

Gig Harbor City Council Meeting

**October 13, 2008
5:00 p.m.**



**AMENDED AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
October 13, 2008 - 5:00 p.m. (early start time)**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes: a) Budget Retreat – September 12, 2008; b) City Council Meeting of September 22, 2008.
2. Receive and File: a) Building / Fire Safety Monthly Report. b) GHPD Monthly Report. c) Harborview Judson Workstudy Session September 16, 2008.
3. Council Committee Reports: Finance / Safety Committee September 15, 2008.
4. Correspondence / Proclamations: a) Domestic Violence Prevention Month. b) Work Progress Administration (WPA) 75th Anniversary Celebration.
5. Liquor License Application: Il Lucan.
6. Resolution – Surplus Equipment.
7. Prosecuting Attorney – Contract Renewal.
8. CERB Grant Authorization.
9. Wastewater Facilities Easement and Maintenance Agreements – Kvinsland.
10. Traffic Counts for Intersections – All Traffic Data Services (ATD) Consultant Services Contract.
11. Eddon Boat – Amendment to GeoTech Contract.
12. Crescent Creek Property Acquisition / Pierce County Conservation Futures Grant Agreements.
13. Appointment of Committee: Skansie Brothers Pier Options Feasibility Options.
14. Approval of Payment of Bills for Oct. 13, 2008: Checks #59000 through #59175 (59043 void) in the amount of \$1,334,277.29.
15. Approval of Payroll for the month of September: Checks # 5242 through #5267 and direct deposits in the total amount of \$361,238.40.

PRESENTATIONS: Domestic Violence Month – Pam Dittman, Coordinator, Committee Against Domestic Violence and Paul Nelson, Municipal Court Administrator.

PUBLIC MEETING: Canterwood Annexation Request.

OLD BUSINESS:

1. Second Reading of Ordinance – Prentice Avenue and Sutherland Street Vacation / Gary Stainbrook.
2. Second Reading of Ordinance – Prentice Avenue and Sutherland Street Vacation / Paul Crow.
3. Second Reading of Ordinance – Woodworth Avenue Street Vacation / Mark & Lynn Stonestreet.
4. Second Reading of Ordinance – Harborview Drive Street Vacation / City of Gig Harbor.

NEW BUSINESS:

1. First Reading of Ordinance – Retroactive Marina Fire Protection Requirements.

2. Public Hearing and First Reading of Ordinance – 2008 Comprehensive Plan Amendments.
3. First Reading of Ordinance – LTGO Bond.
4. Resolution – Authorizing an Interfund Loan – Eddon Boat Remediation Project.
5. Harborview / Pioneer Update.

STAFF REPORT:

1. City Attorney Request for Proposals.
2. Wastewater Treatment Plant Update.
3. BB16 Long-term Solutions.
4. Eddon Boat Night Work.
5. Harborview Road Closure.
6. Canterwood Boulevard Construction Schedule.

PUBLIC COMMENT:

MAYOR’S REPORT / COUNCIL COMMENTS:

ANNOUNCEMENT OF OTHER MEETINGS:

1. Community Meeting – WWTP Road Closure: Wed. Oct. 15th at 6:00 p.m.
2. Operations Committee: Oct. 16th at 3:00 p.m.
3. Parks Commission / City Council Joint Workstudy Session – Monday, Oct. 20th at 5:30 p.m.
4. Budget Update Meeting: Monday, Oct. 20th following the Joint Workstudy Session.
5. Budget Worksession: Court, Admin, Finance, Planning, Building/Fire Safety, Police, Tourism – Monday, November 3rd at 6:00 p.m.
6. Budget Worksession: Public Works – Tuesday, November 4th at 6:00 p.m.

EXECUTIVE SESSION: For the purpose of discussing pending and prospective litigation per RCW 42.30.110(1)(i), property acquisition per RCW 42.30.110(1)(b) and Guild Negotiations per RCW 42.30.140(4)(a).

ADJOURN:

Gig Harbor City Council Budget Retreat
September 12, 2008, 8:30 a.m.
Community Room A/B

Call to order: 8:30 a.m.

Members Present: Mayor Hunter, City Councilmembers Malich, Ekberg, Young, Kadzik and Conan. Councilmember Payne came later in the meeting.

Staff Present: Rob Karlinsey, Steve Misiurak, Tom Dolan, Mike Davis, Dick Bower, David Stubchaer, Dave Rodenbach, Laureen Lund, Paul Nelson, Jaci AuClair, Lita Dawn Stanton, Carol Morris and Molly Towslee.

Rob Karlinsey welcomed everyone, and explained that the purpose of this retreat is to identify what the Mayor and Councilmembers wish to accomplish in 2009.

2009 Objectives:

1. Potential Joint Uses for Museum Property. Mayor Hunter presented background information on a proposal by the GHP Historical Society for the city to purchase property adjacent to the new museum site for a future multi-use public facility. Jennifer Kilmer, GHPHS suggested a two-phase approach: the city could secure the property and then the voters could choose to bond for a facility. She said that the Historical Society has a time frame and needs additional funds. Councilmember Young voiced concern due to budget constraints and whether a bond issue would compete with other local bonding issues. After further discussion, Council concurred that this is a window of opportunity and the city should continue to explore options for this site.

2. New police officer position starting July 2009. Chief Davis cited an increase in calls for service, geographical growth, and the safety of the officers to justify the need for an additional officer mid-year.

3. Drug Dog and accompanying supplies & equipment. Chief Davis explained that there is sufficient money in the drug seizure fund to purchase a vehicle for the dog handler. He said that utilizing a drug dog would help with the increase in drug related investigations, would increase identification of drugs during vehicle stops, would be a valuable marketing tool in schools for prevention of drug use, and would send a message of zero tolerance for illegal drug use in the city. He further explained that the expense would be for the officer who acts as handler and there are grant funds that will help defray the cost.

4. Assistant City Administrator Position: Do not fill in 2008 or 2009. Rob Karlinsey said that he would hold off filling this position due to budget constraints, even though he still sees the need for the position due to the amount of strategic issues the city currently faces. He said he was hoping for more Council support

for this position. Councilmember Young encouraged the others to take another look at filling this position because of the large projects. Mayor Hunter agreed, and added that we need someone with strong project management skills to deal with the large amounts spent on consultants. Councilmember Malich asked if another engineer would be a better choice. The response was that more management skills were needed rather than engineering skills to usher the projects through.

5. Parks Capital Projects Management (a former function of the eliminated Dir. of Operations position): Absorb into current structure; by the end of October, evaluate whether to upgrade a position (or positions) that fill the void. Rob Karlinsey said because this was going to be one of the functions of an Assistant City Administrator, we have to figure out who will manage this program. He said he is evaluating upgrading an existing position and to stay tuned.

6. Human Resources Projects such as the personnel policies re-write. Rob said that there is so much more that needs to be done in the HR area and it would be helpful to have an HR Manager, which is another function that would have fallen to the Assistant City Administrator. One of the projects is the redoing of the personnel policies. He proposed using AWC model policies and melding it with the city's existing policies. He said this is half-way done, but will carry over to 2009.

7. Health Insurance Plan: Analysis of options and transition plan. The city currently has an expensive plan which will be phased out soon. Rob Karlinsey said he would like to hire a consultant to help guide an employee committee through the transition. Councilmember Ekberg asked about doing an RFP for brokers rather than hiring a consultant. Discussion followed on possible options. David Rodenbach said that a consultant could help to interpret the data and help to design a plan for the city. He responded to questions about the cost of our current program.

8. Art Capital Fund Contribution from General Fund: \$0 proposed in 2009. Mayor Hunter proposed zero contributions to this fund in 2009 because there is \$135,000 with no expenditures over the past years. Councilmember Ekberg explained that the philosophy of adding small amounts on a long-term basis and allowing it to accumulate for a large project. Lita Dawn Stanton commented that the Arts Commission has recommended smaller projects; showing a difference in philosophy. Rob suggested suspending the contribution in 2009 due to budget restraints. After further discussion, it was decided to keep \$10-15,000 in the 2009 budget for this fund.

9. Forever Green trail contribution. Rob Karlinsey said that this is a new proposal. After discussion it was determined that the city is doing its part with participation with the Cushman Trail. Councilmember Young recommended assigning the city's state lobbyist to keep the Cushman Trail on the radar.

10. Harbor Wild Watch contribution. Councilmember Kadzik said that this is a highly visible project and \$2000 is a modest request. It was agreed to keep this in the budget. Carol Morris said a contract would be required.

11. View Basin Subarea Plan. Tom Dolan talked about this and the Shoreline Master Program Update (number 13 below) explaining that \$175,000 was budgeted to hire a consultant for both projects and only \$86,000 has been used. Some of the work has been done but the projects won't be completed until 2009. He said that an additional \$73,000 is required to complete the work and tie the plans together. Councilmember Young voiced his preference to have no more studies done in the downtown area. The total funding for both projects: \$209,000.

12. City/County Coordination of Cross-Boundary Impacts. Tom Dolan reported that recently Pierce County appealed a Determination of Non-significance and to address these issues in the future, we need to work more closely with the county, which he has begun to do. Carol Morris said that the cleanest way to address this is to re-negotiate an Interlocal to collect impact fees.

13. Shoreline Master Program Update. Tom Dolan explained that a consultant has been hired and we are in the process of forming a stakeholders committee and will begin community forum meetings soon. The consultants have started an inventory characterization study and are waiting for comments from DOE. The master program draft should be completed in November 2009, and the final done in mid-2010. He said because the city is not a required "early-adopter" there are no state funds available yet.

14. Building/Fire Safety Master Plan. Dick Bower reported that a Building/Fire Safety Master Plan will help the department identify and address constraints during the permitting phase. He said they are holding stakeholder meetings and doing straw polls to find out to obtain information on what services they would like to see and how the department is interacting to better plan for the future. This should also help to plan for safety strategies for the community. This plan is being done in-house.

Rob Karlinsey followed up the emergency management conversation by proposing to not budget for \$15,000 for emergency trailers and supplies for staff and first responders because Pierce County has them. After further discussion of what might happen during an event, council requested that this be left in if plausible. There was continued discussion on possible ways of providing potable water during an event.

15. Parks, Recreation, & Open Space Plan. David Stubchaer discussed the outreach effort to obtain public input from the community. He said that the

consultant is looking at not just the city's parks, but others in the community to coordinate amenities. No other money is being requested in 2009.

16. Gig Harbor North Visioning. Tom Dolan said this in an effort to meet with property owners in the Gig Harbor North area to find out what the city is looking for in that area including park property.

17. Green Building/LEEDS and Low Impact Development. Dick Bower said the department continues to look at opportunities to provide incentives for green building, LEEDS and low impact development without it becoming regulatory. This seems to be working in other communities. He gave a brief overview of the LEEDS program; which is very comprehensive and expensive and low impact development.

18. Cottage Housing. Tom Dolan said this is something that Councilmembers Kadzik and Payne have voiced a desire to explore further. There is no budget impact, but it will take some additional staff time to look into in 2009.

Councilmember Kadzik offered to form a team with Councilmember Payne and other interested parties to come up with suggestions to offer to the Planning Commission. Carol Morris said that she has begun working on this, adding that there is tons of information and research on this subject. She offered to share her file. There was further discussion on models in Seattle and the ability to develop this type of housing in a way that looks like it belongs.

19. Floor Area Ratios. Tom said that there is no budget impact for this either, just additional staff time to look into this in 2009. He said that is one of the items being brought to the Planning and Building Committee to assign to the Planning Commission next year. Councilmember Young pointed out that the Planning Commission has already made a recommendation, but it was never voted upon and suggested that this be resurrected. Councilmember Malich voiced concern with the different standards for impervious coverage for single family residential.

20. GMA Population Allocations: Seek for GMA Amendment? Rob Karlinsey asked for clarification on this issue that came up during the Council Retreat about seeking more flexibility in our density allocations. Carol Morris said we could do transferrable density credits by adopting an ordinance that says the downtown area is the "sending area" and density could be sent to another area.

Councilmember Kadzik said he thought what this was about is the state telling us what our population allocation in 2032 is going to be when we should be deciding this. Councilmember Young agreed but said there is little chance that this could be changed. After discussion, staff was directed not to pursue this further.

21. Implementation of the Downtown Business Plan. Rob talked about this and the next item together. He said that there is an economic element in the

Comprehensive Plan with a strategy would take this one step further. He said due to the staff reduction he doubts he will be able to get to this in 2009.

22. Economic Development Strategy: Work on this as time allows. Discussed above.

23. Street Vacations One-Time Blanket Waiver for Non-User Statute (mostly on Artina Plat). David Stubchaer said that we have been vacating portions of the streets affected by the non-users statute on a case-by-case basis. He proposed going through the remaining properties to identify any issues and then doing a one-time blanket vacation for those without any.

24. National Maritime Heritage Area. Lita Dawn Stanton gave an overview of this effort to put Puget Sound on the HMHA Map. This will have ties to economic development and heritage tourism that may allow federal funding to come to this area. Consultants have been hired by the Department of Archeology for a year and a half project.

25. Pierce County Public Benefit Rating System: Support and track County Council decision to implement. Lita Dawn said that Tacoma is taking the lead on this project to amending the rating of historical landmarks and archeological sites from a low to medium which will allow tax benefits to landmark structures. Councilmember Young asked how the city would have control over the assessment. Ms. Stanton responded that the city's participation is through the historic registry program and whether or not a property is certified historic.

Councilmember Young voiced concern that this supports potential tax breaks for wealthy property owners if there is no insurance that they would pay the higher tax if they develop the property in the future. Lita Dawn said that the figures don't support this happening in other communities where this is in place and said she would share the figures from King County. She was asked to find out whether or not there is a provision for property owners who develop their property to a higher use after taking advantage of the tax break.

26. Historic District Boundaries and Architecture. Lita Dawn Stanton said that a presentation on the Millville Inventory is scheduled in October and Council will see the results of the study. This study affects the ability to quantify what is historic in the downtown area which will lend support to the Sub-Area Plan and updates to the Design Review Manual. She added that all of her projects were paid for by grant funds.

27. Sidewalk/Trails Inventory & Connections: Incorporate into PROS Plan. Rob mentioned that a sidewalk, trails and connections inventory is going to be included in the Parks, Recreation and Open Space Plan.

28. State and Federal Earmarks, and State Legislative Lobbying. Rob proposed continuing these efforts at the state and federal level at the same amount on the federal side at \$75,000, but increasing the state lobbying contract to \$35,000. He listed several upcoming projects such as the WWTP Expansion that the city is going to ask for funding, as well as the need to monitor the litigation on sales tax equalization, extending the CERB Grant, legislation on shoreline moratoria and regulating development when city utilities are being extended outside the UGA. He said that the increase is money well spent.

29. Mainstreet Contribution. Rob Karlinsey said that representatives from this organization are coming to meet with the Finance Committee to request a \$35,000 contribution from the city in 2009. He suggested that \$9,500 of that amount be in-kind support: \$6,500 for the VCI facility and \$3,000 for advertising for a total check of \$25,500. This needs to be proposed to the LTAC Committee for approval.

Councilmember Malich asked if this was going to be a perpetual contribution. Councilmember Kadzik responded that funding is necessary for the success of the program and in order to participate in the National Mainstreet Program 1/3 of the organization's funding is recommended to come from public agency.

Councilmember Payne voiced support for the contribution to the organization, say that that the information gathered on parking by the organization was valuable data that shows we don't necessarily need to go out and lease property for a parking lot. Councilmember Young added that the business inventory is another project that they are performing that has great value and said that the group's progress far exceeds what he expected. Councilmember Kadzik responded that the group has no problem coming back each year to request funding.

30. Community Survey: Implement strategy to improve on what we learned. Rob Karlinsey said that he would compile the highlights of this survey and bring it to Council. He added that he is happy with some of the results and hopes to take a couple of months to develop a strategy on how to keep doing well and to improve in the areas that are needed.

31. Nuisance Code. Tom Dolan said staff is working with the Planning / Building Committee to develop an ordinance. When completed the draft will be coming to Council for consideration.

There was discussion on the progress with the junk vehicle complaint on Harborview Drive.

32. City Attorney Request for Proposals. Mayor Hunter recommended that the city send out a Request for Proposals for city attorney services. He reasoned that

Council has a duty to review the services periodically; this hasn't been done for at least fifteen years. He read a list of things he would like from a city attorney and suggested a multi-discipline firm that can provide the services required with costs commensurate with what is being provided. He mentioned the proposed contract coming to council at the next meeting saying that according to AWC it is among the highest rates being charged. Councilmember Young interjected that our rates aren't even close.

Councilmember Ekberg asked when the RFP would go out. Mayor Hunter said right away. Rob Karlinsey said that it would be up to council and if they would like to take some time, it is a budget objective for 2009.

Councilmember Young said he is very happy with the current services and stressed that a contract with an outside attorney will cost far more. He said if you want to hire an in-house attorney they won't be independent of staff; something Council has long desired.

Rob Karlinsey disagreed with the statement on costs. He said that the City of Sammamish contracts for \$150,000 a year with another \$100,000 for litigation. They pay about \$12,000 a month flat fee.

Councilmember Conan said that we hear that what we have is a great deal but without going out to look we have nothing to compare it to. An RFP would allow us to know.

Mayor Hunter referred to the statistics from other Washington Cities cited in the AWC Salary Survey. He said that these cities are getting a blended rate because you don't need a specialized attorney to write a contract.

Councilmember Kadzik said that until we do an RFP this is all speculation. He said an RFP isn't a bad idea and Councilmember Conan added that it is prudent to find out.

Councilmember Young stressed that other cities aren't spending near the time in planning, litigation or land use services. Councilmember Conan said that this is why you build that into the RFP so that you can compare apples to apples.

Councilmember Ekberg agreed that it doesn't hurt to put out an RFP adding that he is personally very satisfied with the legal service we have been getting. He said that a Request for Proposals has to outline legal experience. From a budget standpoint, this is something that can happen in 2009.

Carol Morris suggested that you need to look at how much these other cities have paid out in judgments and settlements, and then ask David Rodenbach how much this city has paid out in the last fifteen years, especially when you are comparing Sammamish.

Rob Karlinsey said that City Councils have different policies and preferences and some are willing to take different risks. He said that you can't blame all losses or gains on the attorney.

Ms. Morris suggested you take a look at the types of cases these attorneys had and the fact that in fifteen years she has lost only two cases. Gig Harbor has paid out only \$6000 in settlements. Mayor Hunter cited two cases in the past two years; Madison Shores and North Creek.

After discussing the difference between a Request for Qualifications and a Request for Proposals, it was agreed to move forward with a RFP. Councilmember Malich suggested also requesting their settlements to which Carol stressed that they aren't going to tell you that.

Councilmember Young said that AWC could give us all the times other cities called for help Carol was called in to save them.

Rob Karlinsey said that he thinks it's important to know that the Mayor and City Administrator are not satisfied with the current city attorney, and with the exception of Laureen, who doesn't work very much with the attorney and doesn't have a strong opinion either way, all of his department heads are dissatisfied.

He then asked to move to 2010 Objectives and said he was going to briefly discuss each item that is going to be pushed out to 2010, and if Council has comments to let him know.

2010 Objectives:

1. Affordable Housing Study and Policy Recommendations: Complete inventory; delay strategy until 2010.
2. Permitting in the UGA.
3. City/County Impact Fee Sharing.
4. Boys & Girls Club Agreement: First contribution in early 2010.
5. Senior Center Study.
Councilmember Young suggested taking this off. He asked the point of doing a study if we don't have the funds. This implies we are going to build one. Councilmembers discussed this in detail and it was decided to keep it on the radar.
6. Unsewered Areas Strategy: Postpone until 2010 or beyond.
7. PenMet/City Tax Overlap: Postpone until 2010 or 2011.
8. Waterfront Millville Office Use: Proponent has agreed to postpone until 2010.
9. Electric Utility Undergrounding LID.

There was discussion on undergrounding during upcoming improvement projects and what has been agreed to in the past. Councilmember Kadzik said there should be some way to preserve “institutional knowledge” to track informal agreements and to alert staff when they should be implemented. Clerk Towslee suggested that whenever an agreement is made, it should be formalized by resolution.

10. Annexation Sequencing Strategy.

Tom Dolan gave an update on the Canterwood Annexation application.

Rob then moved to the 2009 Capital Projects. He said he will prepare a point by point list of the difference in the list below and the presentation to Council three weeks ago. He asked Councilmembers to look it over and let him know if anything is missing or that you would like to do differently.

2009 Street Capital Projects:

1. Pt. Fosdick Sidewalk Gap and Misc. Sidewalk Gaps: \$160,000.
2. Road Rehabilitation: \$100,000.
3. BB16 Interim Improvements: \$8.2 million.
4. BB16 Long Term Solution: \$250,000.
5. 50th Street Extension (the remainder): \$650,000 plus funds in Storm Capital for the culvert.
6. Donkey Creek Daylighting: \$950,000 (funded via federal earmark).
7. Judson/Harborview: \$1.25 million.
8. 38th Street Design: \$100,000.

Councilmember Young said the original contract was for \$348,000 which the city would have to use debt for the design. He asked if we could move ahead with the just the geotech studies and surveys to get a better idea of the total cost of the project. Rob responded that this budgeted amount could be split \$50,000 this year and \$50,000 next year to do these things and to be able bring a concept to the public in 2009. Councilmembers discussed the importance of this project and the huge project cost.

Mayor Hunter addressed the replacement of the subgrade, stressing that you have to weigh the life of a road verses the cost.

Councilmember Ekberg mentioned that you have to take grant funding guidelines into consideration. David Stubchaer said that the guidelines would be considered in addition to several other considerations.

9. Downtown Parking: \$35,000.

2009 Parks Capital Improvements:

1. Eddon Park Boat Building Restoration: \$869,522 (fully funded with state grant).
2. Eddon Park Dock and Marine Railway: \$776,000 (\$243k funded with state grant).
3. Austin Estuary: \$5,000.
4. Maritime Pier lease and tenant Improvements: \$50,000.

2009 Sewer Capital Improvements:

1. WWTP Phase I Expansion: \$15 million.
2. Marine Outfall Extension: \$6.5 million
3. Harborview Sewer Main Upgrades: \$1.1 million
4. Lift Station Upgrades: \$250,000
5. Phase II Expansion Design: \$110,000

2009 Water Capital Improvements:

1. Crescent Creek Well: \$200,000
2. GHN Well: \$110,000 (permitting & design)
3. Water Rights Advocate: \$40,000
4. Reid & Hollycroft Intertie: \$25,000
5. Stinson Water Main Replacement: \$201,000
6. Harborview Water Main Replacement: \$950,000

2009 Stormwater Capital Improvements:

1. 50th Street Culvert: \$275,000
2. Misc. Culvert Improvements: \$20,000

Rob asked Council to get back to him with any comments on the schedule of Capital Improvements. He then moved on to the most current proposal for debt funding options. He said staff is proposing a 4.4 million Councilmanic bond with average annual debt service of \$540,000 per year for ten years.

David Rodenbach explained that the ordinance adopting the bond in will be before council in October. He said that due to several large projects already started; this bond would need to be adopted in order to balance the 2008 budget.

Councilmember Young asked how much of the 4.4 million in debt is for 2008. David responded that approximately 2.25 million is for 2008. Rob clarified that in the Capital Improvements Plans, the 2008 / 2009 debt issuance amount is shown together but they do have the amounts broken out. He further explained that the

total debt amount hasn't changed much and the actual annual debt service is lower than projected. He said that they wanted REET to pay all the debt service but it is coming in lower than anticipated and so a supplement is needed to pay the debt service.

Laureen Lund gave a brief update on the city's new webpage. She said a hard copy would be forwarded in a couple of weeks. She said a photographer will be coming to the Civic Center to take new photos for Council and Department Heads.

Mayor Hunter addressed the information that came from former Mayor Gretchen Wilbert for consideration of funding a Senior Center. There were no comments.

Rob Karlinsey thanked everyone Councilmembers for taking their time to come. He said things are going well with staff saying that we have a great management team that is always in continuous improvement mode. He said that in general he is pleased with his co-workers and then voiced his appreciation for a City Council that is supportive and reasonable to work with.

Councilmember Kadzik pointed out to the reporter in the room that even though the revenues are down, the city is not "broke." Staff offered to meet with the reporter to further discuss the differences in the budget.

Councilmember Malich asked for better Council computers. Councilmember Conan said he would support this request is Councilmembers actually used them. He said he was going to turn his back in and suggested that before new laptops are purchased that the IT Manager poll the Councilmembers to see who utilizes the city-owned equipment.

The meeting adjourned at 11:50 a.m.

Respectfully Submitted:

Molly Towslee, City Clerk

GIG HARBOR CITY COUNCIL MEETING OF SEPTEMBER 22, 2008

PRESENT: Councilmembers Ekberg, Young, Franich, Conan, Malich, Kadzik, Payne and Mayor Hunter.

CALL TO ORDER: 6:02 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of September 8, 2008.
2. Council Committee Reports: Receive and File: a) Minutes of Harborview Judson Improvement Project Update Sept. 8, 2008; b) Minutes of BB16 Level II Update Workstudy Session Sept. 8, 2008; c) GHPD Monthly Report. d) Prepayment of Utility Services Memo.
3. Liquor License Renewals: Fred Meyers; Gig Harbor 76; Harvester; QFC 864; QFC 886; Galaxy Uptown.
4. Harborview Drive Water Main Replacement Project – Construction Contract Award and Materials Testing Contract Authorization.
5. Appointment of Salary Commission.
6. Onshore Outfall Project – Change Order No. 2.
7. Wagner Way/Wollochet Drive Traffic Signal – Consultant Services Contract Amendment.
8. Canterwood Annexation Consultant Services Contract.
9. Phase I Environmental Assessment - 50th Street Court NW Property- Consultant Service Contract.
10. Harborview / Judson Street Improvement Project – Phase I Design and Scope of Work.
11. WWTP Expansion Project Consultant Services Contracts and Amendment to Contracts.
12. Sanitary Sewer and Stormwater Facilities Easement and Maintenance Agreements for Harborstone Credit Union/Northwood Buildings A & B.
13. Prosecuting Attorney - Contract Renewal.
14. Approval of Payment of Bills for Sep. 22, 2008: Checks #58833 through #58999 in the amount of \$1,480,479.98.

Councilmember Payne asked that item number 5 be moved to new business, Councilmember Franich asked that item number 6 be moved to new business and Councilmember Ekberg asked that items number 10 and 13 be moved to new business.

MOTION: Move to adopt the Consent Agenda as amended.
Malich / Conan – unanimously approved.

PRESENTATIONS:

1. Boys and Girls Club.

Rick Guild, 10703 Seaview Drive, Anderson Island. Mr. Guild, President and CEO Boys and Girls Club of the South Puget Sound, discussed their dedication to developing honest and trustworthy partnerships with local organizations and agencies through providing quality facilities and services for children, teens, families and seniors in the community. He asked the City Council to reconsider the financial investment of \$750,000 for the operation and maintenance for the Jim and Carol Milgard Family Hope Center, adding that they are willing to discuss any long-term structure of this investment. He introduced speakers, Brad Cheney from the One Campaign, Jim Milgard, Co-chair of the Gig Harbor Campaign Committee, Marty Paul, Gig Harbor Campaign Committee, and Pierce County Councilmember Terry Lee.

Brad Cheney – 4210 Horsehead Bay Drive. Mr. Cheney explained that he was recruited to lead the campaign to raise \$60 million dollars to bring new community centers to multiple sites in Pierce County. He said he has been a resident of Gig Harbor for 23 years and was pleased that one would be built here. He explained that this is the largest fundraising effort for non-profits in Pierce County; \$12 million was earmarked for the facility in Gig Harbor and today, \$10.6 million has been raised. He said the idea of combining youth and family services has taken off and \$53 million has been raised for these centers already. He said that the promise of partnerships has helped to raise those dollars and the city's decision to reduce its commitment has hurt them financially as well as clouded the campaign effort, adding that the city is the only one who has changed their commitment to the campaign. He talked about his personal and family pledge to the Gig Harbor campaign saying it would be unthinkable for him to change that pledge in spite of hard times. He asked the city to reconsider their original pledge of \$750,000.

James Allen Milgard – 9801 Allen Point Road. Mr. Milgard described his long-time standing in the community, explaining that Gig Harbor is his back yard and in his heart. He said that the Hope Center under construction is a vital addition to the community, and when he heard that the City of Gig Harbor was willing to put up \$750,000 his wife and he made a commitment of \$3 million to make it work. He talked about the other contributions they have made in the community and said that the reduction in the city's commitment has shed a light, and he said he's not so sure of what he wants to do in the future here. He said that this hurts. He asked how many Councilmembers have visited the Hope Center in Lakewood and stressed that this is not just a Boys & Girls Club; it is a center that encompasses senior citizens. He offered to take the other Councilmembers to visit during the morning so they can see the impact this facility has on the community; and hopefully the council will reconsider their commitment.

Marty Paul – 3226 Horsehead Bay Drive. Mr. Paul described his background in the community and asked the city to reconsider withdrawing the previously pledged \$750,000. He explained that as leaders of the city, you have to consider how to

maximize investments as well as future returns, saying he feels this is a budget issue and not a lack of desire to support the future. He read a section from the city's Parks, Recreation and Open Space Plan which encourages the development of multiple use indoor community centers and also states that "the city should cooperate with public and private agencies to avoid duplication, improve the quality and availability of facilities to reduce costs and represent resident areas interests through joint efforts." He said that the backlash from the withdrawal of support is immeasurable and like the others who spoke; his family has made its largest donation to the Boys & Girls Club because it serves such a diverse group. He said the Council has a choice as leaders to fulfill its commitment even if it requires renegotiating. He continued to say that he read in the Gateway that part of the reconsideration for the funding level is that this facility couldn't meet the needs of the seniors or that a better facility could be built in a different location. He encouraged Councilmembers to visit the Lakewood facility to see its capabilities, adding that you couldn't replicate the services for \$500,000. He said he respects and cherishes Gig Harbor's past, he is motivated to improve the present, but is concerned that we are inadequately planning for the future.

County Councilmember Terry Lee. Councilmember Lee explained that when he was first elected, there was a theme of partnership in Pierce County. He listed several projects that have been accomplished that benefit not only those who live in the city but those who live in the unincorporated area but use city services.

- Domestic Violence Kiosk and Virtual Law Library
- Synthetic Athletic Field Overlays and Lighting at both High Schools
- Scofield Property Acquisition
- YMCA
- Contribution of Land for Boys & Girls Club and Budgeting for a Senior Center Component
- Cushman Trail Phase II
- Townaround Bus Discussions
- Narrows Airport

Councilmember Lee stressed that we have done great things together and there is more to do. He asked the city to reconsider their support to the Boys & Girls Club.

Donna Streb – 3702 Hunt Street Space 63. Ms. Streb said several people have donated for a Senior Center space at the Boys & Girls Club but they haven't heard anything more and she wonders if the money is drawing interest. She then talked about how Seniors suffer from depression and loneliness which could be addressed with a Senior Center. She said she was disturbed about this and so she read a poem that she had written about loneliness.

Councilmember Payne said he is aware of the issues that seniors face. He shared that that the issue the council faces isn't a question of supporting a Boys & Girls Club, which is illustrated by the quarter million contribution the city is making. He explained that he struggles to understand the meaning of the commitment made by a previous council and said that he is more than willing to meet with the leaders of the Boys & Girls Club to

discuss options. He talked about the tremendous budget pressures the city is facing with relatively few taxpayers. He again voiced concern for this city and its monetary obligations.

Councilmember Young encouraged other Councilmembers to take Mr. Milgard's offer and visit the Lakewood Hope Center to see that it is much more than a Boys & Girls Club. He agreed with Councilmember Lee on partnering and thanked him for his support over the past six years.

Councilmember Franich asked for clarification for what benefits the Seniors would get and if there were any assurances.

Mr. Guild responded that there will be 1500 square feet of dedicated space for the Senior Center which includes a game room area, office space, private office for health care, and a bistro/kitchen area. These are located adjacent to two meeting rooms which the Seniors can use. As primary tenants they would have first rights to use the tech center, the performing arts room, the cultural arts area, the 8500 square foot gymnasium and another game room. The program hasn't been totally established but once they get to a certain point in construction a variety of programs and services will be considered. He assumed that whoever becomes the provider will be organizing outings and field trips, adding that Subaru is donating a van to be used for transportation to transport not only Seniors, but kids from Key Peninsula. Mr. Guild then said they are committed to keep the Senior Center in the footprint and to operate a program for the life of the facility. The issue of who will be providing the services isn't finalized; they are considering pitching it to the Board of Directors that the Boys & Girls Club becomes the provider. They should know the first quarter of 2009.

Councilmember Conan asked for clarification of when the Seniors would have access to the rest of the facility. Mr. Guild said they have the ability to use the amenities up to 2:30 – 3:00. Out of school time, the Boys & Girls Club has priority. He thanked Council for their consideration.

2. Skansie Brothers Park Ad-Hoc Committee Recommendations.

John Moist – 3323 Harborview Drive. Mr. Moist explained that the eight-member committee looked at many of the same issues that the 2003 Ad Hoc Committee considered to be of vital importance to the best overall interest of the park. He described their mission to preserve the historic nature of the site while encouraging community use and to re-establish the park as a portal between the water and the land. Mr. Moist said the Ad Hoc Committee was visionary as opposed to feasibility driven; they didn't have time to explore costs and permitting requirements. He talked about the public participation that assisted in the development of the recommendations. Using a PowerPoint Presentation, he described each recommendation for consideration:

1. Landscaping and Vegetation – strongly recommended removing the hedge along the sidewalk. The clutter of dumpsters and newspaper boxes at the north end of the park should be addressed by the Harborview Beautification Consultants.

2. Restroom, Shower and Laundry Facility – expand restrooms to include shower and laundry facility to keep with other city docks.
3. Life Jacket Program – forward to staff for further consideration and potential funding.
4. Maritime Memorial Walk – relocate the Fisherman’s Memorial Statute to the brick flagpole courtyard and install pavers engraved with fishing family names. The anchor and plaques to be relocated by and at the request of the fishermen.
5. Netshed – preserve by: a) adding to the Historic Registration; b) immediate stabilization; and c) rehabilitate structure and contents for educational purposes.
6. Skansie Brothers House – register as historic site and use for a Visitor’s Center with historic interpretive displays. Maintain interior integrity.
7. Maritime Pier – construct south of the netshed to: a) encourage expansion of human powered watercraft sports; b) facilitate water taxis, tour boats, guide boats and fishing boats; c) improve the park’s ability to host maritime events; d) provide for educational programs; e) enhance opportunities for increased economic sustainability; and f) encourage retention of commercial fishing heritage.
8. Seasonal Floats – investigate adding 640 linear feet of temporary floats to Jerisich Dock on a four-month, seasonal basis to facilitate smaller crafts leaving the main dock for larger yachts and contribute to economic sustainability for the waterfront businesses.
9. Jerisich Dock Extension – investigate adding 70 feet to the end of the dock by updating the cost estimate and permitting requirements for design done by Layton Sell Engineering in 1997. If the city funds the extension it will not be subject to the current commercial use restrictions and could facilitate commercial tour boats, dive excursion boats, and a water taxi.

Mr. Moist explained that the Ad Hoc Committee also recommends that Council appoint a five-person feasibility committee to investigate funding resources, acquisition and permitting for recommendations 7, 8, and 9. They have provided the names of five persons willing to serve and estimate that a full report could be delivered within nine months of approval. In addition, the Ad Hoc Committee is asking for use of the \$20,000 in the 2008 Budget to conduct the feasibility studies and to proceed with an RFP as soon as possible. They asked that a staff member appointed to assist the committee. He then thanked Council on behalf of the Committee and the residents of Gig Harbor.

Mayor Hunter thanked Mr. Moist and the Ad Hoc Committee for their time. He said he would like to make sure that the recommendations to City Council aren’t allowed to stall this time. He asked that Council to appoint a committee of five with a staff member and a Councilmember to do a feasibility study to determine:

- Project costs
- Construction start date
- Permitting
- Funding sources
- Uses
- Historical impacts

- Possible moorage fees

Mayor Hunter recommended taking the following steps as soon as possible:

1. Have an arborist evaluate and suggest ways to clean up some of the overgrown vegetation now and later do the design work for the landscape at the entrance of the park.
2. Move the dumpster behind the restrooms and looking into the feasibility of showers and a laundry facility.
3. Find funding for the life-jacket program.
4. Ask the fishermen to come up with a concept for The Maritime Walk.
5. Add the netshed to the Historic Register and stabilize the netshed now.
6. Add the house to the Historic Register and do a structural analysis to verify the estimated cost to do improvements.
7. Maritime Pier, Temporary Floats and Dock Extension, do the feasibility study and determine how they all work together.

Councilmember Kadzik asked for further clarification on the intent and if the scope of work for the Harborview / Judson project would be expanded to include this. Mayor Hunter said his intent was to use the \$20,000 to assist a five-member committee, a staff person and a Councilmember in the process to accomplish the above objectives. He further explained that the Harborview / Judson Improvement Project isn't something that is going to be done right away and so in the meantime, he wants to move forward to at least get the place trimmed up and looking better. He said that the current scope of work is more hardscape than landscape, adding that the current consultants have their hands full.

Councilmember Kadzik said he would like to see more than just moving dumpsters and trimming hedges. We have people hired for designing that part of town that should be utilized. Mayor Hunter said he has no problem with that.

Councilmember Franich stressed the importance of having someone with a historic preservation point of view for input on any changes there whether it's landscaping or improvements on the water.

Councilmember Young said he liked what the committee recommendations and would love to see the hedge removed to open up the site on the south side. He voiced concern with doing a feasibility study on a maritime pier without knowing if there would be support from the Port of Tacoma and/or the State. Councilmember Payne responded that this is part of the study and if we don't have the funds to match, we can't move forward.

Councilmember Ekberg thanked the committee, commenting that the meetings he checked in with were well-attended by the citizens with good input. He said whether or not he likes the recommendations, he doesn't have enough information to make a decision. He agreed with the Mayor's approach; the feasibility study would encompass

all the aspects of the recommendations. He encouraged Council to move forward with the Mayor's recommendation.

Councilmember Malich concurred. He read the list of recommended committee members: John McMillan, Guy Hoppen, Paul Ancich, John Moist, and Greg Lovrovich. He asked if five is enough. Mayor Hunter responded that a smaller group may be able to accomplish the task faster.

John Moist agreed that it would be a great idea to include a Councilmember. Councilmembers further discussed the composition of the committee and Councilmember Kadzik suggested that Mayor Hunter could come up with his recommendations to be discussed at the next Council meeting.

Councilmember Payne complimented Mr. Moist on his presentation. He asked if the temporary floats are an interim measure if a Maritime Pier is constructed. Mr. Moist said that they hope it would continue.

Councilmember Young asked how you cost something out without a design. Mayor Hunter responded that there is a completed design for the extension of the dock and an engineering study and enough design work done for the Maritime Pier to cost it out. Councilmember Young then asked why staff couldn't do the feasibility study. Mayor Hunter said he feels that the committee ought to be involved all the way through and staff may not have the expertise to do this. Councilmember Franich agreed.

John Moist added that the committee members fully understand that this may lead to nothing but they would like to find out. Councilmember Franich asked to clarify that moving forward with the feasibility study doesn't mean a commitment to construct the pier without a great deal more consideration. Everyone concurred.

Councilmember Conan said this is why he agrees with the Mayor's recommendation to move forward on the feasibility of all the recommendations; not just the pier. He said that this doesn't obligate the city to anything but it allows the gathering of information.

Mr. Moist said that the committee can look at the house, restrooms, etc. He said they anticipate using the Public Works Department for information and to help defray costs.

Mayor Hunter said he would bring a recommendation for Council review at the October 13th meeting.

Sue Braaten – 8802 Randall Drive. Ms. Braaten, representing the Lodging Tax Advisory Committee, voiced 100% support of using the Skansie Brothers House as the Visitors Center.

Michael Perrow – PO Box 1266. Mr. Perrow, Chair of the Parks Commission, gave the history of their recommendation to Council to form the Ad Hoc Committee. He said that the Planning Commission voted to recommend all but two of the Ad Hoc Committee's

recommendations, explaining that they have concerns with using the Skansie Brother's House as the Visitor Center because here are too many unknowns. The group voted 5-0 against a Maritime Pier located at the Skansie Brother Park because they believe that it would best be located elsewhere; it would be too intrusive and the commercial nature would radically change the park. Mr. Perrow said that the Parks Commission supports the other recommendations, adding that the Ad Hoc Committee did great work.

Kit Kuhn – 3104 Harborview Drive. Mr. Kuhn said that the hedge along the sidewalk should be cut as soon as possible to open up the area. He said that the newspaper racks are disgusting and suggested moving the dumpsters, adding showers and laundry facilities. He stressed that these are things that can be done right away. He also said that there are great people in Gig Harbor that could do a design for the park, suggesting small improvements. Mr. Kuhn said that adding a Maritime Pier has both pros and cons, but you have to deal with the parking issue.

Vern Scott – 8717 Randall Drive. Mr. Scott said he is against the installation of showers and laundry facilities. He said to take a look at Eagle Harbor at Winslow where the addition of these amenities led to live-a-boards and floating homes; things that clog the harbor and become an eyesore.

John Skansie – 3211 Eastbay Drive. Mr. Skansie reiterated that the gist of the Ad Hoc Committee's Mission Statement is historic preservation but the proposed projects contradict the statement. He said that he loves the idea of a multi-use Fisherman's Pier. He said preserving Skansie Brother's Park would be progressive and visionary, and consistent with the mission statement. Future generations will thank Council and Staff for having this vision.

OLD BUSINESS:

1. Public Hearing and Second Reading of Ordinance –Private Cemeteries Limitation Amendment. Tom Dolan gave a brief overview of this ordinance to allow existing cemeteries to be legal uses within city limits. He noted slight modifications to the ordinance from the last reading to clarify that Haven of Rest would be a legal use after annexation. He then said a companion ordinance will be forthcoming to allow expansion of the cemetery.

Councilmember Franich asked for clarification on allowing the cemetery to expand. Mr. Dolan said that the companion ordinance was to address Haven of Rest's concerns and would make the cemetery a lawful, non-conforming use. They would still need a Conditional Use Permit in order to expand.

Councilmember Payne recommended language changes in 2.36.010 to further clarify the ordinance.

Mayor Hunter opened the public hearing at 7:30 p.m.

George Nelson – 8503 Highway 16 West. Mr. Nelson, a 23-year employee of Haven of Rest, thanked Council for considering this ordinance. He explained that as members of the community for 60 years, they are pleased to be annexed into the city. He said they understand that this is a two-step process before any changes are made.

Kathryn Jerkovich – 2106 Pacific Ave. Ste. 500. Ms. Jerkovich, on behalf of the Haven of Rest, explained that the amendment came about because city code doesn't allow cemeteries; it could result in fines and so it didn't seem right to be annexed into the city with these provisions still in effect. She said that the second ordinance will allow the cemetery to expand. She said that they have reviewed the ordinance before Council tonight and recommend adoption.

There were no more comments and the public hearing closed at 7:34 p.m.

MOTION: Move to adopt Ordinance No. 1139 with the language change to Section 2.36.010 to read "as an exception it shall be lawful..."
Payne / Conan – unanimously approved.

NEW BUSINESS:

1. Public Hearing and First Reading of Ordinance – Prentice Avenue and Sutherland Street Vacation / Gary Stainbrook. David Stubchaer, Public Works Director, presented the background information on this request to vacate a portion of Prentice Avenue and Sutherland Street per the non-user statute. He said that the property has not been used for public use. Carol Morris explained that non-users statute to Councilmember Malich.

Mayor Hunter opened the public hearing at 7:45 p.m.

Dick Ammerman – 9114 Prentice Avenue. Mr. Ammerman asked who owns the land if the city gives up its rights. Ms. Morris described the process, explaining that the state assessor decides; usually 50% goes to each abutting ordinance. She reiterated that the city doesn't have anything to give up as we have no choice.

There were no further comments and the public hearing closed at 7:47 p.m.

2. Public Hearing and First Reading of Ordinance – Prentice Avenue and Sutherland Street Vacation / Paul Crow. David Stubchaer, Public Works Director, explained that the same conditions pertain to this request to vacate a portion of Prentice Avenue and Sutherland Street per the non-user statute.

Mayor Hunter opened the public hearing at 7:48 p.m. There were no comments and so the public hearing closed.

3. Public Hearing and First Reading of Ordinance – Woodworth Avenue Street Vacation / Mark & Lynn Stonestreet. David Stubchaer explained that this falls under the same conditions.

Mayor Hunter opened the public hearing at 7:49 p.m.

Dick Ammerman – 9114 Prentice Avenue. Mr. Ammerman explained that his house is south of the Stonestreet's and asked about vacating the remainder of the street.

Carol Morris responded that the City Council is currently discussing vacating all the streets that fall under the non-users statute at one time. She said that currently, the abutting homeowners own the property but they are not paying taxes.

There were no further comments and the public hearing closed at 7:52 p.m.

4. Public Hearing and First Reading of Ordinance – Harborview Drive Street Vacation / City of Gig Harbor. David Stubchaer explained that this vacates a portion of Harborview Drive by the Wastewater Treatment Plant to meet the setback requirements.

Mayor Hunter opened the public hearing at 7:53 p.m. There were no comments and so the public hearing closed. All four ordinances will be back for a second reading at the next meeting.

5. Appointment of Salary Commission. Councilmember Payne explained that he has no issues with appointments, but he wanted to make sure the public had opportunity to comment. No one came forward to speak.

Mayor Hunter recognized one of the appointed members, Keith Hamilton, who shared that he is honored to serve on the committee to consider Mayor and Council salaries.

Councilmember Franich said he is not in favor of the Salary Commission and emphasized that Council should make the decision. It has been shown over time that Councilmembers are not here for the money and by handing this over we have no input if the recommendation is too high. Mr. Hamilton responded that the commission is a very independent way to approach this, and they can do comparisons with other communities.

Councilmember Ekberg said he feels that being a Councilmember is a community service. He said that if Council wants to adjust their salary then they should do a modest annual amount; better than not having done anything over the past ten years. He said he is pleased with the quality of the people who asked to participate but said that he isn't in favor of the commission

Councilmember Payne commented on the importance of having the citizens involved in these types of decisions and spoke in favor of the commission.

MOTION: Move to confirm the appointment of Richard Jasper, Tony Michaelson and Gregory Roberts to serve four year terms and the

appointment of Harris Atkins and Keith Hamilton to serve two year terms on the Salary Commission.

Payne / Malich – five voted in favor. Councilmembers Ekberg and Franich voted no.

6. Onshore Outfall Project – Change Order No. 2. Councilmember Franich asked for clarification on this \$47,000 cost increase. Steve Misiurak, City Engineer, explained that the realignment of the pipes had to be redesigned due to unforeseen complications. The redesign was done in-house but it resulted in a week delay for the contractor, unknown utilities in the intersection and unsuitable trench materials. He further explained that he was able to negotiate the amount of the change order down from the original request.

MOTION: Move to approve Change Order No. 2 for the Onshore Outfall Project in an amount not to exceed forty-seven thousand six hundred thirty-eight dollars and nine cents (\$47,638.09).
Payne / Kadzik – unanimously approved.

7. Harborview / Judson Street Improvement Project – Phase I Design and Scope of Work. Councilmember Ekberg said he wanted to discuss the Scope of Work in light of the current budget issues and the recommendation to only do a portion of Judson. He said that the most important areas in need of improvement are Uddenberg Lane and Stanich Street and suggested postponing the improvements on Judson and Harborview during this first phase.

Councilmember Conan said that agreed that it can be pared down but said he would like to see sidewalk improvements and the crosswalks on Judson and Pioneer.

Councilmember Payne asked for clarification on increased parking at Key Bank. David Stubchaer responded that there isn't a gain of public parking, but of a public sidewalk. Councilmember Kadzik added that the improvements on Judson across from Key Bank are safety driven, adding that the improvements on Pioneer past Uddenberg up to the condos increases parking.

Councilmember Malich said that due to the recent accident, he would like to hold up on construction on Harborview and Pioneer to discuss a redesign, and to focus construction on Judson/Uddenberg and Stanich.

Councilmember Payne said that the safety features discussed at the workstudy session two days before the accident couldn't come soon enough. He suggested an adjustment to the road coming down Pioneer or a physical barrier that will slow or stop a car before they get to the bottom to avoid this happening in the future.

Councilmember Young clarified that this contract is for design work and not construction and so a re-design could be directed.

Councilmember Franich said Exhibit A-1 doesn't depict the safety features that he believes Councilmember Malich refers to; which are very important to do. He said that it would require heavy steel poles, leaving the brick planter, and incorporating something very deep and heavy that will stop vehicles. He said a stop sign half-way down the street would not have stopped an accident.

Councilmember Payne responded that he isn't suggesting a stop sign. He recommended listening to the recording of the worksession in which they discussed the very safety measures that are being suggested. He suggested a delay to this particular contract for that portion of the design. Councilmember Ekberg clarified that is why is asked for more discussion on this design contract, and to pull Harborview and Judson because of cost issues; then move forward with the rest of the project.

Mayor Hunter said that you are never going to stop an event such as happened last week. No matter what you build there will be the possibility of an out-of-control vehicle that could flip or do any number of things. Councilmember Franich agreed that you couldn't stop a dump truck doing 100 miles per hour, but if there's a chance to deter 90% of horrific possibilities is better than doing nothing.

Councilmember Conan explained that these are the things talked about at the workstudy session. There were two choices: either a planter further into the street or bollards and another 2nd phase stopping feature.

Councilmember Young said that the drawings tonight don't reflect what was discussed. This is only the engineer's recommend for road-width and it doesn't mean that there won't be bollards or a planter box at that location. At the workstudy session the consultants proposed improving the safety of the planter box because it would have to be moved to accommodate an increase the sidewalk width. He explained that this contract isn't asking for final design approval but direction to move ahead with design by incorporating the materials and other features that were discussed. He then agreed that we could put off the Judson Street portion of the design as it doesn't make sense to design sidewalks and streets separately.

Councilmember Conan pointed out the safety issue because there is no pedestrian access on Judson at Pioneer. He said that a sidewalk is easier to design than a whole street. Councilmember Kadzik asked what kind of savings could be realized by eliminating portions of the design during this phase.

David Stubchaer recommended not cutting the design but to reduce construction. The whole design has to be done so anyone component fits in with the long-term plan. He clarified that when the basic design is approved they will move forward with right-of-way acquisition. That is another reason to have the entire design so you only approach the property owners once.

Councilmember Kadzik says he doesn't like the piece-meal approach that the city has taken in the past and thinks we should go forward with the entire design.

Councilmember Ekberg responded that because part of Judson has been eliminated from this design he wondered why look at it at all.

Councilmember Payne asked if this contract includes the Master Planning for Judson and Harborview. David Stubchaer said yes, it does include the Master Plan. He added that the Key Bank property is unique because it includes construction on all three sides and so he would like the entire design detail in order to describe the necessary right-of-way.

Councilmember Payne clarified that the Master Plan had already been approved and that is what the engineers are working on now. The generic design is underway, and this current contract is to do the specific design, the specs, and to prepare the bid documents for construction at these three locations.

Councilmember Young stated that the exhibits in the packet do not indicate any work past the old city hall, half-way down Judson and so he asked the cost of including the rest of the street. David Stubchaer said detail design is generally 10% of the construction amount, so approximately \$120,000.

Councilmember Payne asked for clarification that tonight's contract isn't an approval of funds, but an approval of going forward to design a project with what was discussed at the past two workstudy sessions. Mr. Stubchaer said yes, and to give move forward and obtain the necessary right-of-way.

Councilmember Young asked why this was in the form of a contract amendment if we are only approving a conceptual design with no monetary request. Mayor Hunter clarified that this is part of the original scope of work and the intent was to get Council's concurrence of the basic design so we can talk to the property owners.

Councilmember Franich said the minutes reflect considerable discussion on parking at the Key Bank site and the engineers were asked to bring back a design for back-in angle parking. The drawing show bank-in angle parking in front of the old West Marine and the Italian Restaurant as well. He asked if this was discussed as well.

Councilmembers Conan and Young responded that yes, it was when it was determined that this is the safest option and it would get the most spaces. Councilmember Franich said that currently it is head-in parking accessible from either direction; angle-in parking limits it to one-way access. Councilmember Conan pointed out that they are private and not public spaces and a partnership with property owners was discussed. He said Key Bank representatives were in favor of the back-in angle parking, but they have to ask for corporate approval. David Stubchaer said he is waiting for Council direction before approaching other property owners.

Mayor Hunter read from the agenda bill and asked if Council wants to move forward with the proposal as presented. Councilmember Franich asked what would happen if the property owners don't like the design. Councilmember Payne explained that the

engineers would come back with other options. Without any direction they don't know what to present to the property owners.

Councilmember Ekberg said it was confusing because this appeared to be an expenditure item and there would be more spent by moving forward on this.

Councilmember Young said that this doesn't preclude other types of parking on the rest of the street and any preference could be voiced to the engineers. Councilmember Malich pointed out that representatives of Key Bank were at the workstudy session and voiced a preference for this safer solution for parking.

Councilmember Payne said given last week's accident, there may be a need for a re-design; we need to be open to a potential change order.

Councilmember Ekberg agreed and said he didn't want to approve what was presented tonight not understanding that this isn't the final design. He said he would like to know where we are in the budget on this project. Councilmember Franich said that this information should have been included in the packet.

Councilmember Malich suggested postponing action. Councilmember Young said that there is a timing issue and recommended that any questions on the budget can be directed to staff and any concerns brought back. Councilmember Payne agreed that a budgetary accounting is necessary but this doesn't seem to be a cost issue and due to the need to move forward he suggested proceeding.

Mayor Hunter said it would be helpful to get started on the right-of-way and asked for direction. Councilmember Young recommended moving forward, adding that the safety concerns have been contemplated and any questions of right-of-way or partnerships can be addressed along the way.

Councilmember Payne added that in light of the accident we may need to rethink one of the intersections up from Harborview and Pioneer. Mayor Hunter said that would be an addition to the scope and agreed that it definitely needs to be considered.

David Stubchaer explained that today he received the consultant's concept for a double barrier in front of the building as a permanent option. He addressed interim solutions explaining that staff is obtaining a price to remove the existing brick planter to install steel bollards with a guard rail in between and rebuilding the planter around it. He continued to say that they are also looking at solutions at the steepest part of the hill and discussed some of the options that had been considered. He described the concept of an island in the middle of Pioneer adjacent to Key Bank which would force vehicles to slow and maneuver to the side so there wouldn't be a straight shot. The island would contain a crash barrier that would give a runaway vehicle some place to hit and slow down. The double barrier at the Harborview intersection would stop them. He said that this isn't a part of the scope of work for this project, but stressed that various

comprehensive solutions are being considered because staff and the consultants are very aware of the safety concerns.

Tish Mactoff – owner of 123 Fit. Ms. Mactoff complimented the suggestion to not pass this design tonight. She said she wanted to be on a committee to offer suggestions and asked if speed bumps had been recommended for the downhill grade. David Stubchaer and Councilmember Payne responded that these have been considered in other locations to inhibit speed, but typically they are not as effective as other features.

Carl Moraldi – 8223 Goodman Drive and Owner of the Harbor Inn. Mr. Moraldi said when he bought the building from the Drohan's he thought the planter installed by the city in 1989-90 was totally secured with steel adding that was what he was told. He said now we find out it's not true. He said it's city property and it should come to the top of the safety list along with what we can do with the steepness of Pioneer and the speed that cars and trucks can go down the hill. He said he's aware of the temporary measures but there is definitely going to have to be a fix to stop at least 85-90% of the cars. He said that this was a rare accident with the speed the car came through, and it almost destroyed an historical landmark building. He said it's hard for him to get insurance now because of this third accident so the city better start thinking of safety and the reconfiguration of Harborview and Pioneer.

Councilmember Young asked for clarification if Mr. Moraldi said that the city installed the flower box. Mr. Moraldi responded that the city either contracted with Wade Perrow or some sub-contractor, but whoever did it, it's the city's property and whoever designed it did a poor job. He said it should have been totally secured; not for aesthetics, but for the safety aspect adding that there was a ¼", twelve- foot-long piece of steel on each side with dirt filling which stopped nothing.

Herb Harmes. Mr. Harmes said he hasn't heard a recommendation one-way streets and asked why not divert the traffic at Judson to go in a counterclockwise direction so that everyone going down the hill has to get off on Judson and go around on Soundview. Then you can make Pioneer Way up to Judson one-way. On the one-way streets, put in diagonal parking to increase spaces and slow down the traffic. No one would be going toward the building because you build a barrier. This wouldn't take a lot of design work and you could use Jersey barriers to see if it works. Then people in town will say the City Council is taking action to solve a real serious safety problem.

Councilmembers and the Mayor responded that this has been suggested in the past but it was a very unpopular idea. Mr. Moraldi said it would be more unpopular if 25 people had been killed in that building. Everyone agreed and Councilmember Franich said that is why we need to put a safety structure in at the foot of the hill to address this issue.

Russ Humbert – Key Peninsula. Mr. Humbert, said he is a frequent visitor to downtown Gig Harbor, is a member of 123 Fit and has served on the Key Peninsula Planning Process. He said he hasn't heard a suggestion to turn the section from Judson to Harborview Drive into a plaza. You defer traffic off at Judson and no you have a block-

long plaza use for street fairs, art shows and other events. Along with that, there would be a barrier at Judson and the one in front of Harbor Inn for an even bigger safety factor. He said you will never stop an incident like happened last week; you couldn't design something within the city's budget, it would be something along the line of protecting a federal building. He said that a barrier at the end of the square and one at the end would prevent 90% of runaway vehicles. He then talked about how lucky we were that it was 6:00 a.m. and not a Saturday afternoon or evening with pedestrians on the street. He said the other advantage would be to eliminate three stop signs that are abused by citizens, law enforcement, and the fire department who do rolling stops through there. There are many things you could do beyond just adding a couple sidewalks or building a barrier to make this area more usable.

Steve Mactoff – Co-owner of 123 Fit. Mr. Mactoff explained that he is a former police officer and ever since the accident he has heard how fortunate there have only been two fatalities. He stressed that he had five employees in the building that day that will never be the same. He said the accident has affected many lives and said before anything is done this should be on the top of the agenda. He discussed a similar situation in Oregon where they acted quickly to save lives. He said that safety has got to be first and you can't build something in front of the building to slow a car down or to stop it; the building is a target and so you have to correct the problem to prevent it from occurring. He said if you do something from Judson to Harborview like has been suggested you can construct something to stop a vehicle, but you can't stop one from coming from Kimball to Harborview. He asked the city to act fast.

Patty Tone – Fox Island. Ms. Tone said she is one of the fortunate people that got out of the building alive. She said she has listened to that talk about parking and sidewalks and she understands that her priority tonight isn't part of the city's big picture. She implored Council to move this to the top of the agenda. She said her children are fortunate she is still here with them today and she can't begin to say how frightening it was and how very fortunate she feels to be able to ask the Council to do something about this now. She asked not to table it, not to put it aside, and not trade it for a sidewalk on Judson. She asked Council to please do something now.

Mayor Hunter responded that this is the intent.

Kit Kuhn – 3104 Harborview Drive. Mr. Kuhn said he thinks barriers are not the answer because both times the vehicles came down the hill they a chance to veer off but didn't. He said he likes the idea of one-way up Pioneer as a solution. He explained that the reason one-ways were not popular before is because they wanted to make Harborview one-way. He said another reason to make this section one-way is parking. He said if you make that corner beautiful and there are no businesses, it won't do any good. He said he is going to do a six-month survey to show you that parking is a big problem, adding that one-third of his customers are over 70 years old and if they can't park within a block they don't come. He then said he likes the design on Judson that creates more parking and what has been designed for the Post Office drop boxes. He then said that the consultants didn't come into his or most people's store to talk about design adding

that he would like to see more retailers involved. He discussed the abuse of the parking said he would like to approach Del Stutz see if there is a way to lease parking; he asked Council to consider this. He finalized by asked for more parking, saying if they can't get here what does it matter how pretty it is.

Councilmember Payne responded that their objective is to gain parking. The Master Plan adds over 145 spaces throughout the downtown and through the corridor down to the History Museum. He said that there was one spot lost close to Mr. Kuhn's business that was addressed in Monday's meeting. He emphasized that there have been multiple public hearings on parking and design to gain public input from business owners, property owners and citizens. He said that on Monday night before the accident, concern was expressed and discussion on what is the best safety options in front of Harbor Inn, and so he doesn't want anyone to think Council is operating in a vacuum. He stressed the need for input as we go along and encouraged participation.

Mr. Kuhn said he showed Rob Karlinsey how the design eliminated 3-4 parking spaces on the corner of which the consultants weren't aware; and Rob was able to get those back.

Jean Gazabat – property owner on Judson. Mr. Gazabat voiced a formal complaint about the people hired for the design. He explained that he met twice with them and in his case there is a net loss of seven parking spaces. He said that he too suggested places for additional parking and they scoffed at him. He said he told them it isn't about pretty, but about parking and asked them to acknowledge Judson as the overflow parking for the downtown core. Mr. Gazabat said that parking is a battle between all tenants and all owners to the point that towing of other customer's cars is being considered as business owners are monitoring who is parking in their lots. He said that he gave the consultants good suggestions on how to fix parking on Judson but none have been implemented. He suggested to Councilmembers that the plans are very poor, the consultant's have no concept of what Gig Harbor is, or that the major issue is parking. He said he would really like the city to hire someone local and with a vested interest to do Judson one time, right. He said he knows how to do that, and asked twice to be included, but was never called. Mr. Gazabat said he spent eight years on the PAC, has done real estate for 30 years, and knows how to fix Judson and even would have drive to Bellevue to participate in the design process. He said that the gentlemen were not responsive and laughed at the owners, adding that he feels he has been treated poorly. He said he would like it to be corrected and wants to be included.

Councilmember Young asked where the spots were lost on Judson. Mr. Gazabat mentioned in front of the marine store, at Key Bank, the mail drop off and if you eliminated the bus stop you could use diagonal parking. He stressed that he only cares about parking and when he mentioned a gain of 7-8 spots behind the Stutz Memorial, the consultants laughed at him; not appropriate behavior.

Bill Fogerty – Water’s Edge Gallery. Mr. Fogerty talked about the loss of two spots in front of his business and stressed that due to the nature of his framing business he needs the parking spots. He said he can’t get the consultants to come in and talk to him.

Councilmember Payne responded that it was his impression that these spaces were not being sacrificed. Mr. Stubchaer offered to take a look at the design but he didn’t think so either.

Tish Mactoff – owner of 123 Fit. Ms. Mactoff said she has heard about the financial concerns, but said we need to look at the value of human life before sidewalks. She asked that in planning this project to keep this in mind. She read off the names of the people in the building that could have lost their lives: Ryan T. Ryan; Warren Zimmerman, Patty Tone, and Jan Campbell. She said she wasn’t there but either her daughter or Patty usually sits at the desk where the vehicle hit. She shared photos of the destruction, explaining that Patty had gotten up from the desk 30 seconds before the car came through. She then said a barrier at the target isn’t the answer and that sidewalks can be put on hold, but lives cannot. She said people aren’t going to want to join her fitness business unless something is done.

Mayor Hunter said that we understand the message and know there is work to do. He asked for direction from Council.

MOTION: Move to proceed and ask staff to bring back an expanded contract with safety improvements on Pioneer.
Young / Payne – unanimously approved.

8. Prosecuting Attorney - Contract Renewal. Councilmember Ekberg said that he would like to compare the existing contract with the new proposal.

MOTION: Move to bring this back at the next meeting with a copy of the existing contract.
Ekberg / Franich – unanimously approved

STAFF REPORT: None.

