

GIG HARBOR CITY COUNCIL MEETING OF FEBRUARY 14, 2005

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

CALL TO ORDER: 7:01 p.m.

PLEDGE OF ALLEGIANCE

The Mayor announced that several members of the Gig Harbor Morning Rotary and the Mid-Day Rotary were present to accept a Proclamation of the Mayor declaring February 23, 2005 as Rotary International Day. She introduced those present and read the proclamation that would be approved under the Consent Agenda.

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

MOTION: Move to adjourn to Executive Session at 7:10 p.m. for approximately thirty minutes to discuss property acquisition per RCW 42.30.110(1)(b).
Franich / Picinich - unanimously approved.

MOTION: Move to return to regular session at 7:30 p.m.
Ruffo / Picinich – unanimously approved.

PUBLIC HEARING:

1. **Amending GHMC 17.67 to Add Public Schools to List of Performance-Based Height Exemptions.** Mayor Wilbert opened the public hearing at 7:30 p.m. Steve Osguthorpe, Planning Manager, explained that there would be a title change to the ordinance to refer to any school, not just public schools. He then gave an overview of the proposed ordinance.

Michael Kattermann – AHBL, Inc., 316 Occidental Ave. South, Ste 320, Seattle. Mr. Kattermann thanked staff and Council for considering this amendment that addresses height limitation and view concerns. He stressed that the proposed amendment requires the district to demonstrate that it meets the criteria for operation and function of the facility. It provides for the protection of the views within the height restriction area and requires a public hearing before the Hearing Examiner, allowing for public process. He said that if this is approved, the project would still require an application for the performance height exception itself, design review for site plan, and for building permits. He said that scheduling is a concern and requested that the amendment be approved this evening.

Eileen McKain – 4622 Crabb Ct. SE, Port Orchard. Ms. McKain explained that her daughter attends St. Nicholas School, and voiced concern that the proposal is flawed because it excludes private schools. The PI District requires that a facility has to be publicly owned and operated; a criteria that a private school cannot meet. St. Nicholas

School could not get the same exception as a public elementary school, which is an equal protection violation. She said that because Gig Harbor is so small, there wouldn't be many schools built, so the phrase "publicly owned and operated" should be deleted from the PI District.

Steve Osguthorpe explained that the proposed ordinance has been amended to eliminate the word "public" so any school within the PI District would qualify. He then addressed the concern voiced by Ms. McCain by explaining that the PI District was adopted to accommodate those facilities that are traditionally difficult to locate due to size and impact. He said that the wording "publicly owned and operated" is located in the intent statement, which is not regulatory. He finalized by saying that a text amendment could be proposed to address this concern.

Councilmember Dick pointed out that an amendment to the proposed ordinance of this scope would require another sixty-day notification and public hearing. Councilmember Young asked if St. Nicholas School had a project in mind that was time-sensitive. Ms. McCain clarified that she is not speaking on behalf of the school, but her understanding is that St. Nicholas needs an auditorium. She pointed out that a text amendment would not be available until 2007.

Mr. Osguthorpe said that the Historical Society is a good example of a non-publicly owned facility that qualified under the PI District. He said that he did not believe that there is a problem with the language. He further clarified that the permitted use does not specify public schools.

Christopher Mowers – 9125 No. Harborview Drive. Christopher said that he is a 4th grader at St. Nicholas School, and that all the students would like to have a gymnasium. He asked for Council support.

Scott Mowers – 9125 No. Harborview Drive. Mr. Mowers asked that if there is a possibility of a misunderstanding or misinterpretation, it would make sense to clear it up now.

Davette Mowers – 9125 No. Harborview Drive. Ms. Mowers voiced concern that St. Nicholas could be excluded because of the language, and impact their ability to go forward with future plans. She said that it is just as important for private school children to have a gym facility. She said that she has approximately 200 signed petitions and a letter from the school principal to submit to Council.

Zachary Drathman – 820 Jewil Drive, Fox Island. Mr. Drathman, also a parent of a student at St. Nicholas, voiced appreciation for the effort to not exclude private schools, but added that a change could be made now so that there would be no future doubt. He recommended that rather than rushing this, and to clear up the cloud of doubt and of discrimination, clarify that all schools K-12 are allowed the exemption for height restriction.

Councilmember Dick asked if he meant that a school in any zone be exempt from height regulations? Mr. Drathman clarified that this is not his intention, but for the requirements in the PI District.

