

GIG HARBOR CITY COUNCIL MEETING OF JANUARY 8, 2007

PRESENT: Councilmembers Ekberg, Young, Franich, Dick, Payne, Kadzik and Mayor Hunter. Councilmember Conan was absent.

CALL TO ORDER: 6:03 p.m.

PLEDGE OF ALLEGIANCE:

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 21, 2006.
2. Facilitation of Design Review Process Improvements – Contract Amendment.
3. Sanitary Sewer Facilities Easement & Maintenance Agreement, and Stormwater Facilities Maintenance Agreement & Restrictive Covenant – Northharbor Lot 2.
4. Approval of Payment of Bills for December 26, 2006:
Checks #52289 through #52406 in the amount of \$477,861.72.
5. Approval of Payment of Bills for January 8, 2007:
Checks #52407 through #52498 in the amount of \$155,697.26.
6. Approval of Payroll for the month of December:
Checks #4518 through #4547 and direct deposit entries in the amount of \$278,092.40.

Councilmember Franich asked that the following amendments be made to the minutes of December 21, 2006.

1. City Administrator's Contract; add "Councilmember Franich said that he hopes that the new Administrator moves forward with Council's visions and does not legislate policy from his position."
2. Amendment to Temporary Employment Contract; add "Councilmember Franich commented that he would like to differentiate between the extension of the employment contract and any future filling of the position of Community Development Assistant."

"Councilmembers and the Mayor discussed the Certified Local Government project. Councilmember Franich voiced concern that this could become a monster and consume city money. He said that this has happened in North Tacoma when the program became mandatory. He added that his hope is that the city will stay with their original intent in regards to the CLG process."

MOTION: Move to approve the Consent Agenda with amendments to the minutes as presented.
Franich / Payne – four voted in favor. Councilmembers Ekberg and Young abstained.

OLD BUSINESS:

1. Second Reading of Ordinance – Rust Street Vacation – Beck. John Vodopich presented this request to vacate approximately 30 feet of Rust Street. He explained that the city will retain a 15' wide easement for utilities.

MOTION: Move to adopt Ordinance No. 1065 vacating a portion of Rust Street.
Payne / Ekberg – unanimously approved.

NEW BUSINESS:

1. Public Hearing – Milton Avenue Street Vacation Request – Drolshagen. Carol Morris, City Attorney, said that her recommendation is to deny this request because there is evidence that the property has been adversely possessed by the city since its automatic vacation under the Non-users Statute. If Mr. Drolshagen would like Council vacate the street, he should use the standard street vacation process.

Mayor Hunter opened the public hearing.

John Sloan – attorney and neighbor of Mr. Drolshagen. Mr. Sloan said that Mr. Vodopich wrote a memo saying that Milton Avenue, as it exists now, does not extend into the property the applicant would like vacated. Because the road built in the 1970's didn't follow the original plat of Milton Avenue, it created the 175 foot square piece of property, which has since been surrounded by city sidewalk, and the city has declined to take care of adding that there is a water main, sewer and storm water extensions in the property. He said that it is Mr. Drolshagen's position that this property was part of the 1909 Non-user Statute and that adverse possession doesn't apply. He then said that if Mr. Drolshagen proceeds in a different manner he will win, because this was never part of Milton Avenue as constructed. He said that no road standards can be found in existence in 1970, and the city cannot claim that current standards should apply. If the property is vacated it will go on the tax rolls, but if he is required to go another route, it will cost more time and money to get to the same place.

Councilmember Dick referred to Primark vs Burien Gardens. He said that rights-of-way held by government are not solely for travel, and may include sidewalks, drainage facilities and other infrastructure not necessarily paved. The Primark case says that where a travel way is opened by use, the customary width of a right-of-way was also acquired. The law provides that a paved roadway is only a portion of the right-of-way. He added that many city rights-of-ways are not maintained, but the property remains available for accessory use.

Mr. Sloan responded that if the road was built the way it was platted, Mr. Drolshagen would not be here asking for a vacation. He said that city records do not show what standards were involved in 1970 and what happens in 1994 doesn't apply. He asked how the city came to acquire the right-of-way as the property had already vested back to the adjoining property owner.

Councilmember Dick further explained that under the circumstances, the city cannot use the Non-user Statute to vacate the property, and in an ordinary vacation process, the city has to ask whether or not it needs the property before making a decision to vacate.

Councilmember Kadzik asked who was building the rebar fence.

