

GIG HARBOR CITY COUNCIL MEETING OF MAY 22, 2000

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

CALL TO ORDER: 7:05 p.m.

PUBLIC HEARING: Closed Record Appeal of Issuance of Conditional Use Permit for Poseidon's Delicatessen.

Mayor Wilbert opened the public hearing at 7:05. She explained that this was a closed record hearing for the Council to consider the pertinent facts, applicable law and to make a final decision on the appeal of Stanley Stearns on the Conditional Use Permit application of Robert Philpott for a delicatessen called Poisedon's. She read the rules governing a closed record hearing and asked for cooperation in following those rules. She stated that the Appearance of Fairness Doctrine requires that this hearing be fair, in form, substance and appearance. She asked if Councilmembers had any ex parte communication in regards to this issue. She then asked if anyone in the audience objected to her participation as Mayor, or to any Councilmember's participation in the hearing. There were no replies to these questions and she continued. She asked if any member of the Council felt that they could not fairly hear or be objective on this case, would gain any financial benefit or suffer loss as a result of the outcome of the hearing. All Councilmembers responded that they could fairly hear the case, and the deliberations continued.

Mayor Wilbert asked that all persons testifying in this matter take an oath of truth. Pat Iolavera, Interim Planning Director, introduced the appeal of the Conditional Use Permit issued by the Hearing Examiner. She gave an overview of the five issues in the appeal and staff response to each of those issues.

Mayor Wilbert asked if the appellant would like to speak. There were no representatives for the appellant present, and she asked if the applicant or his representative would like to speak.

Keith Moxon, attorney for Robert Philpott. Mr. Moxon explained that Councilmembers and other parties of record had received a letter from Mr. Stearn's attorney dated May 16th advising that they did not intend to pursue argument of this appeal. He briefly outlined some of the issues brought about in the appeal.

Councilmembers asked questions of Ms. Iolavera, the applicant, and Carol Morris, City Attorney. The Mayor then closed the hearing 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 Meeting of May 8 and May 11, 2000.
2. Correspondence / Proclamations: None.

3. East-West Roadway Project Materials Testing - Consultant Services Agreement.
4. Approval of Payment of Bills for May 22, 2000:
Checks #25071 through #25200 for \$354,186.62.
5. Approval of Payroll for the Month of April: \$205,762.43.
6. Liquor License Change of Location: Water to Wine.
7. Liquor License Assumption: Mike's Chevron (Market Express)

MOTION: Move approval of the Consent Agenda as presented.
Picinich/Young - unanimously approved.

OLD BUSINESS:

1. Economic Impacts of the Proposed Narrows Bridge Project. Mark Hoppen, City Administrator, explained that two Councilmembers asked to revisit the issues of the economic impacts and the pertinence of NEPA regulations to the Final Environmental Impact Statement for the proposed bridge. Councilmember Dick suggested that due to the limited notice, and the fact the Councilmember Owel was not present, that discussion on this be postponed until the next meeting. He said that he would like to hear any commentary on this subject this evening, but then publish a notice in the newspaper and bring it back at a later date to allow others to speak. He recommended that staff supply additional information on what can be done, and the cost of any action.

Councilmember Ruffo said that he agreed that there were several unanswered questions on this important issue. He said that the main question is how effective Council would be in determining a course of action and how cost effective taking any action might be. Mayor Wilbert asked members of the audience to come and speak.

Dick Van Cise - 7103 Cliff Ave. Longbranch. Mr. Van Cise said that he was opposed to the bridge proposal, and that economically, he was concerned with the appointment of the "Oversight Commission" that will act as the watchdog over tolls. He said that he thought the process was done in secret and the public had no input in their selection. He talked about the 'PPI' and continued to say that there is a great deal of military emphasis in this region, and that he wondered why the burden is being placed upon the Peninsula residents to pay for a bridge when it is the Federal Government that benefits.

Marian Berejikian - 11307 38th Ave Ct NW. Ms. Berejikian asked for clarification on why the Council waited until now to address this issue when she has been in contact with staff a month ago. Mr. Hoppen responded that there had not been any direction from Council to staff relative to the issue. Ms. Berejikian continued to say that the economic impacts from this bridge would affect the community in a big way and that the city should step in and take appeal the EIS as they had missed the deadline for Amicus brief.

