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, Public Works Director Dorsey, Development Director Bond, Assistant City Engineer Archer-Parsons, and Interim City Attorney Morris were also present.

A. Pledge of Allegiance

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

2. CITIZENS COMMENT

Arlene Williams asked that the City respect any homeowners that want to stay in their home, and explore any options that will allow them to do so. They would be interested in considering an offer from the City, but it would have to be significantly higher than what the appraisal stated. She said the appraisal was outdated, and the comparables used were not good comparables.

Randy Jones said his charter business has been growing, but the vacation rentals have suffered with this pending action from the City, which is costing him bookings. If the City takes his property, he will move his business to Bremerton. He has been proud of his City in the past, but he is no longer proud of his City and the fact that this has drawn on over the last three years is incredible.

City Clerk Rinearson read a letter into the record from an anonymous citizen that spoke in support of the Bay Street Pedestrian Pathway.

Nicole Vaught said she was upset that the City is not respecting people’s properties and discussing eminent domain. She questioned who is next for eminent domain.

Vance Vaught said he would like to know who on the Council supports eminent domain. He wants to know who on the Council is pushing this agenda.

Beth Cottrell said those homes on the pilings have been there forever, they are part of what makes Port Orchard what it is. She does not care about the money that the City might lose. It is not worth taking people’s property over. She walks a lot along that beach, and she knows that it is somewhat inconvenient past there, but she would be happy to cross the road if a trail was made on the other side.
Dana Harmon said she was distressed to hear that the City wants to condemn homes that have been there for the history of the town. Once they round the bend there are a couple more homes that have historical value. There are other ways to continue the walkway without taking peoples’ property.

Gerry Harmon said she was wondering if it was known if the Navy Yard would allow the trail to continue next to the railroad. The walkway does not have to be on the water. The plan can be changed.

Aaron Passow said there may other alternatives. He believes a sidewalk is needed. He wants a decision to be made. He does not want to put money into his house. He cannot sell it. He cannot get a bank loan. He is tied up and it is not fair to the property owners for this process that has drug on. Election time is coming and no one wants to stick their neck out. He is tired of dealing with the uncertainty. And now he has learned that the City owns his parking area, even though that was not disclosed to him when he applied for a permit and invested $100,000 in pilings.

A citizen wondered if the Councilmembers homes were on the water, would this discussion even be happening right now. He said money should be spent on priorities like our streets, schools, and youth.

Elissa Whittleton said she has not heard anyone speak in favor of taking the homes except for one man that lived across the street and fully admitted it would improve his view, and then this anonymous letter tonight. If everyone says to leave the homes alone unless an alternative solution can be found that saves the homes, wouldn’t it be wrong to go through with that. She also questioned what would happen to the properties around the other side of the corner. Is there a solid plan that does not involve taking properties? If there isn’t a plan for around the corner, should we be taking homes?

A citizen said if it wasn’t for Randy and Venture Charters, he and his mom wouldn’t be able to live in this town. He wouldn’t be able to afford his bills. He would move back to eastern Washington. We don’t need a boardwalk; it is a huge expense. It would be tearing down peoples’ houses. Once you go around the bend, there are more houses you will have to take. Build a walkway on the other side of the street.

3. APPROVAL OF AGENDA

Councilmember Ashby MOVED and Councilmember Cartwright seconded the motion to add Business Item 71 to have a discussion about the selection process for the wayfinding system. Upon vote, the motion passed unanimously.
Councilmember Putaansuu MOVED and Councilmember Clauson seconded the motion approving the Agenda, as amended. **Upon vote, the motion passed unanimously.**

4. APPROVAL OF CONSENT AGENDA
   A. Approval of Checks Nos. 62832 through 62895 totaling $134,542.75
   B. Approval to Submit SFY2016 Water Quality Funding Application for the Decant Facility to Ecology

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

5. PRESENTATION

A. Wayfinding Signs and Logo Alternatives

Development Director Bond presented the staff report, noting the City Council funded a project in its 2014 budget for the development of a system of wayfinding signs and the development of a City logo to be tied into this system. The Mayor assembled a committee of citizens to advise the consultants as they worked on developing the logo and wayfinding sign system. For the past five months, this committee has met about once a month to review concepts and to synthesize them down to three alternatives. In order to complete the project, one of the three alternatives will need to be selected so that a wayfinding system plan can be created including the development of bid ready specifications. This presentation is intended as an introduction to the process of how the logo and sign concepts were developed. Council will need to decide how it wants to go about selecting the preferred alternative. This could involve a public process or it could be decided directly by the City Council.

Kenny Ambrosini, Ambrosini Designs, gave a presentation on the wayfinding signs and logo alternatives. Presentation highlights included the logo, word marks, symbols, monograms, identity, brand, design principles, logo design process, the three options and elements, wayfinding definition, and project objectives and goals.

In response to Councilmember Ashby, Mr. Ambrosini said any of the three marks would go into any of the designs.

In response to Councilmember Childs, Mr. Ambrosini said this is branding for the community’s wayfinding system, not for identity. He has explored extensive color palettes, and provided many color options, including green as an element. Blue is the primary color, and is a positive color just like green. They also work well together. He also stated that Development Director Bond has a copy of the presentation and can share it with the Council.
In response to Councilmember Chang, Mr. Ambrosini said the best readability type is a dark background. The type is called 3M reflective vinyl. Any light will make the white type glow.