Jeff Drolshagen – 5205 47th Ave. NW. Mr. Drolshagen asked if he is wasting his time and money if the City Attorney is suggesting that he bring this back under a different process and Council decides not to vacate. He explained that he made this vacation request with the guidance of Mr. Vodopich and other staff who supported using the Non-users Statute. Now another avenue is being suggested. He argued that he has been using the property since he purchased the property in 1990. He said that the city gave his sewer connection to the property behind him, and so he had to have another installed. He said that there are a couple of legal avenues to get property: rededication through eminent domain, which the city elected not to do; or a taking of the property, which is like stealing. Using adverse possession is a wrongful taking, or thievery. The city stole his property and is now suggesting that he buy it back.

Councilmember Kadzik asked again about the fence. Mr. Drolshagen said that he started constructing it. He said that he approached the Planning Department and has a bond and insurance policy in place so that he could build it.

Richard Trampenau – 9220 Milton Avenue. Mr. Trampenau explained that he is the adjacent property owner and closest to the piece in question. He said that he supports Mr. Drolshagen in the effort to have this property. He will do a better job of maintaining it and it will look a lot better.

Todd Byersdorf – 9211 Goodman Avenue. Mr. Byersdorf said that he lives behind the Drolshagen property and that he disagrees with granting access to that easement because of the utilities. He explained that Jeff had sent him a letter giving him three days to remove his utilities, citing that they are on his property. Mr. Byersdorf explained that they are not on his property because the marks drawn were made for temporary lines, and in fact the actual lines are under that. Mr. Byersdorf asked if Mr. Drolshagen would be allowed to build a similar six-foot wall as the other on his property. He voiced concern about visibility safety issues due to the existing fence and how further extension of the fence will give him no visibility at all when exiting off Milton. He also asked if his utilities would have to be moved.

Dina Byersdorf – 9211 Goodman Avenue. Ms. Byersdorf addressed the safety issue with the extension of the rebar fence when they pull out of Milton onto Harborview. She said that Mr. Drolshagen should not be allowed to have that piece as part of his property.

Mayor Hunter closed the public hearing at 6:30 p.m.

Councilmember Kadzik asked for clarification on the issue of adverse possession and whether it would include the right-of-way. Ms. Morris responded that yes, it would. She said that she agreed with Councilmember Dick that it would be the street, the abutting area for utilities and other infrastructure. She then added that she would say that it would be what the city needs under the existing street standards to accommodate future improvements.

Ms. Morris stressed that this is not something that Council can adjudicate tonight; a court would have to make the final determination. Council can only determine whether or not the submitted application can be approved. She said that it cannot be approved because the city has acquired rights by adverse possession that would preclude the city acting under the Non-users Statute. She continued to explain that Mr. Vodopich would not have known the legal issues when he made the recommendation to Mr. Drolshagen. Mr. Drolshagen's next step if he wishes to continue is to follow the regular process, which would require him to pay one-half the appraise value of the area. Council would then have to make a decision based upon recommendations from staff on whether it should be vacated.

Councilmember Payne asked if there is record of the city maintaining the asphalted road. Ms. Morris responded that this would be something to inform the court in an adverse possession case. She said that if Mr. Drolshagen decides to go to court, we will have more time to gather additional information and offered to prepare a memo to compare all the elements of adverse possession prior to litigation. She added that there is enough evidence to raise the question that the city has acquired the property through adverse possession.

Ms. Morris further explained that if the applicant returns with a regular street vacation application and is willing to pay the one-half appraised value of the street, then the Council will still not be able to determine whether the street has been acquired through adverse possession. But because he is willing to pay, and Council decides to vacate, then Mr. Drolshagen has conceded that Council has acquire the property through adverse possession. If he doesn't agree, then he will not ask for a street vacation, but will go to court for adjudication.

Councilmember Young apologized to Mr. Drolshagen for being sent down the wrong path. He recommended that in the future, staff check with legal counsel to see if the Non-user Statute applies. He said that it does appear that this statute does not apply but the question is the actual right-of-way and whether it is surplus to the city's needs. He said that he cannot support the application as it stands.

Councilmember Franich asked if safety issues should be taken into consideration when someone comes in for a building permit. John Vodopich responded that an application is submitted to build something, line-of-site and access issues are reviewed.

MOTION: Move to deny the request to vacate a portion of Milton Avenue.
Dick / Kadzik – five voted in favor. Councilmember Payne voted no.

Councilmember Young asked if during the upcoming Council Retreat we could address all the remaining properties that fall under the Non-user Statute be researched and vacated at one time. There is a great deal of staff and Council time being used on this issue.

