

GIG HARBOR CITY COUNCIL MEETING OF MARCH 25, 2002

PRESENT: Councilmembers Ekberg, Young, Franich, Owel, Dick, Picinich, Ruffo and Mayor Wilbert.

CALL TO ORDER: 7:05 p.m.

PLEDGE OF ALLEGIANCE

PUBLIC HEARING:

1. Street Vacation – Rust Street – Barta. Mayor Wilbert opened the public hearing at 7:05. John Vodopich explained that this proposed Rust Street vacation is for the property north of Harborview Drive and west of Wheeler Avenue, abutting 8508 Wheeler Avenue. He said that this property was platted in Pierce County in 1891 and not opened or improved by 1905, and therefore, automatically vacated by operation of law in 1896. The process to vacate is in order to clear the title for the property.

Tom Creighton – 3415 Rust Street. Mr. Creighton contested the closure of Rust Street, particularly the portion being requested for vacation by the Bartas. He explained that this is access to his property which he has used for fifty years. He said that closure of this portion would severely restrict access to his property.

Marris Gifford – 9508 North Harborview Drive. Ms. Gifford said that Rust Street runs along her property and that she is in favor of the vacation effort. She said that she would still allow use of the road. She explained that she takes care of the property and would like the ability for further improvements.

There were no further comments and the public hearing on this was closed at 7:10 p.m. The next public hearing was opened.

2. Street Vacation – Rust Street – Rohwer.

Ms. Gifford explained that she meant to speak to this vacation, not the previous portion.

Mr. Vodopich presented another vacation request for property lying between Milton Avenue and North Harborview Drive. He explained that as with the last property, this portion was platted in Pierce County in 1891 and not opened or improved by 1905, and therefore, automatically vacated by operation of law in 1896. The process to vacate is in order to clear the title for the property. He explained that Ms. Gifford was speaking to vacating the remainder of Rust Street.

There were no comments on this item and the public hearing was closed at 7:13 p.m. The public hearing on the next item opened.

3. Street Vacation – Sutherland Street/Prentice Avenue – Bucher. Mr. Vodopich explained that this was a request from Mr. Bucher for vacating property adjoining 9409 Woodworth Avenue. He said that the subject right-of-ways were plated in Pierce County in 1890, not opened or improved by 1905 and therefore automatically vacated by operation of law in 1896.

Reginald Hildegard – 9515 Woodworth Avenue. Mr. Hildegard explained that he lived adjacent to Prentice Avenue. He said that he had no objections to the vacation, but wanted to ask questions about the trees on the property adjacent to his. He said that he received no satisfaction in trying to address this with the city ten years ago, adding that the trees are dangerous. He asked if he would be responsible for any damage from the trees if the street were vacated, and if the property would be cleared before he accepted responsibility.

Councilmember Owel asked if Staff could clarify the issues surrounding these vacations, and why they are different from a normal street vacation request.

Carol Morris, Legal Counsel, explained that the process for this type of street vacation is unusual. She said that what Council is doing is not vacating the public's right to travel over these unopened, plated street right-of-ways. She said that because these areas were never been improved as a public thoroughfare between 1891 and 1909, the county lost the opportunity to open the area as a public street. The property automatically reverted, by operation of law and lapse of time, to the abutting property owners. She explained that what was being done in this vacation effort is to remove the cloud on the title. She said that any activities on the property since 1909 will not be affected by the street vacation, adding that any other issues must be adjudicated in Superior Court.

Carol then addressed the concern regarding the dangerous trees. She explained that the property belongs to the abutting property owners, and the trees would be his or her responsibility. Mark Hoppen explained then when this issue arose ten years ago, the city was unaware of the statute.

Councilmember Owel explained that because these properties had reverted to private domain many years ago, the city held no interest in the properties. She said that the city waits for the abutting property owners to identify an interest before taking action to vacate.

Leif Lowe – Woodworth Avenue. Mr. Lowe explained that his property abuts Prentice Street and asked what steps would be necessary to claim the property.

