

## GIG HARBOR CITY COUNCIL MEETING OF JANUARY 13, 2003

**PRESENT:** Mayor Wilbert and Councilmembers Ekberg, Young, Franich, Owel, Dick, and Picinich. Councilmember Ruffo was absent.

**CALL TO ORDER:** 7:02 p.m.

### **PLEDGE OF ALLEGIANCE**

**SWEARING IN CEREMONY:** Chief Mitch Barker introduced Officer Anthony Adams and Mayor Wilbert swore Officer Adams into service.

### **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 December 9, 2002.
2. Communications Maintenance Contract.
3. Purchase Authorization for Heritage Markers.
4. Shurgard Reservoir Tank Repainting Project – Inspection Services.
5. Liquor License Assumption: Wasabi Restaurant.
6. Liquor License Renewals: Harbor Arco AM/PM Minimart; Gourmet Essentials; Harbor Inn; El Pueblito; and Market Express.
7. Approval of Payment of Bills for December 23, 2002.  
Checks #38721 through #38852 in the amount of \$608,190.94.
8. Approval of Payment of Bills for January 13, 2003.  
Checks #38853 through #38990 in the amount of \$313,216.85.
9. Approval of Payroll for the Month of December.  
Checks #2244 through #2322 and direct deposit entries in the amount of \$210,377.57.  
Payroll checks #2269 through #2295 and miscellaneous direct deposit entries were VOID due to clerical error in issue date (01/03/02).

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

### **OLD BUSINESS:**

1. Peninsula Recreation Program. Mark Hoppen, City Administrator, introduced Jeremy Bubnick, Recreation Supervisor of the Peninsula Recreation Program. Mr. Bubnick briefly described his experience in the area of recreation and presented information on the Peninsula Recreation Program. He described how the program, an inter-local agreement between Pierce County, the City of Gig Harbor, and the Peninsula School District, is funded and how its purpose is to supplement, not replace, other recreation groups currently in place. Mr. Bubnick presented the Winter/Spring 2003 Peninsula Recreation Program Guide and said that future booklets will be published three times a year. Mayor Wilbert thanked Mr. Bubnick for his efforts and Councilmember Dick noted that the program has been well received and that he was pleased with the public's response.
2. Resolution – Replacing the Shared Leave Section of the Personnel Regulations. Mark Hoppen reported that two adjustments have been made to this resolution since it was first presented at the last city council meeting. Changes to the resolution include an annual

reporting requirement to City Council and a section that allows City Council to terminate the program at any time.

**MOTION:** Move to adopt Resolution No. 600.  
Picinich/Ekberg – unanimously approved.

3. First Reading of Ordinance – Shooting Sports Facilities. Mark Hoppen presented the first reading of this ordinance dealing with the regulation of hours of operation at shooting sports facilities within city limits. Mayor Wilbert invited public comment.

Dan Koch – 1415 Cascade Place. Mr. Koch, immediate past president of the Gig Harbor Sportsman's Club, spoke in opposition to the ordinance. He stated that the city has hired consultants to determine if safety and/or noise issues were present and none have been found. He added that the club was annexed against their wishes, and at that time, this type of action was anticipated. He further stated that no other such facility within the limits of any city in the state of Washington are regulated by city ordinance.

David Gordon – member of Sportsman's Club. Mr. Gordon stated that a city ordinance is not necessary to regulate shooting sports facilities, and passage of this ordinance could effectively put the Gig Harbor Sportsman's Club out of business. He asserted that there was potential for the ordinance to be applied arbitrarily, and that rather than passing an ordinance, any violations, should they occur, could be handled through legal means. Mr. Gordon continued by focusing attention on several sections of the proposed ordinance, which he saw as potentially problematic such as (1) the license requirements for fencing and other amenities; (2) the one million dollar insurance coverage requirement in Sec. 5.12.180(T); (3) the time required to respond to a complaint and the power of the city administrator to initiate a revocation procedure as stated in Sec. 5.12.220(D); and (4) the final authority of the Public Safety Authority as described in Sec. 5.12.240(B). He said that the club could be put out of business for violating any one of the provisions in this ordinance, stressing that this ordinance places special attention on their business that isn't deserved. He added that they want to run a safe facility.

