

MINUTES OF GIG HARBOR CITY COUNCIL MEETING – September 9, 2013

PRESENT: Councilmembers Ekberg, Young, Guernsey, Perrow, Malich, Kadzik, and Mayor Hunter. Councilmember Payne was absent.

CALL TO ORDER: 5:30 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of City Council Minutes Jul 22, 2013.
2. Receive and File: a) Gig Harbor Downtown Waterfront Alliance Second Quarter Financial Report; b) Parks Commission / City Council Joint Meeting Minutes July 15, 2013; c) Planning Commission Minutes July 18, 2013; d) Second Quarter Financial Report.
3. Correspondence / Proclamations: a) 2012 Wastewater Treatment Plant Outstanding Performance Award Letter from the Dept. of Ecology; b) Downtown Waterfront Alliance recognition letter for Peter Ivanovich; c) Historic Preservation Grant Funding - Pierce County.
4. Kitsap County Jail Contract Renewal.
5. Pierce County Department of Emergency Management Contract.
6. Resolution No. 935 – Surplus Property.
7. RCO Grant Agreement – Playzone.
8. Visitor Information Center Painting Project – Small Public Works Contract Award.
9. Liquor License Action: a) Harvester Restaurant - Added Privilege.
10. Citywide Travel Demand Model 2013 Update and Annual Transportation Capacity Availability Report Update – Consultant Services Contract / David Evans and Associates.
11. Approval of Payment of Bills Aug. 12, 2013: Checks #73092 through #73251 in the amount of \$1,588,541.35.
12. Approval of Payment of Bills Aug. 26, 2013: Checks #73252 through #73373 in the amount of \$424,310.37.
13. Approval of Payment of Bills Sep. 9, 2013: Checks #73374 through #73454 in the amount of \$1,283,391.25.
14. Approval of Payroll for the month of July, 2013: Checks #7013 through #7024 and direct deposit transactions in the total amount of \$355,688.46.
15. Approval of Payroll for the month of Aug., 2013: Checks #7025 through #7039 and direct deposit transactions in the total amount of \$369,289.49.

Councilmember Guernsey announced that she would abstain from voting because item number five involved Pierce County.

MOTION: Move to adopt the Consent Agenda as presented.
Ekberg / Perrow – unanimously approved. Councilmember Guernsey abstaining.

SWEARING IN CEREMONY: Chief Mike Davis presented the background information for Officer Kevin Goss. Mayor Hunter performed the swearing in, and Officer Goss's wife, Theresa, ceremoniously pinned on his badge.

OLD BUSINESS:

1. Third Reading of Ordinance – Downtown Building Size and Height Amendments. Planning Director Jennifer Kester gave a brief introduction and with Lita Dawn Stanton, gave a detailed presentation designed to answer questions from the July 22nd reading of the ordinance. At the conclusion, she explained that Council could: 1) Adopt the ordinance as written; 2) Adopt the ordinance with portions removed; 3) Deny the amendments; or 4) Direct staff to bring back all or a portion of the ordinance for another public hearing and new first reading on a date to be determine. She addressed Council questions.

Ms. Kester responded to Councilmember Malich's question on minimum lot sizes in these zones.

Councilmember Young voiced his concern that grandfathering existing non-conforming buildings to be rebuilt within the existing building envelope is unprecedented in the state. City Attorney Angela Belbeck explained that the properties have the existing legal right to be on that footprint and it is a policy determination for whether or not you want to amortize or allow the non-conformity to remain. If you allow it to continue to exist, you are not increasing any harm.

Councilmember Malich then asked for clarification on whether this would allow three-story buildings behind the Maritime Inn. Ms. Kester explained that it could only occur through the step-back provision and due to the steep slope, they would have to dig into the hill. She also said that they could build with a flat roof under today's regulations.

Councilmember Guernsey thanked Ms. Kester and Ms. Stanton for the presentation, saying she hopes it will help with the misinformation out there. She stressed that these amendments do nothing to change the building sizes, setbacks, view corridor requirements, or design review requirements. She then commented that in order to allow additional opportunity for people to understand this, she would propose an amendment to remove all reference to the waterfront out of the ordinance and direct staff to draft a new ordinance to be presented on October 14th. She also recommended an open house to allow people to review the amendments and to ask questions.

