



NOTICE OF WORKSHOP MEETING
Council Chambers, 865 SE Barrington Drive

NOTICE IS HEREBY GIVEN that the Oak Harbor City Council will hold a Workshop Meeting on August 26, 2020 at 2:00 PM to discuss the following agenda items.

Due to COVID-19, there will be NO physical meeting location per WA Proclamation 20-28. The meeting may be viewed live via YouTube. To listen to the live meeting, please call (623) 404-9000. Meeting ID: 149 766 1467

Note: Audio Only. Workshop Meetings do not normally include public comment.

DATED this 21st day of August 2020.

Julie Lindsey, City Clerk

The City Council may meet informally in workshop sessions (open to the public) to do concentrated strategic planning, to review forthcoming programs of the City, receive progress reports on current programs or projects, or receive other similar information from the City Administrator, provided that all discussions and conclusions thereon shall be informal. Council shall make no disposition of any item at a workshop meeting. Public comment is not normally allowed at workshop meetings, although Council may allow, or request participation.

WORKSHOP MEETING
AUGUST 26, 2020 CITY COUNCIL AGENDA AT 2:00 P.M.

2:00 P.M.

MAYOR

- a. COUNCIL TRAINING FROM WCIA
- b. DISCUSSION REGARDING THE CITY ATTORNEY APPOINTMENT

3:15 P.M.

DEVELOPMENT SERVICES

- a. HOUSING ACTION PLAN UPDATE
- b. SHORELINE MASTER PROGRAM PERIODIC REVIEW: PROGRESS REPORT

3:45 P.M.

ADMINISTRATION

- a. CITY ADMINISTRATOR'S REPORT

3:55 P.M.

CITY COUNCIL

City of Oak Harbor
City Council
Workshop Agenda Bill

Date: August 26, 2020
Subject: a. Council Training from WCIA

FROM: Grant Weed, Legal Counsel

SUMMARY STATEMENT

Ann Bennett, the Executive Director of the Washington Cities Insurance Authority (WCIA) and Grant Weed, contracted legal counsel from Weed, Graafstra & Associates, will give a training on “Council Do’s and Don’ts”.

The following topics will be covered in the one-hour training:

- WCIA Orientation, Background & Purpose
- Liability Exposures for Council Members
- How Council Members Can Avoid Liability
- Executive Session Leaks and Impacts on Liability

This training is timely with a newly appointed Councilmember, a recently elected first term Councilmember, and as a refresher for the rest of the City Council.

ATTACHMENTS

1. [WCIA Power Point Presentation](#)
2. [MRSC / AWC Mayor and Councilmember Handbook, extracted pages](#)
3. [Oak Harbor City Council Rules of Procedure](#)



City Council Do's and Don'ts

Presented by
Ann Bennett
Executive Director
Washington Cities Insurance Authority



Washington Cities Insurance Authority

- **A municipal organization of Washington public entities joined to share risk**
 - Created in 1981
 - 163 members
- **Over \$165 million in assets**
 - Strongest financials of any Washington risk pool





Washington Cities Insurance Authority

- **Provides Self-Insurance for Members**
 - Auto Liability, General Liability, Employment Practices, Errors & Omission
 - \$25,000,000 per Occurrence
 - Look for coverage not exclusions
- **Purchases Insurance**
 - Member Property, Auto & Boiler Machinery
 - Cyber and Pollution Liability purchased for all members
 - Crime Fidelity purchased by members
- **Provides Insurance Type Services**
 - Claims
 - Risk Management





Common Council Liability Exposures

- **Land Use**
 - Arbitrary and Capricious Decisions
 - Appearance of Fairness Violations
- **Personnel**
 - Harassment/Discrimination
 - Straying out of authority
- **Negligent Misrepresentation**
- **Defamation**
- **Public Works**
 - Road Design





Avoiding Liability

Individuals Can Receive Absolute Immunity for Legislative Activities

- Adoption of budgets, ordinances and resolutions
- Only within context of council meeting as a whole

Avoiding Liability

Land Use

- *Know your role-Quasi Judicial or Legislative ?*
 - *If Quasi Judicial*
 - » *Must be fair and impartial-*
 - **Appearance of Fairness Doctrine**
 - **Cannot communicate with proponent or opponent**
 - » *Make findings of fact - Avoid Arbitrary and Capricious Decisions*



Avoiding Liability

Land Use

- Do not insert yourself in the process
 - **Westmark v. City of Burien**
 - \$10,000,000 verdict
 - Found tortious interference with a business expectancy
 - **Mission Springs v. City of Spokane**
 - Directed official not to issue permit
 - No legislative immunity
 - Liable under state and federal law
 - **Woodsvew II LLC v. Kitsap County**
 - Delay based tort claims evaluated by overall view of the reasonableness of a municipality's actions
 - Avoiding the taint of bad faith remains paramount





Avoiding Liability

Personnel

- **Stay in legislative role**
 - **Set policies, budgets**

- **Do not stray into Executive role**
 - **Management of employees, hiring/firing, discipline**
 - **Can be held personally liable for employment actions**
 - **Personnel law changes constantly**

Avoiding Liability

Personnel

– Harassment/Discrimination

- **Know the Law**
 - Trainings
 - Policies

- **Report to Executive**
 - Witnesses behavior
 - Made aware of problem by employee



Avoiding Liability

Negligent Misrepresentation

- Do not make specific promises or assurances
- Refer specific questions to staff
- Do not take matters into your own hands

Avoiding Liability

Defamation

- If the statement/opinion is regarding a legislative concern you have immunity
- Careful discussing individuals
 - Are they a public official, staff or private individual?
 - Any untruth gives rise to liability





Avoiding Liability

Public Works

- Do not “politically engineer”
 - Crosswalks, Signs, Speed Limits
 - Individual council members may ask for staff input outside of council meeting
 - Have staff respond to requests

- Avoid promises, assurances and inflammatory statements



Avoiding Liability

Do not leak Executive Session information

- Resist the temptation to share!
- Disclose conflicts prior to session and recuse yourself
- Claims and Litigation
 - Can jeopardize defense
 - Possible sanctions imposed

Avoiding Liability

Be mindful of written communications

– Email/ Twitter/ Facebook/Texts

- Always use City email address, not personal
- Use of a personal computer could subject it to search
- Be mindful of Open Public Meetings Act with email
- May lose your legislative immunity





www.wciapool.org

Washington Cities Insurance Authority
P.O. Box 88030
Tukwila, WA 98138
Phone: 206.575.6046
Fax: 206.575.7426

Mayor & Councilmember handbook

Pages extracted from AWC/MRSC handbook; entire handbook available via link above



MRSC Report No. 44
Revised August 2019

The mayor as chief executive

Most people understand that the mayor is the chief executive of the city. When there is a serious emergency, such as a flood, residents properly assume that it is the mayor who has the authority to take charge. Unfortunately, it is also assumed by some mayors that their power is almost supreme, even in the absence of an emergency.

Though the mayor has executive authority in a mayor-council city, that authority is defined by state law and must be exercised in a manner consistent with policy decisions made by the city council. There are statutory limitations both on what you can do and how you can do certain things. Appendix 1 lists the specific statutes that grant powers and responsibilities to the mayor. This chapter provides an overview of your chief executive responsibilities.

Administrative/policy maker distinction

Again, it is the council's role to adopt policies for the city and it is the mayor's role to administer or carry out those policies. The distinction sounds simple, but it can cause confusion and animosity.

Though a mayor does not set policy, as the elected chief executive it is certainly appropriate for the mayor to bring policy options and recommendations to the council. That is part of the leadership role of the mayor. That leadership role is particularly evident in the budget process, where the mayor submits a preliminary budget to the council as a proposed guideline for city priorities.

So, who actually runs the city?

In many of the smaller towns and cities in Washington, the city clerk is the person at city hall who does a lot of the day-to-day administration of the city. The clerk's duties are established by state statutes and city ordinances – this person is typically in charge of administration when the mayor is not at city hall.

In many cities, the mayor is employed full-time in another job and does not have the time to be at city hall taking care of administrative details. The mayor's salary in most municipalities clearly indicates that the job is not full-time.

As cities grow and the complexities of city administration become more difficult for a part-time mayor and a city clerk to handle, some cities choose to create a new position titled "administrative assistant," "city administrator," or "executive assistant" to help with city administration, under the direction of the mayor. The individual in such a position is generally appointed by the mayor and performs tasks within the statutory authority of the mayor. The council can establish the qualifications and the duties of the position.

Only about a dozen Washington cities currently have full-time mayors, though a growing number of cities have individuals who work full-time as executive assistants to the mayor, as described above.

Some cities have chosen to change to a council-manager form of government when there is a consensus that a professional administrator could better handle the city administration. The decision of whether a city should have a professional city administrator or city manager is complex, involving politics, finances, and the views of the people.

**In any disciplinary action –
hasten slowly.**

Personnel management

The statutes generally give the mayor or city manager, as chief executive, broad authority to hire and fire employees. (See Appendix 1, Overview of statutes.)

Realize, however, that employee lawsuits can be one of your largest areas of potential liability. There are legal limitations on the actions you take in hiring, discipline and discharge:

- **State and federal laws, court decisions** – Laws relating to anti-discrimination, overtime compensation, safety, sexual harassment, and many others.
- **The city's personnel policies** – Policies passed either as an ordinance or adopted as administrative policies.
- **Civil service** – Except for very small cities, most police and fire employees are protected by civil service. Some charter cities also provide civil service coverage for other city employees. Civil service governs hiring processes and provides hearings for disciplinary actions. Your actions may be subject to appeal to the local civil service commission (RCW 41.08 and 41.12).
- **Union contracts** – The terms of the labor contract prevail over other local regulations, including civil service rules and personnel rules. In many contracts, a grievance procedure provides for disciplinary appeals to an outside arbitrator.

Before you jump...

Prior to taking any serious disciplinary action, consult with your attorney. Your liability insurance carrier may also provide some preventative legal assistance.

Another tip is to have good and consistent personnel policies. Current and clearly-written policies help avoid lawsuits, promote consistency, and contribute to employee morale.

Labor relations

Unions have a significant presence in Washington cities. Most city employees have the right to organize under the state Collective Bargaining Act and have joined statewide unions or have formed local associations (RCW 41.56).

In particular, most police and fire departments are well-organized. Except for very small cities, police and fire are also subject to interest arbitration when an impasse in bargaining occurs. This can create a unique dynamic in police and fire negotiations.

Labor relations advice

- Know the terms of your labor contracts.
- You can't change wages, hours or working conditions without bargaining these issues with the union. This means you can't unilaterally implement a change in benefits, for example, without risking an unfair labor practice.
- You may or may not choose to be on the bargaining team. Be aware of the disadvantages – the process is very time-consuming and may affect your day-to-day relationships with employees. Because city employees are often your constituents, you may have unions putting political pressure on you. Some cities hire professional consultants to bargain on behalf of management.

The job of a councilmember

The principal job of a city or town council is to set policy. A policy is a course of action for a community. Policymaking often takes the form of passing ordinances or resolutions. After policy decisions are made by the legislative body, others perform the administrative task of implementing the policies. The distinction between formulation and implementation may not always be clear, necessitating open communication between legislators and administrators.

Adopting policy

The council does not make policy in a vacuum. Councils rely on ideas from many sources, including the council staff, community groups, advisory committees, chambers of commerce, and others. It is the council's responsibility to consider the merits of each idea and then approve, modify, or reject them. In doing so, councilmembers analyze community needs, program alternatives, and available resources. The decision often takes the form of an ordinance or resolution, although it may take the form of a rule, regulation, motion, or order. The budget and comprehensive plan are powerful policy tools that are adopted by ordinance.

So, who actually runs the city?

It is important to recognize that it is not the role of the councilmember to administer city affairs. The council sets policy, but it is either the mayor (in mayor-council cities), or the city manager (in council-manager cities), who actually implements the policies. This means that it is not the role of the councilmember to supervise city employees on-the-job or become involved in the day-to-day administration of city affairs. This can be a source of conflict between the executive and legislative branches of city government.

Responding to constituent complaints

Residents often contact a councilmember when they have a problem, whether it involves a land use matter, a barking dog, or a pothole. Don't hesitate to send them to the appropriate city staff person for resolution of their problems. Keep in mind that you lack the authority to take action in administrative matters.

Relationship with the city attorney

In most cities, the mayor appoints the city attorney, whether that position is full-time or part-time. In some cities the council takes an active role to arrange for the provision of legal services through a contract. Regardless of how the position is established, remember that although the mayor or city manager typically has more contact with the city attorney than the councilmembers or city staff, the city attorney's job is to advise all city officials. Sometimes councilmembers feel that the city attorney is the mayor's or manager's attorney, particularly if the city attorney generally supports the mayor's or manager's position in situations where the answer is unclear.

