

GIG HARBOR CITY COUNCIL MEETING OF DECEMBER 8, 2008

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

CALL TO ORDER: 6:03 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of Nov. 24, 2008.
2. Receive and File: a) Minutes - BB16 Workstudy Session Nov. 10, 2008; b) Budget Worksession Nov. 03, 2008; c) Budget Worksession Nov. 4, 2008; d) Budget Worksession Nov. 17, 2008; e) Building / Fire Safety Monthly Report; f) Letter from FEMA; g) Intergovernmental Affairs Minutes 8-11-08; h) Letter from Harbor History Museum; i) Letter from Canterwood.
3. Appointment to the Parks Commission.
4. Resolution – Amending Meeting Times for the Planning Commission and Design Review Board.
5. Resolution – Updating the Fee Schedule.
6. Resolution – Surplus Equipment.
7. Setting Date for Public Meeting – Rossi Annexation of One Parcel.
8. Special Occasion Liquor License – Homestead Group Home.
9. Eddon Boatyard Construction Easement – Nicolich.
10. Harbor History Museum Easement Phase I Environmental Site Assessment.
11. Sanitary Sewer Facilities Easement and Maintenance Agreement – Canterwood Division 11 Phase 3 & 4.
12. Austin Street and Harborview Drive Roadway Rehabilitation Project – Construction Contract and Materials Testing Contract Award.
13. Federal and State Lobbying Contracts.
14. Release and Settlement Agreement – Kvinsland.
15. Approval of Payment of Bills for Nov. 24, 2008.
16. Approval of Payroll for the month of November: Checks #5289 through #5311 and direct deposits in the total amount of \$345,266.78.

MOTION: Move to adopt the consent agenda as presented.
Kadzik / Payne – six voted in favor. Councilmember Franich voted no.

The Mayor and Council welcomed Emily Cross to the Parks Commission, commenting that it is nice to see new people volunteering for the city's committees.

OLD BUSINESS:

1. Public Hearing and Second Reading of Ordinance – Adopting the 2009 Budget.
Mayor Hunter opened the public hearing at 6:07 p.m. No one came forward to speak and the hearing closed.

David Rodenbach, Finance Director, mentioned corrections to the budget documents from the first reading and offered to answer questions.

MOTION: Move to adopt Ordinance 1149 adopting the 2009 Budget.
Payne / Kadzik – unanimously approved.

2. Second Reading of Ordinance – 2008 Budget Amendment. David Rodenbach presented the background on this ordinance to correct an under-budget in the street fund and over-budget in the storm fund.

MOTION: Move to adopt Ordinance 1150 amending the 2008 Budget.
Young / Ekberg – unanimously approved.

3. Resolution – Adopting Findings of Fact for Denial of Comp Plan Amendments 08-0001. Tom Dolan, Planning Director, explained that municipal code requires that any comprehensive plan amendment that is rejected to be addressed in a resolution.

MOTION: Move to adopt Resolution No. 779 containing Findings of Fact for Denial of Comp Plan Amendment COMP 08-0001.
Ekberg / Franich -

Scott Snyder, Legal Counsel, explained that this is not quasi-judicial but a legislative action. Adopting the finding of fact are in compliance with the Growth Management Act and as a legislative action, Council is free to reconsider it at any time.

Councilmember Payne said that this Comp Plan Amendment and Development Agreement are still worth consideration explaining that any time you have an opportunity to work with a developer it gives a certain level of control over the project. The proposed land use zoning would be more appropriate for this piece of property, he said, adding that he wished that more consideration would have been given to the environmental issues. He said that he will be voting against findings for denial of this Comp Plan Amendment request.

Councilmember Kadzik agreed by saying that this is an opportunity to compromise and come up with a good solution for this property. He said he would like to see this go forward and he too would be voting against the denial.

