

MINUTES OF GIG HARBOR CITY COUNCIL MEETING – April 14, 2014

PRESENT: Councilmembers Malich, Arbenz, Ekberg, Perrow, Payne, Kadzik and Mayor Guernsey.

Mayor Guernsey announced that Councilmember Lovrovich is participating in the meeting by telephone.

CALL TO ORDER: 5:30 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of City Council Minutes Mar. 24, 2014.
2. Correspondence / Proclamations: a) Parks Appreciation Day; b) Volunteer Vern Parks Appreciation Day.
3. Liquor License Action: a) Change of LLC: Gourmet Burger Shop; b) Cigar Land Discontinued;
4. Receive and File: a) Minutes of Operations Committee March 20, 2014, b) Minutes of Intergovernmental Affairs Committee Minutes March 24, 2014; c) Finance Committee Minutes March 17, 2014; d) Parks Commission Minutes March 5, 2014; e) Council Worksession Minutes March 24, 2014; f) Lodging Tax Advisory Committee Minutes Apr. 3, 2014; g) Well City Award Announcement.
5. Second Reading of Ordinance No. 1288 – Reducing Number of Members on the Gig Harbor Arts Commission.
6. Rosedale Roadway Improvements – Public Works Closeout Contract Change Order.
7. Resolution No. 957 – Skansie Netshed Surplus Furnishings and Articles.
8. Lift Station 4A – Appraisal Services Contract.
9. Eddon Boat Heritage Grant Contract with the State of Washington.
10. Eddon Boat Park Residence – Consultant Services Contract.
11. Ancich Waterfront Park Habitat Assessment – Consultant Services Contract.
12. Approval of Payment of Bills Apr 14, 2014: Checks #75092 through #75260 in the amount of \$974,606.69.
13. Approval of Payroll for the month of March: Checks #7242 through #7256 and direct deposits in the amount of \$358,359.09.

MOTION: Move to adopt the Consent Agenda as presented.
Ekberg / Kadzik - unanimously approved.

PRESENTATIONS:

1. Parks Appreciation Day Proclamation. Parks Commissioner Sara McDaniel was presented with the signed proclamation in recognition of the event.
2. Volunteer Vern Parks Appreciation Day Proclamation. Mayor Guernsey asked Betty and Mark Young to come forward and accept the proclamation in recognition of

their husband and father, Vernon Young. Mr. Young said thank you, and added that his father wouldn't have been able to perform all his volunteer work without the support of so many others.

OLD BUSINESS:

1. Second Reading of Ordinance No. 1289 – Budget Amendment to add Economic Development Manager Position. Mayor Guernsey explained that there was a correction to the agenda bill and ordinance in terms of the proposed amount of \$110,000, reducing the amount to \$70,686.00. She said that a motion will be made by Councilmember Lovrovich to make the correction. She then read a prepared statement regarding the need for this position, and the melding of this and the City Administrator position in 2015.

MOTION: Move to approve the Economic Development position, with a budget amendment of \$70,686.00.
Lovrovich / Kadzik -

Councilmembers asked for clarification on the salary range. Mayor Guernsey explained that the starting monthly salary will be \$6,310, plus benefits.

Councilmember Ekberg commented that it would have been helpful to understand this as a transitional position since the Mayor has decided not to renew Mr. Richards' employment contract as is her prerogative, and because the City Administrator position will now have economic development duties. In light of this direction, it could be beneficial to have someone who has been on staff ready to take over.

Councilmember Kadzik agreed, and then stated that he couldn't be happier with the performance of the current City Administrator. He said that the Mayor has the prerogative to choose; it is part of doing business as a city. With that in mind, this particular way does work to keep the city running smoothly through the transition at the end of the year rather than starting with someone new.

Councilmember Perrow said that when Mr. Richards arrived he had one day with Rob Karlinsey to transition and a lot was lost in the process. He said that there is a great deal of benefit to have the overlap. Seven months may not be necessary for the City Administrator function, but with the economic development issues, we will see the benefit.

