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 Clauson, and Rob Putaansuu were present and constituted a quorum. City Clerk Rinearson, Police Chief Marti, 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

Mr. Ocean Williams, 1763 Bay Street, said the assessment done on his home by the City for the Bay Street Pedestrian Path project has left his family feeling threatened. He feels threatened, because now that the properties have been assessed, the next step would be for his family to be relocated. He feels it is not morally the best route to go for families to have to leave their homes. He would like to know that other options are being considered, and he is sure the rest of Port Orchard citizens would agree.

Mrs. Arlene Williams wants to know the timeline for the bike path, what alternatives are being considered, and what measures of due diligence are being taken. She wants stress-free memories with her kids. Being in limbo is hard as a mother, and it is hard for her family. She wants the Council to make a decision, move forward, and take the stress off. She has lived at 1763 Bay Street since she was a kid; there is no comparable place to relocate.

Mr. Franklin Rusk, 1777 Bay Street, said he has lived at his home for over 20 years. He would like to live there for at least 20 more. He wants to know if this is going to be a city government that is known for helping its people, or is it going to be known as a city government, like Bremerton, who condemns people’s houses for a Ford dealership.

Mr. Randy Jones, 1777 Bay Street, co-owns Venture Charters with Mr. Rusk and has lived at his home for 35 years. He recounted conflicting communications he had with Public Works Director Dorsey and staff at the Public Works department regarding a shoreline management permit. He also talked with Chris Waldbilling from the Game Department, and he said the plans have not been approved past Westbay. He is not sure how the City had received shorelines management approval. He feels all of the properties along the water, if taken together, are a valuable asset for mitigation. If there is a for-profit factor, it could be considered as fraud. He wants to know how the City has the approval.
Mrs. Elissa Whittleton thanked Mr. Cartwright for honoring the public’s interest by moving the Public Properties Committee to City Hall where they can be viewed by the public. She asked the Finance Committee members to listen to the audio from their May 1 meeting at the Pancake House. While trying to listen to the meeting’s audio, she had trouble hearing what the committee was saying because of the loud music and background noise. She asked the committee to fix the situation by utilizing the resources that are available at City Hall. There is no excuse for subjecting the public to such antics in order to learn what is being addressed at committee meetings. It is important to the public to be able to understand what is going on, so when it comes before the Council at the business meeting, if they wish to comment, they have done their background check. She takes pride in trying to know what is going on in our City.

Mr. Chris Tibbs, chair of the Republican Party, thanked the Mayor and City Council for their leadership in working with the Bay Street property owners. He said it is amazing to see Bay Street coming back by the local merchants who are revitalizing the economy. The public market is a phenomenal project. It is refreshing to see the City use private partnerships to revitalize the downtown area.

Ms. Mary Hartshorn wants to introduce a new business to downtown. She said signage downtown is very poor. It is hard to know what is available downtown, unless you find out by accident. She wants to install a DVD kiosk downtown by the foot ferry. The kiosk would have advertising spaces for businesses downtown. The sign codes needs to be revised to allow more flexibility.

3. APPROVAL OF AGENDA

Councilmember Childs MOVED and Councilmember Lucarelli seconded the motion approving the Agenda.

Councilmember Putaansuu MOVED and Councilmember Lucarelli seconded the motion to pull Business Item 7D and move it to the May 27 Council meeting. Upon vote, the motion passed unanimously.

Upon vote, the main motion passed unanimously approving the Agenda as amended.

4. APPROVAL OF CONSENT AGENDA
   A. Approval of Check Nos. 61744 through 61878 totaling $694,734.60; April Payroll Warrant Nos. 145773 through 145820 totaling $563,636.00; and Treasurer’s check book totaling $1,677,407.99.
   B. Approval of Setting the May Work Study Session Date
   C. Approval of April 15, 2014, Council Work Study Session Meeting Minutes
   D. Approval of April 22, 2014 Council Meeting Minutes
   E. Approval of Public Event Applications:
- 18th Annual Cruisin’ Sunday Car, Truck & Bike Show
- Concerts by the Bay

F. Approval of Contract No. 048-14, Authorizing the Mayor to Execute a Lease Agreement with Kitsap Regional Library
G. Approval of Contract No. 050-14, Authorizing the Mayor to Execute a Agreement with Hemley’s Septic Tank Cleaning, Inc. for 2014 McCormick Woods Septic Tank Pumping

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

5. PRESENTATION

No presentations were given.

6. PUBLIC HEARING

A. Downtown Overlay District Ordinance

Development Director Bond presented the staff report, noting under direction from the City Council, the Planning Commission has evaluated the current Downtown Overlay District (DOD) allowed uses and has formed a recommendation for action. The Planning Commission formed this recommendation after conducting a public review process. In general, the recommendation of the Planning Commission is to close some loopholes to uphold the original intent of the ordinance without creating further use restrictions, including clarifying the definitions for “ground floor,” “second floor,” and “loft”, and to clarify which uses are allowed where within the DOD.

Mayor Matthes opened the Public Hearing, and there being no testimony, closed the Public Hearing at 7:24 p.m.

