City of Port Orchard
Council Meeting Minutes
Regular Meeting of August 26, 2014

1. CALL TO ORDER AND ROLL CALL

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

Absent: Councilmembers Ashby and Lucarelli

A. Pledge of Allegiance

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

2. CITIZENS COMMENT

Mrs. Elissa Whittleton said she attended the Finance Committee meeting at the Pancake House, and it was a loud atmosphere. That kind of noise would not be allowed at a Council meeting, and she would like all Council committee meetings to be held at City Hall. She thanked Councilmember Childs for requesting more facts on the Springbrook HR module. She wanted to know why an egg timer was not purchased for the public comment period, and instead a couple of thousand dollars were spent on this new system.

Ms. Gerry Harmon said she wants the City to provide programs similar to the ones that other jurisdictions are doing to get the community involved in rain gardens.

Mr. Don Ryan said in regards to the public event application for the Ford & Harley Show no one had contacted him or the POBSA businesses to let them know the event was going to be held. He said the merchants are in support of festivals, but they oppose closing Harrison. Taking up the parking does affect the merchants downtown. He asked the Council if they would be interested in using the parking space on Bay Street in front of the roll-up garage door of the Port Orchard Market as a place to install a bike rack. He said the market is experiencing a lot of bicycle traffic, and there is not enough room on the sidewalk to install a bike rack.

Councilmember Cartwright said this issue would be added to the Public Properties Committee agenda.
3. APPROVAL OF AGENDA

Councilmember Cartwright MOVED and Councilmember Chang seconded the motion to add Consent Agenda 4K excusing Councilmembers Ashby and Lucarelli from tonight’s meeting. *Upon vote, the motion passed unanimously.*

Councilmember Childs MOVED and Councilmember Putaansuu seconded the motion to move Consent Agenda 4D to Business Item 7C. *Upon vote, the motion passed unanimously.*

Councilmember Clauson MOVED and Councilmember Cartwright seconded the motion approving the Agenda as amended. *Upon vote, the motion passed unanimously.*

4. APPROVAL OF CONSENT AGENDA
   A. Approval of Check Nos. 62446-62546 totaling $142,293.54
   B. Approval of Setting the September Work Study Session Date
   C. Approval of August 12, 2014 Council Meeting Minutes
   D. Adoption of a Resolution Establishing a Street/Alley Vacation Policy and Fees
   E. Approval of a Contract Authorizing the Mayor to Execute an Agreement with South Kitsap School District for School Resource Officer
   F. Approval of a Contract Authorizing the Mayor to Execute an Agreement with Pivetta Brothers Construction for 2014 Roadside Ditch Restoration of SR166 from City Limits to Port Orchard Boulevard
   G. Approval of a Contract Authorizing the Mayor to Execute an Agreement with NW Cascade Inc. for 2014 Storm Drainage Catch Basin and Pipe Maintenance
   H. Approval of a Contract Authorizing the Mayor to Execute an Agreement with Caseco Associates, Inc. for Annual Stormwater Pond Maintenance
   I. Approval of a Sales Order and a Contract Authorizing the Mayor to Execute an Agreement with Paladin Data Systems for the Purchase of SMARTGov Permitting Software
   J. Adoption of a Resolution Declaring Certain Personal Property as Surplus and Authorizing the Disposition of City Vehicles
   K. Excuse Councilmember Ashby and Councilmember Lucarelli from tonight’s Council meeting.

Councilmember Cartwright MOVED and Councilmember Childs seconded the motion approving the Consent Agenda. *Upon vote, the motion passed unanimously.*

5. PRESENTATION

A. Employee Recognition and Adoption of a Resolution
City Treasurer Martin read into the record a Resolution honoring retiring Assistant City Treasurer Monica Kay Haarstad for her 33 years of dedicated service to the City of Port Orchard.

Councilmember Clauson said the resolution did a great job of recognizing her characteristics of being very positive and very thorough. Her attention to detail is incredible. He had the honor of working with Monica for the years he has been here.

