

## **GIG HARBOR CITY COUNCIL MEETING OF DECEMBER 11, 2006**

**PRESENT:** Councilmembers Ekberg, Young, Franich, Conan, Dick, Payne, Kadzik and Mayor Hunter.

**CALL TO ORDER:** 6:04 p.m.

**PLEDGE OF ALLEGIANCE:**

**EXECUTIVE SESSION:** For the purpose of discussing labor negotiations per RCW 42.30.140(4)(b).

**MOTION:** Move to adjourn to Executive Session at 6:04 p.m. for approximately one hour for the purpose of discussing labor negotiations per RCW 42.30.140(4)(b).

Young / Payne – unanimously approved.

**MOTION:** Move to return to regular session at 7:00 p.m.

Franich / Conan - unanimously approved.

### **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 27, 2006.
2. Liquor License Renewals: Thai Hut; Cigar Land; Gig Harbor Chevron; Harbor Arco; Harbor Inn; Brix 25 Restaurant.
3. Resolution No. 695 – Declaration of Surplus Property.
4. Olympic Dr./56<sup>th</sup> St. Roadway Improvement Project – Agreement for Temporary Slope and Construction Easements.
5. Westside Park Master Plan – Consultant Services Contract.
6. Eddon Boat Remediation Clean-up Action Plan Contract Amendment.
7. Approval of Payment of Bills for December 11, 2006:  
Checks #52139 through #52288 in the amount of \$347,683.14.
8. Approval of Payroll for the Month of November:  
Checks #4489 through #4517 and direct deposits in the amount of \$268,847.93.

**MOTION:** Move to approve the Consent Agenda as presented.

Ekberg / Franich – unanimously approved.

### **OLD BUSINESS:**

1. Third Reading of Ordinance – 2007 Budget. David Rodenbach, Finance Director, presented the final ordinance explaining the amendments that had been made since the second reading. He responded to the question of the police vehicles. He said that he assumes they will purchase the vehicles outright, borrowing the funds from the State Treasurer's Local Purchasing Program.

**MOTION:** Move to adopt Ordinance No. 1061 adopting the 2007 Budget  
Payne / Conan –

Councilmember Dick made a motion to amend the budget.

**AMENDMENT:** Move to remove the staff adjustment for a Community Development Assistant from the budget.  
Dick / Ekberg –

Councilmember Dick voiced concern with the proposed position for a Community Development Assistant. He said that this proposal is a person in search of a job description, stressing that this is not the way we should be doing business. He explained that we should first determine the need and then utilize a competitive process because. The second concern is that the description of services is not prepared in the same manner as for other positions. This tailors a job description to the characteristics of an individual, which is not appropriate. He said that the motion has the position report lateral to the Community Development Director with a dotted line. He said that this connotes that this person is superior to the Planning Director. That is neither necessary nor appropriate. Councilmember Dick finalized that the language says the position expires at the conclusion of the Mayor's term of office, making this a politically tied position, which is inappropriate.

Councilmember Dick said that he likes the person and has worked well with her. Her skills are commendable in the areas in which she has experience. The issues are the structural problems that will unravel our competitive service. This is a job which needs to be part of the competitive service so that all the other folks who have worked for the city for several years and have aspired to grow in their capacity and skill would feel comfortable in applying. We have a very stable work environment that has allowed policy to be made and has divorced our workers from the concern of politics. He said that he feels that it is important to keep this environment and this is the reason behind his motion.

Councilmember Conan said that he didn't agree with the amendment, but he does agree that the organizational chart should be clarified that the position should be an assistant to the Community Development Director, and not superior to the people below. He said that in addition, he would be in favor of removing the tie to the Mayor's term of office. This is a position that is going to be needed indefinitely, and as soon as it isn't, it should be eliminated.

**RESTATED AMENDMENT:** Move to remove the staff adjustment for a Community Development Assistant from the budget.  
Dick / Ekberg – roll call vote as follows:

Ekberg – yes; Young – yes; Franich – no; Conan – no; Dick – yes; Payne – no; Kadzik – no.

The motion failed, four to three.

**MAIN MOTION:** Move to adopt Ordinance No. 1061 adopting the 2007 Budget Payne / Conan – five voted in favor. Councilmembers Young and Dick voted against adoption of the ordinance.