Councilmember Owel said that the property is not automatically put on the tax roles when the title is cleared. She continued to say that before the city streamlined the process, the property owner would pay for an attorney to file to clear the title and the city would acknowledge that it held no interest in the property. Councilmember Young explained that some of the properties were already being taxed, but the effort by the Assessor is sporadic. He said that if more property owners were to come forward, then the Assessor would adjust the records accordingly.

Mayor Wilbert asked if Council had any options other than to vacate these portions. Carol Morris explained that Council did not have an option, as the vacation had already occurred by operation of law, and that only through a condemnation could the city take possession.

The public hearing was closed at 7:33 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 Meetings of March 11, 2002.
2. Proclamations/Correspondence: Proclamation - Strategic Information Management Month.
3. Update of Personnel Regulations.
4. Special Occasion Liquor License – Gig Harbor Sports Boosters.
5. Liquor License Assumption – Gig Harbor Chevron.
6. Agreement for Purchase and Installation of Fluid Distribution System at City Maintenance Facility.
7. Storm Water Facilities Maintenance Agreement(s) and Restrictive Covenant – Home Depot and SHDP Associates LLC.
8. Consultant Services Contract - Water Quality Monitoring - Cosmopolitan Engineering Group.
9. Approval of Payment of Bills for March 25, 2002.
Checks #35601 through #35731 in the amount of \$954,845.10

MOTION: Move to approve the Consent Agenda as presented.
Picinich/Ruffo - unanimously approved.

OLD BUSINESS:

1. Second Reading of Ordinance - Amendment to Title 19 of the GHMC - Procedure for Closed Record Appeal Hearings. John Vodopich introduced the second reading of amendments to Title 19 of the municipal code that would remove Council from the closed record appeal process for Type III project applications, with the exception of site-specific rezones. The amendments include a process by which an interested party can ask for reconsideration of the Hearing Examiner's decision.

Councilmember Dick pointed out an error in the table of the ordinance, then spoke of his reservations in adopting this ordinance. He said that the Hearing Examiner process was valuable, but that the rules need to be rewritten to be a more specific to guide the decision maker. He said that the ordinance was premature.

John Vodopich pointed out that these decisions were previously made by the Hearing Examiner, and that the only instance where these Type III applications came before Council was during an appeal. He said that Council gave direction that they wished to be removed from the appeal process. Councilmember Dick said that Council is better to decide which rules of decision are best applied and that better direction should be given to the Hearing Examiner.

Councilmember Ekberg made a motion to allow further discussion.

MOTION: Move to adopt Ordinance No. 903, which is amending Title 19 of the Gig Harbor Municipal Code.
Ekberg/Picinich –

Councilmember Franich echoed Councilmember Dick's comments. He added that he thought that the proper thing to do is to wait and decide what to do until after the workshop with the Design Review Board and Planning Commission to determine if the Design Review Board would continue to exist. He said that if City Council is taken out of the appeal process, then the city is left with staff and the Hearing Examiner making decisions, which does not serve the community well.

Councilmember Ruffo commented that in the last two instances where the Hearing Examiner's decision was appealed to Council, the matter was not black and white. He said that Council, as a whole, does not have the education or experience to rule on these issues. He said that a Hearing Examiner is more qualified to make those decisions. If there is an issue in dispute, it needs to remain in the judicial process and go to Superior Court where another qualified person can rule. He stressed that the Design Review Board is a totally separate, unrelated issue.

Councilmember Franich said that he did not understand how the Hearing Examiner could have made the decision that he did on the Denton application. Carol Morris warned Councilmember Franich about the pending application and advised him to speak only of the process, not specific instances.

Councilmember Owel said that she shared some of these concerns. She said that because Council was not involved until the closed record appeal, they had no input until it was too far along. She said that the language allowing for reconsideration of the Hearing Examiner's decision to correct errors in the record early in the process addressed her concerns. She spoke in favor of the motion.

Councilmember Young said that these issues were the reason that Council should be removed from the process. He added that Council had been elected to make policy decisions, not to interpret laws, and that the only way to ensure accuracy is to allow a professional to make the decisions. He agreed that if the rules are too vague, then they should be changed.

Councilmember Picinich agreed with these comments, adding that he too supports the ordinance. He called for the question.

