

GIG HARBOR CITY COUNCIL MEETING OF AUGUST 8, 2005

PRESENT: Councilmembers Ekberg, Young, Franich, Conan, Dick, and Mayor Wilbert. Councilmembers Picinich and Ruffo were absent.

CALL TO ORDER: 7:01 p.m.

PLEDGE OF ALLEGIANCE

CONSENT AGENDA:

These consent agenda items are considered routine and may be adopted with one motion as per Gig Harbor Ordinance No. 799.

1. Approval of the Minutes of City Council Meeting of July 25, 2005.
2. Wastewater Treatment Plant Upgrades – Design Services - Consultant Services Contract.
3. Olympic Drive/56th Street Roadway Improvement Project – Easements.
4. Liquor License Change of Location: Water to Wine.
5. Approval of Payment of Bills for August 8, 2005:
Checks #47802 through #47912 in the amount of \$306,024.55.
6. Approval of Payroll for the month of July:
Checks #3837 through #3886 and direct deposits in the amount of \$277,631.99.

MOTION: Move to approve the Consent Agenda as presented.
Ekberg / Franich – unanimously approved.

OLD BUSINESS:

1. Second Reading of Ordinance – Allowing Recovery of Emergency Response Costs. Mike Davis, Chief of Police, presented this ordinance that will allow the city to recover investigative costs associated with the emergency response to certain types of crimes.

MOTION: Move to adopt Ordinance No. 1009 as presented.
Dick / Conan – unanimously approved.

NEW BUSINESS:

1. First Reading of Ordinance – Terminating the Waterfront Millville Moratorium. John Vodopich, Community Development Director, presented this ordinance to end the moratorium on building in the WM zone established by emergency measure on May 31st. He recommended passing the ordinance at this first reading by a majority plus one of the whole membership.

MOTION: Move to adopt Ordinance No. 1010 at its first reading.
Young / Ekberg – unanimously approved.

Councilmember Franich commented that he is opposed to passing an ordinance at its introduction, but it is appropriate for this ordinance because the moratorium was adopted as an emergency.

2. First Reading of Ordinance – Shoreline Master Program Precedence (Zone 05-796). John Vodopich presented this ordinance that would address the issue of non-conforming structures in the shoreline area. It would clarify that in the event of a discrepancy between the zoning code and the Shoreline Master Program that the SMP would prevail. The companion ordinance follows and proposes amendments to the Shoreline Master Program.

Chuck Carlson – 3505 Harborview Drive. Mr. Carlson spoke on behalf of the condominium owners saying that if the two ordinances are passed, it will alleviate their concerns that they would not be able to rebuild if a disaster strikes. He thanked Council, staff, and the Planning Commission for coming up with the ordinance.

Bill Boris – 3519 Harborview Drive. Mr. Boris also spoke in support of the two ordinances. He asked why it was done in this complicated manner. He said that this way of obtaining the objective “kicks” the responsibility to Shoreline Management and out of Gig Harbor’s hands. He voiced concern that in the future, they could be fighting the same battle again.

Carol Morris, City Attorney, explained that state law requires the city pass on any proposed amendments to the Shoreline Master Program to the Department of Ecology for review. They then send it back for adoption. Once an amendment is made to the city’s Shoreline Master Program, it becomes a regulation of the state. She further explained that the shoreline is regulated is through the city’s zoning code, and that the Shoreline Master Program is an overlay zone required by DOE that also regulates development along the shoreline. If there are no non-conforming regulations in the Shoreline Master Program, it would default to the Washington Administrative Code which does not allow 100% development in the shoreline area to rebuild if destroyed.

Councilmember Dick explained that in this area, the city needed the authority under state law to allow the non-conforming provision.

Carlos Moravek – 3889 Harborview Drive. Mr. Moravek thanked the Mayor and Council for listening to the condo owners and for understanding their dilemma.

