

GIG HARBOR CITY COUNCIL MEETING OF MARCH 22, 2004, 2004

PRESENT: Councilmembers Young, Franich, Conan, Dick, Picinich, Ruffo and Mayor Wilbert. Councilmember Ekberg was not present.

CALL TO ORDER: 7:00 p.m.

PLEDGE OF ALLEGIANCE:

SPECIAL PRESENTATION: Mayor Wilbert introduced Mr. Lind Simonsen, Public Relations Officer for Pierce Transit. Mr. Simonsen thanked the Mayor and Council for the opportunity to present the new 30 foot, compressed natural gas bus at its very first public showing. He explained that Pierce Transit had been challenged to provide a smaller bus for smaller communities. He described the buses and the route it will take, adding that he hopes that he hopes that people will chose to ride the newly design bus.

PUBLIC HEARING: NW Gig Harbor Employment Center Annexation.

Mayor Wilbert opened the public hearing at 7:08. John Vodopich, Community Development Director, presented information on this proposed annexation area of approximately 226 acres located west of highway 16 and south of the Washington Correctional Center for Women.

There were no comments, and the Mayor closed the public hearing at 7:09 p.m.

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 March 8, 2004.
2. Correspondence / Proclamations: Proclamation – Building Safety Week.
3. Appointment / Re-appointments to the Gig Harbor Arts Commission.
4. Gig Harbor Arts Commission – Grant Awards.
5. Banking Services Contract.
6. Employment Contract – Prosecuting Attorney.
7. Sister City Activity – Takuma, Japan.
8. 2003 Boating Safety Program Agreement.
9. Liquor License Application: The Green Turtle.
10. Liquor License Renewals: GH Farmers Market Assoc. – Bonneville Gardens; GH Farmer's Market Assoc. – Hunt Street.
11. Special Events Liquor License: Harbor Heights PTA.
12. Approval of Payment of Bills for March 22, 2004.

Checks #42731 through #42863 in the amount of \$299,570.09.

Mayor Wilbert said that she had been requested to table number six of the Consent Agenda, Employment Contract – Prosecuting Attorney.

MOTION: Move to approve the Consent Agenda as amended to remove item number six.
Ruffo / Picinich – unanimously approved.

OLD BUSINESS:

1. Resolution – Community Center Maintenance and Operations Support. Mark Hoppen, City Administrator, explained that this resolution set the direction for the city to expend \$150,000 per year for five years for maintenance and operation for a community center. He gave a background of the project, explaining some of the steps that would be required of the Boys and Girls Club in order to bring the project to completion. The resolution itself does not commit the funds, but it outlines the process for Pierce County and the Boys and Girls Club to request the money if the required Interlocal Agreements are approved.

Mayor Wilbert thanked Mr. Hoppen for coordinating this effort.

Mark VanDuker – 8819 71st Ave NW. Mr. VanDuker explained that he takes tennis lessons at the Key Peninsula Civic Center, and would like to have some place closer to avoid the long drive. He also spoke in favor of such amenities as a game arcade, indoor basketball courts for games, dances, and other performances, as well as an indoor ice rink for a place for him and his friends to go. Mr. VanDuker explained that people who skate would add to the revenue through lessons and team skating. Parents could drop off their kids and then shop at the local stores. Finally, he explained that he is a boy scout in Troop 44, and offered assistance for service projects to do landscaping or to install a flag pole.

Carl Retting – 3410 61st Ave NW. Mr. Retting said that he is very active as a volunteer around Gig Harbor, one of which is AARP. He explained that for many years AARP has been trying to get a senior facility. He said that this looks like a fine project and hopes that it comes to fruition.

Len McAdams – 4310 Foxglove Drive NW. Mr. McAdams spoke on behalf of the Gig Harbor Lions Club and the AARP. He explained that he began working with the Mayor and others four years ago to provide a Senior Center. This group visited several facilities, one of which was a joint facility in Sweethome, Oregon. They were impressed with the overall activity, and brought back architectural drawings. He described the joint junior/senior facility and how it serves the needs of both groups without duplication of structures. He urged the City of Gig Harbor to support this activity.