Councilmember Franich stated that St. Nicholas School was built as a conditional use in a residential zone. In order for St. Nicholas to take advantage of the height exemption, they would first have to apply to become a PID zone. Steve Osguthorpe added that the Planning Commission was in favor of the public review that would come with the process to change from R-1 to PI.

Don Eberhart – 12109 7th Ave. Ct. NW. Mr. Eberhart reaffirmed that St. Nicholas would like to be included in the ordinance.

Ann Marie Eberhart – 12109 7th Ave. Ct. NW. Ms. Eberhart explained that there are long-term plans for St. Nicholas and she asked to take care of this now, rather than having to go through the process later.

Jacob Wagner – 6507 27th Ave. NW. Jacob explained that he is representing his friends in Ms. McDonald's 3rd grade class at St. Nicholas. He said that they signed the form in hopes that some day they could have a gym.

Wade Perrow – 9119 No. Harborview Drive. Mr. Perrow said that the Planning Commission made a recommendation that an application for a performance based height exemption be reviewed by the Design Review Board, and this should be added to the ordinance. He then voiced concern that the only protection for a property owner in the view basin is language that states "within the height restriction area, avoidance to the extent possible, of obstructing of existing views from adjoining properties through sensitive location of the new structure on the site." He said that this is weak language and Council should reconsider the wording.

Mark Brisbane – 4217 76th Ave. Ct. NW. Mr. Brisbane explained that Washington Senate Resolution 8607 favorably recognizing Catholic Schools. He voiced concern that if the ordinance were passed as written, it would exclude private schools from the benefit of the exemption unless the property is rezoned to PI. He asked if staff could be directed to bring back language that all K-12 schools in Gig Harbor, approved by the State of Washington, be allowed the benefit of the height exception. He said that he understood the pressure from the school district to pass this tonight, but asked that an additional couple of weeks be taken to make it fair for all children in the community.

There were no further comments and this public hearing was closed at 8:07 p.m. The next public hearing was then opened.

2. Adoption of 90-day Extension of Moratorium on Buildings within Height Restriction Area.

No one signed up to speak and the public hearing was closed at 8:08 p.m.

CONSENT AGENDA:

These consent agenda items are considered routine and may be adopted with one motion as per Gig Harbor Ordinance No. 799.

1. Approval of the Minutes of City Council Meeting of January 24, 2005.
2. Correspondence / Proclamations: Proclamation for Rotary Day.
3. Pioneer Way Overlay Project – Contract Award.
4. Civic Center Landscape Materials – Purchase Authorization.
5. Pt. Fosdick / 36th Street Roundabout Project – Dedication of Permanent Right-of-Way and Temporary Construction Easement – Fairway Estates.
6. Olympic Drive / 56th Street Roadway Improvement Project – Dedication of Permanent Right-of-Way and Easements.
7. Pt. Fosdick / 56th Street Roadway Improvement Project – Consultant Contract Amendment.
8. Boating Safety Program Agreement.
9. Adoption of 2005 Job Descriptions.
10. Adoption of 2005 Personnel Regulations.
11. Amended Consultant Services Contract – Anchor Environmental, LLC.
12. 2005 Renewal – Pierce County Emergency Management Services.
13. Liquor License Renewals: Fraternal Order of Eagles #2809; Gig Harbor Shell Food Mart; Tides Tavern; Tokyo Teriyaki; Judson Street Café; Water to Wine.
14. Approval of Payment of Bills for February 14, 2005:
Checks # through # in the amount of \$
15. Approval of Payroll for January:
Checks #3595 through #3636 and direct deposit entries. Check #3621 is VOID.

MOTION: Move to approve the consent agenda as presented.
Ekberg / Ruffo – unanimously approved.

OLD BUSINESS:

1. Second Reading of Ordinance – Amending GHMC 17.67 to Add Public Schools to List of Performance-Based Height Exemptions.

Councilmember Franich discussed the vague language Section 2, number 5 of the ordinance that could allow for structures other than a gymnasium or performance art facility. He asked Council's opinion on clarifying this section. Councilmembers Conan and Picinich agreed, and Mr. Katterman was asked if there would be any other uses that would need the additional height.

Michael Katterman explained that they considered the possibility of other things that may require additional height and crafted language that is less specific, but still provides a level of protection. He mentioned band and chorus classrooms, and a range of performing arts that would require an even greater height. A maximum height was added to provide limitations. He clarified that the additional height was being asked for classrooms, design-related issues, and for placement of mechanical equipment. He stressed that these are all arguments that have to be made to the Hearing Examiner before approval.

Councilmembers and staff discussed the inclusion of language limiting this to a gymnasium or performing arts facility in order to eliminate standard classrooms from the height exemptions.