Question & answers

Q. What is the role of the city council regarding employee discipline, and what input can the council have concerning performance appraisals of employees?

A. Though the council may be concerned about employee discipline and how certain employees are performing their duties, the council should not be involved in any individual situations. While the council can establish personnel policies and voice their concerns to the mayor, it is solely the mayor's job to discipline and supervise city employees, including conducting performance evaluations.

Q. Is the mayor or city manager required to inform councilmembers prior to terminating or disciplining a city employee?

A. No. However, when a particular termination or discipline is likely to be controversial, the mayor may want to notify the council and explain the decision in an executive session. Disciplinary and termination decisions should be reviewed with the city attorney first. The mayor and councilmembers should be careful to not discuss specific cases outside of an executive session.

Neither the mayor nor the city manager can prohibit the council from accessing the city attorney for advice. For financial reasons, the mayor or manager may feel that questions to the city attorney should be channeled through the executive's office, to avoid possible duplication and to make sure that the questions are presented clearly. Ultimately, it is up to the council to establish procedures on how to provide city attorney services.

Some smaller cities try to minimize legal service fees by having the city attorney skip regular council meetings. That can be thrifty, but shortsighted, particularly when the council is dealing with controversial matters such as land development, or complex procedural issues such as LIDs.

Personnel management

The statutes generally give the mayor or city manager, as chief executive, the broad authority to hire and fire employees.

The city council, however, determines the number of employees that can be hired and those employees' duties. The council establishes salaries and other forms of compensation paid to city workers. The council may also establish job qualifications.

One piece of advice is to have good, consistent personnel policies. Up-to-date, clearly written policies help avoid lawsuits, promote consistency, and contribute to employee morale.

Labor relations

Unions have a significant presence in Washington cities. Most city employees have the right to organize under state law and have joined statewide unions or formed local associations. The city must negotiate labor contracts with these unions over wages, hours and working conditions.

In particular, most police and fire departments are unionized. Except for very small cities, police and fire unions have access to interest arbitration when an impasse in bargaining occurs. This can create a unique dynamic in police and fire negotiations, given the potential for an outside arbitrator to make decisions regarding wages, benefits and contract language.

Open government laws

Compliance with public disclosure and open meetings builds trust with your community. The Open Government Trainings Act requires elected officials to receive training on public disclosure, the Open Public Meetings Act (OPMA), and records retention within 90-days of taking office and every four years thereafter.

In partnership with MRSC, AWC provides the courses for free online. The eLearnings are available to watch anytime, and meet the Open Government Trainings Act requirement.

Resolving and preventing mayor-council conflict

It is essential that mayors and councilmembers understand their roles and how they relate to each other and staff. Many conflicts in city governments happen due to role confusion, resulting in overstepping the boundaries between the respective roles.

Although the boundaries are not always clear, the basic roles of the mayor and council are derived from the basic structure of city government, whether yours is the mayor-council or council-manager form. There is some variation in the powers and duties of mayors and councils between classes of cities, so be aware of the specific rules applicable to your class of city.

Separation of powers

Like the federal and state governments, a city government's powers are distributed among three separate branches: legislative, executive, and judicial.

- The city council is similar to the state Legislature or Congress.
- The mayor or manager, like the governor and the president, heads the executive branch.
- The municipal court (or the district court by contract) exercises judicial functions, although in a more limited way than the state or federal courts.

Under the "separation of powers doctrine," each of the three branches exercises certain defined powers, free from unreasonable interference by the others; yet all three branches interact with each other as part of a "checks and balances" system. The powers of these branches in city government are defined for the most part by state statute.

The mayor or city manager's authority

As the chief executive and administrative officer of the city, the mayor or city manager is in charge of carrying out the policies set by the council and seeing that local laws are enforced. The mayor or city manager is basically in charge of the day-to-day operation of the city, including the supervision of all appointed officials and employees. The mayor or city manager oversees the hiring and firing of all appointed officers and employees, subject to civil laws, where applicable. Except for those in towns, councils have some authority to require confirmation of the appointment of certain officials. Councils may not, however, require confirmation of firings by the mayor or city manager.

The mayor or city manager is basically in charge of the day-to-day operation of the city, including the supervision of all appointed officials and employees.

In general, the mayor or city manager also has the authority to:

- Enforce contracts.
- Bring lawsuits, with council approval.
- Preside over council meetings and, in some classes of cities, exercise some tie-breaking authority with respect to council votes and veto authority over ordinances.
- Call special meetings of the council.
- Prepare a proposed budget.
- Report to the council on the financial and other affairs and needs of the city.
- Approve or disapprove all official bonds and contractor's bonds.
- The mayor performs as ceremonial head of the city.

Consistent with the separation of powers doctrine, the council is not authorized to interfere with the mayor's administration of city government. Councilmembers may not give orders to department heads or to other city employees. To do its job, however, the council needs information on how the city is operating. The mayor, either directly or through other city staff, must provide that information and should do so in a timely and useful fashion.

Council powers

In general, it is the council's role to adopt policies for the city and it is the mayor's role to administer or carry out those policies. The council, being legislative, has the power to enact laws and policies, consistent with state law, usually through the enactment of ordinances and resolutions. The council also has specific authority to:

- Enact a city budget.
- Define the powers, functions, and duties of city officers and employees.
- Fix the compensation of officers and employees.
- Establish the working conditions of officers and employees.
- Maintain retirement and pension systems.
- Impose fines and penalties for violation of city ordinances.
- Enter into contracts.
- Regulate the acquisition, sale, ownership, and other disposition of real property.
- Provide governmental, recreational, educational, cultural, and social services.
- Impose taxes, if not prohibited by state law.
- Cause the city to own and operate utilities.
- Approve claims against the city.
- Grant franchises for the use of public ways.
- License, for the purpose of revenue and regulation, most any type of business.

In addition, the council is authorized to enact rules governing its procedures, including for public meetings and hearings.

The blurred line between policy and administration

Of course, things do not always run smoothly between the council and the city administration, and the line between policy and administration is sometimes not very clear.

One frequent source of conflict is personnel matters. The council may not like a mayor or city manager's appointment to a particular position, or it may be dissatisfied with the performance of certain officers or employees. An employee may complain to and seek relief from the council about some aspect of employment. On the other hand, the executive may believe that certain personnel policies interfere with his or her supervision of employees and hiring and firing authority.

The mayor or city manager may direct that all communications with city staff go through the mayor's office. The council, in response, may feel that the mayor is unlawfully restricting its access to city personnel for information purposes.

Whose role is it?

The remedy for some of these situations may be to review the respective roles of the mayor and the council and to understand the limitations of their respective authorities. For example, if the council is not happy with a mayoral appointment, there may be nothing the council can do directly within the bounds of its authority. However, if it has the authority to confirm a particular appointment, it can reject the appointee and force the mayor to choose another. If the council does not have confirmation authority, it can express its dissatisfaction to the mayor, but it can do nothing else with respect to that particular appointment.

The council may, however, provide for a detailed personnel system that establishes specific qualifications for positions, requiring publication and public posting of job opening announcements. Moreover, the mayor or city manager, at least in code cities, is required by statute to make appointments "on the basis of ability and training or experience."

Similarly, if the council feels that an officer or employee is performing poorly and should be disciplined or fired, it can say so to the mayor or city manager, but it has no power to do anything else. Although it controls the salaries paid to city officers and employees, it may not lower a salary with the purpose of causing the person holding that position to quit.

A rule to follow is that the council (and the mayor) may not do indirectly what it cannot do directly.

Council and staff communication

On the issue of communication between the council and city officers and employees, the mayor or city manager may not prevent councilmembers from gaining information, although they could reasonably regulate the process by which requests or questions are made. If councilmember inquiries of city employees are interpreted as harassing or unreasonable and may take them away from their duties, it may be necessary for the mayor or city manager to require those inquiries to be channeled through the mayor's or a department head's office, if that can be done without unduly encumbering council access to information.

"The most important single ingredient in the formula of success is knowing how to get along with people."

– Franklin D. Roosevelt

Requirements for notice of meetings

The public must be informed of the time and place of meetings, both “regular” meetings and “special” meetings, except in emergencies.

- Regular meetings are recurring meetings with a time and place fixed by ordinance or rule. “Workshop” meetings of the council, if routinely held at a time and place set by ordinance, are still “regular” meetings and are subject to the Open Public Meetings Act.
- Special meetings, called by the presiding officer or a majority of the members, must be announced in writing to all members of the governing body and members of the news media who have requested notice (RCW 42.30.080). Special meeting notices must be delivered personally or by mail, fax, or electronic mail 24 hours in advance and posted on a website and prominently displayed, specifying the time and place of the meeting and the business to be

transacted. Only business described in the special meeting notice can be decided, although other business can be discussed. Many cities provide notice to the public when special meetings are called if there is enough time. For instance, some cities post notice of special meetings at several places in the city, and some cities publish notice in the local newspaper.

Conclusion

The requirements of the Open Public Meetings Act are pervasive and relatively inflexible. In deciding to hold a closed meeting, local officials should be prepared to justify the decision under a specific exemption. Officials should be alert to situations where the Open Public Meetings Act could be inadvertently violated, such as social settings, public hearings, and council retreats and workshops.

Additional resources

The Open Public Meetings Act, How it Applies to Washington Cities, Counties, and Special Purpose Districts, MRSC

OPMA and PRA practice tips and checklists webpage, MRSC

Frequently asked questions

Q. What can be done if a meeting becomes disorderly?

A. The mayor should instruct audience members on rules of courtesy; if rules are not followed, the speaker may lose the right to speak at the meeting or even be ejected for disorderly conduct. The meeting may be adjourned temporarily or moved to another location if order cannot be restored by removal of the disorderly individuals.

Q. What if a majority of the city council get together for coffee every week at the local coffee shop? Is that considered a public meeting?

A. No, not unless city business is discussed. Use extreme caution though; if a majority of the council is seen together, the public may assume that city business is the topic, and allege a violation has occurred.

Q. What happens if the Open Public Meetings Act is violated?

A. There are several potential consequences for violating the procedural requirements of the Open Public Meetings Act. Most importantly, actions taken in meetings that violate the Act are null and void, including the passing of ordinances and resolutions. In addition, knowing attendance by a member at an improperly held meeting is punishable by a civil fine of \$500 for the first violation and \$1,000 for subsequent violations. The party that prevails in an action for violation of the Act may recover reasonable expenses and attorneys’ fees under certain circumstances.

Q. If a majority of the city council are included on an email related to city business, is the Open Public Meetings Act violated?

A. Yes, there likely is a violation of the OPMA if a quorum of the city council exchange emails in which they discuss public business. However, if one member emails the other members to share relevant information but there is no exchange of information, then likely there is no OPMA violation. In other words, if there is just passive receipt of the email, there has been no meeting. It is the exchange of emails or dialogue between the councilmembers that triggers the likelihood of an OPMA violation.



Council Rules of Procedure

Resolution 04-02 March 2, 2004
 Resolution 15-29 Amended October 6, 2015

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Rule No. 1: Purpose - Scope.

The order of procedure and business herein contained shall govern deliberations and meetings of the City Council except as the same may be in conflict with RCW Chapter 35A.12 or other state law and constitutional provisions.

Rule No. 2: Meetings.

- (1) Regular Meetings – Regular meetings will begin at 6:00 p.m. and end not later than 9:00 p.m. unless extended by the majority vote of the Council.
- (2) Special meetings may be called by the Mayor or by a majority of the Council by written notice delivered personally or by mail or email to each Councilmember and the Mayor at least twenty-four hours prior to the time set for the meeting as specified in the notice. Notice of the meeting shall also be posted on the City’s web page. The requirements of the "Open Meeting Law", RCW Chapter 42.30, shall apply in all respects to special meetings of the Council. Councilmembers may consent to personal written notice being placed in Councilmember's mailbox at City Hall; provided, further, in such cases a telephonic, email or personal notice shall be given to each Councilmember.
- (3) Council Attendance – Absences by Councilmembers at regular meetings are subject to the provisions of RCW 35A.12.060. If a Councilmember knows in advance that s/he will be absent at a meeting, the Coun-

councilmember should contact the Mayor, City Administrator and/or City Clerk. Following the Call to Order, the presiding officer will inform the Council of the Councilmember's absence and ask for a motion to excuse the Councilmember from the meeting. The motion is approved by a majority of the Councilmembers present. Councilmembers may also choose to excuse a Councilmember after-the-fact in the same manner.

