

GIG HARBOR CITY COUNCIL MEETING OF NOVEMBER 28, 2005

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

CALL TO ORDER: 7:03 p.m.

PLEDGE OF ALLEGIANCE:

PUBLIC HEARINGS:

1. 2006 Proposed Budget. Mayor Wilbert opened the public hearing at 7:04 p.m. David Rodenbach, Finance Director, gave a brief overview of changes since the last reading of the proposed 2006 Budget. He explained that at Council's directive, an objective was created for a major street project savings program. A second major change was the budgeting of \$30,000 for a review analysis of the Planning / Building Department at the request of the Mayor Elect, Chuck Hunter.

No one signed up to speak at the public hearing and the Mayor closed the hearing at 7:07 p.m. and opened the next public hearing.

2. City's Six-Year Transportation Improvement Plan 2006-2011. Steve Misiurak, City Engineer, introduced the annual update to the Six-Year TIP. He explained that the changes are the deletion of the 36th & Pt. Fosdick project and the addition of the pedestrian crossing of SR-16, which involves no city funds.

No one signed up to speak and the Mayor closed the hearing at 7:09 p.m. and opened the next public hearing.

3. Wetland and Critical Area Regulation Revision. John Vodopich, Community Development Director, explained that the city is required under the State's Growth Management Act to review the Critical Areas Wetlands Regulations to incorporate the best available science techniques and any recent changes in law. This was to be completed at the end of 2004, but Council deferred action until a complete wetland inventory could be completed. Adolfson and Associates completed the inventory in October, and the proposed ordinance includes several changes in response to review by the Planning Commission and the Community Development Committee. He gave an overview of the recommended changes.

Councilmember Dick asked for clarification on the protection of aquifer recharge areas. John Vodopich asked Teresa Vanderburg of Adolfson and Associates to address his questions.

Ms. Vanderburg explained that critical aquifer recharge areas are not the same as wetlands and were not inventoried.

Councilmember Young added that the WIRA group did a large inventory of aquifer recharge areas, but without access to private properties, it may not be complete. He recommended contacting Jennifer Sitts, Associate Planner, who is very active in this area.

Doug Sorensen – 9409 No. Harborview Drive. Mr. Sorensen commented that the recommended changes to setbacks are the same as those adopted by Pierce County and voiced concern that these figure double the limits. He asked what science is causing the city to increase the buffers. He asked if the current buffering limits are not working or if we are just creating an issue. His last comment was to recommend a delay action until other people could attend and comment.

John Vodopich said that this ordinance is in response to an unfunded state mandate. A consulting firm was hired to identify the city's wetlands and to incorporate best available science. He pointed out that these buffers are on the low end of what has been recommended by the Department of Ecology. He continued to explain that this update helps to standardize the rating of wetlands and takes into account recent studies that justify the rationale for these buffers.

Councilmember Ruffo asked if we knew the impact of these amendments to property owners. Mr. Vodopich explained that not specifically, as the inventory was done from public right of ways and permission to access private property.

Councilmember Conan asked if there was a percentage breakdown of particular wetland categories.

Ms. Vanderburg said that one Category One Wetland was identified so far. She said that it is a very low, perhaps less than 5%. The majority of the wetlands are Category Three. The effects of the larger buffers in the city are very limited.

Carol Morris, City Attorney, explained a recent case on the issue of incorporation of Best Available Science in Critical Areas Ordinances and cited the three-part test for upholding a determination.

Eric Barta – 9512 Randall Drive. Mr. Barta asked how salmon runs affect these category ratings.

Ms. Vanderburg explained that the presence of salmonoids does not affect the wetland rating except for the habitat scoring portion of the rating form. It does affect the rating of streams.

Maureen Barta - 9512 Randall Drive. Ms. Barta said that she owns property at 9508 Wheeler. She voiced concern that not enough people knew about the ratings and that this should be delayed. She said that the salmon runs in front of Crescent Creek, and asked what would happen now that this is changed from a Class 1 to a Class 2 Category.