6. PUBLIC HEARING

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

Public Works Director Dorsey presented the staff report, noting on August 26, 2014, the first Public Hearing on the adoption of an ordinance amending Port Orchard Municipal Code 13.06 was held. Council requested the topic be revisited at a later meeting. Staff is representing the presentation given at the Council Work Study on May 20, 2014. At the June 24th 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 8:00 p.m.

Assistant City Engineer Archer-Parsons gave a presentation, which included the following highlights: project objectives, analysis of City’s existing SDP/Permit, existing SDP organizational chart, new NPDES Phase II Permit, NPDES Phase II permit schedule, permit gap analysis, future SDP organizational chart, CIP projects, SDP funding analysis, City maintained facilities, local utility rate survey, SDP funding levels, and proposed stormwater rate.

In response to Councilmember Childs, Councilmember Putaansuu said to jump to the $14 would allow the City to fund the Capital Improvement Projects (CIP), which would solve the flooding problems and illicit discharge.

In response to Councilmember Childs, Assistant City Engineer Archer-Parsons said the projects starting at No. 4 on the CIP list have all been identified through citizen complaints and various areas that they have identified during heavy rainfalls; they are areas known for having a lot of difficulties within the City. It is difficult to say one ranks higher than another.

In response to Councilmember Cartwright, Assistant City Engineer Archer-Parsons said the City’s typical match for grants is 25 percent. The Decant facility would be funded out of the new revenues, but there are some areas if she has the staffing to do some work in-house to mitigate the match money, it would allow more of the $600,000 to go to another project.
Public Works Director Dorsey said the CIP projects have been prioritized the best they can do at this moment in time. Everything on this list is valid, but it is influx.

Councilmember Putaansuu stated that the $9.70 funded compliance only in 2015, the bare minimum we have to do or we are subject to fines from Ecology. Assistant City Engineer Archer-Parsons added this would be barebones compliance.

Councilmember Cartwright said at $14 now, it appears this council could be having this discussion again for another rate increase in 2017, if not before.

Mr. Jeffrey Swan, President of Evergreen Lumber, said the bulk of his parcel is impervious. When he developed the property in 1995, he was required by the City of Port Orchard to put in a stormwater system. It cost around $100,000. He has underground retention, a culvert, and a water cleansing system. His system stores the water, so it does not go off the property in a large amount, and it cleans the water when it leaves his property. The proposed fee is going to have a tremendous impact on his business. In 2014, his cost was $5,712 in stormwater fees. In addition to that, he is required to have his stormwater system cleaned, checked, and make sure it is working properly. In 2014, that cost $952. If the proposed fee goes through, he is going to be spending close to $12,000 a year, and then his fees to check the system and clean the system will not be static. The cost to a company like his should be mitigated. It is an unfair burden to a business like his to double the fee. He cannot pass his costs onto his customers. He is in a very competitive business and it is something he has to absorb. He requested that the City find a way to mitigate the fact that he had to spend a substantial amount of funds upfront for a system, and pays to have it maintained annually. He knows he has to pay fees, but it is not fair to double his fees with the dollar amount he is already paying.

Mr. Gary Chrey, representing Mr. Gil and Kathy Michael, said they recognized that an increase in the rate per ISU is needed; however, they feel increasing it from $7.00 to $14.00 all at once is too much too soon, particularly in light of the economy that is just beginning to recover. They support a program for assistance for low-income and fixed-income members of the community, which is not present in the current proposal. They support a credit system for the people who have already expended substantial amounts of money for required systems. They are concerned about the requirement of having a business license to operate a home business in the City, and it being used as the basis to require a residence to be reclassified from residential to commercial and increase the number of ISUs. The letter that he submitted to the City has attached to it the letter from the City Utility doing exactly what he just said. The presence of a business license has caused the property to be reclassified from residential to commercial, and the number of ISUs increased from 1 to 4, which results in four times the rate per month. If that is what is going to happen, then they believe the existence of a business license for a home business will trigger a reclassification from residential to commercial for all home-based businesses in this community. They must all be treated the same. He does not believe that was the intent of the City when it adopted the business license requirement for home-based businesses in the City. In reviewing the
record, there is the quote from Councilmember Putaansuu at the June 14th Utility Committee meeting where he stated, “I just don’t want to kill this industry in our community.” Businesses don’t fail from one event; they fail from a series of small events that have an accumulative effect that turns the bottom line from positive to negative. He suggested changing the definition of commercial by replacing the word “or” with the word “and”; i.e., “All properties zoned commercial AND used for commercial retail industrial or community purposes”. That solves the problem with the home-based businesses in residential zoning. Another alternative solution could be that all residential properties with a business license will be treated as a residential account with one ISU applied to it if the holder of the business license resides on the property.

