



City of Oak Harbor
City Council Meeting
Agenda for
December 4, 2012
6:00 p.m.



Oak Harbor City Council
REGULAR MEETING
6:00 p.m.
Tuesday, December 4, 2012

*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

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

Page 5 MINUTES of the Regular City Council meeting held November 7, 2012
Page 13 MINUTES of the Regular City Council meeting held November 20, 2012

PROCLAMATIONS

Page 23 National Impaired Driving Prevention Month, December 2012

PRESENTATIONS OF OTHER NON-ACTION COUNCIL ITEMS

Presentation of Holiday Wreath by Boy Scout Troop 59
Presentation by Senior Services of Island County

CITIZEN COMMENTS PERIOD

CONSENT AGENDA

Page 25 AB 1. a. Approval of Accounts Payable Voucher 152155 - 152300 in the amount of \$635,175.06
b. Introduction of Ordinance 1637 amending Chapter 6, Public Peace, Safety & Morals of the OHMC
c. Introduction of GASB 54 Ordinance 1641
d. Set a Public Hearing for December 18th and Introduction of Ordinance No. 1642 for Marin Annexation Agreement Franchise for Solid Waste Collection
e. Excused Absence January 15, 2013 and February 5, 2013 for Mayor Pro Tempore Danny Paggao

HEARINGS AND ORDINANCES/RESOLUTIONS

Page 73 AB 2 Continuation of Budget Hearing - 2013-2014 Biennial Budgets and Adoption of 2013-2014 Biennial Budget by Ordinance 1645

- Page 77 AB 3 Public Hearing to consider Ordinance No. 1646 to eliminate Fund #505 Technology Reserve Fund.
- Page 81 AB 4 Public hearing to consider Ordinance 1648 REET I
- Page 87 AB 5 Public hearing to consider Ordinance 1649 REET II
- Page 93 AB 6 Resolution 12-35 Wellness Day December 24th
- Page 99 AB 7 Adoption of Resolution 12-26 Proposition No. 1 School Program Levies and Supporting the School Levy. The City Council will provide equal time for all citizens to give input concerning this resolution including, but not limited to, expression of views both in favor and in opposition to this resolution and the ballot measure.

OTHER BUSINESS

- Page 107 AB 8 Council Discussion of National League of Cities and Capitol Hill Visit
- Page 109 AB 9 Short Term extension agreement with WAIF
- Page 129 AB 10 Authorization to Advertise for Proposals – Animal Shelter Services
- Page 155 AB 11 Authorization to Bid for the Construction of Picnic Shelters at Ft. Nugent Park
- Page 161 AB 12 Confirmation & Employment contract for Assistant City Attorney Nikki Esparza
- Page 171 AB 13 Employment Contract for Finance Director Douglas Merriman
- Page 180 AB 14 Confirmation & Employment Contract for City Administrator Larry Cort
- Page 186 AB 15 Extension of Public Defense Services Agreement, Chief Public Defender Matt Montoya
- Page 189 AB 16 Extension of Public Defense Services Agreement, Assistant Public Defender Georgina Sierra

FUTURE CITY COUNCIL PENDING ITEMS - In Packet

CITY ADMINISTRATOR COMMENTS

COUNCILMEMBER'S COMMENTS

MAYOR'S COMMENTS

EXECUTIVE SESSION - Pursuant to RCW 42.30.110(1)(i): Personnel Issues

ADJOURNMENT

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.

**The City of Oak Harbor
Regular City Council Meeting
6:00 p.m. City Hall Council Chambers
Wednesday, November 7, 2012**

CALL TO ORDER

The Mayor called the regular meeting of the City Council to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

The Mayor led the pledge of allegiance to the flag.

INVOCATION

Councilmember Campbell gave the invocation.

ROLL CALL

The clerk called the roll.

Present:

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

Staff Present:

Interim City Administrator Larry Cort
Public Works Director Cathy Rosen
Development Services Director Steve Powers
Finance Director Doug Merriman
Interim Human Resources Director Cheryl Lawler
Chief of Police Edgar Green
Interim City Attorney Grant Weed
Interim City Clerk Nacelle Heuslein
Fire Chief Ray Merrill
Ethan Spoo Senior Planner

Approved Absence:

Councilmember Beth Munns

ACCEPTANCE OF AGENDA:

Mayor suggested the School District Proclamation be moved after the Proclamation for National Hospice and Palliative Care Month.

MOTION: Councilmember Almberg moved the School District Proclamation be the third proclamation to be read. Councilmember Severns seconded the motion and the motion carried.

MOTION: Councilmember Severns moved and Mayor Pro Tempore Paggao seconded a motion to include property acquisition and pending litigation under the Executive Session. The motion carried.

When there were no more corrections or additions to the agenda, the Mayor declared the agenda accepted as amended.

MINUTES of the Regular City Council meeting held October 16, 2012

MOTION: When there were no additions or corrections to the minutes of October 16, 2012, they were accepted as presented. Councilmember Almberg was excused from the October 16, 2012 meeting.

PROCLAMATIONS

Councilmember Campbell read a Proclamation Celebrating Veterans Day. Several veterans were in attendance and expressed greetings and appreciation to everyone, especially to the Mayor. The VFW was grateful for the assistance of the City in helping them put on the first Veterans Day Parade in the City.

Councilmember Joel Servatius read the Proclamation declaring November, 2012 as National Hospice and Palliative Care Month.

Councilmember Severns read the Proclamation celebrating the School District's Centennial 1912 – 2012 Anniversary. A slideshow was presented by Dr. Rick Schulte, President of the Oak Harbor School District.

PRESENTATION OF OTHER NON-ACTION COUNCIL ITEMS

Employee Recognition

Fire Department's Mike Buxton, Deputy Chief was recognized for his 20 years with the city.

Presentation Anacortes

Public Works Director Fred Buckenmeyer of Anacortes provided a comprehensive power point overview of the City of Anacortes Water Utility. Along with Mr. Buckenmeyer, Steve Hognlund Finance Director and Matt Reynolds, City Engineer.

CITIZEN COMMENTS PERIOD

Wendy Campbell Winter, Whidbey Island resident stated the City of Tumwater has artesian wells which provide good quality water to the city. She also stated her Great Grandfather, William Lyle was the School Master of School House No. 2 in the 1850's.

Jeff Trumbore, Oak Harbor resident encouraged council to look at city property for the WWTP.

CONSENT AGENDA

- **Approval of Claims Vouchers 151685 – 151978** in the amount of \$691,758.19
- **Approval of Claims Vouchers 151979 – 151999** in the amount of \$1,393.10
- **Appointment of David Fikse** to the Planning Commission
- **Excused Absence Request** Councilmember Beth Munns
- **Re-appointment of Youth Commission Members** Peggy Fenstermaker, Cathy Lange and Kathi Phillips

The Clerk read the Consent Agenda.

MOTION: Councilmember Almberg moved and Councilmember Campbell seconded the motion to approve the Consent Agenda as presented. The motion carried.

HEARINGS AND ORDINANCES/RESOLUTIONS

Public Hearing Shoreline Master Program

<http://www.oakharbor.org/uploads/documents/5138nov7smpupdate.pdf>

Development Services Director Steve Powers provided a brief overview of what can be expected of Senior Planner Ethan Spoo's presentation on the Shoreline Master Program.

Senior Planner Ethan Spoo introduced David Pater a representative of the Department of Ecology. Mr. Spoo then reviewed each Chapter of the Shoreline Master Program for the Council.

Public Hearing:

The Mayor opened the public hearing at 7:44 p.m.

Mel Vance, Oak Harbor resident, was concerned that docks will impede access to the marina guest moorage and there probably shouldn't be any more docks in that area. There are two or three lots off of Bayshore that are undeveloped and upon a question about height restrictions, Senior Planner Spoo stated there was a 35 ft maximum.

Public Hearing Closed:

When there were no further comments from the public, Mayor Dudley closed the Public Hearing 7:47 p.m.

MOTION: Councilmember Hizon moved to continue the Shoreline Master Program Public Hearing until the regular Council meeting of November 20, 2012. Councilmember Campbell seconded the motion and the motion carried.

Public Hearing Sign Code and Ordinance No. 1640 an Ordinance of the City of Oak Harbor amending Chapter 19.36 of the Oak Harbor Municipal Code entitled "Temporary and Special Signs." <http://www.oakharbor.org/uploads/documents/4623signcodeattachments.pdf>

Senior planner Ethan Spoo provided a brief insight into the expected Sign Code presentation and discussion ensued regarding political and sandwich board signs.

Public Hearing Opened:

Mayor Dudley opened the public hearing at 8:07 p.m.

Mel Vance, Oak Harbor resident stated the signs should have contact information on them so the owner can be contacted to inform them their signs have been removed and they can come and pick them up. He also recommended the ordinance should specifically permit garage sale signs rather than the code being silent to them.

Wendy Campbell Winter agreed that garage sale signs should be in the code. She also commented the timeframe for political signs be reduced to ten days.

Public Hearing Closed:

The Mayor closed the public hearing at 8:13 p.m.

It was noted by Development Services Director Steve Powers that any limitation on the placing of political signs prior to an election would be a limitation on speech, whereas after the election requiring removal of the signs within a certain period of time is not considered a limitation on freedom of speech. The Planning Commission recommended the public have fourteen (14) days to remove the signs rather than the seven (7) allowed in the code.

MOTION: Councilmember Alberg moved the City Council approve draft Ordinance 1640, as recommended by the Planning Commission, except that the following sentences found in OHMC 19.36.080(4)(a)(i)(E) shall be deleted: *“Staff will make an effort to replace the sign in its previous location”*; followed by: *“Signs may be returned to their prior location if still within the durational limit.”* Councilmember Hizon seconded the motion and the motion carried.

MOTION: Councilmember Alberg moved to approve draft Ordinance No. 1640 as amended. Councilmember Hizon seconded the motion and the motion carried.

Recess:

Mayor Dudley recessed the meeting at 8:30 p.m.

Reconvene:

Reconvene 8:35 p.m.

Public Hearing and Ordinance Property Tax Adjustment Ordinance No. 1636 an ordinance to increase by \$40,825.68 the amount to be raised by Ad Valorem Taxes for the 2013 property Tax Levy which represents a 1% increase over the actual levy assessed in 2012.

Finance Director Doug Merriman presented the staff report

Hizon left the meeting at 8:50 p.m.

Public Hearing:

The Mayor opened the public hearing at 8:50 p.m.

Upon a question by Mel Vance, an Oak Harbor resident, Mr. Merriman stated the upward spike of the adjusted REET chart of 2007 was not necessarily reflective of the City of Oak Harbor, but rather the entire real estate sales increase for the state.

Public Hearing Closed:

When there were no further comments from the public, the Mayor closed the Public Hearing at 8:51 p.m.

MOTION: Councilmember AlMBERG moved to adopt Ordinance No. 1636 as presented. Councilmember Campbell seconded the motion and the motion carried.

Resolution 12-25 Utility Tax Adjustment Allocation of Utility Tax to Arts Acquisition Fund

Finance Director Doug Merriman presented the staff report

Nora O'Connell Balda, Chair of the Arts Commission informed the current revenue of \$30,000 was very generous and all the art in the community has been paid for and, as such, there is a cultural social uniqueness for the community and the art pieces have invigorated the economy on Pioneer Way. Four (4) pieces have been placed. She requested the Council leave the contribution as is.

EXTENSION OF MEETING:

MOTION: Councilmember Servatius moved to suspend the council rules and extend the meeting to 10:00 p.m. Councilmember AlMBERG seconded the motion and the motion carried.

MOTION: Councilmember AlMBERG moved to have this reviewed no later than the second meeting of December and deferred the decision until the December 18, 2012 Council meeting. Campbell seconded the motion and the motion carried.

Councilmember Servatius voted no.

OTHER BUSINESS

Discussion by Council - Amending Section 4.06 of the Employee Policy Manual Proposal to make extensions of interim appointments subject to Council approval.

Interim City Administrator Larry Cort introduced the staff report and stated a motion was made by Councilmember Servatius at the previous meeting requesting the following change to Section 4.06 of the Employee Policy Manual: Interim/out-of-class assignments are limited to one (1) appointment term of ninety (90) calendar days. Any extension of this term requires confirmation by a majority vote of the City Council.

The Mayor opened the meeting for public comments.

Mel Vance, Oak Harbor resident spoke in opposition of this amendment.

Council discussion ensued.

MOTION: Councilmember Servatius moved to instruct staff to bring back this exact same agenda item with clarification on the *interim/out of class assignments* to specifically add the wording *Department Heads* in lieu of *interim/out-of-class assignments*. Councilmember AlMBERG seconded the motion.

Council discussion followed.

Extension of Meeting:

MOTION: Councilmember Servatius moved to suspend the rules and extend the Regular Council meeting to 11:00 p.m. Councilmember Campbell seconded the motion and the motion carried.

AMENDMENT TO

MOTION: Councilmember AlMBERG moved a friendly amendment to read interim/department head assignments are limited to two appointment terms of 90 calendar days and any extension of this term requires approval by the majority vote of the Council. Mayor Pro Tempore Paggao seconded the amendment. Upon vote with Councilmembers AlMBERG and Mayor Pro Tempore voting yes and Councilmembers Campbell, Severns and Servatius voting no, the amendment failed.

VOTE ON ORIGINAL

MOTION: With all Councilmembers and the Mayor Pro Tempore voting no, the original motion failed.

MOTION: Councilmember Servatius moved to instruct staff to prepare an agenda bill to revise 4.06 of the City's Employee Policy Manual adding a final sentence: Interim/out-of-class assignments are generally limited to ninety (90) calendar days. Extensions require approval by the Mayor or City Administrator. Interim department head, defined as the director of public works, development services and finance, the city attorney and the fire and police chiefs and city administrator appointments by the Mayor are limited to two terms of ninety (90) calendar days each. Extensions beyond two terms require confirmation by a majority vote of the City Council. The motion was seconded and carried unanimously.

RECESS:

The meeting recessed at 10:16 p.m.

RECONVENE:

The meeting reconvened at 10:19 p.m.

FINANCE DIRECTOR'S REPORT ON IMPACTS OF STAFFING CHANGES TO FUND BALANCE FOR 2013

Finance Director Merriman provided a detailed report for the Council.

There were no public comments

PROTHMAN & COMPANY RECRUITMENT

Authorization for Mayor to sign Professional Services Agreement with Prothman & Company for the recruitment of a City Attorney

Interim Human Resources Manager Cheryl Lawler presented the staff report.

There were no public comments.

MOTION: Councilmember Severns moved to authorize the Mayor to sign a Professional Services

Agreement with the Prothman Company for professional recruitment services at a cost of \$18,500 plus direct costs. Councilmember AlMBERG seconded the motion and the motion carried.

FUTURE CITY COUNCIL PENDING ITEMS were in the agenda packet.

CITY ADMINISTRATOR COMMENTS

Interim City Administrator Cort stated five Councilmembers attended the AWC Regional Meeting in Bellingham. AWC would like our recommendations for legislative priorities that might benefit the citizens of Oak Harbor by December 7, 2012. The Finance Committee is meeting from 3:30 p.m. to 5:00 p.m. on November 14, 2012 and perhaps the Council could schedule a special meeting right after that meeting. There was concurrence by the Councilmembers for that Special Meeting.

COUNCILMEMBER'S COMMENTS

Mayor Pro Tempore Paggao stated the Public Works and Utilities Standing Committee met on November 1, 2012 and their next meeting will be Thursday, December 6, 2012 at 3:30 p.m.

Councilmember Campbell next Government Services Standing Committee will be held in the Council Chambers on November 13, 2012 at 3:30 p.m.

Councilmember AlMBERG stated there was a Budget Meeting on November 6, 2012 that was televised and the Finance Standing Committee will meet on November 14th.

Councilmember Severns had no report.

Councilmember Servatius stated a Public Safety Standing Committee meeting will be held on November 15, 2012.

EXTENSION OF MEETING:

Councilmember Servatius moved to suspend the Council's rules to extend the meeting time until midnight. Councilmember Severns seconded the motion and the motion carried.

MAYOR'S COMMENTS

The Mayor did not have any comments.

EXECUTIVE SESSION - Pursuant to RCW 42.30.110(1)(i): Labor Negotiations, Property Acquisition & Pending Litigation.

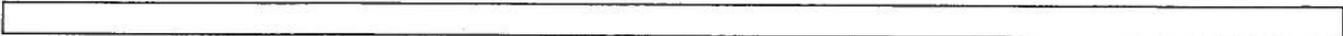
The Council went into Executive Session at 10:55 p.m. until approximately 20 minutes after 11:00 p.m. At 11:20p.m. the Executive Session was extended to 11:30p.m.

RECONVENE:

Meeting reconvened at 11:30 P.M.

ADJOURNMENT:

Mayor Pro Tempore Paggao moved and Councilmember AlMBERG seconded for adjournment at 11:32 p.m.



**The City of Oak Harbor
Regular City Council Meeting
6:00 p.m. City Hall Council Chambers
Tuesday, November 20, 2012**

CALL TO ORDER

The Mayor called the regular meeting of the City Council to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

The Mayor led the pledge of allegiance to the flag.

INVOCATION

Councilmember Campbell gave the invocation.

EXECUSED ABSENCE:

It was moved by Councilmember Servatius and seconded by Councilmember Munns to excuse Councilmember Severns from this meeting. The motion carried.

ROLL CALL

The clerk called the roll.

Present:

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

Staff Present:

Interim City Administrator Larry Cort
Public Works Director Cathy Rosen
Development Services Director Steve Powers
Finance Director Doug Merriman
Human Resources Manager Cheryl Lawler
Chief of Police Edgar Green
Interim City Attorney Grant Weed
Interim City Clerk Nacelle Heuslein
Fire Chief Ray Merrill
Ethan Spoo Senior Planner

Approved Absence:

Councilmember Bob Severns

ACCEPTANCE OF AGENDA:

MOTION: It was moved by Councilmember Munns and seconded by Councilmember Campbell to hold an Executive Session after the Citizen Comments Period to discuss labor negotiations. When there were no other changes or additions to the corrected agenda, it was accepted unanimously as amended.

MINUTES of the Regular City Council meeting held November 7, 2012 will be presented at the December 4, 2012 meeting.

PROCLAMATIONS

Councilmembers Munns read the proclamation declaring November as Pancreatic Cancer Month.

PRESENTATIONS OF OTHER NON-ACTION COUNCIL ITEMS

Jason McFadden, President of the Chamber provided a power point presentation for the Council.

Anthony Steadman former president of the chamber expressed how proud he is of the Chamber and what they have accomplished.

Ron Hancock would like to see more of a Navy presence in the Chamber's advertising.

CITIZEN COMMENTS PERIOD

Marshall Goldberg, a resident in north Oak Harbor represented a group of Island County residents called Island County Citizens Ignited against Citizens United. He expressed an interest in meeting with the Council at some future time.

Mel Vance, Oak Harbor Resident talked about the compromising of city information on the web.

Shane Hoffmire, Oak Harbor resident requested the Council consider amending the animal control ordinance to allow some backyard urban chickens.

RECESSED TO EXECUTIVE SESSION:

The Mayor recessed the meeting at 6:28 p.m. to go into executive session. The Mayor stated the meeting would reconvene at 6:45 p.m.

RECONVENE:

The Mayor reconvened the meeting at 6:49 p.m. no formal action was taken at that time.

CONSENT AGENDA

- a. Approval of Accounts Payable Vouchers # 152000 in the amount of \$ 49,168.85 and # 152001 - # 152154 in the amount of \$491,218.42
- b. Appointment of Daisy Sapida to a three-year term on the Park Board
- c. Appointment of Mike Wright to a three-year term on the Park Board
- d. Appointment of Georgette Anglum to fill unexpired term Youth Commission
- e. Appointment of Raenette Wood to the OH Youth Commission
- f. Appointment of Andrea Thomas to the OH Youth Commission
- g. Resolution No. 12-31 replacing duplicate Resolution 12-10
- = i. Set a public hearing to consider Ordinance 1648 REET I
- j. Set a public hearing to consider Ordinance 1649 REET II
- k. Approval of 9/14/12 Payroll checks # 95822 – # 95836 in the amount of \$385,610.01
- l. Approval of 9/19/12 Payroll check # 95837 in the amount of \$4,420.00
- m. Approval of 9/28/12 Payroll checks # 95838 – # 95867 in the amount of \$571,677.24
- n. Approval of 9/28/12 Payroll check # 95868 - #95889 in the amount of \$93,486.74
- o. Approval of 10/15/12 Payroll checks # 95890 - # 95902 in the amount of \$378,678.64
- p. Approval of 10/31/12 Payroll checks # 95903 - # 95935 in the amount of \$572,806.78
- q. Approval of 10/31/12 Payroll checks # 95936 – # 95955 in the amount of \$43,572.22.

The Interim City Clerk read the Consent Agenda items. Councilmember Servatius requested that *Items No. d, e and f* be pulled from the Consent Agenda for comment. Councilmember Campbell requested *Item No. m* be pulled for clarification. Interim City Clerk stated there were two payroll runs with the same date because one run was for direct deposit. Councilmember Campbell withdrew his request to pull *Item m*.

MOTION: Councilmember Campbell moved to approve Consent Agenda *Items no. a, b, c, g, l, j, k, l, m, n, o, p and q*. Councilmember Almberg seconded the motion and the motion carried

Councilmember Servatius inquired whether the City performed background checks on those volunteers working on the Youth Commission. Councilmember Hizon stated at a recent Youth Commission Meeting a very in depth discussion was held regarding that exact issue. The members do not work directly with the youth, but with the community to access what the needs of the youth are and provide resources for them.

MOTION: Councilmember Servatius moved to approve Consent Agenda *Items No. d, e and f*. Councilmember Munns seconded the motion and the motion carried.

HEARINGS AND ORDINANCES/RESOLUTIONS

Public Hearing Shoreline Master Program continued from November 7, 2012 meeting and adoption of Resolution 12-30 <http://www.oakharbor.org/uploads/documents/1588smppacket.pdf>

Senior Planner Ethan Spoo introduced Kevin Gifford, with HBL Consultants & David Pater with the Department of Ecology and provided a staff report and reviewed the changes that did not substantively change any of the document.

Public Hearing

The Mayor opened the public hearing at 7:04 p.m.

Duane Dillard, Oak Harbor resident, thanked Mr. Spoo and Mr. Powers for meeting with the residents of the neighborhood last week regarding the recent finding by DOE of salinity in the east ditch.

In this Shoreline Decision We Do Know That:

1. The DOE now says that the east ditch of Freund's Marsh is considered Shoreline because they found a small sample of saltwater.
2. This finding affects five properties of the Dillard Neighborhood.
3. According to Mr. Spoo, this sample was taken in August of 2012.

What We Do Not Know is:

1. What is the source of the salt in the ditch? Is it perking through the soil or coming through the City Tide Gate?
2. Why weren't samples taken throughout the year and not only during the driest period?
3. What will accepting the Shoreline Plan with this finding do to the value of these properties? More than likely, the setbacks and limiting building budgets will limit property use and resale value.

In conclusion, Mr. Dillard stated he encouraged the Council question this portion of the Plan until they know all of the facts. If they approve the Plan as presented, this portion will, more than likely, not be reversible.

Dan Dillard, Oak Harbor resident suggested putting in a large check valve which would let the fresh water out, but not let saltwater in. He did not want the Shoreline Master Program approved nor did he want the Dillard property included in the SMP.

Robin Kolaitis, Oak Harbor resident thanked staff for the quick turnaround of her public records request. Allowing this designation to remain unchanged would create a very difficult task for the city to eventually improve the now archaic storm water transport system. It currently is a liability for the City. The ditch also doesn't support and protect the natural resources, it is not a natural ditch, it is a manmade ditch and contributes to waste being dumped into the harbor. Thanked DOE for taking another look at the salinity in the ditch again.

David Glass, Oak Harbor resident stated the ditch is how Wal-Mart empties its parking lot and is not a tidal pool. He would like council to look at it and appreciates the DOE being at the meeting. Salt doesn't go anywhere it just stays there.

Ron Hancock, Oak Harbor resident stated it was a pleasure working with the Planning Commission, they were open and respectful and he complimented Ethan Spoo and his compassion for the citizens.

Public Hearing Closed:

The Mayor closed the Public Hearing at 7:17 p.m.

MOTION: Councilmember Almberg moved Dillard's Addition Neighborhood East Ditch Meeting be made part of the record. Councilmember Campbell seconded the motion and the motion carried.

**DILLARD'S ADDITION NEIGHBORHOOD
EAST DITCH MEETING becoming an official record of the meeting.**

**City Hall
November 15, 2012**

ATTENDANCE

The meeting began at 6:00 p.m. with the following in staff in attendance: Development Services Director, Steve Powers and Senior Planner, Ethan Spoo.

Dillard's Addition residents in attendance: Duane Dillard, Wesley Wilson, Dan Dillard, David Glass, Michele Ippolito-Glass and Robyn Kolaitis.

STAFF PRESENTATION

Mr. Spoo provided the residents select pages from the Draft Shoreline Management Program (SMP) that he believed were most applicable to the residents and shared information on the following:

- Historical background regarding the Shoreline Management Act and the City's adoption of its SMP.

- Explained “no net loss”.
- E-mail communication from the Department of Ecology (DOE) to the City stating that they consider the east ditch to be a “tidal water.”
- Salinity readings; Washington State Administrative Code (WAC) defines 0.5 parts per thousand of salt in the water as tidal water.
- How the SMP applies to future development.
- The Ordinary High Watermark (OHW) and how the 200 foot measurement is calculated.
- Explained the shoreline variance process.

DILLARD’S ADDITION RESIDENT’S COMMENTS

- The tide gate is faulty or not maintained properly.
- The tide gate should be torn out and install a check valve instead of a tide gate.
- Questions about when the testing was done (testing was done by DOE in August 2011).
- The ditch should be retested, February was suggested.
- The objective is to not have the ditch in the shoreline jurisdiction.
- There is no plant growth in the ditch that is associated with salt water.
- Can the City Council withhold a decision on just the ditch portion of the SMP? (No)
- Concerns that once they are included in the shoreline jurisdiction they can never be removed.

STAFF RESPONSE

- The City could pursue DOE to collect more data points to calculate an average level of salt in the water.
- The staff’s preference is to not have the ditch in the shoreline jurisdiction as well.
- Staff encouraged residents to attend the November 20th City Council meeting to express their concerns. If unable to attend send an e-mail with concerns.
- Staff can recommend that the Council make a motion that directs staff to contact DOE and request them to do more testing on the ditch and depending on that information have staff respond accordingly (an SMP amendment in a future year if there is no salt in the water).
- David Pater (DOE) will be attending the November 20th meeting and staff will request that he bring Paul Anderson (the person that did the tests). The Public Works Director will be available for questions about the tide gate.

Dillard MEETING CONCLUDED – 7:15 p.m.

ADJOURNMENT

MOTION: Councilmember Hizon moved to direct staff to contact the Department of Ecology and request it measure the salinity in the east ditch again and depending on the results, staff will respond accordingly. Councilmember Servatius seconded the motion and the motion carried.

MOTION: Councilmember Hizon moved to approve Resolution 12-30 to approve the Shoreline Master Program. Councilmember Munns seconded the motion and the motion carried.

RECESSED MEETING:

Mayor Dudley recessed the meeting at 7:54 p.m.

RECONVENED MEETING:

Mayor Dudley reconvened the meeting at 8:02 p.m.

Public Hearing 2013 – 2014 Biennial Budget - first reading of Ordinance 1645 to adopt 2013 – 2014 Biennial Budget

Finance Director Doug Merriman provided the staff review focusing on the General Fund.

Public Hearing:

Mayor Dudley opened the public hearing at 8:07 p.m. there were no public comments.

Close of Public Hearing:

When there was no public comment, the Mayor closed the public hearing.

MOTION: Councilmember Munns moved to continue the Budget Public Hearing for the Biennial Budget of 2013 – 2014 to the December 4, 2012 regular Council meeting. Councilmember Campbell seconded the motion & the motion carried.

Resolution 12-27 Interim Out-of-Class Assignments

Interim City Administrator Cort provided the staff report.

There were no public comments.

MOTION: Councilmember Servatius moved the Interim out-of-class assignments are limited to ninety (90) calendar days. Extensions require approval by the Mayor or City Administrator. Interim department heads (defined as the directors of Public Works, Development Services and Finance, the City Attorney and the Fire and Police Chiefs and City Administrator appointments by the Mayor, are limited to two terms of ninety (90) calendar days each. Extensions beyond two terms require confirmation by a majority vote of the City Council. Councilmember AlMBERG seconded the motion and the motion carried with Councilmember Campbell voting no.

Waste Water Treatment Plant Field Study Result

Joe Stowell, Interim City Engineer stated results from the Field Study would be discussed this evening and either Resolution 12-33 directing the preparation of a wastewater facility plan which would place a new WWTP in the area identified as "Windjammer Vicinity" as defined in Resolution 12-17 or Resolution 12-34 directing the expansion of the area identified as "Windjammer Vicinity" would be adopted.

EXTENSION OF MEETING:

MOTION: Councilmember Servatius moved to suspend the Council's rules and extend the meeting until 10:00 p.m. Councilmember AlMBERG seconded motion and the motion carried.

Public Comments:

Shane Hoffmire spoke against the options of where the WWTP was being placed.

Jeff Trumbore, Oak Harbor resident commended Carollo and their associates with firm engineering data for the Council to consider. Mr. Trumbore inquired if there had been any kind of study on the potential revenue decrease stream from removing the land from the tax rolls and he was curious why the old city shops land was not considered.

Mel Vance, Oak Harbor resident wanted the WWTP out of the park, the Windjammer alternative was a better choice of the three presented, but also thought there were better sites.

Mark Johnson, Oak Harbor, resident and owner of Pioneer Automotive wanted to know what piece of land the "Windjammer alternative" included. Mayor Dudley stated the City would be back to him with a clarification.

Joel Mami resident and owner of Pioneer Automotive spoke against placing the new WWTP on his property.

Closed Public Comments

When there were no further public comments, the Mayor declared the public comments closed.

It was noted, a federal grant can be applied for if all criteria are met.

MOTION: Councilmember Servatius moved to adopt Resolution 12-33 directing the preparation of a wastewater facility plan which would place a new wastewater treatment plant in the area identified as "windjammer vicinity" as defined by City of Oak Harbor Resolution 12-17. Councilmember AlMBERG seconded the motion. The motion carried with Councilmember Campbell voting no.

Councilmember AlMBERG called for a point of order.

Mayor Dudley inquired why the Freund property was overlooked in the first place.

RECESS:

The Mayor recessed the meeting 10:00 p.m.

RECONVENE:

The meeting reconvened at 10:09 p.m.

Resolution No. 12-32 identifying 2013 Washington State Legislative Priority issues.

Interim City Administrator Cort gave the staff briefing.

There was no public comment.

MOTION: Councilmember Servatius moved to approve Resolution 12-32. The motion was seconded by Councilmember Munns and the motion carried.

OTHER BUSINESS

Interlocal Agreement – Island County Housing Authority, Oak Harbor, Coupeville, and Langley - Affordable Housing.

Development Services Director Steve Powers provided Council with a staff report.

There was no public comment.

MOTION: Councilmember AlMBERG moved to approve the Interlocal Agreement and authorize the Mayor to sign it. Councilmember Munns seconded the motion and it carried.

Extension of Public Defense Services Agreement Public Defense Administrator Jack Kerr

The staff report was made by Interim City Administrator Cort.

MOTION: Councilmember Servatius moved to approve the extension of the Public Defense Services Agreement with Public Defense Administrator Jack Kerr. Councilmember Munns seconded the motion and the motion carried.

EMS Agreement with Whidbey General Hospital

Fire Chief Ray Merrill provided the staff report

MOTION: It was moved by Councilmember Hizon to accept the EMS agreement with Whidbey General Hospital. Councilmember AlMBERG seconded and the motion carried.

FUTURE CITY COUNCIL PENDING ITEMS (included in packet)

CITY ADMINISTRATOR COMMENTS:

Interim City Administrator began by saying Cheryl Lawler has been appointed as Human Resources Manager; on November 28th City Clerk interviews will be held; a representative of Prothman Company interviewed Department Directors today and hoped to begin City Attorney interviews in February of 2013. The confirmation and approval of an employment contract for Nikki Esparza, Assistant City Attorney will be brought forward at the December 4th meeting.

COUNCILMEMBER'S COMMENTS

Mayor Pro Tempore Paggao stated the next Public Works and Utilities Standing Committee meeting will be held on Thursday December 6th. He was grateful for all of the volunteers that give their time to the City.

Councilmember Campbell stated December 11th will be the next Government Services Standing Committee. He was thankful for a loving wife and that his prostate cancer has been cured.

Councilmember AlMBERG stated the next Finance Standing Committee meeting will be December 12th He was thankful for the community, for his family, his wife's support and a new granddaughter.

Councilmember Munns stated the next Public Safety Standing Committee meeting will be on December 20th. Thankful for her health, love of community and love of family and thankful for Help House for providing whole Thanksgiving dinners to families.

Councilmember Hizon had a rough couple of year's health wise and she is thankful for getting good news. Ms. Hizon was grateful for the level of participation by citizens in the community. They are engaged and are genuinely interested in their community.

Councilmember Servatius has an incredible family and prioritizes them at the top of his list. He will miss his beloved Grandmother who recently passed at 106 ½ years of age.

MAYOR'S COMMENTS

The Mayor stated the Council Chambers has new art work from Karen Leeds a photographer. Her travels in the past few years, as well as living in the beautiful northwest, have given her inspiration to take her craft to a high level and focus on the artistic aspects of the medium.

There will be a Community Harvest celebration at the Elks from 11 – 4 p.m. on Thanksgiving Day.

Bus loads of food donations had been provided to the Help House today through the many efforts of children that live in our community.

The Mayor stated he was thankful for living in a safe community and to have drinkable water and that the City is blessed. He closed by wishing everyone a Happy Thanksgiving.

ADJOURNMENT:

MOTION: Councilmember Munns moved and Councilmember Campbell seconded for adjournment of the Council meeting at 10:32 p.m.