Carl Halsan – 7218 North Creek Loop. Mr. Halsan asked whether the estuarine areas around Gig Harbor Bay are considered wetlands under the new rules and if so, do they fall under the jurisdiction of the Shoreline Management Act. He asked if there is no best science to address wetland buffers in these estuarine tideland areas.

Ms. Vanderburg explained that her report refers to certain areas in the estuarine zone that do not classify as wetlands such as non-vegetative mudflats that are not covered. The science that the state has put together is focused only on freshwater wetlands and does not cover estuarine wetlands at all. She recommended that language be added to the limitations in order to clarify the intent.

David Fisher – 6815 Cascade Avenue. Mr. Fisher talked about the creation of wetlands by construction and asked about setbacks for such things as storm ponds and ravines dammed by roads. He asked why the city should have the same standards as those adopted in the rural areas.

Eva Jacobsen – PO Box 2314. Ms. Jacobsen said that she had a chance to see the widespread effects of the Critical Areas Ordinance passed by Pierce County. She said that she has talked to wetlands specialists, staff planners, biologists and others who all have different opinions on how well these new rules are working. She said that there is concern that the process is cumbersome and over burdensome to the public and staff. Ms. Jacobsen recommended that Council obtain more input from a variety of sources as this is a very important ordinance that deserves careful consideration. She stressed the need to consider the effects on buildable lands as well as parks.

Councilmember Ruffo asked why she thought this was an important ordinance. Ms. Jacobsen responded that she thought there needed to be a unified way of rating to further enhance or protect wetlands. Some staff members believe that this particular rating system goes too far and some think it is wonderful.

Councilmember Picinich commented that he agreed that the city shouldn't be compared with Pierce County and should obtain more input from the citizens. Ms. Jacobsen then said that several road improvement projects on the Six-year TIP might be impacted.

John Vodopich explained that the deadline for passing this was December 2004 and the consequences of no action is that the city will be deemed as non-compliant with the state GMA. This puts the city in jeopardy of obtaining grants or loan funds offered through the state. Councilmember Young added that no other jurisdiction was able to comply and so the state has extended the deadline until the end of 2005. Mr. Vodopich explained that no funds have been earmarked in the 2006 budget for professional assistance such as a wetlands specialist and Council may wish to adjust the budget.

Chuck Meacham – 9509 Wheeler Avenue. Mr. Meacham suggested adding a Fisheries Biologist to the definitions list. He then asked why Crescent Creek and Donkey Creek had been deleted as critical areas.

Ms. Vanderburg explained that an entire section had been added to address performance standards for all streams in the city and so these two were deleted in the paragraph that Mr. Meacham referenced.

Beverly Simpson – PO Box 2632. Ms. Simpson said that she too was concerned with the removal of reference to Crescent Creek and agreed that it would be good to further review the revisions. She asked why the Category One Wetland referenced in the habitat assessment report by David Evans and Associates on Wheeler Street end had been removed. Councilmember Young clarified that David Evans and Associates was using an old rating system when the report was prepared. The Type One Category is now a Type Two rating.

Ms. Simpson then recommended clarification on the language for permitted uses in wetland buffer areas when a project is adjacent to a spawning creek.

Matt Halvorsen – 13429 100th Street. Mr. Halvorsen said that the Category One buffers should not be set at the low end of the Department of Ecology recommendations for the most critical of wetlands. He added that wetlands function the same whether they are located in rural or urban areas and deserve the same level of protection. He thanked the city for completing a wetlands inventory and asked why this was not included in the National Wetlands Inventory and Pierce County Inventory. He then asked for clarification on the term “hydrologically isolated” as it was not included in the definitions page. Mr. Halvorsen agreed that more time should be taken to consider the impacts of this ordinance as there seems to be many misunderstandings.

Rob Hayden – 1508 Goodrich Drive NW. Mr. Hayden commented that the majority of concerns are coming from those wanting to build something. He asked if there is any way to identify if the buffers are effective in protecting the wetlands and then develop the means of pro-rating the buffers in designated areas that would allow citizens to build.