MAYOR’S REPORT / COUNCIL COMMENTS:

Mayor Hunter reported that a draft Request for Proposals for City Attorney had been forwarded to Council and asked for comments back as soon as possible.

Councilmember Payne encouraged the audience to participate by coming to public meetings. He asked the business owners to get with the Main Street Group who has been working on a parking study and participate.

PUBLIC COMMENT: None.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Cushman Trail Groundbreaking Ceremony – Friday, Sept. 26th at 4:00 p.m.
2. City Council / Planning Commission Joint Workstudy Session: Mon. Sept. 29th at 6:00 p.m. Community Rooms A&B.
3. Wastewater Treatment Plant Groundbreaking Ceremony – Wednesday Oct. 1st, at 11:00 a.m.
4. Open House – Six Year and 20 Year Transportation Improvement Plan – Thurs. Oct. 2nd at 5:00 p.m.
5. Planning / Building Committee: Mon. Oct. 6th at 5:00 p.m.
6. GH North Traffic Options Committee – Wednesday, Oct. 8th, at 9:00 a.m. in Community Rooms A & B.
7. Intergovernmental Affairs Committee: Mon. Oct. 13th CANCELLED.
8. Reception for Bob Mortimer – Monday, Oct. 13th at 5:00 p.m.
9. BB16 Interchange Options Open House – Monday, Oct. 27th at 5:00 p.m.
10. Budget Worksession: Court, Admin, Finance, Planning, Building/Fire Safety, Police, Tourism – Monday, November 3rd at 6:00 p.m.
11. Budget Worksession: Public Works – Tuesday, November 4th at 6:00 p.m.

ADJOURN:

MOTION: Move to adjourn at 9:16 p.m.
Franich / Kadzik – unanimously approved.

CD recorder utilized:
Disk #1 Tracks 1- 16
Disk #2 Tracks 17-34
Disk #3 Tracks 34-43 (44-48 defective)
Disk #4 Track 49

Charles Hunter, Mayor

Molly Towslee, City Clerk

**City of Gig Harbor
Community Development Dept.
3510 Grandview St.
Gig Harbor, WA 98335**

Memo

To: Mayor Hunter and City Council Members
From: Dick J. Bower, CBO – Building/Fire Safety Director
CC: Rob Karlinsey
Date: 08.05.2008
Re: Building and Fire Safety Report for the month of September 2008

The following report is being provided in an effort to keep you informed of the myriad activities of the building and fire safety department over the past month. If you have any questions please give me a call, e-mail or visit and I'll get you the answers.

Departmental Activities:

During the period building and fire safety staff took part in the following activities:

- Attended permitting and enforcement process meetings with development services staff.
- Participated in statewide Apprenticeship Program development meetings.
- Attended W. WA Chapter – ICC meeting
- Participated in PC Local Emergency Planning Committee meeting.
- Conducted inspection and updated PC DEM Portal information for PSE LNG Plant.
- Participated in all-staff luncheon meeting.
- Conducted building permit pre-ap for Midway School relocation project.
- Participated in WABO Education Institute teleconference.
- Participated in Eddon Boat Restoration Project meeting with consultants, designers and City staff.
- Attended meeting re: Scandia Heights pre-annexation requirements.
- Attended City Council budget retreat.
- Provided management briefing on permitting best practices report from ORA.
- Attended Harbor Town Marina intake meeting.
- Participated in evaluation of GH High School Glass/Jewelry hot work lab permitting needs with FD5 and SD personnel.
- Conducted after action review of Harbor Inn incident.
- Provided comments to planning/engineering on 5 projects.

New Permit Applications

New Commercial -	1
New Residential -	1
Remodel / Tenant Improvement -	6
Other (Includes plumbing, mechanical, fire system, fuel gas, etc.) -	37
Total -	45

Total valuation - \$ 1,407,879.00
Fee revenues - \$ 11,718.42

Large Projects Reviewed and Awaiting Revisions:

Bayview Building
Highlands at the Harbor
Jordan Warehouse

Town Plaza Fire Protection
CGH Wastewater Treatment Plant Expansion

Major Plan Reviews Completed:
Walgreens (Harbor Hill Bldg. B)

Permits Issued:
Commercial – 1
Residential - 3 + 13 base plans
Remodel/TI - 8
Other - 62
Total Issued - 87

Total Valuation - \$ 2,140,682.00
Fee Revenues - \$ 32,185.69

Permits-By-Appointment: 26

Inspections:
The following inspections were performed:
Periodic inspections - 233
Final Inspections - 33
Certificate of Occupancy - 9
Total - 275

Enforcement:
The following enforcement actions were taken:
Investigations - 1
Stop work orders issued -
Citations issued -
Civil NOV's issued -
Total - 1

Fire Inspection Referral /Refusal Follow-ups:
1

Business License Inspections:

- Training:**
- Hosted Fire Alarm System update training.
 - Attended disaster public assistance training at PC DEM.
 - Provided staff with permit operating policy (POP) training for case management under LIS.
 - Participated in in-service cross training on: Permit intake and permit issuance using LIS; and phone system/reception duties.
 - Attended Commercial Kitchen Hood and Duct extinguishing system training.



**Subject: Gig Harbor Police September 2008
Council Report**

Proposed Council Action: Review and file

Dept. Origin: Police Department

Prepared by: Chief Mike Davis *(Signature)*

For Agenda of: October 13, 2008

Exhibits: Report attached

Initial & Date

Concurred by Mayor: *CLH 10/7*

Approved by City Administrator: *JDK*

Approved as to form by City Atty: _____

Approved by Finance Director: *CLH 10/7/08*

Approved by Department Head: *(Signature)*

Expenditure Required	0	Amount Budgeted	0	Appropriation Required	0
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POLICE

TO: MAYOR CHUCK HUNTER AND CITY COUNCIL
 FROM: CHIEF OF POLICE MIKE DAVIS *MDA*
 SUBJECT: GHPD MONTHLY REPORT FOR SEPTEMBER 2008
 DATE: OCTOBER 13, 2008

DEPARTMENTAL ACTIVITIES

- 2008 YTD **calls for service** when compared to 2007 YTD **calls for service** show an increase of 1971 dispatched calls. At our current rate it is anticipated we will be see an increase of around 2500 calls for service in 2008 when compared to 2007 end of year.
- In 2008 so far, we have seen 204 more **reports written** by our officers than in 2007 YTD.
- **DUI arrests** for 2008 YTD are up by 1 compared to 2007 YTD. Our **traffic infractions** are down 331 so far this year even though our warnings are still very high; and our **criminal traffic citations** are up by 46. Statistics show our 2008 YTD **traffic accidents** have increased by 36 accidents when compared to 2007 YTD.
- 2008 YTD statistics show our **misdemeanor** arrests are up by 61 and our **felony arrests** are down by 37 when compared to 2007.

Category	September 2008					
	September 2007	September 2008	Change	YTD 2007	YTD 2008	Change
Calls for Service	484	726	242	4115	6086	1971
General Reports	177	174	-3	1386	1590	204
Criminal Traffic	33	17	-16	176	222	46
Infractions	199	74	-125	1220	889	-331
Criminal Citations	25	17	-8	179	148	-31
Warrant Arrests	14	3	-11	80	35	-45
Traffic Reports	12	12	0	120	156	36
DUI Arrests	15	1	-14	54	55	1
Misdemeanor Arrests	56	39	-17	291	352	61
Felony Arrests	6	7	1	19	56	37
FIR's	9	0	-9	13	12	-1

TRAFFIC ACCIDENTS FOR SEPTEMBER 2008					
DATE	TIME	LOCATION	TYPE	CASE#	AGE
9/5/2008	11:00	10990 Harbor Hill Dr.	H&R	GH081151	N/A
9/5/2008	13:00	4949 Borgen Blvd.	Non	GH081153	26
9/8/2008	10:49	3110 Harborview Dr.	Inj	GH081165	57
9/9/2008	12:58	Burnham & Borgen	R/A - Non Inj	GH081170	58
9/10/2008	14:52	Pt. Fosdick Dr. @ Olympic Dr.	Inj	GH081177	49
9/10/2008	16:15	5201 Olympic Dr.	H&R	GH081178	42
9/14/2008	18:20	3500 Harborview Dr.	Non	GH081194	31
9/16/2008	14:20	3700 Harborview Dr.	Non	GH081202	53
9/17/2008	6:27	3111 Harborview Dr.	Fatality	GH081204	25
9/19/2008	20:15	Wollochet & Wagner Way	None	GH081215	24
9/20/2008	13:40	11330 51st Ave.	P-Lot None	GH081217	17
9/20/2008	15:10	5500 Olympic Dr.	P-Lot	GH081218	22
9/22/2008	12:49	4900 Pt. Fosdick Dr.	Non	GH081229	35
9/22/2008	16:00	3110 Judson St.	P-Lot	GH081230	41
9/22/2008	17:00	6659 Kimball Dr.	H&R	GH081231	N/A
9/21/2008	20:00	6100 Soundview Dr.	H&R	GH081241	N/A
9/27/2008	14:50	4635 Point Fosdick Dr.	Serious inj	GH081251	76
9/28/2008	11:43	Olympic Dr. @ SR 16	Non	GH081254	25
9/28/2008	14:55	11400 51st Ave. NW	H&R	GH081255	38

September saw two very serious traffic collisions. On September 17th, a vehicle drove into the Harbor Inn at a high rate of speed killing the driver. On the 27th of September a vehicle drove onto the sidewalk in front of a store at Uptown seriously injuring a 55-year old female sitting at a table. The elderly driver claimed they accidentally stepped on the gas instead of the brake just before the accident.

During the month of September 2008, the Marine Services Unit accounted for the following hours and activity:

- PATROL HOURS: 54.5
- ADMINISTRATIVE HOURS: 8.5
- TOTAL HOURS: 63

Specific actions taken during marine patrol included the following:

- BOATER SAFETY INSPECTIONS WRITTEN: 10
- VERBAL WARNINGS ISSUED: 17
- CITATIONS ISSUED: 0
- DISPATCHED CALLS: 6
- BOATER ASSISTS: 6
- SEARCH & RESCUE CALLS: 2

- POLLUTION RESPONSES: 2

On September 19th we provided a harbor tour to members of the Historical Society. It appears the delivery date on our new marine patrol boat will be mid December.

Our Reserve Officers contributed the following hours in September supporting the department:

- Myers – 28
- Santana – 29
- Boere – 34

Total – 91 hours

Below are the officer response times for our Priority 1, 2 and 3 calls 2008 YTD. Priority 1 calls are the most serious calls and usually involve an in progress crime. Our YTD average response time to all calls is currently 6.60 seconds. Under our performance measures for 2008 our goal is 6.00 seconds.

2008			
	P1	P2	P3
January	4.5	7.7	10.2
February	4.6	7.3	9.1
March	3	7.2	8
April	3.52	7.48	10
May	0.03	6.7	9.7
June	3.4	6.7	9.2
July	3.3	6.8	10.3
August	2.97	7.39	9.09
September	4.4	6.65	9.02
October	0	0	0
November	0	0	0
December	0	0	0
Totals	29.72	63.92	84.61
Minutes	3.30	7.10	9.40

YTD

Year-to-date through August 2008 there were 830 incidents within Gig Harbor					
Kidnap/Child Lure					
	August 2007	August 2008	Year-To-Date (through August 2007)	Year-To-Date (through August 2008)	Percent Change
<u>Child Luring</u>	-	-	1	-	-100.0%
<u>Kidnapping (restrain or abduct)</u>	-	-	-	-	-
Kidnap/Child Lure Total:	0	0	1	0	-100.0%
Violent Crimes					
	August 2007	August 2008	Year-To-Date (through August 2007)	Year-To-Date (through August 2008)	Percent Change
<u>Aggravated Assault</u>	1	-	5	3	- 40.0%
<u>Non Aggravated Assault</u>	1	2	17	27	58.8%
<u>Homicide</u>	-	-	-	-	-
<u>Robbery</u>	-	1	6	1	- 83.3%
<i>Business:</i>	-	-	4	-	-100.0%
<i>Residential:</i>	-	-	-	-	-
<i>Street:</i>	-	-	2	-	-100.0%
<i>Other Robbery:</i>	-	1	-	1	N.C.*
Violent Crimes Total:	2	3	28	31	10.7%
Property Crimes					
	August 2007	August 2008	Year-To-Date (through August 2007)	Year-To-Date (through August 2008)	Percent Change
<u>Arson</u>	-	-	1	1	0.0%
<i>Residential Arson:</i>	-	-	-	-	-
<i>Non-Residential Arson:</i>	-	-	1	1	0.0%
<u>Motor Vehicle Theft</u>	1	1	25	13	- 48.0%
<u>Theft</u>	26	21	208	186	- 10.6%
<i>Gas Station Runouts:</i>	-	-	1	4	300.0%
<i>Mail Theft:</i>	-	-	1	1	0.0%
<i>Shoplifting:</i>	5	2	47	42	- 10.6%
<i>Theft from Vehicle:</i>	13	10	104	87	- 16.3%
<i>Other Theft:</i>	8	9	55	52	- 5.5%
<u>Burglary</u>	4	8	41	28	- 31.7%
<i>Residential Burglary:</i>	1	3	15	15	0.0%
<i>Non-Residential Burglary:</i>	3	5	26	13	- 50.0%
<u>Vandalism</u>	11	12	116	101	- 12.9%
<i>Residential Vandalism:</i>	9	11	112	96	- 14.3%
<i>Non-Residential Vandalism:</i>	2	1	4	5	25.0%

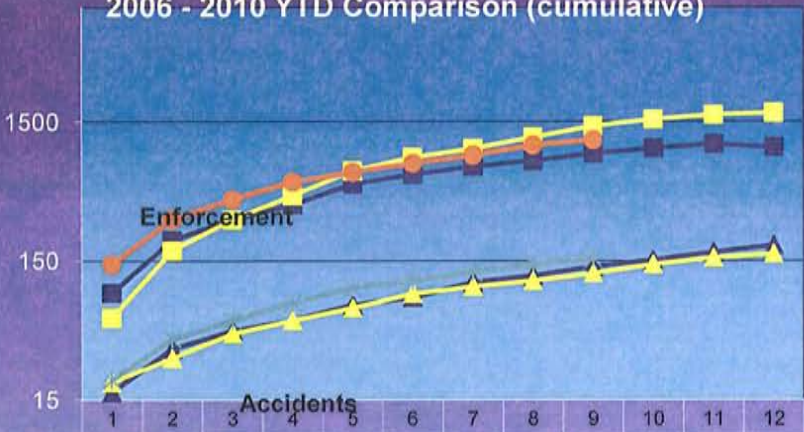
Property Crimes Total:	42	42	391	329	- 15.9%
Drug Crimes					
	August 2007	August 2008	Year-To-Date (through August 2007)	Year-To-Date (through August 2008)	Percent Change
Drug Possession (Methamphetamine)	1	-	7	4	- 42.9%
Drug Sale/Manufacture (Methamphetamine)	-	-	4	1	- 75.0%
Drug Possession (Other)	5	1	41	35	- 14.6%
Drug Sale/Manufacture (Other)	1	1	7	6	- 14.3%
Drug Crimes Total:	7	2	59	46	- 22.0%
Warrant Arrests, Fraud, Traffic, and Other Incidents					
	August 2007	August 2008	Year-To-Date (through August 2007)	Year-To-Date (through August 2008)	Percent Change
Weapons Violations	-	-	5	6	20.0%
Warrant Arrests	6	6	61	43	- 29.5%
Fraud or Forgery	6	5	63	39	- 38.1%
Criminal Traffic	32	49	258	272	5.4%
Liquor Law Violations	2	1	27	31	14.8%
Telephone Harassment	1	1	7	6	- 14.3%
Intimidation	-	-	11	11	0.0%
Possession of Stolen Property	-	1	4	6	50.0%
Warrant Arrests, Fraud, Traffic, and Other Incidents Total:	47	63	436	414	- 5.0%
Other Crimes					
	August 2007	August 2008	Year-To-Date (through August 2007)	Year-To-Date (through August 2008)	Percent Change
All Other Crimes	4	2	26	7	- 73.1%
<i>Criminal Trespass :</i>	1	1	4	5	25.0%
<i>: :</i>	3	-	21	-	-100.0%
<i>Failure to Register/Sex Offender :</i>	-	1	1	2	100.0%
Other Crimes Total:	4	2	26	7	- 73.1%
Grand Total					
	August	August	Year-To-Date	Year-To-Date	Percent

	2007	2008	(through August 2007)	(through August 2008)	Change
Grand Total:	102	112	941	827	- 12.1%

*N.C. = Not Calculable

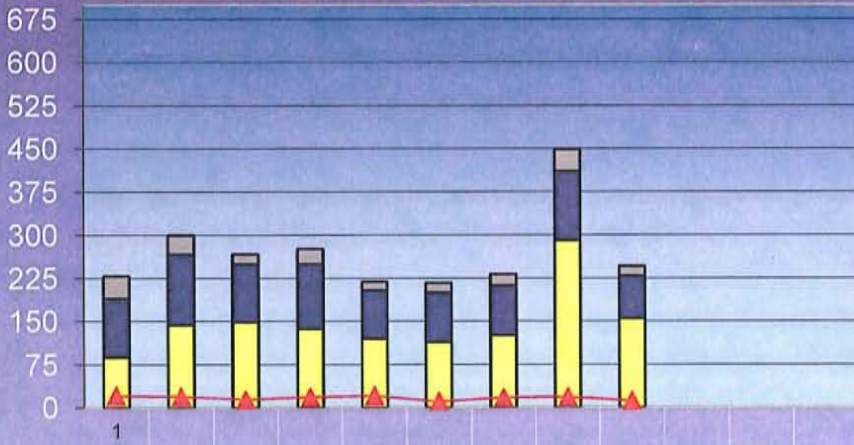
Attached you will find several graphs that track 2008 monthly statistics. These statistics are now recovered by electronic means and track officer activity. I have left data from the last two years on several graphs to provide a baseline with which to compare our current activity levels as we progress through 2008 (remember some of the graphs contain cumulative numbers).

Trends: Traffic Enforcements vs. Accidents
2006 - 2010 YTD Comparison (cumulative)



2006 Infractions + Citations	88	211	297	382	536	628	717	788	888	970	1038	985
2007 Infractions + Citations	58	178	297	442	665	833	961	1164	1396	1563	1682	1738
2008 Infractions + Citations	141	297	415	554	653	756	862	1020	1111			
2009 Infractions + Citations												
2010 Infractions + Citations												
2006 reportable accidents	17	35	47	56	72	82	105	117	136	152	173	194
2007 reportable accidents	20	30	45	56	69	87	98	108	122	142	158	169
2008 reportable accidents	21	41	56	75	96	107	125	144	156			
2009 reportable accidents												
2010 reportable accidents												

Annual
Traffic Enforcement vs. Accidents Comparison
Monthly Totals



Criminal Traffic Citations	39	33	17	26	15	17	20	38	17			
Infractions	102	123	101	113	84	86	86	120	74			
Verbal Warnings	88	144	149	137	120	114	126	291	155			
Accidents	21	20	15	19	21	11	18	19	12			

**COUNCIL WORK STUDY SESSION
HARBORVIEW JUDSON IMPROVEMENT PROJECT**

Monday, September 16, 2008
Community Rooms A & B

Present: Mayor Hunter, Councilmembers Young, Conan, Malich, Kadzik and Payne.
Not present: Councilmembers Ekberg and Franich. Staff: Rob Karlinsey, David Stubchaer, Lita Dawn Stanton, and Molly Towslee.

Presenters: Eric Schmidt and Barry Knight, Cascade Design Collaborative.

Call to Order: 6:08 p.m.

Rob Karlinsey, City Administrator, opened the meeting and explained that due to budget restraints, the scope of work had been reduced to Uddenberg/Stanich, one-half of Judson Street, and the intersection of Harborview and Pioneer. He said that there are specific questions that we need direction from Council tonight.

1. Parking Configuration on Judson.
2. Extent of Sidewalks on Pioneer.
3. Harborview / Pioneer Intersection.
4. Master Plan from Donkey Creek to Soundview.
5. Incorporation of Art into the projects.

Rob said that that the consultants met with the Gig Harbor Arts Commission and proposed three things for them to consider.

1. Directional Medallion in the sidewalk.
2. Decorative Tree Grates.
3. Art piece at the Bogue Building, perhaps incorporating an old mast and propeller.

Rob shared that the Arts Commission said they didn't want to be involved with the medallion or the tree grates, and they didn't seem to like the suggestion for a piece at the Bogue Building. Rob then turned the presentation over to Eric Schmidt.

Mr. Schmidt suggested jumping to discussion on the intersection of Harborview and Pioneer to allow representatives from Key Bank to be present for the discussion on parking along Judson.

Mr. Schmidt explained that at last week's meeting they were requested to work on a couple of major components at this site.

1. To reduced the number of bollards.
2. The open spaces should be closer to the street and not up next to the buildings.
3. Re-introduce planter in front of the Harbor Inn because of its historic nature, but move it further out from the building.

He said that the civil engineer suggested we think of the planter as a barrier to slow a vehicle down with the real barrier constructed behind it that would stop the vehicle.

There was discussion on the property lines at this intersection and how the proposed design relates to the building and pedestrian movement.

Mr. Schmidt then answered questions on parking. It was explained that there is a net gain of one parking space at this intersection.

Mayor Hunter asked if they could eliminate all the bollards in front of the Harbor Inn. Mr. Schmidt said that bollards open up the area to be more pedestrian friendly and it gives a sense of being by a wharf. You could use granite or other materials. He then talked about it being a safety element.

Councilmember Payne asked about the ADA features in front of Spiro's. Mr. Schmidt described the sloped, ramp design with railing and steps to street level.

Councilmembers asked if he had input from the property and business owners in this vicinity. Rob Karlinsey responded that the restaurant owner liked the outdoor seating feature and Kit Kuhn didn't want to lose parking. He said that they have met with property owners Maraldi, Gilich and Tarabochia who have seen the general configuration, but hadn't voiced any opinions.

The consultants were directed to contact the property owners to discuss the design options. Councilmember Young stressed that they should discuss options for public/private partnership if they prefer the higher cost improvements.

Mr. Schmidt responded to questions about the placement of trees, saying that they plan for low maintenance trees with small leaves with mature height of 25 feet.

There was discussion on mixing features from Options A & B. Mr. Schmidt responded that many of the options are interchangeable. Councilmember Payne said that his preference is Option B, but if the property and store owners are interested in the elevated outdoor area, as long as they are willing to participate, he would be okay with that option. The difference in cost in the two options is approximately 10%.

Mr. Schmidt responded to Councilmember Malich, who asked about parking at the business north of the Harbor Inn, saying that there would still be parking there. He further addressed questions about an access ramp in front of the Harbor Inn.

After further discussion, it was decided that the preference was to pursue Option B unless the property owners want Option A and are willing to contribute to the difference in cost. Councilmember Malich voiced his preference for Option A.

Councilmember Payne asked for introductions of the people in the audience. Staff and Councilmembers introduced themselves first. Others present:

- Representatives from Key Bank
- Tracy von Trotha, Gig Harbor Arts Commission
- Pat Rosenthal, Gig Harbor Arts Commission
- Connie Worthen, Business Owner on Uddenberg
- Bruce Winfrey, Owner of Whole Foods

Carolla Stark, Historic Waterfront Association and GH Arts Commission
Steve Lynn, Owner of Water to Wine / President - Historic Waterfront Assoc.

Barry Knight, CTS Engineers, then presented information on parking options starting with the area in front of Key Bank. He gave an overview of three options: 1) back-in angle; 2) straight in; and 3) parallel parking.

The group discussed the pros and cons of back-in angle parking. Emily Appleton, Senior Engineer said that the data supports the fact that this is the safer option.

After discussion on how many parking spaces would be gained or lost with each option, Councilmember Malich stressed that safety trumps parking stalls. The representatives from Key Bank said although harder to perform back-in angle parking, it is hard to argue against safety.

The consultants were directed to pursue back-in angle parking and to maintain both lanes heading westbound on the north side, eliminating the parallel parking on that side.

Councilmember Payne asked about the placement of a stop sign at Pioneer at the corner of Judson. Emily said that would require a traffic study, which could be done at a later date. The group then discussed crosswalks across Pioneer at this intersection and it was suggested that at least one is needed. This option could be added as an alternate on the proposal. The group discussed safety issues associated with the placement of pedestrian crosswalks.

The consultants addressed questions on the flow of traffic in and out of the area where the mailbox drop boxes will be located.

Rob Karlinsey suggested moving on to the next topic: Extending Sidewalks on Pioneer. A suggestion was made to extend sidewalks to the end office building up the hill from Westbay Auto. After further discussion three alternates were suggested to be added to the project:

1. Extend sidewalks up to Westbay Auto
2. Extend sidewalks to the end of the office building
3. Add parking along that stretch of Pioneer

The consultants then presented an overview of the Master Plan from Donkey Creek to Harborview Drive. They showed four options for the intersection of Stinson and Harborview Drive which the group discussed at length. A point was made that if you divert more traffic onto Stinson you will need to make improvements to the intersections at Grandview and Rosedale.

The consultants described the design for sidewalks and pedestrian crossings along Harborview Drive. He explained the historic nature of the upside of the street would be retained. Mayor Hunter asked if the sidewalk improvements could be done without the roadway improvements. Mr. Schmidt responded that it couldn't be done without destroying one side or the other due to the utility work. He then added that a

lightweight concrete option could be constructed with the idea that it will be knocked out later.

The consultants move on to the area at the Skansie Brothers Park describing the proposed improvements.

Councilmember Payne asked the representatives from the Arts Commission if they had an opportunity to review the plan and discuss placement of art. Ms. Von Trotha responded that they had some.

Mr. Schmidt explained that he met with Bob Sullivan today to discuss projects that can develop as part of the master plan adding that they will continue to meet.

Rob Karlinsey mentioned the historic nature of the concrete panel highway and asked if we could continue to use these in light of the high price of asphalt. Mr. Knight explained the ground is bad and there is no flexibility; if concrete pavement is used, it too would fail in time. He said that asphalt is more forgiving. Councilmember Malich explained that the original street was constructed in 1925, and then when Soundview was torn up for utilities it was ruined and had to be replaced in the early 1990s.

Mayor Hunter asked about the next step. Mr. Schmidt said that they will do the engineering drawings for bid documents for this first phase and incorporate the rest into a Master Plan document with open options for intersections to incorporate the results of traffic studies.

Mayor Hunter urged them to look at doing the wider sidewalks along Harborview soon to give folks an opportunity to walk around the harbor. A comment was made that it would be foolish to do the improvements knowing they would be torn out. He responded that we don't know when this plan will be implemented due to budget constraints.

Councilmember Payne asked when Phase I is planned to be constructed and the response was 2009. Rob Karlinsey added that until we can get a better idea of the revenue stream we can't project when Phase 2 and 3 will be constructed. He asked the remaining Councilmembers for direction to move forward with the Master Plan.

Councilmember Payne responded that Council has seen two presentations on the plan, and there hasn't been much of anything new presented. He said he isn't in a hurry, but he also didn't want it to drag on. Mr. Schmidt offered to do a briefing booklet for the entire Council, give them a couple of weeks to review and comment and then finalize the plan and bring it back for approval. He said he would be happy to do it in phases.

Incorporation of Art: Tracy von Trotha, member of the Arts Commission, said that the GHAC would like to have input on the Master Plan. The group has received feedback on the Art in Public Places Survey and would like to put the information to good use. She explained that the intersection of Harborview / Pioneer is one place identified for public art, suggesting that perhaps the planter in front of the Harbor Inn

could be wired for a future piece. The other place identified is on Judson at the Visitor's Center.

Rob Karlinsey asked whether the remaining Councilmembers wanted to go over the results of the Citizen Survey or meet at later date. It was decided to bring this back at a time when the full council could be present.

Mayor Hunter and Councilmembers thanked Mr. Schmidt and Knight for their presentation.

Adjourned: 7:38 p.m.

Scribe: Molly Towslee

FINANCE COMMITTEE

September 16, 2008 4:00 p.m.
Executive Conference Room

Present: Councilmembers Young and Conan.

Staff Present: Rob Karlinsey, Molly Towslee, Lauren Lund and Dave Rodenbach.

Call to Order: 4:03

Old Business

1. Drug and Alcohol Testing for CDLs

Rob Karlinsey began meeting by informing the committee that the City is required by federal law to adopt a Drug and Alcohol Testing Policy for CDLs. He stated that there are several different options when it comes to this type of policy. One is pre-employment testing (which the City already performs), random testing, reasonable suspicion, post accident and return to duty testing.

He further informed the committee that random testing, which the City is looking to implement, has been held up in court as legal because of the public safety aspect. The committee discussed briefly the ramifications of the policy.

Mr. Karlinsey asked for direction on a policy detail dealing with whether or not the City wanted to have a zero tolerance for drugs and alcohol or if the City wanted to have some discretion at the management level on a case by case basis and as the situation requires. The committee voiced support for the management discretion approach on a case by case basis. Mr. Karlinsey stated that he would make the necessary changes and bring this before Council for approval. It was further decided that it should be on the Council's regular agenda rather than on the consent agenda.

2. Newsletter Policy

Mr. Karlinsey then moved the committee's attention to the Newsletter Policy. He mentioned that he wished that he had been able to devote some extra time into writing in some additional language in order to address the issues mentioned in previous meetings on this topic. He then read the new language under the Council/Mayor section.

The Committee discussed whether or not there should even be a section for the Council to comment in the Newsletter. The Committee mentioned that the articles allowed by the policy could just as easily be written by staff. The Committee agreed to move the Newsletter Policy

forward with the Council/Mayor section criteria in order to allow the Council as a whole to consider the topic.

New Business

1. Long-Term Disability Insurance / Survivor Insurance

Mr. Karlinsey moved on to discuss employee long-term disability insurance. He stated that the City could save \$12,000 on its plan and that he hoped that the City could take the savings and purchase survivor insurance for employees. This survivor insurance would cost twice what the savings would be from the long-term disability insurance. Mr. Karlinsey went on to say that because of the tighter budget this year, he would not be proposing the survivor insurance addition for the coming budget year but that it may return in a subsequent year. The committee agreed that this was something positive to look into. Rob Karlinsey finished by saying that he would make sure to collect some numbers for the Committee to look at next time this topic comes up for discussion with respect to the amount of savings from the disability insurance, the amount extra that it would cost to add the survivor insurance and the number/names of City's that provide survivor insurance to their employees.

2. GHHWA 2009 Budget Request

Rob Karlinsey asked Lauren Lund to step in to address this issue. He mentioned that in the document Ms. Lund caught something that she wanted to have clarified. Ms. Lund stated that she wants it clarified to MainStreet, that they can't continuously be come back to her department or the City asking for more and more money. She stated that she has \$3,000 to work in partnership with them, but wants additional clarification on what the City is agree to fund and work with them on. She also wants it clarified that they shouldn't be coming to the City for more and more money down the road.

The Committee discussed what needed to be clarified to MainStreet and directed Mr. Karlinsey to inform MainStreet. In summary, the Committee wanted it made clear that any funding for advertising or promotion needed to be hashed out during the budgeting process and that any additional funding would need to wait until the next budget cycle.

There was further discussion on various other topics that had come to light in recent months that needed to be clarified before the meeting was brought to a close.

Adjourned: 10:13

Scribe: Ian Ward

**PROCLAMATION OF THE MAYOR
OF THE CITY OF GIG HARBOR**

WHEREAS, the care and protection of victims of domestic violence has traditionally been the responsibility of law enforcement agencies; and

WHEREAS, dedicated professionals and concerned community members have recognized the need to become involved, ensuring protection for those who may have violence imposed on them by another; and

WHEREAS, these victims live in fear day-to-day for their lives and the lives of their children; and

WHEREAS, the trauma of domestic violence includes facing emotional, financial and legal obstacles, often alone and without support; and

WHEREAS, the number of victims being served by our partners at the Crystal Judson Family Justice Center and the city's Domestic Violence Kiosk is increasing each month and continues to act as important tools in combating domestic violence; and

WHEREAS, the significant impact of domestic violence on our community and our efforts to combat this criminal activity using various methods alongside our valued partners deserves to be recognized;

NOW, THEREFORE, I, Charles Hunter, Mayor of the City of Gig Harbor, do proclaim the month of October, as

Domestic Violence Awareness Month

And invite all citizens of Gig Harbor to join me in this special observance. In Witness Whereof, I have hereunto set my hand and caused the Seal of the City of Gig Harbor to be affixed this 13th day of October, 2008.

Mayor, City of Gig Harbor

Date



PIERCE COUNTY

Consent Agenda - 4a

COMMISSION AGAINST DOMESTIC VIOLENCE

1111 Fawcett Street, Suite 100

Tacoma, Washington 98402

Phone 253.798.7660 • Fax 253.798.4795 • pccadv@tpchd.org

http://communities.southsound.com/main.wsi?group_id=34

August 27, 2008

Dear City Clerk:

October is National Domestic Violence Awareness Month (DVAM) and the ^{Pierce County} Commission Against Domestic Violence **needs the City of Gig Harbor's support** to plan meaningful and effective events aimed at changing attitudes and norms that support healthy families.

Imagine a community where domestic violence is unacceptable (like smoking in a car with young children – without seatbelts). The Commission believes that with your support, **we can change** attitudes and behaviors around domestic violence just as attitudes about smoking and seat belts have changed.

You can help the Commission start to make domestic violence socially unacceptable in a few simple ways. For example, issue a City Proclamation with specific and meaningful actions that your city will take to support a culture free of domestic violence.

Consider for instance:

- ⌘ Display purple ribbons on city, police, or municipal vehicles
- ⌘ Allocate prevention funds to the Commission
- ⌘ Participate in the county wide Purple Light Nights™
- ⌘ Institute personnel policies aimed at employees, whether the victim or the perpetrator
- ⌘ Train employees to recognize the signs of domestic violence and make good referrals
- ⌘ Confront sexist or degrading jokes, or comments that condone violence
- ⌘ Promise to maintain domestic violence resource posters and brochures in all municipal buildings
- ⌘ Host a brown bag lunch presentation for employees
- ⌘ Commit to talk with your own children, grandchildren, other relatives and friends about the destructive effect of violence, threats, and coercion in families
- ⌘ Arrange for your Pastor, Priest, Rabbi, Minister, or Amman to address family violence
- ⌘ Wear a purple lapel pin throughout October
- ⌘ Solicit the support of community service organizations in the Purple Light Nights™ and symbolic purple ribbon campaigns

Contact the Commission for assistance, educational materials, speakers, promotional materials, Purple Light Nights™ information, and much more. Become a part of the solution!

Sincerely,

Ann L. Eft, Director



October 3, 2008

ADMINISTRATION

Director Ann L. Eft
Commission Against Domestic Violence
1111 Fawcett Street, Suite 100
Tacoma, Washington 98402

Dear Ms. Eft,

Thank you for your letter of notification regarding Domestic Violence Awareness Month. The City of Gig Harbor is committed to making on-going progress in our daily pro-active domestic violence awareness campaign as well as researching and adopting innovative tools in domestic violence prevention.

In an effort to bring a greater awareness to the harm that Domestic Violence has on our tranquil community I will lead our Council in proclaiming October as Domestic Violence Awareness Month. Gig Harbor is not immune to the devastation that this terrible crime brings.

Additionally, during the month of October the city will promote a greater awareness to Domestic Violence by placing purple magnetic ribbons on all city owned vehicles. I will also wear a purple lapel pin alongside my City Administrator, Judge Dunn, Chief Davis, and Court Administrator.

Our pro-active prevention measures the past few months have included a mandatory all staff workplace violence training with a heavy emphasis on domestic violence, a re-introduction of the Crystal Judson Family Justice Center community advocate program here at City Hall, continued enhancement to our Court web-page on Domestic Violence issues including safety planning for those living in fear, and the on-going effort of our Coordinated Response Protocol to Domestic Violence and Child Maltreatment Committee led by the Honorable Michael Dunn and Chief of Police Davis.

We will continue our efforts through available grant funding, developing our relationship with the Family Justice Center, and by working closely with our local and State representatives.

Sincerely,

Chuck Hunter
Mayor

PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

WHEREAS, the Civilian Conservation Corps (CCC) was the most popular of the New Deal programs created by President Franklin Delano Roosevelt to provide relief and speed recovery from the Great Depression; and

WHEREAS, from 1933 to 1942, the CCC put some two million young men to work on a massive building program in Americas' parks and forests. Roads and trails, campsites and social halls, amphitheatres and visitor centers numbered among the many features constructed by the CCC that provided the public with unprecedented access to the nation's natural and historic treasures; and

WHEREAS, the CCC was more than just a make work program. It offered the enrollees a renewed sense of dignity and hope for the future. They were not only earning a living, they were doing something important for their country, and they knew it; and

WHEREAS, records from 1935 list three Works Progress Administration (WPA) projects in the local area: the sidewalks from Crescent Valley School were built in 1915 by the WPA at 50 cents per linear foot; construction of the open-air park facility and the restroom structure in 1937 was done at \$55 a month, 5 days a week, 6 hours a day; and

WHEREAS, this year the City of Gig Harbor received \$15,500 in preservation funds to re-roof 2 historic Works Progress Administration Buildings located in City Park at Crescent Creek. The work will replace 30-inch hand-split shakes like those used for the original construction in 1937; and

WHEREAS, it is fitting and proper to accord official recognition to this magnificent effort and its memorable anniversary, and to the patriotic celebrations which will commemorate this grand occasion; and

NOW, THEREFORE, I, Charles L. Hunter, Mayor of the City of Gig Harbor, hereby declare the week of October 13 through October 19 as

Works Progress Administration Week

and ask our citizens to join in celebration of the 75th Anniversary of the creation of FDR's visionary New Deal.

In Witness Whereof, I have hereunto set my hand and caused the Seal of the City of Gig Harbor to be affixed this 13th day of October, 2008.

Charles L. Hunter, Mayor

Date



NOTICE OF LIQUOR LICENSE APPLICATION

Consent Agenda 5

RETURN TO:

WASHINGTON STATE LIQUOR CONTROL BOARD
License Division - 3000 Pacific, P.O. Box 43075
Olympia, WA 98504-3075
Customer Service: (360) 664-1600
Fax: (360) 753-2710
Website: www.liq.wa.gov

JAR

DATE: 9/17/08

TO: MOLLY TOWSLEE, CITY CLERK
RE: NEW APPLICATION

UBI: 602-832-589-001-0001

License: 085087 - 1U County: 27
Tradename: IL LUCANO
Address: 3119 JUDSON ST WA 98335-1221
GIG HARBOR

APPLICANTS:

OPPIDO LUCANO, LLC
HIRASAWA, AZUSA 1962-01-27
SIMONE, MICHELE 1964-09-12

Phone No.: 253-627-6377 AZUSA HIRASAWA

Privileges Applied For:
SPIRITS/BR/WN REST LOUNGE +
BEER/WINE REST - BEER/WINE

As required by RCW 66.24.010(8), the Liquor Control Board is notifying you that the above has applied for a liquor license. You have 20 days from the date of this notice to give your input on this application. If we do not receive this notice back within 20 days, we will assume you have no objection to the issuance of the license. If you need additional time to respond, you must submit a written request for an extension of up to 20 days, with the reason(s) you need more time. If you need information on SSN, contact our CHRI Desk at (360) 664-1724.

- 1. Do you approve of applicant?
2. Do you approve of location?
3. If you disapprove and the Board contemplates issuing a license, do you wish to request an adjudicative hearing before final action is taken?
4. If you disapprove, per RCW 66.24.010(8) you MUST attach a letter to the Board detailing the reason(s) for the objection and a statement of all facts on which your objection(s) are based.

SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE

DATE



Subject: Resolution – Surplus Equipment

Dept. Origin: Finance

Proposed Council Action:

Prepared by: Kay Johnson

Adopt the attached resolution surplusng this City-owned equipment.

For Agenda of: October 13, 2008

Exhibits:

Initial & Date

Concurred by Mayor:

CLH 9/25/08

Approved by City Administrator:

PK 9/25/08

Approved as to form by City Atty:

Approved by Finance Director:

DP 9/25/08

Approved by Department Head:

[Signature]

Expenditure	Amount	Appropriation
Required \$0	Budgeted \$0	Required \$0

INFORMATION / BACKGROUND

The city has a surplus of antiquated equipment which needs to be properly disposed. This surplus occurred due to the replacement of outdated equipment.

FISCAL CONSIDERATION

The surplus equipment will be sold to either a recycling center or charity organization to be refurbished and reused.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Adopt the attached resolution surplusng this city-owned equipment.

**A RESOLUTION OF THE CITY OF GIG HARBOR
DECLARING CITY EQUIPMENT SURPLUS AND ELIGIBLE
FOR SALE.**

WHEREAS, the Gig Harbor City Council has determined that city-owned equipment is surplus to the City's equipment needs and has been or is in need of being replaced with new equipment; and

WHEREAS, the City may declare such equipment surplus and eligible for sale;

NOW, THEREFORE, the City Council of the City of Gig Harbor hereby resolves as follows.

To declare as surplus:

EQUIPMENT		Quantity	SERIAL / ASSET NUMBER	MODEL INFO.
1	Computer Monitors	2	MX-06D251-47741-18G-712G CN-0P0151-64180-4AJ-0AWT	Dell Dell
2	Computer Printers	8	01037 01447 U60964ESJ-877461 /01309 660964KSJ-138049 /01303 U60964FSJ-910112 /01302 MY39G3K0PY C6757-60001 U0066A4J805662 / 01149 00919	HP LaserJet 4300tn FUJITSU fi-5120C Brother HL-5140 Brother HL-5140 Brother HL-51 HP DeskJet 5150 Office Jet G85 Brother HL-1440
	Laser Cartridges	2		HPDJ940c HP C4129X replacements

3	Computer Towers	4	RV095A0370 7JF8241 / 01111 ICJ0021 / 00227 FCJ0021	Powerware 9120 Dell DHM Dell DHM Dell DHM
4	Miscellaneous Equipment			
	Video Phone	1	945P24500906 / 00598	AT&T SN VIDEO PHONE
	Speakers	3		
	Key Boards	7		5 – Dell 2 – Dell
	UPS Surge - Dead Protectors	11		8 – Belkin 3 – Tripp-Lite
	Telephones	1		Meridian 2 parts
	Computer Parts	7		
	Fax	1	JPA3A09209 / 00520	HP-900 FAX
	DVD PLAYER	1	0400025 / NA	TASCAM DVD PLAYER
	VCR	1	107Y0096 / NA	HR-S2901U

PASSED ON THIS ____ day of _____, 200__.

APPROVED:

MAYOR CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

MOLLY M. TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK:

PASSED BY THE CITY COUNCIL: RESOLUTION NO. _____



Subject: City Prosecuting Attorney Contract

Proposed Council Action:

Authorize the Mayor to sign a contract with Glisson, Witt & Altman for Prosecuting Attorney services.

Dept. Origin: Administration

Prepared by: Rob Karlinsey

For Agenda of: **October 13, 2008**
Exhibits: Proposed Contract & Prior Contract

Initial & Date

Concurred by Mayor: CLH 10/9/08
Approved by City Administrator: RSK
Approved as to form by City Atty: _____
Approved by Finance Director: _____
Approved by Department Head: _____

Expenditure	Amount	Appropriation
Required See below	Budgeted See below.	Required \$0

INFORMATION / BACKGROUND

In 2005 the City of Gig Harbor conducted a request for qualifications for prosecutions services. As a result of this RFQ process, the City selected Glisson, Altman, and Witt (Glisson) to represent the City as its municipal court prosecutor. The Court and staff have been generally satisfied with the services of this firm and recommend a renewal. The proposed contract is included with this council bill, as is the prior (now expired) contract with Glisson.

The contract has expired and Glisson, Altman, and Witt are also requesting a renewal, and the firm is also requesting an increase in the contract amount. The firm has not received an increase since 2006. Prior year June CPI-Ws to go into effect for 2007, 2008, and 2009 have been as follows:

- 2007: 3.3%
- 2008: 4.6%
- 2009: 6.2%
- Total: 14.1%

As a result of these CPI increases, the city administrator is recommending that Glisson be given a discounted, CPI-based increase of 12%, bringing their contract amount from \$6,416 per month to \$7,186 per month (\$86,232 per year).

In addition, the city administrator is recommending that the prosecutor start representing the City on contested traffic infractions when the person cited brings legal counsel to the hearing. For this additional service, the prosecutor is asking for \$100 for each contested traffic

infraction hearing when the respondent brings legal counsel. Over time, the city administrator believes that the financial impact of this additional service will be zero or positive to the City because the word will eventually get out that the City is now being represented on these contested hearings. As a result, the number of contested hearings should eventually go down and court revenues should subsequently go up.

Through approximately August of this year, there have been 44 contested traffic infraction hearings with Council, 32 of which have been dismissed. (The City was not represented on all 44 cases)

The prosecutor's vehicle insurance described in the attached contract in line with what the AWC insurance pool recommends: general liability insurance of \$1 million per incident, \$2 million aggregate, which the attached contract does require.

As for the contract term, the contract renewal will commence as of the date of signing, will last two years, and will automatically renew for one additional year if the City does not provide notice of cancellation at least 60 days before the end of the two years. At any time, either party may provide 60 days notice to end the contract.

One question to ask is, "What are other cities paying for prosecution services?" Although we were unable to conduct an in-depth, like-for-like comparison, our Court Administrator Paul Nelson was able to inquire of other cities and compile the following data (annual figures):

Poulsbo	\$94,806
Bonney Lake	\$99,000
Fircrest	\$55,600 (2009)
Fife	\$97,000
University Place	Unknown; part of contract with Pierce County District Court
Puyallup	No response
Steilacoom	No response
Gig Harbor Proposed	\$86,232 (plus \$100 per contested infraction hearing)

To conduct a more in-depth comparison, one would need to compare amount and types of criminal filings, specific responsibilities of each city's prosecutor, etc.

FISCAL CONSIDERATION

The proposed contract renewal and its accompanying increase is included in the 2009 proposed budget. Sufficient funds exist in the 2008 budget to cover the increase for the remainder of the year.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Authorize the Mayor to sign a contract with Glisson, Witt & Altman for Prosecuting Attorney services.

PROSECUTING ATTORNEY AGREEMENT

This Agreement is entered into by and between the City of Gig Harbor, hereinafter referred to as the “City” and the Law Office of Glisson, Witt & Altman, Inc. P.S. hereinafter referred to as the “Prosecuting Attorney.”

WHEREAS, the parties desire to define the services to be provided by the Prosecuting Attorney, and the costs associated therewith; Now, Therefore,

The parties hereto agree as follows:

Terms.

Section 1. Term. The term of this Agreement shall be from the date this Agreement is executed by both parties, until terminated by either party pursuant to the terms hereof. Either party may terminate this Agreement with or without cause, by providing sixty (60) days written notice to the other party.

Section 2. Duties.

A. The Prosecuting Attorney shall be principally responsible for performing all work involving criminal prosecution for the City. The following list of duties is illustrative of the services to be performed by the Prosecuting Attorney, but is not necessarily inclusive of all duties:

- Representing the city at all criminal case hearings;
- Representing the city in any RALJ appeals from criminal cases;
- Representing the city in civil forfeiture hearings under RCW Title 69 (drug seizures).
- Representing the city in all civil traffic infractions where the defendant is represented by counsel.
- Issuing any required discovery in traffic infraction cases.

B. The Prosecuting Attorney’s duties shall not include the following:

Civil proceedings not listed in Section 2. A.

Civil traffic proceedings not listed in Section 2. A.

The responsibilities of the City Attorney, as provided in the City Attorney’s contract with Gig Harbor

Section 3. Compensation.

A. The rates charged by the Prosecuting Attorney and the Law Office of Glisson, Witt & Altman for the legal services described in this Agreement are:

\$7,186 per month.

\$100 for each traffic infraction handled by the Prosecuting Attorney. A traffic infraction shall be considered eligible to be billed to the City only where the Prosecuting Attorney files Notice of Appearance.

\$75 per hour for work done in representing the City in civil forfeiture hearings described in Section 2. A. Time shall be billed for preparation and research, hearing time, and travel time if it is outside the normal hours of Municipal Court business.

The City shall be responsible for costs associated with any expert witnesses required to be subpoenaed for civil traffic matters.

These rates are effective for two years, and are subject to renegotiation yearly thereafter. After the initial two year period, this contract shall renew unless either party to the contract gives notice, at least 60 days prior to its expiration, of intent to terminate the contractual relationship. If no such notice is given, the contract shall be extended by 12 months, with the Prosecuting Attorney's base monthly compensation increasing in an amount equivalent to the cost of living increase awarded to city employees.

City Council reserves the right to terminate this contract with no less than 60 days notice with or without cause.

Should the Court Calendar change so that court will regularly be held more than one day per week, this shall constitute a substantial change in the Prosecuting Attorney's work load and therefore be cause to immediately allow renegotiation of the monthly rate of compensation.

B. Reimbursable Costs. The Prosecuting Attorney shall be reimbursed for costs and advances for such items such as legal messenger services, court filing fees and other similar expense items.

Section 3. Equipment and Other Resources. The Prosecuting Attorney shall provide his own cell phone, access to on-line computer legal research services, long distance telephone, cell phone service, mileage, etc. For the City's convenience, a private office with computer, city e-mail account and internet access may be provided for use by the contractor.

Section 4. Entire Agreement. This Agreement incorporates the entire agreement between the parties with regard to the legal work to be performed on behalf of the City, and the rates to be charged therefore.

Section 5. Insurance. The Prosecuting Attorney shall obtain and maintain insurance of the types and limits described below:

A. **Automobile Liability** insurance with a minimum combined single limit for bodily injury and property damage of \$50,000 per accident.

B. **Professional Liability** insurance shall be written with limits no less than \$1,000,000 per claim and \$2,000,000 policy aggregate limit.

The Prosecuting Attorney's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

The Prosecuting Attorney's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Section 6. Independent Contractor. The Prosecuting Attorney is an independent contractor with respect to the services to be provided under this Agreement. The City shall not be liable for, nor obligation to pay to the Prosecuting Attorney or any of his employees, sick leave, vacation, pay, overtime or any other benefit applicable to employees of the City, nor to pay or deduct any social security, income tax, or other tax from the payments made to the Prosecuting Attorney which may arise as an incident of the Prosecuting Attorney performing services for the City. The City shall not be obligated to pay industrial insurance for the services rendered by the Prosecuting Attorney.

Section 7. Ownership of Work Product. All data, materials, reports, memoranda, and other documents developed by the City under this Agreement specifically for the City are the property of the City and shall be forwarded to the City upon request. The City may use such documentation as the City deems fit. The City agrees that if such data, materials, reports, memoranda and other documents prepared by the Prosecuting Attorney are used for purposes other than those intended in this Agreement, that the City does so at its sole risk.

Section 8. Hold Harmless. The Prosecuting Attorney and the Law Office of Glisson, Witt & Altman agrees to indemnify, hold harmless and defend the City, its elected and appointed officials, employees and agents from and against any and all claims, judgments or awards of damages, arising out of or resulting from the acts, errors or omissions of the Prosecuting Attorney in the performance of this Agreement, except for claims or damages caused by the sole negligence of the City. The City agrees to indemnify, hold harmless, and defend the Prosecuting Attorney and the Law Office of Glisson, Witt & Altman from and against any and all claims, judgments or awards of damages, arising out of or resulting from the acts, errors or omissions of the City, its elected and appointed officials, employees and agents in the performance of this Agreement, except for claims or damages caused by the sole negligence of the Prosecuting Attorney. In the event a court of competent jurisdiction finds that the City and Prosecuting Attorney are negligent, then each party shall be responsible for the extent of its own negligence.

Section 9. Rules of Professional Conduct. All services provided by the Prosecuting Attorney and the Law Office of Glisson, Witt & Altman under this Agreement will be performed in accordance with the Rules of Professional Conduct for attorneys established by the Washington Supreme Court.

Section 10. Subcontracting or Assignment. The Prosecuting Attorney may not assign or subcontract any portion of the services to be provided under this Agreement without the express written consent of the City. However, services performed under the terms of this contract may be performed by any qualified partner or associate attorney of Glisson, Witt & Altman. When the City Prosecutor's office must recuse itself from a case to avoid violation of the Rules of Professional Conduct, it shall be the responsibility of the office of the Prosecuting Attorney to provide a qualified conflict attorney to represent the City.

Section 11. Assignment and Subcontract. Any assignment of this Agreement by the Prosecuting Attorney without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

Section 12. Notices. Notices required by terms of this Agreement shall be sent to the other party at the following addresses, unless otherwise requested, in writing, by one of the parties hereto:

TO THE CITY:
Attn: City Administrator
City of Gig Harbor
3510 Grandview Street
Gig Harbor WA 98335

TO THE PROSECUTING ATTORNEY:
Glisson, Witt & Altman
400 Warren Avenue, Suite 415
Bremerton, WA 98337

Section 13. Applicable Law, Venue, Attorney's Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly laid in Pierce County, Washington or the U.S. District Court, Western District. The prevailing party in any such action shall be entitled to its reasonable attorney's fees and costs of suit.

Section 14. Modification. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Prosecuting Attorney.

Section 15. Entire Agreement. The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any

manner whatsoever, this Agreement or the Agreement documents. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

Section 16. Agreement Not Enforceable by Third Parties. This Agreement is neither expressly nor impliedly intended for the benefit of any third party and is neither expressly nor impliedly enforceable by any third party.

Section 17. Severability. If any section, sentence, clause or phrase of this Agreement is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause or phrase of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

Dated this ___ day of _____, 2008.

CITY OF GIG HARBOR

PROSECUTING ATTORNEY

By _____
Mayor Charles L. Hunter

By _____
Stan Glisson,
Glisson, Witt & Altman

ATTEST/AUTHENTICATED:

By _____
City Clerk Molly Towslee

APPROVED AS TO FORM:

By _____
City Attorney, Carol Morris

**CITY PROSECUTOR
AGREEMENT FOR SERVICES**

THE PARTIES:

The parties to this Agreement are as follows: **Glisson and Witt PLLC, represented by Stan Glisson and Ryan Witt**, hereinafter referred to as "Attorney"; and **THE CITY OF GIG HARBOR**, hereinafter referred to as "City".

PURPOSE:

The purpose of this Agreement is to set forth the terms of the Agreement between the parties whereby the City agrees to hire Attorney for the City of Gig Harbor and Attorney agrees to provide legal services for the city relative to prosecuting of cases and other related matters.

CONSIDERATION:

The consideration for this Agreement consists of the mutual covenants and conditions contained herein and the mutual legal benefits and detriments arising from this Agreement.

THE AGREEMENT:

The parties hereto agree as follows:

1. **Duties.** Attorney shall at all times faithfully, industriously, and to the best of Attorney's ability and experience, perform all of the duties that may be required of Attorney pursuant to the express and implicit terms of this Agreement and pursuant to the rules of professional ethics.
2. **Discrimination.** Attorney agrees not to discriminate against any person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, or physical, mental or sensory handicap, except where a bona fide occupational qualification exists.
3. **Reimbursement.** The City shall retain Attorney for the following works and shall reimburse the Attorney at the following rates.
 - a. Preparation and appearances for cases assigned to Attorney by the City in any Court, including without limitation, the Gig Harbor Municipal Court, Pierce County Superior Court and the Appellate Courts of the State of Washington.

- b. The City shall pay or reimburse Attorney for all Court costs, long distance telephone charges and postage. Attorney shall not be paid for travel time or clerical time involved in the performance of duties. The City will provide the Attorney with a city-owned on-site computer and printer. The Attorney may be provided with office and/or filing space at the City's sole discretion.
 - c. The City shall pay to Attorney the yearly amount of ~~\$72,000~~ 77,000 in monthly installments as invoiced by attorney. Any and all time spent in preparation for or appearances related to Appellate Courts other than Superior Court shall be compensated to Attorney by the City at an hourly rate of not more than \$125.00 per hour.
 - d. The City may pay for professional training for the Attorney at the sole discretion of the City within the City's yearly budgeted training allowances.
4. Coverage Attorney. It is agreed and understood that it is the responsibility of the Attorney to be present at all Court hearings for which the Attorney has contracted to render services on behalf of the City. It is understood that the Attorney has other employment and that the Attorney is not precluded from other employment so long as there is no interference with the performance of Attorney duties as set forth herein. The Attorney shall compensate any counsel obtained to pro tem for the Attorney in such instances. Should the Attorney be unable to perform any duties for any reason, including illness, the Attorney shall provide for full coverage of all duties to be performed under this Agreement by an attorney duly licensed in the State of Washington. The Coverage Attorney shall be approved in advance by the City and shall provide proof of malpractice coverage and be duly sworn to perform the duties of prosecutor. Such Coverage Attorney shall be compensated by the Attorney and the Attorney, Coverage Attorney and all agents and employees of the Attorney shall be independent contractors. The Attorney promises to hold harmless and indemnify the City from all employee-related costs, fees, benefits, wages and/or taxes of any kind or nature, and any and all fees for services and costs related to the services of the Coverage Attorney.
5. Subcontracting or Assignment. Attorney may not assign or subcontract any portion of the services to be provided under this Agreement without the express written consent of the City.
6. Required Notices. The City shall be responsible for the provision to defendants of all required notices to assure their appearance in Court.
7. Insurance. The Attorney shall provide proof of professional liability insurance with at least a \$1,000,000 malpractice coverage limit by attaching a certificate of coverage at the time this contract is signed and shall maintain such insurance at all times that this contract is in effect.

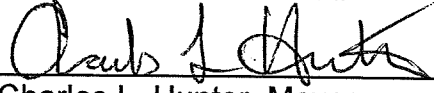
8. **Hold Harmless.** Attorney agrees to indemnify, hold harmless and defend the City, its elected and appointed officials, employees and agents from and against any and all claims, judgments, or awards of damages, arising out of or resulting from the acts, errors or omissions of Attorney. The City agrees to indemnify, hold harmless, and defend Attorney from and against any and all claims, judgments or awards of damages, arising out of or resulting from the acts, errors or omissions of the city, its elected and appointed officials, employees and agents.
9. **Independent Contractor.** The Attorney is and shall be at all times during the term of this Agreement an independent contractor and shall indemnify and hold harmless the City from all costs associated with the wages and benefits of the Attorney's employees or of a Coverage Attorney engaged pursuant to this Agreement.
10. **Rules of Professional Conduct.** All services provided by Attorney under this Agreement will be performed in accordance with the Rules of Professional Conduct for attorneys established by the Washington Supreme Court.
11. **Work of Other Clients.** Attorney may provide services for clients other than the city during the term of this Agreement, but will not do so where the same may constitute a conflict of interest unless the City, after full disclosure of the potential or actual conflict, consents in writing to the representation. Any potential conflicts shall be handled in accordance with the Rules of Professional Conduct referred to above.
12. **Termination.** This Agreement is a contract for the provision of professional services by the Attorney to the City, and as such, the City as the client reserves the right to terminate the agreement without cause and without notice at any time. The attorney may, for any reason, terminate this Agreement, but in order to provide reasonable transition to other counsel and in fulfillment of the attorney's ethical obligation to the City as Attorney's client, promises the Attorney will provide sixty (60) days written notice to the City. The Attorney shall also immediately notify the client in the event that the Attorney's license to practice law in the state of Washington is revoked or suspended, in which case this Agreement shall be at an end.
13. **Complete Agreement.** This contract contains the complete agreement concerning the employment arrangement between the parties herein and shall, as of the effective date hereof, supersede all other agreements between the parties.
14. **Waiver or Modification.** No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the party to be charged therein.

No evidence of any waiver or modification shall be offered or received in evidence of any proceeding, arbitration or litigation between the parties arising out of or affecting this Agreement or the rights or obligations of the parties hereunder, unless such waiver or modification is in writing duly executed by the parties. The parties further agree that the provisions of this section may not be waived except as herein set forth.

15. The term of this Agreement shall be one (2) years, commencing on the 1st day of May, 2006, and terminating on the 30th day of April, 2007, subject, however, to prior termination as provided hereinabove, or upon agreement of the parties.

DATED this 8th day of _____ May, 2006.

CITY OF GIG HARBOR:

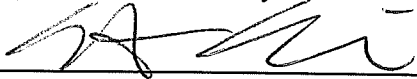


Charles L. Hunter, Mayor

ATTEST:



Molly M. Towslee, City Clerk



Stan Glisson, Attorney

Ryan Witt, Attorney



Subject: CERB Contract Execution
Proposed Council Action:
Authorize the Mayor to sign the CERB Agreement

Dept. Origin: Finance
Prepared by: David Rodenbach
For Agenda of: October 13, 2008
Exhibits:

Concurred by Mayor: [Signature] 10/8/08
Approved by City Administrator: [Signature] 10/8/08
Approved as to form by City Atty: [Signature]
Approved by Finance Director: [Signature] 10/8/08

Table with 3 columns: Expenditure Required, Amount Budgeted, Appropriation Required. Values are 0, 0, 0.

INFORMATION / BACKGROUND

This agreement with the Washington State Community Economic Revitalization Board (CERB) implements the city's \$5 million CERB grant.

In March of 2006, the City submitted a Job Development Fund Application to the CERB board for a Grant associated with the recent completed and to be completed corridor improvements along Borgen and Canterwood Boulevards.

The City competed against over 50 other Statewide agencies for an available pool of \$50 million dollars. In June of 2007, the City was notified by that State that it was one of the twelve successful agencies in procuring a grant of \$5 million dollars.

The City Attorney has reviewed and approved this contract as to form.

Special recognition is in order to Stephen Misiurak, who was the primary author of the original grant application on the contents of the current grant contract.

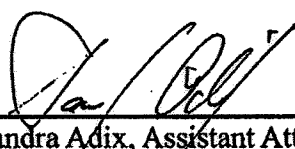
FISCAL CONSIDERATION

These funds will be used to offset a portion of the costs Franciscan Health Systems (FHS) will incur for their Mitigation improvements associated with the Canterwood Boulevard and the Borgen-Burnham-SR 16 Interchange transportation projects that are required by their development agreements with the city.

RECOMMENDATION / MOTION

Move to: Authorize the Mayor to execute this contract.