Mrs. Kathy Michael said it is understood in order to implement required programs, rate increases often become the solution. She thought staff was merely looking for ways to support increased revenue equitably. After listening to both the June and July Utilities Committee meetings, and receiving an increase in their fees billing notice, it appears she may have been incorrect. They do not understand how having a business license could possibly be used to change the zoning designation, when the use is a residentially zoned use. Having a business license has nothing to do with generating more or less run-off or making a property commercial. Council decisions must be based on accurate information, and not mischaracterizations. She said Councilmember Cartwright’s questions and concerns expressed at the Utilities Committee meeting are critical. He is correct about a multiple of five being significant. Her business is not Les Schwab, a mini-market, a hotel, or a seven-unit townhouse, and they do not have two kitchens. And none of those things create one single square inch of impervious surface. Nor does the fact that their having a business license have anything to do with impervious surface. Their roof on the end is approximately 2,400 sq. ft. to the drip line. It must be clearly comprehended that the portion of a multi-story house that sits under the roof has no impact on ISUs, only the roof counts, not what is under the roof, no matter if it has two or seven bedrooms. When they salvaged the significant 1909 historic home, Larry Curles, City Engineer, required them to mitigate the additional impervious surface created in the restoration process. The additional 1,900 sq. ft. of deck and carport was fully mitigated by their installation of a stormwater infiltration system. This is documented in their file and staff failed to include this in their report to the Council. They have actively mitigated storm water for over twelve years and strongly encourage the City to join the County to implement stormwater solutions. It is the Council’s responsibility to ensure small businesses aren’t put out of business. She asked the Council to not let the use of the word “or” create an antagonistic environment between the City, City Councilmembers, and residential in-home business owners who generate revenue into this City.

Mr. Gil Michael said they are a single-family residence in a residential zone as designated by the County Assessor. POMC defines bed & breakfasts (B&Bs) as being owner occupied dwelling units. A dwelling unit is defined in the POMC as containing kitchen facilities, lavatory, closet, and rooms with internal accessibility. A bedroom is not a dwelling unit as has been claimed by staff. In POMC 16.30.080, the residential land use table, it does not
permit single-family residences in commercial zones. Bed & breakfasts are permitted in a residential zone with a conditional use permit, which they were required to obtain. By this transaction, the City determined that they are residential. If the City had ever considered them commercial, they would have just issued them a business license and called it good. Just because they have a business license does not make them, or any other residential holder in this City of a business license, commercial. He is asking the Council to make the change in the definition of commercial in POMC 13.06.060(2) as Mr. Chrey requested. This small change clarifies the definition of commercial, keeps residentially zoned properties with less than four dwelling units as residential accounts, and eliminates unintended consequences for business license holders. He would like mitigation credits included in the code. The County gives a property owner who mitigates their property up to half of the expenses up to a $1,000. Bremerton issues credits for both the quantity and quality of their stormwater that they mitigate. He encouraged the Council to direct staff to include those credits in their stormwater mitigation program.

In response to Councilmember Chang, Mr. Gil Michael said he received a bill from the Utility Billing raising the rate on the B&B from 1 ISU to 4 ISUs. Since the implementation of the stormwater program, they have paid 1 ISU on the original house and 1 ISU on the accessory dwelling unit that they added onto the house. So they have paid 2 ISUs since the implementation of the utility. Staff determined that they had over 14,566 sq. ft. of impervious surface on the parcel. The code says that measurement is for the parcel. The breakout of that was done at the behest of the Treasurer’s Department. He supports that. There are no specific numbers showing how that was calculated. Their attorney has submitted a public record request for that information, but they have not gotten that back yet. They don’t know how it was individually calculated, what was roof, driveway, etc. All they have is the gross number, not the individual net numbers, and how it is broken out between the two different buildings.

In response to Councilmember Cartwright, Public Works Director Dorsey said there are three separate issues the City is dealing with. First, is the storm rate conversation, which has been held at the Utility Committee meeting and Work Study and two presentations here. Second, is the B&B issue that came out of the Utility Billing Department, which was brought to the Utility Committee through the Utility Billing, saying we need to look at the three B&Bs in the City, and that presentation at Work Study. Third, is the home-based business issue, which Utility Billing had a statement on the B&B issue that alluded to if you have a business license the account is considered commercial. He does not know where that wording came from and he agrees that the City has to look at that wording. That is not what the City had decided to do. Additionally, other documentation was sent out that they looked at today in the Code that contradicts that statement on the B&B issue. Being a home-based business does not make you commercial. It has never been staff’s intention, the Utility Committee’s intention, or the Council’s decision to have a home-based business be treated commercially because they have a business license.
Councilmember Putaansuu said the only thing this public hearing is dealing with is the rate discussion. There are other issues that need to be resolved related to the code, but they are separate issues than what they are asked to deal with this evening.

Councilmember Cartwright clarified that just because someone has a 1,400 sq. ft. home and cuts hair, we were not going to apply the commercial rate.

Councilmember Putaansuu said that is a different topic than what is being discussed tonight. He agrees with Mr. Chrey’s statement, the verbiage is not good in the code. It needs to be dealt with in the Utility Committee and brought forward. That is not what they are discussing tonight.

In response to Councilmember Childs, Councilmember Putaansuu said the B&B issue is separate from the home-based business issue and the rate issue. The B&B issue was presented at a Work Study session. Staff asked other municipalities how they are treating the B&B industry, because they do not want to put them out of business. A majority of the jurisdictions is treating the B&Bs as a commercial enterprise, and it is based on square footage to determine the ISUs.

Councilmember Chang remembers the Work Study discussion on B&Bs but he does not remember Council taking any action. Did the Council need to vote on this? He finds it odd that we are raising rates on an individual if no action has been taken.

Councilmember Ashby said as a point of order she wanted to continue taking public input, and then have a discussion.

Mr. Gil Michael said he received a stormwater drainage utility account work order. On the work order, it stated his property is a B&B and needs to be assessed as a commercial property because they are required to have a business license. They received a letter from the Utility Billing department that implements the work order. This will impact them starting November 1. They are asking for a change in the definition of commercial. He asked Councilmember Putaansuu, Chair of the Utility Committee, to review this letter that was directed by the Utility Committee for the Utility Billing department be held in abeyance until the Committee’s direction to staff is completed.