Councilmember Dick requested help from those coming forward to speak to identify areas in the FEIS that would warrant an appeal. He also said he would like to know the likelihood of success if the Council appealed the FEIS and the potential cost of an appeal.

Karen Biskey - 4113 35th Ave NW. Ms. Biskey thanked Council for considering the issue. She added that she felt that there are still things that can be done to make the project more acceptable. She said that she would save her comments for the next meeting, but added that she had reviewed the FEIS and many of her questions about the economic impacts upon this community were not addressed. She said that these issues should be listed for review and to determine if they can be mitigated. She said the lack of an economic analysis in the FEIS is particularly vulnerable in Federal Court. Another flaw in the FEIS is the lack of identification of a full range of alternatives, another issue for Federal Court. She offered to have Mr. Gindler return to address Council.

Councilmember Robinson discussed the impact on property values. Councilmember Young asked if the County Council had responded to a request to appeal. Ms. Biskey replied that there had not been much of a response, and that it would be up to Gig Harbor to help itself.

Councilmember Ruffo said that he would like the focus over the next few weeks to be the mitigation aspect of the FEIS and the economic effects upon the citizenry and the financing of the bridge. Ms. Biskey said that this research would have to be done to enter a challenge. She said that if the Council were to decide to file an appeal, then they would bear the expense of an attorney and an independent economic analysis. The state would then have to counter it or accept it for inclusion in the EIS. She continued to say that the lack of information in an EIS is not unusual, as the proponent will not address issues that they don't want brought up.

Councilmember Young said that he wanted to clarify that this process is not appealing the bridge, only the adequacy of the EIS. Mark Hoppen asked Council to remember the ratio of the city's population to the overall population of toll payers on the Gig Harbor and Kitsap Peninsulas and to consider the many corridors through which a large number of area commuters pass each day. He said that with regard to seeking SR-16 project mitigation, what would be in the best interest of the City of Gig Harbor taxpayers is not necessarily in the interest of the mass of the toll payers.

Michael Murphy - 110303 56th St. NW. Mr. Murphy said that he had reviewed the Executive Financial Summary from United Infrastructures and that the numbers are astronomical. He said that 90% of this money will come from the Peninsula area and that he is interested in mitigation of the economic impacts and support from the State. He discussed his concerns about the cost of the project and environmental impacts. He encouraged Council to consider an appeal, because it appeared that the other politicians have abandoned their people.

Hank Searles - lives just outside city limits. Mr. Searles said that it was too late to file an Amicus brief. He said that he and several others had come to a special meeting several weeks ago, but that there weren't enough Councilmembers present for a quorum. He said that it is very apparent from what is happening with the toll roads in California that the City of Gig Harbor was going to take "one hell of a shot" from the bridge. He said that the Council owes it to their constituents, which he was quick to add that he was not one, to do everything possible to make a last-ditch effort to stop this thing before it is too late. He said it is another "WPPS" and an absolute disaster.

Councilmember Robinson asked that staff prepare an estimate on the process to file an appeal and what costs might be involved. Mark Hoppen said that first, the issues for an appeal needed to be identified. He spoke about noise, visual concerns, transportation and other issues which would be difficult to pin down and attack. He said that he had been contemplating these issues for five years, had read volumes of information on the subject, and participated in the MIS process along with County Councilmember Biskey. He said he could prepare a summary presentation of the issues of the FEIS, but recommended that Council look at the information presented and the appeal process before making a decision to appeal. He said it would be difficult to present all the issues at a regular meeting, and recommended a worksession to facilitate a democratic discussion of the issues. After discussion, a special session was scheduled for Monday, June 19th at 6:00 p.m. for the presentation from staff and to accept public testimony. Ms. Morris advised Council that due to time constraints, she would not be able to handle an appeal, and offered to contact other attorneys who have experience in similar appeals to come and be part of the presentation on the 19th.

