1. CALL TO ORDER AND ROLL CALL

Mayor Tim Matthes called the meeting to order at 7:00 p.m. Pro-Tem Cindy Lucarelli and Councilmembers Bek Ashby, Jeff Cartwright, Fred Chang, Jerry Childs, John Clason, and Rob Putaansuu were present and constituted a quorum. City Clerk Rinearson, Public Works Director Dorsey, City Treasurer Martin, Development Director Bond, Deputy City Clerk Fernandez, and City Attorney Jacoby were also present.

A. Pledge of Allegiance

Mayor Matthes led the audience and Council in the Pledge of Allegiance.

2. CITIZENS COMMENT

Andy Garret spoke in favor of the proposed pedestrian trail. He would like to see the trail installed with the full-width option. He would personally benefit from this. He owns a short-term rental across the street from where the path would be. He said the trail would be good for the City and its businesses. He has used many trails and pedestrian walkways in many different cities.

Joi Haner, President of the South Kitsap Soccer Club, spoke in favor of the agreement for the lease of park use for their club.

In response to Councilmember Ashby, Mr. Haner said the funding is in place for the lights.

In response to Councilmember Chang, Mr. Haner explained how the electricity usage would be managed by a third-party company.

In response to Councilmember Childs, Mr. Haner said this is the same process that North Kitsap School District and Kitsap County uses. He also favors a ten-year lease over the five-year lease due to the costs of the lighting improvement.

In response to Councilmember Clason, Mr. Haner said the cost of using lights would be around $30-$50 dollars an hour. The third-party company would maintain the lights during the duration of the 25-year warranty. The club's benefit would be having a field to use. The users would be subject to the rates that would be set by the third-party company.

In response to Councilmember Cartwright, Mr. Haner said that whoever wanted to use the lights would have to agree to the terms of the third-party company.

Elissa Whittleton spoke regarding last week’s discussion about fireworks safety at Work Study. She would like to City to: determine if it is legal to use the street for igniting fireworks, and if it is not, enforce it; impose a tax or fee on fireworks sold in City to fund the police overtime during the holiday; use funds set aside for the public comment timer and give it to the police department for overtime during this holiday. She also wants: the officers in plain clothes to cite illegal offenders; the
the City to send out information regarding illegal uses of fireworks when they send out information in the utility bills; fines collected to be routed back into law enforcement. She feels this year will be worse than the past years because the holiday falls on a Friday. We can be more proactive and keep trying to solve this problem. We should not be victims of people coming into the City, breaking the law, endangering families and properties, and leaving a huge mess.

Leslie Hessick spoke regarding the City's contract with Waste Management for recycling pick-up. She believes that residents should not be forced to pay for recycling services when there are free recycling stations available for use. She believes in recycling, so she proposed giving a credit to users if they can show a receipt that they recycled at one of the free stations. She asked the Council to consider this matter at the renewal of the contract.

3. APPROVAL OF AGENDA

Councilmember Childs MOVED and Councilmember Clauson seconded the motion approving the Agenda as presented. Upon vote, the motion passed unanimously.

4. APPROVAL OF CONSENT AGENDA
   A. Approval of Checks
   B. Approval of Public Event Applications
      - Saints Car Club
      - Kitsap Mustang Club
      - Port Orchard Bay Street Association
   C. Approval of Contract No. 033-14, Authorizing the Mayor to Execute an Agreement with Katy Isaksen & Associates, Inc. for Water/Sewer GAP Analysis (Dorsey)

Councilmember Clauson MOVED and Councilmember Putaansuu seconded the motion approving the Consent Agenda as published. Upon vote, the motion passed unanimously.

5. PRESENTATION

No presentations were given.

6. PUBLIC HEARING

No public hearings were held.

7. BUSINESS ITEMS

A. Approval of Public Event Application: The Unforgotten, Run to Tahoma V

City Clerk Rinearson presented the staff report, noting Leif Bentsen, with Kitsap County, is requesting use of City streets and right-of-ways on Saturday, May 24, 2014. The Unforgotten, Run to Tahoma V is a celebration of life ceremony for unclaimed, deceased veterans in the care of the Kitsap County Coroner's Office, and any deceased veterans submitted by surviving families. The first event took place in 2008, and the second event was held in 2011.
The public starts arriving around 9:00 a.m. and at Noon a professionally guided funeral procession takes the deceased to Tahoma National Cemetery. They will travel South on Sidney to Tremont Hwy 16. They are expecting over 500 people.

Kitsap County is asking permission to prohibit public parking between 1:00 a.m. and Noon on Saturday, May 24, 2014, on Division Street and Cline Avenue and close Division Street to through traffic.

In response to Councilmember Ashby, Mr. Bentsen said that they did ask for no parking to take place beginning at 1:00 a.m. to ensure someone did not come and park there over the weekend.