Councilmember Dick asked Mr. Gordon if he knew of any other "ultra-hazardous" activity that similarly exists and how it is regulated. Mr. Gordon replied that he knows of no other similar activity, and re-stated that any potential violation which might occur at the shooting facility could be handled by laws already in place. Councilmember Dick stated that this ultra-hazardous activity seems to be the least regulated, less so than even issues of aesthetics such as building heights and distances. He further stated that he believes this activity warrants some regulation, as would an explosives factory, and asked Mr. Gordon what law, in the absence of criminal intent, covers the occurrence of a bullet landing off the shooting facility premises. Councilmember Dick noted that regulations are meant to prevent or minimize harm without waiting for the harm to result. Mr. Gordon replied that it would be okay to insist that the shooting facility operate in a safe manner, but that the proposed regulations go too far and that this is a prelude to putting them out of business. Mayor Wilbert thanked Mr. Gordon for his comments.

Mark Shaffer – Avalon Woods resident. Mr. Shaffer spoke in favor of the ordinance. He said that the club needs to change to meet today's conditions. He said that the existing business license ordinance has the capability of revoking a license if it determined to be harmful to the public. He said that this particular ordinance pertains specifically to the operation of a gun club. He said that this ordinance is not designed to shut the club down, but to legitimize the operation, and that he disagreed with the statement that there is insufficient due process. He said that this is an opportunity to correct unsafe situations, and gives the citizens a process to deal with

incidents. He stressed that today, the club has a clean record, but that doesn't address the future and a change in membership and/or leadership. This ordinance would assure the existence of a safe club. He continued to say that the disclosure records are not accurate, using his own purchase three years ago as an example of the lack of notice of the existence of the club. He went on to say that the noise problem could be handled with the hours of operation and asked to address this. Mayor Wilbert stressed that this is a first reading and thanked him for his comments.

Don Bennett – 41<sup>st</sup> Avenue, Avalon Woods. Mr. Bennett also spoke in favor of the ordinance stressing that he is looking forward to the club meeting the requirements. He said that he had visited the outdoor range in Kenmore and described the design of the site and hours of operation. He also reported on other ranges in the state, giving a site description and their hours. He said that the hours of operation in this ordinance are designed to give the surrounding residents the ability to use their property. He concluded by stating that it is the city's responsibility to handle these types of operations.

Dave Jepson – 9810 43<sup>rd</sup> Street, Avalon Woods. Mr. Jepson spoke in favor of the ordinance. He said that he was surprised at Mr. Gordon's list of objections to many of the items in the ordinance, as many of the more mundane items had been addressed at the worksessions. He commented on the concern that those coming after work wouldn't have sufficient time if the hours of operation were shortened to 8 p.m. twice a week. He stressed that the amended hours would still allow a member to travel from Tacoma, but if not, they could modify their work schedule. Mr. Jepson then said that he was aware of the existence of the club when he bought him home, but contested the idea that nothing has changed. He said that the increase in noise due to logging and increase in membership has changed his opinion that this is an acceptable situation.

Councilmember Picinich asked Mr. Bennett if the places he spoke on had an ordinance regulating their range facilities. Mr. Bennett was unsure. Mr. Koch spoke up, listing all the shooting facilities that are not regulated by ordinance.

The Mayor closed the public comment portion of the meeting and invited Council comments.

Councilmember Franich voiced concern on whether the ordinance would be legally sustainable. He then suggested that the ten-day response requirement in Sec. 5.12.220(A), paragraph 2 be modified to require an initial response within ten days, and to allow additional time for a complete report. He then asked for clarification of the revocation procedures.

Mark Hoppen explained that this procedure mirrors the revocation procedures in the business license ordinance, but in this case refers specifically to gun clubs. He said that the ultimate authority on decisions regarding business licensing is the City Council. He discussed the difference in the authority of the Police Chief and the Administrator, and described the discretion allowed the Administrator.

Councilmember Franich asked if the Public Safety Authority was the final authority. Mr. Hoppen replied that the city council is the final authority; the Public Safety Authority is the arbiter who then forwards his recommendations to council.

Councilmember Picinich asked if the Public Safety Authority works with the laws of the city or state law. Chief Barker answered that the City of Gig Harbor police can only enforce what is on the books; if there is no crime, there can be no enforcement. Some form of ordinance is needed

in order for enforcement to exist. There is no state law in place which would apply in the absence of criminal intent.

Mayor Wilbert asked if the ordinance could be amended to eliminate the word "revocation" in the sentence at the top of page 13 to read "the Administrator shall initiate the procedures set forth in GHMC Section 5.01.130." Mark Hoppen explained that revocation is a term in the business licensing process in general, and describes a process in which the Council is a part. To eliminate that word would make the process more obscure. He re-stated that revocation is a standard part of the business license procedure.