Mayor Hunter requested that these vacation requests be forwarded to the City Attorney when they first come in.

Councilmember Ekberg and Kadzik agreed with Councilmember Young to do an assessment and be done with it. Councilmember Kadzik added that the aerial photo supplied by Mr. Drolshagen was very helpful and asked that this type of illustration be used by staff in future submissions of other types of zoning and plat issues.

2. Ordinance No. 589 – Goodman Avenue Street Vacation. Carol Morris said that Mr. Drolshagen requested that staff look into what happened with Ordinance No. 589 regarding a street vacation approved in 1990. Although the property was subject to the Non-users Statute, it was not called out in the ordinance, and a condition was made that the property owners pay the one-half of the appraised value fee. The payment was never received, but the ordinance was recorded at a later date. Mr. Drolshagen asked that a new public hearing be held to correct the errors. Ms. Morris said that because the payment was not required and so that condition didn't need to be met. The ordinance has already been recorded and the property taken off the tax rolls, no additional action is required.

3. First Reading of Ordinance – Clubs and Lodges Text Amendment. Jennifer Kester, Senior Planner, presented the background information on this ordinance amending the definitions and performance standards for clubs, lodges and yacht clubs.

Councilmember Kadzik asked for clarification on uses within the Residential Low Density zone. Ms. Sitts explained that currently clubs are allowed outright in the RLD zone. The Planning Commission thought that it would be better as a conditional use to determine whether there would be detrimental effects of a club in that area.

Councilmember Franich voiced concern with allowing restaurant – type activities in the RLD zone and asked the definition of 'temporary'. Ms. Sitts explained that temporary rentals are for a set period of time, which is not called out in the code. Councilmember Franich said that it is important to define the length of time to avoid subjective or arbitrary interpretation. Ms. Kester added that that the city code requires any commercial activity longer than 30 days to apply for a business license which would trigger review. Ms. Kester further explained the reasoning behind the recommendation for clubs to be listed as a conditional use permit.

Councilmember Franich asked if consideration had been given to square footage limitations. Ms. Kester responded that only in the Waterfront Millville Residential and Commercial Districts.

Councilmember Kadzik praised the brilliance in the way that the Planning Commission handled these issues without being too restrictive.

Mayor Hunter opened the public hearing at 6:54 p.m. No one came forward to speak and the public hearing was closed. This will return for a second reading at the next meeting.

4. First Reading of Ordinance – GHMC 1.20 Official Newspaper. Molly Towslee, City Clerk, explained that this ordinance would allow Council to consider choosing another designation for the official newspaper that could facilitate the need for more frequent legal noticing. This amendment would also allow the bid process to occur on a bi-annual basis.

Councilmember Ekberg asked if two newspapers could be designated or split the notification aspects. Ms. Morris explained that all official notices should go into one, official newspaper.

Councilmember Kadzik asked how often notification issues come up because of the weekly publication. Ms. Towslee explained that this past year it has come up more frequently. She said that she has a memo from Maureen Whitaker, Assistant City Clerk and Diane Gagnon, Planning Assistant who also deal with legal noticing, explaining their concerns. Ms. Towslee described scheduling issues and delays that can be caused by missing a deadline with a weekly publication.

Councilmember Dick said that he realizes that the issue has been the increased cost to use the News Tribune. He recommended that the rates be quoted in a manner that will allow Council to compare the proposals more easily.

Councilmember Franich stressed that it is important to do as much as we can with the local paper. Ms. Towslee said that if Council designates another daily paper, the local paper will be used for any non-legal notices such as job ads and requests for committee members.

5. Resolution No. 696 – Authorizing Application for Federal Grant Funding Assistance – Preserve America. John Vodopich presented that the next two resolutions relating to possible grant funding for historic preservation projects. The first is for the Preserve America Federal Grant through the National Parks Service, and the second, is through the State of Washington Office of Archeology and Historical Preservation. He explained that the funding is being sought for a project to redefine the Historic District boundaries to be consistent with the actual historic neighborhoods, and then inventory the historic structures within that area.

Councilmember Ekberg asked for clarification on why structures that are not historical in nature are not 'just removed' from the boundary without having to complete a study. Mr.

Vodopich responded that Council could ask the Design Review Board to redefine the Historic District boundaries.