Councilmember Payne stressed the need for clear performance measures for what will be achieved in an economic development standpoint during these next six months. He added that emphasis on economic development has been needed since the downturn, and as a bedroom community for Tacoma and Seattle our economy is retail, which is a recipe for disaster. We need to have an economy with good paying, solid, family-wage jobs, and he expects this position will work with the Tacoma Pierce County Economic Council and others to emphasize Gig Harbor. He said he looks forward to seeing how we measure that as well as the combined duties in 2015.

RESTATED MOTION: Move to approve the Economic Development position, with a budget amendment of \$70,686.00.

Lovrovich / Kadzik – six voted in favor. Councilmember Malich voted no.

NEW BUSINESS:

1. First Reading of Ordinance – Changing the Name of the Operations & Public Projects Committee to Public Works Committee. Public Works Director Jeff Langhelm presented a brief history of the Operations and Public Projects Committee. He explained that the Public Works Department was re-established in 2008 and so to better reflect the policies and matters discussed by this committee, they are requesting the name be changed to Public Works Committee. This will come back for a second reading on the Consent Agenda.

2. First Reading of Ordinance – Incorporate Provisions of State Law Regarding Cyberstalking. On behalf of the City Prosecutor, Court Administrator Stacy Colberg presented this ordinance that will incorporate additional provisions of state law relating to cyberstalking due to an increase in the use of the internet, e-mail, and other electronic forms of communication with malicious or threatening behaviors. She answered Council questions. This will return on the Consent Agenda for second reading.

3. Well No. 4 Rehabilitation Project – Small Public Works and Consultant Services Contract Award. Public Works Director Jeff Langhelm introduced two contracts that will help repair Well No. 4; shut down since July 2013 due to sand infiltration in the pump. One contract will provide for an investigation into why the infiltration occurred, clearing the well of debris, rehabilitation of the well based upon the findings, and a final video inspection of the repair. When this is completed, there will be a new pump and assembly installed. This project was not budgeted for 2014, but there are sufficient funds in the water operating department to complete the repairs, he said. He answered Council questions.

MOTION: Move to 1) authorize the Mayor to execute a Small Public Works Contract with Holt Services, Inc., in an amount not to exceed \$53,653.25 for the award of the Well No. 4 Rehabilitation Project and authorize the Public Works Director to approve additional expenditures up to \$2,000 to cover any cost increases that may result from contract change orders; and 2) authorize the Mayor to execute a Consultant Services Contract with Robinson Noble for construction assistance related to the Well No. 4 Rehabilitation Project in an amount not to exceed \$6,300.

Malich / Payne – unanimously approved.

4. First Reading and Adoption of Ordinance – Six-month Moratorium on Marijuana Related Uses. Senior Planner Lindsey Sehmel explained that this ordinance established an immediate six-month moratorium on acceptance of all business licenses and applications for marijuana related uses. This ordinance also establishes a public

hearing on June 9th. She said that there is a need for clarification of non-traditional school sites, and staff has been in discussions with the Office of the Superintendent of Public Instruction and the Washington State Liquor Control Board regarding the gray area of what is considered a non-traditional school in relation to the development of the recreational retail market for marijuana. The Liquor Control Board will hold the lottery for licenses next week and so the moratorium will allow staff to address amendments to 17.63 and buffering for non-traditional school sites. The ordinance outlines a work program to have the amendments back before council mid-summer, she continued to explain, and offered to answer questions.

MOTION: Move to approve an emergency moratorium on marijuana-related uses.

Payne / Perrow –

Councilmember Payne asked about what would happen if the city isn't satisfied with the state process, and if there is a possibility of extending this to a one-year moratorium. City Attorney Summerfield explained that Council has the ability to adopt a six-month or a one-year moratorium as long as you have a work plan in place that outlines the progressive steps the city will take towards adoption of permanent regulations. Because this has been a moving target and difficult to keep up with, if something happens within the next six months that necessitates the need for additional time to work on permanent regulations, the city can adopt an extension in six-month increments as long as you have a work plan in place.

