

**City of Gig Harbor Planning Commission  
Work Study Session  
January 13, 2011  
Planning and Building Conference Room  
4:00 pm**

**PRESENT:** Michael Fisher, Harris Atkins, Jim Pasin, Bill Coughlin and Ben Coronado. Commissioner Jill Guernsey was absent.

**STAFF PRESENT:** Staff: Tom Dolan, Peter Katich, Lita Dawn Stanton and Kim Van Zwalenburg from the Department of Ecology. Special Guest: Dick Allen

**CALL TO ORDER:** at 4:00pm

**APPROVAL OF THE MINUTES:**

MOTION: Move to approve the minutes of January 6, 2011 as written. Coronado/Atkins – Motion carried.

**WORK-STUDY SESSION:**

Mr. Katich began the discussion on the proposed Historic Working Waterfront designation. He noted that he had distributed the information they had requested on this proposal. Ms. Stanton then distributed a map of the area of the proposed designation. She noted that at the last meeting she had asked that in addition to historic net sheds, historic landmarks be addressed and the Commission had asked how many over water historic landmarks there are and she distributed the inventory list. She noted that only one over water structure would qualify which is the old co-op building located to the south of the Tides Tavern. She stated that if her request in any way weakens the proposal on historic net sheds then it is not worth the change. Mr. Katich stated that staff did not believe that adding policy language regarding landmarks would impact the net shed proposal as long as there was not a corresponding regulation. Additionally, he noted that if we were just talking about one building that already had non conforming status perhaps it didn't make sense to add a policy.

Ms. Stanton then went on to discuss the Historic Working Waterfront Designation of the cove area. She highlighted the importance of the National Maritime Heritage designation. She noted that certain non waterfront oriented uses that are currently allowed in the City Waterfront Designation would not be allowed in the Historic Working Waterfront Designation and referenced the table created by Mr. Katich. Mr. Atkins asked if there would have to be a change to the zoning code and Mr. Katich said no and went over what changes would have to be made within the proposed shoreline master program. Ms. Stanton noted that she had met with 80% of the stakeholders in the area and there had been unanimous support of this approach. Mr. Dolan asked if there were policies that could be added back into this master program that would help in promoting

the historic working waterfront. Mr. Coughlin asked if there needed to be other areas included in this designation. Mr. Pasin asked about what kind of activities would make up a working waterfront. Mr. Katich directed Mr. Pasin to the page that listed the uses that would be promoted. Mr. Atkins suggested taking a poll. Mr. Coronado said he was in favor of pursuing this proposal further; Mr. Fisher said he was in favor of the proposal; Mr. Pasin said he was not in favor of the proposal; Mr. Atkins said he liked the idea and would like to provide a way to extend this but it may be too much to do at this time; and Mr. Coughlin said he was in support of the proposal. **Mr. Atkins asked that staff put together a draft to be part of the addendum for the public hearing and to encourage the property owners of that area to attend the public hearing.**

Mr. Katich then began to address the comments of Robert Frisbie from his letters dated November 14, 2010 and January 11, 2011. At that point, Mr. Fisher noted that he had to leave to attend the Design Review Board meeting and wanted it noted that he hadn't time to fully review Mr. Frisbie's comments along with Mr. Katich's response as it was a really complex subject. He recommended that perhaps weekly meetings did not leave enough time in between meetings to fully review issues. Mr. Atkins said that he felt that they had been putting in the proper analysis as they have had Mr. Frisbie's comments since the middle of November. He stated that he felt that they can put off some items when more time is needed.

Mr. Katich then reviewed his memorandum dated January 13, 2011 in response to Mr. Frisbie's letter of January 11, 2011 in which he indicated that staff had not responded to some of the issues set forth in his original letter of November 14, 2011. He discussed Mr. Frisbie's proposal to have an open dialogue between the city's experts and Mr. Frisbie's experts on the merits of the scientific and technical information cited by the city in its draft Shoreline Inventory and Characterization Report that forms the basis for the policies and regulations in the November 4, 2011 draft shoreline master program.

The Commission first discussed Mr. Frisbie's letter of January 11, 2011. The first issue that Mr. Frisbie raised was that the city had not adequately identified the scientific and technical information needed to support the shoreline master program policies and regulations. Mr. Katich went over the state requirements on what needed to be provided in regard to scientific and technical information and that the white papers are cited within the city's draft Shoreline Inventory and Characterization Report (SICR). Additionally he noted that the bibliography chapter of the SICR will be revised to identify updates to these white papers as well as additional studies that support the findings of the document. Mr. Katich went on to expand on the role of the Department of Fish and Wildlife in this process. **Mr. Atkins suggested that perhaps the City Attorney could weigh in on whether we had met the letter of the law.** Mr. Atkins then went over information he had gathered through research on state websites regarding building a dock. He felt that the reference to state approved materials was enough.

The second bullet addressed an article in USA Today regarding the health of fisheries that are targeted by the U.S. commercial fishing fleet. Mr. Katich discussed what it

meant to improve ecological function relative to aquatic habitat and ESA listed species and again felt that the science supported the proposed master program.

The third bullet stated that staff had avoided talking about the shoreline permit exemption for bulkheads that protect single family dwellings. Mr. Katich said that there is a WAC that addresses this issue (WAC 173-27-040(2)(c)), and that the exemption is only to the substantial development permit requirement. Per the WAC, if the city's master program regulated such a bulkhead as a conditional use, which the city's draft does for a number of the proposed environmental designations, it would not be subject to the exemption. Additionally he noted that an exemption does not mean you do not have to comply with the master program. The WAC states that the exemption can only be issued if the request is found consistent with all policies and regulations of the program. Therefore, any request for an exemption would have to be found consistent with the city's policies and regulations that apply to shoreline stabilization modifications. He felt that the proposed master program was consistent with WAC 173-27.

