

GIG HARBOR CITY COUNCIL MEETING OF NOVEMBER 24, 2008

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

CALL TO ORDER: 6:00 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of November 10, 2008.
2. Receive and File: a) Joint City Council / Guild Worksession 10/24/08; b) AWC RMSA 2008 Loss Control Report Card.
3. Kitsap County Jail Contract.
4. Career Management Institute Contract.
5. Wastewater Treatment Plant 8'x10' Specialized Service Body to Mount on Pre-Purchased Cab and Chassis - Contract Authorization.
6. 50th St. Street Lights - Purchase Authorization.
7. Approval of Payment of Bills for Nov. 24, 2008:
Checks #59431 through #59543 in the amount of \$1,812,159.58.

MOTION: Move to adopt the consent agenda as presented.
Payne / Conan - unanimously approved.

OLD BUSINESS:

1. Public Hearing on Development Agreement for COMP 08-0001 and Ordinance – 2008 Comprehensive Plan Amendments. Tom Dolan, Planning Director, presented the background information for the Development Agreement, further describing amendments suggested by the City Attorney. He said that the public hearing is a requirement of a development agreement and asked that Council make the final decision on Comp 08-0001. Findings of Fact would then be formulated to be inserted into the ordinance for final adoption. He addressed questions from Council regarding the development agreement.

Mayor Hunter opened the public hearing at 6:18 p.m.

Chuck Johnson – Shyleen Street. Mr. Johnson said he had testified in front of the Planning Commission. He said that once the Comp Plan is amended, it opens the door to uncertainty; the Comprehensive Plan is the policy statement and years ago the decision was made that the north side of Grandview would remain low-density residential. He said that there is a burden on the proponent to establish and convince Council that something fundamental has changed to cause the policy to be altered. The north side of Grandview has historically been small houses and low-density residential which is a good "line to keep." This proposed development plan has changed many times. The big decision is the policy determination that council is being asked to make because something has changed since that line was drawn many years ago that will

cause Council to alter the character of what is existing on the north side of Grandview. Ultimately, what you see in the proposal is large-scale commercial development. That is the character being addressed tonight. What do you want to do with that particular piece of property...large-scale development that is inconsistent with the property use and with the policy determination? He said that the proponent hasn't met the burden to establish that things have change enough to warrant revisiting that decision.

Carl Halsan – PO Box 1447, Gig Harbor. Mr. Halsan, agent for the applicant for COMP 08-0001, said that ultimately this is a policy choice; should this property be RM or RL. There have been many details hung on this proposal since it first came in three years ago to go through this process. Essentially, it's still the same project; it's just become more detailed as each week passes with each change for the better. He said that he sees this as a "win-win." Before Council tonight is ultimately a choice for the southern portion of the property called Area 1. Are you going to have five little buildings with all surface parking and minimal tree preservation and buffers, or are you going to have two mixed-use buildings that have a 24-hour sense. There will be offices on the first floor and residences on the second floor and maximum tree preservation and little to no surface parking. These are the ultimate choices before Council. Mr. Halsan said that all the changes made over the past two weeks were directly in working with staff. He thanked Tom Dolan and Jenn Kester for working with him to continually add details to the development agreement. He said that staff suggested that instead of 40 foot buffers to the north and none to the south they change it to 25 feet of dense vegetation to the north and add a buffer to the south side of the residential side of the project. Mr. Halsan explained that the internal buffer between the two halves of the projects will be determined by the Design Review Board to accommodate building placement and to allow wider buffers and more tree preservation along Grandview. The rest of the development agreement and site plan remain essentially the same: one curb cut rather than many, double the tree preservation, mixed use projects and a drastic reduction in surface parking. He finalized by saying that this has taken three plus years and that his clients are getting tired of working on this; he hopes that Council can see their way to approving the amendment tonight.

Tom Dolan responded to a comment about the inadequacy of a 20 foot buffer along Grandview and the question of whether this would have to be extended through the development agreement. He said that the Design Review Board is not going to look at landscaping on Grandview as their purview is the zone transition buffer on the northerly side of the development. They are required to review that as well as the portion along Pioneer which could be up to 35-40 feet of transition buffering. He said that the applicants have identified 20 feet of buffering along Grandview in the exhibit to the development agreement. The zoning code only requires an eight-foot setback along the Grandview side of the property and so he doesn't believe that the DRB could require more than the 20 feet being identified. He added that for the current non-residential RB-1 zoning, the minimum sideyard setback is ten feet and described the reason why Grandview is considered a side yard rather than frontage.

Carl Halsan responded that in section six of the development agreement they attempted to address going beyond the minimum for the width of buffers and preservation of trees. He offered to go even further to try and address the concerns along Grandview and Stinson and to let the Design Review decide about the internal interim buffer which would allow wider buffers on the street. He then addressed questions about the tree survey by saying that every tree five inches or greater in diameter had been surveyed on the site. He then plotted those trees within the perimeter because those are ones being saved and they are unsure of what is going to happen between the two buildings. He said that they need to meet code parking and if this can be done in the garages of both buildings, there will be no parking in the center area. If the code requires some surface parking then not all the trees will be saved in that area. He said that at this scale and with minimum buffers, they almost double the code requirement for tree preservation.

Mayor Hunter pointed out the requirement to have ten feet between the building and trees and another five feet that could be lost at the street edge for over-excavation. Mr. Halsan responded that they have the ability to slide the building to save trees.