Tracy Cutler – 7811 71st Ave NW. Ms. Cutler explained that she came from Texas, where they have community centers. She said that she was surprised to find that there wasn't such a facility in Gig Harbor. She described some of the activities that occur in these Texas community centers, stressing the importance of such centers and how it relates to juvenile crime rates. She suggested contacting Mayor William Tate in Grapevine, Texas, to obtain more information on the community centers in his town. She then offered to do any research that would be helpful.

Councilmember Young said that he feels that this is a very worthwhile project, as he too comes from a town that had a Boys & Girls Club and Community Center. He explained that the Council is constrained by laws to make sure that it is done properly and that before the city commits to the funding for five years, he would like clear goals and mechanisms, and the assurance that the funds would be available. He added that both he and Councilmember Ekberg, who could not attend the meeting, would like to table action on this item until the next meeting to address some of the questions that he had.

Councilmember Picinich asked if the commitment of \$150,000 would be extended past the five year term. Mark Hoppen said that he did not foresee that happening.

Councilmember Ruffo asked for clarification on the status of the Interlocal agreements. Mr. Hoppen explained that Pierce County had not yet addressed the construction of the building, and would also have to work toward an Interlocal where they would act as the fiscal agent. He continued to explain that the resolution only outlines the process to be able to share with Pierce County. Councilmember Ruffo said that he too is very much in favor of the project, but agreed that more information would be helpful.

MOTION: Move to table action on this resolution.
Young / Ruffo – unanimously approved.

2. Resolution – Accepting Employment Center Annexation Petition. John Vodopich explained that he had nothing to add what was discussed in the public hearing and recommended approval of the resolution as presented.

MOTION: Move to adopt Resolution No. 621.
Young / Picinich – unanimously approved.

NEW BUSINESS:

1. First Reading of Ordinance – Animals and Beekeeping in Residential Zones. John Vodopich presented information on this ordinance adding new sections to Chapter 17 of the Zoning Code relating to the keeping of animals and beekeeping within the city limits. He stressed that it was important to note that the ordinance is not retroactive, and therefore, those who already have animals or bees would not fall under the purview of the ordinance, but they would become non-conforming uses of the land. He continued to explain that the proposed ordinance had been reviewed by the Planning Commission and a copy of the report is included in the packet.

Councilmember Ruffo asked how many homeowners would be grandfathered. Mr. Vodopich explained that there are only 2-3 that he is aware, and any future annexations would also be grandfathered.

Councilmember Young asked for clarification on how this came back with the addition of the other animals and a zoning change rather than a life-safety issue. Jennifer Sitts, Associate Planner, explained that the addition of the other animals was because the

zoning code has no regulations for animals. It seemed prudent to look at other types of animals that are typically regulated by counties and cities.

Carol Morris, City Attorney, addressed the question of how other animal nuisances are handled. She explained that the city has nuisance regulations and that you can also handle nuisances through state law. She continued to explain that by regulating in the land use code you are describing the manner in which animals can be kept in the city. You are also limiting the keeping of animals in the city. If they do become a nuisance, you can regulate them under the nuisance code. If you want to prohibit them altogether, this can be done through the nuisance code by developing the findings on why that is regulated, such as exotic animals. There are two different ways to regulate animals in the city; one, you can allow people to keep them and describe the conditions in which they are allowed; the second, you wait until there is a problem, then address the problem.

Councilmember Franich asked Ms. Sitts which cities were used as examples to determine the one-acre size. Ms. Sitts said that there had been general research on codes from Pierce County, City of Tacoma, Bellingham, and Bellevue. The one acre lot was chosen by the Planning Commission as the best option to prohibit bees altogether, when it was determined that no evidence or case law existed to justify outright prohibition. The one-acre requirement for livestock is also a common in Pierce County urban areas.