B. Business Professional BP-II Zone Ordinance

Development Director Bond presented the staff report, noting under direction from the City Council, the Planning Commission has studied challenges associated with the strict nature of the Business Professional Zone along the Sidney Ave corridor, which were perceived to be contributing to high vacancy rates in existing commercial buildings. The Planning Commission studied the issue and worked to develop a recommendation after conducting a public review process. In general, the recommendation of the Planning Commission is to create a BP-II zone and to rename the existing Business Professional zone as BP-I. The BP-II zone would allow for a greater variety of uses than the BP-I zone, though fewer than what would be allowed in the Commercial zone. The Planning Commission felt that the Sidney corridor was different in character that the Tremont corridor or the areas zoned BP near the County government campus and would benefit from changes to the development regulations. The Planning Commission’s recommendations were discussed at the Council’s April work study session.
Mayor Matthes opened the Public Hearing, and there being no testimony, closed the Public Hearing at 7:25 p.m.

7. BUSINESS ITEMS

A. Adoption of Ordinance No. 005-14, Amending POMC 16.08, Definition, and 16.20, Property-Specific Designation – Overlay Districts, Relating to the Downtown Overlay District

Development Director Bond presented the staff report, noting under direction from the City Council, the Planning Commission has evaluated the current Downtown Overlay District (DOD) allowed uses and has formed a recommendation for action. The Planning Commission formed this recommendation after conducting a public review process.

In response to Councilmember Chang, Development Director Bond said generally the uses are the same as before. Some uses were considered objectionable and they were studied. Ultimately the Planning Commission decided not to further restrict those and worked on closing the loopholes for all of the uses that are supposed to be on the second floor.

In response to Councilmember Clauson, Development Director Bond said the clause for parking lots and structures on Bay Street has not changed.

In response to Councilmember Childs, Development Director Bond said the Planning Commission did review the POMC 16.08 changes.

In response to Councilmember Childs, Development Director Bond said banks are allowed on Bay Street under one of the SIC categories for services.

In response to Councilmember Chang, Development Director Bond would have to review the code and design guidelines before making a determination if an ATM could be installed.

In response to Councilmember Ashby, Development Director Bond said it applies to the Central DOD, on or off Bay Street.

Councilmember Putaansuu MOVED and Councilmember Chang seconded the motion to adopt Ordinance 005-14, Amending POMC 16.08, Definition, and 16.20, Property-Specific Designation – Overlay Districts, Relating to the Downtown Overlay District. Upon vote, the motion passed unanimously.

B. Adoption of Ordinance No. 006-14, Amending POMC Chapter 16.30 General Land Use Requirements – Tables, by creating a new Business Professional II Zone to Allow Additional Specific Uses in Certain Areas of the City
Development Director Bond presented the staff report, noting under direction from the City Council, the Planning Commission has studied challenges associated with the strict nature of the Business Professional Zone along the Sidney Ave corridor, which were perceived to be contributing to high vacancy rates in existing commercial buildings. The Planning Commission studied the issue and worked to develop a recommendation after conducting a public review process. In general, the recommendation of the Planning Commission is to create a BP-II zone and to rename the existing Business Professional zone as BP-I. The BP-II zone would allow for a greater variety of uses than the BP-I zone, though fewer than what would be allowed in the Commercial zone. The Planning Commission felt that the Sidney corridor was different in character that the Tremont corridor or the areas zoned BP near the County government campus and would benefit from changes to the development regulations. The Planning Commission’s recommendations were discussed at the Council’s April Work Study session.

Councilmember Putaansuu disclosed that his wife rents a building from the person who has requested this zoning change, and inquired if anyone perceived a conflict with his voting on the matter. There were no objections.

Councilmember Ashby MOVED and Councilmember Chang seconded the motion to approve Ordinance 006-14 amending POMC Chapter 16.30, General Land Use Requirements - Tables, by creating a new Business Professional II zone to allow additional specific uses in certain areas of the City.

In response to Councilmember Ashby, Development Director Bond said the idea was to restrict the types of restaurant locations that have multiple locations or are franchise chain type of businesses, but to allow small local businesses to be permitted. The Planning Commission wanted that restriction, it was not staff advocating for that restriction.

Councilmember Putaansuu agrees with Councilmember Ashby. He thinks the square footage is a good idea, and the drive through aspect, but what is wrong with having a Subway, for example. Councilmember Cartwright agreed.

Councilmember Childs said franchise restaurants are more like commercial, and there are existing commercial zones. Business Professional is the smaller eatery that is mixed in with the offices.

Councilmember Ashby directed the Council to see what a small area the Business Professional area is in. There is a lot for sale within that area that could easily house an eating establishment. She does not want to limit it to a non-franchise. That is not healthy to put that limitation on businesses in the City. She agreed with the square footage and the drive thru aspect.

In response to Councilmember Chang, Development Director Bond said a 1000-ft notice was sent out to the surrounding property owners of the proposed change.
Councilmember Lucarelli worked on this originally, and the thought was that franchise restaurants have neon and signage. They were trying to allow local restaurants and delis to have the opportunity to be in the midst of it. The franchise restaurants would be allowed in the commercial zone, and it had a lot to do with traffic, lighting, and the drive up.