NEW BUSINESS:

1. Closed Record Appeal of Issuance of Conditional Use Permit for Poseidon's Delicatessen. The presentation was given during the public hearing and the following motion was made.

MOTION: Move to deny the appeal and affirm the decision of the Hearing Examiner to approve the Conditional Use Permit for Poseidon's Delicatessen and Convenience Store located in the Waterfront Millville District at 3313 Harborview Drive.
Ruffo/Robinson - unanimously approved.

2. Habitat Analysis of Donkey Creek Consultant Services Agreement - Applied Environmental Services. Ms. Iolavera asked for approval of a contract to perform a habitat analysis of Donkey Creek stream corridor. She explained that due to many legal issues regarding endangered species, this analysis would be required.

MOTION: Move to approve the Consultant Services Agreement with Applied Environmental Services in an amount not to exceed \$15,638.13.
Young/Ruffo - unanimously approved.

3. McGraw Water Extension. Mark Hoppen presented this request for water service to property on 96th Street. He explained that the area is currently served by the city and recommended approval of the extension.

MOTION: Move to approve the McGraw water extension subject to the compliance with the city's R-1 developmental standards.
Picinich/Ruffo - unanimously approved.

4. Resolution - Declaration of Surplus Property. Dave Skinner explained that with the purchase of the Borgen Property, an inventory of miscellaneous materials and equipment was made. He requested approval of the resolution declaring this as surplus property to be taken to auction.

MOTION: Move to adopt Resolution No. 553.
Dick/Young - unanimously approved.

5. East-West Road Construction Project - Bid Award. Dave Skinner said it was with extreme honor that he presents this request for a bid award for the construction of the East-West Road. He gave an overview of the bid process and explained that the bid came in substantially lower than the engineer's estimate. He took the opportunity to thank his staff members for their hard work on this project, and introduced them individually and asked them to stand and be recognized. Mark Hoppen then congratulated Dave for his efforts in completing this project and gave a history of the lengthy process. He also recognized Karen Biskey for her part in getting the project approved.

MOTION: Move to authorize the award and execution of the contract for the East-West Road Construction Project to the lowest bid of two million one hundred fifty-seven thousand one hundred sixty-three dollars and fifty cents (\$2,157,163.50 to Tucci & Sons, Inc.
Picinich/Ekberg - unanimously approved.

PUBLIC COMMENT/DISCUSSION: None.

COUNCIL COMMENTS / MAYOR'S REPORT:

Mayor Wilbert said that she had been contacted by some of the local skateboarders asking for an opening date for the skate park. She said she had talked to the contractor who indicated that it was ready to be opened and said she was awaiting a date from the Public Works Department.

Councilmember Dick asked for an update on the Kimball Drive / Pierce Transit project. Mr. Skinner said that he had not heard an official starting date, but that they were hoping to begin the second week in June.

STAFF REPORTS:

1. GHPD April Stats. No verbal report given.
2. Public Works. Mr. Skinner announced that the new streetlights on Rosedale Street were functional. He added that more lights would be added to the next year's budget.

ANNOUNCEMENT OF OTHER MEETINGS:

Special City Council Meeting - 6:00 p.m., Monday, June 19th, at City Hall.

EXECUTIVE SESSION: For the purpose of discussing pending litigation per RCW 42.30.110(i) and property acquisition per RCW 42.30.110(b).


MOTION: Move to adjourn to Executive Session at 9:15 p.m. for approximately fifteen minutes for the purpose of discussing pending litigation. Picinich/Robinson - unanimously approved.

MOTION: Move to return to regular session at 9:30 p.m. Picinich/Robinson - unanimously approved.

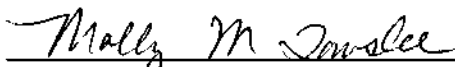
ADJOURN:

MOTION: Move to adjourn at 9:30 p.m. Picinich/Dick - unanimously approved.

Cassette recorder utilized.
Tape 574 Side A 090 - end.
Tape 574 Side B 000 - end.
Tape 575 Both Sides.
Tape 576 Side A 000 - 183.



Mayor



City Clerk