Margot Ulsh – 7401 Pioneer Way. Ms. Ulsh explained that the rooster, chickens, Guinea hens, and ducks are pets. She described the way that she and her husband interact with these birds. She said that she doesn't believe that they are a problem and in fact, a couple times a week we have Grandparents bringing children over to visit the birds. She asked why this regulation is coming about now. She voiced her concerns that they would be limited to only four birds if they are not grandfathered. She said that she loves the size of their flock and their ability to keep down the bugs.

Councilmembers asked John Vodopich if any complaints had been received about the flock. Mr. Vodopich said that the only complaint was a result of the bees, due to the neighbor being deathly allergic to the bee stings. Ms. Sitts added that there have been swarms of bees in their yard.

David Ewert – 3614 44th St. Ct. NW. Mr. Ewert explained that he wished that the animal portion would be separated from the ordinance, since he started this several years ago when he came to a Council Meeting asking that something be done about the raising of bees. Mr. Ewert explained that he is allergic to bees and that having beehives next to his property is unnecessary. He added that those that are allergic know that an incidental bee sting is a hazard that they are alert to, however, beekeeping in an urban environment magnifies the hazards.

Mr. Ewert said that he lives on a ¼ acre lot in the Heronwood/Quail Run Addition. He said that his neighbor sent a letter in January that states that he is not in the business of

bee keeping any longer; the several hives are a hobby to pollinate his garden. Mr. Ewert stated that a quarter acre lot does not need one beehive, which contains 50,000 bees, let alone the two hives that appeared in February. He added that seven more hives are against the house ready to move out; many more than are needed to pollinate a garden when a bee can fly five miles.

Mr. Ewert continued to explain that the bees swarmed three times in his yard last year. He stressed that bees do kill you, and that it's unnecessary to have them in the city no matter what the size of the lot. He said that supposedly the city has to grandfather the use in, but that he didn't see the sense in that. He said that his neighbor has had up to sixteen bee hives, and his property line to the hive is a short distance.

Mr. Ewert then referred the 8/13/03 article in the Gateway when Daniel Rush, 40 years old, died as a result of bee stings. He continued to describe what happens when the bees swarm. He said that they can't hear, and they have to sit in their house and wait until they gather around the queen and hopefully the beekeeper comes to get rid of them. Whether or not the neighbor is raising bees, the point is there is no place in Gig Harbor for a quarter acre lot to raise bees. He finalized by saying that hopefully, the city will do away with beehives because it is a serious thing and not necessary.

Councilmember Ruffo commented that the grandfathering clause in this ordinance would not do Mr. Ewert any good. Councilmember Dick explained that staff had a difficult time finding case law to warrant limiting beekeeping. He asked Mr. Ewert if he was aware of any such evidence that could help staff.

Mr. Ewert responded that he didn't know the advantage of having bees in the city limits. He explained that he comes from Kansas, where bees were brought in for the alfalfa fields and apple orchards, but they were trucked in. He offered to keep trying to find more information.

Councilmember Ruffo asked staff if it is necessary to have an all-encompassing ordinance if bees are the only problem, and if it would be appropriate to address just the bees. Ms. Morris responded yes.

Councilmember Dick asked because it is a danger, if it would be possible to regulate bees under the nuisance statute, as such things as dynamite and nuclear power are regulated. Ms. Morris said yes. She then introduced Jennifer Sitts to describe how the draft ordinance came about.

Ms. Sitts explained that she had hoped that there would be studies on kept bees verses wild bees, or existing cities that prohibit beekeeping, in order to provide the necessary evidence. She said that she had done quite a bit of research with the state and cooperative extensions, and found nothing. She said that they did not address the nuisance issue of kept honey bees compared to bees in general nature as they relate to health concerns. She said that Tacoma and Pierce County regulate bees through a

nuisance ordinance, dealing with the maintenance of hives, re-queening, and defining of bee nuisance as one that is causing a public safety or health issue to neighboring lots.

