION OF LAW

2.1 The findings of fact as noted in the records of the City of Oak Harbor Development Services Department upon which the recommendation for approval of the Shoreline Development Permit for the Windjammer Park 42 inch Stormwater Outfall was made by the City of Oak Harbor Planning Commission are proper and have not been reached in an arbitrary or capricious manner nor without due process of law.

3. RECORD OF DECISION

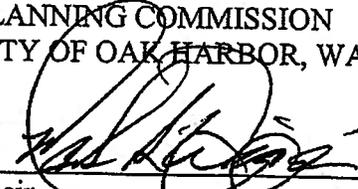
3.1 On November 24, 2009 the Oak Harbor Planning Commission did recommend that the City Council approve the Shoreline Development Permit for the Windjammer Park 42 inch Stormwater Outfall, application PLN-09-00002, submitted by the City of Oak Harbor, subject to the following conditions:

- a. the design and redevelopment of the parking lot shall be in accordance to OHMC 19.44.130 and shall be setback no closer than 25 feet from the OHWM;
- b. the design and development of the proposed waterfront walkway must conform to all conditions and mitigation measures defined in the SEPA Checklist and DNS
- c. the design and development of the proposed waterfront walkway must conform to all applicable regulations within the Shoreline Master Program.

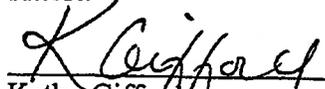
3.2 This order is advisory to the City Council and may be accepted by the City Council, remanded to the Planning Commission for reconsideration, or rejected by the City Council after public hearing.

APPROVED AND ADOPTED THE 24th DAY OF NOVEMBER, 2009.

PLANNING COMMISSION
CITY OF OAK HARBOR, WASHINGTON


Chair

Attest:


Kathy Gifford
Clerk to the Planning Commission

Draft

**PLANNING COMMISSION
REGULAR MEETING
November 24, 2009**

ROLL CALL: **Present:** Mark Wiggins, Bruce Neil, Kristy Jensen, Julie Dale, Keith Fakkema and Greg Wasinger.
 Absent: Nancy Fey.
 Staff Present: Development Services Director, Steve Powers; Senior Planners, Ethan Spoo and Cac Kamak; Associate Planner, Melissa Sartorius and Project Engineer, Arnold Peterschmidt.

Chairman Wiggins called the meeting to order at 7:30 p.m.

MINUTES: **MR. NEIL MOVED, MS. DALE SECONDED, MOTION CARRIED TO APPROVE THE OCTOBER 27, 2009 MINUTES AS PRESENTED.**

PUBLIC COMMENT – Those present offered no comment.

PROPOSED ADDITION TO OHMC, A NEW CHAPTER 18.15 COMPREHENSIVE PLAN AMENDMENT PROCESS– Continued Public Hearing

The Planning Commission continued the public hearing on proposed changes to the Oak Harbor Municipal Code pertaining to the Comprehensive Plan. If approved, these code changes would add a new chapter 18.15 with language to formalize the annual amendment process, provide consistent and predictable review timelines and improve public participation to include early and continuous input on proposed amendments.

Mr. Kamak reported that he had nothing to add since the last meeting and asked if there were any questions.

Mr. Fakkema asked for some clarification on Section Fourteen of the ordinance which states that Chapter 18.10 entitled "Comprehensive Plan: is hereby repealed. Mr. Powers explained that there is a difference between the Code and the ordinance. In Section Fourteen of the ordinance is deleting a portion of the Municipal Code which is 18.10.030. The ordinance is a separate document which if adopted by the Council will change the Municipal Code.

Chairman Wiggins asked if there was further public comment. None came forth so the public hearing was closed.

ACTION: **MR. NEIL MOVED, MR. FAKKEMA SECONDED, MOTION CARRIED TO FORWARD A RECOMMENDATION TO THE CITY COUNCIL TO APPROVE THE PROPOSED ADDITION TO OHMC, A NEW CHAPTER 18.15 COMPREHENSIVE PLAN AMENDMENT PROCESS.**

SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT – WINDJAMMER PARK 42 INCH STORMWATER OUTFALL PROJECT – Public Hearing

Mr. Kamak explained that the project proposes to replace an existing outfall structure. The new outfall will be realigned with an exiting outfall. The new outfall will be of similar size and scale as the original structure. Currently there are two stormwater outfalls, termed west and east outfall, located in the southwest portion of Windjammer Park. The outfalls provide drainage of stormwater to Oak Harbor Bay from the City's Dry Creek Basin. The Dry Creek basin constitutes the most developed portion of the drainage basins served by the City's stormwater

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system. It is characterized by highly developed residential and commercial areas with very little open drainage remaining.

The existing west stormwater outfall is a 42-inch corrugated metal (steel) pipe that conveys runoff from an existing upland tide gate structure (in place to restrict salt water from flowing upstream during high tide or storm events) to its discharge point on the beach. This outfall is approximately 320 linear feet long from the tide gate. Its original length was 420 linear feet. The pipe, over the years, has deteriorated to its current length.

Mr. Kamak summarized the project review as follows:

- The project is consistent with the Shoreline Master Program. The proposed project to replace and realign the stormwater outfall to maintain its functionality must cross the shoreline to discharge stormwater into the bay. The application, the SEPA checklist and the Mitigated Determination of Non-significance address the known impacts of the project. The project proposes to use methodologies and construction techniques to minimize the impacts and where possible alleviate current adverse conditions.
- The proposed project is also consistent with the City's Comprehensive Stormwater Plan. It is in the five highest priority projects identified by the plan.
- The mitigation measures, the extension of the trail and the redevelopment of the parking lot also furthers Goal 4 of the City's Comprehensive Plan Utilities Element to "Minimize aesthetic and environmental degradation from utility operation, installation, repair and maintenance"
- The project will further be reviewed by State Agencies and the US Corp of Engineers. Additional conditions and mitigation measures may be imposed on the project.
- As part of the project, the existing west parking lot and waterfront trail will also be redevelopment. During project construction there will be temporary impacts/closures to portions of the west parking lot and the trail.

Mr. Kamak concluded by recommending that the Commission conduct the public hearing, recommend that the City Council approve the Shoreline Substantial Development Permit and adopt the "Findings of Fact".

