

## GIG HARBOR CITY COUNCIL MEETING OF APRIL 24, 2000

**PRESENT:** Councilmembers Ekberg, Young, Owel, Picinich, Dick, and Ruffo.  
Mayor Wilbert and Councilmember Robinson were absent. Councilmember Picinich acted as Mayor Pro Tem.

**CALL TO ORDER:** 6:06 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 April 10, 2000 and Special Meeting of April 13, 2000.
2. Correspondence / Proclamations:
  - a. Letter to Eagle Scout, Jeffrey Jenkins.
3. Purchase Authorization - Vibratory Roller.
4. East-West Road - Agreement for Dedication of Right-of-Way - Olympic Property Group.
5. East-West Road - Agreement for Dedication of Right-of-Way - Logan International Corp.
6. East-West Road - Easement Agreements - Olympic Property Group.
7. East-West Road - Wetlands Easement Agreement - Logan International Corp.
8. Point Fosdick Improvement Project - Bid Award.
9. Approval of Payment of Bills for April 27, 2000:  
Checks #24874 through #24987 for \$159,160.92.
10. Liquor License Application for Added Privilege - Marco's Restaurant.
11. Special Occasion Liquor License - Rotary Club.

Councilmember Owel said that Jeffrey Jenkins was to be commended for his efforts in becoming an Eagle Scout.

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

### **OLD BUSINESS:**

1. Appeal of Hearing Examiner Decision - Harborwest Development. Councilmembers Ekberg and Young recused themselves and left the Council Chambers. Mayor Pro Tem Picinich asked if any members of the Council had any Appearance of Fairness issues to disclose. There was no response. He then asked if any member of the audience had any Appearance of Fairness challenge with any member of the Councilmember.

Nicholas Natiello - 5812 Hunt Street NW. Mr. Natiello first mentioned that neither he, nor any other of the appellants had ever been asked to swear an oath before testifying in this case. He then read a lengthy statement that challenged Councilmember Picinich from hearing these appeals as he and his wife are employed by the Peninsula School District. He said that if the Hearing Examiner's decision were not reversed, more impact fees would be paid to the school district.

Carol Morris, Legal Counsel, said that she had received Mr. Natiello's memo and it had been forwarded to the Councilmembers. She said that Councilmembers had made the decision to allow the imposition of school impact fees in the SEPA ordinance that had been adopted by the city previously. She said that the fees are being implemented by a previous decision, therefore, the case law cited by Mr. Natiello does not apply and Councilmember Picinich could continue to sit and proceed with the hearing.

Councilmember Ruffo asked for clarification on the issue of density and whether or not the Hearing Examiner was correct in allowing 3.5 units per acre when the underlying R-1 zoning only allows for three units. Ms. Morris said that there were two issues addressing this in the appeal by Mr. Natiello. The first was whether or not the Hearing Examiner can make the final decision on variances, which the code clearly allows. The second issue is whether or not the Hearing Examiner issues the final decision on PUDs. She added that the intent section of the PUD code, 17.90.010, states that the intent of Planned Unit Developments is to allow greater flexibility in the design and the development and to accomplish this purpose, the underlying district regulations, such as density, may be varied as long as such variances do not compromise the overall intent of the Comprehensive Plan nor significantly impact existing uses, or create adverse environmental impacts. She said that the decision by the Hearing Examiner was both consistent with the PUD ordinance, the variance ordinance, and the Comprehensive Plan.

Councilmember Owel suggested that each item on the matrix provided by staff be discussed in order, beginning with the density issue. She commented that the Comprehensive Plan allows 3-4 dwelling units per acre and the city's zoning code allows two, which is inconsistent. Ms. Morris said that the PUD ordinance was meant to allow variances to the density.

Councilmember Dick said that the purpose of a PUD was for flexibility and in order for that flexibility, there was to be a positive trade-off. He added that he was having difficulty in determining the trade-off that justified the Hearing Examiner's decision to approve the higher density. Councilmember Owel said that she believed that the increased density was to allow more contiguous open space, but that it has to be done with the variance process.

Ms. Morris said that the idea of a trade-off is not reflected in the code language, and if Council were to reverse or modify the Hearing Examiner's decision, it would be necessary to follow the code requirements. She added that the language that she previously read regarding the intent of a PUD states that you cannot compromise the overall intent of the Comprehensive Plan, or significantly impact existing uses, or create an adverse environmental impacts. She then read the Hearing Examiner's Findings addressing these issues.

