

# **Gig Harbor City Council Meeting**

**June 28, 2004  
7:00 p.m.**



**AGENDA FOR  
GIG HARBOR CITY COUNCIL MEETING  
June 28, 2004 - 7:00 p.m.**

**CALL TO ORDER:**

**PLEDGE OF ALLEGIANCE:**

**PUBLIC HEARING:** Continuation of Moratorium on Water Hook-ups.

**CONSENT AGENDA:**

*These consent agenda items are considered routine and may be adopted with one motion as per Gig Harbor Ordinance No. 799.*

1. Approval of the Minutes of City Council Meeting of June 14, 2004, Special Council Meeting 6/1/04, Building Size Worksession 6/1/04, and Building Size Worksession 6/7/04.
2. Correspondence / Proclamations: a) Pierce County - Homeland Security  
b) MultiCare – Certificate of Need Process c) Peninsula Neighborhood Assoc.
3. Civic Center Project Acceptance – Porter Brothers.
4. Resolution 625 – Declaration of Surplus Property.
5. Resolution 626 – Revision to Front Street Vacation.
6. Liquor License Application: Brix 25 Restaurant.
7. Approval of Payment of Bills for June 28, 2004:  
Checks #44354 through #44471 in the amount of \$273,094.15.

**OLD BUSINESS:**

1. Rotary Pavilion Centennial Project.
2. Continuation of Moratorium on Water Hook-ups.
3. Second Reading of Ordinance - Northwest Employment Center Annexation.

**NEW BUSINESS:**

1. First Reading of Ordinance – School Impact Fees.
2. Interlocal Agreement with Peninsula School District.
3. Contract Authorization – Skansie Avenue Pedestrian Street Improvement Project.

**STAFF REPORT:**

**PUBLIC COMMENT:**

**COUNCIL COMMENTS / MAYOR'S REPORT:**

**ANNOUNCEMENT OF OTHER MEETINGS:**

**EXECUTIVE SESSION:** For the purpose of discussing pending and potential litigation per RCW 42.30.110(1)(i).

**ADJOURN:**

## GIG HARBOR CITY COUNCIL MEETING OF JUNE 14, 2004

**PRESENT:** Councilmembers Ekberg, Young, Franich, Conan, Dick, Picinich, Ruffo and Mayor Wilbert.

**CALL TO ORDER:** 7:03 p.m.

### **PLEDGE OF ALLEGIANCE:**

**20-YEAR AWARD CEREMONY:** David Brereton, Operations Manager, introduced Marco Malich and gave a history of Marco's career with the city. Mr. Brereton presented the 20-Year Service pin.

Mayor Wilbert added that Marco symbolizes the feeling that the employees have for working for the city; few leave employment.

**PUBLIC HEARING:** Increase in Traffic Impact Fees. Mayor Wilbert opened the public hearing at 7:06 p.m. John Vodopich, Community Development Director, gave an introduction to this effort to increase the per vehicle rate trip charge in the traffic impact fees from the existing \$108.22 to \$214.09 per trip. He explained that Steve Misiurak, City Engineer, was present to answer questions.

Councilmember Ruffo asked for the rationale behind raising the fees. Mr. Misiurak asked Council to refer to the Exhibit 'C' in their packet which shows the list of growth-related projects and the breakdown of the anticipated funding options. He explained that the same methodology was used in 1999 to formulate the per trip fee.

Councilmember Young asked for clarification on why no city participation funds are listed for some projects. Mr. Misiurak explained that these projects are anticipated to be 100% growth related. He stressed that all the project costs for calculating the impact fee are based upon the growth related portion of the project, and that all new road construction would be considered growth-related.

Theo Giddeon – representing the Master Builders Association – PO Box 1913, Tacoma. Mr. Giddeon explained that he was present to reiterate the points in the letter sent to Councilmembers from MBA. He said that MBA want to ensure that they have a proportionate share in each project considering that there should be a mix of funds for traffic projects according to state law. He voiced concern regarding the projects that are delineated as 100% development driven, but acknowledged that the city has the right to collect impact fees.

Steve Luengen – 8913 North Harborview Drive. Mr. Luengen said that doubling the impact fees is too much, and that the city couldn't expect new development to pay for all new roads, especially when some developments wouldn't benefit from a number of the projects on the list. He addressed promoting small business, explaining that the proposed schedule of impact fees would hurt small retail under 10,000 s.f. He said that

the schedule is backwards, where large buildings pay a less proportionate share. He asked if the fees are in line with other cities. Steve Misiurak read a list of impact fees from several other jurisdictions, and explained that the only comparison that was done is for single family residence.

Councilmember Franich asked if the other jurisdictions use the ITE method to calculation fees. Mr. Misiurak responded that most likely, they use the same methodology. He pointed out that what is being recommended is 60% of the unfunded need. 100% of the outstanding need would put the single-family residence rate at \$1,770.00.

Councilmember Young asked if growth related taxes such as sales tax gain and the increase in property tax have been removed from the calculations. Mr. Misiurak responded that the gas tax had been figured into the calculation. Councilmember Young then asked for clarification on the zones used by Puyallup. Carol Morris explained that under GMA, Impact Fees can be assigned to established service areas. Currently, the city is under one service area, but the Council could determine an area more prone to growth related impacts and assign a fee to reflect that growth. Councilmember Dick explained that when the fees were originally adopted, the small size of the city led to a decision to not split the city into separate zones. Councilmembers discussed the issue of zones and how the fees are calculated.

Councilmember Ruffo asked what the impact would be if the fees were not raised. Mr. Misiurak explained that the ability to construct future roadway projects would be limited. As it is now, without state and federal grant funding and the impact fees, the projects could not be built.

John Hogan – 4709 Point Fosdick Drive. Mr. Hogan said that he agreed that it appears that the larger buildings get a reward and that the burden falls on the small business owner. He stressed that the new fee structure is discriminatory against the Westside and even more so for the downtown since most of the buildings are less than 10,000 s.f. He asked Council to take careful consideration before implementing the increase.

There were no further comments and the public hearing closed at 7:30 p.m.

**CONSENT AGENDA:**

*These consent agenda items are considered routine and may be adopted with one motion as per Gig Harbor Ordinance No. 799.*

1. Approval of the Minutes of City Council Meeting of May 24, 2004.
2. Correspondence: a) Mayors for Wilderness b) Senator Maria Cantwell.
3. Reappointment to the Planning Commission.
4. Approval of Payment of Bills for June 14, 2004:  
Checks #44207 through #44353 in the amount of \$273,171.74.
5. Approval of Payroll for the month of May:  
Checks #3225 through #3266 and direct deposit entries in the amount of \$241,463.72.

**MOTION:** Move to approve the consent agenda as presented.  
Ruffo / Picinich – unanimously approved.

**OLD BUSINESS:**

1. Rotary Centennial Pavilion Project. Mark Hoppen, City Administrator, gave a history of the effort by the Rotary Clubs of Gig Harbor to build a pavilion on the Skansie Brother's Park Property. He explained that a 2004 Budget Objective included a commitment to work with the Rotary Clubs to build a covered community shelter in conjunction with the landscape improvements. He introduced Rotary members David Freeman and Gary Glein to present the project for consideration by Council.

Gary Glein – 3106 Horsehead Bay. Mr. Glein described the improvements that Rotary has made over the years to the Jerisich Park site that include the flag pole and the public restrooms. He then gave an overview of the effort to construct a pavilion to meet the needs of the citizens and to celebrate the centennial of the Rotary Club. Mr. Glein said that the intent is to fully donate the structure to the city, at a cost to the Rotary of approximately \$60,000 in labor and materials. There have been several proposals submitted in an attempt to meet the requirements of the city and the needs expressed by the citizens. He said that they have put a great deal of effort into the project and hope to move forward and have the pavilion completed prior to the Holiday Tree Lighting ceremony. He then introduced David Freeman to present the proposal.

David Freeman, Snodgrass Freeman & Associates Architects, 3019 Judson Street. Mr. Freeman used a model to illustrate the proposed pavilion and the changes that have occurred. He addressed the reduction in size of the structure and placement of the pavilion on the property to meet citizen concerns. He explained that the Rotary Clubs are asking for a site adjustment to place the structure further away from the Head of the Harbor to enhance pedestrian movement, while still being respectful of the Skansie House. Mr. Freeman answered Council's questions about the design changes and placement of the structure.

Linda Gair – 9301 North Harborview Drive. Ms. Gair voiced support of the efforts by the Rotary Clubs, but said she was surprised that the project had progressed through the Design Review process without the input of the members of the Ad Hoc Committee regarding size and placement. She stressed that the most important part of this park is the open space and view to the water. She said that the committee discussed using the garage site for the pavilion, and utilizing some of the bricks from the garage to complete the structure, adding that the scaled-down version would fit well at this location. She then discussed the size of the original proposed pavilion, how it would take up open space and obstruct view of the net-shed and water. She praised the Rotary for listening to the concerns and making changes. She recommended placing balloons on the site to show the structure placement and how it relates to the property and view corridor. She finalized by suggested that everyone work together so that the park will remain what everyone wishes it to be.