WASHINGTON STATE COMMUNITY ECONOMIC REVITALIZATION BOARD

<p>1. GRANT RECIPIENT: City of Gig Harbor 3510 Grandview Street Gig Harbor, Washington 98335</p>	<p>2. AWARD DATE: July 1, 2007</p>	<p>3. END DATE: June 30, 2009</p>
<p>4. GRANT RECIPIENT REPRESENTATIVE: NAME: David Stubchaer, P.E. PHONE: 253-853-7614 FAX: 253-853-7597 E-MAIL: stubchaerd@cityofgigharbor.net</p>	<p>5. CERB REPRESENTATIVE: NAME: Matthew Ojennus PHONE: 360-725-4047 FAX: 360-586-0873 E-MAIL: matthewo@cted.wa.gov</p>	
<p>6. SOURCE OF FUNDS: State - \$5,000,000 Total Project Cost - \$22,710,266</p>	<p>7. TAX IDENTIFICATION NUMBER: 91-6001435</p>	
<p>8. SUMMARY: The project will provide infrastructure corridor improvements to roadway structures and facilities connected to Burnham/Borgen Interchange.</p>		
<p>The COMMUNITY ECONOMIC REVITALIZATION BOARD and the GRANT RECIPIENT acknowledge and accept the terms of this GRANT CONTRACT and attachments and have executed this GRANT CONTRACT as of the date and year written below. The rights and obligations of both parties to this GRANT CONTRACT are governed by this GRANT CONTRACT and other documents incorporated by reference: GRANT CONTRACT Terms and Conditions including <u>Attachment A: Scope of Work</u>; <u>Attachment B: Certification of the Availability of Funds to Complete the Project</u>; <u>Attachment C: Budget</u>; and <u>Attachment D: Special Conditions</u>.</p>		
<p>FOR THE COMMUNITY ECONOMIC REVITALIZATION BOARD:</p> <p>_____ Tom Trulove, Chair Community Economic Revitalization Board</p> <p>DATE: _____</p> <p>APPROVED AS TO FORM ONLY:</p> <p> _____ Sandra Adix, Assistant Attorney General</p> <p>DATE: <u>08/25/2008</u></p>	<p>FOR THE GRANT RECIPIENT:</p> <p>_____ Charles L. Hunter, Mayor City of Gig Harbor</p> <p>DATE: _____</p>	

GRANT CONTRACT TERMS & CONDITIONS

SECTION 1 - PREAMBLE

This GRANT CONTRACT, entered into by the City of Gig Harbor, (hereinafter referred to as the GRANT RECIPIENT) and the Washington State Community Economic Revitalization Board (hereinafter referred to as CERB), WITNESSES THAT:

WHEREAS, CERB is authorized by Chapter 43.160 RCW to provide funds to political subdivisions to assist them in financing the cost of certain public facilities;

WHEREAS, CERB is authorized by Chapter 43.160 RCW to administer the Job Development Fund program;

WHEREAS, the Washington State Legislature has, in Laws of 2007, Chapter 520, (Section 1032), made an appropriation to fund Job Development Fund grants (hereinafter referred to as JDF); and

WHEREAS, the appropriation language stipulates the GRANT RECIPIENT is eligible to receive funding for a specific infrastructure improvement project (a venture herein referred to as the PROJECT).

THEREFORE, the parties mutually agree to the following terms and conditions:

SECTION 2 - SCOPE OF WORK

Over the course of the GRANT CONTRACT period, the GRANT RECIPIENT shall accomplish the activities described in Attachment "A": Scope of Work, incorporated into the GRANT CONTRACT by reference.

SECTION 3 - FUNDING

The total funds to be reimbursed to the GRANT RECIPIENT for costs incurred during the GRANT CONTRACT period shall be a sum not to exceed \$5,000,000.

SECTION 4 - CERTIFICATION OF FUNDS

A. The release of state funds under this GRANT CONTRACT is contingent upon the GRANT RECIPIENT certifying that it has expended or has access to funds from other sources as set forth in Attachment "B": Certification of the Availability of Funds to Complete the Project, incorporated into the GRANT CONTRACT by reference. Such sources may consist of a combination of any of the following:

- (1) Eligible project expenditures prior to the execution of this GRANT CONTRACT.
- (2) Cash dedicated to the PROJECT.
- (3) Funds available through a letter of credit or other binding loan commitment(s).
- (4) Pledges from foundations or corporations.
- (5) Pledges from individual donors.
- (6) The value of real property when acquired solely for the purposes of this PROJECT, as established and evidenced by a current market value appraisal performed by a licensed, professional real estate appraiser, or current property tax statement. CERB will not consider appraisals for prospective values of such property for the purposes of calculating the amount of non-state matching fund credit.
- (7) In-kind contributions, subject to CERB'S approval.

- B. The GRANT RECIPIENT shall maintain records sufficient to evidence that it has access to or has expended funds from such non-state sources, and shall make such records available for CERB'S review upon reasonable request.

SECTION 5 - BUDGET

An approved budget by category of expenditure is included as Attachment "C": Budget of this GRANT CONTRACT, incorporated into the GRANT CONTRACT by reference. The total amount of transfers of funds between line item budget categories shall be as specified in Attachment "C". If the cumulative amount of these transfers is expected to exceed the amount specified in Attachment "C", the total project budget shall be subject to justification and negotiation of a GRANT CONTRACT amendment by the GRANT RECIPIENT and CERB in advance of expenditure.

SECTION 6 - GRANT CONTRACT PERIOD

- A. The effective date of this GRANT CONTRACT shall be the date all parties sign and complete execution of the GRANT CONTRACT.
- B. Costs to be reimbursed by CERB under this GRANT CONTRACT are those eligible costs incurred during the performance of the GRANT CONTRACT work specified in Attachment "A" on or after May 18, 2006.

SECTION 7 - REIMBURSEMENT PROVISIONS

- A. Funds will be disbursed on a reimbursement basis only.
- B. Only eligible project-related costs will be reimbursed.
- C. In order to obtain reimbursement, the GRANT RECIPIENT shall submit quarterly a current invoice voucher on a form provided by CERB, which identifies the costs incurred for work performed since the previous voucher was submitted. Documentation of expenses is not required with each invoice, but must be available upon request. The invoice must be submitted with a progress report as required in Section 9.
- D. Within twenty (20) days after receiving and approving the voucher, CERB shall remit to the GRANT RECIPIENT a warrant covering CERB'S share of the costs incurred for work performed, unless the claim is challenged by CERB.
- E. The final invoice voucher covering costs incurred for work performed on or before June 30, 2009, must be submitted by the GRANT RECIPIENT prior to July 7, 2009, to allow CERB sufficient time to process it. Payment of the final voucher shall be contingent upon CERB'S receipt and approval of any products or deliverables designated in Attachment "A".

SECTION 8 - EXPENDITURES ELIGIBLE FOR REIMBURSEMENT

The GRANT RECIPIENT may be reimbursed for PROJECT expenditures in the following cost categories:

- Real property when purchased or acquired solely for the purposes of the PROJECT;
- Design, engineering, architectural, and planning costs;
- Project management costs (from external sources only);
- Construction costs including, but not limited to, the following:

- Site preparation and improvements;
- Permits and fees;
- Labor and materials;
- Taxes on project goods and services;
- Capitalized equipment; and
- Landscaping.

SECTION 9 - REPORTS

- A. The GRANT RECIPIENT shall submit a brief quarterly progress report on a form approved by CERB which describes the progress made on the work program outlined in Attachment "A". The progress report shall also provide detail on the dedicated matching funds.
- B. The GRANT RECIPIENT shall furnish, along with or prior to submitting the final invoice voucher, the final products, and a close out report as designated in Attachment "A".

SECTION 10 - GRANT CONTRACT AMENDMENTS

CERB or the GRANT RECIPIENT may request changes to the GRANT CONTRACT or its provisions. It is agreed and understood that no material or substantive alteration or variation of the terms of this GRANT CONTRACT shall be valid unless made in writing and signed by both parties. Any oral understanding or agreements shall not be binding unless made in writing and signed by both parties.

SECTION 11 - USE OF SUBCONTRACTS

The GRANT RECIPIENT may enter into subcontracts for any of the work contemplated under this GRANT CONTRACT without obtaining prior written approval of CERB. The GRANT RECIPIENT shall follow local policies regarding procurement, or in absence of local policies, shall use a competitive procurement process.

Each contract that the GRANT RECIPIENT enters into with subcontractors, creditors and others shall contain a clause providing notice that the state and CERB are not responsible for any legal obligation, financial or otherwise, incurred by the GRANT RECIPIENT.

CERB reserves the right to monitor the subcontractor selection process and contractual documents either during or following the selection process.

The GRANT RECIPIENT is responsible for the performance of any subcontractors. The GRANT RECIPIENT shall require all subcontractors to follow the same rules and regulations as described in this document. All subcontractors must be monitored by the GRANT RECIPIENT to ensure fiscal accountability.

SECTION 12 - RECAPTURE PROVISIONS

In the event that the GRANT RECIPIENT expends funds under this GRANT CONTRACT in violation of state laws and/or the provisions of this GRANT CONTRACT, CERB reserves the right to recapture state funds in an amount equivalent to the extent of the noncompliance.

Such right of recapture shall exist for a period not to exceed six (6) years following the GRANT CONTRACT termination. Repayment by the GRANT RECIPIENT of funds under this recapture provision shall occur within 30 days of demand. In the event CERB is required to institute legal proceedings to enforce the recapture provision and prevails, CERB shall be entitled to its costs thereof, including reasonable attorney's fees.

SECTION 13 - DOCUMENTATION, MONITORING AND AUDIT

During the GRANT CONTRACT period and following its termination, the GRANT RECIPIENT shall follow accounting procedures and shall maintain books, records, documents, and other evidence which sufficiently and properly reflect all project specific costs expended in the performance of this GRANT CONTRACT. The Office of the State Auditor or any persons duly authorized by CERB shall have full access to and the right to inspect, excerpt, audit, or examine any of these materials at all reasonable times for a period of six (6) years after termination of the GRANT CONTRACT.

CERB may require a copy of the GRANT RECIPIENT'S most recent audit and management letter.

CERB may require the GRANT RECIPIENT to obtain an audit for specific expenditures under this GRANT CONTRACT. Costs of a required audit are an allowable expense.

SECTION 14 - ACKNOWLEDGMENT OF STATE FUNDING

The GRANT RECIPIENT shall provide all project-related press releases to CERB. Press releases shall identify the state of Washington and CERB as a project financier.

If, during the period covered by this GRANT CONTRACT, the GRANT RECIPIENT displays signs or markers or circulates any communication identifying the financial participants in the PROJECT, such sign, marker, or communication shall identify the state of Washington and CERB as a participant. The provision of this section shall also apply to any permanent signs or markers displayed at the PROJECT site.

SECTION 15 - NONDISCRIMINATION CLAUSE

During the performance of this GRANT CONTRACT, the GRANT RECIPIENT shall comply with all federal and state nondiscrimination laws, including but not limited to, chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq., the Americans with Disabilities Act (ADA).

In the event of the GRANT RECIPIENT'S noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy, this GRANT CONTRACT may be rescinded, canceled, or terminated in whole or in part, and the GRANT RECIPIENT may be declared ineligible for further contracts with CERB or the Department of Community, Trade and Economic Development. The GRANT RECIPIENT shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with Section 24.

SECTION 16 - SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced or limited in any way after the effective date of this GRANT CONTRACT and prior to normal completion, CERB may terminate the GRANT CONTRACT under the "Termination" clause, without the required notice. In lieu of termination, the GRANT CONTRACT may be amended to reflect the new funding limitations and conditions.

SECTION 17 - TERMINATION OF GRANT CONTRACT

A. If the GRANT RECIPIENT fails to fulfill its obligations under this GRANT CONTRACT, CERB may terminate the GRANT CONTRACT upon written notice to the GRANT RECIPIENT specifying the reason for termination. The termination date shall be specified in the notice of termination. In the alternative,

CERB may, in its sole discretion, provide notice to the GRANT RECIPIENT that termination will occur unless the GRANT RECIPIENT corrects the violation within a specified number of days.

- B. Notwithstanding any other provisions of this GRANT CONTRACT, either party may terminate this GRANT CONTRACT by providing written notice of such termination, specifying the effective date thereof, at least thirty (30) days prior to such date.
- C. Reimbursement for GRANT RECIPIENT work performed, and not otherwise paid for by CERB prior to the effective date of such termination, shall be as CERB reasonably determines.
- D. In the event funds are not reappropriated for this PROJECT in the 2009-2011 biennial budget, this GRANT CONTRACT shall terminate on June 30, 2009.

SECTION 18 - SURVIVAL

The terms, conditions, and warranties contained in this GRANT CONTRACT that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this GRANT CONTRACT shall so survive.

SECTION 19 - GRANT RECIPIENT NOT EMPLOYEE OF CERB

The GRANT RECIPIENT, its employees, or agents performing under this GRANT CONTRACT are not deemed to be employees of CERB or agents of CERB in any manner whatsoever. The GRANT RECIPIENT will not hold itself out as or claim to be an officer or employee of CERB or of the state of Washington and will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of CERB or of the state of Washington.

SECTION 20 - OWNERSHIP OF PROJECT/CAPITAL FACILITIES

CERB makes no claim to any real property improved or constructed with funds awarded under this GRANT CONTRACT and does not assert and will not acquire any ownership interest in or title to the capital facilities and/or equipment constructed or purchased with state funds under this GRANT CONTRACT. This provision does not extend to claims that CERB may bring against the GRANT RECIPIENT in recapturing funds expended in violation of this GRANT CONTRACT.

SECTION 21 - APPLICABLE LAWS AND REGULATIONS

The GRANT RECIPIENT shall comply with all existing applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

The PROJECT funded under this GRANT CONTRACT may be subject to prevailing wage law (Chapter 39.12 RCW). The GRANT RECIPIENT is advised to consult the Washington Department of Labor and Industries and/or private counsel to determine whether prevailing wages must be paid. CERB is not responsible for determining whether prevailing wage applies to this PROJECT or for any prevailing wage payments that may be required by law.

SECTION 22 - SPECIAL PROVISION

CERB'S failure to insist upon the strict performance of any provision of this GRANT CONTRACT or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any obligation or right under this GRANT CONTRACT.

SECTION 23 - HOLD HARMLESS

The GRANT RECIPIENT agrees to defend, hold harmless, and indemnify the state of Washington, CERB, the Department of Community, Trade and Economic Development, their officers, agents, employees, and assigns against any and all damages or claims for damages resulting or allegedly resulting from the GRANT RECIPIENT'S performance or lack of performance under the terms of this GRANT CONTRACT.

SECTION 24 - DISPUTE RESOLUTION

Except as otherwise provided in this GRANT CONTRACT, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute hearing. The parties shall select a dispute resolution team to resolve the dispute. The team shall consist of a representative appointed by CERB, a representative appointed by the GRANT RECIPIENT, and a third party mutually agreed upon by both parties. The team shall attempt, by majority vote, to resolve the dispute. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

SECTION 25 - GOVERNING LAW AND VENUE

The GRANT CONTRACT shall be construed and enforced in accordance with, and the laws of the state of Washington hereof shall govern the validity and performance. Venue of any suit between the parties arising out of this GRANT CONTRACT shall be the superior court of Thurston County, Washington.

SECTION 26 - ASSIGNMENT

Neither this GRANT CONTRACT, nor shall any claim arising under this GRANT CONTRACT, be transferred or assigned by the GRANT RECIPIENT without prior written consent of CERB.

SECTION 27 - SEVERABILITY

In the event any term or condition of this GRANT CONTRACT or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this GRANT CONTRACT which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this GRANT CONTRACT are declared severable.

SECTION 28 - HISTORICAL AND CULTURAL RESOURCES

- A. GRANT RECIPIENT acknowledges that the project funded under this GRANT CONTRACT is subject to Executive Order 05-05, Archaeological and Cultural Resources. The GRANT RECIPIENT agrees to work with CERB to meet the requirements of Executive Order 05-05 and understands the conditions set forth in the Department of Archaeology and Historic Preservation's recommendations must be satisfied before CERB will reimburse any project construction costs.
- B. In the event that historical or cultural resources are discovered at the PROJECT site during construction, the GRANT RECIPIENT shall immediately stop construction and notify the local historical preservation officer and the state historical preservation officer at the Department of Archaeology and Historic Preservation.

SECTION 29 - REAPPROPRIATION

The parties hereto understand and agree that any state funds not expended by June 30, 2009, will lapse on that date unless specifically reappropriated by the Washington State Legislature. If funds are so reappropriated, the

state's obligation under the terms of this GRANT CONTRACT shall be contingent upon the terms of such reappropriation.

SECTION 30 - ENTIRE AGREEMENT

This GRANT CONTRACT, including referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this GRANT CONTRACT shall be deemed to exist or to bind any of the parties hereto.

The attachments to this agreement are as follows:

ATTACHMENT A: Scope of Work, consisting of 2 pages;

ATTACHMENT B: Certification of the Availability of Funds to Complete the Project, consisting of 1 page;

ATTACHMENT C: Budget, consisting of 1 page; and

ATTACHMENT D: Special Conditions, consisting of 1 page.

ATTACHMENT A: SCOPE OF WORK

Grant Recipient: City of Gig Harbor

Summary: The project will provide infrastructure corridor improvements to roadway structures and facilities connected to the Burnham/Borgen/SR16 Interchange.

Activities and Estimated Costs: (All activities will be completed no later than June 30, 2009.)

- 1) Widening of Canterwood Boulevard and Burnham Drive to include:
 - a. Right turn slip ramps within City right of way including associated flood control improvements. Flood control improvements to consist of a new fish bearing concrete culvert under Canterwood Boulevard and a fish-friendly stream complete with fish ladders and like amenities.
 - b. Construction of a 24" diameter jack bore under mainline State Route 16 (WSDOT requirement to alleviate flooding issues associated with Canterwood Boulevard). – \$5,338,123*
- 2) Activities associated with widening of the on and off ramps for the Borgen Boulevard exit, including the connecting east and west roundabouts on Burnham Drive – \$7,700,000.*
- 3) Construction administration (outside sources) – \$1,499,355.*
- 4) Canterwood frontage improvements and waterline extension along Canterwood Boulevard – \$1,125,905 (FHS).
- 5) Widening of Borgen Boulevard including new corridor roundabouts at Harbor Hill Boulevard and Peacock Avenue; and improvements to the 51st Street roundabout – \$1,817,956 (OPG).
- 6) Construction of Harbor Hill Boulevard (PH 1), including Costco roundabout, and west regional stormwater pond – \$1,127,914 (OPG).
- 7) Construction of southern portion of Harbor Hill Boulevard (PH 2), including south and east regional stormwater ponds – \$1,304,472 (OPG).
- 8) Improvements to water system transmission and distribution main providing the required fire flow needs of the corridor improvements served from Borgen Boulevard, Burnham Drive, Harbor Hill Boulevard, and Canterwood Boulevard – \$486,068 (OPG).
- 9) Construction of a 2.5 MGD storage reservoir and access road – \$2,310,473 (OPG).

Key

* Job Development Fund will assist with these activities.

FHS – Franciscan Health System

OPG – Olympic Property Group

Deliverables:

- For activities #1 and #2 above, digital photographs of the sites of each of the activities before, during and after completion of construction.
- For activity #4, digital photographs of the site before, during and after completion of construction.
- For activities #5-#9, documentation demonstrating construction completion.
- Final construction report. Report format to be provided by CERB.
- Progress reports.

All deliverables must be received by the BOARD no later than July 7, 2009.

Progress reports will be submitted on a quarterly schedule to the BOARD along with requests for reimbursement. The following dates establish this reporting schedule:

- October 15, 2008
- January 15, 2009
- April 15, 2009
- July 7, 2009

**ATTACHMENT B: CERTIFICATION OF THE
AVAILABILITY OF FUNDS TO COMPLETE THE PROJECT**

Provide documentation listed below.

<u>Non-JDF Funds</u>	<u>Amount</u>	<u>Status</u>
Olympic Property Group	\$7,046,883	Infrastructure complete
Franciscan Health System (FHS) <i>(Construction Development Agreement between City of Gig Harbor and FHS)</i>	\$1,0663,383	Secured September 18, 2006
Total Non-JDF Funding Sources	\$17,710,266	
<u>State JDF Funds</u>		
2007 State Supplemental Capital Budget	\$5,000,000	Secured
Total Funding Sources	\$22,710,266	

CERTIFICATION

The GRANT RECIPIENT, by its signature, certifies that PROJECT funding from sources other than those provided by this GRANT CONTRACT and identified above, has either been expended for eligible PROJECT expenses, or is committed in writing and available and will remain committed and available solely and specifically for carrying out the purposes of this PROJECT as described elsewhere in this GRANT CONTRACT, as of the date and year written below. The GRANT RECIPIENT shall maintain records sufficient to evidence that it has expended or has access to the funds needed to complete the PROJECT, and shall make such records available for the BOARD'S review upon reasonable request.

GRANT RECIPIENT

TITLE

DATE

ATTACHMENT C: BUDGET

The budget shall consist of the following elements:

	CERB JDF Grant	Other Funds	Total
1. Administration	\$0	\$1,499,355	\$1,499,355
2. Engineering/Design	\$0	\$2,868,123	\$2,868,123
3. Construction	\$5,000,000	\$13,342,788	\$18,342,788
4. Property Acquisition	\$0	\$0	\$0
TOTAL	\$5,000,000	\$ 17,710,266	\$22,710,266

Special Budget Provisions:

The total amount of transfers of funds between line item budget categories in this GRANT CONTRACT shall not exceed ten (10) percent of the CERB JDF funding. If the cumulative amount of these transfers exceeds or is expected to exceed ten percent, the total budget shall be subject to justification and negotiation of a GRANT CONTRACT amendment by the GRANT RECIPIENT and the BOARD.

A sum of ten (10) percent of the CERB JDF funds shall be withheld until all activities and final products defined in Attachment "A" have been successfully completed by the GRANT RECIPIENT and accepted fully by the BOARD.

ATTACHMENT D: SPECIAL CONDITIONS

PERFORMANCE REPORTING

After the completion of the project, the GRANT RECIPIENT shall continue, for up to five years, to provide updates on the economic impact of the PROJECT. The updates shall be in a format acceptable to CERB and describe, but not be limited to, the private sector employment and investment activity resulting from the project.

CHANGE OF OWNERSHIP OR USE

- A. The GRANT RECIPIENT understands and agrees that any and all real property or facilities acquired, constructed, or rehabilitated using state funds under this GRANT CONTRACT shall be held and used by the GRANT RECIPIENT for the express purpose or purposes stated elsewhere in this contract for a period of at least ten (10) years from the date the subject facility is occupied.
- B. In the event the GRANT RECIPIENT is found to be out of compliance with this section, the GRANT RECIPIENT shall repay to the Job Development Fund account held by the State Treasury Department the amount of the grant as stated in Section 3, hereof, plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the effective date of the legislation in which the subject facility was authorized.

MATCHING REQUIREMENT

The GRANT RECIPIENT may only be reimbursed for up to one-third of the total PROJECT costs. Total costs include funds expended by the GRANT RECIPIENT on the PROJECT and funds expended by other entities on the PROJECT. The GRANT RECIPIENT shall, in its close out report, document the total PROJECT costs.

GRANT RECIPIENT, for the purpose of satisfying the two-thirds match requirement, may include eligible PROJECT costs incurred from April 3, 2003.



Subject: Wastewater Facilities Easement and Maintenance Agreements - Kvinfosland

Proposed Council Action: Approve the execution of the two attached Wastewater Facilities Easement and Maintenance agreements as presented.

Dept. Origin: Public Works Department

Prepared by: Jeff Langhelm
Senior Engineer

For Agenda of: October 13, 2008

Attachments: Lots 1 and 2 Wastewater Facilities Easement and Maintenance Agreements

Initial & Date

Concurred by Mayor:

CLH 10/8/08

Approved by City Administrator:

RJK 10/8/08

Approved as to form by City Atty:

Approved by Finance Director:

DR 10/8/08

Approved by Department Head:

Expenditure		Amount		Appropriation	
Required	\$0	Budgeted	\$0	Required	\$0

INFORMATION / BACKGROUND

The existing Harbor Park professional complexes, located along the 5100 block of Olympic Drive, reserved connections to the City's sanitary sewer system in June 2007. As a condition of approval for the civil plans for these connections, a wastewater facilities easement and maintenance agreement for each connection is required.

The sanitary sewer connection is located on private property and will be privately owned and operated. These agreements allow the City a non-exclusive right-of-entry onto portions of the property to access the sanitary sewer system for inspection and monitoring purposes.

FISCAL CONSIDERATION

No funds will be expended for the acquisition of the described agreements.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION / MOTION

Move to: Approve the execution of the two attached Wastewater Facilities Easement and Maintenance agreements as presented.

AFTER RECORDING RETURN TO:

The City of Gig Harbor
Attn: City Clerk
3510 Grandview St.
Gig Harbor, WA 98335

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

Document Title(s) (or transactions contained therein):
Wastewater Facilities Easement and Maintenance Agreement

Grantor(s) (Last name first, then first name and initials)
Jon H. Kvinsland, in his separate estate

Grantee(s) (Last name first, then first name and initials)
City of Gig Harbor

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)
Section 17 Township 21 Range 02 Quarter 34

Assessor's Property Tax Parcel or Account number: 0221177026 and 0221177027

Reference number(s) of documents assigned or released: _____

**WASTEWATER FACILITIES EASEMENT
AND MAINTENANCE AGREEMENT**

This Wastewater Facilities Easement and Maintenance Agreement is made this _____ day of _____, 200__, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Jon H. Kvinsland, in his separate estate, located and doing business at 5122 Olympic Drive NW, Suite A201, Gig Harbor, WA 98335 (hereinafter the "Owner").

RECITALS

WHEREAS, Owner is the owner of fee title or a substantial beneficial interest in certain real property located in Gig Harbor, Washington, commonly described as Harbor Park located at 5122 Olympic Drive NW, Suite A201, Gig Harbor, WA 98335, which is comprised of four separate tax parcels, including APN 0221177026 and 0221177027 (collectively hereinafter the "Property"), which is legally described in Exhibit A, which is attached hereto and incorporated herein by this reference; and

WHEREAS, Owner has proposed to construct a private wastewater lateral serving "Building B" on the Property to connect to the City's wastewater system as shown in **Exhibit B**; and

WHEREAS, the private wastewater lateral on the Property is private, and will not be the responsibility of and/or owned, operated and maintained by the City; and

WHEREAS, the Owner will be responsible for the operation and maintenance of the private wastewater lateral, including repair, rehabilitation, replacement, alterations and/or modifications to the private wastewater lateral; and

WHEREAS, as a result of said private ownership, the parties have entered in to this Wastewater Facilities Easement and Maintenance Agreement in order to ensure that the private wastewater lateral will be constructed, operated and maintained in accordance with the approved Plans and all applicable rules and regulations.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner and the City hereby agree as follows:

TERMS

Section 1. Affected Property. The real property subject to this Agreement, APN 0221177026 and APN 0221177027, is legally described in **Exhibit A**.

Section 2. Definitions. As used in this instrument:

A. The word "plat" refers to the Pierce County Short Plat No. 8407300292, and any other plat or plats, including short plats, covering all real property which may hereafter be made subject to the provisions of this instrument by a written instrument signed by the Owner, its successors and assigns, in accordance with this Agreement.

B. The word "lot" refers to a lot shown on any plat defined herein, but shall not include any parcel designated as a "tract" on a plat. "Lot" shall include any parcel of land that is separately subjected to this instrument without having been subdivided into two or more parcels by a plat recorded subsequent to the recording of this instrument.

C. The word "Owner" or "Owners" refers to the entity, whether an individual, corporation, joint venture or partnership which is an owner in fee simple or of a substantial beneficial interest (except for mineral estate) in all or any portion of the property in the Plat or the Property. A "substantial beneficial interest" shall include both legal and equitable interests in the Property.

D. The words "Owners' Association" refer to a nonprofit corporation which may be formed for the purpose of operating and maintaining the facilities described in **Exhibit B** on the Property, which may be independently conveyed by the Owner or its successors and assigns to an Owners' Association, and to which the Owners' Association may provide other services in order to benefit the owners of property within the plat or the Property.

E. The words "private wastewater lateral" as used in this agreement shall refer to any private wastewater lateral pipe used to convey wastewater to the public wastewater system up to its connection point to the public wastewater system in the public right of way or in an easement for a public wastewater system.

Section 3. Maintenance Obligations. The Owner, its successors, assigns and/or owners of an after-acquired interest in the Property, hereby covenant and agree that they are jointly and severally responsible for the installation, operation, and perpetual maintenance, of a private wastewater lateral on the Property, as shown on the Plans attached hereto as **Exhibit B**. The private wastewater lateral shall be operated, maintained and preserved by the Owner in accordance with the Plans and all applicable ordinances, codes, rules and regulations. The private wastewater lateral shall be preserved in conformance with the Plans until such time as all parties to this Agreement, including the City, agree in writing that the private wastewater lateral should be altered in some manner or eliminated. In the event the private wastewater lateral is eliminated as provided hereinabove, the Owner shall be relieved of operation and maintenance responsibilities. No such elimination of the wastewater lateral will be allowed prior to the Public Works Director's written approval.

Section 4. Notice to City. The Owner shall obtain written approval from the Director prior to performing any alterations or modifications to the private wastewater lateral located on the Property described in **Exhibit A**. No part of the private wastewater lateral shall be dismantled, revised, altered or removed, except as provided hereinabove, and except as necessary for maintenance, including repair, rehabilitation, replacement, alterations, and/or other modifications.

Section 5. Easement for Access. The Owner hereby grants and conveys to the City a perpetual, non-exclusive easement, under, over, along, through and in the Property, as such Easement is legally described in **Exhibit C**, attached hereto and incorporated herein by this reference. Said easement encompasses the entire Property. This Easement is granted to the City for the purpose of providing the City with ingress and egress in order to access the private wastewater lateral on the Property for inspection, and to reasonably monitor the system for performance, operational flows, defects, and/or conformance with applicable rules and regulations. In addition, the City may use this Easement to exercise its rights as described in Section 8 herein.

Section 6. Assignment to an Owners' Association. In the event that an Owners' Association is formed under a Declaration of Covenants, Conditions and Restrictions which includes all of the Property in **Exhibit A**, the Owner may assign responsibility for installation and perpetual maintenance of the private wastewater lateral to such Owners' Association for so long as the Owners' Association remains in existence and upon the conditions that the Owners' Association assumes all of the obligations, liabilities, covenants and agreements of the Owner under this Agreement. Such assignment of the Owner's obligations shall be in a duly executed instrument in recordable form, and for so long as such assignment remains effective, the Owner shall have no further responsibility or liability under this Agreement.

Section 7. Conveyances. In the event the Owner shall convey its substantial beneficial or fee interest in any property in the Plat, any lot, or the Property, the conveying Owner shall be free from all liabilities respecting the performance of the restrictions, covenants and conditions in this Agreement; PROVIDED, HOWEVER, that the conveying Owner shall remain liable for any acts or omissions during such Owner's period of ownership of such Property.

Section 8. Rights of the City of Gig Harbor.

A. Execution of this Agreement shall not affect the City of Gig Harbor's present or future interest or use of any public or private wastewater lateral. If the City determines that maintenance is required for the private wastewater lateral, and/or there is/are illegal connection(s) to or discharges into the private wastewater lateral, the Community Development Director or his/her designee shall give notice to the Owner(s) of the specific maintenance and/or changes required, and the basis for said required maintenance and/or changes. The Director shall also set a reasonable time in which the Owner(s) shall perform such work. If the maintenance required by the Director is

not completed within the time set by the Director, the City may perform the required maintenance. Written notice will be sent to the Owner(s), stating the City's intention to perform such maintenance, and such work will not commence until at least five (5) days after such notice is received, except in situations of emergency. If, at the sole discretion of the Director, there exists an imminent or present danger to the wastewater system, the City's facilities or the public health and safety, such five (5) day period will be waived, and the necessary maintenance will begin immediately.

B. In order to assure the proper maintenance of the Owner's private wastewater lateral, and to ensure there will be no damage to the City's wastewater system, the City of Gig Harbor shall have the right as provided below, but not the obligation, to maintain the system, if the Owner(s) fail to do so, and such failure continues for more than five (5)-days after written notice of the failure has been received by the responsible parties. However, no notice shall be required in the event that the City of Gig Harbor determines that an emergency situation exists in which damage to person or property may result if the situation is not remedied prior to the time required for notice.

C. If the City provides notice in writing, but the Owner or Owners' Association fails or refuses to perform any maintenance or operational duties as requested by the City, the City's employees, officials, agents or representatives may enter the Property and undertake the necessary maintenance, repair or operational duties to the City's satisfaction. The City's ability to enforce this provision is subject further to the City's right to impose materialmen's and/or laborer's liens and to foreclose upon any and all properties owned by the Owner(s).

D. If the City exercises its rights under this Section, then the Owner(s) or Owners' Association shall reimburse the City on demand for all reasonable and necessary expenses incurred incident thereto. In addition, the City is hereby given the right, power and authority acting in the name of the Owner's Association to exercise and enforce on behalf of the Association and at the Association's cost, the assessment of dues and charges for such costs and to enforce the Association's lien right for any assessments, dues and charges as herein specified. The City shall also be permitted to collect the costs of administration and enforcement through the lien attachment and collection process as is permitted under chapter 35.67 RCW, or any other applicable law.

E. In addition to or in lieu of the remedies listed in this Section, if the Owners or Owner's Association, after the written notice described in Section 8A above, fails or refuses to perform the necessary maintenance, repair, replacement or modifications, the City may enjoin, abate or remedy such breach or continuation of such breach by appropriate proceedings, and may bring an action against the violator for penalties under the Gig Harbor Municipal Code.

Section 9. Indemnification of City. The Owner(s) agree to defend, indemnify and hold harmless the City of Gig Harbor, its officials, officers, employees and agents, for any and all claims, demands, actions, injuries, losses, damages, costs or liabilities of any kind or amount whatsoever, whether known or unknown, foreseen or unforeseen, fixed or contingent, liquidated or unliquidated, arising from an alleged defect in the design of the private wastewater lateral as installed by the Owner(s), or arising by reason of any omission or performance under this Agreement by the Owner(s), its successors and assigns, and/or Owners' Association, of any of the obligations hereunder.

Section 10. Rights Subject to Permits and Approvals. The rights granted herein are subject to permits and approvals granted by the City affecting the Property subject to this Easement and Maintenance Agreement.

Section 11. Terms Run with the Property. The promises, conditions, covenants and restrictions contained herein shall constitute a covenant or equitable servitude, the burden and benefit of which shall run with the land and bind successive owners with equitable or legal interests in the Property. Accordingly, by its acceptance of a deed or other instrument vesting a substantial beneficial interest in all or any lot, or other portion of the Property or the Plat in such Owner, each Owner shall covenant to be bound by all the obligations incumbent upon an Owner as set forth herein, and shall be entitled to all rights and benefits accruing to an Owner hereunder. This Agreement shall be recorded in the Pierce County Assessor's Office, and shall serve as notice to holders of after-acquired interests in the Property.

Section 12. Notice. All notices require or permitted hereunder shall be in writing and shall either be delivered in person or sent by certified U.S. Mail, return-receipt requested, and shall be deemed delivered on the sooner of actual receipt on three (3) days after deposit in the mail, postage prepaid, addressed to the City or the Owner at the addresses set forth below:

To the City:
City Engineer
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

To the Owner:
Jon H. Kvinsland
5122 Olympic Dr. NW
Suite A201
Gig Harbor, WA 98335

Section 13. Severability. Any invalidity, in whole or in part, of any provision of this Easement and Maintenance Agreement shall not affect the validity of any other provision.

Section 14. Waiver. No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented.

Section 15. Governing Law, Disputes. Jurisdiction of any dispute over this Easement and Maintenance Agreement shall be solely with Pierce county Superior Court, Pierce County, Washington. This Easement and Maintenance Agreement shall be interpreted under the laws of the State of Washington. The prevailing party in any litigation arising out of this Easement and Maintenance Agreement shall be entitled to its reasonable attorneys' fees, costs, expenses and expert witness fees.

Section 16. Integration. This Easement and Maintenance Agreement constitutes the entire agreement between the parties on this subject matter, and supersedes all prior discussions, negotiations, and all other agreements on the same subject matter, whether oral or written.

IN WITNESS WHEREOF, the parties have caused this Easement and Maintenance Agreement be executed this _____ day of _____, 200__.

THE CITY OF GIG HARBOR

By: _____
Its Mayor

OWNER

By: Jon H. Kvinsland

Its: Owner

Print Name: Jon H. Kvinsland

APPROVED AS TO FORM:

ATTEST:

City Attorney

City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Jon Kvinsland is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 10.2.09



Allisha McVay
(Signature)
Allisha McVay
NOTARY PUBLIC, State of Washington,
residing at: Gig Harbor
My appointment expires: 2.23.09

CITY OF GIG HARBOR NOTARY BLOCK

STATE OF WASHINGTON)
) ss.
COUNTY OF P I E R C E)

I certify that I know or have satisfactory evidence that Charles L. Hunter is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of Gig Harbor, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

Notary Public in and for the
State of Washington,
Title: _____
My appointment expires: _____

EXHIBIT A
PROPERTY LEGAL DESCRIPTION OF
APN 0221177026 AND APN 0221177027
(LOT 2 AND 3 OF PLAT NO. 8407300292)

Section 17 Township 21 Range 02 Quarter 34 Lot 2 and Lot 3 of Plat No. 8407300292 together with easements and restrictions of record out of the original parcel number 0221173080 with the segregation number of U-0326.

EXHIBIT B

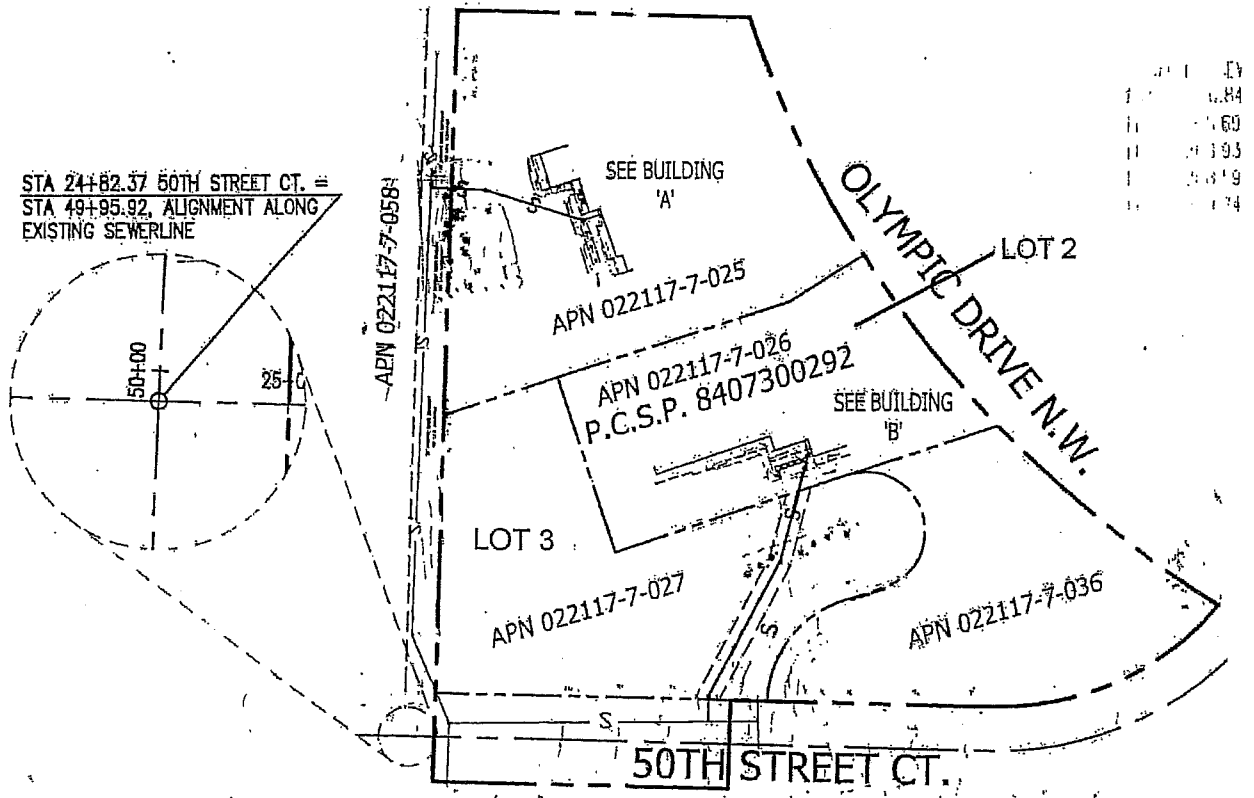


EXHIBIT C
EASEMENT LEGAL DESCRIPTION OF
APN 0221177026 AND APN 0221177027
(LOT 2 AND 3 OF PLAT 8407300292)

Section 17 Township 21 Range 02 Quarter 34 Lot 2 and Lot 3 of Plat No. 8407300292 together with easements and restrictions of record out of the original parcel number 0221173080 with the segregation number of U-0326.



Subject: Traffic Counts for Intersections
– All Traffic Data Services (ATD) – Consultant Services Contract

Proposed Council Action: Authorize the award and execution of the Consultant Services Contract for City-wide traffic counts of 66 intersections for the not-to-exceed amount of \$7,000.00.

Dept. Origin: Engineering Division

Prepared by: Stephen Misiurak, P.E.
City Engineer 

For Agenda of: October 13, 2008

Exhibits: Consultant Services Contract

Initial & Date

Concurred by Mayor:

CLH 10/9/08

Approved by City Administrator:

PK 10/9/08

Approved as to form by City Atty:

Approved by Finance Director:

DP 10/9/08

Approved by Department Head:

SM

Expenditure Required	\$7,000.00	Amount Budgeted	\$50,000.00	Appropriation Required	0
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INFORMATION / BACKGROUND

An identified 2008 Street Capital Objective provides for a City-wide traffic data collection of the City's major intersections and roadways. This contract will conduct traffic counts at 66 intersections.

FISCAL CONSIDERATION

The City-wide traffic counts (turning movements) are necessary and are covered in our Street Capital Fund under Objective #7 for \$50,000.00.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Authorize the award and execution of the Consultant Services Contract for City-wide traffic counts of 66 intersections for the not-to-exceed amount of \$7,000.00.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
ALL TRAFFIC DATA SERVICES, INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and All Traffic Data Services, Inc., a corporation organized under the laws of the State of Washington located and doing business at 2225 NE 27th Street, Renton, WA 98056 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in City-wide Traffic Count Data Collection and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated October 8, 2008, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Work**, and are incorporated by this reference as if fully set forth herein.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work

The Consultant shall perform all work as described in **Exhibit A**.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Seven Thousand Dollars and Zero Cents (\$7,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit A – Scope of Work**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit A** or bill at rates in excess of the hourly rates shown in **Exhibit A**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within forty-five (45) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by December 17, 2008; provided however, that additional time shall be granted by the City for excusable days or extra work.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in **Exhibit A**. If delivered to consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records

and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise. Except in the situation where the Consultant has been terminated for public convenience, the Consultant shall be liable to the City for any additional costs incurred by the City in the completion of the Scope of Work referenced as **Exhibit A** and as modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not, by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and
3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Gig Harbor shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or

damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Engineer or Director of Operations and the City shall determine the term or provision's true intent or meaning. The City Engineer or Director of Operations shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the City Engineer or Director of Operations determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary.

Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT: All Traffic Data Services, Inc.
ATTN: Mark Skaggs, Project Manager
2225 NE 27th Street
Renton, WA 98056
(206) 251-0300
markskaggs@alltrafficdata.net

City of Gig Harbor
ATTN: Stephen Misiruak, P.E.
City Engineer
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 200__.

CONSULTANT

CITY OF GIG HARBOR

By: _____
Its Principal

By: _____
Mayor

NOTICES TO BE SENT TO:

<p>CONSULTANT: All Traffic Data Services, Inc. Attn: Mark Skaggs, Project Manager 2225 NE 27th Street Renton, WA 98056</p>	<p>CITY: City of Gig Harbor Attn: Stephen Misiurak, P.E., City Engineer 3510 Grandview Street Gig Harbor, WA 98335</p>
---	--

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Charles L. Hunter is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Mayor of Gig Harbor to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

DATE: October 8th, 2008

TO: City of Gig Harbor

FROM: All Traffic Data Services Inc.

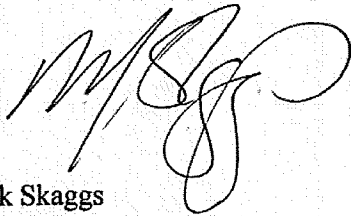
SUBJECT: Proposal to complete 2008 intersection traffic counts

All Traffic Data Services Inc proposes to collect turning movement counts at the 66 locations designated by the city. ATD can begin data collection within one week of NTP, and deliver the final data to the city no later than 4 weeks from the begin date.

ATD proposes a not-to-exceed sum of \$7000 for said 66 locations.

If you have any questions or concerns regarding this proposal, please contact Mark Skaggs of All Traffic Data at 206-251-0300.

Thanks for your consideration,



Mark Skaggs
Project Manager
All Traffic Data Services Inc.

2013 Baseline and 2013 w/TIP Gig Harbor PM Peak Hour Intersection Analysis by HDR Inc.

EXHIBIT A

		Intersection Location				Intersection Control Type		
Ranking	Priority	Int ID	Node ID	Jurisdiction	Main Route	Cross Street		
1	1	W-8	63914	City	Olympic Dr	Point Fosdick Dr NW	Signal	\$100
2	1	W-16	63946	WSDOT	Olympic Dr	SR 16 EB Ramp	Signal	\$100
3	1	E-22	63947	WSDOT	Olympic Dr	SR 16 WB Ramp	Signal	\$100
4	1	N-11	61503	UGA	Purdy Dr NW	SR 302	Signal	\$100
5	1	N-8	n/a	WSDOT	Borgen Blvd	SR 16 WB Ramp	Roundabout double lane	\$200
6	1	N-12	64544	UGA	Purdy Dr NW	Goodnough Dr NW	2Stop	\$100
7	1	E-21	63793	WSDOT	Pioneer Way	SR 16 WB Ramp/Stinson Ave	Signal	\$100
8	1	W-11	63045	City	56th St NW	38th Ave NW	Signal	\$100
9	1	W-15	n/a	WSDOT	Wollochet Dr NW	SR 16 EB Ramp	Signal	\$100
10	1	W-10	63900	City	Olympic Dr	56th St NW	Signal	\$100
11	2	W-9	63918	City	Olympic Dr	50th St NW	Signal	\$100
12	1	E-6	63763	City	Harborview Dr	Stinson Ave	2Stop	\$100
13	1	N-9	na	WSDOT	Burnham Dr NW	SR 16 EB Ramp	Roundabout single lane	\$200
14	1	E-5	63755	City	Harborview Dr	N Harborview Dr	AllStop	\$100
15	2	N-10	61889	UGA	Purdy Dr NW	144th St NW	Signal	\$100
16	1	E-15	63794	City	Pioneer Way	Kimball Dr	Signal	\$100
17	1	W-5	63958	City	Wollochet Dr NW	Hunt St NW	Signal	\$100
18	2	E-20	63898	City	Olympic Dr	Spur To Hollycroft NW	2Stop	\$100
19	1	E-9	62985	City	Stinson Ave	Rosedale St NW	AllStop	\$100
20	1	N-5	n/a	City	Borgen Blvd	51st Ave NW	Roundabout double lane	\$200
21	1	E-18	63834	City	Soundview Dr	64th St NW	2Stop	\$100
22	1	E-19	63868	City	Olympic Dr	Hollycroft St	Signal	\$100
23	1	E-8	62976	City	Harborview Dr	Pioneer Way	AllStop	\$100
24	1	E-7	63003	City	Harborview Dr	Rosedale St NW	2Stop	\$100
25	1	W-1	62936	City	Rosedale St NW	Skansie Ave	AllStop	\$100
26	2	W-4	2956	City	Wollochet Dr NW	Wagner Way	2Stop	\$100
27	1	E-11	63792	City	Stinson Ave	Grandview St	AllStop	\$100
28	1	E-4	63712	City	N Harborview Dr	Peacock Hill Ave NW	2Stop	\$100
29	3	E-10	63771	City	Stinson Ave	Edward Dr	2Stop	\$100
30	1	E-23	64046	WSDOT	24th St NW	SR 16 WB Ramp	Signal	\$100
31	1	E-17	63823	City	Soundview Dr	Grandview St	2Stop	\$100
32	1	E-14	63795	City	Pioneer Way	Grandview St	Signal	\$100
33	1	N-7	n/a	City	Borgen Blvd	Peacock Hill Ave NW	Roundabout single lane	\$200
34	1	N-19	64525	UGA	Burnham Dr NW	Sehmel Dr NW	2Stop ??	\$100
35	1	W-12	63015	City	Point Fosdick Dr NW	Brairwood Ln NW	2Stop	\$100
36	1	W-13	n/a	City	Point Fosdick Dr NW	36th st NW	Roundabout single lane	\$100
37	1	W-18	64035	UGA	36th st NW	22nd Ave NW	Signal	\$100
38	1	N-14	61148	UGA	144th St NW	Peacock Hill Ave NW	AllStop	\$100
39	1	N-6	n/a	City	Borgen Blvd	Harbor Hill Drive	Roundabout double lane	\$200
40	1	E-16	62969	City	Soundview Dr	Judson St	2Stop	\$100

2013 Baseline and 2013 w/TIP Gig Harbor PM Peak Hour Intersection Analysis by HDR Inc.

Exhibit A

		Intersection Location					Intersection Control Type	
Ranking	Priority	Int ID	Node ID	Jurisdiction	Main Route	Cross Street	Intersection Control Type	
41	1	N-13	61139	UGA	144th St NW	54th Ave NW	2Stop	\$100
42	1	W-6	62996	City	Hunt St NW	46th Ave NW/Skansie Ave	2Stop	\$100
43	3	W-19	64070	UGA	24th st NW	Jahn Ave Nw	AllStop ??	\$100
44	1	E-12	62972	City	Pioneer Way	Judson St	2Stop	\$100
45	1	W-7	63108	City	Hunt St NW	38th Ave NW	AllStop	\$100
46	1	E-3	63724	City	N Harborview Dr	Vernhardson St NW	2Stop	\$100
47	1	W-2	64510	City	Rosedale St NW	Schoolhouse Ave NW	Signal	\$100
48	2	N-17	40035	UGA	Canterwood Blvd NW	Tow hee Dr NW	2Stop	\$100
49	3	N-2	64518	City	Burnham Dr NW	50th Ave NW	2Stop	\$100
50	3	N-4	47253	City	Burnham Dr NW	97th St NW	2Stop	\$100
51	3	N-1	64521	City	Burnham Dr NW	53rd Ave Ct NW	2Stop	\$100
52	1	N-20	64520	UGA	Sehmel Dr NW	Bujacich Rd NW	2Stop	\$100
53	1	E-24	62860	UGA	Crescent Vally Dr NW	Vernhardson St NW	AllStop	\$100
54	3	E-13	37304	City	Pioneer Way	Edward Dr	2Stop	\$100
55	2	E-2	62919	City	Peacock Hill Ave NW	96th St NW	2Stop	\$100
56	2	E-25	63871	UGA	Reid Dr NW	Hollycroft St	2Stop	\$100
57	2	N-15	61514	UGA	54th Ave NW	Canterwood Blvd NW	2Stop	\$100
58	2	N-16	62928	UGA	Peacock Hill Ave NW	Canterwood Blvd NW	2Stop	\$100
59	3	E-1	64514	City	Burnham Dr NW	96th St NW	2Stop	\$100
60	3	W-17	62952	UGA	46th Ave NW	72nd St NW	2Stop ??	\$100
61	3	W-3	62955	City	Skansie Ave	North Creek Ln	2Stop	\$100
62	1	W-14	63919	City	38th Ave NW	Brainwood Ln NW	2Stop	\$100
63	1	E-26	63130	UGA	24th St NW	14th Ave NW	AllStop	\$100
64	2	N-18	64534	UGA	Burnham Dr NW	Wood Hill Dr NW	2Stop	\$100
							TOTAL	\$7,000

W



Subject: Geo-Tech Services for the
the Eddon Boatyard Restoration Project

Proposed Council Action: Authorize the
Mayor on behalf of Council to execute a
Contract Amendment between the City of
Gig Harbor and Geo Resources, LLC

Dept. Origin: Administration

Prepared by: Lita Dawn Stanton
Special Projects

For Agenda of: October 13, 2008

Exhibits: Contract Amendment
Initial & Date

Concurred by Mayor: CLH 10/9/08

Approved by City Administrator: LAG

Approved as to form by City Atty: _____

Approved by Finance Director: DP 10/9/08

Approved by Department Head: _____

Expenditure	Amount	Appropriation
Required \$ 3,197	Budgeted \$980,000	Required \$ -0-

INFORMATION / BACKGROUND

Eddon Boat Park was acquired through the 2005 Voted General Obligation (UTGO) Bond. As part of the acquisition, the historic boat building was identified for preservation and restoration so that its traditional and culturally significant use, boat building, could also be preserved for the community. In 2006, the State approved the City's \$1 million grant request to restore the boat building for public access. As part of the work, a geo-tech is required to survey placement of pin piles that will reinforce the concrete foundation of the boat building and stabilize the boatshed. In order to comply with best practice standards adopted by Anchor during the soils remediation project, the contractor is required to switch the hydraulic fluid in their equipment to an "environmental" based fluid. In order to avoid conflict with the on-site work already underway, the geotechnical work (test anchors) must be performed on a weekend. The added cost for this and the hydraulic fluid change are included in the amended contract. The attached scope and fee represents the full cost of the work (\$3,000 from original agreement and \$3,197 for the amendment).

FISCAL CONSIDERATION

This is a reimbursement grant that is already matched through the 2005 UTGO Bond. Two percent (\$20,000) goes to WSHS leaving \$980,000 to fund the restoration project.

BOARD OR COMMITTEE RECOMMENDATION

n/a

RECOMMENDATION / MOTION

Move to: Authorize the Mayor on behalf of City Council to execute the contract amendment with Geo Resources, LLC for the Eddon Boat Restoration Project.

**FIRST AMENDMENT TO CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
GEORESOURCES, LLC**

THIS FIRST AMENDMENT is made to the AGREEMENT, dated August 8, 2008, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and GeoResources, a limited liability corporation organized under the laws of the State of Washington, located and doing business at 5007 Pacific Hwy., East, Suite 20, Fife, WA 98424 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the Restoration of Eddon Boatyard and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agreed to perform the services, and the parties executed an Agreement on August 8, 2008, (hereinafter the "Agreement"); and

WHEREAS, the existing Agreement requires the parties to execute an amendment to the Agreement in order to modify the scope of work to be performed by the Consultant, or to exceed the amount of compensation paid by the City;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties in this Amendment as follows:

Section 1. **Amendment to Scope of Work.** Section I of the Agreement is amended to require the Consultant to perform all work described in **Exhibit A – Scope of Work**, attached to this Amendment, which Exhibit is incorporated herein as if fully set forth.

Section 2. **Amendment to Compensation.** Section II(A) of the Agreement is amended to require the City to pay compensation to the Consultant for the work described in **Exhibit A** to the Amendment in the amount of three thousand one hundred ninety-seven dollars and no cents (3,197.00). This Amendment shall not modify any other of the remaining terms and conditions in Section II, which shall be in effect and fully enforceable.

Section 3. **Amendment to Duration of Work.** Section IV of the Agreement is amended to require the tasks described in **Exhibit A** to begin immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by October 31, 2008; provided however, that additional time shall be granted by the City for excusable days or extra work.

Section 4. **Effectiveness of all Remaining Terms of Agreement.** All of the remaining terms and conditions of the Agreement between the parties shall be in effect and be fully enforceable by the parties. The Agreement shall be incorporated herein as if fully set forth, and become a part of the documents constituting the contract between the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 2008.

THE CITY OF GIG HARBOR

By: _____
Its Principal

By: _____
Mayor

Notices to be sent to:
CONSULTANT:
GEO RESOURCES, LLC
Attn: Keith Schembs, LEG
5007 Pacific Hwy E, Suite 20
Fife, WA 98424
(253) 896-1011

City of Gig Harbor
Attn: Lita Dawn Stanton
Special Projects
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the _____ of _____ LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Charles L. Hunter is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Mayor of Gig Harbor to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires:_____

5007 Pacific Highway East, #20
 Fife, Washington 98424
 (253) 896-1011
 (253) 896-2633

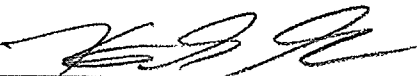
GeoResources, LLC

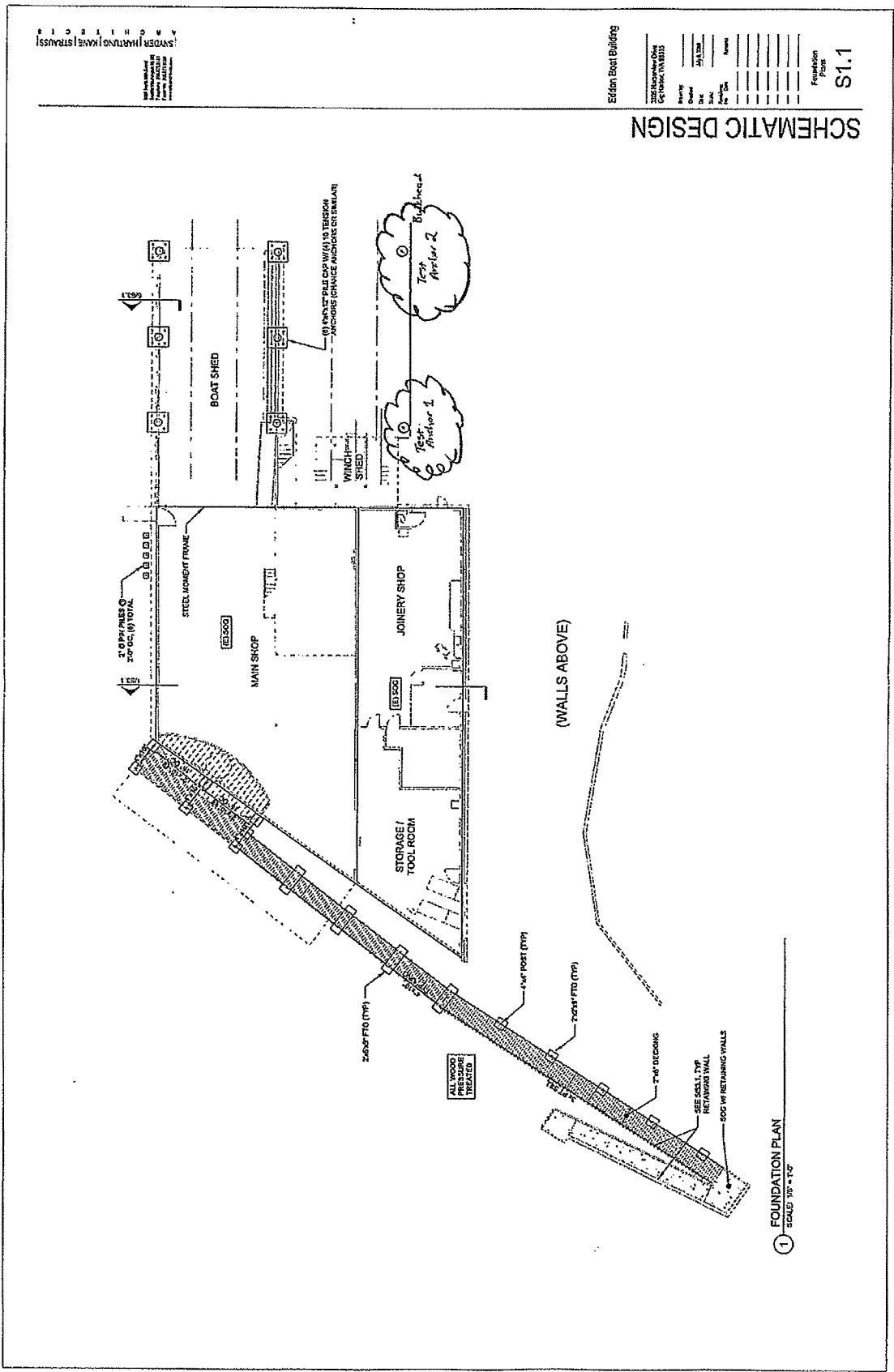
Proposal for Additional Services

To:	City of Gig Harbor 3510 Grandview Street Gig Harbor, WA 98335 (253) 853-7609 Attn: Ms. Lita Dawn Stanton	DATE	PROPOSAL NO.	
		August 8, 2008		CityofGigHarbor.EddonBoatWorks.PAS
		PROPOSAL NAME	Test Pile Installation Monitoring	
From:	Keith Schembs, LEG	LOCATION	Harborview Drive Gig Harbor, Washington	
		SUBJECT	Proposal for Test Pile Installation	

ITEM	SCOPE OF WORK	FEE
	<p>We are pleased to present this change of scope of work and fee schedule for our geotechnical services for the restoration of the Eddon Boatyard in Gig Harbor, Washington. Specifically the scope and fees addresses the installation of two test Helical Anchors. The test anchors will be installed at the locations shown on the attached site plan. The purpose of the test anchors is to ensure that the required capacities can be achieved given the nature of site access and subsurface conditions. The test anchors will be installed by T-Oz Construction, a copy of the proposal and work order is also attached. As requested, because of the environmental concerns, T-Oz has switch the hydraulic fluid in their equipment to a "environmental" based fluid.</p>	
	<p style="text-align: right;">Subcontractor (T-oz Construction), including 15% mark-up</p>	\$5,347.50
	<p style="text-align: right;">Additional Project Management</p>	\$500.00
	<p style="text-align: right;">Field Labor (included in original contract)</p>	
	<p style="text-align: right;">Revision to Original Report</p>	\$350.00
	<p style="text-align: right;">Total Change Order:</p>	\$6,197.50

All services will be performed in accordance with our current *City of Gig Harbor Contract*. To authorize our proposed scope of work, please have an appropriate authority sign this form and return a copy to us.
 Thank you!

SUBMITTED BY	AUTHORIZED BY
GeoResources, LLC  _____ Keith S. Schembs, LEG Principal	City of Gig Harbor _____ Signature and Date _____ Name and Title
_____ Glen Coad, PE Principal	



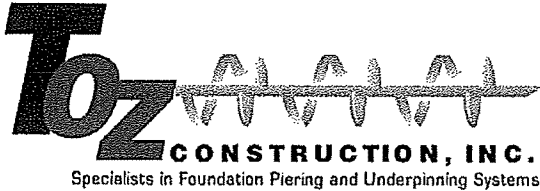
ARCHITECT
 SWORN ENGINEERS & ARCHITECTS
 1000 UNIVERSITY AVENUE
 SUITE 200
 WASHINGTON, DC 20004
 (202) 462-1111

Eddan Boat Building

Project Name	Eddan Boat Building
Client	
Location	
Scale	1/4" = 1'-0"
Date	
Author	
Checker	
Appr. Eng.	
Notes	

S1.1
 Foundation
 Plan
 SCHEMATIC DESIGN

1 FOUNDATION PLAN
 SCALE: 1/4" = 1'-0"



16409 Hoff Rd. KPN
 Lakebay, WA 98349
 Phone: 253-884-1114
 Fax: 253-884-1179
 e-Mail: tom@tozcon.com
 Website: www.TOZCON.com

PROPOSAL
 for
 TEST ANCHORS
 EDON BOAT SHED

T-OZ CONSTRUCTION, INC. proposes to furnish labor, materials and equipment to install Chance® Helical Screw Anchors as a test anchors for design considerations for modifications to the Edon Boat Shed, located at XXXXXXX Harborview Dr. NW, Gig Harbor, WA.

This work will be performed for the sum of **\$ 4,650.00 plus applicable sales tax(es).**

This proposal is based on the following terms and conditions:

1. This proposal includes all costs associated with flushing and replacing the existing hydraulic oil in the anchor installation equipment, with Chevron Clarity® Hydraulic Oil, an inherently biodegradable oil that meets or exceeds the acute aquatic toxicity [L-50] test.
2. Materials:

C150-0160	8"/10" Dia. Helices, 1.5" SS5 x 29.75" Lead Section
C150-0008	1.5" SS5 x 57.5" Extension
C114-0009	1" Dywidag Bar Adapter x 11" Length
DW-BAR-1	1" Dywidag Bar
3. All piers to be installed per design and specifications of engineers, and per manufacturer's recommendations.
4. This proposal is not based on engineering calculation, design, and specifications, nor on geotechnical exploration, evaluation and recommendations, and will be subject to revision or withdrawal should engineering become available.
5. Description of work:
 - a. Install 2 each [two] Chance® Helical Screw Anchors at locations per others.
 - b. Remove anchors.
6. This proposal is based on the installation of 2 each [two] Chance® Helical Screw Anchors as test anchors, with a maximum depth of 12' from existing grade, to tip of anchor, with an ultimate capacity of 16 kips, as determined by the installation torque of 1600 ft/lb and including a safety factor of 2, as per ICBO Report No. ER5110, BOCA Report No. 94-27, and SBCCI Report No. 9504.
 Additional footage beyond 12' depth, necessary to obtain the target torque and capacity will be charged at:
 - \$ 13.50 per foot for labor, equipment;
 - plus the cost of the extension material in 57.5" increments at \$ 180.59 each.

