

## **GIG HARBOR CITY COUNCIL MEETING OF SEPTEMBER 13, 2004**

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

**CALL TO ORDER:** 7:02 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 August 23, 2004, Worksession on Building Height of July 19, 2004, and the Design Review Manual Worksession of August 30, 2004.
2. Correspondence / Proclamations: a) Constitution Week b) Letter from Pierce County Housing Authority.
3. Renewal of Copier Maintenance Agreements.
4. Renewal of Laundry Services Agreement.
5. Crosswalk Lighting System – Existing Crosswalk at Discovery Elementary on Rosedale.
6. Resolution No. 629 – Establishing a Work Program for the Review and Revision of the Comprehensive Plan.
7. Civic Center Landscaping Design Improvements.
8. Liquor License Assumption: Quality Food Center #886
9. Approval of Payment of Bills for September 13, 2004:  
Checks #44936 through #45086 in the amount of \$333,822.64.
10. Approval of Payroll for the Month of August:  
Checks #3378 through #3430 and direct deposits in the amount of:  
\$277,150.24.

Mayor Wilbert welcomed members of the local chapter of the Daughters of the American Revolution. She then read the proclamation in support of Constitution Week and presented the signed copy.

**MOTION:** Move to approve the consent agenda as presented.  
Ekberg / Ruffo – unanimously approved.

### **OLD BUSINESS:**

1. Third Reading of Ordinance – Amending the Setback Standards in the PCD-BP District. Steve Osguthorpe, Planning and Building Manager, explained that Council requested that this ordinance be brought back for a third reading after proposing amendments to the definition of ancillary uses. He said that he had amended the ordinance to reflect that ancillary uses for retail would only apply to the Category 2 section. Since that time, the applicant, Dale Pinney, said that he understood the direction from Council to mean that ancillary uses would be allowed in either category if

they meet the setbacks for that category. He said that the ordinance, as presented, allows retail uses that are ancillary to those uses allowed in Category 2 use only, and asked if it was the intent of Council to include both categories.

**MOTION:** Move to adopt Ordinance No. 967, with the changes outlined by Mr. Osguthorpe.  
Ruffo / Young -

Council discussed ancillary use in the two categories and determined that it was desirable to only allow the provision in the category of less intense use.

**MOTION:** Move to eliminate the modification to the ordinance.  
Dick / Young – unanimously approved.

**MOTION:** Move to adopt Ordinance No. 967.  
Ruffo / Young - unanimously approved.

2. Second Reading of Ordinance Supporting a Continuance of a Moratorium on the Acceptance of Applications for Development in the Height Restriction Area for a Period of Six Months. Mr. Vodopich, Community Development Director, explained that two changes had been made to the exemption section of the ordinance. The first is to add demolition permits, the second is to add buildings that do not exceed a certain square footage, which is to be determined by Council before adoption.

Doug Sorensen – 9409 No. Harborview Drive. Mr. Sorensen recommended that Council not vote to continue the moratorium. He said that this is the first time a moratorium, which should be used for an emergency which affects the safety and well-being of the citizens, has been used to stop construction of a single family residence. He asked why Council is circumventing the procedure in place for land use issues utilizing the Planning Commission. He asked Council to exempt single family residences from the moratorium if adopted and to let the Planning Commission hold public hearings on the issue. He mentioned the impact of rising interest rates on projects, adding that he wants to take advantage of the low rates. He then talked about living in the WR zone with an overlay that requires the houses to look like those in Millville, even though there has never been one of that style located there before.

Councilmember Ruffo asked Mr. Sorenson what size home he was considering building. Mr. Sorenson said that he didn't know, but it would be less than 3,500 square feet.

Dawn Sadler – 7508 Pioneer Way. Ms. Sadler said that she supports the previous discussion to exempt residential buildings up to 3,500 square feet from the moratorium. She submitted a letter from her attorney supporting this recommendation.

Susan Harms – 7502 Pioneer Way. Ms. Harms encouraged Council to consider addressing special cases such as the Sadler's if the moratorium is continued.

Councilmember Ruffo suggested inserting 3,500 square feet in the blank of the ordinance.