Planning Commission Questions/Comments

Will the trail surface would be asphalt? Mr. Kamak said that the trail won't be asphalt but will be some type of low impact material.

Will there be plantings in the area? Mr. Kamak said that plantings would be placed between the parking lot and the trail and in the parking lot but the plantings will not block the view.

Will the mound in the parking lot be kept? Mr. Kamak stated that the parking design was not completed yet.

When will the project start? Mr. Kamak stated that next year was possible.

How long will the project take? Mr. Kamak stated about 2 months.

Will there be any upstream work at the tide gate be necessary and does the permit cover that? Mr. Powers said that upstream work will not be necessary and that the permit only covers shoreline work.

Will the end of the outfall be exposed at low tide? Only if there is an extreme low tide.

The public hearing was opened.

Duane Dillard (2150 SW Dillard Lane) spoke in support of the project and recommended that landscaping be place on the berms to discourage 4-wheel drive vehicles from driving over them. Mr. Dillard also asked if the stormwater backs up when the tide comes since the outfall will be extended out further into the bay.

Mr. Peterschmidt (project engineer) explained that extending the outfall will keep it clear of debris since the outfall will be beyond the heaviest wave action.

Being no further public comment, the public hearing was closed.

ACTION: MR. FAKKEMA MOVED, MR. WASINGER SECONDED, MOTION CARRIED TO FORWARD A RECOMMENDATION TO THE CITY COUNCIL TO APPROVE THE SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT.

ACTION: MS. DALE MOVED, MR. FAKKEMA SECONDED, MOTION CARRIED TO ADOPT THE "FINDINGS OF FACT".

LOW IMPACT DEVELOPMENT (LID) CODE UPDATE PROJECT– Public Meeting (NO ACTION REQUIRED)

Mr. Spoo explained that LID is an environmentally-friendly way to treat storm water runoff. In 2008, the Puget Sound Partnership (a regional organization commissioned by the State with overseeing health of the Puget Sound) worked with City of Oak Harbor staff to draft LID code standards to be included in the Oak Harbor Municipal Code. LID standards have the potential to affect the design of new developments in Oak Harbor, as well as, maintenance responsibilities of property owners and the City Public Works Department.

Mr. Spoo stated that the important point to remember about the background of the project is that an umbrella of federal and state requirements filter down through the Clean Water Act that lead us to where we are today. The State of Washington Department of Ecology issues what are called NPDES permits so that cities, such as Oak Harbor, can channel our stormwater runoff into the Sound. What comes out of the 42-inch outfall that Cac was talking about earlier is what needs the NPDES permit. The federal government, in turn, requires states to issues these permits. Since the state and federal government control these permits, they can put certain conditions in the permit that Oak Harbor has to comply with, otherwise they don't allow us to send our stormwater into the Puget Sound. One of the conditions in the permit is that our development codes must allow for LID, meaning that we can't have barriers in our code that prevent developers from constructing low impact development.

Mr. Spoo explained that LID falls into four categories as shown in the following table.

LID Category	Example Techniques
Site Planning and Layout	Narrow roads, alleys, and driveways; curvilinear streets; cluster development; small turnarounds; reduced front setbacks; minimize stream crossings; shared driveways; maximum parking ratios; compact parking; street trees.
Vegetation Protection, Reforestation and Maintenance	Protect native vegetation areas; replant with native plants after clearing; careful maintenance of vegetated areas.
Clearing and Grading	Erosion control during construction; retain natural topography; minimize cut and fill; limit wet weather construction; phased grading, construction fencing, reuse soil, routine construction inspections,
Integrated Management Practices	Raingardens (bioretention), amended soils; permeable paving, vegetated roofs, minimal foundation excavation, rainwater collection systems.

Mr. Spoo presented the following advantages and disadvantage to LID.

Advantages

- Environmental benefits – clear advantage
- Flood detention – probably
- Property values and aesthetics – LID looks better
- Reduced public expenditures – that’s the theory

Disadvantages

- LID can’t be used just anywhere – steep slopes, bad soils, groundwater
- LID is new – people don’t know what to do with it
- Public and private responsibilities – sometimes confusing
- Operating and maintenance costs – Who knows?
- Construction Costs

Mr. Spoo stated that over the coming months, the Commission will be discussing policy issues related to LID and will need some way to make those policy choices and discuss the advantages and disadvantages of each. Mr. Spoo devised a table that looks at different scenarios (voluntary, incentive or mandatory) to answer the question about whether the City should take certain actions. Each scenario measures the likely impacts on the environment, city costs, private costs (costs to citizens), and the economy. It is possible to measure other impacts. For instance, rather than measure the impact on the economy, the impact on the City’s streets, property taxes, or the use of open space could be measured. The fields are color-coded to indicate whether the impact is positive or negative as compared with the “no action” scenario; green represents a positive impact, and red a negative impact. The tool is flexible. It can be adapted to measure factors which are important to the Planning Commission.

Mr. Spoo ended the presentation and requested Planning Commission’s input on the factors they think are most important in the LID discussion. Are the environment, city costs, private costs, and the economy the factors Planning Commission thinks we should be looking at in the discussion about LID? Or are there other factors we need to look at?

Planning Commission Questions/Comments

Please clarify the recommendation that there will be no grading between the months of October and March. Mr. Powers explained that this recommendation comes from the state agencies and is in effect already in some counties in the Puget Sound region is either an outright prohibition or certain levels of restriction on starting new site work with that period. It doesn't mean that you can't do anything within that timeline, but there may be standards that say that you don't start new grading so that you don't end up with a tremendous amount of erosion control to deal with.

There was a recollection that in the past retention ponds were required and now they don't want them and are trying to do something else. Maybe we should wait until they get it right. The Commissioner expressed a preference for making the requirements voluntary. Mr. Powers explained that local jurisdictions subject to the Phase II permit are required to implement LID wherever feasible which is a much different scenario than where we started this project, which was that LID was being promoted as a positive action for the health of the Puget Sound and that one of the things we were considering doing was putting it into our code as one of the tools to deal with stormwater. Hence the focus of the project was mandatory incentives or voluntary. We may find that in a couple of years some of those decisions are being made for us then the task for the City will be to follow the standards of the state but try to exercise as much local control of decision making as the Council can.