City of Oak Harbor

OFFICE OF THE MAYOR
SCOTT DUDLEY
MAYOR



PROCLAMATION IN RECOGNITION OF NATIONAL IMPAIRED DRIVING PREVENTION MONTH December 2012

WHEREAS, driving under the influence of alcohol and drugs needlessly threatens our families, friends, co-workers and neighbors; and

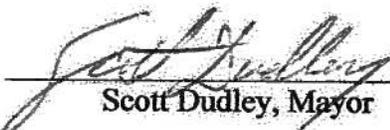
WHEREAS, all drivers risk impairment when consuming alcohol or other impairing drugs whether legal, over the counter and prescription medications or illegal substances; and

WHEREAS, throughout December, we ask each citizen to make a conscious effort to ensure a safe and healthy holiday season for everyone by not driving impaired, by being a responsible party host, and by intervening when someone you know attempts to get behind the wheel after drinking or taking drugs; and

WHEREAS, the Impaired Driving Impact Panel of Island County, Oak Harbor Police Department, Oak Harbor Fire Department, Naval Air Station Whidbey Island, Whidbey General Hospital Emergency Medical Services and Oak Harbor High School's Students Against Destructive Decisions join forces this year to remind citizens that impaired driving crashes are 100% preventable if we all do our part to prevent them.

NOW, THEREFORE, WE, Scott Dudley, Mayor and Councilmembers of the City of Oak Harbor, designate December 2012 as **National Impaired Driving Prevention Month** to help make our roads safer for all.

Signed this 4th day of December, 2012


Scott Dudley, Mayor



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PHYSICS DEPARTMENT

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

Bill No.

CA AB-1a

Date:

Subject:

Approval of Accounts Payable
Vouchers

FROM: Doug Merriman, Finance Director 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, Interim City Administrator
 Grant Weed, Interim City Attorney

SUMMARY

Oak Harbor Municipal Code Chapter 3.72 establishes procedures for claims (vouchers) payment. The documentation that regularly supports the signature cover sheets is included in this agenda packet. Claim cover sheets will continue to be on hand prior to the City Council meeting for City Council signatures.

AUTHORITY

Oak Harbor Municipal Code Chapter 3.72.

RECOMMENDED ACTION

Approve accounts payable vouchers.

Voucher List
City of Oak Harbor

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
152155	11/16/2012	0004903 US BANK	4485591000119689		CREDIT CARD PURCHASES	7,350.77
					Total :	7,350.77
152156	11/16/2012	0000084 BEBEE, STEVE	TRAVEL ADVANCE		TRAVEL ADVANCE	177.50
					Total :	177.50
152157	11/26/2012	0000950 LICENSING, WASHINGTON STATE DEP	111612		CONCEALED WEAPONS PERMITS	180.00
					Total :	180.00
152158	11/28/2012	0000004 A+ AUTO GLASS & RADIATOR	40791		WINDSHIELD INSTALLATION	292.40
					Total :	292.40
152159	11/28/2012	0000424 ALL BATTERY SALES AND SERVICE	50198946		BATTERIES	48.86
					Total :	48.86
152160	11/28/2012	0000028 ALL ISLAND LOCK & KEY	45318		LOCK REPLACEMENT	184.79
					Total :	184.79
152161	11/28/2012	0000029 ALL PHASE ELECTRIC SUPPLY	0952-634127		STARTER BOARDS	206.53
					Total :	206.53
152162	11/28/2012	0006551 ALPINE FIRE & SAFETY SYSTEMS	582774		CHEM EXT ANNUAL SERVICE	461.09
					Total :	461.09
152163	11/28/2012	0000712 AMERIGAS	3012363434		PROPANE/DOG POUND	519.05
					Total :	519.05
152164	11/28/2012	0002044 ANACORTES.NET/HOW IT WORKS	31672		NOV 2012/WEB HOSTING	15.95
					Total :	15.95
152165	11/28/2012	0000053 ARROW PEST CONTROL, INC	144420		PEST CONTROL	108.70
					Total :	108.70
152166	11/28/2012	0002052 ASCENTIS SOFTWARE	AI-010517		ANNUAL SUPPORT	733.73
					Total :	733.73
152167	11/28/2012	0004019 ASSOCIATED PETROLEUM PRODUCTS	0363130-IN		FUEL	10,935.30

Bank code :	bank			Invoice	PO #	Description/Account	Amount
Voucher	Date	Vendor					
152177	11/28/2012	0006946	0006946	BUCHANAN AUTOMATION, INC (Continued)			
152178	11/28/2012	0005027	1793	BURT'S SAW & MOWER		HEDGE CLIPPER SHARPENING	90.31
						Total :	152.18
152179	11/28/2012	0005126	ML-12111604790	CASCADE ENGINEERING SERV, INC		METROLOGY	193.09
			ML-12111604791			METROLOGY	223.82
						Total :	416.91
152180	11/28/2012	0000150	08793000004	CASCADE NATURAL GAS		NATURAL GAS/POLICE STATION	274.37
			18583000007			NATURAL GAS/TREATMENT PLANT	10.00
			36624000000			NATURAL GAS/FIRE STATION	841.69
			58793000009			NATURAL GAS/CITY HALL	428.58
			80434000008			NATURAL GAS/CITY SHOP	905.68
			82193000005			NATURAL GAS/ANNEX	77.06
			90134000000			NATURAL GAS/ADULT CARE CENTI	44.70
						Total :	2,582.08
152181	11/28/2012	0000160	AN15927	CENTRAL WELDING SUPPLY		RETAINING CAP/NOZZLES/ELECTR	229.43
						Total :	229.43
152182	11/28/2012	0000162	52570300	CHANNING L BETE CO, INC		WATER CONSERV PACKS	229.86
						Total :	229.86
152183	11/28/2012	0001563	245353347-1	CHICAGO TITLE COMPANY		PROPERTY SEARCH	326.10
			245353350-1			OWNER'S POLICY	326.10
			245353460			OWNER'S POLICY	326.10
			245353463-1			OWNER'S POLICY	326.10
			245353465-1			OWNER'S POLICY	326.10
						Total :	1,630.50
152184	11/28/2012	0000170	142887	CHIEF SUPPLY		STREAMLIGHT/SWITCH	103.75
						Total :	103.75
152185	11/28/2012	0001711	286746	COMMERCIAL FILTER SALES & SVC		PLEATS	1,948.14
						Total :	1,948.14
152186	11/28/2012	0002954	41124	COMMERCIAL PLUMBING, INC		LEAK REPAIRS	1,265.33

Bank code :	bank			Invoice	PO #	Description/Account	Amount
Voucher	Date	Vendor					
152186	11/28/2012	0002954	0002954	COMMERCIAL PLUMBING, INC			
				(Continued)			
152187	11/28/2012	0000197		CONCRETE NORWEST	844917	CRUSHED ROCK	287.59
					844921	CRUSHED ROCK	168.49
					944851	JUL-DEC 2012/RENTAL	3,000.00
						Total :	3,456.08
152188	11/28/2012	0003065		COVENANT JANITORIAL	11335754	NOV 2012/JANITORIAL SERVICES	3,465.40
						Total :	3,465.40
152189	11/28/2012	0000211		CREDIT BUREAU OF ISLAND COUNTY	111612	COLLECTION FEE/BURLINGTON	89.14
						Total :	89.14
152190	11/28/2012	0002728		DAVIS INSTRUMENTS	463468	ANEMOMETER	212.00
						Total :	212.00
152191	11/28/2012	0000175		DUNN-TERRY, ROXANN	EXP REIMB	EXP REIMB	340.00
						Total :	340.00
152192	11/28/2012	0000257		DUTCH MAID CLEANERS	113012	NOV 2012/LAUNDRY SERVICES	580.42
						Total :	580.42
152193	11/28/2012	0000270		ECONOLITE CONTROL PRODUCTS, IN	102569	CONTROLLER	569.59
						Total :	569.59
152194	11/28/2012	0006209		ELLIOTT TIRE & SERVICE, INC	080259	TIRES	1,973.25
						Total :	1,973.25
152195	11/28/2012	0006747		EQUINOX RESEARCH & CONSULTING	11-413-4	PROF SVC/PIT ROAD	282,102.75
						Total :	282,102.75
152196	11/28/2012	0006276		EXPRESS SERVICES, INC	11704747-2	OFFICE SUPPORT	1,455.60
					11744717-7	OFFICE SUPPORT	1,055.31
					11772332-0	OFFICE SUPPORT	1,455.60
						Total :	3,966.51
152197	11/28/2012	0002900		FASTENAL	WAOAK12926	DRILL BITS	27.90

Voucher List
City of Oak Harbor

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
Bank code : bank						
152197	11/28/2012	0002900	FASTENAL			
152198	11/28/2012	0000355	FRONTIER			
(Continued)						
			007-9244		CURRENT PHONE CHARGES	282.32
			240-0614		CURRENT PHONE CHARGES	93.94
			279-0841		CURRENT PHONE CHARGES	71.47
			675-1572		CURRENT PHONE CHARGES	58.94
			675-2111		CURRENT PHONE CHARGES	59.37
			675-3121		CURRENT PHONE CHARGES	53.61
			675-6794		CURRENT PHONE CHARGES	54.67
			679-3541		CURRENT PHONE CHARGES	50.75
			679-4091		CURRENT PHONE CHARGES	91.70
			679-5551		CURRENT PHONE CHARGES	183.70
			679-8702		CURRENT PHONE CHARGES	60.13
			770-2694		CURRENT PHONE CHARGES	40.11
			770-2715		CURRENT PHONE CHARGES	31.50
					Total :	1,132.21
152199	11/28/2012	0000326	FRONTIER BUILDING SUPPLY	69057	LUMBER	2,382.55
					Total :	2,382.55
152200	11/28/2012	0000349	GRAINGER	9968982562 9977979948	CRIMPER INSERTS/DRYER/RIBBON CARTRIL	50.17 118.25
					Total :	168.42
152201	11/28/2012	0000345	GREATER OAK HBR CHAMBER OF COM	030126	NOV 2012/TOURIST PROMOTION	6,667.00
					Total :	6,667.00
152202	11/28/2012	0004974	GREEN LIGHT SOLUTIONS	8200	MAINTENANCE & INSPECTIONS	940.00
					Total :	940.00
152203	11/28/2012	0002747	GUARDIAN SECURITY	1423270	ALARM TESTING	448.27
					Total :	448.27
152204	11/28/2012	0004126	HABEEB, HEATHER	1	TRAVEL REFUND	28.00
					Total :	28.00
152205	11/28/2012	0005008	HAMMER, RENEE	EXP REIMB	EXP REIMB	77.32

Bank code :	bank	Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
		152205	11/28/2012	0005008 HAMMER, RENEE				
		152206	11/28/2012	0000323 HD FOWLER COMPANY	13263737 13264498		SEAL/GENERAL CHARGES SEALS/CATCH BASINS/GRATES/FR	77.32 5,468.47 3,896.70 9,365.17
		152207	11/28/2012	0000380 HEALTH, WASHINGTON STATE DEPT O	N01022		PROJECT REVIEW	778.00 778.00
		152208	11/28/2012	0006365 HEDEEN & CADITZ, PLLC	7170		PROF SVC/NORTH RESERVOIR	8,193.12 8,193.12
		152209	11/28/2012	0006452 HOAGLAND, JAMES	EXP REIMB		EXP REIMB	148.11 148.11
		152210	11/28/2012	0003095 HOME DEPOT CREDIT SERVICES	1022941 1030929 1033150 20325 2032916 2045193 2094318 3022322 3035033 3035083 3040341 33379 4034842 4034865 4091534 5024263 5030607 6024099 6034430 7020083 7023778 7023967		SCREW SCRUBBER TANK VALVE ELECTRIC ALTO/CUTTING TOOL/PCA PNL SCREWS/WASHERS/MINI/ANCHOR 19W 4PK FILTERS NCVT-1 STRAINER SCREW BALLAST CIRC 2L FM WH/BULBS CIRC SOLAR BARS BATTERY/CHAIN DOOR STOPS/PRMD ANSH RDUP/HASP/ALLSEASON SHIMS/CEDAR OUTLET/SG RKR MET	5.97 8.70 8.14 233.71 23.92 26.26 8.63 114.08 18.46 35.23 4.34 21.70 25.49 26.03 -25.49 28.20 179.84 70.89 14.62 63.35 39.71 22.67

Voucher List
City of Oak Harbor

vchlist
11/28/2012 4:06:58PM

Bank code :	bank	Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
		152210	11/28/2012	0003095 HOME DEPOT CREDIT SERVICES	(Continued) 7031918 9020666 9031462 95484		PUTTY/BASKET WASHER/CONNECTOR TEE/WASHETS/VINYL MNT KEYSAFE/MNTGTP	12.98 3.38 27.53 35.81 1,034.15
		152211	11/28/2012	0000627 HSBC BUSINESS SOLUTIONS	114707945211		SUPPLIES	282.27 282.27
		152212	11/28/2012	0000394 HUMAN RESOURCE SERVICES	112012		DEC 2012/JUNEMPLOYMENT SERVI	110.00 110.00
		152213	11/28/2012	0000417 INDUSTRIAL BOLT & SUPPLY	523284-1		DRILL/O-RING/STUDS	135.86 135.86
		152214	11/28/2012	0000415 ISLAND DISPOSAL	3033725		RECYCLING	41.00 41.00
		152215	11/28/2012	0000433 ISLAND DRUG	114507124678		INMATE MEDS	20.00 20.00
		152216	11/28/2012	0000438 ISLAND PAINT & GLASS	23365 23577		PAINT PAINT	485.76 308.66 794.42
		152217	11/28/2012	0002828 KAR MART	808822		WHEEL STEEL	298.63 298.63
		152218	11/28/2012	0006362 KBA, INC	3000833		PROF SVC/GUN CLUB ROAD WATE	4,680.15 4,680.15
		152219	11/28/2012	0000477 KESSELRING'S	34485		HOLSTER	86.91 86.91
		152220	11/28/2012	0001475 KOCH, MARGARET	1		TRAVEL REFUND	30.00 30.00

Voucher List
City of Oak Harbor

Bank code :	bank	Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
		152247	11/28/2012	0000665 OFFICEMAX, INC				49.68
		152248	11/28/2012	0006945 OLSON, DALLAS	1		TRAVEL REFUND	28.00
		152249	11/28/2012	0000698 P & L GENERAL CONTRACTORS	2753		JOB TRAILER RENTAL	217.40
		152250	11/28/2012	0005867 PACIFIC POWER BATTERIES	16066975 81139		BATTERIES BATTERIES	70.24 85.68 155.92
		152251	11/28/2012	0002985 PACIFIC TIRE CO. INC	0061634 0061635 0061636 0061676 0061702 0061904 0061962 0062019 0062025		TIRES TIRES TIRES TIRES TIRES TIRES TIRES TIRES TIRES	45.44 63.84 63.84 1,415.52 1,921.70 2,062.75 919.02 362.87 70.33 6,925.31
		152252	11/28/2012	0000710 PLATT ELECTRIC SUPPLY, INC	2697667 2758024		LIGHT BULBS LIGHT BULBS	581.03 19.17 600.20
		152253	11/28/2012	0006866 PROTHMAN	2012-3613 2012-3632		CITY CLERK SERVICES CITY CLERK SERVICES	5,151.80 4,755.51 9,907.31
		152254	11/28/2012	0000746 PUGET SAFETY EQUIPMENT	0008294-IN 0008714-IN		GLOVES GLOVES	105.27 184.79 290.06
		152255	11/28/2012	0000743 PUGET SOUND ENERGY	0349160002 0889461000 0908850001		ELECTRICITY/WELL #7 ELECTRICITY/SEWAGE LAGOON ELECTRICITY/285 SE JEROME STR	12.24 4,503.94 13.45

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
152255	11/28/2012	0000743 PUGET SOUND ENERGY	(Continued)			
			0948350004		ELECTRICITY/KITCHEN EAST SIDE	12.51
			1055170003		ELECTRICITY/STREET LIGHTS	12,100.27
			1149160002		ELECTRICITY/POLICE STATION	1,558.13
			1306440155		ELECTRICITY/180 PIT RD	23.71
			1306440387		ELECTRICITY/SR 20 & SW 24 ST	280.58
			1306444926		ELECTRICITY/34777 STATE ROUTE	105.80
			1306447796		ELECTRICITY/2000 SW SCENIC HE	22.68
			1306449073		ELECTRICITY/1780 SW SPRINGFIE	10.36
			1306449248		ELECTRICITY/3285 SW SCENIC HE	89.38
			2069491005		ELECTRICITY/1577 NW 8TH AVENU	9.66
			2117261004		ELECTRICITY/CITY BEACH PARK	647.38
			2149541001		ELECTRICITY/945 E WHIDBEY AVE	32.44
			2438649366		ELECTRICITY/NW CROSBY AVE & T	116.16
			2668731009		ELECTRICITY/SENIOR CENTER	755.78
			2728350006		ELECTRICITY/ANNEX	19.15
			2972721001		ELECTRICITY/2081 NE 9TH AVENUJ	10.80
			3004881003		ELECTRICITY/HELLER RD AND 700	61.85
			3069491003		ELECTRICITY/1679 SW 8TH AVENU	9.66
			3223642657		ELECTRICITY/SAB 4993 SR 20 E SII	319.03
			3415305956		ELECTRICITY/626 N CHRISTIAN RC	9.66
			3460950003		ELECTRICITY/MIDWAY & SE 8TH S'	157.71
			3997850007		ELECTRICITY/SEWAGE LIFT PMP	9.75
			4249160005		ELECTRICITY/LIFT STATION E PION	102.37
			4763991009		ELECTRICITY/SMITH PARK	9.66
			5039160006		ELECTRICITY/1137 NW KATHLEEN	38.80
			5145502000		ELECTRICITY/90 SE PIONEER WAY	59.40
			5315850007		ELECTRICITY/700 AV W & MIDWAY	209.90
			5410100654		ELECTRICITY/1957 SW FORT NUGT	165.95
			5462650002		ELECTRICITY/HELLER RD TELEME	367.72
			5839160008		ELECTRICITY/DISPOSAL PLANT	3,097.64
			5848181003		ELECTRICITY/FIDALGO & HATHAW,	21.99
			6012561814		ELECTRICITY/3300 OLD GOLDIE R	81.49
			6012568561		ELECTRICITY/SWANTOWN RIDGE	181.99
			6160160005		ELECTRICITY/1285 NE TAFTSON S'	32.33
			6258350005		ELECTRICITY/TRAILER PK S END	24.46
			6768202001		ELECTRICITY/1501 S BEEKSMA DR	25.39

Voucher List
City of Oak Harbor

Bank code : bank

Voucher 152255 Date 11/28/2012 0000743 Vendor PUGET SOUND ENERGY

Invoice	PO #	Description/Account	Amount
(Continued)			
6847904155		ELECTRICITY/1948 NW CROSBY A	92.87
6847904528		ELECTRICITY/1661 NE 16TH AVENL	22.95
6847906499		ELECTRICITY/MIDWAY AVE STREE	315.59
6847906598		ELECTRICITY/651 SE BAYSHORE D	89.66
6847908149		ELECTRICITY/CITY BEACH PARK	9.66
6847908198		ELECTRICITY/SE PIONEER WAY &	249.75
6847908362		ELECTRICITY/1300 NE BIG BERRY	19.41
6847909006		ELECTRICITY/90 SE PIONEER WAY	158.65
6847909394		ELECTRICITY/MIDWAY & SE 4TH S	201.25
6847909501		ELECTRICITY/SE PIONEER WAY &	106.45
6902550000		ELECTRICITY/MCCROHAN & BARR	40.12
7195081000		ELECTRICITY/600 NE 7TH AVENUE	106.17
7258350003		ELECTRICITY/CITY BCH-COMFRT S	169.08
7479771003		ELECTRICITY/552 NW CLIPPER ST	9.66
7647999403		ELECTRICITY/SE CITY BEACH ST B	23.09
7848350000		ELECTRICITY/75 SE JEROME STRE	9.66
7944581003		ELECTRICITY/5941 STATE ROUTE 2	13.55
8191791048		ELECTRICITY/ADULT CARE CENTE	10.89
8258350001		ELECTRICITY/RESTROOM KITCHEN	10.70
8291970286		ELECTRICITY/2330 SW ROSARIO P	38.13
8382791005		ELECTRICITY/FABER ST & HARVES	9.66
8549402009		ELECTRICITY/2075 SW FT NUGENT	18.21
8848350008		ELECTRICITY/CITY BCH PARK	9.75
8922751006		ELECTRICITY/128 E WHIDBEY AVE	9.66
8926771000		ELECTRICITY/PIONEER PARK	18.48
9045851004		ELECTRICITY/1370 SE DOCK STRE	56.35
9049160006		ELECTRICITY/CITY HALL	926.10
9142061002		ELECTRICITY/SR 20 & 650 AV W	1,186.42
9173951006		ELECTRICITY/287 SE CABOT DRIVE	71.06
9249160004		ELECTRICITY/WELL #6	12.24
9269160009		ELECTRICITY/MARINA	2,505.69
9374761006		ELECTRICITY/TREATMENT PLANT	2,679.00
9406881004		ELECTRICITY/CITY SHOP	2,295.86
9640160009		ELECTRICITY/VALVE PIT EAST SIDI	15.07
9816271002		ELECTRICITY/FIRE STATION	1,201.31
9848350006		ELECTRICITY/BATHHOUSE EAST BE	20.00

Voucher List
City of Oak Harbor

Bank code :	bank	Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
		152255	11/28/2012	0000743	0000743 PUGET SOUND ENERGY			
					(Continued)			
		152256	11/28/2012	0002806	RADIA		INMATE SERVICES	76.80
					57993-RADA		INMATE SERVICES	313.20
					57993-RADA			390.00
							Total :	38,043.32
		152257	11/28/2012	0003979	RED LION RIVER INN		HOTEL ACCOMMODATIONS/D ANDI	384.40
					121645		Total :	384.40
		152258	11/28/2012	0000960	REVENUE, WASHINGTON STATE DEPT	112012	OCT 2012/SALES/USE TAX	47,399.47
							Total :	47,399.47
		152259	11/28/2012	0004654	RILEY, KENNETH		TRAVEL ADVANCE	89.00
							Total :	89.00
		152260	11/28/2012	0001649	RIX, KATHY	1	TRAVEL REFUND	30.00
							Total :	30.00
		152261	11/28/2012	0005827	ROBINSON, JACK		EXP REIMB	61.00
					EXP REIMB		Total :	61.00
		152262	11/28/2012	0000781	SAFEWAY		GROCERIES	37.98
					090612		Total :	37.98
		152263	11/28/2012	0005967	SEATTLE AUTOMOTIVE DIST		CONNECTOR	-27.19
					05-444096		PUMP ASM	45.44
					06-788479		BOOT-IGNITION	53.57
					06-788516		DISC PADS	42.01
					06-788580		Total :	113.83
		152264	11/28/2012	0000809	SENIOR SERVICES OF ISLAND		OCT 2012/SENIOR SERVICES	1,500.00
					OH10-2012		Total :	1,500.00
		152265	11/28/2012	0003782	SHARP ELECTRONICS CORPORATION	C760506-701	OCT 2012/MAINTENANCE CONTRA	17.84
							Total :	17.84
		152266	11/28/2012	0000817	SHELLEY, TIM		EXP REIMB	8.88

Bank code :	bank			Invoice	PO #	Description/Account	Amount
Voucher	Date	Vendor					
152266	11/28/2012	0000817	0000817 SHELLEY, TIM	(Continued)			
152267	11/28/2012	0000822	SHRED-IT USA, INC	101203220		SHREDDING	Total : 8.88
				101231368		SHREDDING	49.50
							49.50
152268	11/28/2012	0005444	SIERRA, GEORGINA D	112612		NOV 2012/PUBLIC DEFENSE	Total : 2,500.00
152269	11/28/2012	0005003	SILVEIRA, MANUEL	TRAVEL REIMB		TRAVEL REIMB	Total : 203.70
152270	11/28/2012	0006542	SIPES, TAMRA	112612		EXP REIMB	Total : 203.70
152271	11/28/2012	0000831	SIX ROBBLEES', INC	3-520582		FAN HUB KIT	Total : 44.95
				3-520869		SESNOR	44.95
152272	11/28/2012	0000814	SKAGIT FARMERS SUPPLY	306514		SEED	Total : 466.76
				306696		SEED	167.15
152273	11/28/2012	0000833	SKAGIT HYDRAULICS	124759		PUMP REPAIR	Total : 633.91
152274	11/28/2012	0000853	SKAGIT RIVER STEEL & RECYCLING	25983		ANGLE/FLAT BAR/TUBING	Total : 782.57
152275	11/28/2012	0000846	SOUND PUBLISHING	494381		SEP 2012/PUBLICATIONS-ACCT#80	-131.09
				501412		OCT 2012/PUBLICATIONS-ACCT#8C	651.48
152276	11/28/2012	0000851	SPRINT	18231697		LONG DISTANCE	Total : 73.58
152277	11/28/2012	0003883	STAPLES BUSINESS ADVANTAGE	3184069008		CYBRPWR AVR	Total : 869.40
				3184467031		INK	869.40

Voucher List
City of Oak Harbor

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
152277	11/28/2012	0003883 STAPLES BUSINESS ADVANTAGE	(Continued) 3184467035 3184467036 3185661111 3185661112 3185661114 3186028926 3186028929 3186028930 3186028931		CALENDARS PRINTER DAILY MINDERS TONER PENS/HEATER WIRE FILE TONER PENS/TAPE DISPENSER/PADS/CAF CREDIT	64.93 184.74 45.13 136.90 66.71 83.69 579.62 123.83 -9.40 1,438.02
152278	11/28/2012	0000856 STATE AUDITOR'S OFFICE	L95607		2012 AUDIT SERVICES FOR 2011	48,062.19 48,062.19
152279	11/28/2012	0000863 STERKEL, TIMOTHY	EXP REIMB		EXP REIMB	267.50 267.50
152280	11/28/2012	0000874 SURETY PEST CONTROL	342994		PEST EXTERMINATION	43.48 43.48
152281	11/28/2012	0004847 TULL, NANCY	1		TRAVEL REFUND	30.00 30.00
152282	11/28/2012	0000923 UNITED PARCEL SERVICE	0000A0182W452		SHIPPING	13.85 13.85
152283	11/28/2012	0000922 UNUM LIFE INSURANCE COMPANY	111912		LONG TERM CARE	141.00 141.00
152284	11/28/2012	0006156 US POSTAL SERVICE - HASLER	182677		POSTAGE	3,000.00 3,000.00
152285	11/28/2012	0000934 UTILITIES UNDERGROUND LOCATION	2100160		OCT 2012/LOCATES	72.48 72.48
152286	11/28/2012	0000937 VALLEY FREIGHTLINER, INC	1223180172		LATCH	125.27

Bank code :	bank			Invoice	PO #	Description/Account	Amount
Voucher	Date	Vendor					
152286	11/28/2012	0000937	0000937	VALLEY FREIGHTLINER, INC			
152287	11/28/2012	0002557	0002557	WAGNER, CLIFF	1	TRAVEL REFUND	Total : 125.27
152288	11/28/2012	0006387	0006387	WALTON BEVERAGE COMPANY	11572	COOLERS	Total : 411.97
152289	11/28/2012	0006853	0006853	WEED, GRAAFSTRA & BENSON, INC, L 3		PROF SVC/GENERAL 2012	16,618.51
					4	PROF SVC/GENERAL 2012	8,568.00
					5	PROV SVC/GENERAL 2012	26,324.03
						Total :	51,510.54
152290	11/28/2012	0003897	0003897	WELSHANS, KINDLE		EXP REIMB	30.00
						Total :	30.00
152291	11/28/2012	0000996	0000996	WEST PUBLISHING COMPANY	825964420	OCT 2012/WEST INFORMATION CH	627.12
						Total :	627.12
152292	11/28/2012	0003785	0003785	WESTGATE RV CENTER	110612	NOV 2012/MOBILE OFFICE UNIT RE	200.00
						Total :	200.00
152293	11/28/2012	0001000	0001000	WHIDBEY AUTO PARTS, INC.	159078	FITTING/HOSE	51.36
						Total :	51.36
152294	11/28/2012	0001007	0001007	WHIDBEY CLEANERS	231097	EMBROIDERY	7.61
						Total :	7.61
152295	11/28/2012	0000675	0000675	WHIDBEY COMMUNITY PHYSICIANS	651676	PRE-EMPLOYMENT/PEABODY	270.00
						Total :	270.00
152296	11/28/2012	0002272	0002272	WHIDBEY GOLF & COUNTRY CLUB	110812	CATERING	750.00
						Total :	750.00
152297	11/28/2012	0006151	0006151	WHIDBEY MARKETPLACE & NEWS,LLC 6274		ADVERTISING	250.00
					6295	ADVERTISING	25.00
						Total :	275.00

Bank code :	bank												
Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount							
152298	11/28/2012	0001017 WHIDBEY PRINTERS	45841		CAMPING REMITTANCE ENVELOPE	915.36							
			45848		WINDOW ENVELOPES	248.92							
					Total :	1,164.28							
152299	11/28/2012	0001022 WILKIE, WILLIAM	TRAVEL REIMB		TRAVEL REIMB	213.50							
					Total :	213.50							
152300	11/28/2012	0001067 ZEP SALES & SERVICE	63082013		AEROSOL	226.79							
					Total :	226.79							
146 Vouchers for bank code : bank					Bank total :	635,175.06							
146 Vouchers in this report					Total vouchers :	635,175.06							

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

Bill No. CA AB 16
Date: December 4, 2012
Subject: Amendments to Title 6 OHMC –
Firearms in Public Places –
Introduction

FROM: Edgar J. Green, Chief of Police

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry E Cort, Interim City Administrator
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE:

The purpose of this agenda bill is to introduce several amendments to the Oak Harbor Municipal Code (Sections 6.12.010; 6.14.070; 6.40.180) to bring the City into compliance with state law as it relates to a person's right to lawfully carry a firearm within the State of Washington.

AUTHORITY

RCW 9.41.300(2) Cities, towns, counties, and other municipalities may enact laws and ordinances: (a) Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized. Such laws and ordinances shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others.

FISCAL IMPACT DESCRIPTION

Funds Required: None
Appropriation Source: N/A

SUMMARY STATEMENT

On October 8, 2012 the City of Oak Harbor was contacted by the Second Amendment Foundation requesting and formally demanding that the City amend Oak Harbor Municipal Code Sections 6.12.010, 6.14.070 and 6.40.180 for consistency with State law. Among other things, all three sections prohibit the carrying of firearm in City parks.

The Oak Harbor Municipal Code Sections 6.12.010, 6.14.070 and 6.40.180 were written and adopted between 1961 and 1999 and have not been addressed since that time. These Oak Harbor Municipal Code sections restrict a person's right to carry a firearm in a public place; specifically a City park. The Second Amendment Foundation argues that this restriction is an infringement on Washington State Law [RCW 9.41.300(2)(a)] and the Washington State Constitution (Article 1;

Section 24)].

The Second Amendment Foundation's position has been reviewed by the Interim City Attorney who concurs that the changes should be enacted. Attachment 2 to this agenda bill highlights the proposed code amendments.

STANDING COMMITTEE REPORT

This proposal will be reviewed at the December 11, 2012 Government Services Standing Committee.

RECOMMENDED ACTION

Introduction of potential amendments, Ordinance 1637, to Oak Harbor Municipal Code Sections 6.12.010, 6.14.070 and 6.40.180 to be considered on December 18, 2012.

ATTACHMENTS

1. Copy of Letter: Second Amendment Foundation dated October 8, 2012
2. Proposed Oak Harbor Municipal Code sections 6.12.010; 6.14.070 and 6.40.180
3. Current State Law: RCW 9.41.300

MAYOR'S COMMENTS



Second Amendment Foundation



October 8, 2012

Grant Weed
City of Oak Harbor Attorney
865 SE Barrington Dr.
Oak Harbor, WA 98277

Dear Mr. Grant,

It has come to my attention that the City of Oak Harbor purports to regulate firearms in violation of state law, particularly RCW 9.41.290. In OHMC 6.14.070, OHMC 6.12.010(1)(h), and OHMC 6.40.180, Oak Harbor purports to prohibit the carrying and display of weapons in parks and the marina.

The City of Oak Harbor has no legal authority to adopt or enforce these sections of the Oak Harbor Municipal Code and should, out of respect for the supremacy of the Washington legislature, and out of respect for the rule of law, repeal them.

The Second Amendment Foundation respectfully requests and formally demands Oak Harbor repeal §6.14.070, §6.12.010(1)(h), and §6.40.180 of the Oak Harbor Municipal Code. Failure to do so puts the City of Oak Harbor at risk for a lawsuit.

We await your prompt reply.

Sincerely,

Alan M. Gottlieb
Executive Vice President

¹ RCW 9.41.290 states:

"The state of Washington hereby fully occupies and preempts the entire field of firearms regulation within the boundaries of the state, including the registration, licensing, possession, purchase, sale, acquisition, transfer, discharge, and transportation of firearms, or any other element relating to firearms or parts thereof, including ammunition and reloader components. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to firearms that are specifically authorized by state law, as in RCW 9.41.300, and are consistent with this chapter. Such local ordinances shall have the same penalty as provided for by state law. Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such city, town, county, or municipality.."

Oak Harbor Municipal Code

(Proposed Form)

The displaying part is contrary to state law.

6.12.010 Prohibited activities – Gross misdemeanors.

(1) The following activities are not permitted in city parks:

- (h) ~~Displaying or~~ Using weapons in the park except in lawful self defense or defense of another;

The to carry any firearm is contrary to state law.

6.14.070 Firearms and fireworks.

It is unlawful to shoot, fire or explode any firearm, fireworks, firecrackers, torpedo or explosive of any kind ~~or to carry any firearm~~ or to shoot or fire any air gun, bows and arrows, B.B. gun or use any slingshot in any park without the written permission of the council. (Ord. 214 § 8, 1965).

The displaying part is contrary to state law.

6.40.180 Prohibited activities – Gross misdemeanors.

(1) The following activities are not permitted in the marina:

- (h) ~~Displaying or~~ Using weapons in the marina except in lawful self defense or defense of another;

(2) Every offense defined by this section or conduct made unlawful hereby shall constitute a gross misdemeanor and any person convicted of such crime may be punished by a fine in any sum not to exceed \$5,000 or by imprisonment not to exceed one year, or both such fine and imprisonment.

