

MINUTES OF GIG HARBOR CITY COUNCIL MEETING - DECEMBER 14, 2009

PRESENT: Councilmembers Ekberg, Young, Franich, Malich, Payne, Kadzik and Mayor Hunter. Councilmember Conan came later in the meeting.

CALL TO ORDER: 5:30 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of November 23, 2009.
2. Correspondence / Proclamations: Letter regarding a New Liquor Store.
3. Liquor License Actions: a) Renewals: Thai Hut Restaurant; Cigar Land; Gig Harbor Chevron; The Inn at Gig Harbor; Brix 25 Restaurant; Fondi Restaurant; and LeLe at Gig Harbor Restaurant; b) Application in Lieu of Current Privilege: Sip at the Wine Bar.
4. Amendment to City Attorney Agreement.
5. Amendment to Interlocal with PenMet Parks District.
6. Shorecrest Sewer System Drainfield Study.
7. Establishment of an HRA/VEBA Policy.
8. LID Assessment Segregation.
9. Resolution No. 815 - Declaration of Rights of Way: Gig Harbor North Water Tank and Cushman Trail Restroom.
10. State and Federal Lobbying Agreements.
11. WWTP Outfall Extension Project / Construction Engineering Services and Archeological Services Contracts.
12. Sanitary Sewer Easement and Facilities Maintenance Agreement – Gig Harbor Marina / Bayview Project.
13. Approval of Payment of Bills for December 14, 2009: Checks #62389 through #62535 in the amount of \$2,385,235.93.
14. Approval of Payroll for the month of November: Checks #5585 through #5606 in the amount of \$325,736.83.

MOTION: Move to adopt the Consent Agenda as presented.

Franich / Ekberg - unanimously approved.

APPEAL HEARING:

1. Appeal of Denial of Encroachment Permit – Lisa Clark.

Mayor Hunter presented the guidelines for how the hearing would take place. Jane Koler, attorney representing Lisa Clark, objected to moving forward with this appeal

hearing because Ms. Clark could not be present and to the allocation of only 15 minutes.

City Engineer Steven Misiurak presented the background information on the wooden fence installed on city right-of-way near the intersection of Grandview Place and Soundview Drive and the subsequent denial of an encroachment permit due to inadequate site distance concerns at this location.

Senior Engineer Jeff Langhelm presented information on the methodology and results of the site distance analysis.

Jane Koler addressed several points in her presentation to Council including:

- Lisa Clark owns the property in which the fence is located.
- This is not a public intersection and so an encroachment permit is not necessary.
- Other fences or other activity on along Soundview Drive were not required to obtain an encroachment permit.
- The fence doesn't obstruct vision on Soundview and Grandview Place is not a public road.
- Definition of right of way does not include land dedicated to roads, streets and highways not opened for motor vehicle use by the public.
- City's attorney misrepresented information regarding appeal of the Hearing Examiner decision and requirement for a building permit for the fence.

Ms. Koler called Brian Russo as a witness asking questions about his observations in regards to driving conditions and the content of certain public records.

Mayor Hunter indicated that Ms. Koler had overrun her fifteen minute time allotment. Ms. Koler objected to not having sufficient time to finish her case.

Steve Misiurak and Jeff Langhelm used the city's remaining five minutes for rebuttal to information presented by Mr. Koler and Mr. Russo.

Council agreed to allow Ms. Koler an additional five minutes to present additional facts. Ms. Koler called Gary Proctor, licensed surveyor from Thornton Land Surveying who presented information on his records inspection which indicates that the parcel that the fence resides belongs to Ms. Clark because it was never deeded to the city and through adverse possession.

City staff was also given an additional five minutes. Steve Misiurak passed out documents dated March and April 1952 that demonstrates that the fence is on city right of way, not private property.

Ms. Kohler passed out letters of support from surrounding property owners.

Council deliberated several issues at length before adopting the following motion.

MOTION: To uphold/affirm the recommendation of the staff to deny the encroachment permit.

Kadzik / Young - unanimously approved.

The Mayor called for a break at 6:55 p.m. The meeting returned to session at 7:03 p.m.

OLD BUSINESS:

1. Second Reading of Ordinance – 2009 Comprehensive Plan Amendments.

Mayor Hunter explained that there has been ample opportunity for public comment on these amendments at the public hearings and suggested that staff only report if the application information has changed. He said Council can deliberate on the amendments and then either approve or deny them.

1. COMP 09-0002 – Parks, Recreation and Open Space Element: This amendment will repeal the existing parks, recreation and open space element. No Council deliberation.

MOTION: Move to adopt COMP 09-0002 – Parks, Recreation and Open Space Element.

Kadzik / Payne – unanimously approved.

2. COMP 09-0003 – Transportation Element: This amendment updates the transportation improvement program and downtown pedestrian policies. No Council deliberation.