Mr. Spoo stated that at this point the State isn't requiring us to do anything but in a couple of years under the NPDES Phase II permit they could require us to do something so as we go through this code update it is important to keep that in mind. Do we want to mimic the standards of the state so we don't have to update our code again, knowing that we might be obligated to meet those state standards anyway? How much flexibility will be in those state standards for us to exercise local control and decision making? We don't know. What staff is saying is that this is coming and to be aware of it as you consider LID.

Mr. Spoo ended his presentation and noted that there is now a blog for the LID project the blog site can be found at cohlid.blogspot.com. The blog contains events such as Planning Commission and Council meetings, a schedule, links to more information, local examples of LID and policy issues.

BEING NO FURTHER BUSINESS BEFORE THE PLANNING COMMISSION, THE MEETING WAS ADJOURNED AT 8:40 P.M.

**BEFORE THE CITY COUNCIL OF THE CITY OF OAK HARBOR
STATE OF WASHINGTON**

In Re Permit Application No. PLN 09-00002)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW
)	AND DECISION OF
)	CITY COUNCIL
<u>Windjammer Park 42 inch Stormwater Outfall</u>)	

THIS MATTER came before the City Council upon the application of City of Oak Harbor for a Shoreline Substantial Development Permit. Having considered the evidence in the record, heard the arguments of the parties and any public comment, and being fully advised in the premises, the City Council hereby enters the following Findings of Fact, Conclusions of Law, and Decision:

FINDINGS OF FACT

1. An application for a Shoreline Substantial Development Permit was filed with the Department of Development Services and deemed complete by the Director on August 7, 2009.
2. The permit sought by applicant is for the replacement of the western, existing 42-inch corrugated metal stormwater outfall located at Windjammer Park located within the City boundaries. The replacement outfall will be a 42-inch reinforced concrete pipe and will be located adjacent to the existing eastern outfall in this same portion of Windjammer Park.
3. A Notice of Application [NOA] was posted on the property and published in the City's newspaper of record (Whidbey News Times), as per the requirement of the Shoreline Master Program for two consecutive weeks, on August 12, 2009 and August 19, 2009. Property owners within 300 feet of the project were also notified by mail. No public comments were received during the advertised comment period.
4. The applicant submitted an environmental checklist pursuant to the State Environmental Policy Act on August 5, 2009.
5. Based upon the information submitted by the applicant, the SEPA official for the City issued a mitigated determination of non-significance on October 10, 2009.
6. The MDNS was published in the newspaper of record with the comment period ending on October 26, 2009 and an appeal period ending on November 10, 2009.
7. The Planning Commission public hearing of November 24, 2009 was advertised in the newspaper of record on November 7, 2009. Property owners within 300 feet of the project were provided notice of the hearing by mail.

8. The proposed project was reviewed against the policies and regulations Utilities Section of the Shoreline Master Program.
9. The proposed project realigns the west outfall with the existing east outfall thus reducing the number of points at which the shoreline will be crossed. The realignment will also reduce impact to the shoreline resulting from maintenance activities since the outfalls will be adjacent to each other. SMP Policy 5.20(1) – same right of way to reduce adverse impacts on shoreline.
10. Excavation for installing the pipe will be kept to the minimum required. Small or handheld equipment will be used when feasible. Driftwood will not be dragged along the shoreline. Best management practices for erosion control will be maintained throughout the project. As mentioned above the west outfall is proposed to be realigned with the east outfall and thus reducing the overall points of impact on the shoreline. The realignment and the use of helical anchors will help with the removal of the existing rip rap. This will provide a continuous natural beach profile. SMP Policy 5.20(2) – minimize disturbance of shoreline.
11. The replacement and the realignment of the west outfall will be underground on the upland side of the improvements. As the two outfalls are extended into the bay they will gradually become above ground (seen only during low tide) at the point of discharge. To further this policy, a mitigation measure has been added to the MDNS to require that any upland structures (such as manholes) be constructed flush with the ground. SMP Policy 5.20(3) – locate new utility facilities underground.
12. The SEPA checklist requires shoreline areas disturbed to be restored to pre-project configurations, replanting with local vegetation and the vegetation maintained until it is firmly established. This requirement is further re-enforced by including it as requiring a landscape architect or biologist or similarly qualified individual to assist with the re-vegetation. SMP Regulation 5.20(1)
13. There is no known alternative for the location of discharge points for stormwater drainage from the Dry Creek Basin. The proposed project works within the existing constraints of the need to have stormwater discharge to the bay and includes several improvements and enhancement to the existing conditions. SMP Regulation 5.20(2)
14. The upland improvements will be underground. However, the outfalls will gradually extend above ground (will be seen only during low tide) at the point of discharge since it is required for the functionality of the system. Conditions are included in the MDNS to keep upland structures below or flush with the ground to protect views. SMP Regulation 5.20(3)
15. The project will have the waterfront trail rebuilt over the pipes and through the project site. SMP Regulation 5.20(4)

16. The SEPA checklist and the MDNS include several measures to keep the impacts to a minimum. This includes, but is not limited to, minimum area of excavation, use of small or hand held equipment, handling of driftwood, erosion plans etc. SMP Regulation 5.20(5)

17. The outfalls must cross the shoreline to be functional and safe. The proposed project will result in an improved shoreline since it reduces the overall footprint of the utility lines by realigning the west outfall so that the two pipes will cross the shoreline in one location. The helical anchors proposed for the project will help allow the removal of the rip rap currently on the shores. This will help the shoreline attain a more natural and uninterrupted profile. SMP Regulation 5.20(6)

CONCLUSIONS OF LAW

1. The City Council has jurisdiction to determine whether to issue this permit pursuant to RCW 90.58.050.
2. Proper notice of all hearings, comment periods and appeal periods was given.
3. A single open record hearing on the permit application was held before the Planning Commission on November 24, 2009.
4. No appeal of the MDNS was timely filed.
5. The project as proposed, combined with the proposed mitigation measures, is consistent the Shoreline Master Program of the City of Oak Harbor.
6. The City Council decision regarding the permit application was reached after a single closed record review of the record of the Planning Commission and recommendations by the City Council.
7. The permit application meets the requirements of City of Oak Harbor Shoreline Master Program. SMP Policies 5.20(1) – (3) and Regulations 5.20 (1) – (6)

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the City Council hereby grants the application for the permit herein, subject to the conditions listed below:

1. The design and redevelopment of the parking lot shall be in accordance with OHMC 19.44.130 and shall be setback no closer than 25 feet from the Ordinary High Water Mark.