Rule No. 3: Meetings Public - Executive Sessions.

All regular and special meetings of the Council shall be open to the public. The Council may hold executive sessions from which the public may be excluded for those purposes set forth in RCW 42.30.110 (Open Meeting Law), may order the removal of individuals who are interrupting the meeting as provided in RCW 42.30.050, and may exclude witnesses during investigation of a matter by the Council as provided in RCW 42.30.110.

Rule No. 4: Quorum - Absent Councilmembers.

- (1) A majority of Councilmembers of the Council shall constitute a quorum at all meetings of the Council, but a less number may adjourn from time to time and may compel the attendance of absent Councilmembers by direction to the Chief of Police under penalty. Once a meeting has been constituted and called to order, no Councilmember present shall absent himself/herself from the same without leave of

the presiding officer or a majority of the Council. See Privileged Motion in the current edition of STANDARD CODE OF PARLIAMENTARY PROCEDURE by American Institute of Parliamentarians.

- (2) With prior approval by a majority of the Council and on non-quasi judicial matters only, a Councilmember may participate by an agreed upon electronic means. A Councilmember may participate by this means no more than two times per year.

Rule No. 5: Presiding Officer - Mayor, Clerk Pro Tempore.

The Mayor shall preside over all meetings of the Council, or, in his/her absence, by the Mayor pro tempore. If the Clerk is absent from a Council meeting, the Mayor or Mayor pro tempore shall appoint a Clerk pro tempore. The appointment of a Councilmember as Mayor pro tempore shall not in any way abridge his/her right to vote upon all questions coming before the Council.

Rule No. 6: Agenda.

- (1) Preparation of Agenda. An agenda for regular meetings shall be prepared by the Mayor and transmitted to the Councilmembers. The agenda shall consist of the business to come before the City Council, but shall not preclude the Council from considering matters in addition to those set forth on said agenda. The heads of the various departments of the City or his/her designee shall report agenda matters and deliver copies of supporting materials to the Mayor in sufficient time for their inclusion on the agenda.

For purposes of discussion, secondary motions and amendments, the placement of an action item on the agenda shall be deemed a motion to adopt the presented agenda item. However, any action on the main agenda item, including adoption as presented, shall require a motion, a second and an affirmative vote of the Council.

For special meetings, a final action may be taken by Council only on items for which notice was provided and which were placed on the agenda.

- (2) Addition of items. Items added to the agenda within 24 hours of the meeting shall be considered only upon approval of a majority of the Council present at the meeting.
- (3) Order of Business. The order of business should follow as nearly as possible the order of the agenda as follows:
 - (a) Call to Order (Invocation, Pledge of Allegiance, Excuse Absent Councilmembers)
 - (b) Approval of Agenda
 - (c) Presentations
 - (d) Citizen Comment Period (a maximum of three minutes per speaker for 15 minutes). By a majority vote, the Council may extend the Citizen Comment Period
 - (e) Consent Agenda
 - (f) Staff, Mayor and Council Comments
 - (i) City Administrator
 - (ii) Mayor
 - (iii) Councilmembers (See OHMC 1.04.020(2) and Rule 11(7))

- (g) Public Hearings & Meetings:
 - (i) Hearing/Meeting (a maximum of three minutes per public speaker, provided, that the Council may, in its discretion, allow for additional time where the complexity of issues involved requires more time in order to give the public speaker a reasonable opportunity to be heard on the matter)
 - (ii) Passage of any applicable ordinance or resolution
- (h) Ordinances & Resolutions
- (i) Contracts & Agreements
- (j) Other Items for Consideration
- (k) Reports & Discussion Items
- (l) Executive Session
- (m) Adjournment

The order of business set forth in this section is a guideline and shall not be construed in any way as to limit the order in which the Mayor puts the agenda together. Council may elect to proceed with its business as it deems appropriate upon majority vote.

"Public hearing" items listed on the agenda will reference: (1) items that have been scheduled by the City; and (2) that a separate public advertisement has been published announcing the nature of the matter. Public comment, testimony (in the case of quasi-judicial hearings) or other input will be allowed at the time of the hearing.

Rule No. 6A: Consent Agenda.

(1) The Mayor shall place matters on a Consent Agenda which:

- (a) have been previously discussed by the Council; or
- (b) are based on the information delivered to members of the Council by administration which can be reviewed by a Councilmember without further explanation; or
- (c) are routine or technical in nature so that passage without discussion is likely. These include contract approvals provided the agenda bill lists the dollar amount of the contract, assurances that the amount for the contract is within budget limits, proper bidding processes were followed and how the contractor was chosen.

(2) The proper Council motion on the Consent Agenda is as follows: "I move to adopt the Consent Agenda, as presented". A second is required. This motion shall be non-debatable and will have the effect of moving to adopt all items on the Consent Agenda. Since adoption of any item on the Consent Agenda implies unanimous consent, any member of the Council shall have the right to remove any item from the Consent Agenda. Therefore, prior to the vote on the motion to adopt the Consent Agenda, the Mayor shall inquire if any Councilmember wishes an item to be withdrawn

from the Consent Agenda. If any matter is withdrawn, the Mayor shall place the item at an appropriate place on the agenda for the current or a future meeting.

Rule No. 7: Public Hearing Notices and Notice of Preliminary Council Agenda.

See OHMC 1.04.020.

Rule No. 8: Minutes (City Clerk).

The Clerk shall keep minutes of all regular and special meetings where action is taken as part of a correct journal of all proceedings, consistent with OHMC 1.09.030. The Clerk shall assign a number to each ordinance prior to the meeting at which it is to be considered for final passage.

Rule No. 9: Public Discussion.

(1) No person, not a member of the Council, shall be allowed to address the same while in session without the permission of the presiding officer. A Councilmember who wishes to ask a question of a member of the public shall seek permission from the presiding officer. The presiding officer shall have the authority to limit the time allowed to address the Council. Disorderly persons, including those who do not abide by the rules established, may be removed from the meeting place at the direction of the

presiding officer or (a majority of) Council. See RCW 9A.84.030 - Disorderly Conduct.

- (2) Council shall provide opportunity to be heard on all agenda items, ordinances, resolutions and matters concerning budget related items. When allowed, audience participation shall usually be limited to a maximum of three minutes per speaker. No speaker shall be allowed to cede his or her time to another speaker.
- (3) On each agenda item after a description of the matter has been made, the Mayor shall ask if there are any questions or comments by citizens in the audience. After discussion by the Council commences, citizen comment should not be permitted except by permission of the Council. See Rule 11.
- (4) Unless approved by the Mayor prior to the speaker beginning to address the Council, no member of the public may utilize an electronic or video device for purposes of his or her presentation to the Council. This restriction shall not apply to any device which is an accommodation for the speaker's disability.

Rule No. 10: Presiding Officer's Duties.

It shall be the duty of the presiding officer of the Council meeting to:

- (1) Call the meeting to order;

- (2) Keep the meeting to its order of business;
- (3) State each motion and require a second, when applicable, to that motion before permitting discussion;
- (4) Handle discussion in an orderly way:
 - (a) Give every Councilmember who wishes, indicated by a show of hands, an opportunity to speak,
 - (b) Keep all speakers to the rules and to the questions,
 - (c) Give pro and con speakers an equal opportunity to speak;
- (5) Put motions to a vote and announce the outcome;
- (6) Suggest but not make motions for adjournment;
- (7) Call for short recesses up to 15 minutes;
- (8) Appoint committees when authorized by law or Council action.

Rule No. 11: Debate/Discussion.

- (1) Councilmembers may speak more than once on the same subject; provided, further, that after each Councilmember wishing to speak has had an

opportunity to speak on a subject at least once, that only a majority of Councilmembers present may close debate;

- (2) No Councilmember may speak a second time to a question until every Councilmember choosing to speak has spoken. Each round of debate shall proceed in the same fashion -- i.e., no person shall speak again until all others wishing to speak have been given an opportunity to speak. However, an amendment or any other motion being offered, makes the real question before the assembly a different one, and, in regard to the right to debate, is treated as a new question. The maker of a motion, though he/she can vote against it, should not speak against his/her own motion.
- (3) Unless permitted by a majority, no member may be allowed to speak for more than ten minutes on one agenda item, question or motion.
- (4) When an amendment is pending, the debate must be confined to the merits of the amendment unless it is of such a nature that its decision practically decides the main question.
- (5) Closure of debate.
 - (a) The Mayor may close debate after a call for the question has been made by a Councilmember and no one objects to closure or when all Councilmembers have indicated they have completed their discussion. The

Mayor cannot close the debate as long as any Councilmember desires to speak.

- (b) Council may close debate by motion and call for the question by motion after each Councilmember has had an opportunity to speak at least once. (See Rule 11(1)).
- (6) Discussion may occur on scheduled agenda items without there being a motion made on the matter. Each Councilmember shall be allowed to speak once before a motion is made so that fewer subsidiary motions and votes will be needed to dispose of a matter.
- (7) Councilmembers may bring up new business or unfinished business and make inquiries of staff without putting the issue in the form of a motion. When asked by the Mayor or another Councilmember, the Councilmember introducing the matter for discussion may put the issue into the form of a motion.
- (8) Discussion should be addressed to the Mayor.

Rule No. 12: Motions in Writing - When.

The presiding officer and any member of the Council may require a motion to be reduced to writing prior to a vote upon the same. All resolutions and ordinances may be in writing

before being adopted. Amendments to an ordinance may be reduced to writing before being voted up.

Rule No. 13: Motions - Priority.

- (1) The following order shall be the order of priority for main and subsidiary motions:
 - (a) Adjourn - Recess.
 - (b) Question of privilege.
 - (c) Take from the table.
 - (d) Previous question.
 - (e) Postpone to a set time.
 - (f) Refer to a Committee, Commission or Board.
 - (g) Amend.
 - (h) Main question.
- (2) The main motion is lowest in rank.
- (3) To fix time to adjourn is the highest. When any motion on this list is before the Council, a motion above it on the list is in order, those below it are out of order.

- (4) Priority of incidental motions is as set out in the current edition of STANDARD CODE OF PARLIAMENTARY PROCEDURE by American Institute of Parliamentarians. (NOTE: Usually, subsidiary motions are permissible to make while considering any other regular business.)

Rule No. 14: Motions.

- (1) Motions shall be clear and concise and not include arguments for the motion within the motion.
- (2) There shall be no discussion of a motion prior to it being seconded other than to clarify the motion language.
- (3) If a motion does not receive a second, it dies. Motions that do not need a second include: nominations, withdrawal of motion, agenda order, request for a roll call vote, and point of order, privilege.
- (4) After a motion and a second, the Mayor will state the names of the Councilmembers making the motion and second. The Mayor, the Clerk or the motion maker shall restate the motion prior to debate.
- (5) After a motion has been made and seconded, the Council may discuss their options on the issue prior to the vote. No further citizen comments may be heard when there is a motion and a second on the floor.

- (6) A motion to table is not debatable and shall preclude all amendments or debate of the issue under consideration. If the motion to table prevails, the matter may be "taken from the table" only by adding it to the agenda of a future regular or special meeting at which time discussion will continue; and if an item is tabled, it cannot be reconsidered at the same meeting. A motion to table may not be used to dispose of a quasi-judicial matter.
- (7) A motion to postpone to a certain time is debatable, is amendable, and may be reconsidered at any regular meeting.
- (8) A motion to amend is defined as amending a motion that is on the floor and has been seconded, by inserting or adding, striking out, striking out and inserting, or substituting. A motion to amend a motion to amend is permitted but there is no amendment of amendment of an amendment. Only one motion to amend may be on the floor at any one time.
- (9) The City Attorney, or his/her designee, shall provide information to the Mayor or Council concerning questions of interpretations of these policies and procedures and other questions of a parliamentary nature which may arise at a Council meeting. The City Attorney, or his/her designee, or the City Clerk may interrupt proceedings to provide advice concerning conformance with law and procedure.

- (10) All ordinances shall be prepared or reviewed by the City Attorney, or his/her designee, prior to being placed on the agenda. No ordinance shall be prepared for presentation to the Council unless requested by a majority of the City Council, or the Mayor or the City Attorney.

Rule No. 15: Motions - Debatable and Non-debatable.

The following list shows which motions are debatable and which are not:

To fix time to adjourn	Non-debatable
Adjourn - Recess	Non-debatable
Privilege	Non-debatable
Take from table	Debatable
Postpone to a set time.....	Debatable
Previous question	Non-debatable
Refer to a Committee, Commission, Board or Staff.....	Debatable
Amend.....	Debatable
Main question or motion	Debatable

Rule No. 16: Motions - 2/3's Vote Required.