MOTION: Move to adopt COMP 09-0003 – Transportation Element.

Kadzik / Ekberg – unanimously approved.

3. COMP 09-0007 – Stormwater Comprehensive Plan: This amendment adopts a new stormwater comprehensive plan. No Council deliberation.

MOTION: Move to adopt COMP 09-0007 – Stormwater Comprehensive Plan.
Malich / Kadzik – unanimously approved.

4. COMP 09-0008 – Wastewater Comprehensive Plan: This amendment adopts a new wastewater comprehensive plan. No Council deliberation.

MOTION: Move to adopt COMP 09-0008 - Wastewater Comprehensive Plan.
Ekberg / Payne – unanimously approved.

5. COMP 09-0009 – Water System Plan: This amendment adopts a water system plan. Brief Council deliberation.

MOTION: Move to adopt COMP 09-0009 – Water System Plan.
Malich / Payne – unanimously approved.

6. COMP 09-0010 – Capital Facilities Element: This amendment updates the six-year capital facilities program. No Council deliberation.

MOTION: Move to adopt COMP 09-0010 – Capital Facilities Element.
Ekberg / Young – unanimously approved.

7. COMP 09-0011 – Utilities Element: This amendment fixes an incorrect reference to the previous water system plan. No Council deliberation.

MOTION: Move to adopt COMP 09-0011 – Utilities Element.
Malich / Ekberg – unanimously approved.

8. COMP 09-0001 – Wollochet Water System Area Amendment: This amendment adds one parcel to the city’s water system. Senior Planner Jeff Langhelm addressed questions. Council deliberated on balancing the city’s water rights and benefiting development in our city.

MOTION: Move to adopt COMP 09-0001 – Wollochet Water System Area Amendment.
Payne / Kadzik – five voted yes. Councilmembers Franich and Malich voted no.

9. COMP 09-0013 – Stroh’s Water System Area Amendment: This amendment adds two parcels to the city’s water system. Council briefly deliberated.

MOTION: Move to adopt COMP 09-0013 – Stroh’s Water System Area Amendment.
Ekberg / Kadzik – six voted yes. Councilmember Franich voted no.

10. COMP 09-0004 – Sunrise Enterprises Land Use Map Amendment: This amendment changes 15.53 acres from Employment Center to Commercial Business land use designation. Council briefly deliberated the surrounding zoning and increase in commercial and retail use.

MOTION: Move to adopt COMP 09-0004 – Sunrise Enterprises Land Use Map Amendment.

Kadzik / Ekberg – six voted yes. Councilmember Franich voted no.

11. COMP 09-0005 – Haven of Rest Land Use Map Amendment: This amendment changes 3.4 acres from Residential Low to Residential Medium land use designation and includes a development agreement limiting rezoning and use on the property. Senior Planner Jennifer Kester explained the changes to the development agreement proposed since the last meeting that would allow R-1 uses and density as well as cemeteries, community recreation halls and clubs as conditional uses. Council deliberated this amendment and whether a text amendment might suffice.

MOTION: Move to deny Comp 09-0005 – Haven of Rest Land Use Map Amendment.

Young / Ekberg – unanimously approved.

MOTION: Move to deny the development agreement associated with Comp 09-0005 – Haven of Rest Land Use Map Amendment.

Young / Payne – unanimously approved.

12. COMP 09-0012 – 3700 Grandview Land Use Map Amendment: This amendment changes 2 acres from Residential Low to Residential Medium land use designation and includes a development agreement limiting the development of the property and adjacent 2.27 acres. Ms. Kester explained that the development agreement had changed to add language for tree protection, replacement and penalties if trees are lost.

Councilmember Franich said that the size of the buildings is not in keeping with the character of Gig Harbor.

Councilmember Kadzik said his hope was for consensus and it doesn't look like that has happened. He said that although confident the developer will do a good job, there are just too many unknowns.

Councilmember Conan said that he supports the amendment as this was a good compromise for the city to get something good and to keep trees. He voiced hope that if the amendment is denied the future development will take this into account.

Councilmember Payne spoke in favor of the amendment. He said that few trees would remain with the current RB-1 setbacks to mark the entrance of the harbor. He discussed protecting the significant stand of Madronas and firs as a gateway to the harbor. He spoke in favor of the residential units on the second level, that the project has to comply with the height limit, and it has a guarantee of a single point ingress/egress. He said the trees are a significant noise barrier, they frame the entrance of the harbor, and provide water retention and a buffer to the adjacent residences.

Councilmember Ekberg mentioned the time spent on the trees and building design. He said there has not been enough discussion on the land use and the need for a change to the comprehensive plan. He said that the current RB-1 zone is doing exactly what it should to provide a buffer between the business and residential zones and when developed it will be done with small, compatible buildings. No one has demonstrated what has changed to warrant the change to double the intensity of use and allow buildings out of scale with the surrounding area.