Councilmember Young agreed. He then commented that when the CLG Program was instituted, it was voluntary in nature and he does not understand the reason for an inventory unless we are moving towards a more compulsory system. Mr. Vodopich responded that the program would remain voluntary, but if an applicant comes forward with an application, it would be known if the structure met the standards for consideration with an inventory in place.

Councilmember Ekberg asked how many had come forward for certification. Mr. Vodopich responded that none have come forward.

Ms. Kester added that the Design Review Board has asked for an inventory to better understand historic resources and so that they can better advocate for historic preservation.

Councilmember Franich said he is in favor of having the inventory completed, but that when this program began, it seemed more benign.

Councilmember Kadzik asked for clarification of Councilmember Franich's concerns. He said that it has never been suggested that the CLG Program be anything but voluntary and a benefit to the community.

Councilmember Franich responded that he doesn't doubt the benefit if you chose to participate, but one of his concerns is the cost of all the staff time spent to get to this point and now we are spending more money. He added that he has family members who live in the north end of Tacoma where a program like this that started out as a low-key approach to historic preservation. Over the years it became mandatory, which is a concern.

Councilmember Ekberg said that historical preservation is great. It was set up as a voluntary program, but he wasn't aware that it would continue to cost the taxpayers more money. He then said that an inventory will be a valuable resource that will only need to be done once.

Councilmember Young further clarified that when Council adopted the program, it was presented as not much more than putting a brochure on the counter, and if someone applied, we would decide whether or not the structure was historic. Now, more money is being spent on the program than he had anticipated. He also said that he is supportive of the inventory process because it is a one-time effort. He also said that he is in favor of cutting consultant fees by eliminating obvious areas of non-historic structures if possible. He said that there is a limit he is willing to spend on a voluntary program in which people are not willing to participate.

Councilmember Kadzik agreed that the program has taken on a life of its own; more than anyone had expected. He added that government programs have a way of doing that.

MOTION: Move to adopt Resolution 696 authorizing application for Federal grant funding assistance - Preserve America.
Kadzik / Franich – unanimously approved.

6. Resolution No. 697 – Authorizing Application for State Grant Funding Assistance – CLG Grant Program. This was discussed during the previous agenda item.

MOTION: Move to adopt Resolution 697 as presented authorizing application for state grant funding assistance – CLG Grant Program.
Kadzik / Franich – unanimously approved.

7. Resolution – Harbor Crossing Final Plat. Jennifer Kester presented this final plat and final planned residential development for the Harbor Crossing Subdivision located north of Borgen Boulevard at the end of 51st Avenue.

Jeff Hill – 5016 Bridal Path Drive NW. Mr. Hill asked Council to deny this final plat approval. He asked for clarification on notification requirements, because neither he nor his neighbors received any public notice. Carol Morris explained that the noticing requirements are different because the preliminary plat requires a public hearing that goes before the Hearing Examiner. The final plat does not require a public hearing.

Mr. Hill continued to explain his concern that the additional drainage on the Dwelling Company Property that was supposed to be provided, per agreement with Scott Inveen to Russell Tanner, has not been installed. He then said that he is unaware of any work done to fulfill the requirement under condition number fourteen to install pedestrian pathways or access for such to Canterwood properties. He continued with condition number twenty-four, voicing concern that the grade behind his property was raised about fourteen feet and a stream that was present on the property has been filled in. Now drainage from the Dwelling Company lots comes on to their properties to the north. Mr. Hill said that there has been damage to their properties and they had to install secondary drainage enhancements. He also said that his sport court is under 2-3 inches of water with no way to drain it. He continued to say that the drainage issue is adversely affecting the value of their property. He said that they disagree with the upstream and downstream analysis, adding that the initial engineering provided to the city was flawed. He said that the revised topos will show the flow of water and the stream that used to exist and which show up on aerial photos.

Carol Morris responded that there is no one present from Public Works to address these issues, so this could be continued to the next meeting to provide a response.

Councilmember Kadzik asked for clarification for the comments regarding number fourteen, pedestrian access. He asked Mr. Hill if Canterwood, being a gated community,

would embrace free access. Mayor Hunter then asked if there any access where the public can get from the streets in Canterwood into this property without cutting through a back yard.

Mr. Hill responded that said that he cannot speak on behalf of the Canterwood Homeowner's Association, but the sentiments are there that they would *not* like to have open access. On the south side on Canterwood, there is a 30' wide common buffer to the Dwelling Company's property, and pedestrian trails through that development have been discussed. Mr. Hill again stressed that he cannot speak for the Homeowners Association, but added that there has been a 14' change in elevation, and it would be a tricky access from his perspective. He said that his concern is that the access points were not provided by the Dwelling Company and it was a condition on the preliminary plat. He then said that Canterwood wouldn't have an ability to connect to these trails without walking across someone's yard.