Except as provided by state law, only the following motions shall require two-thirds (2/3) vote:

- (1) Suspend rules.

- (2) Previous question unless all members have been allowed to speak at least once in which case only a majority is needed to sustain the previous question.
- (3) Prevent introduction of business.
- (4) Amend these rules during the same meeting the motion to amend these rules is first made.

Rule No. 17: Voting.

- (1) Each Councilmember present must either vote or abstain on all questions put to the Council. Votes may be by "aye", "nay" or abstention as to matters to which the Councilmember may have a conflict of interest. The vote shall be cast utilizing the electronic voting system. If electronic devices are unavailable, the vote shall be by a show of hands. No secret ballots are allowed.
- (2) The Mayor may vote in case of a tie except for the passage of any ordinance, grant or revocation of franchise or license, and any resolution for the payment of money. These matters shall require the affirmative vote of at least a majority of the whole membership of the Council (four Councilmembers).
- (3) When the Council concurs or agrees with an item that does not require a formal motion, the Mayor will summarize the agreement at the conclusion of the discussion.

- (4) Similarly, on matters concerned with the setting of dates for hearings, public meetings, workshops, special meetings for which the Council usually sets the date by formal motion, no formal motion is required, if after the Mayor or a Councilmember suggests a date, there is a consensus by all Councilmembers that the date is acceptable. The Mayor shall summarize the consensus and the matter shall be entered in the record as a Council action by consensus.

Rule No. 18: Adopted Rules of Order.

The current edition of STANDARD CODE OF PARLIAMENTARY PROCEDURE by American Institute of Parliamentarians shall govern the deliberations of the Council, except when in conflict with any of the foregoing rules and state law. Other sections of this text may be resorted to when deciding questions not addressed by constitutional or state law, ordinance or these rules but shall not be deemed rules of this Council or binding.

Rule No. 19: Quasi-judicial Matters - Site Visits.

Whenever a quasi-judicial matter pending before the City Council involves a specific site, each member of the Council may visit the site prior to the making of a final decision in order to better understand the evidence to be presented. At the public hearing, Councilmembers shall disclose what information was observed.

Rule No. 19A: Quasi-judicial Procedure - Appearance of Fairness

- (1) Prior to staff presentation of a quasi-judicial matter, Councilmembers shall each determine whether the appearance of fairness doctrine requires that the Councilmember recuse himself or herself from sitting on the quasi-judicial matter.
- (2) If the matter is a land-use decision, the Councilmembers shall identify:
 - If they have any interest in the property or application;
 - If they own property within 300 feet of the subject property;
 - If they stand to gain or lose any financial benefit as a result of the outcome of the hearing;
 - If they have any personal, family or other connection to any party such that their ability to be impartial might be called into question;
 - Whether they can hear and consider the application in a fair and objective manner.
- (3) In non-land use quasi-judicial matters, the Councilmember shall identify:
 - If they stand to gain or lose any financial benefit as a result of the outcome of the hearing;
 - If they have any personal, family or other connection to any party such that their ability to be impartial might be called into question;

- If there is any reason why they could not be fair and impartial in deciding this matter.
- (4) Upon disclosure of any of the above potential appearance of fairness concerns, the parties and the public shall be given an opportunity to object to any Councilmember sitting on the quasi-judicial matter based on the appearance of fairness doctrine. Failure to object to a Councilmember sitting on the quasi-judicial matter when offered the opportunity shall constitute a waiver of that objection.
 - (5) Councilmembers are encouraged to recuse themselves if they feel there may be an appearance of fairness issue. If an individual Councilmember has determined not to recuse him or herself, the City Council as a whole may, by majority vote, decide that the Councilmember has an appearance of fairness concern which may taint the Council's decision in the pending case and may recuse the Councilmember on those grounds.
 - (6) Any Councilmember who recuses him or herself or who is recused shall leave the Council hearing room prior to any testimony or consideration of the quasi-judicial matter.

Rule No. 19B: Quasi-judicial Procedure - Ex Parte Contacts

- (1) *Ex parte* contacts are contacts about the quasi-judicial matter occurring outside of the open public hearing at which it is decided.
- (2) Every Councilmember shall disclose any *ex parte* contacts he or she had and describe them on the record prior to the quasi-judicial hearing.
- (3) Unless the Councilmember feels that the *ex parte* contact(s) have affected his or her ability to be fair, the fact that the Councilmember has had *ex parte* contacts shall not disqualify a Councilmember PROVIDED that the Councilmember discloses those contacts on the record prior to the quasi-judicial hearing.
- (4) In any case in which a Councilmember has disclosed *ex parte* contacts, any party to the quasi-judicial hearing shall be allowed to rebut the substance of the *ex parte* contact(s) either prior to or during the quasi-judicial hearing.

Rule No. 19C: Quasi-judicial Procedure - Testimony

- (1) Testimony may not be taken in closed record land use appeals. The Council's decision must be based on the evidence in the record created by the Planning Commission or Hearing Examiner (as applicable). If the Council determines that additional evidence is needed in such cases, the Council may send the matter back to the Planning Commission or Hearing

- Examiner (as applicable) to add evidence to the record.
- (2) In other quasi-judicial matters, the Council may take limited additional evidence but is encouraged to rely upon the record already created.
- (3) Prior to giving testimony, all witnesses shall be sworn on oath to testify fully and truthfully:

"I hereby swear or affirm that the testimony I am about to give shall be the truth and the whole truth."

Rule No. 19D: Quasi-judicial Procedure - Advocacy

- (1) Quasi-judicial hearings are intended to be adversarial, that is, to allow competing points of view to be argued by the proponent(s) and any opponent(s). The City Council shall sit as an impartial decision-maker rather than as an advocate for either position.
- (2) The proponent(s) shall speak first and make any arguments in favor of his or her position as "opening argument". Normally, the proponent(s) shall be limited to ten minutes of opening argument.
- (3) The opponent(s) shall speak after the proponent(s). Normally, the opponent(s) shall be limited to ten minutes of responsive argument.
- (4) Because the proponent(s) has the burden of persuasion, the proponent(s) shall be allowed three

minutes of rebuttal to the opponent(s)' argument. Rebuttal shall not introduce any new arguments but shall only reply to the arguments of opponent(s).

- (5) The Mayor or the City Council may allow additional time for argument if either determines that the case would be better understood with additional argument.
- (6) After arguments have concluded, the City Council shall ask any questions Councilmembers have of the parties.
- (7) After testimony, argument and Council questioning has concluded, the Council shall deliberate and make its decision in an open public meeting. If an Executive Session is authorized by state law, the council may adjourn to an Executive Session to the extent authorized by state law but shall make its decision in an open public meeting.

Rule No. 20: Requests for Additional Public Hearings.

Where a public hearing was conducted prior to making a recommendation to the City Council, the City Council may consider holding an additional public hearing.

Rule No. 21: Written Materials Submitted Subsequent to Public Hearings.

Written materials may be submitted to the City Council following the close of a public hearing when authorized by Council on record.

Rule No. 22: Reconsideration of Quasi-judicial Actions.

Any request of motion for reconsideration by a proponent or opponent of a quasi-judicial action of the City Council must be made in writing to the City Clerk. A motion to reconsider such action shall be out of order and shall not be acted upon unless made prior to taking up the start of the City Council agenda at the next regular City Council meeting following the meeting at which the action was taken. During the reconsideration period, no ex parte communication shall be made to any City Councilmember concerning the quasi-judicial action. "Action" shall mean the vote of the City Council expressing a decision even though followed at a later date by passage of an ordinance or resolution.

Rule No. 23: Reconsideration of Actions which are not Quasi-judicial.

A member of the Council may request that the Council reconsider a decision on a matter which is not quasi-judicial in nature. A motion to reconsider must be made during the same meeting as the original action was taken.

Rule No. 24: Ratification.

Only one reconsideration motion shall be allowed. Ratification shall be treated as a main motion and shall be for purposes of correcting procedural or substantive concerns and shall relate back to the date of original action unless the Council otherwise provides.

Rule No. 25: Failure to Follow Rules.

- (1) Failure to follow these rules shall not void any action taken by Council.
- (2) A Councilmember feeling a rule is violated may raise a privileged or incidental motion to seek redress before the Council.

Rule No. 26: Interpretation.

These Rules shall supersede Resolution Nos. 2000-05, 2002-13, 2004-02, 2012-08; and Ordinance Nos. 1621 and 1679; and Council Motions on September 4, 2012, September 3, 2013, and March 18, 2014 concerning Council procedure.

City of Oak Harbor
City Council
Workshop Agenda Bill

Date: August 26, 2020
Subject: **b. Discussion regarding the City
Attorney Appointment**

FROM: Administration

SUMMARY STATEMENT

Discussion regarding the Mayor's appointment of Weed, Graafstra and Associates, Inc. as City Attorney.

ATTACHMENTS

1. [Proposed Agenda Bill for the City Attorney Appointment](#)

City of Oak Harbor City
Council Agenda Bill
DRAFT

Bill No. c. _____
Date: September 1, 2020
Subject: Confirm Mayoral Appointment
of the City Attorney
and Authorize Execution of an
Agreement for Legal Services
with Weed, Graafstra and
Associates, Inc., P.S.

FROM: Administration

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- Bob Severns, Mayor
- Blaine Oborn, City Administrator
- Vacant, Finance Director
- Anna Thompson, Interim City Attorney, as to form

RECOMMENDED ACTION

Confirm the Mayor's appointment of Weed, Graafstra and Associates, Inc., P.S. as the Oak Harbor City Attorney and Authorize Execution of an Agreement for Legal Services beginning September 1, 2020 to August 31, 2021.

BACKGROUND / SUMMARY INFORMATION

The City Attorney position has been vacant since the end of December 2019. Assistant City Attorney Anna Thompson was appointed as the as the Interim City Attorney at the Regular City Council Meeting on February 18, 2020, effective March 1, 2020. The interim appointment was extended on June 1, 2020, and the appointment expires on September 1, 2020.

Since 2012, the City has contracted with Weed, Graafstra and Associates for either Interim and City Attorney services or special counsel services. The principal shareholder Grant Weed served as Interim City Attorney beginning in June of 2012, and was appointed as the City Attorney from October 2012 to August 2014. The firm has been especially helpful during the 2020 interim appointment period and COVID-19 state of emergency, providing legal support services to help meet the needs of the City's legal obligations.

Weed, Graafstra and Associates has an emphasis in municipal law, including land use, open public meetings, public records, public works contracting, utilities, public real estate acquisitions, negotiating federal contracts, tribal agreements, risk management and employment. Grant Weed has 40 years of experience and has focused his entire career on the practice of municipal law, beginning as an Assistant City Attorney for the City of Everett in 1980. Super Lawyers rating service for outstanding lawyers with a high-degree of peer recognition and professional achievement selected Grant Weed as a Top Rated Super Lawyer for the years 2002-2004 and

2008-2015. Weed, Graafstra and Associates comes highly recommended and is currently representing a number of cities in Western Washington, including the Cities of Snohomish and Stanwood, Town of Coupeville, and general counsel for Snohomish Health District and Olympic View Water and Sewer District. The firm also serves as special counsel for numerous other Washington cities and for the Washington Cities Insurance Authority (WCIA). Collectively, their attorneys have over 100 years of experience representing municipalities on a variety of legal matters.

From a departmental perspective, legal requests for assistance would be initially screened by Mr. Weed and delegated to the legal department staff as appropriate. Weed, Graastra and Associates would assume overall management of the City's caseload, including administrative and supervisory functions of the legal department, with Anna Thompson's assistance. As department head of the Legal Department, the firm would maintain appropriate coordination with City Administration. When in-person meetings resume, the firm would offer in-person office hours at City Hall once or twice a week. One of those days could be the day of the staff meeting. When not doing Oak Harbor work, they would not bill the City.

When Weed, Graasfra and Associates served as the City Attorney from 2012 to 2014, they successfully handled the caseload management and office administration. The Legal Department staff have worked with Grant Weed and his team during the firm's appointment as City Attorney and have maintained a solid working relationship with Mr. Weed and his firm since that time. The employees in the legal department look forward to the firm's experienced leadership and skills, and welcome Mr. Weed's competent administration and supervision.