Mr. Pasin stated that staff had not answered Mr. Frisbie's comment that commercial properties will be carrying a 250% larger burden for building fishery runs. Mr. Katich stated that the statement had no basis in fact and therefore he didn't feel that a response was needed. Mr. Coughlin stated that sometimes when you even say that it doesn't have a basis in fact it starts a confrontational dialogue. Ms. VanZwalenburg stated perhaps a statement could be added regarding no net loss in order to be sure that it was clear that residential had to meet that burden as well.

The next issue was Mr. Frisbie's suggestion that there be an open debate between the city technical people and his technical people. Mr. Katich noted that a tentative date of March 31, 2011 has been set for an open house/public hearing and Mr. Frisbie and his technical people can attend and provide their testimony at that time. Mr. Pasin and Mr. Atkins noted that it wasn't appropriate to have the state attend to defend their science.

Mr. Katich then went over his memorandum of January 6, 2011 in response to Mr. Frisbie's comments of November 14, 2010.

1. Treated wood products – Mr. Katich recommended that all reference to creosote treated pilings be removed as the Commission had decided previously to just reference state approved materials. The Commission agreed.
2. Soft Armoring and Shaded Areas – Mr. Frisbie had asked that the Commission remove the requirement for soft armoring. Mr. Katich recommended that no revision be made to the draft requirements as they have been developed consistently with the state guidelines and the Commission agreed.
3. Public Access: Mr. Frisbie commented that the city's proposed public access requirements are unlawful and cited "The Public Trust Doctrine". Mr. Katich noted that the doctrine is a legal principle that recognizes the waters of the state as a public resource for the purposes of navigation, conducting commerce, fishing, recreation and

similar uses. The guidelines and draft shoreline master program support this and the city's proposed public access regulations are substantially the same as those set forth in the existing master program. Staff recommended no change to the proposed language and the Commission agreed.

4. Definition for Net Shed: Mr. Frisbie requested removal of the word "existing" from the definition. Mr. Katich noted that the definition focuses on existing historic net sheds. Mr. Pasin said he agreed with the removal of the word "existing". Mr. Atkins agreed that they didn't need the word "existing" or "historic" as they are fully described. Mr. Atkins stated that perhaps they needed a definition of historic. It was decided to remove the word "existing" from the definition of net sheds.

5. Definition for Should: Mr. Frisbie wanted to replace the word "should" with "must" or "shall". Mr. Katich noted that Ecology does define "should" in the guidelines and we have included that definition in the master program. Staff recommended retaining the definition and not replacing the word. The Commission agreed.

6. Last sentence, page 3-7 regarding the use of the word "high" in association with creosote treated wood and structures: Mr. Frisbie suggested that the word "high" be defined as greater than 50 creosote pilings where 50 piles are approximately 10 feet on center to ensure consistency with "white papers" cited as basis for the use of best scientific and technical information pursuant to WAC 173-26-201(2)(a). Mr. Katich stated that the term "high" is merely used as an adjective and recommends no change in response to this comment. Mr. Pasin asked if the removal of the word "high" changed the meaning of the sentence and Mr. Katich stated that he believed it did. Mr. Coughlin asked if the word "significant" would be better. Mr. Pasin felt that the word "high" was subjective. Mr. Atkins suggested removing the words "high concentration of" as the sentence is really talking about the pollutants not the amount of them. Everyone agreed.

7. Page 3-8, item number: Mr. Frisbie commented that it is not fair and is not scientifically supported that "categorically exempt single family residences have to comply with this provision. Mr. Katich noted that it is a finding of the draft master program relative to priorities for shoreline restoration, not a regulation and, therefore, recommended no change. Everyone agreed.

Mr. Atkins suggested that they stop at this point and continue with the remaining comments at the next meeting.

Mr. Katich stated that he and Mr. Dolan would go over the issue regarding the frequency of the meetings and getting the information out. Mr. Pasin expressed his desire to not prolong this any further than necessary as it also is holding up other business that needs to come before them. Mr. Atkins noted that another way to approach the comments is to only address those issues raised by a Commission member. He also noted that then when they go before the City Council and the Council

wants to discuss a comment that wasn't raised the Commission may not be prepared. Mr. Coughlin thought that it was working the way they were handling them.

MOTION: Move to adjourn. Pasin/Coughlin – Motion carried.

**Summary of 1.13.11 Meeting Outcomes:**

1. By a vote of 4 to 1, the Commission directed staff to prepare draft Historic Working Waterfront Environmental Designation purpose, policy, and regulatory language and include the same in the addendum to the November 4, 2010 draft shoreline master program that will be developed for public review and comment at the open house/2<sup>nd</sup> public hearing.
2. Requested that the City Attorney review and address the Robert Frisbie comments set forth in his letters of November 14, 2010 and January 11, 2011 regarding the city's use of science and technical information as the basis for policy and regulatory approaches proposed in the November 4, 2010 draft master program.
3. In response to Robert Frisbie's comments set forth in his letters dated November 14, 2010 and January 11, 2011, directed staff to revise the November 4, 2010 draft shoreline master program as addressed in pages 2-4 of these meeting minutes.