



CITY COUNCIL AGENDA
Council Chambers, 865 SE Barrington Drive

August 13, 2024

5:30 PM

CALL TO ORDER

Invocation - Led by Pastor Kevin Scott, Seventh Day Adventist Church

Pledge of Allegiance - Led by Mayor Pro Tempore Hizon

Excuse Absent Councilmembers

1. APPROVAL OF AGENDA

2. PRESENTATIONS

- a. Proclamations
 - i. Proclaiming September 2024 as Service Dog Awareness Month
- b. Honors & Recognitions
 - i. Introduction and Swearing In Ceremony for Fire Chief Travis Anderson
- c. Community Presentations - None

3. CITIZEN COMMENT PERIOD

Citizens may comment on subjects of interest not listed on the agenda or items listed on the Consent Agenda. To ensure comments are recorded properly, state your name clearly into the microphone. Please limit comments to three (3) minutes to ensure all citizens have sufficient time to speak.

4. CONSENT AGENDA

Items on the Consent Agenda are considered to be routine by the Council and will be enacted with one motion unless separate discussion is requested. Approval of the Consent Agenda authorizes the Mayor to implement each item in accordance with staff recommendations.

Consent Items

- a. Approval of Minutes of July 9th Special Council Meeting, July 9th Council Meeting, July 24th Council Workshop, and July 31st Special Council Workshop
- b. Approval of Accounts Payable Vouchers and Payroll
- c. Memorandum of Agreement with U.S. Navy for Gateway Park
- d. Approval of Lodging Tax Advisory Committee Appointment - Susan Void Simmons
- e. Approval of Lodging Tax Advisory Committee Appointment - Dannah McCullough

5. MAYOR & COUNCIL COMMENTS

- a. Mayor
- b. Council

6. PUBLIC HEARINGS & MEETINGS

To speak during a scheduled public hearing or meeting, please sign-in on the sheet provided in the Council Chambers. To ensure comments are recorded properly, state your name clearly into the microphone. Please limit comments to three (3) minutes to ensure all citizens have sufficient time to speak.

- a. Continuation of Public Hearing - Ordinance No. 1999: Sale of City Real Property
- b. Ordinance No. 2007: Amendment No. 8 to the 2023-2024 Biennial Budget

7. ORDINANCES & RESOLUTIONS

- a. None

8. CONTRACTS & AGREEMENTS

- a. None

9. OTHER ITEMS FOR CONSIDERATION

- a. Kinnebrew Arts Collection Placement

10. REPORTS & DISCUSSION ITEMS

- a. Salary Commission Report and Order

11. EXECUTIVE SESSION

- a. None

ADJOURN

City of Oak Harbor City Council Agenda Bill

Bill No. _____

Date: August 13, 2024

Subject: Ordinance 1999 – Sale of City
Property

FROM: Ray Lindenburg, AICP, Senior Planner, Development Services

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- ☐ Ronnie Wright, Mayor
- ☐ Sabrina Combs, City Administrator
- ☐ David Goldman, Finance Director
- ☐ Hillary Evans, Interim City Attorney, as to form

RECOMMENDED ACTION

- Conduct Public Hearing
- Move to approve Ordinance 1999 adopting changes to OHMC 1.30.010 (Attachment 1)

BACKGROUND / SUMMARY INFORMATION

This agenda bill presents to the Council draft changes to Section 1.30.010 (see Attachment 2 – existing language) of the Oak Harbor Municipal Code (OHMC) describing the process by which certain City-owned properties may be sold or exchanged. A redline version of the proposed changes is shown in Attachment 3.

Background

City staff presented a draft ordinance to the City Council on May 21 that would remove a requirement to hold a public election when considering selling or otherwise disposing of designated park lands. Following public comment and Council discussion, staff made a second brief presentation to the Council on July 9, asking for a continuance to a following meeting.