2. The design and development of the proposed waterfront walkway must conform to all conditions and mitigation measures defined in the SEPA Checklist (dated August 3, 2009) and the MDNS (dated October 10, 2009).
3. The design and development of the proposed waterfront walkway must conform to all applicable regulations within the Shoreline Master Program.

State law requires the City to give thirty (30) days' notice to the Department of Ecology prior to issuance of a shoreline substantial development permit. Therefore, the permit authorized herein shall not issue until either notice is received of the Department of Ecology's approval of the permit or until the expiration of thirty (30) days from the date of notice, whichever is sooner.

Entered this _____ day of _____, _____.

CITY COUNCIL OF
CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

City of Oak Harbor City Council Agenda Bill

Bill No. 9
Date: January 19, 2010
Subject: 2% Grant program

FROM: Doug Merriman, Finance Director 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Jim Slowik, Mayor
 Paul Schmidt, City Administrator
 Margery Hite, City Attorney, as to form

PURPOSE

To receive and approve the funding recommendations from the Lodging Tax Advisory Committee for the City's 2010 Lodging Tax Grant Program.

AUTHORITY

RCW 67.28.180 Lodging tax authorized – Conditions: Establishes City authority to levy the “basic” hotel-motel tax of 2%.

RCW 67.28.181 Special excise taxes authorized: Establishes City authority to levy an “additional” hotel-motel tax of 2%.

RCW 67.28.1817 Establishes a Lodging Tax Advisory Committee in large municipalities. Submission of a proposal for imposition of or change in tax or use establishes that before proposing a change in the use of revenue received under this chapter, a municipality with a population of five thousand or more shall submit the proposal to the Lodging Tax Advisory Committee for review and comment. The submission shall occur at least forty-five days before final action on or passage of the proposal by the municipality. The advisory committee shall submit comments on the proposal in a timely manner through generally applicable public comment procedures.

SUMMARY STATEMENT

The City of Oak Harbor sponsors an annual grant program funded by revenues from 2% lodging tax proceeds, more commonly known as the Lodging Tax Grant Program. Organizations are encouraged to apply for funding if they feel that their activity promotes tourism in a manner that attracts visitors to Oak Harbor from other localities.

After receiving the appropriate 45-day notice from Council on March 24, 2009, the Lodging Tax Advisory Committee advertised and called for applications for the City's Lodging Tax Grant Program on August 22, 2009. The committee met on December 10, 2009 to review three applications for Lodging Tax Grant funding received from the various organizations that applied. These requests are as follows:

• Oak Harbor Arts Commission – Driftwood Day	\$ 4,090
• 25 th Annual North Whidbey Car Show	6,000
• Chamber of Commerce – Tourism Promotion	<u>38,471</u>
Total Requests	<u>\$ 48,561</u>

City of Oak Harbor City Council Agenda Bill

Available Funding

The City has established both the "basic" and "additional" hotel-motel taxes for a combined total of 4%. The projected 2010 revenues and expenditures are as follows:

2010 Budget projection:

Basic 2% Lodging Tax	\$84,500
Additional 2% Lodging Tax	84,500
Total Revenues	<u>\$169,000</u>

Island Wide Marketing Effort	\$42,250
Chamber of Commerce Contract	80,000
Grant Program	15,000
Whidbey Marathon	13,000
Windjammer, Banner program	18,750
Total Expenditures	<u>\$169,000</u>

The committee reviewed the requests, and makes the following recommendations to Council for funding 2% programs for the year 2010:

• Oak Harbor Arts Commission – Driftwood Day	\$ 2,850
• 25 th Annual North Whidbey Car Show	5,500
• Chamber of Commerce – Tourism Promotion	6,650
Total Requests	<u>\$ 15,000</u>

STANDING COMMITTEE REPORT

This issue was presented to the Finance Standing Committee on March 11, 2009.

RECOMMENDED ACTION

- 1) Hold a public meeting for input.
- 2) Award 2010 Lodging Tax grants and authorize payment of funds.

ATTACHMENTS

- ◆ Agenda and minutes of Lodging Tax Advisory Committee meeting on December 10, 2009.
- ◆ Grant application cover sheet summaries for three applicants.
- ◆ Pertinent RCW cites for Lodging Tax authorization and procedural requirements.

MAYOR'S COMMENTS

CITY OF OAK HARBOR
Lodging Tax Advisory Committee
Meeting Agenda
Thursday, December 10, 2009 4:00 PM.

- 1) CALL TO ORDER
- 2) ROLL CALL
- 3) PUBLIC COMMENT PERIOD
- 4) FINANCE DIRECTOR - INFORMATION ITEMS:

a. 2010 Grant Program

i. Amount available for 2010 program:

2010 Budget projection:

Basic 2% Lodging Tax	\$84,500
Additional 2% Lodging Tax	84,500
Total Revenues	<u>\$169,000</u>

Island Wide Marketing Effort	\$42,250
Chamber of Commerce Contract	80,000

Grant Program	15,000
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Whidbey Marathon	13,000
Windjammer, Banner program	18,750
Total Expenditures	<u>\$169,000</u>

ii. Applications:

1. Oak Harbor Arts Commission: Driftwood Day - \$4,090
 - a. 2008: \$1,500
 - b. 2009: \$1,000
2. North Whidbey Lions Club: Car Show - \$6,000
 - a. 2006: \$5,000
 - b. 2007: \$5,000
 - c. 2008: \$5,000
 - d. 2009: \$5,000
3. Chamber of Commerce: Various - \$38,471
 - a. 2006: \$0
 - b. 2007: \$0
 - c. 2008: \$9,500 (community promotion)
 - d. 2009: \$15,000

5) OTHER ISSUES

6) ADJOURNMENT

Lodging Tax Advisory Committee
Thursday, December 10, 2009, 4:00 p.m.
City Hall Conference Room

CALL TO ORDER

The meeting began at 4:00 pm.