(Ord. 1167 § 4, 1999)

RCW 9.41.300

Weapons prohibited in certain places — local laws and ordinances — exceptions — penalty.

(1) It is unlawful for any person to enter the following places when he or she knowingly possesses or knowingly has under his or her control a weapon:

(a) The restricted access areas of a jail, or of a law enforcement facility, or any place used for the confinement of a person (i) arrested for, charged with, or convicted of an offense, (ii) held for extradition or as a material witness, or (iii) otherwise confined pursuant to an order of a court, except an order under chapter 13.32A or 13.34 RCW. Restricted access areas do not include common areas of egress or ingress open to the general public;

(b) Those areas in any building which are used in connection with court proceedings, including courtrooms, jury rooms, judge's chambers, offices and areas used to conduct court business, waiting areas, and corridors adjacent to areas used in connection with court proceedings. The restricted areas do not include common areas of ingress and egress to the building that is used in connection with court proceedings, when it is possible to protect court areas without restricting ingress and egress to the building. The restricted areas shall be the minimum necessary to fulfill the objective of this subsection (1)(b).

For purposes of this subsection (1)(b), "weapon" means any firearm, explosive as defined in RCW 70.74.010, or any weapon of the kind usually known as slung shot, sand club, or metal knuckles, or any knife, dagger, dirk, or other similar weapon that is capable of causing death or bodily injury and is commonly used with the intent to cause death or bodily injury.

In addition, the local legislative authority shall provide either a stationary locked box sufficient in size for pistols and key to a weapon owner for weapon storage, or shall designate an official to receive weapons for safekeeping, during the owner's visit to restricted areas of the building. The locked box or designated official shall be located within the same building used in connection with court proceedings. The local legislative authority shall be liable for any negligence causing damage to or loss of a weapon either placed in a locked box or left with an official during the owner's visit to restricted areas of the building.

The local judicial authority shall designate and clearly mark those areas where weapons are prohibited, and shall post notices at each entrance to the building of the prohibition against weapons in the restricted areas;

(c) The restricted access areas of a public mental health facility certified by the department of social and health services for inpatient hospital care and state institutions for the care of the mentally ill, excluding those facilities solely for evaluation and treatment. Restricted access areas do not include common areas of egress and ingress open to the general public;

(d) That portion of an establishment classified by the state liquor control board as off-limits to persons under twenty-one years of age; or

(e) The restricted access areas of a commercial service airport designated in the airport security plan approved by the federal transportation security administration, including passenger screening checkpoints at or beyond the point at which a passenger initiates the screening process. These areas do not include airport drives, general parking areas and walkways, and shops and areas of the terminal that are outside the screening checkpoints and that are normally open to unscreened passengers or visitors to the airport. Any restricted access area shall be clearly indicated by prominent signs indicating that firearms and other weapons are prohibited in the area.

(2) **Cities, towns, counties, and other municipalities may enact laws and ordinances:**

(a) **Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized. Such laws and ordinances shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others; and**

(b) **Restricting the possession of firearms in any stadium or convention center, operated by a city, town, county, or**

other municipality, except that such restrictions shall not apply to:

(i) Any pistol in the possession of a person licensed under RCW 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

(ii) Any showing, demonstration, or lecture involving the exhibition of firearms.

(3)(a) Cities, towns, and counties may enact ordinances restricting the areas in their respective jurisdictions in which firearms may be sold, but, except as provided in (b) of this subsection, a business selling firearms may not be treated more restrictively than other businesses located within the same zone. An ordinance requiring the cessation of business within a zone shall not have a shorter grandfather period for businesses selling firearms than for any other businesses within the zone.

(b) Cities, towns, and counties may restrict the location of a business selling firearms to not less than five hundred feet from primary or secondary school grounds, if the business has a storefront, has hours during which it is open for business, and posts advertisements or signs observable to passersby that firearms are available for sale. A business selling firearms that exists as of the date a restriction is enacted under this subsection (3)(b) shall be grandfathered according to existing law.

(4) Violations of local ordinances adopted under subsection (2) of this section must have the same penalty as provided for by state law.

(5) The perimeter of the premises of any specific location covered by subsection (1) of this section shall be posted at reasonable intervals to alert the public as to the existence of any law restricting the possession of firearms on the premises.

(6) Subsection (1) of this section does not apply to:

(a) A person engaged in military activities sponsored by the federal or state governments, while engaged in official duties;

(b) Law enforcement personnel, except that subsection (1)(b) of this section does apply to a law enforcement officer who is present at a courthouse building as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 26.50.010; or

(c) Security personnel while engaged in official duties.

(7) Subsection (1)(a), (b), (c), and (e) of this section does not apply to correctional personnel or community corrections officers, as long as they are employed as such, who have completed government-sponsored law enforcement firearms training, except that subsection (1)(b) of this section does apply to a correctional employee or community corrections officer who is present at a courthouse building as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 26.50.010.

(8) Subsection (1)(a) of this section does not apply to a person licensed pursuant to RCW 9.41.070 who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises or checks his or her firearm. The person may reclaim the firearms upon leaving but must immediately and directly depart from the place or facility.

(9) Subsection (1)(c) of this section does not apply to any administrator or employee of the facility or to any person who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises.

(10) Subsection (1)(d) of this section does not apply to the proprietor of the premises or his or her employees while engaged in their employment.

(11) Government-sponsored law enforcement firearms training must be training that correctional personnel and community corrections officers receive as part of their job requirement and reference to such training does not constitute a mandate that it be provided by the correctional facility.

(12) Any person violating subsection (1) of this section is guilty of a gross misdemeanor.

(13) "Weapon" as used in this section means any firearm, explosive as defined in RCW 70.74.010, or instrument or weapon listed in RCW 9.41.250.

[2011 c 221 § 2; 2008 c 33 § 1. Prior: 2004 c 116 § 1; 2004 c 16 § 1; 1994 sp.s. c 7 § 429; 1993 c 396 § 1; 1985 c 428 § 2.]

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

Bill No. CA ABIC
Date: December 4, 2012
Subject: GASB Statement No. 54
Ordinance: Introduction

FROM: Doug Merriman, Finance Director 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, Interim City Administrator
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The introduction of an ordinance to set committed revenue classifications as required by GASB Statement No. 54.

AUTHORITY

Under RCW 35A.11.020, The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees;

FISCAL IMPACT DESCRIPTION

There is no direct fiscal impact of implementing GASB Statement No. 54. The amounts reported as the total fund balance in any given fund are not altered. Only the reporting of the individual components that make up total fund balance is changed.

Funds Required: \$ None
Appropriation Source: Not Applicable

SUMMARY STATEMENT

The Governmental Accounting Standards Board (GASB) has issued its Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions. The requirements of this statement are intended to improve financial reporting by providing fund balance categories and classifications that will be more easily understood to the reader of our financial statements.

STANDING COMMITTEE REPORT

The Finance Standing Committee reviewed this item at their November 14, 2012 meeting.

RECOMMENDED ACTION

1. Hold public hearing
2. Approve ordinance to commit specific fund balances.

ATTACHMENTS

1. Draft Ordinance

ORDINANCE NO. 1641

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON, TO ESTABLISH COMMITTED REVENUE CLASSIFICATIONS REQUIRED GOVERNMENTAL ACCOUNTING STANDARDS BOARD (GASB) STATEMENT NO. 54 FOR FINANCIAL REPORTING PURPOSES.

WHEREAS, the City prepares the Annual Financial Report under the standards set by the Governmental Accounting Standards Board (GASB); and

WHEREAS, in February 2009, GASB issued Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, which requires a change in Fund Balance Reporting for all Governmental Funds and clarifies how some governmental funds are presented and classified; and

WHEREAS, with the adequacy of unrestricted fund balance in the general fund being assessed based upon an entities own specific circumstances, the City of Oak Harbor desires to adopt the Governmental Finance Officers Association (GFOA) best practices recommendation, at a minimum, that general-purpose governments, regardless of size, maintain unrestricted fund balance in their general fund of no less than two months of regular general fund operating revenues or regular general fund operating expenditures; and

WHEREAS, the changes within this statement are effective with the City's 2012 financial reporting period; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section One: Commitment of Revenues for Specific Purposes. The City of Oak Harbor shall classify the following fund balances as committed for specific purposes in each respective fund:

BARS 101.00.322.040.000	STREET AND CURB PERMITS	Commit for the operations of the Street Fund
BARS 104.00.367.011.000	CONTRIBUTIONS AND DONATIONS	Commit for the operations of the Arterial Fund
BARS 104.00.379.000.000	CAPITAL CONTRIBUTION - PRIVATE RESC	Commit for the operations of the Arterial Fund
BARS 105.00.368.010.000	SPECIAL ASSESSMENTS-CAPITAL BAYSH	Commit for repayment of Bayshore street improv
BARS 115.00.314.050.000	UTILITY TAX	Commit for the operations of the Arts Fund
BARS 115.00.367.011.000	CONTRIBUTIONS/DONATIONS	Commit for the operations of the Arts Fund
BARS 125.00.367.011.000	CONTRIBUTIONS & DONATIONS	Commit for the operations of Neighborhood Park
BARS 126.00.367.011.000	CONTRIBUTIONS & DONATIONS	Commit for the operations of Community Parks
BARS 129.10.341.099.000	PASSPORTS	Commit for the operations of the Senior Center
BARS 129.10.345.050.000	USER FEES	Commit for the operations of the Senior Center
BARS 129.10.347.040.000	EVENTS	Commit for the operations of the Senior Center
BARS 129.10.347.060.000	PROGRAM FEES - BUS REPLACEMENT	Commit for the operations of the Senior Center
BARS 129.10.347.060.010	TRAVEL	Commit for the operations of the Senior Center
BARS 129.10.347.090.000	MEMBERSHIP	Commit for the operations of the Senior Center
BARS 129.10.362.050.000	RENT	Commit for the operations of the Senior Center
BARS 129.10.367.011.000	DONATIONS	Commit for the operations of the Senior Center
BARS 129.10.367.011.100	SERVICES - DONATION	Commit for the operations of the Senior Center
BARS 129.10.369.090.203	OTHER SPECIAL PROGRAMS	Commit for the operations of the Senior Center

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

Section Five: Effective Date. This ordinance shall take effect five days after publication as provided by law.

Passed by the City Council this 18th day of December, 2012.

THE CITY OF OAK HARBOR

_____ Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

Published: _____

City of Oak Harbor
City Council Agenda Bill

Bill No. CA AB 1d
Date: December 4, 2012
Subject: 2012 Solid Waste Franchise
(Marin Annexation) Introduction

FROM: Cathy Rosen, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, Interim City Administrator
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

This ordinance provides a solid waste franchise to Island Disposal for areas annexed under Ordinance No. 1634.

AUTHORITY

Pursuant to RCW 35A.14.900, the City is required to award a franchise for a term of not less than seven (7) years to a garbage disposal firm which had been operating pursuant to permit or franchise in territory that was annexed by the City. Further, such a firm may have a cause of action for “measurable damages” for cancellation of the prior franchise through annexation. Island Disposal was operating a solid waste disposal firm pursuant to Washington UTC certificate in the annexation area at the time of the annexation and is, therefore, entitled to a franchise from the City.

FISCAL IMPACT DESCRIPTION

Funds Required: \$0
Appropriation Source: Solid Waste Fund 403

SUMMARY STATEMENT

This ordinance grants the franchise required by RCW 35A.14.900. The franchise covers territory annexed under Ordinance No. 1634.

The franchise also provides an additional three-year term (total of 10 years). This term is an agreed settlement of any claim for “measurable damages” that Island Disposal otherwise might have.

STANDING COMMITTEE REPORT

The Public Works Standing Committee will review the Solid Waste Franchise at the December 6, 2012 meeting.

RECOMMENDED ACTION

Set Public Hearing for December 18, 2012 to consider adopting Ordinance 1642 granting a franchise for solid waste disposal services to Island Disposal for a period of ten (10) years in the recently annexed portion of the City.

ATTACHMENTS

Ordinances

Return to:

City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

GRANTOR: City of Oak Harbor

GRANTEE: Island Disposal

LEGAL DESCRIPTIONS:

- Being a portion of the Northeast ¼ of the Northeast ¼ Section 4, Township 32 North, Range 1 East, Willamette Meridian, Island County, Washington, described as follows:
(See Exhibit "A" for complete legal description)

PARCEL NUMBER: R 13204-459-4200

ORDINANCE NO. 1642

AN ORDINANCE OF THE CITY OF OAK HARBOR PROVIDING A SOLID WASTE FRANCHISE TO ISLAND DISPOSAL FOR THE AREA ANNEXED UNDER ORDINANCE NO. 1634

WHEREAS, Island Disposal (hereafter referred to as "Grantee") holds a permit from the State of Washington Utilities and Transportation Commission ("WUTC") to collect solid waste in unincorporated areas within Island County; and

WHEREAS, Ordinance No. 1634 annexed certain land subject to the Grantee's franchise from the WUTC into the City of Oak Harbor; and

WHEREAS, RCW 35.13.280 provides that a solid waste collection franchise in unincorporated areas is canceled for that area upon annexation of the area to a city; and

WHEREAS, RCW 35.13.280 requires the annexing city to grant at least a seven (7) year franchise to a business whose franchise was extinguished by annexation or to purchase or condemn the original franchise rights;

Island Disposal Solid Waste Franchise
Ordinance (Marin Annexation) - 1

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

Section One. A franchise to provide solid waste disposal services to certain areas within the city limits of the city of Oak Harbor is hereby granted to Island Disposal on the following terms and conditions:

- (1) **Franchise area.** This franchise applies to the area annexed into the city through the adoption of Ordinance No. 1634, described in Exhibit "A" hereto attached.
- (2) **Nature of the franchise.** Grantee shall hereby have an exclusive right during the term of the franchise granted by this ordinance to collect and haul for hire over the streets and alleys of the city all solid waste collected from private customers located within the corporate limits of the city in the franchise area described in paragraph (1) above.

"Solid waste", as used herein, shall be interpreted to mean and include all solid waste, animal and vegetable matter, rubbish, trash, debris, ashes, tin cans, and other waste materials generally, including articles ordinarily and customarily hauled away and dumped.

- (3) **Duration of the franchise.** The franchise shall become effective five (5) days after publication of this ordinance and shall continue for ten (10) years from its effective date. Thereafter, the franchise shall terminate unless extended by written agreement approved by City Council.
- (4) **Acceptance of franchise.** Acceptance of this franchise shall constitute Grantee's agreement that the ten (10) year franchise period provided herein constitutes full and fair compensation to Grantee for any damages that Grantee may have suffered as a result of the annexation of territory pursuant to Ordinance No. 1634.
- (5) **Utility tax.** The Grantee shall pay utility taxes imposed on solid waste utility services by the City of Oak Harbor for all solid waste utility services provided by the franchise within the city of Oak Harbor and all areas listed in this franchise ordinance in which a franchise is granted or extended or both granted and extended.

It is further provided that such taxes shall apply to this franchise upon its effective date.

- (6) Collection rates. Grantee's collection rates inside the city shall be at the same levels as those filed with and approved by the WUTC for regulated Island County service by Grantee or its successor; provided, nothing in this section shall be construed as preventing Grantee from increasing the collection rates approved by the WUTC to account for the cost of any utility taxes or increases in utility taxes imposed by the City on solid waste services.

Grantee will provide notice to the City of applications for changes in rates or charges made to WUTC which affects rates in the franchise area. Grantee will further notify the City if WUTC ceases to regulate rates for Grantee in Island County.

It is further provided, that if the WUTC ceases regulating rates for Grantee in Island County, then the Grantee's rates for solid waste collection services in the franchise area shall be the same as those rates established by the City for customers of the City solid waste utility; provided, that the Grantee shall have the right to request a public hearing within thirty (30) days of notice of the application of City rates to the franchise area to establish a different rate structure for the franchise area. After public hearing on the Grantee's proposed rates, the City shall establish such rates as are reasonable based on the charges last approved by the WUTC to cover the cost of service and to allow for sufficient profit in the provision of solid waste collection service.

At the time of enactment of this franchise, the City requires mandatory accounts within all franchise areas. Grantee will cooperate in providing information in this regard unless and until the franchise expires or the City amends its requirements for mandatory accounts.

- (7) Frequency of collections. Grantee shall offer regular collections of solid waste throughout the business areas assigned to the Grantee and shall offer once a week collection in all residential districts assigned to the Grantee in accordance with the franchise issued by the WUTC; provided, that the City may modify this clause as to frequency of collections or solid waste and may prescribe the hours during which collections will be made, and Grantee shall comply with all such regulations so adopted and prescribed.
- (8) Service required. Grantee shall furnish collection service to any person or organization, public or private, within the franchise area within thirty (30) days of receipt of a written request for such service.

Grantee shall not, however, be required to furnish service to any household, dwelling, business establishment or other building requiring service unless the owner thereof shall furnish an opening to his yard or grounds from the alley or street where solid waste is customarily collected, and Grantee shall not be required to service any household, dwelling, business establishment or other building, where a private road

must be used to obtain access thereto unless such private road is more than twenty (20) feet in width. The Grantee shall notify the City of addresses and locations of any household, dwelling, business establishment or other building in the area which it is not providing service under this provision with the reason why it is not providing service.

- (9) Customer list. Grantee will advise City of lists of customers on a regular basis to be established by the City so that the City may use such information to assure universal collection of solid waste service for the City of Oak Harbor.
- (10) Yard Waste Services. The City may provide yard waste collection services in the annexation areas.
- (11) Reserved regulations. The City reserves the right to impose additional regulations upon Grantee in its discretion for purposes of health, welfare and safety.

Section Two. Notice of Tax on Utility Business. This ordinance shall establish written notice to Island Disposal that the rate for solid waste utilities is presently set at six and one-quarter percent (6.25%) on the gross income derived from doing business in Oak Harbor. This rate is subject to change by Oak Harbor ordinance.

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

Section Four. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication as required by law.

PASSED by the City Council and approved by its Mayor this ____ day of _____, 2012.

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

ORDINANCE NO. 1634

AN ORDINANCE OF THE CITY OF OAK HARBOR WASHINGTON ANNEXING CERTAIN REAL PROPERTY AND COUNTY RIGHT-OF-WAY TO THE CITY OF OAK HARBOR, ASSESSING ALL PROPERTY WITHIN THE ANNEXATION AREA AT THE SAME RATE AND BASIS AS OTHER PROPERTY WITHIN THE CITY, REQUIRING THE SUBJECT PROPERTIES TO ASSUME THEIR PROPORTIONATE SHARE OF CITY INDEBTEDNESS AND ASSIGNING ZONING FOR THE ANNEXED PROPERTY CONSISTENT WITH THE OAK HARBOR COMPREHENSIVE PLAN

WHEREAS, a property owner filed a petition on September 21, 2010 with the City of Oak Harbor requesting the annexation of a parcel of real property within the Oak Harbor Urban Growth Area and contiguous to the municipal boundary of the City of Oak Harbor, Island County, Washington, pursuant to RCW 35A.14.120 now in effect; and

WHEREAS, a public hearing was held before the City Council of Oak Harbor on October 2, 2012, notice of said hearing having been published as required by law; and

WHEREAS, the City Council of the City of Oak Harbor, following due deliberation and careful consideration of the public testimony and the issues germane to the annexation petition, finds that the proposal is consistent with state and local laws pertaining to the annexation of property to the City of Oak Harbor and with the Urban Growth Area goals and policies in the Oak Harbor Comprehensive Plan;

NOW, THEREFORE

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

Section One. That the following described property, situated in the County of Island, State of Washington and contiguous to the City of Oak Harbor, is hereby annexed to and incorporated into the City of Oak Harbor, Washington:

See Exhibit A, attached

Situated in Island County, Washington

Section Two. All said real property in the annexed area described in Section 1 shall be assessed and taxed at the same rate and on the same basis as other property in the City of Oak Harbor is assessed and taxed, assume it's proportionate share of existing City indebtedness and shall be subject to the comprehensive plan as presently adopted or as hereafter amended.

Section Three. The annexed area described in Section 1 is hereby assigned zoning of R-1, Single-family Residential, consistent with the Oak Harbor Comprehensive Plan Future Land Use Map. The zoning provisions of the Oak Harbor Municipal Code shall be in full force and effect in the annexed area in accordance with this assignment.

Section Four. Severability and Savings Clause

- (1) If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.
- (2) Deletion or amendment of provisions from the Oak Harbor Municipal Code shall not terminate any obligation to the City already vested or incurred thereunder.

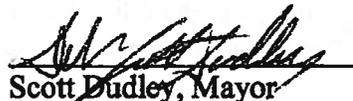
Section Five. Effective Date. This Ordinance shall be in full force and effect (5) five days after its publication as required by law.

PASSED by the City Council this 2nd day of October 2012.

CITY OF OAK HARBOR

Approved
Vetoed

()
()


Scott Dudley, Mayor

Oct 2, 2012
Date

ATTEST:


Interim City Clerk

Approved as to Form:


Interim City Attorney

Introduction: Oct 2, 2012

Passed: Oct 2, 2012

Published: Oct 6, 2012

LEGAL DESCRIPTION

THE WEST 440.00 FEET OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 4. TOWNSHIP 32 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN NORTH OF THE COUNTY ROAD EXCEPT BEGINNING 700.5 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 4; THENCE SOUTH 340.6 FEET TO THE NORTH SIDE OF THE COUNTY ROAD; THENCE S. 50° 38' E., 105.8 FEET; THENCE N. 39° 22' E., 262.4 FEET; THENCE N. 50° 26' W. 322.2 FEET TO THE T.P.B. TOGETHER WITH A PORTION OF THE FOLLOWING DESCRIBED TRACT LYING NORTHEAST OF COUNTY ROAD IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 4, BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE SOUTH 600.00 FEET; THENCE NORTHEASTERLY TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER 336.00 EAST OF THE T.P.O.B.; THENCE WEST TO THE T.P.O.B.

TOGETHER WITH A PORTION OF THE COUNTY ROAD BEGINNING AT THE NORTH MARGIN OF THE COUNTY ROAD 105.8 FEET SOUTHEAST FROM THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 4. TOWNSHIP 32 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN NORTH OF THE COUNTY ROAD; THENCE AT RIGHT ANGLES TO THE SOUTH MARGIN OF SWANTOWN ROAD; THENCE SOUTHEASTERLY ALONG THE SOUTH MARGIN OF THE COUNTY ROAD TO A POINT WHERE IT INTERSECTS THE NORTH MARGIN OF FAIRWAY LANE; THENCE AT RIGHT ANGLES ACROSS THE COUNTY ROAD TO THE NORTH MARGIN OF THE COUNTY ROAD; THENCE NORTHWESTERLY ALONG THE NORTH MARGIN OF THE COUNTY ROAD T.P.B.



December.....

Mark Vasconi
Director, Regulatory Services
Washington Utility and Transportation Commission
Post Office Box 47250
Olympia, WA 98504-7250

Re: Notice regarding Annexation – Island County Disposal

Dear Mr. Vasconi:

You are hereby notified that pursuant to Ordinance 1634 the City of Oak Harbor has annexed unincorporated area of Island County. A copy of the Ordinance of Annexation is enclosed.

The City and Island Disposal have entered into a franchise for Island Disposal to continue to provide service in the annexation area. A copy of the Ordinance providing for the franchise also is enclosed.

This notice is issued under RCW 35.13.280 and WAC 480-70-141.

If you have any questions concerning this written notice, please feel free to contact the undersigned.

Sincerely,

Nacelle J. Heuslein, CMC
Interim City Clerk

**NOTICE OF A PUBLIC HEARING BEFORE THE OAK HARBOR CITY COUNCIL
To consider adopting Ordinance 1642 and Granting a Franchise to Island
Disposal**

CC 12-37

Notice is hereby given that a public hearing will be held before the Oak Harbor City Council in the Council Chambers at City Hall, 865 SE Barrington Drive, Oak Harbor, Washington on Tuesday, December 18, 2012 at 6:00 p.m. or as soon thereafter as possible to consider adopting Ordinance 1642 granting a franchise for solid waste disposal services to Island Disposal for a period of ten (10) years in the recently annexed portion of the City.

Information is available at City Hall, 865 SE Barrington Drive, Oak Harbor, Washington; 279-4500.

Nacelle Heuslein
Interim City Clerk

Published: Whidbey News Times
Saturday, December 1, 2012

To Paper: November 27, 2012

Marianne Ledgerwood

From: Grant Weed [grantw@snohomishlaw.com]
Sent: Monday, November 26, 2012 3:15 PM
To: Marianne Ledgerwood
Subject: FW: OH Grant of Solid Waste Franchise

So ordinance
should be
introduced on
12-4 and not
adopted until 12-18.
See RCW 35A.47.040
GW

From: Thom Graafstra
Sent: Mon 11/26/2012 3:12 PM
To: Grant Weed
Cc: Kathy Pugh
Subject: RE: OH Grant of Solid Waste Franchise to Island Disposal

35A.47.040 provides as follows:

No ordinance or resolution granting any franchise in a code city for any purpose shall be adopted or passed by the city's legislative body on the day of its introduction nor for five days thereafter, nor at any other than a regular meeting nor without first being submitted to the city attorney, nor without having been granted by the approving vote of at least a majority of the entire legislative body, nor without being published at least once in a newspaper of general circulation in the city before becoming effective.

So as to your questions:

1. Is the City required to give notice and hold a public hearing before granting the franchise? NO.
2. Is a simple majority of Council approving the ordinance sufficient? ABSOLUTE MAJORITY OF 4 REQUIRED
3. Is there a statutory requirement for recording the ordinance? NO. NOTE THE TWO READINGS.
4. Have you reviewed the final form of ordinance and can I sign off Approved as to Form? YES, AND YOU MAY.

Tom

Thom H. Graafstra
WEED, GRAAFSTRA AND BENSON, INC., P.S.
21 Avenue A
Snohomish, WA 98290
(360) 568-3119; (360) 568-4437(fax)

This electronic message transmission contains information from the law firm of Weed, Graafstra and Benson, Inc., P.S. which may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this transmission is prohibited. If you have received this electronic transmission in error, please notify us immediately by reply e-mail and delete the original message.
Thank you.

From: Grant Weed
Sent: Monday, November 26, 2012 2:35 PM
To: Thom Graafstra
Cc: Kathy Pugh
Subject: OH Grant of Solid Waste Franchise to Island Disposal

- I am being asked to review and sign off on the Agenda Bill and Ordinance. I have 4 questions:
1. Is the City required to give notice and hold a public hearing before granting the franchise?
 2. Is a simple majority of Council approving the ordinance sufficient?
 3. Is there a statutory requirement for recording the ordinance?

4. Have you reviewed the final form of ordinance and can I sign off Approved as to Form?
Grant

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

Bill No. CA- AB 1-e
Date: December 4, 2012
Subject: Excused Absence Request
Mayor Pro Tempore Danny
Paggao

FROM: Scott Dudley 
Mayor

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Larry Cort, Interim City Administrator
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of the agenda bill is to present and approve Mayor Pro Tempore Danny Paggao's excused absence request for the January 15, 2013 and February 5, 2013 regular City Council Meetings.

AUTHORITY

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

SUMMARY STATEMENT

Mayor Pro Tempore Paggao has submitted an excused absence request for the January 15th and February 5th, 2013 regular City Council Meetings.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Move to approve Mayor Pro Tempore Paggao's excused absence for the January 15, 2013 and February 5, 2013 regular City Council Meetings.

ATTACHMENTS

Excused Absence Request

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

Bill No.

AB 2

Date:

December 4, 2012

Subject:

Adopt Final Ordinance: 2013-2014
Biennial Budget.

FROM: Doug Merriman, Finance Director 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, Interim City Administrator
 Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill presents the proposed ordinance required under RCW 35A.34.120 for adopting the City's 2013-2014 biennial budget. This ordinance will set the appropriation levels, by fund, for the biennial period.

AUTHORITY

RCW 35.34.040 authorizes First-Class cities to adopt biennial budgets. In addition, RCW 35A.11.020 gives Code cities such as Oak Harbor the same authority as given to other classes of cities. The rules for adopting biennial budgets by Code cities are set out in RCW 34A.34.

SUMMARY STATEMENT

This agenda bill is to present the biennial budget ordinance for the biennial budget period 2013-2014. The requested budget authorizations have been established as a result of presentations made by staff to City Council during previous budget workshops.

The attached ordinance, in proper format, presents the appropriation or spending authority for each fund of the City. Any future changes in authority at the fund level will be presented to Council for approval.

RECOMMENDED ACTION

- 1) Hold a public hearing.
- 2) Adopt Ordinance #1645

ATTACHMENTS:

Draft Ordinance

MAYOR'S COMMENTS

ORDINANCE NO. 1645

AN ORDINANCE TO ENCUMBER RESOURCES AND TO ESTABLISH EXPENDITURE AUTHORITY THROUGH THE ADOPTION OF THE CITY OF OAK HARBOR 2013-2014 BIENNIAL BUDGET.

WHEREAS, the City of Oak Harbor has elected to utilize a biennial budget as provided in RCW 35A.34.040; and

WHEREAS, a public hearing was held June 15, 2012 regarding revenue sources for the coming year's budget, including consideration of possible increases in property tax revenues as required by RCW 84.55.120; and

WHEREAS, budget estimates from each department of City government were provided to the City Clerk as required by RCW 35A.34.050 on or before September 18, 2012 setting forth the complete financial program of the City for the ensuing fiscal biennium; and

WHEREAS, a proposed preliminary budget was prepared setting out the complete financial program of the City for the ensuing fiscal biennium as required by RCW 35A.34.070; and

WHEREAS, the preliminary budget was prepared in detail on November 20, 2012, making revisions or additions to the reports of the department heads and is made available to the public at least six weeks prior to the City's new fiscal biennium, beginning January 1, 2013; and

WHEREAS, the City Clerk has published notice of a final public hearing on the final 2013-2014 biennial budget in the Whidbey News Times on October 31 and November 7, 2012; and,

WHEREAS, the Oak Harbor City Council held the final public hearing at the December 4, 2012 City Council meeting to receive discussion and input from the public; and,

WHEREAS, the City of Oak Harbor desires to set forth and establish expenditure authority for the purpose of continuing operations for the biennial period commencing January 1, 2013 through December 31, 2014;

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

Section 1: The 2013-2014 Biennial Budget as presented at the December 4, 2012 public hearing is hereby adopted as the revenue and expenditure authority for years 2013-2014 for the City of Oak Harbor. The City Clerk is instructed to file the same with the minutes of this meeting. Set forth in summary form are the totals of the estimated revenues and encumbrances for each separate fund and the aggregate totals for all such funds combined.

Fund Name	Fund #	2013	2014
General Fund	001	\$15,919,629	\$16,184,307
Street Fund	101	1,630,324	1,431,294
Arterials Fund	104	110,000	3,290,000
Transportation Capital Improvement Fund	105	1,195,425	1,031,344
Paths & Trails Fund	106	24,348	26,548
Art Acquisition & Maintenance Fund	115	52,365	78,818
Civic Improvement Fund	116	556,375	583,375
Neighborhood Parks Fund	125	99,842	101,842
Community Parks Fund	126	383,381	271,161
Senior Center Fund	129	419,475	393,103
Municipal Capital Improvement Fund - REET I	311	2,031,993	1,931,993
Municipal Capital Improvement Fund - REET II	312	1,080,069	980,069
Waterfront Redevelopment Fund	325	477,278	403,778
Water Fund	401	13,088,716	8,693,755
Waste Water Fund	402	12,478,110	13,849,259
Solid Waste Fund	403	5,423,711	4,471,989

Storm Drain Fund	404	1,471,262	3,615,849
Marina Fund	410	2,038,167	1,852,959
Water Cumulative Reserve Fund	411	5,979,736	6,128,736
Waste Water Cumulative Reserve Fund	412	5,029,772	5,117,272
Solid Waste Cumulative Reserve Fund	413	116,546	117,146
Storm Drain Cumulative Reserve Fund	414	436,203	463,203
Marina Cumulative Reserve Fund	420	96,224	96,224
Equipment Rental Fund	501	1,441,735	1,292,782
Equipment Replacement Fund	502	8,121,703	7,841,731
Facility Fund	510	2,926,205	2,786,539
Total		\$82,628,594	\$83,035,076

Section 2: This ordinance shall be in full force and effect on January 1, 2013, at least five days after passage and upon legal publication.

PASSED and approved by the City Council this 4th day of December, 2012.

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

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

Bill No. AB 3
Date: December 4, 2012
Subject: Ordinance to Amend OHMC
Chapter 3.22

FROM: Doug Merriman, Finance Director 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, Interim City Administrator
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The Finance Department recommends eliminating Fund #505 Technology Reserve Fund. The existing reserve funds, and any future reserve transactions, will be consolidated with Fund #502 Equipment Replacement Fund. Maintaining two separate funds for a similar purpose is redundant.

AUTHORITY

Under RCW 35A.11.020, The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees;

BACKGROUND INFORMATION

The City currently utilizes two funds for accumulating financial resources for the replacement of equipment: 1) Fund #505 Technology Reserve Fund, and 2) Fund #502 Equipment Replacement Fund. The two separate funds have been used to delineate reserve accumulations between those designated for the replacement of technology related assets, and all other assets such as vehicles and operating equipment. The accounting methodologies are identical for both funds.

After review, the Finance Department would like to consolidate the two funds. Currently, the State Auditor's BARS rules require that Cities utilize the minimum number of funds possible in the recording and transacting of City business. Originally, the two funds were created separately in order to segregate technological assets funds from other equipment funds. Today, the City's EDENS accounting system allows this segregation to occur within one fund – making the two fund requirement obsolete. Accordingly, consolidating the two funds meets the state BARS requirement while allowing Finance to track and segregate funds appropriately.

FISCAL IMPACT DESCRIPTION

Funds Required: \$ Not Applicable
Appropriation Source: Not Applicable

STANDING COMMITTEE REPORT

This topic has been presented to the Finance Standing Committee on November 14, 2012.

RECOMMENDED ACTION

- 1) Hold Public Hearing.
- 2) Adopt ordinance amending Oak Harbor Municipal Code chapter 3.22.