Councilmember Conan said he would also vote against the resolution. He said this is a great opportunity for the city to exchange asphalt for more trees. A lot of folks may just see this as just big buildings rather than considering what could be built under current code, he stressed. He then said that more trees could hide the buildings and many other issues could be worked out in the development agreement. He finalized by saying he hopes that perhaps next year there would be another opportunity to consider this, suggesting that people keep an option mind.

RESTATED MOTION: Move to adopt Resolution No. 779 containing Findings of Fact for Denial of Comp Plan Amendment COMP 08-0001.
Ekberg / Franich – four voted in favor. Councilmembers Conan, Payne and Kadzik voted no. Motion carried 4-3.

4. Adoption of Findings and Conclusions for the 2008 Comprehensive Plan Ordinance. Tom Dolan explained that this ordinance contains the findings and conclusions that would approve eight of the 2008 Comprehensive Plan Amendments and deny COMP 08-0001.

Councilmember Payne said that he would be calling for a Council-initiated Comp Plan Amendment for next year to revisit 08-0001.

MOTION: Move to adopt Ordinance 1151 adopting Findings and Conclusions for the adoption of the 2008 Comprehensive Plan.
Ekberg / Young – unanimously approved.

MOTION: Move to initiate a Council-initiated Comp Plan Amendment reflective of 08-0001 for next years' docket.
Payne / Conan –

Councilmember Young said that much of the problem with this amendment was due to process, suggesting that rather than Council applying for a Comp Plan Amendment, that staff and the Planning Commission be directed to further negotiate a development agreement for the site. The developer could then apply for a site-specific map amendment.

Mr. Snyder, Legal Counsel, explained that the development agreement has to be consistent with the provisions of the underlying code. It would be logically impossible to proceed with a development agreement without considering it in light of the Comp Plan Amendment. He suggested that perhaps the motion could be amended to allow both the development agreement and the docketed Comp Plan Amendment to go forward. He added that by initiating the Comp Plan Amendment, the city isn't taking a position on whether or not it should be approved, but whether it should be considered as part of the next year's process.

Tom Dolan explained that if staff is directed to move forward with this it would have to be done by February 27th, which isn't much time to negotiate a development agreement before the Comp Plan Amendment is approved. Councilmember Young responded that his intent is to get this done quickly as the property owners have been through four comp plan cycles already. He asked how quickly staff and the Planning Commission could get started on both the development agreement and the Comp Plan Amendment.

Mayor Hunter pointed out that there is no sewer concurrency and therefore nothing could be built on the property at this time.

Mr. Dolan suggested taking the opportunity to meet with the property owner to find out what can be done and come back at the next meeting with a course of action. Councilmember Franich asked for clarification on Council initiating this action and whether a Councilmember who might have a relationship with a property owner should recuse themselves from comment and action.

Mr. Snyder responded by saying that City Council has the right to initiate changes to the Comprehensive Plan; this action is putting the amendment back for consideration without taking any position. This is a legislative matter and unless a Councilmember has a direct financial interest as defined by state law, they are free to proceed.

Councilmember Malich asked for clarification on the motion to bring reconsider something that was just resolved. Councilmember Payne explained that this isn't to reconsider but to put it back on the docket next year.

Councilmember Ekberg further clarified that because of the immediacy of this and because it wasn't on the agenda, staff is directed to come back at the next meeting with a proposal to outline how this request could be properly acted upon by Council. He added that he also understands that Councilmember Payne doesn't want the same proposal coming back; with the progress that occurred during the six-month negotiation with the neighbors and because we ran out of time, he doesn't want it to just drop off. Councilmember Ekberg said that with enough direction this can be addressed as an agenda item at the next meeting.

Councilmember Payne withdrew his motion and Councilmember Conan withdrew his second.

Councilmember Franich stressed that if this is coming back he wants provisions in the development agreement to address any possible issue in which a tree could be damaged during construction or by removal of other trees and how those trees will be replaced.