Councilmember Ekberg asked legal counsel for clarification for language in Section 4.15 (C) of the second ordinance. Ms. Morris explained that this language came from the WACs; the difference being that the WACs contain language regarding percentages that trigger the ability to rebuild to existing standards. The language in the draft ordinance tries to clarify that it must be an unintentional act to prevent a property owner from burning their own structure in order rebuild. She agreed that this language would only be important if there was a percentage beyond which you could not reconstruct, and asked if Council wished her to remove the language before it is transmitted to DOE

for approval. The language would then read “If the non-conforming structure is damaged or destroyed, it may be reconstructed to not more than the dimensions...”

Councilmember Dick voiced concern that if you eliminate the limitations on the method of destruction, then this doesn't meet the intent of the Planning Commission, and someone could interpret the destruction of a structure as simply remodeling. Councilmember Ekberg responded that he had not considered a remodel in the definition of destroyed. He clarified that he did not want to have to come back and amend the list because of some unanticipated disaster.

Councilmember Young said that he didn't want to be too specific in the list of limitations in light of the recent health issue of mold. This was further discussed and determined that mold would be considered an act of nature.

Ms. Morris voiced concern that without the percentage, if a non-conforming structure is damaged you don't have an idea how much damage would trigger the clause to allow reconstruction. Councilmember Dick said that the existing language should be enough, and that the Planning Commission should be commended for their prompt solution to a thorny problem. The suggested amendment would significantly change the intent.

The Mayor asked for clarification on what would happen if a structure was destroyed by arson. Councilmembers discussed whether or not arson would be considered an intentional act if it was not done by the owner. Councilmember Franich said that the word “fire” would include arson. After further discussion, Council decided to leave the language as is.

Councilmember Franich moved on to Section 4.15 Nonconforming Development. He asked if any “uses” would be grandfathered. John Vodopich said that structures built prior to the adoption of the ordinance would be grandfathered, but that he was unaware of any “uses” that might come into question. Councilmember Franich then asked about paragraph ‘B.’ Mr. Vodopich said that although unlikely that any future structure would be moved, if that were to occur, the structure would have to be brought into conformance.

3. First Reading of Ordinance – Allowing Reconstruction of Nonconforming Structures (Zone 05-794). This was discussed during the previous agenda item. John Vodopich asked for direction from Council on whether to forward the ordinance to DOE for review. Carol Morris clarified that any changes must be made to the ordinance before it is sent to DOE.

MOTION: Move to direct staff to forward the draft ordinance to the Department of Ecology for review.
Dick / Young – unanimously approved.

4. Gig Harbor North Traffic Options Committee Assistance – Consultant Contract. John Vodopich presented this consultant services contract with David Evans and

Associates, traffic engineering firm that is assisting the city with the evaluation of the Gig Harbor North / Borgen Boulevard corridor. This contract is specifically to give technical assistance to the Gig Harbor North Traffic Options Committee.

MOTION: Move to authorize the Mayor to execute the consultant services contract with DEA.
Dick / Conan – unanimously approved.

5. Approval of a Memorandum of Understanding to Share Information within an Initiative Known as LInX. Chief Davis presented this memorandum of understanding between law enforcement agencies. He explained that shortly after September 11, 2001, the federal government became involved in several projects aimed at sharing information. One of these programs is the Puget Sound Information Exchange, or LInX. He gave an overview of the program, and explained that the Gig Harbor Police Department would like to become a member of this organization to share the city's records and to access information to assist in investigations.

Councilmember Franich commented that we all have to live with the aftermath of September 11th, which is putting many of our Fourth Amendment rights in jeopardy. He said that the present federal administration has programs aimed at compiling computer information. The memorandum of understanding being presented has many acronyms in relation to law enforcement, adding that he believes that this is getting totally out of hand. He said that personally, he feels that once information gets put into a computer, mistakes can be made and there can be occasions in which two people with the same name or characteristics could be affected. He said that he will not support this.

Chief Davis responded that the information is report management right out of the police computers consisting of data from officer reports. This information is unclassified and restricted to law enforcement agencies that are members of this consortium.

Councilmember Franich said that the terms "mining of data" and "non-obvious recognition" refer to a lot of what is going on with computers in this day and age. He said that not all this is bad, and some good things could come from it. But in aggregate, there are Fourth Amendment problems going on in our society today.