Ms. Elissa Whittleton said she is concerned because she holds a business license, and she works out of one room in her home. She understands the need to raise the rates. She cannot support the increase until she knows where she stands as a home-based business and business license holder. She tried to share with the Council the verbiage that concerned her. She read into the record the Utility Committee meeting on June 20th, minute 14 a quote from Assistant City Engineer Andrea Archer-Parsons: “the thing is, the way the code is set up, and the way that we handle the accounts is if you have a business license, and even if it is a home-based business, you are technically commercial. And so we go out and we assess based on your impervious surface units. Most cases a single-family residence, if
they are doing a home-based business, will not see a change, because most of them are within 3,000 sq. ft.” On minute 17:45: “No, we do a single family residence as just a flat rate right now. Commercial is based on impervious surface area, and so if you are doing a commercial business where you are having income, then we value that as commercial at this time. Home-based businesses are also billed as commercial.” Now the requirement is you have to be over 3,000 sq. ft. of impervious surface. Mrs. Whittleton’s property is over 3,000 sq. ft. and they have a business license. Her neighbor’s home is over 3,000 sq. ft. and they do not have a business license. The problem is that she stands to be assessed double what her neighbor is paying. She implored the Council to change the verbiage before moving forward with the rate increase. Her preference right now would be to implement the incremental approach, because they do not know where they stand. When she went to the other meeting with the Gap Analysis, there are other things coming down the pike and they really need to know what the blanket charge is going to be. She encouraged baby steps until they know what the full picture is going to be.

Ms. Gerry Harmon said the City is adding another layer of government with the KRCC. All of the Council has got to bond with all of the communities that have this issue affecting them, and this needs to be negotiated with the federal government. She recalled what she heard at a prior meeting that this $14 is going to increase to $220 within a six-year period per month per resident. That is a lot of money. If people do something on their property to mitigate the stormwater, that should be credited. This is something that is affecting many smaller communities and it is going to kill us if the Federal government does not help support and pay for this unfunded mandate.

Ms. Dana Harmon implored the Council to think rationally and with the intent of keeping their community alive and well. Two business people have already paid Port Orchard permitting fees and expended tremendous amounts of money to mitigate stormwater issues on their property. The attorney’s request is viable to issue credits for people who have already addressed the stormwater issue, and have fees for commercial businesses who have not.

There being no further testimony, Mayor Matthes closed the Public Hearing at 8:59 p.m.

At 8:59 p.m., Mayor Matthes called for a five-minute break.

Councilmember Clauson said he is in support of an increase. The City does not have many options based on the requirement that are being imposed and the projects that need to be completed. He thinks some work still needs to be done based on testimony tonight. There are issues related to the rate increase. The comments regarding property owners who have made an investment in their properties to deal with stormwater – he needs to understand how that relates to what our requirements are under the stormwater utility. He appreciates the fact that part of what they needed to do is be able to control the flow off of their property into the system, but onsite treatment is completely different. He needs to understand how that would affect the rates, because he does not think it is fair to simply say
sorry you got X number of impervious surface to calculate the ISUs. He knows this decision has already been put off. He does not know when the ordinance needs to be adopted by.

Councilmember Putaansuu said this starts next year, so they have to adopt this by the end of the year. He asked at what point does the City become non-compliant.

Assistant City Engineer Archer-Parsons said that in 2015 she will not have enough time to do all of the required work, and will need help. Public Works Director Dorsey said it is a 2015 budget issue.

Councilmember Clauson would like to send this back to the Utility Committee with the idea that it needs to come to the next Work Study with action taken at the end of November.

Councilmember Putaansuu said this is an enterprise fund, just like the water and sewer. If the City mitigates for one, someone else's rates will increase. There is currently one proposed rated for all of the residences. Giving credits is not a quick fix. They could look at multiple classes for residential and maybe a larger home has more impact. Some of the burden could be transferred that way. He does not know how to accomplish that, because there are many houses in the City. He does not think it is possible in a short period to go analyze all of the larger homes. An increase does have to happen for the sake of compliance and to avoid penalties. Maybe they should start by funding compliance, and revisit half way through the year how they are going to fix these other pieces. He does not see a quick fix.

Public Works Director Dorsey said there are four separate conversations that have become an amalgam:

1. The stormwater utility rate – it does not have anything to do with individual commercial systems or residential systems. The stormwater utility is an EPA mandate that comes from the Water Quality Clean Water Act. It is cleaning catch basins, sweeping streets, and maintaining the facilities picked up through annexations. It is an impact to the Puget Sound; it does not have to do with individual systems. That is what the utility is about—finding illicit discharges, cleaning catch basins, cleaning ditches, and sweeping streets.

2. The new item requested tonight is the potential to give a credit to somebody who does have a water quality/quantity mitigation facility. If you do one for a commercial property, their on-site system, there is also residential neighborhoods that have a storm systems that was placed for their development. That is a completely different conversation if you want to look at on-site mitigation for water quality/quantity versus the program, which is our storm utility, roads and capital improvements.

3. The B&B issue is another completely separate issue that came out of the realization that we have three B&Bs in town; two of them are 3,000 sq. ft. homes, and one is a much larger facility that was taken to the Utility Committee. The Utility Billing Department possibly jumped the gun on moving ahead with that, but they can rescind that and have that as a separate conversation.
4. The last issue is the part in the code that talks about home occupation/home business use. That brings up conditional use permits and administrative CUPs. It really has to do with impact. He learned today that a CUP definition is if people have to go to the business. They can work on fixing the code.