Kae Paterson – 7311 Stinson Avenue. Ms. Paterson voiced her appreciation for what the Rotary Clubs are doing, but shared her concern for the location of the project. She said that she served on the Planning Commission when they wrote the Design Review Manual, on the Skansie Park Ad Hoc Committee, and she attended the Grulich meetings. She said that she has a feel for what the town wants, and clearly remembers the committee recommendation to keep the grassy area intact. She said that the proposed pavilion crowds the property, which is already cluttered, adding that this park needs an overall plan. She then proposed a pavilion with a similar roofline to the one on Owen's Beach to be located where the garage is now.

Jack Bujacich – 3607 Ross Avenue. Mr. Bujacich stressed that the taxpayers want to retain the open area and view. He said that he appreciates the Rotary Clubs' efforts, but he was shocked at the first proposal. Even the scaled-down version would take up the view and open space. He recommended the garage site for an open structure, adding that he is opposed to placing the structure where it is currently proposed.

Rosanne Sachson – 3502 Harborview Drive. Ms. Sachson talked about how people are using the site to play Frisbee and fly kites, adding that placing a structure at the proposed site would eliminate these uses of the wide open space. She said that the effort by the Rotary Clubs is wonderful, but the structure needs to be placed by the garage.

Lita Dawn Stanton – 111 Raft Island. Ms. Stanton stated three goals of the Skansie Park Ad Hoc Committee; to preserve the authentic historic site, to consider a covered community structure, specifically identified as an adaptive reuse of the garage; and finally, to build no new permanent structures. She talked about the state grant that assured the preservation of the grassy area in perpetuity as an open recreational space, and then continued to discuss the placement of the pavilion. She said that the only issue that the Design Review Board was allowed to comment on was the roof pitch. Ms. Stanton explained that the recommendation from Gene Grulich to place the structure further away from the Skansie House was premature and that the conditions of the site should drive the decision. She agreed that the decision is tough because everyone wants to honor the Rotary's Centennial event. She made several suggestions for the structure including placement, materials and size to keep the structure "familiar".

Chuck Hunter – 8829 Franklin Street. Mr. Hunter said that the Rotary's offer is generous, and that he can sympathize with their frustration. He recommended looking at the existing open space at the park and view from up Rosedale, which he described as the most picturesque view of the water, the boats, and the netshed. Adding a structure near the restrooms adds more clutter. He said that the best location for the pavilion is the garage site. He explained that by replicating the roofline of the existing garage and using some of the materials, it would be a nice structure. He then suggested building a big pavilion at the Donkey Creek Park. Finally, he asked Council to take more time to avoid a serious mistake.

Kit Kuhn – 3104 Shyleen. Mr. Kuhn said that the Rotary Pavilion is a great idea, but the location is a problem. He recommended using the garage location, as it is space already taken rather than taking up unused space.

Joe Davis – 3312 Harborview Drive. Mr. Davis, also a Rotarian, explained that he did not care whether or not a pavilion was built on this site, but he stressed that if it is not, that no trees be planted there either. He said that trees are taking away more view than any structures.

Scott Wagner – PO Box 492. Mr. Wagner said that the intent in the Design Manual is to promote the Craftsman style on construction to retain the 1910-1920 structures. He asked why the restrooms were being used to drive the design for the most beautiful piece of property in the city. He asked that any structure replicate the Skansie House.

Dick Allen – 30603 Ross Avenue. Mr. Allen pointed out that this is a very significant piece of property, and said that he was surprised that the city was contemplating improvements to this site when there is no plan in place. He asked that piecemeal improvements not be made, and that a total plan be developed for this park.

Mr. Glein spoke, pointing out that the Rotary began by designing a structure for the garage location. He added that they listened to many comments, and will continue to do so to remain flexible. He said that they would like to get moving to be able to get the project complete before the colder weather comes. He added that the Rotary Centennial is in February of 2005.

Council held a lengthy discussion about the placement and the design of the proposed pavilion. Mark Hoppen read the recommendation from the historic structures report which states that it would be inappropriate to add other structures near the Skansie House or the Netshed.

Due to the concerns, Councilmember Ruffo suggested that representatives of the Rotary and the Ad Hoc Committee meet and come to an agreement to be presented to Council. Carol Morris explained that because the city is the applicant in the project, a motion would also need to be made to withdraw the application from the process.

**MOTION:** Move to appoint Chuck Hunter and Gary Glein, and have them to choose four people each to meet and explore what the city is to do with the pavilion in regards to space, location, and design. The committee should have a prepared report to present to Council at the meeting of June 28<sup>th</sup>.  
Ruffo / Dick – unanimously approved.

**MOTION:** Move to withdraw the pavilion project application.  
Ekberg / Ruffo – unanimously approved.

2. Second Reading of Ordinance – Regulating Beekeeping. Steve Osguthorpe, Planning/Building Manager, presented this ordinance that would regulate beekeeping. He explained that based on the comments received at the last reading, the ordinance has been revised and gave a brief overview of the amendments. He said that the SEPA process has been completed with no appeals and then recommended that the ordinance be adopted as presented.

Marilyn Owel – 6844 Main Sail Lane. Ms. Owel spoke on behalf of Mr. & Mrs. Ewert in support of the ordinance. She explained their concern over having active hives in close proximity to their home and how it increases the threat to Mr. Ewert's life. She referred to the letter from the Bowles in the May 26<sup>th</sup> edition of the Gateway, suggesting that this ordinance is based solely on the statements of one couple. She gave a brief overview of the incident's leading to the Ewert's concerns and encouraged Council to pass the ordinance.

Ericka Bowles – 3612 44<sup>th</sup> St. NW. Ms. Bowles voiced her opposition to the ordinance. She explained that they didn't know about the neighbor's concerns until the ordinance came about, and gave shared stories of how the neighbors had photographed the Bowles with the swarms and accepted honey from them. She asked how the city would verify a complaint about bees and the ownership of the bees in question. She asked what the evidence of a complaint would entail, and how that evidence would be substantiated.

Steve Osguthorpe responded that the ordinance would not require the Council to determine which bee was the culprit; the ordinance would simply address the activity of beekeeping. If an individual has a doctor's evaluation showing a life-threatening situation, it would be cause enough to withdraw the beekeeping privilege.

Ms. Bowles asked if a complaint could be made for an activity that occurred over three years ago. Council responded that a complaint would have to be for a current nuisance issue. Ms. Bowles then asked if the complainant were to move, if the beekeeping privileges would be reinstated. Council responded that it would become an administrative issue at that point.

Howard Bowles – 3612 44<sup>th</sup> St. NW. Mr. Bowles voiced his concern with the process to bring this ordinance to Council and for proposed language in the ordinance. He said that the language in 6.10.040 paragraph 'B' is too broad and the ordinance leaves the beekeeper at the whim of Council and of the neighbor. Mr. Bowles showed a picture given to him by the Ewerts, taken from their porch while he was working with the swarm of bees. He addressed the language in 6.10.070 (b), asking why the word 'potential' had been inserted, which he characterized as a broadening and lessening of the standards, and asked that this be removed. He said that this is unfortunate that this has come to Council, and gave a history of his contact with the city staff and how this has progressed. He stressed that he has been fair and honest in his dealings with the city. He agreed that the city needs an ordinance but not one this restrictive.



Councilmembers asked Mr. Bowles several questions about his beekeeping. He explained that he has not had active hives due to a busy work schedule, but would like to retain the privilege for the future. Councilmember Dick explained that the purpose of the ordinance is to remedy any future problems, adding that he agreed with concerns about the word "perceived" in 6.10.040. The enforcement process was discussed.

**MOTION:** Move to adopt Ordinance 961, amending section 6.10.040(B), by deleting the word "perceived" so that it reads "...constitutes an actual or potential menace to public health or safety..."  
Dick / Picinich – unanimously approved.

Councilmember Ruffo commented on how sad it is that nuisance ordinances get passed because neighbors cannot resolve their issues.

3. Second Reading of Ordinance – Traffic Impact Fee Update. John Vodopich explained that this was the subject of the public hearing earlier in the meeting and that staff is recommending adoption of the rate increase from \$108.24 per vehicle trip to \$214.09.

**MOTION:** Move to adopt Ordinance 962.  
Dick / Franich -

Councilmember Young said that this increase would hurt the small developer and he is opposed to the increase. Councilmember Ruffo said he also was concerned with the impact on small business developers, and doubling the fee doesn't make sense. He recommended that more homework be done before a decision is made.

Councilmember Picinich agreed that the item should be tabled for more consideration.

Councilmember Franich agreed that it appears to be inequitable to the small business developer. Steve Misiurak gave an explanation of the rate schedule and how it is based on the economy of scale. Councilmembers and staff discussed the calculation formula and its economic effects.

Councilmember Dick called for the question.

**MOTION:** Move to adopt Ordinance 962.  
Dick / Franich – Councilmembers Dick and Franich voted in favor.  
Councilmembers Ekberg, Young, Conan, Picinich and Ruffo voted against. The motion failed.

Councilmembers agreed that this issue needs further consideration. Mr. Hoppen clarified the need to return with information from someone who participated in the original methodology of the fee structure. Council directed staff to do so and to return with a report at the first meeting in July.