Councilmember Young asked for clarification on what part of the information Councilmember Franich was referring to. Councilmember Franich responded that this is just one piece of a whole aggregate puzzle and that there aren't enough fail safe mechanisms built in. There are many things that are being classified as crimes, and that put a person's information in a data center that could lead to unlawful search and seizure.

Chief Davis explained that this is an analytical, investigative tool similar to what is currently in place with LESA. Member agencies that belong to LESA place their report information into a clearing house and share it. This just expands the sharing to federal, other state and county agencies. It is in regions with a high military installation

representation and focuses on not only crime, but terrorist activities. The initial participants in LInX were NCIS, the FBI, Everett with its new military base, and Kitsap County. Recently, Pierce County was offered the opportunity to join, and all other agencies that share information through LESA will be signing up.

MOTION: Move to approve the Memorandum of Understanding to Share Information within an Initiative known as LInX.
Young / Conan – five voted in favor. Councilmember Franich voted no.

STAFF REPORT:

1. Stephen Misiurak, City Engineer: Briarwood Lane Public Meeting. John Vodopich explained that this report was prepared primarily as an informational summary of the meeting regarding the Briarwood Lane improvements. Seven citizens attended the short meeting.
2. Mike Davis, Police Chief: July Stats. Councilmember Young asked how the jar was removed from the coyotes head. Chief Davis reported that it was done with tin-snips.
3. John Vodopich, Community Development Director: Second Quarter 2005 Building Permit Data. John Vodopich explained that this report was prepared as an informational summary.

PUBLIC COMMENT: None.

COUNCIL COMMENTS / MAYOR'S REPORT: Multicare Limited Certificate of Need. Mayor Wilbert gave an overview of the letter that she drafted in support of Multicare to obtain a limited certificate of need. She introduced John Long, Strategic Executive for Multicare, and gave a brief overview of his credentials. She said that she has encouraged Multicare to coordinate to bring health services to Gig Harbor that will be complimentary to a hospital.

John Long- 8218 86th Ave NW. Mr. Long extended the appreciation of the Board of Directors, Executive Team, and the staff of Multicare for the support that has been given to Multicare. He explained that his assignment has been to figure out that in addition to the hospital, what other services that Multicare could provide to improve the health of the community. He described the process to gather information, which resulted in dozens of ideas for health services that could be offered. Their proposal had to meet five criteria: 1. to improve the health of the community; 2. to be perceived by the population as being needed; 3. that it made sense to provide; 4. that it was something that Multicare could do well; and 5. that it makes economic sense in the long run.

Mr. Long said that the Board of Directors of Multicare approved the proposal and they have been moving forward since that time. He described the development team and the location, adding that they expect to have SEPA approval later this month, will go before the Design Review Board later this month, before the Hearing Examiner in

September, and if approved, they will break ground in October. By spring of 2007 they should be open.

Mr. Long closed by thanking staff. He said that from the beginning, staff was very clear and straight-forward, and truly acted as partners. He said that they have felt good about the experience. He then complimented Mark Hoppen, City Administrator, for helping to explain the traffic mitigation for this project at several presentations around town.

Mr. Long pledged to bring to the community a facility which everyone will be proud. The medical services will be top-quality, and there is also a commitment to excellent customer service.

ANNOUNCEMENT OF OTHER MEETINGS:

EXECUTIVE SESSION: For the purpose of discussing property acquisition per RCW 42.30.110(1)(b).

MOTION: Move to adjourn to Executive Session for approximately 15 minutes to discuss property acquisition at 7:52 p.m.
Franich / Young – unanimously approved.


MOTION: Move to return to regular session at 8:02 p.m.
Young / Franich – unanimously approved.

MOTION: Move to authorize the Mayor to send the letter for limited certificate of need for Multicare.
Conan / Young – unanimously approved.

ADJOURN:

MOTION: Move to adjourn at 8:02 p.m.
Young / Ekberg – unanimously approved.

CD recorder utilized:
Disc #1 Tracks 1 – 20.



Gretchen A. Wilbert, Mayor



Molly Towslee, City Clerk