**Councilmember Childs MOVED and Councilmember Putaansuu seconded the motion to approve the public event application from Kitsap County, and allow them to hold their event using City streets and right-of-ways. Upon vote, the motion passed unanimously.**

B. Adoption of Ordinance No. 002-14, Repealing Section 5.40.160 of the Port Orchard Municipal Code

City Attorney Jacoby presented the staff report, noting the owner of Port Orchard Pawn Shop, LLC, recently came to the Mayor and spoke at a Council meeting with a concern over the validity and enforceability of Section 5.40.160 POMC, which makes it unlawful for any pawnbroker or pawnshop to purchase, store or offer for sale or trade, any firearms ammunition. Port Orchard Pawn Shop, LLC recently obtained a State license to sell firearms and ammunition and was concerned over the City’s regulation of a State controlled industry. Research revealed that the State of Washington has fully occupied and preempted the field of firearms regulation, which includes the sale or trade of ammunition, RCW 9.41.290. Because of the preemption, the City may only place such regulations on the sale of firearms and ammunition as allowed by State law. Chapter 19.60 RCW contains the State regulations for pawnbrokers and secondhand dealers. The chapter contains no section or provision which could be read to allow the City to restrict the sale of ammunition by pawnbrokers or pawnshops. As a result, POMC Section 5.40.160 is unenforceable under State law.

In response to Councilmember Childs, City Attorney Jacoby said he did not know the answer to what the State uses to set their regulations. He said the focus of his legal analysis was looking at the statute in the state law that talks about the State of Washington totally preempting the field of firearms regulation including the sale of ammunition.

In response to Councilmember Cartwright, City Attorney Jacoby said the pawnshop had to get a state license to sell ammunition. There is state regulation already in place governing their sales.

In response to Councilmember Chang, City Attorney Jacoby said land use issues and zoning are issues reserved to local communities. You may not be able to ban the sale, but you could dictate where in the City those sales could occur.

In response to Councilmember Clauson, City Attorney Jacoby said we are just talking about the ammunition; firearms is descriptive of the ammunition.
Councilmember Putaansuu MOVED and Councilmember Childs seconded the motion to adopt Ordinance 002-14, repealing Section 5.40.160 and allowing for the sale of ammunition by pawnbrokers pursuant to State law. Upon vote, the motion passed unanimously.

C. Approval of March 11, 2014, Council Meeting Minutes

Councilmember Chang MOVED and Councilmember Childs seconded the motion to approve the March 11, 2014, Council Meeting Minutes as presented. Upon vote, the motion passed with five affirmative votes. Councilmembers Putaansuu and Clauson abstained from voting.

D. Approval of Contract No. 034-14, Authorizing the Mayor to Execute an Agreement with Ambrosini Design for Wayfinding Signs, City Logo, and Marketing Tools Development

Development Director Bond presented the staff report, noting a consultant selection process for professional services to prepare wayfinding signage plans and specs and for the creation of city logos and branding has been completed. Ambrosini Design was rated as the top firm interviewed from the city’s consultant roster and they have prepared a proposed scope and fee for services. The total contract amount is not to exceed $55,000.

Councilmember Childs said he has been in favor of wayfinding signs for a long time. He was okay with the $20,000 that was first discussed, because the City was also working on the Joint Waterfront Plan, which would provide direction and oversight on the placement of the signs. The Waterfront has not been supported, maybe one day the City will get back to that. He was concerned about the $40,000 that was budgeted, and now the project needs $65,000 for rebranding. He feels it is putting the cart before the horse. With the higher cost and additional scope of work, this feels like a runaway issue. He would like to seek ideas and bids from local companies. He feels it is bordering on wasteful.

Councilmember Lucarelli said she has an issue with including rebranding with the wayfinding signs. She feels we are putting the cart before the horse. She does not feel the City is ready for this and it is not going to be done well.

Councilmember Clauson said he received assurances that this will not change the logo, from that standpoint he is okay with this proposal.

Councilmember Chang said he understands the reservations. Logo design, branding, and mission statement development are painful. He is pleased with the proposal, because we have a professional. That has been missing from the community. He will support this.

Councilmember Putaansuu said he had reservations towards spending the additional money, but the amount was trimmed. He feels this is the right way to handle this.

Councilmember Cartwright said this was discussed in subcommittee, and the money put into the branding effort would put the horse before the cart, not the cart before the horse. He believes this will help drive some economic improvement in the City. If we are going to be funding late evening
ferry service or weekend service, he feels this is more important than the possible few people who get off the ferries.

Councilmember Ashby said the wayfinding system was brought forward in the budget process. In order to make this the best it can be, we need to include the branding element. The branding element will allow us to do some consensus building. Initially she was hesitant, but she has had an opportunity to be involved with it the last couple of months and she is looking forward to having a branding effort and a wayfinding system.