Councilmember Putaansuu thinks it is an unfair characteristic of franchises. Subways are local people who own that franchise and operate the business. He would support the change to not block the franchises in the area.

Councilmember Putaansuu MOVED and Councilmember Clauson seconded the motion to strike the words “and franchise outlets” from No. 9 in the footnotes from Table 16.30.100. Upon vote, the motion passed with six affirmative votes and one dissenting vote. Councilmember Childs cast the dissenting vote.

Upon vote, the main motion passed, as amended with six affirmative votes and one dissenting vote. Councilmember Childs cast the dissenting vote.

C. First Reading of Ordinance No. 007-14, Amending the 2014 Budget

City Treasurer Martin presented the staff report, noting The City Budget is written to capture revenue and expense over the fiscal year. During the year, changes to the Budget in both revenue and expenditures need to be recognized by Budget Amendment. This Budget Amendment Ordinance recognizes amendments approved by Council action during the first half of the year.

The Budget Amendment Ordinance reflects the following:
1. $6,956 from Current Expense Fund 001 to Cumulative Reserve for Equipment Replacement Fund No. 303 for future acquisition of a new vehicle.
2. $30,000 from Cumulative Reserve for Equipment Replacement Fund No. 303 for a 15 passenger 2014 Chevrolet Express Van.
3. $7,500 from Street Fund 002 for signal reserve contract payment to Kitsap County.
4. $18,000 from Street Capital Projects Fund No. 304 for Universal Field Services.
5. $1,593 from Street Fund No. 002, $2,371 from Water Sewer Fund 401 (Water), $2,371 from Water Sewer Fund 401 (Sewer), and $1,062 from Storm Drainage Fund 421, $7,397 to Current Expense Fund 001 to properly allocate work station cost between the various Funds using the City’s Indirect Cost Allocation plan.
6. $13,200 from Water/Sewer Fund No. 401 for hydrological professional services.
7. $82,200 for additional expenses for McCormick Village Park improvements. First from proceeds of timber sales Current Expense Fund No. 001 $31,800 and the remaining $50,400 from the McCormick Woods Park Restricted account Impact Fee Fund No. 111 funds to be transferred to Cumulative Reserve for Municipal Facilities Fund No. 302.
8. $2,000 adjustment between the Municipal Court budget (misc) to Information Technology budget (supplies) for acquisition of an additional part-time employee work station.

In response to Councilmember Ashby, City Treasurer Martin and Public Works Director Dorsey further discussed the signal reserve contract payment to Kitsap County.

Councilmember Clauson MOVED and Councilmember Lucarelli seconded the motion to accept the first reading of Ordinance No. 007-14, amending the 2014 Budget for the City of Port Orchard and to direct staff to place Ordinance No. 007-14 on the May 27, 2014 agenda for second reading and final adoption. Upon vote, the motion passed unanimously.

D. Adoption of Ordinance No. 008-14, Amending POMC Title 1 by Adding a New Chapter for a City Flag Policy

This business was pulled and moved to the May 27, 2014, City Council meeting for consideration.

E. Adoption of Ordinance No. 009-14, Amending Ordinance No. 689 by Extending the Term of the Current Franchise Agreement with Cascade Natural Gas

City Attorney Jacoby presented the staff report, noting the City entered into a franchise agreement with Cascade Natural Gas Corporation in 1962, allowing Cascade to provide natural gas and natural gas services to the citizens of Port Orchard using City owned right-of-ways. The current agreement expires on May 18, 2014. The City and Cascade have negotiated a new agreement, which is ready for adoption by the City. However, statutory law governing the adoption of an ordinance establishing a franchise requires two readings of the ordinance prior to adoption. Thus, the ordinance creating the new franchise agreement cannot be adopted until the council meeting of May 27, 2014.

In order to avoid a gap in coverage, an amendment to the ordinance establishing the current franchise agreement (Ordinance No. 689) needs to be adopted, which will extend the term of the current franchise until such time that the new ordinance may be adopted.

In response to Councilmember Childs, City Attorney Jacoby said the tax is the payment to the City for the use of the right-of-way.

Discussions were held regarding the overhead expenses of the utility company and their ability to list out the franchise fee on their bill as a tax and pass it onto the consumer.

In response to Councilmember Lucarelli, City Attorney Jacoby said the City has the ability to raise the franchise fee because it is our right-of-ways, and we can decide it is more valuable than two percent. It is a fee to use the City’s right-of-ways.
In response to Councilmember Chang, City Attorney Jacoby said if a new agreement were not signed before the two-month extension expired, Cascade Natural Gas would continue to collect the two percent, presuming a new agreement was forthcoming.

Councilmember Putaansuu MOVED and Councilmember Lucarelli seconded the motion to adopt Ordinance No. 009-14, thereby amending Ordinance No. 689 by extending the term of the current franchise agreement with Cascade Natural Gas Corporation and allowing time for the new franchise agreement to be adopted. Upon vote, the motion passed unanimously.