Councilmember Ruffo asked Ms. Morris if it was her opinion that the density issue is in total adherence with the law. She responded that she was satisfied that the Hearing Examiner's decision on density conforms to the law. She said that there was nothing in the record to support a finding that could be reversed or modified on that issue.

Councilmember Ruffo said that his next item of concern was the ingress/egress and fire safety issues. Steve Bowman, Building Official and Fire Marshall, explained that his memo to Ray

Gilmore, which was included in the Hearing Examiner's conclusions, addresses three different points of access. He read the memo and explained that his recommendations had been reviewed by the Fire District and determined that they were acceptable as alternate methods and materials for two points of access. He said that these recommendations had been adopted as conditions of approval of the project.

Councilmember Ruffo then addressed the school impact fees. He asked if the city has jurisdiction over collection of these fees. Ms. Morris explained that yes, the city adopted the policy for the imposition of SEPA mitigation, one of which was school impacts.

Councilmember Dick said that he was concerned with the private road issue and connection to the main arterials. He cited GHMC Chapter 17.90.040 (a) that all roads shall be public roads and subject to public works standards. Dave Skinner, Public Works Director, explained that the linkages would all be public, but within the PUD, the roads were private, ending in cul de sacs, with no future hope of connection to other public roads.

Mayor Pro Tem announced a recess at 6:50 p.m. to allow staff to get a map for clarification of the road issues and the memo with the opinion from the former Public Works Director. The meeting resumed at 7:03 p.m.

Ms. Morris handed out a copies of the memo from Dave Skinner to Ray Gilmore dated October 29, 1999 regarding the traffic impact analysis, and the January 15<sup>th</sup> memo from Wes Hill, previous Public Works Director, addressing some of the issues in question. Mr. Skinner said that Mr. Hill's memo addressed several of the concerns about public streets. He read the information and added that the road connecting 76<sup>th</sup> and 54<sup>th</sup> would be constructed as a public road, per the Hearing Examiner's Condition number 13, and the internal roads ending in cul de sacs would be private. He utilizing the Harborwest PUD Preliminary Plat map dated June 1995 to illustrate the roads. Councilmembers asked about the rights of the residents in the proposed project to utilize 76<sup>th</sup>, which is a private road. Ms. Morris explained that some of the people in the Harborwest Subdivision have the easement rights to use the private road, which is why staff recommended to the Hearing Examiner that no gate be required to prevent access. She added that the matter of the remaining 30% that use the road without easement rights is a private property owner issue to resolve.

Mayor Pro Tem Picinich asked if there were any further comments on the road issues. There were none, and the discussion continued with other concerns. Councilmember Dick said that the Hearing Examiner's decision to retain the 25 ft. buffer should remain, and the others agreed.

Mayor Pro Tem Picinich continued with issues concerning the roadway across the wetland, the rezone and the variance, and the impervious coverage. Councilmember Ruffo said that he agrees with the Hearing Examiner's decision and staff recommendation relative to those issues. Councilmember Dick said that he has concerns with the 40% impervious coverage, and the conclusion drawn that the limitations have not been exceeded. Pat Iolavera, Associate Planner, explained that she had not had the opportunity to review the entire history of the project, but said that she would be happy to do so and make a report. Carol Morris directed Council to the code provision, Chapter 17.60.060, which addressed the requirements for impervious surface coverage

for a R-1 districts and states that the maximum impervious coverage for a single-family residence is 40%. She added that if Council were interested in overturning the Hearing Examiner's decision on that issue, the appeal record from Northcreek Homeowners would need to be examined for substantial evidence to support a modification of that decision.

Councilmember Dick asked if the Comprehensive Plan allowed for an increase in the impervious coverage. Ms. Iolavera explained that the development needed to be considered as a whole, not on a lot-by-lot basis, including the open spaces as pervious surface. Ms. Morris said that the applicant had countered that particular appeal issue in their letter dated April 17<sup>th</sup> and added that if Council found that the 45% per lot did not meet the code standard, they could modify the Hearing Examiner's Decision so that the requirements would be met.

Ms. Morris asked Council to address the issue of the model homes. Councilmember Dick asked if there was any requirement that a provision to allow model homes be granted prior to final plat approval. Ms. Morris said that there were none and gave an overview of the request and the RCWs governing this issue.