7. This proposal is based on the installation and removal, of 2 each (two) Chance® Helical Screw Anchors.

Additional Chance® Helical Screw Anchor test anchors, will be installed and removed, for the unit cost of \$ 1,250.00.

8. This proposal is based on pier capacities being determined by the correlation of the pier capacity to the installation torque at a ratio of 10:1, and does not include any costs associated with load testing to verify capacity. If load testing is required to verify capacity, testing will be performed and charged at cost plus markup for overhead and profit at 30% (15/15).

9. Pier/anchors abandoned due to obstruction, and materials removed from the ground for reuse, will be charged at twice the per foot rate - \$ 36.00 per foot of pier depth, with no additional charge for the abandoned pier materials as long as they are reusable on another pier. Pier materials that have been twisted beyond reuse, or the galvanizing and/or lead helices are degraded to the point to where the integrity of the material has ben compromised, rendering them to scrap, or that have been abandoned, will be charged at the following rates:

C150-0160	8"/10" ø 1.5" SS5 x 29.75" Lead Section	\$ 230.10
C150-0008	1.5" SS5 x 59.5" Extension	\$ 180.59

10. This proposal is based on the use of separate materials for each test anchor. If materials used to complete the first test anchor are acceptable for reuse on the second, a credit/ deduction will be allowed for unused materials at the unit cost for materials shown above in paragraph ¶8. If tests are successful, and all materials are reusable as production anchors in the future project, than a credit/ deduction will be allowed for all materials at the unit cost for materials shown above in paragraph ¶8.

11. This proposal is based on the applicable prevailing wage rate for the tasks to be performed.

12. Delays caused by obstructions such as cobble or boulders, roots, logs, or any man-made object, will be charged as cost plus markup for overhead and profit at 30% (15/15).

13. Any changes consisting of additions, deletions, or other revisions shall be in writing with adjustments made to contract schedule and price accordingly.

14. Extra work, and/or delays resulting from interference or nonperformance of others will be charged at cost plus markup for overhead and profit at 30% (15/15).

15. Hourly rates for labor and equipment for standby and extra work, including any required site safety training and drug testing, will be as follows, plus markup for overhead and profit at 30% (15/15):

Labor	\$ Prevailing Wage/hr
Chevrolet/GMC C4500 Service Truck	\$ 10.00/hr
5000 ft/lb Hand Portable, Hydraulic Installing Motor and Torque Indicator	\$ 35.00/hr

16. To be provided by others:
- a. Engineering, inspections, testing, and laboratory fees.
 - b. Location, layout and elevations.
 - c. All onsite permits, licenses, sales tax(es), and user fees.

- d. Location, protection, and/or relocation of all utilities, above and below ground, that may interfere with the performance of the work as outlined in this proposal.
 - e. Power and water.
17. This proposal excludes all costs associated with the handling and disposal, including delays, caused by the encounter of contaminated soils.
18. Under not circumstances shall T-OZ CONSTRUCTION, INC. be liable for any damages or liabilities resulting from the removal and/or disposal of hazardous wastes including damages arising from the Comprehensive Environmental Response and Liability Act of 1980.
19. T-OZ CONSTRUCTION, INC. will not be responsible for damage or loss to landscaping, flowers, shrubs, ornamental trees, nor does this proposal provide for the replacement or repair, or the relandscaping of the property once the project is complete.
20. This proposal is based on the work being performed in one continuous operation. Additional mobilizations to complete the work will be charged at \$ 650.00.
21. Terms of Payment:
- a. Full payment shall be due within 30 days of substantial completion of work, and receipt of invoice by owner. Interest will be assessed at the rate of 1.5% per month on all accounts 30 days past due.
 - b. This proposal represents a lump sum amount for the work to be performed.
 - c. No taxes are included in the amount shown on this proposal.
22. Acceptance of this proposal does not by itself create a contract to perform the work outlined herein. By accepting this proposal, the parties agree to enter into a contract in a form substantially like that which is attached to this proposal.
23. Every effort will be made to meet your construction schedule. However, due to work in progress, delays may occur. No liquidated damages may be assessed without having been specifically agreed to in writing by T-OZ CONSTRUCTION, INC. T-OZ CONSTRUCTION, INC. will not be responsible for any consequential or incidental damages.
24. The following "Notice to Customer" is provided as required by the Washington State Department of Labor and Industries, and is included on the signature page of this proposal to provide documentation that the 'Notice' was delivered and received by the customer.
25. This proposal may be revised or withdrawn if not accepted within 30 days.

Thank-you.

Accepted by:

Thomas C. Osborne
T-OZ CONSTRUCTION, INC.
October 1, 2008

OWNER OR OWNER'S REPRESENTATIVE

TITLE DATE

NOTICE TO CUSTOMER

This contractor is registered with the State of Washington Registration No# **TOZCOI*034LC** as a general contractor and has posted with the state a bond or cash deposit of \$ 12,000.00 for the purpose of satisfying claims against the contractor for negligent or improper work, or breach of contract in the conduct of the contractor's business. The expiration date of this contractor's registration is October 24, 2008.

THIS BOND OR CASH DEPOSIT MAY NOT BE SUFFICIENT TO COVER A CLAIM WHICH MIGHT ARISE FROM THE WORK DONE UNDER YOUR CONTRACT. This bond or deposit is not for your exclusive use because it covers all work performed by this contractor. The bond or deposit is intended to pay valid claims up to \$ 12,000.00 that you and other customers, suppliers, subcontractors or taxing authorities may have.

FOR GREATER PROTECTION, YOU MAY WITHHOLD A PERCENTAGE OF YOUR CONTRACT.

You may withhold a contractually defined percentage of your construction contract as retainage for a stated period of time to provide protection to you and help insure that your project will be completed as required by your contract.

YOUR PROPERTY MAY BE LIENED.

If any supplier of materials used on your construction project or any employee of the contractor or subcontractor is not paid by the contractor or subcontractor on your job, your property may be liened to force payment and you could pay twice for the same work.

FOR ADDITIONAL PROTECTION, YOU MAY REQUEST THE CONTRACTOR TO PROVIDE YOU WITH ORIGINAL "LIEN RELEASE" DOCUMENTS FRO EACH SUPPLIER OR SUBCONTRACTOR ON YOUR PROJECT.

The contractor is required to provide you with further information about lien release documents if you request it. General information is also available from the Department of Labor and Industries.



10409 Hoff Rd. KPN
Lakebay, WA 98349
Phone: 253-884-1114
Fax: 253-884-1179
E-Mail: tozcon@aol.com
Website: www.TOZCON.com

TO: Keith Schembs

AT: GeoResources, LLC
FAX: 253-896-2633

FROM: Tom Osborne

AT: T-OZ CONSTRUCTION, INC.
FAX: 253-884-1179

DATE: October 1, 2008

Transmission should include 3 page(s) including cover sheet. If you receive only partial transmission of this fax, please contact the sender at 253-884-1114.

MESSAGE:

RE: EDON Boat Shed
Gig Harbor, WA

Keith,

Enclosed is the spec sheet on the Chevron Clarity® Hydraulic oil.

Tom Osborne
T-OZ CONSTRUCTION, INC.

Hard copy to follow via _____

SIGNED:

WA ST-REG# TOZCOI-034LC

Sep. 30. 2008 1:17PM

No. 9351 P. 2



CHEVRON CLARITY® HYDRAULIC OILS AW

ISO 32, 46, 68

CUSTOMER BENEFITS

Chevron Clarity Hydraulic Oils AW deliver value through:

- **Premium performance** — Ashless formulation meets or exceeds pump manufacturer's requirements for viscosity, rust and corrosion protection, hydrolytic stability, water separability, foam inhibition, and filterability.
- **Superior oxidation stability** — Longer service life than conventional antiwear hydraulic oils or vegetable hydraulic oils.
- **Excellent antiwear properties** — Provides excellent wear protection.
- **Environmental sensitivity** — Passes the stringent acute aquatic toxicity (L-50) test and is inherently biodegradable, minimizing long-term environmental concerns. Suitable for conventional recycling programs - unlike vegetable hydraulic oils.

FEATURES

Chevron Clarity Hydraulic Oils AW are designed to give maximum protection to hydraulic pumps in high-performance industrial applications as well as in environmentally sensitive areas.



They are formulated with ISO SYN@ base stocks and an ashless ("zinc-free") additive system that provides superior oxidation stability, water separability, foam suppression, and protection against wear, rust and corrosion.

They are designed to meet or exceed the performance requirements of conventional antiwear hydraulic oils, especially in severe, high-output applications such as axial piston pumps, while providing an additional level of safety in case of leaks or incidental discharge to the environment.

Chevron Clarity Hydraulic Oils AW are long-life lubricants, with dramatically longer TOST (oxidation stability) lives than conventional hydraulic fluids. A longer TOST life equates to longer service life, which improves the customer's bottom line. This level of oxidation stability is especially applicable in high efficiency (high speed, high temperature, high output) applications where severe stress is placed on the hydraulic fluid.

Many hydraulic systems are required to operate in environmentally sensitive areas where leaks or spills of hydraulic fluid may result in contamination of the soil or nearby waterways. Conventional antiwear hydraulic oils are formulated with metal-containing performance additives which will persist in the environment in the event of leaks. Vegetable-based hydraulic oils meet the environmental requirements, but fall short of the performance requirements.

Sep. 30. 2008 1:17PM

No. 9351 P. 3

Chevron Clarity® Hydraulic Oils AW – Continued

APPLICATIONS

Chevron Clarity Hydraulic Oils AW are designed for use in mobile and stationary hydraulic vane-, piston, and gear-type pumps.

The antiwear performance of these oils makes them especially suited for high performance industrial applications utilizing axial piston pumps where pressures may exceed 5000 psi.

The zinc-free formula makes it perfectly suited for applications involving yellow metals found in axial piston pumps.

They are well suited for applications situated in environmentally sensitive areas.

Chevron Clarity Hydraulic Oils AW have shown excellent performance in applications involving servo-valves using multimetal components.

The ashless formulation of Chevron Clarity Hydraulic Oils AW passes the acute aquatic toxicity (LC-50) criteria adopted by the U.S. Fish and Wildlife Service and the U.S. Environmental Protection Agency.

Chevron Clarity Hydraulic Oils AW meet the requirements of:

- Denison HF-0, HF-2
- Cincinnati Machine P 68 (ISO 32), P-70 (ISO 46), P 69 (ISO 68)
- Eaton-Vickers for use in M-2950-S (mobile) and T-286-S (stationary) hydraulic systems. Passes Eaton-Vickers 35VQ25 pump test.

Chevron Clarity Hydraulic Oils AW is certified by NSF and is acceptable as a lubricant where there is no possibility of food contact (H2) in and around food processing areas. The NSF Nonfood Compounds Registration Program is a continuation of the USDA product approval and listing program, which is based on meeting regulatory requirements of appropriate use, ingredient review and labeling verification.

Do not use in high pressure systems in the vicinity of flames, sparks and hot surfaces. Use only in well ventilated areas. Keep container closed.

TYPICAL TEST DATA

Product Number	230342	230341	230340
MSDS Number	6691	6691	6691
AGMA Grade	—	1	2
API Gravity	32.8	31.9	31.8
Viscosity, Kinematic cSt at 40°C cSt at 100°C	33.6	46.0	64.6
	5.6	6.8	8.5
Viscosity, Saybolt SUS at 100°F SUS at 210°F	173	237	334
	45.0	49.0	54.6
Viscosity Index	104	101	102
Flash Point, °C(°F)	222(432)	224(435)	224(435)
Pour Point, °C(°F)	-33(-27)	-30(-22)	-30(-22)
Oxidation Stability Hours to 2.0 mg KOH/g acid number, modified ASTM D 943	>18,000	>18,000	>18,000

Typical test data are average values only. Minor variations which do not affect product performance are to be expected in normal manufacturing.



Subject: Assignment of Contract Rights and Agreement between the City of Gig Harbor and Pierce County, and the Stewardship Agreement and Restrictive Covenant with Pierce County for two parcels located adjacent to City Park at Crescent Creek.

Proposed Council Action: Authorize the Mayor on behalf of Council to execute the Assignment of Contract Rights and Agreement between the City of Gig Harbor and Pierce County, and the Stewardship Agreement and Restrictive Covenant with Pierce County.

Dept. Origin: Administration

Prepared by: Lita Dawn Stanton
Special Projects

For Agenda of: October 13, 2008

Exhibits: Assignment of Contract Rights & Agreement
Stewardship Agreement & Restrictive Covenant

Concurred by Mayor: Initial & Date
Approved by City Administrator:
Approved as to form by City Atty:
Approved by Finance Director:
Approved by Department Head:

Table with 4 columns: Expenditure Required, Amount Budgeted, Appropriation Required, and values: \$ -0-, \$200,000, -0-

INFORMATION / BACKGROUND

In May 2007, the City applied for Pierce County Conservation Futures to purchase two undeveloped parcels adjacent to City Park at Crescent Creek. The City committed to pay 25% of the appraised value up to \$75,000 for its purchase. The grant application was approved by Pierce County Council and the seller agreed to a \$145,000 sales price. The City is obligated to contribute up to \$35,000. A Phase I Environmental Study reported no environmental issues associated with the two parcels. All of the documents relating to this transaction were reviewed by the city attorney. With regard to the purchase and sale agreement executed between the County and the property owner, the city attorney commented, "the indemnification provision relating to hazardous waste on the property was inadequate, and that the City's purchase and sale agreement should be used instead. The County refused to use the City's standard form purchase and sale agreement. In the attached documents, the County has assigned its rights and liabilities under its purchase and sale agreement to the City, and the City is required to indemnify the County for the property purchase."

FISCAL CONSIDERATION

This fulfills objective #17 in the Parks Development Section of the 2008 Budget.

BOARD OR COMMITTEE RECOMMENDATION

n/a

RECOMMENDATION / MOTION

Move to: Authorize the Mayor on behalf of Council to execute the Pierce County Conservation Futures Assignment of Contract Rights and Agreement.

SEP 12 2008

PIERCE COUNTY
FACILITIES MANAGEMENT

**PIERCE COUNTY CONSERVATION FUTURES
ASSIGNMENT OF CONTRACT RIGHTS AND AGREEMENT**

THIS PIERCE COUNTY CONSERVATION FUTURES ASSIGNMENT OF CONTRACT RIGHTS AND AGREEMENT (hereinafter "Agreement") is made and entered into as of the Effective Date (defined in Section 22 below) by and between PIERCE COUNTY, a municipal corporation and political subdivision of the state of Washington (hereinafter "Pierce County") and the CITY OF GIG HARBOR, WASHINGTON, a Washington municipal corporation (hereinafter "Gig Harbor"). Pierce County and Gig Harbor may collectively be referred to hereinafter as "the Parties" or individually as a "Party."

RECITALS

WHEREAS on September 18th 2008, Pierce County entered into an agreement (hereinafter "Purchase Agreement") with Guy Hoppen and Ann Hoppen, husband and wife and their marital community (hereinafter "Sellers") to purchase from Sellers the real property legally described therein (hereinafter "Subject Property"); and

WHEREAS pursuant to Section 9 of the Purchase Agreement, Pierce County has the right to assign to Gig Harbor some or all of its rights and/or duties under the Purchase Agreement; and

WHEREAS Pierce County now desires to assign some of its rights and duties under the Purchase Agreement to Gig Harbor and Gig Harbor desires to accept such assignment from Pierce County, upon the terms, covenants and conditions set forth herein.

NOW THEREFORE, for and in consideration of the mutual promises contained herein, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, Pierce County and Gig Harbor agree as follows:

A G R E E M E N T

1. **Recitals.** The above recitals are incorporated herein by this reference.
2. **Definitions.** Terms defined in the Purchase Agreement shall have the same meaning in this Agreement.
3. **Assignment of Contract Rights.** Pierce County hereby assigns to Gig Harbor, and Gig Harbor hereby accepts from Pierce County, the following rights and duties under the Purchase Agreement: (a) Pierce County's right under Section 7 of the Purchase Agreement to receive title to the Subject Property at Closing as grantee under the Statutory Warranty Deed, together with any duties associated therewith; (b) Pierce County's right under Section 4 of the Purchase Agreement to conduct a Due Diligence Review of the Subject Property, together with any duties associated therewith; and (c)

Pierce County's right under Section 5 of the Purchase Agreement to review the Preliminary Commitment, together with any duties associated therewith. Pierce County shall retain all other rights and duties allocated to it under the Purchase Agreement not expressly assigned to Gig Harbor herein including, without limitation, the obligation to pay the Purchase Price at Closing.

4. Due Diligence Review. Pierce County shall deliver the Due Diligence Materials to Gig Harbor within five (5) business days after receipt thereof from Sellers. Gig Harbor shall conduct the Due Diligence Review of the Subject Property at its sole cost and expense in accordance with Section 4 of the Purchase Agreement.

5. Review of Preliminary Commitment. Pierce County shall deliver the Preliminary Commitment to Gig Harbor within five (5) business days after receipt thereof from Closing Agent. Gig Harbor shall conduct the review of the Preliminary Commitment at its sole cost and expense in accordance with Section 5 of the Purchase Agreement.

6. Stewardship Agreement. On or before Closing, Gig Harbor shall execute and deliver to Closing Agent the Pierce County Conservation Futures Stewardship Agreement and Restrictive Covenant attached hereto as **Exhibit A** and by this reference incorporated herein (hereinafter "Stewardship Agreement").

7. Closing Costs. Pierce County shall pay from its Conservation Futures Fund all closing costs allocated to Purchaser under Sections 17.2 and 17.3 of the Purchase Agreement and the cost of recording the Stewardship Agreement.

8. Release, Indemnity and Hold Harmless. As of the Effective Date, Gig Harbor shall release, indemnify and forever hold harmless Pierce County, and its elected and appointed officials, employees, agents, attorneys, successors and assigns, of and from all claims, demands, damages, actions or causes of action, costs, attorney fees and expenses of any kind, type or nature whatsoever, whether known or unknown, suspected or unsuspected, arising out of or in any way relating to the Purchase Agreement, this Agreement, the Stewardship Agreement and/or the Subject Property. The release, indemnity and hold harmless set forth in this Section 8 shall survive closing and shall not be deemed merged in the Statutory Warranty Deed.

9. Notices. Wherever in this Agreement notice is required to be given, such notice shall be in writing, addressed to the person entitled to such notice, and shall be sent by either: (a) United States mail, return receipt requested; (b) recognized overnight express service which customarily maintains a contemporaneous permanent delivery record; or (c) fax to the address of such person as set forth in this Agreement, or such address or addresses designated in writing from time to time. The notice shall be deemed delivered on the earlier of: (a) three (3) business days after deposited in the United States mail; (b) the delivery date as shown in the regular business records of the overnight courier service; or (c) the date of automatic confirmed receipt by the recipient's fax, as the case may be. Notices shall be sent to:

Pierce County: Pierce County Facilities Management Department
Attn: Real Property Specialist
Columbia Bank Building, Suite 302
1102 Broadway
Tacoma, WA 98402
Telephone: 253-798-6200
Facsimile: 253-798-7401

Copy to: Pierce County Prosecutor's Office/Civil Division
Columbia Bank Building, Suite 302
1102 Broadway
Tacoma, WA 98402-2160
Telephone: 253-798-6732
Facsimile: 253-798-6713

Gig Harbor: City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335
Telephone: 253-851-6170
Facsimile: 253-853-7597

Closing Agent: Ticor Title Insurance Company
1120 Pacific Avenue
Tacoma, WA 98402
Telephone: 253-383-1476
Facsimile: 253-383-0132

Any party, by written notice to the other in the manner herein provided, may designate an address different from that set forth above. Any notices sent by a party's attorney on behalf of such party shall be deemed delivered by such party.

10. Attorneys' Fees/Venue. The substantially prevailing party in any action or proceeding between the parties for the enforcement of this Agreement shall be entitled to recover costs and reasonable attorney fees including, without limitation, reasonable attorney fees and expenses incurred in appellate proceedings, and expenses for witnesses (including expert witnesses), in addition to all other relief to which it may be entitled. The venue of any action arising out of or relating to this Agreement shall be in the Superior Court of Pierce County, Washington.

11. Negotiation and Construction. This Agreement was negotiated by the parties with the assistance of their own legal counsel and shall be construed according to its fair meaning and not strictly for or against either party.

12. Time. Time is of the essence of this Agreement and of every term and provision hereof.

13. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all written or oral agreements or understandings, if any. This Agreement may be modified only in writing signed by both parties.

14. **Construction.** This Agreement shall be construed according to the laws of the state of Washington.

15. **Date of Performance.** If the date for any performance under this Agreement falls on a weekend or holiday, the time shall be extended to the next business day.

16. **Cost of Performance.** Except as otherwise expressly provided in this Agreement, all covenants, agreements and undertakings of a Party shall be performed at sole cost and expense of that Party without a right of reimbursement or contribution from the other Party.

17. **Counterparts.** This Agreement may be signed in two or more counterparts, which taken together shall constitute the complete Agreement.

18. **Recording.** Neither this Agreement, nor a memorandum hereof, shall be recorded.

19. **Survival of Provisions.** The covenants, representations, agreements, terms and provisions contained herein shall survive Closing and shall not be deemed to have merged with or into the Statutory Warranty Deed.

20. **Invalid Provision.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Agreement.

21. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, successors and assigns.

22. **Effective Date.** The Effective Date of this Agreement shall be the date upon which the Pierce County Executive signs this Agreement as indicated opposite his name below.

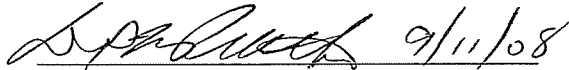
[SIGNATURES APPEAR ON FOLLOWING PAGE]

PIERCE COUNTY:

CITY OF GIG HARBOR:

Approved as to legal form only:

Approved as to legal form only:


Deputy Prosecuting Attorney Date

Gig Harbor City Attorney Date

Recommended:

Final Action:

Director, Facilities Management Date

Gig Harbor Mayor Date

Director, Budget & Finance Date

Attest:

Final Action:

Gig Harbor City Clerk Date

Pierce County Executive Date

[ACKNOWLEDGEMENTS APPEARS ON FOLLOWING PAGE]

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this ____ day of _____, 2008, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared John W. Ladenburg, known to me to be the Executive of Pierce County, Washington, a municipal corporation and political subdivision of the state of Washington, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that he authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE

PRINTED NAME _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT _____
MY COMMISSION EXPIRES _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this ____ day of _____, 2008, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared _____, known to me to be the Mayor of the City of Gig Harbor, Washington, a Washington municipal corporation, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE

PRINTED NAME _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT _____
MY COMMISSION EXPIRES _____

EXHIBIT A
(Stewardship Agreement)
FORM ONLY - DO NOT SIGN

WHEN RECORDED RETURN TO:
Pierce County Facilities Management
Columbia Bank Building, Suite 302
1102 Broadway
Tacoma, WA 98402

WASHINGTON STATE COUNTY AUDITOR'S/RECORDERS
INDEXING FORM

Document Title: Pierce County Conservation Futures Stewardship
Agreement and Restrictive Covenant

Grantor: City of Gig Harbor, Washington, a Washington municipal
corporation

Grantee: Pierce County, a municipal corporation and political
subdivision of the state of Washington

Abbreviated Legal:

Tax Parcel Number(s):

**PIERCE COUNTY CONSERVATION FUTURES
STEWARDSHIP AGREEMENT AND RESTRICTIVE
COVENANT**

THIS PIERCE COUNTY CONSERVATION FUTURES STEWARDSHIP AGREEMENT AND RESTRICTIVE COVENANT (hereinafter "Agreement") is made and entered into as of the Effective Date (defined in Section 20 below) by and between the CITY OF GIG HARBOR, WASHINGTON, a Washington municipal corporation (hereinafter "Gig Harbor") and PIERCE COUNTY, a municipal corporation and political subdivision of the state of Washington (hereinafter "Pierce County"). Gig Harbor and Pierce County may hereinafter be referred to collectively as "the Parties" or individually as a "Party."

RECITALS

WHEREAS Gig Harbor is sole owner in fee simple of certain real property in Pierce County, Washington, legally described in **Exhibit A** attached hereto and by this reference incorporated herein (hereinafter "Subject Property"); and

WHEREAS the Subject Property contains features consistent with the purposes and values described in chapter 84.34 of the Revised Code of Washington and chapters 2.96 and 2.97 of the Pierce County Code (hereinafter "Conservation Characteristics").

WHEREAS Gig Harbor received and accepted title to the Subject Property through Pierce County's Conservation Futures Program in exchange for its promise to hold the same in perpetuity as open space land for and on behalf of the general public in accordance with the terms, covenants, conditions and restrictions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, Gig Harbor and Pierce County agree as follows:

A G R E E M E N T

1. Recitals. The above recitals are incorporated herein by this reference.

2. Intent of Agreement. The Parties intend by this Agreement: (a) Gig Harbor shall hold title to the Subject Property in perpetuity as open space land for and on behalf of the general public in accordance with the terms of this Agreement; (b) Gig Harbor shall forever protect, preserve, maintain, conserve,

enhance and improve the Conservation Characteristics of the Subject Property; and (c) the terms of this Agreement shall, pursuant to chapter 84.34 RCW and chapters 2.96 and 2.97 of Pierce County Code: (i) constitute a covenant and/or equitable servitude running with the Subject Property in perpetuity in fulfillment of the legal and contractual requirements of Gig Harbor and Pierce County with respect thereto; and (ii) forever bind Gig Harbor and Pierce County and their respective heirs, devisees, executors, administrators, grantees, assigns and successors in interest.

3. Use of Subject Property.

3.1 By Gig Harbor. Gig Harbor shall use and manage the Subject Property in accordance with all applicable federal, state, county and local laws, rules, regulations and standards so as to forever protect, preserve, maintain, conserve, enhance and improve the Conservation Characteristics thereof.

3.2 By General Public. Gig Harbor shall, upon such reasonable terms and conditions as it shall determine in its sole and absolute judgment and discretion, permit the general public to have access to the Subject Property at reasonable hours and times of year for passive recreational activities consistent with the intent of this Agreement including, without limitation: (a) trail-walking; (b) wildlife viewing; and (c) wetland vegetation identification.

3.3 No Discrimination. Uses by the general public as provided in this Section 3 shall be without regard to race, creed, color, gender, religion, national origin or residence of the user.

4. Maintenance. Gig Harbor shall keep and maintain the Subject Property, together with any improvements or alterations in, on, under or about the Subject Property, in a neat, clean, safe and sanitary condition in accordance with all applicable federal, state, county and local laws, rules, regulations and standards.

5. Improvements and Alterations. Gig Harbor shall submit any plans for proposed improvements or alterations to the Subject Property to Pierce County for prior review and written approval to assure compliance and consistency with the intent of this Agreement. The term "improvements" shall not include routine maintenance, but shall include, and not be limited to, trails, picnic tables, viewpoints, rest areas, benches, restrooms, parking lots, fencing and signs.

6. Fees and Charges. Gig Harbor may charge user or other types of fees in connection with the public use of the Subject Property; provided, however, that such fees and charges shall be commensurate with the value of the recreational services or opportunities furnished and are within the prevailing range of public fees and charges within the state of Washington for the particular activity involved.

7. **Indemnification.** Gig Harbor, for itself, its successors and assigns, shall defend, indemnify and hold Pierce County, and its elected and appointed officials, employees and agents, harmless to the maximum extent allowed by law from and against any and all liabilities, claims, demands, suits, judgments, costs and attorney fees of any kind, type or nature whatsoever arising out of or relating in any way relating to the Subject Property or to the subject matter of this Agreement.

8. **Notices.** Notices required or desired to be given under this Agreement shall be in writing and sent by either: (a) United States mail, return receipt requested; (b) recognized overnight express service which customarily maintains a contemporaneous permanent delivery record; or (c) fax to the address of such person as set forth in this Agreement, or such address or addresses designated in writing from time to time. The notice shall be deemed delivered on the earlier of: (a) Three (3) business days from deposit in the United States mail; (b) the delivery date as shown in the regular business records of the overnight courier service; or (c) the date of automatic confirmed receipt by the recipient's fax, as the case may be. Notices shall be addressed as follows:

Gig Harbor: City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335
Telephone: 253-851-6170
Facsimile: 253-853-7597

Pierce County: Pierce County Facilities Management Department
Attn: Real Estate Specialist
Columbia Bank Building, Suite 302
1102 Broadway
Tacoma, WA 98402
Telephone: 253-798-7223
Facsimile: 253-798-7401

Copy to: Pierce County Prosecuting Attorney/Civil Division
955 Tacoma Avenue South, Suite 301
Tacoma, WA 98402-2160
Telephone: 253-798-6732
Facsimile: 253-798-6713

Any party, by written notice to the other in the manner herein provided, may designate an address different from that set forth above. Any notices sent by a party's attorney on behalf of such party shall be deemed delivered by such party.

9. **Enforcement; Remedies.** If Gig Harbor fails in any material respect to perform its obligations under this Agreement with respect to the Subject Property, Pierce County may seek: (a) specific performance of this Agreement; or (b) any other remedy available at law or in equity.

10. Attorney Fees; Venue. The substantially prevailing party in any action or proceeding between the parties for the enforcement of this Agreement shall be entitled to recover costs and reasonable attorney fees including, without limitation, reasonable attorney fees and expenses incurred in appellate proceedings, and expenses for witnesses (including expert witnesses), in addition to all other relief to which it may be entitled. The venue of any action arising out of or relating to this Agreement shall be in the Superior Court of Pierce County, Washington.

11. Negotiation and Construction. This Agreement was negotiated by the parties with the assistance of their own legal counsel and shall be construed according to its fair meaning and not strictly for or against either party. This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington.

12. Time. Time is of the essence of this Agreement and of every term and provision hereof.

13. Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all written or oral agreements or understandings, if any. This Agreement may be modified only in writing signed by both Parties.

14. Date of Performance. If the date of any performance under this Agreement falls on a weekend or holiday, the time shall be extended to the next business day.

15. Cost of Performance. Except as otherwise expressly provided in this Agreement, all covenants, agreements and undertakings of a Party shall be performed at sole cost and expense of that Party without a right of reimbursement or contribution from the other Party.

16. Counterparts. This Agreement may be signed in two or more counterparts, which taken together shall constitute the complete Agreement.

17. Binding Effect. The terms, covenants, conditions and restrictions set forth in this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, successors and assigns.

18. Invalid Provision. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Agreement.

19. **Recording.** This Agreement shall be recorded in its entirety with the Auditor of Pierce County, Washington.

20. **Effective Date.** "Effective Date" shall mean the date upon which County's Executive has executed this Agreement as indicated opposite its name below.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

CITY OF GIG HARBOR:

PIERCE COUNTY:

Approved as to legal form only:

Approved as to legal form only:

Gig Harbor City Attorney Date

Deputy Prosecuting Attorney Date

Final Action:

Recommended:

Gig Harbor Mayor Date

Director, Facilities Mgmt Date

Attest:

Director, Budget & Finance Date

Gig Harbor City Clerk Date

Final Action:

Pierce County Executive Date

[ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGE]

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this ____ day of _____, 2008, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared _____ known to me to be the Mayor of the City of Gig Harbor, Washington, a Washington municipal corporation, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE

PRINTED NAME _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT _____
MY COMMISSION EXPIRES _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this ____ day of _____, 2008, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared John W. Ladenburg, known to me to be the executive of Pierce County, a municipal corporation and political subdivision of the state of Washington, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE

PRINTED NAME _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT _____
MY COMMISSION EXPIRES _____

EXHIBIT A
(Legal Description of Subject Property)

PARCEL A (0222323130)

The West 150 feet of the South Half of the South Half of the Southeast Quarter of the Southwest Quarter of Section 32 Township 22 North Range 2 East of the W.M. in Pierce County, Washington; Except the West 115 feet of the South 180 feet thereof

Also Except road on the South; and Except any portion lying within the East 64.34 feet of the West 213 feet of the South Half of the South Half of the Southeast Quarter of the Southwest Quarter of Section 32 Township 22 North Range 2 East of the W.M. in Pierce County, Washington

PARCEL B (0222323019)

The East 64.34 feet of the West 213 feet of the South Half of the South Half of the Southeast Quarter of the Southwest Quarter of Section 32 Township 22 North Range 2 East of the W.M. in Pierce County, Washington
Except road on the South

WHEN RECORDED RETURN TO:
Pierce County Facilities Management
Columbia Bank Building, Suite 302
1102 Broadway
Tacoma, WA 98402

**WASHINGTON STATE COUNTY AUDITOR'S/RECORDERS
INDEXING FORM**

Document Title: Pierce County Conservation Futures Stewardship Agreement and Restrictive Covenant

Grantor: City of Gig Harbor, Washington, a Washington municipal corporation

Grantee: Pierce County, a municipal corporation and political subdivision of the state of Washington

Abbreviated Legal:

Tax Parcel Number(s):

PIERCE COUNTY CONSERVATION FUTURES STEWARDSHIP AGREEMENT AND RESTRICTIVE COVENANT

THIS PIERCE COUNTY CONSERVATION FUTURES STEWARDSHIP AGREEMENT AND RESTRICTIVE COVENANT (hereinafter "Agreement") is made and entered into as of the Effective Date (defined in Section 20 below) by and between the CITY OF GIG HARBOR, WASHINGTON, a Washington municipal corporation (hereinafter "Gig Harbor") and PIERCE COUNTY, a municipal corporation and political subdivision of the state of Washington (hereinafter "Pierce County"). Gig Harbor and Pierce County may hereinafter be referred to collectively as "the Parties" or individually as a "Party."

RECITALS

WHEREAS Gig Harbor is sole owner in fee simple of certain real property in Pierce County, Washington, legally described in **Exhibit A** attached hereto and by this reference incorporated herein (hereinafter "Subject Property"); and

WHEREAS the Subject Property contains features consistent with the purposes and values described in chapter 84.34 of the Revised Code of Washington and chapters 2.96 and 2.97 of the Pierce County Code (hereinafter "Conservation Characteristics").

WHEREAS Gig Harbor received and accepted title to the Subject Property through Pierce County's Conservation Futures Program in exchange for its promise to hold the same in perpetuity as open space land for and on behalf of the general public in accordance with the terms, covenants, conditions and restrictions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, Gig Harbor and Pierce County agree as follows:

AGREEMENT

- 1. Recitals.** The above recitals are incorporated herein by this reference.
- 2. Intent of Agreement.** The Parties intend by this Agreement: (a) Gig Harbor shall hold title to the Subject Property in perpetuity as open space land for and on behalf of the general public in accordance with the terms of this Agreement; (b) Gig Harbor shall forever protect, preserve, maintain, conserve, enhance and improve the Conservation Characteristics of the Subject Property; and (c) the terms of this Agreement shall, pursuant to chapter 84.34 RCW and chapters 2.96 and 2.97 of Pierce County Code: (i) constitute a covenant and/or equitable servitude running with the Subject Property in perpetuity in fulfillment of the legal and contractual requirements of Gig Harbor and Pierce County with respect thereto; and (ii) forever bind Gig Harbor and Pierce County

and their respective heirs, devisees, executors, administrators, grantees, assigns and successors in interest.

3. Use of Subject Property.

3.1 By Gig Harbor. Gig Harbor shall use and manage the Subject Property in accordance with all applicable federal, state, county and local laws, rules, regulations and standards so as to forever protect, preserve, maintain, conserve, enhance and improve the Conservation Characteristics thereof.

3.2 By General Public. Gig Harbor shall, upon such reasonable terms and conditions as it shall determine in its sole and absolute judgment and discretion, permit the general public to have access to the Subject Property at reasonable hours and times of year for passive recreational activities consistent with the intent of this Agreement including, without limitation: (a) trail-walking; (b) wildlife viewing; and (c) wetland vegetation identification.

3.3 No Discrimination. Uses by the general public as provided in this Section 3 shall be without regard to race, creed, color, gender, religion, national origin or residence of the user.

4. Maintenance. Gig Harbor shall keep and maintain the Subject Property, together with any improvements or alterations in, on, under or about the Subject Property, in a neat, clean, safe and sanitary condition in accordance with all applicable federal, state, county and local laws, rules, regulations and standards.

5. Improvements and Alterations. Gig Harbor shall submit any plans for proposed improvements or alterations to the Subject Property to Pierce County for prior review and written approval to assure compliance and consistency with the intent of this Agreement. The term "improvements" shall not include routine maintenance, but shall include, and not be limited to, trails, picnic tables, viewpoints, rest areas, benches, restrooms, parking lots, fencing and signs.

6. Fees and Charges. Gig Harbor may charge user or other types of fees in connection with the public use of the Subject Property; provided, however, that such fees and charges shall be commensurate with the value of the recreational services or opportunities furnished and are within the prevailing range of public fees and charges within the state of Washington for the particular activity involved.

7. Indemnification. Gig Harbor, for itself, its successors and assigns, shall defend, indemnify and hold Pierce County, and its elected and appointed officials, employees and agents, harmless to the maximum extent allowed by law from and against any and all liabilities, claims, demands, suits, judgments, costs and attorney fees of any kind, type or nature whatsoever arising out of or relating in any way relating to the Subject Property or to the subject matter of this Agreement.

8. **Notices.** Notices required or desired to be given under this Agreement shall be in writing and sent by either: (a) United States mail, return receipt requested; (b) recognized overnight express service which customarily maintains a contemporaneous permanent delivery record; or (c) fax to the address of such person as set forth in this Agreement, or such address or addresses designated in writing from time to time. The notice shall be deemed delivered on the earlier of: (a) Three (3) business days from deposit in the United States mail; (b) the delivery date as shown in the regular business records of the overnight courier service; or (c) the date of automatic confirmed receipt by the recipient's fax, as the case may be. Notices shall be addressed as follows:

Gig Harbor: City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335
Telephone: 253-851-6170
Facsimile: 253-853-7597

Pierce County: Pierce County Facilities Management Department
Attn: Real Estate Specialist
Columbia Bank Building, Suite 302
1102 Broadway
Tacoma, WA 98402
Telephone: 253-798-7223
Facsimile: 253-798-7401

Copy to: Pierce County Prosecuting Attorney/Civil Division
955 Tacoma Avenue South, Suite 301
Tacoma, WA 98402-2160
Telephone: 253-798-6732
Facsimile: 253-798-6713

Any party, by written notice to the other in the manner herein provided, may designate an address different from that set forth above. Any notices sent by a party's attorney on behalf of such party shall be deemed delivered by such party.

9. **Enforcement; Remedies.** If Gig Harbor fails in any material respect to perform its obligations under this Agreement with respect to the Subject Property, Pierce County may seek: (a) specific performance of this Agreement; or (b) any other remedy available at law or in equity.

10. **Attorney Fees; Venue.** The substantially prevailing party in any action or proceeding between the parties for the enforcement of this Agreement shall be entitled to recover costs and reasonable attorney fees including, without limitation, reasonable attorney fees and expenses incurred in appellate proceedings, and expenses for witnesses (including expert witnesses), in addition to all other relief to which it may be entitled. The venue of any action arising out of or relating to this Agreement shall be in the Superior Court of Pierce County, Washington.

11. **Negotiation and Construction.** This Agreement was negotiated by the parties with the assistance of their own legal counsel and shall be construed according to its fair meaning and not strictly for or against either party. This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington.

12. **Time.** Time is of the essence of this Agreement and of every term and provision hereof.

13. **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all written or oral agreements or understandings, if any. This Agreement may be modified only in writing signed by both Parties.

14. **Date of Performance.** If the date of any performance under this Agreement falls on a weekend or holiday, the time shall be extended to the next business day.

15. **Cost of Performance.** Except as otherwise expressly provided in this Agreement, all covenants, agreements and undertakings of a Party shall be performed at sole cost and expense of that Party without a right of reimbursement or contribution from the other Party.

16. **Counterparts.** This Agreement may be signed in two or more counterparts, which taken together shall constitute the complete Agreement.

17. **Binding Effect.** The terms, covenants, conditions and restrictions set forth in this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, successors and assigns.

18. **Invalid Provision.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Agreement.

19. **Recording.** This Agreement shall be recorded in its entirety with the Auditor of Pierce County, Washington.

20. **Effective Date.** "Effective Date" shall mean the date upon which County's Executive has executed this Agreement as indicated opposite its name below.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

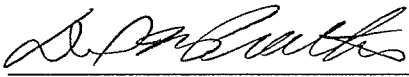
CITY OF GIG HARBOR:

PIERCE COUNTY:

Approved as to legal form only:

Approved as to legal form only:

Gig Harbor City Attorney Date

 9/11/08

Deputy Prosecuting Attorney Date

Final Action:

Recommended:

Gig Harbor Mayor Date

Director, Facilities Mgmt Date

Attest:

Director, Budget & Finance Date

Gig Harbor City Clerk Date

Final Action:

Pierce County Executive Date

[ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGE]

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this ____ day of _____, 2008, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared _____ known to me to be the Mayor of the City of Gig Harbor, Washington, a Washington municipal corporation, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE

PRINTED NAME _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT _____
MY COMMISSION EXPIRES _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this ____ day of _____, 2008, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared John W. Ladenburg, known to me to be the executive of Pierce County, a municipal corporation and political subdivision of the state of Washington, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE

PRINTED NAME _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT _____
MY COMMISSION EXPIRES _____

EXHIBIT A
(Legal Description of Subject Property)

PARCEL A (0222323130)

The West 150 feet of the South Half of the South Half of the Southeast Quarter of the Southwest Quarter of Section 32 Township 22 North Range 2 East of the W.M. in Pierce County, Washington; Except the West 115 feet of the South 180 feet thereof
Also Except road on the South; and Except any portion lying within the East 64.34 feet of the West 213 feet of the South Half of the South Half of the Southeast Quarter of the Southwest Quarter of Section 32 Township 22 North Range 2 East of the W.M. in Pierce County, Washington

PARCEL B (0222323019)

The East 64.34 feet of the West 213 feet of the South Half of the South Half of the Southeast Quarter of the Southwest Quarter of Section 32 Township 22 North Range 2 East of the W.M. in Pierce County, Washington
Except road on the South

**PIERCE COUNTY CONSERVATION FUTURES
PURCHASE AND SALE AGREEMENT**

THIS PIERCE COUNTY CONSERVATION FUTURES PURCHASE AND SALE AGREEMENT (hereinafter "Agreement") is made and entered into as of the Effective Date (defined in Section 32 below) by and between GUY HOPPEN AND ANN HOPPEN, husband and wife and their marital community (hereinafter "Sellers") and PIERCE COUNTY, a municipal corporation and political subdivision of the state of Washington (hereinafter "Purchaser"). Sellers and Purchaser may hereinafter be collectively referred to as "Parties" or individually as a "Party."

RECITALS

WHEREAS Sellers are sole owners in fee simple of certain real property in Pierce County, Washington, legally described in **Exhibit A** attached hereto and by this reference incorporated herein (hereinafter "Subject Property"); and

WHEREAS the Subject Property contains features consistent with the purposes and values described in chapter 84.34 of the Revised Code of Washington and chapters 2.96 and 2.97 of the Pierce County Code (hereinafter "Conservation Characteristics"); and

WHEREAS on November 27, 2007, Purchaser's County Council passed Resolution No. R2007-128s, appropriating money from Purchaser's Conservation Futures Fund to purchase the Subject Property and directing Purchaser's County Executive to pursue acquisition of the Subject Property from Sellers; and

WHEREAS Sellers desire to sell and convey the Subject Property to Purchaser, and Purchaser desires to purchase and accept the Subject Property from Sellers.

NOW, THEREFORE, for and in consideration of the mutual promises set forth herein, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, Sellers and Purchaser agree as follows.

AGREEMENT

1. **Recitals.** The above recitals are incorporated herein by this reference.
2. **Purchase and Sale.** Sellers agree to sell and convey the Subject Property to Purchaser, and Purchaser agrees to purchase and accept the Subject Property from Sellers, together with all of Sellers' right, title and interest in and to: (a) any improvements, fixtures and timber located on the Subject Property; and (b) any rights, licenses, privileges, reversions, easements and rights of way appurtenant to the Subject Property including, without limitation, all surface and subsurface mineral, oil, gas and other hydrocarbon substances in, on, under or about the Subject Property, all surface and subsurface development rights, air rights, water rights, water and water stock, and any

other easements, rights of way or appurtenances used in connection with the beneficial use and enjoyment of the Subject Property.

3. Purchase Price and Payment. The total purchase price for the Subject Property (hereinafter "Purchase Price") shall be ONE HUNDRED FORTY THOUSAND AND NO/100 DOLLARS (\$140,000.00) and shall be paid by Purchaser to Sellers through escrow at Closing (defined in Section 14 below) by cashier's check, certified check or wire transfer of immediately available funds to Closing Agent (defined in Section 5 below).

4. Due Diligence.

4.1 Due Diligence Review. Purchaser's obligation to complete this transaction is subject to and conditioned upon Purchaser determining, in its sole and absolute judgment and discretion, it is satisfied with its due diligence review (hereinafter "Due Diligence Review") of the Subject Property including, without limitation, the fair market value of the Subject Property and the environmental, geotechnical and physical aspects thereof.

4.2 Due Diligence Period. Purchaser shall have ninety (90) calendar days after the Effective Date (hereinafter "Due Diligence Period") within which to conduct its Due Diligence Review of the Subject Property and to notify Sellers in writing of its satisfaction with or waiver of the Due Diligence Review. If Purchaser fails to timely deliver to Sellers written notice of its satisfaction with or waiver of the Due Diligence Review, this Agreement shall automatically terminate and the Parties shall have no further right or remedies against the other, except those that expressly survive termination of this Agreement.

4.3 Due Diligence Materials. Sellers shall provide to Purchaser, or make available to Purchaser for inspection, as soon as possible (but in any event no later than ten (10) business days after the Effective Date) all materials specified below that are in Sellers' possession or control ("Due Diligence Materials"). If Sellers thereafter discovers any additional items that should have been included among the Due Diligence Materials, Sellers shall promptly deliver them to Purchaser. The Due Diligence materials shall include: (a) copies of any existing and proposed easements, covenants, restrictions, agreements, or other documents that, to Sellers' knowledge, affect title to, or Sellers' possession and/or use of, the Subject Property that are not disclosed in the Preliminary Commitment; (b) all reports, surveys, plats or plans that, to Sellers' knowledge, relate to the Subject Property; (c) notice of any existing or threatened litigation that, to Sellers' knowledge, affect or relate to the Subject Property and copies of any pleadings with respect to that litigation; (d) all environmental assessment reports with respect to the Subject Property that, to Sellers' knowledge, were performed during the five (5) years preceding the Effective Date or that are currently being performed by or for Sellers; (e) any governmental correspondence, orders, requests for information or action and other legal documents that, to Sellers' knowledge, relate to the presence of Hazardous Materials on, in, under or about the Subject Property and any other written information relating to

the environmental condition or potential contamination thereof; and (f) any preliminary title insurance reports that, to Sellers' knowledge, relate to the Subject Property.

4.4 Right of Access. During the Due Diligence Period, Purchaser and its agents, employees, appraisers, contractors and consultants shall be afforded reasonable access and entry onto the Subject Property to conduct such studies, tests, appraisals, investigations and inspections as are reasonably necessary to complete the Due Diligence Review. The foregoing notwithstanding, Purchaser shall request such access and entry from Sellers in writing at least forty-eight (48) hours in advance (hereinafter "Purchaser's Request for Entry"). Purchaser's Request for Entry shall outline in detail the particular activity to be conducted by Purchaser on the Subject Property. All such studies, tests, appraisals, investigations and inspections shall occur at Purchaser's sole cost and expense and shall be performed in a manner not unreasonably disruptive to Seller's possession, use or occupancy of the Subject Property. Purchaser shall repair any and all damage to the Subject Property caused by its studies, tests, appraisals, investigations and inspections and shall indemnify and hold Sellers harmless from any claim, liability, loss or expense of any kind, type or nature whatsoever including, without limitation, reasonable costs and attorney fees, asserted against Sellers or the Subject Property arising out of or relating in any way to Purchaser's entry thereon; provided, however, that such repair and indemnification shall not cover any claims, demands, liabilities, liens, judgments, costs or expenses, including, without limitation, reasonable costs and attorney fees, attributable to pre-existing adverse conditions affecting the Subject Property or to Sellers' sole conduct. Purchaser shall keep confidential all matters it may discover during its investigation and inspection of the Subject Property and, except as required by law, shall not disclose such matters to any third party other than those assisting Purchaser in its Due Diligence Review, without Sellers' prior written consent (and with written notice to Sellers prior to any legally compelled disclosure). Unless expressly provided to the contrary elsewhere in this Agreement, Sellers shall be under no obligation to correct any deficiency in the Subject Property identified by Purchaser during the Due Diligence Review.

5. Preliminary Commitment for Title Insurance. Within ten (10) business days after the Effective Date, Sellers shall order from Ticor Title Insurance Company, 1120 Pacific Avenue, Tacoma, Washington 98402 (hereinafter "Closing Agent") a preliminary commitment for an owner's extended coverage policy of title insurance covering the Subject Property in the full amount of the Purchase Price ("Preliminary Commitment"), together with complete and legible copies (to the extent they are available) of any recorded exceptions identified in Schedule B thereof. Sellers shall request of Closing Agent that the Preliminary Commitment be completed and delivered to all parties listed in Section 20 below within ten (10) business days after Sellers' request. Purchaser shall, at its sole cost and expense, be responsible for obtaining and delivering an acceptable survey of the Subject Property to Closing Agent and for paying any increased cost or expense associated with the extended coverage policy including, but not limited to, the excess premium over that charged for a standard coverage policy.

6. Approval of Title. Sellers and Purchaser shall conduct their review and approval of the Preliminary Commitment in accordance with the procedures set forth in Sections 6.1 through 6.4 below.

6.1 Purchaser's Title Cure Notice. Purchaser shall have twenty (20) business days after receipt of the Preliminary Commitment within which to notify Sellers in writing whether, in its sole and absolute judgment and discretion, it disapproves of any exception in Schedule B thereof ("Purchaser's Title Cure Notice"). All monetary liens or encumbrances, if any, shall automatically be deemed disapproved. Purchaser's failure to deliver Purchaser's Title Cure Notice shall, subject to Section 6.4 below, constitute its unconditional approval of all exceptions in Schedule B except monetary liens or encumbrances. Exceptions not disapproved by Purchaser shall be "Permitted Exceptions." Sellers shall cooperate by delivering to Closing Agent customary owner's affidavits required by the Closing Agent in connection with issuing an extended coverage policy of title insurance.

6.2 Sellers' Title Cure Notice. Sellers shall have ten (10) business days after receipt of Purchaser's Title Cure Notice within which to notify Purchaser in writing whether, in its sole and absolute judgment and discretion, it will cure or remove any exceptions disapproved by Purchaser pursuant to Section 6.1 above ("Sellers' Title Cure Notice"). Notwithstanding Sellers' discretion in the foregoing sentence, Sellers shall remove on or before Closing any and all monetary liens or encumbrances on the Subject Property. Except for monetary liens and encumbrances, Sellers' failure to deliver Sellers' Title Cure Notice shall constitute Sellers' election not to remove any such exceptions. Sellers shall remove all exceptions it elects to remove on or before Closing.

6.3 Purchaser's Title Termination Notice. If Sellers elect not to remove all exceptions disapproved by Purchaser pursuant to Section 6.1 above, Purchaser may, in its sole and absolute judgment and discretion, and not later than the expiration of the Due Diligence Period, elect to terminate this Agreement by written notice to Sellers ("Purchaser's Title Termination Notice"), in which case this Agreement shall automatically terminate and neither Party shall have any further rights or remedies against the other, except those that expressly survive the termination of this Agreement. If Purchaser fails to timely deliver Purchaser's Title Termination Notice, disapproved exceptions (except monetary liens and encumbrances) that Sellers have elected to not remove shall become Permitted Exceptions.

6.4 Supplemental Commitments. If any supplement to the Preliminary Commitment issued after the date of Purchaser's Title Cure Notice contains an encumbrance against the Subject Property other than encumbrances in the initial Preliminary Commitment or any previous supplements thereto, or materially modifies an encumbrance contained in the initial Preliminary Commitment or any previous supplements thereto, Purchaser shall be entitled to disapprove any such matter by written notice to Sellers delivered within five (5) business days after Purchaser's receipt of any such supplement. If Purchaser timely disapproves, the provisions of Sections 6.2 and 6.3 above shall apply, except Sellers shall have only two (2) business days to deliver their

notice to Purchaser and Purchaser shall have only two (2) business days following receipt of Sellers' notice to make its election.

7. Conveyance of Title. Sellers shall convey title to the Subject Property to Purchaser at Closing by statutory warranty deed (hereinafter "Statutory Warranty Deed") to be prepared by Closing Agent in the form set forth in **Exhibit B** attached hereto and by this reference incorporated herein, subject only to the Permitted Exceptions.

8. Title Insurance Policy. At Closing, or as soon thereafter as permitted by Closing Agent, Sellers shall cause Closing Agent to issue to Purchaser an owner's ALTA extended coverage policy of title insurance ("Title Policy") in the full amount of the Purchase Price insuring, as of Closing, fee simple title to the Subject Property in Purchaser free and clear of all liens, encumbrances and defects except the Permitted Exceptions.

9. Assignment of Contract Rights. Purchaser shall have the right, upon terms and conditions acceptable to Purchaser in its sole and absolute judgment and discretion, to assign some or all or of its rights and/or duties under this Agreement to the City of Gig Harbor, Washington, a Washington municipal corporation (hereinafter "Gig Harbor") including, without limitation, the right to receive title to the Subject Property at Closing as grantee under the Statutory Warranty Deed. Purchaser shall provide written notice to Sellers of any such assignment and thereupon Sellers shall: (a) deal directly with Gig Harbor with respect to the contract rights and duties assigned; and (b) be conclusively deemed to have released Purchaser from any obligation, liability, claim or demand of any kind, type or nature whatsoever arising out of or relating in any way to the contract rights and duties assigned.

10. Conduct of Business. From the Effective Date until the Date of Closing or earlier termination of this Agreement, Sellers shall: (a) operate and maintain the Subject Property in the ordinary course of their business in a good, clean, neat, sanitary and safe condition; (b) not materially violate or breach any applicable current and future zoning or land use laws, ordinances, rules or regulations applicable to the Subject Property, nor commit any waste or nuisance on the Subject Property; (c) not enter into any leases, operating contracts, or other agreements relating to the Subject Property that have terms extending beyond Closing without Purchaser's prior written consent, which consent may be granted, withheld, conditioned or delayed by Purchaser in its sole and absolute judgment and discretion.

11. Representations and Warranties.

11.1 By Sellers. Sellers represent and warrant to Purchaser as follows:

11.1.1 Authority. Sellers have full right, title, authority and capacity to execute and perform this Agreement and to consummate the transaction contemplated hereby;

11.1.2 Litigation. To the best of Sellers' knowledge there are no actions, suits, proceedings or litigation pending or threatened against Sellers in any court or before any administrative agency that might result in Sellers being unable to consummate the transaction contemplated by this Agreement;

11.1.3 Condemnation. This Agreement is not made or entered into under the threat of condemnation of the Subject Property;

11.1.4 Possessory Rights. To the best of Seller's knowledge the Subject Property is not subject to any encroachments, leases, tenancies, or rights of persons in possession;

11.1.5 Personal Property. Unless otherwise provided elsewhere in this Agreement, Sellers shall remove, at Sellers' sole cost and expense, prior to Closing, all personal property located in, on, under or about the Subject Property. All personal property located on the Subject Property at Closing shall become the property of Purchaser;

11.1.6 Unrecorded Encumbrances. To the best of Seller's knowledge the Subject Property is not the subject of any unrecorded deeds of trust, real estate contracts, leases or options, or any other encumbrances that are to remain unpaid after Closing;

11.1.7 Hazardous Materials. Sellers have not received notification from any governmental agency that the Subject Property is, or may be, in violation of any environmental law or is, or may be, targeted for a Superfund cleanup site. To the best of Sellers' knowledge, the Subject Property has not been used for dumping, as a landfill, waste storage, or disposal site, or for the storage or disposal of any chemicals, petroleum products, or hazardous or dangerous wastes or substances;

11.1.8 Underground Storage Tanks. To the best of Seller's knowledge there are no underground storage tanks in, on or under the Subject Property; and

11.1.9 Real Estate Brokers. Sellers have not had any contact or dealing regarding the Subject Property, or any communication in connection with the subject matter of this Agreement, through any licensed real estate broker or other person who can claim a right to a commission or finder's fee as a procuring cause of the purchase and sale contemplated by this Agreement. If Sellers have had any dealing or communication with a broker or finder through which a claim for a commission or finder's fee is perfected, Sellers shall be solely liable for payment of that commission or fee and shall indemnify, defend and hold Purchaser harmless from and against any liability, cost or damage (including costs and attorney fees), arising out of or in any way relating to that claim.

11.1.10 Change in Circumstances. If, prior to the Date of Closing, Sellers become aware of any fact or circumstance that would change a representation or warranty made in this Agreement by Sellers, then Sellers shall promptly give written notice thereof to Purchaser. If Sellers give written notice of any such change, or if Purchaser otherwise has actual notice of any such change, Purchaser shall have the option to terminate this Agreement within ten (10) business days from the date Purchaser receives written notice of the changed fact or circumstance (or the end of the Due Diligence Period, if later) and all of Sellers' and Purchaser's obligations under Agreement shall terminate, except those that expressly survive a termination hereof.

11.2 By Purchaser. Purchaser represents and warrants to Sellers as follows:

11.2.1 Authority. Subject to Section 11.2.4 below, Purchaser has full right, title, authority and capacity to execute and perform this Agreement and to consummate the transaction contemplated hereby and the individual(s) who on Purchaser's behalf execute and deliver this Agreement and all documents to be delivered to Seller hereunder are and shall be authorized to do so;

11.2.2 Litigation. There is no litigation pending or, to Purchaser's knowledge, threatened, against Purchaser before any court or administrative agency which might result in Purchaser being unable to consummate the transactions contemplated by this Agreement;

11.2.3 Condemnation. This Agreement is not made or entered into under the threat of condemnation of the Subject Property;

11.2.4 Council Approval. Purchaser has received all necessary governmental approvals and funding authorizations to purchase the Subject Property. The foregoing notwithstanding, Sellers acknowledge Purchaser may, in its sole and absolute judgment and discretion, terminate this Agreement if the Pierce County Council or any other funding agency withdraws its approval or funding authorization for the purchase of the Subject Property.

11.2.5 Conservation Purposes. Purchaser is purchasing the Subject Property solely for conservation and open space purposes consistent with chapter 84.34 of the Revised Code of Washington and chapters 2.96 and 2.97 of the Pierce County Code.

11.2.6 Receiving Agency Affidavit. Gig Harbor is a Public Receiving Agency as defined in Section 2.97.020 of the Pierce County Code and has executed and delivered to Purchaser a Receiving Agency Affidavit declaring its willingness to take and hold title to the Subject Property in perpetuity as open space land for and on behalf of the general public.

11.2.7 Real Estate Brokers. Purchaser has not had any contact or dealing regarding the Subject Property, or any communication in connection with the subject matter of this Agreement, through any licensed real estate broker or other person who can claim a right to a commission or finder's fee as a procuring cause of the purchase and sale contemplated by this Agreement. If Purchaser has had any dealing or communication with a broker or finder through which a claim for a commission or finder's fee is perfected, Purchaser shall be solely liable for payment of that commission or fee and shall indemnify, defend and hold Sellers harmless from and against any liability, cost or damage (including costs and attorney fees), arising out of or in any way relating to that claim.

11.2.8 Change in Circumstances. If, prior to the Date of Closing, Purchaser becomes aware of any fact or circumstance that would change a representation or warranty made in this Agreement by Purchaser, then Purchaser shall promptly give written notice thereof to Sellers. If Purchaser gives written notice of any such change, or if Sellers otherwise have actual notice of any such change, Sellers shall have the option to terminate this Agreement within ten (10) business days from the date Sellers receive written notice of the changed fact or circumstance (or the end of the Due Diligence Period, if later) and all of Sellers' and Purchaser's obligations under this Agreement shall terminate, except those that expressly survive a termination hereof.

12. Other Representations and Warranties. Sellers and Purchaser acknowledge and agree, except as may be expressly provided elsewhere in this Agreement, neither party has made any statement, representation, warranty or agreement as to any matter concerning the Subject Property or the suitability thereof for Purchaser's intended uses and that Purchaser has made or will make its own independent inspection and investigation of the Subject Property and is acquiring the same in its present "AS-IS" condition.

13. Foreign Investment in Real Property Tax Act. If requested by Closing Agent, the Parties agree to comply in all respects with the Foreign Investment in Real Property Tax Act ("FIRPTA"), as set forth in Section 1445 of the Internal Revenue Code and the regulations issued thereunder ("Regulations").

14. Conditions Precedent to Closing.

14.1 Purchaser's Conditions. Purchaser's obligation to purchase the Subject Property is subject to the following conditions precedent:

14.1.1 Due Diligence Review. Purchaser's acceptance of the Subject Property as a result of its Due Diligence Review;

14.1.3 Title Policy. The Closing Agent's commitment to issue the Title Policy described in Section 8 above;

14.1.4 Closing Deliveries. Sellers' delivery to Closing Agent, on or before Closing, of the documents described in Section 16.1 below; and

14.1.5 Receiving Agency Agreement. Purchaser having entered into an agreement acceptable to Purchaser in its sole and absolute judgment and discretion with a public or non-profit receiving agency as defined in Section 2.97.020 of the Pierce County Code outlining the terms, covenants, conditions and restrictions upon which said receiving agency shall take and hold title to the Subject Property in perpetuity as open space land for and on behalf of the general public; and

14.1.6 Other Conditions. Satisfaction or waiver, on or before Closing, of all other conditions to Closing for the benefit of Purchaser as set forth in this Agreement.

14.2 Sellers' Conditions. Sellers' obligation to sell the Subject Property is subject to the following conditions precedent:

14.2.1 Closing Deliveries. Purchaser's delivery to Closing Agent, on or before Closing, of the documents and monies described in Section 16.2 below; and

14.2.2 Other Conditions. Satisfaction or waiver, on or before Closing, of all other conditions to Closing for the benefit of Sellers as set forth in this Agreement.

14.3 Failure or Waiver of Conditions Precedent. In the event any of the conditions precedent set forth in this Section 14 are not satisfied or waived by the party intended to be benefited thereby, this Agreement shall terminate and neither Party shall have any further rights or remedies against the other, except those that expressly survive termination hereof. The foregoing notwithstanding, either party may, at its sole election, at any time or times on or before the date (and, if indicated, the time) specified for the satisfaction of the condition, waive in writing the benefit of any of the condition precedent.

15. Closing; Possession. "Closing" shall mean the date upon which the Statutory Warranty Deed is recorded by Closing Agent and the proceeds of sale are legally available for disbursement to Sellers. Closing shall take place at the offices of Closing Agent, or at such other place as Sellers and Purchaser may mutually agree in writing, within thirty (30) business days after Purchaser's waiver or satisfaction of the Due Diligence Review, but in no event later than December 31, 2008 ("Outside Closing Date"). Sellers and Purchaser agree to execute and deliver to Closing Agent such closing escrow instructions as may be necessary to implement and coordinate the Closing as set forth in this Agreement. Purchaser shall be entitled to possession of the Subject Property at Closing. If this transaction fails to close by the Outside Closing Date, the non-defaulting party (or in the event the failure to close is not due to the default of a party, then either party) may terminate this Agreement by giving written notice of the same to

the other party, and neither party shall have any further rights or remedies against the other, except those that expressly survive termination hereof.