**NEW BUSINESS:**

1. First Reading of Ordinance – Northwest Employment Center Annexation.  
John Vodopich, Community Development Director, presented this ordinance accepting the annexation of the Northwest Employment Center. He said that this matter was referred to the Boundary Review Board on March 22<sup>nd</sup> and passed the 45 day review period without comment. This will return for a second reading at the next meeting.

**STAFF REPORTS:**

GHPD – April and May Stats. No verbal report given.

**PUBLIC COMMENT:** None.

**COUNCIL COMMENTS / MAYOR'S REPORT:**

The Maritime Gig & Future Plans for Skansie Brothers / Jerisich Dock Parks. The Mayor asked Council to review her report as these are the comments she received during and after the Maritime Gig in regards to the parks.

**ANNOUNCEMENT OF OTHER MEETINGS:**

Council Worksession on Waterfront Zones: Monday, June 21, 2004, 6:00 p.m.

**MOTION:** Move to adjourn at 9:57 p.m.  
Franich / Ruffo - unanimously approved.

CD recorder utilized:  
Disc #1 Tracks 1 – 18.  
Disc #2 Tracks 1 – 11.  
Disc #3 Tracks 1 - 4

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Gretchen Wilbert, Mayor

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Molly Towslee, City Clerk

**GIG HARBOR CITY COUNCIL  
SPECIAL MEETING  
ENTERING INTO A COST REIMBURSEMENT AGREEMENT  
WITH THE DEPARTMENT OF ECOLOGY**

**June 1, 2004 6:00 p.m. – Conference Rooms A/B**

**PRESENT:**

Council members: Steve Ekberg, Jim Franich, Bob Dick, Paul Conan, John Picinich, Frank Ruffo and Mayor Wilbert. Councilmember Young was absent.

Staff: Mark Hoppen, John Vodopich, Steve Osguthorpe, Maureen Whitaker and City Attorney Carol Morris.

Mayor Wilbert opened the meeting at 6:02. John Vodopich, Community Development Director, explained that this special meeting is for the purpose of considering entering into a cost reimbursement agreement with the Department of Ecology (DOE) for the processing of the city's water rights. He explained that the city applied for additional water rights in 2000, but the application has not yet been reviewed. There is a provision in state law that allows a water right applicant to enter into a cost reimbursement program with DOE with the caveat that the applicant must pay for the review of all the pending water right applications that were submitted prior to theirs. He went on to explain that there are no guarantees that the water rights will be issued. What DOE will commit to is the hiring of a third party consultant to review the applications prior to ours and issue a decision. They have indicated to the city that if we enter into this agreement by June 7, 2004, they will commit to a decision date by September 1, 2004, after which there is a thirty-day appeal period. If we do not enter into the agreement at least tentatively, the DOE staff is indicating that the wait could be two to three years. Mr. Vodopich further stated that the cost of the program is anticipated to be \$53,625.00, which was not anticipated in the 2004 Budget, however adequate funds do exist to cover this expenditure. He continued that in the packet that was delivered to each council member on the previous Friday, that there was a copy of a memorandum from the city attorney and an email response received today from DOE staff Zack Tyler that addresses each of the points raised by the city attorney. Mr. Vodopich summarized by saying that the city administrator and himself recommend that the city enter into this contract since it appears to be the only "light at the end of the tunnel" that would at least give us decision on our water rights.

City Administrator Mark Hoppen added that he felt that as coercive as this mechanism seems, it is a product of Washington Water Law, which is "first in time, first in right." He stated that if we choose not to do this immediately, we should remember that the person performing this work is a consultant, consultant's need work and there is some likelihood that this consultant will take on other work if it is not ours. This consultant has performed up to 75% of the work to date, as stated in DOE's response. Mr. Hoppen advised the council to take positive action on this contract.

Councilmember Ekberg asked why could we not wait until the next council meeting to discuss this issue. Mr. Hoppen responded that this decision is up to council and comes down to a decision in judgment. He added that there is some possibility that we could delay it but with risk.

Mr. Vodopich added that the Master Builders Association will be taking this matter up at their next meeting with their legislative committee next Tuesday evening and they initially indicated that there may be a willingness on their part to contribute to this effort financially – to what extent, Mr. Vodopich did not know.

Councilmember Franich asked for clarification on DOE's waiting list that was included in the packet distributed to council. Mr. Vodopich indicated that the city was number seventeen and twenty on the list with two applications and clarified that by entering into this contract with DOE that we do not jump to the top of the list, we are in fact paying for the review of those applicants in front of us. Councilmember Dick added that we will be helping them get the others ahead of us done so they can get to ours. An example of the water purveyors on the list was given by Mr. Vodopich as Washington Water and Rainier View, who submitted an application in 1992. Mr. Hoppen further clarified the legal precept of this program.

Carol Morris expressed her opinion that she thought that DOE should be processing their own permits – which everyone agreed.

Councilmember Dick asked if we had an idea how many applications were processed last year. Mr. Vodopich responded that he had looked up this information on DOE's website and between bienniums for 2003 and 2005, their goal is to process 1,000 per year. In the first quarter of 2004, they only processed 182 of which 14% of those were funded through this process. Mr. Dick went on to clarify that DOE splits the applicants into two lists, one for municipals and one for others. Mr. Dick asked if they were still processing about 100 per year and were receiving about 1,000 applications a year. Mr. Vodopich clarified that as of April 1, 2004, there were 1,280 pending water right change applications and 5,292 pending new water rights requests. Dave Brereton, Director of Operations further clarified that both of our applications were "new" applications were considered as new (additional) "withdrawals."

Councilmember Franich asked if the \$53,625 was just an estimate or are we charged by the hour and if the contract could be less. Ms. Morris responded that the dollar amount could be less or it could be more. She further stated that we did not know how much it is going to be as it is DOE's estimate. She added that we did talk to some people in the City of North Bend who had entered a contract like this with DOE and we need to follow up with them to determine how similar their situation is to ours. Mr. Hoppen added that the City of North Bend started at "ground zero" and we are 75% through the analysis process. Ms. Morris further stated that the under the Procedure section of the agreement, a refund would be given if necessary after thirty days after the contract has been terminated.

Councilmember Ruffo inquired as to what basis could DOE do this. Ms. Morris pointed out that there was a new law that DOE asked the legislature to pass to authorize RCW 90.03.265 that allows the applicant to pay for the processing of those applications ahead of them. Mr. Ruffo asked what our ability was to share this cost with the development community. Ms. Morris stated that we could take this cost and plug it into our numbers when calculating connection fees. Mr. Dick stated that this could be part of the cost of providing water and we could adjust our fee schedule if this becomes necessary to spread the cost fairly among all applications. Ms. Morris further stated that she did not think that we would want to pass this cost onto our water service customers and as Mr. Dick clarified, it is more like a capital charge than it is an operating expense.

Mr. Vodopich responded to Councilmember Ruffo's question regarding the "what ifs" pertaining to not participating in such an agreement. Dave Brereton had spoken with Jill Walsh of DOE, who is responsible for working on our water rights and she indicated that DOE's priorities are to process water change applications first, which are changes in existing water rights and whereas we have two new water rights, her best case scenario would be two to three years. Mr. Vodopich further clarified that in 2001 the legislature created a new two-line system that puts requests for water right changes and transfers on one line and requests for new rights that normally take longer on another. Councilmember Dick thought that we were on the list for water right changes. Mr. Hoppen replied that that was not correct.

Further discussion took place between council and staff in regards to the difficult position that DOE has placed the city in. Councilmember Ruffo expressed the idea of possible litigation with the state and suggested that they go into executive session to discuss this matter further. Carol Morris made the suggestion that if we waited until the next council meeting then she could research Mr. Ruffo's ideas.

Councilmember Dick thought that delaying the decision a week probably would be of no great consequence but delaying it for any length of time could create an uncertain situation. Mr. Hoppen further clarified that this was not the most perfect "deal" but he felt that we would not get certainty out of this and this is all that we were going to get. Mr. Hoppen suggested council not to delay this decision.

Councilmember Franich suggested that we contact those applicants that are ahead of us on the list to see if we could work an agreement to share the costs. Mr. Hoppen stated that since none of the applicants that are before us on the list have spent any money to get their permits acted on so far, that he didn't believe that they would share any costs with us now, especially since they are closer to getting their applications reviewed. Councilmember Ruffo said that after a little discussion with Mr. Ekberg, that that suing the state would cost far more than the cost of the contract and he would follow Mr. Hoppen's recommendation. Mr. Hoppen further expressed that he did not see any reason to be beholden relative to our subsequent actions to any outside organizations. He felt that we were better off giving ourselves a free hand. There is

\$250,000 in the ending fund balance for water that he did not want to desperately intrude on, but maybe we can conserve and in some way minimize the impact.

The Mayor expressed concern that there was no guarantee at all and Mr. Hoppen further explained that there were not many good examples but just the evidence that they responded this quickly says that they would like to have some success with this process, although we have no guarantee. Further deliberation about cost sharing took place. Mr. Hoppen stated that strategically there is no reason for the other applicants to participate in cost sharing since the city's moratorium has been publicized.

**MOTION:** Move to take the staff's recommendation to approve entering into the agreement with the Department of Ecology as presented and amended in the amount of fifty-four thousand, six hundred twenty-five dollars (\$54,625.00).  
Ruffo / Ekberg -

Councilmember Franich expressed his concerns that we are giving the Department of Ecology an open-ended check and felt that this was a pathetic way for the state to do business and he could not support this motion.