ATTACHMENTS

Draft Ordinance

MAYOR'S COMMENTS

ORDINANCE NO. 1646

AN ORDINANCE REPEALING OAK HARBOR MUNICIPAL CODE SECTION 3.22 ELIMINATING FUND #505 TECHNOLOGY FUND.

WHEREAS, proper public notice has been given; and

WHEREAS, the City desires to effectively retire fund #505 Technology Fund due to the fund's redundancy with other City funds making the fund designation no longer required; and

WHEREAS, the State Auditors Office recommends through the Budget Accounting and Reporting System (BARS) that City's should operate using the minimum number of funds required to record financial transactions.

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

Section One. Oak Harbor Municipal Code Chapter 3.22 entitled "Technology Reserve Fund" is eliminated and repealed in its entirety.

Section Two: Effective Date. This ordinance shall be in full force and effect five days after its passage and publication as provided by law.

PASSED and approved by the City Council this 4th day of December, 2012.

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

**NOTICE OF A PUBLIC HEARING BEFORE THE OAK HARBOR CITY COUNCIL
CC 12-31**

Notice is hereby given that a public hearing will be held before the Oak Harbor City Council in the Council Chambers at City Hall, 865 SE Barrington Drive, Oak Harbor, Washington on Tuesday, December 4, 2012 at 6:00 p.m. or as soon thereafter as possible to consider the following matter:

To consider the elimination of the Technology Fund No. 505

Information is available at City Hall, 865 SE Barrington Drive, Oak Harbor, Washington; 279-4500.

Nacelle Heuslein
Interim City Clerk

Published: Whidbey News Times
November 17, 2012

To Paper: November 7, 2012

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

Bill No. AB 4
Date: December 4, 2012
Subject: REET I Ordinance: Public hearing

FROM: Doug Merriman, Finance Director 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, Interim City Administrator
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda item is for the City Council to hold a public hearing to consider an ordinance to amend OHMC 3.62.040 to allow Real Estate Excise Tax proceeds to be used for operations and maintenance.

AUTHORITY

Under RCW 35A.11.020, The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees;

SUMMARY STATEMENT

The 2011 legislature expanded, for a limited period of time, the uses of the real estate excise tax, both the first quarter percent (REET 1) under RCW 82.46.010 and the second quarter percent (REET 2) under RCW 82.46.035.[1] Cities may now, with some restrictions, use REET 1 and REET 2 for operations and maintenance (O&M) of existing capital projects. This new authority expires on December 31, 2016. This ordinance is presented to amend OHMC 3.62.040 to adopt specific language to allow REET 1 proceeds to be used under the expanded use definition.

Limits on the amounts that may be expended:

- The maximum amount of REET 1 that may be spent on O&M is the greater of \$100,000 or 35 percent of the available funds, not to exceed \$1 million.
- The maximum amount of REET 2 that may be spent on O&M is also the greater of \$100,000 or 35 percent of the available funds, not to exceed \$1 million.
- For counties that use REET 2 monies for payment of debt service, the total they can spend on debt service and O&M *together* is the greater of \$100,000 or 35 percent of the available funds, not to exceed \$1 million.
- The funds may be new tax receipts or past REET revenues that you are holding reserves in your capital improvements fund.

FISCAL IMPACT DESCRIPTION

Funds Required: \$ Not Applicable
Appropriation Source: Not Applicable

STANDING COMMITTEE REPORT

This topic has been presented to the Finance Standing Committee on November 14, 2012.

RECOMMENDED ACTION

1. Hold public hearing
2. Adopt ordinance #1648

ATTACHMENTS

1. Draft ordinance.

Ordinance No. 1648

AN ORDINANCE AMENDING SECTION 3.62.040 OF THE CITY OF OAK HARBOR MUNICIPAL CODE TO ALLOW THE FIRST QUARTER PERCENT OF THE REAL ESTATE EXCISE TAX REVENUES TO BE USED, WITH SOME CONDITIONS, FOR OPERATIONS AND MAINTANCE OF EXISTING CAPITAL PROJECTS.

WHEREAS the Legislature in 2011 amended RCW 82.46.010 to allow real estate excise tax revenues to be used, within certain limits, for the operations and maintenance of existing capital projects;

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

Section 1. Section 3.62.040 of the City of Oak Harbor Municipal Code is amended to read as follows:

SECTION 3.62.040 Distribution of tax proceeds and limiting the use thereof.

(1) The county treasurer shall place one percent of the proceeds of the taxes imposed herein in the county current expense fund to defray costs of collection.

~~(2) The remaining proceeds from city taxes imposed in this chapter shall be distributed to the city monthly, and those taxes imposed under OHMC 3.62.010 shall be placed by the city treasurer in a municipal capital improvements fund. These capital improvement funds shall be used by the city solely for financing capital projects as defined by RCW 82.46.010(6) that are specified in a capital facilities plan element of a comprehensive plan and housing relocation assistance under RCW 59.18.440 and 59.18.450.~~

(2) The remaining proceeds from city taxes imposed herein shall be distributed to the city monthly and those taxes imposed under Section 3.62.010 shall be placed by the city treasurer in a municipal capital improvements fund. These capital improvements funds shall be used by the city as authorized by RCW 82.46.010, as now or hereafter amended.

3. This section shall not limit the existing authority of this city to impose special assessments on property specially benefited thereby in the manner prescribed by law.

Section 2. Ratification and Confirmation. Actions taken prior to the effective date of this Ordinance that are consistent with it are hereby ratified and confirmed.

Section 3. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED and approved by the City Council this 4th day of December, 2012.

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

**NOTICE OF A PUBLIC HEARING BEFORE THE OAK HARBOR CITY COUNCIL
CC 12-32**

Notice is hereby given that a public hearing will be held before the Oak Harbor City Council in the Council Chambers at City Hall, 865 SE Barrington Drive, Oak Harbor, Washington on Tuesday, December 4, 2012 at 6:00 p.m. or as soon thereafter as possible to consider the following matter:

The adoption of Ordinance 1648 REET I to allow the First Quarter Percent of the Real Estate Tax Revenues to be used, with some conditions, for Operations and Maintenance of existing Capital Projects.

Information is available at City Hall, 865 SE Barrington Drive, Oak Harbor, Washington; 279-4500.

Nacelle Heuslein
Interim City Clerk

Published: Whidbey News Times
November 24, 2012

To Paper: November 19, 2012

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 350

LECTURE 1

1.1

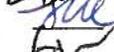
1.2

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

Bill No. AB 5
Date: December 4, 2012
Subject: REET II Ordinance: Public hearing

FROM: Doug Merriman, Finance Director 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, Interim City Administrator
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda item is for the City Council to hold a public hearing to consider an ordinance to amend OHMC 3.62.040 to allow Real Estate Excise Tax proceeds to be used for operations and maintenance.

AUTHORITY

Under RCW 35A.11.020, The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees;

SUMMARY STATEMENT

The 2011 legislature expanded, for a limited period of time, the uses of the real estate excise tax, both the first quarter percent (REET 1) under RCW 82.46.010 and the second quarter percent (REET 2) under RCW 82.46.035.[1] Cities may now, with some restrictions, use REET 1 and REET 2 for operations and maintenance (O&M) of existing capital projects. This new authority expires on December 31, 2016. On December 4, 2012, an ordinance will presented to amend OHMC 3.62.040 to adopt specific language to allow REET I proceeds to be used under the expanded use definition.

Limits on the amounts that may be expended:

- The maximum amount of REET 1 that may be spent on O&M is the greater of \$100,000 or 35 percent of the available funds, not to exceed \$1 million.
- The maximum amount of REET 2 that may be spent on O&M is also the greater of \$100,000 or 35 percent of the available funds, not to exceed \$1 million.
- For counties that use REET 2 monies for payment of debt service, the total they can spend on debt service and O&M *together* is the greater of \$100,000 or 35 percent of the available funds, not to exceed \$1 million.
- The funds may be new tax receipts or past REET revenues that you are holding reserves in your capital improvements fund.

FISCAL IMPACT DESCRIPTION

Funds Required: \$ Not Applicable
Appropriation Source: Not Applicable

STANDING COMMITTEE REPORT

This topic has been presented to the Finance Standing Committee on November 14, 2012.

RECOMMENDED ACTION

1. Hold public hearing
2. Adopt ordinance #1649

ATTACHMENTS

1. Draft ordinance.

Ordinance No.1649

AN ORDINANCE AMENDING SECTION 3.62.140 OF THE CITY OF OAK HARBOR MUNICIPAL CODE TO ALLOW THE SECOND QUARTER PERCENT OF THE REAL ESTATE EXCISE TAX REVENUES TO BE USED, WITH SOME CONDITIONS, FOR OPERATIONS AND MAINTANCE OF EXISTING CAPITAL PROJECTS

WHEREAS the Legislature in 2011 amended RCW 82.46.035 to allow real estate excise tax revenues to be used, within certain limits, for the operations and maintenance of existing capital projects;

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

Section 1: Section 3.62.140 of the City of Oak harbor Municipal Code is hereby amended to read as follows:

3.62.140 Distribution of tax proceeds and limiting the use thereof.

(1) The county treasurer shall place one percent of the proceeds of the taxes imposed in this chapter in the county current expense fund to defray costs of collection.

(2) The remaining proceeds from city taxes imposed in this chapter shall be distributed to the city monthly, and those taxes imposed under OHMC 3.62.110 shall be placed by the city treasurer in a municipal capital improvements fund.

~~(3) Revenues generated from the tax imposed under subsection (2) of this section shall be used by Oak Harbor solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan. Proceeds from this additional tax shall be deposited in a separate account in the municipal capital improvements fund and expended as authorized by law under RCW 82.46.035.~~

(4) This section shall not limit the existing authority of this city to impose special assessments on property specially benefited thereby in the manner prescribed by law. (Ord. 1053 § 5, 1996).

Section 2. Ratification and Confirmation. Actions taken prior to the effective date of this Ordinance that are consistent with it are hereby ratified and confirmed.

Section 3. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED and approved by the City Council this 4th_ day of December, 2012.

THE CITY OF OAK HARBOR

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

**NOTICE OF A PUBLIC HEARING BEFORE THE OAK HARBOR CITY COUNCIL
CC 12-33**

Notice is hereby given that a public hearing will be held before the Oak Harbor City Council in the Council Chambers at City Hall, 865 SE Barrington Drive, Oak Harbor, Washington on Tuesday, December 4, 2012 at 6:00 p.m. or as soon thereafter as possible to consider the following matter:

To consider the adoption of Ordinance 1648 REET II to allow the Second Quarter Percent of the Real Estate Tax Revenues to be used, with some conditions, for Operations and Maintenance of existing Capital Projects.

Information is available at City Hall, 865 SE Barrington Drive, Oak Harbor, Washington; 279-4500.

Nacelle Heuslein
Interim City Clerk

Published: Whidbey News Times
November 24, 2012

To Paper: November 19, 2012

The first part of the paper discusses the general theory of the firm, focusing on the relationship between the firm's production function and its cost function. It shows how the firm's optimal input choice is determined by the equality of the marginal product of an input and its price.

The second part of the paper discusses the theory of the firm in a dynamic context, focusing on the firm's investment decisions. It shows how the firm's optimal investment choice is determined by the equality of the marginal benefit of an investment and its cost.

The third part of the paper discusses the theory of the firm in a market context, focusing on the firm's pricing decisions. It shows how the firm's optimal price choice is determined by the equality of marginal revenue and marginal cost.

The fourth part of the paper discusses the theory of the firm in a general equilibrium context, focusing on the firm's production decisions. It shows how the firm's optimal production choice is determined by the equality of the marginal product of an input and its price.

THE UNIVERSITY OF CHICAGO

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

Bill No. AB 6
Date: December 4, 2012
Subject: Wellness Day Off – December 24, 2012

FROM:  Larry Cort, Interim City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill presents a proposed Resolution designating December 24, 2012 as a Wellness Day for City staff and closing City offices except for essential services.

AUTHORITY

RCW 35A.11.020

Powers vested in legislative bodies of noncharter and charter code cities.

The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter.

OHMC 1.16.010 Adoption of optional municipal code.

There is adopted for the city of Oak Harbor, Washington, the classification of Noncharter Code City, retaining the mayor-council plan of government under which the city of Oak Harbor is presently operated, as provided in Chapter 35A.12 RCW, endowed with all the applicable rights, powers, privileges, duties and obligations of a noncharter code city as the same now exists, or may be provided hereafter, including any and all supplements, amendments or other modifications of said title hereafter at any time enacted.

FISCAL IMPACT DESCRIPTION

Funds Required: None anticipated
Appropriation Source: NA

SUMMARY STATEMENT

On June 18, 2012, the City Council adopted the revised Employee Policy Manual which, among other changes, instituted a “Wellness Day” program to encourage voluntary participation in wellness-related activities. As detailed below, criteria were established which could lead to a credit of 8 hours of wellness time in employee leave accruals, with certain restrictions.

Wellness Day: Employees who participate in City sponsored wellness activities may be eligible to earn eight (8) hours of wellness time off. Employees must follow the guidelines as set forth below:

City of Oak Harbor City Council Agenda Bill

- Employees must participate in no less than 75% of City sponsored wellness activities that occur during normal working hours in a calendar year.
- Employees' participation will be confirmed by the employee signing the signature sheet provided by the Wellness Committee.
- The Wellness Committee will identify to employees which events will count toward their annual participation at the time the event is announced.
- Employees who cannot participate in a wellness event/activity due to a disability should contact Human Resources at least two days in advance of the event for alternative ways to participate.
- Employees who are unable to participate due to work requirements will be given the opportunity to "make-up" their participation.
 - Employees must provide written confirmation, at least two days in advance, from their supervisor to Human Resources, that they are unable to participate due to work requirements.
 - The Wellness Committee will provide the employee with the required "make-up" activity
- Employees who meet the criteria will be credited eight (8) hours of wellness time in their leave accruals for the following year.
- Wellness hours must be used before vacation and cannot be carried over into the following year.
- Wellness hours will not be paid to the employee if the employee separates from employment.

While this new program took effect in June along with the balance of the Employee Policy Manual, there was very little advance work accomplished on how this new program would be administered, what the role of the Wellness Committee would be, which activities would qualify (to reach the 75% threshold), and how the program would be communicated to our employees. As a result, the Wellness Committee has taken on the job of creating a participation checklist and program guidelines that will be presented to the City Council for consideration on December 18, 2012 for use in 2013 and beyond.

Acknowledging the lack of clarity in precisely how the program would be administered for 2012, the administration is proposing that the City Council designate Monday, December 24, 2012 as a Wellness Day for employees. City offices would be closed and all City employees would be granted 8 hours of wellness time for use on that day. This particular day is proposed because, at least historically, it has not been a day when large numbers of people want to conduct business with the City. Should this Wellness Day be approved, there would be no earned Wellness Day for 2012 and the new criteria would take effect in 2013. This proposal would apply to 2012 only and will not be repeated in subsequent years.

Obviously, there are some City employees who will not be able to use their 8 wellness hours on December 24, either because they are essential personnel or because that day is their regular day off. Police and fire will be operating normally and the courts will be open for business, among other essential functions. For these employees, we would ask them to work with their supervisors to find an alternative day anytime between the effective date of the Council's decision and June 30, 2013. Only those employees required to work on December 24 or those employees whose regular day off falls on December 24 will be eligible to use their 8 wellness hours on a day other than December 24.

City of Oak Harbor City Council Agenda Bill

Please note that the Wellness Day will be treated like annual leave and not a holiday. Consequently, employees who work that day will not be eligible for overtime pay. Further, consistent with our adopted policy above, the Wellness Day hours will not be paid to the employee if the employee separates from employment.

The administration supports this proposal as an effective means of transitioning from the mid-year adoption of the revised Employee Policy Manual to the full implementation in 2013 of the new Wellness Day program. We do not anticipate that there will be any additional costs associated with the proposal and we believe that the public will experience only minor inconvenience by having City offices closed on December 24.

STANDING COMMITTEE REPORT

This item has not been presented at any standing committee meetings.

RECOMMENDED ACTIONS

Adopt Resolution No. 12-

ATTACHMENTS

RESOLUTION NO. 12-35

A RESOLUTION OF THE CITY OF OAK HARBOR DESIGNATING DECEMBER 24, 2012 AS A WELLNESS DAY FOR EMPLOYEES AND CLOSING CITY OFFICES EXCEPT FOR ESSENTIAL PERSONNEL

WHEREAS, the Oak Harbor City Council on June 18, 2012 adopted a revised Employee Policy Manual that, among other changes, introduced a Wellness Day program as one incentive to promoting healthy lifestyle choices for Oak Harbor's employees; and

WHEREAS, the Wellness Day program offers as an incentive a Wellness Day off for those employees who participate to a certain level each year in wellness-related activities; and

WHEREAS, the introduction of the Wellness Program midway through 2012 and the lack of clarity on which wellness-related activities would be used to establish eligibility for the Wellness Day off has resulted in confusion as to how participation levels will be measured to determine which employees qualify for the Wellness Day off incentive; and

WHEREAS, December 24, 2012 falls on a Monday in 2012, a day historically that has not been a day when large numbers of our citizens choose to conduct business with the City; and

WHEREAS, December 24, 2012 is an appropriate day for the City Council to designate a Wellness Day for all employees to bridge the gap between adoption of the revised Employee Policy Manual in June and the implementation of the Wellness Day off guidelines and checklist starting in January of 2013;

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. December 24, 2012 is designated as a one-time only Wellness Day for all employees of the City of Oak Harbor and all employees will be credited with eight (8) hours of wellness time;
2. City offices will be closed and all employees must use their eight (8) hours of wellness time on December 24, 2012 and are encouraged to engage in activities that promote their sense of well-being, with the following exceptions:
 - a. As determined by the department head, essential personnel will be asked to work on December 24, 2012. For these employees, the eight (8) hours of wellness time may be used with department head approval anytime between the effective date of the Council's decision and June 30, 2013.
 - b. For those employees whose regular day off falls on December 24, 2012, the eight (8) hours of wellness time may be used with department head approval anytime between the effective date of the Council's decision and June 30, 2013.

3. The December 24, 2012 Wellness Day is not a holiday and as such is not a day for which overtime will be paid to anyone working on that day.
4. Wellness hours credited for December 24, 2012 will not be paid to the employee if the employee separates from employment before the hours are used.

PASSED by the City Council this 4th day of December, 2012.

CITY OF OAK HARBOR

Scott Dudley, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

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

Bill No. AB-7
Date: December 4, 2012
Subject: Resolution 12-26 Endorsing
School District Levy

FROM: Scott Dudley, Mayor *SD*

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

LEC Larry E Cort, Interim City Administrator
DM Doug Merriman, Finance Director
GW Grant Weed, Interim City Attorney, as to form

PURPOSE

This proposed resolution for City Council consideration would endorse the February 12, 2013 Oak Harbor School District four-year replacement Maintenance and Operations Levy.

AUTHORITY

RCW 42.17.130

Use of public office or agency facilities in campaigns -- Prohibition -- Exceptions.

No elective official nor any employee of his [or her] office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities:

- (1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;
- (2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

FISCAL IMPACT DESCRIPTION

Funds Required: None
Appropriation Source: NA

SUMMARY STATEMENT

On February 12, 2013, the voters in the Oak Harbor School District will be considering a replacement Maintenance and Operations Levy for Oak Harbor schools. After a six-month series of Oak Harbor School Board workshops studying the needs in the school district and a two-month levy committee process, the School Board chose to ask for a levy of \$7,350,000 in 2014. That amount will generate a local levy rate of between \$1.80 and \$2.00, depending on property valuations in 2014. It will provide about \$1,375 per student and result in Oak Harbor receiving the maximum state match.

In accordance with RCW 42.17.130, the City Council can consider endorsing the proposed levy so long as the meeting notice includes the title and ballot number of the levy and all points of view are offered an opportunity to express views on this matter. The attached Resolution 12-26 has been crafted to respond to these requirements.

STANDING COMMITTEE REPORT

This agenda bill has not been presented to a Standing Committee.

RECOMMENDED ACTION

Invite public comment on both sides of this issue.
Approve Resolution No. 12-26

ATTACHMENTS

Resolution No. 12-26
School District Resolution No. 11-21

MAYOR'S COMMENTS

RESOLUTION No. 12-26

A RESOLUTION OF THE CITY OF OAK HARBOR ENDORSING THE OAK HARBOR SCHOOL DISTRICT 4-YEAR REPLACEMENT LEVY

WHEREAS, Oak Harbor School District has a record to be proud of, as apparent in its quality facilities, its broad and diverse educational program, its highly qualified staff, its successful students, and its history of fiscal responsibility; and

WHEREAS, Oak Harbor School District’s future is at risk due to continued reductions in state and federal funding; loss of staff leading to shorter school days, larger class sizes and fewer electives; cuts to textbooks and technology; threats to activities and athletics; inadequate facility maintenance staff and equipment; unfunded special education, transportation and utility cost; and

WHEREAS, the Oak Harbor School Board has proposed a 4-year replacement school levy based on high priority needs that restores some of the most significant cuts and protects vital programs from future cuts; and

WHEREAS, the proposed school 4-year replacement levy will be on the ballot February 12, 2013 and will provide Oak Harbor schools with local revenues that on a per pupil basis are about half the local taxes collected by nearby school districts and other military school districts. The ballot measure reads as follows:

**“Proposition No.1
School Program Levies**

The Board of Directors of Oak Harbor School District No. 201 adopted Resolution No. 11-21 concerning a proposition for partial financing of operation and maintenance expenses. This proposition would replace the expiring levies by authorizing the following excess taxes for the District’s General Fund upon all taxable property in the District:

Collection Year	Approximate Levy Rate Per \$1,000 Assessed Value	Levy Amount
2014	\$1.98	\$7,350,000
2015	\$1.98	\$7,550,000
2016	\$1.98	\$7,750,000
2017	\$1.98	\$7,950,000

Should this proposition be approved?”

WHEREAS, the City provided notice of this resolution on its December 4, 2012 City Council agenda and provided equal time for all citizens to give input concerning this resolution including, but not limited to, expression of views both in favor and in opposition to this resolution and the ballot measure; and

NOW, THEREFORE, BE IT RESOLVED: The Mayor and City Council of the City of Oak Harbor endorse the Oak Harbor School District 4-year levy on the ballot on February 12, 2013 and encourage all citizens to register and vote in this election.

PASSED by the City Council this 4th day of December, 2012.

CITY OF OAK HARBOR

Scott Dudley, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

**OAK HARBOR SCHOOL DISTRICT NO. 201
ISLAND COUNTY, WASHINGTON
RESOLUTION NO. 11-21
FOUR-YEAR SCHOOL PROGRAM LEVIES**

WHEREAS, the money in and to be paid into the General Fund of Oak Harbor School District No. 201, Island County, Washington (the "District"), during the 2013-2014, 2014-2015, 2015-2016, 2016-2017 and 2017-2018 school years, will be insufficient to enable the District to take care of all of its necessary financial obligations and to properly meet the educational needs of students attending District schools; and

WHEREAS, in order to provide for such financial obligations and educational needs, it is deemed necessary that additional taxes in the amounts set forth herein be levied for the District's General Fund upon all of the taxable property within the District in excess of the maximum annual tax levy permitted by law without a vote of electors; and

WHEREAS, the Constitution and laws of the State of Washington require that the question of whether or not such taxes may be levied must be submitted to the qualified electors of the District for their ratification or rejection;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Oak Harbor School District No. 201, Island County, Washington as follows:

1. **Declaration of Need**. It is hereby found and declared that the welfare of the students and other residents of the District require the District to carry out the plans described herein.
2. **Levy of Taxes**. In order to provide funds for the operation and maintenance of the District as described in Section 3 below, the following taxes for the District's General Fund should be levied upon all of the taxable property within the District in excess of the maximum annual tax levy permitted by law to be levied for the District without a vote of the electors:

<u>Levy Year</u>	<u>Collection Year</u>	<u>Levy Rate*</u>	<u>Levy Amount</u>
2013	2014	\$1.98	\$7,350,000
2014	2015	\$1.98	\$7,550,000
2015	2016	\$1.98	\$7,750,000
2016	2017	\$1.98	\$7,950,000

* Approximate levy rate per \$1,000 of assessed valuation based on 100% of true and fair value.

The excess taxes identified above replace the expiring school program levies that were previously authorized by the voters of the District.

3. **Voter Approval and Use of Funds.** Upon approval by the District's voters of Ballot Proposition No. 1 described in Section 4 below, the District may use the proceeds of the levies to pay such part of the general expenses of the operation and maintenance of the District as may be authorized or allowed by law for the use of such levy funds including those identified below, and to repay warrants or other lawful indebtedness incurred to defray such operation and maintenance expenses. The levy proceeds together with any state matching funds that are received as a result of voter approval of Ballot Proposition No. 1, shall be expended to maintain the school programs at customary levels including expenditures for teachers and support staff, books and technology, maintenance, special programs, athletics and activities and general support.
4. **Request for Special Election.** The Island County Auditor, as ex officio supervisor of elections in said county, is hereby requested to call and conduct a special election to be held within the District on February 12, 2013 and to submit to the qualified electors of the District the proposition set forth below. The Secretary of the Board of Directors is hereby authorized and directed to certify the proposition in the following form:

**“PROPOSITION NO. 1
SCHOOL PROGRAM LEVIES**

The Board of Directors of Oak Harbor School District No. 201 adopted Resolution No. 11-21 concerning a proposition for partial financing of operation and maintenance expenses. This proposition would replace the expiring levies by authorizing the following excess taxes for the District's General Fund upon all taxable property in the District:

<u>Collection Year</u>	<u>Approximate Levy Rate Per \$1,000 Assessed Value</u>	<u>Levy Amount</u>
2014	\$1.98	\$7,350,000
2015	\$1.98	\$7,550,000
2016	\$1.98	\$7,750,000
2017	\$1.98	\$7,950,000.

Should this proposition be approved?

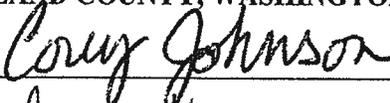
Levy Yes

Levy No

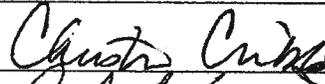
The Secretary of the Board of Directors is hereby authorized and directed to deliver a certified copy of this Resolution to the Island County Auditor at least 46 days prior to the date of the special election provided for herein.

ADOPTED by the Board of Directors of Oak Harbor School District No. 201, Island County, Washington, at a regular open public meeting thereof held August 27, 2012 the following Directors being present and voting therefor.

**OAK HARBOR SCHOOL DISTRICT NO. 201
ISLAND COUNTY, WASHINGTON**







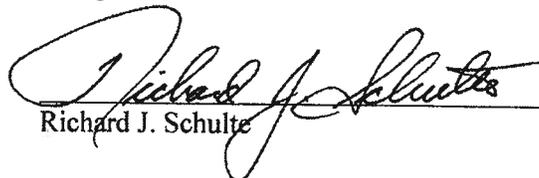




DIRECTORS

CERTIFICATION

I, RICHARD J. SCHULTE, Superintendent and Secretary of the Board of Directors of Oak Harbor School District No. 201, Island County, Washington, do hereby certify that the foregoing constitutes a true and correct copy of Resolution No. 11-21 of said Board of Directors duly adopted at a regular meeting thereof held August 27, 2012.



Richard J. Schulte

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

Bill No. AB 8
Date: December 4, 2012
Subject: Discussion: National League of
Cities

FROM: Doug Merriman, Finance Director 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, Interim City Administrator
 Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill sets aside time for City Council to discuss its upcoming visit to the National League of Cities Conference.

AUTHORITY

Under RCW 35A.11.020, The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees;

SUMMARY STATEMENT

The Mayor and council members, on a rotating basis, attend the NLC conference each year in Washington DC. During this visit, city officials meet with State, Federal, and military officials on matters of interest to the City.

RECOMMENDED ACTION

- 1) No formal action required. Discussion focuses on possible trip agenda and the selection of council members to attend the conference.

ATTACHMENTS:

Budget for City Council attendance.

MAYOR'S COMMENTS

City Council Budget for Travel
Years ending 2001 through 2014

Year	Travel	Miscellaneous	Breakdown	
		Registration	In-state	Out of state
2001	\$4,000	\$500	n/a	n/a
2002	\$4,000	\$500	n/a	n/a
2003	\$7,700	\$1,000	n/a	n/a
2004	\$7,700	\$1,000	n/a	n/a
2005	\$14,000	\$1,000	\$7,000	\$7,000
2006	\$14,500	\$1,000	\$7,500	\$7,000
2007	\$15,000	\$1,000	\$7,000	\$8,000
2008	\$15,000	\$1,000	\$7,000	\$8,000
2009	\$15,000	\$1,000	\$7,000	\$8,000
2010	\$15,000	\$1,000	\$7,000	\$8,000
2011	\$11,550	\$1,500	\$7,000	\$4,550
2012	\$11,550	\$1,500	\$7,000	\$4,550
2013	\$11,550	\$1,500	\$7,000	\$4,550
2014	\$11,550	\$1,500	\$7,000	\$4,550

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

Bill No. AB-9
Date: December 4, 2011
Subject: 2013 Animal Services
Contract Extension - WAIF

FROM: Edgar Green
Chief of Police

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry E Cort, Interim City Administrator
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

This is a proposed contract extension between the City of Oak Harbor and the Whidbey Animal Improvement Foundation (WAIF) for the purpose of providing animal shelter services for the City of Oak Harbor.

AUTHORITY

OHMC 7.04.040 Animal control authority.

"Animal control authority" means the department of the city charged with the responsibility of administering the provisions of this chapter, or the department and any other agency to which this responsibility is contractually delegated and which is thereby charged with the duty of enforcing the animal control laws of the city and/or with the shelter and welfare of animals.

OHMC 2.390.010 Council approval.

Unless otherwise authorized or directed by law, ordinance or council resolution (for example, responding to an emergency), all contracts over \$10,000 require council approval.

FISCAL IMPACT DESCRIPTION

Funds Required: \$7,083.33 (Per Month)
Appropriation Source: 001.52.539.030.4100

SUMMARY STATEMENT

The City of Oak Harbor and Whidbey Animal Improvement Foundation (WAIF) originally came to the terms of agreement for animal shelter services in 2005 following a request for proposal and contract negotiation process. Most recently, on November 1, 2011, the City Council

approved a one-year contract with WAIF through December 31, 2012. In common with previous contracts, WAIF as contractor was permitted to use Building 297 at NAS Whidbey Island as the animal control holding facility under a license granted by the United States of America and to the City of Oak Harbor. This facility license was originally planned to expire on December 31, 2012 but has now been extended until September 30, 2013.

The City is preparing to issue a Request for Proposals (RFP) for Animal Shelter Management and Operations Services in anticipation of the need to contract with a provider who can provide both an animal shelter and management and operation of the shelter. The City's goal is to have a contractor in place no later than September 30, 2013 when the license extension will expire.

In order to maintain animal shelter services until the new contractor has been selected, the City has requested and WAIF has agreed to continue supplying those services on a month-to-month basis until the new contractor is in place. Both parties have agreed to use the terms and conditions of the existing agreement except as amended in the attached Contract Amendment..

The City shall continue to pay to WAIF monthly payments of Seven Thousand and Eighty Three Dollars, and Thirty Three Cents (\$7,083.33) for services under the contract after the month for which the services are rendered. Additionally, City shall pay \$30.00 per call-out for after hours (before 8 a.m. and after 5 p.m. or on holidays) for service requests deemed necessary by Oak Harbor Police Department, upon proper billing by Contractor within 30 days of service. City shall verify that the Contractor has provided the services required under this agreement in a form acceptable to the City.

STANDING COMMITTEE REPORT

This agenda bill has not been presented to a Standing Committee.

RECOMMENDED ACTION

Approve and authorize the Mayor to sign Contract Amendment No. 1 between the City of Oak Harbor and Whidbey Animal Improvement Foundation.

ATTACHMENTS

WAIF Animal Shelter Services Contract
WAIF Contract Amendment No. 1

MAYOR'S COMMENTS

Professional Services Agreement Amendment Number <u>1</u>	Organization and Address	
Original Agreement Title: Animal Shelter Services Contract Whidbey Animals' Improvement Foundation and City of Oak Harbor	Whidbey Animals' Improvement Foundation PO Box 1108 Coupeville, WA 98239 Phone: 360 678-0231	
Project Number:	Execution Date Nov 23, 2011	Completion Date (Prior) Dec 31, 2012
Project Title Animal Shelter Services	New Maximum Amount Payable \$7,083.33/month	
Description of Work Animal shelter services for the City of Oak Harbor and some NAS Whidbey Housing		

The City of Oak Harbor desires to supplement the agreement entered into with Whidbey Animals' Improvement Foundation as executed on November 23, 2011 and identified as Animal Shelter Services Contract.

All provisions in the basic agreement remain in effect except as expressly modified by this supplement

The changes to the agreement are described as follows:

SCOPE OF WORK is hereby amended to add the following:

No change.

SCOPE OF WORK is hereby changed and supplemented with the following:

No change

CONTRACT TERM (Section 8) AMENDED TO: The contract shall begin on January 1, 2012 and end on September 30, 2013.

TIME OF COMPLETION – SCOPE OF SERVICES: No change

PAYMENT shall be amended as follows:

No change

Payment shall be made in accordance with the terms and conditions described in the original contract.

If you concur with this amendment and agree to the changes as stated above, please sign in the appropriate spaces and return to this office for final action.

By: _____

Stephen Paysse, Executive Director

By: _____

D. Scott Dudley, Mayor

Date

Attest: _____
Nacelle Heuslein, Interim City Clerk

**ANIMAL SHELTER SERVICES CONTRACT
WHIDBEY ANIMALS' IMPROVEMENT FOUNDATION
AND CITY OF OAK HARBOR**

THIS CONTRACT is between the CITY OF OAK HARBOR, a Washington State Municipal Corporation, hereinafter referred to as "City" and Whidbey Animals' Improvement Foundation (WAIF), hereinafter referred to as "Contractor," jointly referred to as the "Parties."