Councilmember Owel prefaced her comments by saying that she has responsibility to the citizens of Gig Harbor, some who are members of the Sportsman's Club and some who are not. She added to that by saying that one of her responsibilities as a Councilmember is to regulate. She discussed the hours of operation, discouraging the use of different times for different zones. She said she favored setting the hours to accommodate the residential requirements and made the following motion.

**MOTION:** Move to regulate hours of operation at shooting sports facilities to Monday – Friday, 8:00 am to 8:00 pm; closed Saturday and Sunday, with the exception of special weekend events, not to exceed six weekends out of a year.  
Owel/Ekberg –

Councilmember Ekberg agreed on the responsibility to add this ordinance, stressing that it is not the intent to put anyone out of business. He said that he appreciated the efforts by both the neighbors and members of the club even if they were unable to reach a consensus on hours. He said it was now up to the Councilmembers to do so. He proposed that because the residents have asked for an 8 p.m. stoppage on Tuesdays and Thursdays evenings, and that the club members have asked for 10 p.m., that the time be set at 9:00 pm. on those nights.

Councilmember Picinich suggested amending the hours on Sunday to open the club from 9:00 am to 5:00 pm. Councilmember Ekberg said he could agree with that, but suggested further discussion on weekend events should it be decided that there would be open hours on Sundays.

Councilmember Franich asked Mr. Koch which weekend day, if one had to be closed, would the Sportsman's Club prefer. Mr. Koch said that they had agreed to make Saturday a "no shotgun day" except for special events, moving that activity to Sunday, adding that they would hold rifle shooting on Saturday. Councilmember Owel restated that her intent was that weekend shooting would be for special events only by permit. Mr. Koch stated that this would seriously damage their pocketbook.

Councilmember Young said he needed clarification on whether there would be no shooting at all on Saturday or no shotgun shooting. He continued by saying there is a certain tradition to evening shoots, especially on Thursdays, but when putting a child to bed, there is a huge difference between 9:00 pm and 10:00. He stated that many businesses have limits on their hours of operation due to the impact on their surroundings. He mentioned that one reason that other jurisdictions have no ordinances regulating gun clubs is that they close before dark. Councilmember Picinich suggested the hours of Monday, Wednesday, Friday, 8:00 am to 8:00 pm; Tuesday and Thursday, 8:00 am to 9:00 pm.

Mayor Wilbert suggested that each Councilmember bring their suggested hours to the next council meeting. Councilmember Ekberg said he thought some agreement had been made and Councilmember Owel agreed to an amendment to her original motion.

**AMENDED MOTION:** Move to regulate hours of operation at shooting sports facilities to Monday, Wednesday, Friday, 8:00 am to 6:00 pm; Tuesday and Thursday, 8:00 am to 9:00 pm.  
Ekberg/Owel – a roll call vote was taken with these results:

Ekberg – yes; Young – yes; Franich – no; Owel – yes; Dick – yes; Picinich – no. The motion carried four to two.

**2<sup>ND</sup> AMENDMENT:** Move to regulate hours of operation at shooting sports facilities to Monday, Wednesday, Friday, 8:00 am to 8:00 pm; and leave Tuesday and Thursday, from 8:00 am to 9:00 pm.  
Picinich/Franich –

Councilmembers Franich and Picinich discussed the hours allowed for trapshooting. Councilmember Young explained that both parties agreed to these hours for weekdays. Councilmember Ekberg called for the question.

**RESTATED 2<sup>ND</sup> AMENDMENT:** Move to regulate hours of operation at shooting sports facilities to Monday, Wednesday, Friday, 8:00 am to 8:00 pm; and leave Tuesday and Thursday, from 8:00 am to 9:00 pm.  
Picinich/Franich – Councilmembers Picinich and Franich voted in favor, the other four against. The motion failed.

**AMENDED MOTION:** Move to regulate hours of operation at shooting sports facilities to Monday, Wednesday, Friday, 8:00 am to 6:00 pm; Tuesday and Thursday, 8:00 am to 9:00 pm.  
Ekberg/Owel – unanimously approved.

Councilmember Young suggested that because the weekend hours are considerably more complicated, that a couple of Councilmembers get together to discuss this issue. Mark Hoppen noted that, because of these substantive changes, the proposed ordinance will need to return as a first reading at the next council meeting.

Councilmember Owel made the following motion.

**MOTION:** Move to close hours of operation at shooting sports facilities on Saturday and Sunday with the exceptions of six weekends per year with special permit.  
Owel/Dick –

Councilmember Franich said that he sympathized with the residents of Avalon Woods and would like to see them receive at least one full day of relief, noting that six special weekend shoots are too much. He agreed the issue is complicated and asked for more research.