Jennifer Kester responded, explaining that the specific Hearing Examiner language was to coordinate with adjacent residential communities to provide pedestrian access to retail shops. The proposed plat has provided open space and there are several places able to grant access if Canterwood wanted to coordinate with The Dwelling Company. Staff interprets this as meeting the intent.

Councilmember Young asked that when this returns, if staff could provide for a visual to help in understanding the access concerns. Ms. Kester pointed out that there is copy of the final plat is provided in the packet that shows that access points provided.

Councilmember Kadzik asked if it would be appropriate for the applicant could get a statement from Canterwood Homeowners relating to whether or not they wish to have the condition satisfied. Ms. Kester said that it may be helpful to allow the applicant to respond to these concerns.

Scott Inveen – Dwelling Company, 3617 96th Street, Gig Harbor. Mr. Inveen said that the trail issue has come up at two different public meetings with Canterwood prior to filing the plat. At the meetings, Canterwood said that they didn't want this access, and in fact, Mr. Hill spoke against any trails connecting to Canterwood. The opportunity is there for the future, but no trails have been built at this time. Mr. Inveen then said that in regards to the drainage issue; this should have been dealt with during the preliminary plat phase. He asked Council not to delay this final plat as costs are rising. He continued to explain that Mr. Hill himself has altered the landscape by encroaching upon the 30' buffer, clearing and placing a fence in this property. This has altered the drainage, and when construction began on the Harbor Hill project, Mr. Hill went even further into the buffer and built an earthen berm along his property with trees planted on top, which also affects the drainage. Drainage was then piped through the natural buffer onto the Dwelling Company property. Since then, they have had several conversations. Mr. Inveen added that he has said that there is a wall waiting for design yet to be completed further down the property. In addition, he has promised that when he builds the wall, he will be happy to add a drainage line that backs up to these

properties. He said that he has never seen a sport court back there, and then pleaded with Council not to extend action on this final plat as he needs to get the project moving.

Councilmember Ekberg asked if a downstream analysis has been completed. Mr. Inveen responded that it had been done. The stream mentioned was a drainage ditch created when the freeway overpass was built.

Councilmember Franich asked if Canterwood residents testified at the Hearing Examiner's public meeting. Ms. Kester responded that yes, there was. She added that she recalls that the concern was that the buffer was not large enough. She said that she does not recall anyone wanting access.

Councilmember Young clarified that the issue is whether or not they provide the access in case Canterwood wants to open the access later. Mr. Inveen stressed that there are multiple access points provided, to which Ms. Kester added that the access at the northeast corner of the plat has the most level grade between properties.

Mayor Hunter said that he was not in favor of continuing the approval of the final plat. Both Planning and Engineering has signed off on the project, and there is no reason to delay this an additional two weeks.

Councilmember Young said that this appears to be a private property dispute and if our City Engineer has signed off on this plat, there is no reason to delay this further.

Councilmember Payne asked there was a Canterwood Board member present, and if not, he would assume that this is an individual property owner dispute that needs to be worked out between the two parties.

Councilmember Dick asked why testimony was being taken if this is a closed record hearing. Ms. Morris responded that this isn't a closed record hearing as per the city code and there is no restriction to keeping it closed. She then clarified that her concern previously with obtaining more information from staff due to drainage issues was based on liability issues. Further clarification from Ms. Kester has indicated that this is a private facility, and will not be assumed by the city and therefore, the liability is not there. The only reason to delay to obtain further information from the Public Works Department would be if Council is not convinced that the approved stormwater plan is untrue.

MOTION: Move to adopt Resolution 698 approving the Harbor Crossing Final Plat.
Ekberg / Dick – unanimously approved.

8. Federal Governmental Affairs Lobbying Services – Consultant Services Contract.
Councilmember Young explained that this contract for federal lobbying services was discussed in the Budget Workshop.

Mayor Hunter voiced concern and suggested that the Governmental Affairs Committee review this contract and then brings it back with a recommendation at the next meeting.

Councilmember Ekberg disagreed, saying that there was a discussion during the budget process and it was included as an item that Council wanted to pursue.