WHEREAS, the City is authorized by law to assert control of animals within the City limits under its police powers; and

WHEREAS, the City animal control authority is exercised by the Oak Harbor Police Department; and

WHEREAS, the City regulations for control of animals within the city limits are set out in Title 7 of the Oak Harbor Municipal Code; and

WHEREAS, the City requires an animal control holding facility for cats and dogs impounded pursuant to Ch. 7.20 OHMC; confined pursuant to veterinary quarantine; and for cats and dogs abandoned pursuant to Ch. 7.04 OHMC; and

WHEREAS, cats and dogs unclaimed at the expiration of the periods for impoundment, veterinary quarantine and abandonment under City ordinances require appropriate management of their disposition for adoption, foster care, shelter or euthanasia so that they do not return to the city without appropriate ownership and care; and

WHEREAS, Contractor has a program which it exercises in its discretion to appropriately manage the disposition of unclaimed cats and dogs to meet the City's objectives in controlling animals within its city limits; and

WHEREAS, the City has selected the Contractor based upon Contractor's experience, expertise and qualifications to humanely and appropriately dispose of unclaimed cats and dogs at the expiration of the holding periods set forth in City ordinance; and

WHEREAS, the Contractor has agreed to manage the disposition of unclaimed cats and dogs surrendered to the Contractor by the City at the expiration of the holding periods established by City ordinances in return for a flat annual fee; and

WHEREAS, the City's ownership and supervision of the unclaimed dogs and cats shall cease upon surrender to the Contractor except for those animal control functions applicable under City code.

NOW, THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. **PURPOSE:** The City and the Contractor enter into this Contract for the Contractor to provide holding facility services to the animal control authorities of the City of Oak Harbor and to take custody and control of such dogs and cats as are unclaimed after the expiration of applicable holding periods under city ordinances.

2. **SERVICES:**

A. **Contractor Holding Facility Services:** The Contractor shall provide animal control holding facility services for all dogs and cats subject to the City's jurisdiction that are impounded, abandoned or quarantined in accordance with city ordinances or state law. For the purpose of this Contract, "dogs" and "cats" are defined as domestic cats, domestic cat hybrids, domestic dogs and domestic dog hybrids only.

For purposes of this Contract, "animal control authority of the City" shall mean City law enforcement officers, including the City's appointed animal control officer (ACO). The services provided in this Section are material to the City and failure to perform shall constitute a material default. Such services shall include the following:

- (1) Quarantine animals, in accordance with municipal ordinances and state law.
- (2) Have available the services of a local veterinarian for emergency medical attention for any injured, sick, or diseased dogs and cats placed at the holding facility by City law enforcement officers, animal control officers or authorized NAS Whidbey personnel.
- (3) Provide proper food, water, housing and humane care for all animals under its control at the animal control holding facility.
- (4) Maintain sanitation and cleaning protocols to minimize disease transmission.
- (5) Provide basic medical care, including vaccinations, de-worming and flea treatment, if needed, to dogs and cats introduced into the animal control holding facility.
- (6) Provide exercise for dogs and cats kept at the holding facility.
- (7) Provide sufficient, competent and trained staff to assume the responsibilities of this Contract.
- (8) Provide monthly reports to the Chief of Police regarding holding facility activities including number of incoming dogs and cats and the authorized agency utilizing the holding facility for that dog or cat.

- (9) Make space and access available for after-hours drop offs of animals as defined herein by animal control authorities of the City and designated NAS Whidbey personnel.
- (10) Provide the name and address of every owner claiming an animal to the City.
- (11) Contractor, along with designated employees and volunteers, shall undergo a criminal background check prior to beginning work at the facility, if required by the Navy regulations for admission onto the Naval Base facility.

B. Contractor Unclaimed Animal Services: Contractor shall also provide animal disposition services for unclaimed animals at the end of the applicable holding period under City ordinance. The City has reviewed the Contractor's qualifications with respect to animal placement and has chosen Contractor to provide animal disposition services based upon those qualifications. Contractor shall place the animal for adoption, foster care or shelter, or euthanize the animal as the Contractor in its sole discretion shall deem appropriate. Contractor shall provide the City with a monthly report of the status of all unclaimed animals released to the Contractor pursuant to this Contract, including the date and nature of disposition.

C. Contractor Use of the Animal Control Holding Facility: The City has been granted authority to operate an animal control holding facility on NASWI-SPB, subject to regulation, control and ownership by the United States. Contractor agrees to operate and maintain the holding facility in a neat, clean and sanitary condition, and in compliance with all applicable governmental laws, rules and regulations. Contractor will not permit any condition to exist which might constitute a nuisance. The City and the Navy, through its authorized agents and representatives, shall have the right to enter upon and inspect the facility during regular business hours, without prior notice, for the purpose of inspecting the shelter facility for compliance with this Contract. The Contractor shall obtain City approval from the Chief of Police or his designee before making improvements to the Navy-owned facility. Contractor accepts property "as is." All City-approved improvements must comply with the bidding and public works laws applicable to the City.

No tenancy in favor of Contractor in the premises is created by this Contract. The City and Navy allow use of the animal holding facility by the Contractor solely for the purpose of its obligations to operate a holding facility pursuant to this Contract. Contractor may not use the facility upon termination of this Contract. Upon termination of this Contract, Contractor will remove all animals Contractor has accepted into the holding facility and remove all of its property. The City may dispose of any animal or Contractor's property left behind upon termination, as the City deems appropriate. Expenses which the City incurs for such disposition are chargeable to Contractor, and the City may deduct such funds from any payment due the Contractor.

Any improvement to the premises and fixtures left behind by Contractor becomes the property of the City without extra payment by the City. Contractor shall provide janitorial service to the holding facility. Contractor shall be responsible for any damage to the premises Contractor causes, normal wear and tear excepted. Contractor may not use the premises for any purpose except the holding facility authorized by this Contract.

- D. Costs: Contractor shall be responsible for all costs of providing services to dogs and cats brought to the holding facility pursuant to this Contract. Such costs shall include all costs of care of such animals, including, but not limited to, food, cleaning supplies, veterinary care and grooming. City will pay the utility bills for heat, electricity, water and sewer provided to the holding facility. Contractor will pay for telephone service. Contractor shall maintain the grounds at the holding facility in a clean and neat appearance. Due to the access difficulties with garbage service, the Contractor will ensure that solid waste is packaged in a manner that will allow for timely disposal by the Animal Control Officer (ACO).
- E. Medical Costs for Sick/Injured Animals Picked Up By Animal Control: Contractor shall be responsible for providing veterinary care to any and all dogs or cats impounded or quarantined by City or Navy personnel authorized to utilize the animal control holding facility under this Contract. In the event that such authorized personnel assume custody of a dog or cat in need of immediate veterinary attention, the personnel will first attempt to contact the Shelter Manager before obtaining veterinary treatment if possible. If unable to contact the Shelter Manager, the authorized personnel will next attempt to make contact with the Lead Animal Care Technician. If unable to contact either party, the authorized personnel may obtain emergency treatment to relieve the immediate pain/suffering of the animal at a cost of no more than Two Hundred Dollars (\$200.00), and will notify Contractor of action taken.
- F. Holding Facility Procedures:
- (1) Licensed Stray Animals: If the dog or cat placed in the holding facility is licensed by the City of Oak Harbor, the Contractor shall use owner information from the City or other sources to attempt to give notice to the owner by way of personal contact, telephone or mail that the animal is being held at the shelter. If the owner is notified via telephone, this notice, including the time and name of the person contacted shall be noted in records kept by Contractor and provided to the City monthly. The animal shall be held for a minimum period as outlined by City ordinance unless written instructions to the contrary are provided by the animal control authority requesting Contractor to hold the animal pending legal action. If not claimed during the applicable holding period, an animal shall be subject to disposition pursuant to Contractor's program for placing and/or disposing of unclaimed dogs and cats.

- (2) **Unlicensed Stray Animals:** If the dog or cat placed in the holding facility is not licensed by the City of Oak Harbor, the animal shall be held for the period of time applicable under City ordinance. If not claimed during the applicable holding period, an animal immediately becomes the property of Contractor. Disposition of the animal is then at Contractor's sole discretion.
- (3) **Severely Injured or Diseased Animals:** Severely injured or diseased animals placed at the holding facility shall be subject to veterinary examination. In the event that a state-licensed veterinarian determines that the injured or diseased animal will require veterinary services in excess of Five Hundred Dollars (\$500.00) in value, the Contractor may follow the recommendations of the veterinarian for euthanasia of the animal. Contractor shall provide a copy of the veterinarian's written recommendation(s) to the City as part of its monthly report.
- (4) **Reclaimed Animals:** Impounded animals will be released to owners or custodians upon proof of ownership, and payment of applicable fees and fines established pursuant to Title 7 of the Oak Harbor Municipal Code. Any individual representing him or herself as custodian of the impounded animal should provide written authorization for release from the owner or other sufficient evidence of authority to assume control of the animal on behalf of the owner.
- (5) **Dangerous Animals:** Animals that have bitten people, or are suspected of having bitten people, shall be kept a minimum of ten (10) days from date of bite, for observation. The holding facility will house such animals in the absence of other available alternatives such as owner's home or a veterinary board facility. The animal's owner, if known, shall be responsible for payment of the applicable fees and costs.
- (6) **Waiver of Fees:** The Contractor agrees to release any animal without payment of impound fees and other charges, when ordered in writing by the Chief of Police.
- (7) **Citizen Complaints:** All citizen complaints regarding animals shall be referred to the Oak Harbor ACO upon receipt.

3. **CITY RETAINED AUTHORITY:**

- A. **Licensing:** All licensing fees shall be established by the City.
- B. **Animal Control:** The City retains authority to enforce animal control laws and regulations.

- C. Independent Fees: The City retains authority to establish impound fees for animals impounded pursuant to City ordinances. The Contractor may recommend changes in City fees.
4. HOURS OF OPERATION: The Contractor shall submit to the City, as Attachment A to this Contract, a schedule of its operating hours which shall include:
- A. Days and hours when the office and holding facility are open to the public (a minimum of three (3) hours per day Monday through Friday for reclaiming of animals as required by the Memorandum of Understanding between the Navy and the City of Oak Harbor).
 - B. A location where animals can be delivered by ACO, NAS personnel and Oak Harbor Police Department personnel 24-hours per day.
 - C. Days the office and holding facility will be closed for City observed holidays.

All changes to the schedule must receive approval of the Chief of Police or his designee prior to becoming effective.

5. TREATMENT OF PUBLIC: Contractor shall treat the public fairly and courteously in carrying out services required under this Contract.
6. NAVY MOU: The City currently has an agreement with the Navy, authorizing use of their facility on the Seaplane Base located in Oak Harbor. In exchange, the Contractor is responsible for hours of operation as stated in the MOU. A copy of the current Memorandum of Understanding with the U.S. Navy is attached to this document as Attachment B. Should those facilities become unavailable, either party to this Contract may terminate this Contract within thirty (30) days after they become unavailable. The Navy may restrict access to the base and/or this facility as it deems appropriate and the Contractor's use of the facility is subject to such restriction. Restrictions may include, but are not limited to, delay and access requirement of security clearance for employee. The City is not responsible for damages or costs incurred by reason of Navy actions.
7. COMPENSATION:
- A. The City shall pay to Contractor monthly payments of Seven Thousand and Eighty Three Dollars, and Thirty-three Cents (\$7,083.33) for services under the Contract after the month for which the services are rendered.
 - B. Additionally, City shall pay Thirty Dollars (\$30.00) per call-out for after hours (before 8 a.m. and after 5 p.m. or on Holidays) for service requests deemed necessary by Oak Harbor Police Department, upon proper billing by Contractor within thirty (30) days of service. City shall verify that the Contractor has provided the services required under this Contract in a form acceptable to the City.

- C. City shall pay utility costs for the holding facility, as long as the Contractor is not in default of this Contract.
 - D. City shall be responsible for replacement of equipment purchased by the City due to normal wear and tear. Contractor will be responsible for notifying the City of replacement needs of City equipment in a timely manner to allow for inclusion in the annual City budget.
 - E. The City shall retain all fines or penalties arising out of the issuance of citations for violation of the City's animal control ordinance, as now enacted or hereafter adopted.
8. **CONTRACT TERM:** This Contract shall begin on January 1, 2012 and end on December 31, 2012. Either party may terminate this Contract earlier by sixty (60) days written notice, with or without cause. The City reserves the right to immediately terminate this Contract without hearing or notice in the event of material default by the Contractor.
9. **HOLD HARMLESS/INDEMNIFICATION:**
- A. Contractor shall defend, indemnify and hold harmless the City, its officers, officials, employees and volunteers from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Contractor in performance of this Contract, except for injuries and damages caused by the sole negligence of the City. No liability shall attach to the City by reason of entering into this Contract except as expressly provided herein.
 - B. An animal shall become the responsibility of Contractor at the point that the animal is placed or released into the holding facility. Contractor shall hold the City harmless under the terms of this section for all claims arising out of the detention and custody of the animal. Accordingly, Contractor shall be held harmless by the City under the terms of this Contract for claims arising out of the detention of the animal or arising out of any situation occurring prior to the time that Contractor assumes ownership for the animal(s).
10. **THE PARTIES REPRESENTATIVES AND NOTICES:** The Chief of Police shall be responsible for administration of this Contract. All reports, recommendations, and other correspondence will be directed to the Chief. The Contractor's Executive Director shall act as the Contractor's liaison with the City.

All notices to the City shall be mailed or personally delivered to the City of Oak Harbor Police Chief at his/her address:

860 SE Barrington Drive
Oak Harbor, WA 98277

All notices to the Contractor shall be mailed or personally delivered to its Executive Director at:

PO Box 1108
Coupeville, WA 98239

Either party may change its address by providing written notice by certified mail, return receipt requested.

11. **TAXES:** Contractor will be responsible for payment of taxes applicable to its operations, including, but not limited to, business and occupation tax, sales tax, excise tax, income tax, employer's social security tax, employer's industrial insurance premium, employer's unemployment compensation premium. Contractor will be solely responsible to collect and transmit to the correct government office any employee taxes, assessments, or contributions which an employer is required to collect from employees and transmit including, but not limited to, social security and income tax withholding.
12. **INSURANCE:** The Contractor shall provide insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

Minimum Scope of Insurance. Contractor shall obtain insurance of the types described below:

- a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
- b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, volunteers and personal injury and advertising injury. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City.
- c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- d. Professional Liability Insurance appropriate to the Contractor's profession.

Minimum Amounts of Insurance. Contractor shall maintain the following insurance limits:

- a. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of One Million Dollars (\$1,000,000) per accident.
- b. Commercial General Liability insurance shall be written with limits no less than One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) general aggregate.
- c. Professional Liability insurance shall be written with limits no less than One Million Dollars (\$1,000,000) per claim and One Million Dollars (\$1,000,000) policy aggregate limit.

Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

- a. The Contractor's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.
- b. The Contractor's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

Verification of Coverage. Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements including, but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work.

13. **RECORDS:** Along with records specified in Section 2.B., the Contractor shall maintain accurate and complete records of all animals brought to the shelter in the performance of this Contract. The records shall contain the following information:

- A. Description of the animal, including its breed, color, size, sex, disposition, where and how the animal was obtained and the animal's owner, if known.

- B. Record of any citizen complaints regarding animals which have been referred to the ACO.
 - C. All dangerous or potentially dangerous animals received by Contractor.
 - D. Date, time, location, reason and manner in which the animal was obtained.
 - E. Length of time the animal was placed in the animal shelter facility.
14. **FINANCIAL RECORDS AND AUDITS:** The Contractor shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Contract and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Contract. These records shall be subject at all reasonable times to inspection, review, or audit, by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Contract.

The Contractor shall retain all books, records, documents and other material relevant to this Contract, for six (6) years after its expiration. The Contractor agrees that the City or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. **NONDISCRIMINATION:**
- A. The City is an equal opportunity employer.
 - B. **Nondiscrimination in Employment.** In the performance of this Contract, the Contractor will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability; provided, that the prohibition against discrimination in employment because of disability, or the use of a trained dog guide or service animal by a person with a disability, shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Contractor shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Contractor shall take such action with respect to this Contract as may be required to ensure full

compliance with local, state and federal laws prohibiting discrimination in employment.

- C. **Nondiscrimination in Services.** The Contractor will not discriminate against any recipient of any services or benefits provided for in this Contract on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability.
- D. If any assignment and/or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Contractor shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.
16. **AMENDMENTS:** This Contract may be amended at any time by mutual written agreement between the parties.
17. **OAK HARBOR MUNICIPAL CODE CHANGES:** The City Council reserves the right to amend, add or delete Title 7 of the Oak Harbor Municipal Code or other provisions of the Oak Harbor Municipal Code concerning animal control or care of animals at any time on its motion. The City Council also reserves the right to pass such general rules and regulations as it may deem necessary for the operation of the shelter and/or disposal area; provided, further, that changes in rules, regulations, ordinances and Title 7 which result in additional work or change indirectly compensation, do not have to be undertaken by the Contractor unless mutually agreed to. It is further provided that changes in ordinances of the City or Title 7 of the Oak Harbor Municipal Code which cause additional work or change directly or indirectly compensation levels for the Contractor, that these occurrences shall be the basis for the re-evaluation of compensation levels under this Contract. Such changes shall be to reasonably compensate the Contractor and must be consistent with the principles and levels of compensation set out in this Contract.
18. **INDEPENDENT CONTRACTOR:** All activities performed by the Contractor, employees, volunteers or representatives are, for all purposes under this Contract performed as an independent contractor and shall not be deemed to be an employee or agent or representative of the City, and none of them shall be entitled to any benefits to which City employees are entitled including, but not limited to, overtime, retirement benefits, unemployment insurance, worker's compensation benefits, injury leave or other leave benefits. Contractor will pay all taxes as are connected with this operation including, but not limited to, employee taxes (such as industrial insurance and FICA) and federal, state and local taxes (such as income, excise and sales taxes). Contractor shall file a federal tax return showing expenses and any profits of the enterprise and shall maintain an account with the Washington State Department of Labor and Industries.

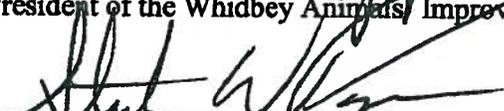
Contractor acknowledges that it is an independent contractor and that it is not a City of Oak Harbor agency or the agent of a City of Oak Harbor officer and agrees not to represent itself as such. All volunteers and any paid staff are volunteers and staff of Contractor and not of the City of Oak Harbor. Any uniforms or insignia used by Contractor shall not use the words "Oak Harbor."

19. **ASSIGNABILITY:** The Contractor will use its best efforts, skill and independent judgment in providing high quality shelter service for the City. Contractor may not assign this Contract or any part of it to any other person or firm. The Contractor may hire employees; provided, the Contractor recognizes that it's right to use employees of its choice is necessarily limited by the Navy's needs and authority to control access to NASWI-SPB. The Contractor is responsible for supervision of any employees or volunteers.
20. **THIRD PARTY BENEFICIARIES:** This Contract is for the purpose of providing animal shelter services for the City of Oak Harbor and is for the general benefit of Oak Harbor and should not be construed as creating a right or benefit for any particular person or class of persons not a party to this Contract.
21. **NO WAIVER:** Any failure or delay by City or Contractor in strictly enforcing the terms of this Contract shall not operate to waive or be deemed a waiver of the rights of the City or Contractor to require compliance that is full and to the letter of the Contract, or to thereafter require performance by City or Contractor in strict accordance with the terms of this Contract.

EXECUTED, this 23 day of November, 2011 for the WHIDBEY ANIMALS' IMPROVEMENT FOUNDATION.



President of the Whidbey Animals' Improvement Foundation



Executive Director of the Whidbey Animals' Improvement Foundation

EXECUTED, this the 2ND day of NOVEMBER, 2011 for the CITY OF OAK HARBOR.



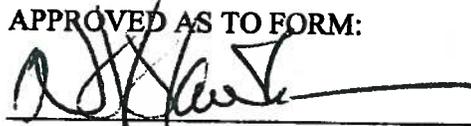
Jim Slowik, Mayor

ATTEST:



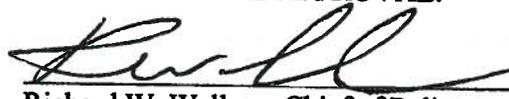
Connie Wheeler, City Clerk

APPROVED AS TO FORM:



for Margery Hite, City Attorney

DEPARTMENTAL APPROVAL:



Richard W. Wallace, Chief of Police

ATTACHMENT "A"

**ANIMAL SHELTER SERVICES CONTRACT
WHIDBEY ANIMALS' IMPROVEMENT FOUNDATION AND CITY OF OAK HARBOR**

Whidbey Animals' Improvement Foundation Operating Schedule

Open to Public for Viewing and Adoption
Wednesday through Sunday – 12 to 4 p.m.

Open for Redemption and Surrender of Animals
Monday through Sunday – 9am to 4pm

Animals being delivered to City can be left in the outside kennel which can be seen to the left of building when facing front of facility.

Holiday Closures

Shelter will be closed on the following holidays:

New Year's Eve
New Year's Day
Easter
Memorial Day
Fourth of July
Labor Day
Thanksgiving Day
Christmas Eve
Christmas Day

All changes to the schedule must receive approval of the Chief of Police or his designee prior to becoming effective.

ATTACHMENT "B"

**ANIMAL SHELTER SERVICES CONTRACT
WHIDBEY ANIMAL IMPROVEMENT FOUNDATION AND CITY OF OAK HARBOR**

The following is the text of the Navy MOU:

**U.S. NAVY LICENSE FOR NONFEDERAL USE OF REAL PROPERTY
LICENSE NUMBER N4425596RP00T31 (series)
WITH THE CITY OF OAK HARBOR, WASHINGTON**

**OPERATING MEMORANDUM OF UNDERSTANDING FOR THE
USE OF NAVY FACILITIES FOR AN ANIMAL SHELTER**

1. The City of Oak Harbor ("City") use of Navy facilities for an animal shelter, pursuant to License Number N4425596RP00T31, shall be subject to the following conditions:
 - a. Routine inspection of the premises by authorized naval personnel shall be performed on a not-to-interfere basis.
 - b. The building and surrounding area shall be maintained in a clean and orderly manner at all times.
 - c. City animal control shall be limited to the following areas of Naval Air Station (NAS), Whidbey Island:
 - (1) All areas of the NAS Whidbey Island Seaplane Base;
 - (2) Mayor Point Housing;
 - (3) Victory Housing
 - (4) Saratoga Heights Housing;
 - (5) Rockhill Terrace Housing;
 - (6) Crescent Harbor Housing; and
 - (7) Whidbey ApartmentsAll other areas on the naval reservation will be controlled by NAS Whidbey Island Security.
 - d. Animals taken by NAS Whidbey Island Security will be turned over to the City attendant, who will keep them for 5 days prior to disposal. Return of animals so taken will not include the impound fee, but all other fees are applicable.

- e. The animal shelter facility shall be open for recovery of pets during the hours of 1:00 p.m. to 3:00 p.m., Monday through Friday.
 - f. City residents will be allowed entry to the Seaplane Base to recover pets.
 - g. The City animal shelter attendant shall double-bag all dead animals, and shall transport said animals to the transfer station on board the NAS Whidbey Island Ault Field Base for disposal. The City will assure compliance with applicable sanitary requirements.
2. The Navy will provide necessary utility services and will bill the City for these services on the basis of engineering estimates. Reimbursement by the City shall be due upon receipt of bills.
 3. The terms of this Memorandum of Understanding may be modified by mutual agreement.
 4. This Memorandum of Understanding shall remain in effect throughout the existence of License Number N4425596RP00T31 and any successor licenses for the use of Building 297 on board NAS Whidbey Island.
 5. This Memorandum of Understanding supersedes all previously executed memoranda of understanding concerning the City's use of Navy facilities for an animal shelter.

For Naval Air Station, Whidbey Island

For the City of Oak Harbor

_____/s/_____
 Name Gerral David, Captain, U.S. Navy
 Title: Commanding Officer

_____/s/_____
 Name: Jim Slowik
 Title: Mayor

Date: _____

Date: _____

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

Bill No. AB10
Date: December 4, 2012
Subject: Authorization to Issue RFP -
Animal Shelter Management
and Operations Services

FROM: Edgar J. Green, Chief of Police

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, Interim City Administrator
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to seek authorization to issue a Request for Proposals (RFP) for Animal Shelter Management and Operations Services.

FISCAL IMPACT DESCRIPTION

No fiscal impact at this time.

SUMMARY STATEMENT

The City currently provides Animal Shelter operations through a contract for services, and employs one full-time Animal Control Officer for animal control services. Animal control issues arising after business days/hours are handled by on-duty City police officers. The City has utilized a separate agreement in the form of a Memorandum of Understanding with the Navy for the use of a Building 297 on board NAS Whidbey Island for the purpose of sheltering animals either impounded or surrendered to the City from within the city limits, to include Base housing and the Seaplane facility.

The current Contract for Animal Shelter Services with WAIF expires on December 31, 2012 and will be extended. The City of Oak Harbor has received notification, dated June 25, 2012, from the Department of the Navy, Navy Region Northwest, of the termination of the Memorandum of Understanding for the shelter facility. The real estate license issued for the use of the current animal shelter building expires on December 31, 2012 but the base command has indicated that this license will be extended.

Fundamentally, the key question regarding future animal shelter operations was whether the City would (1) build or locate an adequate shelter facility on City-owned property, or (2) contract with a vendor that has the capacity to provide adequate shelter services and facilities. It was recognized that a choice to construct a new shelter or modify an existing building will take some time and would likely not be possible even with the 6-month extension. With this time constraint in mind, it became clear that the City should move forward with solicitation of a firm or organization to perform and provide animal shelter services.

City of Oak Harbor City Council Agenda Bill

On the strong recommendation of the State Auditor's Office, staff has prepared a Request for Proposals (RFP) to engage the services of a qualified organization or firm to provide and operate an animal control shelter and care facility to receive, maintain, care for and provide for the appropriate disposition of all domestic animals that come within the legal responsibility of the City of Oak Harbor.

While much of the content of the RFP is standard language, there were a number of important policy questions which were discussed at the August 8, 2012 Council meeting, and Council's input has been included in the RFP.

STANDING COMMITTEE REPORT

The Public Safety Standing Committee has been updated at their meetings in September, October and November.

RECOMMENDED ACTION

- 1) Authorize the issuance of the RFP for Animal Shelter Management and Operations Services.

ATTACHMENTS

- 1) Proposed RFP for Animal Shelter Management and Operations Services

CITY OF OAK HARBOR
City Purchasing and Contract Services
REQUEST FOR PROPOSALS



Animal Shelter Management and Operations Services

Issue Date: XXXXX

Period of Contract: **2 (two) years** from the date designated in the contract

Issued by: City of Oak Harbor
865 SE Barrington Drive
Oak Harbor WA 98277
(360) 279-4500
Fax: 279-4500

Proposal Due Date: XXXXX

All inquiries for information should be directed to:

Project Manager: **Chief of Police** (or designee)
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor WA 98277
(360) 279-4600

Bid and Contract Schedule: (for information only, subject to change)

Request for Proposals Release Date:	<u>XXXXX</u>
Submittal Due Date:	<u>XXXXX</u>
Finalist Interviews:	<u>XXXXX</u>
Apparent Successful Bidder Announcement:	<u>XXXXX</u>
Contract Negotiations:	<u>XXXXX</u>
City Council Consideration:	<u>XXXXX</u>
Anticipated Start:	<u>XXXXX</u>

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I. Purpose and Scope of Work.

The City of Oak Harbor seeks proposals from qualified offerors to provide Animal Shelter Management and Operations Services for the City of Oak Harbor. The City will enter into a contract with the selected offeror(s).

Animal Shelter Management and Operations Services for the City of Oak Harbor includes the following:

Animal Shelter Management and Operations Services: Provide and operate such animal control shelter and care facilities, including all necessary buildings, structures, grounds, spaces and equipment, as well as animal shelter services, as may be necessary to receive, maintain, care for and provide for the appropriate disposition of all domestic animals that come within the legal animal control authority and responsibility of the City. Receive calls and complaints, lost and found service, adoption service, public reception and assistance, collection and sales, humane education program, account for all animals handled by Animal Control Officer(s), maintain records for euthanasia materials and other drugs or medicines, maintain financial records on revenues and expenditures, building security, ensure building and ground maintenance, compliance with all applicable laws and regulations to handling medicines and hazardous materials relating to animal shelter operations. Receive and evaluate animals, feed, provide water, emergency medical attention, health and condition evaluation, administer preventative medicine, clean kennels and cages, clean and disinfect animal spaces, provide shelter for animals, provide necessary grooming, flea and tick control, rodent control, provide euthanasia when deemed necessary, animal body storage and removal, and animal exercise.

II. Background and Objectives.

The following information is provided to help Offerors understand the direction and intent of the City for these services.

Oak Harbor is a City of 22,500 residents. It is a non-charter code city organized under RCW 35A. As part of its purpose of protecting the health, welfare and safety of its citizens, it maintains animal control services. Previously, the City animal shelter facility was provided by agreement with the United States Navy for the use of a building on Naval property. This facility will no longer be available to the City of Oak Harbor in 2013. The City is now looking for a full-service provider to both staff and provide all animal shelter facility(ies) and services, including necessary buildings, structures, grounds, spaces and equipment.

Animal Control Services are provided by the City-employed Animal Control Officer, who operates under the direction of the Oak Harbor Police Department, reporting to the Chief of Police. Animal control services are provided both by patrol and responding to calls. The City Animal Control Officer assists in enforcing Title 7 of the Oak Harbor Municipal Code and state law including the dangerous dog statutes and ordinances.

Primary animal control service involves domesticated dogs and cats and domesticated hybrid dogs and cats.

The contracted Animal Shelter Management and Operations services operate under the direction of the Oak Harbor Police Department, reporting to the Chief of Police, or his designee.

The purpose of proceeding to a new contractual arrangement is based on the loss of the City's current animal shelter facility in 2013 and the need for the contractor to now provide all necessary buildings, structures, grounds, spaces and equipment, as well as animal shelter services.

****NOTE: Due to the loss of the USN-provided shelter facility, it is not expected at the time contract ensues with an offeror that animals from any Naval housing will be picked up by City Animal Control or accepted by the City's Shelter provider. Should a change occur to that expectation, or should the Navy continue to provide a shelter facility, at any point after the issuance of this Request, or during the contract period with a successful bidder, the Request will be amended and/or the contract re-negotiated.**

III. Minimum Qualifications.

Offerors must meet the following minimum qualifications to be selected pursuant to this solicitation:

- A. Must have availability of a Shelter Facility(ies) meeting the requirements as set forth in Section IV - Shelter Facility.
- B. Must demonstrate an ability to commence shelter operations on _____, 20___. Proposals shall provide an implementation timeline or schedule that conforms with the requirements of this RFP.
- C. A minimum of five years' demonstrated experience in housing and caring for dogs and cats in a setting other than as a pet in the home
- D. Must demonstrate financial stability, and an ability to finance the required Animal Shelter Management and Operations Services. Offerors should provide a statement describing the method that will be used to finance the proposed operation.
- E. Ability to establish and maintain positive working relationships with City of Oak Harbor staff, citizens, and other animal rescue groups and shelter facilities.
- F. Any proposal selected must demonstrate ownership of shelter facility(ies), or a leasehold interest in the shelter facility(ies) for the term of any contract negotiated that explicitly allows the leased premises to be used as anticipated herein.

- G. Ability to obtain the required insurance as stated in this RFP.
- H. At the time of submittal of a proposal, the offeror must have:
 - 1. A current Washington state business identifier number;
 - 2. Industrial Insurance coverage for the offeror's employees working in Washington as required by Title 51 RCW;
 - 3. An employment security department number as required by Title 50 RCW; and
- I. Other licenses required by the State of Washington for the services proposed.
- J. The City shall also examine Offeror for responsibility. Responsibility shall include, but not be limited to the following criteria:
 - 1. The offeror shall not be "inactive," or "not in good standing" with the Washington State Secretary of State's Office, the Department of Revenue, or the Department of Labor & Industries;
 - 2. The offeror shall have successfully provide services similar to those described in this RFP within the past five years;
 - 3. The offeror shall have a demonstrated history of financial stability;
 - 4. The offeror, its agents and employees shall not have been convicted of any crime involving cruelty to animals.

The City may request additional information to determine responsibility

IV. Shelter Facility and Location:

- A. **Shelter Facility:** The shelter facility(ies) will include all necessary buildings, structures, grounds, spaces and equipment, as well as animal shelter operations services, as may be necessary to properly receive, maintain, care for, exercise, and provide for the appropriate disposition of all domestic animals that come within the legal animal control authority and responsibility of the City. The facility(ies) must be appropriate for the species, the number of animals receiving care and the expected length of stay in order to ensure physical and psychological well-being of the animals. The shelter will provide for proper separation of animals by health status, age, gender, species, temperament, and predator-prey status. The Shelter facility(ies) shall have an adequate number of dog kennels and cat cages, isolation facilities for sick dogs and cats, and quarantine facilities for biters or injured animals which are not necessarily sick. The shelter shall be maintained in a clean and sanitary condition and the contractor will not permit any condition to exist which might constitute a nuisance. The facility shall be in conformance with

local zoning regulations and shall comply with all federal, state and local regulations.

The shelter should be of sufficient size to provide for the needs of the community, with effective separation between neighbors and the facility. The shelter(s) should:

1. Designate an area for sick and injured animals
2. Separate cats and dogs
3. Have noise control to muffle inside noise
4. Not be filled beyond its designed capacity
5. Be well maintained, to provide for the sanitary and humane care of the animals.

The City reserves the right to inspect any potential shelter facility(ies) before contract award.

B. Shelter Location:

Temporary Shelter Facility: If the location of the Primary Shelter precludes, due to distance/travel time of over **five (5) miles** from the City of Oak Harbor Police Department, an Animal Control Officer or Law Enforcement officer from transporting an animal to the Primary Shelter, Contractor will provide access to a temporary Shelter facility(ies), which will be available to Animal Control and Law Enforcement personnel for both cats and dogs, 24 hours per day, 7 days per week. The temporary shelter facility(ies) shall be located on Whidbey Island and within **five (5) miles** of the City of Oak Harbor Police Department. The contractor shall state how this would be accomplished.

Primary Shelter Facility: The proposed permanent shelter(s) shall be located on Whidbey Island and within **fifteen (15) miles** of the City of Oak Harbor Police Department.

