

CITY OF GIG HARBOR

RESOLUTION NO. 374

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, APPROVING THE LOCAL GOVERNMENT EMPLOYEE WHISTLEBLOWER ACT POLICY, CHAPTER 42.41 OF TITLE 42 RCW: PUBLIC OFFICERS AND AGENCIES.

WHEREAS, revisions to state statute require that the City of Gig Harbor implement a policy designed to encourage the reporting of improper governmental actions taken by City officers and employees and to protect persons who have made such reportings from retaliation; and

WHEREAS, the City Council has reviewed the policy attached hereto as Exhibit 'A' and believes its adoption to be both required by law and in the best interest of the citizens of the City of Gig Harbor;

NOW, THEREFORE, the City Council of the City of Gig Harbor, Washington, hereby **RESOLVE** as follows:

Section 1. The LOCAL GOVERNMENT EMPLOYEE WHISTLEBLOWER ACT CITY OF GIG HARBOR POLICIES AND PROCEDURES attached hereto as Exhibit 'A' is hereby approved and adopted by the City Council.

PASSED this 22nd day of February, 1993.

Gretchen A. Wilbert, Mayor

ATTEST:

Mark E. Hoppen
City Administrator/Clerk

Filed with city clerk: 2/18/93
Passed by city council: 2/22/93

ATTACHMENT 'A'

Reporting Improper Governmental Action and Protecting Employees Against Retaliation

Policy Statement

It is the policy of the City of Gig Harbor (1) to encourage reporting by its employees of improper governmental action taken by City of Gig Harbor officers or employees and (2) to protect City of Gig Harbor employees who have reported improper governmental actions in accordance with the City of Gig Harbor's policies and procedure(s).

Definitions

As used in this policy, the following terms shall have the meanings indicated:

1. "Improper governmental action" means any action by a City of Gig Harbor officer or employee:

- a. That is undertaken in the performance of the officer's or employee's official duties, whether or not the action is within the scope of the employee's employment; and
- b. That (i) is in violation of any federal, state, or local law or rule, (ii) is an abuse of authority, (iii) is of substantial and specific danger to the public health or safety or (iv) is a gross waste of public funds.

"Improper governmental action" does not include personnel actions, including employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of labor agreements or reprimands.

2. "Retaliatory action" means any adverse change in the terms and conditions of a City of Gig Harbor employee's employment.

3. "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.

Procedures for Reporting

City of Gig Harbor employees who become aware of improper governmental actions should raise the issue first with their supervisor. If requested by the supervisor, the employee shall submit a written report to the supervisor, or to some person designated by the supervisor, stating in detail the basis for the employee's belief that an improper governmental action has occurred. Where the employee reasonably believes the improper governmental action involves his or her supervisor, the employee may raise the issue directly with the Administrator or such other person as may be

designated by the Administrator to receive reports of improper governmental action.

In the case of an emergency, where the employee believes that damage to persons or property may result if action is not taken immediately, the employee may report the improper governmental action directly to the appropriate government agency with responsibility for investigating the improper actions.

The supervisor, the Administrator or the Administrator's designee, as the case may be, shall take prompt action to assist the City of Gig Harbor in properly investigating the report of improper governmental action. City of Gig Harbor officers and employees involved in the investigation shall keep the identity of reporting employees confidential to the extent possible under law, unless the employee authorizes the disclosure of his or her identity in writing. After an investigation has been completed, the employee reporting the improper governmental action shall be advised of a summary of the results of the investigation, except that personnel actions taken as a result of the investigation may be kept confidential.

City employees may report information about improper governmental actions directly to the appropriate government agency with responsibility for investigating the action if the employee reasonably believes that an adequate investigation was not undertaken by the city to determine whether an improper governmental action occurred, or that insufficient action has been taken by the city to address the improper governmental action or that for other reasons the improper governmental action is likely to recur.

City employees who fail to make a good-faith attempt to follow the city's procedures in reporting improper governmental action shall not receive the protection provided by the city in these procedures.