MOTION: Move to authorize the Mayor to sign the attached contract with Gordon Thomas Honeywell Governmental Affairs in the amount not to exceed Seventy-five Thousand Dollars (\$75,000.00).
Ekberg / Young –

Councilmember Young explained that this contract is for seeking out federal transportation budget dollars, which is more long-term and focused than state-oriented lobbying. One thing that is scheduled for the Governmental Affairs Committee is a teleconference with the lobbyist in Washington D.C.

Councilmember Franich asked what we would be getting for this money. Councilmember Young responded that this is to pursue federal funding for transportation specifically related to Gig Harbor North. This is a way to work with our Congressman and Senators in order to obtain funding. Councilmember Franich said that the Congressmen and Senators should do the right thing and this is what makes Government bad.

Councilmember Payne commented that we did discuss this in the budget workshop and it needs to be approved, however, the Intergovernmental Affairs Committee needs to meet more frequently to interact with this lobbyist to understand what he is doing. He said that the termination clause in the contract will enable Council to end it at any time that performance is lacking.

Carol Morris clarified for Councilmember Franich that the contract could be terminated early and without cause.

RESTATED MOTION: Move to authorize the Mayor to sign the attached contract with Gordon Thomas Honeywell Governmental Affairs in the amount not to exceed Seventy-five Thousand Dollars (\$75,000.00).
Ekberg / Young – five voted in favor. Councilmember Franich voted no.

STAFF REPORT:

1. Tom Dolan, Planning Director – Zone Transition Buffering Standards. Mr. Dolan explained that Council Kadzik asked staff to develop alternatives that would preclude the future use of easements on abutting property to reduce the size of zone transition buffers on the parcel that creates the need for the buffer. He said that he has issued an Administrative Interpretation that clarifies that the buffers need to be located only on the property that creates the need. He recommended that Council remand this back to the

Planning Commission to develop a text amendment that would further clarify the Council's intent.

Councilmember Franich asked why he felt it necessary to send it back to the Planning Commission rather than presenting the text amendment at the direction of Council. Mr. Dolan responded that it is his understanding that amendments involving the zoning code need to go to the Planning Commission first. Ms. Morris clarified that Council can decide to hold their own public hearing and make text amendments without going to the Planning Commission.

Councilmember Franich then said that it is pretty clear that Mr. Dolan's interpretation is a good thing and wonder if the Planning Commission's time might be better spent on other issues. Councilmember Ekberg agreed, adding that Council can send direction to staff and then hold a public hearing so that we are clear in how to proceed.

MOTION: Move to direct staff to develop a text amendment and return to Council for approval adding language to Municipal Code 17.99.170 that specifies the intent as stated in the report.
Payne / Franich – unanimously approved.

2. Tom Dolan, Planning Director – Proposed Amendments to RB-1 Zoning Regulations. Mr. Dolan said that Council asked the Planning Commission to review the provisions of the RB-1 District that currently restricts structures to the maximum size of 5,000 square feet per lot. The concern is that the 5,000 s.f. maximum might force property owners, if they have a large enough parcel, to subdivide to maximize the development of the site and may result in development that is inconsistent in terms of design.

The Planning Commission held two work study sessions, and after discussion, decided to table the proposed amendment and send a recommendation that Council direct them to conduct a study to the appropriateness and impact of RB-1 Zones in various areas such as those adjacent to single-family residential zones. Mr. Dolan continued to present three options: one, take no further action; two, to direct the Planning Commission to conduct a review of the appropriateness of the zoning of the existing parcels of land that are currently zoned RB-1; and three, for City Council to hold their own public hearing on the amendment to allow multiple buildings of up to 5,000 s.f. on property that is zoned RB-1. The Council could then decide to amend the code by a subsequent ordinance.

Councilmember Ekberg said that he thought the purpose of the Planning Commission having a public hearing would be to help them gather information relative to this. He then addressed the concern that the RB-1 districts are located next to single-family residential districts. This is exactly why the RB-1 zone was created; to allow separation between residential and business districts. He said that he would like to see a current inventory of RB-1 zones. Then Council could hold a public hearing.

Councilmember Young said that he suggested this text amendment because it is an issue of ownership. There would be no change to the status quo, because currently the owner can sub-divide and get the exact same thing. What it doesn't allow is mixed use condominium development. In theory, if you are forced to sub-divide, then you cannot condominiumize. He suggested that RB-1 should be zoned the same as most every other zone with a "per structure" limit and with all other design regulations that would apply. He said that he would like a public hearing and then Council could review the issue.

Councilmember Kadzik recognized Planning Commission member, Jill Guernsey and asked her to come forward and speak on this.