RESTATED MOTION: Move to adopt Ordinance No. 903, which is amending Title 19 of the Gig Harbor Municipal Code.
Ekberg/Picinich – five voted in favor. Councilmembers Dick and Franich voted no. Motion carried five to two.

NEW BUSINESS:

1. Authorization for the Use of Uniforms and Off Duty Employment Agreement. Chief Barker explained that this was a revisit of the current agreement between the police officers and the city to allow them to work in uniform in an off-duty capacity. The difference in this agreement and the existing is that this remains silent on the issue of indemnification. He added that Councilmember Dick had requested further information that might help in making a decision.

Jim Coolican – Superintendent, Peninsula School District. Mr. Coolican thanked Council for their on-going support that the police provides for the schools. He said that it is important to recognize this effort, as the schools are an integral part of the community. He explained that the School Board had adopted six goals, of which safety and security were high. He said that since having a uniformed officer on campus, crime has dropped dramatically and described instances where the presence of officers has helped mitigate the situation. He stressed the importance of having officers at the schools, adding that they function not only as security, but also as positive role models for the students. He asked that the city allow this program to continue.

MOTION: Move to table action on this agenda item until the next meeting.
Dick/Ruffo – unanimously approved.

Councilmember Young addressed Mr. Coolican about the cancellation of the DARE Program, and spoke about the positive effect of the presence of the officers at the schools. Mayor Wilbert asked Mr. Coolican to comment on the DARE Program.

Mr. Coolican explained that one of the criticisms of the DARE Program is that it didn't work. He said that having the program in place was an integral part of the prevention process. He disputed this argument and said that he would like to see the program re-introduced. He said that students who had been exposed to the program commented favorably.

2. First Reading of Ordinance - Street Vacation – Rust Street – Barta. Mr. Vodopich explained that this had been the subject of the public hearing and discussion at the beginning of the meeting, and recommended approval of the ordinance at the second reading.

3. First Reading of Ordinance - Street Vacation – Rust Street – Rohwer. Mr. Vodopich explained that this also had been the subject of the public hearing and discussion at the beginning of the meeting, and recommended approval of the ordinance at the second reading.

4. First Reading of Ordinance - Street Vacation – Sutherland Street/Prentice Avenue – Bucher. Mr. Vodopich explained that this was the third public hearing and subject of discussion and recommended approval of the ordinance at its second reading.

5. Sportsman's Club Evaluation Contract - Kramerone, Inc. John Vodopich explained that at the last meeting he was directed to negotiate a contract with Kramerone, Inc. for a safety evaluation of the Sportsman's Club. He said that this contract has been reviewed by Legal Counsel.

Doug Tensler – 1401 Cascade Place. Mr. Tensler said that as President of Gig Harbor Sportsman's Club, he does not have any objection to Kramerone coming in and doing a site evaluation, but he did have comments on the two references to the review of a draft ordinance mentioned in the scope of work. He asked that this be revised to reflect that there *may* be an ordinance in the future, and that they would be invited to help draft this document.

Carol Morris explained that she had been working on a draft ordinance fashioned on the Redmond version, and she would be happy to forward a copy. After discussion, she was directed to not move forward on the draft ordinance until after the consultant's report, then if it were deemed necessary, the draft would be forwarded to all parties, including the consultant, for comment. The scope of work in the contract will be amended to reflect this change. She then addressed concerns about the indemnification language in the contract.

Dave Gordon – 10220 51st St. NW. Mr. Gordon said that earlier this year, when the Sportsman's Club was about to be convicted of a heinous crime without the benefit of evidence, he recalls that the city said that they would do a study to determine whether or not an ordinance was needed, not which ordinance to approve. He urged Council to remember this as an option.

MOTION: Move to authorize the execution of the contract with Kramerone, Inc. as modified by Legal Counsel.
Dick/Ekberg – unanimously approved.