On July 24, staff presented more detailed information to the Council regarding the original genesis of the request, a pre-application review of a potential hotel project located in the Central Business District (CBD), adjacent to Hal Ramaley Park. In that pre-application (pre-app), the proponent had broached the concept of swapping land between the private property area and the publicly-owned park. Legal staff reviewed the possibility of a development agreement to create expectations of what would be exchanged and determined that an election would be required for any transfer. Because that requirement applies to all park land transfers, staff had made the May presentation of the original code amendment without reference to the pre-app discussion of the specific project.

At the July 24 meeting, staff presented several options to change the language of OHMC 1.30.010 based on citizen comments from the May meeting and Council discussion at the public meetings (see Attachment 4). The Council indicated that options one and five provided by staff –

to strike the election requirement entirely as proposed in the May 21 meeting, or to make no changes, respectively, were not preferred. That left three potential changes to the section:

- Option 2: A requirement to ensure that any land swap with park land was at least a one-to-one (1:1) ratio in benefit of the city – in other words that the city would always gain more land than it would give up.
- Option 3: Require an election for any transaction over a certain square footage – 10,000 square feet was suggested in the draft.
- Option 4: Allow for a transfer of land based on value of land and/or improvements to be provided by a private property owner.

Staff focused on the changes suggested by members of the Council and with consultation of the legal staff, present the attached ordinance revisions – an analysis of each follows.

Analysis

Option 2: An Equal Ratio Land Area Requirement

A primary concern among citizen comments was the overall loss of park land within the city. This is a very compelling concern that was discussed by the Council and staff, resulting in the following language to ensure that a potential land swap would not result in the loss of park area.

(a) The city council reviews a development agreement between the city and private entity and determines that; the property exchange is calculated at a one-to-one (1:1) ratio of land area or greater in benefit to the city, the privately owned land offered in exchange is of equal or greater market value than the publicly owned land, and the private land offered is an appropriate replacement for the public property to be granted. The city council shall determine that the property exchange is beneficial to the city based on park needs, location, environmental standards and accessibility to park users and in its discretion approve a development agreement.

This section will not only preserve the total area, but it also ensures that the city is maintaining the quality of that land. While a development agreement should always benefit the city, and staff and the council will strive to ensure that goal, this section of code will enshrine that as an easily verified requirement. The standards for determining that will include that any swap would be one-to-one (1:1) or greater in square footage, that the land exchanged be of equal to, or greater value, and that the exchange is beneficial to the city based on overall park needs.

Option 3: Requirement of an Election For Transactions Over Certain Size

After a public comment regarding the size of city parks, staff researched the idea of placing a requirement for an election for any land larger than 2,500 square feet. This was based on the knowledge that the smallest city park is approximately 2,699 square feet – ensuring that a park would never be sold without the people's consent through an election.

After discussion, staff determined that the simple sale of a park, with no benefit offered through either a one-to-one (1:1) swap or a beneficial value agreement, should require an election no matter the size, therefore this option was not included in the draft ordinance presented.

Option 4: Transfer of Land Based on Value

While this ordinance is written to address all future land transactions, a proposal to exchange land in return for value considerations is an important deliberation for the city. In the specific situation of the potential hotel in the CBD, a developer offered to essentially reconstruct an entire city park in exchange for a portion of that land. This particular park is not in any future plans for renovation or reconstruction, and city staff feels that the potential to have this or other parks improved without spending city money is a significant potential benefit to the community.

(b) The city council reviews a development agreement between the city and private entity and determines that the value of physical infrastructure to city park land or improvements to city park land provided by the private entity is at least 150% of the market value of the land granted by the city to the private entity. Such values shall be determined by all parties in a mutually agreed development agreement approved by the city council.

As with the other proposed section, there are protections built in to the language of the code – the most important requirement being that the improvements be at least 150% of the value of the land granted. A development agreement will always be required under these new code regulations, and staff believes that this is a reasonable way to ensure that value is created through a transfer. Staff also believes that the requirement of 150% will limit the overall land area due to significant increases in cost to the other party.

Conclusion

City staff believes “necessary public purposes” includes not only the important utility infrastructure, but the economic development of the community as a whole. The ability of the City Council to create better outcomes through development agreements is a legitimate function that can benefit the city.