Ms. Guernsey said that it is her recollection that there was concern by several of the Planning Commission members that the properties zoned RB-1 would be more appropriately zoned something else. They would like to address that issue before tackling this issue.

Councilmember Young stressed that this is two separate issues, adding that perhaps another zone classification needs to be developed. He said that this amendment really doesn't change anything and he sees no reason to wait. Something could be brought back and the Planning Commission could be directed to do a review simultaneously.

Councilmember Franich said that he thinks the first step is to determine if the zoning is correct on the existing RB-1 parcels and then to address the 5,000 s.f. issue. Ms. Guernsey agreed.

Councilmember Young clarified that this isn't a square footage issue.

MOTION: Move for staff to return to City Council a complete inventory of all the RB-1 properties in town to include current uses, adjacent property uses and zoning.
Ekberg / Franich – unanimously approved.

PUBLIC COMMENT:

Ray Schuler – 11523 Clovercrest Drive, Lakewood, WA. Mr. Schuler said that he is here representing the Boys and Girls Clubs to make Council aware of some difficulty in moving forward with building a Boys and Girls Club / Senior Center. Mr. Schuler said that they have been told by city staff that the application for building permit will not likely be processed because of the project location in respect to the Gig Harbor North traffic circles. He added that the project expects to put ten to twelve trips through those circles and will not be able to move forward until the traffic issues are solved. There are other difficulties and expense issues such as how many parking stalls are required, the roof slope, and visibility from the freeway. He said that he is present because they don't seem to be able to get a straight answer on whether or not the application will be processed. Mr. Schuler continued to explain that he has one more year in his term as

Chairperson, and he would like to break ground this year in order to take advantage of their loaned executive from Boeing.

Mayor Hunter responded that he has been involved in meetings with Mr. Schuler, Mr. McClaren, Mr. Yazwa, Mr. Peterson, and Mr. Giest. At that time he offered suggestions on several issues such as parking may be shared with the school district and a variance considered. He continued to say that he told the group that he has asked staff to look at strategies to allow more peak-hour trips as work progresses on long-term solutions for that interchange. He explained to them that the Boys and Girls Club is required to provide a traffic study, and recommended a pre-application meeting with the Design Review Board to address design issues and screening. Mayor Hunter further explained that he met with Mr. Schuler another time to discuss the sewer line and other public works standards that are required by any development. He said that to date, a complete traffic report has not been submitted and he doesn't believe that they have scheduled any of the other meetings. Mayor Hunter said that he had the feeling that the Boys and Girls Club wanted him to make a unilateral decision to give them a building permit without having met the criteria, which he will not do for anybody.

Mayor Hunter then asked those signed up to speak to limit testimony to two minutes and to not repeat testimony.

Councilmember Young asked how they arrived at the number of trips coming through the Borgen Interchange. John Vodopich explained that the ordinance specifies that one trip through a failing intersection means you cannot meet concurrency. The number is based on preliminary studies if as Mayor Hunter stated, a traffic study had not been submitted.

Mayor Hunter clarified that yes, a traffic study was received on the 22nd of December. Staff asked for additional information, which he has not received.

Mr. Schuler said that he did not intend to put the Mayor on the spot and clarified that there are numerous issues which need to be addressed, but the one issue they cannot seem to get past is the traffic. He said that the preliminary traffic study shows 10-12 trips through a failing intersection, and has been submitted to staff. They have been told that the application will be a "non-starter" after they have spent \$100,000 to complete the application.

Mayor Hunter stressed that this is a problem for all development, and unfortunately, there is no latitude to move forward until these issues have been addressed. He said again that Jeff Langhelm, Associate Engineer, asked for additional information which has not been submitted. He said that everyone has to be treated equally.

Councilmember Young said that other developments in the pipeline will not use all the capacity planned. He asked when we will know if the trips are available and if the excess will make other development available.

John Vodopich responded that the Mayor tasked staff to come up with a short-term plan that once the hospital has made their interim improvements to the traffic issues in that area. Discussion is taking place with the Franciscan representatives on how many trips will be generated and once they are up and running, traffic counts will be done to determine if they are using the entire capacity.

Councilmember Ekberg restated that this is not the only project that is being held up because of traffic concurrency issue.