**Councilmember Cartwright MOVED and Councilmember Ashby seconded the motion authorizing the Mayor to execute Contract No. 034-14 with Ambrosini Design in an amount not to exceed $55,000 for the wayfinding signs, City logo, and marketing tools development. Upon vote, the motion passed with five affirmative votes and two dissenting votes. Councilmember Childs and Lucarelli cast the dissenting votes.**

**E. Approval of Change Order No. 14 to Contract No. 002-05, Authorizing the Mayor Pro-Tem to Execute a Change Order with Berger/Abam Engineers for the Tremont Street Widening Project “Immediately Ready to Go” Status for Possible Project**

Public Works Director Dorsey presented the staff report, noting the current Tremont Street Widening (STPUS-660(004)) Project status is as follows:

- Right-of-Way @ 100% Complete (WSDOT H/LP’s file review complete, TCE’s updated in 2013 & ROW Certification pending CN funding acquisition)
- Environmental ECS/NEPA @ 100% Complete (NEPA Updates & non-federal permitting pending CN funding acquisition)
- PS&E - 100% Complete (WSDOT H/LP’s PS&E review/approval pending CN funding acquisition)

WSDOT Highway & Local Programs (H/LP’s) has determined that the Tremont Street Widening Project is currently deemed “Immediately Ready to Go” with regards to the potential Construction (CN) funding opportunity associated with 2014 WSDOT/PSRC Obligation Authority (OA) Delivery Target process. The purpose for this change order is to utilize the residual FHWA design (PE) funding to 1) complete the remaining locally required SEPA/JARPA permitting, 2) update the ECS/NEPA approvals, and 3) provide project advancement that will keep the Tremont Street Widening Project off the “FHWA Inactivity” list.

At 7:46 p.m., Mayor Matthes recused himself from the meeting, due to a potential conflict.

Councilmember Chang announced a potential conflict, as he is a Department of Transportation employee; however, he does not stand to gain financially from this contract. There were no voiced objections to him voting on this matter.

Councilmember Ashby said the Tremont Street Widening project would be discussed this Friday at the PSRC-RPEC meeting. It is critical that the project is 100% ready-to-go.
Councilmember Ashby MOVED and Councilmember Clauson seconded the motion to authorize the Mayor Pro-Tem to execute Change Order No. 14 with Berger/Abam in an amount not to exceed $23,325 for the required ECS/NEPA update and completion of the locally required SEPA/JARPA permitting. *Upon vote, the motion passed unanimously.*

At 7:49 p.m., Mayor Matthes rejoined the meeting.

**F. Approval of Contract No. 035-14, Authorizing the Mayor to Execute an Agreement with Caseco Associates, Inc. for 2014 Van Zee Park Parking Lot Improvements**

Public Works Director Dorsey presented the staff report, noting on February 24, 2014 and pursuant to the February 10, 2014 Public Property Committee recommendation, the Public Works Department issued a Request for Proposal (RFP) for the 2014 Van Zee Park – Parking Lot Improvements. Three (3) proposals were received by the March 7, 2014 deadline, but all exceeded the City’s funding target. Therefore, pursuant to the March 10, 2014 Public Property Committee recommendation, the Public Works Department value-engineered the improvement plan and reissued the RFP later that same business day. By the March 17, 2014 deadline, three (3) revised bids were received as follows:

- Caseco Associates, Inc. $27,707.63  (applicable tax included)
- Sound Excavation, Inc. $36,404.80  (applicable tax included)
- RV Associates, Inc. $42,433.00  (applicable tax included)

Upon review, the City’s Public Works Department Staff has determined that Caseco Associates, Inc. revised bid of $27,707.63 was the lowest qualified bid. Additionally, the Public Works Department has confirmed 1) that the bidding requirement for Public Work using the City’s Small Works Roster was followed and 2) that the project proposal is funded within the Cumulative Reserve for Municipal Facilities fund of the approved 2014 Budget.

Councilmember Cartwright thanked Public Works Director Dorsey for his work on this and his quick turnaround.

In response to Councilmember Clauson, Public Works Director Dorsey said these trees are no subject to the Significant Tree Ordinance.

In response to Councilmember Clauson, Public Works Director Dorsey said there are currently no lights. The City is going to run lights up from the Well 9 Pump House and do that work internally.

In response to Councilmember Lucarelli, Public Works Director Dorsey said there is no public process associated with this project. His department has had communications with the neighbors in the past. There was concern with people who were parking in there, and the police department had to turn people out of there. The current parking off Tremont Street with no turn lane is an unsafe condition. Having 30 stalls available off Poplar Street is a better parking scenario from a safety standpoint.

Councilmember Cartwright MOVED and Councilmember Chang seconded the motion to authorize the Mayor to execute Contract No. 035-14 with Caseco Associates, Inc. in
an amount not to exceed $27,707.63 for the 2014 Van Zee Park – Parking Lot Improvements. Upon vote, the motion passed unanimously.