The process of utilizing a development agreement to negotiate a beneficial outcome for the city is built into the new code sections. It allows the city to express the desires of its citizens – maintaining or increasing park lands, developing new facilities and creating new exciting amenities at a reduced cost to the taxpayer.

If an election is required for a transaction, it will create uncertainty in the detailed process of plan development, negotiations and final agreement and potentially opens important decisions to outside influences on both sides of the arrangement. Placing the final determination in the hands of the Council allows direct citizen participation in a public hearing – a process by which this most recent ordinance draft was developed.

Staff notes that along with the development agreement process that allows the city to create a beneficial situation or even deny a proposed plan, there are protections still built into the code. The remaining sections within OHMC 1.30 allow for:

- the ability to hold a publicly-noticed hearing, where the presentation of staff analysis and testimony from residents will allow the Council to make an informed determination of the need for such an exchange and the appropriate return for said exchange.
- A State Environmental Policy Act (SEPA) review is required by the code. This review may include but is not limited to aesthetic considerations, neighborhood access to park

lands and environmental conditions.

Additionally, RCW 35.22.280(11) provides additional requirements for the disposal of park property including, when applicable, the consent of the dedicator or donor. Many existing city parks cannot be sold or exchanged based on grant or deed restrictions.

After developing a code revision that reflects concerns of the public and city council, and the guardrails existing in the existing portions of code, state statute and restrictions placed on park land, staff recommends approval of Ordinance 1999, amending OHMC 1.30.010.

Process

Because this is not considered a development regulation, the City Council is presented with the proposed ordinance amendment without Planning Commission recommendation. Notice was given of this hearing per the standards found in the OHMC.

The process also included 10-day expedited review notification to the Department of Commerce. The City has received no comments from this process. As it is not a development regulation, this ordinance change did not require SEPA review.

LEGAL AUTHORITY

Legal authority for ordinance approval is provided by RCW 35.23.440.

FISCAL IMPACT

Removal of the election requirement would save the city costs associated with holding a special election in case of desired exchange or sale of park property.

PREVIOUS COUNCIL/BOARD/CITIZEN INPUT

A staff presentation was given to the City Council at the April 24, 2024 workshop meeting. A presentation was given to the Oak Harbor Parks and Recreation Advisory Commission on May 6, 2024. A public hearing was held at City Council on May 21. A continuance of the item was requested on July 9. Staff presented draft options for code change at a City Council workshop on July 24.

ATTACHMENTS

1. Ordinance 1999 – Ordinance amending 1.30.010 regarding real property
2. Existing language OHMC 1.30.010
3. Redline changes to OHMC 1.30.010
4. Options for changes presented at workshop on July 24
5. Presentation

ORDINANCE NO. 1999

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON,
AMENDING SECTION 1.30.010 OF THE OAK HARBOR MUNICIPAL CODE;
PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE
DATE

WHEREAS, Chapter 1.30 of the Oak Harbor Municipal Code (“OHMC”), entitled “Sale or Exchange of Real Property” was adopted by Ordinance 1578 in 2010 and modified in Ordinance 1728 in 2015 with the intent of requiring voter approval by way of election prior to disposal of certain City property; and

WHEREAS, a requirement for voter approval of the sale or transfer of public park lands has the potential to hinder cooperation between the City and private property owners, the development of park lands and the overall economic development of the community; and

WHEREAS, community apprehension about the sale or loss of park lands has been considered and appropriate mitigations developed to address those concerns; and

WHEREAS, the City Council wishes to remove the requirement for voter approval prior to sale or trade of developed park property under specific circumstances to streamline the process of potential disposal of developed city parks property when it is determined to benefit the city and its citizens;

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

Section One. OHMC 1.30.010, Amended. Section 1.30.010 of the Oak Harbor Municipal Code, entitled Requirements for sale or disposition of city real property, is hereby amended to read as follows:

1.30.010 Requirements for sale or other disposition of city real property.

(1) No real property of the city shall be sold, released, leased, demised, traded, exchanged or otherwise disposed of unless the same is authorized by the city council after public hearing. Notice of such public hearing shall be given by publication of the notice in the city’s official newspaper at least 10 days prior to the hearing.

