

## **GIG HARBOR CITY COUNCIL MEETING OF MAY 27, 2008**

**PRESENT:** Councilmembers Franich, Malich, Payne, and Kadzik. Councilmember Young acted as Mayor Pro Tem. Mayor Hunter, Mayor Pro Tem Conan and Councilmember Ekberg were absent.

**CALL TO ORDER:** 5:30 p.m.

**PLEDGE OF ALLEGIANCE:**

**PRESENTATIONS:**

1. Swearing In Ceremony – Reserve Officer Grant Boere. Chief Davis intruded Reserve Officer Boere and gave a brief overview of his background. Mayor Pro Tem Young performed the Swearing In Ceremony for Officer Boere.

2. Harborview / Judson Update. Rob Karlinsey, City Administrator, said that a 2008 Budget Objective is the design for street improvements and utility design work for Harborview and Judson Streets. He explained that the first step that the consultant has been asked to accomplish is an overall master plan concept from one end of the harbor to the other. This should be completed by the end of summer. He introduced Eric Schmidt to come forward and present information.

Mr. Schmidt provided brief introductions and background information for Barry Knight, Lead Consultant for CTS Engineers, David Saxon, Urban Design and Streetscape Specialist, and himself. He said that they have worked together for over a dozen years on streetscape projects in the Northwest to look at pedestrian safety, parking and how to make retail areas more active while protecting residential areas. Mr. Schmidt commented that this project is an opportunity to tie the area from Donkey Creek Park along the waterfront to the downtown area and up to Judson Street into one continuous walking route for both residents and tourists.

Mr. Schmidt continued to explain that it is clear from the stakeholder workshop that the main focus is to preserve the character and history of the area; not to make everything look alike. He further described how the project can help each area retain its character while improving parking and pedestrian amenities. He said that the technical advisory committee will meet prior to meeting with the stakeholders, and on June 10<sup>th</sup> the whole community will be invited to attend a workshop to find out what they would like to see. This cycle will be carried out three times to make sure that everyone has appropriate input while keeping Council up to date during the process.

Councilmembers asked about the timeline of the project. Mr. Schmidt described the construction phasing of the project to begin in February of 2009 and said that they would have a preliminary concept by the end of June to present to Council in a workstudy session. He said that they garnered a list of top ten priorities during their meetings that will be goals used in the design concept:

1. Maintain Waterfront character – keep the “quirky layout”
2. Maintain or expand parking opportunities
3. Repair and improve utilities
4. Improve the pedestrian realm on both sides of street
5. Balance tourism with local needs
6. Reinforce historic character – use materials, design and texture of older buildings
7. Traffic calming measures
8. Integrate art into the project
9. Expand historic & way finding signage / create a signature gateway entering downtown
10. Bicycle opportunities

Mr. Schmidt assured Council that what lies beyond the sixty feet of right of way will be taken into consideration because some of the nicest things about Gig Harbor are the rock walls, landscaped yards and other design elements along the upland side. He then talked about options for Uddenberg / Stanich Lanes and along Judson Street.

Mr. Schmidt then spoke to his experience with working with other historic downtowns. He explained that on a larger scale, he worked on the City of Boston where he was in charge of the Historic Neighborhood Urban Design Plans along the central artery. On a smaller scale, he has worked in Edmonds, Bainbridge Island, Puyallup, Tacoma, Snoqualmie, and Salem, Oregon.

Mr. Schmidt announced that the Stakeholder Meeting is tonight at 7:00 p.m. and invited any councilmember that was interested in attending.

### **CONSENT AGENDA:**

1. Approval of the Minutes of City Council Meeting of May 12, 2008.
2. Liquor License Renewals: Target Store; Puerto Vallarta; Round Table Pizza.
3. Liquor License Application: Gig Harbor Wine Cellars.
4. Resolution 753 – Surplus Vehicle.
5. Wagner Way Traffic Signal – Right of Way Easement Agreement Shell Gas Station & Mini-Mart.
6. Amendment to Assigned Counsel Agreement.
7. Resolution No. 754 - Support of Grant Application for Eddon Boat Park Development and Acquisition Reimbursement.
8. Resolution No. 755 – Skansie Ad Hoc Committee Schedule Extension.
9. Pierce County GIS Network Agreement & Agreement for Development of Quick view Mapping Services.
10. Appointments to Gig Harbor Arts Commission.
11. Pierce County/City Stormwater Mapping Inventory Services Contract.
12. Slay back and Vasquez – Release and Covenant Not To Sue.
13. Transportation Capacity Availability Report & Traffic Model – Consultant Services Contract / PTV America.
14. Amendment to Contract – Eddon Boatyard Park Design – Anchor Environmental.