Councilmember Kadzik asked for further clarification on what her motion might be, voicing concern with the proposed amendments to waterfront residential.

Ms. Kester and Councilmember Guernsey discussed options to address the proposed amendments to the ordinance.

MOTION: To remove all waterfront zone amendments (Items A, B, C, and D for Waterfront) (WC, WM, WR Residential and Nonresidential), strike the following from the ordinance:

- **7th Whereas Statement on Page 2 of 3: Remove “and the Waterfront Commercial (WC) district abutting the DB as these are” and replace with “as that is”**

WHEREAS, the Council finds the building size and building height amendments should be limited to the Downtown Business (DB) district south of Rosedale Street and the Waterfront Commercial (WC) district abutting the DB as those are as that is the generally accepted “downtown” area and have has the highest concentration of existing multi-story buildings; and

- **2nd through 5th Whereas Statements on page 3 of 13 – Remove all**

~~WHEREAS, the current height measurement location for residential buildings on the waterside of Harborview and North Harborview Drive has led to new homes being significantly lower than historic homes as viewed from the street. The current front yard setback provisions do not allow for the retention of the historic residential character of that streetscape; and~~

~~WHEREAS, nonresidential buildings along the Harborview and North Harborview frontages must be located within 10 feet of Harborview and North Harborview Drive and the maximum height can be measured at the property line along the right-of-way; and~~

~~WHEREAS, the new Shoreline Master Program is expected to require a setback from the ordinary high water mark, the smallest of which is 35 feet, thereby reducing the buildable area of a lot along the water. The proposed decrease in front yard setbacks will help mitigate that impact to the buildable area of the lot; and~~

~~WHEREAS, decreasing the front yard setbacks and height measurement point for residential uses in waterfront zones will make the residential requirements more consistent with the nonresidential buildings in the same zones; and~~

- **3rd Whereas Statement on Page 4 of 13: Remove “and abutting WC zones and the amendments reducing the front setbacks and height measurement point for residential uses”**

WHEREAS, the City’s SEPA Responsible Official issued a Determination of Nonsignificance (DNS) for the amendments allowing 27-foot high buildings in the DB and abutting WC zones and the amendments reducing the front setbacks and height measurement point for residential uses on May 29, 2013; and

- **Strike Section 2 of the Ordinance on page 5 of 13 in its entirety.** This section allows interior only additions in the WC zone (Item A)
- **In Section 3 of the Ordinance on page 7 of 13, remove the following phrase from 17.68.040(E): “and the WC zoning district abutting the DB zoning district”**

E. Downtown Nonconforming Structures. Intentional removal or alteration of structures with a nonconforming structure status in the DB zoning district and the WC zoning district abutting the DB zoning district shall be subject to the following provisions:

- **Strike Section 4 of the Ordinance on page 8 of 13 in its entirety.** This section changes setbacks in the waterfront zones for residential uses (Item D)
- **In Section 5 of the Ordinance on page 9 of 13, remove the following phrase from 17.99.510(A)(2): “AND PORTION OF THE WC ZONE ABUTTING THE DB ZONE”**

2. MAXIMUM HEIGHT – DB ZONE SOUTH OF ROSEDALE STREET and PORTION OF THE WC ZONE ABUTTING THE DB ZONE.

A building shall not exceed 27 feet above natural and finished grade as measured from the building footprint except as allowed for stepped-down buildings as follows:

- **Also in Section 5 of the Ordinance on page 10 of 13, remove the following phrase from 17.99.510(A)(3): “In applicable waterfront zones (WR, WM and WC), the point at which the 18-foot maximum is measured may be at the highest point within the lot along the street right-of-way”**

2. 3. MAXIMUM HEIGHT – ALL OTHER ZONES.