Councilmember Clauson MOVED and Councilmember Putaansuu seconded the motion to adopt a resolution honoring Assistant City Treasurer Monica Haarstad for 33 years of dedicated service to the City of Port Orchard. Upon vote, the motion passed unanimously.

B. Proclamation: Constitution Week

Mayor Matthes read the Constitution Week proclamation into the record.

6. PUBLIC HEARING

A. Public Hearing and Adoption of an Ordinance Amending POMC 13.06 Storm Drainage Utility

Public Works Director Dorsey presented the staff report, noting in 2012, the Public Works Department began the Stormwater GAP Analysis to review and identify areas in the Storm Drainage Utility where improvements were needed, and identify the appropriate rate structure to support these recommendations. This was presented to Council at the May 20, 2014 Work Study Session and brought back to the June 24, 2014 Council Meeting for direction to Staff to complete the GAP Analysis. At the June 24 meeting, Staff was directed to prepare the Ordinance for a rate increase of $14 per month per Impervious Surface Unit (ISU) with the understanding that the extra money above the recommended step increases would be applied toward a Capital Improvement Program. In 2015, this would dedicate $4.30 per ISU per month towards Capital Improvements, and in 2016, it would dedicate $0.80 per ISU per month. During the two-year period with the current number of ISU’s in the accounting system, this would collect about $603,309.60 for the Capital Improvement Program.

Mayor Matthes opened the Public Hearing at 7:19 p.m.

Ms. Marcia Stocking asked the Council to consider how the $7.00 increase affects citizens who live on retirement and do not receive COLAs. She said the ditch in front of her house at the corner of Tracy and Andy’s Place is the overflow ditch for the City water tower. She would like the City to start maintaining that ditch.
Mrs. Elissa Whittleton said by doubling the rate it puts a burden on the community, she prefers an incremental approach towards putting the City into compliance with unfunded mandate. She objects to the verbiage deletion under Item No. 4 in the draft ordinance. She does not believe business licenses should determine if a property is considered commercial. Impervious surfaces should be accounted for accordingly.

Mr. Gary Chrey spoke on behalf of Mr. Gil Michael and Mrs. Kathy Michael. He requested that the hearing be continued over until the September 23 Council meeting. They need time to review the proposed ordinance changes and provide a detailed response analysis. Their concern begins with the business license approach that is taken. There are 1,507 business licenses in the City of Port Orchard, and they believe a majority of those licenses are small business. It appears that it may have significant unintended consequences for the small business owners in the City of Port Orchard. The proposed ordinance refers to “developed property” including but not limited to the multi-family and commercial accounts. It is their understanding that the use of the term commercial accounts is going to be determined based upon the presence of a Port Orchard business license, rather than a standard such as the underlying zoning of the property.

Mr. John Sousa said he has been charged $7.00 a month for storm drains, and the nearest one is a quarter of a mile away. Rain goes down the hill and fills an empty lot below his property. When it is full, it floods over the street. He does not agree with raising the charge to $14.00 when he is not getting any service. He questioned why he is paying for storm drainage that does not exist.

Mr. Nick Whittleton said as per Ordinance 005-09, it states within 12 months of the effective date of the service charges, the utility shall determine the actual number of ISUs contained on multi-family and commercial properties. He read the definition of commercial. He said home businesses would be affected by those statements. All of the documents presented on this issue are lacking a key element: the number of ISUs that by City Ordinance should have been identified starting in 2010. The second change proposed to the Municipal Code is the removal of the 12-month time constraint. This is unacceptable and too easy to manipulate. He asked how the City can do a budget and determine a shortfall if the City has not done due diligence. Stormwater is an impervious surface problem regardless of the number bedrooms, bathrooms, and use of the property. If you have a 5,000 sq. ft. rambler, or a 5,000 sq. ft. office building, they produce the same amount of stormwater problem. He wants an incremental increase until such time that the City has addressed the issue of the total number of ISUs in the City.

Ms. Dana Harmon is concerned there are not discussions of other solutions to the stormwater problems. She wants programs similar to what is being offered by the Kitsap County Conservation District. They will reimburse a property owner up to $500 for installing a rain garden. Incentives should be developed into the plan to deal with this issue.
A resident of the City urged the Council to listen to the people who are speaking on this issue.