16. Closing Deliveries. On or before Closing the following shall be delivered to Closing Agent:

16.1 By Sellers. The following, duly executed and acknowledged by Sellers and/or any other party as may be required hereunder: (a) the Statutory Warranty Deed; (b) a Real Estate Excise Tax Affidavit relating to the Statutory Warranty Deed; (c) a FIRPTA nonforeign affidavit (if required by Closing Agent); and (d) any and all other documents as may be required by Closing Agent consistent with the provisions of this Agreement or which may be necessary on or following Closing to consummate this transaction.

16.2 By Purchaser. The following, duly executed and acknowledged by Purchaser and any other party as may be required thereunder: (a) a Real Estate Excise Tax Affidavit relating to the Statutory Warranty Deed; (b) the Purchase Price and any other funds as may be required in order to close hereunder; and (c) any and all other documents and monies as may be required by Closing Agent consistent with the provisions of this Agreement or which may be necessary on or following Closing to consummate this transaction.

17. Closing Costs; Prorations.

17.1 Sellers' Closing Costs. Sellers shall pay the premium for an owner's standard coverage policy of title insurance, one-half the escrow fee, its own attorney fees, and all other costs and expenses allocated to Sellers pursuant to the terms of this Agreement.

17.2 Purchaser's Closing Costs. Purchaser shall pay the cost of any extended title coverage or title endorsements requested by Purchaser, the cost of a lender's title insurance policy, if any, the cost of recording the Statutory Warranty Deed, one-half the escrow fee, its own attorney fees, and all other costs and expenses allocated to Purchaser pursuant to the terms of this Agreement.

17.3 Prorations; Adjustments. Any liens, assessments or charges imposed by law upon the Subject Property shall be prorated as of Closing, with such prorations to be a final settlement between the parties. Sellers and Purchaser agree, to the extent items are prorated or adjusted at Closing on the basis of estimates, or are not prorated or adjusted at Closing pending actual receipt of funds or compilation of information upon which such prorations or adjustments are to be based, each of them will, upon a proper accounting, pay to the other such amounts as may be necessary such that Sellers shall receive the benefit of all income and shall pay all expenses of the Subject Property prior to Closing and Purchaser shall receive all income and shall pay all expenses of the Subject Property after Closing. If Purchaser receives any bill or invoice which relates to periods prior to Closing, Purchaser shall refer such bill to Sellers and

Sellers agree to pay, promptly upon receipt, such a portion of the bill or invoice as relates to the period prior to Closing for which it is responsible. If Sellers do not pay such bill in a timely manner, Purchaser may, at its option, pay such bill or invoice and Sellers shall become liable to Purchaser for the full amount thereof.

18. Risk of Loss; Change in Condition. Risk of loss of or damage to the Subject Property shall be borne by Sellers until Closing and risk of loss of or damage to the Subject Property shall be borne by Purchaser thereafter. In the event of a material loss of or damage to the Subject Property prior to Closing, or in the event of a material adverse change in the condition of the Subject Property prior to Closing, Sellers shall promptly notify Purchaser in writing. Purchaser may elect in its sole and absolute judgment and discretion, by notice in writing to Sellers within thirty (30) calendar days after receipt of Sellers' notice or, if Sellers do not notify Purchaser, within thirty (30) calendar days after the time Purchaser otherwise has actual notice of the material loss or damage or material adverse change, either to terminate this Agreement or to purchase the Subject Property in the condition existing as of Closing. If Purchaser does not give such notice, Purchaser shall be deemed to have elected to proceed with the purchase.

19. Condemnation. If, prior to Closing, all or any portion of the Subject Property is taken by, or made subject to, condemnation, eminent domain or other governmental acquisition proceedings, then Purchaser, in its sole and absolute judgment and discretion, may elect either: (a) to terminate this Agreement by written notice to Sellers given within thirty (30) calendar days after Sellers' receipt of written notice of such action, whereupon neither party shall have any further rights or obligations under this Agreement, except those which expressly survive termination of this Agreement; or (b) to agree to close and deduct from the Purchase Price an amount equal to any sum paid to Sellers for such governmental acquisition.

20. Notices. Notices shall be in writing and sent by either: (a) United States mail, return receipt requested; (b) recognized overnight courier that maintains permanent delivery records; or (c) facsimile to the address of such person set forth below or other address as designated in writing. Notices shall be deemed delivered on the earlier of: (a) three (3) business days after deposit in the United States mail; (b) the delivery date as shown in the delivery records of the overnight courier; or (c) the date of confirmed receipt by the recipient's fax, as the case may be:

Sellers: Guy & Ann Hoppen
 8402 Goodman Dr. NW
 Gig Harbor, WA 98332
 Telephone: 253-851-5214
 Facsimile: 253-853-5219

Purchaser: Pierce County Facilities Management Department
Attn: Real Estate Specialist
955 Tacoma Avenue South, Suite 212
Tacoma, WA 98402
Telephone: 253-798-7223
Facsimile: 253-798-7401

Copy to: Pierce County Prosecuting Attorney/Civil Division
955 Tacoma Avenue South, Suite 301
Tacoma, WA 98402-2160
Telephone: 253-798-6732
Facsimile: 253-798-6713

Gig Harbor: City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335
Telephone: 253-851-6170
Facsimile: 253-853-7597

Closing Agent: Ticor Title Insurance Company
1120 Pacific Avenue
Tacoma, WA 98402
Telephone: 253-383-1476
Facsimile: 253-383-0132

Any party, by written notice to the other in the manner herein provided, may designate an address different from that set forth above. Any notices sent by a party's attorney on behalf of such party shall be deemed delivered by such party.

21. Default; Remedies. If Sellers or Purchaser do not perform the covenants and obligations contained in this Agreement in good faith or if the representations and warranties contained herein are not all true and accurate, either Party may seek: (a) specific performance of this Agreement and/or damages; or (b) rescission of this Agreement; or (c) all other remedies available at law and equity.

22. Attorney Fees; Venue. The substantially prevailing party in any action or proceeding between the Parties for the enforcement of this Agreement shall be entitled to recover reasonable costs and attorney fees (including, without limitation, reasonable costs and attorney fees incurred in appellate proceedings, or in any action or participation in, or in connection with, any case or proceeding under the Bankruptcy Code, and expenses for witnesses, including expert witnesses), in addition to all other relief to which it may be entitled. The venue of any action arising out of or relating to this Agreement shall be in the Superior Court of Pierce County, Washington.

23. Negotiation and Construction. This Agreement was negotiated by the parties with the assistance of their own legal counsel and shall be construed according to

its fair meaning and not strictly for or against either party. This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington.

24. Time. Time is of the essence of this Agreement and of every term and provision hereof.

25. Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the Subject Property and supersedes all written or oral agreements or understandings, if any. This Agreement may be modified only in writing signed by both Parties.

26. Date of Performance. If the date for any performance under this Agreement falls on a weekend or holiday, the time shall be extended to the next business day.

27. Cost of Performance; Termination. Except as otherwise expressly provided in this Agreement, all covenants, agreements and undertakings of a Party shall be performed at sole cost and expense of that Party without a right of reimbursement or contribution from the other Party. If either Party elects to terminate this Agreement as expressly provided herein, that Party shall pay any cost or expense charged by Closing Agent to cancel the escrow and/or Preliminary Commitment.

28. Survival of Provisions; Binding Effect. The covenants, representations, agreements, terms and provisions contained herein shall survive Closing and shall not be deemed to have merged with or into the Statutory Warranty Deed. This Agreement shall be binding upon and shall inure to the benefit of the Parties and upon their heirs, successors and assigns.

29. Invalid Provision. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Agreement.

30. Effective Date. "Effective Date" shall mean the date upon which Purchaser's County Executive has executed this Agreement as indicated opposite its name below.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

GUY HOPPEN & ANN HOPPEN,
husband and wife and their marital
community:

PIERCE COUNTY:

Approved as to legal form only:

[Signature] 8/23/08
Guy Hoppen Date

[Signature] 8/20/08
Deputy Prosecuting Attorney Date

[Signature] 9/3/08
Ann Hoppen

Recommended:



[Signature] 9/5/08
Director, Facilities Mgmt Date

[Signature] 9-15
Director, Budget & Finance Date

Final Action:

[Signature] 9/13/08
Pierce County Executive Date
Chief of Staff

[ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGE]

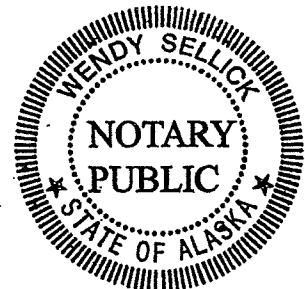
STATE OF ~~WASHINGTON~~ ^{Alaska})
) ss.
COUNTY OF ~~PIERCE~~ ^{Sumner})

On this 28 day of August, 2008, before me, the undersigned, a notary public in and for the state of ~~Washington~~, duly commissioned and sworn, personally appeared ~~Guy Hoppen and Ann Hoppen, husband and wife~~, who executed the within and foregoing instrument and acknowledged the said instrument to be their free and voluntary act and deed for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

Wendy Sellick
NOTARY SIGNATURE

PRINTED NAME Wendy Sellick Alaska
NOTARY PUBLIC IN AND FOR THE STATE OF ~~WASHINGTON~~,
RESIDING AT Sumner WA
MY COMMISSION EXPIRES 10/19/08



STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this 18th day of Sept, 2008, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared ~~John W. Ludenburg~~ ^{John W. Ludenburg}, known to me to be the Executive of Pierce County, Washington, a municipal corporation and political subdivision of the state of Washington, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that he authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

Constance B Perry
NOTARY SIGNATURE

PRINTED NAME Constance B Perry
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT TACOMA
MY COMMISSION EXPIRES 4-16-2012

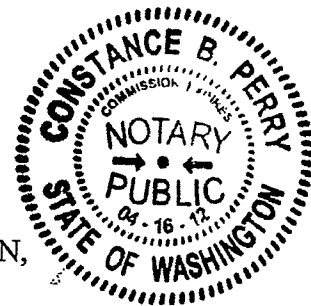


EXHIBIT A
Legal Description of Subject Property

PARCEL A (0222323130)

The West 150 feet of the South Half of the South Half of the Southeast Quarter of the Southwest Quarter of Section 32 Township 22 North Range 2 East of the W.M. in Pierce County, Washington

Except the West 115 feet of the South 180 feet thereof

Also Except road on the South

and Except any portion lying within the East 64.34 feet of the West 213 feet of the South Half of the South Half of the Southeast Quarter of the Southwest Quarter of Section 32 Township 22 North Range 2 East of the W.M. in Pierce County, Washington

PARCEL B (0222323019)

The East 64.34 feet of the West 213 feet of the South Half of the South Half of the Southeast Quarter of the Southwest Quarter of Section 32 Township 22 North Range 2 East of the W.M. in Pierce County, Washington

Except road on the South

EXHIBIT B
(Form Statutory Warranty Deed - Do Not Sign)

WHEN RECORDED RETURN TO:
Pierce County Facilities Management
955 Tacoma Avenue S., Suite 212
Tacoma, WA 98402

STATUTORY WARRANTY DEED

Grantor: Guy Hoppen & Ann Hoppen, husband and wife
and their marital community
Grantee: City of Gig Harbor, Washington, a Washington
municipal corporation
Abbreviated Legal: _____
Tax Parcel Number(s): _____

THE GRANTORS, GUY HOPPEN AND ANN HOPPEN, husband and wife and their marital community, for and in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and adequacy are hereby acknowledged, convey and warrant to the CITY OF GIG HARBOR, WASHINGTON, a Washington municipal corporation, the following described real property in Pierce County, Washington, together with any after-acquired title thereto:

PARCEL A (0222323130)

The West 150 feet of the South Half of the South Half of the Southeast Quarter of the Southwest Quarter of Section 32 Township 22 North Range 2 East of the W.M. in Pierce County, Washington
Except the West 115 feet of the South 180 feet thereof
Also Except road on the South
and Except any portion lying within the East 64.34 feet of the West 213 feet of the South Half of the South Half of the Southeast Quarter of the Southwest Quarter of Section 32 Township 22 North Range 2 East of the W.M. in Pierce County, Washington

PARCEL B (0222323019)

The East 64.34 feet of the West 213 feet of the South Half of the South Half of the Southeast Quarter of the Southwest Quarter of Section 32 Township 22 North Range 2 East of the W.M. in Pierce County, Washington
Except road on the South

Subject to the following:

[Insert Permitted Exceptions]

Dated this ____ day of _____, 2008.

Guy Hoppen

Ann Hoppen

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this ____ day of _____, 2008, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared Guy Hoppen and Ann Hoppen, husband and wife and their marital community, who executed the within and foregoing instrument and acknowledged the said instrument to be their free and voluntary act and deed for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY SIGNATURE

PRINTED NAME _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT _____
MY COMMISSION EXPIRES _____

(Use this space for notarial stamp/seal)

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this 3rd day of September, 2008, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared Ann Hoppen, executed the within and foregoing instrument and acknowledged the said instrument to be their free and voluntary act and deed for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

Hollie J. Rogge
NOTARY SIGNATURE

PRINTED NAME Hollie J. Rogge
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT Eatonville, WA
MY COMMISSION EXPIRES 3/8/12



STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)



Subject: Appointment of Skansie Brothers
Park Pier Options Feasibility Committee

Proposed Council Action: Authorize the
Mayor's list of appointees to the Skansie
Brothers Park Pier Options Feasibility
Committee

Dept. Origin: Administration

Prepared by: Lita Dawn Stanton
Special Projects

For Agenda of: October 13, 2008

Exhibits:

Initial & Date

Concurred by Mayor: [Signature] 10/9/08
Approved by City Administrator: [Signature]
Approved as to form by City Atty:
Approved by Finance Director:
Approved by Department Head:

Table with 3 columns: Expenditure, Amount, Appropriation. Row 1: Required \$ -0-, Budgeted \$ 100,000, Required \$ -0-.

INFORMATION / BACKGROUND

Skansie Brothers Park was purchased in 2002. In 2003 and more recently in 2008, a Skansie Ad Hoc Committee was formed to consider future uses and development for the park. Recommendations from the Committee included the appointment of a Skansie Brothers Park Feasibility Committee to investigate the feasibility of constructing a Maritime Pier at Skansie Brothers Park, an extension of Jerisich Dock and a Seasonal Float at Jerisich Dock. The Committee also submitted a list of candidates for the Feasibility Committee. The Mayor recommends appointment of three from the list, including a City planning staff member (Peter Katich) and a Councilmember (Councilman Conan) for a total of five members. The planning staff may initiate support from professional consultants for the purpose of providing technical help in an amount not to exceed \$20,000.

FISCAL CONSIDERATION

This is identified in objective #14 in the Parks Development Section of the 2008 Budget.

BOARD OR COMMITTEE RECOMMENDATION

n/a

RECOMMENDATION / MOTION

Move to: Approve the Mayors List of appointees to the Skansie Brothers Park Pier Options Feasibility Committee.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF GIG HARBOR, WASHINGTON, ESTABLISHING AN AD HOC PLANNING COMMITTEE TO STUDY THE FEASIBILITY OF DEVELOPING A MARITIME PIER, A JERISICH DOCK EXTENSION AND A SEASONAL FLOAT AT JERISICH DOCK.

WHEREAS, the City of Gig Harbor owns the Skansie Brothers and Jerisich Parks located adjacent to each other on Harborview Drive; and

WHEREAS, members of the community who served on the 2008 Skansie Brothers Park Committee have recommended their interest in serving on another committee to investigate pier options for Skansie and Jerisich Parks; and

WHEREAS, gathering and presenting public opinions with respect to the development of these city parks presents an opportunity for volunteerism at its best; and

NOW THEREFORE BE IT RESOLVED, that:

1. The mayor be authorized to appoint a Skansie Brothers Park Pier Options Feasibility Committee;
2. The Committee shall meet to gather information and study the feasibility of constructing a Maritime Pier at Skansie Park, an extension of Jerisich Dock and seasonal floats at Jerisich Dock ;
3. A planning staff representative will be appointed to facilitate the work, provide regulatory advice and operational support.
4. The planning staff may initiate support from professional consultants for the purpose of providing technical help in an amount not to exceed \$20,000.
5. A Councilmember shall be included as a committee member.
6. The committee shall disband by June of 2009.

7. After the committee reports to the City Council by July of 2009, the City Council will determine future action that may be taken.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF GIG HARBOR this 13th day of October, 2008.

APPROVED

CHUCK L. HUNTER, MAYOR

ATTEST/ AUTHENTICATED:

MOLLY M. TOWSLEE, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

CAROL A. MORRIS

FILED WITH THE CITY CLERK: 10/09/08
PASSED BY THE CITY COUNCIL:
RESOLUTION NO:



**Business of the City Council
City of Gig Harbor, WA**

Public Meeting - 1

Subject: Proposed "Canterwood"
Annexation (ANX 08-0002)

Proposed Council Action:

Consider the Notice of Intent to Commence
Annexation Proceedings

Dept. Origin: Planning Department

Prepared by: Tom Dolan *TD*
Planning Director

For Agenda of: **October 13, 2008**

Exhibits: Legal Description, Aerial
Photo of Area, Vicinity
Map, Notice of Intent,
Department Comments

Initial & Date

Concurred by Mayor: CLH 10/8/08
Approved by City Administrator: PK 10/8/08
Approved as to form by City Atty: _____
Approved by Finance Director: N/A
Approved by Department Head: TD 10/8/08

Expenditure	Amount	Appropriation
Required \$0	Budgeted \$0	Required \$0

INFORMATION / BACKGROUND

The City received a Notice of Intention to Commence Annexation Proceedings for Canterwood, requesting annexation of 714 acres located between Canterwood Blvd/54th Ave NW and Peacock Hill Avenue south of 140th Street NW (extended), contiguous to city limits, and within the City's Urban Growth Area (UGA).

Pursuant to the process for annexations by code cities in Pierce County, a copy of the proposed legal description and map was sent to the Clerk of the Boundary Review Board (BRB) for technical review. Pierce County has approved the legal description and map.

By law, the City Council is to meet with the proponents, represented by Ms. Eva Jacobson (consultant) and Doug Allen, Canterwood Homeowners Association Annexation Committee. Notice of this public meeting was posted on the City website and in dedicated posting locations. Additionally, this request was distributed to the Pierce County Fire District #5 and the Gig Harbor City Administrator, Chief of Police, Director of Operations, City Engineer, Wastewater Supervisor, City Engineering Technician, and the City's directors of Fire and Safety Services, Planning, and Finance.

By the conclusion of this continued public meeting, the Council is to determine the following:

1. Whether the City Council will accept, reject, or geographically modify the proposing of this area for annexation;
2. Whether the City Council will require the simultaneous adoption of a proposed zoning code; and
3. Whether the City Council will require the assumption of all or any portion of indebtedness by the area to be annexed; and,
4. Whether the City Council will require additional annexation conditions.

If authorized by the City Council, the process can move forward with the circulation of a formal petition which will indicate the boundaries and conditions required for annexation. Before filing with the City, the petition must be signed by property owners of at least sixty percent (60%) of the assessed value of the proposed area in order to be certified by Pierce County and then scheduled for a public hearing in front of the City Council. After a public hearing, followed by the appeal period through the BRB, the City Council can adopt an ordinance to enact this annexation.

STAFF ANALYSIS

The Boundary Review Board is guided by RCW 36.93.180 in reviewing proposed annexations and is directed towards State objectives. These objectives, listed below, are also worthy of consideration by the Council in determining the appropriateness of this annexation, especially in light of the possible appeal of an approved annexation.

The City has hired a consultant to assist in the review of this annexation. The consultant will present a report at the public meeting that identifies the issues associated with the proposed annexation.

Objectives of boundary review board. (RCW 36.93.180)

The decisions of the boundary review board shall attempt to achieve the following objectives:

- (1) Preservation of natural neighborhoods and communities;
- (2) Use of physical boundaries, including but not limited to bodies of water, highways, and land contours;
- (3) Creation and preservation of logical service areas;
- (4) Prevention of abnormally irregular boundaries;
- (5) Discouragement of multiple incorporations of small cities and encouragement of incorporation of cities in excess of ten thousand population in heavily populated urban areas;
- (6) Dissolution of inactive special purpose districts;
- (7) Adjustment of impractical boundaries;

- (8) Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character; and
- (9) Protection of agricultural and rural lands which are designated for long-term productive agricultural and resource use by a comprehensive plan adopted by the county legislative authority.

Additional Considerations

The pre-annexation zoning established for Canterwood is R-1. This zoning is inconsistent with the existing uses within Canterwood. The City of Gig Harbor's zoning regulations do not include a zoning district that would accommodate Canterwood's existing mix of uses. Canterwood currently is classified as a Master Planned Community by Pierce County. Canterwood contains a mix of uses including attached and detached single family residences, a golf course (with accessory restaurant, pro shop and maintenance facilities) and offices. If the annexation is approved, a new zoning district will need to be added to the Gig Harbor Zoning Ordinance.

BOARD OR COMMITTEE RECOMMENDATION

None

RECOMMENDATION / MOTION

Move to:

Accept the Notice of Intent to Commence Annexation

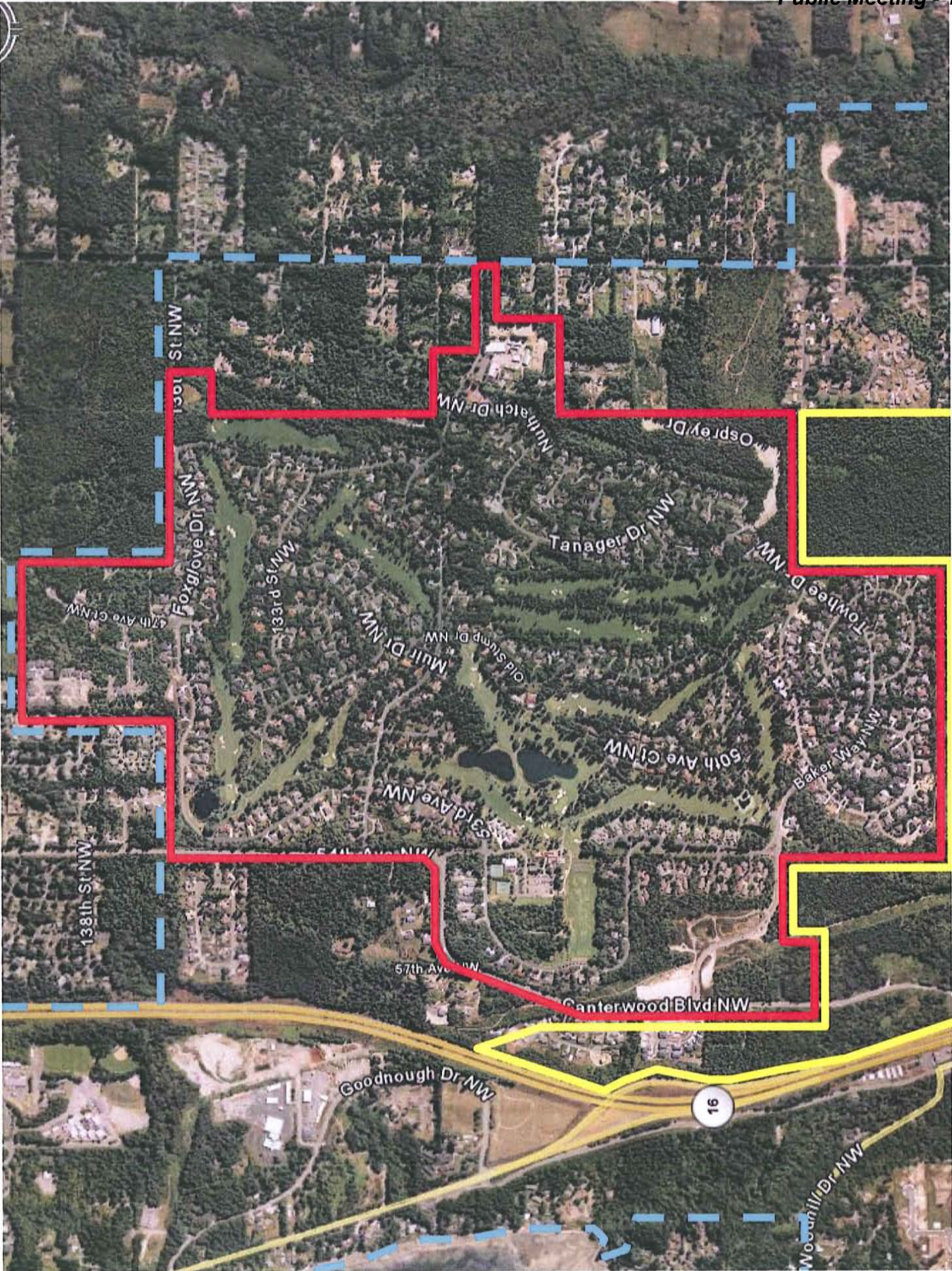
OR ALTERNATIVELY:

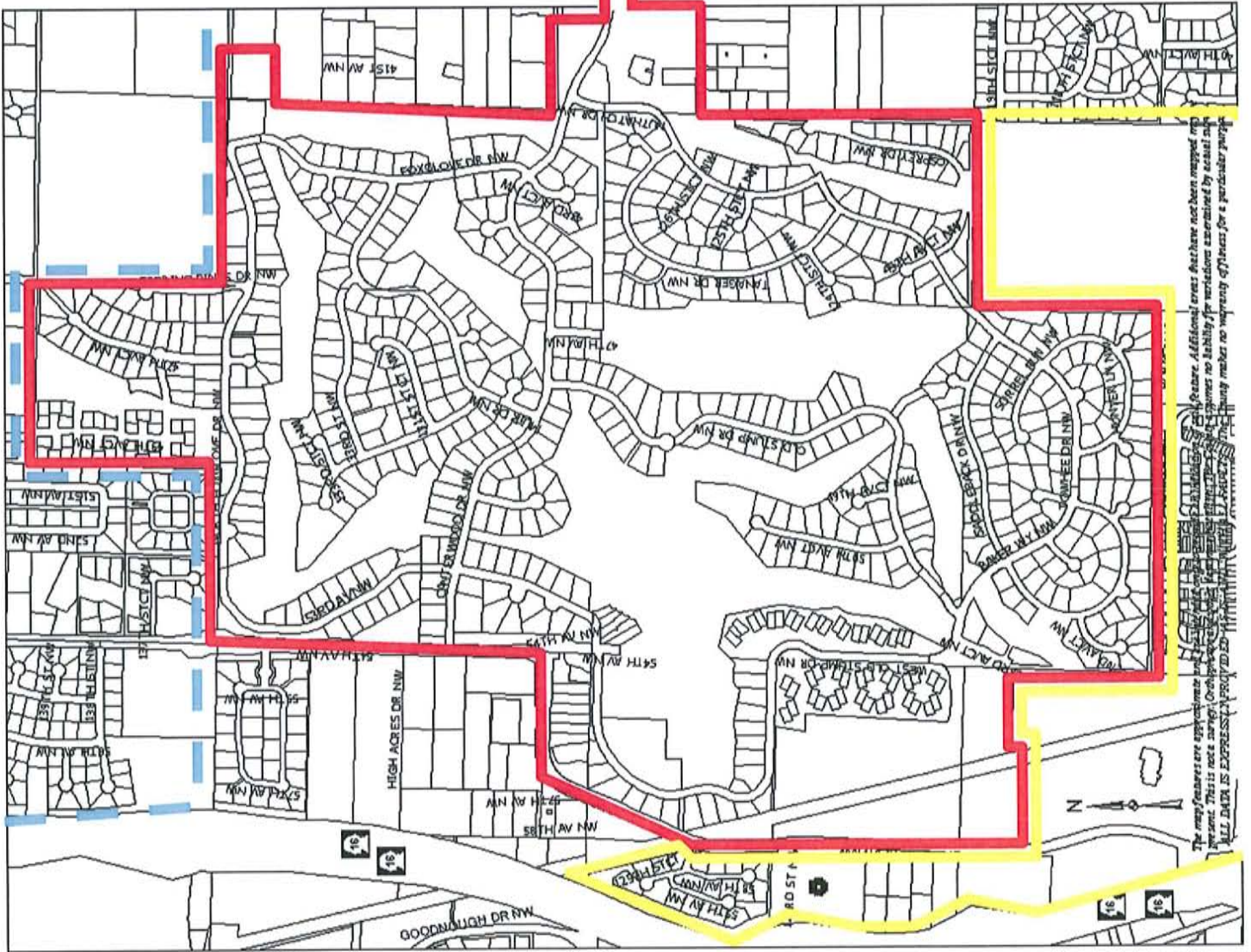
Move to:

Deny the Notice of Intent to Commence Annexation.

EXHIBITS

- A. Attached Legal Description**
- B. Vicinity Map**
- C. Aerial Photo of Area**
- D. Notice of Intent to Commence Annexation**





The map features are approximate and should not be used for legal purposes. All data is expressed as provided. The map features are approximate and should not be used for legal purposes. All data is expressed as provided. The map features are approximate and should not be used for legal purposes. All data is expressed as provided.

**City of Gig Harbor
Community Development Dept.
3510 Grandview St.
Gig Harbor, WA 98335**

Memo

To: Tom Dolan, Planning Director
From: Dick J. Bower, CBO – Building/Fire Safety Director
CC: file
Date: 9/22/2008
Re: PL-ANX 08-002 Canterwood Annexation 09.22.08 comments

I've reviewed the information provided on the proposed annexation ref. above. Regarding building and fire issues I have the following comments:

1. The proposed annexed area contains a mix of undeveloped residential and commercial sites and numerous existing residential and commercial buildings. The annexation will bring additional land use and building permit applications, both for new construction and remodel/TI projects under our authority for review, permitting and inspection. This will increase our workload for plan reviews, permitting and inspections and will likely have a detrimental affect on level of service without additional resource allocation to the department.
2. According to fire department records, the proposed annexation is served by water mains providing between 278 and 1300 gpm at 20 psi residual pressure for an unknown duration. The City's fire code requires a minimum of 1000 gpm at 20 psi residual pressure for 2 hours for residences up to 3,600 square feet and a minimum of 1,500 gpm for residences exceeding 3,600 square feet. Consequently, fire flow availability appears to be out of compliance throughout much of the annexed area.

Fire hydrant spacing varies from 500 to 800 feet apart as determined from fire department hydrant maps. The City fire code prescribes a maximum spacing for through streets of 500 feet apart and for dead end streets 400 feet with no point on property street frontage further than one-half the prescribed spacing from a fire hydrant (250 feet for through, 200 feet for dead end roads). Fire hydrant spacing is therefore not compliant with current City requirements.

As is our current policy to avoid annexing deficient infrastructure and in accordance with other recent annexations, **Building/Fire Safety recommends that the water system be brought into compliance with hydrant spacing and fire flow as a condition of approval of the annexation request. If the water purveyor is unable to provide the minimum flows prescribed in the City fire code, a note requiring fire sprinkler installation in all future new construction and substantial remodels should be required to be recorded on the plat, and additional fire hydrant(s) should be installed to comply with the spacing requirements of GHMC Title 15/IFC Table C105.1.**



WASTEWATER TREATMENT PLANT

Comments on Canterwood Annexation Request

To:
Tom Dolan
Planning Director
City of Gig Harbor

Tom, thank you for the opportunity to comment on the proposed annexation of the Canterwood MPC. I will speak only to the utilities which I have involvement, wastewater and water(reuse).

To start I have some deep concerns over the existing STEP (Septic Tank Effluent Pumping) system. My concerns are not generally with the operation of the system but the very nature of the type of system. Septic effluent is one of the harshest forms of wastewater to treat. It is very high in ammonia and produces high levels of hydrogen sulfide gas (H₂S) in the collection system. These high levels of H₂S have resulted in severe odor and degradation in Canterwoods and City owned manholes and liftstations. Though Canterwood STEP assoc. did install a City approved treatment device it has not performed adequately and continues to release high levels of H₂S into the City's collection system. City WWTP staff has facilitated the use of a treatment that has been successful in a similar situation at Willochet Bay. To date the treatment has been successful with a temporary makeshift injection system. And Canterwood STEP Assoc. has continued use of the product on their own. The treatment has also nearly eliminated the odors at lift station#12 which Canterwood dumps into. This is a costly treatment and not one that we would care to have to maintain in the future. I realize their letter of intent suggests that Canterwood will forever maintain the system. Forever is a long time and at some point the system will no doubt be dumped on the City. We are also receiving very unusual flows from their system not consistent with normal STEP systems. Higher flows that steal wet weather capacity which is a precious commodity. We have had conversations with the Canterwood STEP representative letting him know that we will be testing their system to find the unauthorized connections or failing equipment.

Recommendation:

Have the STEP Assoc. start a program of decommissioning the step system to go to a more favored individual private grinder pump and mainline system. This would also help tighten up the system which, as mentioned, seems to be discharging abnormally high volumes. Any new connections would be individual

private grinder pumps if they wish to maintain their private status so there are no lift stations to attend behind closed gates.

The other issue is the use of water to irrigate their golf course and irrigation of landscaping. Canterwood lies in an area that is rich in potential for satellite waste treatment and water reuse. Water Rights are an ongoing issue with the City and the use of reuse water on the golf course and landscaping could be used as a credit to help offset water rights negotiations.

Recommendations:

Require the Canterwood Golf Course and development to adapt irrigation equipment and use reuse water when available. Surrender their water rights to the City while still maintaining operation of the water system to a level that meets City and DOH standards.

I would be glad to discuss these items in more detail if desired.

Darrell Winans
WWTP Supervisor
City of Gig Harbor



COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

DATE: September 30, 2008
TO: Tom Dolan, Planning Director
CC: Stephen Misiurak, PE, City Engineer
FROM: Jeff Langhelm, PE, Senior Engineer *AL*
SUBJECT: Annexation Review of Canterwood (PL-ANX-08-0002)

Based on the July 24, 2008 Notice of Intent to Annexation from the Canterwood Homeowners Association of the master planned community of Canterwood, the City of Gig Harbor Engineering Division has the following comments:

Transportation

General

All future development within the annexation area will be required to meet the City's Public Works Standards.

Transportation Concurrence

As required by Chapter 19.10 of the City's Municipal Code, any development generating new traffic must apply for, and receive approval to, add new vehicle trips to the City's roadways. This process is known as transportation concurrence and all development within the City limits is subject to transportation concurrence. The City may not be able to grant transportation concurrence to developments that cause the level of service to drop below the City's acceptable level of service for affected roadways based on traffic modeling.

The proposed annexation area is located north of the SR-16/Burnham Dr./Borgen Blvd./Canterwood Blvd. intersection. Additional vehicle trips through this intersection will likely cause the level of service to drop below the City's acceptable level of service. Therefore additional development in this area may not be granted transportation concurrence without identified improvements to affected City roadways. Improvements may include construction of transportation mitigation(s)

Tom Dolan
September 30, 2008
Page 2

or pro-rata payments of City capital projects through payment of the City's transportation impact fee.

Existing Roadways

With the exception of Canterwood Blvd. and Peacock Hill Avenue, the current network of roadways within the proposed annexation are private roadway and do not meet the City's Public Works Standards for private roadways.

Transportation Recommendation

Engineering Division staff recommends that the City of Gig Harbor allow the private roadway network in the annexation area to remain private. If the applicant requests the City to accept the private roadways as public streets the roadways Engineering Division staff recommends the roadways be brought up to the City's public street standards.

Water

The proposed annexation area is currently shown to be served by the Canterwood Water Company. Therefore all water flow requirements shall be subject to the City of Gig Harbor Fire Marshal and the Water System Plan for the Canterwood Water Company as approved by the Washington State Department of Health.

If any development within the annexation area requests water service from the City of Gig Harbor the applicant must amend the City's current Water Comprehensive Plan and the Pierce County Coordinated Water System Plan. The applicant may also be required to mitigate for impacts to the City's existing water system.

Sanitary Sewer

General

The City of Gig Harbor does not grant additional sewer connections to areas located beyond the City limits. However, those connections granted through existing utility extension agreements are still valid under the terms of the agreement.

Additionally, the City of Gig Harbor is not granting additional sewer connections through the capacity reservation certificate (CRC) process until upgrades to the City's wastewater treatment plant are completed. The City is estimating these upgrades will be completed by December 2009.

Tom Dolan
September 30, 2008
Page 3

Limited options would exist for development on lots in the annexation area without connecting to the City's sewer system. Once the City is able to provide CRCs for developments requesting sewer connections, development in this area requiring sewer connections will be able to proceed. Any connection to the City's sewer system must meet the requirements of the City's Public Works Standards.

Based on a review of the City's Wastewater Comprehensive Plan, development of wastewater infrastructure in this area is not necessary for the City's wastewater system to function appropriately. All costs for construction of the necessary extensions of the existing sewer main, including those noted in the Wastewater Comprehensive Plan for the parcels within the sewer basin shall be borne by the developers and not the City.

Each parcel that connects to the City's sanitary sewer system shall be required to pay the appropriate connection fee and revolving service fee. These fees, as reviewed by the City Council, should be adequate to pay for the necessary maintenance and operation of the sanitary sewer system extended to the parcels.

STEP Associations

The proposed annexation area is currently shown to be served by two separate septic tank effluent (STEP) associations. Both STEP associations discharge to the City of Gig Harbor's sanitary sewer and wastewater treatment system by means of a gravity sewer main located along Canterwood Boulevard.

Due to their nature, each STEP tank that discharges to the STEP association produces large amounts of harmful waste, including ammonia and hydrogen sulfide gas. The impacts and recommendations to mitigate the impacts from the STEP associations are further described in the comments from Darrell Winans, Wastewater Treatment Plant Supervisor.

Use of Reclaimed Water

A proposed amendment to Chapter 8 of the City's Comprehensive Plan recommends adding a goal to explore the option for the City to create and utilize reclaimed (Class A) from the wastewater system while studying the benefits and potential uses for reclaimed water. One potential use of reclaimed water is for irrigation of the 18-hole golf course and landscaping located within the proposed annexation area.

The use of water from aquifer sources for irrigation is unnecessary use for drinking quality water. However, irrigation use for reclaimed water is common well documented as a safe and effective method of irrigation. The impacts and

Tom Dolan
September 30, 2008
Page 4

recommendations to utilize reclaimed water for irrigation purposes for the golf course and landscaping are further described in the comments from Darrell Winans, Wastewater Treatment Plant Supervisor.

Stormwater

General

Each development proposed for this annexation area would be required to design and construct stormwater improvements in accordance with the City's Stormwater Design Manual,. This includes all stormwater features necessary for improvements within the City's right of way. All costs for design and construction of these stormwater features shall be borne by the developers and not the City. All costs for operations and maintenance of stormwater features outside of the City's right of way shall also be borne by the developers.

Each parcel that is annexed in the City's limits shall be required to pay the appropriate stormwater fee. These fees, as reviewed by the City Council, should be adequate to pay for the necessary maintenance and operation of the City's stormwater system located within the City's right of way created by the parcels.

NPDES Phase 2 Stormwater Compliance

The proposed annexation area is currently under the jurisdiction of Pierce County's NPDES Phase 1 stormwater permit. Through annexation this area would be under the jurisdiction of the City's NPDES Phase 2 stormwater permit. The requirements of the County's Phase 1 permit are similar to the City's Phase 2 permit and have sooner compliance dates. Therefore this annexation area should be prepared to meet the City's Phase 2 compliance dates.

With the increase in population resulting from this annexation of approximately 1600 (25% increase over our current city population) people, I foresee the need to increase our staffing by at least 2 FTE commissioned officers. The challenge will be how to effectively patrol the additional 730 acres, which are located to the extreme north of our present city boundaries. The footprint of our expanded jurisdiction will stretch north requiring officers to be assigned to a north and south sector, thus underscoring the need for a minimum staffing level of two officers at all times. This annexation will increase our response times to calls for service if we don't received additional staffing.

The residents of Canterwood have indicated one of the driving forces behind their desire for annexation is an improvement in the level of public safety services. I perceived this community will have high expectations in this area of service.

I see we will eventually need a third officer to provide the higher visibility the members of this community are interested in acquiring through this annexation. It is important to be prepared for the added demands for service in order to prevent a denigration of our current service level to existing city residents.

Chief Mike Davis

October 1, 2008



July 24, 2008

City of Gig Harbor
Mr. Tom Dolan, Planning Director
3510 Grandview Street
Gig Harbor, WA 98335

RE: Notice of Intent to Annexation – Canterwood

Dear Mr. Dolan,

Please accept the enclosed Notice of Intention to Commence Annexation Proceedings for the property in general known as "Canterwood Annexation Property". The proposed annexation property is approximately 714 acres. It is adjacent to the City Limits and within the Urban Growth Area.

The legal description and map of the annexation area as prepared by Dan Johnson, Aspen Land Surveying is attached.

Description of request:

The area described in this proposed annexation is almost completely within the Master Planned Community (MPC) of Canterwood. There are a couple parcels that were added to create a uniform boundary. We are including here some important facts and details about the Canterwood MPC properties, which we hope will help in understanding our request and proposal:

1. Canterwood MPC received the first approval of the master site plan and Division I plat in the late 1970's from Pierce County. Since that time, the community has been developed substantially in accordance with the early site plans. In 1988 the focus and emphasis was changed from an equestrian development to golf course orientation. Today both equestrian facilities and the 18 hole championship golf course provide recreation opportunities to the community.
2. The proposed area is approximately 97% platted or developed into single family residences, open space tracts, business park, golf course and other recreational amenities. Some of the property is currently being developed through approved preliminary plats with Pierce County.
3. The Canterwood Homeowners Association has an active Board of Directors that controls and maintains through Covenants, Conditions and Restrictions (CC&R's) the property owned by the Association, including open spaces, common recreation areas, all private roads, storm drainage, equestrian center and other facilities. The homeowner's dues fund the maintenance, repair, replacement and operation of all the homeowner properties. Currently there are adequate reserve funds for anticipated replacement and repairs of the facilities. It is anticipated that all of these facilities including the roads and storm drainage will continue to be privately owned and maintained by the Association.
4. All owners of dwelling units belong to and pay dues to the Association, however not all homeowners are members of the Golf and Country Club. There are 734 dwelling units (lots) with approximately 660 residences completed.

4026 Canterwood Drive NW, Suite A, Gig Harbor, WA 98332

Email: bbauleke@centurytel.net

(253) 851-6158 (253) 851-1685-Fax


5. The Canterwood Golf and Country Club (CGCC) owns 162 acres of the property. It includes an 18 hole golf course, club house, restaurants, pool complex, pro shop with retail sales and other facilities for recreation including maintenance and operations. This property is owned by the members of the private club. They are assessed for all the maintenance and operations of the property. This proposed annexation action assumes that the CGCC will maintain the ownership of the club property including operation and maintenance. It is not anticipated that any debt will be assumed by the City for the Canterwood Golf and Country Club .
6. Within the Master Planned Community there are other business uses existing and proposed including offices for the facilities and the Canterwood Business Park owned by Canterwood Commercial LLC.
7. Most of the critical areas including wetlands and streams and drainage courses within the annexation property have been mapped, delineated and classified under the ordinances effective at the time of development. Appropriate buffers and regulations have been implemented by Pierce County as a part of the development of the property.
8. The Canterwood Water Company, a state approved public water company is the water purveyor for all of the Canterwood property. There are no anticipated changes to the water service area for Canterwood Water Company. The City would not be assuming any debt or responsibility for the Canterwood Water Company.
9. Many of the residences within the development are connected to the Gig Harbor sewer system through an internal STEP sewer system association. The STEP Association is responsible for maintenance and repairs of the system. Many of the existing residences are currently utilizing septic drainfields. These sites do not have sewer facilities available to the residences. Future plats will be connected directly to the City sewer system through extension of sewer facilities. The City would not be assuming any debt or responsibility for the operation of the STEP Association system under the current existing agreements with the city.
10. Comprehensive Plans:
 - Pierce County Comprehensive Plan has designated most of the annexation area as the land use of Master Planned Community. The area is in the Gig Harbor Peninsula Community Plan component of the Pierce County Comp plan.
 - The current City of Gig Harbor Comprehensive Plan has designated the proposed annexation area as Residential Low.

It is anticipated that there will need to be discussion and considerations regarding how the comprehensive plan land use and zoning designations of the city will be in applied to the annexation property.

The following is excerpt is from the description of the Pierce County MPC Community plan:

The Master Planned Community (MPC) designation is intended to achieve well designed, compact, urban development with a balance of uses, more efficient use of public facilities, and a greater amount of open space than would be required under standard development. MPCs integrate a mix of housing, services, and recreation and are approved through a planned unit development or planned development district process. Densities in a MPC must average between 4-10 dwelling units per acre with individual densities within the community ranging from 2-25 dwelling units per acre. MPCs must encompass a minimum of 320 acres. In the Gig Harbor UGA, the only MPC lies at the north end of the UGA. This MPC encompasses the Canterwood Golf Community which has been in existence since the late 1970s.

We submit this proposed action to you, with the understanding that there are many elements that are unique to this property which will need to be reviewed, researched and resolved. In the spirit of cooperating with the City, we will offer our assistance to provide details and records to the best of our ability, so that the City Council can carefully consider this request.

Respectfully submitted, 

Canterwood Homeowners Association Annexation committee
Attn: Doug Allen
4026 Canterwood Dr. NW #A
Gig Harbor, WA 98332

Association Manager: Betsy Bauleke

LEGAL DESCRIPTION
for
Canterwood Annexation
to
The City of Gig Harbor, Washington

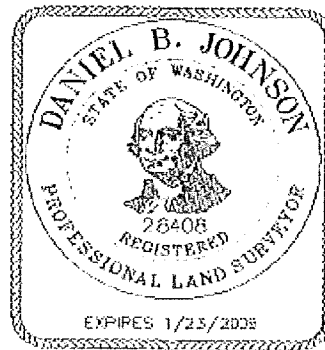
Portions of the Southeast Quarter of Section 24, of the Northeast and the Southeast Quarters of Section 25, Township 22 North, Range 1 East, W.M. and portions of the Northwest Quarter, the Southwest Quarter and of the Southeast Quarter of Section 19, and of the Northeast Quarter, the Northwest Quarter and of the Southwest Quarter of Section 30, Township 22 North, Range 2 East, W.M., described as follows:

Commencing at the Southeast Corner of Section 19, Township 22 North, Range 2 East, W.M., in Pierce County, Washington; thence West along the south line of said section, 30.0 feet to the west margin of Peacock Hill Avenue NW and the TRUE POINT OF BEGINNING; thence continuing West along said south line, 629.54 feet, to the Southeast Corner of Lot 2, Canterwood Division One; thence North along the east line of said Lot 2, a distance of 333.69 feet to the Northeast Corner thereof; thence West along the north line of said Lot 2, a distance of, 659.67 feet, to the Northwest Corner thereof and the east line of the West Half of the Southeast Quarter of said Section 19; thence North along said east line, 1980 feet, more or less, to the Southwest Corner of the North Half of the North Half of the Northeast Quarter of the Southeast Quarter of said Section 19; thence East along the south line of said North Half of the North Half of said Northeast Quarter, 330 feet; thence North along the east line of the West 330 feet of said North Half of the North Half of said Northeast Quarter, 330 feet, more or less, to the north line of the Southeast Quarter of said Section 19; thence West along said north line, 1650 feet, more or less, to the Southeast Corner of the Southeast Quarter of the Northwest Quarter of said Section 19; thence North 1320 feet, more or less, to the Northeast Corner of said subdivision; thence West 1320 feet, more or less, to the Northwest Corner of said subdivision; thence South 1320 feet, more or less, to the Southwest Corner of said subdivision; thence West along the north line of the Southwest Quarter of said Section 19, a distance of 1320 feet, more or less, to the Northwest Corner of the Southwest Quarter of said Section 19; thence continuing West, 70 feet, more or less, to the westerly margin of 54th Avenue NW; thence Southerly along said westerly margin to the northerly margin of Canterwood Boulevard NW; thence Westerly, Southwesterly and Southerly along the northerly and westerly margins of Canterwood Boulevard NW to the Southwest Corner of Lot 1, Pierce County Large Lot Division No. 2970; thence East along the south line of said Lot 1 and the prolongation thereof to the easterly margin of the City of Tacoma Lake Cushman Right-of-Way; thence Northwesterly along said easterly margin to the Southwest Corner of Lot 7, Pierce County Large Lot Division No. 2970; thence East along the south line of said Lot 7 to the Southeast Corner thereof and the west line of

the North Half of the Southwest Quarter of Section 30, Township 22 North, Range 2 East, W.M.; thence South along said west line to the Southwest Corner of said North Half; thence East along the south line of said North Half, 2640 feet, more or less, to the Southeast Corner thereof; thence North along the east line of said North Half, 1320 feet, more or less, to the Center of said Section 30; thence East along the south line of the West Half of the Northeast Quarter of said Section 30, a distance of 1320 feet, more or less, to the Southeast Corner of said West Half; thence North along the east line of said West Half, 1980 feet, more or less, to the Southwest Corner of Pierce County Short Plat No. 9904205003; thence East along the south line of said short plat, 824.30 feet to the Southeast Corner thereof; thence North along the east line of said short plat, 495.26 feet to the Southwest Corner of Lot 1, Canterwood Division One; thence East along the south line of said Lot 1 and Tract A of said plat, 464.64 feet to the west margin of Peacock Hill Avenue NW; thence North along said margin, 165.55 feet to the True Point of Beginning.

Daniel B. Johnson

7/17/08





Council Report Proposed Canterwood Annexation

Summary

The Canterwood Homeowners' Association has submitted a Notice of Intent to Annex to the City of Gig Harbor. Under Washington State law, the City has to hold a meeting to review the proposed annexation within 60 days and decide whether they wish to proceed. Council's decision at this meeting will not decide whether the annexation will occur, but only whether staff should proceed with the process in anticipation of an eventual annexation.

The reasons Canterwood is interested in annexing are as follows:

- They anticipate better police services.
- They are concerned about city code regarding connections to the city sewer system that may inhibit them from further development unless they annex.
- They feel they are already part of the greater Gig Harbor community and would like to have a voice in its government and civic affairs.
- They anticipate lower property tax rates (though this is balanced by additional utility taxes).

Since Canterwood will maintain its own utilities (sewer, water, storm drainage, transportation) and has a high assessed value, the city can anticipate a net revenue of \$67,024, after accounting for the costs of additional service contracts and 6.5 additional staff. The annexation should not affect the fire, library or park districts.

Council should decide:

- Whether the City Council will accept, reject, or geographically modify the proposed annexation;
- Whether the City Council will require the simultaneous adoption of zoning for the proposed area that is in substantial compliance with the city's comprehensive plan;
- Whether the City Council will require the assumption of all or any portion of indebtedness by the area to be annexed; and,
- Whether the City Council may require additional annexation conditions.

Staff recommends that if the council wishes to proceed with the annexation, it should not move forward until zoning issues are resolved and a pre-annexation agreement can be negotiated.

Area description

The Canterwood development comprises 714 acres located generally between Canterwood Boulevard (54th Avenue NW) and Peacock Hill Avenue NW, south of 140th Street NE and North of City Limits. See the map on page 3 for detail.

The area is approximately 97% platted or developed into single family residences, open space, business park, golf course, equestrian trails and other recreational amenities. Some of the property is currently being developed through approved preliminary plats. The area numbers about 1,650 residents and will house about 2,000 residents when fully built.

Report on the Proposed Canterwood Annexation

The Canterwood Homeowners Association has an active Board of Directors that controls and maintains through Covenants, Conditions and Restrictions (CC&Rs) the property owned by the Association, including open spaces, common recreation areas, all private roads, storm drainage, equestrian center and other facilities. The 162 acres of golf facilities are separately owned and maintained by the members of the Canterwood Golf and Country Club. The homeowners dues fund the maintenance, repair, replacement and operation of all the Association properties. The Association states that there are currently adequate reserve funds to pay for anticipated repair and replacement of facilities, and it anticipates that it will continue to own and maintain all these facilities.

The Canterwood community includes a business park with about 24,000 square feet of office space and another 100,000 square feet of space that is currently being developed. All of the space is intended for offices; no retail activity is expected there.

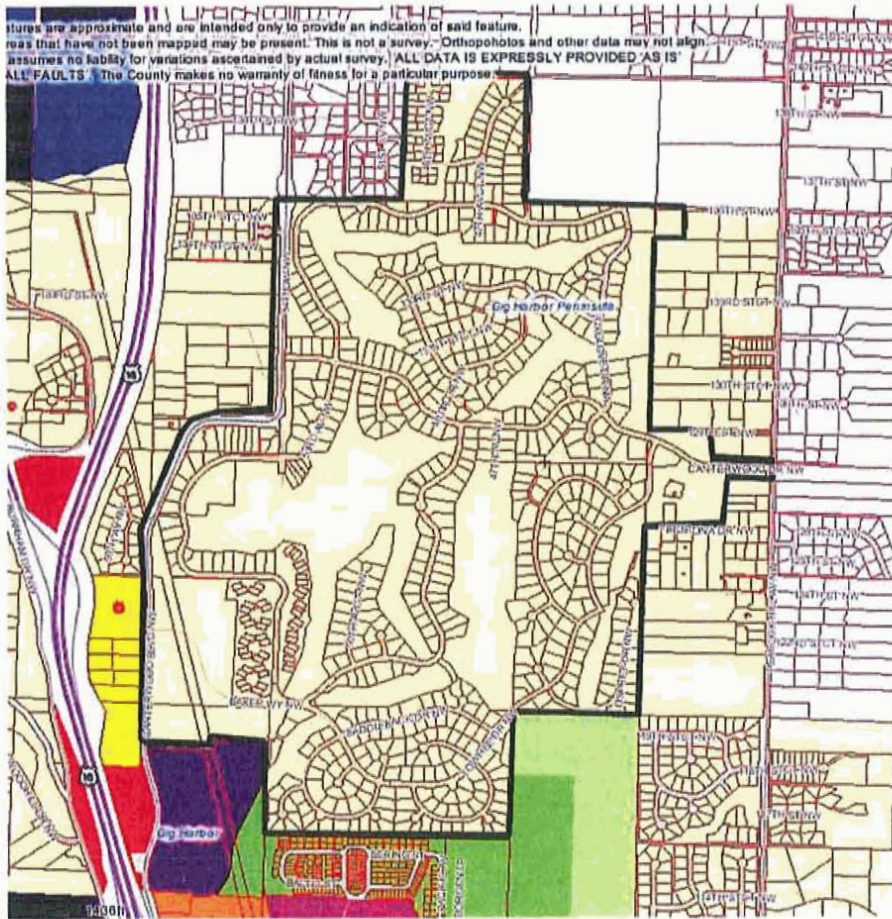
The Association claims that most of the critical areas including wetlands, streams and drainage courses have been mapped, delineated and classified under ordinances effective at the time of development. Buffers and regulations have been implemented by Pierce County as a part of the development.

The Canterwood Water Company, a state approved public water company, is the potable water purveyor for the development. The Association anticipates no changes to the water service area and intends to maintain the company's operation.

About 38% of the residences within the development are connected to the Gig Harbor sewer system through an internal STEP sewer system association. The sewer association is responsible for maintenance and repairs of the system. Other residences are on septic systems and do not have access to the sewer facilities. Future development is intended to be connected to the city sewer system through extension of the sewer facilities. The Association anticipates that the city would not be assuming any debt or responsibility for the operation of the STEP association system.

Pierce County has designated most of the Canterwood area under a Master Planned Community zoning. The current city comprehensive plan has designated the area as R-1 (4 units per acre). The Association anticipates further discussion regarding how the city's comprehensive plan designations would be applied to Canterwood.

Report on the Proposed Canterwood Annexation



Considerations

Canterwood Property Owners

The average household will most likely see a property tax decrease that is offset by city utility taxes and storm water fees, with a net cost of \$200 per year (see appendix E). Note that this can vary significantly depending on the particulars of each household; generally, as the utility usage decreases or as the home value increases, the more financially beneficial the annexation becomes to a household. Canterwood residents with home-based businesses will need to obtain a city business license at a cost of \$20. In return for the additional cost, residents are able to vote in city elections and receive urban-level services such as better police response times and local permit processing.

Information on the Canterwood Golf and Country Club budget is very limited, but initial estimates indicate the annexation would result in a net cost to them of about \$450 per month.

Sewer System

Most Canterwood residents are on septic systems and about 250 are on septic tanks connected to the city sewer through a STEP (septic tank effluent pump) system. This system is by nature harmful to the city's pipes and pump stations. On-going treating the effluent to solve the problems associated with this system is costly. Staff's recommendation is to begin a program to decommission the STEP system and replace it with an individual private grinder pump and mainline system. This issue should be addressed in a pre-annexation agreement.

Report on the Proposed Canterwood Annexation

With an annexation the city would require all new development to connect to the sewer system, but would not normally require residents on septic systems to connect unless their system fails. Any future connections and infrastructure would be paid by Canterwood or the developers, and staff believes the city will have adequate sewer capacity once phase II of the sewage plant upgrade is complete. The annexation should therefore have no significant service or fiscal impact in this area.

The city recently passed an ordinance that requires properties to be within the city before sewer connections can be made. Canterwood representatives are concerned that this change to city sewer regulations creates an effective moratorium on development since remaining developable land is inadequate for septic systems. While the city's first responsibility is to serve its current residents, no discussions have occurred with staff to evaluate whether this problem may be overcome outside of an annexation.

Water System

Canterwood residents are served by the Canterwood Water Company, which is maintained by Peninsula Light. The golf course is on an independent well for irrigation. There are currently 719 connections or commitments (including irrigation connections for open spaces) and the capacity per the 2006 water system plan is 925 connections. There should be enough capacity to meet future demands within the community.

There is concern that the water system flow and pressure is adequate to City standards. The required flow should be about 1,000 gallons per minute for homes up to 3,600 square feet, and 1,500 gallons per minute for larger homes. Since the most recent tests showed flows ranging from 712 to 1,334 gallons per minute, the system would be considered non-conforming. Future building permits may be contingent on plans for sprinkling the buildings, unless system improvements are made. Any improvements would be paid by the developer or the water company. As part of the proposed pre-annexation agreement, staff recommends requiring a comprehensive water flow test of the fire system.

There is also concern that the spacing of fire hydrants is not compliant with city standards. According to fire department maps, spacing varies from 500 to 800 feet, whereas city code requires a maximum spacing of 500 feet on through streets or 400 feet on dead end streets. Staff recommends requiring the additional of hydrants to meet city requirements.

Water rights are an ongoing issue in the Puget Sound area, especially with city. A potential benefit to the city is the possibility of requiring the use of "gray" or "reuse" water on the Canterwood golf course and landscaping in order to obtain credit to help offset water rights negotiations. Further, it staff recommends looking into the possibility of Canterwood surrendering excess water rights to the city.

Since Canterwood would be required to pay for all water system upgrades, the annexation should have no significant service or fiscal impact in this area.

Report on the Proposed Canterwood Annexation

Storm Water System

Staff is unaware of any storm-water deficiencies in the annexation area. Design and construction costs for future development would be borne by the developers. Each property owner will be required to pay the city's storm water fee to pay for their share of maintenance and operation of the system. The annexation should have no significant service or fiscal impact in this area.

Transportation

Canterwood intends to remain a gated community and to maintain all of its road infrastructure privately. The system appears to be in good shape, leaving no concern for the city regarding serviceability. However, the roads do not meet city standards for private roadways in that they do not have curbs, gutters and sidewalks. Should the city ever be asked to take over these streets, they would need to be brought up to standards.

There is concern that additional vehicle trips generated by further development in Canterwood would cause the level of service to drop below acceptable levels at the SR-16/Burham Drive/Borgen Boulevard/Canterwood Boulevard intersection. In order to obtain new building permits in this area, developers may be required to construct transportation mitigations or pay pro-rata shares of transportation impact fees.

The City would become responsible for about ½ mile of Canterwood Boulevard, but does not see this as a significant burden on road maintenance resources. The annexation should have only minimal service or fiscal impacts in this area.

Library and Fire Districts

Annexations do not generally affect junior taxing districts unless the city takes over service provision for the annexed area and thus changes the district's boundaries. With this in mind, no impact is expected on the Library or Fire districts.

Parks

Since the Peninsula Metro Park District (PenMet) was created by a vote of residents in the unincorporated areas of the peninsula, annexation by the city does not change the park district boundaries. Canterwood residents would continue to pay the PenMet property tax levy (about \$0.33 per thousand assessed value) even though property owners already located in the city do not. Residents will also continue paying the 1/10% "zoo tax," but unlike the property tax, a per-capita proportion of zoo tax (about \$13,500) will begin accruing to the city upon annexation.

It should also be noted that the PenMet Board voted to place a \$20 million park bond measure before the citizens of the District in this year's November 4, 2008 general election. Canterwood residents will be able to vote on the measure, and if it passes they will be responsible for their pro-rata share of the levy (about \$0.18 per thousand assessed value).

Since new parks have recently been added to the area, and given the extensive parks and recreation infrastructure in Canterwood, staff anticipates the need for no additional parks with this annexation.

Report on the Proposed Canterwood Annexation

Budget/Financial

Usually annexations of residential areas with little or no commercial activity are financially burdensome for cities in Washington State. However, this annexation is anticipated to be financially beneficial to the city for a number of reasons:

- Canterwood will maintain its utilities privately;
- Canterwood has an unusually large assessed valuation; and
- Gig Harbor has the ability to absorb some of the additional burdens with existing staff.

Despite the city's ability to absorb the additional burdens with existing staff, any increase in workload without a commensurate increase in efficiency will result in a decrease in service. The fiscal analysis was therefore based on the assumption of maintaining current service levels and assumes the addition of staff.

The following initial expense estimates have been made (see appendixes B and C):

Function	Staffing Costs	FTEs	Supplies & Services	Total	Start-Up Costs
General Administrative	n/a	n/a	\$45,085	\$45,085	n/a
Public Works	\$98,701	1.0	\$1,341	\$100,042	n/a
Building & Fire Safety	\$101,470	1.5	\$5,103	\$106,573	\$25,000
Planning	\$86,767	1.0	\$2,833	\$89,600	n/a
Police	\$291,642	3.0	\$76,927	\$368,569	\$182,985
IT	n/a	n/a	\$15,300	\$15,300	\$17,200
Total	\$578,581	6.5	\$146,589	\$725,169	\$225,185

Note that there are no anticipated additional costs for Court, Finance, Road Maintenance, Sewer Maintenance, Marketing and Legal because the annexation will have little or no impact in these areas. For example, because Canterwood is so close to town, residents are already routinely cited into Gig Harbor Court for infractions and criminal misdemeanors that occur within the city limits. Additional misdemeanors occurring within the development are expected to be minimal, so Court staff anticipate a negligible impact to their workload.

City hall is currently at capacity in terms of office space for staff. Since Police officers spend most of their time in the field, additional police should not create a problem. Should the city decide to hire additional office staff, however, it will incur additional expenses to house this staff. Such expenses are not included in the above estimates.

The expense estimates compare favorably to the following revenue estimates (see appendix D):

Start-Up Costs	Operating	Capital	Total
n/a	General Fund	Property Tax (Eddon Boat)	\$70,891
n/a	Property Tax	Real Estate	
\$25,000	Utility Tax	Excise Tax (REET)	\$238,022
n/a	Other		
\$182,985	Street Fund		
\$17,200	Utilities		
\$225,185	Total		\$308,913
			\$1,101,106

Report on the Proposed Canterwood Annexation

The Canterwood annexation would therefore result in a net revenue to the city in a stable year (after start-up expenses) of approximately \$67,024. Since there is a systemic imbalance of expenditure growth over revenue growth this position can be anticipated to slowly erode over the next twenty years (assuming full build-out of the development and no changes to the city's tax and fee structure).