Public Works Director Dorsey said this is about impact. These four conversations are distinctly separate from the rate increase.

Councilmember Clauson said they are separate, but they are somewhat related. The issue of the B&B is an easy one. We just simply say keep the number of the ISUs the same until we have time to figure it out. He has an issue with doubling the rates without considering any kind of adjustments in advance is telling the property owner that they have to pay the higher rate now, and maybe it will get reduced later. He would rather look at it first. He is in support of the rate increase and committed to doing it before the end of the year, but he is not committed to doing it tonight.

Councilmember Cartwright agreed with Councilmember Clauson.

Councilmember Childs said they are trying to apply the human element to this and they are running into roadblocks. He wants to do what is right. This is a federally mandated program that the City is on the hook for not complying. He suggested a special meeting to deal with these issues.

Councilmember Ashby said she could support the immediate rate increase of $9.70 to allow staff to continue to keep the City in compliance. That would provide more time to review the mitigation.

In response to Councilmember Chang, Councilmember Putaansuu said they did consider fixed incomes, but with this being an enterprise fund, if rates are lowered for one party, they have to be increased for another party. That was discussed at the Work Study session.

Councilmember Chang supports Councilmember Ashby’s statements. He also asked if the Utility Committee could look at incremental increases instead increasing it up to $14 in January.

Councilmember Putaansuu said based on the presentation that was given, if they fund the minimum amount for compliance now, they are dealing with it by the end of next year again. He advocated for Councilmember Ashby’s position to fund the minimum compliance now, and see if we can find some mitigation solutions. The other things are easy to fix.

Councilmember Putaansuu MOVED and Councilmember Childs seconded the motion to adopt an Ordinance amending POMC 13.06 Storm Drainage Utility to be effective January 1, 2015, to a rate of $9.70.
Councilmember Putaansuu added the caveat that the City will work to resolve the concerns through the Utility Committee and bring back to the Council and he hopes that we can bring the rate to $14.00 to fund the capital projects by mid-year and not be dealing with this in the 11th hour next year.

Councilmember Cartwright cannot support the motion. There is language in here that will raise the rate. Until the language is adjusted to the satisfaction of the full council, he cannot support raising the rate.

Councilmember Ashby said the ordinance says commercial. It does not say anything about business license. She is not sure where that language originated. But it does not say anything about home businesses, and home businesses are very clearly defined under our Chapter 16.38. She does not see how any home business defined under this chapter would qualify as commercial.

In response to Councilmember Cartwright, Public Works Director Dorsey said that the language that needs to be cleaned up is not in the ordinance that is presented to the Council tonight. They need to look at the definitions of home occupation and conditional use and commercial. The B&B issue is a separate definable conversation, and they can rescind what was sent out by Utility Billing until it is straightened out. He sees those as separate issues.

Councilmember Putaansuu does not support billing any different from what has been done in the last 6-8 years. He does not believe raising this rate changes the number of ISUs or home-based businesses. It is dealing with the rate structure itself. That is the only thing he believes they are passing this evening. They are not changing anything that is not already in place.

Councilmember Clauson said he does not think it is going to take that long to look at this issue. The Council heard tonight that the County and Bremerton are giving credits. Staff can review how the other jurisdictions have dealt with this issue. He is concerned that the Council will set a rate that is going to be too low to get things done and they are going to have the same kind of discussion when we want to go from $9.70 to $14.00. They need to get the City in compliance and complete some of these projects.

Councilmember Childs believes they can pass the rate increase tonight for $9.70, and then halfway through the year they can increase it to $14.00 after dealing with the other circumstances.

Councilmember Ashby said the City paid a professional to do the storm water analysis and come up with the graduated step increases. She is not sure that she has the skill set to override their recommendations.
Councilmember Cartwright said the City needs to do something, and $9.70 will not fund what is needed. He needs clarification on when this ordinance needs to be passed in order to have funding for the 2015 budget.

Public Works Director Dorsey said to have a Utility Committee meeting, and then a Work Study session, there is not enough time left in 2014. It will not happen this year.

Councilmember Clauson is concerned that they are putting a band-aid on this and they are not going to deal with the issues that they need to deal with. Something that would make him more comfortable would be if the motion were to increase to $9.70 in January, and then go to $14.00 in May/June. This forces the City to get the work done by the time the next increase happens.

Councilmember Clauson MOVED and Councilmember Putaansuu seconded the motion to add that by June 1 we will increase from $9.70 to $14.00 and resolve the issues that have been brought up here this evening. Upon vote, the motion to amend passed with four affirmative votes and three dissenting votes. Councilmember Chang, Ashby, and Lucarelli cast the dissenting votes.

Upon vote, the main motion as amended passed with four affirmative votes and three dissenting votes. Councilmember Chang, Ashby, and Lucarelli cast the dissenting votes.

At 9:41 p.m., Mayor Matthes recessed the meeting for a 5-minute executive session regarding potential litigation in accordance with RCW 42.30.110(1)(l). Interim City Attorney Morris and Development Director Bond were invited to attend.

At 9:46 p.m., Mayor reconvened Council back into regular session.

Councilmember Chang MOVED and Councilmember Lucarelli seconded the motion to withdraw the 2014 Comprehensive Plan Amendment application concerning the Urban Growth Area boundary.