Over the years, the City has cultivated a strong working relationship with Weed, Graafstra and Associates, and the Mayor finds that the firm can best serve in the role of City Attorney. The Mayor appoints Weed, Graafstra and Associates as the Oak Harbor City Attorney and asks that the City Council confirm this appointment pursuant to OHMC 2.06.010.

LEGAL AUTHORITY

OHMC 2.06.010

FISCAL IMPACT

Currently, the City Attorney's budgeted salary and benefits for the year 2020 is \$174,926.00. Weed, Graafstra and Associates can operate within that budgeted amount for the term of their contract, barring any extraordinary or unanticipated issues. The firm anticipates providing up to 72 hours per month at the contracted rate of \$195/hour. There may be cost savings from what has been budgeted as the Assistant City Attorney will be able to work on case assignments as delegated from Weed, Graafstra and Associates.

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

This item was presented at the City Council Workshop held August 26, 2020.

City of Oak Harbor
City Council
Workshop Agenda Bill

Date: August 26, 2020
Subject: a. Housing Action Plan Update

FROM: Cac Kamak, AICP, Interim Director Development Services

SUMMARY STATEMENT

At the June workshop, staff presented the Project Charter, Public Involvement Plan and schedule for the Housing Action Plan (HAP). Again, the intent of this plan is to provide us with an updated resource to assess our current housing profile and future housing needs and offer strategies and recommendations for policy or development regulations that will allow for improving a variety of housing types and residential lifestyles, accommodating households in varying income ranges. We are assisted in this effort by LDC, Inc.

Progress has been made since the June workshop. Data gathering has begun for the housing needs assessment (HNA). Research for the HNA includes: analysis of population trends/forecasts; quantification of existing and projected housing needs for all income levels, including extremely low-income households; documentation of housing and household characteristics; identify various levels of cost burdened households; and develop a plan for maintaining existing housing stock in the City. This assessment will also evaluate the effectiveness of our current code and identify barriers to accessing and the production of housing. Review of this assessment will be on a Council agenda this fall.

A Stakeholder Advisory Committee (SAC) has been formed with representation from various organizations and businesses having a vested interest in housing needs and availability (see Attachment 1). The purpose of the SAC is to provide perspective and input on the issues and challenges facing our housing market; review and comment on the HNA; and review and comment on policy recommendations. The first of three anticipated SAC meetings was held (virtually) July 30. Background of the HAP and purpose of the SAC were presented to the group. A productive discussion on housing needs, regulatory barriers, and future growth of the housing market in the City was had with most members providing key insight. Notes from this meeting are available on the Housing Action Plan webpage. The next SAC meeting is anticipated this fall.

The web-presence has been developed. This webpage allows citizens and interest groups to review draft documents and provide comments, view schedule information, check for meeting notices, and obtain general project information. The project landing page, www.oakharborwahap.konveio.com can be accessed via the Latest News tab on the City's home page.

ATTACHMENTS

1. [Housing Action Plan Stakeholders Advisory Committee Roster](#)

Attachment 1 – City of Oak Harbor Housing Action Plan Stakeholder Advisory Committee Roster

Federal & State

Organization	Name	Title	Contact Info
NAS Whidbey	Brian Tyhuis	Community Planning Liaison Officer - NASWI	brian.tyhuis@navy.mil

Other Local Government/Organizations

Organization	Name	Title	Contact Info
Oak Harbor City Council	Jeff Mack	Councilmember	jmack@oakharbor.org
Oak Harbor Planning Commission	Amy Malmkar	Planning Commissioner	amy@cbkoetje.com
Island County Planning & Community Development	Jessica Carpenter	Director	j.carpenter@islandcountywa.gov

Business Stakeholders

Organization	Name	Title	Contact Info
Economic Development Council for Island County	Sharon Sappington	Executive Director	info@edcislandcounty.org

Housing & Community Service Providers

Organization	Name	Title	Contact Info
Island County Housing Support Center	Joanne Pelant	Housing Resource Coordinator	jpelant@islandcountywa.gov
Habitat for Humanity of Island County	Orin Kolaitis	Chief Executive Officer	volunteer@islandcountyhabitat.com

Real Estate Agents/Builders/Lenders

Organization	Name	Title	Contact Info
Clifton View Homes	Ted Clifton	Owner	cvhdw@whidbey.net
Eagle Building Company	Bill Criswell	Owner	info@eaglebuildingcompany.org

Lexar Homes	Dave Orth	Owner, Burlington Branch	dorth@lexarhomes.com
Valley High Investments, Inc	Colin Smith	Project technician	colin_smith30@hotmail.com
Huseby Homes, LLC	Darin Huseby	Owner	darin@husebyhomes.com
Skagit/Island Counties Builders Association	Charles (Wayne) Crider	Executive Officer	Wayne@sicba.org)
Peoples Bank	Catherine Martyn	Sr. Real Estate Loan Officer	Catherine.martyn@peoplesbank-wa.com

City of Oak Harbor
City Council
Workshop Agenda Bill

Date: August 26, 2020
Subject: **b. Shoreline Master Program
Periodic Review: Progress
Report**

FROM: Cac Kamak, AICP, Interim Director Development Services

SUMMARY STATEMENT

At the June City Council workshop the Department of Ecology checklist was included in your packet for review. Completion of this checklist represents one of three required steps for the Shoreline Master Program (SMP) Periodic Review. Another requirement is to ensure our SMP is consistent with local and regional plans and development regulations which are new or have been amended since the last SMP update (2012).

Attachment 1 (*Document 3 – Consistency Review of Relevant Comprehensive Plans and Development Regulations*) provides documentation of the various local and regional comprehensive plans reviewed for SMP consistency. Sixteen planning documents, pertinent to our shoreline, were reviewed. I provided a brief description of each planning document and in most cases a determination of consistency was made (identified in red text). Proposed SMP amendments for consistency identify the page and substance of each revision.

Also included in this document are development regulations which have been amended since the last SMP update. The City has amended substantive Oak Harbor Municipal Code Chapters which potentially could impact the SMP. The Critical Areas Ordinance, incorporation of Low Impact Development techniques and the Stormwater Management Manual for Western Washington 2012, as amended December 2014, and Flood Damage Prevention Ordinance all have been reviewed for consistency with the proposed SMP. Proposed amendments are identified in *Document 3* as well.

Staff continues to coordinate with Coastal Geologic Services, Inc. to review our current policies and regulations in the Residential/Bluff Conservancy Designation. Existing documentation and field review have been performed which have identified data gaps requiring further analysis. Results and recommendations will be presented to the Council at a workshop this fall.

ATTACHMENTS

1. [Consistency Review of Relevant Comprehensive Plans and Development Regulations](#)



DOCUMENT 3

Consistency Review of Relevant Comprehensive Plans and Development Regulations

(WAC 173-26-090(3)(b)(ii): Review relevant comprehensive plans and regulations. Local governments must review changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them.

Comprehensive Planning Consistency Review

City of Oak Harbor Comprehensive Plan – A Vision for the Future, December 2016, as amended, City of Oak Harbor.

Several goals and policies support the Shoreline Master Program and intended goals.

Land Use Policy 3.e.: Enhance and protect the waterfront as an asset and implement the Waterfront Redevelopment, Branding and Marketing Program.

Land Use Policy 5.b.: Protect public view corridors.

Urban Design Policy 5.a: Consideration of building impacts on viewsheds and view corridors shall be exercised in all developments, and mitigation measures shall be applied to protect existing views.

Urban Design Policy 5.d.: Developments along Oak Harbor's waterfront should enhance the area's natural and physical aesthetics.

Urban Design Policy 5.f.: The City and the Navy should cooperate on the protection of viewsheds and view corridors.

Open Space Goal 1.: Construct a waterfront trail system linking providing public access to the waterfront from Scenic Heights Road to Maylor Point.

Open Space Goal 8.: Identify and preserve open space lands that permit public access to the waterfront, and to other areas where the public can interact with natural features.

Open Space Goal 11.: Identify and protect important "view corridors" that provide visual access to scenic vistas.

Open Space Goal 12.: Protect open spaces that provide important ecological functions and values.

Environmental Policy 3.f.: Include stormwater management facilities to protect water quality and limit maximum discharge to pre-development rate conditions in new developments and substantial redevelopment projects.

- Environmental Policy 3.h.:* Provide regulations to guide corrective actions necessary to mitigate or cleanse those discharges that pollute waters of the state.
- Environmental Policy 7.a.:* Include the best available science in developing policies and regulations to protect the functions and values of critical areas and shorelines.
- Environmental Policy 10.a.:* Designate and classify critical fish and wildlife areas based on type and/or association with priority species.
- Environmental Policy 10.c.:* Maintain standards for buffers and timing or activity restrictions based on the habitat class and priority species use.
- Environmental Policy 10.e.:* Develop conservation or protection measures necessary to preserve or enhance anadromous fish habitat.
- Environmental Policy 14.a.:* Assure protection of the unique character of the City of Oak Harbor and its shoreline environment while providing for compatible use of the shoreline.
- Environmental Policy 14.b.:* Evaluate proposals for economic development along the shoreline or over the water with regard to the degree to which the natural environment and the social qualities of the city will be enhanced and/or affected. Evaluate such proposals with a preference for long-term benefits over short-term benefits. Evaluate development proposals with a preference for proposals that concentrate development in areas where current development already exists.
- Environmental Policy 14.c.:* Ensure safe, convenient, and diversified public access to the water and shoreline, while protecting the natural environment and maintaining quality of life.
- Environmental Policy 14.d.:* Designate, protect and enhance forage fish spawning areas, eelgrass, shellfish areas and shoreline areas used by bald eagles or great blue herons as fish and wildlife habitat conservation areas.
- Environmental Policy 14.e.:* Ensure efficient movement of people, with minimum disruption of the shoreline environment and minimum conflict between different types of uses, through transportation systems developed along the shoreline.
- Environmental Policy 14.f.:* Encourage diverse, water-oriented recreational opportunities that are compatible with and appropriate to the shoreline locations on which they are planned without degrading the shoreline environment.
- Environmental Policy 14.g.:* Conserve natural resources unique to the shoreline for the benefit of existing and future generations. Utilize the following prioritized mitigation sequence in addressing potential impacts to the natural resources associated with the shoreline when evaluating development proposals:
1. Avoid impact by not taking certain action or parts of an action.
 2. Minimize impact by limiting the degree or magnitude of action by use of technology or other means.
 3. Rectify impact by repair, rehabilitation, or restoration.
 4. Reduce or eliminate impact over time by preservation and maintenance operations.
 5. Compensate for impact by replacing, enhancing, or providing substitute resources.
 6. Monitor the impact and compensation project, taking appropriate corrective measures.
- Environmental Policy 14.h.:* Protect and/or restore shoreline or water areas that have educational, scientific, archaeological, historic, or cultural value.
- Environmental Policy 14.i.:* Recognize that areas lying seaward from the line of extreme low tide of Oak Harbor Bay as shorelines of statewide significance and manage the uses along these shorelines with the recognition of their regional importance.

Page 9: **Chapter 2.B.2.b.:** The land use designations and map were restructured as part of the 2016 Comprehensive Plan Update. This change reflects the adopted designations.

City of Oak Harbor Parks, Recreation and Open Space Plan, July 2019, City of Oak Harbor.

No inconsistency with applicable SMP policy or regulations identified. Several of the plan's Open Space Goals implement Shoreline Management Act use preferences such as increasing public access and preserving the natural character of the shoreline:

Open Space Goal c.: Develop the waterfront trail into a promenade and improve the connection between the marina and downtown;

Open Space Goal h.: Identify and preserve open space lands that permit public access to the waterfront and other natural areas;

Open Space Goal j.: Identify and protect important "view corridors" that provide visual access to scenic vistas.

City of Oak Harbor Windjammer Park Integration Plan, June 2016, MWA Architects, Greenworks, Enviroissues.

No inconsistency with applicable SMP policy or regulations identified. This phased redevelopment plan has maintained a focus on the park's shoreline amenities and the public access opportunities which exist. A shoreline substantial development permit (PLN-17-14) was approved for Phase 1 development in 2017. Subsequent phase development will also require shoreline permitting any reconfiguration of the lagoon.

City of Oak Harbor, Washington – Waterfront Redevelopment, Branding & Marketing Program, March 2005, Destination Development, Inc.

No inconsistency with applicable SMP policy or regulations identified. This dated plan established recommendations to enhance Oak Harbor's tourism infrastructure. Several projects focused on City Beach Park (aka Windjammer), however, the redevelopment of this park was the focus of the later Windjammer Park Integration Plan (June 2016).

City of Oak Harbor Wastewater Facilities Plan Volume I, August 2013, Carollo Engineers.