15. Storm Water Comprehensive Plan Update – Consultant Services Contract / Pace Engineering.
16. 2008 Watermain Replacement – Bid Award.
17. Approval of Payment of Bills for May 27, 2008:  
Checks #57687 through #57861 in the amount of \$1,098,641.71.

**MOTION:** Move to adopt the Consent Agenda with Number 16 - 2008 Watermain Replacement Bid Award moved to New Business.  
**Franich / Payne** – unanimously approved.

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

**MOTION:** Move to adjourn to Executive Session at 6:00 p.m. for approximately 40 minutes for the purposes of discussing potential litigation per RCW 42.30.110(1)(i).  
**Franich / Malich** – unanimously approved.

**MOTION:** Move to return to regular session at 6:50 p.m.  
**Franich / Malich** – unanimously approved.

Councilmember Kadzik asked to be excused from the meeting to attend the Stakeholders Meeting.

**OLD BUSINESS:**

1. Second Reading of Ordinance – R-2 Zoning District Amendment (ZONE 08-0002). Jennifer Kester, Senior Planner presented this ordinance that amends the medium-density residential zone. She gave a brief overview of what the amendments would accomplish.

Ms. Kester then addressed questions raised by Councilmember Young at the last meeting regarding minimum density. She explained that this ordinance sets a minimum density of four dwelling units per acre in the R-2 zone, but six units are assumed in order to maximize the use of the land. She recommended another public hearing if Council wished to amend the minimum density to a larger number. She said that the amount of undeveloped R-2 lands isn't so high as to make a large difference if this was increased to a higher number.

Councilmember Malich asked for clarification on impervious coverage in other higher density zones. Ms. Kester responded that in the R-3 zone it is up to 60%; in RB-2 and B-2 it is up to 70%, and R-1 is up to 40%. Councilmember Malich responded that it would be more reasonable to set it at 50% in the R-2 zone.

Ms. Kester said that the Planning Commission felt that at six dwelling units per acre and the conditional allowance for four-plexes along with parking requirements, that 60% would yield a more buildable lot. She further explained that duplexes, which are outright

permitted in the R-2 zone, have ended up at the Hearing Examiner for impervious surface variances because they cannot meet the 40% requirement. It is a difficult number to meet for single family residence on a smaller lot, and definitely difficult for duplexes. She then said that in a PUD or PRD you have to meet the underlying zoning requirements, but not on an individual lot basis.

Councilmember Malich then asked for clarification on the passage of the emergency ordinance on the R-2 zone. Ms. Kester responded it was a non-conforming use allowance that would allow someone to rebuild to the same dimensions if damaged by an act of nature and that approximately 30% of the dwelling units in the R-2 zone are non-conforming. The current ordinance would take that 30% and grandfather them as a confirming, conditional use.

Ms. Kester then added that a RMD zone has up to 65% impervious coverage requirement with a slightly higher density allowance. The RMD zone is a planned community development area off Borgen Boulevard and eight dwelling units are presumed as opposed to the six in an R-2 zone.

Councilmember Franich asked for clarification on section four which addressed allowed density. Ms. Kester explained that if the property is not subdivided, then one dwelling unit would be allowed on a half-acre property because this is a legal lot of record. If subdivided, then the density standard would be applied.

Councilmember Franich commented that the density doesn't need to be increased in the R-2 zone in order to allow more flexibility.

Mayor Pro Tem Young reasoned that he wants the higher density to address both the issue of large homes jammed onto small lots and the city's struggle with affordable housing. He said his preference would be to go with five or six units per acre to make it more difficult to have single-family dwellings in these zones. The city would get more from its buildable lands and a chance to provide affordable housing in the future.