City Clerk Rinearson read into the record a statement from Ms. Bobby Stewart: “Have all of the home-based businesses been notified of the change from residential to commercial and what effect would it have down the road. This would be a big impact on all of the businesses”.

There being no further testimony, Mayor Matthes closed the Public Hearing at 7:43 p.m.

Councilmember Putaansuu moved and Councilmember Cartwright seconded the motion to authorize the Mayor to sign an Ordinance amending POMC 13.06 Storm Drainage Utility to be effective January 1, 2015.

Councilmember Putaansuu said he does not like the stormwater utility; but the City has an unfunded mandate by the State of Washington. When the utility was formed a few years ago, the City made a conscious effort to fund obtaining compliance with the State. The current fee pays for the sweeping the streets and cleaning the catch basins. The was discussed in depth at Work Study, and the Council thought increasing the rate incrementally was not the best approach, because no projects would get done. Raising the fee would raise $600,000 in the next year to address the things that are tangible to the citizens; i.e. fix flooding and enhance the stormwater system. He also noted that Item No. 4 was included when the City started utility. They were required to survey the commercial properties, and that has happened. He questioned how the rate increase would affect the home-based businesses.

Public Works Director Dorsey said the storm utility is based on impervious surface. The jump begins at 4-plex or larger. In regards to a home-based business, it will depend on if they have 3,000 sq. ft. or less, not whether they have a business license. There appears to be a misconception that the utility would take care of a property owner’s yard or help them build a rain garden. There has been an option in the code for property owners to install rain gardens or other low impact development systems. However, the stormwater utility program is not about fixing someone’s yard; it is about sweeping streets, cleaning catch basins, cleaning regional stormwater facilities, making capital improvements, education outreach, and identifying contamination sources. There are many programs tied into a regional system that takes care of the Puget Sound. By being a citizen, you have an impact on the Sinclair Inlet and the Puget Sound. It is not about your own backyard system. The fees are being used to help the Puget Sound.

In response to Councilmember Putaansuu, City Attorney Jacoby said the fine for non-compliance is $35,000 a day under the US Clean Water Act.
Public Works Director Dorsey said the capital improvement projects identified in the first initial program are projects like the Arnold Culvert that is collapsing, and we have a 16" sewer force main running right through the middle of it. If that fails, we have a catastrophe. Downtown flooding occurs anytime there are heavy rains and a high tide, and the City is looking at alternatives to a new collection conveyance system and potentially a turbine-pumped overflow system that allows water during a heavy rain/high tide events to get that water above the tide level. That is a major capital improvement project to protect the downtown businesses from flooding.

In response to Mayor Matthes, Public Works Director Dorsey said when he came to the City six years ago, he testified at a hearing where the Puget Sound Partners (PSP) were suing the Department of Ecology for not implementing the EPA NPDES program as quickly as they had thought. The EPA and PSP prevailed, and Ecology had to ramp up this unfunded federal mandate. So the NPDES Phase II Permit process was put into full effect, and small cities and counties were forced to create a stormwater utility. It was not an option. The City embarked on setting up the drainage utility and tried to comply with the requirements of the Phase II Permit. The next round of compliance in 2016 will jump significantly. These are not voluntary measures; they are required. That is what the gap analysis was for; to identify the utility where we needed to shore up our existing program and where we needed to prepare for what is coming down the line in 2016.

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In response to Councilmember Cartwright, Councilmember Putaansuu said the analysis of the ISUs between commercial and property was completed when the utility was formed.

In response to Councilmember Cartwright, Public Works Director Dorsey said the assumption is that once you go to a four-plex unit or greater, you are now over 3,000 sq. ft.. For tri-plexes and smaller, the assumption was that you were under the 3,000 sq. ft.. Once you got to a four-plex or larger, then the City had to go to each one of those individual parcels and verify the impervious surface. City Attorney Jacoby added that if you are a commercial account under 3,000 sq. ft., you are going to pay the minimum of $14, just like everybody else.