(2) Developed city park property shall not be disposed of in any manner without citizen approval in an election, except when presented, reviewed, and approved at a public hearing that meets at least one of the following criteria:

(a) The city council reviews a development agreement between the city and private entity and determines that; the property exchange is calculated at a one-to-one ratio of land area or greater in benefit to the city, the privately owned

land offered in exchange is of equal or greater market value than the publicly owned land, and the private land offered is an appropriate replacement for the public property to be granted. The city council shall determine that the property exchange is beneficial to the city based on park needs, location, environmental standards and accessibility to park users and in its discretion approve a development agreement.

(b) The city council reviews a development agreement between the city and private entity and determines that the value of physical infrastructure to city park land or improvements to city park land provided by the private entity is at least 150% of the market value of the land granted by the city to the private entity. Such values shall be determined by all parties in a mutually agreed development agreement approved by the city council.

(c) No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a necessary public purpose including, but not limited to, water, sewer or roadway improvements. In such circumstances the fair market value of the park property dedicated to such necessary public purposes shall be determined by appraisal and the amount of the fair market value of such park property shall be transferred to the city's accounts from the acquiring department's fund to the parks fund, and such proceeds shall be exclusively used to acquire replacement park property. When the language of any instrument by which any park property is acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, the city shall obtain the consent of the grantor or such other person, his or her heirs, successors, or assigns. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. All other requirements of this section shall also be applicable.

(3) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.

(4) A SEPA analysis shall be done on such proposed action and available for public review at least 10 days prior to the hearing.

(5) The mayor shall forward to the city council a report on alternatives to the proposed action with the agenda.

(6) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter 42.17 RCW as now in effect or hereafter amended.

(7) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina done in the normal course of business for storage.

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

Section Three. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication.

ADOPTED by the City Council this _____ day of _____, 2024.

THE CITY OF OAK HARBOR

By: _____
Ronnie Wright, Mayor

Dated: _____

ATTEST/AUTHENTICATED:

Julie Nester, City Clerk

Approved as to Form:

Hillary J. Evans, City Attorney

Published: _____

Ordinance No. 1999 - 3

1.30.010 Requirements for sale or other disposition of city real property.

(1) No real property of the city shall be sold, released, leased, demised, traded, exchanged or otherwise disposed of unless the same is authorized by the city council after public hearing. Notice of such public hearing shall be given by publication of the notice in the city's official newspaper at least 10 days prior to the hearing. Developed city park property shall not be disposed of in any manner without citizen approval in an election, except as provided in subsection (2) of this section.

(2) No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a necessary public purpose including, but not limited to, water, sewer or roadway improvements. In such circumstances the fair market value of the park property dedicated to such necessary public purposes shall be determined by appraisal and the amount of the fair market value of such park property shall be transferred to the city's accounts from the acquiring department's fund to the parks fund, and such proceeds shall be exclusively used to acquire replacement park property. When the language of any instrument by which any park property is acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, the city shall obtain the consent of the grantor or such other person, his or her heirs, successors, or assigns. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. All other requirements of this section shall also be applicable.

(3) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.

(4) A SEPA analysis shall be done on such proposed action and available for public review at least 10 days prior to the hearing.

(5) The mayor shall forward to the city council a report on alternatives to the proposed action with the agenda.

(6) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter 42.17 RCW as now in effect or hereafter amended.

(7) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina done in the normal course of business for storage. (Ord. 1728 § 1, 2015; Ord. 1578 § 6, 2010).