Mark Hoppen – 8133 Shirley Avenue. Mr. Hoppen read a letter in support of the Planning Commission's denial of COMP 08-0001 or to support an alternate procedure to reach a land use re-designation of the 4.27 acres at 3700 Grandview Street. He asked Council not take action on the proposed amendment explaining that the problem is the re-designation only appears to be acceptable if tied to a development agreement. The proposed development agreement only provides short-term land use restriction of uses and landscaping requirements for five years, and after that time the designation opens the property to the full-spectrum of uses in the potential zones available; there are no guarantees that the property will be developed in any specific manner. Mr. Hoppen continued to say that it must be assumed that the City Council, if authorizing the potential change from Low-Density Residential to Medium Density Residential, would be accepting the possibility that after five years the property might be developed or re-developed with RB-2 outright permitted uses, which is unacceptable to him as well as other city residents that understand this land use action. Mr. Hoppen suggested a different course if the amendment is not denied. He requested that this issue be returned to the Planning Commission to establish both a new Comprehensive Plan Land Use designation and a new zone that reflects the limits on uses proposed for this property. This action will ensure that properties at the city's rim can be successfully managed over the long-term through zoning. Mr. Hoppen then went on to say that the proposed Comp Plan Amendment is problematic in several ways: 1) it provides no zoning security from undesired RB-2 uses after five years; 2) it sets a precedent to increase intensity for any properties similarly situated; 3) it proposes a dangling development agreement, a zoning document that is de-coupled from an attendant rezone; and 4) it fosters particularly intense use of low density designated residential property. If Council denies, authorizes or remands this proposal back to the Planning Commission, the intensity of the project should be reduced. Buffers along Pioneer and Soundview should be set at 40' minimum and the height overlay should be continued on the property to control commercial volume and to keep the structures similar in scale to

adjacent residential and business structures. Through the height overlay, transition design review standards would be left in play with respect to the north and east property lines. Mr. Hoppen reminded Council that one of the proposed buildings is approximately 6000 square feet larger than all the square footage in the Civic Center complex without the lawn or evergreen buffers to soften it to the neighborhood. Mr. Hoppen finalized by saying that what you do for one property owner now will be expected by others in the future. He predicted that this could result a similar scenario at the corners of Rosedale and Stinson and again asked Council to confirm the Planning Commission's denial of the amendment, and that it be sent back to them to establish a new comprehensive plan designation consistent with a new zone for approval.

Jack Tropiano – PO Box 11203, Tacoma. Mr. Tropiano explained that he owns property adjacent to the Ancich property. Their driveway is between the Ancich properties, just north of where John resided. He said that they have an easement between the properties and asked what would happen to his driveway when construction begins. He said he hasn't seen a comprehensive plan or photos and doesn't know where the buildings will be placed and what is proposed. He said he would like to talk to the planners to find out.

Tom Dolan responded that the document submitted show this easement. Mr. Halsan responded that the easement in question is north of the site and nothing that they are doing will affect this.

Guy Hoppen 8402 Goodman Dr. Mr. Hoppen commented on the proposed amendment to the Comprehensive Plan. He read a letter explaining that several years ago several concerned citizens let the City Council know, in no uncertain terms, that building size and scale needs to be controlled in the Gig Harbor View Basin. The message was that outsize buildings like those proposed at Grandview and Pioneer should not be allowed in the view basin. He explained that his father was a Gig Harbor City Councilmember and he that a concern, even back then, was protecting the hills on down to the water from outsize development. This 60,000-plus square foot building proposal is not about trees, buffers, a development agreement, or even the need for office space or lack there-of. What this is about is whether huge out-of-scale buildings belong in the Gig Harbor view basin, adding that if you can see a structure from the waterfront, it's in the view basin. He stressed that these buildings will dominate the skyline between Pioneer and Stinson. Mr. Hoppen said that by allowing this Comp Plan Amendment, Council will be telling those who accumulate a few pieces of adjoining property in the view basin that they are due special treatment and can expect an up-zone at the expense of historic neighborhoods such as Shyleen, Butler, Lewis, or even in the Millville area. He said that if Council believes that the existing zoning provides for development that can best be controlled by up-zoning, and then they should consider a zoning change more in keeping with the existing single-family use of the property or possibly consider a cottage home development use. Mr. Hoppen finalized by saying that the City of Gig Harbor is fortunate to have the Up-Town, Olympic Village and Borgen Boulevard areas for larger scale development and building that also provides room for growth. Gig Harbor is even more fortunate to have the historic character of our downtown,

waterfront and view basin neighborhoods largely intact and he believes that this up-zoning proposal to be in conflict with the community's desire to maintain that character. He asked Council to take this precedent setting proposal off the table.

Bill Fogerty – 3614 Butler Drive. Mr. Fogerty said that the October 24th plan showed 40 feet between the existing homes on the north end, and now the Planning Department has decided that it should be cut back to 25 feet to keep the 40 on Grandview. He said that the only difference in this plan is that the project's yards got bigger and 15 feet got cut from the buffer between the existing homes. Mr. Fogerty then said that when this came to Council in February, the lot on the corner of Pioneer and Grandview was R-1 all the way up. Now we are talking about 15,000 square foot buildings. He presented a slide show that first showed the 10,500 square foot BDR Building downtown with the Harbor Inn Restaurant building superimposed on the front to illustrate the size difference. The next slides were shot up the hill going up Pioneer from downtown showing low-density craftsman style homes with 16 feet maximum height. The slide then transitioned to a shot of the hill showing the existing tree line at the top and the corner of Grandview and Pioneer. The next slides showed what it would look like with eight feet of trees along the right of way removed. The slides then showed two buildings, one 15,000 and one 12,000 superimposed on the site at the top of the hill to illustrate what it would look like with the trees cut the two proposed buildings. He said that if this is allowed, it could set precedent for others to do the same on further down the hill, showing a slide with several 12-15,000 square foot buildings superimposed on a photo of the hillside. He said that this is what it's going to look like from downtown if we allow the construction of this type of project. He said he wanted to know the size of footprint of the proposed homes on the northern portion as their adjacent homes on Butler are an average of 2500 square foot