No inconsistency with applicable SMP policy or regulations identified. As stated in this plan, there are relatively few undeveloped properties remaining within the shoreline jurisdiction within the core city area, so the majority of future development will likely involve the redevelopment of existing parcels in a manner that is consistent with the goals and policies outlined in the Shoreline Master Plan.

Consistent with this supposition and this plan's recommendations, a new clean water facility was put on-line in November 2018. The footprint of this new facility was very near the location of the replaced facility and required processing of a Shoreline Substantial Development Permit. Through this permit, the proposed development was found to be consistent with the goals and

policies of the Shoreline Management Act and the policies and regulations of the City's Shoreline Master Program.

Design Regulations & Guidelines, April 2006, City of Oak Harbor.

No inconsistency with applicable SMP policy or regulations identified. The Design Regulations and Guidelines provide recommendations for building aesthetics, landscaping and site design. Most of these recommendations may pertain to commercial and other non-residential structures potentially located in the Urban Mixed Use or Maritime Designations.

Freund Marsh Master Plan Final Report Task 8, November 1997, Adolfsen Ass., Inc.

No inconsistency with applicable SMP policy or regulations identified. This document proposed alternatives for wetland restoration, trail system & interpretive program which is consistent with uses permitted in the Conservancy environmental designation.

Oak Harbor Marina Redevelopment Program, April 2009, Peratrovich, Nottingham and Drage Engineers, Inc.

No inconsistency with applicable SMP policy or regulations identified. The plan identifies several large-scale shoreline-related projects, i.e. dock replacement, multi-use public access floats, dredging, and boat launch repair. The plan was completed prior to the comprehensive update to the 2013 SMP and has incorporated shoreline use provisions permitting these types of projects in the Maritime environmental designation. Shoreline substantial development review and permitting will likely be necessary for most marina projects.

Stormwater Management Program Plan – Compliance With NPDES Phase II Permit, March 2019, City of Oak Harbor.

Page 39: Chapter 3.B.10: The Water Quality, Stormwater, and Non-Point Source Pollution (Chapter 3 Section B.10. General Provisions) has been updated to reflect requirements of the most recent NPDES Phase II permit requirements. Permit conformance serves to enhance the goals of the Shoreline Management Act/Shoreline Master Program by requiring actions and activities designed to limit pollutants from entering the state's surface waters.

Oak Harbor Comprehensive Stormwater Plan, March 2020, Gray & Osborne, Inc.

No inconsistency with applicable SMP policy or regulations identified. This recently completed plan analyzes the entire stormwater system for the City. While not addressed in the stormwater plan, ecological function within the shoreline jurisdiction is inherently linked to stormwater quantity and quality produced citywide.

2017 State of the Sound, November 2017, Puget Sound Partnership.

No inconsistency with applicable SMP policy or regulations identified. This plan is produced every two years and shares progress, or setbacks made in the Puget Sound recovery effort.

The 2018-2022 Action Agenda for Puget Sound, December 2018, Puget Sound Partnership.

No inconsistency with applicable SMP policy or regulations identified. Identifies large-scale regional strategies and specific actions needed for Puget Sound recovery. This represents the Comprehensive Plan from which policy guidance and direction is given. This guidance provides the framework for the regional implementation plan and Local Integrating Organization's ecosystem recovery plans. Pressures identified include: development and land conversion; increased impervious surface; wastewater from homes/businesses; increasing demand for freshwater resources; and greenhouse gas emissions. Changing climatic conditions are also addressed through temperature; precipitation; heavy rainfall; sea level rise; and, ocean acidification.

The 2018-2022 Action Agenda for Puget Sound – Implementation Plan, December 2018, Puget Sound Partnership.

No inconsistency with applicable SMP policy or regulations identified. This plan establishes needed recovery actions and informs investment in Puget Sound recovery over a four-year period.

Local Integrating Organization – Island Ecosystem Recovery Plan, June 2017, Island County.

No inconsistency with applicable SMP policy or regulations identified. The local recovery strategy produced by the Island Local Integrating Organization focuses on key local pressures such as stormwater runoff and marine shoreline infrastructure. Specific near-term action projects focused at the Oak Harbor Marina for reductions in stormwater runoff, shading and hard shoreline armoring are consistent with SMP policy guidance.

Island County Shoreline Master Program Update, December 2015.

No inconsistency with applicable SMP policy, regulations, or use identified. Island County's southern adjacent environment designation is Rural Conservancy. Rural Conservancy is also to the east, but NASWI property separates the City of Oak Harbor from Island County. Both the Residential Bluff Conservancy (OH) and Rural Conservancy permit single-family residential, water-oriented recreational facilities, and shoreline access structures such as trails, walkways, and stairs.

Both designations address setbacks for slopes 40% or greater:

OH – 50-foot setback from top of slope with a required critical areas report for residential within 100 feet of the top of slope.

IC – 30-foot setback from top of slope.

IC – 50-foot setback required for exceptional feeder bluffs.

Island County Water Resource Management Plan – 2514 Watershed Planning, June 2005, Island County Water Resource Advisory Committee.

No inconsistency with applicable SMP policy or regulations identified. This watershed planning effort focuses on freshwater resources primarily inland from the shoreline jurisdiction.

Development Regulation Consistency Review

Critical Areas Ordinance (Updated by Ordinance Nos. 1801 and 1874)

SMP Table of Contents – Attachments

Exh 1: **Figure 1** – Shoreline Environment Designations

Exh 2: Ordinances **Nos. 835, and 1472, 1794, and 1799**, OHMC Chapter 17.20 “Flood Damage Prevention”

Exh 3: Ordinance **Nos. 1440, 1801, and 1874**, OHMC Title 20 “Environment”

Page 24: **Chapter 3.B.4.a.1.:** Revised to reflect the recent Ordinances adopting new critical areas regulations.

Page 24: **Chapter 3.B.4.a.2.:** Revised to add Ordinances adopting the most recent FIRM and other amendments to OHMC Chapter 17.20.

Page 44: **Chapter 4.C. Table 2 Footnote 6:** Revised to reflect the recent Ordinances adopting new critical areas regulations.

Fish and Wildlife Habitat Conservation Areas:

Page 24: **Chapter 3.B.4.a.4.f.:** Fish & wildlife habitat conservation area buffers established in OHMC 20.25.040(1) are not applicable in SMP. This code section indicates “aquatic fish and wildlife habitat conservation areas shall be protected with vegetated buffers, which also provide riparian wildlife habitat”.

Also, Chapter 3.B.8. establishes vegetation conservation zones. 3.B.8.c.6-8 provide regulations for the preservation of native vegetation, replacement planting, and acceptable uses within the shoreline setback areas identified in Chapter 4.C. Table 2.

Page 38: **Chapter 3.B.9.:** This section establishes policies and regulations pertaining to areas with critical saltwater habitat which are not addressed in OHMC 20.25, however, in communication with David Pater (WDOE) and Keith Folkerts (WDFW) have indicated that there has not been any statutory changes to critical saltwater habitat and that ours still is suitable for Oak Harbor.

Frequently Flooded Areas:

Page 24: **Chapter 3.B.4.a.2.:** Flood hazard areas located within the City of Oak Harbor’s shoreline jurisdiction are regulated by Flood Damage Prevention Regulations, Ordinances **Nos. 1794, 2017; 1704, 2014; 1472, 2006; and 835, (1989) and 1462 (2006)** and codified under Chapter 17.20 of the Oak Harbor Municipal Code, which are herein incorporated into this SMP, except as specifically modified or exempted in this Section.

Page 26: **Chapter 3.B.4.a.5.e.:** Reference should be to Chapter 3: Chapter **53**, Section B.6.

Geologically Hazardous Areas:

Page 25: Chapter 3.B.4.a.4.e.: SMP overrides OHMC 20.28.040 – modifications and flexibility.

Page 47: Chapter 4.C.: Shoreline Development Standards: Table and footnote 6 establishes a consistency with the Shoreline setback and bluff setback of no less than 25'. OHMC 20.28.030 requires a 25' setback from top of a steep or unstable slope unless a geotechnical analysis requires a larger setback.

A critical areas report is required consistently. In Res-Bluff Conservancy new or expanded structures proposed within 100' will require CAR. OHMC all SF development within 100' and comm., ind, or m.f. within 200' must submit a CAR.

SMP and OHMC require geotechnical analysis: Chapter 4.C Footnote 6 references Geotech analysis and refers to Chapter 5.C.1.c.1.c. Statement added that additional geotechnical analysis requirements are identified in the Definitions Chapter 7. Geotech requirements included in OHMC 20.28.020(1).

Low Impact Development (Ordinance No. 1784, November 2016)

A review of the current SMP identified several references to “low impact development”, “pervious pavement”, or other phrases pertaining to stormwater management, conveyance storage, etc. Terminology in the 2013 SMP has been reviewed and refreshed to reflect more current language established in the current NPDES Phase II permit and stormwater manual (Stormwater Management Manual for Western Washington 2012, as amended December 2014). **These recommended changes are documented in the “*Changing Local Circumstances, New Information, or Improved Data*” reference document 4.**

Small Cell (Ordinance Nos. 1840 & 1841:

Page 65: Chapter 4.D.12.a.: Added small cell facilities to list of utilities regulated under this SMP.

OHMC Chapter 18.20:

Page 94: Chapter 6.B.2.m.: An amendment is considered legislative and would track to the Council after recommendation by the Planning Commission.

Page 94: Chapter 6.B.2.o.: The Planning Commission would also receive technical assistance.

Page 96: Chapter 6.E.2.: CUP's are intended to be heard by the hearing examiner.

Page 97: Chapter 6.E.6: Added item 6. to reflect that amendments must go through the Planning Commission.

Definitions

A review of Chapter 7 revealed several definitions not consistent with the RCW's, WAC's, or other State agency guidance documents. **The full list of recommended definition revisions are documented in the “*Other Amendments and list of Minor Errors/Corrections 2013 SMP*” reference document 1.**

City of Oak Harbor
City Council
Workshop Agenda Bill

Date: August 26, 2020
Subject: a. City Administrator's Report

FROM: Blaine Oborn, City Administrator

SUMMARY STATEMENT

City of Oak Harbor Mission Statement:

The City of Oak Harbor is committed to creating a vibrant and sustainable community by delivering quality services, enhancing the quality of life, and fostering economic opportunities.

The following is the City Administrator's Report to City Council presented at the August 26, 2020 workshop:

ADMINISTRATION

- Arts Commission:
 - The Arts Commission met via RingCentral on August 20, 2020.
 - Continue work with the Commission on asking the Park Board and City Council to change the planned “Tao” Sculptures location from the Pocket Park adjacent to Office Max to the Scenic Heights Park trailhead location and add an additional \$675 for sales tax.
 - Continue to work with the Commission on finalizing the criteria for the proposed Acorn Sculpture and plan to advertise for the Request for Qualifications/Proposal soon and is re-evaluating the proposed location.
 - The Commission opted to cancel the Driftwood Day Event planned for September 5, 2020.
 - Continue to work with the Commission on the placement of all four pieces of the Joseph Kinnebrew sculpture collection, to be brought forward to the Park Board at a future meeting.
- Legislative Outreach:
 - City Administrator participated in July Council of Governments meeting.
 - Public Information Officer accompanied Congressman Rick Larsen on a tour of Downtown with the Greater Oak Harbor Chamber of Commerce and Oak Harbor Main Street Association on August 13, 2020.
- Oak Harbor Main Street Association (OHMSA):
 - The installation of the OHMSA sign in Beeksma Park has been completed thanks to Public Works staff.
 - Continue working with OHMSA and City staff on downtown beautification and landscaping.
- Economic Development:

- CARES Grant staff are processing reimbursement requests.
- Continue to be near completion of the Island County Broadband Backbone Feasibility Study. Processing the \$5,000 payment to Coupeville Port Authority for the City's contribution to the grant matching funds.
- Continue working with Anacortes on Wet Fiber: The City is close to finalizing the Professional Services Agreement with the City of Anacortes for the fiber installation from Pass Lake to Sharps Corner. Also, staff is continuing to evaluate leak detection opportunities as part of Wet Fiber, and installation of Wet Fiber to the Ault Field Road reservoir.
- The City Administrator attended the Economic Development Council for Island County (EDIC) Board Meeting on August 6, 2020. There is an opening for a Business Advisor to work with the EDCIC, please refer anyone interested to <https://www.iscoedc.com/job-opportunity/>.
- Whidbey Island Marathon 2020/2021:
 - In-person Race has officially been cancelled due to COVID-19; there are multiple options available for registrants, including:
 - Virtual race in 2020 to receive swag
 - Defer registration to 2021 race
 - Request a refund
 - Announcement of cancellation from Race Director Jared Loranger is attached.