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~~(2)~~ Developed city park property shall not be disposed of in any manner without citizen approval in an election, except ~~as provided in subsection (2) of this section when presented, reviewed, and approved at a public hearing that meets at least one of the following criteria:-~~

~~(a) The city council reviews a development agreement between the city and private entity and determines that; the property exchange is calculated at a one-to-one ratio of land area or greater in benefit to the city, the privately owned land offered in exchange is of equal or greater market value than the publicly owned land, and the private land offered is an appropriate replacement for the public property to be granted. The city council shall determine that the property exchange is beneficial to the city based on park needs, location, environmental standards and accessibility to park users and in its discretion approve a development agreement.~~

~~(b) The city council reviews a development agreement between the city and private entity and determines that the value of physical infrastructure to city park land or improvements to city park land provided by the private entity is at least 150% of the market value of the land granted by the city to the private entity. Such values shall be determined by all parties in a mutually agreed development agreement approved by the city council.~~

~~(2)(c)~~ No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a necessary public purpose including, but not limited to, water, sewer or roadway improvements. In such circumstances the fair market value of the park property dedicated to such necessary public purposes shall be determined by appraisal and the amount of the fair market value of such park property shall be transferred to the city's accounts from the acquiring department's fund to the parks fund, and such proceeds shall be exclusively used to acquire replacement park property. When the language of any instrument by which any park property is acquired limits the use of said property to park purposes and contains a

reservation of interest in favor of the grantor or any other person, the city shall obtain the consent of the grantor or such other person, his or her heirs, successors, or assigns. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. All other requirements of this section shall also be applicable.

(3) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.

(4) A SEPA analysis shall be done on such proposed action and available for public review at least 10 days prior to the hearing.

(5) The mayor shall forward to the city council a report on alternatives to the proposed action with the agenda.

(6) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter 42.17 RCW as now in effect or hereafter amended.

(7) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina done in the normal course of business for storage.

Option 1: Change to draft presented on May 21 removing election requirement

1.30.010 Requirements for sale or other disposition of city real property.

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- (2) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.
- (3) A SEPA analysis shall be done on such proposed action and available for public review at least 10 days prior to the hearing.
- (4) The mayor shall forward to the city council a report on alternatives to the proposed action with the agenda.
- (5) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter [42.17](#) RCW as now in effect or hereafter amended.
- (6) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina done in the normal course of business for storage.

Option 2: Require 1:1 ratio of land for swap

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(2) No citizen approval at an election shall be required when the city council determines that a proposed land exchange is offered at a one-to-one ratio or greater, in benefit to the city, and that land offered in exchange is appropriate replacement for land granted to the other party. The City Council shall determine that the land exchange is beneficial to the city based on park needs, location, environmental standards and accessibility to park users.

(3) No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a necessary public purpose including, but not limited to, water, sewer or roadway improvements. In such circumstances the fair market value of the park property dedicated to such necessary public purposes shall be determined by appraisal and the amount of the fair market value of such park property shall be transferred to the city's accounts from the acquiring department's fund to the parks fund, and such proceeds shall be exclusively used to acquire replacement park property. When the language of any instrument by which any park property is acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, the city shall obtain the consent of the grantor or such other person, his or her heirs, successors, or assigns. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. All other requirements of this section shall also be applicable.

(3) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.

(4) A SEPA analysis shall be done on such proposed action and available for public review at least 10 days prior to the hearing.

(5) The mayor shall forward to the city council a report on alternatives to the proposed action with the agenda.

(6) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter [42.17](#) RCW as now in effect or hereafter amended.

(7) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina done in the normal course of business for storage.

Option 3: Election only for property transfer over certain size

1.30.010 Requirements for sale or other disposition of city real property.

(1) No real property of the city shall be sold, released, leased, demised, traded, exchanged or otherwise disposed of unless the same is authorized by the city council after public hearing. Notice of such public hearing shall be given by publication of the notice in the city's official newspaper at least 10 days prior to the hearing. Developed city park property shall not be disposed of in any manner without citizen approval in an election, except as provided in subsections (2) and (3) of this section.

(2) No citizen approval at an election shall be required when the proposed land exchange, sale or other disposition consists of less than 10,000 square feet of developed city park property.