2. Second Reading of Ordinance – Increasing Water Rates. David Rodenbach, Finance Director, explained that this increase in water rates will become effective January 1<sup>st</sup> and recommended adoption.

**MOTION:** Move to adopt Ordinance No. 1062 increasing the water rates effective January 1, 2007.  
Franich / Conan - unanimously approved.

3. Second Reading of Ordinance – Increasing Sewer Rates. David Rodenbach, Finance Director, presented this ordinance to increase sewer rates that will also take effect January 1<sup>st</sup> if passed. He addressed Council's questions, explaining that it is currently projected that another rate increase will be needed next year. At this time, we are barely meeting the debt service on the bonds sold to build Pump Station No. 3. With future expansion to the system, other rates increases will be necessary.

Councilmember Payne commented that he has compared the city's rates and these are in line with others across the country. He said that he is very comfortable with these proposed rate increases.

**MOTION:** Move to adopt Ordinance No. 1063 increasing the sewer rates effective January 1, 2007.  
Conan / Franich - unanimously approved.

4. Second Reading of Ordinance – Increasing Storm Drainage Rates. David Rodenbach, Finance Director, explained that this will increase storm sewer rates effective January 1<sup>st</sup> in order to meet NPDES requirements. He recommended adoption.

**MOTION:** Move to adopt Ordinance No. 1064 increasing storm drainage rates effective January 1, 2007.  
Payne / Dick - unanimously approved.

#### **NEW BUSINESS:**

1. Public Hearing and First Reading of Ordinance – Rust Street Vacation. John Vodopich, Community Development Director, presented this request to vacate a portion of Rust Street abutting the southern property frontage of lots owned by Larry Beck. This right-of-way was automatically vacated by operation of law in 1896. The city has no interest in street, except for a 15-foot easement to maintain utilities. In order to clear the cloud on the title, Mr. Beck has requested that the city vacate the property.

Mayor Hunter opened the public hearing at 7:14 p.m. and asked if anyone in the audience wished to speak on this street vacation. No one came forward and the public hearing was closed.

Mr. Vodopich addressed Council's questions and announced that this will return for a second reading at the first meeting in January.

2. Proposed 2007 Rates for Attorney Services – Ogden Murphy Wallace. Mayor Hunter presented this proposed rate increase submitted by Scott Snyder, who represents the city in personnel issues and other special assignments.

Councilmember Young asked if we should compare rates for these services. Councilmember Ekberg responded that these rates are well within the range of comparables.

Councilmember Payne voiced concern with Associate's rate. Mr. Rodenbach responded that we have not been billed for an Associate in the past.

**MOTION:** Move to approve the proposed rates as presented.  
Payne / Ekberg - unanimously approved.

3. Hearing Examiner Services. Carol Morris, City Attorney, explained that the contract with the Hearing Examiner expired in September and that Council has two options. One option would be to ask the current Hearing Examiner, Mike Kenyon, to submit a new contract for consideration. The second option is for Council to direct staff to issue a Request for Proposals for the position. She explained that this would allow Council to determine about persons available to serve as the city's Hearing Examiner, and to determine a competitive hourly rate for these services.

**MOTION:** Move to direct staff to issue an RFP for Hearing Examiner Services.  
Payne / Kadzik - unanimously approved.

4. Assigned Counsel Agreement Amendment. David Rodenbach, Finance Director, presented this amendment to the contract for indigent defense services for the Gig Harbor Municipal Court through Pierce County's Department of Assigned Counsel. The amendment authorizes the continuation of these services through December, 2008 and is an increase of 4.5% over the prior contract.

**MOTION:** Move to authorize the Mayor to sign the amended Assigned Counsel Agreement.  
Conan / Payne – six voted in favor. Councilmember Dick abstained from voting.

5. Reciprocal Dense Vegetative Screening and Buffer Easement Agreement. Tom Dolan, Planning Director, presented this easement agreement that would allow two projects to comply with City Development Standards. He explained that a buffer of 40 feet would be provided between the two properties and that the easements would commence on the date of execution of the agreements.