The requirements as stated in IV.(A.) Shelter Facility above will apply to any and all shelter facility(ies).

The Shelter(s) shall be available upon commencement of a contract.

V. Detailed Scope of Work.

The following is a more detailed listing of the requirements of this request for proposal. The offer to provide Animal Shelter Management and Operations Services should address each section of the Detailed Scope of Work, specifying how the Offeror intends to meet the matter and the proposed method of compensation.

- A. **Shelter Services:** Provide and operate such animal control shelter and care facilities, including all necessary buildings, structures, grounds, spaces and equipment, as well as animal shelter services, as may be necessary to properly receive, maintain, care for and provide for the appropriate disposition of all domestic animals that come within the legal animal control authority and responsibility of the City. Receive and evaluate animals, feed, provide water, emergency medical attention, health and condition evaluation, administer preventative medicine, clean kennels and cages, clean and disinfect animal spaces, provide shelter for animals, provide necessary grooming, flea and tick control, rodent control, provide euthanasia when deemed necessary, animal body storage and removal, animal exercise.
- B. **Standards of Care:** Where applicable within this Detailed Scope of Work, standards of care will follow *Guidelines for Standards of Care in Animal Shelters - 2010* by the Association of Shelter Veterinarians, as recommended by the HSUS.
(<http://xa.yimg.com/kq/groups/20241575/778874386/name/Shelter%20Standards%20Oct2011%20wForeword.pdf>)
- C. **Hours of Operation:** The Shelter will be open a minimum of 4 hours per day, 7 days per week (excluding Holidays), for public redemption or surrender, to include a minimum of two (2) evening hours after 5:00 p.m. on at least one weekday (Monday-Friday). The Shelter will be open a minimum of 20 hours per week, to include Saturday hours, for adoptions. The Contractor must specify hours of proposed operation, on a schedule to be approved by the City. The shelter shall be available, or made available, from 8:00 a.m. to 5:00 p.m., Monday through Friday (at a minimum), for acceptance of animals from the Animal Control Officer or other law enforcement personnel.
- D. **After-Hours, Temporary Shelter Facility:** In the absence of the Animal Control Officer, or after-hours, Contractor will provide access to the Shelter facility, which will be available to law enforcement personnel, 24 hours per day, 7 days per week. The contractor shall state how this would be accomplished.
- E. **Availability / After-Hours Calls for Service:** The contractor will be available to respond to after-hours calls for service requests from the police department. The contractor should state how this would be accomplished, and the charge, if any, for providing emergency requests after 5:00 pm and before 8:00 a.m., and on weekends. The Offeror(s) shall also provide their estimate of response time.
- F. **Condition of Animal Shelter:** The shelter facility will be maintained in a clean and sanitary condition. Animals will be provided adequate housing, food and water, emergency medical attention, health and condition evaluation, preventative medicine, and clean kennels and cages. Other procedures to be followed will include receiving and evaluating animals, clean and disinfect animal spaces, provide shelter for animals, provide necessary grooming, flea and tick control, rodent control, provide euthanasia, animal body storage and removal, and animal

exercise. The shelter will not be permitted to be operated at a capacity larger than designed to ensure adequate space for animals at the shelter. Offerors should include in their proposal procedures and policies for accepting animals when the shelter is at capacity.

- G. **Exercise of Animals:** The contractor will incorporate a program that will provide for the exercising of animals as appropriate (dogs on leash, interaction with cats) and describe the manner that such a program would be implemented.
- H. **Euthanasia of Animals:** The costs for euthanasia of animals will be the responsibility of the shelter operator. It is the City's policy as regards to a minimal/low kill facility that an un-adopted animal not be euthanized, except those deemed dangerous by the City, or for medical reasons as determined by a veterinarian. The bidder should identify the manner that would be utilized to accomplish a minimal/low kill facility.
- I. **Un-Adopted Animals:** Contractor will agree to allow unadopted animals to be gifted to a bona fide animal care or rescue organization that accepts otherwise "un-adoptable" animals, if available. The proposal should specify the manner that this would be accomplished.
- J. **Veterinary Services:** The Contractor shall provide humane treatment of all domestic animals while in the shelter; provide basic first aid services, including licensed veterinary care, for all sick and injured animals, at Contractor's expense.
- K. **Return to Owner:** It shall be the Contractor's responsibility to make every available effort to identify and promptly attempt to notify the owner of any animal taken into custody, working in conjunction with the City Animal Control Officer when needed.
- L. **Scanning for Microchips:** Every effort will be made to locate the owner of animals. The Shelter will be equipped with universal scanner/s in order to check for the presence of a microchip, to facilitate return of animals to owners.
- M. **Adoption Program:** The Contractor shall be responsible for making every reasonable effort to prepare and present animals for adoption by the public and to facilitate the same. All animals released for adoption shall be vaccinated and spayed/neutered.
- N. **Adoptability:** The Offeror(s) will detail the process used to determine if Contractor deems an animal is unsuitable for adoption.
- O. **Disposal of Animals:** The contractor will be responsible for any costs associated with the disposal of animals. Contractor will comply with applicable state and federal law regarding the disposal of animal remains, and will identify the manner that this would be accomplished.

- P. **Animal Licensing and Fees:** Contractor shall receive all fees connected with the impounding of animals except criminal penalties or civil infraction penalties paid through Municipal Court. The City will receive all license fees and fines as detailed by City ordinance
- Q. **Animal Licensing Program:** The contractor shall implement a program to encourage the licensing of dogs and cats. The proposal should identify what concepts the contractor would utilize to accomplish this task.
- R. **Audit, Records, and Reports:** The contractor shall provide monthly reports of all income and expenditures that result from an agreement. Contractor will provide monthly an accounting of incoming and outgoing animals including the disposition of same, no later than the 15th day of the following month. The Contractor shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to operations, and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting. These records shall be subject at all reasonable times to inspection, review, or audit, by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor a Contract for these services. The proposal should include samples of financial and animal statistical reports that will be used to meet the requirements of this RFP, and how the offeror will keep such records and reports separate from any other jurisdictional records to whom offeror may provide services.
- S. **Shelter Operating Costs:** The operating costs for the animal shelter will be the responsibility of the contractor.
- T. **Spay / Neuter Program:** The City recognizes that long-term solutions to excess animal populations involve the spaying and neutering of animals. The proposal should include a methodology for the implementation of such a program and identify the cost for such, should the City elect to participate in this option.
- U. **Partnering:** The contractor may choose to partner with another shelter(s) or organization(s) to provide services under this Detailed Scope of Work. If a partnering situation is to be used, that information shall be provided in the proposal.

VI. Desired Goals & Programs.

In addition to the requirements specified in Section V, Detailed Scope of Work, the City has also identified goals and programs it wishes to see implemented as part of an Animal Shelter Services and Operations Services contract. The proposal should clearly specify how these goals and programs would be accomplished, along with a timeline for implementation. If any of the desired goals and programs cannot be met or implemented, please clearly state the reason(s) why not in your proposal. The goals and programs include:

- A. Processes and policies which reduce the euthanasia of dogs and cats and a demonstrated marketing plan that will increase adoptions and decrease euthanasia rates.
- B. A Feral Cat Trap-Neuter-Release (T-N-R) program.
- C. **Adoption of the Asilomar Accords Recordkeeping System.** In order to work together to save the lives of all healthy and treatable companion animals, the City desires that Offeror agree to implement the recordkeeping system under the Asilomar Accords principles and methods, if not already implemented, with a timeline to establish the system within one (1) year of contract start date. The proposal should specify how the system would be implemented, along with a timeline.
- D. **Internet Presence for Strays.** Offeror will work with the City on the City's internet website page/presence, which will be updated daily to assist in reunion of pet owners with their pets, (i.e. "Stray Page"). Offeror will provide photos and details of stray animals coming directly into the Shelter facility, within a maximum of 24 hours from the time the stray animal enters the Shelter facility.
- E. **Waiting Lists:** It is the City's desire that the number of animals held on waiting lists for surrender be held to a minimum. Given space restrictions, the bidder should identify the manner that would be utilized to accomplish such a goal, when space restrictions require alternative solutions.
- F. A spay and neutering program to encourage pet owners to spay/neuter their pets.
- G. A foster care program.
- H. A volunteer program.
- I. Sufficient exercise space and/or program for animals kept at the shelter.
- J. A program to assist the City in licensing dogs and cats.
- K. Other activities which promote the welfare of animals kept at the Shelter.

It is the City's desire to provide a high level of care regarding animals that are in our care and custody. To that end, the proposal will include a specific plan to create or maintain the programs as outlined above.

VII. Submission Requirements:

Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of the proposer's capabilities to satisfy the requirements of this RFP.

Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.

- A. Submission Forms (Attachment A)
- B. Letter of Transmittal: Briefly describe your understanding of project and summarize the proposer's qualifications, experience and capabilities to meet RFP requirements.
 - 1. Identify person(s) who will be authorized to represent the company during contract negotiations and term of contract, including title, address and telephone.
 - 2. The letter of transmittal must be signed by the person who has authority to bind the company. The name and title of the individual signing the proposal must be clearly shown immediately below the signature.
- C. Narrative: Provide a comprehensive narrative illustrating your understanding of the purpose and scope, objectives and requirements of the RFP, and the methodology you intend to employ, as pertains to the requirements:
 - 1. Minimum Qualifications (Section III)
 - 2. Shelter Facility and Location (Section IV)
 - 3. Detailed Scope of Work (Section V)
 - 4. Desired Goals and Programs (Section VI)

Proposals should be organized in the order in which the requirements are presented in this RFP.

VIII. Submittal Address.

Delivery of Submittals: Submittals shall be delivered to, or received by, the City of Oak Harbor no later than _____ a.m./p.m. on _____, 20____. **Late submittals will not be accepted.** FAX submittals will not be accepted. Clearly mark the submittal package with Offeror name, address, phone number, and any other contact information.

Proposals shall be submitted to:

City of Oak Harbor
Attn: City Clerk
865 SE Barrington Drive
Oak Harbor, WA 98277

IX. Criteria for Selection

A contract will be awarded to the proposer that successfully demonstrates the ability to meet the required elements in the most cost effective and efficient manner. To be successful, a proposal must:

- A. Provide all required information and meet minimum qualifications as set forth in this Request for Proposals.
- B. Demonstrate a successful history of providing like or similar services to the City or other similar entity sufficient to support the conclusion that the proposer has the ability and the operational capacity to provide the services required in this RFP.
- C. Demonstrate to the City’s satisfaction that the proposer has the financial strength and stability to assume the responsibilities required under the RFP and successfully fulfill the contract. **Offeror will provide two years’ financial reports with Submission documents.**

X. Bid and Contract Schedule.

The City will make every effort to adhere to the following schedule leading to a contract award:

Request for Proposals Release Date:	_____
Submittal Due Date:	_____
Finalist Interviews:	_____
Apparent Successful Bidder Announcement:	_____
Contract Negotiations:	_____
City Council Consideration:	_____
Anticipated Start:	_____

Note: Some dates are estimates at this time, and this schedule is subject to change.

XI. Evaluation and Selection.

All proposals received in the proper format and time frame will be given equal consideration, with the selection being made in accordance with the Criteria for Selection referred to in Section IX above.

XII. Contract Term.

The City of Oak Harbor will enter into an agreement with the successful Offeror for a period of **2 (two)** years. Such term may be extended by mutual written agreement. Note: All submitting firms consent to the City contract, terms and conditions. City reserves the right to revise the stated contract terms and conditions prior to contract signature.

XIII. Solicitation Process and Administrative Requirements.

Introduction

This section details the City procedures that direct this process, to ensure that the process is open and competitive, and to ensure that companies receive fair and equitable treatment. The City may reject any submittal that fails to comply with any of the requirements of this section. All submittals become the property of the City of Oak Harbor.

1. Communications with the City: All communications regarding this request must be directed to the Chief of Police, the City's Project Manager.

860 SE Barrington Drive
Oak Harbor WA 98277
Phone: 360-279-4600
Fax: 360-279-4609

2. Questions Regarding this RFP: The Project Manager (or designee), is the sole point of contact for this RFP. Requests for an interpretation must be made in writing, (fax or email allowed) at least ten (10) days prior to proposal deadline. No oral interpretations concerning this RFP will be made. The City is not bound by information, clarification, or interpretations from other City officials or employees. Offerors should not contact City officials or employees. Failure to observe this requirement may be grounds for rejection of the submittal.

3. Organization and Copies: Responses must include the information requested under the Submission Requirement section. To facilitate the evaluation, submittals should be organized in the order outlined in the Submission Requirement section.

4. Copies: In order for the submission to be considered, the City requires three (3) copies of the submittal on standard 8.5x11 paper, and appropriately bound. Fold out charts, tables and spreadsheets are acceptable.

5. Responsible Business Criteria: The City shall consider only responsible organizations or companies. Responsible organizations or companies are those that have, in the sole judgment of the City, the financial ability, experience, resources, skills,

capability, reliability and business integrity necessary to perform the requirements of the contract. The City may also consider references, and financial stability.

6. **Late Submittals and Modifications:** Any modification or late submittal received after the date and time of submittal will not be accepted.
7. **Addenda:** The offeror's receipt of any addendums issued by the City is to be acknowledged on the Submission Form which will be included with any addendums. Failure to acknowledge the addenda will allow the City to either reject the Submittal or to assume that the Proposal includes the addenda in the offer, at the sole discretion of the City.
8. **Rejection of Proposals:** The City reserves the right to reject any or all proposals at any time with no penalty and to waive immaterial defects and minor irregularities in proposals, and to waive any informality in responses received. The City reserves the right to consider all information, whether submitted or otherwise, to determine responsibility of the respondent. No applications or supporting documentation will be returned.
9. **Incurred Costs:** The City of Oak Harbor will not be liable in any way for any costs incurred by respondents in developing proposals.
10. **Withdrawal of Submittals:** Any response may be withdrawn, either personally or by a written, faxed or e-mailed request, at any time, prior to the time set for the deadline of submittal.
11. **Business License:** Offerors who are awarded a City of Oak Harbor contract, must possess a City of Oak Harbor business license, and may pursue a license upon notice of award. A license must be obtained prior to beginning work. Offerors may contact the City at 360-279-4500 for additional information concerning business licenses.
12. **Non-Responsive Submittals:** Any response that does not reasonably comply with the instructions, in the City's sole judgment, may be rejected as incomplete, and may be declared unresponsive.
13. **Interpretation of Documents:** Verbal interpretations or verbal communications by the City may not be binding upon the City of Oak Harbor. Requests for an interpretation shall be made to the City Project Manager in accordance with the provisions of Section XIII (2), above. Any binding interpretation that is deemed necessary by the City will be in the form of an addendum to this RFP. Such addendum will be sent as promptly as is practical to all whom requested Proposal documents. All such addenda shall become part of these specifications. Offerors who specifically withdraw from the process verbally or in writing, will not receive addenda, and are responsible for seeking addenda should they decide to submit a proposal.
14. **Examination of Request and Contract Documents:** Submission of a proposal shall constitute an acknowledgment upon which the City of Oak Harbor may rely that

respondent has thoroughly examined and is familiar with the requirements and contract documents, and reviewed and inspected all applicable statutes, regulations, ordinances, and resolutions dealing with or related to the work and services to be provided. Failure or neglect of an offeror to examine such documents, work site(s), statues, regulations, ordinances or resolutions, shall in no way relieve the offeror from any obligations with respect to the offer or to the contract. No claim for additional compensation will be allowed which is based upon a lack of knowledge of the same.

15. **Non Collusion:** Submittal of a proposal constitutes a representation by the offeror that the offer is genuine and not a sham or collusive, and not made in the interest of any person not named, and that the Offeror has not induced or solicited others to submit a sham offer, or to refrain from proposing.

16. **Corporate Principal:** Offers shall be signed by an individual who is named in the business to have such authority, according to the business governing body and by-laws.

17. **Errors and Omissions:** The City will not consider a claim of an error in an offer, unless the claim is presented in writing within 24 hours (or the next working day) after the offers are received. Additionally, the offeror claiming error must present supporting evidence, including but not limited to, cost breakdown sheets, no later than 48 hours (or two working days) after the offers are received.

18. **Public Information:** Submittals will be considered public information once an award is made. It is the City's policy to make documents that are subject to public disclosure, pursuant to the Public Records Act, available for review upon award. The City policy is to retain without disclosure all documents received until award is made and while the City is utilizing those documents for negotiations and/or considerations in order to assure that such disclosures will not affect profit or loss to the City.

19. **Proprietary Material:** Offerors shall clearly mark any proprietary information with the words "Proprietary Information. Marking all or nearly all of the submittal as proprietary may result in rejection of the Proposal. Offerors should be aware that the City is required by law to make records available for public inspection, with certain exceptions (see RCW Chapter 42.17). It is the City's belief that this legal obligation would not require the disclosure of proprietary description information that contains valuable drawings, designs or formulas. However, the Offeror, by submission of materials marked proprietary, acknowledges and agrees that the City will have no obligation or any liability to the Offeror in the event that the City must disclose these materials.

20. **Insurance:** The Contractor shall provide insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

A. **Minimum Scope of Insurance.** Offeror/contractor shall obtain insurance of the types described below:

- (1) Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
 - (2) Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, volunteers and personal injury and advertising injury. The City shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City.
 - (3) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
 - (4) Officers and Director's Insurance appropriate to the offer/contractor's profession.
- B. Minimum Amounts of Insurance. Contractor shall maintain the following insurance limits:
- (1) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of One Million Dollars (\$1,000,000) per accident.
 - (2) Commercial General Liability insurance shall be written with limits no less than One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) general aggregate and a \$2,000,000 products-completed operations aggregate limit.
 - (3) Officers and Directors insurance shall be written with limits no less than One Million Dollars (\$1,000,000) per claim and One Million Dollars (\$1,000,000) policy aggregate limit.
- C. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Officers and Directors and Commercial General Liability insurance:
- (1) The Contractor's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

- (2) The Contractor's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
- E. Verification of Coverage. Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements including, but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work.

21. Gifts/Gratuities: The enclosed Terms and Conditions include a statement regarding gifts and gratuities, which is applicable throughout the solicitation and award process. Please review these requirements. Further, the City adheres to the Code of Ethics for Municipal Officers, Chapter 42.23 RCW. Offerors are therefore cautioned to refrain from any activity, gifts, gratuities or other actions that may provide an appearance of influence or conflict of interest. Such conditions will be grounds for rejecting the Proposal.

ATTACHMENT A
SUBMISSION FORMS
REQUEST FOR PROPOSAL
Animal Shelter Management and Operations Services
City of Oak Harbor

Submittal Due Date: XXXXX

Please include 3 copies of all requested information. Please bind copies as appropriate.

Submit these completed RFP Submittal sheets, signed and filled out as required, followed by Offeror's complete response to this solicitation. Proposals should be organized in the order in which the requirements are presented in this RFP, and per Section VII Submission Requirements. All pages of the proposal should be numbered. Proposals should be as thorough and detailed as possible so that the City may properly evaluate the Offeror's capabilities to provide the required services.

OFFEROR:

Name and Address:

Phone: _____ FAX: _____

Email: *(if applicable)*: _____

Date: _____

By: _____
Signature in Ink

Name: _____
Please Print

Title: _____

Submission Forms (page 2 of 3)

****Offeror will provide two years' financial reports with Submission documents.****

1. Business Classification (check or specify all that apply):
 Individual
 Partnership
 Corporation
 Women or Minority Owned

2. Name of Owner: _____

3. Does bidder maintain insurance in amounts specified by the City contract: _____

Commercial General Liability insurance of at least \$1,000,000 per occurrence; \$2,000,000 general aggregate: Yes: _____ No: _____

Automobile liability of at least \$1,000,000 per accident: Yes: _____ No: _____
If no, describe differences: _____

Professional Liability Insurance of at least \$1,000,000 per claim; \$1,000,000 policy aggregate limit: Yes: _____ No: _____

Insurance Broker Name: _____
Phone: _____ Fax: _____

4. Are there claims pending against this insurance policy? Yes: _____ No: _____
If yes, describe: _____

5. During the past five years, has the contractor been involved in any bond litigation or claims that exceed 10% of the proposed contract cost? If yes, please attach an explanation.
Yes: _____ No: _____

6. Has company been in bankruptcy, reorganization or receivership in the last five years?
Yes: _____ No: _____

7. Has company been disqualified by any public agency from participation in public contracts?
Yes: _____ No: _____

8. Is the company the subject of, or been the subject of, any investigations or audits by any agencies having regulatory status over the company's operations? Yes: _____ No: _____

9. Is the company licensed for doing business in Washington? Yes: _____ No: _____

10. Does the company agree that all assigned representatives shall agree to submit to a background investigation, if required by the City? This would only be requested of the winning company that enters into a contract. Yes: _____ No: _____

ATTACHMENT B

ATTACHMENT C – Shelter Statistics 2009-2010-2011

Statistics provided by Current Contractor **NOTE** – these statistics include animals from NASWI

Oak Harbor Animal Shelter

			2009	2010	2011
DOGS	Incoming	Owner Surrender	34	29	47
		ACO Impound	197	187	212
		Strays by Public	85	56	56
		Transfers	3	3	5
		Returned	12	16	13
		Total Incoming Dogs	331	291	333
	Outgoing	Adopted Shelter	103	85	103
		Adopted Offsite	0	0	0
		Redeemed	209	171	184
		Transfers	0	0	0
Died/Put to Sleep		12	4	10	
	Total Outgoing Dogs	324	260	297	
CATS	Incoming	Owner Surrender	22	18	41
		ACO Impound	195	258	83
		Strays by Public	179	139	123
		Transfers	0	0	0
		Returned	12	30	13
		Total Incoming Cats	408	445	260
	Outgoing	Adopted Shelter	109	114	109
		Redeemed	23	16	13
		Freeland CAC Adoptions	5	33	27
		OH CAC Adoptions	151	102	75
Adopted Offsite		0	0	0	
Transfers		25	33	2	
Died/Put to Sleep		83	122	24	
	Total Outgoing Cats	396	420	250	
Waiting List	Dogs to be surrendered	18	53	56	
	Cats to be surrendered	666	640	490	
	Total Waiting List	684	693	546	
Spay/Neuter	Cats	184	201	159	
	Dogs	65	65	83	
	Feral Cats S/N	9	65	4	
	Total S/N	258	331	246	
PAL Coupons	PAL Coupons Issued - Shelter	79	99	125	
	PAL Coupons Redeemed	59	97	85	
	Total PAL Coupons Issued	79	99	125	
Dog Deaths	PTS - Behavior	11	5	5	
	PTS - Medical	1	0	5	
	Died/DOA	0	0	0	
	Total Dog Deaths	12	5	10	
Cat Deaths	PTS - Behavior	68	98	0	
	PTS - Medical	11	13	22	
	Died/DOA	4	17	1	
	Total Cat Deaths	83	128	23	
Foster Care - Dogs	Dogs into Foster Care	0	0	0	
	Puppies into Foster Care	0	1	0	
	Total Foster Care Dogs	0	1	0	
Foster Care - Cats	Cats into Foster Care	8	5	1	
	Kittens into Foster Care	38	65	41	
	Total Foster Care Cats	46	70	42	
Vet Visits	Unscheduled Offsite Visits	89	84	117	
Puppies	Surrendered 4 Months Max	0	2	1	
	Stray 4 Months Max	5	3	0	
	ACO Impound 4 Months Max	1	2	2	
		Total Puppies 4 Months Max	6	7	3
Kittens	Surrendered 4 Months Max	1	4	17	
	Stray 4 Months Max	85	82	42	
	ACO Impound 4 Months Max	35	41	15	
	Total Kittens 4 Months Max	121	127	74	
Crisis Care	Total Crisis Care	27	17	12	
Upper Respiratory Cats		84	71	88	
Kennel Cough Dogs	Total Kennel Cough Dogs	1	2	1	
*Adoptions	Total Adoptions	368	334	314	

ATTACHMENT C

Historical City Animal Control Services BUDGET Data -- 2009

expstat.rpt 11:03AM
08/17/2012
Periods: 0 through 13

Expenditure Status Report

City of Oak Harbor
1/1/2009 through 12/31/2009

Account Number	Description	Adjusted Appropriation	Expenditures	Year-to-date Expenditures	Year-to-date Encumbrances	Balance	Pct Used
001	CURRENT EXPENSE						
52	ANIMAL CONTROL						
001.52.539	OTHER ENVIRONMENTAL SERVICES						
001.52.539.030	ANIMAL CONTROL						
001.52.539.030.1100	SALARIES & WAGES	47,679.00	49,120.00	49,120.00	0.00	-1,441.00	103.02
001.52.539.030.1200	OVERTIME	2,430.00	64.51	64.51	0.00	2,365.49	2.65
001.52.539.030.2100	BENEFITS	16,536.00	18,224.16	18,224.16	0.00	-1,688.16	110.21
001.52.539.030.3100	OFFICE & OPERATING SUPPLIES	1,000.00	390.70	390.70	0.00	609.30	39.07
001.52.539.030.3500	SMALL TOOLS & MINOR EQUIPMENT	500.00	181.49	181.49	0.00	318.51	36.30
001.52.539.030.4100	PROFESSIONAL SERVICES	87,550.00	84,999.98	84,999.98	0.00	2,550.04	97.09
001.52.539.030.4200	COMMUNICATIONS	675.00	392.01	392.01	0.00	282.99	58.08
001.52.539.030.4300	TRAVEL	516.00	0.00	0.00	0.00	516.00	0.00
001.52.539.030.4700	UTILITY SERVICES	12,150.00	7,232.28	7,232.28	0.00	4,917.72	59.52
001.52.539.030.4800	REPAIRS AND MAINTENANCE	411.00	3,454.59	3,454.59	0.00	-3,043.59	84.03
001.52.539.030.4900	MISCELLANEOUS	1,000.00	3,573.60	3,573.60	0.00	-2,573.60	357.36
001.52.539.030.4905	WAF LICENSE SALES FEE	250.00	0.00	0.00	0.00	250.00	0.00
001.52.539.030.9600	INTRFUND REPAIRS & MAINTENANCE	2,000.00	1,840.06	1,840.06	0.00	159.94	92.00
001.52.539.030.9900	OTHER ENVIRONMENTAL SERVICES	200.00	380.47	380.47	0.00	-180.47	180.24
Total	ANIMAL CONTROL	172,896.00	189,853.83	189,853.83	0.00	3,042.17	98.24
001.52.539.038	INTERFUND CHARGES						
001.52.539.038.9600	INTRFUND REPAIRS & MAINTENANCE	6,820.00	8,731.00	8,731.00	0.00	-1,911.00	128.02
001.52.539.038.9900	INTRFUND EQUIP REPLACE CONTRIBUTIONS	6,014.00	6,012.00	6,012.00	0.00	2.00	99.97
001.52.539.038.9905	INTRFUND TECHNOLOGY CONTRIBUTIONS	0.00	0.00	0.00	0.00	0.00	0.00
Total	INTERFUND CHARGES	12,834.00	14,743.00	14,743.00	0.00	-1,909.00	114.87
001.52.594	OTHER ENVIRONMENTAL SERVICES						
001.52.594	CAPITAL EXPENDITURES						
001.52.594.019	MISC GENERAL GOVERNMENT	185,730.00	184,596.83	184,596.83	0.00	1,133.17	99.39
001.52.594.019.8100	LAND & LAND IMPROVEMENTS	0.00	0.00	0.00	0.00	0.00	0.00
001.52.594.019.8300	OTHER IMPROVEMENTS	0.00	0.00	0.00	0.00	0.00	0.00
001.52.594.019.8400	MACHINERY & EQUIPMENT	0.00	0.00	0.00	0.00	0.00	0.00
Total	CAPITAL EXPENDITURES	0.00	0.00	0.00	0.00	0.00	0.00
Total	CURRENT EXPENSE	185,730.00	184,596.83	184,596.83	0.00	1,133.17	99.39
Grand Total		185,730.00	184,596.83	184,596.83	0.00	1,133.17	99.39

ATTACHMENT C

Historical City Animal Control Services BUDGET Data -- 2010

expstat.rpt 11:04AM
08/17/2012
Periods: 0 through 14

Expenditure Status Report

City of Oak Harbor
1/1/2010 through 12/31/2010

Account Number	Appropriation	Adjusted Expenditures	Year-to-date Expenditures	Year-to-date Encumbrances	Balance	Pct Used
001	CURRENT EXPENSE					
52	ANIMAL CONTROL					
OTHER ENVIRONMENTAL SERVICES						
001 52 539	OTHER ENVIRONMENTAL SERVICES					
001 52 539 030	ANIMAL CONTROL					
001 52 539 030 1100	SALARIES & WAGES	50,830.00	51,336.00	51,336.00	-506.00	101.00
001 52 539 030 1200	OVERTIME	2,430.00	0.00	0.00	2,430.00	0.00
001 52 539 030 2100	BENEFITS	17,576.00	18,679.62	18,679.62	-1,103.62	106.28
001 52 539 030 3100	OFFICE & OPERATING SUPPLIES	1,020.00	691.34	891.34	128.66	87.39
001 52 539 030 3500	SMALL TOOLS & MINOR EQUIPMENT	510.00	0.00	0.00	510.00	0.00
001 52 539 030 4100	PROFESSIONAL SERVICES	87,550.00	85,094.96	85,094.96	2,455.04	97.20
001 52 539 030 4200	COMMUNICATIONS	690.00	428.57	428.57	261.43	62.11
001 52 539 030 4300	TRAVEL	515.00	0.00	0.00	515.00	0.00
001 52 539 030 4700	UTILITY SERVICES	12,716.00	8,874.39	8,874.39	3,841.61	69.79
001 52 539 030 4800	REPAIRS AND MAINTENANCE	411.00	502.20	502.20	-91.20	122.18
001 52 539 030 4900	MISCELLANEOUS	1,000.00	1,500.26	1,500.26	-500.26	150.03
001 52 539 030 4905	WAIF LICENSE SALES FEE	250.00	0.00	0.00	250.00	0.00
001 52 539 030 9800	INTRFUND REPAIRS & MAINTENANCE	2,040.00	1,173.16	1,173.16	866.84	57.51
001 52 539 030 9900	OTHER ENVIRONMENTAL SERVICES	200.00	0.00	0.00	200.00	0.00
Total	ANIMAL CONTROL	177,738.00	168,480.50	168,480.50	9,257.50	94.79
001 52 539 038	INTERFUND CHARGES					
001 52 539 038 9800	INTRFUND REPAIRS & MAINTENANCE	7,025.00	11,789.96	11,789.96	-4,764.96	167.83
001 52 539 038 9900	INTRFUND EQUIP REPLACE CONTRIBUTIONS	6,014.00	6,012.00	6,012.00	2.00	99.97
001 52 539 038 9905	INTRFUND TECHNOLOGY CONTRIBUTIONS	0.00	2,743.00	2,743.00	-2,743.00	0.00
Total	INTERFUND CHARGES	13,039.00	20,544.96	20,544.96	-7,505.96	157.57
Total	OTHER ENVIRONMENTAL SERVICES	190,777.00	189,025.46	189,025.46	1,751.54	98.08
001 52 594	CAPITAL EXPENDITURES					
001 52 594 019	MISC GENERAL GOVERNMENT					
001 52 594 019 6100	LAND & LAND IMPROVEMENTS	0.00	0.00	0.00	0.00	0.00
001 52 594 019 6300	OTHER IMPROVEMENTS	0.00	0.00	0.00	0.00	0.00
001 52 594 019 6400	MACHINERY & EQUIPMENT	0.00	0.00	0.00	0.00	0.00
Total	CAPITAL EXPENDITURES	0.00	0.00	0.00	0.00	0.00
Total	CURRENT EXPENSE	190,777.00	189,025.46	189,025.46	1,751.54	98.08
Grand Total		190,777.00	189,025.46	189,025.46	1,751.54	98.08

ATTACHMENT C

Historical City Animal Control Services BUDGET Data -- 2011

expstal.rpt
08/17/2012 11:04AM
Periods: 0 through 14

Expenditure Status Report

City of Oak Harbor
1/1/2011 through 12/31/2011

Account Number	Adjusted Appropriation	Expenditures	Year-to-date Expenditures	Year-to-date Encumbrances	Balance	Pct Used
001	CURRENT EXPENSE					
52	ANIMAL CONTROL					
001.52.539	OTHER ENVIRONMENTAL SERVICES					
001.52.539.030	ANIMAL CONTROL					
001.52.539.030.1100	SALARIES & WAGES	51,336.00	51,336.00	0.00	-68.00	100.13
001.52.539.030.1200	OVERTIME	430.00	0.00	0.00	430.00	0.00
001.52.539.030.2100	BENEFITS	20,569.00	20,133.20	0.00	435.80	97.88
001.52.539.030.3100	OFFICE & OPERATING SUPPLIES	2,200.00	863.12	0.00	1,336.88	39.23
001.52.539.030.3500	SMALL TOOLS & MINOR EQUIPMENT	400.00	1,057.43	0.00	-657.43	264.36
001.52.539.030.4100	PROFESSIONAL SERVICES	85,580.00	85,044.96	0.00	535.04	99.37
001.52.539.030.4200	COMMUNICATIONS	500.00	475.72	0.00	24.28	95.14
001.52.539.030.4300	TRAVEL	300.00	0.00	0.00	300.00	0.00
001.52.539.030.4700	UTILITY SERVICES	11,000.00	10,827.67	0.00	172.33	98.43
001.52.539.030.4800	REPAIRS AND MAINTENANCE	2,600.00	199.83	0.00	2,400.17	7.69
001.52.539.030.4900	MISCELLANEOUS	1,650.00	1,858.15	0.00	-208.15	112.62
001.52.539.030.4905	WAFR LICENSE SALES FEE	0.00	0.00	0.00	0.00	0.00
001.52.539.030.9800	INTRFUND REPAIRS & MAINTENANCE	1,800.00	1,888.12	0.00	-88.12	104.90
001.52.539.030.9900	OTHER ENVIRONMENTAL SERVICES	200.00	40.65	0.00	159.35	20.33
Total	ANIMAL CONTROL	178,497.00	173,724.85	173,724.85	4,772.15	97.33
001.52.539.038	INTERFUND CHARGES					
001.52.539.038.9800	INTRFUND REPAIRS & MAINTENANCE	1,036.00	6,997.00	6,997.00	-5,961.00	675.39
001.52.539.038.9900	INTRFUND EQUIP REPLACE CONTRIBUTIONS	0.00	0.00	0.00	0.00	0.00
001.52.539.038.9905	INTRFUND TECHNOLOGY CONTRIBUTIONS	3,472.00	3,468.00	3,468.00	4.00	99.88
Total	INTERFUND CHARGES	4,508.00	10,465.00	10,465.00	-5,957.00	232.14
Total	OTHER ENVIRONMENTAL SERVICES	183,005.00	184,189.85	184,189.85	-1,184.85	100.65
001.52.594	CAPITAL EXPENDITURES					
001.52.594.019	MISC GENERAL GOVERNMENT					
001.52.594.019.6100	LAND & LAND IMPROVEMENTS	0.00	0.00	0.00	0.00	0.00
001.52.594.019.6300	OTHER IMPROVEMENTS	0.00	0.00	0.00	0.00	0.00
001.52.594.019.6400	MACHINERY & EQUIPMENT	0.00	0.00	0.00	0.00	0.00
Total	CAPITAL EXPENDITURES	0.00	0.00	0.00	0.00	0.00
Total	CURRENT EXPENSE	183,005.00	184,189.85	184,189.85	-1,184.85	100.65
Grand Total		183,005.00	184,189.85	184,189.85	-1,184.85	100.65

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

Bill No. AB 11
Date: December 4, 2012
Subject: Authorization to Bid for the
Construction of Picnic
Shelters at Ft. Nugent Park

FROM: Cathy Rosen, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, Interim City Administrator
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to seek authorization to advertise for bid to construct two covered picnic shelters at Ft. Nugent Park.