(3) No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a necessary public purpose including, but not limited to, water, sewer or roadway improvements. In such circumstances the fair market value of the park property dedicated to such necessary public purposes shall be determined by appraisal and the amount of the fair market value of such park property shall be transferred to the city's accounts from the acquiring department's fund to the parks fund, and such proceeds shall be exclusively used to acquire replacement park property. When the language of any instrument by which any park property is acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, the city shall obtain the consent of the grantor or such other person, his or her heirs, successors, or assigns. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. All other requirements of this section shall also be applicable.

(3) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.

(4) A SEPA analysis shall be done on such proposed action and available for public review at least 10 days prior to the hearing.

(5) The mayor shall forward to the city council a report on alternatives to the proposed action with the agenda.

(6) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter [42.17](#) RCW as now in effect or hereafter amended.

(7) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina done in the normal course of business for storage.

Option 4: Allow for transfer based on value

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(2) No citizen approval at an election shall be required when the city council determines that the value of developed city park property is less than the value offered in exchange either by land value or improvements proposed. Such values shall be determined and agreed upon by all parties in a development agreement approved by the city council.

(3) No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a necessary public purpose including, but not limited to, water, sewer or roadway improvements. In such circumstances the fair market value of the park property dedicated to such necessary public purposes shall be determined by appraisal and the amount of the fair market value of such park property shall be transferred to the city's accounts from the acquiring department's fund to the parks fund, and such proceeds shall be exclusively used to acquire replacement park property. When the language of any instrument by which any park property is acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, the city shall obtain the consent of the grantor or such other person, his or her heirs, successors, or assigns. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. All other requirements of this section shall also be applicable.

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(5) The mayor shall forward to the city council a report on alternatives to the proposed action with the agenda.

(6) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter [42.17](#) RCW as now in effect or hereafter amended.

(7) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina done in the normal course of business for storage.

Option 5: No change

1.30.010 Requirements for sale or other disposition of city real property.

(1) No real property of the city shall be sold, released, leased, demised, traded, exchanged or otherwise disposed of unless the same is authorized by the city council after public hearing. Notice of such public hearing shall be given by publication of the notice in the city's official newspaper at least 10 days prior to the hearing. Developed city park property shall not be disposed of in any manner without citizen approval in an election, except as provided in subsection (2) of this section.

(2) No citizen approval at an election shall be required when the city council determines by resolution that some portion or all of a developed park property is required to accomplish a necessary public purpose including, but not limited to, water, sewer or roadway improvements. In such circumstances the fair market value of the park property dedicated to such necessary public purposes shall be determined by appraisal and the amount of the fair market value of such park property shall be transferred to the city's accounts from the acquiring department's fund to the parks fund, and such proceeds shall be exclusively used to acquire replacement park property. When the language of any instrument by which any park property is acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, the city shall obtain the consent of the grantor or such other person, his or her heirs, successors, or assigns. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. All other requirements of this section shall also be applicable.

(3) The preferred timing for such a hearing is before the property is listed for sale, release, lease, demise, trade, exchange or other disposition. It is, however, recognized that this may not be possible especially in the case where there is litigation pending on the property in question.

(4) A SEPA analysis shall be done on such proposed action and available for public review at least 10 days prior to the hearing.

(5) The mayor shall forward to the city council a report on alternatives to the proposed action with the agenda.

(6) Nothing herein shall be construed as preventing the city from holding an executive session in accordance with Chapter [42.17](#) RCW as now in effect or hereafter amended.

(7) This section shall not apply to rental of property on a month-to-month basis or the rental of space at the marina done in the normal course of business for storage.