Councilmember Payne asked for the reasoning behind the reduction of the buffer. Mr. Dolan said that it is his understanding that this was done because the provisions of the Design Review Ordinance do not specify where you measure from. Interpretation of the code led to the processing of the application with the reciprocal easement being considered by the Hearing Examiner at that time.

Councilmember Franich voiced concern that this would result in a reduction of buffers between parcels. Mr. Dolan clarified that the applicant for the 72<sup>nd</sup> Street Plat has agreed to increase the buffer so they will have the full 25 feet buffer.

Councilmember Kadzik said that this ambiguity in the code should be addressed so that staff and the Planning Commission will know Council's intent. He said that he would like Council to have a better handle on these interpretations. Councilmember Franich agreed with these concerns.

Councilmember Payne said that he recognizes that developers need to be able to recognize the rules. He said that he agreed with Councilmember Kadzik that Council needs to provide clear direction as to their intent, and where there is ambiguity, do the best to clarify it. He said that he would vote for the easement agreement, but he is frustrated with the ambiguity and the results.

**MOTION:** Move to approve the Dense Vegetative Screening and Buffer Easement Agreement as presented.  
Kadzik / Conan - unanimously approved.

Councilmember Kadzik asked that an agenda item come forward on how to address these concerns. He suggested a definition of buffer zones as one method and how to give direction to staff.

Councilmembers discussed the best way to approach this and staff was asked to come back at the next meeting with suggested solutions.

Steve Wagner. Mr. Wagner said that he was on the Planning Commission when this got approved. He said that he would be happy to work with staff to clarify the intent and on a solution.

6. Lobbying Services – SAL Governmental Affairs Consultant Services Contract. Mayor Hunter provided this contract for legislative lobbying services. This contract was discussed during the budget process and the amount approved in the 2007 Budget. He said that these services will assist in getting through the CERB Grant funding and other areas such as the hospital traffic issues. He asked Carol Morris to comment.

Ms. Morris clarified that she does not believe that Tim Schellberg is with SAL Governmental Affairs after the 15<sup>th</sup> of this month, but will be working with Gordon, Thomas.

Councilmember Young clarified that SAL is a corporation, and that Mr. Schellberg will be affiliated with Gordon Thomas, but not part of the firm itself. He compared it to a “net branch” in a mortgage company. Everything will be separate, but Mr. Schellberg will have an office at their location.

Ms. Morris said that the contract has both names. She said that she suggested to Mr. Schellberg that if this is a contract with Gordon Thomas, and because he is an attorney, the rules of ethics would require an attorney-client waiver because GTH is a firm that sues the city on a frequent basis. He was going to get a document, but then said that he didn’t think it was required. She said that she couldn’t monitor because these are things affected by the rules of ethics for attorneys. She thought Mr. Schellberg would be present to explain.

Councilmember Payne asked if there is an instrument or agreement that should be in place with SAL due to their affiliation with Gordon Thomas. Ms. Morris said that this is highly unusual. She explained that if an attorney is hired by the city and is affiliated with a firm that sues the city on a frequent basis, there would be a consent form that would disclose this information and to discuss how to maintain separate files and keep people working for the city out of the file. That is what she expected to accompany the contract.

Councilmember Young said that this would be a liability on Mr. Schellberg’s practice, and because will not be practicing law with GTH, doesn’t feel it is a conflict. Councilmember Young pointed out language in the contract refers to the Metropolitan Parks District.

Councilmember Kadzik asked Mr. Morris if she is asking for further clarification before the contract is approved. Ms. Morris responded that Mr. Schellberg is not representing the city as an attorney, but Council should consider the extent of the information that will be given to him and whether it will affect anything in regards to the suits with GTH. She said that the waiver could be given after the fact.

Councilmember Franich said that lobbying has led the government to bad decisions. He said that we are paying for these services for the CERB Grant, and this is the best use of lobbying money because the deliverables are clear. In general though, lobbying leads to one-upmanship. We pay \$2000 and the next city may pay \$3000, so will they get better service?

**MOTION:** Move to authorize the Mayor to sign the Consultant Services Contract as presented.  
Conan / Ekberg –

Councilmember Payne asked the City Attorney for information on the waiver. She explained that it is a Conflict Waiver.