COMMUNICATIONS

- COVID 19
 - Working with Island County Public Health and Naval Health Officer at NAS Whidbey on additional updates for parks
 - Put out new messaging for masking in parks on social media
- CARES Grant Funding
 - Cares Grant Program Assistant is working on reimbursements
 - Met with Island County Budget Manager and City Finance staff to discuss CARES reimbursement process
 - Defined routing process for CARES grant and system for creating a set of grant paperwork to submit to Island County
- Electronic Newsletters (see attached reports)
 - Paused Leadership Matters to focus on CARES grant and attempt new COVID-19 newsletter
 - Mayor's Snapshot continues
- Promoting/Sharing
 - External and internal communications with staff
 - Updating all holiday information with a branded look for City signage, social media and ESign
 - Working with Chamber on promoting Open Air Thursdays and creating proclamations to assist businesses during these events
 - Staff hiring, recruitments, etc.
 - Housing Action Plan
 - Central Business District

- Harbor Heights
 - Land use changes
 - Project plans
- Parks playground equipment changes
- Updating information on TBD, chip seal, and overlay projects
- Voting information in preparation for General Election
- Meetings: City Council, Boards, Commissions, etc.
- Website Updates
 - Working on style guide and general updates
 - Adding projects to Public Works section
- Information Technology
 - Managing weekly meetings with the team and tracking scope of work
 - Meeting with Sandra to obtain background
 - Working on updates to NEOGov forms to improve the onboarding process for all departments
- Chamber of Commerce
 - Working with Chamber to discuss contracts, upcoming projects, and future partnerships

DEVELOPMENT SERVICES

- Newly hired Director David Kuhl starts Monday, August 31, 2020.
- Continuing work on the Housing Action Plan with consultants on the Bluff Conservancy Area.
- The August Planning Commission is scheduled for Tuesday, August 25, 2020 via RingCentral.
- The Historic Preservation Commission has two vacancies.
- Will do outreach to Island County to put JPA back on their agenda for this year.
- Continue to work on planning and building improvement with incoming Development Services Director taking an active role and giving updates to Council.

FINANCE DEPARTMENT

- Following items are scheduled for the September 1, 2020 Regular Council Meeting Agenda with Mike Bailey, CPA, Interim Finance Director, and Finance Department staff:
 - Professional Services Agreement: MRSC for Consultant CPA Services, Amendment 1
 - Interim Finance Director: Review for Council
 - ExecuTime Update
 - Mandatory Council Review of LTAC Membership – OHMC Section 2.66.030
 - 2021 LTAC Discussion
- An updated Budget Calendar will be forthcoming from the Interim Finance Director.

FIRE DEPARTMENT (FD)

- The FD continues to be involved with Island County Department of Emergency Management (DEM) as the drop-off location for all incoming supplies from Washington State DEM, and the main distribution point for DEM, including all fire departments, hospital, care facilities, and medical facilities. The department has communications almost daily with Island County DEM, Whidbey Health, and the hospital's EMS department.

- The Fire Chief has been meeting with Administration and Island County Health Director Keith Higman to discuss the impact of the Governor's orders on Island County and the impact on community events.
- Currently working with FEMA on grant recovery for the January and February 2020 storms.
- Paid on call firefighters will have seven new hires starting September 14, 2020, conditional on finishing background and screening process for the position.

HUMAN RESOURCES

- Retirements:
 - Hank Nydam, Parks Operations Manager, 37 years of service, last day August 31, 2020
 - Don Baer, Fire Captain, 17 years of service, last day September 30, 2020
- Internal Staffing Changes:
 - Evidence Information Specialist – employee Leslie Morgan reclassified from Records Supervisor on August 1, 2020
 - Senior Administrative Assistant for Fire – employee Angela Braunstein reclassified from Administrative Assistant on August 1, 2020
- New Hires:
 - Storm Drain/Wastewater Collections Specialist I – new employee Eric Benson began employment August 17, 2020
 - Development Services Director – new employee David Kuhl to begin employment August 31, 2020
- Recruitment Status:
 - Finance Director – first round of interviews scheduled for Friday, August 28, 2020, and extension of contract with Mike Bailey, CPA, Interim Finance Director through October scheduled for September 1, 2020 Council Meeting
 - Fire Captain – accepting internal applications only
 - Paid on Call Firefighters – finalist candidates going through background check screening
 - Police Officer – Lateral or ELPO – accepting applications
- Current Vacancies:
 - Administrative Assistant-Engineering – recruitment will be opened, reclassified as Administrative Assistant I-Public Works
 - City Attorney – interim assignment to Anna Thompson; appointment of Weed, Graafstra & Associates, Inc. to City Attorney scheduled for September 1, 2020 Council Meeting
 - Streets Supervisor – interim assignment for Lead Streets, Rick Fakkema
 - Wastewater Treatment Plant Operator (WWTP Op) for CWF – Eph Robbins resigned and his last day was August 6, 2020
 - Water Specialist I – vacancy, not open for recruitment
 - Water Supervisor – interim assignment for Lead Water, Chris Price
 - Streets Specialist I – Resignation of Bill Leuthe August 31, 2020
- Training:
 - Citywide Team Building Training with Jennifer Bouman-Stegall with Red Kite Rising is scheduled for September 15 – 16, 2020, with virtual sessions and in-person locations with 10 or less people per session.

MARINA

- The Marina has been very busy, with the guest moorage filling up nightly.
- Crabbing is winding down however there are still some crab out there, with some of the biggest crabs being caught just outside of the channel to the Marina.
- The Marina remains open and is fully staffed seven days a week through September.

POLICE DEPARTMENT (OHPD)

- Body Cameras – OHPD did a presentation to Council regarding Body Worn Cameras at the August 18, 2020 Council Meeting. City Council liked the concept, although there was some concern about the Axon “TAP” program, and its cost versus benefit. City Council authorized the expenditure of “up to \$125,000” for the purchase of a Body Camera program, with the understanding that the Police Chief, Mayor and City Administrator have further conversation about the contract, costs and especially the TAP option.
 - The Mayor met with the City Administrator and Chief of Police and as a result of the meeting and the input of Council, the decision was made to move forward without participating in the TAP program. OHPD will purchase a total of 25 or 26 cameras, equipment and required licensing, software, and storage.
 - The total cost will be about \$90,000 (waiting for revised figures from Axon), which will be about \$18,000 a year over a 5-year contract period. The Chief of Police is taking a critical look at his budget in order to make difficult cuts so that these costs will not be the cause of any increases over his existing 2020 budget.
- Jail – Yakima County just notified the Chief of Police that they will be terminating the inmate contract at the end of this year. Due to COVID and other issues (including staff layoffs and the modification of facilities in Yakima), they are condensing the size of their contract services. They have served similar notices to other agencies and have already stopped taking inmates due to COVID concerns.
 - OHPD has already seen reduced inmates due to a variety of reasons, especially current COVID and court restrictions. The Chief of Police is working with staff regarding adapting to this new development and believes OHPD will be able absorb this change through already completed updates, such as video court. He will also be looking at other options and will update Council with more information as progress occurs.
- Several City departments applied to PSE, who opened up a Workplace EV Charging pilot program, where PSE pays for equipment and installation and the City gets to keep the equipment at the end of the pilot phase. The Police Department (rear parking area) was chosen to receive a charging station with two charging “cables”. They had an on-site evaluation this week and anticipate installations will likely occur in October.

PUBLIC WORKS

- Clean Water Facility (CWF):
 - CWF and Windjammer Park Financials for July 2020 are attached
 - Navy connecting to CWF proposal:
 - The next meeting is scheduled for August 27, 2020 with the City providing requested Debt Summary.

- Mayor, City staff, Shawn Koorn (HDR consultant), Michael Borrero (Carollo consultant), and Larry Munns (former NASWI CO consultant) have continued to meet internally to prepare for continued discussions with the Navy.
 - City is in the process of formally notifying the Navy that the City Council has approved the extension of the rate quote from September 1, 2020 to December 31, 2020.
- Engineering Division:
 - Waterfront Pedestrian Improvements: Installation of new ADA ramps at the intersection of Bayshore and Dock Street in process.
 - Pasek Vault Project: Preparing final Bid Documents to advertise the project for construction, anticipated start of construction in fall.
 - Windjammer Park Pedestrian Bridge Replacement Project starting soon.
- Streets Division:
 - 2020 Transportation Benefit District (TBD) / 2020 Street Overlay Project: Construction in process. Bayshore/Dock Street work is scheduled for September.
 - In partnership between the City of Oak Harbor and Island County, Krieg Construction will be paving SW Fort Nugent Avenue from SW Swantown Avenue to Ridgeway Drive. The work began Monday, August 17 and was expected to be completed Friday, August 21, 2020.
 - 2020 Road Striping: Ongoing.
 - Citywide brush encroachment/removal on going.
- Parks Division:
 - The Park Board met on August 10, 2020 via RingCentral and the next meeting will be September 14, 2020.
 - Staff is working with David Evans and Associates on the Harbor Heights Park project on geo-tech work.
 - All park facilities and playgrounds, except the splash park (Shipwreck Shores) are now open. The Splash Park will remain closed this season due to COVID-19. The kitchens have been opened and are available for reservations.
 - Staff is in discussion with Sunrise Rotary representatives on possible expansion of the Sunrise Rotary Dog Park.

SENIOR SERVICES

- The Center Bus was sold at auction for \$15,100. Staff will continue to partner with Whidbey SeaTac Shuttle for future transportation needs.
- The reception desk is being reconfigured to allow safe distancing for volunteers, staff, and patrons working in and doing business at The Center.
- CivicRec, the new software to allow for contactless online registrations for program and services at The Center, is scheduled to go live at the end of October.
- The virtual exercise programs are growing and successful.
- A second virtual Aging Mastery Program series will start this fall. Senior Services will receive approximately \$1,320 from the National Council On Aging for producing this programming. The program is free to community members and individuals are welcome to request at home Aging Mastery Program Starter Kits at no cost.

ATTACHMENTS

1. [Marathon Cancellation Notice from Race Director](#)
2. [eNews and Facebook Reports](#)
3. [CWF Financials 07/31/2020](#)
4. [Windjammer Park Financials 07/31/2020](#)

From: [Jared Loranger](#)
To: [Jared Loranger](#)
Cc: [Lisa Felix](#)
Subject: 2020 Whidbey Island Marathon - Cancelled
Date: Thursday, August 20, 2020 10:13:16 AM

All -

Thank you for all your help over many years to help make the Whidbey Island Marathon a success. This is an event that brings many people and tourism dollars to the island and provides residents a fun, healthy experience for their families.

With new restrictions on gatherings and knowing that over 70% of our participants travel to Whidbey Island from other counties, states and countries to participate, we have made the decision to cancel the event in 2020. Though most of you already know this decision through one on one discussions, we want to formally inform all of our stakeholders.

We will be transforming the 2020 event to a “virtual” event to give participants the opportunity to still participate on their own, from wherever they may reside. We’ve created some fun additional SWAG and plan to offer participants a discount to come back next year as well. The response has been abundantly positive from participants.

Out of an abundance of caution, we are also looking at pushing back our annual event, typically a mid April event, to later in the year in hopes our country has a better handle on the virus and it is deemed safer for potential participants to travel. We have not selected a date yet but when we do, we will make all appropriate parties aware so we can begin planning.

Stay safe and stay healthy. I look forward to working closely with all of you in 2021 and beyond!

Thanks,
Jared

Jared Loranger
Race Director - WIM
Fizz Events
jared@fizzeventsnw.com
360-220-4548

Mayor's Snapshot Report

	Date	6/26/2020
	Title	Whidbey Strong
	Visits	71
	Dates Visited	6/26 - 7/21
By Traffic Source	Facebook	23
	Websites	4
	Email	29
	Direct	15
	<1 min	20
Interaction (Time Spent)	1 min	7
	2-5min	13
	5-10min	8
	10+min	8
Outgoing Links	oakharbor.org	
	oakharbormainstreet.org/dine	
	coronavirus.wa.gov	
	Oakharbor.org coronavirus	
	bit.ly/WADOHFoodStoreGuide	
	www.irs.gov/coronavirus/economic-impact-payment-information-center	
Button Clicks	facebook.com	
	YouTube	
	Outgoing Links	5
	Health Screening	
	Locations	14
	Farthest	Ireland
	Request for Info	

Facebook Report: July 2020

New Page Likes 38

New Page Followers 38

Top three posts during reporting period

Post Details Warning!

