

GIG HARBOR CITY COUNCIL MEETING OF JANUARY 26, 2004

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

CALL TO ORDER: 7:03 p.m.

PLEDGE OF ALLEGIANCE:

PUBLIC HEARING:

Calculation of Density in Residential Zones. The Mayor called the public hearing to order at 7:03 p.m. John Vodopich, Community Development Director, presented information on two draft ordinances that would clarify on how residential densities on net buildable lands are calculated. He explained that at the last meeting, there was discussion on the Planned Community Development, Residential-Low section, which states that density is to be based on gross acreage. He explained that both drafts had been amended to include language to reflect that the amendments would not apply to that section of the code.

Clark Davis – 300 Pt. Fosdick Place. Mr. Davis explained that he was representing MJM Developers, whose inquiry and pending litigation prompted the proposed change in the Municipal Code. Mr. Davis said that he takes issue with the claim that this ordinance is just a clarification, as it is a significant change in the law that affects several people. He said that the public comments from the last meeting focus on the exclusion of wetlands and the effect on the number available residential lots, which affects compliance with the GMA. He continued to say that he was puzzled by the response from staff by the inclusion of wetlands as part of net buildable lands. He said that he would defy anyone to give him a principled, logical and legitimate distinction between wetlands and tidelands in calculation of density. He said that the statute, as written, and interpreted by staff, excludes tidelands in the calculation, and there is no reason to include one and not the other.

Mr. Davis urged Council to delay action on this ill-considered ordinance and make any changes part of the comprehensive review of the Comprehensive Plan. He passed out amendments to the zoning text that he had requested some time ago, directing attention to the primary point that density on waterfront doesn't correlate with the lot size. He gave an overview of the concerns outlined in this letter, explaining that the waterfront commercial zone permits a minimum lot area of 6,000 square feet, which equals seven units per acre. Unfortunately, the way the code is written, his client is only entitled 3.5 units per acre without any bonus density. He said that one of two things caused this...a mistake in the code, or that tidelands are to be included in the calculation. He added that the city staff wants to strictly adhere to the code and won't consider a change, except to exclude tidelands. He then handed out a copy of his correspondence that illustrates the problems, which he agrees has to be addressed in the context with the Comprehensive Plan. He again asked Council to delay consideration of the ordinance.

Mr. Davis' final point was that he is unsure of the impact of this ordinance on his pending litigation. He stressed that if they are to prevail in Superior Court, they should not have to return and litigate a constitutional issue with the city. If the Council adopts the ordinance, it should be revised to reflect that if the city has issued a determination that is under appeal, that the outcome of that appeal will control vesting in this case. He asked Council to vote the ordinance down, or to delay consideration and consider the changes in the context of the Comprehensive Plan review. If adopted this evening, he asked that Council revise the ordinance so that it would not apply to his client.

Councilmember Young asked for clarification on why it should be obvious that tidelands should be included in the calculation of density. Mr. Davis explained that there should be no distinction between wetlands and tidelands, and one of the proposed ordinances includes wetlands.

Staff and Councilmembers both stressed that neither ordinance proposed the inclusion of wetlands, and only one ordinance includes the buffers adjacent to wetlands in the calculation. Both ordinances exclude both tidelands and wetlands. Councilmember Young continued to explain that wetland buffers are buildable, but it is impossible to build on tidelands. Mr. Davis pointed out that in appropriate circumstances, you could build some structures over the water on tideland, unlike wetlands or wetland buffers.

Councilmember Young asked for further clarification for what reason would be given to use the tidelands for credit to build on the rest of the property. Mr. Davis said that there is no principled distinction between wetland or wetland buffers, and tidelands. In either event, this is property that cannot be built on, and yet the owner is taxed on the property, and the only reason to exclude them is because they cannot be built on. The restrictions on building in certain classes of wetland buffers are no different than building on tidelands. He said that there are two arguments; the wetlands, which have been addressed, and the impact of this ordinance on available residential lots, both of which apply equally to his client's property. He again stated that there is no logical distinction between wetland buffers and tidelands.