MOTION: Move to amend Section 2 of 17.67.020 #5 to read "Gymnasiums and performing arts related facilities for schools in a public-institutional (PI) district that are approved by the Superintendent of Public Instruction."
Franich / Dick - unanimously approved.

Councilmember Ekberg asked for clarification on why a request for height exemption should not go before the Design Review Board. Steve Osguthorpe explained that a request would go before the DRB if they needed height above what was required for strict performance reasons. This would include issues such as design continuity or zone transitions. He added that the performance height exception is the similar to a variance or conditional use permit which does not go to the DRB. The Design Review Board does review projects after they get a general variance or conditional use permit, but not for those criteria submitted for a variance or CUP. The update to the Design Review Manual was specific that the DRB would not do review of any dimensional variation from the manual such as height or set-backs.

Councilmember Dick voiced concern with the private school issue raised. He said amendments could not be made to the ordinance at this late date without delays. This would not be appropriate because the school district has been in the process since last summer, and St. Nicholas has no immediate plans. Mr. Osguthorpe said that a map amendment would need to be done at the same time as a text amendment, and both could be done concurrently. For the year 2005, there is carry-over from 2004. This means that any new comp plan amendment proposals would not be completed until the end of 2006.

Councilmember Young suggested passing the ordinance tonight, and then asking staff to make a recommendation to the Planning Commission to remove the requirement in the PI District, and then the performance based height exemption requirements could apply in any zone that a school exists. It could then go through the hearing process.

Steve Osguthorpe stressed that the process would be for the applicant to submit their own application with the appropriate fees; the same as what Peninsula School District submitted.

Councilmembers further discussed the best way to address the concerns brought forward by the St. Nicholas School members. They also discussed at what point it would be appropriate for a project that was applying for a performance-based height exemption to go before the Design Review Board.

Steve Osguthorpe said that there are two options to address the St. Nicholas School's concerns. He recommended that because they have a specific need, it would be appropriate for them to submit an application for a text amendment. Alternatively,

Council could propose a text amendment, and the Community Development Committee could draft the language to come before Council to submit as a proposed text amendment.

Councilmember Dick encouraged St. Nicholas to bring forth their own language and then asked staff to report back on how many other schools exist in the city.

MOTION: Move to adopt Ordinance No. 988 as amended.
Young / Conan – unanimously approved.

2. First Reading of Ordinance – Supporting Continuation of a Moratorium on the Acceptance of Applications for Development in the Height Restriction Area for Period of 90-days. Steve Osguthorpe presented the background on this issue. This purpose of this ordinance is to adopt findings of fact supporting the continuation of the moratorium. He said that Council received a copy of a corrected ordinance that eliminates finding of fact number twelve, changing the effective date, and correcting a numbering sequence. This will return at the next meeting for a second reading and adoption.

3. Pierce County 2005 Comprehensive Plan Amendments – Submitted Applications. Steve Osguthorpe gave an overview of the four applications and the recommendation to forward the letter to Pierce County.

Jay Watland – 9610 85th Ave. Mr. Watland asked for Council support for his application for an amendment to the Comprehensive Plan to include his land in the city's UGA. He added that County Councilmember Terry Lee, the City of Tacoma and the Tacoma Narrows Airport Advisory Commission support this application.

Councilmember Franich voiced concern that this creates an uneven Urban Growth Area boundary. He also said that he would like to see the city's UGA reduced.

MOTION: Move to direct staff to forward the letter to the Pierce County Council regarding these proposed amendments to the Pierce County Comprehensive Plan.
Ruffo / Ekberg - unanimously approved.

NEW BUSINESS:

1. Pierce County Interlocal Agreement – Pt. Fosdick / 36th Street Roundabout Project. Mark Hoppen presented the background information. He said that this Interlocal agreement makes it possible for Pierce County to contribute \$330,000 towards the construction cost for the roundabout project.

MOTION: Move to authorize the approval of this Interlocal agreement.
Picinich / Ruffo – unanimously approved.

2. First Reading of Ordinance – Relating to Annexation and Zoning – North Donkey Creek Annexation (ANX 03-03). Steve Osguthorpe gave an overview of the effort to

annex approximately 9.78 acres of property located west of Burnham Drive. This will return at the next meeting for a second reading.

Councilmember Dick asked staff to get clarification from the City Attorney regarding whether action on this is necessary because the city already accepted the annexation by resolution. Mr. Osguthorpe said that he would talk to Ms. Morris, but it was his understanding that the city was required to formalize the action through ordinance.