Monte Hester – 8905 Franklin Street. Mr. Hester said that Justice Johnson's comments were appropriate in that he is reminding Council that it is your chore to determine what's best for Gig Harbor based on policy already determined and reflected in the existing ordinances. He said that when you take a look at that, it simplifies the choice: to take a look at what can be built under the existing ordinances and what is being proposed and will be accomplished through this proposed agreement. If the agreement results in a better project that considers the overall interest of the citizens and those most effected in the short and long-term, it doesn't take much thinking to determine that this is how Council should exercise its discretion. He said that he trusts that Council and Staff are in a better position than he to make that particular reflection and final decision. However, as he understands RB-1, there is very little you can do about what is to come if the project is built under RB-1 and that the result can be significantly imposing on the neighborhood because the number of structures and access driveways that would be present and the number of trees that could be taken down as a consequence of the necessity of the development itself. He said he isn't here to tell Council what he thinks should happen as a resident of Gig Harbor, but said that if we concern ourselves with what is best, not necessarily what certain individuals would prefer but what is best for Gig Harbor now and in the future, then the decision should be to support this particular project with the guidance or your staff and the Council in days to come to determine the

actual project that will be built in conformity with the agreement as well as the other compelling zoning laws.

William Lynn – PO box 1157, Tacoma. Mr. Lynn, on behalf of the applicant, said that he would leave it to others to talk about the merits of the proposal, but he wanted to assure Council that there are no procedural problems that can't be easily cured. In answer to Mr. Hoppen's alarm about somehow "disconnecting the restrictions" from the different approvals that are being proposed...the only thing unusual or unique about this project is that it is more restrictive than most at this point of the process. Most of the time you approve a Comprehensive Plan it is just approved without a lot of attachment; isn't a development agreement. Here the application is proposing restrictions through a development agreement the intent of which is to make sure that what you see is what you get to the extent you have seen it so far. That isn't to say that the rest of the process won't add additional restrictions. The project still has to go through Design Review, a rezone, and a potential height overlay issue. All those will result in additional restrictions that will have their own enforcement mechanisms. Councilmembers Young and Payne raised a good question about what happens if this agreement expires. Mr. Lynn said that this hasn't come up before, but he believes that the five-year term came from the city; it's not something the application proposed so that they could weasel out of this in a few years. If Council would like to make this ten or twenty years, that is fine with them. Another way to address this is to say that the agreement expires at some point in time, but the requirements for a development agreement do not. So any rezone of the property wouldn't necessarily have to come back to the Council, but you might have a different idea other restrictions ought to be. If your concern is that somehow an owner of this property would wrangle out of the terms of the development agreement, he will tell you that the applicant is prepared to work on a solution just as they have worked on solutions to every other problem that has been identified.

Marty Paul – 3312 Rosedale. Mr. Paul thanked Council and staff for the amount of time and effort that has been put into this. He said that respects and understands the amount of tension the residents and business owners in the community must feel about this because it is a landmark property. They knew this when they bought it and have preserved it the last four years with the goal in mind to create the kind of project that would have a positive impact on Grandview/Pioneer/Stinson as well as Kimball Drive and the eventual overpass to Wollochet. He said that what hasn't happened in the 35 years he has lived here is that there has been no effort to place residential mixed with commercial development in Gig Harbor. The conversation has come up a few times with the positive impacts of Uptown as well as the large-box expansion of Gig Harbor North. This is an opportunity to shape a residential appeal to what now is strictly a commercial ramp off Highway 16. Mr. Paul added that the other thing that have been expressed heavily tonight is the tree preservation; he thinks Monte Hester, Carl Halsan and Bill Lynn have expressed the enhanced amount of tree preservation and the effort to work together towards making this a project that is aesthetically appealing. The thing that has possibly been lost is that there will be a development on this project and the alternative doesn't need to go through the all this effort. He reminded the group that the project could be up to five, 5,000 square foot buildings with surface parking, and only 78 trees

preserved. They have not wanted to go forward with this because it would disadvantage the long-term effects of the peak of the hill at Pioneer / Stinson / Grandview. He said that he is here to answer any questions as one of the three partners in the project, adding that their goal in working through the next two to three years is to end up with a project that those that oppose it now can be more in favor of and those in favor of it now can be proud that it moved forward. He stressed that the suggestion to send it back to the Planning Commission is not an option for the investors.

Mr. Paul was asked why they would build five buildings if the two larger couldn't be done. Mr. Paul responded that there is a building size maximum and other code requirements for parking and impervious coverage, three parking spaces per 1000 square feet, and setback restrictions. The reason that it ended up at five is due to the setbacks and parking. Their purpose in showing the existing option is so that it can be avoided. He said that their intention is to develop the property regardless and to maximize the property to the highest and best use. When you downsize to 5,000 square foot buildings you significantly impact use, which was part of their motivation. He said that the city has done a bad job of attracting a diversified business base and with 5,000 s.f. buildings you are going to end up with businesses such as nail salons or tanning beds because they are 1200 s.f. users. If you allow a building size capable of providing broader employee based businesses that need 5-7,000 square feet you won't be limiting the location of white collar job growth. There is very little science or technology business down here; this is an opportunity to build something capable of housing 20-50 employees that can't fit into a 5,000 s.f. building. This would be an economic stimulant to the peak of the hill as well as allowing residents to live on top that could conceivably walk downstairs to work.