Councilmember Ashby said she had originally brought that forward to the Council. And she believes there are other opportunities to look at the issue without making a comp plan adjustment at this time.

Development Director Bond stated that the City has a process if it is interested in changing its UGA boundary. It can negotiate with Kitsap County following the process laid out in the RCW, which does not require a comprehensive plan amendment.

Upon vote, the motion passed unanimously.
Mayor Matthes, stated in an effort to move through the agenda, items 7 A and B will not be discussed tonight and will be placed on the next Council meeting for consideration.

7. BUSINESS ITEMS

A. Adoption of an Ordinance Amending Port Orchard Municipal Code Chapter 1.18 Public Records Requests

B. Adoption of a Resolution Adopting Policies and Procedures for Processing Public Records Requests

C. Approval of a Temporary Vendor License Application: Slaughter County Coffee

City Clerk Rinearson presented the staff report, noting Slaughter County Coffee has submitted an application seeking approval to place their coffee truck on City right-of-way located in the Industrial Park at Lloyd Parkway. A map has been provided to show the exact location they are interested in vending. They will be serving espresso drinks, smoothies, teas, Italian sodas, coconut water, and pre-packaged baked goods. The truck is 7 feet by 19 feet.

The Public Properties Committee met on October 27, 2014, to discuss this matter and recommends approval of the use. However, the committee inquired whether a lease fee would be required in addition to the vendor fee. After reviewing the file related to vending on City property, it has been determined that a lease fee would be prudent and has been set at a rate of $10 per month. This amount is consistent with other City leases.

Councilmember Cartwright MOVED and Councilmember Childs seconded the motion to approve the Temporary Vendor application for Slaughter County Coffee to use City right-of-way in the Industrial Park at Lloyd Parkway, as presented. Upon vote, the motion passed unanimously.

D. Approval of October 14, 2014, Council Meeting Minutes

Councilmember Ashby MOVED and Councilmember Lucarelli seconded the motion to accept the Council meeting minutes of October 14, as submitted. Upon vote, the motion passed with five affirmative votes and two abstentions. Councilmembers Clauson and Putaansuu abstained from voting.

E. Approval of Lodging Tax Advisory Committee’s Recommendations for Distribution of 2015 Hotel/Motel Tax Funds
City Clerk Rinearson presented the staff report, noting the Lodging Tax Advisory Committee (LTAC) met on September 10, 2014, to review and make recommendations for the 2015 Hotel/Motel tax revenues. The Committee is appointed by the Mayor and confirmed by the Council and is comprised of four hoteliers and four funding recipients. The City Treasurer projected 2015 Hotel/Motel tax revenues to be at $76,000, plus the fund balance of $44,000. This would bring the total revenue to be disbursed in 2015 to $120,000.

The Committee, after careful consideration and based upon the proposed allocated funding, chose to provide funding to all recipients. A copy of the Lodging Tax Advisory Committee's recommendation has been provided to you.

In 2013, legislators changed the structure of how funds were to be allowed by the legislative body. MRSC’s interpretation of the change is as follows:

_The legislative body "may only choose recipients from the list of candidates and recommended amounts provided by the local lodging tax advisory committee." However, a city or county does not have to fund the full list as recommended by the LTAC and can choose to make awards in the recommended amounts to all, some, or none of the candidates on this list. The selected recipients must be awarded the amounts recommended by the LTAC._

Staff is looking for direction from Council of how to allocate the Lodging Tax funds for 2015.

**Councilmember Chang MOVED and Councilmember Putaansuu seconded the motion to accept receipt of the Lodging Tax Advisory Committee’s recommendation for distribution of 2015 Hotel/Motel tax funds as presented.**

Councilmember Childs said he reviewed the last three years of lodging tax applications, and one thing he noticed was over 90 percent of the requests were for advertising and marketing. This year an additional $50,000 has been added to the mix, which he assumes will go to advertising and marketing. There is also a recommendation to award $17,000 to a new group that will do advertising and marketing. He does not think this is a good use of money to allocate the remaining $44,000 to do more advertising and marketing. This does not produce anything in downtown that someone can go to. He would like to look at it in a different way.

Councilmember Lucarelli asked if Explore Port Orchard was a 501(c)(3) or if it had another tax designation. She questioned who the check would be made out to when a claim for reimbursement is submitted.

**Ms. Chris Stansbery** said Explore Port Orchard is a consortium that is made up of 501(c)(3)’s and the Port of Bremerton. Last year each of the organizations chipped in some
of their LTAC money for joint marketing. Each agency took a project and requested reimbursement, and was reimbursed by each of the other agencies. She said they made the separate request this year, rather than each organization adding more to their personal requests so that they were clearly defining the joint marketing effort. She clarified that the City is giving money to the joint marketing effort; it is just being paid for by the individual organizations.

In response to Councilmember Lucarelli, City Clerk Rinearson read RCW 67.28.1816(d) into the record, and Councilmember Chang summarized that a recipient of hotel/motel tax does not need to be a 501(c)(3) or a 501(c)(6).

**Councilmember Clauson MOVED and Councilmember Cartwright seconded the motion to extend the meeting long enough to complete items 7E and 7F. Upon vote, the motion passed with six affirmative votes and one dissenting vote. Councilmember Childs cast the dissenting vote.**

Councilmember Chang said that Explore Port Orchard is a very proactive organization. They are emulating the consortium that Poulsbo set up with all of their non-profits. They coordinate their dates and activities, and by pooling their money, they feel they get a better bang for their advertising buck. He thinks this is a great step and applauds their efforts.