The Mayor apologized because someone had signed up to address PA-34 during the previous agenda item and was not called upon to speak. She asked Ms. Nordi to come forward at this time.

Deann Nordi – 6522 47th St. NW. Ms. Nordi said that she owns three lots in the PA-34 application which are framed by Highway 16 and 144th Street. She said that its best use would be commercial, not residential. She asked for Council's support to include this parcel in the city's UGA so that professional services could be offered to the Purdy community. She voiced concern that her property would become a dumping ground.

Mayor Wilbert explained that the recommendation had been to forward the letter to Pierce County to not include PA-34 in the city's UGA. Councilmember Young apologized that she was not called to speak earlier, then added that he agreed with Councilmember Franich regarding irregular boundaries, pointing out that PA-34 happens to fall on the other side of the existing UGA boundary. He recommended that she speak to County Councilmember Terry Lee.

Councilmember Franich left the meeting at 9:17 p.m.

3. Proposed Annexation – McCormick Ridge LLC (ANX 04-04). Steve Osguthorpe presented the background information for a proposed annexation of approximately eleven acres located west of Canterwood Boulevard. He recommended that the Council accept the notice of intent and authorize the circulation of a petition to annex the property subject to conditions. He said that three additional properties to the north have shown interest in joining in the annexation effort and asked that Council approve the inclusion of these properties so that the recommendation could be forwarded to the County.

Councilmember Young commented that the property north of these three is owned by the initiating party, and asked if it would be possible to contact the owner if he would also like to include this site

Clare Hardie – 2906 No. Union, Tacoma. Ms. Hardie, representing Scott Edwards, explained that the reason that McCormick Ridge I was not included in the efforts to annex is due to the gap of three parcels. Now that the owners of the three parcels between the two projects have indicated a desire to join in the process, she would contact the homeowners association to pursue this.

Councilmembers directed staff to work with Ms. Hardie, and if the condo owners are not interested in joining the annexation effort, to move forward with the inclusion of the three parcels to the north. Ms. Hardie said that she would work with staff to come to a resolution before the meeting on the 28th of February.

4. First Reading of Ordinance – Making Assisted and Independent Living Facilities Count as Fractional Dwelling Units in Calculating Residential Density. Steve Osguthorpe presented information on this proposal that would change the way the density is calculated for assisted and independent living facilities, and to change the definitions for both.

Councilmember Ekberg asked for further clarification on which zones these units would be allowed. Mr. Osguthorpe responded that there was no proposal to change the placement of these types of facilities. He said that the Planning Commission is working on a table of definitions, and will be able to review the information to make sure the zoning is appropriate.

Carl Halsan – PO Box 1447, Gig Harbor. Mr. Halsan explained that the issue of density for these types of facilities has come up wherever they are proposed. He said that many jurisdictions don't count density for these types of facilities, and those that do rely on a variety of solutions. He said they analyzed the impacts on services and came up with the 1/3 average. He said that the definition for Assisted Living Facility came from the Washington Administrative Code, and the definition for Independent Living Facility was crafted from industry standards. He addressed Council's questions.

STAFF REPORTS:

1. Community Development - 2005 Comprehensive Plan Amendments. Steve Osguthorpe presented the background for four Comprehensive Plan Amendments, explaining that due to changes in the submission from Franciscan Health Care, the projected time-frame for submitting the amendments has been delayed beyond the first quarter.

2. GHPD – Monthly Stats. Chief Davis responded to questions.

PUBLIC COMMENT:

Robert Winkill – 3805 Harborview Drive. Mr. Winkill, current proprietor at the Eddon Boat Building, asked if the deal to purchase the property had been finalized, as the deadline is tomorrow. He thanked Council in advance for the purchase of the property.

Councilmember Ruffo responded that at this time, no comment could be made.

Carl Halsan – PO Box 1477. Mr. Halsan commented on the 2005 Comp Plan Amendments, saying that although excited about the prospect of getting a hospital, the delays in submitting the amendments is hard on his clients. He urged that this be moved along as quickly as possible.


COUNCIL COMMENTS / MAYOR'S REPORT:

The Mayor extended an invitation to take a VIP Ferryboat ride on February 18th. She said that this is part of her water-taxi efforts.

ANNOUNCEMENT OF OTHER MEETINGS: None.

MOTION: Move to adjourn at 9:43 p.m.
Ekberg / Ruffo – unanimously approved.

CD recorder utilized:
Disc #1 Tracks 1 – 18.
Disc #2 Tracks 1 – 18.



Gretchen A. Wilbert, Mayor



Molly Towslee, City Clerk