AUTHORITY

The City of Oak Harbor is authorized to spend Park Impact Fees under OHMC Section 3.63.070. The funds proposed for expenditure were collected as Community Park Impact Fees and are reserved for park expenditures.

FISCAL IMPACT DESCRIPTION

Funds Required: \$67,000

Appropriation Source: Fund 126 - Community Park Impact Fees

The shelters will be rented out on a facility reservation system similar to the existing system used for rental of shelters at Windjammer Park.

SUMMARY STATEMENT

The original plans of the 2004 Ft. Nugent Park Phase II expansion identified picnic shelters as intended improvements. Due to budget constraints on that project, the shelters were not constructed at that time and were identified as future improvements. Since the completion of the community built playground at Ft. Nugent Park, the Parks Division has received numerous requests for construction of adjacent covered picnic shelters (as originally planned) that can serve family reunions, birthday parties, and other large gatherings as well as smaller gatherings and for individuals.

The Community Park Impact Fee Fund (126) has accrued sufficient funds so that the picnic shelters may now be constructed. A design has been completed and plans are ready to go to bid.

City of Oak Harbor City Council Agenda Bill

STANDING COMMITTEE REPORT

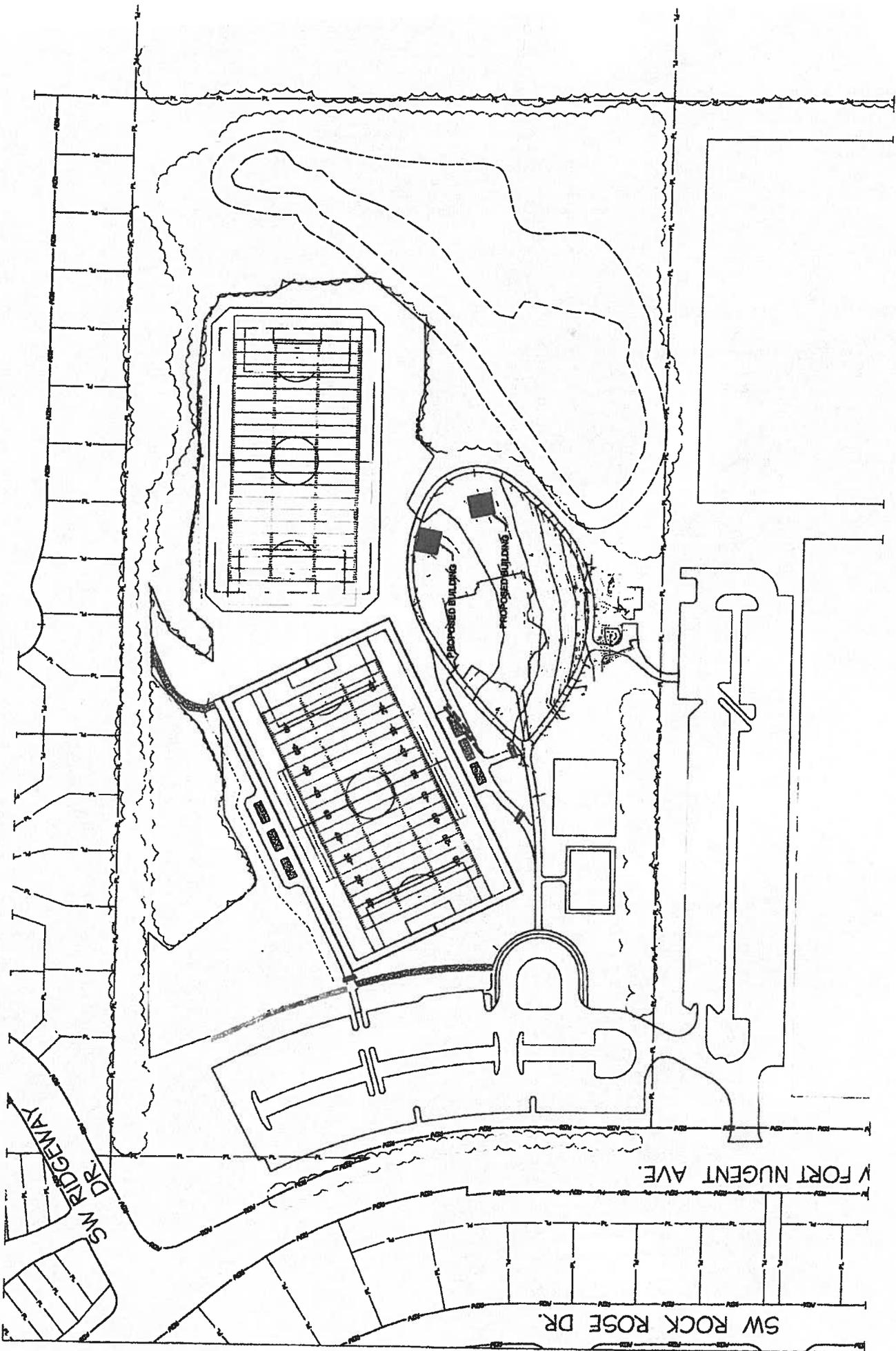
This project was presented to the Public Works Standing Committee Meeting on June 7, 2012.

RECOMMENDED ACTION

Authorize the advertisement for bids to construct the two covered picnic shelters at Ft. Nugent Park.

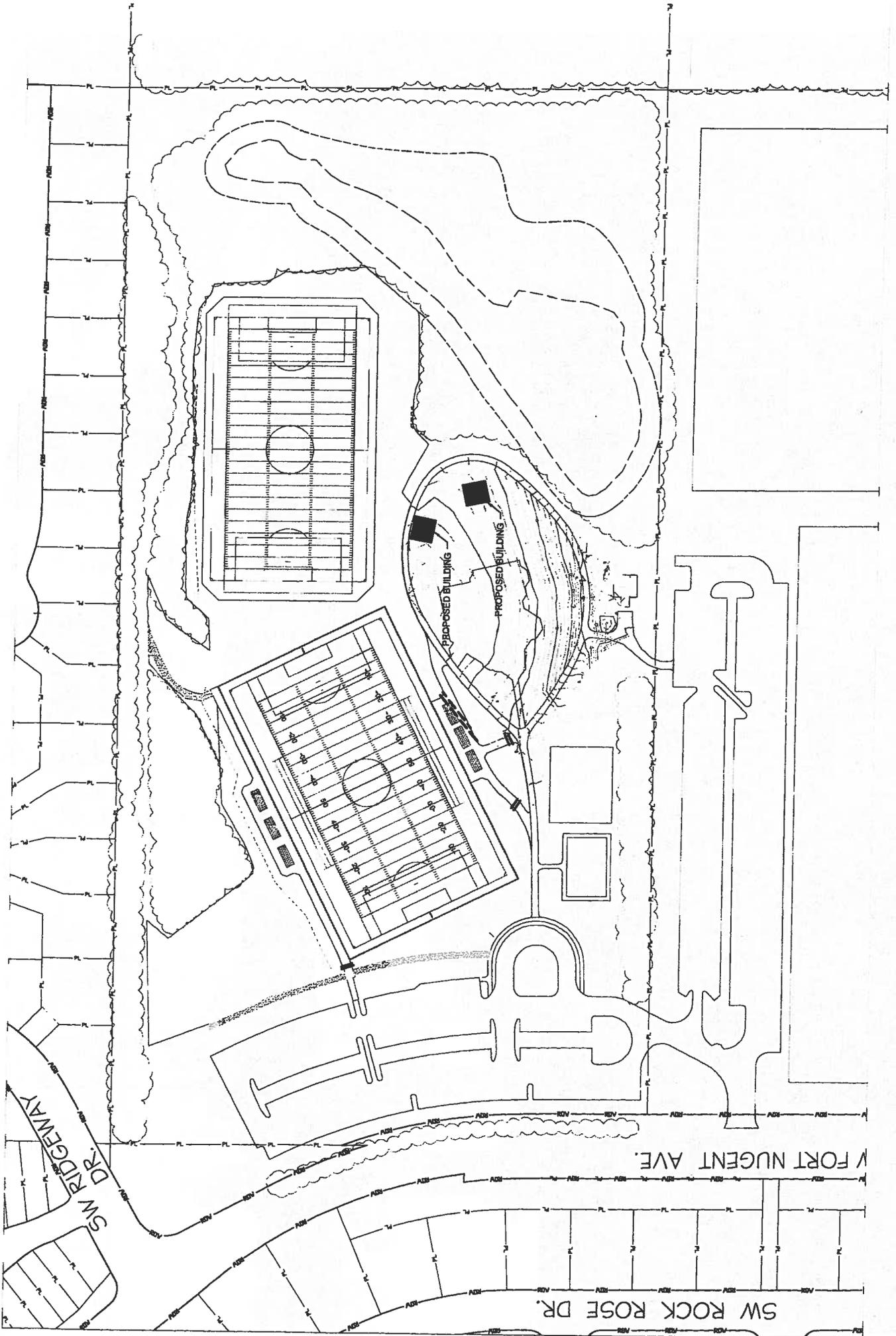
ATTACHMENTS

- Site Plan showing the two locations
- Photograph of a constructed picnic shelter that inspired the design









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

Bill No. AB12
Date: December 4, 2012
Subject: Assistant City Attorney
Employment Agreement –
Nikki Esparza

FROM:  **Larry Cort, Interim City Administrator**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 **Scott Dudley, Mayor**
 **Doug Merriman, Finance Director**
 **Grant Weed, Interim City Attorney, as to form**

PURPOSE

This agenda bill presents a proposed Employment Agreement with Nikki Esparza to serve as the City’s Assistant City Attorney. In accordance with Section 2.34.055 OHMC, City Council approval is requested to approve the Agreement and the specific contract terms contained therein.

AUTHORITY

RCW 35A.11.020

Powers vested in legislative bodies of noncharter and charter code cities.

The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees; within the limitations imposed by vested rights, to fix the compensation and working conditions of such officers and employees and establish and maintain civil service, or merit systems, retirement and pension systems not in conflict with the provisions of this title or of existing charter provisions until changed by the people.

OHMC 2.34.055 Management positions.

(1) Except as provided in subsection (6) of this section, employees hired to fill the following appointive offices shall be subject to the direction and supervision of the mayor, and are not covered by the grievance, disciplinary action and appeals provisions of this chapter. Persons employed in these appointive positions shall be “at will” employees of the city and may be terminated from the city’s employment at the mayor’s discretion.

- (a) City administrator;
- (b) Finance director;
- (c) City attorney and any assistant city attorneys;
- (d) Chief of police;
- (e) Fire chief;
- (f) Development services director;
- (g) Public works director;
- (h) Executive assistant to the mayor.

City of Oak Harbor City Council Agenda Bill

(2) Subject to the provisions of subsection (6) of this section, employees holding the above-listed positions shall be offered employment contracts which shall govern the terms and conditions of their employment, including the terms of service, compensation and any severance pay allowance. The mayor is authorized to enter into employment contracts with employees holding the above-described appointive offices; provided, however, that before any such contract or specific contract terms are offered, the content of the same shall first be approved by the city council.

FISCAL IMPACT DESCRIPTION

Funds Required: Additional funds are not required as this position has been budgeted as part of the 2013-14 budget. The approximate total annual cost for this contract in compensation and benefits is \$94,436 (benefit costs are estimated).

Appropriation Source: Fund 001 General Fund (Legal)

SUMMARY STATEMENT

Historically, the City has maintained a legal staff that includes the City Attorney, an Assistant City Attorney, and two support staff. Nominally, the City Attorney has handled mainly civil work and the Assistant City Attorney the prosecution work. This staffing structure is supported by the draft 2013-14 budget. Recruitment for the City Attorney position is underway and the Assistant City Attorney position is vacant. The responsibilities for both positions are currently being handled under contracts - the firm of Weed, Graafstra and Benson as Interim City Attorneys and Nikki Esparza as Special Assistant City Attorney.

Nikki (Thompson) Esparza was first retained by the City of Oak Harbor as Special Assistant City Attorney for prosecution services under a Professional Services Agreement starting in August of 2011. Ms. Esparza has served in this role continuously since that date and her current Professional Services Agreement expires on December 31, 2012. During her tenure with the City, she has prosecuted all municipal criminal cases, including covering the City's weekly court calendars, and performed civil duties as requested by the City Attorney and Interim City Attorney. In performing this work, Ms. Esparza has maintained membership in good standing of the Washington State Bar Association, and has demonstrated all the necessary skills and abilities to function effectively in the role of Assistant City Attorney. Her resume is attached.

Due primarily to the record of exemplary work demonstrated by Ms. Esparza over the past 16 months, the Mayor has exercised his authority under Section 2.34.055(2) OHMC to bring a contract forward with a request that the City Council consider and approve an employment contract with Nikki Esparza as Assistant City Attorney. The proposed contract specifies conditions of employment and sets working conditions for the Oak Harbor Assistant City Attorney including but not limited to:

- Salary: Starting base salary \$71,040 annually, with a provision for cost of living adjustments consistent with other management staff.
- Vacation: Accrual based on years of service.
- Sick Leave: Accrual of one day per month.
- Severance Package: Severance pay for at-will termination in the amount of 6 months' salary. No severance pay for termination by resignation or for cause.

City of Oak Harbor City Council Agenda Bill

- Other Benefits: Same as provided for general City employees as they are today or as they may be modified in the future.

STANDING COMMITTEE REPORT

This item has not been presented at any standing committee meetings.

RECOMMENDED ACTIONS

Approve the content and authorize the Mayor to sign the Assistant City Attorney Employment Agreement with Nikki Esparza

ATTACHMENTS

Draft employment contract for Nikki Esparza
Professional biography for Nikki Esparza

EDUCATION

Seattle University School of Law

J.D. May 2006

- Scholarship at entry
- Cum Laude
- Cali Award for Natural Resources

University of Washington-Tacoma

B.A., Interdisciplinary Arts and Sciences, June 2002

- Concentration in States, Markets and Global Systems
- Minor in Environmental Science
- Dean's List all quarters of attendance
- National Honor Society member

EMPLOYMENT

Feb. 2011 - Present

Nikki C. Esparza (formerly Thompson) , Attorney at Law, Oak Harbor, WA - Sole Practitioner

- Contract City of Oak Harbor Prosecuting Attorney, August 2011 - Present
- Represented clients at all phases of the criminal process
- Represented clients in dependency proceedings
- Represented clients in family law matters
- Drafted wills, powers of attorney, healthcare directives and other estate planning documents

The Law Office of Thomas C. Pacher, Coupeville, WA - Public Defender May 2010 - Feb. 2011

- Provides representation for indigent clients during all phases of the criminal process through trial and appellate phases
- Provides on call services for individuals needing after hours counsel

June 2008-May 2010

The Law Office of Nikki Thompson-Crain, Oak Harbor, WA – Sole Practitioner

- Represented clients at all phases of the criminal process
- Represented parents and children in dependency proceedings
- Represented clients in family law matters including child custody and dissolutions

The Law Offices of Terry L. Smith, Oak Harbor, WA – Associate

Oct. 2006 – June 2008

- Handled one-third of the City of Oak Harbor's Public Defense contract
- Acted as a conflict public defense attorney for the Island County, WA
- Handled family law litigation, including dissolution and custody issues
- Represented parents and children in dependency proceedings
- Researched issues and wrote briefs

McCarthy, Casseaux & Rourke, Tacoma, WA – Rule 9 Intern

Sept. 2005 –Nov. 2005

- Conducted client correspondence and meetings

- Researched various legal issues, including pre-trial research
- Worked on dissolution cases
- Wrote writ of habeas corpus
- Revised interrogatories
- Wrote memos to partners
- Drafted correspondence to opposing counsel

Wilsonart International, Inc., Algona, WA – Customer Service Rep. Sept. 2002 – June 2003

- Responsible for placing and tracking laminate orders
- Created bills of lading for shipments to local areas and Canada
- Acted as liaison between customers and shipping companies

Washington State Legislature, Olympia, WA – Intern Jan. 2002 – Mar. 2002

- Responsible for constituent correspondence via telephone and letters
- Acted as liaison between state agencies and constituents
- Researched various legislative issues, policies, and procedures
- Tracked bills throughout the legislative process
- Attended and documented committee hearings relating to commerce and labor issues
- Drafted correspondence for state representatives

General Nutrition Centers, Auburn, WA – Sales Associate Sept. 1996 – Feb. 2001

- Trained new employees
- Provided customers with quality information and assistance
- Ordered and received inventory on a bi-weekly basis

ASSOCIATIONS

Washington Defender Association– Former member

Island County Bar Association – 2009 President, 2008 Secretary/Treasurer

SKILLS

- Intermediate fluency in Spanish

ACTIVITIES

Tacoma Urban League’s ‘From Me to You’ HIV/AIDS Prevention Program-volunteer

Seattle University’s **Families United Network (FUN)** – former member

INTERESTS – Hispanic culture and Latin American politics, environmental issues, music, reading, hiking, camping, and traveling.

EMPLOYMENT CONTRACT
Assistant City Attorney

THIS AGREEMENT, effective January 1, 2013, by and between the City of Oak Harbor, hereinafter referred to as “City”, and Nikki Esparza, hereinafter referred to as “Assistant City Attorney”.

WHEREAS, pursuant to OHMC 2.34.055, Nikki Esparza has been appointed by the Mayor to the position of Assistant City Attorney and shall be offered an employment contract; and

WHEREAS, it is the desire of the City to provide certain benefits, establish certain conditions of employment, and to set working conditions for the position of Assistant City Attorney; and

WHEREAS, pursuant to OHMC 2.36.030 the City Council has confirmed the Mayor’s appointment of Nikki Esparza as Assistant City Attorney for the City of Oak Harbor; and

WHEREAS, the Assistant City Attorney agrees to serve in that capacity subject to the terms and conditions set forth in this Employment Contract,

NOW, THEREFORE, FOR AND IN CONSIDERATION OF the terms and conditions hereinafter set forth, the City and Assistant City Attorney agree as follows:

1. Employment. The City hereby employs the Assistant City Attorney to serve in this position for the City of Oak Harbor. The duties of said position shall be to perform all duties assigned to the position of Assistant City Attorney as provided in the job description, the Oak Harbor Municipal Code, and Washington State law, together with such other and further duties and special projects as may be assigned to the Assistant City Attorney by the City’s Mayor, City Administrator and/or City Attorney. Pursuant to OHMC 2.36.030 and 2.34.055 the Assistant City Attorney shall serve at the pleasure and at the discretion of the City’s Mayor.
2. Duration of Employment. This Employment Agreement shall become effective on January 1, 2013, and shall continue indefinitely thereafter unless sooner terminated by the parties as provided in paragraphs 3 and 4 below.
3. “At Will” – Termination by the City. The Assistant City Attorney shall at all times during her employment be considered an “At Will” employee, subject to termination by the City’s Mayor at any time with or without cause. Nothing in this Agreement shall be construed other than an “At Will” employment relationship between the City and the Assistant City Attorney and the Assistant City Attorney expressly acknowledges that no contrary representations have been made by the City.
4. Resignation – Termination by the Assistant City Attorney. The Assistant City Attorney reserves the right to resign from employment at any time with or without cause. The Assistant City Attorney agrees to give the City not less than two (2) weeks’ notice prior to the effective date of any such resignation.
5. Compensation: The Assistant City Attorney shall be compensated for services rendered during the term of this Agreement as follows:

- a. Base Salary. The Assistant City Attorney shall receive a monthly salary of \$5,920. After a satisfactory six month review, the Assistant City Attorney may be eligible for a raise to \$6,098 per month. The rate of pay may be adjusted annually thereafter consistent with the salary range and steps established for this position.
- b. In the event that a salary and wage study is conducted, the Assistant City Attorney position shall be included.
- c. Benefits. The Assistant City Attorney shall be entitled to a sick leave accrual of one day each per month, vacation leave accrual as set forth in the City Personnel Policies, and eleven paid holidays which includes one floating holiday of her choice.

The Assistant City Attorney shall also receive all other benefits provided by the City of Oak Harbor to regular employees as they exist now or as they are modified in the future. The following describes the benefits as they exist on the effective date of the Agreement:

- Medical insurance, premium paid 100% and 75% premium paid for spouse and dependent children.
- Dental insurance, premium paid 100% and 75% premium paid for spouse and children.
- Standard Insurance life insurance policy of \$25,000 paid for employee only
- Enrollment in Public Employees Retirement System (PERS) retirement system.

The Assistant City Attorney shall also be entitled to elect other voluntary benefit options as they exist now or as they are modified in the future. The following describes the voluntary benefits as they exist on the effective date of the Agreement:

- Self-paid individual and/or family supplemental insurance coverage for Short-term Disability, Cancer Care, and Critical Illness
- Pre-tax deductions for Unreimbursed Medical expenses and/or Dependent Day Care
- Additional self-paid Voluntary Group Life Insurance
- Self-paid enrollment in his choice of two Deferred Compensation Plans

- d. Timing of Monthly Payments – Deductions. All monthly payments of salary and benefits shall be made at the same time and on the same date as the City's regular payroll. All such monthly payments shall be subject to all required state and federal deductions, including income tax, social security, and any other deduction required and authorized by law. The City agrees to pay all employer contributions to FICA, worker's compensation, and similar programs as required by law.

6. Work Schedule. The Assistant City Attorney is a confidential, exempt employee for purposes of the Federal Fair Labor Standards Act and as such shall not work a fixed forty hour per week schedule. The Assistant City Attorney's work shall be conducted at Oak Harbor City Hall during regular business hours of the City, Monday through Friday, provided, that the Assistant City

Attorney shall receive time off for holidays according to the holiday schedule customarily observed by the City. The Assistant City Attorney is also required to attend all meetings of the Oak Harbor City Council unless excused by the City Attorney and such other staff meetings as requested by the Mayor, City Administrator or City Attorney or as required by the duties of the position.

7. Severance Package.

- a. Severance for At Will Termination. In the event the Assistant City Attorney's employment with the City is terminated for any reason other than those delineated in subparagraph (b) below, the City will provide the Assistant City Attorney severance payment for a period of six (6) months after the effective date of termination. The monthly amount shall be paid in accordance with the same schedule as the regular City payroll, and shall be subject to the same mandatory deductions as the Assistant City Attorney's salary was prior to termination.
 - i. Reference. In the event of termination of the Assistant City Attorney's employment by the City, the Assistant City Attorney shall be entitled to an employment reference from the City, the language of which shall be agreed upon by the parties, provided, that in the event the parties cannot agree on the form of the reference, the City will provide only the dates of the Assistant City Attorney's employment, the last position held, the last salary received, the fact that the Assistant City Attorney is no longer employed by the City.
 - ii. Unemployment Benefits. The City will not oppose any unemployment benefit claims made by the Assistant City Attorney.
- b. Termination by Resignation or for Cause. The severance package provided for in subparagraph (a) above shall not be available to the Assistant City Attorney if the termination of the Assistant City Attorney's employment with the City is due to:
 - i. Resignation. The Assistant City Attorney's voluntary resignation from employment. For purposes of this paragraph, "voluntary resignation" means a resignation of employment resulting from the free choice of the Assistant City Attorney and not the result of a suggestion to resign in lieu of termination made by formal action of the Mayor or City Council; or
 - ii. Misconduct. Criminal conduct, commission of any crime, abuse of public office, or other gross misconduct, including, but not limited to, fraud, deceit, embezzlement, theft of funds or property, assault, or sexual, racial, or other harassment; or
 - iii. Job Performance. Insubordination, incompetence, inadequacy, or inefficiency of the Assistant City Attorney in the performance of her official duties.
- c. Construction. The severance package provided in subparagraph (a) above shall not be construed as an extension of the Assistant City Attorney's employment beyond the

termination date. The Assistant City Attorney shall not, during the period between the termination date and the end of the severance payments, accrue any additional sick leave, vacation leave, health care benefit or other benefit accorded active City employees.

8. Professional Development. The City agrees to pay the reasonable professional dues and subscriptions necessary for continuation, enrollment and full participation of continued education in the field of municipal law. In addition, the City may pay for membership in such other associations or organizations, and may reimburse the Assistant City Attorney for attendance at annual conferences or the same and for such other professional development activities as the City Attorney may approve and as may be annually budgeted by the City Council.
9. The City agrees to cover the Assistant City Attorney on the City's liability insurance policies to the same extent as any regular employee of the City is covered for acts, errors, or omissions within the scope of employment. All such liability insurance coverage shall be provided at the City's sole cost and expense.
10. The City of Oak Harbor agrees to hold harmless and indemnify the Assistant City Attorney from any and all costs, risk or liability associated with or arising out of acts or failures to act which are performed within the scope of his employment as the Assistant City Attorney including the reasonable cost of legal defense by counsel appointed by the City or its insurance carrier, as applicable. This promise to indemnify shall exclude only criminal acts of the Assistant City Attorney and acts or failure to act which would constitute an intentional tort or intentional wrongdoing knowingly committed by the Assistant City Attorney without the express direction of the Mayor or City Administrator of the City of Oak Harbor. This promise to hold harmless and indemnify shall survive beyond the employment of the Assistant City Attorney with the City of Oak Harbor in order that the Assistant City Attorney shall be held harmless, indemnified and defended in the future for all acts taken as the Assistant City Attorney subject to the limitations contained herein.
11. Severability. If any paragraph, sentence, clause or phrase of this Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, said invalidity or unenforceability shall not affect the validity or enforceability of any other paragraph, sentence, clause or phrase, and to that end the terms and conditions set forth in this Agreement shall be severable.
12. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties as to the terms and conditions of the Assistant City Attorney's employment by the City and no other agreements or understandings, oral or otherwise, exist or shall be deemed binding upon the parties. The Agreement may be amended only by a written instrument duly executed by both parties.

Dated this _____ day of _____, 2012.

For the City of Oak Harbor:

Oak Harbor Assistant City Attorney
Employment Agreement
Page 4 of 5

D. Scott Dudley, Mayor

Nikki Esparza, Assistant City Attorney

Attest:

Nacelle J. Heuslein, Interim City Clerk

Approved as to Form:

Grant K. Weed, Interim City Attorney

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

Bill No. AB 13
Date: December 4, 2012
Subject: Finance Director Employment
Agreement – Doug Merriman

FROM:  Larry Cort, Interim City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill presents a proposed Employment Agreement with our current Finance Director Doug Merriman. City Council action is requested to approve the Agreement.

AUTHORITY

RCW 35A.11.020

Powers vested in legislative bodies of noncharter and charter code cities.

The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees; within the limitations imposed by vested rights, to fix the compensation and working conditions of such officers and employees and establish and maintain civil service, or merit systems, retirement and pension systems not in conflict with the provisions of this title or of existing charter provisions until changed by the people.

2.07.020 OHMC Appointment – Term.

The finance director shall be appointed by the mayor and confirmed by the city council. The finance director shall serve at the pleasure of the mayor pursuant to an employment contract proposed by the mayor and approved by the city council. (Ord. 1628 § 3, 2012; Ord. 1117 § 3, 1997; Ord. 546 § 3, 1979).

FISCAL IMPACT DESCRIPTION

Funds Required: Additional funds are not required as this position has been budgeted as part of the 2013-14 budget. The approximate total annual cost for this contract in compensation and benefits is \$171,681 (benefit costs are estimated and subject to change).

Appropriation Source: Fund 001 General Fund.

SUMMARY STATEMENT

Doug Merriman has been employed as the City's Finance Director since 1997 and during that time has demonstrated both strong technical proficiency and effective strategic thinking in managing the City's

City of Oak Harbor City Council Agenda Bill

financial affairs. During a time of unprecedented changes in the formulae for public funding and most recently of severe repercussions caused by the global recession, Mr. Merriman has been up to the task of carefully safeguarding the public purse. In short, Mr. Merriman has been and continues to be a very strong asset to the City's senior management team.

In accordance with Section 2.34.055(3) OHMC, approved by the City Council on June 18, 2012, existing employees holding management positions who either do not have a contract or have a contract that is more than five years old are to be offered new contracts no later than six months after adoption. Attached is a proposed Employment Contract for Doug Merriman with an effective date of December 16, 2012. The proposed contract specifies conditions of employment and sets working conditions for the Oak Harbor Finance Director including but not limited to:

- Salary: Starting base salary \$129,084 annually, with a provision for cost of living adjustments consistent with other management staff.
- City Provided Vehicle: No vehicle allowance is proposed.
- Vacation: Accrual based on years of service.
- Sick Leave: Accrual of one day per month.
- Executive Leave: Forty hours per year which cannot be carried over.
- Severance Package: Severance pay for at-will termination in the amount of 6 months' salary. No severance pay for termination by resignation or for cause.
- Other Benefits: Same as provided for general City employees as they are today or as they may be modified in the future.

Please note Section 1.a. of the Employment Agreement proposes that Mr. Merriman assume the duties of Deputy City Administrator. This designation originated in a July 20, 2001 letter from former City Administrator Ken Nyberg (attached). While the City's organizational chart does not formally recognize the position of Deputy City Administrator, having Mr. Merriman assume this role in the absence of the City Administrator is an effective management arrangement.

STANDING COMMITTEE REPORT

This item has not been presented at any standing committee meetings.

RECOMMENDED ACTIONS

Authorize the Mayor to sign the Finance Director Employment Agreement with Douglas A. Merriman

ATTACHMENTS

Employment Agreement for Douglas A. Merriman
Letter from Ken Nyberg, 20 July 2001

**OAK HARBOR
FINANCE DIRECTOR
EMPLOYMENT AGREEMENT**

THIS AGREEMENT is effective December 16, 2012, by and between the City of Oak Harbor, hereinafter referred to as “City”, and Douglas A. Merriman, hereinafter referred to as “Finance Director.”

WHEREAS, the Finance Director has been serving in the capacity of Finance Director of the City of Oak Harbor for 15 years, during which time he has demonstrated the highest level of professional service to the citizens of Oak Harbor; and

WHEREAS, pursuant to Section 2.34.055 OHMC, the Finance Director position is classed as a management position for which employment contracts shall govern the terms and conditions of employment, including terms of service, compensation and any severance pay allowance; and

WHEREAS, the Finance Director agrees to continue service as the City’s Finance Director in accordance with the terms and conditions specified as set forth below;

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

1. Employment. The City hereby employs the Finance Director to serve in the regular position of Finance Director for the City of Oak Harbor. The duties of said position shall be to perform all duties assigned to the position of Finance Director as provided in the job description and the Oak Harbor Municipal Code, together with such other and further duties and special projects as may be assigned to the Finance Director by the City’s Mayor or City Administrator. The Finance Director shall serve at the pleasure of the City’s Mayor.
 - a. Deputy City Administrator. In the absence of the City Administrator, the Finance Director shall assume the duties of the City Administrator unless otherwise directed by the Mayor.
2. Duration of Employment. This Employment Agreement shall become effective on December 16, 2012, and shall continue indefinitely thereafter unless sooner terminated by the parties as provided in paragraphs 3 and 4 below.
3. “At Will” – Termination by the City. The Finance Director shall at all times during his employment be considered an “At Will” employee, subject to termination by the City’s Mayor at any time with or without cause. Nothing in this Agreement shall be construed other than an “At Will” employment relationship between the City and the Finance Director and the Finance Director expressly acknowledges that no contrary representations have been made by the City.
4. Resignation – Termination by the Finance Director. The Finance Director reserves the right to resign from employment at any time with or without cause. The Finance Director agrees to give the City thirty (30) day’s notice prior to the effective date of any such resignation.

5. Compensation: The Finance Director shall be compensated for services rendered during the term of this Agreement as follows:

- a. Base Salary. The Finance Director shall receive a monthly salary of \$10,757. The rate of pay will be adjusted annually equal to the cost-of-living and/or cost-of-market increase given to the other non-union management employees.
- b. In the event that a salary and wage study is conducted, the Finance Director position shall be included.
- c. Benefits. The Finance Director shall be entitled to a sick leave accrual of one day each per month, vacation leave accrual as set forth in the City Personnel Policies, and ten paid holidays plus one floating holiday of his choice, to total eleven paid holidays. In addition, the Finance Director shall continue to have available for his use those vacation and sick leave days which he has earned upon the effective date of this appointment.

The Finance Director shall also receive all other benefits provided by the City of Oak Harbor to regular employees as they exist now or as they are modified in the future. The following describes the benefits as they exist at the effective date of this Agreement:

- Medical insurance, premium paid 100% and 75% premium paid for spouse and dependent children
- Dental insurance, premium paid 100% and 75% premium paid for spouse and children
- Standard Insurance life insurance policy of \$25,000 paid for employee only
- Enrollment in the Washington State Public Employee Retirement System (PERS).

