

## GIG HARBOR CITY COUNCIL MEETING OF FEBRUARY 11, 2002

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

**CALL TO ORDER:** 7:04 p.m.

### **PLEDGE OF ALLEGIANCE**

#### **PUBLIC HEARINGS:**

1. Amendment to Title 19 of the GHMC - Procedure for Closed Record Appeal Hearings.  
Mayor Wilbert opened this public hearing at 7:05 p.m. John Vodopich, Director of Community Development, explained that staff had been directed to prepare revisions to Title 19 to remove the Council from the Closed Record Appeal Process. These proposed amendments are being considered at this public hearing. He explained that the section that is being amended is for Type III project permit applications, which include Site Specific Rezones. He said that these site specific rezones were excluded in the amendments because they are projects in which he believed Council wished to retain control. He asked that before adoption of the amendments, that the full list of Type III applications be reviewed for inclusion or exclusion.

No one from the audience came forward to speak during this public hearing. Mayor Wilbert asked if Councilmembers had any comments.

Councilmember Dick voiced concern that the types of applications in Type III are the projects for which the rules for granting approval are not very specific. He said that the decisions for these types of projects were made "on the fly" and his concern was that if a major amendment to a PUD/PRD were to come forward, there would not be enough rules for the Hearing Examiner to make a determination.

Carol Morris, Legal Council, gave a complete overview of the different types of applications and the discretion allowed for granting for each type. She explained that the Type III applications are highly discretionary with a substantial list of criteria that have to be met in order to be approved. This is the reason for an open public hearing on these types of applications before they are approved. Councilmember Dick asked whether the citizens would know what would result from this process without attending the hearing. Carol explained that they would not know without attending the hearing, but that the code criteria would still rule the granting of any amendment, which would allow a citizen to have some idea of the outcome. She explained that these applications would still go before the Hearing Examiner, and that the only thing that is being amended by this ordinance is whether or not Council wants to hear the appeals raised after the open public hearing. She added that Council would also have the authority to appeal the Hearing Examiner's decision.

Councilmember Young asked if by removing Council from the appeal process, if it would allow more contact with the public on an applications. Carol said that it would allow some contact, but stressed that the Council should make their own decision to appeal an application. She further clarified the process for Council to appeal a decision.

Councilmember Owel explained that she was not opposed to the amendments to the ordinance, but said that she was concerned that it would eliminate the ability to disagree with staff interpretation, placing the burden upon an appellant. She said that she did not feel that there was an adequate mechanism for balance before the application goes before the Hearing Examiner and a lack of oversight. Mark Hoppen, City Administrator, explained that it is the role of the Hearing Examiner to provide oversight for the staff recommendation. He added that if facts are omitted by mistake, then it is the responsibility of the citizens to bring this to light. Councilmember Owel talked about the flaws in the public record-keeping process that allows these mistakes to occur.

Councilmember Dick asked about the equality of the types of applications in the Type III list, and if some of the applications should be left up to the Council's determination. Councilmember Young pointed out that the Site Specific Rezones had been excluded from the amendments. Mark Hoppen asked Council to determine which process would give the best capability for oversight of the process, adding that he thought the Council's ability to appeal would broaden that capability.

Mayor Wilbert closed the public hearing on this agenda item at 7:30 p.m. and opened the public hearing on the next agenda item.

2. Amendment to the Impact Fees Ordinance. John Vodopich presented this amendments to the Impact Fee Ordinance reflecting a recent ruling by the Washington State Court with regards to the Vesting Doctrine and to clarify when the city will calculate the amount of impact fees to be collected.

Tiffany Speir - Master Building Association - PO Box 1913, Tacoma. Ms. Speir asked that Council consider collecting the fees at the time of the issuance of the Certificate of Occupancy rather than at the time the building permit is issued to allow for less carrying costs for the builders.

There were no further comments and the public hearing was closed at 7:33 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 Meetings of January 28, 2002.
2. Proclamations/Correspondence: a) Proclamation - Tourism Week      b) Letter from Melinda Jenkins.
3. Nomination to Zoo Trek - Penny Drost - City of Dupont.
4. Appointments to the Building Code Advisory Board.
5. Consultant Services Contract Amendment - Pump Station 3A Testing Services.
6. Purchase Authorization - Stanich Avenue Waterline.
7. Liquor License Renewals: Maritime Mart; Eagles; Gig Harbor Texaco; and Tides Tavern.
8. Approval of Payment of Bills for February 11, 2002: Checks #35207 through #35328 in the amount of \$197,598.31. Check #35209 was voided.

9. Approval of Payroll for the month of January: Checks # 1239 through #1301 in the amount of \$213,172.56. Checks #1240, 1251, 1302 and 1303 are void due to V6 upgrade errors and/or printer errors.

**MOTION:** Move to approve the Consent Agenda as presented.  
Young/Ekberg - unanimously approved.

**OLD BUSINESS:**

1. Resolution - Denton Bed & Breakfast. John Vodopich presented this resolution as a result of the actions at the last Council meeting to vacate a decision regarding the Conditional Use Permit and Variance.

**MOTION:** Move to adopt Resolution No. 580.  
Picinich/Ruffo - unanimously approved.

2. Second Reading of Ordinance - Erickson Street Vacation. Mark Hoppen presented this second reading of the ordinance to finalize the vacation of a portion of Erickson Street.