Councilmember Young asked if tidelands could be subdivided. Mr. Davis answered yes, they could, adding that Planning should go back to the drawing board and consider this in a comprehensive review of the Comprehensive Plan, including the waterfront commercial area.

Scott Wagner – 6507 27th Ave. NW. Mr. Wagner spoke in support of Option 'A'. He said that he had not intended to speak, but after listening to the previous speaker, he was concerned that Mr. Davis's comments may upset the Council decision and he wanted to stress his support of the option which includes wetland buffers in the calculation of density.

Dick Allen – 3603 Ross Avenue. Mr. Allen said that would not be in favor of including tidelands in the calculation of density. He explained that there are various sizes of tidelands adjoining each upland property. Some upland properties are quite small, with

huge tidelands, and vice versa. If you are calculating density using the tidelands, the result may be awkward and there would be no consistency in the density along the waterfront.

There were no further comments, and the public hearing was closed at 7:30 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 12, 2004.
2. Correspondence: a. Letter from AWC – Certificate of Excellence for Public Works.
b. Gig Harbor High School – Garden Project at Wilkinson Farm.
3. Bid Award – Official Newspaper.
4. Appointment to Council Committees.
5. Appointment of Mayor Pro Tem.
6. Appointment to Planning Commission.
7. Leak Detection Survey.
8. Pioneer Way Watermain Replacement Project – Geotechnical Testing Services.
9. Building Size Analysis.
10. Stormwater Facilities Maintenance Agreement – Park Plaza Office Building.
11. Hotel / Motel Distribution of Fund Contracts – 2004.
12. Special Occasion Liquor License: Gig Harbor School Sports Boosters.
13. Approval of Payment of Bills for January 26, 2004.
Checks #42196 through #42336 in the amount of \$287,143.39.

MOTION: Move to approve the consent agenda as presented.
Young / Franich – unanimously approved.

OLD BUSINESS:

1. Second Reading of Ordinance (continuation) – Calculation Density in Residential Zones. John Vodopich presented these two draft ordinances that provide clarification for the calculation of density in residential zones. He gave an overview of each option, explaining that staff is recommending adoption of Option 'A', which includes wetland buffers in the calculation of net buildable lands. He added that each ordinance had been amended to include language that would exempt PCD Residential Low zone. He said that a review of the Comprehensive Plan was a budgeted objective for 2004 to meet the statutory requirement, and density issues will be addressed on a city-wide basis.

MOTION: Move to adopt Ordinance No. 951, Option 'A' as presented.
Picinich / Conan –

Councilmember Young asked about the vesting concerns voiced by Mr. Davis. Carol Morris, City Attorney, explained that vesting would be addressed by the existing law and additional amendments to the ordinance are not necessary. She advised Council that if

they wished to discuss vesting issues as they pertain to the pending litigation, it could be discussed during Executive Session.

Councilmember Dick spoke in favor of the motion to adopt Option 'A'. He explained that this option treats wetlands the same as tidelands, and waterfront property setbacks are the same as buffers and are included in the calculation of density. He added that if densities in other zones are less than the statutory requirements, the right approach would be to have proper definitions and to correct the deficiencies in densities rather than to change definitions that would affect densities in all areas.

Councilmember Franich agreed with Councilmember Dick's comments in support of Option 'A'. He said that he would like to see the density in the Planned Community Development Residential Low-density zone in Gig Harbor North addressed in the future. The transfer credits in that zone have an affect that he would like to review.

RESTATED MOTION: Move to adopt Ordinance No. 951, Option 'A' as presented. Picinich / Conan – unanimously approved.

2. Second Reading of Ordinance – Relating to Annexation and Zoning (Hazen Annexation). John Vodopich presented this second reading approving the Hazen Annexation.

MOTION: Move to adopt Ordinance No. 952. Dick / Franich – unanimously approved.