Councilmember Young stated that he wants a better understanding of weekend shooting, whether it would mean no shooting or merely no shotgun shooting. Councilmember Dick recommended the following amendment.

**AMENDED MOTION:** Move to amend weekend hours of operation at shooting sports facilities to Sunday, 9:00 am – 5:00 pm, and five full special shoot weekends, by special permit, followed by a full weekend of no shooting activity.  
Dick/Ekberg –

Councilmember Dick explained the intent of his motion to allow the club to remain open on Sundays, other than the five that follow a full weekend special event.

The Mayor asked Mr. Koch when a calendar for special shoot weekends could be available to the neighborhoods. He responded that they could be posted right away. He said that it may be more than five weekends, depending upon the year.

Councilmember Owel agreed to the amended motion. Councilmember Franich asked if Councilmember Dick would consider a change to his amendment to change the hours of operation on Sunday to 6:00 p.m. Councilmember Ekberg agreed to this change to the amendment.

**2<sup>ND</sup> AMENDMENT:** Move to amend the motion so that the Sunday hours of operation are 9:00 am – 6:00 pm.  
Dick/Ekberg – four voted in favor. Councilmembers Franich and Young voted against. The motion carried.

**AMENDED MOTION:** Move to amend weekend hours of operation at shooting sports facilities to Sunday, 9:00 am – 6:00 pm, and five full special shoot weekends, by special permit, followed by a full weekend of no shooting activity.  
Dick/Ekberg – unanimously approved.

4. Amendment to Dept. of Ecology Coastal Zone Management Grant Agreement. Community Development Director John Vodopich introduced this amendment to the grant to assist the city in the update of the Shoreline Master Program. He explained that the amendment would increase the amount for eligible costs to \$83,000, and extend the expiration date to June 30, 2003.

**MOTION:** Move to accept Amendment No. 2 to the Coastal Zone Management 306 Grant as presented.  
Picinich/Franich – unanimously approved.

## **NEW BUSINESS:**

1. First Reading of Ordinance Relating to Street Vacations – Amending GHMC 12.14.018(A). John Vodopich explained that this ordinance reflects recent changes to the RCWs that allow cities to collect the full fair market value of a street from the abutting property owners in a street vacation, when the property has been right of way in existence for 25 years or more. This will return for a second reading at the next meeting. Councilmember Owel asked how this affects the non-user statute. Councilmember Dick responded that the rule does not affect this law.

2. First Reading of an Ordinance Amending the Title of Ordinance No. 921. John Vodopich described this ordinance, which corrects an error in the title of an ordinance adopting the

Comprehensive Plan Amendments. The ordinance will return at the next meeting for a second reading.

3. Resolution – Sister Cities Policy. Mark Hoppen presented background information on this resolution and possible exchange program with a focus on the arts. He introduced Carolyn Dupille, Gig Harbor resident and Middle School Choir Director, and Yasuko Wada, 40-year resident of Gig Harbor and WCI Program Chairperson. Ms. Dupille presented information on the exchange program and answered questions from the Council. She then introduced Yasuko Wada. Ms. Wada discussed the importance of diversity and multi-cultural opportunities. Councilmember Picinich expressed interest in both hosting an exchange student and possibly having his own daughter take part in the program. Mark Hoppen noted that this is a pilot program and can later be replicated for other countries such as Croatia. He said that this resolution is a way to allow relationships with non-profit groups in the community to facilitate cultural interaction. He gave an overview of the scope of the resolution and its purpose, explaining that it is one aspect of the program. He asked for an additional motion to come back with a specific proposal that meets the specific criteria in the resolution as it pertains to Takuma.

**MOTION:** Move to adopt Resolution No. 601.  
Picinich/Owel -

Councilmember Franich stated that this type of program is not a role for city government. Councilmember Picinich asked where the funds to support the program will come from. Mark Hoppen explained the various possible sources for funding including Pierce County, the Gig Harbor Arts Commission and the City of Gig Harbor General Fund. He stated that the resolution merely sets the framework for such a program and does not commit the city financially.

Councilmember Ekberg said that the cost can be looked at when the time comes. Also, this may allow opportunities for a relationship where no funds are necessary.

Councilmember Dick spoke in favor of the resolution and noted that the existing relationship with Takuma, Japan was a pleasing and beneficial one.

**RESTATED MOTION:** Move to adopt Resolution No. 601.  
Picinich/Owel - Five voted in favor. Councilmember Franich opposed. The motion carried.

Mark Hoppen then detailed the requirements for officially forming a sister city relationship and cultural exchange with Takuma, Japan. Councilmember Young noted that while the cultural exchange is a nice idea, he feels that there are more appropriate "art-type" uses for these funds.