G. Approval of Contract No. 036-14, Authorizing the Mayor to Execute an Agreement with FloHawks Plumbing + Septic for On-call Emergency Pumping Services

Public Works Director Dorsey presented the staff report, noting on February 27, 2014, the City’s Public Works Department issued a Request for Proposal (RFP) for the 2014 On-Call Emergency Sewer/Septic Pumping Services. The purpose of the RFP is to ensure that the lowest qualified pumping service is being used for City required emergency sewer and septic pumping services given a 24-hour/365-day per year requirement at a 2-hour response time. Three (3) proposals were received by the March 13, 2014 deadline as follows:

<table>
<thead>
<tr>
<th>Service</th>
<th>Amount</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>FloHawks Plumbing+Septic.</td>
<td>$306.00</td>
<td>8:00 AM – 4:30 PM</td>
</tr>
<tr>
<td></td>
<td>$306.00</td>
<td>4:30 PM – 8:00 AM</td>
</tr>
<tr>
<td>Express Septic Service</td>
<td>$494.94</td>
<td>8:00 AM – 4:30 PM</td>
</tr>
<tr>
<td></td>
<td>$602.74</td>
<td>4:30 PM – 8:00 AM</td>
</tr>
<tr>
<td>Hemley Septic Tank Cleaning</td>
<td>$526.65</td>
<td>8:00 AM – 4:30 PM</td>
</tr>
<tr>
<td></td>
<td>$744.95</td>
<td>4:30 PM – 8:00 AM</td>
</tr>
</tbody>
</table>

Upon review, the City’s Public Works Department staff has determined that the FloHawks Plumbing+Septic bid of $306 (plus applicable tax) was the lowest qualified bid. The Public Works Department has also confirmed that the bidding requirement for Public Work using the City’s MRSC Small Works Roster was followed.

In response to Councilmember Childs, Public Works Director Dorsey said he is unsure what was paid last year. This is the first year using a bid process. This will take the subjectiveness out of who to call and it will keep the charges consistent.

In response to Councilmember Ashby, Public Works Director Dorsey said the City does approximately 30 call-outs a year.

In response to Councilmember Chang, Public Works Director said FloHawks were probably cheaper because they are a larger company with a larger fleet.

Councilmember Lucarelli MOVED and Councilmember Clauson seconded the motion authorizing the Mayor to execute Contract No. 036-14 with FloHawks Plumbing+Septic in an amount not to exceed $332.62 (applicable tax included) per each 1,200-gallon tank for the 2014 On-Call Emergency Pumping Services. Upon vote, the motion passed unanimously.

H. Approval of Contract No. 037-14, Authorizing the Mayor to Execute a Direct-Appropriations Contract with the Department of Commerce for the Bay Street Pedestrian Pathway Segment No. 4

Public Works Director Dorsey presented the staff report, noting on August 27, 2013, the Port Orchard City Council ratified the Mayor’s signature on the required State Department of Commerce (DOC) Contract Readiness Survey for Segment #4 of the Bay Street Pedestrian Pathway Project.
Now that the State Department of Ecology has issued a ‘No Further Action (NFA) Likely’ finding for the Bay Ford Voluntary Cleanup Plan, the City is now able to proceed with the final design, permitting, and construction for Segment #4 (pedestrian bridge) of the Bay Street Pedestrian Pathway Project. As a reminder, funding for this project comes from the State Jobs and Economic Development Grant in the amount of $336,000, less State administrative fees.

Councilmember Childs MOVED and Councilmember Lucarelli seconded the motion to authorize the Mayor to execute Contract No. 037-14 with the State Department of Commerce, thereby accepting a no-match Grant in the amount of $325,920 for Segment #4 of the Bay Street Pedestrian Pathway Project. Upon vote, the motion passed unanimously.

At 8:02 p.m., Councilmember Lucarelli announced a potential conflict as her family member works for the contractor; and recused herself from the meeting.

I. Approval of Contract No. 038-14, Authorizing the Mayor to Execute an Agreement with N.L. Olson & Associates, Inc. for Bay Street Pedestrian Pathway Segment No. 4 Final Design and Permitting

Public Works Director Dorsey presented the staff report, noting earlier this evening, the Port Orchard City Council authorized the execution of Contract No. 037-14, with the State Department of Commerce, thereby accepting a no-match Grant for $325,920, for Segment #4 of the Bay Street Pedestrian Pathway Project. Therefore, the first task associated with the fabrication and installation of the pedestrian pathway over Blackjack Creek is to initiate the final design and permitting for this segment of the Bay Street Pedestrian Pathway Project. The City’s Public Works Department has received a proposal from N.L. Olson & Associates, Inc. in the amount not to exceed $39,700, for Bid Ready PS&E, Environmental Permitting, Construction Survey Staking, Construction Administration, and Pile Driving Monitoring. Additionally, the Public Works Department has confirmed 1) that the professional services acquisition process was followed pursuant to RCW 39.80 and 2) that the project proposal is funded within the City Cumulative Reserve for Municipal Facilities Fund of the approved 2014 Budget.

Councilmember Putaansuu MOVED and Councilmember Clauson seconded the motion to authorize the Mayor to execute Contract No. 038-14 with N.L. Olson & Associates, Inc. in an amount not to exceed $39,700 for the final design and permitting of Segment #4 - Bay Street Pedestrian Pathway Project. Upon vote, the motion passed unanimously.

At 8:04 p.m., Councilmember Lucarelli rejoined the meeting.