It is important to note that these positive financial impacts will not occur immediately. Depending on the date of annexation, property tax revenues may not transfer to the city for up to 18 months (this is somewhat alleviated by a transfer of county road fund tax in the first year) and revenue distributed by the state generally does not occur until the quarter after the Department of Revenue is notified of the annexation.

Outstanding Debt

Most cities require the assumption of indebtedness as a condition of annexation unless in a particular circumstance it would be inequitable. Gig Harbor is no different and has required the assumption of indebtedness in its past annexations. The imposition of debt on the annexed area does not result in a tax increase; rather, if the city were to default on its debt obligations, the area's land owners would be responsible for their proportionate share of the debt.

Gig Harbor debt totals \$11,710,000, which includes voted debt of \$3,149,000 for Eddon Boatyard bonds. Council must decide whether the Eddon Boatyard debt should be imposed upon this annexation.

Some of the issues the city should examine in reaching a decision on this question are:

Question: Was the outstanding indebtedness incurred to finance an improvement or facility that will benefit the newly annexed area?

Answer: The Eddon Boatyard clean-up is a benefit to the entire region since it is the first step in creating a public recreation area.

Question: Will assumption of a proportionate share of the city's outstanding indebtedness place an excessive financial burden on annexed property in light of other indebtedness previously placed on the property through the county or special districts, which will remain on the property after annexation?

Answer: Staff is unaware of any other indebtedness or obligations, aside from Canterwood Homeowners Association dues and the Peninsula Metro Parks property tax.

Question: Will the property to be annexed be forming an expensive LID for special improvements, such that requiring assumption of the outstanding indebtedness would not be equitable?

Answer: No.

Question: To what extent does the annexing city desire to encourage (or subsidize) the annexation?

Answer: Given that the Canterwood Homeowners Association submitted this annexation request, staff sees no need to provide further incentives.

Report on the Proposed Canterwood Annexation

Staff recommends requiring the assumption of a proportionate share of all of the city's indebtedness.

Size/Geographic Area of Annexation

The City Council has the option of modifying the geographic area of the proposed annexation.

It is difficult to conceive of valid reasons to reduce the size of the annexation since:

- Reducing it would divide a cohesive community;
- A smaller area would not significantly improve the financial estimates;
- Police would have to work with more arbitrary boundaries; and
- Canterwood would have to work with two jurisdictions (county and city) rather than one.

The arguments around expanding the size of the annexation are more complex. There are two regions that present themselves as potential areas to add to the annexation: the area to the East and the area to the West.

Area West of Canterwood

Bounded by Highway 16, Canterwood Boulevard and the northern urban growth boundary at 136th street.

Pro

- More orderly boundary expansion.
- Revenue from Canterwood could help alleviate additional costs of service provision (new total net revenue of about \$7,000).
- Easier to annex along with Canterwood.
- Assures that future development would adhere to city standards.
- Existing "Trillium" development is similar in character to Canterwood.
- Provides a "gateway" to annexing properties across highway 16.

Con

- May require extending sewer lines.
- Potential annexation of area has not been properly analyzed.
- Property owners have been poled to explore their interest in being annexed.
- Quality of water service is questionable and may need to be upgraded.

The area West of Canterwood is roughly 56 acres in size, has about 39 homes on 58 lots, and includes the Trillium gated community. Council may wish to consider expanding the boundaries of the proposed annexation to include the area to its West as described above.

Report on the Proposed Canterwood Annexation

Area to the East of Canterwood

Bounded by the Canterwood Development, the Urban Growth Boundary along Peacock Hill Road, and north of either Borgen Boulevard or north of the Harbor Crossing and Ridge developments.

Pro

- More orderly boundary expansion.
- Easier to annex along with Canterwood.
- Assures that future development would adhere to city standards.
- Revenue from Canterwood could help alleviate additional costs of service provision.

Con

- May require extending sewer lines.
- Potential annexation of area has not been properly analyzed.
- More expensive to serve.
- Quality of water service is questionable and may need to be upgraded.
- Property owners have been poled to explore their interest in being annexed.

While Council may wish to consider expanding the boundaries of the proposed annexation to include the area to its East as described above, there are fewer advantages to doing so than there are for the area to the West (described above).

Density / Zoning

The over-all density for the Canterwood development is about 1 household per acre (the average home site is ½ acre, but the golf course and public areas decrease this density). There was originally concern that the addition of a low-density area to the city could require other areas to become more dense in order to meet Growth Management Act standards. However, county staff have indicated that this decreased density will not cause any difficulties so long as the city's comprehensive plan is not amended to decrease densities.

The City of Gig Harbor has provided by ordinance (17.88.010, below) that all newly annexed territory that is not otherwise zoned shall be automatically zoned into the city's least dense residential zone, R-1. This approach avoids having property being annexed into a city with no zoning designation and allows zoning issues to be dealt with after the annexation takes place. That said, staff's preference would be to work out the zoning issues ahead of annexation in order to meet the 60-day timeline to amend the zoning ordinance (see below).

Any lands annexed to the city...shall be deemed to be included in the zoning map as being in the R-1 residential district Within 60 days following annexation, the planning commission shall hold a public hearing to determine the best application of this title to the annexed territory. Following the hearing, the commission shall make its recommendation to the city council for the zoning of the area; provided, however, any land which has been or is included in a comprehensive land use plan provided for in the following provision and adopted pursuant to RCW 35.13.177 and RCW 35.13.178 shall be annexed with the zoning district classification as provided for in such comprehensive land use plan.

Report on the Proposed Canterwood Annexation

Since the planning commission is already booked about one year out, staff estimates they will be able to look into Canterwood zoning in the 4th quarter of 2009. If the area were annexed in the mean time, existing uses would be considered non-conforming.

Canterwood Concerns

Canterwood's main concern regarding this annexation is its effect on the Country Club. They need to maintain the golf course in the open space classification for tax purposes since paying property tax on the lands full assessed value could be prohibitively expensive. Staff would resolve this issue through a pre-annexation agreement to maintain the open space classification.

The Country Club is also concerned whether it would come is as non-conforming use or as an illegal use if the zoning code is not updated before annexation. Being classified as an illegal use would inhibit them from any expansion. Staff feels the club house facilities would be considered non-conforming, but in any case wishes to address the zoning code issues before an annexation takes effect.

Next Steps

The Council should determine the following:

- Whether the City Council will accept, reject, or geographically modify the proposing of this area for annexation;
- Whether the City Council will require the simultaneous adoption of zoning for the proposed area that is in substantial compliance with the city's comprehensive plan;
- Whether the City Council will require the assumption of all or any portion of indebtedness by the area to be annexed; and,
- Whether the City Council may require additional annexation conditions.

If authorized by the City Council the process can move forward, but will not necessarily result in the annexation. Staff will continue a detailed impact analysis, including:

- Preliminary city budget adjustments;
- Review Housing Association finances to ensure solvency;
- Review critical areas and buffers (set in the 1970s); and
- Address other issues that may come to light.

Staff will simultaneously draft and negotiate a pre-annexation agreement to specify the terms and conditions of the annexation, including:

- Use status of club house and golf course;
- Responsibility for utility infrastructure (water, sewer, transportation), especially regarding responsibility for future expansion;
- Decommissioning and replacing the STEP system;
- Water system testing and upgrades;
- Surrender of excess water rights;
- Use of "gray" or "reuse" water on for golf course and landscaping;
- Zoning;
- Park maintenance;
- Police services; and
- Other issues that may arise.

Report on the Proposed Canterwood Annexation

Additionally, staff will begin the process of updating its zoning codes in anticipation of the annexation, as well as begin a community outreach effort to ensure current and proposed residents are completely informed of the implications of the proposed annexation.

If a pre-annexation agreement is reached, a formal petition will be circulated which will indicate the boundaries and conditions required for annexation. Before filing with the City, the petition must be signed by property owners of at least sixty percent (60%) of the assessed value of the proposed area in order to be certified by Pierce County and then scheduled for a public hearing in front of the City Council. After a public hearing, followed by the appeal period through the BRB, the City Council can adopt an ordinance to enact this annexation.

If the Council decides to expand the geographic area of the annexation, staff will need to notify the additional property owners and discuss the implications with them. This would most likely be conducted as part of a larger outreach effort to Canterwood and existing city residents.

Should Council decide to proceed with this annexation, the increased staff workload described above would be significant and the city would likely need to hire consultants to assist with this effort. Council may wish to consider requiring Canterwood to pay for some or all of these additional costs.

A proposed timeline is attached (appendix A).

Respectfully Submitted on October 13th, 2008 by
John Spencer,
Spencer's Consulting
2103 SE 303rd Avenue
Washougal, WA 98671
360.903.3763
spencersconsulting@gmail.com

Appendix A Timeline

1st Quarter, 2009 – Continuing Public Outreach

Press release(s)
Information Fair(s)
Web page
Annexation calculator
FAQ
Door-to-door signature collection

4th Quarter, 2009

Zoning regulations addressed by the Planning Commission.

1st Quarter, 2010 – 60% Public Hearing

Petition signatures must be certified by County Assessor
Public Notice for hearing
1st reading
2nd reading
Public hearing
Passage of Motion of Intent to Annex
Notice to Boundary Review Board (BRB), Library and Fire Districts

1st Quarter, 2010 – BRB submission

BRB has 14 days to deem application complete, plus 45 days for review (59 total)

2nd Quarter, 2010 – Final Public Hearing / Decision

Public Notice for hearing
1st reading
2nd reading
Public hearing
Adoption of Annexation

3rd Quarter, 2010 – Notification of Annexation

State Office of Financial Management (OFM), census – within 30 days of effective date
(information collection can start earlier)
County – 30 days before effective date
State Department of Revenue – 75 days before effective date
City Staff
General Public

1st Quarter, 2011 – Effective Date of Annexation

January or April 1st may be good dates since using the first day of a quarter maximizes sales tax revenue.

Note: Due to public hearing laws and BRB timelines, and in order to ensure timely revenue flow, the minimum time required to complete the annexation is about 6 months.

Report on the Proposed Canterwood Annexation

**Appendix B
Expense Estimates**

	Stable Year	Growth	FTEs	Start-up Costs	First Year Total
City General Contracts					
Animal Control & Humane Society Contracts	\$789	\$8			
Emergency Management	\$1,304	\$13			
Jail, Corrections Contracts	\$28,033	\$282			
Air Pollution Control Authority	\$495	\$5			
Regional Transportation Council	\$761	\$8			
Association of Washington Cities	\$1,102	\$11			
Alcohol Support program	\$148	\$1			
Prosecutor	\$5,000	\$50			
Insurance	\$7,453	\$58			
Total Contracts	\$45,085	\$379	\$0	\$0	\$0
Public Works					
Engineering					
Engineers	\$98,701		1.00		
Technician	\$0		0.00		
Supplies	\$1,100				
Total Engineering	\$99,801	\$0	1.00	\$0	\$99,801
Operations					
Street sweeping	\$ 10				
Street maintenance	\$ 100				
Signs & striping	\$ 130				
Total Operations	\$ 241				\$241
Total Public Works	\$ 100,042	\$ -	1.00	\$0	\$100,042
Building & Fire Safety					
Inspectors	\$74,022	\$534	1.00		
Vehicles: purchase, gas, maintenance	\$1,389			\$25,000	
Receptionists	\$27,448	\$264	0.5		
Supplies	\$1,614	\$13			
Fire Inspection Contract cost per business	\$2,100				
Total Building & Fire Safety	\$106,573	\$811	1.50	\$25,000	\$131,573
Planning					
Planners	\$86,767	\$1,253	1.00		
Supplies per FTE	\$1,100	\$16			
Services per FTE	\$1,733	\$25			
Total Planning	\$89,600	\$1,293	1.00	\$0	\$89,600
Police					
Service Specialists	\$0	\$0	0.00		
Officers	\$281,892	\$2,487	3.00		
Sergeants	\$0	\$706	0.00		
Supplies	\$18,318				
Initial Officer Outfitting				\$44,985	
Travel & Training	\$6,339				
Vehicles	\$4,167			\$138,000	
LESA and County Special Services	\$54,443				
Overtime pay	\$9,750				
Total Police	\$374,908	\$3,192	3.00	\$182,985	\$557,893
Human Resources					
Recruitments Costs				\$3,575	\$3,575
IT					
New Computers/Phones	\$15,300			\$17,200	\$32,500
Grand Total	\$731,508	\$5,676	6.50	\$225,185	\$949,241

Report on the Proposed Canterwood Annexation
Appendix C
Workload / Opportunity Cost Estimates

	Stable Year	Growth	FTEs	Start-up Costs	First Year Total
City General Contracts					
Animal Control & Humane Society Contracts	\$789	\$8			
Emergency Management	\$1,304	\$13			
Jail, Corrections Contracts	\$5,000	\$50			
Air Pollution Control Authority	\$495	\$5			
Regional Transportation Council	\$761	\$8			
Association of Washington Cities	\$1,102	\$11			
Alcohol Support program	\$148	\$1			
Prosecutor	\$29,255	\$295			
Insurance	\$8,250	\$59			
Total Contracts	\$47,104	\$391	\$0	\$0	\$0
Public Works					
Engineering					
Engineers	\$70,715		0.72		
Technician	\$24,348		0.36		
Supplies	\$1,182				
Total Engineering	\$96,246	\$0	1.07	\$0	\$96,246
Operations					
Street sweeping	\$ 10				
Street maintenance	\$ 100				
Signs & striping	\$ 130				
Total Operations	\$ 241	\$0	0	0	\$241
Total Public Works	\$ 96,487	\$ -	1.07	\$0	\$96,487
Building & Fire Safety					
Inspectors	\$53,034	\$534	0.72		
Vehicles: purchase, gas, maintenance	\$972			\$25,000	
Receptionists	\$26,217	\$264	0.5		
Supplies	\$1,285	\$13			
Fire Inspection Contract cost per business	\$2,100				
Total Building & Fire Safety	\$83,607	\$811	1.19	\$25,000	\$108,607
Planning					
Planners	\$124,312	\$1,253	1.43		
Supplies per FTE	\$1,576	\$16			
Services per FTE	\$2,483	\$25			
Total Planning	\$128,370	\$1,293	1.43	\$0	\$128,370
Police					
Service Specialists	\$21,590	\$0	0.39		
Officers	\$246,808	\$2,487	2.63		
Sergeants	\$70,029	\$706	0.72		
Supplies	\$22,814				
Initial Officer Outfitting				\$50,128	
Travel & Training	\$6,819				
Vehicles	\$5,555			\$184,000	
LESA and County Special Services	\$54,443				
Overtime pay	\$10,865				
Total Police	\$438,924	\$3,192	3.74	\$234,128	\$673,052
Human Resources					
Recruitments Costs				\$4,091	\$4,091
IT					
New Computers/Phones	\$15,300			\$17,200	\$32,500
Grand Total	\$809,792	\$5,689	7.44	\$276,328	\$1,077,870

Report on the Proposed Canterwood Annexation
Appendix D
Revenue Estimates

ITEM	REVENUE	GROWTH
General Fund		
Property Tax	\$450,633	\$8,492
Retail Sales Tax	\$840	\$21
Sales Tax on Home Construction	\$23,577	\$589
Zoo Tax	\$13,532	\$136
Utilities (Natural Gas, Cable, Phone, Electric)	\$203,940	\$2,055
Business Licenses	\$200	\$0
State Shared Revenue (Liquor Tax)	\$7,411	\$75
Building and Development Permits	\$35,385	
GF Operating Revenues	<u>\$735,519</u>	<u>\$11,368</u>
Street Fund		
State Shared Revenue (Gas Tax)	\$17,855	\$180
Sales Tax-Criminal Justice	\$23,513	\$237
Street Operating Revenues	<u>\$41,368</u>	<u>\$417</u>
Utility Funds		
Loss of non-city sewer customers	(\$70,230)	
New Storm Water Fees	\$85,536	\$862
New Sewer Customers	\$0	
Total Utility Funds	<u>\$15,306</u>	<u>\$862</u>
One-Time / Capital Revenues		
Property Tax -- Eddon Boat Bond	\$70,891	\$1,336
Storm Connection Fee		\$7,714
Sewer Connection Fee		\$56,851
Parks Impact Fee		\$9,975
Transportation Impact Fee		\$14,125
Real Estate Excise Taxes	\$238,022	\$15,788
Transfer of County Road Tax		
Total One-Time Revenue	<u>\$308,913</u>	<u>\$105,789</u>

Report on the Proposed Canterwood Annexation
Appendix E
Homeowner Impact Estimates

Property Owner Impacts

- | | |
|---|------------|
| 1) Are you evaluating the effect on a business? | No |
| a) If so, what is the total footprint of your building & parking lot? | |
| b) If so, are you evaluating an apartment building? | No |
| c) If so, how many units does the building have? | |
| d) If so, are you exempt from business licensing? | No |
| e) If not, how many employees does your business have? | |
| 2) Do you own your home or business property? | Yes |
| a) If so, how big is your property? | 1/2 acre |
| 3) Do you run a business out of your home? | No |
| 5) Are you using the STEP System? | No |
| 9) What is the Assessed Value of your property? | \$ 639,506 |
| 11) What is your average monthly bill for: | |
| a) Water & Electric | \$ 145 |
| b) Telephone (including cell phones) | \$ 100 |
| c) Natural Gas | \$ 170 |
| e) Sewer | \$ - |
| 12) What is your average monthly Cable bill? | \$ 100 |

**Financial Comparison
Home Owners**

	What You Pay Now		What You Would Pay		Your Annual Savings/(Cost) after annexation
	County Data		City Data		
	Tax Amt per \$1,000	Your Tax Bill	Tax Amt per \$1,000	Your Tax Bill	
Property Taxes (2008 Estimates)					
City of Gig Harbor	-	-	0.93716	\$ 599.32	\$ (599.32)
Eddon Boat Bond	-	-	0.14743	\$ 94.28	\$ (94.28)
Pierce County Road Fund	1.40055	\$ 895.66	0.00000	-	\$ 895.66
Pierce County General Fund	1.04468	\$ 668.08	1.04468	\$ 668.08	-
Fire District #5	1.38895	\$ 888.24	1.38895	\$ 888.24	-
Fire District #5 -- EMS	0.20890	\$ 133.59	0.20890	\$ 133.59	-
State Schools	2.06876	\$ 1,322.99	2.06876	\$ 1,322.99	-
Pierce County Rural Library	0.44228	\$ 282.84	0.44228	\$ 282.84	-
Port of Tacoma	0.18511	\$ 118.38	0.18511	\$ 118.38	-
Conservation Futures ³	0.03910	\$ 25.00	0.03910	\$ 25.00	-
Peninsula School M&O	1.32111	\$ 844.85	1.32111	\$ 844.85	-
Peninsula School Bond	0.78668	\$ 503.09	0.78668	\$ 503.09	-
Metro Park District ⁵	0.33096	\$ 211.65	0.33096	\$ 211.65	-
Subtotal Property Taxes	\$ 9.22	\$ 5,894.37	\$ 8.90	\$ 5,692.31	\$ 202.06

	County Data		City Data		Your Annual Savings/(Cost)
	Tax Rate	Bill	Tax Rate	Bill	
Utility Taxes and Fees (2008 Estimates)					
Water and Electric Bill	No Tax	-	5%	\$ 87.00	\$ (87.00)
Telephone Bill	No Tax	-	5%	\$ 60.00	\$ (60.00)
Natural Gas Bill	No Tax	-	5%	\$ 102.00	\$ (102.00)
Cable Bill	No Tax	-	5%	\$ 60.00	\$ (60.00)
Sewer Bill	No Tax	-	No Tax	-	-
Storm Water / Clean Water Fees	No Tax	\$ 35.04	No Tax	\$ 129.60	\$ (94.56)
Garbage Bill ¹	No Tax	\$ 300.00	No Tax	\$ 300.00	-
Business License	No Tax	-	No Tax	-	-
Subtotal Utility Taxes & Fees	-	\$ 335.04	-	\$ 738.60	\$ (403.56)

Total Annual Savings / (Cost) → **\$ (201.50)**



Subject: Retroactive Marina Fire Protection Ordinance

Proposed Council Action: Approve Ordinance _____ amending the Section 15.16.190 of the Gig Harbor Municipal Code to provide for retroactive application of requirements for marina fire protection as proposed.

Dept. Origin: Building/Fire Safety

Prepared by: D. Bower

For Agenda of: October 13, 2008

Exhibits:

Initial & Date

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

CLH 9/21/08
RBK 9/19/08
CAM 9/18/08
DB 9/4

Expenditure		Amount		Appropriation	
Required	0	Budgeted	0	Required	0

INFORMATION / BACKGROUND

On August 31, 2005 a fire destroyed the Harborview Marina and the 50 some boats berthed there at the time. That fire exemplified the challenges of marina fire protection and the potential for life, property and environmental loss associated with fires in the marine environment. It also served as a catalyst for the re-introduction of marina fire protection provisions into the State and soon the International Fire Code.

Through investigation of past marina fires, including fires in Lake Union and Gig Harbor it's been found that certain passive fire protection features such as heat venting and draft curtains combined with reliable standpipe systems have the potential to greatly improve safety and reduce the severity of marina fires. Based on these findings provisions for Class I dry, manual standpipes, smoke/heat venting, and draft curtains have been incorporated into Chapter 46 of the *International Fire Code* as adopted by the State and City. In addition, provisions for slip addressing to assist emergency responders in identifying the location of vessels within a marina have also been incorporated into the code.

The importance of the marine industry to the economy, environment and quality of life of the Gig Harbor community can't be overstated. And assuring the safety of our marina's and the vessels using them is integral to sustaining that marine industry. Toward that end, the Building and Fire Safety Department is proposing to make Gig Harbor's marinas safer through the retroactive application of code requirements for slip addressing, Class I standpipes,

smoke/heat vents, and draft curtains with a compliance date of January 1, 2014, or for marinas annexed into the City following passage of the ordinance, compliance within 5 years of annexation.

Following the Harborview fire and throughout the development of IFC Ch. 46 and this ordinance the department has invited public participation through stakeholders meetings and review by the city's Building Code Advisory Board (BCAB). Stakeholders meetings were held in September and October of 2005, as well as in June, 2006 and January and August 2008. Retroactive requirements were specifically addressed with stakeholders at the meetings held in 2008. Marina requirements in general and retroactive requirements in particular were addressed by the Building Code Advisory Board at meetings in November 2007 and August 2008 with the Board voting unanimously to forward the retroactive requirements to the Council for approval.

Public concerns voiced during the stakeholder and BCAB meetings included the cost of installation of retroactive protection requirements, and technical details of construction including the manner of providing for smoke/heat venting and draft curtains. The department offered the following in response to those concerns.

- Slip addressing is an important, low cost means of improving fire department response times, especially in the event of a medical emergency where fire and smoke is not apparent. The code does not provide prescriptive details on addressing; rather it allows the marina owner to propose an addressing means that works with the marinas architecture and can range from hand painted to commercially produced signage with a corresponding variation in cost.

- With regard to installation/conversion of standpipe systems to Class I dry, manual systems, this change offers financial savings to the marina owner by eliminating the currently required backflow prevention assemblies and tenant hoses, and their inspection, testing and maintenance. Furthermore, our experience with existing marinas that have already made the change is that the existing dock piping has been of satisfactory size to provide adequate flows reducing the cost of the conversion. The actual cost of the conversion to a dry system is dependent upon the existing system, and the size of the marina however. In tests conducted by Gig Harbor Fire and Medic One, it was found that the use of dry standpipe systems as referenced in the code reduced the set up time – the time between arrival of the first responding engine and the time water is flowing from the nozzle – by approximately 30%, a critical time savings in early fire suppression operations. In general, this change offers reliable, consistent standpipe systems for the fire departments use; speeds the department's ability to attack fires thereby offering improved protection; and reduces the ongoing operating costs associated with marina fire protection.

- Regarding smoke and heat venting, the department explained that venting is critical to reducing fire spread and associated damage, while improving occupant and firefighter safety. The department also clarified that the intent was not to require the installation of expensive mechanical vents but to provide options that include relatively inexpensive drop (melt) out panels that can be designed to complement the existing roofing system. Costs for venting range from approximately \$1500.00 dollars for mechanical vents to approx. \$100.00 for a similarly sized drop out panel vent. Finally, ancillary benefits including improved lighting and visibility under the roof as well as increased light penetration to address environmental concerns were discussed.

- And with regard to draft curtains, it was explained that draft curtains, like venting are important for the control for fire spread below the roof structure by containing heat and smoke

in the area of origin while increasing the speed of operation of the venting system. Their installation prevents the roll over effect that contributed to the extremely fast spread and significant loss experienced during the Harborview Marina event. Curtains can be constructed relatively inexpensively from commonly available materials including plywood, sheet metal, sheetrock, and similar materials allowed by the code and capable of resisting the passage of smoke and heat.

FISCAL CONSIDERATION

Passage of this ordinance will have little cost to the City to administer. The cost to individual marinas will vary dependent on the size of the marina, whether it is covered or not, and the design and materials used in construction.

BOARD OR COMMITTEE RECOMMENDATION

The Building Code Advisory Board met to consider this ordinance on August 26th and voted unanimously to recommend approval to the Council and PCFD #5, Gig Harbor Fire & Medic One has endorsed passage of this ordinance.

RECOMMENDATION / MOTION

Move to: Approve Ordinance _____ amending the Section 15.16.190 of the Gig Harbor Municipal Code to provide for retroactive application of requirements for marina fire protection as proposed.

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO MARINA FIRE PROTECTION AND AMENDING GIG HARBOR MUNICIPAL CODE SECTION 15.16.190 TO REQUIRE THE INSTALLATION OF SLIP IDENTIFICATION MARKINGS AND CLASS I, DRY, MANUAL STANDPIPE SYSTEMS IN ALL EXISTING MARINAS; AND THE INSTALLATION OF DRAFT CURTAINS AND SMOKE AND HEAT VENTS IN ALL EXISTING COVERED MARINAS ON OR BEFORE JANUARY 1, 2014; AND TO CORRECT A TYPOGRAPHICAL ERROR IN INTERNATIONAL FIRE CODE SECTION 4604.7.1.1.

WHEREAS, the City of Gig Harbor adopts the International Fire Code as amended by the State of Washington (Ch. 51-54 WAC); and

WHEREAS, the State has amended the International Fire Code to include a Chapter 46, Marinas, which provides requirements for marina fire protection and safety; and

WHEREAS, Chapter 46 includes provisions to reduce response times, increase protection system reliability, and reduce operating and maintenance costs by requiring installation of class I, dry, manual standpipe systems and slip identification signs (Addressing); and

WHEREAS, Chapter 46 also includes provisions to reduce the severity of fires in covered marinas by requiring draft curtains and heat and smoke vents be installed to slow fire spread; and

WHEREAS, The City has recent experience with a catastrophic fire in a covered marina contributed to, in part, by uncontrolled heat spread; the in-ability

to ventilate the roof structure; and reliability issues with existing wet standpipe systems;

WHEREAS, The City Council finds that slip addressing reduces fire department response time for all responses by providing an exact location within the marina when the incident location is not readily visible such as in medical and other non-fire emergencies; and that class 1, manual, dry standpipes improve marina fire protection by reducing fire department reaction time and improving system reliability, and are consistent with local fire department policies and procedures for marina fire fighting; and that draft curtains reduce fire spread by controlling the flow of heat and smoke below unprotected roof structures; and that automatic smoke and heat vents reduce fire spread and improve facility and personnel safety by safely and effectively removing smoke and heat from below the roof structure; and the Council finds that such safety measures should be installed on all existing marinas in the City; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,
ORDAINS AS FOLLOWS:

Section 1. Section 15.16.190 of the Gig Harbor Municipal Code is hereby amended to read as follows:

15.16.190 Amendment to IFC Chapter 46.

IFC Chapter 46 is amended to read:

Chapter 46

MARINAS

Section 4601

Section 4601.1 Scope. Marina facilities shall be in accordance with this chapter.

4601.1.1 Plans and approvals. Plans for marina fire-protection facilities shall be approved prior to installation. The work shall be subject to final inspection and approval after installation.

4601.1.2 Permits. Permits are required to use open flame devices for maintenance or repair on vessels, floats, piers or wharves.

**Section 4602
Definitions**

Section 4602.1 Definitions. The following words and terms shall, for the purpose of this chapter and as used elsewhere in this code, have the meanings shown herein.

COVERED BOAT MOORAGE is a pier or system of floating or fixed access ways to which vessels on water may be secured and any portion of which are covered by a roof.

DRAFT CURTAIN is a structure arranged to limit the spread of smoke and heat along the underside of the ceiling or roof.

FLOAT is a floating structure normally used as a point of transfer for passengers and goods, or both, for mooring purposes.

GRAVITY-OPERATED DROP OUT VENTS are automatic smoke and heat vents containing heat-sensitive glazing designed to shrink and drop out of the vent openings when exposed to fire.

MARINA is any portion of the ocean or inland water, either naturally or artificially protected, for the mooring, servicing or safety of vessels and shall include artificially protected works, the public or private lands ashore, and structures or facilities provided within the enclosed body of water and ashore for the mooring or servicing of vessels or the servicing of their crews or passengers.

PIER is a structure built over the water, supported by pillars or piles, and used as a landing place, pleasure pavilion or similar purpose.

VESSEL is watercraft of any type, other than seaplanes on the water, used or capable of being used as a means of transportation. Included in this definition are non-transportation vessels such as houseboats and boathouses.

WHARF is a structure or bulkhead constructed of wood, stone, concrete or similar material built at the shore of a harbor, lake or river for vessels to lie alongside of, and piers or floats to be anchored to.

Section 4603
General Precautions

4603.1 Combustible Debris. Combustible debris and rubbish shall not be deposited or accumulated on land beneath marina structures, piers or wharves.

4603.2 Sources of Ignition. The use of open flame devices for lighting or decoration on the exterior of a vessel, float, pier or wharf shall have the prior approval of the building official/fire marshal.

4603.3 Flammable or Combustible Liquid Spills. Spills of flammable or combustible liquids at or upon the water shall be reported immediately to the fire department or jurisdictional authorities.

4603.4 Rubbish Containers. Containers with tight-fitting or self-closing lids shall be provided for the temporary storage of combustible trash or rubbish.

4603.5 Electrical Equipment. Electrical equipment shall be installed and used in accordance with its listing and Section 605 of the IFC as required for wet, damp and hazardous locations.

4603.6 Slip Identification. Slips and mooring spaces shall be individually identified by an approved numeric or alphabetic designator. Space designators shall be posted at the space. Signs indicating the space designators located on finger piers and floats shall be posted at the base of all piers, finger piers, floats, and finger floats.

4603.6.1 Application to existing marinas. Slip identification designators shall be installed in all existing marinas within the City's jurisdiction on or before January 1, 2014. All marinas annexed into the City shall have slip identification designators installed within 5 years of the effective date of annexation.

Section 4604
FIRE-PROTECTION

4604.1 General. Marinas, piers, wharves, floats with facilities for mooring or servicing five or more vessels, and marine motor vehicle fuel-dispensing stations shall be equipped with fire-protection equipment in accordance with Section 4604.

4604.2 Standpipes. Marinas shall be equipped throughout with Class I manual, dry standpipe systems in accordance with NFPA 303. Systems shall be provided with outlets located such that no point on the marina pier or float system exceeds 150 feet from a standpipe outlet.

4604.2.1 Application to existing marinas. Class 1 manual, dry standpipes in accordance with this section shall be installed in all existing marinas within the City on or before January 1, 2014. All marinas annexed into the City shall have class one manual, dry standpipes installed within 5 years of the effective date annexation.

4604.2.1 Identification of standpipe outlets. Standpipe outlet locations shall be clearly identified by a flag or other approved means designed to be readily visible from the pier accessing the float system.

4604.3 Access and Water Supply. Piers and wharves shall be provided with fire apparatus access roads and water-supply systems with on-site fire hydrants when required by the building and fire safety director. At least one fire hydrant capable of providing the required fire flow shall be provided within an approved distance of standpipe supply connections.

4604.4 Portable Fire Extinguishers. One 4A:40BC fire extinguisher shall be provided at each standpipe outlet. Additional fire extinguishers, suitable for the hazards involved, shall be provided and maintained in accordance with Section 906.

4604.5 Communications. A telephone not requiring a coin to operate or other approved, clearly identified means to notify the fire department shall be provided on the site in a location approved by the building and fire safety director.

4604.6 Equipment staging areas. Space shall be provided on all float systems for the staging of emergency equipment. Staging areas shall provide a minimum of 4 feet wide by 10 feet long clear area exclusive of walkways and shall be located at each standpipe outlet. Staging areas shall be provided with barriers having a minimum height of 4 inches and a maximum space between the bottom barrier edge and surface of the staging area of 2 inches on the outboard sides to prevent loss of equipment overboard. A sign reading "Fire Equipment Staging Area-Keep Clear" shall be provided at each staging area to prevent obstruction.

4604.7 Smoke and heat vents. Approved automatic smoke and heat vents shall be provided in covered boat moorage areas exceeding 2,500 sq. ft. (232 m²) in area, excluding roof overhangs.

Exception: Smoke and heat vents are not required in areas protected by automatic sprinklers.

4604.7.1 Application to existing marinas. Smoke and heat vents in accordance with this section shall be installed in all existing marinas within the City on or before January 1, 2014. All marinas annexed into the City

shall have smoke and heat vent installed within 5 years of the effective date annexation.

4604.7.2 Design and installation. Where smoke and heat vents are required they shall be installed near the roof peak, evenly distributed and arranged so that at least one vent is over each covered berth. The effective vent area shall be calculated using a ratio of one square foot of vent to every fifteen square feet of covered berth area (1:15). Each vent shall provide a minimum opening size of 4 ft. x 4 ft.

4604.7.2.1 Smoke and heat vents. Smoke and heat vents shall operate automatically by actuation of a heat-responsive device rated at 100°F (56°C) above ambient.

Exception: Gravity-operated ~~drip~~ drop out vents.

4604.7.2.2 Gravity-operated drop out vents. Gravity-operated drop out vents shall fully open within 5 minutes after the vent cavity is exposed to a simulated fire represented by a time-temperature gradient that reaches an air temperature of 500°F (260°C) within 5 minutes.

4604.8 Draft curtains. Draft curtains shall be provided in covered boat moorage areas exceeding 2,500 sq. ft. (232 m²) in area excluding roof overhangs.

Exception: Draft curtains are not required in areas protected by automatic sprinklers.

4604.8 Application to existing marinas. Draft curtains in accordance with this section shall be installed in all existing marinas within the City on or before January 1, 2014. All marinas annexed into the City shall have draft curtains installed within 5 years of the effective date of annexation.

4604.8.1 Draft curtain construction. Draft curtains shall be constructed of sheet metal, gypsum board or other approved materials that provide equivalent performance to resist the passage of smoke. Joints and connections shall be smoke tight.

4604.8.2 Draft curtain location and depth. The maximum area protected by draft curtains shall not exceed 2,000 square feet (186 m²) or two slips or berths, whichever is smaller. Draft curtains shall not extend past the piling line. Draft curtains shall have a minimum depth of 4 feet and shall not extend closer than 8 feet (2438 mm) to the walking surface of the pier

Section 4607
MARINE MOTOR VEHICLE FUEL-DISPENSING STATIONS

4607.1 Fuel-Dispensing. Marine motor vehicle fuel-dispensing stations shall be in accordance with IFC Chapter 22.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause or phrase of this Ordinance.

Section 3. Copies of Codes Filed with City Clerk. Pursuant to RCW 35A.12.140, copies of all of the codes adopted by reference in this Ordinance have been filed with the City Clerk for use and examination by the public prior to adoption.

Section 4. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this ___ day of _____, 200_.

CITY OF GIG HARBOR

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By: _____

MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO: _____



Subject: Public Hearing and First Reading of Ordinance – 2008 Comprehensive Plan Amendments

Proposed Council Action: Hold a public hearing, review amendments and develop findings for the second reading of the ordinance

Dept. Origin: Planning Department

Prepared by: Tom Dolan *TD*
Planning Director

For Agenda of: October 13, 2008

Exhibits: Draft Ordinance; Planning Commission recommendation.

Initial & Date

Concurred by Mayor: *CUH 10/8/08*
Approved by City Administrator: *POK 10/8/08*
Approved as to form by City Atty: _____
Approved by Finance Director: *N/A*
Approved by Department Head: *TD 10/8/08*

Expenditure Required	0	Amount Budgeted	0	Appropriation Required	0
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INFORMATION / BACKGROUND

The City Council should consider each of the nine Comprehensive Plan Amendments proposed for the 2008 cycle after a public hearing:

- 1. APPLICATION COMP 07-0005: Gig Harbor Wastewater Comprehensive Plan Amendment to Sewer Basin C14**
 The proposed Comprehensive Plan amendment, requested by Harbor Reach Estates LLC, would amend text and maps related to the Sewer Basin C14 in the Gig Harbor Wastewater Comprehensive Plan.
- 2. Application COMP 08-0001: 3700 Grandview Street Comprehensive Land Use Map Amendment**
 The proposed Comprehensive Plan amendment, requested by MP8 LLC and Pioneer & Stinson LLC, would change the land use designation for 4.27 acres of property located at 3700 Grandview Street from a Residential Low (RL) designation to a Residential Medium (RM) designation.
- 3. Application COMP 08-0002: Parks, Recreation and Open Space Element Update**
 The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would update, revise and add to the list and descriptions for current and planned parks,

recreation and open space projects. The amendment will allow the City to update its park impact fees.

4. Application COMP 08-0003: 3720 Harborview Drive Land Use Map Amendment

The proposed Comprehensive Plan amendment, requested by Michael Averill of Lighthouse Square LLC, would change the land use designation for one parcel of property (approximately ¼ acre) located at 3720 Harborview Drive, currently occupied by Lighthouse Marine and Speedy Auto Glass, from a Residential Low (RL) designation to a Residential Medium (RM) designation.

5. Application COMP 08-0004: Area-Wide Land Use Map Amendment

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor Planning Commission, would correct inconsistencies between the Land Use Map and the Zoning Map. The three amendments include:

1. A land use designation change from Residential Medium (RM) to Residential Low (RL) of approximately 38 acres along the west side of Soundview Drive zoned R-1;
2. A land use designation change from Residential Low (RL) to Residential Medium (RM) of approximately 16.5 acres between Soundview Drive and Harborview Drive near the old ferry landing zoned R-2; and,
3. A land use designation change from Residential Low (RL) to Residential Medium (RM) of approximately 250 acres between Burnham Drive and State Route 16 in the Urban Growth Area with pre-annexation zoning of R-2.

6. Application COMP 08-0005: Gig Harbor Wastewater Comprehensive Plan Amendments to Sewer Basins C1, C5 and C8

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would amend sewer basin boundaries to reflect actual conditions for Sewer Basins C1, C5 and C8 contained in the Gig Harbor Wastewater Comprehensive Plan.

7. Application COMP 08-0006: Utilities Element Update

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would add a goal to the Utilities Element to allow for the potential creation and utilization of reclaimed (Class A) water at the City's Wastewater Treatment Plant.

8. Application COMP 08-0007: Capital Facilities Plan Update

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would amend the Capital Facilities Plan to update the stormwater, wastewater, water system, parks, recreations and open space, and transportation improvement projects included in the six-year and twenty-year improvement project lists. The City currently has a consultant under contract to assist with the development of the City's Future (Six-Year horizon) and Long Range (Twenty-Year horizon) traffic models. The models will then be used to test and finalize the six-year and long range transportation improvement project list included in the Capital Facilities Plan. This work is currently in progress and is scheduled to be completed in draft form by May 23rd with a final report due June 16th. This will allow staff the time to incorporate changes into the proposed amendments sent to the Planning Commission.

9. Application COMP 08-0008: Transportation Element Update

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would amend the Transportation Element, correcting inconsistencies and incorporating new information resulting from work in progress to identify key transportation capacity improvement projects using updated growth and traffic modeling information. As discussed above, the staff will update this amendment, as appropriate, based on the information garnered from the Future (Six-Year horizon) and Long Range (Twenty-Year horizon) traffic models which are currently being developed.

The Planning Commission reviewed the 9 proposed amendments at 2 public hearings and 5 work study sessions. Approximately twenty (20) members of the public testified or provided written comments. At their September 18, 2008 work study session, the Planning Commission voted to recommend that 8 of the proposed amendments be approved and that one amendment (COMP 08-0001: 3700 Grandview Street Comprehensive Land Use Map Amendment) be denied. A memorandum from the Planning Commission discussing their findings is attached. The City Council has been provided binders containing copies of the specific amendments together with planning staff reports and Planning Commission minutes for the meetings at which they discussed the amendments.

POLICY ANALYSIS

The process for Comprehensive Plan amendment (Chapter 19.09) states that the City Council shall consider the Planning Commission's recommendations and after considering the criteria found in GHMC 19.09.170 and 19.09.130 make written findings regarding each application's consistency or inconsistency with the criteria. Those amendments which are consistent with the criteria should be approved.

ENVIRONMENTAL ANALYSIS

The SEPA Responsible Official issued a Determination of Non-Significance (DNS) for the proposed amendments on July 23, 2008 per WAC 197-11-340(2). The appeal period for the DNS expired on September 28, 2008.

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

Having reviewed the proposed 2008 Comprehensive Plan amendments the City of Gig Harbor Planning Commission recommended the City Council **APPROVE** 8 proposed Comprehensive Plan amendments and **DENY** one proposed Comprehensive Plan amendment.

RECOMMENDATION / MOTION

Hold a public hearing, review amendments and develop findings for the second reading of the ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO GROWTH MANAGEMENT AND PLANNING, MAKING THE FOLLOWING AMENDMENTS TO THE CITY OF GIG HARBOR COMPREHENSIVE LAND USE PLAN FOR THE 2008 ANNUAL CYCLE: AMENDING TEXT AND MAPS RELATED TO SEWER BASIN C14 (COMP 07-0005); AMENDING THE COMPREHENSIVE PLAN LAND USE MAP TO CHANGE THE LAND USE DESIGNATION FOR 4.27 ACRES OF PROPERTY LOCATED AT 3700 GRANDVIEW STREET FROM RESIDENTIAL LOW (RL) TO RESIDENTIAL MEDIUM (RM) (COMP 08-0001); AMENDING THE PARKS, RECREATION AND OPEN SPACE PLAN TO ADD THREE ADDITIONAL PROPERTIES FOR AQUISITION (COMP 08-0002); AMENDING THE COMPREHENSIVE PLAN LAND USE MAP TO CHANGE THE LAND USE DESIGNATION FOR .5 ACRES OF PROPERTY LOCATED AT 3720 HARBORVIEW DRIVE STREET FROM RESIDENTIAL LOW (RL) TO RESIDENTIAL MEDIUM (RM) (COMP 08-0003); AMENDING THE COMPREHENSIVE PLAN LAND USE MAP TO CHANGE THE LAND USE DESIGNATION FOR 3 AREAS OF THE CITY TO ELIMINATE EXISTING INCONSISTENCIES BETWEEN THE ADOPTED ZONING OF THE PROPERTIES AND THE COMPREHENSIVE PLAN LAND USE MAP (COMP 08-0004); AMENDING THE WASTEWATER COMPREHENSIVE PLAN ELEMENT TO REVISE SEWER BASIN BOUNDARIES FOR SEWER BASINS C1, C5 AND C8 (COMP 08-0005); AMENDING THE UTILITIES ELEMENT OF THE COMPREHENSIVE PLAN TO ADD A GOAL THAT WOULD ALLOW FOR THE POTENTIAL CREATION AND UTILIZATION OR RECLAIMED WATER (CLASS A) AT THE CITY WASTEWATER TREATMENT PLANT (COMP 08-0006); AMENDMENT OF THE CAPITAL FACILITIES ELEMENT TO UPDATE THE SIX-YEAR AND TWENTY-YEAR IMPROVEMENT PROJECT LISTS, (COMP 08-0007); AMENDING THE TRANSPORTATION ELEMENT OF THE COMPREHENSIVE PLAN TO CORRECT INCONSISTENCIES AND INCORPORATE NEW INFORMATION RESULTING FROM WORK IN PROGRESS (COMP 08-0008).

WHEREAS, the City of Gig Harbor plans under the Growth Management Act (chapter 36.70A RCW); and

WHEREAS, the Act requires the City to adopt a Comprehensive Plan; and

WHEREAS, the City adopted a revised GMA Comprehensive Plan as required by RCW 36.70A.130 (4) in December 2004; and

WHEREAS, the City is required to consider suggested changes to the Comprehensive Plan (RCW 36.70A.470); and

WHEREAS, the City may not amend the Comprehensive Plan more than once a year (RCW 36.70A.130); and

WHEREAS, the City is required to provide public notice and public hearing for any amendments to the Comprehensive Plan and the adoption of any elements thereto (RCW 36.70A.035, RCW 36.70A.130); and

WHEREAS, on April 28, 2008, the City Council evaluated the comprehensive plan amendment applications submitted for the 2008 annual cycle, and held a public hearing on such applications; and

WHEREAS, on May 12, 2008, the City Council forwarded nine comprehensive plan amendment applications to the Planning Commission for further processing in the 2008 Comprehensive Plan annual cycle; and

WHEREAS, on July 18, 2008, the City's SEPA Responsible Official issued a Determination of Non-Significance (DNS) for comprehensive plan amendment applications, pursuant to WAC 197-11-340(2) which was not appealed; and

WHEREAS, the Planning Director notified the Washington State Office of Community Development of the City's intent to amend the Comprehensive Plan and forwarded a copy of the proposed amendments on July 23, 2008 pursuant to RCW 36.70A.106; and

WHEREAS, the Planning Commission held work study sessions on to discuss the applications on July 17, 2008, August 7, 2008, August 21, 2008, September 4, 2008 and September 18, 2008; and

WHEREAS, the Planning Commission held a public hearings on comprehensive plan amendments on August 7, 2008 and September 4, 2008; and

WHEREAS, on September 18, 2008 the Planning Commission voted to recommend approval of 8 proposed amendments (COMP 07 – 0005, COMP 08-0002, COMP 08-0003, COMP 08-0004, COMP 08-0005, COMP 08-0006, COMP 08-0007, COMP 08-0008) and recommend denial of one proposed amendment (COMP 08-0001) as documented in the Planning Commission's written recommendation signed by Planning Commission Vice-Chair, Harris Atkins, dated October 2, 2008; and

WHEREAS, the Gig Harbor City Council held a public hearing and first reading of an Ordinance implementing the recommendations of the Planning Commission amending the Comprehensive Plan on October 13, 2008; and

WHEREAS, the Gig Harbor City Council held a second public hearing and second reading of an Ordinance implementing the recommendations of the Planning Commission amending the Comprehensive Plan on _____; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Comprehensive Plan Text Amendments.

A. **Notice.** The City Clerk confirmed that public notice of the public hearings held by the City Council on the following applications was provided.

B. **Hearing Procedure.** The City Council's consideration of the comprehensive plan text amendments is a legislative act. The Appearance of Fairness doctrine does not apply.

C. **Testimony.** The following persons testified on the applications at the October 13, 2008 public hearing:

[To be inserted after public hearing]

D. **Criteria for Approval.** The process for Comprehensive Plan amendments (Chapter 19.09) states that the City Council shall consider the Planning Commission's recommendations and after considering the criteria found in GHMC 19.09.170 and 19.09.130 make written findings regarding each application's consistency or inconsistency with the criteria. The criteria found in GHMC 19.09.170 and 19.09.130 is as follows:

19.09.170 Criteria for approval.

A. The proposed amendment meets concurrency requirements for transportation as specified in Chapter 19.10 GHMC;

B. The proposed amendment will not adversely impact the city's ability to provide sewer and water, and will not adversely affect adopted levels of service standards for other public facilities and services such as parks, police, fire, emergency medical services and governmental services;

C. The proposed amendments will not result in overall residential capacities in the city or UGA that either exceed or fall below the projected need over the 20-year planning horizon; nor will the amendments result in densities that do not achieve development of at least four units per net acre of residentially designated land;

D. Adequate infrastructure, facilities and services are available to serve the proposed or potential development expected as a result of this amendment, according to one of the following provisions:

1. The city has adequate funds for needed infrastructure, facilities and services to support new development associated with the proposed amendments; or

2. The city's projected revenues are sufficient to fund needed infrastructure, facilities and services, and such infrastructure, facilities and services are included in the schedule of capital improvements in the city's capital facilities plan; or

3. Needed infrastructure, facilities and services will be funded by the developer under the terms of a developer's agreement associated with this comprehensive plan amendment; or

4. Adequate infrastructure, facilities and services are currently in place to serve expected development as a result of this comprehensive plan amendment based upon an assessment of land use assumptions; or

5. Land use assumptions have been reassessed, and required amendments to other sections of the comprehensive plan are being processed in conjunction with this amendment in order to ensure that adopted level of service standards will be met.

E. The proposed amendment is consistent with the goals, policies and objectives of the comprehensive plan;

F. The proposed amendment will not result in probable significant adverse impacts to the transportation network, capital facilities, utilities, parks, and environmental features which cannot be mitigated and will not place uncompensated burdens upon existing or planned services;

G. In the case of an amendment to the comprehensive plan land use map, that the subject parcels being redesignated are physically suitable for the allowed land uses in the designation being requested, including compatibility with existing and planned surrounding land uses and the zoning district locational criteria contained within the comprehensive plan and zoning code;

H. The proposed amendment will not create a demand to change other land use designations of adjacent or surrounding properties, unless the change in land use designation for other properties is in the long-term interest of the community in general;

I. The proposed amendment is consistent with the Growth Management Act, the countywide planning policies and other applicable interjurisdictional policies and agreements, and/or other state or local laws; and

J. The proposed effect of approval of any individual amendment will not have a cumulative adverse effect on the planning area.

19.09.130 Considerations for decision to initiate processing.

A. Whether circumstances related to the proposed amendment and/or the area in which it is located have substantially changed since the adoption of the comprehensive plan; and

B. Whether the assumptions upon which the comprehensive plan is based are no longer valid, or whether new information is available which was not considered during the initial comprehensive plan adoption process or during previous annual amendments.

E. Applications.

1. COMP 07-0005, Wastewater Element.

Summary: The proposed Comprehensive Plan amendment, requested by Harbor Reach Estates LLC, would amend text and maps related to the Sewer Basin C14 in the Gig Harbor Wastewater Comprehensive Plan.

Findings:

[To be inserted after public hearing and Council review]

Conclusion:

[To be inserted after public hearing and Council review]

2. COMP 08-0001, Comprehensive Plan Land Use Map Amendment.

Summary: The proposed Comprehensive Plan amendment, requested by MP8 LLC and Pioneer & Stinson LLC, would change the land use designation for 4.27 acres of property located at 3700 Grandview Street from a Residential Low (RL) designation to a Residential Medium (RM) designation.

Findings:

[To be inserted after public hearing and Council review]

Conclusion:

[To be inserted after public hearing and Council review]

3. COMP 08-0002, Parks, Recreation and Open Space Amendment.

Summary: The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would update, revise and add to the list and descriptions for current and planned parks, recreation and open space projects. The amendment will allow the City to update its park impact fees.

Findings:

[To be inserted after public hearing and Council review]

Conclusion:

[To be inserted after public hearing and Council review]

4. COMP 08-0003, Comprehensive Plan Land Use Map Amendment.

Summary: The proposed Comprehensive Plan amendment, requested by Michael Averill of Lighthouse Square LLC, would change the land use designation for one parcel of property (approximately ½ acre) located at 3720 Harborview Drive, currently occupied by Lighthouse Marine and Speedy Auto Glass, from a Residential Low (RL) designation to a Residential Medium (RM) designation.

Findings:

[To be inserted after public hearing and Council review]

Conclusion:

[To be inserted after public hearing and Council review]

5. COMP 08-0004, Comprehensive Plan Land Use Map Amendment.

Summary: The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor Planning Commission, would correct inconsistencies between the Land Use Map and the Zoning Map. The three amendments include:

1. A land use designation change from Residential Medium (RM) to Residential Low (RL) of approximately 38 acres along the west side of Soundview Drive zoned R-1;
2. A land use designation change from Residential Low (RL) to Residential Medium (RM) of approximately 16.5 acres between Soundview Drive and Harborview Drive near the old ferry landing zoned R-2; and,
3. A land use designation change from Residential Low (RL) to Residential Medium (RM) of approximately 250 acres between Burnham Drive and State Route 16 in the Urban Growth Area with pre-annexation zoning of R-2.

Findings:

[To be inserted after public hearing and Council review]

Conclusion:

[To be inserted after public hearing and Council review]

6. COMP 08-0005, Wastewater Element.

Summary: The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would amend sewer basin boundaries to reflect actual conditions for Sewer Basins C1, C5 and C8 contained in the Gig Harbor Wastewater Comprehensive Plan.

Findings:

[To be inserted after public hearing and Council review]

Conclusion:

[To be inserted after public hearing and Council review]

7. COMP 08-0006, Utilities Element.

Summary: The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would add a goal to the Utilities Element to allow for the potential creation and utilization of reclaimed (Class A) water at the City's Wastewater Treatment Plant.

Findings:

[To be inserted after public hearing and Council review]

Conclusion:

[To be inserted after public hearing and Council review]

8. COMP 08-0007, Capital Facilities Element.

Summary: The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would amend the Capital Facilities Plan to update the stormwater, wastewater, water system, parks, recreations and open space, and transportation improvement projects included in the six-year and twenty-year improvement project lists. The City currently has a consultant under contract to assist with the development of the City's Future (Six-Year horizon) and Long Range (Twenty-Year horizon) traffic models. The models will then be used to test and finalize the six-year and long range transportation improvement project list included in the Capital Facilities Plan. This work is currently in progress and is scheduled to be completed in draft form by May 23rd with a final report due June 16th. This will allow staff the time to incorporate changes into the proposed amendments sent to the Planning Commission.

Findings:

[To be inserted after public hearing and Council review]

Conclusion:

[To be inserted after public hearing and Council review]

9. COMP 08-0008, Transportation Element.

Summary: The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would amend the Transportation Element, correcting inconsistencies and incorporating new information resulting from work in progress to identify key transportation capacity improvement projects using updated growth and traffic modeling information. As discussed above, the staff will update this amendment, as appropriate, based on the information garnered from the Future (Six-Year horizon) and Long Range (Twenty-Year horizon) traffic models which are currently being developed.

Findings:

[To be inserted after public hearing and Council review]

Conclusion:

[To be inserted after public hearing and Council review]

Section 2. Transmittal to State. The City Community Development Director is directed to forward a copy of this Ordinance, together with all of the exhibits, to the Washington State Office of Community Development within ten days of adoption, pursuant to RCW 36.70A.106.

Section 3. Severability. If any portion of this Ordinance or its application to any person or circumstances is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the remainder of the Ordinance or the application of the remainder to other persons or circumstances.

Section 4. Effective Date. This ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this ____ day of ____, 2008.

CITY OF GIG HARBOR

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.



COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE OF RECOMMENDATION
CITY OF GIG HARBOR PLANNING COMMISSION
2008 COMPREHENSIVE PLAN AMENDMENTS

TO: City of Gig Harbor
FROM: Harris Atkins, Vice Chair *Harris Atkins*
DATE: October 2, 2008
RE: Applications: COMP 07-0005, COMP 08-0001, COMP 08-0002, COMP 08-0003, COMP 08-0004, COMP 08-0005, COMP 08-0006, COMP 08-0007 and COMP 08-0008

Having reviewed the Comprehensive Plan amendments included in the 2008 cycle after public hearings on August 7, 2008 and September 4, 2008, the City of Gig Harbor Planning Commission recommends the City Council **APPROVE** 8 of the proposed Comprehensive Plan amendments and **DENY** one proposed Comprehensive Plan amendment. The following is a summary of each proposed 2008 Comprehensive Plan amendment together with the Planning Commission's recommendation.

COMP 07-0005:

The proposed Comprehensive Plan amendment, requested by Harbor Reach Estates LLC, would amend text and maps related to the Sewer Basin C14 in the Gig Harbor Wastewater Comprehensive Plan.

Planning Commission Recommendation: Approval. The application is consistent with the criteria identified in GHMC 19.09.170 for the approval of amendments to the City of Gig Harbor's Comprehensive Plan.

COMP 08-0001:

The proposed Comprehensive Plan amendment, requested by MP8 LLC and Pioneer & Stinson LLC, would change the land use designation for 4.27 acres of property located at 3700 Grandview Street from a Residential Low (RL) designation to a Residential Medium (RM) designation.

Planning Commission Recommendation: Denial. The Planning Commission found that the request was inconsistent with the criteria identified in GHMC 19.09.170 for the approval of amendments to the City of Gig Harbor's

Comprehensive Plan. Although requesting a medium intensity designation for the entire property, the applicant's request contains two separate proposals for the site. The northerly 2 acres is proposed to be developed with 7 duplexes and the southerly 2 acres is proposed to be developed by one or more buildings containing a mix of office and residential uses. The applicants submitted a draft development agreement that would limit the use of the property to those uses. The applicants requested that the City consider the duplex and office portions of the project separately. After careful review, the Commission found that the request was inconsistent with the goals, policies and objectives of the comprehensive plan. In terms of the proposed duplexes, the Commission felt that changing the northerly portion of the site to Residential Medium to allow a rezone to R-2 would be inconsistent with Land Use Element Policy 2.2.2. This policy seeks to define and protect the integrity of small planning areas, particularly residential neighborhoods. The construction of duplexes adjacent to existing single family residences could have an adverse impact upon the single family homes. The commission further felt that duplexes could create a precedent for similar requests further down the hill to the north. The Commission questioned the need for the duplexes to be located between the proposed office building(s) and the single family homes to the north. The proposed mixed use development on the south half of the overall site is currently zoned RB-1. The applicants are proposing to rezone the site to RB-2 if the comp plan amendment is approved. The intent statements of both RB-1 and RB-2 state that those districts are intended to act as buffers adjacent to lower density residential uses. Therefore, there should not be a need to buffer the existing single family homes from the proposed mixed use development. The Planning Commission voted unanimously to recommend denial of this portion of the requested Comp Plan Amendment.

The Planning Commission also felt that the proposed mixed use development on the southerly half of the site was inconsistent with the goals, policies and objectives of the Comprehensive Plan. The applicants indicate that if the Land Use Map is changed to designate the site Residential Medium, they intend to rezone the property RB-2. As previously stated, the site is currently zoned RB-1. There are two major differences between RB-1 and RB-2. The RB-2 zone allows multiple family housing and the RB-1 only allows single family. The RB-1 zone has a maximum building size of 5,000 square feet and the RB-2 zone has no maximum size limit. The applicant has discussed the construction of one or more structures up to 3 stories in height. The goals and policies of the Community Design Element of the Comprehensive Plan discuss the importance of scale as it relates to the surrounding area. The Commission was concerned that a change to the Land Use Map that led to the rezoning of the site to RB-2 could adversely affect the neighborhood's scale, which for the most part consists of single story and 1 ½ story commercial buildings.

There are several policies in the Comprehensive Plan that discuss the importance of retaining existing vegetation. The applicants have indicated that they will retain existing vegetation as required under the existing zoning regulations. The Planning Commission could not evaluate the retention of existing vegetation in that the plans submitted by the applicant did not provide conceptual building locations, parking or vegetation retention detail.

Criteria 19.09.170 G. requires that in the case of a comp plan land use map amendment, the subject parcel must be physically suitable for the allowed uses in the designation requested, including compatibility with existing and planned surrounding land uses. Testimony at the public hearing brought into question whether the proposed land use map amendment would result in a development that would be compatible with the surrounding uses which are predominately single family homes to the north and east. After careful consideration, it is the position of the Planning Commission that the proposed duplexes and future large multiple story building or building would not be compatible with the surrounding land uses. The Planning Commission voted 3 – 2 to deny this portion of the Comp plan Amendment.

Based upon the above, the Planning Commission respectfully recommends denial of application COMP 08-0001.

COMP 08-0002:

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would update, revise and add to the list and descriptions for current and planned parks, recreation and open space projects. The amendment will allow the City to update its park impact fees.

Planning Commission Recommendation: Approval. The application is consistent with the criteria identified in GHMC 19.09.170 for the approval of amendments to the City of Gig Harbor's Comprehensive Plan.

COMP 08-0003:

The proposed Comprehensive Plan amendment, requested by Michael Averill of Lighthouse Square LLC, would change the land use designation for one parcel of property (approximately 1/2 acre) located at 3720 Harborview Drive, currently occupied by Lighthouse Marine and Speedy Auto Glass, from a Residential Low (RL) designation to a Residential Medium (RM) designation.

Planning Commission Recommendation: Approval. The application is consistent with the criteria identified in GHMC 19.09.170 for the approval of amendments to the City of Gig Harbor's Comprehensive Plan.

COMP 08-0004:

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor Planning Commission, would correct inconsistencies between the Land Use Map and the Zoning Map. The three amendments include:

1. A land use designation change from Residential Medium (RM) to Residential Low (RL) of approximately 38 acres along the west side of Soundview Drive zoned R-1;
2. A land use designation change from Residential Low (RL) to Residential Medium (RM) of approximately 16.5 acres between Soundview Drive and Harborview Drive near the old ferry landing zoned R-2; and,
3. A land use designation change from Residential Low (RL) to Residential Medium (RM) of approximately 250 acres between Burnham Drive and State Route 16 in the Urban Growth Area with pre-annexation zoning of R-2.

Planning Commission Recommendation: Recommend approval for map areas 1 and 3. Recommend approval of map area 2 with the exception that the southern boundary be redrawn to exclude the 6 southerly parcels along Grandview Place.

For map areas 1, 2 and 3 (with the exception of the southerly six parcels of land in map area 2) the application is consistent with the criteria identified in GHMC 19.09.170 for the approval of amendments to the City of Gig Harbor's Comprehensive Plan. In that the southerly six parcels in map area 2 are developed with single family dwellings, the existing land use map designation of Residential Low should be retained.

COMP 08-0005:

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would amend sewer basin boundaries to reflect actual conditions for Sewer Basins C1, C5 and C8 contained in the Gig Harbor Wastewater Comprehensive Plan.

Planning Commission Recommendation: Approval. The application is consistent with the criteria identified in GHMC 19.09.170 for the approval of amendments to the City of Gig Harbor's Comprehensive Plan.

COMP 08-0006:

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would add a goal to the Utilities Element to allow for the potential creation and utilization of reclaimed (Class A) water at the City's Wastewater Treatment Plant.

Planning Commission Recommendation: Approval. The application is consistent with the criteria identified in GHMC 19.09.170 for the approval of amendments to the City of Gig Harbor's Comprehensive Plan.

COMP 08-0007:

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would amend the Capital Facilities Plan to update the stormwater, wastewater, water system, parks, recreations and open space, and transportation improvement projects included in the six-year and twenty-year improvement project lists. The City currently has a consultant under contract to assist with the development of the City's Future (Six-Year horizon) and Long Range (Twenty-Year horizon) traffic models. The models will then be used to test and finalize the six-year and long range transportation improvement project list included in the Capital Facilities Plan.

Planning Commission Recommendation: Approval. The application is consistent with the criteria identified in GHMC 19.09.170 for the approval of amendments to the City of Gig Harbor's Comprehensive Plan.

COMP 08-0008:

The proposed Comprehensive Plan amendment, requested by the City of Gig Harbor, would amend the Transportation Element, correcting inconsistencies and incorporating new information resulting from work in progress to identify key transportation capacity improvement projects using updated growth and traffic modeling information. As discussed above, the staff will update this amendment, as appropriate, based on the information garnered from the Future (Six-Year horizon) and Long Range (Twenty-Year horizon) traffic models which are currently being developed.

