

**Oak Harbor City Council  
REGULAR MEETING  
Council Chambers, City Hall  
Tuesday, October 16, 2012, 6:00 p.m.**

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**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 Beth Munns  
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  
Interim City Engineer Joe Stowell  
Interim City Attorney Grant Weed  
Interim City Clerk Nacelle Heuslein  
Interim Chief of Police Tim Sterkel

**Approved Absence:**

Councilmember Rick AlMBERG

**ACCEPTANCE OF AGENDA:**

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

**MINUTES:**

**MOTION:** Moved by Councilmember Campbell and seconded by Mayor Pro Tempore Paggao to accept the regular City Council Minutes of October 2, 2012 as presented. Motion carried unanimously.

**PROCLAMATIONS**

*Sno-Isle Regional Library 50<sup>th</sup> year celebration.*

Mayor Pro Tempore Paggao read and presented the proclamation to Mrs. Campbell a representative of the Oak Harbor Library.

*Declaring the Week of Oct 20<sup>th</sup> - 27<sup>th</sup> as Red Ribbon Week for the Oak Harbor High School Students Against Destructive Decisions Club.*

Councilmember Servatius read and presented the proclamation to a member of the SADD Club.

## **PRESENTATIONS OF OTHER NON-ACTION COUNCIL ITEMS**

Mayor Dudley presented the Key to the City of Oak Harbor to Marti Malloy in recognition of her earning a Bronze Medal in Judo in the 2012 Summer Olympics.

## **CITIZEN COMMENTS PERIOD**

Shane Hoffmire spoke in opposition of the Council's decision in not purchasing the Fire Aid Rescue Truck for the City.

Richard Everett a resident of Oak Harbor stated he thought the City of Oak Harbor's Library was the best he had ever encountered in his life

Christon Skinner disagreed with Mr. Hoffmire's remarks. He also spoke against information going to the newspaper which came from an Executive Session.

Sandy Peterson spoke in opposition to the Council's decision to not purchase the Fire Aid Rescue Truck.

## **CONSENT AGENDA**

- **Approval of Accounts Payable Vouchers** Claims Vouchers 151601 - 151684 in the amount of \$ 308,631.87
- **Introduction of Sign Code** and Ordinance No. 1640; and setting a public hearing
- **Introduction** - Property Tax Adjustment Ordinance No. 1636 & setting a public hearing
- **Introduction** - Utility Tax Allocation Resolution 12-25
- **Excused absence** for Councilmember Beth Munns

**MOTION:** Moved by Councilmember Hizon and seconded by Councilmember Campbell to approve the Consent Agenda as presented. Motion carried unanimously

## **HEARINGS AND ORDINANCES/RESOLUTIONS**

### **Confirmation and Contract for Police Chief**

Brian Jones, a resident of Oak Harbor spoke in favor of the Mayor's appointment of Ed Green as Oak Harbor's Chief of Police.

Shane Hoffmire also spoke in favor of Mr. Green's appointment.

**MOTION:** The appointment of Ed Green as Chief of Police was confirmed with a motion by Councilmember Munns and a second by Councilmember Campbell. Motion carried unanimously.

**MOTION:** Chief of Police Green's contract was approved for authorization by the Mayor with a motion by Councilmember Campbell and a second by Mayor Pro Tempore Paggao. The motion carried unanimously.

### **Closed Record Review**

**Fairway Point PRD** ADU Amendment and adoption of Ordinance No. 1638, an ordinance amending Ordinance No. 1583 which approved the Planned Residential Development (PRD) overlay zone for Fairway Point Division 4 and approving a modification to the PRD Plans for Fairway Point Division 4 with respect to density only to allow for the inclusion of accessory dwelling units (ADU) within Fairway Point PRD Division 4.

**Development Services Director Steve Powers presented the staff report.**

Interim City Attorney Grant Weed asked the following questions of council since this was a Quasi-Judicial Procedure under the Appearance of Fairness Doctrine for a land use decision:

- Does the Council have any interest in the property or application?  
The answer was no.
- Does the Council own property within 300 feet of the subject property?  
The answer was no.
- Does any member of the Council stand to gain or lose any financial benefit as a result of the outcome of the hearing? Councilmember Severns stated he was a Board Member of both the Washington Banking Company and Whidbey Island Bank and he had financial benefit as a result of the outcome of the hearing.  
The remainder of the Council's answer was no.
- Does the Council have any personal, family or other connection to any party such that their ability to be impartial might be called into question?  
The answer was no.
- Whether the Council can hear and consider the application in a fair and objective manner.  
The answer was no.