IN ATTENDANCE

Beth Munns, Chairperson
Rhea Nelson, Committee member
John Platt, Committee member
Doug Merriman, Finance Director
Paul Schmidt, City Administrator

DISCUSSION

- 1) Reviewed packets and discussed budgets, application requests, and 2% applicability.
- 2) Motion by Rhea Nelson, seconded by John Platt to award the following:
 - a. North Whidbey Car Show: \$5,500
 - b. Arts Commission Driftwood Days: \$2,850
 - c. Chamber of Commerce: \$6,650

The Motion passed 3-0.

ADJOURN

The meeting adjourned at 4:30 p.m.

Doug Merriman
Finance Director

CITY OF OAK HARBOR
HOTEL-MOTEL EXCISE TAX GRANT PROGRAM

received
9/30/09 DW

GRANT APPLICATION FORM
2010 GRANT YEAR

PROJECT

Project Title: Driftwood Day
Name of Organization: Oak Harbor Arts Commission
Contact Person: Karen Crouch Title: City Liaison to Arts Commission
Address: 865 SE Barrington Ave
City: Oak Harbor State: WA Zip: 98277
Phone: 360 679-5551 Fax: _____
Amount Requested: \$4,090.00 Applicant's Match: _____
Total Project Budget: \$5,453.00
Previous Funds Received: \$1,000.00 (2009)
Pending Grant Applications: None
Expected Start Date for the Project: Preparations begin in October 2009
Expected Completion Date: September 30, 2010

PROJECT SUMMARY

In the below, please provide a one paragraph, concise summary of project and what it will accomplish and how it will promote future benefits to tourism.

The Oak Harbor Arts Commission is presenting its fifth annual Driftwood Day, a one day event held at Windjammer Park, in Oak Harbor. Individuals or teams sign up to participate the day of the event. They then use driftwood and any other items found on the beach that day to create beach sculptures, which are later judged by a panel of experts and local celebrities. An Artist Consultant/guest judge is brought in to help expand the knowledge of Oak Harbor within the arts community and off Island artists. Driftwood Day attracts visitors and artists to Oak Harbor where they can discover how wonderful our town and natural setting are. The Oak Harbor Arts Commission would like Driftwood Day to grow into a two day festival that will bring large numbers of people to experience Oak Harbor, stay in area lodging and visit Oak Harbor restaurants and shops.

Meetings for Driftwood Day begin in January one a month through July. Starting in August the meetings are once a week until the scheduled date.

SCOPE OF WORK

1. In what way will the proposed project fulfill an economic benefit to the community and will it serve a need of a large cross section of the public through tourism?

Driftwood Day is a unique event that attracts people from a variety of locations (off and on Island) to come and participate in the event. By bringing individuals to Oak Harbor for Driftwood Day the event opens the opportunity for people not familiar with Whidbey Island to experience a sample of what we have to offer thereby attracting them to come back. With the fun and positive experience of Driftwood Day will keep

GRANT APPLICATION FORM
2010 GRANT YEAR

PROJECT

Project Title:	25th Annual North Whidbey Car Show	
Name of Organization:	Rotary Club of Oak Harbor	
Contact Person:	Mike McIntyre	
Title:	Club President	
Address:	P. O. Box 442	
City:	Oak Harbor	State: WA Zip: 98277
Phone:	(360) 929-3296	Fax:
Amount Requested:	\$6,000	Applicant's Match:\$5,000*
Total Project Budget:	\$15,000	
Previous Funds Received:	\$ 5,000	
Pending Grant Applications:	None	
Start Date for the Project:	September 2009	
Expected Completion Date:	14 August 2010	

* \$3500.00 plus \$1500.00 Vendor donated service(s) or value(s) reducing cash paid prices

PROJECT SUMMARY

In the space below, please provide a one paragraph, concise summary of project and what it will accomplish and how it will promote future benefits to tourism.

The North Whidbey Car Show has been a major event in Oak Harbor, attracting people to the City for the past twenty-four years. It is an event viewed by thousands of spectators and participants who patronize local restaurants, retail stores, and motels. Vehicles in the 2009 car show traveled from as far away as Las Vegas, NV, and Napa, ID. Participants also came from Bellingham, Everett, Seattle, and Tacoma. The typical Car Show has over 200 vehicles and approximately 5,000 spectators and requires almost 800 Rotary Club man-hours to host. Last year the Rotary Club raised over \$5,000 which will be used to support community projects such as Help House, Oak Harbor High School, Oak Harbor's 4th of July parade, and Skagit Valley College. The show consistently receives laudatory feedback from both participants and spectators for the beautiful setting and the smoothness with which the event runs. The success of this event is impossible without the support of the City of Oak Harbor and the many local businesses involved. This type of family-friendly experience is one that makes the City of Oak Harbor a desirable place to live and a welcoming location to visitors.

**CITY OF OAK HARBOR
HOTEL-MOTEL EXCISE GRANT APPLICATION
2010 GRANT YEAR**



Project Title **City of Oak Harbor Tourism and Community Promotion**
 Organization **Greater Oak Harbor Chamber of Commerce**
 Contact **Jill Johnson, Executive Director**
 Address **32630 State Route 20, Oak Harbor, WA 98277**
 Phone **(360) 675-3755**
 Fax **(360) 679-1624**

Amount Requested	\$38,471	Applicant's Match	\$49,950
Total Project Budget	\$177,427	Previous Funds Received	\$12,600 \$52,320 (City Contract) \$9,080 (Billboard)

Pending Grant Applications: **Island County Tourism**
 (Requested \$48,005: estimated funds received: \$15,000 (\$6,000 less than 2009))

Start Date **January 2010** Expected Completion Date **December 2010**

PROJECT SUMMARY

The Greater Oak Harbor Chamber of Commerce (Chamber) is requesting 2% funds for 2010 to implement the branding and marketing efforts on behalf of the City of Oak Harbor. The Chamber is asking for funding for three specific programs that it has determined will raise awareness of the Oak Harbor community as a family-friendly tourism destination. These programs are the production and distribution of lure brochures on the Washington State and British Columbia ferry system as well as in corporate locations in the Seattle and Portland areas, including the production and distribution of a :15 second digital ad that plays on three designated ferry routes promoting the community of Oak Harbor; an on-line advertising and social media strategy that uses the latest technologies designed to leverage Oak Harbor's investment in Island County tourism including a quarterly e-newsletter that follows up on the tourism leads generated by Island County Tourism, and the continuation of the sports marketing program which has been expanded into a broader event marketing program.