**MOTION:** Move to adopt Ordinance 968 continuing the moratorium for a period of six months with the modification to add numbers five, six and seven to the exemptions, and to insert 3,500 square feet to the blank in number seven.  
Ruffo / Conan –

Councilmember Young responded to Mr. Sorensen's comments on the need for a moratorium. He explained that the Planning Commission had worked on the building size limitations over the past couple of years. The reason for the moratorium is to prevent a rush of applications before Council had an opportunity to work through all the concerns. The concern was not with structures under 3,500 sq. ft. He said that Council does recognize the significant impact to property owners due to rising interest rates, but the impact to the overall public good and to protect what is left of Gig Harbor's historic nature downtown makes the continuance necessary.

Councilmember Ruffo offered to add language to his motion to reflect that the Council had taken the comments from the worksessions on building size into consideration in adopting the continuance of the moratorium, adding that six months is the maximum time allowed for the moratorium, urging the Planning Commission and staff to get this matter concluded sooner.

Councilmember Dick said that there was considerable testimony that the welfare of our community would be adversely impacted by structures larger than 3,500 square feet. Additionally, there has been question as to how much larger and that matter has yet to be resolved. With the proposed amendment to allow structures up to 3,500 square feet Council is acknowledging the testimony received from a number of sources including that of the Planning Commission. Council has also considered the adverse impacts created by larger structures and that, until it can determined how much larger and in what degree, the purpose of the moratorium is that we not go larger than 3,500 square feet. But, by this exemption I think Council has accommodated the more immediate concern as described by testimony and referenced in the staff report.

John Vodopich asked for clarification on whether the amendment to exclude projects in which buildings do not exceed 3500 s.f. in size, would be inclusive or exclusive of the garage. He recommended that it be exclusive of the garage given that it is not living space.

Councilmembers discussed this option and decided that for the purposes of concerns for the nature of the neighborhood, the character of the town and the views that may be blocked, the garage should be included in the 3500 s.f. threshold.

**MOTION:** Move to adopt Ordinance 968 continuing the moratorium for a period of six months with the modification to add numbers five, six

and seven to the exemptions, and to insert 3,500 square feet to the blank in number seven. Council has studied the workshop minutes and has taken the comments into consideration in adopting the continuation of the moratorium.

Ruffo / Conan – unanimously approved.

3. Second Reading of Ordinance – Traffic Concurrency Management Update. John Vodopich presented this ordinance that amends the traffic concurrency exemption section based on current case law.

Carol Morris, City Attorney, said that she received notice from the Supreme Court that they will not accept review of the Bellevue case she mentioned at the last meeting, making action on this final, meaning that this ordinance complies with the law.

MOTION: Move to adopt Ordinance No. 969 as presented.  
Ekberg / Young – unanimously approved.

4. Second Reading of Ordinance - Northharbor Rezone. John Vodopich presented this ordinance that rezones property held by Donkey Creek Holdings, from Mixed Use Overlay District to the Employment District Zone. This has been approved by the Hearing Examiner and the ordinance is necessary to change the city's zoning map. Staff recommended approval of both this ordinance, and the one following.

Michael Perrow – PO Box 245, Gig Harbor. Mr. Perrow commented on both ordinances. He said that they are troubled by the recent correspondence to two of their tenants stating that these businesses will not be compatible with the ED zoning. Consequently, these businesses will not be allowed to expand or move within the District, but will not be required to terminate. He said that the businesses are not allowed in the ED zone because they are considered retail.

Carol Morris explained that what is before Council is a rezone, and the information that Mr. Perrow is discussing isn't not related to approval of a rezone. The tenants have talked to city staff about an interpretation, which is a quasi-judicial action which would come after the adoption of the ordinances. It is not an action that Council can deal with, and comments should be restricted to the rezone.

Mr. Perrow said that he is asking for an indefinite postponement of the adoption of these ordinances until they could clarify what ancillary and support means. He said that either they were terribly mistaken when they filed for Employment District zoning, and the Planning Commission agreed that it seemed they were more compatible with the ED zoning. Now it turns out that this may not be the case.

Councilmembers agreed and made the following motion.

**MOTION:** Move to table this ordinance until staff could address the concerns and come back with a recommendation.  
Ruffo / Young – unanimously approved.

5. Second Reading of Ordinance - Burnham Drive Rezone. This was discussed under the previous agenda item.

**MOTION:** Move to table this ordinance until staff could address the concerns and come back with a recommendation.  
Ruffo / Young – unanimously approved.