Wade Perrow – 9119 North Harborview Drive. Mr. Perrow addressed conflicting information in the technical report on page 52. He said that he owns property at 140421 Burnham Dr. NW and he isn't sure how to score a Class One Wetland as defined by the city. He suggested that before this is enacted, that the city should know exactly where the Class One Wetlands are located then they can determine what buffer should apply. He said that recent action taken by Council to adopt the Design Manual is an example of negative impacts of an ordinance adopted in a hurry without consideration of all the ramifications. He used the power line buffers and the proposed wetland buffers on his project as an example of the impact of this ordinance. He said that only 11,000 s.f. could be used out of 2-1/2 acres. He said that it is important for the city to consider the “takings” aspect if they determine they need buffers of that size. The science doesn't support the 200' buffering requirement; adding that he thinks that the 100' buffer adopted by Pierce County works. He recommended determining where all the Class One wetlands are located so that people will know how their property is being affected before passing this ordinance.

Councilmember Ruffo said that Mr. Perrow raised the issue of a “taking” as he thinks it is important for the Council to consider this. He said that he is a property rights advocate and stressed that Council needs to protect the individual but also has the responsibility to protect the environment.

Mr. Perrow shared a story of a beaver pond that created a larger wetland that killed trees, which took six months to clear out and was blamed on the developer. He said that this illustrates how wetlands can be created or enlarged and is unfair with the larger buffering. Councilmember Young suggested that Mr. Perrow take a look at the inventory to see where they believe the Category One Wetlands are located.

Councilmember Ekberg explained that this is why the city contracted for the inventory in order to identify the wetlands and to help in determining buffers. He assured Mr. Perrow that this is not being taken lightly. Councilmember Dick stressed limitations to the inventory due to access to private property.

There were no further comments and the Mayor closed the public hearing on this item at 8:16 p.m. She then opened the final public hearing.

4. Vacation of a portion of Hall Street. John Vodopich presented this request to vacate a portion of Hall Street. He explained that this property was automatically vacated by law in 1896 and that the city will retain a 7.5 foot easement to maintain the utilities located in the area.

Jane Koler – 5801 Soundview Drive. Ms. Koler said that she is representing the Janelle Israel Living Trust and the Harris Trust, who are seeking vacation of Hall Street. She said that the street has already been vacated by operation of law and this will put Hall Street back on the tax role, while allowing the city to retain a right of way easement. She stressed that nothing will be built on this site being vacated that would have an effect on views.

Councilmember Dick asked why the property owners didn't just file for Quiet Title if there is no action to be taken by the city. Ms. Koler explained that this is an odd area of Washington Law. In order for the county records to reflect the correct ownership, a Quiet Title action has to be done, or the city must go through the vacation proceeding. The city's code recognizes this action and it would be odd for the city to decline the request and require the property owner to file in Superior Court.

Tamara Roeder - 9409 Goodman Avenue. Ms. Roeder asked if the petitioner acquires the vacated land and builds, if it would change the current design of the cul de sac.

Councilmembers explained that any development would have to comply with current standards and would go through development criteria.

Bob Roeder – 9409 Goodman Avenue. Mr. Roeder asked if the city could guarantee that the easement between the street and the sidewalk would remain. He said that the kids come and play basketball there and if a fence were to be built, the kids couldn't retrieve the ball. Another concern is whether the buffer between the sidewalk and the street will remain the property depth.

Councilmembers assured Mr. Roeder that this action won't change any existing easement. This only recognizes the ownership.

Councilmember Franich asked if this is a private or public easement. John Vodopich explained that Goodman Avenue is a public street but that the portion being vacated is not part of that street.

Councilmember Dick voiced concern that the city is being asked to vacate property that may be in the right of way of a public road and has been used for ten years. Staff was asked to look into the required width of the right of way in this area.

There were no further public comments and the hearing was closed at 8:37 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 November 14, 2005.
2. Correspondence / Proclamations: a) Recognition Certification – George Williams
b) Cascadia Discovery Institute.
3. Stormwater Maintenance Agreement(s) – Olympic Property Group.
4. Stormwater Maintenance Agreement – Venture Bank.
5. Approval of Payment of Bills for November 28, 2005:
Checks #48770 through #48873 in the amount of \$526,679.16.