DRAFT

ORDINANCE 1999

SALE OF CITY PROPERTY



City Council

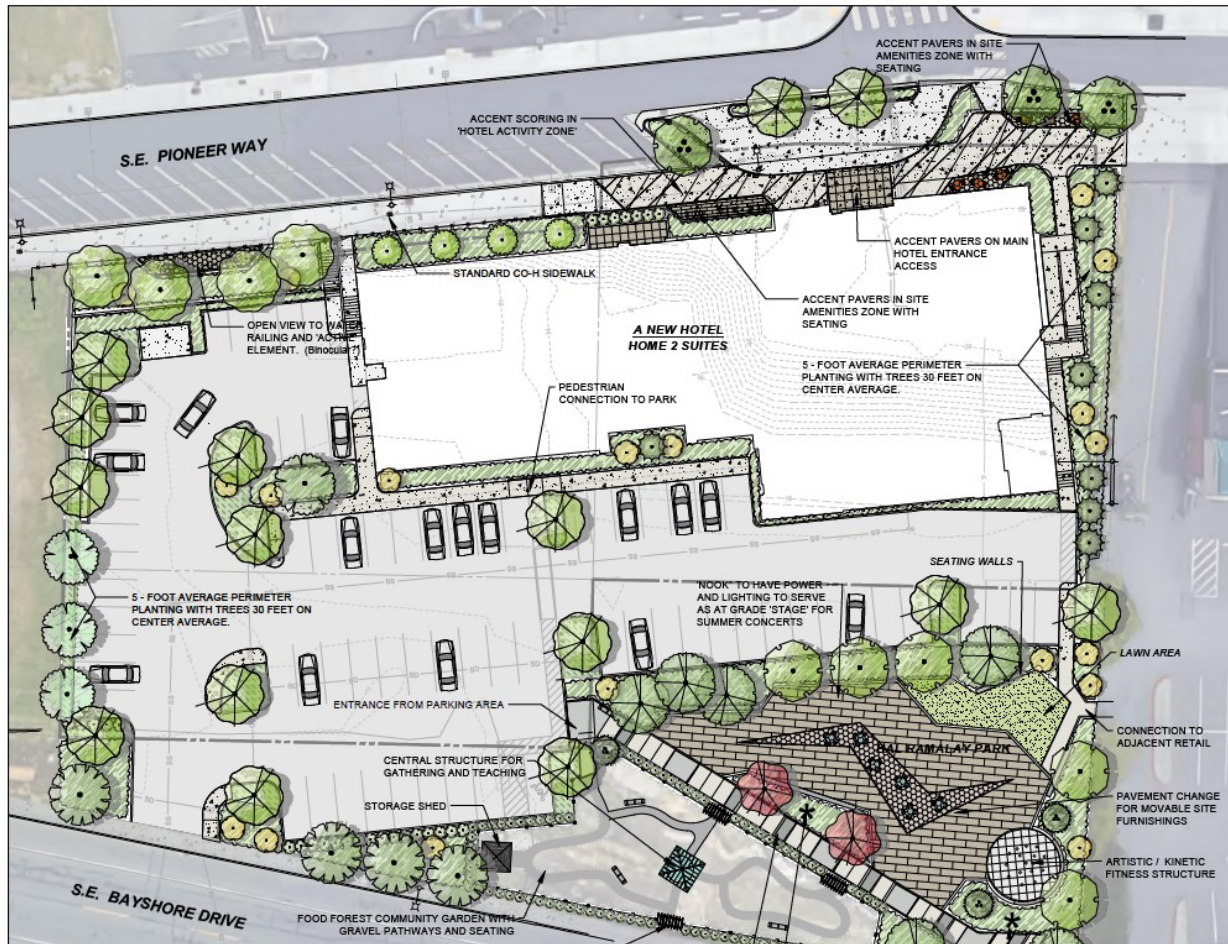
August 13, 2024

BACKGROUND

- Presentation was given to City Council at workshop on April 24.
- Presentation was given to Park and Recreation Advisory Commission on May 6.
- Item was introduced as a standalone ordinance revision designed to streamline the process of transfer of park property on May 21.
- Staff requested a continuance on July 9 to address public comments and Council discussion.
- Staff presented options for code amendment at workshop on July 24.

PROPOSED CHANGE

- Proposed language revision spurred by a Pre-application review of a project located adjacent to Hal Ramaley Memorial Park.
 - Revised project consisted of hotel and associated site improvements and included a boundary line adjustment to accommodate parking and access routes.