Councilmember Conan also expressed his opinion that he was in agreement with Councilmember Franich but felt that the state has us "over a barrel" and that we must do something and he felt that it is an unfortunate situation. He stated that maybe connection fees could be a way to pay for this, even though we have the funding.

Carol Morris pointed out that before everyone voted, there a couple changes on page 2 of the memo of Ecology's comments should read, "following the Department of Ecology's review of the draft ROE's, Golder will incorporate Ecology's comments and edits into their work product and Golder will then prepare final ROE's incorporating these revisions.

Ms. Morris also stated that there is a typo on the next page and it needed to be fixed as there is no subsection G-I.

Mr. Hoppen stated that there are fixed costs to our water system that we cannot avoid regardless of the number of connections that we have. He posed the question to council, "are we going to be better off with fewer or greater connections?" Mr. Hoppen further stated that there was no risk to the water rates if you take a long view and as Councilmember Ruffo said, "we have the opportunity to do something or just wait and see until Ecology processed the permit in maybe 2-3 years to see what happens." He went on to explain that we don't know what fixed costs that we'll have to absorb in the future which could drive rates up beyond our expectations.

Mr. Conan stated that he knew that we have to do this, but was not happy that the state was pretty much making us do this essentially by dragging their feet and not doing their job and making us pay to do their job.

Mr. Hoppen further stated that he can't believe that there is a statute that actually authorizes us to do this, but understood the Washington Water Law and how they thought of it from their bureaucratic perspective.

Mayor Wilbert expressed that she was not in favor of this and believed that we are tossing money to the wind and this won't get us any closer to the end result.

Mr. Dick also expressed that he too, did not like this either. He went on to state that the length of time that we have been vigorously pursuing getting permission to do what we have in place and getting DOE to move forward. He mentioned that he was encouraged when the Legislature decided to split the applicants into two lists and thought that it was going to benefit us. He went on to say that he thought that when DOE said that when they were going to spend the money that was appropriated for them to process ten times more applications that they ever had before, that they might have actually meant it. He further stated his disappointment with the numbers that staff presented and that in spite of all the extra effort that the Legislature threw at it, which probably wasn't enough, but at least it was an effort, and now felt very disappointed and frustrated to see that they aren't moving faster. He thought that this is worth moving forward on and encouraged the staff to find out what we could do that is outside the box. We added that the city needs to do this and be assertive with the state and try and encourage them to move faster and devote real effort to the problem. He further stated that it is important enough to the community to do this and is in support of this. He said that it is a modest expense and none of us feel like we ought to have to spend it, but \$53,625 to try to get a decision which we are fairly confident about seems to be money well-spent. He hoped that we could get others to participate and bear this cost, but it may be that some of the other developers in the city who will benefit from the water will also share in the cost with us.

Mr. Hoppen stated that the chief beneficiary is the small person and would hope that other entities like Master Builders might see fit to donate to this. He went on to say that it would only be appropriate.

Mr. Franich expressed that every time that we give in to this sort of tactic, we are not keeping the feet to the fire, we are actually helping to take the feet away from the fire. Mr. Hoppen agreed that there was some truth to Mr. Franich's concern, only to the extent that you actually believe that DOE operates like a person, like a rational decision making body. He said that we hired a lobbyist this year, which was money well spent. He further explained that it had opened his eyes to the true reality of the way that things work in Olympia, and DOE is a lot closer to that than we are. He further stated that he didn't think that DOE operated as a rational decision maker, rather they operate based on many environmental factors that surround them from other entities within the state and Legislature.

Mr. Picinich had an opportunity to express his dissatisfaction and frustration with DOE and stated that he would like to postpone this vote tonight and wait until the next

meeting. He suggested that staff talk to Washington Water and Rainier View and hold off for another two weeks.

The Mayor asked if she should now call for the question. Mr. Vodopich asked if the motion included the corrections that the city attorney had mentioned. Mr. Ruffo stated that he would amend the motion to make sure that all corrections were included.

**MOTION:** Call for the question.  
Conan – Six voted in favor.

**MOTION:** Move to take the staff's recommendation to approve entering into the agreement with the Department of Ecology as presented and amended in the amount of fifty-four thousand, six hundred twenty-five dollars (\$54,625.00).  
Ruffo / Ekberg – Four voted in favor, Councilmembers Franich and Picinich voted no. The motion carried four to two.

There were no further comments and the work session ended at 6:45 p.m.

Respectfully submitted:

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Maureen Whitaker, Assistant City Clerk



**GIG HARBOR CITY COUNCIL  
BUILDING SIZE ANALYSIS WORKSESSION  
June 1, 2004 6:00 p.m. – Civic Center Community Rooms**

**PRESENT:**

Councilmembers: Steve Ekberg, Derek Young, Paul Conan, Jim Franich, Bob Dick, John Picinich, and Frank Ruffo. Mayor Wilbert presided over the meeting.

Staff: Mark Hoppen, John Vodopich, Steve Osguthorpe, Molly Towslee and Maureen Whitaker.

Mayor Wilbert opened the work-study session at 6:46, which was held directly after a special meeting for entering into a cost reimbursement agreement with the Department of Ecology. John Vodopich, Community Development Director, explained that this meeting was the first in a series of five work-study sessions intended to review the issue of appropriating building sizes within the City of Gig Harbor. Mr. Vodopich further explained that this first meeting was to address all zones that currently do not have limits with the exception of the downtown business district, the waterfront zones and the view basin. The meetings to follow are scheduled on Monday, June 7, 2004 to discuss the downtown business zone; Monday, June 21, 2004 addressing all waterfront zones; Tuesday, July 6, 2004 addressing all zones within the view basin; and July 19 addressing with all zones that currently have limits. Mr. Vodopich gave a brief overview of the building size handouts and the Building Size Recommendations Comparison chart showing the zones to be discussed:

PI, R-1, PCD-RLD, R-3, RB-2, PCD-C, PCD-BP, and PCD-NB

The Mayor asked the council to speak first. It was proposed by Councilmember Ekberg and agreed by council that for discussion purposes, each zone should be taken one at time.

Mr. Vodopich opened the discussion on the Public Institutional (PI) Zone. This zone was never brought up to the Planning Commission or Pertteet Engineering as there was no intent to implement a building size limitation in Public Institutional. He further described its uses as government, wastewater treatment, schools, fire stations, community recreation halls, museums, central public facilities and things of that nature.

Councilmember Dick stated that there are several kinds of uses that are permitted or not permitted under conditions of residential areas that to be built there would require larger size limitations. City Administrator Mark Hoppen explained that the PI zone has schools as a permitted use. He added that currently schools in R-1 and R-2 zones are conditional uses. Mr. Dick asked that if there were any limits in those zones, as schools would have to go through a conditional use process in order to build there and also get a variance from the size limitation. Mr. Vodopich responded in the affirmative to Mr. Dick's question. Mr. Dick further pointed out that then there would need to be a variance from this requirement which effectively precludes a school from going out and

buying something until the city rezones the property. Mr. Hoppen further explained that if the school district buys a significant amount of property, 10-25 acres, this would be subject to a legislative rezone. Mr. Hoppen went on to say that what is being talked about is a conditional use in one regard that goes to the hearing examiner, and the other is a legislative rezone that goes to council for a decision. He asked the council which one did they want. Mr. Dick asked what the status quo was. Mr. Hoppen answered that the status quo in public institutional is no limit.

City Attorney Carol Morris suggested that before the meeting proceeded further, we should start with something about the limitation that council has to observe on council authority. The city council cannot impose building size limitations without a legitimate public purpose to impose building size limitations. She suggested that council look at the reason why the city would want to impose building size limitations in any particular zone. She gave an example that if council is trying to preserve small town character, this has been recognized by the courts as one of the reasons why a city would want to impose building size limitations. Another situation Ms. Morris pointed out was lack of parking along Harborview Drive whereby the city wanted to impose building size limitations to prevent a massive store going in there that would require a lot of parking. She further stated that she did not think that council should be looking at every zone and arbitrarily making decisions. Ms. Morris continued that we should determine why are we regulating and then narrowly tailor that regulation to each particular zone.

The Mayor then began calling on members of the audience to speak.

Scott Wagner – Mr. Wagner expressed his concern about the limitations that could be placed on schools that are smaller than public schools, such as private schools that only need a 3-4 acre site. He stated that one of his concerns was the conditional uses for R1 and R2 type zones, including churches. He also stated that he thought that the Design Manual would keep the bigger buildings to have the smaller size characteristics and feel. He summarized that his largest concern was that city council will legislate something that is going to create the need to rezone property, get a variance or go through these difficult processes, when often times the hearing examiner just is looking at the black and white rules, may think that a particular piece of property is not deserving of a variance and just say to go buy a piece of property in the B1 zone.

Councilmember Dick asked if staff had done anything with the comments submitted by the school district in relationship to schools in residential areas. Mr. Hoppen explained that the schools would like to see maximum flexibility left in the R1 and R2 zones as it currently exists to aggregate property and use it for school district purposes. Mr. Hoppen asked if they are actually better off for it. He then responded that the current situation requires them to get a conditional use permit. Mr. Hoppen said that he not absolutely convinced that this is a better situation for them, then asking the city council to provide a legislative rezone to public institutional. It comes down to a matter of process.