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

OLD BUSINESS:

1. Second Reading of Ordinance - 2006 Proposed Budget. David Rodenbach recommended an amendment to the ordinance to raise the non-departmental portion of the budget to accommodate the \$30,000 Development Review Analysis which would also amend the ending fund balance.

MOTION: Move to adopt Ordinance No. 1022 with recommended amendment.
Young / Conan – unanimously approved.

NEW BUSINESS:

1. Proposed Annexation – Resource Properties (ANX 05-910). John Vodopich presented information on this request to annex approximately 22 acres of property east of Peacock Hill and north of the city limits. He recommended that Council accept the Notice of Intention and proceed to the petition stage requiring that the property owners assume all the existing indebtedness of the area; require the adoption of the R-1 zoning for the annexation area; and require the submission of a wetland analysis report.

Patricia LeBlanc – 7903 26th Ave NW. Ms. LeBlanc explained that she approached the City Council to seek annexation when her drainfield failed several years ago. Council was opposed to annexing her property at the time, and she spent several thousand dollars to restore the drainfield to working condition. She said that in addition, she has installed a new well pump system, and the cost to hook-up to the city sewer system would not be feasible. She asked that her property be excluded from the proposed annexation.

David Robertson – 9905 Peacock Hill. Mr. Robertson said that he owns a six acre parcel included in the proposed annexation. He explained that they have a great system, and asked why they should have to pay to hook up to city sewer and water. He also explained that he has a non-conforming use permit for his family-based business that allows for up to 25% growth. If he were to be annexed, he would lose this ability to expand. He also asked to have his property excluded from the annexation effort.

Ken Hemley – 9921 Peacock Hill. Mr. Hemley said that his ½ acre parcel lies between the LeBlanc and Robertson properties, and that he could see no benefit in being in the city. He asked to be excluded from the proposed annexation.

Councilmember Ruffo said that he was not interested in going against the wishes of these property owners. Councilmember Conan agreed that that these three property owners were being forced into an action they did not wish to be part of. He made a motion to oppose the annexation application. There was further discussion regarding the ability to amend the boundaries.

John Vodopich explained that the original application was for only the two, top parcels. At his recommendation, the applicant included the other parcels.

MOTION: Move to oppose this proposed annexation application.
Dick / Ruffo – Councilmembers Franich, Conan, Picinich and Ruffo voted in favor. Councilmembers Ekberg, Young and Dick voted against the motion. The motion carried four to two to oppose the annexation application.

2. First Reading of Ordinance – Clarifying the Requirements for Sewer Hook-ups. John Vodopich presented this ordinance to address sewer connection for newly annexed areas. This ordinance would give newly annexed areas a two-year period in

which they would be required to hook up to sewer if the line is within 200 ft of the property. This would amend the 120 day requirement to hook up after notification from the city that currently exists in code.

Councilmember Franich voiced concern with the existing 120 day requirement and asked if this had been enforced in the past. Mark Hoppen said that recently, there was a forced connection on Pt. Fosdick due to a Health Department issue.

Councilmember Franich then said that he didn't think it was right for the city to require someone with a working septic system to hook up to the city's sewer. He suggested that it be optional except in a situation of a health concern.

Mark Hoppen added that another exception would be for an approved LID or ULID which would be approved by a 60% majority of the assessed valuation of the properties involved.

Councilmember Young said that he questioned if a vacant piece of property should be allowed to remain on septic in perpetuity. Councilmember Ruffo agreed that undeveloped land adjacent to the city sewer should be required to hook up. He recommended language be added to the ordinance that addresses both of these issues.

Councilmember Dick voiced concern that unless property owners are required to hook up, they would never choose to do so. This would result in a patchwork quilt of connections and would not offer any economy of scale.

Councilmember Young said that language would need to be added that would require property owners to hook up only in the case of a LID or in the instance of a health issue.

Councilmember Franich asked if it would be possible to add "existing structures" to the exemptions section on page 3. Councilmember Young pointed out that this refers to new construction only, and it would be redundant to add "existing structures" to the particular section. A new paragraph would need to be drafted somewhere else in the document.