RCW 67.28.1817**Lodging tax advisory committee in large municipalities--Submission of proposal for imposition of or change in tax or use--Comments.**

(1) Before proposing imposition of a new tax under this chapter, an increase in the rate of a tax imposed under this chapter, repeal of an exemption from a tax imposed under this chapter, or a change in the use of revenue received under this chapter, a municipality with a population of five thousand or more shall establish a lodging tax advisory committee under this section. A lodging tax advisory committee shall consist of at least five members, appointed by the legislative body of the municipality, unless the municipality has a charter providing for a different appointment authority. The committee membership shall include: (a) At least two members who are representatives of businesses required to collect tax under this chapter; and (b) at least two members who are persons involved in activities authorized to be funded by revenue received under this chapter. Persons who are eligible for appointment under (a) of this subsection are not eligible for appointment under (b) of this subsection. Persons who are eligible for appointment under (b) of this subsection are not eligible for appointment under (a) of this subsection. Organizations representing businesses required to collect tax under this chapter, organizations involved in activities authorized to be funded by revenue received under this chapter, and local agencies involved in tourism promotion may submit recommendations for membership on the committee. The number of members who are representatives of businesses required to collect tax under this chapter shall equal the number of members who are involved in activities authorized to be funded by revenue received under this chapter. One member shall be an elected official of the municipality who shall serve as chair of the committee. An advisory committee for a county may include one nonvoting member who is an elected official of a city or town in the county. An advisory committee for a city or town may include one nonvoting member who is an elected official of the county in which the city or town is located. The appointing authority shall review the membership of the advisory committee annually and make changes as appropriate.

(2) Any municipality that proposes imposition of a tax under this chapter, an increase in the rate of a tax imposed under this chapter, repeal of an exemption from a tax imposed under this chapter, or a change in the use of revenue received under this chapter shall submit the proposal to the lodging tax advisory committee for review and comment. The submission shall occur at least forty-five days before final action on or passage of the proposal by the municipality. The advisory committee shall submit comments on the proposal in a timely manner through generally applicable public comment procedures. The comments shall include an analysis of the extent to which the proposal will accommodate activities for tourists or increase tourism, and the extent to which the proposal will affect the long-term stability of the fund created under RCW 67.28.1815. Failure of the advisory committee to submit comments before final action on or passage of the proposal shall not prevent the municipality from acting on the proposal. A municipality is not required to submit an amended proposal to an advisory committee under this section.

[1998 c 35 § 3; 1997 c 452 § 5.]

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RCW 67.28.180**Lodging tax authorized -- Conditions.**

(1) Subject to the conditions set forth in subsections (2) and (3) of this section, the legislative body of any county or any city, is authorized to levy and collect a special excise tax of not to exceed two percent on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter [82.08](#) RCW.

(2) Any levy authorized by this section shall be subject to the following:

(a) Any county ordinance or resolution adopted pursuant to this section shall contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed pursuant to this section upon the same taxable event.

(b) In the event that any county has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to [RCW 67.28.150](#) through [67.28.160](#) or has authorized and issued revenue or general obligation bonds pursuant to the provisions of [RCW 67.28.150](#) through [67.28.160](#), such county shall be exempt from the provisions of (a) of this subsection, to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of [RCW 67.28.150](#) through [67.28.160](#): PROVIDED, That so much of such pledged tax revenues, together with any investment earnings thereon, not immediately necessary for actual payment of principal and interest on such bonds may be used: (i) In any county with a population of one million or more, for repayment either of limited tax levy general obligation bonds or of any county fund or account from which a loan was made, the proceeds from the bonds or loan being used to pay for constructing, installing, improving, and equipping stadium capital improvement projects, and to pay for any engineering, planning, financial, legal and professional services incident to the development of such stadium capital improvement projects, regardless of the date the debt for such capital improvement projects was or may be incurred; (ii) in any county with a population of one million or more, for repayment or refinancing of bonded indebtedness incurred prior to January 1, 1997, for any purpose authorized by this section or relating to stadium repairs or rehabilitation, including but not limited to the cost of settling legal claims, reimbursing operating funds, interest payments on short-term loans, and any other purpose for which such debt has been incurred if the county has created a public stadium authority to develop a stadium and exhibition center under [RCW 36.102.030](#); or (iii) in other counties, for county-owned facilities for agricultural promotion until January 1, 2009, and thereafter for any purpose authorized in this chapter.

A county is exempt under this subsection with respect to city revenue or general obligation bonds issued after April 1, 1991, only if such bonds mature before January 1, 2013. If any county located east of the crest of the Cascade mountains has levied the tax authorized by this section and has, prior to June 26, 1975, pledged the tax revenue for payment of principal and interest on city revenue or general obligation bonds, the county is exempt under this subsection with respect to revenue or general obligation bonds issued after January 1, 2007, only if the bonds mature before January 1, 2021. Such a county may only use funds under this subsection (2)(b) for constructing or improving facilities authorized under this chapter, including county-owned facilities for agricultural promotion, and must perform an annual financial audit of organizations receiving funding on the use of the funds.

As used in this subsection (2)(b), "capital improvement projects" may include, but not be limited to a stadium restaurant facility, restroom facilities, artificial turf system, seating facilities, parking facilities and scoreboard and information system adjacent to or within a county owned stadium, together with equipment, utilities, accessories and appurtenances necessary thereto. The stadium restaurant authorized

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by this subsection (2)(b) shall be operated by a private concessionaire under a contract with the county.

(c)(i) No city within a county exempt under subsection (2)(b) of this section may levy the tax authorized by this section so long as said county is so exempt.