**MOTION:** Move to authorize the City Administrator, in conjunction with the Cultural Arts Commission and WCI, to bring to council a proposal to foster a relationship with the city of Takuma, Japan.  
Dick/Picinich -

Councilmember Ekberg stated that he also has concerns, but will reserve his comments until he sees the proposal.

**RESTATED MOTION:** Move to authorize the City Administrator, in conjunction with the Cultural Arts Commission and WCI, to bring to council a proposal to foster a relationship with the city of

Takuma, Japan.  
Dick/Picinich – four voted in favor. Councilmembers  
Young and Franich voted no. The motion carried.

The Mayor called for a five-minute recess at 9:28 pm.

4. Stutz Oil Property Purchase Offer. Mark Hoppen presented this offer to purchase property commonly known as the Stutz Oil Property from Multicare for \$405,000. He explained that this offer is contingent upon Council ratification of the agreement at this meeting, along with several conditions, including: 1) execution of a purchase and sale agreement; 2) satisfactory appraisal of the property; 3) satisfactory environmental evaluation of the property; and 4) the ability to terminate the purchase process if conditions are unacceptable to the city.

Councilmember Franich spoke in favor of the property purchase, citing its great location. He said that he would like to see this become a maritime pier, however, he is concerned with it becoming a tour boat destination. Mark Hoppen directed council's attention to his memo, which states that this could be utilized for commercial maritime, tourism and recreational load/unload activities. Councilmember Picinich spoke in favor of the purchase and said he is very supportive of buying as much waterfront property as possible, especially for fisherman, and that the purchase is long overdue.

The Mayor opened the floor for public comment.

Guy Hoppen – 8402 Goodman. Mr. Hoppen introduced himself as a Co-Chair of the Maritime Pier Committee, but speaking only for himself, said he thinks the property is ideal for purchase. He mentioned that the Maritime Pier Committee would forward their thoughts on the purchase later this week.

**MOTION:** Move to ratify the accepted offer.  
Franich/Picinich –

Dale Stutz – 3003 Harborview. Mr. Stutz asked that the property be referred to as Multicare with correspondence being sent to P.O. Box 274, Gig Harbor, WA.

Councilmember Young noted the need for time constraints on the purchase, adding that this will make other park acquisitions difficult. He stressed that other areas of the city need attention, and that \$400,000 could go a long way toward other uses.

**RESTATED MOTION:** Move to ratify the accepted offer.  
Franich/Picinich – unanimously approved.

5. Professional Services Contract – Appraisal of Stutz Oil Property. Mark Hoppen stated that this contract is in the amount not to exceed \$8,000, though he expected the actual invoice to come in even lower at approximately \$6,500.

**MOTION:** Move to authorize the contract with Lamb Hansen Lamb Appraisal Associates, in the amount not to exceed \$8,000 for the appraisal of the Multicare Property.  
Dick/Franich – unanimously approved.

6. Professional Services Contract – Environmental Assessment of Multicare Property. Mark



explained that this is a Phase II Assessment of the property.

**MOTION:** Move to approve the contract with Saltbush Environmental Services, Inc. in an amount not to exceed \$7,500 for an environmental assessment of the Multicare Property.  
Picinich/Franich – unanimously approved.

**STAFF REPORTS:**

GHPD – November Stats. No verbal report given.

**PUBLIC COMMENT:**

Jack Bujacich – 3607 Ross Avenue. Mr. Bujacich spoke regarding the need for a study session to review the tree ordinance and landscaping plan. His concerns include the requirement for each tree taken to be replaced with three trees, which he feels is extreme.

Mark Hoppen commented that Mr. Bujacich's comments are "absolutely correct". This portion of the code is very confusing, not as high quality as other elements of the code, and needs to be reconciled.

**COUNCIL COMMENTS / MAYOR'S REPORT:**

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

**MOTION:** Move to adjourn to executive session at 10:00 for approximately ten minutes to discuss property acquisition.  
Picinich/Franich – unanimously approved.


**MOTION:** Move to return to regular session at 10:10 p.m.  
Franich/Picinich - unanimously approved.

**ADJOURN:**

**MOTION:** Move to adjourn at 10:11 p.m.  
Ekberg/Young - unanimously approved.

CD recorder utilized:  
Disc #1 Tracks 1-4  
Disc #2 Tracks 1-4  
Disc #3 Tracks 1-6

  
\_\_\_\_\_  
Gretchen Wilbert, Mayor

  
\_\_\_\_\_  
Molly Jovalee  
City Clerk