Carl Halsan -7218 North Creek Loop. Mr. Halsan asked if this is to be referred back to the Community Development Committee for further review, if they could consider vacant properties within city limits that are 1-5 acres in size, but are unable to be platted because the cost to run sewer to the site is prohibitive. He recommended that those properties that are far away from an existing line be allowed to use septic in the interim or be removed from the UGA.

Councilmember Dick thanked him for the information. He said that the city has to consider ways to keep developer funding as a means to extend sewer by utilizing latecomer's agreements.

Wade Perrow – 9119 No. Harborview Dr. Mr. Perrow agreed with what had been said by Mr. Halsan. He said that the city engineer denied an application for a project because it would be required to hook to a sewer line which was 2-1/2 miles away at a cost of approximately four and one-half million dollars to service a half-acre lot. He said that the city has a responsibility to establish the areas that are going to be on sewer, develop the ULIDs, and install the lines. He agreed that too much reliance has been put on the developer.

3. First Reading of Ordinance - Wetland and Critical Area Regulation Revision.

Councilmember Ruffo suggested that this ordinance be sent back for further review as a result of the public testimony heard this evening.

Councilmember Conan asked if there are methods to protect wetlands other than increasing buffers. He also asked what other jurisdictions are doing about this issue.

Ms. Vanderburg explained that there are other provisions to protect wetlands that involve city-specific analyses such as low-impact development strategies. Buffers, along with performance standards are the most widely used methods. She continued to respond that other jurisdictions are trying to adopt ordinances by the end of this year or beginning of 2006. One jurisdiction has been challenged by CTED and DOE because they chose not to increase their buffers from the 25-100 ft. limits. Other jurisdictions are looking at low-impact development and other comprehensive ways to approach protection of wetlands and wildlife habitat.

Councilmember Conan said that the Planning Commission worked very hard on this without the benefit of the wetland inventory. He suggested allowing them to review this again now that the inventory had been completed and there are 91 possible wetlands identified.

John Vodopich pointed out that the workload for the Planning Commission is quite extended and may be in need of prioritization.

MOTION: Move to send this back to the Planning Commission for further consideration now that the Wetland Inventory has been completed.
Conan / Young – unanimously approved.

4. First Reading of Ordinance – Hall Street Vacation. John Vodopich explained that this ordinance was the subject of the public hearing earlier in the evening. He said that the city attorney will do further research on the easement concerns and this will return at the next meeting.

5. First Reading of Ordinance – Increasing Monthly Water Rates. Mark Hoppen, City Administrator, presented this ordinance that would result in a 5% increase in monthly water rates. This will return for a second reading at the next meeting.

6. First Reading of Ordinance – Increasing Monthly Sewer Rates. Mark Hoppen, City Administrator, presented this ordinance that would result in a 5% increase in monthly sewer rates. This will return for a second reading at the next meeting.

7. Resolution Adopting the Six-Year Transportation Improvement Plan 2006-2011. Steve Misiurak presented this resolution that was subject to a public hearing earlier in the meeting. He offered to answer any questions.

Councilmember Dick asked for clarification on the eastbound on-ramp at the Wollochet Interchange. Mr. Misiurak responded that he believes that this was put back on the state's TIP with the passage of HB912 and is slated for implementation in 2008. It can be added to the city's TIP for informational purposes next year.

Councilmember Young mentioned that he would welcome bringing back the Hunt Street Overpass for recalculation of impact fees. Mr. Misiurak said that the appropriate time to reintroduce impact fees would be after the city-wide capacity evaluation.

MOTION: Move to adopt Resolution No. 657 as presented.
Ruffo / Picinich – unanimously approved.