Councilmember Childs said he is not in favor of raising the rates, but he is also not in favor of being fined by the EPA. He said that we have to realize that these mandates that come against us come against all of us. He is not against delaying the decision to allow more time for review.
Councilmember Chang would like to continue the hearing to September 23 meeting. The Council has chosen to put its focus on trying to solve the problem. Do we want to do the bare minimum to avoid the fines, or do we want to try to solve some problems. We are all paying the fee, and no one will individually benefit from it. He would love it if citizens installed rain gardens on their properties, it might alleviate some of the stormwater, but it will not help with the larger streets that are creating a great deal of run-off.

Councilmember Clauson concurs with everything that has been said. This is an unfunded mandates that must be done. The City is trying to do the best it can. By increasing the rate, the City will be able to take care of a couple of the major problems that we experienced. The downtown flooding is one that has major impact.

Public Works Director Dorsey said not only do we have the storm drainage utility permit that we have to be within compliance, but the Department of Ecology, through the EPA, also established Sinclair Inlet with a “TMDL” or total maximum daily load. Once you have your main body of water that has been established with a TMDL, saying that the maximum fecal count that can go into the bay is now capped, and it is up to that upland jurisdiction to reduce those rates. This utility is not only dealing with the compliance of the permit, they are also dealing with the TMDL requirement as well. Sweeping streets and cleaning catch basins is a huge part of that, because most of the urban runoff is what is carrying that fecal matter into the bay.

Councilmember Clauson said he is worried the City will be required to treat the stormwater in the future. A stormwater treatment plant would be very expensive.

Councilmember Chang said he understands the point that is being raised about the business licenses. At Work Study last week, they discussed a specific business being a bed & breakfast, and how that would be affected by the stormwater.

City Attorney Jacoby said the code refers to commercial accounts. Commercial is clearly defined; it has nothing to do with business licenses. Business licenses are never mentioned in the definition. The definition is “all properties zoned or used for commercial, retail, industrial, or community purposes”. If you have an empty lot on Bay Street, and it is zoned commercial. It does not matter if you have a business license or not, it is subject to the commercial rate. If it is a 3,000 sq. ft. lot or smaller, that means you will pay the minimum. Councilmember Putaansuu clarified that is on impervious surface.

Public Works Director Dorsey said undeveloped lots are not assessed. The key is that it is a developed lot and that there is impervious surface, and the ISUs are based on the dividing by 3,000 sq. ft.

Councilmember Childs MOVED and Councilmember Clauson seconded the motion to continue this business item to the first meeting in October and to
ask that a public hearing be scheduled as part of that business item. Upon vote, the motion passed unanimously.

7. BUSINESS ITEMS

A. Approval of a Street Sweeper Purchase (Archer-Parsons)

Assistant City Engineer Archer-Parsons presented the staff report, noting during the past several months Public Works Staff have tested several street sweepers to determine which one would best serve the City's needs. In late July the decision was made that the TYMCO Street Sweeper would perform the best for the City’s needs. Staff has determined that a regenerative air street sweeper would help the City meet all requirements of the National Pollutant Discharge Elimination System (NPDES) Permit going forward and the TYMCO sweeper performed the best in this area. This sweeper will pick up the fine chemicals that are left behind after a vehicle brakes in addition to the leaves and other debris typically removed during sweeping. The opportunity was given that the purchase could be made thru joining the Houston-Galveston Area Council (H-GAC) since they have already done the formal bidding. The cost for this purchase, including shipping from Texas where the sweeper is manufactured, is $248,338.00.

Councilmember Clauson MOVED and Councilmember Putaansuu seconded the motion authorize the Mayor to purchase the TYMCO Regenerative Air Street Sweeper in an amount not to exceed $248,338.00 (plus applicable use tax), from the 2014 Storm Drainage Capital Outlay Fund. Upon vote, the motion passed unanimously.