**AMENDMENT:** Move to amend the motion to include “subject to a conflict waiver.”  
Payne / Franich –

Councilmember Young asked if the waiver is really necessary because we are already informed of the possible conflict. Ms. Morris responded that it is good to have in the files to understand what is being disclosed.

**RESTATED AMENDMENT:** Move to amend the motion to include “subject to a conflict waiver.”  
Payne / Franich – unanimously approved.

**MAIN MOTION:** Move to authorize the Mayor to sign the Consultant Services Contract with the requirement of a conflict waiver.  
Conan / Ekberg – six voted in favor. Councilmember Franich voted no.

7. On-call Plan Review - Professional Services Contract. Dick Bower, Building Official / Fire Marshal explained that in anticipation of a possible increase in permit applications that may create a backlog, staff developed a Request for Services for On-call Plan Review. He recommended authorizing the execution of a contract with the five consultants who responded to the advertisement.

Councilmember Dick asked if we didn’t have enough staff and how much is anticipated. Mr. Bower responded that it may just be a spike or it could be a growth trend. He said that at this point, existing staff should be able to handle most of the workload, and this is a contingency plan that he doesn’t expect to go over \$30,000 during the year.

Councilmember Kadzik commented that two of the reasons for this request are due to client specific items, and asked if we charge more for expedited review or for complexity. Mr. Bower responded that to date we do not offer an expedited plan review service, but this did come up during the Costco project. Staff was able to handle the review, so outsourcing wasn’t necessary. He then mentioned the concern with the complexity of the upcoming hospital project, but added that partnering with the Department of Health will allow staff to get it done. He said that if too many projects are in queue and we begin to get bogged down, that is when consultant review will take place. He explained that it would be difficult to justify an additional plan review fee for sending out the project on top of what we are already charging.

Councilmember Dick asked if there are funds budgeted to permit these contracts. Mr. Rodenbach responded that this would be part of the Community Development Professional Services fund. Mayor Hunter pointed out that the consultants work for a percentage of the permit fees collected.

Councilmember Franich described it as “excess to what has been budgeted for staff.” Mr. Bower said that this is to allow faster service by having applications reviewed by outside consultants to keep the process moving. The budget considers our existing staff and this is above and beyond. For every permit we charge a plan review fee of 65% of the permit fee and the consultants will get a portion of that.

Councilmember Franich asked for the formula used to determine the rate. Mr. Bower said that these consultants already do the work for numerous jurisdictions and we will negotiate a contract that is par with the others and bring it back for Council approval.

**MOTION:** Move to direct staff to negotiate contracts for On-Call Plan Review Services as specified for the aggregate amount of not to exceed thirty thousand dollars (\$30,000) for the year 2007.  
Dick / Kadzik – unanimously approved.

8. Comprehensive Plan Amendments SEIS Preparation – Consultant Services Contract. Steve Misiurak, City Engineer, presented this request for an amendment to the contract for work completed in preparation of the Environmental Impact Statement related to the hospital and the Comp Plan amendments recently adopted in 2006.

**MOTION:** Move to approval of the consultant service contract amendment with David Evans and Associates, Inc. in an amount not to exceed Twenty Three Thousand Seven Hundred Thirty Dollars and twenty-eight Cents (\$23,736.28).  
Kadzik / Payne – unanimously approved.

9. Product Demonstration Agreement -Neuros Company. Steven Misiurak presented this agreement in which the vendor would provide, at no cost to the city, a blower unit for the Wastewater Treatment Plant to demonstrate the equipment. He answered questions regarding the equipment, adding that this will assist in odor reduction.

Councilmember Franich left the council meeting at this time.

**MOTION:** Move to authorize execution of this agreement with Neuros as presented.  
Dick / Conan – unanimously approved.

10. Eddon Boat Park Dock and Marine Railways, Conceptual Design and Permitting Assistance – Consultant Services Contract. Steve Misiurak presented this contract to develop conceptual design plans depicting the new dock and marine railway as well as providing permitting assistance. He said that we are scheduled for a meeting with the Department of Ecology next Monday to go over sediment test results. He said that he hopes to come away with an agreement for the clean-up action plan. This would allow us to enter into the permitting process with the anticipation of clean-up by Fall 2007.