Mr. Paul was asked to respond to the neighbors who will live next to such large structures. He said that it could be managed through dense planting-based buffers which they've agreed to do; there could be tree growth of 3-4 feet a year and they could conceivably create a forest around their project. He said that from Grandview the project will look like a two-story building. He said he thinks someone would rather reside next to something that is aesthetically protected as opposed to the adjacent commercial property such as Kitsap Bank where there isn't a tree on the property. It is all surface parking and has been "rehabbed" twice in the last twenty years and yet there are no truly growth-viable businesses due to the size. He asked if the city wants him to build that kind of business adjacent to the existing residents or if they want him to preserve twice the enhanced trees with a project of residential mixed use and potentially a deli and Windermere Real Estate, which he thinks it would be better neighboring property. He asked to keep in mind that on the lower property they are open to a cottage-like residential aspect and/or seven individual houses. Because of the enhanced buffering, you will end up with a 2500 s.f. home as an immediate neighbor.

Mr. Paul was then asked about increasing the buffer along Grandview to 30 feet as it is the Gateway to Gig Harbor. Mr. Paul responded that the buildings can be moved due to the middle area or the building design could be architecturally changed. He said that the residents living above the buildings will pay more for more buffering from the noise on

Highway 16. The more trees that are removed are a disadvantage. He said that aside from fire code there is an excess of 60-80 feet between the buildings that could be modified. Addressing Grandview, he said that this was addressed with the comments about having a 20-25 foot buffer elsewhere to because it isn't a restricted area; it's an offer on a landscaping basis. He referred to the drawing with the five buildings pointing out five different ingress/egress points for the separate buildings. He said that this significantly disadvantages tree preservation. He added that even with three buildings there would be three access points whereas their proposal only has one. This has been done by moving the parking underneath which eliminates the ability for access off Stinson or Pioneer. If a second has to be included it will also be off Grandview. He said they decided on two buildings for aesthetic reasons which add to the setback requirements. The development agreement is to allow the city to restrict the project so that there are no surprised.

Tom Dolan said it would be difficult to believe you wouldn't have a secondary emergency access. He also said that he didn't think five accesses onto Grandview would be permitted. Mr. Paul responded that he was just told that the fire code restrictions would be enabled by the size of the underground parking because you need the turning radius and/or "hammerhead" and so by creating access points to each building you create this. There will be only one curb cut for their proposal.

Council asked if the zoning was RB-1 on the property when they bought it and when it became that designation. Mr. Paul said that it was RB-1 when they bought it but he didn't know when it became RB-1. He said he owns other properties of this stature and has been patient to make sure that their projects are not only attractive aesthetically but have an economic vision. The size of the building and the amenities that you create residentially around the building will attract a high-quality use. If you limit the size of the building and the aesthetics that surround you, it limits the style of residential use and business around you. He said that with only residential development you would eliminate more trees and create larger homes because of the "highest and best use." They did a study that said you would end up with seventeen homes there with an assumed minimum size of 3,000 square feet. Most of the residential lots would have little to no trees. What they have proposed is the greatest level of preservation of trees, flexibility in ingress/egress and the willingness to be restricted to a developer's agreement that allows input throughout the entire process.

Mayor Hunter gave an overview of the many changes that have occurred since this project first came in for the Comp Plan Amendment. He said that this is the gateway to Gig Harbor and the citizens want small buildings in the view basin that relate to this scale and size. He said that this should go back to the Planning Commission.

Tom Dolan explained that if the comp plan is approved, the project will still need to go before the Design Review Board for zone transition buffering, it needs a rezone, and it needs site approval all which could all occur simultaneously. It also needs several permits.

Bill Fogerty spoke again saying that this was all R-1 according to an old map. There was discussion on when it may have changed to RB-1.

Mike Paul – 3720 Horsehead Bay. Mr. Paul said he is one of the three partners. He clarified that they were clear when they bought the property of the RB-1 zoning. The first step was to look at this and decide if it was in their best interest to build the allowed five buildings. They talked to the former Mayor as they have talked to Mayor Hunter, and did due diligence to make sure that everyone is clear about what could currently go on the property and what they would be asking for in lieu of that. They were hesitant to bring forward a plan of the five buildings as they think this would adversely affect the top of Gig Harbor. He said that if they go to three or four buildings and end up with 15,000 s.f., they still don't think it's a good project for the city; if they save more trees with three buildings but still have surface parking, they don't feel good about that. He said that they have run their course and will not be going back to the Planning Commission. He voiced appreciation for all the work that has been done and the time that Tom Dolan has spent with them. He said that they feel positive about the things that have been presented, which is the first step in a process. This is not approval of a building, not approval of a footprint, not approval of a foundation close to trees...this is a Comp Plan Amendment; they have far outdone the basics for a Comp Plan Amendment. They have given square footage parameters only and they have agreed to give more room on Grandview. All that is being presented is the maximum square footage with 85% of the maximum above for residential. He added that they don't have to have the residential; they are willing to work on this during the upcoming five-year process if the Comp Plan Amendment is approved.

There were no further public comments and the public hearing closed at 7:18 p.m.