F. First Reading of Ordinance No. 010-14, Establishing a Franchise Agreement with Cascade Natural Gas

City Attorney Jacoby presented the staff report, noting the City entered into a franchise agreement with Cascade Natural Gas Corporation in 1962, allowing Cascade to provide natural gas and natural gas services to the citizens of Port Orchard using City owned rights of way. That franchise agreement expires in May of 2014. A new franchise agreement will need to be adopted in order to allow Cascade to continue operating within the City of Port Orchard. Changes to the franchise agreement would include a step-up in excise tax revenue for the City (currently set at 2%, to increase to 4% after two years and then to 6% after an additional two years), an initial term of ten years with automatic five year renewals unless cancelled by either party, and monthly payments of excise tax revenue as opposed to annual payments. The franchise agreement is necessary because Cascade must use City owned right-of-ways to provide natural gas and natural gas services. By statute, franchise agreements require two readings. Therefore, the action item for tonight is to approve the first reading of the franchise ordinance. The ordinance will be placed on the Council’s May 27th agenda for final approval, unless Council directs otherwise.

Councilmember Clauson does not remember the discussion of leaving the fee at two percent for the first two years.

Councilmember Chang did not feel there was a consensus at Work Study.

Councilmember Cartwright agrees, and there was discussion of allocating the funds collected to go towards a certain project.

Councilmember Lucarelli MOVED and Councilmember Putaansuu seconded the motion to approve the first reading of Ordinance No. 010-14, thereby establishing a new franchise agreement with Cascade Natural Gas Corporation allowing Cascade to provide natural gas and natural gas services to the citizens of the City of Port Orchard using City rights of way.

Councilmember Lucarelli agreed that the money was not to be rolled into the General Fund. They were talking about having designated funds for street repair.
Councilmember Putaansuu said that statement was made, but the rebuttal was that the project that was most needed was the pavement management system. He feels they should not be binding future councils. There was no consensus to a designated fund. He believes additional revenues should go to the streets.

Councilmember Clauson thought there was consensus on that is where they were going with it. It is two separate issues, one if they have to increase the franchise fee, and subsequently they would have to designate those funds for a purpose. But he does not know that they can bind future councils with that, but it could be their intent and a new council could change that in the future.

City Attorney Jacoby said the time for the increase could be easily changed; however, the annual budget process is the appropriate time to designate how the new revenues would be used.

Councilmember Chang finds that unacceptable. He wants this additional revenue to be identified and kept in a separate account, at least tracked separately, so it could be discussed annually. He would agree to raise it if they had that mechanism in place identifying what they would do with the additional revenues.

Councilmember Clauson said it would be tracked separately; it would be a separate line item.

City Treasurer Martin said that these are General Fund revenues. A column talks about franchise tax, and is part of the revenue sources hearing. It would be appropriate at that point for the Council to have the estimate of the future year and earmark it for transportation at that time.

Councilmember Cartwright believes that the Council can bind this Council for the term that they are together. If they want to set the mechanism up to have this reviewed after new elections, then it would satisfy that encumbrance. He said he would not vote for this tax unless he can tell the constituents where the money is going. He does not hear that it is going to be designated for something. And then not collecting it for another two years does not make sense if the funds are needed now.

Councilmember Clauson said this Council could only deal with what they have control of. In future councils the majority may change and they could take the fund and do something else with it. You cannot bind future councils.

Councilmember Ashby has not heard the need described as to why they are raising the fee. She wants to know that the City needs the money.
Councilmember Putaansuu said during the last budget process they identified a number of street issues, and one in particular was the pavement management system. If the fee was raised to six percent, then they could afford that system.

Councilmember Chang believes a resolution could be drafted stating their intent.

Councilmember Putaansuu MOVED and Councilmember Clauson seconded the motion to amend the agreement to state that as of January 1, 2015, we will raise the tax from two percent to four percent, and on January 1, 2017, to raise the tax from four percent to six percent; additionally, the Council directs staff to draft a resolution stating the Councils intent that this increase in the franchise fee is intended to fund street repairs, street related activities, and pavement management system that comes back at the second reading to be adopted at that time.

In response to Councilmember Lucarelli, City Treasurer Martin said the two percent per year amounts to $60,000.

Councilmember Childs does not agree with everything that is being said. He wonders if we need the money. He is not in favor of raising taxes and fees on citizens. Lately there have been some projects that have gone through, and the city is not spending funds in a solid way.

Discussion was held regarding the desperate need to repair the City's streets.

In response to Councilmember Ashby, City Attorney Jacoby said Section 12 was new, even though it was not redlined.

Upon vote, the motion to amend the agreement passed with six affirmative votes and one dissenting vote. Councilmember Childs cast the dissenting vote.

Upon vote, the main motion passed, as amended with six affirmative votes and one dissenting vote. Councilmember Childs cast the dissenting vote.