Councilmember Malich said that for the public record, the property owner said at the last meeting that he was not interested in any continuation of the process. Councilmember Young responded that this is why he wants to schedule this for the early part of the year.

Tom Dolan gave a brief overview of the anticipated Comp Plan Amendments for next year. He said he would include the earliest date that these could be adopted in his report.

Councilmembers discussed the importance of extensive and early public input.

NEW BUSINESS:

1. Public Hearing and First Reading of Ordinance – Gross Floor Area Definition. Jennifer Kester, Senior Planner, presented the background information on this

ordinance, explaining that the purpose of the change is to allow for attics and underground floor areas to be excluded from gross floor area calculation in all but the waterfront zoning districts. She addressed Council's questions on the ordinance.

Mayor Hunter opened the public hearing at 6:47 p.m.

Dennis Reynolds – 200 Winslow Way West, Ste 380, Bainbridge Island, WA 98110.

Mr. Reynolds said that he represents clients in the Millville District, and that he supports the ordinance in part, but his client's asked him to get their concerns on record.

He said that under existing law, his clients have a 3,500 square feet limit for commercial structures. They requested that the Planning Commission not include the underground portions of a building in that calculation, but the Planning Commission has said no.

While other zones are getting relief from this restriction, it isn't available for Waterfront Millville. This results in an impractical consequence due to the constraints of the relatively small lots. The only way to meet parking requirements is to have underground garage and once you do that you are limited to maybe a one-story building of 1700 to 1800 square feet; which is not practical from a commercial standpoint. Mr. Reynolds said he read of an excellent business strategy plan coming before Council that says it is a good idea to live, work, walk, play and shop in the downtown area; but if you are going to have jobs you need a system that is practical in terms of commercial development and space. He said that their litigation has been stayed for two years in order to work with the Planning Commission to come up with a solution, and now the suggestion is to put this matter off until the update to the Shoreline Master Plan and additional Planning processes. He stressed that his client cannot wait any longer and objected to the fact that the Waterfront Millville District is getting no relief. Mr. Reynolds then mentioned the filing from the city's attorney in this litigation withdrawing from the case, and the agenda item for new city attorney services. He said that Ogden Murphy Wallace is a very good firm and so the city should direct them to enter a notice of substitution in the litigation.

There were no further comments and the public hearing closed at 6:50 p.m.

Ms. Kester responded to questions raised about the exclusion of the waterfront zones by explaining that the Planning Commission felt that without considering all of the development standards that will be a part of the updates to the Shoreline Master Plan, it would be premature to remove underground floor area from the gross floor area calculation at this time.

Scott Snyder, Legal Counsel, responded to a question regarding regulating intensity of use by explaining that generally, the use itself is subject to regulation as long as it consistent with the Shoreline Master Plan.

This ordinance will return for a second reading at the next regular Council meeting.

2. First Reading of Ordinance – Water & Sewer Revenue Bonds. David Rodenbach, Finance Director, explained that the purpose of this bond is to make sure to have sufficient funds for the Wastewater Treatment Plant Expansion before the construction

contract is awarded. He said that the city wouldn't learn whether they qualify for a low interest rate Public Works Trust Fund Loan until May or June and so a decision must be made to either move ahead with a revenue bond at this time or wait until June.

Dave Traegaser, Senior Vice President D.A. Davidson. Mr. Traegaser addressed Council questions. He explained that if Council decides to go forward with the bond the proceeds would be available in late January or early February; the bond process takes roughly three weeks to complete from the time that the decision is made. He said that the current rates in the bond market are averaging 5% fixed rate for 20 year financing, and the market is in better shape than when he was here two months ago. He further explained another option for a short-term interim bridge financing done as a tax-exempt bond anticipation note similar to a line of credit or a fixed-rate note. He said that the risks if you have to go ahead with the bond anticipation note in June are the interest rate and access to the bond market. He addressed Council questions about credit rating, rates and the cost of bond issuance.