Ms. Kester added that less than four units per acre have been built in the R-2 zones along Soundview Drive recently because there was no minimum.

Councilmember Franich stressed the importance to be brought up to date on the buildable lands numbers and what the County has allocated as a requirement. He added that it isn't a good idea to make decisions for the city based on short-term market conditions. Councilmember Young clarified that it is his wish to ignore the market trends in order to address the needs for affordable housing.

Councilmember Malich disagreed; people should be allowed to choose what they build on their land and ignore the density requirements. Councilmember Payne clarified that as long as they don't subdivide, they are allowed to do so.

**MOTION:** Move to adopt Ordinance No. 1130 as presented.  
**Payne / Franich –**

**AMENDMENT:** Move to reduce the impervious coverage from 60% to 50%.  
**Malich / Franich –**

Councilmember Malich said that the reduced impervious coverage is a more reasonable approach to the increased density between the single-family residential and the R-3 zone. He said that the Hearing Examiner can still allow more coverage under a variance and we have to think about trees and all the other parts of the environment as well as density.

Councilmember Payne commented that this might be better suited for the Planning Commission to discuss; they carefully deliberated this proposal, and he is comfortable with what has been proposed. He said that concerns with density and impervious surface can be sent back to the Planning Commission with the appropriate discussion and staff input, but this ordinance should be approved tonight.

**AMENDMENT:** Move to reduce the impervious coverage from 60% to 50%.  
**Malich / Franich –** Malich and Franich voted aye. Young and Payne voted no. The motion failed.

Councilmember Payne again stated that the concerns on density and impervious coverage can be sent back to the Planning Commission for further discussion with staff input, but that this ordinance should be adopted as presented.

Councilmember Franich added that Planning Commission had valid points in regards to tri-plexes needing more coverage, so he is comfortable with the 60% impervious coverage.

**MOTION:** Move to adopt Ordinance No. 1130 as presented.  
**Payne / Franich –** three voted in favor. Councilmember Malich voted no. The motion failed due to the lack of a majority of the full body.

Mayor Pro Tem Young suggested that this be brought back at the next meeting. Rob Karlinsey, City Administrator, said that he would need to check parliamentary procedure, but he believes that something that fails has to have the party voting no to request it be brought back.

Councilmember Malich suggested sending this back to the Planning Commission to get the small change made to impervious coverage and have it back.

Councilmember Payne commented that they may chose not to make the change. He agreed with the argument for greener space, but said in order to bring urbanization to the city center to preserve the existing green areas we have to remember that we are governed by the Growth Management Act. If we don't comply we are in jeopardy of

losing grant and state funding. He said that the concerns of density and impervious coverage are best left to the Planning Commission. He pointed out the number of pages of documentation by the Planning Commission in support of their recommendation.

Mayor Pro Tem Young suggested that if there is a change of heart between now and the next meeting it could be brought back on the agenda. Councilmember Malich explained that he brought up his concerns at the first reading of the ordinance; no one agreed with him and so he doesn't believe he will be changing his vote. He recommended sending it back to the Planning Commission to reconsider.

Ms. Kester responded to questions by saying that there is no sunset on the non-conforming ordinance in place and an ordinance that addressed the 30% of non-conforming uses that exist appears later on the agenda. She said that Council could direct the Planning Commission to look into the minimum density and the maximum impervious coverage and come back with either more reasoning for their proposal or a different proposal. Due to their schedule it may take awhile before it comes back.

**MOTION:** Move to send this back to the Planning Commission.  
**Malich / Payne –**

Councilmember Franich commented on the rezone on Soundview Drive, saying that those houses marginally meet the characteristics of the existing development. If an amendment to increase density would lead to those houses on even smaller lots it's not a good idea.