(ii) If bonds have been issued under RCW [43.99N.020](#) and any necessary property transfers have been made under RCW [36.102.100](#), no city within a county with a population of one million or more may levy the tax authorized by this section before January 1, 2021.

(iii) However, in the event that any city in a county described in (i) or (ii) of this subsection (2)(c) has levied the tax authorized by this section and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW [67.28.150](#) through [67.28.160](#), such city may levy the tax so long as the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW [67.28.150](#) through [67.28.160](#).

(3) Any levy authorized by this section by a county that has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW [67.28.150](#) through [67.28.160](#) or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW [67.28.150](#) through [67.28.160](#) shall be subject to the following:

(a) Taxes collected under this section in any calendar year before 2013 in excess of five million three hundred thousand dollars shall only be used as follows:

(i) Seventy-five percent from January 1, 1992, through December 31, 2000, and seventy percent from January 1, 2001, through December 31, 2012, for art museums, cultural museums, heritage museums, the arts, and the performing arts. Moneys spent under this subsection (3)(a)(i) shall be used for the purposes of this subsection (3)(a)(i) in all parts of the county.

(ii) Twenty-five percent from January 1, 1992, through December 31, 2000, and thirty percent from January 1, 2001, through December 31, 2012, for the following purposes and in a manner reflecting the following order of priority: Stadium purposes as authorized under subsection (2)(b) of this section; acquisition of open space lands; youth sports activities; and tourism promotion. If all or part of the debt on the stadium is refinanced, all revenues under this subsection (3)(a)(ii) shall be used to retire the debt.

(b) From January 1, 2013, through December 31, 2015, in a county with a population of one million or more, all revenues under this section shall be used to retire the debt on the stadium, or deposited in the stadium and exhibition center account under RCW [43.99N.060](#) after the debt on the stadium is retired.

(c) From January 1, 2016, through December 31, 2020, in a county with a population of one million or more, all revenues under this section shall be deposited in the stadium and exhibition center account under RCW [43.99N.060](#).

(d) At least seventy percent of moneys spent under (a)(i) of this subsection for the period January 1, 1992, through December 31, 2000, shall be used only for the purchase, design, construction, and remodeling of performing arts, visual arts, heritage, and cultural facilities, and for the purchase of fixed assets that will benefit art, heritage, and cultural organizations. For purposes of this subsection, fixed assets are tangible objects such as machinery and other equipment intended to be held or used for ten years or more. Moneys received under this subsection (3)(d) may be used for payment of principal and interest on bonds issued for capital projects. Qualifying organizations receiving moneys under this

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subsection (3)(d) must be financially stable and have at least the following:

- (i) A legally constituted and working board of directors;
 - (ii) A record of artistic, heritage, or cultural accomplishments;
 - (iii) Been in existence and operating for at least two years;
 - (iv) Demonstrated ability to maintain net current liabilities at less than thirty percent of general operating expenses;
 - (v) Demonstrated ability to sustain operational capacity subsequent to completion of projects or purchase of machinery and equipment; and
 - (vi) Evidence that there has been independent financial review of the organization.
- (e) At least forty percent of the revenues distributed pursuant to (a)(i) of this subsection for the period January 1, 2001, through December 31, 2012, shall be deposited in an account and shall be used to establish an endowment. Principal in the account shall remain permanent and irreducible. The earnings from investments of balances in the account may only be used for the purposes of (a)(i) of this subsection.
- (f) School districts and schools shall not receive revenues distributed pursuant to (a)(i) of this subsection.
- (g) Moneys distributed to art museums, cultural museums, heritage museums, the arts, and the performing arts, and moneys distributed for tourism promotion shall be in addition to and may not be used to replace or supplant any other funding by the legislative body of the county.
- (h) As used in this section, "tourism promotion" includes activities intended to attract visitors for overnight stays, arts, heritage, and cultural events, and recreational, professional, and amateur sports events. Moneys allocated to tourism promotion in a class AA county shall be allocated to nonprofit organizations formed for the express purpose of tourism promotion in the county. Such organizations shall use moneys from the taxes to promote events in all parts of the class AA county.
- (i) No taxes collected under this section may be used for the operation or maintenance of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged. Expenditures for operation or maintenance include all expenditures other than expenditures that directly result in new fixed assets or that directly increase the capacity, life span, or operating economy of existing fixed assets.
- (j) No ad valorem property taxes may be used for debt service on bonds issued for a public stadium that is financed by bonds to which the tax is pledged, unless the taxes collected under this section are or are projected to be insufficient to meet debt service requirements on such bonds.
- (k) If a substantial part of the operation and management of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged is performed by a nonpublic entity or if a public stadium is sold that is financed directly or indirectly by bonds to which the tax is pledged, any bonds to which the tax is pledged shall be retired. This subsection (3)(k) does not apply in respect to a public stadium under chapter 36.102 RCW transferred to, owned by, or constructed by a public facilities district under chapter 36.100 RCW or a stadium and exhibition center.

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(l) The county shall not lease a public stadium that is financed directly or indirectly by bonds to which the tax is pledged to, or authorize the use of the public stadium by, a professional major league sports franchise unless the sports franchise gives the right of first refusal to purchase the sports franchise, upon its sale, to local government. This subsection (3)(l) does not apply to contracts in existence on April 1, 1986.

If a court of competent jurisdiction declares any provision of this subsection (3) invalid, then that invalid provision shall be null and void and the remainder of this section is not affected.

[2007 c 189 § 1; (2008 c 264 § 2 expired July 1, 2009); 2002 c 178 § 2; 1997 c 220 § 501 (Referendum Bill No. 48, approved June 17, 1997); 1995 1st sp.s. c 14 § 10; 1995 c 386 § 8. Prior: 1991 c 363 § 139; 1991 c 336 § 1; 1987 c 483 § 1; 1986 c 104 § 1; 1985 c 272 § 1; 1975 1st ex.s. c 225 § 1; 1973 2nd ex.s. c 34 § 5; 1970 ex.s. c 89 § 1; 1967 c 236 § 11.]

NOTES:

Findings -- Intent -- 2008 c 264: "The legislature finds that locally funded heritage and arts programs build vital communities and preserve community history and culture. It further finds that within existing revenue sources, local jurisdictions should have the capability to preserve these programs in the future.