Councilmember Ekberg said that tonight the issues isn't about tree preservation; it is about Comp Plan zoning and what has changed on this particular piece of property that would warrant the Council looking at it going from residential low to residential medium. The only thing that has changed is the ownership of the property. He said that we need to remember that the RB-1 zone is for a buffer between residential and business and he thinks this business and this piece of property is doing exactly what it is zoned to do. What could go on the property is more in keeping with the scale and size; he is comfortable with the RB-1 as it allows for the continued transition between the business and the residential zones. Councilmember Ekberg then said that he has trouble with all the changes; a plan that was dramatically different was presented to the public at the start of the process asking to have increased residential zoning abutting the R-1 and then the RB-2 zone on the top of the hill. The public commented and the Planning Commission made a recommendation based on that information. To have it continually change isn't fair to the citizens. If this is a good project it needs to go to the Planning Commission based on this project; not one ever changing. The issue is what kind of zone is best here; if it needs a full hearing to move forward properly then he would consider it. Under this condition, he agrees with the Planning Commission.

Councilmember Young said that he has changed his mind a couple of times partly because he proponents have been responsive and changed the project along the way. He said that the difficulty is we are doing this backwards as a result of the Comp Plan process for a single property and because Council is concerned that they will lose control after the change. He added that: 1) there aren't enough zones or comp plan designations and this is a significant jump from little tiny office buildings to very large office buildings, from neighborhood to neighborhood which doesn't seem consistent; and 2) because we do lose control at the rezone level. He explained that Council switched to get out of the quasi-judicial process which broadly he agrees with, but he is starting to rethink now because at the Comp Plan level there is this rather large, broad context that they are to consider. In this case this proposal has some merit, but where control is lost is what the zoning and development will look like after that. So the development agreement is trying to address this with a gracious back-and forth effort. He said that his concern is that the development agreement may not be in place prior to development occurring or a rezone application. If the market were to shift he wants to know how to fix this. He made two suggestions: 1) figure out a way to make sure that this isn't a concern; or 2) voting to deny this tonight. He said he's not sure there is a way to approve the Comp Plan Amendment without that assurance.

Councilmember Kadzik disagreed that this isn't about trees; a lot of it is about trees. He said he is in favor of the project in principal. The Paul's will do a quality job and the details are getting better, but there have been a lot of changes over the short course of a few weeks. Once we approve this the actual zoning will be approved and there is no legal way not to do so. The best chance that we have to ensure that we get the quality project we want is at this step. He said that once we get beyond this there are a lot of things that could happen and so he is uncomfortable with the way it has progressed due to the many changes. When he was on the Planning Commission it was a "pet peeve" that things always changed when they came to Council. He said this is the kind of project that we need the full picture to make a decision, and prior to some discussion and public testimony, he was leaning towards approval. Now he thinks it needs to go back; unusual circumstances require unusual solutions. This is the gateway to the city and we can get a quality project out of this if we take the extra steps. He said that he didn't think Council should be designing the project and so he is in favor of sending this back and having some sort of development agreement that the Planning Commission along with the Design Review Board can work together to make this a quality project.

Councilmember Franich said that this project has taken a lot of reiterations and that is one of the main problems. He read from the zoning code RB-1 Intent. "To this extent non-residential structures should be limited in total gross floor area per lot in order to minimize the impact of bulk and scale to residential neighborhoods." Councilmember Franich said that it couldn't be any clearer than that. The property is RB-1 and it meets the criteria of the intent; a15, 000 s.f. building doesn't meet the intent of the zoning code. The biggest problem is there are a lot of unanswered questions in this development agreement because it has changed so many times. He said he is in favor of voting this Comp Plan Amendment down tonight. If we do move forward with it and it comes back, the Council and Planning Commission need to keep in mind what

mechanism will be in place to truly inventory the trees and then address any events that may cause those trees to come down. If you take out some of the trees an arborist may come in and say that others are unstable. We need to address that.

Councilmember Conan said that he identifies with Councilmember Kadzik. They both served on the Planning Commission and it was a frustration when these things would happen at the Council level and they never got to see this much detail at the commission level. He encouraged this type of process at the Planning Commission level. He said that the partners working on this project have good intentions for what they want for Gig Harbor and he thinks it could be a great thing for the gateway into Gig Harbor but it has to be handled carefully. He added that he looks at this as a way to preserve trees, to keep the character, and to help blend the large buildings into the neighborhood, but the development agreement has changed over and over. This is a good thing as we are trying to adjust and react to what we want, but the problem is we do have a moving target on both sides. He said he understands the property owner's frustration; they want to move ahead. He then said he would favor putting back before the Planning Commission but try and accelerate the process so that it doesn't get hung up for another one or two years. Momentum has been built with the development agreement and with some great ideas that can be hammered out without Council trying to do it. It is easier for the Planning Commission to work out the details. We are on the right track and he hopes that sending it back to the Planning Commission with direction for an accelerated schedule could be doable.

Councilmember Young said that the comp plan amendment couldn't return until next year.