STAFF REPORT:

1. Dick Bower, Building Official/Fire Marshal – Emergency Management and Planning. No verbal report presented.

PUBLIC COMMENT:

Wade Perrow – 9119 North Harborview Drive. Mr. Perrow said that six months ago he cautioned Council about adopting changes to the Design Review Manual in haste. He said he has an issue that has developed in the Northharbor Business Campus as a result. The building was designed when the property was in the county, but has since been annexed. In order to use the design, they are going to have to eliminate a portion due to the 30 foot setback. Another ten foot of setback is taken for the power line road which is considered an enhancement corridor. This would remove 8,400 s.f. of a 24,000 s.f. building; resulting in a 36% reduction. If the 200 ft. setback for wetlands is implemented, he would end up with less than 3,000 s.f. of property that he would own. He asked Council to direct staff to review that enhancement corridor language to make sure it is consistent with the intent. He added that he favors using the power line corridor for bike paths, and agreed that dense vegetative screening is important, but disagreed with the size and that it should be a requirement for his property alone rather than the power line corridor. He said that 15-20 feet should be sufficient. He again asked that this be brought back for reconsideration.

Matt Halvorsen - 13429 100th Street. Said that when he was president of the Peninsula Neighborhood Association, he came before Council to object to the increase in the commercial property in the Gig Harbor area. Now it appears that it is holding up the hospital, which is more crucial than a Costco.

COUNCIL COMMENTS / MAYOR’S REPORT: Make a Difference Day.

Mayor Wilbert introduced Captain Mike Horn, Ft. Lewis, who described the efforts on October 22nd, “Make a Difference Day,” of the 201st Brigade to clear the ivy and do other repairs at the Bogue Volunteer Center. Captain Horn provided commentary to the slide show of the members of the 201st, who spent over six hours on this community project.

Mayor Wilbert then introduced Eagle Scout Rob Hayden, who took on the final clean-up of the Bogue Volunteer Center as his project. Rob gave a brief explanation of the result of his efforts.

Councilmember Young said that he realizes that the Planning Commission has several things on their agenda, and suggested that either staff, the Council, or the Planning Commission itself prioritize the workload to address the upcoming hospital, comp plan and EIS updates in March. He said that there are other, minor issues that can be delayed. He mentioned that one thing that he would like for them to review is a small text amendment to the RB zone so that the building square foot limitation would be per structure instead of per lot. Additionally, there is the need to revisit multiple lots that are owned by one owner.

Councilmember Ruffo said that it is a Council responsibility to set priorities for the Planning Commission. He said that there are items that are priority and can be articulated at the next meeting. The rest should be left up to the new Council and Mayor to prioritize. Councilmember Ekberg suggested that staff prepare a list before the next meeting.

Councilmember Ruffo announced that this would be the last Council meeting for Councilmember John Picinich, who would be unable to attend the December 12th meeting. He thanked Councilmember Picinich for his twelve years of service. The Mayor, Councilmembers, Staff and members of the audience gave Councilmember Picinich a standing round of applause.

ANNOUNCEMENT OF OTHER MEETINGS:

Mayor Wilbert introduced Mayor Elect Chuck Hunter, Councilmember Elect Paul Kadzik, and Councilmember Elect Tim Payne, adding that they would be sworn in at the next Council meeting of December 12th.

EXECUTIVE SESSION: For the purpose of discussing property acquisition per RCW 42.30.110(1)(b).

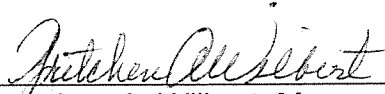
MOTION: Move to adjourn to executive session at 9:55 p.m. for approximately 20 minutes to discuss property acquisition per RCW 42.30.110(1)(b).
Picinich / Franich – unanimously approved.

MOTION: Move to return to regular session at 10:03 p.m.
Picinich / Ruffo – unanimously approved.

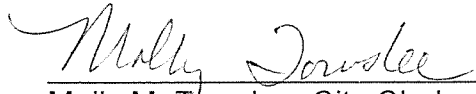
ADJOURN:

MOTION: Move to adjourn at 10:03 p.m.
Picinich / Ruffo – unanimously approved.

CD recorder utilized:
Disk #1 Tracks 1 – 21.
Disk #2 Tracks 1 – 28.
Disk #3 Tracks 1 – 6.



Gretchen A. Wilbert, Mayor



Molly M. Towslee, City Clerk