Ms. Sitts said that the Planning Commission is urging Council to update Title 6 to deal with these nuisances beyond the at large issues, as it is outside the purvey of the Planning Commission to make that change and to look at language related to that.

Councilmember Dick asked if this is something that the staff will be doing. Ms. Sitts said that yes, with direction, staff could develop language.

Marilyn Owel – 6844 Main Sail Lane. Ms. Owel explained that she knows Dave Ewert, and knows that he has the medical records to document his allergy. She said that she would like to see the bee ordinance strengthened. She continued to explain that she has researched bees, stressing that when bees swarm, they are hard to contain. Bees are sensitive to the environment and can be set off by such vibrational noises such as lawnmowers. She added that beekeeping seems to be a hobby that is incompatible with residential living, adding that living next to a bee colony is an overwhelming, pervasive hazard.

Ms. Owel further shared that beekeeping can be defined. She said that Sacramento County has beekeeping regulations that are quite stringent and that recognized the public health and life safety issues. She stated that we do have a precedence that illustrates that this is a health and life safety issue and further discussed some of the behaviors of bees. She stressed that there is no room on a ¼ acre lot for this type of activity, adding that that allergy or not, a swarm can kill a small child. The danger is not just for people with allergies.

Councilmember Picinich said that he would like to see a strong ordinance to control the bees and that he would like to take out the portion regulating animals. He agreed that ¼ acre is not enough for this dangerous hobby. He shared that his Dad also was allergic to bee stings. He said that he would like to see staff go back and separate the two, and treat the bees as a public health and safety issue.

Councilmember Ruffo said that he is interested in looking at the bee issue but not the animal control. He suggested instructing staff to redo the ordinance.

Carol Morris explained that the last time that the Ewert's came to Council, Marilyn Owel offered the Bellevue Ordinance as a model. She said that she would be happy to look at the Sacramento County ordinance and to bring back another draft.

Councilmember Young asked for clarification on why the zoning code was being used to regulate the bees. Ms. Morris explained that the intent was to make beekeeping a non-conforming use to phase out the existence and to regulate additional uses.

Councilmember Dick explained that the city regulates many nuisances in which the concern is defined in the code, which is not uncommon when it is a health/safety issue.

He added that you shouldn't have to wait until someone dies before declaring something a nuisance. He said that he would prefer to address this as a nuisance issue rather than a zoning issue. Ms. Morris reinforced that the city could regulate this as a nuisance as a life and health safety issue.

Councilmember Franich asked if Mr. Ewert's problem had been addressed through the nuisance portion of the code. Ms. Morris explained that staff had been directed to use the Bellevue ordinance as a model, which uses zoning regulations. She repeated that the city could go forward with a nuisance approach. Jennifer Sitts explained that the current nuisance law doesn't have any reference to insects.

Councilmember Franich agreed that he too would like to review this ordinance as two separate issues. He said that it was a fine line between allowing a property owner to keep bees if he acts responsibly, and the dangerous situation for Mr. Ewert, even if the property owner is acting in a responsible manner. Councilmember Franich said that he also would like to see animals and bees separated in the ordinance.

Councilmember Ruffo asked if the goal is elimination of bees in the city limits or to regulate them as a nuisance on a case by case basis. Councilmember Franich responded that the one-acre limitation is a method to eliminate beekeeping.

The Mayor said that she believes that you need to get rid of the bees altogether within the city and supports bringing back the bee issue separated from the others.

Councilmember Franich asked Jennifer Sitts if she had any information on other types of bees, as his neighbor has bees that live in wood but don't sting. She did not, and he offered to bring back more information because he would like to see this type of bee excluded from the ordinance.