J. Approval of Contract No. 039-14, Authorizing the Mayor to Execute an Agreement with South Kitsap Soccer to Lease a Part of Van Zee Park

Development Director Bond presented the staff report, noting the South Kitsap Soccer Club has requested a lease from the City for a portion of Van Zee Park for winter soccer practices. The lease is for 7 months beginning October 1, 2014 and running through April 30, 2015. The lease includes an extension provision, which would allow annual renewal for the dates and times indicated through April 30, 2019. The lease also, includes a provision for the City to terminate the lease early,
but if the City were to do this, and if the organization has made permanent lighting improvement at
the park, the City would be responsible for paying back the organization for the lighting costs in
accordance with an amortization schedule.

In response to Councilmember Clauson, City Attorney Jacoby clarified Paragraph A, Section 2 is
saying if the Soccer Club elects to walk away from this lease at the end of April 30, 2015, then they,
the Soccer Club, is responsible for 100% of the cost of the lighting, which then become the property
of the City.

In response to Councilmember Ashby, City Jacoby clarified the terms and the extension of the
lease. The Soccer Club has protection built into the lease that they will be reimbursed appropriately
if the lease is not extended based on the schedule in Exhibit B.

In response to Councilmember Lucarelli, Mr. Haner said the lighting would be added in 2014.

Councilmember Clauson expressed his concern about setting up a profit-making company to profit
from the use of the City’s public facility as an exclusive vendor with no idea about them. The City
will have no oversight or control on what the fees are going to be. He appreciates the fact that they
are going to be sensitive to the market.

Councilmember Putaansuu said anyone could use the park without the lights now, and they will be
able to do it in the future. Other municipalities are using the same services.

Councilmember Ashby does not believe the City is setting up the vendor to be the exclusive
provider for the lights. There are currently lights at the tennis courts. The contract is between the
soccer club and the provider. She would assume that they have gone through a vetting process that
is in their best interest.

Councilmember Clauson is uncomfortable about setting up a public asset for a private for-profit
company for which the Council knows nothing about with the exclusive rights for selling power for
this portion of the park.

**Councilmember Cartwright MOVED and Councilmember Lucarelli seconded the**
**motion to approve Contract 039-14, authorizing the Mayor to execute an Agreement**
**with South Kitsap Soccer Club for a portion of Van Zee Park. Upon vote, the motion**
**passed unanimously.**

**K. Discussion: Update on Interlocal Agreement with WSUD for SKWRF Management**
**& Operation**

Councilmember Chang would like an update of what is going on with the WSUD agreement. He
also wanted to address the letter from WSUD to meet in a joint meeting.

Councilmember Clauson shared that the ad-hoc committee and the City Attorney met with Mr.
Curles on Monday. During this time, the City Attorney has made contact with Hugh Spitzer, who
was the legal advisor during the ULID formation. Subsequent to the last meeting, the City found
more files on the formation of the ULID, the project, and a lawsuit regarding the ULID formation
and a superior court judge ruled on the definition of the project. The committee agreed to set up a
breakfast meeting with Mr. Geiger. Mr. Childs or Ms. Lucarelli said they would step out if Mr. Chang wanted to sit in on that discussion. Councilmember Clauson tried unsuccessfully to get a hold of Mr. Jim Hart.

Councilmember Ashby said there were some questions raised during the February 25, 2014, Council meeting regarding two of the supporting documents in the resource packet. To satisfy herself, she met with WSUD General Manager Mike Wilson, and he provided her a copy of the original agreement with Exhibits A and B attached, a copy of the letter from Mr. Curles to the District with the attached exhibits; and a copy of the executed documents that were sent back to the City. She is comfortable that the City Council was aware of these documents.

The other document that was questioned at the February 25, 2014, Council meeting was a one-page excerpt from a report by Kennedy/Jenks Consulting Engineers and Scientists. There was concern expressed by the Council that only one page was given (page no. 13-1) and they did not know the context of report. Mr. Wilson provided her the entire Chapter 13, to the extent of a 200-page report. He also provided her minutes from the Sewer Advisory Committee dated July 15, 1994. She read the following minutes into the record:

"The Sewer Advisory Committee met at 6:30 a.m. 14 July 1994 at City Hall. Members present were Richard Dillon, Jim Howard, Bill Huntington, Bob Geiger, John Clauson, Warren Van Zee. Also present was Larry Curles and Dick Fitzwater. Representing the firm of Kennedy/Jenks were Paul Gilligan, Milt Larson, and Dick Guglomo. The consulting engineers have completed the comprehensive study of the Wastewater Treatment Facility. The engineering team presented a detailed discussion of the report, deficiencies that needed to be addressed and proposed solutions. The presentation lasted until 9:10 a.m. After the presentation, Bob Geiger moved to accept the report. The motion was seconded by Dick Dillon. The motion passed unanimously. Commissioner Huntington was not present for the voting in that he had to leave early."

With these minutes, Councilmember Ashby was comfortable that the documentation in the resource packet was accurate. The consultant concluded that the City owned the Marina Pump Station and force main exclusively.