Councilmember Perrow said that he and Councilmember Payne have been working in this, and when they discovered that all schools would not be included in the 1000 foot buffering provisions clearly stated in 8.6 of Initiative 502, they were quite concerned. He looked into this further and discovered that both Tacoma and University Place Transition School programs are protected with 1000 foot buffers, but Gig Harbor's is not. He said that the city isn't taking this lightly because the citizens voted in favor of the initiative, but one of the tenants is the protection of children and other sensitive areas; the map put out by the liquor control board doesn't have all schools listed. This "time-out" seems prudent in order to figure out what's going on. In addition, now that Pierce County is prohibiting retail marijuana facilities, Gig Harbor has gone from 1 store to possibly 12. Even with the 25 foot separation we could become the "island of marijuana sales." Things are moving fast and we can't get a straight answer from the state, he said.

Councilmember Arbenz asked when the city would accept public comment. Ms. Sehmel explained that emergency moratoriums require a public hearing be scheduled within 60 days. This public hearing is being set for the June 9th regular council meeting.

Councilmember Ekberg commented that he doesn't like emergency moratoriums, however in this case the research by Councilmembers Payne and Perrow shows that the state really doesn't have their act together. The fact that we will be having public testimony on this in an expedited timeframe, and because it's only for six months, he said he can support this motion.

Councilmember Payne said he personally voted against Initiative 502, however he voted to move forward with the sale of recreational marijuana in the city because it was the will of the people. In the ensuing months there have been court opinions that established collective gardens as an illegal use, there has been a debacle with the school district and Office of Superintendent of Public Instruction with the identification of schools, and the legislature voted not to share the revenues. The revenue sharing, he said, is quite irritating to him because of the potential for activities related to retail sales. He apologized to prospective business owners, explaining that some of these issues were raised to him in the past several weeks and he assumed that the state was clearly defining schools. With the pending City of Kent case regarding collective gardens, the questions about revenue sharing, and other concerns the state is just not quite ready, he feels it best that a freeze be put on for at least a six-month period to see if the state can get their act together.

Councilmember Arbenz said that the appearance of this being sort of “wish-washy” is problematic for him. We passed allowances for folks to invest in these dispensaries and steps have been taken, so this might feel like we are going in another unpredictable direction. He said it’s unfortunate that the state hasn’t given clear guidelines on this issue. A lot of people in Gig Harbor are concerned about this turning into a marijuana dispensary island in Pierce County and so he thinks we need to be consistent. Right now, the best move is to adopt the moratorium for the short term.

RESTATED MOTION: Move to approve an emergency moratorium on marijuana-related uses.

Payne / Perrow – unanimously approved.

STAFF REPORT:

City Administrator Denny Richards said he wanted to mention that the Washington Municipal Clerk’s Association President’s Award of Distinction had been awarded to Molly Towslee. He also announced that as a result of the hard work of Mary Ann McCool and Shawna Wise, Gig Harbor received the Association of Washington Cities designation of a “Well City” which will result in a 2% (\$36,000) savings in the city’s health insurance premiums.

PUBLIC COMMENT:

Dave Morris – 2809 Harborview Drive. Mr. Morris, a retail space owner in the harbor, said he has been following the marijuana issue and has talked to folks who have invested money and capital in this. As a small business owner he is an advocate for small businesses and was taken by surprise by the moratorium. He knows there have been inquiries regarding retail space around town based on the state and city criteria. Folks have taken some risk and spent money relying on that and so if the whole issue has to do with location and distance from what could be a school, he urged council to exclude other potential areas that do not meet that criteria from the moratorium.