Kit Kuhn - Mr. Kuhn suggested that we start our discussion on the more essential zones first.

Jim Pasin – Mr. Pasin expressed his concerns that placing a PI zone in a residential area does not let the people in these areas know ahead of time that a school or other type of facility could be placed in their neighborhood. He stated that he this was an inappropriate way to approach it.

Councilmember Franich asked Mr. Vodopich how many PI areas in this zone are currently vacant. Mr. Vodopich that most areas are already built.

Mayor Wilbert asked how a community center could be built in this zone.

Councilmember Dick stated that this proposal would mean that all things that have been conditionally granted in residential zones would be prohibited in residential zones, with Mr. Hoppen adding, unless city council rezoned the property to PI. Councilmember Dick also pointed out that this would mean that private schools and churches could not expand at all and that we would not be making any place in the community available for these uses. Mr. Hoppen agreed that this was correct. Mr. Dick further stated that if this were the case, a school or church could not make any planning or buying decisions resulting in these organizations not being able to get permission for such a thing so they couldn't go out and negotiate an appropriate price for something until after they have gone through the rezoning process which would not make it possible to have a private school in a residential zone. Councilmember Conan clarified that churches are not eligible for a PI zone and agreed with Councilmember Dick on the private school issue.

Matt Halvorsen – He asked if this would be create new zones that did not fit into the PI zone.

City Attorney Carol Morris suggested that this discussion be narrowed slightly so that we ask what we are trying to accomplish here. She continued that this will be necessary in the legislative history of this ordinance when it passes. She further asked what evil are we trying to prevent? Ms. Morris stated that first we should decide what it is that we need to address through building size limitations, then ask why is this not already addressed through our current zoning regulations, like height, bulk, scale, design review. Then she added that once we go through this analysis, then we will be able to decide if this is something that we can deal with through the conditional use process. If we can deal with it through the conditional use process, then there is no reason to impose building size limitations. She further stated that building size limitations are unusual and cities normally regulate things like height, bulk, and scale. Building size limitations just to regulate through an arbitrary number sometimes can give a false sense of security because you think that someone can't build a building a larger than a specific size, but in actuality it can appear bigger depending on how it actually is constructed and on the other side of the coin, some buildings that come in under the building size limitation you don't think that they are as large as they are because they have daylight basements. She stressed that we need to ask ourselves, "What is the

problem that we are trying to address with building size limitations" and then ask, "now that we have identified the eagle, how is it that we can't regulate that through height, bulk, scale and all the other zoning tools that we have?" Councilmember Franich and Ms. Morris discussed bulk and scale in relation to building size limitations and setbacks.

Councilmember Ekberg discussed two ideas that came out of the previous meetings. One was that there is a great desire to protect the view basin area of the city. Secondly, Mr. Ekberg stated that there are zones that go throughout the city. He gave the example of RB-2 in the view basin area that addresses some concerns that arise out of bulk, height and scale that would not necessarily arise in areas outside of the view basin area. He suggested that we may want to look at the areas outside of the view basin and decide whether there is a need for building size limitations at all in these areas and felt that the RB-2 that is downtown should be different.

Councilmember Ruffo agreed with Councilmember Ekberg and questioned why we are looking at all of these other zones. Mr. Hoppen posed the question to council if we needed to change the current zone scheme for R-1, R-2 outside the view basin. Ms. Morris added that if we are going to have a defensible record, we need to identify what the problem is in those areas. Councilmember Dick said that he was not confident that we should impose a size limit and further stated that he did not want to impose a fixed limit in these areas that we are worried about the character of the neighborhood and the linking of different parts of the community so that we feel that we have some continuity on this issue. We went on to state that in the non-view residential R-1, R-2 areas if it means excluding all of the beneficial structures from those facilities, we would be better without it and he did not feel that there was as strong a reason in these areas to do this. Councilmember Conan stated that for the permitted uses, we would only be limiting the size of the family daycares. That would be the only thing that is affected. He further stated that when we get into conditional uses, then we get into schools, houses of worship.

Councilmember Ekberg discussed that schools and churches can create a major impact on the traditional R-1 zone due to traffic impacts.

Scott Wagner – Mr. Wagner discussed his concerns regarding stopping the small-scale development will not serve the community well. He said that he hoped that the city would not impose any building size regulations in the outlying areas, rather keep the focus on the area of concern which is downtown to keep this area scaled appropriately. Mr. Wagner stated that he felt that the current system is working well and will continue to work well in the outlying areas.

Councilmember Ekberg responded to the comments and said that we should separate out the areas that are outside of the view basin, come to the consensus quickly as to whether this can be put off the shelf and be done with, and then focus on the view basin.

Councilmember Franich disagreed with Councilmember Ekberg and stated that what goes on in surrounding areas does impact the whole city and felt that it was important not to put the surrounding areas on the shelf.

Ms. Morris stated that in the areas that do not look like a small town, the city cannot legislate a small town feel. She added that a judge most likely would uphold the building size limitations on Harborview Drive due to the parking problem. She continued that she did not think that a judge would uphold the decision for every single zone in the city that we can impose building size limitations arbitrarily just because we think that it is a good idea. Mr. Franich suggested that we use traffic mitigation to support the limitations. Ms. Morris stated that we must clearly articulate on the record that for the PI zone the city thinks that building size limitations are needed because there too much traffic and the current regulations do not address this issue through traffic concurrency or through the SEPA process. After this is done, then we can go through how we can exactly regulate it.

Chuck Hunter – Mr. Hunter spoke to the possibility of a height overlay R-1 in the view basin that says R-1 in the view basin has different requirements than on the west side for example. Councilmember Ekberg agreed with Mr. Hunter's suggestion. Mr. Hunter had heard that a non-profit owner of a building does not have any size regulations, such as a hospital. There was discussion by council and staff regarding this issue with Steve Osguthorpe stating that B-2 size limits apply only to commercial buildings, therefore something like a hospital or even a professional office building would not fall under the building size limitations.

Jean Derby – Mayor Gretchen asked Ms. Derby if she had anything that she wanted to say. Mr. Derby said that she was still studying both manuals that she had picked up last week in order to familiarize herself with the building size codes. She stated that she thought that the city was trying to maintain the small town character and not create strip malls.

Walt Smith – Mr. Smith asked city council to allow institutions such as schools some flexibility. He discussed the city consultant's viewpoint who stated how many overlays are needed. There is a vast difference between the downtown view corridor and the outlying areas.

Kit Kuhn – Mr. Kuhn said that he thinks that the city should regulate non-profits and gave the example of the Russell building whereby the city thought that it could collect tax revenue, but to find out that the Russell building declared a non-profit status even though they are functioning for profit with some of their smaller businesses who appear to be operating under the Russell's non-profit umbrella. He stated that there should be different zones as most people are worried that someone is going to come in, buy multiple lots, like nine or so, and make a building. He suggested that we should not classify a limit if there is not a problem. He went on to add that for the eleven places that were being discussed, seven of them are not applicable because no one has

complained. Mr. Kuhn suggested that we ignore the seven since there is not a problem and focus on the recommendations for the four where there is a problem.

Councilmember Picinich said that the only zones that are needed to look at were the R-1, R-2, R-3 and RB-2. The rest of the zones do not apply. Mr. Hoppen suggested that council make a decision as to our direction. Mr. Vodopich said that the intent, at the conclusion of the workshops, would be that we have garnered enough consensus that a new ordinance could be drafted. There was discussion by staff and council regarding what zone should have limits.

Linda Gair – Ms. Gair spoke about the PI zone. She commented on the PI and ED zone and stated that we have the possibility of this area becoming what we do not want. She stated that there was a large parcel near the women's prison that because of the zoning designation could turn out to be something that is not desirable. She asked what controls do we have to not have a school next to a wastewater treatment plant. There was discussion by council and staff regarding the economic development zone (ED) which includes light industrial development.

Bruce Gair – Mr. Gair discussed the historical changes within the city government and the projects that were built during these periods. He stated that as the Vice President of the Planning Commission that he and other commissioners tried to do good and often times there were unintended results. He also voiced his concern over trophy homes going in, the Carmelization of the view basin, and the preserving of the WM and WC functions.

Councilmember Dick asked if anyone had commentary on the RB-2 zone that is outside the view basin. He further asked what we should be concerned about. Councilmember Ekberg answered Mr. Dick and stated that the RB-2 in the view basin is different than the RB-2 somewhere else. Councilmembers Dick and Ekberg discussed the recommendations.