Interim City Attorney Weed then inquired of the Council if anyone had any *ex parte* contact with the applicant or others that may be interested in this quasi-judicial procedure prior to the meeting. Councilmember Severns had two conversations with the same resident in the area that had concerns about what the applicant was doing, but did not know her name. He stated he could be fair and impartial in the hearing. Councilmember Campbell had a similar conversation with a resident that had concerns about what the property owner was asking for. He too, could be fair and impartial in the hearing. Councilmember Munns had a conversation with a resident from the county and she directed him to the MRSC website and also felt that she could make a fair and impartial decision.

Interim City Attorney Weed turned to the public and asked if any of them wanted to voice an objection to any of the Councilmembers participating in this decision. There were none.

**MOTION:** Councilmember Hizon moved for adoption of Ordinance No. 1638, an ordinance amending Ordinance No. 1583 which approved the Planned Residential Development (PRD) overlay zone for Fairway Point Division 4 and approving a modification to the

PRD Plans for Fairway Point Division 4 with respect to density only to allow for the inclusion of accessory dwelling units (ADU) within Fairway Point PRD Division 4. Mayor Pro Tempore Paggao seconded the motion and the motion carried.

Councilmembers Campbell and Severns voted no.

**Public Hearing and Adoption of Resolution 12-23 to approve utilities surplus list and authorize disposal of obsolete items.**

Public Works Director Cathy Rosen presented the staff report.

Public Hearing: Mayor Dudley opened the public hearing. There were no comments from the public.

**MOTION:** It was moved by Councilmember Servatius, and seconded by Councilmember Campbell to adopt Resolution 12-23 and approve the utilities surplus list and authorize disposal of obsolete utility items. The motion carried unanimously.

**Adopt Resolution 12-24 Methodology for Phasing Construction of Wastewater Treatment Plan Components.**

Public Works Director Cathy Rosen presented the staff report.

There were no public comments.

**MOTION:** Councilmember Munns moved and Councilmember Severns seconded a motion to Adopt Resolution 12-24 to approve the Methodology for Phasing Construction of Wastewater Treatment Plant Components. Motion carried unanimously.

**Contract Amendment No. 5 for the Carollo Professional Services Contract for Additional Field Data for Treatment Plant Site.**

Public Works Director Cathy Rosen presented the staff report.

Mayor Dudley asked for public comments.

Joanne Hartley encouraged the Council as keepers of the monies to be diligent with it and was concerned that funds were not spent on the Fire Aid Rescue Vehicle.

Hap Fakkema representing Beach View Farms also asked the Council to be diligent and was concerned about the article in the paper regarding the Freund property being considered for the WWTP. Beach View Farms was not in the flood zone, not by parks, not by neighborhoods and less than 8000 feet from the current property.

Robin Kolaitis an Oak Harbor resident spoke in favor of looking at the feasibility of the Freund property again.

Duane Dillard, an Oak Harbor resident also wanted the Freund property to be investigated as a possible location for the Waste Water Treatment Plant.

**MOTION:** Councilmember Severns moved to authorize the Mayor to sign the Contract Amendment No. 5 for the Carollo Professional Services Contract for Additional Field Data for the Treatment Plant Site related to the building of a Waste Water Treatment Plant. Councilmember Munns seconded the motion and the motion carried.

**Adoption of Ordinance No. 1635** – for Fire Department changes amending OHMC Chapter 2.24 entitled “Volunteer Firemen’s State Relief”, Chapter 2.28 Entitled “Firemen’s Relief and Compensation Fund Trustees”, Chapter 2.44 entitled “Fire Chief”, and Chapter 8.12 entitled “Alarm Systems”.

Fire Chief Ray Merrill presented the staff report.

There were no public comments.

**MOTION:** Councilmember Munns moved to adopt Ordinance No. 1635 amending OHMC Chapter 2.24 entitled “Volunteer Firemen’s State Relief”, Chapter 2.28 Entitled “Firemen’s Relief and Compensation Fund Trustees”, Chapter 2.44 entitled “Fire Chief”, and Chapter 8.12 entitled “Alarm Systems”. Councilmember Servatius seconded the motion and the motion carried unanimously.

**Adopt Resolution No. 12-21 Changing Employee Handbook - Fire Department "Paid on Call" as a Distinct Class.**

Interim Director of Human Resources Cheryl Lawler presented the staff report.

There were no public comments.

**MOTION:** Councilmember Hizon moved to adopt Resolution No. 12-21 changing the Employee Handbook and adding “Paid on Call” as a distinct class in City Employment. Councilmember Campbell seconded the motion and the motion carried unanimously.

## **OTHER BUSINESS**

**Discussion - Using an executive search firm for City Leadership positions.**

Interim City Administrator Larry Cort presented the staff report.

Interim City Administrator Larry Cort was instructed to bring back a contract to the next City Council meeting for recruitment of a City Attorney for approval by the Council.

## **Extension of Council Meeting**

**MOTION:** Councilmember Servatius moved to extend the Council meeting to 9:45 p.m. Councilmember Severns seconded the motion and the motion carried.