G. Adoption of Resolution No. 011-14 Confirming Mayoral Appointment to the Planning Commission

City Clerk Rinearson presented the staff report, noting Ms. Tadina Crouch, former member of the Planning Commission, has resigned her seat on the Commission, thereby creating a vacancy for her unexpired term. Mayor Matthes has selected Mr. Nick Whittleton to fill the unexpired term and seeks Council confirmation of said appointment.
Councilmember Childs said he is not sure he sees Mr. Whittleton as the person who should be on the commission, because it is important to be able to interact and use your verbal skills and ability to compromise and work with people.

In response to Councilmember Cartwright, Mayor Matthes said he recruited candidates for the Planning Commission late last year, and had a reserve pool of interested citizens who would like to serve on the Planning Commission. Mr. Whittleton was one of the individuals in this pool of applicants. Mayor Matthes said he intends to do another call for applications in the near future, since he will be down to one applicant if Mr. Whittleton is confirmed.

Councilmember Chang asked the City Clerk to email a sheet of the various boards and commissions, their terms, and how they are selected. Councilmember Chang said the Planning Commission reports to the Mayor, and the Mayor selects whomever he wants for the position, but each board is slightly different.

City Attorney Jacoby said the Mayor is the appointing authority, and the Council confirms for the Planning Commission.

In response to Councilmember Lucarelli, Mayor Matthes said a notice was in the newspaper back in December when he was filling a vacancy on the Planning Commission. He also commented there is no protocol for him to follow in appointing planning commissioners, but he will continue to recruit for applicants by posting notices in the paper and on the website.

Councilmember Chang noted that there is a link on the City’s website for the application, and people can apply at any time. He also said do not give up, because it took him three tries before he was appointed.

Councilmember Childs knows of someone who is interested in serving on the Planning Commission, and thinks that some time should be given to allow others to apply.

Mayor Matthes is not going to hold up filling the vacant position, because it takes five planning commissioners to have a quorum, and they have important work ahead of them that cannot afford a delay due to a lack of a quorum. Time is of the essence for this appointment.

Development Director Bond also noted that he has heard there may be another vacancy coming up soon, so there will be other opportunities for people to apply to be on the Planning Commission.

Councilmember Ashby spoke highly of Mr. Whittleton. He attends all of the Council meetings and work study sessions. He is very prepared and interested in the City. She has no hesitation in appointing him to the Planning Commission.
Councilmember Chang also noted that Mr. Whittleton lives in the City, which is a very important factor for him.

Councilmember Asbhy MOVED and Councilmember Chang seconded the motion to adopt Resolution No. 011-14, confirming the Mayoral appointment of Nick Whittleton to the Planning Commission to fill an unexpired term ending December 31, 2016. Upon vote, the motion passed with five affirmative votes and two dissenting votes. Councilmembers Childs and Lucarelli cast the dissenting votes.

H. Adoption of Resolution No. 012-14, Approving the City of Port Orchard 2016 Comprehensive Plan Update Public Participation Program

Development Director Bond presented the staff report, noting per RCW 36.70A.140, the City is required to establish and broadly disseminate to the public a public participation plan identifying procedures for early and continuous public participation in the development and amendment of comprehensive land use plans. The provided Public Participation Program has been developed for the City of Port Orchard 2016 Comprehensive Plan Update. On April 21, 2014, the Planning Commission conducted a public hearing and then passed Resolution No. 004-14, recommending approval of the Public Participation Program presented tonight.

Councilmember Chang MOVED and Councilmember Putaansuu seconded the motion to approve Resolution 012-14, thereby approving the adoption and use of the City of Port Orchard 2016 Comprehensive Plan Update – Public Participation Program. Upon vote, the motion passed unanimously.

I. Approval of Contract No. 051-14, Authorizing the Mayor to Execute an Agreement with Parametrix for the 2014 Bethel Avenue Grind-Out and HMA Design and Construction Support

Public Works Director Dorsey presented the staff report, noting on March 25, 2014, the City of Port Orchard’s Public Works Department issued a Request for Qualifications (RFQ) for the 2014 Bethel Avenue Grind-out and HMA Design, Bid-Support and Construction Administration Services to six (6) local consulting firms using the 2014 City of Port Orchard/MRSC Professional Services Roster. By the April 4, 2014 RFQ deadline, only one (1) RFQ was received, that being a team-submittal by Parametrix Engineering and NL Olson & Associates, Inc. Staff strongly believes that the lack of RFQ response for this project was due to the common understanding amongst local consultants that both Parametrix and NL Olson & Associates, Inc. possess significant intellectual data for the Bethel Corridor, which provides for a qualifications advantage. Therefore, understanding and accepting the RFQ response for the project, staff met with the Parametrix/Olson team to established and clarify project scope expectation. Upon subsequent receipt of the Scope of Work/Fee Proposal for the project, it was determined by staff that scope & budget
reductions would be necessary to maintain Budget integrity, as well as establishing a shift in the construction administrative responsibility to the City. Evening work will be required for portions of the project. A revised Scope of Work/Fee Proposal was then provided to the City in the amount not to exceed $62,063.