The Finance Director shall also be entitled to elect other voluntary benefit options as they exist now or as they are modified in the future. The following describes the voluntary benefits as they exist at the effective date of this Agreement:

- Self-paid individual and/or family supplemental insurance coverage for Short-term Disability, Cancer Care, and Critical Illness
- Pre-tax deductions for Unreimbursed Medical expenses and/or Dependent Day Care
- Additional self-paid Voluntary Group Life Insurance
- Self-paid enrollment in his choice of two Deferred Compensation Plans

- d. Executive Leave. The Finance Director (also serving as Deputy City Administrator) shall be entitled to 40 hours of executive leave annually in recognition of hours worked in excess of 40 hours per week, participation in community activities and attendance at City Council meetings and other meetings of City boards and commissions. Such leave must be taken in the year granted and may not be carried over.

- e. As the Finance Director’s official hiring date is December 15, 1997, the Finance Director is eligible for sick leave buy-out on any remaining sick leave accrual, subject to the maximum amounts set forth in the following schedule:

Years of Service	Sick Leave Buy-out
After 5 years	10% of accumulated leave
After 10 years	25% of accumulated leave
After 15 years	35% of accumulated leave
After 20 years	45% of accumulated leave
After 25 years	50% of accumulated leave
After 30 years	60% of accumulated leave

- f. Timing of Payments – Deductions. All payments of salary and benefits shall be made at the same time and on the same date as the City’s regular payroll. All such payments shall be subject to all required state and federal deductions, including income tax, social security, and any other deduction required and authorized by law. The City agrees to pay all employer contributions to FICA, worker’s compensation, and similar programs as required by law.

6. The Finance Director Work Schedule. The Finance Director is a confidential, exempt employee for purposes of the Federal Fair Labor Standards Act and as such shall not work a fixed forty hour per week schedule. The Finance Director shall generally work at Oak Harbor City Hall during regular business hours of the City, Monday through Friday, provided, that the Finance Director shall receive time off for holidays according to the holiday schedule customarily observed by the City. The Finance Director is also required to attend all meetings of the Oak Harbor City Council and such other Council Committee, City Board, Commission and staff meetings as requested by the Mayor or City Administrator or as required by the duties of the position.

7. Performance Evaluation. The Mayor or City Administrator shall, at the conclusion of each calendar year, conduct a performance evaluation of the Finance Director to insure proper conduct of duties and responsibilities, to address City Council concerns and to assist in improving personal performance.

8. Severance and Termination.

- a. Severance for At Will Termination. In the event the Finance Director’s employment with the City is terminated for any reason other than those delineated in subparagraph (b) below, the City will provide the Finance Director severance payment for a period of six months (6) months after the effective date of termination. The amount shall be paid in accord with the same schedule as the regular City payroll, and shall be subject to the same mandatory deductions as the Finance Director’s salary was prior to termination.

- i. Reference. The Finance Director shall be entitled to an employment reference from the City, the language of which shall be agreed upon by the parties, provided, that in the event the parties cannot agree on the form of the reference, the City will provide only the dates of the Finance Director’s employment, the last

position held, the last salary received, the fact that the Finance Director is no longer employed by the City.

- ii. Unemployment Benefits. The City will not oppose any unemployment benefit claims made by the Finance Director.
 - b. Termination by Resignation or for Cause. The severance package provided for in subparagraph (a) above shall not be available to the Finance Director if the termination of the Finance Director's employment with the City is due to:
 - i. Resignation. The Finance Director's voluntary resignation from employment. For purposes of this paragraph, "voluntary resignation" means a resignation of employment resulting from the free choice of the Finance Director and not the result of a suggestion to resign in lieu of termination made by formal action of the Mayor or City Council or by the creation of work conditions that are so difficult or unpleasant that a reasonable person in the Finance Director position would feel compelled to resign;
 - ii. Misconduct. Criminal misbehavior, abuse of public office, or other gross misconduct, including, but not limited to, fraud, deceit, embezzlement, theft of funds or property, assault, or sexual, racial, or other harassment; or
 - c. Construction. The severance package provided in subparagraph (a) above shall not be construed as an extension of the Finance Director's employment beyond the termination date. The Finance Director shall not, during the period between the termination date and the end of the severance payments, accrue any additional sick leave, vacation, leave, or other benefit accorded active City employees.
9. Professional Development. The City agrees to pay the reasonable professional dues and subscriptions necessary for continuation, enrollment and full participation of continued education in the municipal finance profession. In addition, the City may pay for membership in such other associations or organizations, and may reimburse the Finance Director for attendance at annual conferences or the same and for such other professional development activities as the Mayor may approve and as may be annually budgeted by the City Council.
- a. Educational Incentive. The City agrees to budget and pay for one course per semester/quarter in the areas of finance and management at an accredited institution of higher learning to continue the professional development of the Finance Director.
10. Liability Insurance. The City agrees to cover the Finance Director on the City's liability insurance policies to the same extent as any regular employee of the City is covered for acts, errors, or omissions within the scope of employment. All such liability insurance coverage shall be provided at the City's sole cost and expense.
11. Indemnification. The City of Oak Harbor agrees to hold harmless and indemnify the Finance Director from any and all costs, risk or liability associated with or arising out of acts or failures to act which are performed within the scope of his employment as the Finance Director including

the reasonable cost of legal defense by counsel appointed by the City or its insurance carrier, as applicable. This promise to indemnify shall exclude only criminal acts of the Finance Director and acts or failure to act which would constitute an intentional tort or intentional wrongdoing knowingly committed by the Finance Director without the express direction of the Mayor of the City of Oak Harbor. This promise to hold harmless and indemnify shall survive beyond the employment of the Finance Director with the City of Oak Harbor in order that the Finance Director shall be held harmless, indemnified and defended in the future for all acts taken as the Finance Director subject to the limitations contained herein.

12. Severability. If any paragraph, sentence, clause or phrase of this Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, said invalidity or unenforceability shall not affect the validity or enforceability of any other paragraph, sentence, clause or phrase, and to that end the terms and conditions set forth in this Agreement shall be severable.
13. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties as to the terms and conditions of the Finance Director's employment by the City and no other agreements or understandings, oral or otherwise, exist or shall be deemed binding upon the parties. The Agreement may be amended only by a written instrument duly executed by both parties.

Dated this _____ day of _____, 2012.

For the City of Oak Harbor:

Finance Director:

D. Scott Dudley, Mayor

Douglas A. Merriman

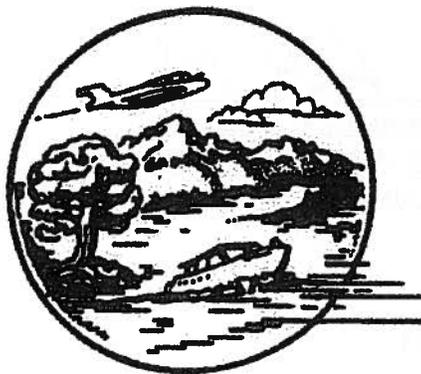
Attest:

Nacelle Heuslein, Interim City Clerk

Approved as to form:

Grant Weed, Interim City Attorney

Finance Director Employment Contract.doc



CITY OF OAK HARBOR

865 S.E. Barrington Drive Oak Harbor, Washington 98277-4092
City Hall (360) 679-5551

July 20, 2001

**SUBJECT: Position Title Change
 Doug Merriman, Deputy City Administrator/Finance Director**

This memorandum is to document our discussion regarding the adding of Deputy City Administrator to your position title. Based on the needs of the City, your willingness to assume additional organizational wide duties, and your being able to represent the City Administrator's Office during my absence, I feel this change appropriately describes your position within the organization. I have discussed this with the Mayor and have received her approval of this change.

Because you have expressed an interest in receiving the necessary training and experience to qualify for a future appointment as a City Administrator or City Manager, I would be honored to mentor you in any manner to provide you with the skills necessary for you to achieve this personal goal.

As we discussed, you are accepting this change agreeing that you will remain in the current salary range as specified in your contract. You are authorized to add this title to your correspondence and business cards.

Ken Nyberg, City Administrator

cc: Mayor Cohen
Personnel File

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

Bill No. AB 14
Date: December 4, 2012
Subject: City Admin. Confirmation and
Contract Approval

FROM: Scott Dudley, Mayor 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill presents the Mayor's appointment of Dr. Larry E. Cort as the next Oak Harbor City Administrator and his proposed employment contract. City Council action is requested to confirm this appointment and to approve the employment contract.

AUTHORITY

RCW 35A.11.020

Powers vested in legislative bodies of noncharter and charter code cities.

The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees; within the limitations imposed by vested rights, to fix the compensation and working conditions of such officers and employees and establish and maintain civil service, or merit systems, retirement and pension systems not in conflict with the provisions of this title or of existing charter provisions until changed by the people:

OHMC 2.05.010 Office created.

There is created the office of city administrator, which office shall be filled by appointment by the mayor, subject to confirmation by the city council. The city administrator shall serve at the pleasure of the mayor pursuant to an employment contract proposed by the mayor and approved by the city council. (Ord. 1628 § 2, 2012; Ord. 1259 § 1, 2001; Ord. 312 § 2, 1972).

FISCAL IMPACT DESCRIPTION

Funds Required: Confirmation of the appointment does not have a fiscal impact; however, approval of the employment contract does. Additional funds are not required as this position has been budgeted as part of the 2013-14 budget. The approximate total annual cost for this contract in compensation and benefits is \$176,836 (final benefit costs are estimated).

Appropriation Source: Fund 001 General Fund.

City of Oak Harbor City Council Agenda Bill

SUMMARY STATEMENT

On June 11, 2012, Dr. Larry Cort was appointed as Interim City Administrator for the City of Oak Harbor. Prior to this appointment, Dr. Cort had, since January of 2011, served as Project Specialist in the Engineering Division of Public Works. He worked previously for the City from 2003 to 2006 as Senior Planner in Development Services. In addition to his time with Oak Harbor, Dr. Cort spent five years as Community Planning Director for Langley and eight years as Town Planner for Coupeville.

Dr. Cort grew up on north Whidbey Island and attended school here for all 12 years, graduating from Oak Harbor High School. Since graduation, he received degrees in geography from the University of Washington in Seattle (Bachelor of Arts), the University of Exeter in southwest England (Master of Philosophy) and the University of London (Doctor of Philosophy). He returned to Whidbey Island in 1996 and currently makes his home in Coupeville.

As Mayor, I am strongly recommending that the City Council confirm my appointment of Dr. Larry Cort to the regular position of Oak Harbor City Administrator effective January 1, 2013. I am also recommending that the Council approve the attached employment contract for Dr. Cort. The proposed contract specifies conditions of employment and sets working conditions for the Oak Harbor City Administrator including but not limited to:

- Salary: Starting base salary \$132,960 annually, with a provision for cost of living adjustments consistent with other management staff.
- City Provided Vehicle: No vehicle allowance is proposed.
- Vacation: Accrual based on years of service.
- Sick Leave: Accrual of one day per month.
- Executive Leave: Forty hours per year which cannot be carried over.
- Severance Package: Severance pay for at-will termination in the amount of 6 months' salary. No severance pay for termination by resignation or for cause.
- Other Benefits: Same as provided for general City employees as they are today or as they may be modified in the future.

STANDING COMMITTEE REPORT

This item has not been presented at any standing committee meetings.

RECOMMENDED ACTIONS

1. Confirm the appointment of Larry E. Cort as Oak Harbor City Administrator.
2. Authorize the Mayor to sign the City Administrator Employment Agreement with Larry E. Cort

ATTACHMENTS

Employment contract for Larry E. Cort

**OAK HARBOR
CITY ADMINISTRATOR
EMPLOYMENT AGREEMENT**

THIS AGREEMENT effective January 1, 2013, by and between the City of Oak Harbor, hereinafter referred to as “City”, and Larry E Cort, hereinafter referred to as “City Administrator”

WHEREAS, the City Administrator has been selected by the Mayor to undertake the duties of the position of City Administrator based on the demonstrated highest level of professional services he has provided as Interim City Administrator; and

WHEREAS, the City Administrator position, respecting both tradition and law in accordance with Section 2.34.055 OHMC, serves pursuant to an employment contract; and

WHEREAS, it is the desire of the City to provide certain benefits, establish certain conditions of employment, and to set working conditions for the position of City Administrator and, in doing so, to provide inducement to the City Administrator to remain in this position; and

WHEREAS, the City Council has confirmed the Mayor’s appointment of Larry E Cort as City Administrator for the City of Oak Harbor; and

WHEREAS, the City Administrator agrees to serve in that capacity with terms and conditions specified as set forth below;

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

1. Employment. The City hereby employs the City Administrator to serve in the regular position of City Administrator for the City of Oak Harbor. The duties of said position shall be to perform all duties assigned to the position of City Administrator as provided in the job description and the Oak Harbor Municipal Code, together with such other and further duties and special projects as may be assigned to the City Administrator by the City’s Mayor. The City Administrator shall serve at the pleasure of the City’s Mayor.
2. Duration of Employment. This Employment Agreement shall become effective on January 1, 2013, and shall continue indefinitely thereafter unless sooner terminated by the parties as provided in paragraphs 3 and 4 below.
3. “At Will” – Termination by the City. The City Administrator shall at all times during his employment be considered an “At Will” employee, subject to termination by the City’s Mayor at any time with or without cause. Nothing in this Agreement shall be construed other than an “At Will” employment relationship between the City and the City Administrator and the City Administrator expressly acknowledges that no contrary representations have been made by the City.

boards and commissions. Such leave must be taken in the year granted and may not be carried over.

- e. Timing of Monthly Payments – Deductions. All monthly payments of salary and benefits shall be made at the same time and on the same date as the City’s regular payroll. All such monthly payments shall be subject to all required state and federal deductions, including income tax, social security, and any other deduction required and authorized by law. The City agrees to pay all employer contributions to FICA, worker’s compensation, and similar programs as required by law.

- 6. The City Administrator Work Schedule. The City Administrator is a confidential, exempt employee for purposes of the Federal Fair Labor standards Act and as such shall not work a fixed forty hour per week schedule. The City Administrator shall generally work at Oak Harbor City Hall during regular business hours of the City, Monday through Friday, provided, that the City Administrator shall receive time off for holidays according to the holiday schedule customarily observed by the City. The City Administrator is also required to attend all meetings of the Oak Harbor City Council and such other Council Committee, City Board, Commission and staff meetings as requested by the Mayor or as required by the duties of the position.

7. Severance Package.

- a. Severance for At Will Termination. In the event the City Administrator’s employment with the City is terminated for any reason other than those delineated in subparagraph (b) below, the City will provide the City Administrator severance payment for a period of six months (6) months after the effective date of termination. The monthly amount shall be paid in accordance with the same schedule as the regular City payroll, and shall be subject to the same mandatory deductions as the City Administrator’s salary was prior to termination.

- i. Reference. The City Administrator shall be entitled to an employment reference from the City, the language of which shall be agreed upon by the parties, provided, that in the event the parties cannot agree on the form of the reference, the City will provide only the dates of the City Administrator’s employment, the last position held, the last salary received, the fact that the City Administrator is no longer employed by the City.

- ii. Unemployment Benefits. The City will not oppose any unemployment benefit claims made by the City Administrator.

- b. Termination by Resignation or for Cause. The severance package provided for in subparagraph (a) above shall not be available to the City Administrator if the termination of the City Administrator’s employment with the City is due to:

- i. Resignation. The City Administrator’s voluntary resignation from employment. For purposes of this paragraph, “voluntary resignation” means a resignation of employment resulting from the free choice of the City Administrator and not the result of a suggestion to resign in lieu of termination made by formal action of the

Mayor or City Council or by the creation of work conditions that are so difficult or unpleasant that a reasonable person in the City Administrator position would feel compelled to resign;

- ii. Misconduct. Criminal misbehavior, abuse of public office, or other gross misconduct, including, but not limited to, fraud, deceit, embezzlement, theft of funds or property, assault, or sexual, racial, or other harassment; or
 - c. Construction. The severance package provided in subparagraph (a) above shall not be construed as an extension of the City Administrator's employment beyond the termination date. The City Administrator shall not, during the period between the termination date and the end of the severance payments, accrue any additional sick leave, vacation, leave, or other benefit accorded active City employees.
8. The City agrees to pay the reasonable professional dues and subscriptions necessary for continuation, enrollment and full participation of continued education in the city administration profession. In addition, the City may pay for membership in such other associations or organizations, and may reimburse the City Administrator for attendance at annual conferences or the same and for such other professional development activities as the Mayor may approve and as may be annually budgeted by the City Council.
 9. The City agrees to cover the City Administrator on the City's liability insurance policies to the same extent as any regular employee of the City is covered for acts, errors, or omissions within the scope of employment. All such liability insurance coverage shall be provided at the City's sole cost and expense.
 10. The City of Oak Harbor agrees to hold harmless and indemnify the City Administrator from any and all costs, risk or liability associated with or arising out of acts or failures to act which are performed within the scope of his employment as the City Administrator including the reasonable cost of legal defense by counsel appointed by the City or its insurance carrier, as applicable. This promise to indemnify shall exclude only criminal acts of the City Administrator and acts or failure to act which would constitute an intentional tort or intentional wrongdoing knowingly committed by the City Administrator without the express direction of the Mayor of the City of Oak Harbor. This promise to hold harmless and indemnify shall survive beyond the employment of the City Administrator with the City of Oak Harbor in order that the City Administrator shall be held harmless, indemnified and defended in the future for all acts taken as the City Administrator subject to the limitations contained herein.
 11. Severability. If any paragraph, sentence, clause or phrase of this Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, said invalidity or unenforceability shall not affect the validity or enforceability of any other paragraph, sentence, clause or phrase, and to that end the terms and conditions set forth in this Agreement shall be severable.
 12. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties as to the terms and conditions of the City Administrator's employment by the City and no other agreements or understandings, oral or otherwise, exist or shall be deemed binding

upon the parties. The Agreement may be amended only by a written instrument duly executed by both parties.

Dated this _____ day of _____, 2012.

For the City of Oak Harbor:

City Administrator:

D. Scott Dudley, Mayor

Larry E Cort

Attest:

Nacelle Heuslein, Interim City Clerk

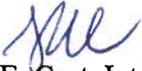
Approved as to form:

Grant Weed, Interim City Attorney

City Administrator Employment Contract.doc

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

Bill No. AB 15
Date: December 4, 2012
Subject: Public Defender Contract
Extension – Matthew Montoya


FROM: Larry E. Cort, Interim City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill seeks Council approval for the extension of a Public Defense Service Agreement with Matthew Montoya, for a full caseload of indigent defense cases.

AUTHORITY

Pursuant to the 6th Amendment to the United States Constitution, every person charged with a crime for which jail time is a potential penalty and who is unable to pay the cost of an attorney is entitled to have an attorney appointed to represent them at public expense. Washington law (Chapter 10.101 RCW) places an obligation to pay for public defense services for indigent defendants upon the charging jurisdiction. Therefore, the City is required to determine whether a person qualifies for a public defense, and provide an attorney if the person does so quality.

FISCAL IMPACT DESCRIPTION

Funds Required: \$5,500 per month
Appropriation Source: 001 General (Court)

SUMMARY STATEMENT

In September, 2010, the City of Oak Harbor issued a Request for Qualifications for potential applicants to submit qualifications to enter into a City contract to provide a full and/or a partial caseload of public defense services. A full caseload of public defense cases was estimated to be approximately 375 annual cases and a partial caseload was estimated to be approximately 175 public defense cases. The RFQ required two separate proposals in order to minimize the need for conflict counsel.

The City convened an interview panel to review the responses to the RFP that the City had received, and interviewed the candidates. At the conclusion of the selection process, the panel recommended that Matthew J. Montoya, Esq., be forwarded as the preferred candidate for a full caseload contract for public defense services for the contract years of 2011-2012 in the amount of Five Thousand Five Hundred dollars (\$5,500.00) per month. After City Council approval of the selection, Mr. Montoya entered into an agreement with the City. That agreement will terminate

on December 31, 2012.

More recently, the Washington Supreme Court issued new rules that apply to public defenders. These rules, some of which have already gone into effect and others which will go into effect later in 2013, impose new restrictions on attorneys who provide criminal defense services, including restrictions on the maximum number of public defense cases that attorneys may handle at any one time. Public agencies, such as the City of Oak Harbor, may find it necessary to adjust their contracts with attorneys who provide public defense services, to ensure that the public agencies as well as the attorneys remain compliant with the 6th Amendment and the new Supreme Court rules, respectively.

At the current time, public agencies statewide are developing methods, procedures, and best practices to address the new Supreme Court Rule, and ensure compliance. While we think that the City of Oak Harbor has been, and will remain, in compliance with the new rules, we also think it best to carefully examine the agreement to make certain that the agreement reflects the practices of the City and the public defenders in the context of the new rules. The extension of the existing agreement for a period of one year will allow the City the opportunity to examine the best practices of other jurisdictions, and make appropriate modifications to the agreement (if any modifications are required). The City will then be in a position to select an attorney best able to provide the services.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Authorize the Mayor to enter into the attached extension for a period of six months to the Professional Services Agreement with Matthew J. Montoya, Esq., Chief Public Defender, to provide indigent defense services for a full caseload.

ATTACHMENTS

Extension to Professional Service Agreement

MAYOR'S COMMENTS

AMENDMENT TO AGREEMENT

THIS AGREEMENT, entered into this ____ day of _____, 2012, by and between the CITY OF OAK HARBOR, a Washington municipal corporation (hereinafter referred to as the "City") and MATTHEW J. MONTOYA, an attorney licensed to practice law by the State of Washington (hereinafter referred to as the "Chief Public Defender").

WITNESSETH:

WHEREAS, the City entered into an Agreement with the Chief Public Defender dated December 8, 2010 for the provision of Public Defense Services (hereafter the "Agreement"); and

WHEREAS, the parties hereto wish to amend the Agreement by extending the term thereof;

NOW, THEREFORE, the parties hereby amend the Agreement as follows:

A. Section 2 – Term of the Agreement is hereby amended to read as follows:

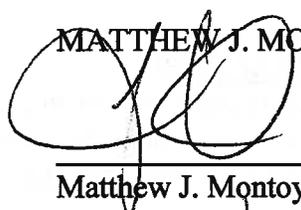
The term of this Agreement shall begin on January 1, 2013 and shall expire on June 30, 2013 unless sooner terminated according to the provisions herein.

B. All other terms and conditions of the Agreement shall remain the same.

CITY OF OAK HARBOR

MATTHEW J. MONTOYA

Mayor Scott Dudley



Matthew J. Montoya

Dated: _____

Dated: 11/27/12

Attest:

Nacelle J. Heuslein, Interim City Clerk

Approved as to form:

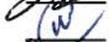
Grant Weed, Interim City Attorney

City of Oak Harbor
City Council Agenda Bill

Bill No. AB 16
Date: December 4, 2012
Subject: Public Defender Contract
Extension – Georgina Sierra


FROM: Larry E. Cort, Interim City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill seeks Council approval for the extension of a Public Defense Service Agreement with Georgina Sierra, for a partial caseload of indigent defense cases.

AUTHORITY

Pursuant to the 6th Amendment to the United States Constitution, every person charged with a crime for which jail time is a potential penalty and who is unable to pay the cost of an attorney is entitled to have an attorney appointed to represent them at public expense. Washington law (Chapter 10.101 RCW) places an obligation to pay for public defense services for indigent defendants upon the charging jurisdiction. Therefore, the City is required to determine whether a person qualifies for a public defense, and provide an attorney if the person does so qualify.

FISCAL IMPACT DESCRIPTION

Funds Required: \$2,500 per month
Appropriation Source: 001 General (Court)

SUMMARY STATEMENT

In September, 2010, the City of Oak Harbor issued a Request for Qualifications for potential applicants to submit qualifications to enter into a City contract to provide a full and/or a partial caseload of public defense services. A full caseload of public defense cases was estimated to be approximately 375 annual cases and a partial caseload was estimated to be approximately 175 public defense cases. The RFQ required two separate proposals in order to minimize the need for conflict counsel.

The City convened an interview panel to review the responses to the RFP that the City had received, and interviewed the candidates. At the conclusion of the selection process, the panel recommended that Georgina D. Sierra, Esq., be forwarded as the preferred candidate for a partial caseload contract for public defense services for the contract years of 2011-2012 in the amount of Two Thousand Five Hundred dollars (\$2,500.00) per month. After City Council approval of the selection, Ms. Sierra entered into an agreement with the City. That agreement will terminate on

December 31, 2012.

More recently, the Washington Supreme Court issued new rules that apply to public defenders. These rules, some of which have already gone into effect and others which will go into effect later in 2013, impose new restrictions on attorneys who provide criminal defense services, including restrictions on the maximum number of public defense cases that attorneys may handle at any one time. Public agencies, such as the City of Oak Harbor, may find it necessary to adjust their contracts with attorneys who provide public defense services, to ensure that the public agencies as well as the attorneys remain compliant with the 6th Amendment and the new Supreme Court rules, respectively.

At the current time, public agencies statewide are developing methods, procedures, and best practices to address the new Supreme Court Rule, and ensure compliance. While we think that the City of Oak Harbor has been, and will remain, in compliance with the new rules, we also think it best to carefully examine the agreement to make certain that the agreement reflects the practices of the City and the public defenders in the context of the new rules. The extension of the existing agreement for a period of one year will allow the City the opportunity to examine the best practices of other jurisdictions, and make appropriate modifications to the agreement (if any modifications are required). The City will then be in a position to select an attorney best able to provide the services.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Authorize the Mayor to enter into the attached extension for a period of six months to the Professional Services Agreement with Georgina Sierra, Esq., Assistant Public Defender, to provide indigent defense services for a partial caseload.

ATTACHMENTS

Extension to Professional Services Agreement

MAYOR'S COMMENTS

AMENDMENT TO AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 2012, by and between the CITY OF OAK HARBOR, a Washington municipal corporation (hereinafter referred to as the "City") and GEORGINA D. SIERRA, Esq., an attorney licensed to practice law by the State of Washington (hereinafter referred to as the "Assistant Public Defender").

WITNESSETH:

WHEREAS, the City entered into an Agreement with the Assistant Public Defender dated December 8, 2010 for the provision of Public Defense Services (hereafter the "Agreement"); and

WHEREAS, the parties hereto wish to amend the Agreement by extending the term thereof;

NOW, THEREFORE, the parties hereby amend the Agreement as follows:

A. **Section 2 – Term** of the Agreement is hereby amended to read as follows:

The term of this Agreement shall begin on January 1, 2013 and shall expire on June 30, 2013 unless sooner terminated according to the provisions herein.

B. All other terms and conditions of the Agreement shall remain the same.

CITY OF OAK HARBOR

GEORGINA D. SIERRA, ESQ.

Mayor Scott Dudley

Georgina D. Sierra

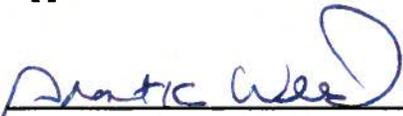
Dated: _____

Dated: _____

Attest:

Nacelle J. Heuslein, Interim City Clerk

Approved as to form:



Grant Weed, Interim City Attorney

AMENDMENT TO AGREEMENT

THIS AGREEMENT, entered into this ____ day of _____, 2012, by and between the CITY OF OAK HARBOR, a Washington municipal corporation (hereinafter referred to as the "City") and GEORGINA D. SIERRA, Esq., an attorney licensed to practice law by the State of Washington (hereinafter referred to as the "Assistant Public Defender").

WITNESSETH:

WHEREAS, the City entered into an Agreement with the Assistant Public Defender dated December 8, 2010 for the provision of Public Defense Services (hereafter the "Agreement"); and

WHEREAS, the parties hereto wish to amend the Agreement by extending the term thereof;

NOW, THEREFORE, the parties hereby amend the Agreement as follows:

A. Section 2 – Term of the Agreement is hereby amended to read as follows:

The term of this Agreement shall begin on January 1, 2013 and shall expire on June 30, 2013 unless sooner terminated according to the provisions herein.

B. All other terms and conditions of the Agreement shall remain the same.

CITY OF OAK HARBOR

GEORGINA D. SIERRA, ESQ.

Mayor Scott Dudley



Georgina D. Sierra

Dated: _____

Dated: 11/27/2012

Attest:

Nacelle J. Heuslein, Interim City Clerk

Approved as to form:

Grant Weed, Interim City Attorney

+Pending Items As of: November 29, 2012 **This list is subject to change.**

Council Absences: Mayor Pro Tempore Danny Paggao absent 1-15-13 & 2-5-13 Munns absent Dec 18th

Targeted Meeting Date	Agenda Bills ARE DUE	Public Hearing Notice Date (if needed)	Consent Agenda	Subject	Department
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12/8/12				COUNCIL RETREAT	
12/10/12				Lodging Tax Workshop and Legislative Priorities with Legislative Contingency	
12/13/12				Legislative Priorities with Norma Smith	
12/18/12	11/28/12			City Council Meeting December 18, 2012	
12/18/12	11/28/12			PRESENTATIONS OF OTHER NON-ACTION COUNCIL ITEMS	
12/18/12	11/28/12			CONSENT AGENDA	

				Approval of Accounts Payable Vouchers in the amount of \$	Fin
12/18/12	11/28/12			PUBLIC HEARINGS & ORDINANCES/RESOLUTIONS	
				Public Hearing 2012 Comp Plan Amendments Ordinance No. 1647	DS
				Public Hearing and adoption of Ordinance No. 1643 Impact Fee Deferral	DS
				Public Hearing Property Maintenance & Abatement Code Ordinance & adoption of Ordinance No. 1651	DS
				Adoption of Ordinance No. 1637 amending Title 6, Public Peace, Safety & Morals of the OHMC	Police
				Adoption of Ordinance 1641 GASB 54	Fin
				Resolution No. 12-29 Declaring a Special Market Condition for purchase of a Fire Aid Vehicle	Fire
				Resolution 12-25 Utility Tax Arts Acquisition Fund	Finance
				Resolution 12-28 Award of 2% Grant – Lodging Tax Committee	Finance
				Resolution No. 12-36 Policy Enactment Fire, Bomb Threats	Fire

12/18/12	11/28/12			OTHER BUSINESS	
				Report on Solid Waste Transfer Study 2 options two resolutions	PW
				Interlocal with Island County for Solid Waste Services 1- year extension	PW
				Contract – Automated Pay Station for Staysail RV Park	PW
				Employee Manual revision for the Wellness Program	Admin HR
				Adoption of DOC Contract	Police
				Extension of Interim City Attorney Contract	Admin
				Chamber of Commerce Contract	Admin
12/18/12	11/28/12			EXECUTIVE SESSION – Labor Negotiations	
				City Council Meeting January 2, 2013	
1/2/13	Noon on 12/20/12			PRESENTATIONS OF OTHER NON-ACTION COUNCIL ITEMS	

1/2/13	Noon on 12/20/12			CONSENT AGENDA	
				Binding Site Plan Code Amendment: No public hearing for this meeting, introduction only Consent Agenda Ordinance No. 1644	DS
1/2/13	Noon on 12/20/12			PUBLIC HEARINGS & ORDINANCES/RESOLUTIONS	
1/2/13	Noon on 12/20/12			OTHER BUSINESS	
				City Wide Sewer Plan Septic to Sewer Plan Policy discussions	PW
				Art Purchase by Arts Commission	Fin/ Admin
1/15/13	Noon on 1/3/13			City Council Meeting January 2, 2013	
				Mayor Pro Tempore Danny Paggao, absent	
1/15/13	Noon on 1/3/13			PRESENTATIONS OF OTHER NON-ACTION COUNCIL ITEMS	
				A presentation by Cathy Lange from the Youth Commission	Admin
				Annual Report from Community Police Advisory Board	Police

1/15/13	Noon on 1/3/13			CONSENT AGENDA	
1/15/13	Noon on 1/3/13			PUBLIC HEARINGS & ORDINANCES/RESOLUTIONS	
				Public Hearing & Ordinance 1644 for Binding Site Plan	DS
1/15/13	Noon on 1/3/13			OTHER BUSINESS	
1/15/13	Noon on 1/3/13			New appointment of Planning Commissioner	
1/16/13	Event in Council Chambers Do Not Schedule Anything				
				Mayor Pro Tempore Paggao absent for 2-5-2013 Meeting	
				Employment Contracts for Recker	Admin
				Report on Cyber Security	Admin
				Develop a list of acronyms for the City's website	
				Authorization to Advertise for Bids - Water Reservoir	PW
				Council Resolution to authorize submittal of the Wastewater Facility Plan to the Department of Ecology	PW
				Reconcile Youth Commission Code Reference 2.250 & 2.240	

				Amend code to place fees in Resolution form	
				Agreement Renewal - Puget Sound Energy Franchise Agreement	PW Admin Legal
				Authorization to Advertise for Bids - Online Payment Services	Finance
				Council Rule Change – Public Forum – Free Speech	Legal
				Channel 10 Rules	Admin/Le gal
				Banner Program Guidelines	PW/DS
				Legal Department Restructure	Legal
				Utilities Office, City Council Chambers, Law Department Remodels	Finance, DS
				Decision regarding selection of consultant for preliminary & final design of WWTP	PW

STANDING COMMITTEES and other meetings and activities

Date	Subject	Dept.
12/3/12	Marina Committee 7:00 p.m. City Hall	DS
12/6/12	PUBLIC WORKS STANDING COMMITTEE, 3:30 p.m., City Hall Council Chambers	Committee Members
12/10/12	ARTS COMMISSION, 7:00 p.m., City Hall Conference Room	Committee Members

12/11/12	GOVERNMENTAL SERVICES STANDING COMMITTEE, City Hall Council Chambers	Committee Members
12/12/12	FINANCE STANDING COMMITTEE, City Hall Council Chambers 3:30 p.m.	Committee Members
12/20/12	PUBLIC SAFETY STANDING COMMITTEE, 3:30 p.m., City Hall Council Chambers	Committee Members
Date TBD	CITY COUNCIL SPECIAL MEETING, Workshop on Recommendations from HDR - System Development Fees	PW and Finance
12/8/12	CITY COUNCIL RETREAT – Review Goals set at March Retreat	Council
12/10/12	City Council Meeting with Legislators - Lodging Tax	Admin
12/11/12	Planning Commission Meeting 7:00 p.m. Public Works	Dev Ser