Gretchen Wilbert – 8825 No. Harborview Drive. Ms. Wilbert spoke in favor of the 2004 vision for a Boys and Girls Club / Senior Center. She said that this has become a partnership between the Peninsula District, Pierce County, Pierce Transit and many volunteers. She then said that she would like to take the traffic issues out of this project, because it is only ten car trips because the boys and girls will arrive by school bus and the seniors won't drive through the roundabout. No business or traffic impact will occur because of this project. She asked Council to recognize that the residents are asking for this, explaining that there are between 400 and 500 elementary and middle school students every Friday night at Chapel Hill Church. She said that we are in desperate need of this facility to provide services. Ms. Wilbert then said that the people who have invested the money will go away if the project if it doesn't go through. She asked Council to please help them get through this quagmire.

Joy Melgard – 5900 Soundview Drive. Ms. Melgard voiced her concern for seniors. She shared that she was a senior activist for Governor Schwarzenegger when she lived in Bishop County. She said that there is a horrendous need for senior activities, and asked if a survey had ever been taken to find out how many seniors are in this community. She encouraged Council to support the people who are giving to this project. She then explained that many of the people that she dealt with were heavy drinkers, smokers and had a lot of depression, which happens with about 40% of seniors because they don't have enough to do. She said she hopes to be very active in supporting a Boys and Girls Club / Senior Center.

Ann Hunt – 2027 Narrowsview Circle NW Unit E-42. Ms. Hunt said that she was on a committee in the early 1970's to get a organization for youth. Unfortunately it wasn't the right time back then, but it is certainly the right time today. Ms. Hunt said that the population supporting the Senior Center will come more from the west side and downtown, rather than up Peacock Hill and through the roundabouts. She added that she has been through many roundabouts throughout the states and has never seen any as terrible as these in Gig Harbor. Ms. Hunt finalized by saying that this project is desperately needed.

Mayor Hunter said that he agrees. He has built several churches over the years and anything that will help the young people is a worthwhile cause. He stressed that it isn't that the city is trying to stop this project, but technical difficulties are going to take some effort to solve.

Ms. Hunt said that they don't want to wait until the hospital is built to find out how many people are going to use the roundabout. The Boys and Girls Club is ready to go and if you wait for a study, we will lose the project.

Mayor Hunter responded that we need to work with the Boys and Girls Club so that they do what is required to help us solve the problem. In order to do that, they have criteria that has to be met.

Councilmember Payne complimented Ms. Melgard for her patience and staying through the meeting to share her concerns.

John Chadwell (no address given). Mr. Chadwell gave an update on the Harbor Hill Project in Gig Harbor North. He said that the water tank has been constructed, Borgen Boulevard was widened, over ½ mile of new road has been constructed, and a storm water drainage facility completed; all that benefit the region. He added that the YMCA is well under construction and the Costco and retail buildings should begin construction in April or May. All should hopefully be open by the end of 2007. Mr. Chadwell thanked the city staff for all their efforts this past year, especially Jennifer Kester, who he said "sticks to the rules, defends the city's interest, but is fair and honest and gives great service." Mr. Chadwell continued to describe plans for 2007, which will include 200 acres of residential land and an office park that will require another traffic infrastructure which will help with traffic issues. He then referenced a letter to Council with information on the open house in October, adding that they would like to continue dialogue with Council and other community leaders to better understand the vision for Gig Harbor North. There is a lot of work left to be done in planning, and it is easier to shape it early than to change it later. He asked for suggestions for a format to gather input.

Councilmember Ekberg commented that he attended the open house and it was interesting to see the large number of citizens present. He suggested a joint meeting with the Planning Commission with this as a topic. Councilmember Kadzik added that he would like the Design Review Board to be included. Mayor Hunter will set it up.

COUNCIL COMMENTS / MAYOR'S REPORT: None.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Gig Harbor North Traffic Options Committee – Wednesday, January 17, at 9:00 a.m. in the Community Rooms A & B.

Mayor Hunter commented that this is the committee that meets to work on traffic issues and praised the progress that has been made over the year.

2. Council Retreat – Wednesday, February 28, at 8:00 a.m. in the Community Rooms A & B to discuss plans for the upcoming year.

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

MOTION: Move to adjourn to Executive Session at 8:30 p.m. for the purpose of discussing pending litigation for approximately 10 minutes.
Franich / Payne – unanimously approved.

MOTION: Move to return to regular session at 8:38 p.m.
Dick / Franich – unanimously approved.

ADJOURN:

MOTION: Move to adjourn at 8:38 p.m.
Franich / Young – unanimously approved.

CD recorder utilized:
Disk # 1 Tracks 1 - 33
Disk # 2 Tracks 1 - 30



Charles L. Hunter, Mayor



Molly M. Towslee, City Clerk