Councilmember Young said that both sides have made compelling argument, and he likes the mixed-use project but said that that particular site may not be appropriate for the scale. He said that after listening to all the testimony and speaking with the Chair of the Planning Commission regarding the purpose of the comp plan and why a change should be approved, he is now convinced that is not the right move. He voiced appreciation for how the develop responded.

MOTION: Move to deny Comp 09-0012 – Grandview Land Use Map Amendment.

Franich / Malich – five voted yes. Councilmembers Conan and Payne voted no.

MOTION: Move to deny the development agreement associated with Comp 09-0012 – Grandview Land Use Map Amendment.

Young / Ekberg – five voted yes. Councilmembers Conan and Payne voted no.

MOTION: Move to adopt Ordinance No. 1181 striking sections 1.E.4 and 1.E.5.

Young / Ekberg - five voted yes. Councilmembers Conan and Payne voted no.

MOTION: Direct staff to prepare resolutions with the findings of denial for Comprehensive Plans 09-0005 and 09-0012 for the first meeting in January.

Franich / Malich – unanimously approved.

2. Final Public Hearing and Second Reading of Ordinance – 2010 Proposed Budget.

Finance Director David Rodenbach presented the background information on the 2010 Budget.

Mayor Hunter opened the public hearing at 8:05 p.m. No one came forward to speak and the hearing closed.

MOTION: Move to adopt Ordinance No. 1182 adopting the 2010 Budget.
Kadzik / Payne - unanimously approved.

NEW BUSINESS:

1. Public Hearing and Resolution Adopting the Six-Year Transportation Improvement Plan (TIP). Senior Engineer Emily Appleton gave an introduction to this yearly task of adopting a transportation plan. She summarized the changes to the plan from 2008.

Mayor Hunter opened the public hearing at 8:13 p.m. No one came forward to speak and the hearing closed.

MOTION: Move to adopt Resolution No. 816 adopting the Six-Year Transportation Plan. Malich / Kadzik - six voted in favor. Councilmember Franich voted no.

STAFF REPORT:

Tom Dolan, Planning Director praised staff for all the hard work on the Comprehensive Plan Amendments which he described as a huge undertaking.

PUBLIC COMMENT:

John Chadwell - 19425 10th Ave NE, Poulsbo. Mr. Chadwell said that he would like to wrap up the end of a tough year by voicing his appreciation for all that the city does. He wished everyone a Merry Christmas and safe holiday from OPG.

MAYOR'S REPORT / COUNCIL COMMENTS:

Mayor Hunter passed out the Council Committee sign up sheets. Councilmember Ekberg suggested that the Operations Committee be divided; one to review utilities issues and the other to review transportation and parks issues. This was briefly discussed.

Mayor Hunter announced the Cushman Trail Ribbon Cutting Ceremony at 2:30 on Wednesday, December 16th.

Mayor Hunter continued by announcing the Intergovernmental Affairs Committee would meet Wednesday December 16th at 4:30 p.m.

Councilmember Paul Kadzik passed out a flyer on the Gig Harbor Historical Waterfront Association about their continuing efforts to work on the Skansie Park and Jerisich Dock. He discussed the proposed portal sign, explaining that it would require a text amendment to the city's code and asking if Council would be willing to move in that direction. Council concurred, but voiced reservation about committing Planning Commission time. Tom Dolan said he would contact the commission to determine consensus so it could possibly be done by direct consideration through Council. Councilmember Franich said he was concerned with the number of new signs and how it relates to the type of community we want.

Councilmember Payne requested an update on the Tangadoc Development. Mr. Dolan explained that a development agreement was problematic and they are still working on options to allow construction after the first of the year. The marina use may be delayed until the necessary parking is secured.

Councilmember Franich voiced concern with the amount of staff time being spent on this. He then thanked staff and the other City Councilmembers for their time in 2009 before wishing everyone a Merry Christmas.

Councilmember Malich asked for clarification on how the Council Committee members are chosen. He agreed that the Operations Committee should be split.

ANNOUNCEMENT OF OTHER MEETINGS:


1. Intergovernmental Affairs Committee: Wed. Dec 16th at 4:30 p.m.
2. Operations Committee: Thu. Dec 17th CANCELLED
3. Finance / Safety Committee: Mon. Dec 21st at 4:00 p.m.
4. Civic Center Furlough Day: Thu. Dec 24th
5. Civic Center Closed for Christmas: Fri. Dec 25th
6. Civic Center Furlough Days: Mon. Dec. 28th through Thu. Dec. 31st
7. Civic Center Closed for New Years Day: Fri. Jan 1st

ADJOURN:

MOTION: Move to adjourn at 8:31 p.m.

Malich / Kadzik - unanimously approved.

CD recorder utilized: Tracks 1001 – 1008



Charles L. Hunter, Mayor



Molly Towslee, City Clerk