Planning Commission Recommendation: Approval. The application is consistent with the criteria identified in GHMC 19.09.170 for the approval of amendments to the City of Gig Harbor's Comprehensive Plan.

The Planning Commission made these recommendations after reviewing the criteria for approval found in GHMC 19.09.170:

19.09.170 Criteria for approval.

Every applicant for a comprehensive plan amendment must demonstrate how each of the following criteria for approval has been satisfied in their application materials. The city council, in addition to the consideration of the conditions set forth in GHMC 19.09.130, shall make written findings regarding each application's consistency or inconsistency with each of the following criteria:

A. The proposed amendment meets concurrency requirements for transportation as specified in Chapter 19.10 GHMC;

B. The proposed amendment will not adversely impact the city's ability to provide sewer and water, and will not adversely affect adopted levels of service standards for other public facilities and services such as parks, police, fire, emergency medical services and governmental services;

C. The proposed amendments will not result in overall residential capacities in the city or UGA that either exceed or fall below the projected need over the 20-year planning horizon; nor will the amendments result in densities that do not achieve development of at least four units per net acre of residentially designated land;

D. Adequate infrastructure, facilities and services are available to serve the proposed or potential development expected as a result of this amendment, according to one of the following provisions:

1. The city has adequate funds for needed infrastructure, facilities and services to support new development associated with the proposed amendments; or

2. The city's projected revenues are sufficient to fund needed infrastructure, facilities and services, and such infrastructure, facilities and services are included in the schedule of capital improvements in the city's capital facilities plan; or

3. Needed infrastructure, facilities and services will be funded by the developer under the terms of a developer's agreement associated with this comprehensive plan amendment; or

4. Adequate infrastructure, facilities and services are currently in place to serve expected development as a result of this comprehensive plan amendment based upon an assessment of land use assumptions; or

5. Land use assumptions have been reassessed, and required amendments to other sections of the comprehensive plan are being processed in conjunction with this amendment in order to ensure that adopted level of service standards will be met.

E. The proposed amendment is consistent with the goals, policies and objectives of the comprehensive plan;

F. The proposed amendment will not result in probable significant adverse impacts to the transportation network, capital facilities, utilities, parks, and environmental features which cannot be mitigated and will not place uncompensated burdens upon existing or planned services;

G. In the case of an amendment to the comprehensive plan land use map, that the subject parcels being redesignated are physically suitable for the allowed land uses in the designation being requested, including compatibility with existing and planned surrounding land uses and the zoning district locational criteria contained within the comprehensive plan and zoning code;

H. The proposed amendment will not create a demand to change other land use designations of adjacent or surrounding properties, unless the change in land use designation for other properties is in the long-term interest of the community in general;

I. The proposed amendment is consistent with the Growth Management Act, the countywide planning policies and other applicable interjurisdictional policies and agreements, and/or other state or local laws; and

J. The proposed effect of approval of any individual amendment will not have a cumulative adverse effect on the planning area.

cc: Planning File

RECEIVED
CITY OF GIG HARBOR
OCT 10 2008
COMMUNITY
DEVELOPMENT

October 9, 2008

Grant and Gina Lyons
7199 Grandview Place
Gig Harbor, WA. 98355

Tom Dolan, Planning Director

Dear Mr. Dolan,

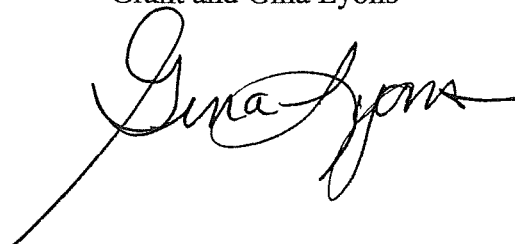
We are in receipt of your letter regarding the planning commission's recommendation to rezone our property from R-2 to R-1. This is unacceptable to us.

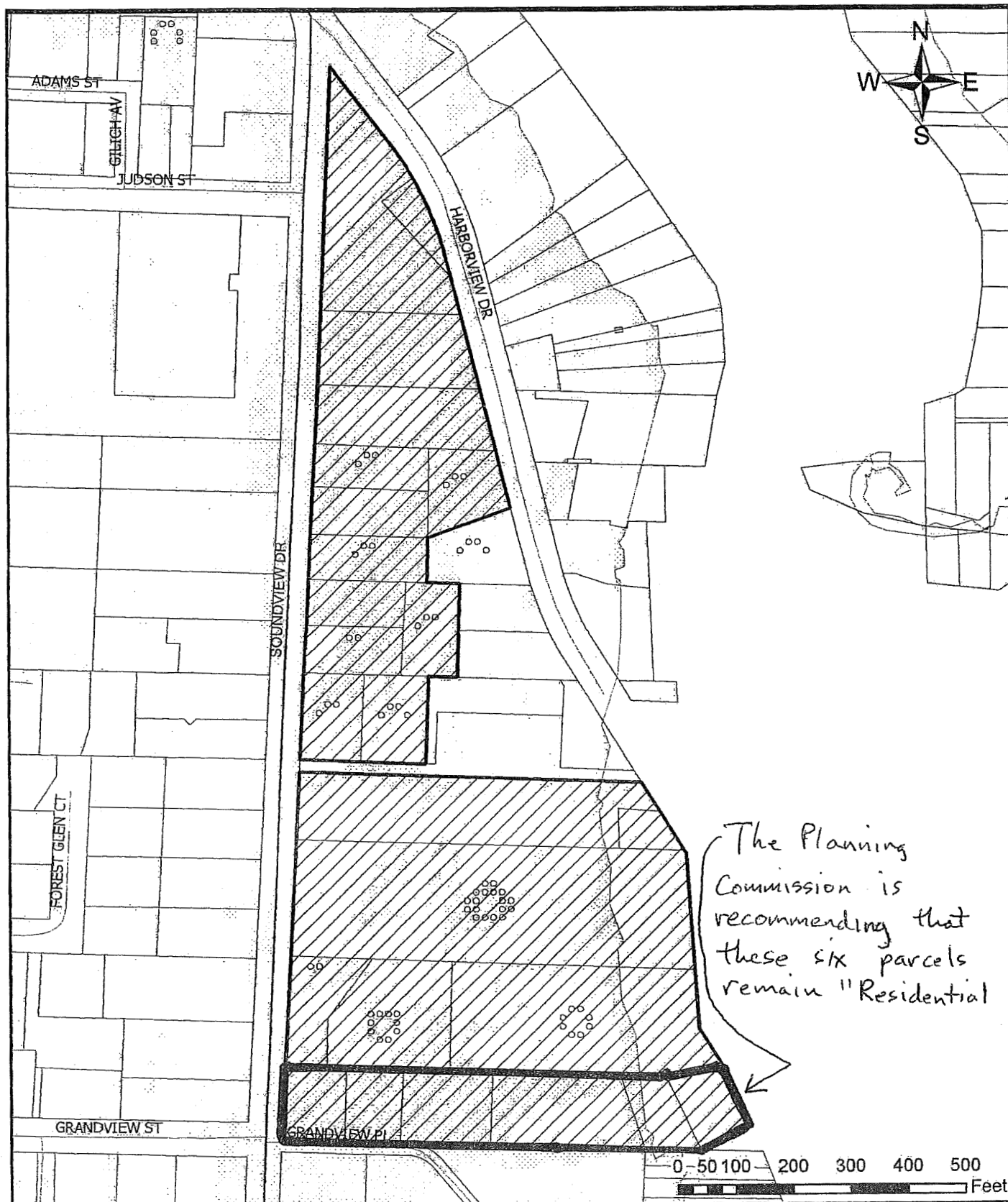
One of the reasons we purchased this property is because it is zoned R-2. By allowing the recommend change, you are devaluing our property and limiting our use for this parcel.

We are unavailable to attend your scheduled public meeting on October 13th, 2008 due to prior business travel plans.

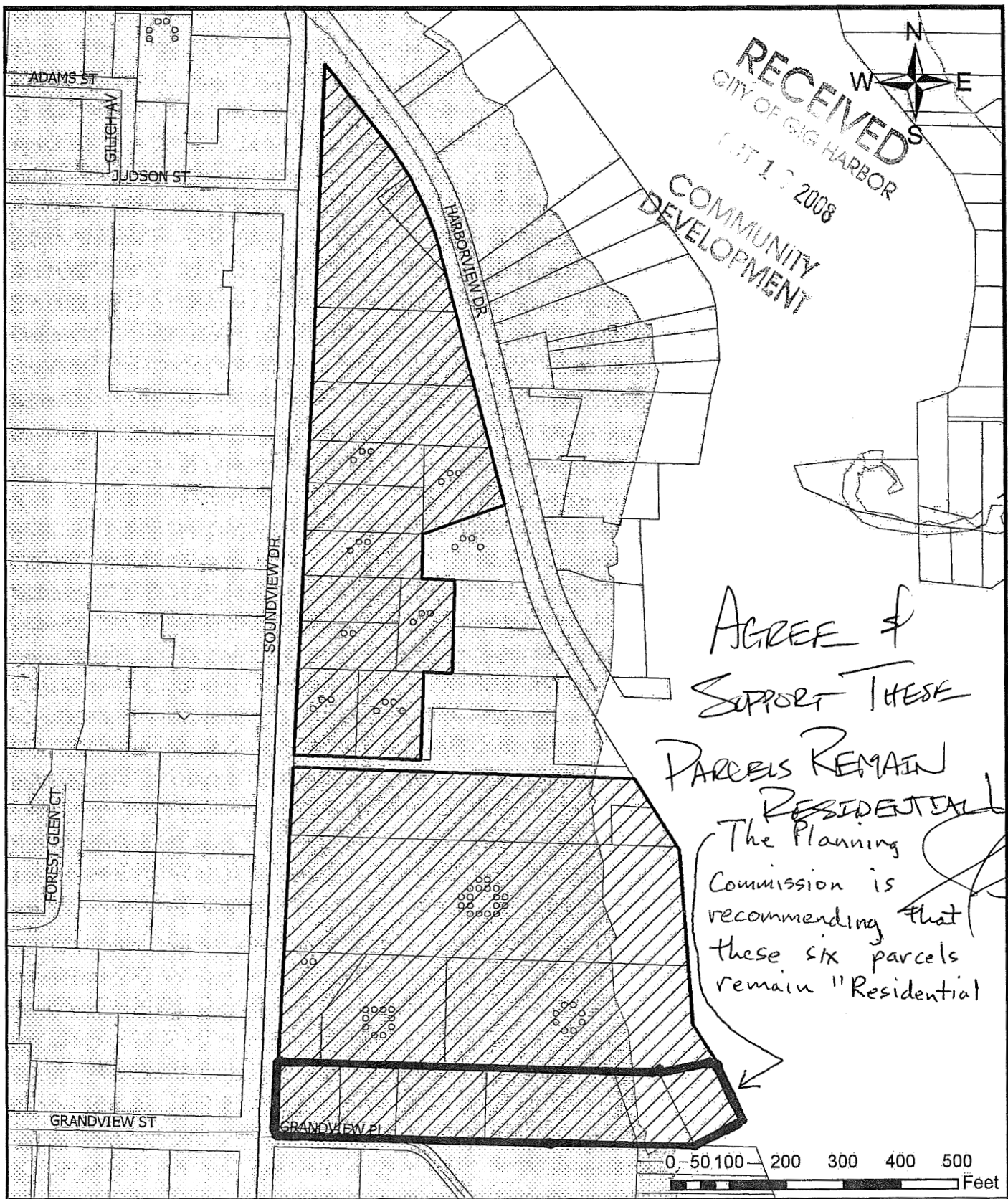
Sincerely,

Grant and Gina Lyons

A handwritten signature in cursive script, appearing to read "Gina Lyons". The signature is written in black ink and is positioned below the typed name "Gina Lyons".



COMP 08-0004 Land Use AREA 2
Residential Low (RL) to Residential Medium (RM) zoned R-2



RECEIVED
 CITY OF GIG HARBOR
 OCT 17 2008
 COMMUNITY DEVELOPMENT

AGREE &
 SUPPORT THESE
 PARCELS REMAIN
 RESIDENTIAL Low
 The Planning Commission is recommending that these six parcels remain "Residential Low"

COMP 08-0004 Land Use AREA 2
Residential Low (RL) to Residential Medium (RM) zoned R-2

RECEIVED
CITY OF GIG HARBOR
OCT 10 2008

COMMUNITY
DEVELOPMENT

Dear Gig Harbor Planning Commission

I completely agree with your recommendation that the southerly six parcels of property be rezoned to R-1. I do not understand when that was changed because up to a few years ago that was R-1. I never received notice that it was going to be changed to R-2. I would like to find out how that happened. I have been in this house for 49 years and have already lost view because of the condos north of these six properties. If this remains R-2 and are built on in that way I will loose a large chunk more of view and so will many of the neighbors. Thank you for proposing to return this to R-1

Sincerely,
Beverley McPherson



**Business of the City Council
City of Gig Harbor, WA**

Subject: Public Hearing and First Reading of Ordinance-RLD Minimum Density Requirement

Proposed Council Action: Hold a public hearing, review proposed amendment and develop findings for the second reading of ordinance

Dept. Origin: Planning Department

Prepared by: Tom Dolan
Planning Director

For Agenda of: October 27, 2008

Exhibits: Draft Ordinance

Initial & Date

Concurred by Mayor:

CLH 10/10/08

Approved by City Administrator:

PKK 10/9/08

Approved as to form by City Atty:

See attached email

Approved by Finance Director:

N/A

Approved by Department Head:

TD 10/9/08

Expenditure Required	0	Amount Budgeted	0	Appropriation Required	0
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INFORMATION / BACKGROUND

The proposal would amend the allowed density in the Planned Community Development Low Density Residential (RLD) District from a maximum of four dwelling units to the gross acre to a minimum and maximum of four dwelling units to the gross acre. Currently, the RLD District (Gig Harbor Municipal Code 17.17.040) has no minimum density requirement, while the Comprehensive Plan (Policy 2.1.5) promotes an average net residential density of four to four and one-half dwelling units to the acre. The proposed amendment would bring the zoning code requirement into consistency with the Plan. The City Council should consider the proposed amendment after conducting the public hearing.

ENVIRONMENTAL ANALYSIS

The SEPA Responsible Official issued a Determination of Non-Significance (DNS) for the proposed amendments on October 15, 2008 per WAC 197-11-340(2). The appeal period for the DNS expires on November 5, 2008.

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

At its September 18, 2008 meeting, the Planning Commission voted unanimously to send the proposed amendment to the City Council for its direct consideration.

RECOMMENDATION / MOTION

Hold a public hearing, review amendments and develop findings for the second reading of ordinance.

Katich, Peter

From: Carol Morris [carol_a_morris@msn.com]
Sent: Monday, October 06, 2008 11:59 AM
To: Katich, Peter
Subject: RE: Draft Ordinance - 080608.doc

ok

Carol A. Morris
Morris & Taraday, P.C.
P.O. Box 948
Seabeck, WA 98380-0948
(360) 830-0328
F: (360) 850-1099

Subject: Draft Ordinance - 080608.doc
Date: Mon, 6 Oct 2008 11:54:22 -0700
From: KatichP@cityofgigharbor.net
To: morrisc@cityofgigharbor.net
CC: DolanT@cityofgigharbor.net

Carol: I've revised the draft ordinance per your comments. Please review and let me know if you have any additional comments. Thanks. Pete

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE ALLOWED DENSITY IN THE PLANNED COMMUNITY DEVELOPMENT LOW DENSITY RESIDENTIAL (RLD) ZONING DISTRICT FROM A MAXIMUM OF FOUR DWELLING UNITS PER GROSS ACRE TO A MINIMUM AND MAXIMUM OF FOUR DWELLING UNITS PER GROSS ACRE; AMENDING GHMC SECTION 17.17.040 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, the City desires to establish a minimum density of four (4) dwelling units per gross acre in the RLD zoning district to meet urban densities required by Comprehensive Plan Policy 2.1.5 which promotes an average net residential density of four to four and one-half dwelling units per acre; and

WHEREAS, the City desires to meet Countywide Planning Policy 6.1 for Urban Growth Areas which requires each jurisdiction to have policies which ensure that urban designated areas will achieve an average net density of four dwelling units per acre; and

WHEREAS, the City has projected a built density of 4 dwelling units per gross acre for the RLD zoning as part of the buildable lands analysis process to meet 20-year population projections allocated to the City through Pierce County; and

WHEREAS, the City desires to ensure that 20-year population allocations can be met; and

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on October 8, 2008; and

WHEREAS, on August 5, 2008, a copy of this Ordinance was sent to the Washington Department of Community, Trade and Economic Development, pursuant to RCW 36.70A.106; and

WHEREAS, the Gig Harbor City Council held a public hearing and considered this Ordinance at first reading on October 27, 2008; and

WHEREAS, on November 10, 2008, the City Council adopted this Ordinance at second reading during a regular City Council meeting; Now, therefore;

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,
ORDAINS AS FOLLOWS:

Section 1. Subsection 17.17.040(A) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.17.040 Performance standards.

A. Density. ~~Maximum~~ The minimum and maximum density is four dwelling units per gross acre. Additional density may be allowed using either of the following options:

1. Bonus Density Option. A bonus density of up to 30 percent over the base may be permitted, based upon the following allocations:

a. Thirty percent of the development site is common open space, which must be contiguous or larger than one acre in area (plus five percent).

b. A pedestrian trail system is provided within the common open space area, consistent with the adopted trails plan per the land use map (plus 10 percent).

c. A minimum 35 percent of the required common open space is improved as an active recreational area (plus 10 percent). Active recreational areas shall include, but not be limited to:

i. Clearly defined athletic fields and/or activity courts.

ii. Recreation center or community facility.

d. Additional common open space is provided between the development and adjacent residential zones, uses or developments (plus five percent bonus maximum at a ratio of one percent density bonus per five percent open space increase).

2. Density Credit Transfers. A transfer of density credits may be applied from one residential district within the PCD district to the RLD district up to a maximum of seven dwelling units per acre. Density credit transfers shall be as provided for in the density credit transfer section in Chapter 17.59 GHMC. Density credit transfers may be used in conjunction with bonus density options to achieve the maximum allowable density of seven dwelling units per acre.

* * *

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ___ day of ____, 2008.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Carol A. Morris, City Attorney

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:



Subject: Second Reading of Ordinance 1140 –
Prentice Avenue & Sutherland Street Vacation
Request – Gary Stainbrook

Proposed Council Action: Recommend that
Council pass the Street Vacation Ordinance
for a portion of Prentice Avenue and
Sutherland Street.

Dept. Origin: Community Development

Prepared by: Willy Hendrickson
Engineering Technician

For Agenda of: October 13, 2008

Exhibits: Petition request, Ordinance with
exhibits, Location map, Vicinity map, checklist

Initial & Date

Concurred by Mayor:

CLH 10/9/08

Approved by City Administrator:

POK 10/9/08

Approved as to form by City Atty:

Approved by Finance Director:

N/A

Approved by Department Head:

[Signature]

Expenditure Required	0	Amount Budgeted	0	Appropriation Required	0
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INTRODUCTION/BACKGROUND

The city received a letter of petition on March 21, 2008 from Gary Stainbrook residing at 9505 Woodworth Avenue authorizing Aspen Land Surveying to represent him in a request to the city to vacate a portion of Prentice Avenue and Sutherland Street in accordance with GHMC 12.14.002.

Specifically, Mr. Stainbrook's request is for the vacation of the East thirty three (33) feet of Prentice Avenue and the South thirty two (32) feet of Sutherland Street Right-Of-Way's currently held by the City and abutting Lots 4&5, Block 8 of the Woodworth Addition to Gig Harbor (parcel no. 9815000250).

City staff from the Planning, Building and Public Works Departments have reviewed and approved this request without comment. At the August 11 Council meeting, staff presented this request to Council and Council recommended staff to proceed with the setting of the Public Hearing and First Reading of this Ordinance at the September 22 Council Meeting.

POLICY CONSIDERATIONS

Any policy considerations will be provided at the public hearing and first reading.

FISCAL CONSIDERATIONS

The processing fee has been paid in accordance with GHMC 12.14.004.

RECOMMENDATIONS

I recommend that Council pass the Street Vacation Ordinance for a portion of Prentice Avenue and Sutherland Street.

Mr. Gary Stainbrook
9505 Woodworth Avenue
Gig Harbor, WA 98332

March 21, 2008

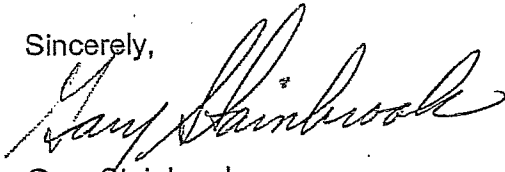
Mr. Tom Dolan
Planning Director
3510 Grandview Street
Gig Harbor, WA 98335

RE: Vacation of a portion of Prentice Avenue, and a portion of Sutherland Street right-of-ways

Dear Mr. Dolan,

Aspen Land Surveying is authorized to submit a vacation of right-of-way on my behalf, and to act as agent in the processing of that application.

Sincerely,



Gary Stainbrook

March 21, 2008

Mr. Tom Dolan
Planning Director
3510 Grandview Street
Gig Harbor, WA 98335

RE: Vacation of a portion of Prentice Avenue, and a portion of Sutherland Street right-of-ways

Dear Mr. Dolan,

This letter serves as an official request to vacate a 33-foot wide strip of Prentice Avenue right-of-way and a 32-foot wide strip of Sutherland Street right-of-way abutting the property at 9505 Woodworth Avenue in Gig Harbor. These right-of-ways along with my property were created from the plat called "Woodworth's Addition to Gig Harbor City Pierce County, Wash." recorded in 1890 in book 5 of plats at page 66 in Pierce County, Washington. The portions of the aforementioned right-of-ways abutting the property at Pierce County Parcel No. 981500-025-0 have never been used as streets.

Under the City of Gig Harbor's Municipal Code 12.14.018.C, which sites the "vacations of streets and alleys subject to 1889-90 Laws of Washington, Chapter 19, Section 32 (Non-user statute)", those portions of Prentice Avenue and of Sutherland Street right-of-ways abutting said parcel has adversely become attached legally since these right-of-ways have never been used for their original purpose.

In light of this information, I wish to request that portion of Prentice Avenue and that portion of Sutherland Street abutting said parcel be vacated. We also respectfully request a waiver of appraisal as property rights have already been transferred by virtue of law. See the attached drawing depicting the original location of the subject portion of Prentice Avenue and of Sutherland Street right-of-ways in relation to said parcel.

Please let me know if you have any questions, or if anything further is needed. Thank you for your assistance.

Sincerely,



Diana Woods
Project Manager
Aspen Land Surveying, LLC

encl: Legal Description of Right-of-ways to be Vacated
Exhibit Map of Parcel and Right-of-ways

AFTER RECORDING RETURN TO:

The City of Gig Harbor
Attn: City Clerk
3510 Grandview St.
Gig Harbor, WA 98335

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

Document Title(s) (or transactions contained therein):

Ordinance No. 1140 - An Ordinance of the City Council of the City of Gig Harbor, Washington, vacating a portion of Prentice Avenue and Sutherland Street.

Grantor(s) (Last name first, then first name and initials)

Stainbrook, Gary

Grantee(s) (Last name first, then first name and initials)

City of Gig Harbor

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

Section 06 Township 21 Range 02 Quarter 11

Assessor's Property Tax Parcel or Account number: 981500-025-0

Reference number(s) of documents assigned or released: _____

ORDINANCE NO. 1140

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY GIG HARBOR, WASHINGTON, VACATING THE PORTION OF PRENTICE AVENUE AND SUTHERLAND STREET.

WHEREAS, Gary Stainbrook petitioned the City to vacate a portion of Prentice Avenue and Sutherland Street (originally platted as Norton and White Streets), which abuts his property at 9505 Woodworth Avenue, Gig Harbor, Washington, under the nonuser statute, and GHMC Section 12.14.018(C), and

WHEREAS, the portion of these streets subject to the vacation petition were platted in the Plat of the Woodworth's Addition, recorded in the records of Pierce County on August 22, 1890; and

WHEREAS, in 1890, these streets were in unincorporated Pierce County; and

WHEREAS, the portions of Prentice Avenue and Sutherland Street subject to the vacation petition were not included in any street that was opened or improved within five years after the original platting in 1890; and

WHEREAS, under the nonuser statute, any county road which remained unopened for public use for five years after platting was vacated by lapse of time; and

WHEREAS, the City's street vacation procedures for streets subject to the nonuser statute merely eliminates the cloud on the title created by the plat, because the street has already vacated by lapse of time; and

WHEREAS, after receipt of the street vacation petition, the City Council passed Resolution No. 765 initiating the procedure for the vacation of the referenced street and setting a hearing date; and

WHEREAS, after the required public notice had been given, the City Council conducted a public hearing on the matter on September 22, 2008, and at the conclusion of such hearing determined that the aforementioned right-of-way vacated by operation of law and lapse of time; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ORDAINS
AS FOLLOWS:

Section 1. The City Council finds that the unopened portion of the platted Prentice Avenue and Sutherland Street right-of-way described in the Stainbrook street vacation petition has vacated by lapse of time and operation of law under the Laws of 1889-90, Chapter 19 (Relating to County Roads), Section 32, p. 603, as Amended By Laws of 1909, Chapter 90, Section 1, p. 189, repealed in 1936 by the Washington State Aid Highway Act (Laws of 1936, Chapter 187, p. 760). The vacated portion of Prentice Avenue and Sutherland Street, lying between Woodworth Avenue and Peacock Hill Avenue, abutting south and east property frontage of Parcel No. 981500-025-0, is legally described in Exhibit A attached hereto and incorporated by this reference, and further, is shown on the map attached hereto as Exhibit B.

Section 2. The City has the authority to adopt a vacation ordinance to formally remove the cloud on the title of the referenced right-of-way area. This street vacation

ordinance does not affect any existing rights, including any the public may have acquired in the right-of-way since the street was vacated by operation of law.

Section 3. The City Clerk is hereby directed to record a certified copy of this ordinance with the office of the Pierce County Auditor.

Section 4. This ordinance shall take effect five days after passage and publication as required by law.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this 13th day of October, 2008.

CITY OF GIG HARBOR

By: _____
Charles L. Hunter, Mayor

ATTEST/AUTHENTICATED:

By: _____
Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney:

By: _____
Carol A. Morris

FILED WITH THE CITY CLERK: 09/17/08
PASSED BY THE CITY COUNCIL: 10/13/08
PUBLISHED: 10/22/08
EFFECTIVE DATE: 10/27/08
ORDINANCE NO. 1140

EXHIBIT A

LEGAL DESCRIPTION OF PROPOSED VACATED PORTIONS OF PRENTICE AVENUE AND SUTHERLAND STREET

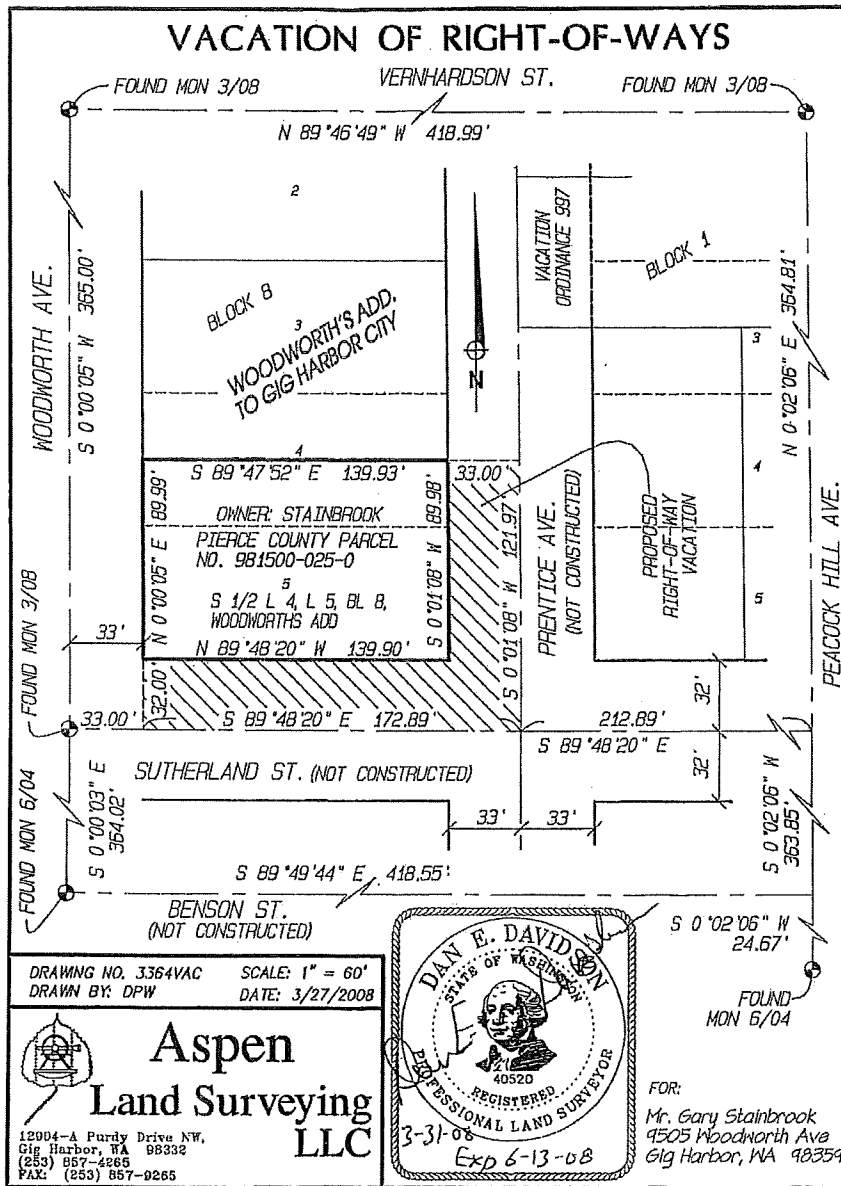
THAT PORTION OF THE WEST HALF OF PRENTICE AVENUE ABUTTING THE SOUTH HALF OF LOT 4 AND ALL OF LOT 5 OF BLOCK 8 OF WOODWORTH'S ADDITION TO GIG HARBOR CITY, PIERCE COUNTY, WASHINGTON, AS PER MAP THEREOF RECORDED IN BOOK 5 OF PLATS AT PAGE 66, RECORDS OF PIERCE COUNTY, WASHINGTON.

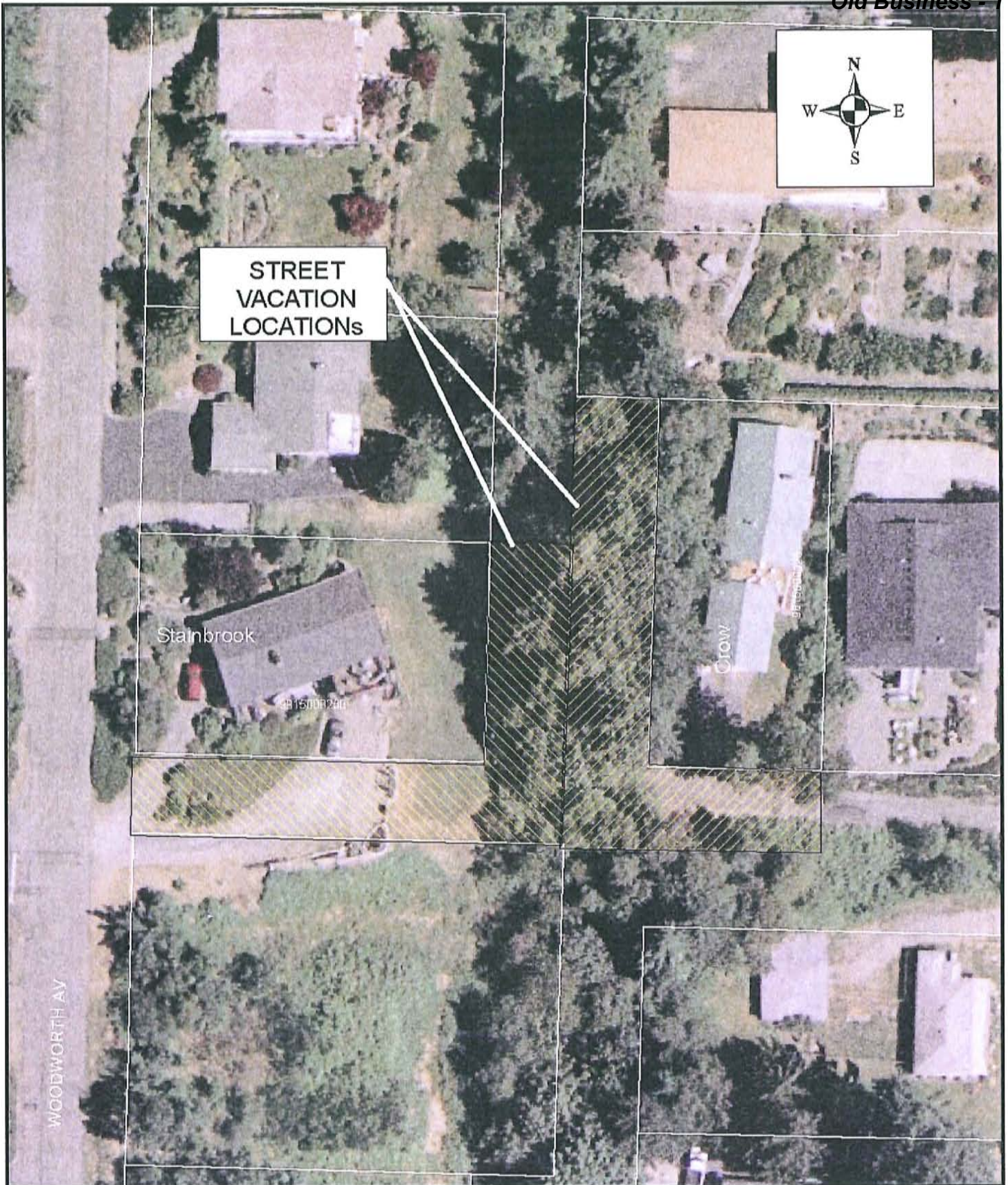
ALSO, THAT PORTION OF THE NORTH HALF OF SUTHERLAND STREET ABUTTING LOT 5 IN SAID WOODWORTH'S ADDITION AND EXTENDING EAST TO THE CENTER LINE OF SAID PRENTICE AVENUE.



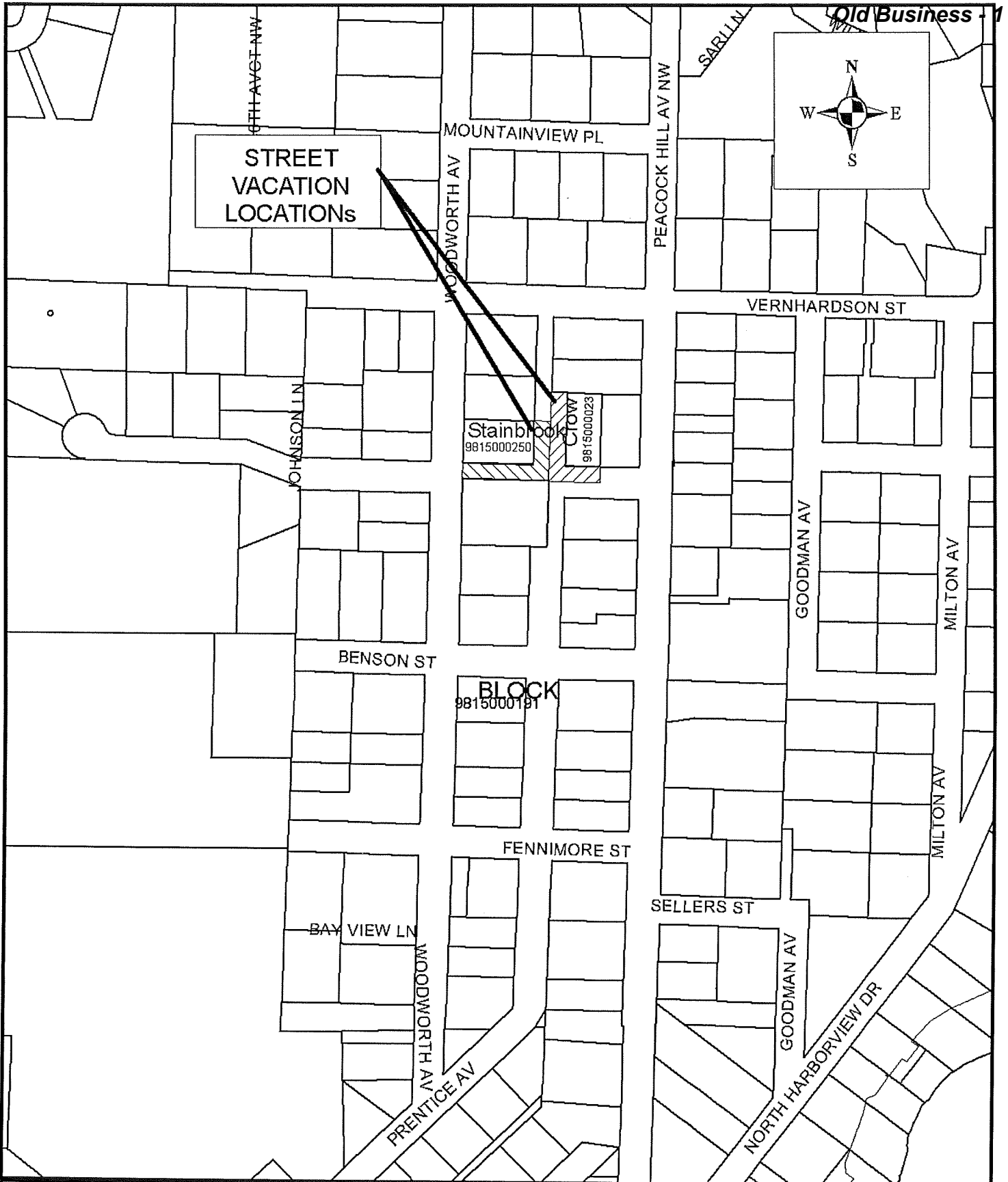
EXHIBIT B

VACATION OF RIGHT-OF-WAYS





STAINBROOK AND CROW STREET VACATIONS
PRENTICE AVE. AND SUTHERLAND STREET
LOCATION MAP



STAINBROOK AND CROW STREET VACATIONS
 PRENTICE AVE. AND SUTHERLAND STREET
 VICINITY MAP



VACATION OF STREETS AND ALLEYS

GIG HARBOR MUNICIPAL CODE CHAPTER 12.14

Name: STAINBROOK / CROW Date: AUG 6/08
 Site address: ↳ 9505 WOODWORTH L↳ 9502 PEACOCK HILL
 Phone Number: STAINBROOK 857 5836 Parcel Number: 9815000250
CROW 858 3028 9815000023

OWNER REQUIREMENTS

- The petition or resolution shall be filed with the city clerk, and the petition shall be signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated. [GHMC § 12.14.002 (c)].
- Nonrefundable payment to the City of a pre-hearing fee of \$150.00, to defray the administrative cost incurred in processing such vacation petitions [GHMC § 12.14.004 (a)].
- Legal description prepared by a Licensed Surveyor of area to be vacated [GHMC § 12.14.002 (b)].
- Location map showing surrounding street network, existing utilities, and adjacent properties labeled with ownership, site addresses, and parcel numbers.
- Site map prepared by a Licensed Surveyor showing the existing property and street vacation areas with dimensions (using bearings and distances), calculated square footage, two-foot contours, existing easements, wetlands and trails or other relevant information.
- At the time the City Council recommends granting a vacation petition, the petitioner shall deposit a \$500.00 appraisal fee with the Public Works Director [GHMC § 12.14.004 (b)]. Appraisal fee not required if qualified under the Non-user Statute [GHMC § 12.14.018 (c)].
- Compensation to the City for vacation if applicable [GHMC § 12.14.018]. Compensation not required if qualified under the Non-user Statute [GHMC § 12.14.018 (c)].

CITY REVIEW

- Determine Non-user Statute application. QUALIFIES
- Verify all information provided in the petition, legal description, location map, and site map. VERIFIED
- Describe topography and vegetation (forested, cleared, etc.) using GIS aerial and digital camera photos of site. DRIVEWAYS ON ONE SIDE, TREES ON THE OTHER
- Verify existing utilities or call One Call Locate to determine what utilities are on the property. NONE
- Determine proposed vacation's consistency with City of Gig Harbor Comprehensive Plan (i.e. transportation element). NO FUTURE USE OF THIS ROW AREA PROPOSED
- Determine current extent of public use of area proposed to be vacated as a Prescriptive Easement. PRIVATE DRIVEWAYS
- Determine possible retention for future public uses: Roadway, water, sewer, storm drainage, parking facilities, parks, view areas, and access to waterfront. NONE

Check List

VACATION OF STREETS AND ALLEYS
GIG HARBOR MUNICIPAL CODE CHAPTER 12.14
PAGE 2

- Develop history of area proposed to be vacated including when area was purchased, dedicated, or otherwise acquired. **WOODWORTH ADDITION PLATTED IN 1890**
- Determine compensation for vacation as described in GHMC § 12.14.018 if applicable. **N/A**
- Verify payment of pre-hearing **\$150** fee and \$500 appraisal fee. **YES**
- Prepare aerial vicinity map. **EXHIBIT**
- Prepare Council Resolution. **EXHIBIT**
- Post notices of Public Hearing. **REQUIRED AFTER PASSAGE OF RESOLUTION**
- Determine hearing date. **SEPT 8**
- Legal Review **CAROL REVIEWED THE VACATIONS AND HAD NO WRITTEN COMMENTS.**



Subject: Second Reading of Ordinance 1141 –
Prentice Avenue & Sutherland Street Vacation
Request – Paul Crow

Proposed Council Action: Recommend that
Council pass the Street Vacation Ordinance
for a portion of Prentice Avenue and
Sutherland Street.

Dept. Origin: Community Development

Prepared by: Willy Hendrickson
Engineering Technician

For Agenda of: October 13, 2008

Exhibits: Petition request, Ordinance with
exhibits, Location map, Vicinity map, checklist

Initial & Date

Concurred by Mayor:	<u>CLH 10/9/08</u>
Approved by City Administrator:	<u>POK 10/9/08</u>
Approved as to form by City Atty:	_____
Approved by Finance Director:	<u>N/A</u>
Approved by Department Head:	<u>[Signature]</u>

Expenditure Required	0	Amount Budgeted	0	Appropriation Required	0
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INTRODUCTION/BACKGROUND

The city received a Letter of Petition on March 21, 2008 from Paul Crow residing at 9502 Peacock Hill Road, authorizing Aspen Land Surveying to represent him in a request to the City to vacate a portion of Prentice Avenue and Sutherland Street in accordance with GHMC 12.14.002.

Specifically, Mr. Crow’s request is for the vacation of the West thirty three (33) feet of Prentice Avenue and the South thirty two (32) feet of Sutherland Street Right-Of-Ways currently held by the City and abutting Lots 3,4&5, Block 1 of the Woodworth Addition to Gig Harbor (parcel no. 9815000023).

City staff from the Planning, Building and Public Works Departments have reviewed and approved this request without comment. No City utility easements will be required for this request and there has been no public use of this area. At the August 11 Council meeting, staff presented this request to Council and Council recommended staff to proceed with the setting of the Public Hearing and First Reading of this Ordinance at the September 22 Council Meeting.

POLICY CONSIDERATIONS

Any policy considerations will be provided at the public hearing and first reading.

FISCAL CONSIDERATIONS

The processing fee has been paid in accordance with GHMC 12.14.004.

RECOMMENDATIONS

I recommend that Council pass the Street Vacation Ordinance for a portion of Prentice Avenue and Sutherland Street.

Mr. Paul Crow
9502 Peacock Hill Avenue
Gig Harbor, WA 98359

March 21, 2008

Mr. Tom Dolan
Planning Director
3510 Grandview Street
Gig Harbor, WA 98335

RE: Vacation of a portion of Prentice Avenue, and a portion of Sutherland Street right-of-ways

Dear Mr. Dolan,

Aspen Land Surveying is authorized to submit a vacation of right-of-way on my behalf, and to act as agent in the processing of that application.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Crow", written in a cursive style.

Paul Crow

March 21, 2008

Mr. Tom Dolan
Planning Director
3510 Grandview Street
Gig Harbor, WA 98335

RE: Vacation of a portion of Prentice Avenue, and a portion of Sutherland Street right-of-ways

Dear Mr. Dolan,

This letter serves as an official request to vacate a 33-foot wide strip of Prentice Avenue right-of-way and a 32-foot wide strip of Sutherland Street right-of-way abutting the property at 9502 Peacock Hill Avenue in Gig Harbor. These right-of-ways were created from the plat called "Woodworth's Addition to Gig Harbor City Pierce County, Wash." recorded in 1890 in book 5 of plats at page 66 in Pierce County, Washington. The subject parcel was established as Lot 2 of Gig Harbor Short Plat no. 77-804, recorded in 1977 in book 21 of Short Plats at page 49 in Pierce County, Washington. The portions of the afore mentioned right-of-ways abutting said subject parcel at Pierce County Parcel No. 981500-002-3 have never been used as streets.

Under the City of Gig Harbor's Municipal Code 12.14.018.C, which sites the "vacations of streets and alleys subject to 1889-90 Laws of Washington, Chapter 19, Section 32 (Non-user statue)", those portions of Prentice Avenue and of Sutherland Street right-of-ways abutting said parcel has adversely become attached legally since these right-of-ways have never been used for their original purpose.

In light of this information, we wish to request that portion of Prentice Avenue and that portion of Sutherland Street abutting said parcel be vacated. We also respectfully request a waiver of appraisal as property rights have already been transferred by virtue of law. See the attached drawing depicting the original location of the subject portion of Prentice Avenue and of Sutherland Street right-of-ways in relation to said parcel.

Please let me know if you have any questions, or if anything further is needed. Thank you for your assistance.

Sincerely,



Diana Woods
Project Manager
Aspen Land Surveying, LLC

encl: Legal Description of Right-of-ways to be Vacated
Exhibit Map of Parcel and Right-of-ways

AFTER RECORDING RETURN TO:

The City of Gig Harbor
Attn: City Clerk
3510 Grandview St.
Gig Harbor, WA 98335

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

Document Title(s) (or transactions contained therein):

Ordinance No. 1141 - An Ordinance of the City Council of the City of Gig Harbor, Washington, vacating a portion of Prentice Avenue and Sutherland Street.

Grantor(s) (Last name first, then first name and initials)

Crow, Paul

Grantee(s) (Last name first, then first name and initials)

City of Gig Harbor

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

Section 06 Township 21 Range 02 Quarter 11

Assessor's Property Tax Parcel or Account number: 981500-002-3

Reference number(s) of documents assigned or released: _____

ORDINANCE NO. 1141

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY GIG HARBOR, WASHINGTON, VACATING THE PORTION OF PRENTICE AVENUE AND SUTHERLAND STREET.

WHEREAS, Paul Crow petitioned the City to vacate a portion of Prentice Avenue and Sutherland Street (originally platted as Norton and White Streets), which abuts his property at 9502 Peacock Hill Avenue, Gig Harbor, Washington, under the nonuser statute, and GHMC Section 12.14.018(C), and

WHEREAS, the portion of these streets subject to the vacation petition were platted in the Plat of the Woodworth's Addition, recorded in the records of Pierce County on August 22, 1890; and

WHEREAS, in 1890, these streets were in unincorporated Pierce County; and

WHEREAS, the portions of Prentice Avenue and Sutherland Street subject to the vacation petition were not included in any street that was opened or improved within five years after the original platting in 1890; and

WHEREAS, under the nonuser statute, any county road which remained unopened for public use for five years after platting was vacated by lapse of time; and

WHEREAS, the City's street vacation procedures for streets subject to the nonuser statute merely eliminates the cloud on the title created by the plat, because the street has already vacated by lapse of time; and

WHEREAS, after receipt of the street vacation petition, the City Council passed Resolution No. 765 initiating the procedure for the vacation of the referenced street and setting a hearing date; and

WHEREAS, after the required public notice had been given, the City Council conducted a public hearing on the matter on September 22, 2008, and at the conclusion of such hearing determined that the aforementioned right-of-way vacated by operation of law and lapse of time; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ORDAINS
AS FOLLOWS:

Section 1. The City Council finds that the unopened portion of the platted Prentice Avenue and Sutherland Street right-of-way described in the Crow street vacation petition has vacated by lapse of time and operation of law under the Laws of 1889-90, Chapter 19 (Relating to County Roads), Section 32, p. 603, as Amended By Laws of 1909, Chapter 90, Section 1, p. 189, repealed in 1936 by the Washington State Aid Highway Act (Laws of 1936, Chapter 187, p. 760). The vacated portion of Prentice Avenue and Sutherland Street, lying between Woodworth Avenue and Peacock Hill Avenue, abutting south and west property frontage of Parcel No. 981500-002-3, is legally described in Exhibit A attached hereto and incorporated by this reference, and further, is shown on the map attached hereto as Exhibit B.

Section 2. The City has the authority to adopt a vacation ordinance to formally remove the cloud on the title of the referenced right-of-way area. This street vacation ordinance does not affect any existing rights, including any the public may have acquired in the right-of-way since the street was vacated by operation of law.

Section 3. The City Clerk is hereby directed to record a certified copy of this ordinance with the office of the Pierce County Auditor.

Section 4. This ordinance shall take effect five days after passage and publication as required by law.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this 13th day of October, 2008.

CITY OF GIG HARBOR

By: _____
Charles L. Hunter, Mayor

ATTEST/AUTHENTICATED:

By: _____
Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney:

By: _____
Carol A. Morris

FILED WITH THE CITY CLERK: 09/17/08
PASSED BY THE CITY COUNCIL: 10/13/08
PUBLISHED: 10/22/08
EFFECTIVE DATE: 10/27/08
ORDINANCE NO. 1141

EXHIBIT A

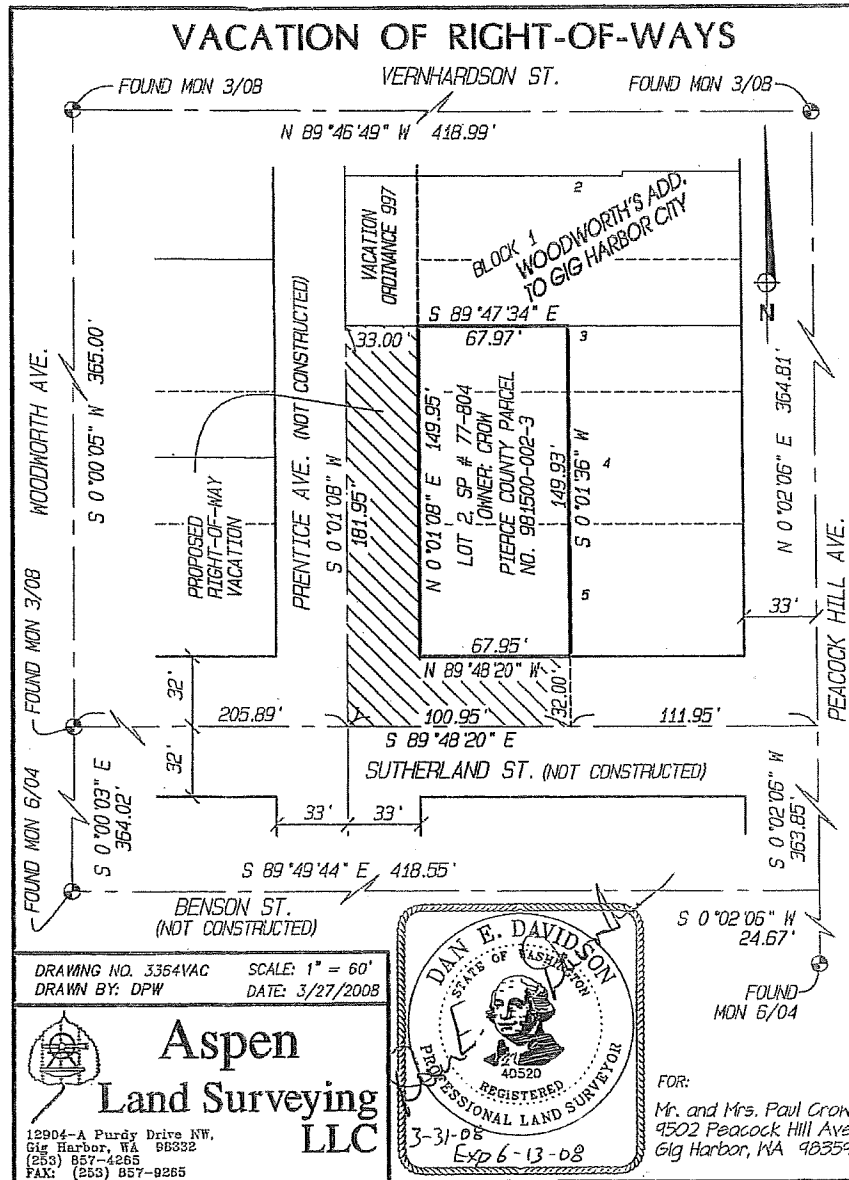
LEGAL DESCRIPTION OF PROPOSED VACATED PORTIONS OF
PRENTICE AVENUE AND SUTHERLAND STREET

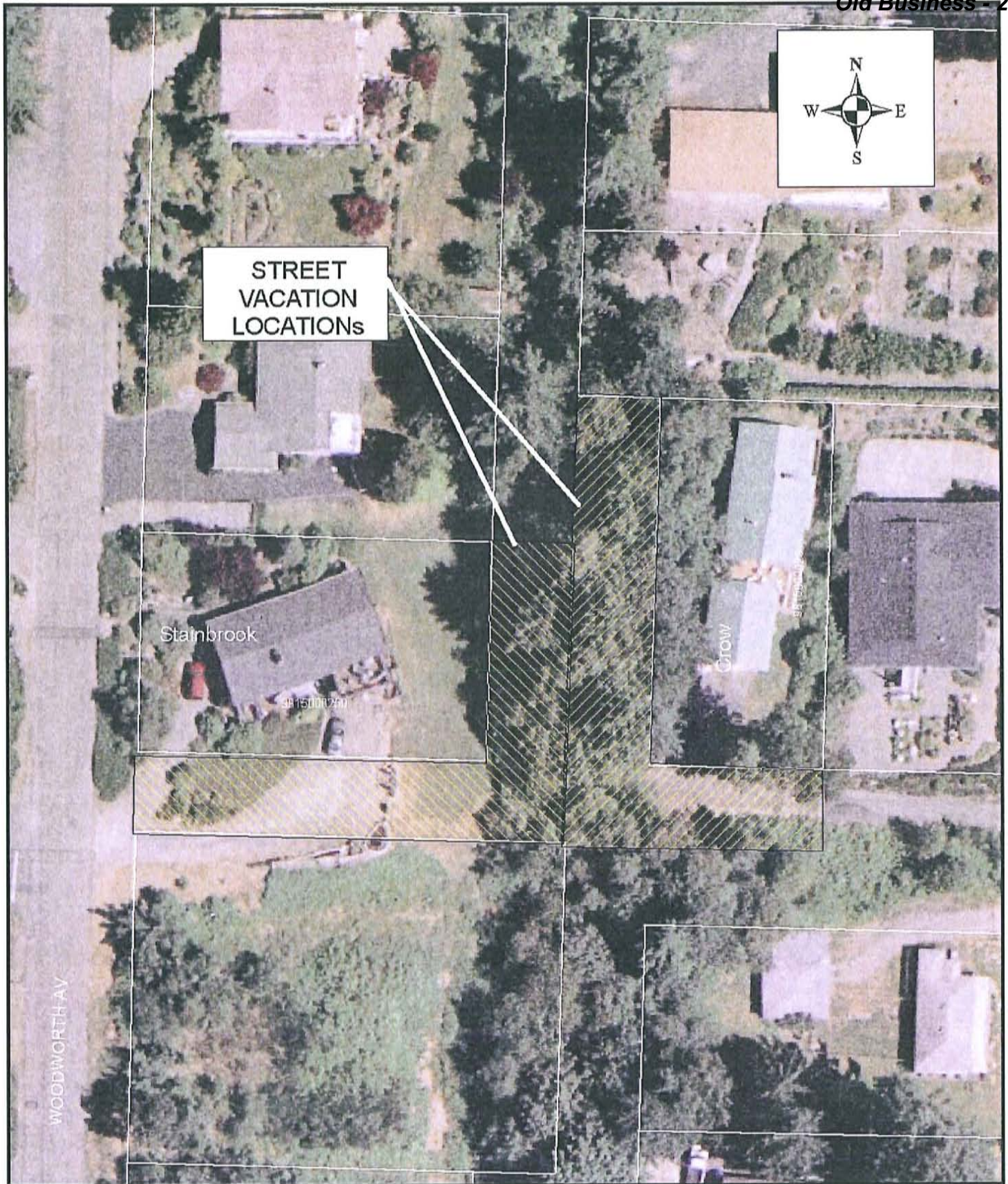
THAT PORTION OF THE EAST HALF OF PRENTICE AVENUE ABUTTING LOT 2
IN GIG HARBOR SHORT PLAT AS RECORDED UNDER A.F.N. 77-804 IN BOOK
21 AT PAGE 47, PIERCE COUNTY, WASHINGTON.

ALSO, THAT PORTION OF THE NORTH HALF OF SUTHERLAND STREET
ABUTTING LOT 2 IN SAID GIG HARBOR SHORT PLAT AND EXTENDING
WEST TO THE CENTER LINE OF SAID PRENTICE AVENUE.

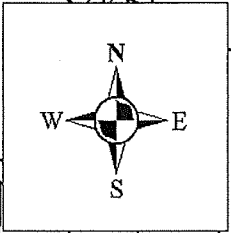


EXHIBIT B

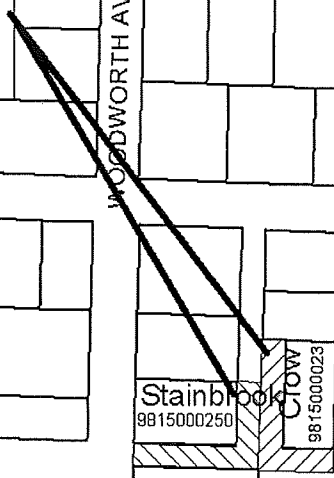




STAINBROOK AND CROW STREET VACATIONS
PRENTICE AVE. AND SUTHERLAND STREET
LOCATION MAP



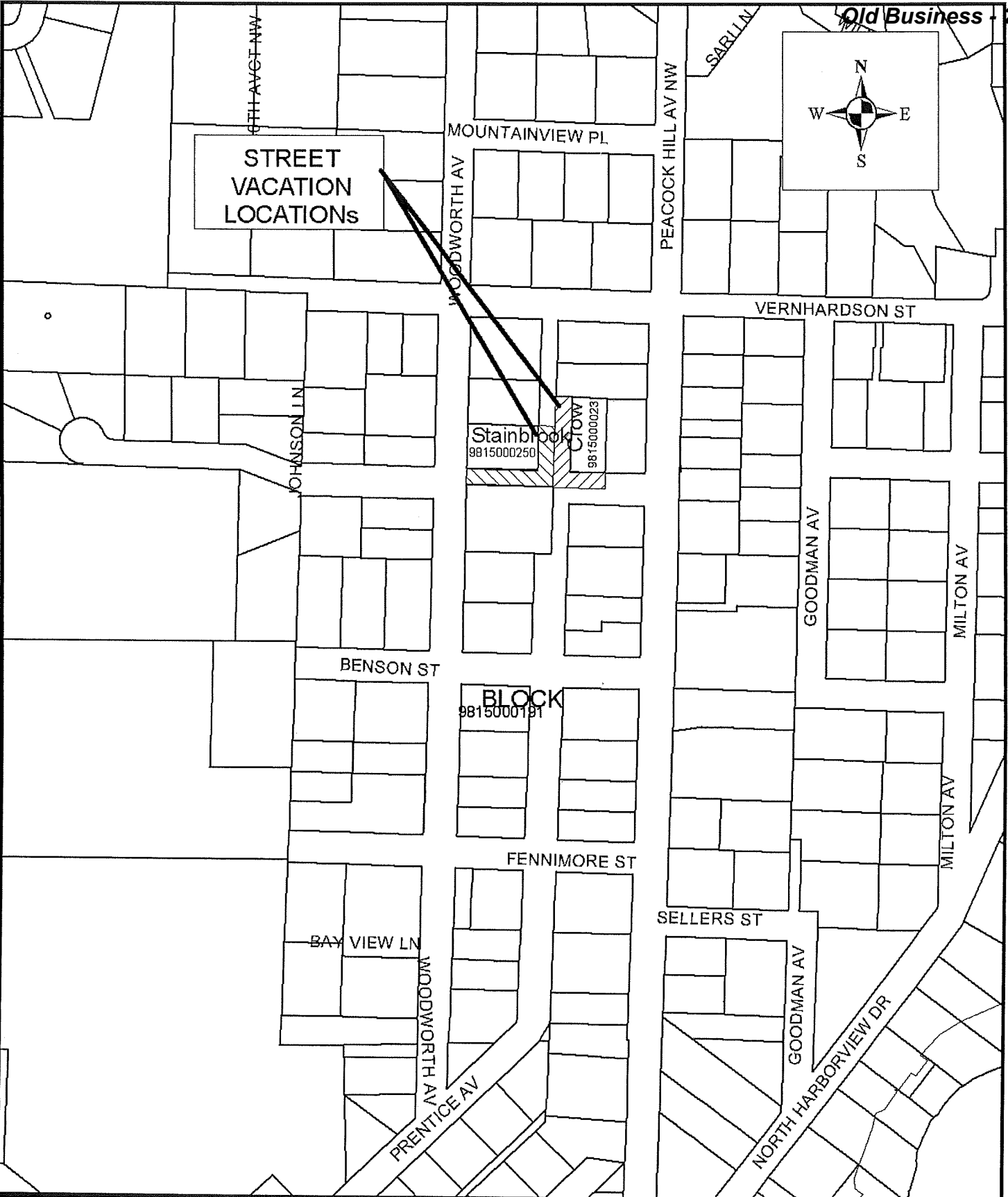
STREET
VACATION
LOCATIONS



Stainbrook
9815000250

CROW
981500023

BLOCK
9815000191



STAINBROOK AND CROW STREET VACATIONS
PRENTICE AVE. AND SUTHERLAND STREET
VICINITY MAP



VACATION OF STREETS AND ALLEYS

GIG HARBOR MUNICIPAL CODE CHAPTER 12.14

Name: STAINBROOK / CROW Date: AUG 6/08
 Site address: ↳ 9505 WOODWORTH ↳ 9502 PEACOCK HILL
 Phone Number: STAINBROOK 857 5836 Parcel Number: 9815000250
CROW 858 3028 9815000023

OWNER REQUIREMENTS

- The petition or resolution shall be filed with the city clerk, and the petition shall be signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated. [GHMC § 12.14.002 (c)].
- Nonrefundable payment to the City of a pre-hearing fee of \$150.00, to defray the administrative cost incurred in processing such vacation petitions [GHMC § 12.14.004 (a)].
- Legal description prepared by a Licensed Surveyor of area to be vacated [GHMC § 12.14.002 (b)].
- Location map showing surrounding street network, existing utilities, and adjacent properties labeled with ownership, site addresses, and parcel numbers.
- Site map prepared by a Licensed Surveyor showing the existing property and street vacation areas with dimensions (using bearings and distances), calculated square footage, two-foot contours, existing easements, wetlands and trails or other relevant information.
- At the time the City Council recommends granting a vacation petition, the petitioner shall deposit a \$500.00 appraisal fee with the Public Works Director [GHMC § 12.14.004 (b)]. Appraisal fee not required if qualified under the Non-user Statute [GHMC § 12.14.018 (c)].
- Compensation to the City for vacation if applicable [GHMC § 12.14.018]. Compensation not required if qualified under the Non-user Statute [GHMC § 12.14.018 (c)].