The current PS&E parameters for the project include segregation of work into separate schedules, which will allow the City to award any or all work schedules within 2014, or carry-over into 2015. Additionally, the project Scope includes public outreach assistance as part of the Traffic Control Plan development, whereby through business operation considerations are included with the through traffic considerations. Finally, the Public Works Department has confirmed 1) that the professional services acquisition process was followed and 2) that the project proposal is funded within the City Street Fund of the approved 2014 Budget.

Councilmember Cartwright disclosed that his ex-wife works for Parametrix, and inquired if anyone perceived a conflict with his voting on the matter. There were no objections.

Discussion was held regarding the budget for Bethel and other projects in the City.

Councilmember Putaansuu MOVED and Councilmember Clauson seconded the motion to authorize the Mayor to execute Contract No. 051-14 with Parametrix Engineering in an amount not to exceed $62,063 for the 2014 Bethel Avenue Grind-out and HMA Design, Bid-Support and (limited) Construction Administration Services. Upon vote, the motion passed unanimously.

J. Approval of Partnership with the Port Orchard Bay Street Association for the Hanging Baskets on the Downtown Marquee

City Treasurer Martin presented the staff report, noting at the April 22, 2014, City Council meeting a discussion was held regarding a partnership with the Port Orchard Bay Street Association (POBSA) for financial assistance from the City to fertilize the hanging baskets on the downtown marquee. The City Attorney asked for this item to be tabled to the May 13, 2014, to allow time for staff to determine if this would be a gift of public funds and which fund could be used for this expenditure.

The City may contribute toward the fertilizing of downtown baskets through the POBSA. As long as the City is receiving a public benefit from the baskets, it is not a gift of public funds. It would require an agreement between the POBSA and the City that stated the City was receiving a benefit in relationship to the payment. The benefit could be beautification improvements enhancing our economic development efforts or providing public space improvements that bring customers to a shopping area thereby generating more sales tax.
The expense should come out of the general fund, and would not be supported by lodging tax dollars. Generally speaking, general fund money may be spent on any public expense that benefits the public.

Should Council vote to approve the motion staff recommends drafting an agreement with POBSA laying out the public purposes and presenting it to Council for ratification prior to any payment for hanging basket services.

City Attorney Jacoby said if the City were to hire a third party to water and fertilize the baskets, we would have to pay prevailing wage. The prevailing wage laws say if you give money to a third party and ask them to provide that service, they are the City’s agent, so they are going to have to pay prevailing wage. This conversation needs to be had with POBSA. If we give them money for this specific purpose, they are going to have to ask the company that they use to pay prevailing wages to their employees.

Public Works Director said that $2,000 would not cover the cost if it were required to be at prevailing wage rates.

City Attorney Jacoby said that staff could work with POBSA to have this money be designated for the purchase of the baskets as an alternative to using the money for fertilizing the baskets.

Councilmember Ashby said POBSA purchased the hanging baskets, and will be reimbursed with LTAC money. LTAC would not be eligible for fertilizing the baskets. Paying for the baskets does not help them. They might be able to use the LTAC funds for something else though.

This matter was continued from the April 22, 2014, Council meeting to tonight’s meeting. The motion on the floor is:

**Councilmember Clauson MOVED and Councilmember Putaansuu seconded that the City pay the $2000 fee for the hanging baskets in the downtown area.**

**Councilmember Clauson MOVED and Councilmember Putaansuu seconded the motion to amend the original motion that the Council is agreeing to contribute $2,000 to POBSA for acquisition of hanging baskets or services associated with hanging baskets and to have staff come back to the Council with an agreement for Council's approval.**

In response to Councilmember Chang, Public Works Director did not have a figure for what prevailing wage would be for fertilizing flower baskets. It will be more than minimum wage.

In response to Councilmember Childs, Councilmember Clauson said POBSA asked for funding for fertilizing the hanging baskets, which we cannot do unless they pay prevailing
wages, which would raise their cost substantially. An alternative is we could reimburse them $2,000 towards the purchase of the hanging basket, which is a legitimate non-prevailing wage issue. They then would take the money they were reimbursed for and use it to pay for the fertilizing.

Councilmember Putaansuu said it might be acceptable to POBSA to pay prevailing wages; it may not even be that much more.

Discussion was held regarding the cost of the baskets and the original request of POBSA.

**Upon vote, the motion to amend passed with six affirmative votes and one dissenting vote. Councilmember Childs cast the dissenting vote.**

**Upon vote, the main motion passed, as amended with six affirmative votes and one dissenting vote. Councilmember Childs cast the dissenting vote.**

K. Approval of April 17, 2014, Ad Hoc Committee Meeting Minutes

Councilmember Chang read the draft minutes, and felt they included a lot of additional information that did not take place during the meeting that he attended. He recommends approving the version of the minutes reflecting what is on the tape for that meeting. So he would be striking out the highlighted portion on the revised copy of the minutes.

**Councilmember Chang MOVED and Councilmember Childs seconded the motion to approve the revised minutes for the committee.**

Councilmember Clauson disagreed with Councilmember Chang in the sense that he appreciates the fact that the discussion may have taken place before Councilmember Chang arrived, but he said this discussion did take place with the attorney in regards to this specific issue of a quorum in attendance.