**RESTATED MOTION:** Move to send this back to the Planning Commission.  
**Malich / Payne –** unanimously approved.

**NEW BUSINESS:**

1. Eddon Boat Remediation Agreed Order from Dept. of Ecology. Bill Joyce explained that he is the environmental attorney retained by the city for the Eddon Boat Remediation Project, and is before Council seeking approval for the agreed order to implement a sediment and upland clean-up at the Eddon Boat parcel. He described minor changes to the final agreed order and additional attachments. He described the project, saying that on the upland side there will be a reconfiguration of the shoreline, soil removal and removal of the flat bulkhead on the shoreline. On the sediment side there is going to be a significant amount of dredging, a cap placed over certain areas and long-term monitoring. He read an extensive list of permits that the city has already obtained in order to perform this work and finalized by saying this is a very important milestone; the Department of Ecology regulations for sediment clean-up are very rigorous and this level of sediment removal in a marine environment is a very complicated and lengthy process.

Mr. Joyce addressed several questions and said that there are two pieces still required; Senior Ecology review, which should occur within the next 48 hours, and the 30-day public comment period. He then explained that the capping of certain elements involves

the gradation between the more heavily impacted materials that will be removed and those that can be effectively isolated.

Councilmembers thanked Mr. Joyce for his efforts on behalf of the city. Mayor Pro Tem Young also thanked members of the legislative delegation who spoke to the Department of Ecology on the city's behalf.

**MOTION:** Move to authorize the Mayor to sign the Agreed Order agreement with the Department of Ecology.  
**Payne / Malich** – unanimously approved.

2. Public Hearing and First Reading of Ordinance – Height Restriction Area Criteria Amendment (ZONE 07-0012). Jennifer Kester presented the background information on this ordinance that would amend the criteria for removal from height restriction area in order to meet the intent. She said that this application was submitted by Carl Halsan in 2005 and has gone through several changes and review by the Planning Commission before this draft amendment came to Council. She then said that staff has discovered ambiguities with the proposed Criteria 2 that may lead to difficulty in administering this by the Hearing Examiner. She suggested that Council allow the public hearing and then she will come back to talk about process options.

Councilmember Payne asked for clarification on the process to avoid the potential for “creep down the hill.” Ms. Kester explained that the original version only looked at views within the height restriction area and not adjacent properties. The Planning Commission was concerned that the word adjacent was too limiting and so the term “line-of-sight” was used. This term is still ambiguous.

Councilmember Franich asked for further clarification. Ms. Kester said that the propose ordinance protects against the “creep” in that if the development blocked any view from any property within the line-of-sight whether or not they lie in the height restriction area, their potential views would have to be analyzed. Councilmember Franich then asked if the Planning Commission had considered the blocking of any portion of the view rather than a percentage, which take away the ambiguity. Ms. Kester said that no, and further staff analysis would need to be done to adequately address this.

Mayor Pro Tem Young opened the public hearing.

Bill Fogerty – 3614 Butler Drive. Mr. Fogerty briefly described the property adjacent to his, which is in the height restriction area. He addressed the application and asked where the numbers come from when half the acreage is R-1. He then said he takes contention with a question at the end of the application: “Is there public support for the proposed amendment?” and the response “Based on our canvassing of the community there will be support.” Mr. Fogerty stressed that no one had canvassed the adjacent seven neighbors and if it was, he wants to know when it was done. He said that he doesn't have a view of the harbor but his back yard has a historic garden which is his view. He asked why he should have to look at a three-story building at the top of the hill.

He then asked about an overall plan for the property. He said that before any change to the height restriction is approved a development plan needs to be in place and further analysis needs to be done.

Carl Halsan – PO Box 1447 – Applicant for Proposed Amendment. Mr. Halsan stressed that this amendment is not project specific; it applies to the whole city. He explained that a couple of property owners have approached him over the years with parcels that logically should be out of the height restriction area but the current criteria does not allow this. A recent Hearing Examiner decision to approve one didn't meet the criteria but did meet the intent. He said that his draft amendment attempts to follow the intent of the code to protect views of the Bay, the Sound and Mt. Rainier; not to have low squatty buildings in the harbor. If a property is developed to 35 feet and doesn't block a view of those three things, then logically and fairly should not be in the height restriction area. He said that the proposed amendment is less ambiguous than what exists now and in fact adds additional criteria. He asked Council to keep in mind that this all goes to the Hearing Examiner for approval and the burden of proof is on the applicant. He said the amendment is good language; better than what exists now.

Mayor Pro Tem Young asked if the intent of the added language "would not block, impair or adversely affect" is to mean 0% blockage of view. Mr. Halsan said that yes that this is how he reads it as well.