Tedd Weatherby – 12517 101st Avenue Court NW. Mr. Weatherby said it's a week away from the lottery for retail licenses and he signed a lease a month ago and has spent tens of thousands of dollars on this. He voiced concern about hearing about the moratorium a week before the lottery after being led to believe by Council that as long as everything is okay, we are going forward. We have spent years getting this in order and in place, he said. To hear this right now; he is shocked and doesn't know what he is going to do. In terms of the OSPI and Gig Harbor's situation, the reason "it" wasn't declared a school is simply because it is not a school; it is identified on the front page of the Peninsula School District website as "After high school program designed to transition young adults, after high school into the work force." He continued to say that the Office of OSPI is the only state body that can call something a school, and it did not. He said he spent a lot of money and on attorneys to get to the bottom of that point. He also spent a lot of time with Lindsey Sehmel, he continued to say. Peninsula School District said they've always called it a school. The OSPI says the program has been in existence for over 20 years and it's never been designated it as a school, and so he doesn't see a problem with it now. The idea that Gig Harbor is going to be overrun by marijuana retailers doesn't make sense because the zoning is so small, and with the 2500 foot rule, it's impossible to have more than one or two within the entire city. You are going to have one in the Olympic area; there is a tiny dot and only one or two landlords that are willing to do it; and then there is the far end by the Purdy side. The idea of 15-16 outlets is impossible, he said, and his research of Gig Harbor addresses shows there are 16 applicants other than himself and 14 of those addresses are bogus. So those 16 people you expect to flood Gig Harbor don't even have addresses to put a place. He said he is 18 months into this deal and probably \$30-40,000; he has started a build-out on a 2800 square foot property in Soundview Park. Dave Morris is speaking of him because they have been in touch about his parcels and retail space. He said he can't believe this is happening at this late juncture of the game.

MAYOR'S REPORT / COUNCIL COMMENTS:

Councilmember Malich asked if voting by a Councilmember on speaker phone is legal. City Attorney Summerfield responded that it has not been ruled illegal and is done regularly throughout the state.

Councilmember Malich then asked why they have never been afforded to do this in the past. There has been numerous times over the years that councilmembers have been absent and we've never done it before, he said. All of a sudden we are starting it now, and it seems a little unfair because there have been times in the past he would have loved to have voted on some issues. He asked if he can go back and call in a vote after the fact. Ms. Summerfield said no, but suggested that if Council expects to do this on a more regular basis, they should consider adopting a policy to address how it may be used.

Councilmember Payne commented that due to his travel schedule he has inquired about it before and there is no ruling against it. He has been able to avoid most conflicts with his schedule, but the times he has been traveling and hasn't called in it is because

he is with a client or at an evening meeting. He said it has been set up that he would participate by phone previously, and further, he is confident that staff made sure of the legality before having Councilmember Lovrovich participate tonight.

Councilmember Malich then asked if the rule that Councilmembers can't miss three meetings in a row still exists. It was clarified that this is for unexcused absences.

Councilmember Ekberg said it wouldn't hurt to have a policy in place. Staff was asked to draft something for review. Councilmember Kadzik agreed it would be a good idea, but added that when he goes on vacation the last thing he wants is to do is call into a meeting.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Operations Committee: Thu. Apr 17th at 3:00 p.m.
2. Boards and Candidate Review: Mon. Apr 21st at 4:00 p.m.
3. Parks Appreciation Day – Sat. Apr 26th.

Councilmember Ekberg announced that the Operations Committee meeting may change to Wednesday the 16th.

EXECUTIVE SESSION: The Mayor announced an Executive Session to begin at 6:30 p.m. for approximately 20 minutes to discuss pending litigation per RCW 42.30.110(1)(i). No action is anticipated, she said.

AT 6:49 p.m., City Administrator Denny Richards announced an extension of the Executive Session for another 10 minutes.

The Mayor and Council returned to regular session at 7:00 p.m. and adjourned the meeting.

CD recorder utilized: Tracks 1002 – 1018



Steven Ekberg, Mayor Pro tem



Molly Towslee, City Clerk