Councilmember Chang cannot ratify something he did not hear.

Councilmember Clauson said there were discussions that took place, even though they are not captured in the minutes, before the Mayor showed up with the tape recorder. The essence of the meeting was captured.

Councilmember Chang said he was not the last person to arrive at the meeting, so he knows that Councilmember Childs probably did not hear this discussion either.

Councilmember Childs asked how many councilmembers listened to the tape who were not at the meeting. Councilmember Ashby indicated she listened to the tape.
Councilmembers Putaansuu and Cartwright did not listen to the tape and will be abstaining from the vote.

Mayor Matthes asked City Attorney Jacoby his thoughts on an informational document he received from AWC that stated Councilmembers not in attendance could still vote on the minutes.

City Attorney Jacoby said absent councilmembers could listen to the tape of a meeting and then vote on the matter or the minutes. For those who do not listen to the audio or watch the video, it is appropriate for them to abstain from voting.

Councilmember Cartwright said that if he were to miss a meeting, he would take the opportunity knowing that it was a duly noticed, regular meeting where business was going to be conducted. This was not something he would go and look at the tape. This is something he would trust the subcommittee would take care of business and he would read the minutes to see if there is anything that would pique his interest for follow up or review. He will not be voting.

Councilmember Lucarelli does not recall when the highlighted portion of the amended minutes happened. She remembered the emails that were sent out earlier. The Council did not find out about the confusion until later.

Councilmember Clauson said the issue was discussed as soon as Mr. Childs showed up in the room.

Councilmember Chang said the issue was not discussed at that point, because he was in the room at that time and they did not discuss it.

Councilmember Clauson said he specifically asked the City Attorney, because there was a discussion between the City Attorney, the City Clerk, and himself earlier in the day about Mr. Childs, whether he was going to be there or not, whether it needed to be posted. His understanding, inappropriately, from the previous meeting when they talked about scheduling that meeting was that Mr. Childs was not going to be there. So when he showed up, it was “whoa, wait a minute, we have a quorum”. That is when he asked the City Attorney the issue and that is when this took place. His advice to us at this point was that it had been noticed properly as a special meeting.

Councilmember Lucarelli said she remembered that.

Councilmember Ashby said while she did listen to the meeting that was on the tape, she will be abstaining, because this particular issue was not discussed on the tape.

Councilmember Chang said some members did not hear it, even though they were present.
Upon vote, Councilmembers Chang and Childs cast the affirmative votes, Councilmembers Clauson and Lucarelli cast the dissenting votes, and Councilmembers Ashby, Cartwright, and Putaansuu abstained from the vote.

City Attorney Jacoby said the motion fails and we don’t count the abstinents, it is 2-2. He asked if there was a new motion.

Councilmember Clauson MOVED and Councilmember Lucarelli seconded the motion to approve the minutes as originally presented and not amended.

City Attorney Jacoby said to Mayor Matthes that if it is a tie, he is permitted to break the tie since this does not involve a resolution or an ordinance.

Mayor Matthes said he attended, and he did not hear any of this discussion either, so he will vote in favor of the amended document.

Councilmember Lucarelli questioned if the Mayor could do that.

Mayor Matthes said he can vote on the first motion, he believes.

Councilmember Chang and Childs asked the City Attorney if he could have voted on the first motion.

City Attorney Jacoby apologized and said the motion that was made to approve the minutes as revised was tied 2-2. He should have spoken up right away and said the Mayor is authorized to break that tie on the motion to approve the minutes as revised. That is the proper procedure; the Mayor is authorized to break that tie.

Mayor Matthes’ vote is to accept the revised minutes. City Attorney Jacoby said the motion is approved 3-2. Voting in favor is Councilmembers Chang and Childs and Mayor Matthes.

L. Approval of Mayoral Appointments to the Lodging Tax Advisory Committee

Mayor Matthes stated that he has not changed his recommendation, because the agencies he has recommended are the ones that put forth the greatest efforts in promoting the City and putting heads in beds. He recommends the following organizations/businesses to serve on the LTAC, upon Council’s acceptance:

A business required to collect the tax:
- Comfort Inn;
- Days Inn;
- Cedar Cove Inn; and
Mrs. Howe’s Bed and Breakfast.

An organization involved in activities:
- Fathoms O’ Fun;
- Port Orchard Chamber of Commerce;
- Saints Car Club; and
- Port Orchard Bay Street Association.

Councilmember Clauson said he is voting for this motion, because five Councilmembers had recommended Visit Kitsap be on the committee.

Councilmember Chang MOVED and Councilmember Clauson seconded the motion to approve most of the Mayor’s appointment of a representative for the Comfort Inn, Days Inn, Cedar Cove Inn, and Mrs. Howe’s Bed and Breakfast as businesses required to collect the tax; and Visit Kitsap, Saints Car Club, Fathoms O’ Fun, and Port Orchard Bay Street organizations involved in activities to serve on the Lodging Tax Advisory Committee. Upon vote, the motion passed with six affirmative votes and one dissenting vote. Councilmember Ashby cast the dissenting vote.