In response to Councilmember Lucarelli, Ms. Chris Stansbery said the problem is if you added another $1,000 to Sidney Museum’s award, they would not be able to do the same type of advertising that they do as Explore Port Orchard.

Councilmember Lucarelli questioned the legality of writing checks to the non-profits since the checks will not be written to Explore Port Orchard. That turns that LTAC recommendation into an increase for each of the organizations.

**Ms. Kathy Michael** said what they had was six or seven organizations that were coming in and asking for money and in their budget was this advertising and marketing bracket. What they saw as a result of the consortium that began last year was that the amounts that each organization asked for was lower this year, because they knew the funding that went into the consortium covered the advertising dollars. They got a way bigger bang for their buck. She thinks City Clerk Rinearson has covered the legality of it with what is allowed in RCW 67.28. They saw the requests from most of the organizations drop because they saw the benefit of doing co-advertising together.

In response to Councilmember Childs, Ms. Kathy Michaels said that last year there was not a lot of money to allocate to the recipients. More money came in last year, and that is good news. That means they are doing something right and generating more revenues.
In response to Mayor Matthes, City Clerk Rinearson said that reimbursements are for qualified expenditures under RCW 67.28, and the Treasurer will be the one to determine how the reimbursements will be made for the Consortium.

Councilmember Putsanssu supports the recommendation; however, he would love to see some of this money spent on wayfinding signs downtown and park benches in the future, but that means that the City has to submit an application and get that into the process. The City did not do that this year. He does not want to torpedo this process and back it up, just to interject our needs in the 11th hour.

Councilmember Clauson agreed with Councilmember Putsanssu, and added that the City of Port Orchard should look at the City of Gig Harbor, because they use all of their funds to support their in-house marketing/promotional person.

Councilmember Chang said that Explore Port Orchard could be asked to open their own checking account or work under the umbrella of Fathoms O’ Fun.

Councilmember Ashby thanked the committee for time and effort they put into making their recommendations.

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

F. Bay Street Pedestrian Pathway Discussion of Alternatives and Findings – UFS Precursor Work Right-of-Way Acquisition Decision

Public Works Director Dorsey presented the staff report, noting on February 11, 2014, the Port Orchard City Council authorized the execution of Contract No. 028-14, thereby authorizing Universal Field Services, Inc. (UFS) to assist in the decision-making process associated with the Bay Street Pedestrian Pathway Project and the potential right-of-way acquisition of five existing overwater structures located along Bay Street. On August 12, 2014, a public discussion was held on this matter, with the primary focus being a question and answer period concerning the decision-making for the following alternatives:

Alternative #1   Terminate the federalized project at Segment #5 (requires repayment of $300K and de-obligation of $1.5M of new funding)

Alternative #2   Bay Street one-way (requires reclassification of Perry Avenue to 6K ADT Minor Arterial)

Alternative #3   Construct deviated pathway within existing right-of-way (requires WSDOT approval of deviations & eliminates on-street parking)
Alternative #4  Construct non-deviated pathway (requires removal of five overwater structures

At this juncture of the project’s decision-making process, the Mayor is requesting that a final decision be made by the Port Orchard City Council regarding the four alternatives presented and discussed and that clear direction for moving forward is provided to Staff.

Councilmember Putaansuu MOVED and Councilmember Childs seconded the motion that the Council prefers a non-deviated pathway, the City should enter into negotiations with the property owners to acquire the homes from those willing to sell, and in the event those homeowners do not wish to sell, we will pursue a deviated pathway in those areas.

In response to Councilmember Claeson, Public Works Director Dorsey said the City would need approval from DOT for a deviated path. The approval of the deviations would be based on the extent of the deviations. This would not affect the ROW acquisition funding.

Councilmember Putaansuu said the homeowners need to recognize that our deviated pathway is right up to their doorstep.

Public Works Director Dorsey said if the path goes to their doorstep, there is also the parking issue. The City has two areas of concern: one is that parking is removed and therefore the houses really are not functional without parking, or that parking is across the street, which creates a liability.

In response to Councilmember Claeson, Public Works Director Dorsey said there is no parking on the other side of the street; it was just proposed to put parking on that side of the street.

In response to Councilmember Ashby, Public Works Director Dorsey said the current plan that has been submitted to DOT is a deviated plan. It stays within the right-of-way (ROW) and it takes the parking and goes up to the doorknob. It is the 11-foot path. That has yet to be reviewed or approved by DOT. The $3.6MM construction estimate came from that plan and it is still in the general range given that three segments have been built. In regards to construction funding availability and creating another Tremont situation, the City is on the precipice of finishing this project and putting money into ROW to push the project down the road to look for construction funding. He cannot guarantee that the funding will be secured, but under the mechanisms that have been in place, the City has been able to get the design completed and has $1.5MM for ROW acquisition. Once they get through the ROW process, then they can apply for construction funding. The difference between the Pathway project and Tremont is that this was broken into segments. However, breaking it into segments does not mean that the City gets more time on the Federal clock.
In response to Councilmember Putaansuu, Public Works Director Dorsey said we have $2.2MM currently unspent for ROW acquisitions for the entire remaining acquisitions and easements.