Councilmember Payne said he is favorable to this proposal because he thinks it's about trees and is very concerned with what could happen on this site. He said that he knows the applicants have good intentions and have to maximize their investment and they have been sitting on this for quite awhile. Their investment is not his concern; what is his concern is what that looks like at the end of the day and how it affects the gateway to Gig Harbor. He said that he wished that the process could have moved faster, better, quicker and that the Planning Commission had an opportunity to take a look at what was changed before it came before Council the first time. He said he would have liked to see some of this detail discussed at that point as the Planning Commission is probably a wiser place for a lot of these details to be identified. Councilmember Payne said that he is concerned with the scale of the project looking north up the hill from the south; obviously the impact probably more so than anybody is to his residence. He said that great thought has been put into this project and he thinks that the change mentioned by Councilmember Ekberg and voiced as frustration by Mayor Hunter is good because that is what was voted on early in November...change. He said that we have a public process and every change identified has been presented in a public setting. The changes are a reflection of a developer trying to do right by the community. The community and residents may not agree with that, but he thinks the applicants and the residents could have done a better job of talking to one another so that at the Planning Commission level and they would have seen a better product. He said he was

inclined to support this for several of the reasons he stated. In addition, Marty (Paul) brings up an excellent point about economic development. He would love to see more small, white-collar businesses which all trends show are going to be the economic engine of the future. We know that there are several small software companies in fact that are lessees of yours and we want to see that. This is close to the residences and that, along with the scale, is real problem for many. He agreed with Councilmember Kadzik that it would be best if this went back to the Planning Commission, adding that he understands the sentiment of the applicant to move forward with the project. His understanding at this point is nothing is moving forward from a development standpoint other than design until mid-2010. He said he doesn't know the impact to the applicant but he would hate to rush into the agreement and negotiate setbacks this evening. Councilmember Payne finalized by saying that generally he is in favor of the project, adding that he would like to see more conversation between the residents, the applicant, the city and the Planning Commission to refine this project.

Councilmember Malich said that it is a basic, fundamental thing that we all have to think about when sitting on Council is that we are elected to represent the desires of the people of the community; they are first, we don't represent the developers as much. We allow it with zoning and control it with the Comprehensive Plan, Shoreline Management Act and so many other development regulations. He said that there is a tremendous amount of upzoned land in Gig Harbor with huge amounts of acreage up by the prison, Gig Harbor North and Point Fosdick that are places for large buildings. He said again that the fundamental issue is what does the community desire; they don't desire huge buildings in the downtown view area. With all the zones that throughout the community, this is the one thing we have tried to guard the most; the view basin and we should protect it. He said he is in favor of voting this down now rather than wasting the developer's time.

MOTION: Move to approve Comp 07-0005; Comp 08-0002; Comp 08-0003; Comp 08-0004; Comp 08-0005; Comp 08-0006; Comp 08-0007; Comp 08-0008; and adopt Ordinance No. 1147. Comp 08-0001 is denied and staff is directed to prepare findings as discussed by the City Council and staff is further directed to prepare a resolution for Council adoption that specifically identifies the Council's intent on denying Comp 08-0001.
Ekberg / Malich – six voted in favor. Councilmember Conan voted no.

2. Public Hearing and Second Reading of Ordinance – Cemeteries Conditional Use Permit. Tom Dolan presented the background information for this ordinance that would allow existing cemeteries to expand as conditional use in the R-2 District. He said that if the amendment is approved the cemetery will drop their appeal at the Boundary Review Board and ask them to approve the 96th Street Annexation.

Mayor Hunter opened the public hearing at 7:40 p.m.

Catherine Jerkovich – 2106 Pacific Avenue, Ste. 500. On behalf of Haven of Rest, Ms. Jerkovich spoke in favor of the ordinance that resolves the non-conforming use issue that would be imposed with the proposed 96th Street Annexation. She said that they went to the Boundary Review Board and said that if the ordinance is passed that they would be in favor of the annexation. She thanked the Mayor, Council and staff for the work done to resolve this issue.

There were no further comments and the public hearing closed at 7:43 p.m.

MOTION: Move to adopt Ordinance No. 1148 as presented.
Payne / Kadzik - unanimously approved.

NEW BUSINESS:

1. BB16 Level III – Preferred Alternative. David Stubchaer, Public Works Director, gave an overview of the 39 month process resulting in the Level III Final Report in the packet. He said that the goal is to select a locally preferred alternative which addresses the development and general growth on the BB16 Interchange. The impact is based on predicted traffic in year 2032. There was extensive public outreach to discuss various options as a result of the three studies that were performed. Mr. Stubchaer explained that selecting a locally preferred alternative is a step in the journey that will continue with an Interchange Justification Report (IJR) to begin next year. The cost of the three options range from 92 to 181 million dollars based on the higher end estimates for each of the options. The potential funding sources are the Hospital Benefit Zone, developer fees, and State and Federal funding. Because this project is slated for 2012 it was not included in the Six-Year TIP. He then introduced the city's consultant, Al King from Lochner Engineering Firm to give a brief summary of the final report.

Mr. King explained that his firm was engaged by the city to complete the Level III Analysis and provide a recommendation on a preferred alternative. He said he would go through the presentation quickly because Council has seen the bulk of the information and the minor adjustments to the estimates do not change the outcome of the final report. He proceeded through the PowerPoint Presentation giving an overview of the analysis of each alternative. Mr. King finalized by saying that when they considered the scoring, the cost, and the community impact to residents, businesses and the hospital, it appeared conclusively that the SPUI should be the recommended alternative.

Mr. King addressed questions from Council on the scope of the project. He said that the scope initially was to look only at the interchange. When they began and the IJR process it became clear that they would need to expand the study area. They tried to choose the major interchanges and so they stopped just short of 144th.

Councilmember Ekberg asked if there are incremental ways to buy time and draw traffic away from this interchange such as an off-ramp at 144th or to have an off-ramp at 96th,

close the off-ramp at the current interchange and then leave the on-ramp. He asked if these ideas had been considered.

Mr. King responded that they were looked at, but there are two important elements to consider with interchanges: 1) DOT policy only will allow urban interchanges closer than two miles apart in rare instances; 2) in the case of 96th, this suggested solution would fail within five years. DOT wants ultimate solutions.