Councilmember Dick said that he didn't mind looking at this as a zoning issue, but that the city should consider the nuisance piece. The others agreed that any exotic animal issue could be brought up at a later date.

MOTION: Move to instruct staff to come back at the April 26th Council meeting with a proposed ordinance that addresses bees as a nuisance and another that addresses bees through zoning to let Council debate the issue. In addition, staff is to remove livestock from the ordinance.
Ruffo / Picinich – unanimously approved.

2. Adam Tallman Park Asphalt Pathway Project – Contract Authorization. John Vodopich explained that a new memo had been give to Council with the scope of services attached. Using the city's Small Works Roster, three contractors had been identified with the lowest bid coming from Puget Paving and Construction to perform the work.

MOTION: Move to authorize the award and execution of the contract for the Adam Tallman Park Pathway with Puget Paving and Construction in an amount not to exceed thirty-eight thousand, seven hundred forty two dollars and sixteen cents.
Ruffo / Picinich – unanimously approved.

STAFF REPORTS:

1. Community Development – Building Size Ordinance Public Notification. John Vodopich said that he prepared a revised staff report related to the building size analysis public hearing on April 26th. He explained that the public hearing notification postcards will be mailed out seven to ten days prior to the hearing to all city residents and business owners. Councilmember Franich requested that they be mailed out sooner.
2. GHPD – February Stats. No verbal report given.

PUBLIC COMMENT:

Mildred Ewert – 3614 44th St. Ct. NW. Ms. Ewert said that they have been working on this issue (bees) for approximately three years and has lived in the harbor for five years. She wanted to let Council know that she looks out her kitchen window every day at the beehives. She explained that she and David have been married for 37 years and she doesn't want to lose him, but that she lives with this every day. Her daughter is also allergic, but she does not yet know about the grandsons. When they come over to play in the yard, she is on alert. The bees come down her chimney and they have found the fireplace full of dead bees. She said that they sift through the windowsills of the house and she kills them in the bathroom. On Easter two years ago, when they sat down for dinner, there was a bee, so they couldn't go ahead until the bee was killed. She added that she wishes that the beehives were in the county on five to ten acres. She said that she talked to Mrs. Rush, who lost her son last summer and whose family members are all Gig Harbor people. She said that she doesn't want her husband to be the next statistic.

Ms. Ewert continued to explain that when the bees swarm, it is like a freight train for hours, and as big as the petition behind the Councilmembers. The bees hang in masses off her fence, and it takes days to get rid of them. She said she remembers the article in the Gateway of the swarm under the umbrella downtown, which is a hazard to visitors. The bees do kill; they are angry, they are deadly when swarming. She concluded that she wants to keep her husband and family, as they love it here, and are dedicated to this community. She said that she appreciates the opportunity to speak.

The Mayor asked if the bees are still in the hives. Ms. Ewert said that since January, the neighbor has moved the hives out on a dolly, and another seven have been stacked ready to go in piles. At one time they had Aspen Surveying survey their property, and there were 16 boxes on their property line. Now the four to five boxes are twenty feet from the line. She said that whether the bees are in there or not, there is no doubt in

her mind that they will be, stressing that there are up to 50,000 bees in one box. She said that she is grateful for whatever the city can do, because they only have twenty minutes to get to the Emergency Room, adding that they have been at this a long time.

Wes Ulsh – 7401 Pioneer Way. Mr. Ulsh said that his chickens are Aracondas, which lay eggs that are very low in cholesterol, and saves him money buying them from the health store. He explained that he will make improvements to the pen so that it doesn't look so bad just as soon as he is up and around.

COUNCIL COMMENTS / MAYOR'S REPORT: None.

ANNOUNCEMENT OF OTHER MEETINGS: None.

MOTION: Move to adjourn at 8:18 p.m.
Franich / Ruffo - unanimously approved.

CD recorder utilized:
Disc #1 Tracks 1 – 21.



Gretchen Wilbert, Mayor



Molly Towslee, City Clerk