B. Approval of Public Event Application: Ford & Harley Davidson Fest

City Clerk Rinearson presented the staff report, noting Allen Cowdrey, with USA Ford 4x4 Club, is requesting use of City parking lots and right-of-ways on Sunday, September 14, 2014, for the Ford & Harley Davidson Fest. This is an all Ford and Harley Davidson car, truck, and bike show. He is requesting to use the parking stalls at the downtown waterfront and marina park, and to close Harrison Avenue. The event is open to the public from 10:00am to 4:00pm, and vendors would be arriving around 9:00am. Staff has asked Mr. Cowdrey to contact all the businesses on Harrison Avenue who would be affected by the requested closure, and to provide Council with any letters or emails. Amy’s on the Bay submitted an email, which is attached for your review. City departments, the Fire Department, and Kitsap Transit have reviewed the application and have submitted their recommendation and/or comments. Staff is seeking direction from Council as to how they wish staff to move forward with the application as presented.

Public Works Director Dorsey said Harrison cannot be closed and parking in front of the Mentor building is private.
Councilmember Putaansuu is concerned that the applicant was directed to contact the local businesses, but POBSA knew nothing about the event, yet Amy’s on the Bay knew about it. He does not want to close all downtown parking; it will not benefit merchants. He wants the event to be limited to the parking next to the Marina Park.

Councilmember Childs would like to give it a go for a one-time try without restrictions because it is a new event.

Councilmember Cartwright agreed. He is not comfortable with closing streets, and he is unsure that the other businesses have not been contacted. He wanted the public to know that the public event application process has come up in the Public Properties Committee and they are trying to work through a process to make sure there is a clean policy in place that addresses these concerns moving forward. He would hate to cut their plan in half if they think they would need it.

Councilmember Chang does not know that their event should jeopardize all of the parking for the merchants that are open on Sunday.

In response to Councilmember Cartwright, Councilmember Chang said maybe the City should not allow the Mustangs and the Cruz to use all of the parking either.

Mr. Don Ryan said the merchants are not against the festivals. They want to stretch out the festival season to start earlier and end later. Parking is an issue. Those businesses need that parking lot every day to survive, and until we can figure out a solution that is an issue. He said the Cruz and Mustang car shows are very established events and they attract a huge amount of visitors. This is a first time event, so if it is kept on the marina gazebo side, then maybe they can build overtime throughout the years. The other events did not start with taking up the whole downtown.

Councilmember Childs said if they have a small event out the door, they may not do it again. They need to be allowed to make a big splash for their first event. He would like to afford them the opportunity to use the spaces that have been given to other events.

Mr. Ryan said the merchants would support it if the event organizers would throw in a shuttle from remote parking lots. Everybody is so use to being able to pull up in front of a store and shop. They do not want to walk a block. When we are in a festival situation in a tourist town, it is becoming an issue and they are learning how to address it.

Councilmember Clauson would like to have this event scale up. We should encourage the event organizer to keep the space used contained to once section, and expand as it fills up.

Councilmember Cartwright would like to make sure the other businesses are contacted so they are aware the event is going to happen.
Councilmember Chang cannot support the motion because he feels the application is incomplete, and a majority of the merchants have not been contacted.

Public Works Director Dorsey said the drive aisles for Frederick are typically left open and the four-hour parking spots are closed. The paid spaced by the marina gazebo would be posted in advanced.

Councilmember Cartwright proposed the drive behind the businesses and the private parking behind the businesses remain open, close the parking lot north of the drive through and the marina.

Councilmember Clauson clarified no street closures and no drive-aisle closures.

Councilmember Putaansuu clarified that the City will keep Frederick and Harrison open, and the drive aisle behind the market open also.

Councilmember Clauson recommended the aisle that is going from Frederick to Sidney (easterly) remain open, and close the rest of the lot. Sidney would remain open. The street between 110 and Feed would remain open along the water out on Sidney.

**Councilmember Childs MOVED and Councilmember Cartwright seconded the motion to approve the Public Event application from Peninsula USA Ford 4x4 Club and allow them to hold their event using City parking lots and right-of-ways, with no street closure. Upon vote, the motion passed with four affirmative votes and one dissenting vote. Councilmember Chang cast the dissenting vote.**

C. Adoption of a Resolution Establishing a Street/Alley Vacation Policy and Fees

City Clerk Rinearson presented the staff report, noting on July 22, 2014, a repeal of Resolution No. 1990 and an amendment to Chapter 12.08 POMC was necessary and appropriate in order to bring the City's street vacation laws and policy into compliance with state law. In addition, Council directed the Public Property committee to review the prior policy and fees and provide the Council with a recommendation.