Each residential lot is allowed a building height of up to 18 feet from any point within the buildable area and within 50 feet of the building’s footprint; provided, that no portion of the structure exceeds 27 feet above natural and finished grade. In applicable waterfront zones (WR, WM and WC), the point at which the 18-foot maximum is measured may be at the highest point within the lot along the street right-of-way. Additionally, one BASIC STRUCTURE measuring 25 feet wide by 40 feet deep by 27 feet high may be incorporated into the building design based upon the following criteria:

- **Also in Section 5 of the Ordinance on page 11 of 13, remove the following phrase from 17.99.510(B)(1): “and abutting portion of the Waterfront Commercial (WC) district”**

1. DOWNTOWN BUILDING HEIGHTS

In the portion of the Downtown Business (DB) district south of Rosedale Street and abutting portion of the Waterfront Commercial (WC) district, the building height limitations of this subsection 1 apply as do the requirements of subsection 5 below. In all other zones, the requirements of subsection 2 through 5 apply.

- **Direct Staff to update the title of the ordinance to reflect these changes**

Guernsey / Ekberg -

Councilmembers Ekberg and Kadzik thanked staff for their work on the presentation. Councilmember Kadzik acknowledged the controversy over the proposed amendments and said that he hopes the reintroduction of that portion of the amendments will clear up the misinformation. He addressed two common themes in the multiple e-mails he has received. The first was the claim that there was a lack of communication. He gave an overview of all the prior notices and meetings held by the Planning Commission that preceded these amendments coming before Council for a public hearing that was publically noticed and sent directly to surrounding property owners. There were several people that came to testify, and areas were removed from the ordinance as a result of that. He added that the city does its best to notify the public of these processes, but the citizens must rely upon keeping themselves informed. The second claim has been that the city is selling out to big money or that they are trying to pull a fast one. He stressed that nothing could be further from the truth; most of the area downtown are legacy property, and to his knowledge there are no large developers planning a project.

Councilmember Kadzik continued to explain that these amendments are being done in the interest of increasing the vitality of the downtown while keeping the character. He said that the downtown is going to wither unless we do something and addressed the parking issue by saying requiring more parking is the kiss of death for a new business, and studies have shown that there is plenty of parking. He commented that he has been involved with the city in one way or another since 1994, and he has never seen a decision based upon monetary gain. He said that they do their best to make this the best city it can be. He then explained that he did not respond to emails because of legal concerns with the open public meetings law and public records disclosure.

Councilmember Young asked if any of the other Councilmembers were interested in eliminating the section on grandfathering. No one responded and so he continued to address the issue with development agreements. He read from the code then explained that a development agreement may allow some deviation from code, but it requires a superior design; it is Council's duty to make sure that it's clearly a better proposal if allowed to deviate from code. He commented that through the Comprehensive Plan process, there is lots of public involvement to help determine what the zoning looks like. He said that the waterfront is defined by the Shoreline Master Program and zoning code. He then addressed the idea that there could be a corridor created by two story buildings along the waterfront; he emphasized that the reality is that we are protecting the areas around the residential areas. He said that the idea of two-story buildings that would allow retail below and residential or office above in the downtown is in line with the vision adopted for this area. He said that he would support the separation of the waterfront from this ordinance to allow further education and encouraged people to continue to submit comments in writing as we move forward.

Councilmember Perrow thanked staff for the lot by lot, building by building analysis, saying the artwork really highlighted the fact that there is very little view in these areas; the corridors are small. He said he looks forward to seeing and hearing more.

Councilmember Ekberg addressed the view issue, and said that we live in a community that owes a big thanks to this Council and previous Councils which had the foresight to preserve view access. He said he would challenge that no other small waterfront town has gone as far as we have in acquiring waterfront property, starting with the Ferry Landing, to the Maritime Pier, to the Skansie Brothers Park, to Jerisich Dock, to the Dorotich Street Platform, to the Ancich Park, to Eddon boat, to Austin Estuary, to Donkey Creek, around to the Bogue Viewing platform. These are a wealth of publicly owned property for the public to enjoy as a result of the foresight of City Council to enjoy for the future.

Mayor Hunter thanked him for these comments.

Councilmember Guernsey thanked the public for coming, and encouraged everyone to ask questions so that when these come back you will really understand them. She asked people to be careful to the sensitivity of negative comments. She called for the motion.

RESTATED MOTION:

MOTION: To remove all waterfront zone amendments (Items A, B, C, and D for Waterfront) (WC, WM, WR Residential and Nonresidential), strike the following from the ordinance:

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- **Direct Staff to update the title of the ordinance to reflect these changes**

Guernsey / Ekberg – unanimously approved.