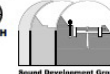
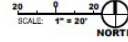


IN A PORTION OF NE 1/4, SW 1/4, SECTION 2, TWP 32 N., RGE 1 E., W.M. OAK HARBOR, WASHINGTON

SITE INFORMATION:
 1/4 SECTION 2, TWP 32 N., RGE 1 E., W.M.
 1/4 SECTION 2, TWP 32 N., RGE 1 E., W.M.
 1/4 SECTION 2, TWP 32 N., RGE 1 E., W.M.

LEGEND:

	PROPERTY TO CITY	2,719 SF
	BLA TO CITY	2,013 SF
	PROPERTY TO HOTEL	4,871 SF
	BLA TO HOTEL	4,871 SF
	EASEMENT TO HOTEL	1,500 SF
	RELEASING EASEMENT	1,500 SF



Sound Development Group
 10000 1st Avenue, Suite 100
 Oak Harbor, WA 98281
 Phone: 360.424.5555
 Fax: 360.424.5555
 Email: info@sounddevelopmentgroup.com

CALL 48 HOURS
 BEFORE YOU DIG
 1.800.424.5555

PROJECT:
**PIONEER LANDING
 HOTEL - COMMERCIAL
 DEVELOPMENT**
 FOR
**EFFICIENCY
 PROPERTIES, LLC**

SHEET DESCRIPTION:
**PRELIMINARY
 PROPOSED PROPERTY SWAP**

SCALE: 1" = 20'
 DRAWN BY: P. LAU
 DESIGNED BY: P. BEVERIN
 DATE: 10.07.2023
 JOB NUMBER: 23087
 DWG. NAME: 23087END.DWG
 SHEET NUMBER:

C-3.0

CITY OF
Oak Harbor
 WHIDBEY ISLAND, WASHINGTON

DISCUSSION POINTS

- **Hotel-specific project**
 - Comprehensive planning and downtown development
 - Hotel or similar project to bring visitors and potential customers to downtown businesses
 - Economic development
 - A hotel/conference center project will kickstart revitalization of downtown area similar to projects in Anacortes

OPTIONS FOR CODE CHANGE

1. Continue forward with removal of election requirement
2. 1:1 land swap
3. Require an election over certain size
4. Value proposition
5. Make no change

COUNCIL PREFERRED OPTIONS

1. Continue forward with removal of election requirement
2. 1:1 land swap
3. Require an election over certain size
4. Value proposition
5. Make no change

OPTION 2 - ONE:ONE LAND SWAP

- **Public concern regarding overall park area loss**
 - New section: include a requirement that any exchange include a one:one ratio of land or greater
 - Total area will ensure overall land to be equivalent or greater
 - Protection built in to review and ensure value is equal or greater
 - Must be an appropriate replacement based on needs and location
 - Subject to a development agreement

OPTION 3 – SIZE LIMITATIONS

- Draft included a requirement to have an election for any sale over 10,000 square feet
 - Public comment included a reference to park acreage
 - Staff researched smallest park size to ensure that no park would simply be sold without public input
 - Smallest park size is 2,699 square feet
 - Staff determined that the simple sale of a park, with no benefit offered through either a 1:1 swap or a beneficial value agreement, should require an election no matter the size,

OPTION 4 – VALUE PROPOSITION

- Ordinance is written to cover all potential future needs
 - For the hotel specific project, a developer offered to remodel a city park in exchange for land
 - Staff believes that improving parks without budgeting money is a potential benefit
 - Benefit of exchanging property without including a one:one ratio should be of higher value
 - 150% valuation is intended to mitigate

ADDITIONAL CONSIDERATIONS

- **Beyond Hal Ramaley Memorial Park**
 - Necessary public purposes
 - Development agreement process
 - Election uncertainties
 - Existing guardrails
 - Council decision-making

RECOMMENDED MOTION

- Move to approve Ordinance 1999 adopting changes to OHMC 1.30.010