CITY REVIEW

- Determine Non-user Statute application. QUALIFIES
- Verify all information provided in the petition, legal description, location map, and site map. VERIFIED
- Describe topography and vegetation (forested, cleared, etc.) using GIS aerial and digital camera photos of site. DRIVEWAYS ON ONE SIDE, TREES ON THE OTHER
- Verify existing utilities or call One Call Locate to determine what utilities are on the property. NONE
- Determine proposed vacation's consistency with City of Gig Harbor Comprehensive Plan (i.e. transportation element). NO FUTURE USE OF THIS ROW AREA PROPOSED
- Determine current extent of public use of area proposed to be vacated as a Prescriptive Easement. PRIVATE DRIVEWAYS
- Determine possible retention for future public uses: Roadway, water, sewer, storm drainage, parking facilities, parks, view areas, and access to waterfront. NONE

Check List

VACATION OF STREETS AND ALLEYS
GIG HARBOR MUNICIPAL CODE CHAPTER 12.14
PAGE 2

- Develop history of area proposed to be vacated including when area was purchased, dedicated, or otherwise acquired. **WOODWORTH ADDITION PLATTED IN 1890**
- Determine compensation for vacation as described in GHMC § 12.14.018 if applicable. **N/A**
- Verify payment of pre-hearing **\$150** fee and \$500 appraisal fee. **YES**
- Prepare aerial vicinity map. **EXHIBIT**
- Prepare Council Resolution. **EXHIBIT**
- Post notices of Public Hearing. **REQUIRED AFTER PASSAGE OF RESOLUTION**
- Determine hearing date. **SEPT 8**
- Legal Review **CAROL REVIEWED THE VACATIONS AND HAD NO WRITTEN COMMENTS.**



Subject: Second Reading of Ordinance 1142 –
Woodworth Avenue Street Vacation Request –
Mark and Lynn Stonestreet

Proposed Council Action: Recommend that
Council pass the Street Vacation Ordinance
for a portion of Woodworth Avenue.

Dept. Origin: Community Development

Prepared by: Willy Hendrickson
Engineering Technician

For Agenda of: October 13, 2008

Exhibits: Petition Request, Ordinance with
exhibits, Location map, Vicinity map, checklist

Initial & Date

Concurred by Mayor: CLH 10/9/08
Approved by City Administrator: RJK 10/9/08
Approved as to form by City Atty: _____
Approved by Finance Director: N/A
Approved by Department Head: _____

Expenditure Required	0	Amount Budgeted	0	Appropriation Required	0
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INTRODUCTION/BACKGROUND

The city received a Letter of Petition from Mark and Lynn Stonestreet residing at 9126 Prentice Avenue, requesting the city to vacate a portion of Woodworth Avenue in accordance with GHMC 12.14.002.

Specifically, the request is for the vacation of the westerly thirty three (33) feet of Woodworth Avenue Right-Of-Way currently held by the City and abutting Lot 4, Block 5 of the Woodworth Addition to Gig Harbor (parcel no. 9815000170).

City staff from the Planning, Building and Public Works Departments have reviewed and approved this request without comment. No City utility easements will be required for this request and there has been no public use of this area. At the August 11 Council meeting, staff presented this request to Council and Council recommended staff to proceed with the setting of the Public Hearing and First Reading of this Ordinance at the September 22 Council Meeting.

POLICY CONSIDERATIONS

Any policy considerations will be provided at the public hearing and first reading.

FISCAL CONSIDERATIONS

The processing fee has been paid in accordance with GHMC 12.14.004.

RECOMMENDATIONS

I recommend that Council pass the Street Vacation Ordinance for a portion of Woodworth Avenue.

January 3, 2008

Mr. Dave Brereton
Community Development Director

RE: Vacation of a portion of street right-of-way

Dear Mr. Brereton,

This letter serves as an official request to vacate a 33-foot wide strip of street right-of-way abutting my property to the west of 9126 Prentice Avenue, Parcel number 9815000170, in the city of Gig Harbor. This right-of-way, along with my property, were created from the plat called the "Woodworth's Addition to the Gig Harbor City", as recorded in the Pierce County Auditor's office in Volume 5, page 66 book of maps. This portion of Woodworth Avenue, (formerly called Florence Street), has never been used as a street.

Under the City of Gig Harbor's Municipal Code 12.14.018.C, which sites the "vacations of streets and alleys subject to 1889-90 Laws of Washington, Chapter 19, section 32 (Non-user statue)", that portion of street right-of-way abutting my parcel has adversely become mine legally since this right-of-way was never used for its original purpose.

Therefore, I wish to request that the 33-foot wide strip of right-of-way abutting my property be vacated. See the attached drawings and legal descriptions depicting the original location the right-of-way and new revised legal description, as prepared by a licensed surveyor.

Thank you for your assistance,



Mark Stonestreet
6711 Ford Drive
Gig Harbor, WA 98335
253.973.0187

AFTER RECORDING RETURN TO:

The City of Gig Harbor
Attn: City Clerk
3510 Grandview St.
Gig Harbor, WA 98335

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

Document Title(s) (or transactions contained therein):

Ordinance No. 1142 - An Ordinance of the City Council of the City of Gig Harbor, Washington, vacating a portion of Woodworth Avenue.

Grantor(s) (Last name first, then first name and initials)

Stonestreet, Mark and Lynn

Grantee(s) (Last name first, then first name and initials)

City of Gig Harbor

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

Section 06 Township 21 Range 02 Quarter 11

Assessor's Property Tax Parcel or Account number: 981500-017-0

Reference number(s) of documents assigned or released: _____

ORDINANCE NO. 1142

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY GIG HARBOR, WASHINGTON, VACATING THE PORTION OF WOODWORTH AVENUE.

WHEREAS, Mark and Lynn Stonestreet petitioned the City to vacate a portion of Woodworth Avenue (originally platted as Florence Street), which abuts their property at 9126 Prentice Avenue, Gig Harbor, Washington, under the nonuser statute, and GHMC Section 12.14.018(C), and

WHEREAS, the portion of these streets subject to the vacation petition were platted in the Plat of the Woodworth's Addition, recorded in the records of Pierce County on August 22, 1890; and

WHEREAS, in 1890, these streets were in unincorporated Pierce County; and

WHEREAS, the portion of Woodworth Avenue subject to the vacation petition was not included in any street that was opened or improved within five years after the original platting in 1890; and

WHEREAS, under the nonuser statute, any county road which remained unopened for public use for five years after platting was vacated by lapse of time; and

WHEREAS, the City's street vacation procedures for streets subject to the nonuser statute merely eliminates the cloud on the title created by the plat, because the street has already vacated by lapse of time; and

WHEREAS, after receipt of the street vacation petition, the City Council passed Resolution No. 764 initiating the procedure for the vacation of the referenced street and setting a hearing date; and

WHEREAS, after the required public notice had been given, the City Council conducted a public hearing on the matter on September 22, 2008, and at the conclusion of such hearing determined that the aforementioned right-of-way vacated by operation of law and lapse of time; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ORDAINS
AS FOLLOWS:

Section 1. The City Council finds that the unopened portion of the platted Woodworth Avenue right-of-way described in the Stonestreet street vacation petition has vacated by lapse of time and operation of law under the Laws of 1889-90, Chapter 19 (Relating to County Roads), Section 32, p. 603, as Amended By Laws of 1909, Chapter 90, Section 1, p. 189, repealed in 1936 by the Washington State Aid Highway Act (Laws of 1936, Chapter 187, p. 760). The vacated portion of Woodworth Avenue, lying between Woodworth Avenue and Peacock Hill Avenue, abutting the west property frontage of Parcel No. 981500-017-0, is legally described in Exhibit A attached hereto and incorporated by this reference, and further, is shown on the map attached hereto as Exhibit B.

Section 2. The City has the authority to adopt a vacation ordinance to formally remove the cloud on the title of the referenced right-of-way area. This street vacation ordinance does not affect any existing rights, including any the public may have acquired in the right-of-way since the street was vacated by operation of law.

Section 3. The City Clerk is hereby directed to record a certified copy of this ordinance with the office of the Pierce County Auditor.

Section 4. This ordinance shall take effect five days after passage and publication as required by law.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this 13th day of October, 2008.

CITY OF GIG HARBOR

By: _____
Charles L. Hunter, Mayor

ATTEST/AUTHENTICATED:

By: _____
Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney:

By: _____
Carol A. Morris

FILED WITH THE CITY CLERK: 09/17/08
PASSED BY THE CITY COUNCIL: 10/13/08
PUBLISHED: 10/22/08
EFFECTIVE DATE: 12/27/08
ORDINANCE NO. 1143

EXHIBIT A



Kenneth P. Giske, President
327 39th Ave. Ct. N.W.
Gig Harbor, WA 98335-7814
Office & Fax 253-851-4554

PROPOSED

STREET VACATION FOR MARK STONESTREET

The East one half (33 feet) of formerly named Florence Street and presently named Woodworth Avenue, which is adjacent to the West boundary of Lot 4, Block 5 (60 feet) in the plat of Woodworth's addition to Gig Harbor City as recorded in the Pierce County Auditor's office in Volume 5, Page 66 of maps.

Being situated in a portion of the Northeast Quarter of the Northeast Quarter in Section 6, Township 21 North, and Range 2 East W.M. City of Gig Harbor, Pierce County, Washington.

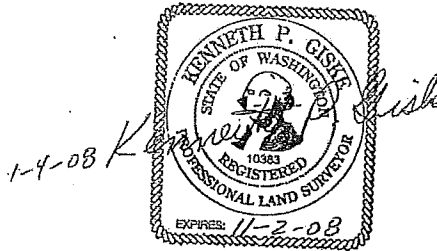
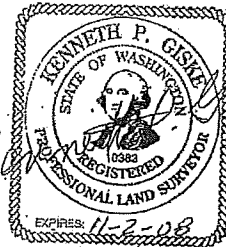
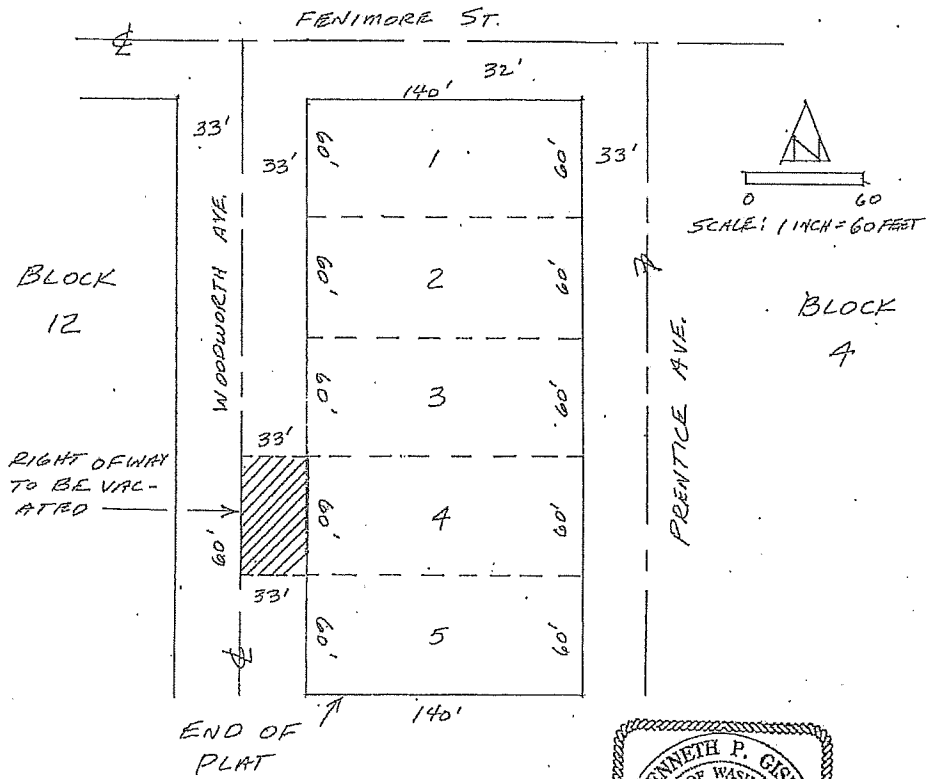
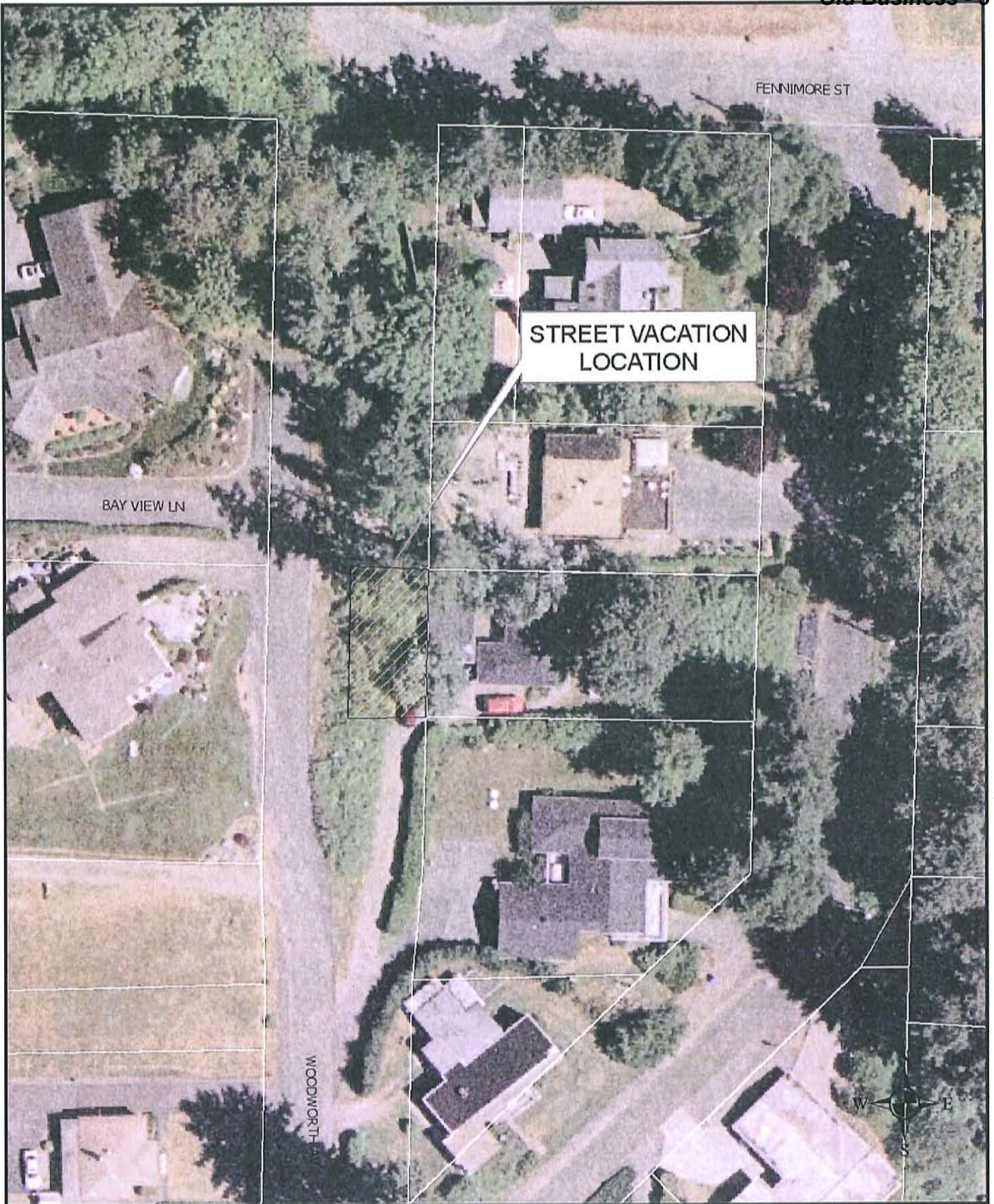


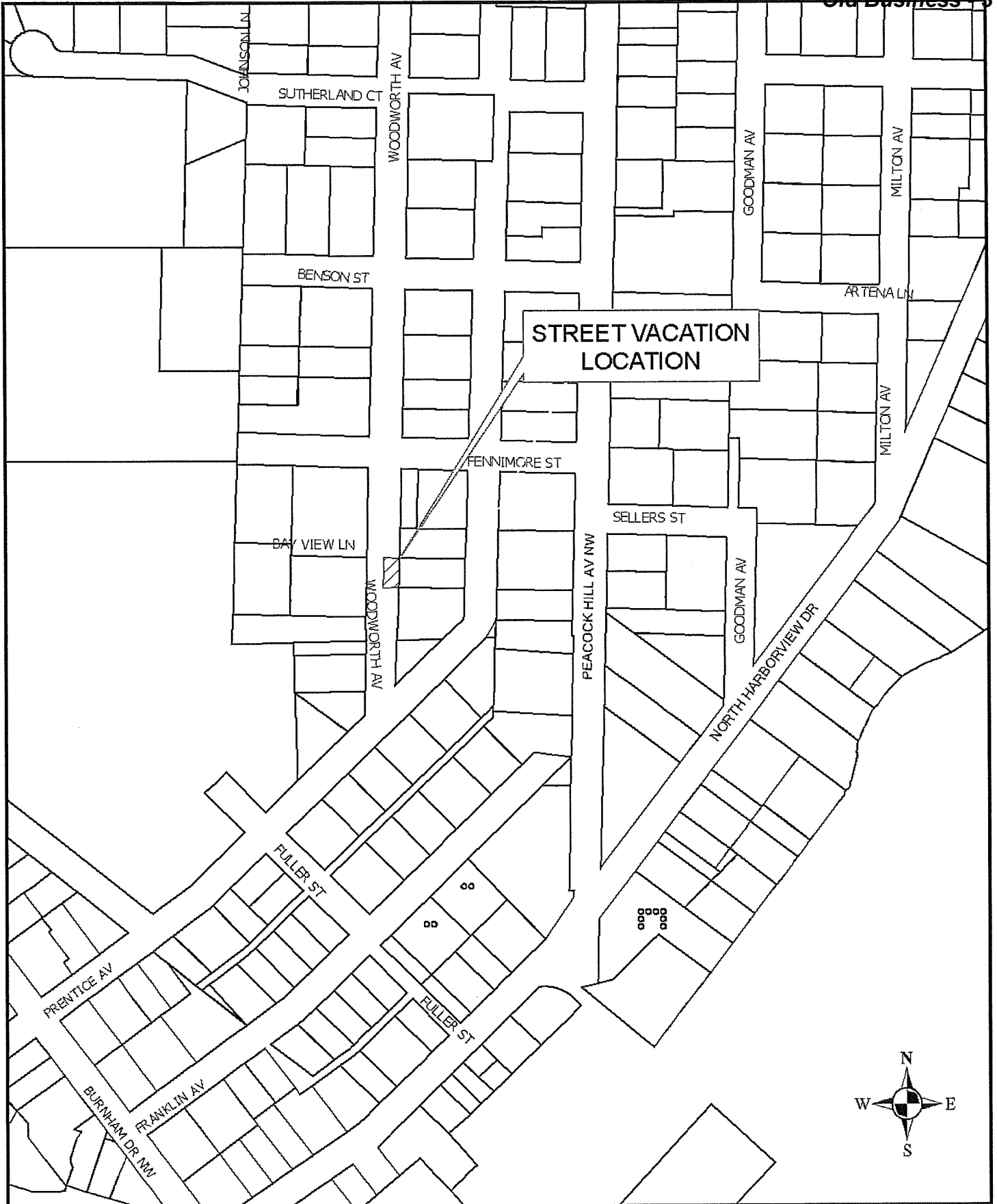
EXHIBIT B

BLOCK 5 IN PLAT OF WOODWORTH'S
ADDITION TO GIG HARBOR CITY,
IN A PORTION OF THE NE 1/4, NE 1/4
SECTION 6, T21N, R2E, W.M. CITY
OF GIG HARBOR, WASHINGTON





STONESTREET STREET VACATION - WOODWORTH AVENUE
LOCATION MAP



STONESTREET STREET VACATION - WOODWORTH AVENUE VICINITY MAP



VACATION OF STREETS AND ALLEYS

GIG HARBOR MUNICIPAL CODE CHAPTER 12.14

Name: STONE STREET

Date: AUG 6/08

Site address: 9126 PRENTICE

Phone Number: 253 973 0187

Parcel Number: 9815 000170

OWNER REQUIREMENTS

- The petition or resolution shall be filed with the city clerk, and the petition shall be signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated. [GHMC § 12.14.002 (c)].
- Nonrefundable payment to the City of a pre-hearing fee of \$150.00, to defray the administrative cost incurred in processing such vacation petitions [GHMC § 12.14.004 (a)].
- Legal description prepared by a Licensed Surveyor of area to be vacated [GHMC § 12.14.002 (b)].
- Location map showing surrounding street network, existing utilities, and adjacent properties labeled with ownership, site addresses, and parcel numbers.
- Site map prepared by a Licensed Surveyor showing the existing property and street vacation areas with dimensions (using bearings and distances), calculated square footage, two-foot contours, existing easements, wetlands and trails or other relevant information.
- At the time the City Council recommends granting a vacation petition, the petitioner shall deposit a \$500.00 appraisal fee with the Public Works Director [GHMC § 12.14.004 (b)]. Appraisal fee not required if qualified under the Non-user Statute [GHMC § 12.14.018 (c)].
- Compensation to the City for vacation if applicable [GHMC § 12.14.018]. Compensation not required if qualified under the Non-user Statute [GHMC § 12.14.018 (c)].

CITY REVIEW

WALLY HENDRICKSON

- Determine Non-user Statute application. *QUALIFIES*
- Verify all information provided in the petition, legal description, location map, and site map. *VERIFIED*
- Describe topography and vegetation (forested, cleared, etc.) using GIS aerial and digital camera photos of site. *DRIVEWAY ACCESS WITH SMALL TREES*
- Verify existing utilities or call One Call Locate to determine what utilities are on the property. *UTILITIES EXIST IN PAVED AREA OF WOODWORTH*
- Determine proposed vacation's consistency with City of Gig Harbor Comprehensive Plan (i.e. transportation element). *NO FUTURE USE OF THIS ROW ARE PROPOSED*
- Determine current extent of public use of area proposed to be vacated as a Prescriptive Easement. *PRIVATE DRIVEWAY*
- Determine possible retention for future public uses: Roadway, water, sewer, storm drainage, parking facilities, parks, view areas, and access to waterfront. *NONE*

Check List.

VACATION OF STREETS AND ALLEYS
GIG HARBOR MUNICIPAL CODE CHAPTER 12.14
PAGE 2

- Develop history of area proposed to be vacated including when area was purchased, dedicated, or otherwise acquired. WOODWORTH ADDITION PLATTED IN 1890
- Determine compensation for vacation as described in GHMC § 12.14.018 if applicable. N/A
- Verify payment of pre-hearing \$150 fee and \$500 appraisal fee. YES
- Prepare aerial vicinity map. EXHIBIT
- Prepare Council Resolution. EXHIBIT
- Post notices of Public Hearing. REQUIRED AFTER PASSAGE OF RESOLUTION
- Determine hearing date. SEPT 8
- Legal Review CAROL REVIEWED THE VACATIONS AND HAD NO WRITTEN COMMENTS

January 3, 2008

Mr. Dave Brereton
Community Development Director

RE: Vacation of a portion of street right-of-way

Dear Mr. Brereton,

This letter serves as an official request to vacate a 33-foot wide strip of street right-of-way abutting my property to the west of 9126 Prentice Avenue, Parcel number 9815000170, in the city of Gig Harbor. This right-of-way, along with my property, were created from the plat called the "Woodworth's Addition to the Gig Harbor City", as recorded in the Pierce County Auditor's office in Volume 5, page 66 book of maps. This portion of Woodworth Avenue, (formerly called Florence Street), has never been used as a street.

Under the City of Gig Harbor's Municipal Code 12.14.018.C, which sites the "vacations of streets and alleys subject to 1889-90 Laws of Washington, Chapter 19, section 32 (Non-user statue)", that portion of street right-of-way abutting my parcel has adversely become mine legally since this right-of-way was never used for its original purpose.

Therefore, I wish to request that the 33-foot wide strip of right-of-way abutting my property be vacated. See the attached drawings and legal descriptions depicting the original location the right-of-way and new revised legal description, as prepared by a licensed surveyor.

Thank you for your assistance,



Mark Stonestreet
6711 Ford Drive
Gig Harbor, WA 98335
253.973.0187



Subject: Second reading of Ordinance 1143 - Harborview Drive Street Vacation Request - City Of Gig Harbor

Proposed Council Action: Recommend that Council pass the Street Vacation Ordinance for a portion of Harborview Drive

Dept. Origin: Public Works Department

Prepared by: Willy Hendrickson Engineering Technician

For Agenda of: October 13, 2008

Exhibits: Ordinance with exhibits, Location map, Vicinity map, photo

Initial & Date

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

Handwritten signatures and dates: CCH 10/9/08, PWK 10/9/08, NA, and a signature.

Table with 4 columns: Expenditure Required, Amount Budgeted, Appropriation Required. Values are 0, 0, 0.

INTRODUCTION/BACKGROUND

The City created a Letter of Petition on July 14, 2008 to vacate a portion of Harborview Drive to the City in accordance with GHMC 12.14.002.

Specifically, The City of Gig Harbor request is for the vacation of the East twenty (20) feet of Harborview Drive Right-Of-Way currently held by the City and abutting 4214 Harborview Drive (parcel number 0221068009) also held by the City. This strip of land is required for setback purposes of the proposed new clarifier to be constructed on this parcel in conjunction with the Wastewater Treatment Plant Expansion Project.

City staff from the Planning, Building and Public Works Departments have reviewed and approved this request without comment. No City utility easements will be required for this request. At the August 11 Council meeting, staff presented this request to Council and Council recommended staff to proceed with the setting of the Public Hearing and First Reading of this Ordinance at the September 22 Council Meeting.

POLICY CONSIDERATIONS

Any policy considerations will be provided at the public hearing.

FISCAL CONSIDERATIONS

The processing fee has been paid in accordance with GHMC 12.14.004.

RECOMMENDATIONS

Recommend that Council pass the Street Vacation Ordinance for a portion of Harborview Drive.

AFTER RECORDING RETURN TO:

The City of Gig Harbor
Attn: City Clerk
3510 Grandview St.
Gig Harbor, WA 98335

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

Document Title(s) (or transactions contained therein):

ORDINANCE NO. 1143 OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, VACATING TO THE CITY A 20 FOOT PORTION OF HARBORVIEW DRIVE ABUTTING 4214 HARBORVIEW DRIVE AND IMMEDIATELY IN FRONT OF THE CITY'S WASTEWATER TREATMENT PLANT ALONG HARBORVIEW DRIVE, GIG HARBOR, WASHINGTON.

Grantor(s) (Last name first, then first name and initials)

City of Gig Harbor

Grantee(s) (Last name first, then first name and initials)

City of Gig Harbor

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

That portion of the Northwest Quarter of the Southeast Quarter Section 6, Township 21 North, Range 2 East of the W.M., in the City of Gig Harbor, Pierce County, Washington

Assessor's Property Tax Parcel or Account number: 0221068009

Reference number(s) of documents assigned or released: _____

ORDINANCE NO. 1143

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, VACATING TO THE CITY A 20 FOOT PORTION OF HARBORVIEW DRIVE ABUTTING 4214 HARBORVIEW DRIVE AND IMMEDIATELY IN FRONT OF THE CITY'S WASTEWATER TREATMENT PLANT ALONG HARBORVIEW DRIVE, GIG HARBOR, WASHINGTON.

WHEREAS, on July 14, 2008, the Gig Harbor City Council initiated a street vacation for a twenty foot strip of property located at 4214 Harborview Drive belonging to the City immediately in front of the Waste Water Treatment Plant in Gig Harbor which is legally described in Exhibit A, and shown on the map in Exhibit B, both of which are attached hereto and incorporated herein by this reference; and

WHEREAS, on August 11, 2008, the City Council passed Resolution No. 763, establishing a Public Hearing Date of September 22, 2008, as the date for a public hearing on this vacation petition.

WHEREAS, as a requirement for the Wastewater Treatment Plant Expansion Project (CSSP-0702) a 20 foot strip of land is required for setback purposes for the construction of a new clarifier; and

WHEREAS, after the required public notice had been given, the City Council conducted a public hearing on the matter on September 22, 2008, and at the conclusion of such hearing determined that the aforementioned right-of-way was necessary for the expansion of the Wastewater Treatment Plant; and

WHEREAS, after considering any and all such testimony, the Council decided to vacate the right-of-way as requested, now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,
HEREBY ORDAINS AS FOLLOWS:

Section 1. Adoption of Findings and Conclusions. Pursuant to Section 12.14.012 of the Gig Harbor Municipal Code, the Council makes the following findings and conclusions in support of vacation:

A. The portion of right of way that is proposed to be vacated was dedicated to the City from the State of Washington on September 30, 1934 as described in Deed Record No. 545 (Auditors File Number 1123987).

B. There are no public utilities located on the portion of right-of way that is proposed to be vacated.

C. The portion of right of way proposed to be vacated is not improved.

D. The proposed 20 foot portion of Harborview Drive to be vacated does not conflict with the City's Six Year Transportation Plan or the Transportation section (Chapter 11) of the City's Comprehensive Plan.

E. The portion of right of way proposed to be vacated does not abut any body of water.

Section 2. The City Clerk is hereby directed to record a certified copy of this ordinance with the office of the Pierce County Auditor.

Section 3. This ordinance shall take effect five days after passage and publication as required by law.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this 13th day of October, 2008.

CITY OF GIG HARBOR

By: _____
Charles L. Hunter, Mayor

ATTEST/AUTHENTICATED:

By: _____
Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney:

By: _____
Carol A. Morris

FILED WITH THE CITY CLERK: 09/17/08
PASSED BY THE CITY COUNCIL: 10/13/08
PUBLISHED: 10/22/08
EFFECTIVE DATE: 10/27/08
ORDINANCE NO. 1143

**EXHIBIT A
PROPERTY LEGAL DESCRIPTION**

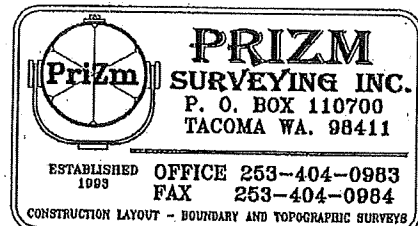
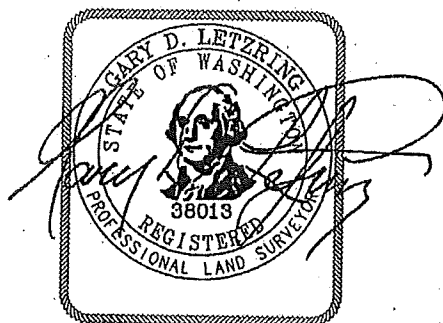
**EXHIBIT 'A'
VACATION LEGAL DESCRIPTION**

THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 21 NORTH, RANGE 2 EAST OF THE W.M., IN THE CITY OF GIG HARBOR, PIERCE COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

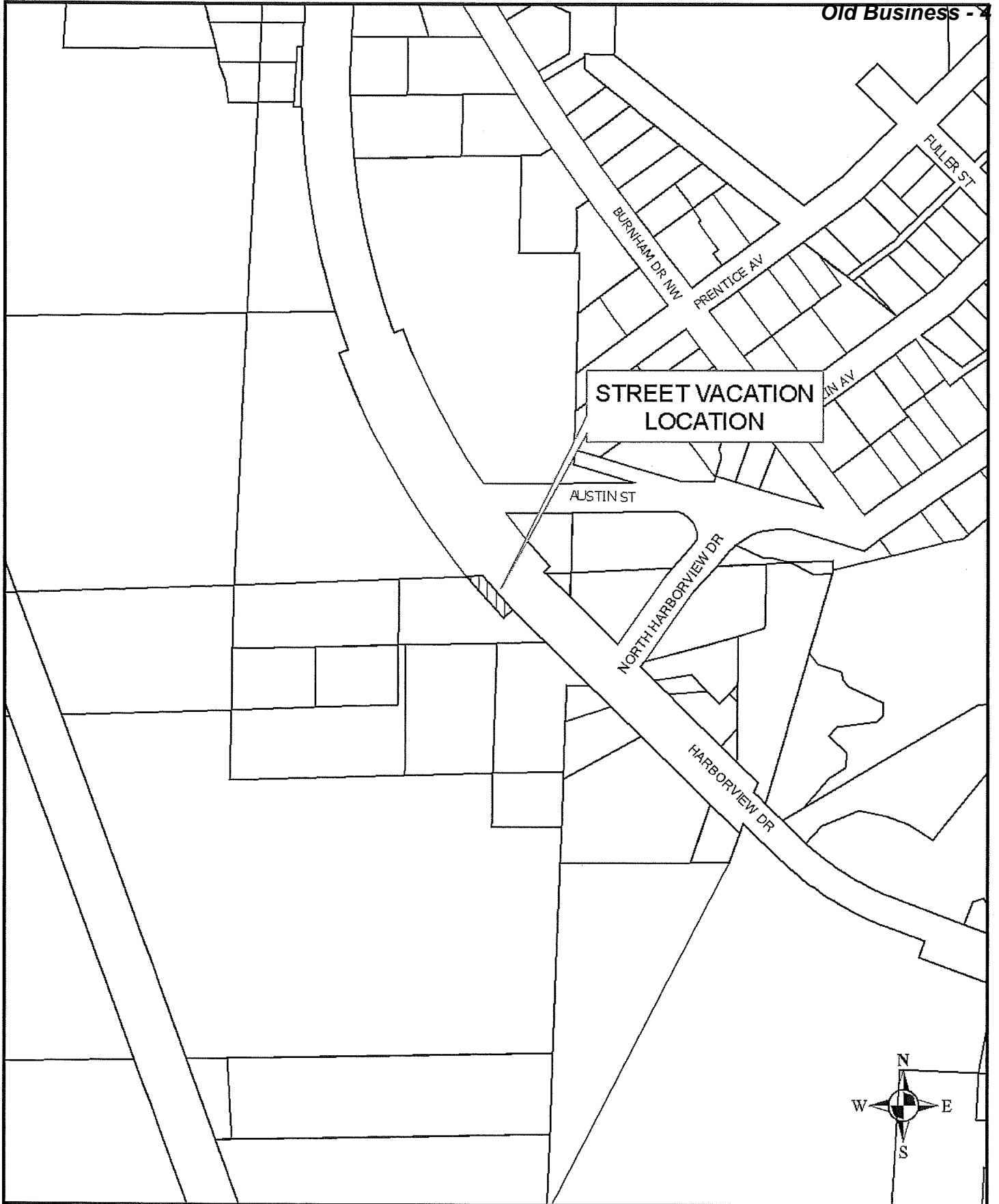
BEGINNING ON THE SOUTHWESTERLY LINE OF HARBORVIEW DRIVE AS SHOWN ON SHORT PLAT NO. 79-365, RECORDS OF THE PIERCE COUNTY AUDITOR, AT THE INTERSECTION OF THE NORTH LINE OF SAID LOT 1 AND ALSO BEING THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER: THENCE SOUTHEASTERLY ALONG SAID ROAD RIGHT OF WAY AS SHOWN ON SAID SHORT PLAT A DISTANCE OF 107 FEET, MORE OR LESS, TO A POINT OPPOSITE STATE ENGINEERS STATION 6100, AS SHOWN ON THE MAP OF DEFINITE LOCATION FILED IN THE OFFICE OF THE DIRECTOR OF HIGHWAYS AT OLYMPIA BEARING A DATE OF APPROVAL OF JULY 17, 1934; THENCE NORTHEASTERLY TOWARDS SAID ENGINEERS STATION 25 FEET; THENCE NORTHWESTERLY PARALLEL WITH AND 50 FEET SOUTHWESTERLY FROM SAID CENTER LINE OF SAID ROAD 82 FEET, MORE OR LESS TO THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE WEST ALONG SAID NORTH LINE 35 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION THEREOF DEEDED TO THE CITY OF GIG HARBOR BY QUIT CLAIM DEED RECORDED UNDER PIERCE COUNTY AUDITOR'S FEE NUMBER 200807070057.

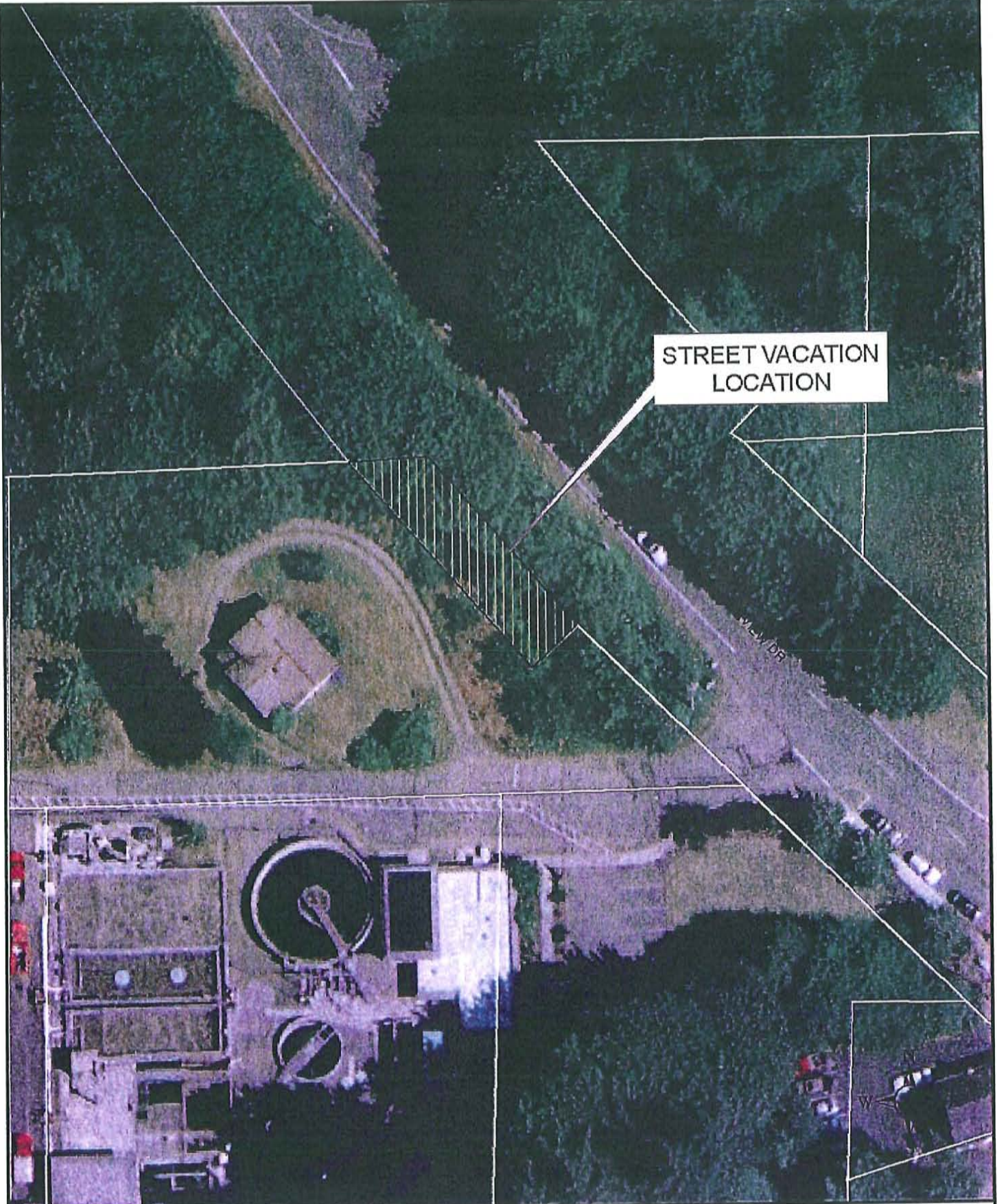
SITUATE IN THE CITY OF GIG HARBOR, COUNTY OF PIERCE, STATE OF WASHINGTON.



JOB NO. 2007-114



CITY OF GIG HARBOR - WWTP - STREET VACATION
VICINITY MAP



CITY OF GIG HARBOR - WWTP - STREET VACATION LOCATION MAP

LOCATION OF STREET VACCATION





**Subject: First Reading of Ordinance
Providing for the Issuance and Sale
of a Limited Tax General Obligation
Bond (LTGO) For the Purpose of
Financing Transportation and Park
Improvements**

Dept. Origin: Finance
Prepared by: David Rodenbach
For Agenda of: October 13, 2008
Exhibits: Ordinance and related attachments

Proposed Council Action:

Adopt the ordinance after second reading

Initial & Date

Concurred by Mayor: *CLH 10/9/08*
Approved by City Administrator: *PK 10/9/08*
Approved as to form by City Atty: *Cynthia Weed*
Approved by Finance Director: *DR 10/9/08*

Expenditure Required	\$300,000/yr (10 years) starting in 2009	Amount Budgeted	\$292,000 in '09	Appropriation Required	\$0
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INFORMATION / BACKGROUND

This is the first reading of an ordinance providing for the issuance and sale of a limited tax general obligation bond in the amount of \$2,405,000. Bank of America has offered to purchase this bond.

The bond will pay for the following projects:

Project	2008	2009
Harborview/Judson/Stanich/Uddenburg Improvements	\$ 400,000	\$ 400,000
50th Street Extension to 38th <i>Improvements AT VETERANS PARK</i>	360,000	
Cushman Trail Phase II: Kimball to Borgen	664,000	-
Veteran's Park	550,000	
Bond Issuance Expenses	31,000	
	<u>\$ 2,005,000</u>	<u>\$ 400,000</u>
Grand Total	\$ 2,405,000	

FISCAL CONSIDERATION

This is a bond with a 10-year maturity, and, as of October 8, has a fixed interest rate of 4.10% and annual debt service payments of approximately \$300,000.

The city's remaining Councilmanic (non-voted) debt capacity will be approximately \$20 million if this bond is issued.

RECOMMENDATION / MOTION

Move to: Pass ordinance authorizing a \$2,405,000 bond.

CITY OF GIG HARBOR, WASHINGTON
LIMITED TAX GENERAL OBLIGATION BOND, 2008

ORDINANCE NO. 1144

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, AUTHORIZING A LIMITED TAX GENERAL OBLIGATION BOND IN THE PRINCIPAL SUM OF \$2,405,000 FOR THE PURPOSE OF FINANCING TRANSPORTATION IMPROVEMENTS AND PARKS PROJECTS; PROVIDING THE TERMS OF THE BOND; AND PROVIDING FOR THE SALE OF THE BOND.

PASSED ON OCTOBER 27, 2008

PREPARED BY:

K&L PRESTON GATES ELLIS LLP
SEATTLE, WASHINGTON

CITY OF GIG HARBOR
ORDINANCE NO. 1144
TABLE OF CONTENTS*

	<u>Page</u>
Section 1. Definitions.....	3
Section 2. Authorization of the Bond and Bond Terms	5
Section 3. Registration	6
Section 4. Creation of Bond Fund and Provision for Tax Levy Payments	6
Section 5. Prepayment.....	7
Section 6. Form of the Bond	8
Section 7. Execution and Authentication of the Bond	10
Section 8. Lost or Stolen Bond	11
Section 9. Sale of the Bond	11
Section 10. Application of Proceeds of Bond	12
Section 11. Tax Covenants; Special Designation	12
Section 12. Information Provided to the Bank.....	14
Section 13. Severability.....	14
Section 14. General Authorization, Ratification of Prior Acts	14
Section 15. Effective Date.....	15

* This Table of Contents and the cover page are provided for convenience only and are not a part of this ordinance.

ORDINANCE NO. 1144

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, AUTHORIZING A LIMITED TAX GENERAL OBLIGATION BOND IN THE PRINCIPAL SUM OF #2,405,000 FOR THE PURPOSE OF FINANCING TRANSPORTATION IMPROVEMENTS AND PARKS PROJECTS; PROVIDING THE TERMS OF THE BOND; AND PROVIDING FOR THE SALE OF THE BOND.

WHEREAS, the City Council (the "Council") of the City of Gig Harbor, Washington (the "City"), has deemed it in the best interest of the City and its citizens that the City finance transportation improvements and parks projects (the "Project"); and

WHEREAS, the City has received an offer from Bank of America, N.A., to purchase a bond to provide financing for the Project, and the City has determined that it is in the best interest of the City to sell the bond to the Bank;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN as follows:

Section 1. Definitions. As used in this ordinance, the following words shall have the following meanings, unless a different meaning clearly appears from the context:

Act means Chapter 39.50 RCW.

Bank means Bank of America, N.A., or its corporate successor.

Bond means the City of Gig Harbor, Washington, Limited Tax General Obligation Bond, 2008 in the principal amount of \$2,405,000, issued pursuant to this ordinance.

Bond Fund means the City's "Limited Tax General Obligation Bond Redemption Fund," as described in Section 4 of this ordinance.

Bond Register means the registration books showing the name, address and tax identification number of each registered owner of the Bond, maintained pursuant to Section 149(a) of the Code.

Bond Registrar means the Treasurer who will register and authenticate the Bond, maintain the Bond Register, effect transfer of ownership of the Bond and pay principal of and interest on the Bond.

City means the City of Gig Harbor, Washington, a municipal corporation duly organized and existing under the laws of the State of Washington.

Code means the federal Internal Revenue Code of 1986, as amended from time to time, and the applicable regulations thereunder.

Council means the duly constituted City Council as the general legislative authority of the City.

Government Obligations means those obligations now or hereafter defined as such in chapter 39.53 RCW.

Private Person means any natural person engaged in a trade or business or any trust, estate, partnership, association, company or corporation.

Private Person Use means the use of property in a trade or business by a Private Person if such use is other than as a member of the general public. Private Person Use includes ownership of the property by the Private Person as well as other arrangements that transfer to the Private Person the actual or beneficial use of the property (such as a lease, management or incentive payment contract or other special arrangement) in such a manner as to set the Private Person apart from the general public. Use of property as a member of the general public includes attendance by the Private Person at municipal meetings or business rental of property to the

Private Person on a day-to-day basis if the rental paid by such Private Person is the same as the rental paid by any Private Person who desires to rent the property. Use of property by nonprofit community groups or community recreational groups is not treated as Private Person Use if such use is incidental to the governmental uses of property, the property is made available for such use by all such community groups on an equal basis and such community groups are charged only a *de minimis* fee to cover custodial expenses.

Project means transportation improvements and parks projects.

Treasurer means the Finance Director of the City or any successor to the functions of the Finance Director.

Section 2. Authorization of the Bond and Bond Terms. The City hereby authorizes the issuance and sale of the Bond in the aggregate principal amount of \$2,405,000 to provide financing for transportation improvements and parks projects (the “Project”) and to pay costs of issuance of the Bond. The Bond shall be a limited tax general obligation of the City; shall be designated the “City of Gig Harbor, Washington, Limited Tax General Obligation Bond, 2008”; shall be dated the date of its delivery to the Bank; shall be fully registered; shall be in the denomination of \$2,405,000; shall be numbered R-1 and shall bear interest at the rate of ____% per annum on the unpaid principal balance (computed on the basis of a 360-day year of twelve 30-day months), payable semiannually on each June 1 and December 1, commencing June 1, 2009 and shall mature on December 1, 2018. The principal of the Bond shall be repaid on December 1 of the following years and in the following principal installments:

<u>Year</u> <u>(December 1)</u>	<u>Principal Amount</u>
	195,000
	210,000
	215,000
	225,000
	235,000
	245,000
	255,000
	265,000
	275,000
	285,000

* Maturity

Section 3. Registration. The Treasurer shall act as authenticating agent, paying agent and registrar for the Bond (collectively, the “Bond Registrar”). Both principal of and interest on the Bond shall be payable in lawful money of the United States of America. Installments of the principal of and interest on the Bond shall be paid by check or draft of the City mailed on the date such interest is due or by electronic funds transfer made on the date such payment is due to the Bank. Upon final payment of all installments of principal and interest thereon, the Bond shall be submitted to the Bond Registrar for cancellation and surrender.

The Bond is not transferable except to a successor to the assets or business of the Bank or another financial institution.

Section 4. Bond Fund and Provision for Tax Levy Payments. There has previously been established a fund of the City known as the “Limited Tax General Obligation Bond Fund” (the “Bond Fund”) which is used to pay debt service on all outstanding limited tax general obligation bonds of the City, including the Bond.

On or prior to each date on which a payment of principal and/or interest is due on the Bond, the City will deposit an amount into the Bond Fund sufficient to pay such principal and/or interest.

The City hereby irrevocably covenants for as long as the Bond is outstanding and unpaid, that each year it will include in its budget and levy an *ad valorem* tax, within and as a part of the tax millage levy permitted to cities without a vote of the people, upon all the property within the City subject to taxation in an amount which will be sufficient, together with all other funds of the City which may legally be used and which the City may apply for such purposes, to pay the principal of and interest on the Bond as the same shall become due. Money in the Bond Fund not needed to pay the interest or principal next coming due may temporarily be deposited in such institutions or invested in such obligations as may be lawful for the investment of City money. Any interests or profit from the investment of such money shall be deposited in the Bond Fund.

The City hereby irrevocably pledges that a sufficient portion of each annual levy to be levied and collected by the City prior to the full payment of the principal of and interest on the Bond will be and is hereby irrevocably set aside, pledged and appropriated for the payment of the principal of and interest on the Bond. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of the taxes and for the prompt payment of the principal of and interest on the Bond as the same shall become due.

Section 5. Prepayment. Any prepayment of the Bond prior to its scheduled maturity may result in the imposition of a prepayment fee. The prepayment fee shall be in an amount sufficient to compensate the Bank for any loss expense incurred by it as a result of the prepayment, as documented by the Bank, including any loss arising from the liquidation or reemployment of funds obtained by it to maintain the funds used to purchase the Bond or from

fees payable to terminate the deposits from which such funds were obtained. For purposes of this paragraph, the Bank shall be deemed to have funded the purchase of the Bond by a matching deposit or other borrowing in the applicable interbank market, whether or not the purchase of the Bond was in fact so funded. In no case shall a prepayment fee apply if the Bank's internally derived cost of funds is higher on the date of prepayment than it was on the date the fixed rate of the Bond was set.

If there occurs (a) any nonpayment of principal, interest, fees or other amounts when due, or (b) any failure to maintain the tax-exempt status of the Bond, the Bank may increase the interest rate payable on the Bond by two (2.0) percentage points.

Section 6. Form of the Bond. The Bond shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. 1 \$2,405,000

STATE OF WASHINGTON
CITY OF GIG HARBOR
LIMITED TAX GENERAL OBLIGATION BOND, 2008

Registered Owner: Bank of America, N.A.

Interest Rate: ___%

Maturity Date: December 1, 2018

Principal Amount: Two Million Four Hundred Five Thousand and No/100 Dollars

The City of Gig Harbor, Washington, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (herein called the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, the Principal Amount above, plus interest at the Interest Rate set forth above, pursuant to Ordinance No. 1144 of the City (the "Bond Ordinance").

This bond shall bear interest at a rate of ___% per annum on the unpaid principal balance (computed on the basis of a 360-day year of twelve 30-day months), payable semiannually on each June 1 and December 1, commencing June 1, 2009 and shall mature on

December 1, 2018. The principal of this bond shall be repaid on December 1 of the following years and in the following amounts.

<u>Year</u> <u>(December 1)</u>	<u>Principal Amount</u>
	195000
	210,000
	215,000
	225,000
	235,000
	245,000
	255,000
	265,000
	275,000
	285,000

Both principal of and interest on this bond are payable in lawful money of the United States of America. Upon the final payment of principal and interest of this bond, the Bank shall present and surrender this bond to the Treasurer of the City, as “Registrar”. This bond may be prepaid at the option of the City, subject to a prepayment fee in accordance with the terms of the Bond Ordinance.

This bond is not transferable except in whole to a successor to the assets or business of the Bank or financial institution.

This bond is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington and Ordinances of the City, including the Bond Ordinance. This bond is issued pursuant to the Bond Ordinance for the purpose of providing the financing for transportation improvements and a parks project.

This bond is not a “private activity bond” as such term is defined in the Internal Revenue Code of 1986, as amended (the “Code”). The City has designated this bond as a “qualified tax-exempt obligation” under Section 265(b) of the Code for investment by financial institutions.

The City hereby irrevocably covenants and agrees with the owner of this bond that it will include in its annual budget and levy taxes annually, within and as a part of the tax levy permitted to cities without a vote of the electorate, upon all the property subject to taxation in amounts sufficient, together with all other money legally available therefor, to pay the principal of and interest on this bond as the same shall become due. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the Certificate of Authentication hereon shall have been manually signed by the Registrar.

It is hereby certified and declared that this bond is issued pursuant to and in strict compliance with the Constitution and laws of the State of Washington and ordinances of the City, that all acts, conditions and things required to be done precedent to and in the issuance of this bond have happened, been done and performed, and that this bond does not exceed any constitutional or statutory limitations.

IN WITNESS WHEREOF, the City of Gig Harbor, Washington, has caused this bond to be signed on behalf of the City with the manual signature of the Mayor, to be attested by the manual signature of the Clerk of the City, as of this ___ day of _____, 2008.

CITY OF GIG HARBOR, WASHINGTON

By _____
Mayor

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____

This bond is the Limited Tax General Obligation Bond, 2008 of the City dated _____, 2008 described in the within-mentioned Bond Ordinance.

FINANCE DIRECTOR OF THE CITY OF
GIG HARBOR, as Bond Registrar

By _____

Section 7. Execution and Authentication of the Bond. The Bond shall be signed on behalf of the City by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk.

The Bond shall not be valid or obligatory for any purpose or entitled to the benefits of this ordinance unless the Certificate of Authentication in the form recited above has been manually executed by the Bond Registrar. Such Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered hereunder and is entitled to the benefits of this ordinance.

In case either of the officers who shall have executed the Bond shall cease to be an officer or officers of the City before the Bond shall have been authenticated or delivered by the Bond Registrar, or issued by the City, the Bond may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. The Bond may also be signed and attested on behalf of the City by such persons as at the actual date of execution of the Bond shall be the proper officers of the City although at the original date of the Bond any such person shall not have been such officer of the City.

Section 8. Lost or Stolen Bond. If the Bond is lost, stolen or destroyed, the Bond Registrar may authenticate and deliver a new Bond of like amount, maturity and tenor to the Bank upon the Bank's paying the expenses and charges of the City in connection with preparation and authentication of the replacement Bond and upon its filing with the City satisfactory evidence that the Bond was actually lost, stolen or destroyed and of its ownership, and upon furnishing the City with satisfactory indemnity.

Section 9. Sale of the Bond. The Bond shall be sold to the Bank at a price of par in accordance with the terms of this ordinance. Upon delivery of the Bond, the City (a) shall pay Bank, an origination fee of 0.05% (\$1,202.50) of the par amount of the Bond, and shall pay the Bank's legal fees in the amount of \$600, which payments shall be made by check, wire transfer

or other mutually acceptable means to the respective payee. D.A. Davidson & Co. shall act as the structuring agent and shall arrange for the placement of the Bond with Bank of America, N.A. The City shall reimburse the Bank for payment of a structuring fee of \$12,025 to D.A. Davidson & Co. upon the closing and delivery of the Bond to the Bank.

The proper officials of the City are hereby authorized and directed to do all things necessary for the prompt execution and delivery of the Bond and the items required to be delivered to the Bank and for the proper use and application of the proceeds of sale thereof.

Section 10. Application of Proceeds of Bond. At the time of delivery of the Bond, the amount of \$1,660,000 shall be deposited into the City's Street Capital Fund (No. 102) and the amount of \$1,214,000 shall be deposited into the Park Development Fund (No. 109) and used to pay the costs of the Project and to pay costs of issuing the Bond.

Section 11. Tax Covenants; Special Designation.

(a) *Arbitrage Covenant.* The City hereby covenants that it will not make any use of the proceeds of sale of the Bond or any other funds of the City which may be deemed to be proceeds of such Bond pursuant to Section 148 of the Code which will cause the Bond to be an "arbitrage bond" within the meaning of said section and said Regulations. The City will comply with the requirements of Section 148 of the Code (or any successor provision thereof applicable to the Bond) and the applicable Regulations thereunder throughout the term of the Bond.

(b) *Private Person Use Limitation for Bond.* The City covenants that for as long as the Bond is outstanding, it will not permit:

(1) More than 10% of the Net Proceeds of the Bond to be used for any Private Person Use; and

(2) More than 10% of the principal or interest payments on the Bond in a Bond Year to be directly or indirectly: (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use.

The City further covenants that, if:

(3) More than five percent of the Net Proceeds of the Bond is to be used for any Private Person Use; and

(4) More than five percent of the principal or interest payments on the Bond in a Bond Year are (under the terms of this ordinance or any underlying arrangement) directly or indirectly: (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use, then, (i) any Private Person Use of the projects described in subsection (3) hereof or Private Person Use payments described in subsection (4) hereof that is in excess of the five percent limitations described in such subsections (3) or (4) will be for a Private Person Use that is related to the state or local governmental use of the projects financed or refinanced with Bond proceeds, and (ii) any Private Person Use will not exceed the amount of Net Proceeds of the Bond used for the state or local governmental use portion of the project to which the Private Person Use of such portion of such projects relates. The City further covenants that it will comply with any limitations on the use of the Project by other than state and local governmental users that are necessary, in the opinion of its bond counsel, to preserve the tax exemption of the interest on the Bond. The covenants of

this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Bond.

(c) *Designation under Section 265(b)(3) of the Code.* The Bond is hereby designated by the City as a “qualified tax-exempt obligation” under Section 265(b)(3) of the Code for investment by financial institutions. The City does not anticipate issuing more than \$10,000,000 in qualified tax-exempt obligations during 2008.

Section 12. Information Provided to the Bank. With respect to the Bond, the City is exempt from ongoing disclosure requirements of the Rule. While the Bond is outstanding, the City will provide the following information to the Bank:

(a) The City’s annual budget, within 30 days of commencement of each new fiscal year;

(b) Internally-prepared unaudited annual financial statements for the City, within seven months of the end of each fiscal year;

(c) The City’s annual State Audit Report within 10 days of receipt from the State Auditor; and

(d) Such other financial information as may be reasonably requested by the Bank from time to time.

Section 13. Severability. If any provision in this ordinance is declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bond.

Section 14. General Authorization; Ratification of Prior Acts. The Treasurer and other appropriate officers of the City are authorized to take any actions and to execute documents as in

their judgment may be necessary or desirable in order to carry out the terms of, and complete the transactions contemplated by, this ordinance. All acts taken pursuant to the authority of this ordinance but prior to its effective date are hereby ratified.

Section 15. Effective Date. This ordinance shall take effect five days after its passage and publication in the manner provided by law.

PASSED by the City Council at a regular open public meeting on October 27, 2008.

CITY OF GIG HARBOR, WASHINGTON

Mayor

ATTEST:

City Clerk

First Reading: October 13, 2008

Date Adopted: October 27, 2008

Date of Publication: _____, 2008

Effective Date: _____, 2008

CERTIFICATE

I, the undersigned, City Clerk of the City of Gig Harbor, Washington (the "City") and keep of the records of the City Council (the "Council"), DO HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance No. 1144 of the Council (the "Ordinance"), duly passed at a regular meeting thereof held on the 27th day of October, 2008.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of the Ordinance have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of October, 2008.

City Clerk



Subject: Resolution Authorizing an Interfund Loan from Civic Center Debt Reserve Fund, No. 110 to the Park development Fund, No. 109 in the Amount of \$1,040,098.

Proposed Council Action: Pass this resolution

Dept. Origin: Finance
Prepared by: David Rodenbach
For Agenda of: October 13, 2008
Exhibits:

Initial & Date

Concurred by Mayor: CLH 10/8/08
Approved by City Administrator: PAK 10/8/08
Approved as to form by City Atty:
Approved by Finance Director: DF 10/8/08
Approved by Department Head:

Table with 4 columns: Expenditure Required, Amount Budgeted, Appropriation Required, and a monetary value of \$1,040,098.

INFORMATION / BACKGROUND

This is a resolution authorizing an interfund loan from the Civic Center Debt Reserve Fund to the Park Development Fund. The amount of the loan is \$1,040,098 and the purpose of the loan is to pay for Eddon Boat Sediment Remediation contract costs.

The city has grant funding in the amount of \$618,000 for this project and the seller, Harbor Cove Group is under contract to pay the balance of remediation costs that are not funded by grants.

FISCAL CONSIDERATION

The Civic Center Debt reserve Fund has \$3,902,159 available for investment as of September 30, 2008.

In order to retire all Civic Center bonds at the earliest possible date, a balance of \$6,520,000 is required in this fund as of June 1, 2011.

BOARD OR COMMITTEE RECOMMENDATION

RECOMMENDATION / MOTION

Move to: Pass this resolution.

RESOLUTION NO.

A RESOLUTION OF THE CITY OF GIG HARBOR, RELATING TO THE CITY COUNCIL'S APPROVAL OF A TEMPORARY, INTERFUND LOAN, FROM THE CIVIC CENTER DEBT RESERVE FUND TO THE PARK DEVELOPMENT FUND, ESTABLISHING THE TERMS OF SUCH TEMPORARY LOAN, FOR THE PURPOSE OF PAYING FOR EDDON BOAT REMEDIATION EXPENDITURES

WHEREAS, the Washington State Auditor's Office's BARS Manual allows the City to make interfund loans under certain limited circumstances; and

WHEREAS, the contract for the Eddon Boat Remediation project is one million forty thousand and ninety eight dollars (\$1,040,098); and

WHEREAS, the City has received grants to cover a portion of the costs of the remediation project; and

WHEREAS, the grants may only be used to reimburse city expenditures for the remediation project; and

WHEREAS, the Civic Center Debt Reserve Fund, No. 110 has funds in excess of current needs and which are legally available for investment; and

WHEREAS, the City Council plans to allow an interfund loan between the Civic Center Debt Reserve fund and the Park Development fund, which will be retired from reimbursements from the grants, but only up to one million forty thousand and ninety eight dollars (\$1,040,098); Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. The Gig Harbor City Council does hereby approve a temporary interfund loan from the Civic Center Debt Reserve Fund, No. 110 to the Park Development Fund, No. 109. The terms of this loan are as follows:

1. The amount shall be \$1,040,098.
2. The term shall be one year from the date of passage of this Resolution.
3. The interest shall be 3.35% per annum, which shall be paid to the Civic Center Debt Reserve Fund No. 110.
4. Repayment of loan principal shall be not later October 12, 2009, which is one year from the date of this loan.

Section 2. The City Council hereby finds that the Park Development Fund anticipates sufficient revenues in order to make the specified principal and interest payments because the city was awarded grants totaling \$618,000 and the seller of Eddon Boat, Harbor Cove Group is contractually obligated to provide the balance.

Section 3. The City Council hereby directs the Finance Director to maintain appropriate accounting records to reflect the balances of loans in every fund affected by such transactions.

Effective Date. This resolution shall take effect immediately upon passage.

RESOLVED by the City Council this 13th day of October, 2008.

APPROVED:

MAYOR, CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

BY: _____

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
RESOLUTION NO.

New Business Item 5

Harborview / Pioneer Update

Power Point Presentation at Meeting