She posed the following questions to staff and council:

1) In the original bond offering in 1984 on page 10 in the final paragraph under improvements to waterworks utility, it states: "Operation of the completed treatment plant will be provided by the Kitsap County Sewer District No. 5 under the terms of a management contract entered into by the City of Port Orchard and the Commissioners of the Kitsap County Sewer District No. 5. The management contract provides the basis for the operation and maintenance of the improvements." And it is summarized on page 20. This is right out of the bond offering. At the time in 1984, she actually used this document because of her employment and she had bought some of the bonds. She knows this is an important document. She knows that saying to the potential bondholders that the operation is by this management contract. Her question becomes is there any such language in our current loan arrangement? Have material circumstances changed with our lender if we do not have an executed agreement for the operation and maintenance of the sewer treatment plant? Are we materially changing our lending agreement?
2) The City of Port Orchard carries the Marina Pump Station and force main on our books. The State regularly audits our financial records. What are the implications that the Marina Pump Station and the force main are not deemed to be owned solely by the City? How does that affect our books and do we have to make any other representation on our financial statements?

3) Of all the documentation she has read, and she has spent hours doing her due diligence on this particular matter, it is always stated that the City of Port Orchard is solely responsible for the operation and maintenance of the Marina Pump Station and the force main. What is the definition of operation and maintenance? In the original lease it talks about the operation and maintenance responsibilities that the Sewer District had in operating the facility. If the City has already assumed all of the responsibility for that Marina Pump Station, why would we now want to alter the ownership as we now reflect it on our books?

Councilmember Clauson said one of the things that the committee learned when they met with Mr. Curles is in reference to the 1984 bond issuance. Apparently, even before Mr. Clauson -- and this is where Mr. Geiger will be valuable -- was that the district at the time the commissioners were very adamant that they wanted to operate the plant. They negotiated out that the pump station and the force main would be included into the project if the City agreed that once the facility was constructed, that they would get to operate the plant. That is why that statement is there even prior to the construction of the plant. It was that there had already been an agreement made -- it must have been verbally because nobody has been able to find anything to document it -- but Mr. Curles remembers the discussion well that that was something that was worked out between the District and the City back in 1982. That is why that bond document was written the way it was written.

The project was funded through that ULID and the project included the pump station, the force main, the plant, and the outfall. But the District was only interested in running the plant. So the City logically assumed the responsibilities outside of the operating agreement. That agreement was only intended to cover the operation of the treatment facility. The City said okay, we'll operate and maintain this down here.

One of the questions that they asked as a group, and they have asked Mr. Jacoby to ask when he talks to the legal folks that were here when all of this was formulated, was technically who is the owner. If it was in fact a jointly owned 50 percent facility, then why did the District sell the ground that the plant sits on that they owned? Why did they sell it to the project? They are giving up ownership of their ground to this entity. He refers to it as the project; technically, it was the City. So there are a lot of questions that when you read these documents, like the bonding document, without knowing the context behind those, when taken on its surface, it makes sense. But when you understand what took place, there is more to it. That is why the committee is trying to pursue and get the big picture. The folks that were there, Mr. Geiger, Mr. Curles, Jim Hart was there -- actually Jim Hart was there before Mr. Clauson, who came in at 1983, but a lot of this stuff had taken place before '83. And Hugh Spitzer, who is the Dean of Municipal Bond Work in Seattle, has been around forever. He was intimately a part of the process when this was created back in '83. The committee is going to him to try to get information as well.

In response to Councilmember Ashby, City Attorney Jacoby does not know what the current loan documents say about who manages or owns the treatment plant. He is assuming she is referring to the State loans.
Councilmember Ashby wanted to make sure if the City is absent an active agreement that we are not jeopardizing any of our loan status.

City Attorney Jacoby said in respect to the definition of O&M, he is sure one could look it up in any number of reference documents. His point would be that operation & maintenance is often, not always, is often segregated from ownership. Having an obligation to operate and maintain something does not mean you own it.

Councilmember Ashby referenced her perspective. With her car, she changes the oil in her car. That is maintenance. If the transmission goes out, in her mind, that is a repair. Is there any difference between maintenance and repair? City Attorney responded by asking what happens if you lease your car? In other words, if you lease the car, let's say you are responsible for the changing the oil and for the transmission, but that doesn't mean you own the car at the end of the lease. Councilmember Ashby said if she does lease the car, then she is responsible for the transmission as well as the oil. City Attorney said if the car turns out to be a lemon and breaks down, the leasing company is suppose to give you a car that runs because that is what you paid for.

City Attorney Jacoby said the documents that were found a couple of weeks ago are interesting, they add details. There is no smoking gun. There is no one document that is definitive.

Councilmember Ashby said City Attorney Jacoby answered her question. She didn't know if the City had accepted all of the financial responsibility for those, and we have.

Councilmember Clauson threw out a hypothetical, and this is a question that Councilmember Clauson has asked the City Attorney to research with Hugh Spitzer and whomever. Let's just say for the sake of conversation that legally and technically the City of Port Orchard is the sole ownership of this plant. Then if we're going to move forward with splitting it 50/50, I would think we would have to do it a little differently. The formality of it might be a little different. We're in essence giving up ownership, for example, the deed. The deed of the property that the plant now sits on he believes is solely in the name of the City. So how do we deal with that legally? We would approach it a little bit differently than if we are just assuming that everything we read it's our opinion that yes, it must be owned 50/50, so all we are going to do is write an agreement that says we agree it is 50/50. You have to deal with them differently. He hopes with the research that Mr. Jacoby is going to do with Mr. Spitzer will maybe find a silver bullet or at least get us closer to understanding where we are coming from.