Councilmembers discussed the different options and directed staff to come back with more information on short-term financing solutions.

3. Prosecuting Attorney RFP and Contract – Approved for form. Rob Karlinsey gave a brief overview of this request for proposals and asked for Council approval to move forward.

MOTION: Move to approve as to form the Prosecuting Attorney Request for Proposals and Contract.

Conan / Ekberg – unanimously approved.

4. Interlocal Agreement for Design Review Services for BB16/Hospital Mitigation Improvements Phase 2 – WSDOT. David Stubchaer, Public Works Director, presented this agreement to perform the 30, 60 and 90% review of Phase 2 of this project. He addressed Council's questions.

MOTION: Move to approve the WSDOT/City of Gig Harbor Interlocal Agreement for Design Review Services for the BB16/Hospital Mitigation Improvements, Phase 2 in the amount not to exceed One Hundred and Ninety Five Thousand Dollars, (\$195,000).

Young / Payne – unanimously approved.

5. BB16/Hospital Mitigation Improvements Phase 2: Supplement to Design Contract. David Stubchaer explained that this is a supplement to the existing contract with David Evans and Associates to finish the design for the interim improvements and allow them to address comments from WSDOT. He said that Franciscan Health Systems has agreed to reimburse the city for these services.

Mike Clark, David Evans and Associates, responded to Council's questions regarding the contract by explaining that the amount of the amendment to the contract is part of the original estimate, not an additional amount.

MOTION: Move to approve the supplement to the current consultant services contract with David Evans and Associates in an amount not to exceed \$637,826.75.

Young / Ekberg – unanimously approved.

6. City Attorney Contract. Rob Karlinsey presented the key points of the contract with Ogden Murphy Wallace for City Attorney Services.

Councilmembers commented on the terms of the contract. Scott Snyder responded that they are very much interested in long-term relationships and not a monthly bill. He mentioned that these rates will be used for the entire month rather than trying to divide out the interim services from the new contract services.

MOTION: Move to authorize the Mayor to execute an agreement for legal services with Ogden Murphy Wallace as presented.

Payne / Kadzik – unanimously approved.

STAFF REPORT:

1. Downtown Business Plan. Rob Karlinsey announced that the business plan had been included in the packet and asked Council to review the information for a presentation after the first of the year. He said that a full-color copy is available on the city's web-site and would be printed for the upcoming worksession.

PUBLIC COMMENT: None.

MAYOR'S REPORT / COUNCIL COMMENTS:

Councilmember Franich wished everyone a Merry Christmas.

Councilmember Payne asked staff if they could come back with suggestions to amend the code to address the Comp Plan Amendment process. Specifically, to make sure that no other modifications other than administrative changes are made to an amendment after the Planning Commission has processed the information. The second recommendation is to require more public outreach by the applicant to ensure input occurs during the process.

Councilmember Kadzik also wished everyone a joyous Christmas Season and New Year. He pointed out that the nice Christmas lights downtown were provided by the Gig Harbor Historic Waterfront Association.

ANNOUNCEMENT OF OTHER MEETINGS:

1. No second City Council Meeting in December.
2. GH North Traffic Options Committee – Wednesday, January 14th, at 9:00 a.m. in Community Rooms A & B.

EXECUTIVE SESSION: To discuss potential litigation per RCW 42.30.110(1)(i).

MOTION: Move to adjourn to Executive Session at 7:40 p.m. for thirty minutes to discuss potential litigation per RCW 42.30.110(1)(i).
Franich / Conan – unanimously approved.

MOTION: Move to go back into regular session at 8:10 p.m.
Conan / Payne – unanimously approved.


ADJOURN:

MOTION: Move to adjourn at 8:10 p.m.
Franich / Conan – unanimously approved.

CD recorder utilized:
Tracks 1001 – 1040



Charles Hunter, Mayor



Molly Towslee, City Clerk