**NEW BUSINESS:**

1. First Reading of Ordinance – Providing for the Issuance and Sale of Unlimited Tax General Obligation Bonds for the Purpose of Financing the Acquisition of Real Estate. Mark Hoppen, City Administrator, explained that this is an ordinance for approval in one reading to enable this voter approved, bond debt to be placed on the November 2<sup>nd</sup> ballot. He said that this information has to be submitted to the County Auditor by September 17<sup>th</sup>. He added that if someone in the community wishes to present a Con statement, they need to contact him immediately. He said that there is already a committee working on the Pro statement.

John McMillan – 9816 Jacobsen Lane. Mr. McMillan said that he appreciates the effort to push this forward. He said that this is a good time to include the other southern three lots in the bond, making the bond easier to sell to the citizens as one package. He then recommended establishing an Ad Hoc Eddon Boatyard Committee to address such issues as the bond campaign, site use and restoration, site development and facility maintenance. Without public participation, there won't be the same level of success as was seen with the Skansie Brother's Park.

Mayor Wilbert asked to have the word "educational" added after "historical" to the explanatory statements in the bond ordinance.

Mr. Hoppen explained that in order to negotiate the additional three lots, one million dollars would have to be added to the bond amount, bringing it to 3.5 million dollars. He said that if all the southern lots were added, the issues related to the waterfront and shared uses between private and public would resolve themselves.

Councilmember Young said that the reason that the bond was pared down, is that Council felt it would be the most likely to be passed by the voters. He said that the increase was worth discussion. Councilmember Ruffo added that the deal was negotiated with the idea that two million would be feasible for approval.

Lita Dawn Stanton – 111 Raft Island. Ms. Stanton asked for information on the waterfront frontage and amount paid for the Skansie Brothers Park property. Mr. Hoppen replied that the waterfront was 280 feet as opposed to the 140 feet at the

Eddon Boat property. The addition of the three lots would bring the total to approximately 300 feet. The city paid 2.8 million for the Skansie property.

Councilmember Ruffo stressed that there was a big difference with the Skansie property, as the city had the ability to purchase the property without having to go out for a bond. In addition, the property owners were willing to deal. Ms. Stanton said that she thinks that preserving the entire cove would make floating a bond more sellable.

Bert Beneville – 3002 Soundview Court. Mr. Beneville said he was speaking for the Gig Harbor Yacht Club in support of the bond issue to keep the Eddon Boatyard and adding the additional three lots.

Jack Bujacich – 3607 Ross Avenue. Mr. Bujacich spoke in support of acquisition of the site for historical purposes. He said that he could not support the additional three lots if the tidelands are not included. He stressed that for a successful promotion of the bond, a clear picture of what was included is important.

Chuck Hunter – 8829 Franklin Avenue. Mr. Hunter urged Council to go for the entire property at 3.5 million for a package to serve the community better. He said that you will have to see if the property owners will accept the 3 million. He asked for clarification that this bond is exclusively for the Eddon Boat property and the work to be done on it. David Rodenbach, Finance Director, assured him that the proposition states that this is specifically for the Eddon Boatyard property. He said that if the city cannot acquire the property, the bonds would not be sold.

Councilmember Young pointed out that the city could not be involved in a campaign process, and therefore could not appoint a committee to oversee the bond campaign.

Councilmember Dick asked for clarification on whether the ordinance would need to be modified to include language to include all parcels of land. Dave Rodenbach said that he would get with the Bond Counsel tomorrow to see if it was necessary to amend the language.

Councilmember Ekberg thanked the public for the recommendation to add the additional parcels. He and Councilmember Conan voiced support of the decision to add the additional three parcels and to increase the bond amount to 3.5 million.

**MOTION:** Move to adopt Ordinance No. 970, amending the language to increase the amount of the bond to 3.5 million dollars and including the word “educational” where discussed and pass this at its first reading utilizing the emergency procedure.  
Ruffo / Young - unanimously approved.

2. Cushman Trailhead Park Asphalt Pathway. John Vodopich presented this contract to complete the asphalt pathway at the triangle Cushman Trailhead Park.

**MOTION:** Move to authorize the award and execution of the contract for Cushman Trailhead Park Asphalt Pathway to Lakeridge Paving Company in an amount not to exceed Nine Thousand Four hundred dollars and zero cents (\$9,400.00).  
Dick / Ruffo – four voted in favor. Councilmember Ekberg abstained.