Councilmember Clauson said he is the first to agree and admit that for all the time he has been here we have always treated that plant as a 50/50 ownership. That is the mindset that we have. But legally, has it been set up that way? He does not know. Hopefully we can find out, at least Mr. Spitzer can help us. One of the big questions – the Sewer District passed a resolution that they would be a part of the formation of the ULID. The legal question is, was that necessary? Does the City by itself have the authority to create a ULID with its boundaries extending beyond its City limits? Mr. Spitzer should know this information. Those are some of the basic questions, and Mr. Geiger, who was here before Mr. Curles and was a part of a lot of the discussions that occurred right after the decision was made not to go with the City of Bremerton.

In response to Councilmember Ashby, City Treasurer Martin said concerning the financial disclosure, what we have is whether it is a subsequent event. There is an annual letter of
representation that goes to the State Auditor when we start our 2013 audit. There is a provision in that is there something that has changed between the end of 2013 and prior to publication of the financial report. That is backed up by the budget accounting reporting system in the BARS manual, it is called “Note X”, called “Subsequent Events”, and that has that beyond the letter of representation that is signed and given to the Auditor each year. There are two government accounting standard boards statements that address subsequent events. It is Statement 10 Subsequent Events, which requires disclosure if an asset was impaired or a liability was incurred after the date of the financial statements. The other one is GASBE Statement No. 56, and there again it talks about subsequent events, and 8-15, and recognized events and nonrecognized events that are required to be disclosed and the notes to your financial statements. A recognized event would be one that is required to adjust the financial statements and the other nonrecognized subsequent event would require a note disclosure in the annual finance report. Where you had disclosed for many years 50/50 ownership in the City’s financial statement, the City carries the Marina Pump Station on its assets list, it has done all of the improvement to those assets, so he thinks within the accounting rules there would be a need for a note in the financials to disclose that there would be an asset in question because we were operating without an agreement.

City Attorney Jacoby said two quick points regarding the documents that relate to the ULID. First, it is not uncommon after the assessment roles are issued that there are lawsuits that protest the assessment. That was true in this case as well. There was a lawsuit in Kitsap Superior Court that was resolved in the summer of 1983. In its findings of fact and conclusions of law, he quoted, “The City and the District will jointly own the facilities to be constructed in ULID No. 1”. The facilities to be constructed included the Marina Pump Station and the force main. And this is a very clear statement, “they will be jointly owned”. Second, there are the bond documents. They are all set up as describing these improvements – marina pump station, outfall, force main, and treatment plant – as improvement to the City’s Water Works Utility. That is how it was presented to the investing world. There is an argument, he is not saying it is the winning argument, but it is one of the questions he wishes to explore with the Bond Council. There is an argument that these improvements that the City was standing behind the bonds and the improvements where to the City utility, the City owned all of those improvements. And then as pursuant to the agreement with the Sewer District, as the Sewer District contributed money, and they contributed 50% of the revenue to pay those bonds, the City’s ownership went from 100% to 50%, and the sewer district rose from 0 to 50, and they ended up 50-50. But that concept would seem to apply to all four components of the project if you carry that logic through, and these are some of the things he is still exploring. But there is no smoking gun; there is no definitive document with piecing things together that happened 30 years ago.

Councilmember Cartwright clarified that this information was discovered after the February 25, 2014, vote.

Councilmember Clauson responded to the Kennedy/Jenks report. To put that in context that was the start of the study to expand the treatment plant and they were looking at only the treatment plant as the component that needed to be expanded. The way that the State governs these things is when the plant reaches a certain capacity, it triggers the planning for an expansion. That is what that document was. We were only looking at the treatment plant as the component that needed to be expanded. And eventually when we came up with the technology that used the membrane technology, that we used to expand the plant, that is where we get the public works trust fund from, and that is what paid for that.
Councilmember Chang feels that if another 30 days is given, there might be a recommendation by the committee on how to move forward.

Councilmember Ashby would be willing to wait until the next Council meeting, but at that point a resolution has not been created, then she would suggest accepting West Sound Utility's invitation to meet with them. She thinks that would be appropriate.

Councilmember Cartwright expressed his frustration about giving his vote based on being informed that they had all the information in front of them and they obviously did not. He now does not care how long it takes; he just wants to get it right. He is not comfortable with what he is hearing.

Councilmember Chang does not need a decision in 30 days, but would like to see progress. He thanked the Councilmembers on the Sewer Advisory Committee for their time and hard work on this agreement. This is a fresh issue for him having just learned about it.

Councilmember Putaansuu wants to keep the ball moving. He does not feel it should have taken a year and a half to find something.

Councilmember Clauson clarified that they have not been spending the last year and a half talking about ownership. They were discussing what is the animal that should continue to operate the plant. It was not until they got down to deciding to renew the agreement all of the sudden ownership became a big issue. So ownership has only been an issue for the last six months.