In response to Councilmember Chang, Mr. Ocean Williams said that they had not intended to sell, but through the process, they decided it was best to be open to exploring what the offer would look like. It is not something that they have taken lightly. They are attached to the community and that particular home, so it would be a hard thing to give up. Their initial thought was to say that is not something that we would be willing to do, but over the course of the process, they thought it would be best to consider what the offer would look like. Mrs. Arlene Williams added that her quote in the paper was a “yes” but it is not something that she is excited about doing. It is the “say uncle” kind of thing. She would not be looking for this option; she is not looking to get rid of the property. Who would sell in this awful market? The appraisal is not impressive. She is not excited to sell because she would gain nothing from her investment. Her family likes where they live.

In response to Councilmember Childs, Mrs. Williams said if you sit on the deck, the street is behind you. Their attention is not focused on the street behind them. It is a beachfront place. Mr. Williams said it would be important to see where the right-of-way line is. The plan that they looked at in the past had some parking remaining. He is not sure what the current drawing looks like.

In response to Councilmember Childs, Mr. Williams said he does not believe that the path being there would cause a loss in value. It would enhance the value. It improves walkability to the City.

Councilmember Lucarelli said there was never a plan that showed the houses being removed. She is in favor of the pathway and is trying to find a way to make those two work together.

Public Works Director Dorsey reiterated parking is the issue for property owners who stay.

Mr. Williams said other owners might have other thoughts about parking. He doesn’t accept the answer that there are no other options for parking. If you look at trails in Seattle, there are areas that go near homes with very little parking and that is one of the trade-offs of living near that type of installation. In general, there have been ways of co-locating paths and houses next to each other with some arrangement for parking.

Councilmember Lucarelli said it is a City right-of-way that they have made personal use of for ages, and she knows it was probably historic when they bought the house. But it is City property and they are making use of it, and they are trying to make both of those things work.
In response to Mrs. Williams request for clarification, Public Works Director Dorsey showed on a map the City's right-of-way (ROW) and what was part of the 1983 street vacation. Every parcel typically has fee ownership to the center of the ROW in their legal description, and there is an exception to then less 30 feet for the use of public ROW. Everybody owns to the center of the road, but you give up a ROW for the half-width.

Public Works Director Dorsey said the parking issue came up during the Shoreline Permit process. The Hearing Examiner had issues with parking. As an alternative, the City generated some alternative maps that showed parking on the other side of the street. There was some parking between the two southerly houses, and there was a couple parking stalls up near the Well 10 site. That is what they tried to propose as an alternative. The City will be liable if they create parking across the street and then someone is hit. There is also the mid-block crosswalk issue. Providing parking on the other side of the street is not a viable option unless the City is going to take on that risk. The State has said the approval of those parking spaces will not be a part of this project. The Federal and State government will not participate in creating a liability.

Mr. Randy Jones said he has one parking spot on the north side of his house. He does think a mid-block crosswalk should still be considered and pursued at all costs. He has talked to Mayor Matthes about untightening that curb and leaving more parking on the point. That is another option. Or more space on the point and make that a less dangerous corner. This entire path is not worth demolishing homes. He does want to keep his home, and if he has one parking spot there and three across the road, he is happy.

In response to Councilmember Clauson, Public Works Director Dorsey said the appraisals have a shelf life and would need to be updated. There is a negotiation process of an offer and counter-offer that would still occur.

In response to Councilmember Chang, Interim City Attorney Morris said the current motion on the floor does not involve condemnation and would not require a super-majority for the motion to pass.

In response to Councilmember Ashby, Public Works Director Dorsey said the alternatives that he laid out were cut and dry. Even constructing the non-deviated pathways has some risk in that the City still has to get the permits to build the pathway with the additional water shading. He has been working with the City's consultant for months determining the number of existing pilings that are over riprap versus beach and the amount of shading over riprap versus beach. There are all these other moving pieces. Today, from an environmental permitting standpoint, his position is that with the houses staying and having overwater shading with the pathway, the City is relying on the Segment 1 current overwater shading being removed as mitigation to build that piece. He does know that they are only dealing with Fish & Wildlife, because the Corp of Engineers and the Coast Guard are not going to invoke jurisdiction. He cannot give a 100 percent guarantee that the City will get the permit to build the full 14 feet. By removing the homes and the over water
shading and piling, that is going to significantly increase the City's chances of getting the
environmental permits.

In response to Councilmember Clauison, Public Works Director Dorsey said he was unsure
of the tax benefits of having a home condemned. Councilmember Putaansuu noted that the
property owner receives the benefit of going to court if the negotiations are not going their
way.

Public Works Director Dorsey said that the owners of the homes could lease the homes back
from the City until the City is ready to start doing construction through a possession & use
agreement.

Councilmember Clauison CALLED and Councilmember Putaansuu seconded
the call for the question. That motion passed unanimously.

_Upon vote, the main motion passed with six affirmative votes and one
dissenting vote. Councilmember Ashby cast the dissenting vote._

G. Discussion: KRCC-ART Committee Restructure

This matter was not discussed.

H. Discussion: Extended Title Insurance for 640 Bay Street

This matter was not discussed.

I. Discussion: Selection Process for the Wayfinding System

This matter was not discussed.

8. COMMITTEE REPORTS

This portion of the meeting was not held.

9. MAYOR'S REPORT

This portion of the meeting was not held.

10. REPORT OF DEPARTMENT DIRECTORS

This portion of the meeting was not held.

11. CITIZENS COMMENTS
This portion of the meeting was not held.

12. EXECUTIVE SESSION

An executive session was held earlier in the meeting.

13. ADJOURNMENT

At 10:59 p.m., Mayor Matthes adjourned the meeting.