**MOTION:** Move to authorize the consultant services contract with Anchor Environmental, LLC for the amount not to exceed Forth-six Thousand Two Hundred Five Dollars (\$46,205.00).  
Payne / Kadzik – unanimously approved.

11. Agreement for Permit Fee Credit – Olympic Property Group – Harbor Hill Development. Steve Misiurak presented this permit fee credit agreement for the cost of city-requested improvements. The original plans did not provide for crosswalks at the Peacock Hill / Borgen Boulevard Roundabout, and this would allow credit for the cost of these improvements towards future permitting fees.

Councilmember Ekberg asked why we wouldn't issue a check for the amount. Mr. Misiurak responded that there was no formal contract for the work.

**MOTION:** Move to approve the agreement as presented.  
Conan / Payne – unanimously approved.

12. Asphalt Pathway – Contract Authorization. John Vodopich said that a Park Budget Objective was to pave the gravel pathway from the Civic Center to Grandview Forest Park and from the park to Grandview Street.

Councilmember Ekberg clarified that we have an ADA compliant pathway from Erickson to the Civic Center, and this would allow this to continue.

**MOTION:** Move to authorize the award and execution of the contract to Maplewood Construction Inc., in the amount not to exceed Three Thousand Eight Hundred Fifty-one Dollars and Seventy-five Cents (\$3,851.75) plus sales tax.  
Dick / Ekberg – unanimously approved.

13. Olympic Dr./56<sup>th</sup> St. Roadway Improvement Project – Transportation Improvement Plan \$3.2M Grant Award Fuel Tax Distribution Agreement. Steve Misiurak presented this grant agreement with the TIB to receive 3.2 Million for this project.

Councilmember Kadzik commended staff for obtaining this grant. Other Councilmembers joined in agreement.

**MOTION:** Move to authorize the Mayor to sign the Fuel Tax Distribution Agreement and Project Funding Status form as presented.  
Dick / Conan – unanimously approved.

14. Skansie Avenue Near Neel Court Re-striping Turn Pocket Project – Contract Authorization. Steve Misiurak presented this agreement for re-striping the turn pocket to address a safety concern.

**MOTION:** Move to authorize the contract for the re-striping of the turn pocket on Skansie near Neel Court to Road Runner Striping Inc. for the amount of One Thousand Five Hundred Dollars and No Cents (\$1,500.00) including tax.  
Kadzik / Conan – unanimously approved.

**STAFF REPORT:**

1. Mike Davis, Chief of Police – November Stats. Chief Davis offered to answer questions.

**PUBLIC COMMENT:** None.

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

Mayor Hunter introduced Rob Karlinsey, who he said would hopefully be the new City Administrator.

Mr. Karlinsey explained that he lives in the city and was an applicant for the City Administrator position. He said that he was selected and is currently working on the details of his contract. Mr. Karlinsey said that he is happy and honored to be selected to be selected, and promised to Council and the great citizens that he will do his best to find out what the hopes and dreams are for the city and to do everything within his power to carry that out. He said that he has lots of ideas and questions, and is excited to start in mid-January.

Councilmember Payne welcomed Mr. Karlinsey.

**ANNOUNCEMENT OF OTHER MEETINGS:**

1. Gig Harbor North Task Force Meeting for Dec. 13<sup>th</sup> at 9:00 a.m. in Comm. Rms A&B.

Councilmember Kadzik requested that a date be set for the yearly Council Retreat as soon as possible to allow him to schedule for the meeting.

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


**MOTION:** Move to adjourn to Executive Session at 8:15 p.m. for the purpose of discussing pending litigation for approximately 30 minutes.  
Payne / Kadzik – unanimously approved.

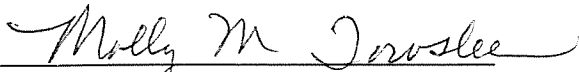
**MOTION:** Move to return to regular session at 8:42 p.m.  
Payne / Kadzik – unanimously approved.

**ADJOURN:**

**MOTION:** Move to adjourn at 8:43 p.m.  
Payne / Conan – unanimously approved.

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Charles L. Hunter, Mayor

  
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Molly M. Towslee, City Clerk