Councilmember Ashby would like some clarification to make sure we are not putting any of our loans in jeopardy by not having an operating agreement.

The subcommittee recommended letting them talk with more people and come back April 8, 2014, with more information and a proposal for responding to the March 5, 2014, letter from WSUD.

8. COMMITTEE REPORTS

Councilmember Clauson reported the Finance Committee meeting is March 27, 2014, at 7:30 a.m.

Councilmember Ashby reported the Economic Development/Tourism committee is April 14, 2014, at 10:00 a.m. at City Hall.

Councilmember Putaansuu reported the Sewer Advisory Committee has not met.

Councilmember Putaansuu reported the following from the Utility Committee meeting: Energy Star washer rebate; sanitary sewer emergency call-out policy; 2014 on-call for emergency sewer/septic pumping services; regional decant facility retrofit; 2014 storm utility gap analysis update; 2014 water/sanitary sewer gap analysis; 2014 STEP conversions; radio read water meter conversation; Tremont Place water service modification; Well #9 project closeout; Well #10 SWRF loan; and Housing Kitsap storm fee. The next meeting is scheduled for April 14, 2014, at 7:30 a.m.

Councilmember Cartwright reported the next Public Properties Committee meeting is April 14, 2014, at 8:30 a.m. at City Hall.
Councilmember Childs reported on the KEDA Annual Meeting and Lunch on March 20, 2014. Highlights from the meeting included the installation of new officers: Omahundo; Kitsap Connected vignettes; KADA; Maritime Industry in Kitsap County; and Prosperity Partnership 2.0. He would like the link to Port Orchard’s Kitsap Connected vignette to be more prominent on the City’s home page.

Councilmember Ashby reported on the March 13, 2014, PSRC Transpol and KRCC Transpol meetings. Highlights from the meeting included: Transportation 2040 draft plan; regional asset management plan; potential emergency regional federal funding that Tremont may be eligible for; presentations for 2015/2017 funding cycle projects; approval of 2015 contract for the Housing Solution Center; and Tremont Widening Project is being discussed by RPEC.

Additionally, the SR3/SR16 Gorst Feasibility Study is seeking a state grant for $400,000. The local match requirement is $54,000. The City of Bremerton, Port of Bremerton, Kitsap Transit, Kitsap County, and WSDOT are all putting money into the local match requirement and invited the City of Port Orchard to participate in the amount of $4,500. It would be a 2015 budget item, but the City would have to give its commitment by April 4, for their grant process. Kitsap County has not committed their portion yet, but they have been asked. The other jurisdictions have committed to the local match.

Councilmember Putaansuu MOVED and Councilmember Clauson seconded the motion to authorize $4,500 from the City of Port Orchard to support this grant opportunity for the Highway 16-Highway 3 feasibility study. Upon vote, the motion passed unanimously.

9. MAYOR’S REPORT

Mayor Matthes reported the following:
- The City of Port Orchard hosted a Kitsap Tourism presentation, which was well attended.
- At the Kitsap Transit Board meeting, they discussed working on software update that is going to streamline computer-generated information and they approved a 5-year contract for advertising on the busses.
- The Housing Kitsap Transition meeting is looking at all of the options available for the agency in filling the Executive Director position.
- KRCC was visited by Representatives Seaquist, Hansen, Appleton, Haigh, and Senators Rolfes and Sheldon.
- April 5, 2014, is the first Farmers Market from 9am-3pm and the first Art Walk will be 2pm-5pm.

10. REPORT OF DEPARTMENT DIRECTORS

Public Works Director Dorsey confirmed that the obligation target application is submitted and on the agenda for Friday for emergency action for $14.8MM and last week he submitted the screening forms to PSRC for two countywide applications ($2MM for Bay Street Pedestrian Path and $14.8MM for Tremont).
City Clerk Rinearson reported the Governor would be signing SB 5964, which requires public records officers as well as elected and appointed officials training on the public records act. That will be governed by the Attorney General’s office. Also, at the WMCA Conference former City Clerk Carol Etgen was awarded Clerk of the Year and Gig Harbor City Clerk Molly Townsend was the honorable mention.

11. CITIZENS COMMENTS

Elissa Whittleton thanked the Council for passing the contract for wayfinding signs.

Gerry Harmon asked if the trees at Van Zee are Douglas Firs and sellable. Public Works Director Dorsey said the trees are Douglas Firs, but there were not enough trees for a logging truckload.

At 9:29 p.m., the City Council took a break.

12. EXECUTIVE SESSION

At 9:34 p.m., Mayor Matthes recessed the meeting for a 10-minute executive session regarding potential litigation in accordance with RCW 42.30.110(B). City Attorney Jacoby and Public Works Director Dorsey were invited to attend and the Mayor announced that no action would be taken because of the executive session.

At 9:48 p.m., Mayor Matthes reconvened Council back into regular session.

13. ADJOURNMENT

At 9:48 p.m., Mayor Matthes adjourned the meeting.

Brandy Rinearson, CMC, City Clerk

Timothy C. Matthes, Mayor