The locally funded heritage and arts program in the state's most populated county was established in 1989 using a portion of hotel-motel tax revenues. This program was structured to provide for inflation and an expanding population of the county.

In 1997, the legislature acted to assure the future of the heritage and arts program by creating an endowment fund using these same local funds. This funding mechanism has proved to be inadequate and unless immediately modified will result in a seventy-five percent reduction of funds for the program.

This act will provide a stable and predictable flow of funds to the program, provide for inflation and an expanding population, and assure the future viability of the program within existing revenue flows." [2008 c 264 § 1.]

Effective date -- 2008 c 264: "This act takes effect July 1, 2008." [2008 c 264 § 5.]

Retroactive application -- 2002 c 178: "This act applies retroactively to events occurring on and after September 1, 2001." [2002 c 178 § 6.]

Effective date -- 2002 c 178: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 27, 2002]." [2002 c 178 § 7.]

Referendum--Other legislation limited--Legislators' personal intent not indicated--Reimbursements for election--Voters' pamphlet, election requirements -- 1997 c 220: See RCW [36.102.800](#) through [36.102.803](#).

Part headings not law -- Severability--1997 c 220: See RCW [36.102.900](#) and [36.102.901](#).

Severability -- Effective dates -- 1995 1st sp.s. c 14: See notes following RCW [36.100.010](#).

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Severability -- Effective date -- 1995 c 386: See notes following RCW 67.40.130.

Effective date -- 1991 c 336: "This act shall take effect January 1, 1992." [1991 c 336 § 3.]

Purpose -- Captions not law -- 1991 c 363: See notes following RCW 2.32.180.

Effective date -- 1986 c 104: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect April 1, 1986." [1986 c 104 § 2.]

Severability -- 1985 c 272: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 272 § 2.]

Contracts for marketing facility and services: RCW 67.40.120.

Lodging tax imposed in King county for state convention and trade center: RCW 67.40.090.

RCW 67.28.181**Special excise taxes authorized -- Rates -- Credits for city or town tax by county -- Limits.**

(1) The legislative body of any municipality may impose an excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter [82.08](#) RCW. The rate of tax shall not exceed the lesser of two percent or a rate that, when combined with all other taxes imposed upon sales of lodging within the municipality under this chapter and chapters [36.100](#), [67.40](#), [82.08](#), and [82.14](#) RCW, equals twelve percent. A tax under this chapter shall not be imposed in increments smaller than tenths of a percent.

(2) Notwithstanding subsection (1) of this section:

(a) If a municipality was authorized to impose taxes under this chapter or RCW [67.40.100](#) or both with a total rate exceeding four percent before July 27, 1997, such total authorization shall continue through January 31, 1999, and thereafter the municipality may impose a tax under this section at a rate not exceeding the rate actually imposed by the municipality on January 31, 1999.

(b) If a city or town, other than a municipality imposing a tax under (a) of this subsection, is located in a county that imposed taxes under this chapter with a total rate of four percent or more on January 1, 1997, the city or town may not impose a tax under this section.

(c) If a city has a population of four hundred thousand or more and is located in a county with a population of one million or more, the rate of tax imposed under this chapter by the city shall not exceed the lesser of four percent or a rate that, when combined with all other taxes imposed upon sales of lodging in the municipality under this chapter and chapters [36.100](#), [67.40](#), [82.08](#), and [82.14](#) RCW, equals fifteen and two-tenths percent.

(d) If a municipality was authorized to impose taxes under this chapter or RCW [67.40.100](#), or both, at a rate equal to six percent before January 1, 1998, the municipality may impose a tax under this section at a rate not exceeding the rate actually imposed by the municipality on January 1, 1998.

(3) Any county ordinance or resolution adopted under this section shall contain a provision allowing a credit against the county tax for the full amount of any city or town tax imposed under this section upon the same taxable event.

[2004 c 79 § 8; 1998 c 35 § 1; 1997 c 452 § 3.]

NOTES:

Validation of taxes imposed and collected and actions taken -- 1998 c 35: "If a municipality was authorized to impose taxes under chapter [67.28](#) RCW or RCW [67.40.100](#) or both with a total rate exceeding four percent before July 27, 1997, any taxes imposed and collected by the municipality on or after July 27, 1997, are validated by this act to the extent the taxes were imposed at rates that would be permitted under chapter [67.28](#) RCW as amended by this act. All actions taken in connection with the collection and administration of taxes validated under this section, including crediting the taxes against the amount of sales taxes due to the state under chapter [82.08](#) RCW, are also validated by this act to the extent the actions taken would be permitted under chapter [67.28](#) RCW as amended by this act." [1998 c 35 § 4.]

Effective date -- 1998 c 35: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes

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effect immediately [March 12, 1998]." [1998 c 35 § 5.]

Savings -- 1997 c 452: "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections. As provided in RCW 1.12.020, the sections amended or repealed in this act are continued by section 3 of this act for purposes such as redemption payments on bonds issued in reliance on taxes imposed under those sections. Any moneys held in a fund created under a section repealed in this act shall be deposited in a fund created under section 4 of this act." [1997 c 452 § 23.]

Intent -- Severability--1997 c 452: See notes following RCW 67.28.080.

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City of Oak Harbor City Council Agenda Bill

Bill No.

10

Date:

January 19, 2010

Subject:

Discussion on Pioneer Way
Decision

FROM: Paul Schmidt
City Administrator



INITIALED AND APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

At the January 5, 2010 City Council meeting, Councilmember Dudley moved and Councilmember Campbell seconded a motion to place a matter on the City Council agenda for the January 19, 2010 City Council meeting to assess the prior City Council decision on the one-way issue for Pioneer Way.

AUTHORITY

Oak Harbor Municipal Code 1.04.020 provides for the introduction of matters not on the City Council agenda by a motion and second by City Council members. Unless the matter introduced is declared an emergency, the matter will be placed on the next available City Council meeting agenda for consideration and action, if any.

SUMMARY STATEMENT

This matter was initiated by City Council members. City Staff will be available to provide any information requested.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

N/A

ATTACHMENTS

N/A

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