**STAFF REPORTS:**

1. John Vodopich, Community Development Director – Fire Inspection Program Analysis.

Mr. Vodopich explained that before he presents information on the Fire Inspection Program, he first would like to update Council on the cost reimbursement agreement with the Department of Ecology. He said that under the terms of the agreement, a decision was to be given by September 10<sup>th</sup>. Earlier this week, he received indication that the DOE would be unable to meet the deadline, and were proposing a one-month extension to October 11<sup>th</sup>. The agreement for the extension will be presented to Council at the next meeting. He introduced Don Davidson of the Department of Ecology.

Don Davidson – 300 Desmond Drive, Olympia, Washington. Mr. Davidson, employee of the Water Resources Division of the DOE, explained that the continuation of the contract to process a number of applications for water. He said that there are a number of reasons for the request for the extension; the foremost is the contractor's difficulty in gaining information, unrealistic expectations on the part of DOE, and communication issues. He said that there is no budget increase; only a months delay in processing applications. He said that he fully expected to meet the obligations by October 11<sup>th</sup>.

Mr. Vodopich then presented information on the Fire Inspection Program Analysis. He said that for the past four years, the city has contracted with Fire District #5 for fire code related inspection services. Earlier this year, staff advised Council that the cost of the contract had increased to the point that it would be fiscally prudent to hire our own fire inspection personnel, and a letter was forwarded to the Fire District indicating that the city would not be renewing the contract for 2005. He was contacted by Chief Bob Black of the Fire District, who met with staff and then reevaluated the program to identify cost savings. They have offered to renew the contract for \$58, 100. Mr. Vodopich explained that a similar in-house program would cost the city \$65,500, so there would be a savings in the Fire Department retaining the program. He recommended that the city re-enter into a contract with Fire District #5. If acceptable, a contract will return at a later date for consideration. He added that Chief Black and Penny Hulse of the Fire Department, were present to answer questions.

Councilmember discussed the proposal and recommended that the contract be considered on a multi-year basis with yearly inflation increases.

**MOTION:** Move to direct staff to bring back the contract for consideration.  
Ruffo / Young – unanimously approved.

2. Chief Mike Davis – GHPD August Stats. No verbal report was given, but the Mayor and Councilmember Ekberg praised the in-depth report.

**PUBLIC COMMENT:**

Michael Perrow – PO Box 245. Mr. Perrow voiced his concern that the staff doesn't always look for ways for things to work and the explanations that are given are not clear. He said that he would like clarification for "retail uses." He said he appreciates working with John Vodopich on the definition of "ancillary," but asked if staff might need guidance from the Council to more clearly define the percentages of vehicle trips that determine whether or not a business is deemed retail.

Councilmember Young said that it would be desirable to have a clarification of the term "ancillary" because it seems there are different interpretations. John Vodopich said that the issue is that in the Employment District, retail uses are not encouraged in order to reduce the demands on the traffic infrastructure. It allows supportive retail uses ancillary to permitted uses within the zone. It is a gray area that will require a formal, administrative interpretation that will be reviewed by the parties involved. It can then be taken to the Hearing Examiner for a more formal resolution if necessary.

After further discussion, it was determined that this may require a legislative determination to address the concerns.

**COUNCIL COMMENTS / MAYOR'S REPORT:** None.

**ANNOUNCEMENT OF OTHER MEETINGS:**

Council Worksession on the Design Review Manual – September 20, 2004 at 6:00 p.m. in the Civic Center Community Rooms.

**EXECUTIVE SESSION:** For the purpose of discussing pending litigation per RCW 42.30.110(1)(i).

**MOTION:** Move to adjourn to Executive Session at 8:35 p.m. for approximately five minutes for the purpose of discussing pending litigation.  
Ekberg / Young - unanimously approved.

**MOTION:** Move to return to regular session at 8:40 p.m.  
Ruffo / Young – unanimously approved.

**MOTION:** Move to adjourn at 8:40 p.m.  
Ruffo / Young – unanimously approved.

CD recorder utilized:  
Disc #1 Tracks 1 – 22.  
Disc #2 Tracks 1 – 3.



*Gretchen A. Wilbert*  
Gretchen A. Wilbert, Mayor

*Molly M. Towslee*  
Molly Towslee, City Clerk