Protection Against Retaliatory Actions

City officials and employees are prohibited from taking retaliatory action against a city employee because he or she has in good faith reported an improper governmental action in accordance with these policies and procedures.

Employees who believe that they have been retaliated against for reporting an improper governmental action should advise the City Administrator in writing. The City Administrator shall take appropriate action to investigate and address complaints of retaliation.

If the City Administrator does not satisfactorily resolve an employee's complaint that he or she has been retaliated against in violation of this policy, the employee may obtain protection under this policy and pursuant to state law by providing a written notice to the Mayor that:

- a. Specifies the alleged retaliatory action, and
- b. Specifies the relief requested.

City employees shall provide a copy of their written charge to the City Administrator no later than

thirty (30) days after the occurrence of the alleged retaliatory action. The City Administrator shall respond within thirty (30) days to the charge of retaliatory action.

After receiving either the response of the City Administrator or thirty days after the delivery of the charge to the City Administrator, the employee may request a hearing before a state administrative law judge to establish that a retaliatory action occurred and to obtain appropriate relief provided by law. An employee seeking a hearing should deliver the request for hearing to the Mayor within the earlier of either fifteen (15) days of delivery of the City Administrator's response to the charge of retaliatory action, or forty-five (45) days of delivery of the charge of retaliation to the City Administrator for response.

Upon receipt of request for hearing, the Mayor shall apply within five (5) working days to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge:

Office of Administrative Hearings
P.O. Box 42488, 4224 Sixth S.E.
Rowe Six, Building 1
Lacey, Washington 98504-2488
(206) 459-6353

The City will consider any recommendation provided by the administrative law judge that the retaliator be suspended with or without pay, or dismissed.

Responsibilities

The City Administrator is responsible for implementing the city's policies and procedures (1) for reporting improper governmental action, and (2) for protecting employees against retaliatory actions. This includes ensuring that these policies and procedures (1) are permanently posted where all employees will have reasonable access to them, (2) are made available to any employee upon request, and (3) are provided to all newly-hired employees. Officers, managers and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility. Violations of these policies and procedures may result in appropriate disciplinary actions, up to and including dismissal.

List of Agencies

Following is a list of agencies responsible for enforcing federal, state and local laws and investigating other issues involving improper governmental action. Employees having questions about these agencies or the procedures for reporting improper governmental action are encouraged to contact the City Administrator.

Pierce County Prosecuting Attorney
930 Tacoma Avenue South
Tacoma, WA 98408
(206) 591-7400

Tacoma/Pierce County Health Department
3629 So. 'D' Street
Tacoma, WA 98408
(206) 591-6485

Puget Sound Air Pollution Control Agency
(206) 296-7330

State Attorney General's Office
Fair Practices Division
2000 Bank of California Center
900 Fourth Avenue
Seattle, Washington
(206) 464-6684

State Auditor's Office
Legislative Building
P.O. Box 40021
Olympia, Washington 98504-0021
(206) 753-5280

State Department of Ecology
3190 160th S.E.
Bellevue, Washington 98008-5852
(206) 649-7000

Human Right Commission
402 Evergreen Plaza Building, FJ-41
711 South Capitol Way
Olympia, Washington 98504-2490

Department of Labor & Industries
300 West Harrison, Room 201
Seattle, Washington
(206) 281-5400

Environmental Protection Agency
Criminal Investigations
1200 Sixth Avenue
Seattle, Washington
(206) 553-8306

Equal Employment Opportunity Commission
2815 Second, Suite 500
Seattle, Washington
(206) 553-0968

Department of Labor
Occupational Safety & Health (OSHA)
1111 Third Avenue, Suite 715
Seattle, Washington 98101-3212
(206) 553-5930

Adoption

These policies and procedures were adopted by the City Council of the City of Gig Harbor on February 22, 1993 and are effective immediately.

Gretchen A. Wilbert, Mayor