Mr. King answered questions on the cost estimates by saying that they put together a planning-level estimate that doesn't include survey work or a detailed layout. They don't have the specifics of the ground, required structures, or underground geological work to be able to do that detailed of an estimate. That will be developed in the preliminary design phase which is 15% of the total construction cost. He then explained that the reason the ramps have to be moved with the SPUI is because it is supposed to operate as a single intersection. He said that there are four in this state that work surprisingly well.

Mr. King then explained that this analysis doesn't include improvements to other interchanges. The study area goes from SR-302 back down to Olympic Drive; the breakdown occurs on the mainline and the model illustrates that other improvements would have marginal impact on the Burnham Borgen Interchange.

Mr. King was asked what happens with a SPUI that has reached its maximum capacity. He responded by saying that this projected model is based upon the assumption that the Gig Harbor North area is built out to its GMA limits in year 2032 and so the probability of additional traffic is slim. There was further discussion on future growth probability. He further explained that it would take approximately four years to get this project operational utilizing a somewhat expedited process.

Responding to a question regarding engineering estimates, Mr. King said that the figures are in the breakout he provided. He said that the first part of the process in design is to get DOT buyoff. They are in the process of putting together an estimate to move forward with the IJR process within the city's budget capability.

Councilmember Young said that it doesn't appear that there are many choices to make. Some of the funding mechanisms are in place and there may be access to other monies but not until we begin the design process. He suggested moving forward with the SPUI.

Rick Tennell – 3014 Mountainview Avenue West, University Place. Mr. Tennell explained that he is a member of the partnership that owns land where the proposed Split Diamond would be located. He said there has been a lot of discussion on the process, which they appreciate. A year and a half ago staff informed them that their site was selected as one of the best alternatives for the Split Diamond improvement. During the following year and through several meetings, it was pointed out that the Split Diamond option was the most cost effective and also provided the most flexibility. He said that he is mystified by the early recommendations that favored the Split Diamond

and then by this new recommendation for the SPUI; he wondered how the cost could be so different. He mentioned that people panic when they enter the existing roundabout and he can only imagine how they will react to nine lanes and the choice of fifteen different directions. He then said that whichever design is selected, it is a huge undertaking and the most significant investment decision the city has ever made and commended Council for what they face. He continued to explain that during the last year and a half they have walked through the process along with the city. Prior to this they were considering two sales on the property because their intention is to form a preliminary plat. The sales disappeared when the rumors leaked that their property was one of three being considered for the interchange improvements. He said that no matter which design is selected that it be done in the near future because the longer it is postponed, it effectively condemns his property. He said that he doesn't mean to imply that the city has tried to do that, but the fact of the matter is the city has an important process to go through. He again asked that the decision be made quickly because of the impact on their site and the ability to sell and proceed forward.

Bob Dragoo – Peninsula Light Company. Mr. Dragoo said that Peninsula Light is endorsing the recommendation from the consultant adding that they disagree that utilities only get 3% on the value scale. When you look at that the rating for the benefit of the cost you are not showing; on the Split Diamond there will be about 3 million that PenLite is going to have to spend that they won't with the SPUI and a cost to the community one way or another. If you don't have to spend the money and follow the recommendation of the consultant, they support that decision. Mr. Dragoo expressed appreciation for the process in the sense that the consultants listened and brought a lot of things into consideration. As far as the money listed in the report; the revenue from sales tax will help to pay for this, which is another argument for the SPUI. He again said that they would very much like to support the SPUI. He agreed with the previous speaker that they would like to know as soon as possible because they have torn up Borgen Boulevard twice and would just as soon not do it again.

John Chadwell – Olympic Property Group. Mr. Chadwell said that OPG is in favor of finding cost effective solutions to complex problems and this is certainly complex. He said he thinks it's not which is the best solution, but a process question; picking something and moving forward. He said in 2032 the answer probably will look different than anything that you have seen tonight and will be a combination of various factors that haven't been considered. When you look forward at an interchange in 25 years and examine it with the GMA full build out then any interchange in a UGA in this state would fail. The problem is more complex than picking one of the "pretty pictures" with not-so-pretty numbers attached to them. No one can imagine how different it will be in twenty-five years. The traffic model cannot predict behavioral changes of drivers, flex hours, telecommuting, retirees and transit; all these will have a big impact. Tonight he isn't suggesting choose one option over another as he doesn't think it matters, but choosing one and getting into the deeper analysis with the state will help us to get closer to answers that work for all. Unfortunately, we are finding that with GMA you put more and more people in the bubble; you can put bigger pipes underground; expand the sewer treatment plant and put up water tanks but you can't just keep building bigger and

bigger roads. That's where transit and behavioral changes that haven't been fully considered are ultimately going to affect the outcome; moving forward is the answer.

Councilmember Ekberg agreed that we need to do something. He said he doesn't like the SPUI because it puts all our eggs in one basket; it's a massive pile of concrete and can't be phased in or changed. He said he liked the Split Diamond because of the flexibility but with the cost analysis, there is no way to choose anything other than the least expensive option which is the SPUI.

Councilmember Franich agreed, adding that he wished that ten or twelve years ago there would have been better planning and understanding of the actual traffic impacts. Now we have to spend 100 million dollars to correct a bad decision.

Councilmember Payne said that he unenthusiastically supports the SPUI. He said that he can't think of anything less characteristic of Gig Harbor but we have to move forward. He said he hopes that as we move forward we have an epiphany and come up with a different solution.

MOTION: Move that City Council adopts Single Point Urban Interchange as a preferred alternative for the long-term BB16 Interchange Improvements.
Kadzik / Conan – unanimously approved.