Councilmember Owel asked for other Councilmembers direction to continue a portion of the decision, separating density, open space, impervious surface coverage, impact fees, and private streets. Ms. Morris said that it would be wiser to continue the entire deliberation to allow flexibility to make a decision to deny the plat if that is the direction they wish to take. Councilmembers agreed that they needed more time to consult with staff and consider the materials before making a decision.

**MOTION:** Move to continue the Harborwest deliberations on Wednesday, May 3, 2000 at 6:00 p.m.  
Owel/Ruffo - unanimously approved.

Councilmember Ekberg and Young returned to the Council Chambers at this time.

2. Second Reading of Ordinance - Accepting a Donation from Peninsula Neighborhood Association for the Borgen Property. Dave Rodenbach explained that this ordinance accepted the fifty-dollar donation from PNA to be put toward a memorial at the Borgen Park property.

**MOTION:** Move to adopt Ordinance No. 842.  
Young/Ekberg - unanimously approved.

3. Petition for the Establishment of a Municipal Department of the District Court. Mark Hoppen explained that this petition was the first step to proceed with an interlocal agreement with Pierce County to form the Municipal Department. He stressed that Council could withdraw from the process up until the interlocal agreement had been finalized by the redistricting committee.

**MOTION:** Move to submit this petition to Pierce County.

Young/Dick - four voted in favor. Councilmember Ekberg voted against the motion. The motion carried.

**NEW BUSINESS:**

1. Briefing on the Region's 1995 Metropolitan Transportation Plan Update. Mayor Pro Tem Picinich introduced Norman Abbott, Puget Sound Regional Council, who gave a presentation to give the Council an overview of the update of the transportation plan that will facilitate regional planning and help to identify state and local needs and solutions.

**PUBLIC COMMENT/DISCUSSION: None.**

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

Councilmember Owel presented *The Commander's Certificate* received by the city when she and the Mayor attended an event at Ft. Lewis, welcoming Gig Harbor into a community partnership with the I-Corps and Ft. Lewis. She added that she had recommended that the gentleman who had been assigned as a liaison with the Gig Harbor area, Col. John Custer, to attend the local Emergency Preparedness meetings to develop resources.

**STAFF REPORTS:**

1. Dave Rodenbach, Finance Director - Quarterly Report. Mr. Rodenbach announced that there was nothing significant to report. He gave a brief overview of the report and offered to answer questions.
2. Chief Mitch Barker - GHPD March Stats. Chief Barker said he had nothing to add to the written report, but wanted to thank Council for allowing him to attend the FBI training in Quantico. He said he would put together a brief presentation in the near future.
3. David Skinner, Public Works Director. Mr. Skinner announced that after the passing of the items on the Consent Agenda earlier this evening, the East-West Road project would go out to advertising on Wednesday morning.

**ANNOUNCEMENT OF OTHER MEETINGS:**

1. Special City Council Meeting - 6:00 p.m. Wednesday, May 3<sup>rd</sup> at City Hall.
2. Special Presentation to the City Council - Boys & Girls Club- May 8<sup>th</sup> at 6:45 p.m. before the regular meeting.

**EXECUTIVE SESSION:** For the purpose of discussing potential and pending litigation per RCW 42.30.110(i) and property acquisition per RCW 42.30.110(b). Action may be taken after the session.

**MOTION:** Move to adjourn to Executive Session at 8:05 p.m. for approximately five minutes for the purpose of discussing potential and pending litigation.  
Ruffo/Owel - unanimously approved.

**MOTION:** Move to return to regular session at 8:10 p.m. and extend the Executive Session for another five minutes.

Owel/Ruffo - unanimously approved.

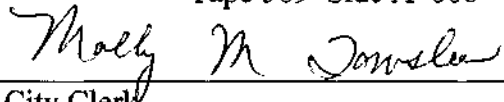
**MOTION:** Move to return to regular session at 8:20 p.m.  
Ruffo/Young - unanimously approved.

**ADJOURN:**

**MOTION:** Move to adjourn at 8:20 p.m.  
Ruffo/Ekberg - unanimously approved.

Cassette recorder utilized.  
Tape 567 Side B 260 - end.  
Tape 568 Both Sides.  
Tape 569 Side A 000 - end.

  
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Mayor

  
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City Clerk