Jake Bujacich – Mr. Bujacich stated that the limitations would place unreasonable restrictions on property owners. He further stated that we need a good reason to put limitations in a given area, especially those areas outside of the downtown area. He suggested that we should look at a lot more than the building size such as the traffic impacts, set backs, green belts and all the other hoops that are currently in place. Councilmember Picinich agreed with Mr. Bujacich and stated that he did not think that we needed to limit the building size. He suggested that we should be looking at RB-2, R-2 and asked if we want to limit the building size to 3,500 square feet. He asked the council if we wanted to set the limits that are outside of the view basin. He stated that he did not think that we did because we have the height, bulk and all of the other things that we are looking at. He further brought up the RB-2 zone and asked if we want to limit this zone to 12,000. He went down the list and asked about the R-3, non-residential and asked if we want to start limiting the building size to 5,000. He summarized that he felt that the only thing that we should be looking at is the first column of the Building Size Recommendations Comparison chart which is the Existing

Building Size Square Footage Limitation and make a recommendation that we adopt this column. He also stated that we have enough that we can go by and have enough criteria to set traffic impacts and other things and said that we are not talking about the view basin now. He suggested that when we come to the overlay section then we can talk about building size. Scott Wagner agreed with Councilmember Picinich and stated that building size does not take care of traffic impacts and concurrency. Mr. Wagner asked Councilmember Franich why does this benefit us to put three or four twelve thousand foot buildings on the bowling lane site which will result in the bowling lanes not being built or a gymnasium or senior housing which will hurt the community in the long run. Councilmember Franich stated that Mr. Wagner had a lot more faith in concurrency and traffic mitigation than he does because he did not see it working very well. Mr. Wagner stated that concurrency should have been implemented as far back as 1960, but in his opinion, it is working now. Councilmember Franich explained that there were no problems until the Russell building went in and maybe we now need some building regulations to protect what we have. He still felt that without limits, until something really ugly happens, it will be too late.

Dick Poulsen – Mr. Poulsen stated that he used to be a citizen of the city but moved out partially because of the traffic problems. He explained that he felt that the city has the cart before the horse. He further stated that building size is an important element because larger buildings make larger demands. Until we know that we can manage growth at the rate it is going, we would be better to be conservative. He asked what the plan is for traffic mitigation.

Councilmember Picinich stated that he wanted to go back to the original point of the meeting and felt that enough had been talked about concerning regulations. He stated that he felt that we had enough regulations currently to control these particular areas. He stated that we have discussed too many issues that have taken us away from the purpose of this meeting which was to take care of eleven situations and only four that we need to be looked at and make a decision if we want to limit or not to limit. Mr. Hoppen asked if the existing descriptions in yellow were the status quo prior to the Planning Commission and the Perteet recommendations and largely a consensus of the people in the room. He asked council to give a "thumbs up" if they felt that this consensus is true. He added that it appeared that the first column is the consensus of the group.

Councilmember Conan explained that if we look at permitted uses, we would not be regulating anything except family daycares and if we get into conditional use process, we then get into schools, houses of worship and maybe some public utilities. Mr. Vodopich added that this was an exercise that John Hoffman went through with the Perteet exercise, which was looking at the zoning code and recommendations saying what are we really affecting.

Councilmember Ruffo said that he thought that everyone was thinking, Councilmembers included, how can another Russell building be kept from occurring.

He added that when we get to the area of the basin, then it would be appropriate to discuss limitations.

**MOTION:** Councilmember Picinich made a motion that the city adopt the existing building size square footage limitations that are presently in use as far as the zones shown in yellow in column number one on the Building Size Recommendations Comparison Chart.  
Picinich / Franich – unanimously approved.

There were no further comments and the worksession ended at 8:04 p.m.

Respectfully submitted:

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Maureen Whitaker, Assistant City Clerk



**GIG HARBOR CITY COUNCIL**  
**BUILDING SIZE ANALYSIS WORKSESSION**  
June 7, 2004 6:00 p.m. – Civic Center Community Rooms

**PRESENT:**

Councilmembers: Steve Ekberg, Derek Young, Paul Conan, Jim Franich, Bob Dick, John Picinich, and Frank Ruffo. Mayor Wilbert presided over the meeting.

Staff: Mark Hoppen, John Vodopich, Steve Osguthorpe, Maureen Whitaker and Molly Towslee.

Mayor Wilbert opened the worksession at 6:05 and thanked every one for coming. John Vodopich, Community Development Director, explained that this session was to address building size limitations in the Downtown Business (DB) zone. He described the comparison chart and other handouts prepared for the meeting. The Mayor then began calling on members of the audience to speak.

Chuck Hunter – Mr. Hunter explained that he is a proponent of the 6,000 s.f. footprint limitation to keep the town in scale. He said he was also interested in a grandfather clause for the Uddenberg complex to allow it to be rebuilt. He said that several 6,000 s.f. buildings next to one another would look like one building, but would have a different façade on each building that would help it not to look so large. Mr. Hunter then discussed the articles in the Gateway regarding the vision for the downtown area, explaining that without city money as incentive, you couldn't get the property owners together to do anything. He again stressed that he favors the 6,000 s.f. limitation, adding that the smaller footprint would allow the Design Review process to work more efficiently.

Jim Zusy – Mr. Zusy asked Mr. Hunter if he intended for just one 6,000 s.f. building per lot. Mr. Hunter responded no, that more than one could be built if the lot size permitted.

Jim Pasin – Mr. Pasin explained that due to the unique situation in the downtown zone, the west side of Pioneer needed different treatment than the east side. He said that the buildings on the west side of Pioneer should not exceed 16,000 s.f., and those on the east side have no limitation. He said that the zone should allow 100% coverage because that is what already exists. He said that the lots along Harborview Drive should match those in the Waterfront zone. He voiced concern about the DRB requirements for buffering in the transition zone, suggesting that because of the limitation of these properties, this requirement be waived.

Jack Bujacich – Mr. Bujacich discussed his concerns with building heights adding that he supports the 6,000 s.f. footprint limit. He stressed that parking is an issue that needs to be addressed. John Vodopich explained that the regulations require any new construction to provide for on-site parking. Mr. Bujacich then said that he was in favor of grandfathering the QFC site. Councilmember Ekberg explained that currently, it could rebuild, and only if limitations were placed would it be a problem.

Councilmember Young discussed non-conformity issues and when a non-conforming building should be brought into conformance. He suggested zoning the Thriftway site differently than the rest of the DB zone to address the desire to allow this size building at that location. There was discussion regarding whether the ability to rebuild should be tied to a specific or existing use. Then Councilmember Young discussed the problem with obtaining financing for a non-conforming use and the possible diminishment of the property value. Jack Bujacich stressed that the Council is not here to establish value, but to protect Gig Harbor.

Councilmember Ruffo said that everyone has said that they want to protect the character of Gig Harbor. He stressed that what needed to be done is to find a way to do that legally, and to simplify the process to maintain or improve property values and still give the community what it wants.

Councilmember Franich said that he concurred, and that the 4,000 – 6,000 s.f. limitation is the range that would fit the character of this area. Councilmember Picinich agreed with comments in support of the 6,000 s.f. limit, adding that the QFC building should be grandfathered.

Linda Gair – Ms. Gair spoke to the desire for a viable downtown to compete with Gig Harbor North and the recent downturn in the economy. She explained that the number one problem is parking. She stressed that they would like to see more retail downtown while maintaining the character. This should include pedestrian access and the ability to see the water, adding that the 6,000 s.f. limitation would allow peek-a-boo views of the water. She used Carmel, California as an example of how smaller building could be successful. She recommended that any new construction preserve retail on the ground floor, and asked that existing buildings be grandfathered.

Paul Gustufson – Mr. Gustufson said that we are losing the quaintness of the town. He spoke in support of the 6,000 s.f. limit and against the town center concept. He said that we have to stop the out of scale buildings, both commercial and residential. He recommended keeping the quaintness through scale and focus on the design review process. He voiced his dislike of the BDR building, asking that Council protect the view of the hillside as well as the water.

Councilmember Ekberg discussed the impact of several 6,000 s.f. buildings built side-by-side and how that would differ from just one 10,000 s.f. building. The smaller buildings would still block the view of the water.

Councilmember Dick said that DB zone is unique in that there are no side yard setbacks. You may have the entire block filled in 6,000 s.f. chunks. If you work on design, it can make it look not so big, but it will still block the view anywhere in this zone.

Charlene Sandoval Ms. Sandoval asked if the setbacks could also be changed during the process to limit building size. Councilmember Young explained that one reason that the zone has no side yard setbacks is due to the desire to keep the characteristic of the downtown where all the buildings are close together.

Lita Dawn Stanton. Ms. Stanton explained that that area is already built out with zero setbacks. She said that people don't want to change what is already here. Councilmember discussed the configuration of the buildings between Judson, Soundview and Harborview Drive.

Mr. Hunter said that when you get closer to the residential areas, you need to reduce the scale. He stressed that an effort must be made to make sure that the transition zone works.

Mark Hoppen, City Administrator, restated two concerns that had been addressed. The first is the transition zone, and the second is the ability to set the building height at the natural grade rather than at the finished grade.

Mr. Bujacich stressed that you have to maintain the view corridors or you destroy the property values.

Councilmember Franich said that in order to address the visual impacts, there also needs to be height limitations. Someone in the audience commented that they could live with bigger square footage if the height issue was addressed.

Rosanne Sachson – Ms. Sachson said that the concerns need to be addressed through both zoning and design. She recommended a comprehensive Design Manual that would educate architects to the city's requirements. She responded to Councilmember Ekberg's question on whether she had seen the city's Design Manual, explaining that she had seen the manual and had offered to help with the amendments, but no one had taken her up on the offer.