Ms. Kester said that this will return for an open house on October 14th prior to the Council meeting where an ordinance for the waterfront portions will be presented. She said there is a sign-up sheet in the back for anyone who wants to be notified of any future meetings regarding downtown building height and size.

The Mayor called for a recess at 6:30 p.m. The meeting reconvened at 6:58 p.m.

NEW BUSINESS:

1. Street Naming Request – Bellasara Development. Building / Fire Safety Director Paul Rice introduced this request for approval to name the street within the Bellasara Residential Plat.

MOTION: Move to approve the naming of the street within the Bellesara residential plat as “Serenity Loop.”

Young / Guernsey – unanimously approved.

2. First Reading of Ordinance – Budget Amendment Correcting 2013 Salary Schedule. Finance Director David Rodenbach explained that there was an error in the salary range for the Maintenance Technician approved with the 2013 budget. This ordinance would correct that. Council agreed that this could return on the next meeting's consent agenda for second reading.

3. Public Hearing and First Reading of Ordinance – Marijuana Related Uses.

Senior Planner Lindsey Sehmel presented the background for this ordinance adopting land use and zoning for state allowed marijuana related uses. She addressed Council questions on the 1,000 foot rule.

Mayor Hunter opened the public hearing at 7:16 p.m.

Sam Atkinson – 5500 Olympic Drive, Suite 105. Mr. Atkinson spoke to the collective garden issue. He explained that production and processing is done at the garden, but distribution is through dispensaries. What will happen under these regulations is that patients in Gig Harbor won't have access to medical marijuana without crossing the bridge. He said that Section C Item 5 states that a location utilized solely for the purpose of distributing cannabis shall not be considered a collective garden. He asked that this be changed to treat access to medical marijuana the same as retail; as it is, the only zone that allows collective gardens is the ED zone where there are no existing buildings. Because medical marijuana requires a level of expertise and provides a valuable service, he asked that it be treated the same as recreational marijuana and allowed in the C-1 and B-2 zones.

Mark Hoppen – 8133 Shirley Avenue. Mr. Hoppen asked for clarification if Tacoma Community College had been considered in measuring distance. Ms. Sehmel responded that there is no provision in state law to take community colleges into consideration when measuring distance. Mr. Hoppen emphasized that there is a major population of students under the age of 18 because of the Running Start and Daycare programs which needs to be considered. He also recommended eliminating the B-2 Zone because the established definition is overly permissive and difficult to regulate. He then said that medical cannabis is a slippery slope and so the language in the ordinance is appropriate.

There were no further comments and the public hearing closed at 7:20 p.m.

Ms. Sehmel responded to a request by Councilmember Kadzik to clarify the request by Mr. Atkinson regarding the distinction between medical and recreational use. She said that medical marijuana has no state process for review or licensing and so the state law is not clear on whether dispensaries are allowed at this point.

Councilmember Young further explained that the federal government made a deal with the states to accept regulatory program allowing retail, but it excludes dispensaries because they were never legal to begin with.

Councilmember Perrow commented that seven ED zones are identified on the map, but the ordinance specifically calls out the ED zone along Bujacich Drive. Ms. Sehmel said that was an error.

Councilmember Malich said he agreed with comments made by Mr. Hoppen regarding Tacoma Community College and said he would like to see it change. Councilmember Perrow said that he too would like to see the B-2 zone removed from the ordinance due to problems with Harbor Ridge Middle School.

Ms. Sehmel presented a map with the B-2 zone removed. Ms. Kester noted that the areas could change as affected businesses come and go, and the state is limiting how many can go into an area. There was discussion on the definition of arcade, grandfathered licenses, and security requirements.

City Attorney Angela Belbeck addressed the thousand foot buffer, saying that it would be worthwhile to clarify that it be measured the same as Washington State Liquor Control Board prescribes. Council agreed.

Council further discussed removing the B-2 zone. It was determined that it may be premature to eliminate the entire B-2 zone and perhaps only certain sections should be addressed. This will return for a second reading at the next meeting.