2. Olympic/56th Construction Improvement Project – Contract Amendment / David Evans & Associates. David Stubchaer presented this amendment for work outside the scope of the contract for survey and other related construction services required to be performed during construction.

MOTION: Move to authorize Amendment #1 to Consultant Services Contract for David Evans and Associates, Inc. for additional work of surveying and technical support for Olympic Drive/56th Street Improvement Project.
Payne / Kadzik – unanimously approved.

3. Public Hearing and First Reading of Ordinance – Adopting the 2009 Budget. David Rodenbach, Finance Director, gave a quick overview of the budget numbers. He said that the budget proposed the elimination of the following full-time equivalents:

Building Inspectors	2 FTE
Associate Planner	1 FTE
Receptionist	½ FTE
Community Services Officer	½ FTE
Custodian	½ FTE
Senior Engineer	½ FTE

Rob Karlinsey clarified that Council asked about the COLA for non-represented employees and he responded 5%. He said that this is still true with the exception of two unrepresented positions in the police department. He said he is recommending a 6.2%

COLA for the Chief and Lieutenant because the police officers under contract are getting this amount.

The Mayor opened the public hearing at 8:34 p.m. No one came forward to speak and the hearing closed.

Councilmember Young commented that we ought to look at the COLA adjustments for non-represented employees considering we are headed into a deflationary cycle. He offered to do research and come back at the next meeting.

Councilmember Franich asked how much is paid out in merit and bonus pay. Mr. Rodenbach said that 49 employees at top step earn bonuses, which equals approximately \$139,000. The increase for the other employees is pro-rated throughout the year and so it would be less than \$149,000.

Councilmember Malich asked for clarification on health care benefits for ½ time employees. Mr. Karlinsey responded that their benefits are pro-rated to 50% which could be cost-prohibitive for some. He added that he would like to bring this up for discussion in January.

Councilmember Franich said he is glad that due to the circumstances this year we went through the budget and found savings and hopes that in future years, if revenues increase that we don't lose sight of what could happen and that we've learned something from the decisions that were made that partially led us into this situation.

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

4. First Reading of Ordinance – 2008 Budget Amendment. David Rodenbach presented the background for this ordinance necessary to address the shortfall in the 2008 Street Operating Fund budget. He cited the 2007 year-end project estimation and the increased activity in the street fund as the culprits for missing by such a large margin. To meet the shortfall, a \$250,000 transfer will be made from the General Fund rather than going back to re-allocate some of the charges to the stormwater fund.

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

STAFF REPORT:

1. Eddon Boat Update. Lita Dawn Stanton, Special Projects Assistant, gave an overview of the information given to the Operations Committee last week. She said that the budget is \$980,000 from the Heritage Grant covering the Boat Building. The renovation includes fire safety code upgrades and public access alterations. For the brick house, it is for preparation and demolition work to construct the public restrooms. The expected start date is January 2009 with completion in July.

2. WWTP Funding Plan. David Rodenbach said that the total estimated design and construction is nearly 24 million. To date we have spent 2.2 million and received about

\$775,000 in Public Works Trust Loan for the design with a repayment schedule of four years. We are currently working on the DOE Grant of 1 million and so we are looking at a 7.1 million revenue bond. The bid opening is December 4th and so the first reading of the ordinance for the revenue bond is scheduled on December 8th. He said that the strategy is to have the financing options in front of Council prior to awarding the bid due to the unpredictable economy. He said that revenue bonds do nothing to the city's bonding capacity.

PUBLIC COMMENT:

Gretchen Wilbert – 8825 No. Harborview Drive. Former Mayor Wilbert said her comments are on the proposed 2009 Budget. She left a packet of original correspondence with the Boys & Girls Club on a Senior Center and said she hopes for a community center and that Gig Harbor would be in charge. She then referred to a letter dated March, 2005 in which David Rodenbach addressed a \$1000 donation by the Health Care Providers of Pierce County for a Senior Center. Mr. Rodenbach asked that the check be made out to the City of Gig Harbor and the money would be put into an account. To her knowledge none of that has been spent and so she wanted to make sure that the money was still available.

Mr. Karlinsey said that he would follow up on that. He said that staff is exploring an application for CDBG funds for the Boys and Girls Club project, but it appears that Gig Harbor doesn't qualify. He said that we may have to ask the County to be the lead applicant.

MAYOR'S REPORT / COUNCIL COMMENTS:

Councilmember Young reported that at the AWC Legislative Affairs Committee meeting, he found out that there is a 5.1 billion deficit and climbing. The total amount of discretionary budget would have been 10 billion which means that ½ of discretionary spending will disappear. He said because cities are hurting the state seems inclined to support additional revenue tools some of which could benefit Gig Harbor. He offered to discuss this further if anyone is interested in contacting him.

Councilmember Kadzik brought attention to the Year-End Report packet of information distributed by the Gig Harbor Historic Waterfront Association.


ANNOUNCEMENT OF OTHER MEETINGS:

1. Special City Council Meeting: Public Hearing to Consider Proposals for City Attorney / Legal Counsel. Monday, December 1st at 6:00 p.m.
2. Intergovernmental Affairs Committee – moved to Friday, December 5th at 12:30 p.m. to meet with lobbying representatives.
3. GH North Traffic Options Committee – Wednesday, January 14th, at 9:00 a.m. in Community Rooms A & B.


ADJOURN:

MOTION: Move to adjourn at 9:07 p.m.
Kadzik / Conan – unanimously approved.

CD recorder utilized:
Tracks 1001 – 1065



Charles Hunter, Mayor



Molly Towslee, City Clerk