6. Consultant Services Contract – Robert Rohrbach. John Vodopich presented this contract to assist the department in plan checking. He addressed Council's questions about staff reorganization and job functions. The discussion continued of plans to address the staffing shortage and the reorganization of job functions. Mark Hoppen talked about the number of permits that were currently being processed and the complexity of many of these projects, requiring additional staff time. He added that the plan-checking consultant would allow the flexibility of creating a full-time position in the next budgetary year if needed, or not having to hire for this position if the level were to drop. He invited Councilmembers to visit the department to see the listing of all the city projects and the status of each project. Councilmember Franich said that the amount being charged by the consultant seemed high and asked if this could be negotiated. Carol Morris explained that this amount is what Mr. Rohrbach receives for his services from other jurisdictions, and includes his overhead and benefit costs.

Carol then pointed out amendments that were needed in the contract language.

MOTION: Move to approve the consultant services contract with Robert Rohrbach for a one-year situation, on an as-needed basis, in an amount not to exceed \$2,500 per month, and not to exceed \$22,500 per year, as amended by Legal Counsel.
Ekberg/Ruffo – six voted in favor. Councilmember Franich voted no.

7. LeBlanc Sewer Request. Councilmember Ekberg explained that the petitioner was a client of his, and so he would abstain from participating. Mark Hoppen explained that this property was located at the top of Peacock Hill, and that three of the four dwelling have failing

drainfields, and was an immediate health concern. He explained that the language regarding the pre-annexation clause would be removed in light of recent legislation, and recommended approval of the extension.

MOTION: Move to approve the contract as presented to extend sewer to this property.
Ruffo/Picinich – unanimously approved.

STAFF REPORTS:

John Vodopich announced the special joint meeting with the members of the Gig Harbor Design Review Board and the City Council to discuss the revisions to the Design Manual and proposed revisions to the design review procedures. This worksession is scheduled for Thursday, April 11th, 2002 at 6:00 p.m. Councilmember Young urged John to invite the Planning Commission to attend this meeting.

John then mentioned the joint session for councils, planning commissions and boundary review boards hosted by the Association of Washington Cities Risk Management. He explained that this session covers all the "needs to know" of land use decisions and will be conducted by Carol Morris, Legal Counsel for the City of Gig Harbor, and defense counsel for the AWC RMSA in the area of land use. This session will be held Thursday, April 11th, 2002 at 7:00 p.m.

PUBLIC COMMENT: None.

COUNCIL COMMENTS / MAYOR'S REPORT:

Councilmember Ekberg commented on the new Civic Center. He said that as representatives on the steering committee, he and Councilmember Young have been working on several aspects of the construction. He invited all to visit the site to see the progress. He then talked about meeting with Laureen Lund, Tourism Specialist, to plan the opening ceremony for the new building in September. He said that they would be asking for funding support from the citizen and business community to help with the event.

Mayor Wilbert called attention to the letter from the Sunshine Foundation in regards to keeping the gate open at the new building from 9 a.m. to dusk. She then talked about the quilt made by the students at Key Peninsula Middle School in honor of the families of the lost firemen from 9-11. She said that she would be delivering the quilt, along with a photo/message album, to New York in April. She invited Councilmembers to add their own message to the album.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Special Meeting/Worksession – Design Review Board and City Council – Thursday, April 11th, 2002 at 6:00 p.m.
2. Joint Session – Land Use. Tuesday, April 30th, 7:00 p.m. Council Chambers.

EXECUTIVE SESSION: For the purpose of discussing pending litigation per RCW 42.3
1.110(i).

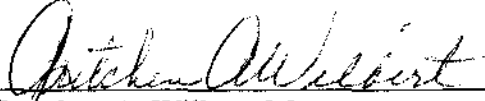
MOTION: Move to adjourn to Executive Session to discuss pending litigation for
approximately five minutes at 8:57 p.m.
Ekberg/Ruffo - unanimously approved.

MOTION: Move to return to regular session at 9:13.
Ruffo/Owel - unanimously approved.

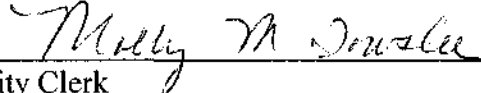
ADJOURN:

MOTION: Move to adjourn at 9:13 p.m.
Ruffo/Franich - unanimously approved.

Cassette recorder utilized.
Tape 647 - Side B 175 - end.
Tape 648 - Both sides.
Tape 649 - Side A 000 - 318.



Gretchen A. Wilbert, Mayor



Molly M. Dowse
City Clerk