Mayor Wilbert talked about the shops in Paris and how the upper floors had wrought iron plant shelves that helped to make the buildings more appealing.

Ms. Stanton offered landscape photos of Gig Harbor as a guideline for what should be maintained. She explained that the whole point of design review is to replicate existing structures over time. If the buildings are too big, this will not happen and the whole look of the city changes. Scale is important.

Tony Sandoval – Mr. Sandoval agreed with comments by Councilmember Ruffo to keep the process simple. He suggested limitations and protection of the views to preserve the quaintness.

Charlene Sandoval – Ms. Sandoval suggested that those who want to build larger structures could go elsewhere.

Barbara Brandt – Ms. Brandt explained that someone could push up all the dirt and after several years it becomes the original footprint. She stressed that you must stress scale, because height isn't going to count.

Jim Zusy – Mr. Zusy said that he is struggling to understand the comments to “maintain Gig Harbor.” He asked if this meant to just repaint the existing or to come up with something better. He said that he would like to build a better retail space at the old Hide & Sea / Howard Cox machine shop location, but the limitation on parking prevents much of a building to be constructed. He said that other cities have remote parking lots that a business could purchase spots rather than having on-site parking. He addressed setbacks, explaining how people throw garbage in the vestibule of his building. He said that in the retail district, it would be better to have a solid face rather than small setbacks between buildings. He said that he did not believe that the 6,000 s.f. limitation is a magic number, and that it should be a matter of design and articulation.

Councilmember Franich responded, explaining that one thing that is unique to the downtown business area in regards to parking is the presence of residents next to Mr. Zusy's site. The respect for the quality of life of the residents on Harborview Drive needs to be taken into consideration. What goes on in the business district has a direct affect on the residents on Harborview Drive.

Mark Hoppen stated that on July 1<sup>st</sup>, the Planning Commission is holding a public hearing on the update of the Design Manual, which will be the first opportunity for comment. He said that the majority of the comments were about building design, and recommended that citizens review the document and come to the meeting and speak.

Jeanne Derby - Ms. Derby said that 6,000 s.f. refers to the footprint only, not the whole square footage. She addressed parking, and asked about the possibility of the city purchasing property for public parking. Mr. Hoppen responded that no one is willing to sell or lease downtown property for that purpose. Ms. Derby then asked about the property south of the Yacht Club. Mr. Hoppen said that this location is too far removed from the downtown to be desirable.

Ms. Sachson said that her house is across the street from the last business on Harborview, and every morning the employees from the two offices across the street park in front of her house clear up to the Malich property. She suggested contacting Stan Stearns to ask him if he would like to make money by allowing the employees to park in his lot. She also suggested timed parking in this area which would encourage the employees to park off the main street.

Ms. Sandoval suggested that the city purchase the property across from CenturyTel or the Spadoni property as public parking. It was determined that these lots are too far removed from the downtown area to be efficient.

Ann Lovrovich. Ms. Lovrovich asked how the 16,000 s.f. building size came about. Staff said that it was a recommendation by the Planning Commission.

Bruce Gair - Mr. Gair gave an overview of how the Planning Commission arrived at that square footage by measuring the existing structures from the Tarabochia buildings around down past Mary Bonneville's to the alley. He said that they recommended the 16,000 s.f. in order to allow them to rebuild in case those buildings were destroyed, but stressed that this doesn't mean that the Planning Commission wants other 16,000 s.f. buildings in the downtown. He continued to explain that he was a member of the parks ad hoc committee a few years ago, and one main issue was parking. A parking garage or underground parking for public use of a private building was discussed. He then stressed that you cannot depend on the Design Review process to solve the problem. He said that the Planning Commission is now beginning the process to update the Design Manual, and *strongly* encouraged everyone to come to the public hearing in July and be part of the process.

Councilmember Conan said that he sees the downtown business zone as three separate sections, and it may need to be divided that way. The downtown "core" is the quadrangle between Pioneer, Soundview, Harborview and Judson, including all the properties going north. He recommended that there be no setbacks but retain the 6,000 s.f. building footprint to retain the scale. The next section would be south of Judson Street where QFC and KeyBank are located, and allow larger buildings. The section north of Pioneer to Rosedale west of Harborview requires setbacks and a 6,000 s.f. footprint limitation because this area transitions into residential. North of Rosedale on Harborview may require side yard setbacks because it is next to residential. The 6,000 s.f. footprint will help to retain the scale, but to respect residents, but in the core area, you don't need the setbacks.

Mr. Zusy asked about property owner's rights and compensation. Councilmember Conan said that the greater good outweighs that to a certain point and difficult decisions have to be made. Ms. Zusy explained that it seems like the new owners in this area have built big huge homes right next to their building, but they have nothing to say about that. She continued to say that if the city would just take a look at what she and her husband would like to do with the property rather than listing the restrictions.

Bill Fogarty. Mr. Fogarty explained that he attended a recent Downtown Revitalization seminar and what they said to do is to come up with a common vision and work together between the property owners and retailers and city government to decide. He said that in the downtown corridor, the largest building area is 1100 s.f. from a merchant's standpoint. If you go with the 16,000 s.f. footprint, it would take 20 of his shops for one building. The current 56 merchants downtown are all 800 to 1000 s.f. operations with rents of approximately \$1 per square foot. If you allow the larger building the rent will jump to \$4 or \$5 per square foot per month, and they will not be able to compete.

**MOTION:** Move to implore our staff to put in a plan or ordinance stating that we consider limiting the DB zone to 6,000 s.f. footprint and grandfather existing

buildings at their current size to maintain the character of the DB zone. .  
Staff should further recommend height, zone, scale, architecture, setback  
alternatives

Ruffo / Picinich –

Councilmember Franich asked if there should be a limit on the grandfather clause so that the grocery store couldn't be any larger than 30,000 s.f. Councilmember Ruffo explained that it should be the existing structure, and not tied to the use.

Councilmember Franich said that he thought that it should be limited to the existing square footage of use. Part of what people like about the complex is the variety of shops. If you don't limit the uses by square footage, you could lose that. Councilmember Ruffo said that this would result in a limitation on a property right, which the city cannot do.

Steve Osguthorpe, Planning / Building Manager, clarified that any structure or any use that is non-conforming is already grandfathered. If you adopt the 6,000 s.f. footprint, the existing buildings will become non-conforming and therefore, grandfathered. He continued to explain that you cannot enlarge it, or if more than 50% is destroyed, you cannot rebuild. The only way to address what is being described is to come up with a different non-conforming criteria, stressing that he is unsure of the legality of doing that.

Councilmember Ruffo explained that while trying to maintain the character of the downtown, he is also trying to property the rights of the property owners. He asked what needs to be done to accomplish that. Councilmember Franich voiced concern that this would be giving the property owner rights that others do not have.

Councilmember Young explained that you cannot anticipate market fluctuations and property owners must have the ability to adapt to avoid empty spaces.

Councilmember Ekberg asked if the motion could address the option of three different zones. Councilmember Dick agreed that there are three different visions for the area.

Councilmember Young asked that the process be slowed down, recommending further workshops to collaborate on the three zone concept. He said that there are groups working on ideas for a vision.

Councilmember Ruffo agreed that there isn't enough information. Councilmember Ekberg pointed out that the motion is just to come back with ideas and at some point it needs to be put into ordinance form. Mark Hoppen said that he believes that staff has enough information to come back with a potential plan, and Council could then decide how to proceed.

**AMENDED MOTION:** Move to direct staff to put a plan together regarding the DB zone with the options for three separate sections that considers limiting the footprint of new buildings to 6,000 s.f.,

considers grandfathering existing buildings within current size, and staff further recommend zoning, height, scale, architecture, setbacks, and parking alternatives to maintain the character of the DB zone.

Ruffo / Ekberg –

Councilmembers discussed the timeline and the ability to gain further public input. It was recommended to put together some illustrated concepts to show the public and hold another worksession to get everyone involved. Then the ordinance can be drafted.

Councilmember Dick voiced his concern with the grandfathering issue. He said that this issue can be better addressed by developing a common vision for each area, then solving the problem through a different method. There was discussion about the best method to address this concern. Councilmember Franich said that he thought grandfathering, whether the west side or downtown, is the method that would work. Further discussion took place.

**MOTION:** Call for the question.

Ekberg / no second required – unanimously approved.

**AMENDED MOTION:**

Move to direct staff to put a plan together regarding the DB zone with the options for three separate sections that considers limiting the footprint of new buildings to 6,000 s.f., considers grandfathering existing buildings within current size, and staff further recommend zoning, height, scale, architecture, setbacks, and parking alternatives to maintain the character of the DB zone.

Ruffo / Ekberg – unanimously approved.

On July 19<sup>th</sup>, a workshop will be scheduled to review the plan.

There were no further comments and the worksession ended at 8:10 p.m.