It was determined, by the Public Property Committee, to strike out the section on the square foot valuation amount and the requirement of a cashier's check; with the remaining of the policy and fee Resolution be unchanged.

**Councilmember Childs MOVED and Councilmember Cartwright seconded the motion to a Resolution establishing street/alley vacation policy and fees. Upon vote, the motion passed unanimously.**
8. COMMITTEE REPORTS

Councilmember Clauson reported the Finance Committee discussed June sales tax receipts; REET distribution and the correction from the County Treasurer; cost of living adjustment; medical benefits advisory committee; and an HR module in Springbrook.

Councilmember Cartwright reported the next ED/Tourism Committee meeting is scheduled for September 8, 10:00 am, in the Council Chambers and the Public Properties Committee meeting is scheduled for September 8, 8:30 am, in the Council Chambers.

Councilmember Putaansuu reported the Utilities Committee meeting is scheduled for September 10 and the Sewer Advisory Committee is tomorrow night at the plant.

Councilmember Chang reported the Lodging Tax Advisory Committee would meet next Wednesday and Thursday to go over 12 applications.

Councilmember Childs reported the Chimes and Lights Committee would meet September 10 at 3:30 pm in the Carolyn Powers Conference Room at City Hall. He also reported that KEDA would meet on September 18.

9. MAYOR’S REPORT

Mayor Matthes read letters of commendation from citizens for Public Works Crewmember Marc Fournier, Public Works Clerk Cyndi Fisher, Officer Lynch, and Sergeant Main.

Mayor Matthes invited the public to attend the Concerts on the Bay on Thursday night from 6:30 pm to 8:00 pm, and to attend the Taste of Port Orchard on Sunday, August 31 from 11:00 am to 3:00 pm.

10. REPORT OF DEPARTMENT DIRECTORS

City Treasurer Martin reported he attended the AWC Budget Meeting with Councilmember Ashby, and attended the Washington County/City Manager Association meeting.

Public Works Director Dorsey reported there is a pre-demolition meeting next week for 640 Bay Street, and the Comp Plan update survey is live on Facebook and distributed to the stakeholders list.

City Clerk Rinearson discussed the 2014 Council retreat topics, and reported she will be attending the AWC Operating Committee. In response to Councilmember Putaansuu, she will find out if there is a deductible on the premium.
11. CITIZENS COMMENTS

Ms. Gerry Harmon appreciated the postponement of stormwater vote. She got the feeling that the idea of the rain gardens will not considered. She wondered if every house on that hillside had a rain garden, would the downtown flood. She feels staff needs to look at how this helps.

Mr. Nick Whittleton clarified where he got the understanding of how business licenses were tied into the stormwater rates. It was in the definition of business in the municipal code. The term “used for” changes the meaning. It is not zoned commercial, it is residential, but it is used for commercial. That is how it was tied together.

Mrs. Elissa Whittleton thanked the Council for the postponement on the public hearing. She said her cause for concern regarding home-based businesses was from what she heard at the July 18 Utilities Committee meeting. Ms. Archer-Parsons brought up that if you have a business license you could be considered “commercial”. Therefore, if her property was more than 3,000 sq. ft., and she has a business license, she would qualify for another ISU. She understood the McCormick Woods annexation brought in 100+ holding ponds, and that is what threw the City into needing to raise funds for compliance. What funds have they brought in that can be put towards this and she would like to know if the City has addressed contracting this out.

Public Works Director Dorsey said the City did not receive any additional funds for the ponds in McCormick Woods from the County when they were annexed. The County’s risk management chose to maintain those ponds, so there was no funding that came with those. The City contracts half of its ponds out, because it does not have the staffing and equipment to deal with the larger ponds. This is paid out of the stormwater utility fund.

12. EXECUTIVE SESSION

No executive session was held.

13. ADJOURNMENT

At 9:15 p.m., Mayor Matthes adjourned the meeting.