**MOTION:** Move for adoption of Ordinance No. 901.  
Picinich/Ruffo -

Patrick Daly - 7111 So. Commerce St., Tacoma. Mr. Daly explained that he was the personal representative for the estate of John Paglia. He said he would like to know if the vacation of Erickson would impact the development of the property in Mr. Paglia's estate from two to six lots. Mr. Daly clarified that he was unaware of the intent to develop the property until a few days ago. John Vodopich explained that he was unaware of any development application and addressed the issue of fire code requirements for access. Carol Morris explained that this easement was not something that Mr. Paglia had asked for, but had been granted by the residents of Spinnaker Ridge. She recommended that Council hold off on a decision until the affect of the street vacation on development of this property could be determined. Councilmember Ruffo apologized to the residents of Spinnaker Ridge for the delay. Councilmember Dick said that the street vacation had been on the agenda for months, and objected to the recommendation that a decision should be further delayed. Carol Morris stressed that the access to the property could be impaired due to the vacation, and stressed the importance of clarifying this issue before vacating the street.

Councilmember Picinich withdrew his previous motion to adopt Ordinance No. 901, and Councilmember Ruffo agreed.

**MOTION:** Move to table this agenda item until staff could explore this issue of vacation and access.  
Ruffo/Picinich - six members voted in favor. Councilmember Dick voted no.

**NEW BUSINESS:**

1. First Reading of Ordinance - Amendment to Title 19 of the GHMC - Procedure for Closed Record Appeal Hearings. John Vodopich explained that these amendments that would take the Council out of the Closed Record Appeal process on Type III project applications with the exception of the Site Specific Rezones. This was discussed under the public hearing portion of the meeting and will return at the next meeting for a second reading.
2. First Reading of Ordinance - Amendment to the Impact Fees Ordinance. John Vodopich presented these proposed amendment to the Impact Fees Ordinance to reflect a Court of Appeals case and timing of the payment of fees. Councilmember Ekberg explained that when this ordinance was originally adopted, the issue of when to pay the fees was discussed and decided that payment at the time of building permit was the most efficient to ensure collection.
3. Resolution - Rust Street Vacation - Barta. John Vodopich presented this resolution to set a date for a public hearing to hear the request by the Bartas to vacate a portion of Rust Street. The hearing has been recommended for February 25<sup>th</sup> at 7:00 p.m. Councilmember Franich asked if there was any possibility of public use of Rust Street. John explained that the city would retain an easement for city utilities. Councilmember Dick asked if the road had been opened to vehicular traffic within the past ten years. Carol Morris explained that this resolution was a formality to set a hearing date and that these facts would be presented at the next meeting.

**MOTION:** Move to adopt Resolution No. 581 setting a date to hear the request to vacate a portion of Rust Street to February 25<sup>th</sup>.  
Picinich/Young - unanimously approved.

4. Resolution - Rust Street Vacation - Rohwer. John Vodopich explained that this was another portion of Rust Street asking to be vacated by the Rohwers, and recommended adoption of the resolution setting the public hearing date for the same meeting.

**MOTION:** Move to adopt Resolution No. 582, setting a date to hear the request to vacate a portion of Rust Street to February 25<sup>th</sup>.  
Picinich/Ekberg - unanimously approved.

5. Consultant Services Contract - Equipping Well No. 6 Construction Management Services. John Vodopich explained that this contract would allow for construction management services for the contract awarded at the last meeting. He clarified that construction management was normally not included the contract for construction of a project.

**MOTION:** Move to approve and execute the Consultant Services Contract for Construction Management Services with Gray & Osborne in an amount not to exceed \$9,120.00.  
Ruffo/Ekberg - unanimously approved.

**STAFF REPORTS:**

GHPD - January Stats. No verbal report given.

**PUBLIC COMMENT:**

Kelsey Greer - 9508 Wheeler Ave. Mr. Greer explained that he was a senior at Peninsula High School and was at the meeting to observe parliamentary procedures. He asked for a the definition of an easement. Carol Morris explained that an easement was the right to use somebody else's property, whether for travel or for utilities.

**COUNCIL COMMENTS / MAYOR'S REPORT:**

Maritime Pier Committee. Mayor Wilbert explained that a group of citizens had joined to form a Maritime Pier Committee. She said that their plans would be shared with Council. Councilmember Picinich said that he had met with this group and urged Council's support of their efforts. Councilmember Franich, Ruffo, and Young all echoed these comments.

Mayor Wilbert explained that the Puget Sound Regional Council was asking for attendance at their meeting on Thursday, March 21<sup>st</sup>. She thanked staff for the citywide newsletter recently issued.

Mayor Wilbert then discussed the fund-raising efforts to establish the Milt Boyd Performing Arts Award Fund. She said that there were musicians that were donating their time to play at local restaurants during the week to raise funds.

Councilmember Dick thanked staff for their participation in the Livable Communities Fair at the Tacoma Narrows on Saturday. He said that he was pleasantly surprised at the attendance. Mark Hoppen was asked to set up the slide show that was used at the fair to be presented to Council before the start of the next Council meeting.

**ANNOUNCEMENT OF OTHER MEETINGS:**

Puget Sound Regional Council - March 21<sup>st</sup>.

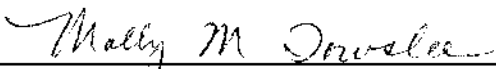
**EXECUTIVE SESSION:** None required.

**ADJOURN:**

**MOTION:** Move to adjourn at 8:12 p.m.  
Picinich/Ruffo - unanimously approved.

Cassette recorder utilized.  
Tape 643 - Side B 000 - end.  
Tape 644 - Side A 000 - end.  
Tape 644 - Side B 000 - 125.

  
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Gretchen A. Wilbert, Mayor

  
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City Clerk