Post Date 7/22/2020

Total People Reached 1,711

Reaction Breakdown

		On Post	On Shares
Like	9	2	7
Comments	5	2	3
Shares	14	13	1
Total	28	17	11

Total Post Clicks	84
Total Photo Views	10
Link Clicks	1
Other Clicks	73
Hide Posts	1
Hide All Posts	0
Report as Spam	0
Unlike Page	0



Post Details We're Hiring

Post Date 7/14/2020

Total People Reached 1,322

Reaction Breakdown

		On Post	On Shares
Like	8	5	3
Comments	3	0	0
Shares	16	16	0
Total	27	21	3

Total Post Clicks	33
Total Photo Views	10
Link Clicks	10
Other Clicks	17
Hide Posts	1
Hide All Posts	0
Report as Spam	0
Unlike Page	0



Facebook Report: July 2020

Post Details Opportunity - Finance Dir.

Post Date 7/20/2020

Total People Reached 1,251

Reaction Breakdown

		On Post	On Shares
Like	11	5	6
Comments	6	1	5
Shares	8	8	0
Total	25	14	11

Total Post Clicks	83
Total Photo Views	4
Link Clicks	12
Other Clicks	67
Hide Posts	1
Hide All Posts	0
Report as Spam	0
Unlike Page	0

City of Oak Harbor
Published by Sabrina Combs [?] · July 20 · 🌐

An opportunity to live and work in one of the most beautiful places in Washington State. The City of Oak Harbor, WA is seeking a collaborative, proactive, and innovative team player to lead our Finance Department and serve our unique community.

The Finance Director plans, organizes, controls and directs all activities related to the City's official records and financial transactions by providing professional fiscal advice to the City Council, Mayor, City Administrator, and De... See More

CAREER OPPORTUNITY
Finance Director

City of Oak Harbor

Financial Institution

Receivable	11,000	10,000	10,000	10,000
Prepaid Expense	112,000	10,700	10,000	10,000
TOTAL CURRENT LIABILITIES	200,000	175,410	140,000	140,000
Long-Term Debt	35,000	35,000	35,000	35,000
Long-Term Debt - Term Loan from Financial Institution	35,000	35,000	35,000	35,000
Long-Term Debt - Other	0	0	0	0
TOTAL NON-CURRENT LIABILITIES	35,000	35,000	35,000	35,000
TOTAL LIABILITIES	235,000	210,410	175,000	175,000
TOTAL ASSETS	1,204,322	927,270	1,249,655	1,249,655
TOTAL EQUITY	969,322	716,860	1,074,655	1,074,655
Capital	10,000,000	10,000,000	10,000,000	10,000,000
Retained Earnings	10,000,000	10,000,000	10,000,000	10,000,000
Accumulated Share Capital	10,000,000	10,000,000	10,000,000	10,000,000

LinkedIn Report August 2020

Follower highlights

378

Total followers

5 ▲66%

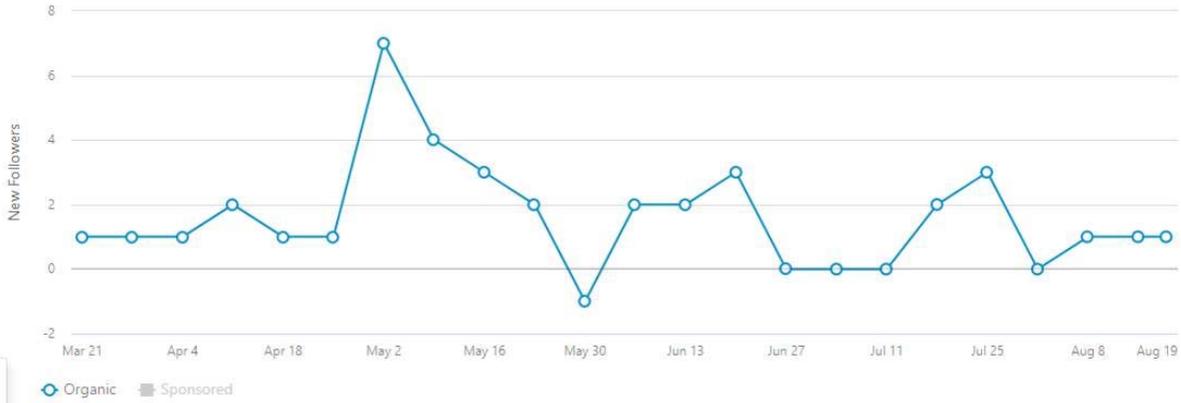
New followers in the last 30 days Jul 21, 2020 - Aug 20, 2020

Follower metrics

Time range: Mar 16, 2020 - Aug 19, 2020

Aggregate organic and sponsored

Off



Visitor highlights

Data for the last 30 days 7/21/2020 - 8/20/2020

43 ▲10%

Page views

21 ▲40%

Unique visitors

1 =0%

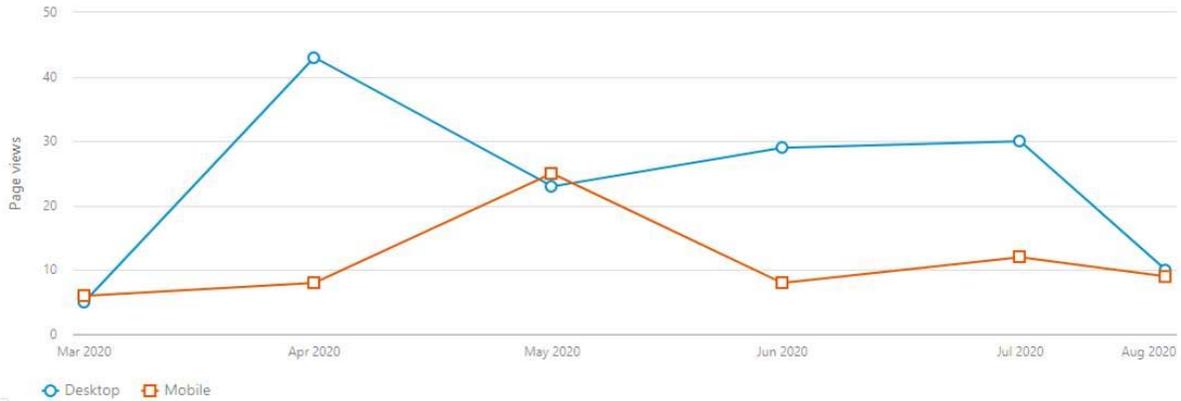
Custom button clicks

Visitor metrics

Time range: Mar 16, 2020 - Aug 19, 2020 Page: All Pages Metric: Page views

Aggregate desktop and mobile traffic

Off



Visitor demographics

Time range: Mar 16, 2020 - Aug 19, 2020 Data for: Job function

Top job functions

Job Function	Visitors	% of Visitors
Sales	30	16.39%
Administrative	17	9.29%
Business Development	13	7.1%
Information Technology	13	7.1%
Healthcare Services	12	6.56%
Program and Project Management	11	6.01%
Consulting	10	5.46%
Operations	10	5.46%
Engineering	9	4.92%
Research	7	3.83%

City of Oak Harbor

7/31/2020

CWF PROJECT BUDGET

	FUNDING OBTAINED	FUNDING USED	BALANCE
REVENUE			
SRF LOANS	97,983,466.00	97,983,466.00	-
BONDS	25,777,229.30	25,777,229.30	-
GRANTS	8,500,000.00	8,500,000.00	-
REET Funds	100,000.00	100,000.00	
PROGRAM INCOME	15,755,531.62	15,097,932.46	657,599.16
CUMMULATIVE RESERVE	5,000,000.00	5,000,000.00	-
TOTAL REVENUE	153,116,226.92	152,458,627.76	657,599.16

	CONTRACTED/ESTIMATED BUDGET	PROJECT TO DATE ACTUAL	BALANCE
EXPENDITURES			
ACQUISITIONS	3,396,325.69	3,409,153.37	(12,827.68)
ADMINISTRATION	692,852.01	750,768.98	(57,916.97)
CONSTRUCTION	124,298,436.76	123,775,890.67	522,546.09
FINANCE	258,638.16	291,733.92	(33,095.76)
PROFESSIONAL SERVICES - CONSTRUCTION	11,209,769.69	11,166,688.91	43,080.78
PROFESSIONAL SERVICES - DESIGN	9,447,726.92	9,251,614.22	196,112.70
TOTAL PROJECT EXPENDITURES	149,303,749.23	148,645,850.07	657,899.16
SURPLUS (DEFICIT)	3,812,477.69	3,812,777.69	(300.00)

FINANCING DURING CONSTRUCTION

BONDS	2,776,377.50	2,776,677.50	(300.00)
LOANS	586,100.19	586,100.19	-
TRANSFERS- WINDJAMMER PARK - DESIGN	450,000.00	450,000.00	-
TOTAL FINANCING EXPENDITURES	3,812,477.69	3,812,777.69	(300.00)

ESTIMATED CASH REMAINING	0.00	-	0.00
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City of Oak Harbor, WA

7/31/2020

WINDJAMMER PARK IMPROVEMENTS PROJECT			
Revenue	Project Budget	Rec to Date	Balance
Cash	408,120.30	408,120.30	-
Beginning Fund Balance	380,735.19	380,735.19	-
Donations	1,594.04	1,594.04	-
Interest Allocaiton	25,791.07	25,791.07	-
Transfers	11,628,833.28	11,628,833.28	-
001 - General Fund	1,828,768.65	1,828,768.65	-
126 - Comm Park Impact Fees	264,739.85	264,739.85	-
127 - Park Impact Fees	300,660.00	300,660.00	-
311 - REET 1	1,526,929.00	1,526,929.00	-
312 - REET 2	523,069.97	523,069.97	-
422 - Clean Water Facility	7,184,665.81	7,184,665.81	-
Grants	1,426,320.00	1,426,320.00	-
WA State Legislative Grant	727,500.00	727,500.00	-
Isand County RCED Grant-Pavillion	698,820.00	698,820.00	-
Total Revenue	13,463,273.58	13,463,273.58	-
EXPENDITURES	Project Budget	Spent to Date	Balance
Administration	392,348.19	348,395.01	43,953.18
IDCA	392,348.19	348,395.01	43,953.18
Construction	11,346,563.09	11,248,487.39	98,075.70
Demolition	9,999.98	8,872.63	1,127.35
Utilities	10,000.00	334.36	9,665.64
Miscellaneous	139,514.26	18,243.40	121,270.86
GMP13			
Hoffman-GF	4,630,337.00	3,310,278.15	1,320,058.85
Hoffman-CWF	6,485,578.30	6,350,489.55	135,088.75
Hoffman-Grants	-	1,426,320.00	(1,426,320.00)
Const & Imp			
PSE-Schedule 52 & PO's-CWF	52,823.71	51,323.53	1,500.18
Other	18,309.84	82,625.77	(64,315.93)
Preliminary Engineering/Planning	50,000.00	-	50,000.00
Scoping	50,000.00	-	50,000.00
	-	-	-
Prof. Serv. Con.	243,219.30	260,183.90	(16,964.60)
Archaeology			
ERCI-CWF	128,400.80	114,273.77	14,127.03
Public Outreach			
Chamber of Commerce Phase 1	7,699.00	4,721.90	2,977.10
Chamber of Commerce Phase 2 2019	18,764.50	-	18,764.50
Chamber of Commerce Phase 3 2019	13,855.00	-	13,855.00
Enviroissues-CWF	33,000.00	32,995.50	4.50
Other	1,500.00	28,770.84	(27,270.84)
Construction Engineering			
Carollo-GF	20,000.00	39,457.05	(19,457.05)
Carollo-CWF	20,000.00	39,457.11	(19,457.11)
Trantech	-	507.73	(507.73)
Construction Management			
Open	-	-	-
Prof. Serv. Design	1,431,143.00	1,029,683.49	401,459.51
Design			
Carollo-GF	427,780.36	367,604.23	60,176.13
Carollo-CWF	427,780.37	416,352.18	11,428.19
Other	337,417.00	-	337,417.00
Permits	156,000.00	162,880.01	(6,880.01)
Public Outreach			
Carollo-GF	37,082.64	37,082.64	-
Carollo-CWF	37,082.63	37,082.63	-
Enviroissues-CWF	-	325.25	(325.25)
Other	8,000.00	8,356.55	(356.55)
Total Expendiutes	13,463,273.58	12,886,749.79	576,523.79
Surplus (Deficit)	-	576,523.79	(576,523.79)