8. COMMITTEE REPORTS

Councilmember Clauson said the next Finance Committee meeting is June 6.

Councilmember Ashby reported the Economic Development/Tourism committee met May 12. Discussion highlights included wayfinding system update; centers amendment; transportation funding for Tremont, the pedestrian path, and the Bethel Corridor of which needs to have a work study dedicated to this topic. The next meeting will be June 9 in the Council Chambers.

Councilmember Putaansuu reported the next Utility Committee meeting is this Friday morning, and the Sewer Advisory Committee meets next Wednesday evening at the sewer plant.

Councilmember Chang reported the Public Properties Committee met May 12. Discussion highlights included sidewalk tables on Bay Street; DVD Kiosk; sidewalk repair; South Park and Lundberg Park; and fireworks stands in the City. The next meeting will be on June 9 in the Council Chambers.

Councilmember Childs reported the quarterly KEDA Board meeting is Thursday. He reported on the Homebuilders meeting where Stephen O’Connor from the UW Runstad Center for Real Estate studies talked about the state of the home situation in the county. He said we could be at the top of the recovery, and we could go back down again.
Councilmember Ashby reported on PSRC's Growth Management Policy Board meeting on May 1. Meeting highlights included the four counties giving presentations on having reached their target planning goals for Vision 2040. King County was very successful, because they have regional centers and their planning revolves around connecting their centers. The other three counties were lagging behind.

Councilmember Ashby reported on PSRC's Transportation Policy Board meeting on May 8. Meeting highlights included an update from Sound Transit on their long-range plan, and a presentation on the regional asset management. PSRC is trying to come up with a common evaluation method that would be used regionally. She also attended the KRCC Transportation Policy Board meeting. They heard presentations of 20 projects for the 2015-2017 funding cycle. Port Orchard is not eligible for any of the regional funds, only the countywide funds. She reviewed the available funding and funding types. It is very important to have a long-range plan in place and know what projects could be eligible for federalization and what financial commitment the City is willing to make. Discussion was held regarding the comprehensive plan and centers.

9. MAYOR’S REPORT

Mayor Matthes reported:

- KRCC Housing Advisory Team meeting took a tour of tiny homes and very tiny homes, which could be used for transitional housing and homeless shelters.
- Housing Kitsap is in the process of finding a new Executive Director.
- Pancake Breakfast on Sunday, May 25 at Amy’s.

10. REPORT OF DEPARTMENT DIRECTORS

Public Works Director Dorsey reminded the Council and the public that the groundbreaking ceremony for the McCormick Village Park will be tomorrow at 3:00 p.m.

Public Works Director Dorsey gave an update on the Bay Street Pedestrian Pathway project and detailed the status of the approvals and permits that are required for the project. In regards to the pre-cursor contract work being done by Universal Field Services, they have completed the assessments of the five overwater homes, and they are scheduling appointments to do the follow-up offer summaries, which are informal and not official at this point. He hopes to come back next month and present the findings to the Council in order to get a decision on how the City will move forward on this project. In regards to Segments 6 and 7, the project went through the shoreline process as self-mitigating. Segment 1 has the old boardwalk and it has quite a bit of shading. By reconstructing Segment 1, it counteracts for those portions that will be overwater in Segments 6 and 7.

Councilmember Chang MOVED and Councilmember Childs seconded the motion to extend the meeting by 30 minutes. Upon vote, the motion passed.
with six affirmative votes and one dissenting vote. Councilmember Putaansuu cast the dissenting vote.

Development Director Bond announced June 5 is the Joint Council-Planning Commission meeting at 7:00 p.m. in the Council Chambers, and the survey that is up for the Comprehensive Plan Update is up on the website until Friday.

City Clerk Rinearson reported the Clerk’s Office is working on the official newspaper designation contract, a telephone services RFP, and the City’s Facebook page has 435 likes.

11. CITIZENS COMMENTS

Mr. Nick Whittleton thanked the Mayor and the Council for their support in appointing him to the Planning Commission. He looks forward to providing a different voice.

Mayor Matthes truly thinks he will be an asset and thanked him for volunteering his time. It is a thankless job, but it is rewarding. He has noted that Mr. Whittleton has attended many of the Council meetings, and that he does his homework on the issues. This will allow him to hit the ground running when joining the Planning Commission.

At 10:05 p.m. a five-minute break was held.

12. EXECUTIVE SESSION

At 10:10 p.m., Mayor Matthes recessed the meeting for a 15-minute executive session regarding real estate in accordance with RCW 42.30.110(B). City Attorney Jacoby and Development Director Bond were invited to attend and the Mayor announced that no action would be taken because of the executive session.

At 10:25 p.m., Mayor reconvened Council back into regular session.

13. ADJOURNMENT

At 10:25 p.m., Mayor Matthes adjourned the meeting.

Signed: Brandy Rinearson, CMC, City Clerk

Timothy C. Matthes, Mayor