**Professional Services Agreement Extension - Interim City Attorney Services with Weed, Graafstra, and Benson, Inc., P.S.**

Interim City Administrator Larry Cort presented the staff report.

There were no public comments.

**MOTION:** With a motion by Councilmember Campbell and a second by Councilmember Severns the Mayor was authorized to sign a Professional Services Agreement Extension for Interim City Attorney Services with Weed, Graafstra and Benson, Inc., P.S. Motion carried unanimously.

**Professional Services Agreement - Michelle Hull, Attorney for Tribal-Related Issues**

Interim City Administrator Larry Cort presented the staff report.

There were no public comments.

**MOTION:** Councilmember Severns moved to authorize the Mayor to sign a Professional Services Agreement with Michelle Hull to provide legal services on Tribal-related matters on an on-call basis to a not-to-exceed amount of \$45,000. Councilmember Campbell seconded the motion and the motion carried.

**Contract amendment for ERCI archaeology services related to the Archaeological Recovery Project**

Interim City Engineer Joe Stowell presented the staff report.

There were no public comments.

**MOTION:** Councilmember Munns moved to authorize the Mayor to sign Amendment No. 3 to the Professional Services Agreement with Equinox Research and Consulting International (ERCI) to expand the scope of services to include Phase 4 of the Archaeological Recovery Project and increasing the not to exceed contract amount by \$536,352.25, from \$671,234.50 to \$1,207,586.75. Councilmember Servatius seconded the motion and the motion carried.

**Totalizer Flow Meter Purchase**

Public Works Director Cathy Rosen presented the staff report.

There were no public comments.

**MOTION:** Councilmember Hizon moved to authorize the purchase of a Multi-Mag Model FPI 394L Insertion Flow Meter in the amount of \$10,300. Councilmember Servatius seconded the motion and the motion carried.

### **FUTURE CITY COUNCIL PENDING ITEMS**

Pending Items were included in the Agenda Packet.

### **CITY ADMINISTRATOR COMMENTS**

Interim City Administrator Cort reminded staff of the Shoreline Master Program Workshop on Wednesday, October 24, 2012 starting at 6:00 p.m. Thursday, October 25, 2012 the Council was conducting Budget Workshops with various departments from 9:00 a.m. to noon and 6:30 p.m. until 9:00 that evening. Public Works, Police, Fire and Human Resources would be discussed in the morning session and Development Services, the Marina, Senior Services, Finance, Legal, Administration and Council would be discussed in the evening.

In conclusion he reminded the Council of the AWC Regional Conference in Bellingham on October 30, 2012 and stated the van would be at City Hall at 4:15 in the afternoon for carpooling. And finally, there would be a City Council retreat on Saturday, December 8, 2012.

### **COUNCILMEMBER'S COMMENTS**

Mayor Pro Tempore Paggao stated on November 1, 2012 the Public Works Standing Committee will meet at 3:30 p.m. in the Council Chambers.

Councilmember Campbell had concerns about mixed messages to the public about the City's financial condition.

Councilmember Munns stated the Public Safety Committee will be meeting on October 18, 2012 at 3:30 p.m. in the Chambers and she would make available the draft legislative priorities from AWC as soon as she had them.

Councilmember Severns stated the next Economic Development meeting would be in November, 2012. The Business Expo held October 13, 2012 was a great success and there was also a dedication of the Stumbling Ducklings and a great salmon dinner on Pioneer.

Councilmember Hizon had no comments.

### **Extension of Council Meeting**

**MOTION:** Councilmember Servatius moved to suspend the rules to extend the Council meeting until 10:30 p.m. Councilmember Munns seconded the motion and the motion carried.

Councilmember Campbell voted no.

### **Continuation of Councilmember's Comments**

**MOTION:** Councilmember Servatius moved to instruct staff to prepare an agenda bill to revise section 4.06 (Interim/out-of-class Assignments) of our Employee Policy Manual and

replace the last sentence of this section with: 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 motion was seconded by Councilmember Severns.

## **MAYOR'S COMMENTS**

The Mayor shared Renee Recker is home recovering from surgery and the Council's wish for her was a speedy recovery. He thanked the City Council for a positive vote on the confirmation of Ed Green as Police Chief. Mayor Dudley also thanked Lt. Tim Sterkel for his assistance as Interim Chief of Police.

## **EXECUTIVE SESSION - Pursuant to RCW 42.30.110(1)(i): Pending Lawsuit and potential legal actions.**

Council moved into Executive Session at 9:47 p.m.

The Council meeting reconvened at 10:12 p.m.

## **ADJOURNMENT**

**MOTION:** Councilmember Campbell moved for adjournment at 10:13 p.m. Councilmember Severns seconded the motion and the motion carried.

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Nacelle J. Heuslein, Interim City Clerk