4. Public Hearing and First Reading of Ordinance – North Harborview Drive Right of Way Vacation/Dedication. Councilmember Perrow left the chambers at this time.

Public Works Director Jeff Langhelm presented the background for this ordinance finalizing the vacation of a portion of North Harborview Drive in lieu of transfer and waiving compensation.

Mayor Hunter opened the public hearing at 7:42 p.m. There were no public comments and the hearing closed. Council agreed that this could return on the next meeting's consent agenda for second reading. Councilmember Perrow returned to chambers.

5. Public Works Contract Change Order – Rosedale Roadway Improvements. Public Works Director Jeff Langhelm explained the need for this change order to complete the roadway improvements due to an inaccurate topography survey.

MOTION: Move to authorize the Mayor to execute a Contract Change Order with MidMountain Contractors, Inc. in an amount not to exceed \$99,440.00, for a revised total contract amount of \$792,299.02.

Malich / Ekberg – unanimously approved.

STAFF REPORT: None.

PUBLIC COMMENT:

Vonnie Moore – 2713 – 43rd St. NW. Ms. Moore, representing the Quail Park Homeowners, requested a safe pedestrian link along Point Fosdick from the library to their neighborhood. She explained that they had submitted a petition to council back in

2007 and were told the improvements were tentatively approved. In addition, in 2012 Councilmember Payne sent an e-mail to Sam Goodwill personally promising that this would be taken care of. She cited increased traffic, narrow shoulders, and lack of a sidewalk for the dangerous conditions that cause many near accidents. She submitted a new petition and urged council to take action.

Councilmember Young explained that the collapse of the economy was an unforeseen event, and that last year, the city thought it was successful in obtaining grant funding to complete the improvements, but the legislature robbed the account. He asked the neighbors to stay tuned during the 2014 Budget process, saying the city would have to pay for the improvements.

Sam Goodwill – 2805 41st Street NW. Mr. Goodwill voiced appreciation for the update. He also talked about the growth that has led to an increase in traffic making it so dangerous to walk. He stressed that Point Fosdick traffic is an issue of public safety and concern, emphasizing that it is time for the city to invest in street lights, sidewalks and other pedestrian improvements on the Westside.

MAYOR’S REPORT / COUNCIL COMMENTS:

Councilmember Perrow complimented Karen Scott for the great job she did with this year’s concert series. He said that she was open to suggestions, very accommodating, and easy to work with.

Councilmember Young reported that the trolley ridership has expectedly declined this week now that school has started. He said that the Pierce Transit Board was pleased with the results of the trolley project and the fact that the merchants want to continue with the service. He talked about fare-box recovery and said he was told that the current projections are at \$3886.00. Now, he stressed, is the time to talk about appropriate fares and fare subsidies.

Councilmember Young then reported on future cuts to the Pierce Transit service now that the sales tax has come back down. His final report was an update on the AWC Legislative Committee meeting two weeks ago.

Councilmember Malich gave a report on the latest Flood Zone District meeting. He then asked about the lack of microphones in the council chambers. Clerk Towslee said that some may have been removed between the time she set up and this evening. She also explained that when the audio system was redone, several microphones were eliminated to prevent feedback.

Councilmember Perrow gave an overview of the Intergovernmental Affairs Committee meeting this afternoon where they prioritized action on the Frontage Road (not a priority), the Harbor Hill Connector, the 302 Corridor Study, and tolls.

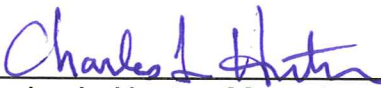
ANNOUNCEMENT OF OTHER MEETINGS:

1. Lodging Tax Advisory Committee: Thu. Sep 12th at 7:30 a.m.
2. Operations Committee: Thu. Sep 19th at 3:00 p.m.

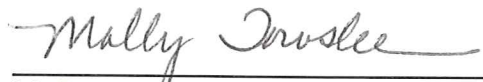
ADJOURN:

MOTION: Move to adjourn at 8:14 p.m.
Perrow/ Young – unanimously approved.

CD recorder utilized: Tracks 1002 – 1021



Charles L. Hunter, Mayor



Molly Towslee, City Clerk