Councilmember Franich asked staff about changing this from a type four to a type three procedure. Ms. Kester clarified that this is to correct an error in the process ordinance.

There were no further comments and the Mayor Pro Tem closed the public hearing at 7:48 p.m.

Councilmember Payne asked if a property meets the criteria if it would be considered an exempt property within the height restriction area or if the property would be removed. Ms. Kester said the property would be removed from the map by ordinance.

Councilmember Malich asked if a property is removed from the height restriction zone if it affects the other zoning regulations such as square footage. Ms. Kester responded that if approved, the height limitation and allow the property to develop to the underlying height; nothing else would change.

Jeff Taraday, Assistant City Attorney, said that the ambiguities that were discussed earlier could lead to enforceability issues and so additional work could be done to improve the language. Ms. Kester offered to work with the applicant to come up with language to address this or alternatively, there are options with the mapping and topography to write very objective criteria that would potentially eliminate any ambiguity.

Councilmember Franich said that he disagreed with the Hearing Examiner's decision on the first exemption to the height restriction area. He said that the restriction area has done a lot to protect the character of Gig Harbor and there should be language added to



protect not only the view but the overall look of Gig Harbor, including the ridges. He said in his opinion, smaller houses fit in better with the character of Gig Harbor.

Mayor Pro Tem Young commented that he would like staff to work with the applicant to address the concerns. He voiced concern that the ordinance doesn't become overly restrictive because it's not the job of the city to protect private views at the advantage of one property owner over another. The city does have a duty to protect public views.

Councilmember Franich disagreed. He said that the draft ordinance talks about the intent to not restrict current or potential use of adjacent property. It doesn't mention "public view corridors." Mayor Pro Tem Young responded that this first came up during the visioning process that identified the public view corridors and expanded from there and we need to be very careful to do this with sensible public policy.

Ms. Kester explained that because this is applicant driven, she would work with Mr. Halsan to determine whether this comes back for a second reading as is or with amendments. If it comes back as written, Council has the option to reject it on legal grounds and then direct staff to draft a more legally viable amendment if desired.

Council asked about other options. Jeff Taraday said that there may be something in the code to allow Council to amend an applicant submitted amendment rather than directing staff to come back with a separate version. Mayor Pro Tem Young pointed out that the applicant paid to have this amendment brought forward.

Councilmember Franich asked if the Planning Commission had discussion on whether this should be done at all. Ms. Kester responded that it was a majority decision to move forward with this proposed amendment.

Councilmember Payne commented that he could think of seven or eight residential and/or commercial projects where the building is within the limits of the height restriction area, but they still block the view of the property behind them. He asked Council to think about this. Ms. Kester responded that the sixteen foot limitation is protecting the existing characteristic of the single-story, daylight basement homes.

Mayor Pro Tem Young announced a quick recess at 8:03 p.m. Session reconvened at 8:10 p.m.

3. Public Hearing and First Reading of Ordinance – PRD and PUD amendments (ZONE 07-0020). Ms. Kester briefly described amendments to the Planned Residential Development and Planned Unit Development chapters.

Councilmember Malich asked for clarification on density bonus. Ms. Kester explained that if you asked for a 10% increase in density you would have to show a 30% increase in required open space. She further explained that this ordinance does not change the density currently allowed in the existing code; it clarifies the process and standards that need to be met.

The public hearing was opened at 8:13 p.m. No one came forward to speak and the hearing closed.

Councilmember Franich asked if there had been any discussion of eliminating this provision altogether. Ms. Kester said that this amendment did not go before the Planning Commission, only the Planning and Building Committee who recommended direct consideration by City Council because they are process amendments rather than substantive content changes.

4. Public Hearing and First Reading of Ordinance – Nonconforming use and structures amendment (ZONE 08-0001). Ms. Kester read the proposed amendments to Ordinance 1122 in which Council directed the Planning Commission review the entire non-conformities chapter and bring back a recommendation.

There was discussion on language in paragraph three under Section 2, Paragraph C (3) and the consideration of different labor costs in the 50 percent replacement value. A recommendation was made that the words “fair market value” be inserted for uniformity.