3. Approval of Property acquisition – Westside Park. Mark Hoppen, City Administrator, explained that a motion to approve the expenditure would enable the property to close tomorrow, providing the city with a significant park on the Westside.

MOTION: Move to approve the purchase of this Westside Park property for seven hundred fifteen thousand dollars (\$715,000). Young / Ekberg – unanimously approved.

NEW BUSINESS:

1. Electrical Wiring of Emergency Panel – Gig Harbor Civic Center. John Vodopich explained that during a recent power outage, it was discovered that the emergency backup generator did not supply power to the police ready-room or the computer server room, both critical areas. He answered Council's questions regarding the exclusion of this feature during the construction of the Civic Center.

MOTION: Move to authorize the contract for the wiring of the emergency electrical panel for the Civic Center to Puget Sound Contracting & Electrical LLC in an amount of one thousand eight hundred seventy-three dollars and forty-eight cents (\$1,873.48). Picinich / Franich – unanimously approved.

STAFF REPORTS:

1. GHPD – December Stats. No verbal report given.
2. 4th Quarter Finance Report. David Rodenbach, Finance Director, reported that all funds and departments at year end are within budget. He offered to answer questions.

PUBLIC COMMENT:

Bruce Rogers – 2804 Harborview Drive. Mr. Rogers said he was present on behalf of his neighbors to thank all those who were involved in the completion of the Harborview Street End Viewpoint. He said that the best part is that Council listened to the people, asked for participation, and incorporated the ideas. The neighbors and others that walk there are happy with the results. He concluded that he considers it a privilege to live in a city where you can come before Council and be heard.

Scott Wagner – 6507 27th Ave NW. Mr. Wagner said that he had toured the Street-end project and found it very well done. He commented that it would be a perfect spot for a Veteran's Memorial that would include an American flag to welcome the maritime visitors. He mentioned that the graffiti on the old bulkhead at the ferry landing had been painted over with white, which doesn't blend well with the existing gray concrete. He asked if this could be sandblasted or at least painted all one color so that it doesn't stand out.

COUNCIL COMMENTS / MAYOR'S REPORT:

The Mayor welcomed Scott Wagner to the Planning Commission. His appointment was approved as a portion of the Consent Agenda. The Mayor then mentioned that she would like to see a trail along the beach at the street-end project to allow the public an opportunity to actually touch the beach.

Councilmember Franich said that he appreciated Mr. Roger's comments and asked him to thank the residents for coming up with a plan that is both functional and suits the neighborhood. He said that the Skansie Brothers Park property may be a more appropriate place for people to gain access to the beach.

Councilmember Franich continued to say that over the past several weeks there had been a substantial change in the corner of Rosedale and Harborview with the new development. He said that he had received comments that this project is tearing at the fabric of the community. The activity generated by these businesses will negatively impact the residents on Rosedale, and as the city moves forward with the building size analysis, he hopes that Council will look closely at this issue and use common sense when it comes to what is allowed in the corridor.

ANNOUNCEMENT OF OTHER MEETINGS: None.

EXECUTIVE SESSION: For the purpose of discussing the Gig Harbor Police Officers' Guild Contract per RCW 42.30.140(1)4(a).

MOTION: Move to adjourn to Executive Session for approximately thirty minutes at 7:54 p.m. for the purpose of discussing the Gig Harbor Police Officers' Guild Contract.
Franich / Ekberg - unanimously approved.

MOTION: Move to return to regular session at 8:25 p.m.
Franich / Ekberg – unanimously approved.

MOTION: Move to accept the Police Officers' Guild Contract 2004-2006 as presented.
Ekberg / Young – unanimously approved.

MOTION: Move to adjourn at 8:27 p.m.
Franich / Picinich - unanimously approved.

CD recorder utilized:
Disc #1 Tracks 1 – 15.



Gretchen Wilbert, Mayor



Molly Towslee, City Clerk