Jeff Taraday said that a debate over what constitutes fair labor costs is not one to be held at the permit counter and so whatever the decision, it needs to be clear and as objective as possible.

Councilmember Franich asked how this relates to signs. Ms. Kester responded that non-conforming signs are addressed in the sign code, not in this section of the code.

5. 2008 Watermain Replacement – Bid Award. Councilmember Malich asked where the additional amount to complete this project would come from. Rob Karlinsey explained that money was budgeted for water tank painting and was determined that the Eastside Tank off Vernhardson didn’t need painting this year, resulting in a substantial savings. He explained that Fuller and Franklin Roads needed repair and it makes sense to replace the aged waterline at the same time.

Councilmember Franich referred to the repainting of the water tank as a prime example of something that gets into the budget that isn’t necessary.

Councilmember Payne commented that he is thankful that the engineering staff had the good sense to determine that it could be delayed and the money used for better purposes to provide dependable water to the citizens.

Mr. Karlinsey thanked Jeff Langhelm, Associate Engineer, for coming back in to address the questions on this agenda item.

**MOTION:** Move to authorize the award and execution of a public works contract for the 2008 watermain replacement project with Lydel

Construction Inc. in an amount not to exceed Two Hundred Thirty-nine Thousand Eight-Nine dollars and Twenty-One cents.  
**Malich / Payne** – unanimously approved.

**STAFF REPORT:**

Olympic / 56<sup>th</sup> Ribbon Cutting Ceremony. Rob Karlinsey announced that this will occur on June 21<sup>st</sup> at 10:00 a.m. at the sidewalk in front of the Vallero Gas Station.

Rob Karlinsey announced that St. Anthony's Hospital has scheduled a Hard Hat Tour for the city officials on June 19<sup>th</sup> at 3:00 p.m. He suggested cancelling the Operations Committee Meeting usually held at this time until the following month to accommodate those who wish to attend. Council concurred.

Mr. Karlinsey then announced that the Street Scramble hosted by the Marketing Department this past week was a huge success. There were over 550 participants and city staff did a fabulous job.

Jeff Langhelm gave an update on the Onshore Outfall Project. He said that the final connection at the pump station at the location is complete and so the temporary sewer bypass would be removed. The final tie-in at the treatment plant will happen the first or second week in June with final paving in mid-June.

Councilmember Payne said that he had received good comments from the business owners about how the project was run.

**PUBLIC COMMENT:** None.

**MAYOR'S REPORT / COUNCIL COMMENTS:** None.

**ANNOUNCEMENT OF OTHER MEETINGS:**

1. GH North Traffic Options Committee – Wednesday, June 11th, at 9:00 a.m. in Community Rooms A & B.
2. Downtown Business Plan – June 3<sup>rd</sup> at 5:00 p.m. at the Visitor's Center.
3. Finance Committee: Monday, June 16<sup>th</sup> at 4:00 p.m.
4. City Council / Design Review Board Workstudy Session: Monday, June 16<sup>th</sup> at 6:00 p.m. Community Rooms A&B.
5. Harborview / Judson Streets Stakeholder Meeting: Tues. June 10<sup>th</sup> at 7:00 p.m.; Tues. July 15<sup>th</sup> at 7:00 p.m. in Community Rooms A & B.
6. Operations & Public Projects Committee: June 19<sup>th</sup> at 3:00 p.m.
7. Olympic / 56<sup>th</sup> Ribbon Cutting Ceremony – Monday, June 23<sup>rd</sup> at 10:00 p.m.

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

**MOTION:** Move to adjourn to Executive Session at 8:52 p.m. for approximately 10 minutes for the purposes of discussing potential litigation per RCW 42.30.110(1)(i).  
**Franich / Malich** – unanimously approved.

**MOTION:** Move to return to regular session at 9:12 p.m.  
**Franich / Payne** – unanimously approved.

**ADJOURN:**

**MOTION:** Move to adjourn at 9:12 p.m.  
**Franich / Payne** – unanimously approved.

CD recorder utilized:  
Disk #1 Tracks 1- 20  
Disk #2 Tracks 1- 22



Charles Hunter, Mayor



Molly Towslee, City Clerk