Respectfully submitted:

---

Molly Towslee, City Clerk



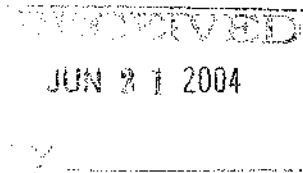
# Pierce County

Department of Emergency Management  
Office of the Director

STEVEN C. BAILEY  
Director

901 Tacoma Avenue South, Suite 300  
Tacoma, Washington 98402-2101  
(253) 798-6595 • FAX (253) 798-3307

June 17, 2004



Mrs. Gretchen Wilbert, Mayor  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335

To Whom It May Concern:

On behalf of the Homeland Security Regional Coordinating Council, I strongly encourage your support and agency's participation in a regional, multidisciplinary full-scale exercise to be held February 23, 2005. The exercise will evaluate the adequacy of our regional plans and systems in the context of a large-scale Weapons of Mass Destruction incident. The exercise scenario is a simulated, organized terrorist attack at the Western Washington Fairgrounds on a warm summer day. Global objectives will include:

- Identifying threats to responder safety and taking appropriate preventative actions;
- Establishing incident command / unified command;
- Demonstrating responder operational knowledge of newly purchased equipment;
- Demonstrating civilian / military response integration;
- Assessing the adequacy of current communications hardware and systems;
- Temporarily transferring the Disaster Medical Control Center responsibilities from Good Samaritan Hospital to Madigan Army Medical Center.

We recommend our public safety emergency disciplines participate in this comprehensive, high-profile event. The disciplines include:

- Communications and dispatch
- Emergency management
- Emergency medical services
- Health and medical organizations
- Law enforcement, fire services and their special operations teams
- Military
- Public works
- Transportation
- Volunteer organizations

Preparation for this full-scale exercise will be preceded by a tabletop exercise, focusing on the same objectives. The tabletop exercise is scheduled for January 12, 2005.

EMERGENCY MANAGEMENT-EMERGENCY MEDICAL SERVICES-FIRE PREVENTION - 54-1-1 - RADIO COMMUNICATIONS

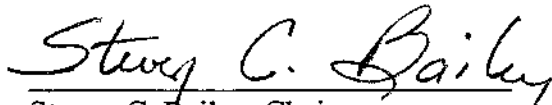




Page 2.

Please contact Judy Murphy (253-538-6442) or Karen Ferreira (253-798-6876) for additional information.

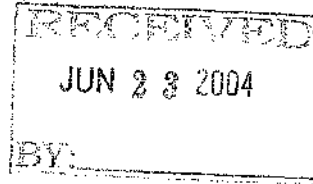
Respectfully,

A handwritten signature in cursive script that reads "Steven C. Bailey". The signature is written in black ink and is positioned above the printed name and title.

Steven C. Bailey, Chair  
Homeland Security Regional Coordinating Council

  
MultiCare  
Health System

315 Martin Luther King Jr. Way  
PO Box 5299  
Tacoma, WA 98415-0299  
253-403-1000



June 22, 2004

Dear Gig Harbor Resident:

MultiCare Health System has decided to accept the Department of Health's decision to grant a Certificate of Need for a new hospital in Gig Harbor. I am writing to tell you why we made this decision.

The Certificate of Need process is challenging for all who participate. We raised tough questions about the complex medical and clinical staffing needed to support a new hospital and some aspects of the approach used for analysis of the application. People in Gig Harbor provided a groundswell of support and testimonials for a hospital.

Now, a decision has been reached and it is time to move forward. Rather than oppose the Certificate of Need ruling, we will join in strengthening access to a full array of health care services now and in the future. MultiCare has provided services in the Harbor since 1990 and we will continue to grow and improve the services we provide in that community. I believe we will make better decisions about the new and enhanced services we will provide because of the input from the community during the Certificate of Need process.

Understandably, some in the Gig Harbor community don't want to see any delay in obtaining new services for their community and see the Certificate of Need process as an unwelcome barrier. With the passage of time, I believe it will be clear that the Gig Harbor area will reap the benefits from the continued presence of two strong health systems to serve its health care needs.

MultiCare takes great pride in its excellent facilities and highly professional and caring staff. People throughout the region know they will receive great health care when they choose a MultiCare provider. This has been our greatest strength in the past and will continue in the future.

If you have any further questions about our decision on this matter, please call me. Thank you for your continuing support of MultiCare Health System.



Diane Cecchetti, RN  
President and CEO, MultiCare Health System



**Peninsula Neighborhood Association**

7512 Stanich Lane, Suite 6A  
P.O. Box 507, Gig Harbor, WA 98335 (253) 858-3400  
www.p-n-a.org pna@harbornet.com (253) 858-3586 Fax

June 23, 2004

Gretchen Wilbert, Mayor  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335

Your Honor,

Several members of the PNA Board were present at the third work/study session on downtown building sizes on Monday, June 21. We were pleased that the Council saw fit to propose holding a visioning charrette as a precursor to defining building size limits and perhaps rezoning some areas of downtown.

The PNA Board is already well into the planning of a series of four forums to create a vision for Gig Harbor's future. Although downtown and the waterfront are a critical part of any vision for Gig Harbor, they represent only part of the total picture. So PNA's forums will undertake to discern a vision for sustainable economic development beyond just retail commercial and for the services needed to support the rural, residential lifestyle we prize.

The Board proposes to do this with four forums spread over two months.

August 11	What should the future of downtown and the waterfront be?
August 25	What kind of economic development should we strive for?
September 8	What services must we plan for to support the vision?
September 22	Bringing together the summary document.

The PNA Board is committed to work with the City on the future of downtown and the waterfront.

Hence, we offer our services to facilitate the Council's visioning process. We have people with the expertise to facilitate groups and a plan for collecting and organizing information to create a vision for our City.

Please, contact us through our Director of Operations, Joel Wingard, if you feel we can be of help in this process.

Sincerely,

Matt Halvorsen  
President

Cc: Mark Hoppen





"THE MARITIME CITY"

COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: GIG HARBOR CIVIC CENTER PROJECT**  
**FINAL PROJECT ACCEPTANCE**  
**DATE: JUNE 28, 2004**

**INTRODUCTION/BACKGROUND**

The signature on this Certificate of Completion enables Porter Brothers Construction to receive \$320,673.18 that the City has held in retainage until all issues related to the construction were completed to the City's satisfaction. The Gig Harbor Civic Center project is now complete.

**FISCAL CONSIDERATIONS**

There are no financial impacts associated with the City's project acceptance.

**RECOMMENDATION**

I recommend that the Council approve the project completion as presented and authorize the Mayor to sign the document on behalf of the City of Gig Harbor.



"THE MARITIME CITY"

CERTIFICATE OF COMPLETION

CONTRACTOR PORTER BROTHERS CONSTRUCTION, INC.			
MAILING ADDRESS 2222 MERIDIAN AVE. E., SUITE B			
CITY EDGEWOOD	STATE WA	ZIP 98372-1009	DATE 12/18/03

STATE PROJECT NO. N/A	FEDERAL-AID PROJECT NO. N/A	OTHER: N/A
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PROJECT: GIG HARBOR CIVIC CENTER CPP - 0132
---

DATE WORK PHYSICALLY COMPLETED April 23, 2004	FINAL AMOUNT \$ 6,937,190.15
--	---------------------------------

Contractor's Certification

I, the Undersigned, having first been duly sworn, certify that the attached Final Estimate and Reconciliation of Quantities is a proper charge for work performed and material furnished to the City of Gig Harbor for the above Project; that the same or any part thereof has not been paid; and that I am authorized to sign for the claimant (Contractor); that in connection with the work performed and to the best of my knowledge no loan, gratuity or gift of money in any form whatsoever has been extended to any employee of the City of Gig Harbor nor have I rented or purchased any equipment or materials from any employee of the City of Gig Harbor. I further certify that the attached Final Estimate and Reconciliation of Quantities is a true and correct statement showing all of the monies due me from the City of Gig Harbor under this contract; that I have carefully examined said Final Estimate and Reconciliation of Quantities and understand the same; and that I hereby release the City of Gig Harbor from any and all claims of whatsoever nature, which I may have arising out of the performance of said contract, which are not set forth in said Final Estimate and Reconciliation of Quantities. (See "Note" below)

Cheri L. Brown  
State of Washington  
Notary Public

Commission Expires 10/15/06

Subscribed and sworn to before me this 18<sup>th</sup> day of December, 2003

X Cheri Brown notary public in and for the State of Washington,

residing at Prace County

X James R. Porter  
(Contractor Authorized Signature Required)  
(Type Signature Here)

City of Gig Harbor Certification

I certify the attached Final Estimate and Reconciliation of Quantities to be based upon actual measurements, and to be true and correct:

APPROVED: Date 6/23/2004

X [Signature]  
Project Manager

X [Signature]  
City Engineer

Date of Acceptance 6/23/2004

By X \_\_\_\_\_

NOTE: Contractor's claims, if any, must be included and the Contractor's Certification must be labeled indicating a claim attached.



COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: DECLARATION OF SURPLUS PROPERTY**  
**DATE: JUNE 28, 2004**

**INTRODUCTION/BACKGROUND**

The 2004 budget anticipated replacement of equipment and tools. In the process of reviewing current equipment inventories, several additional items have been determined to be obsolete or surplus to the City's present or future needs. The items proposed for declaration as surplus are set forth in the attached resolution.

**FISCAL CONSIDERATIONS**

Monies received for the surplus items will be used to offset the costs for new vehicles and equipment.

**RECOMMENDATION**

I recommend that Council approve the resolution as presented, declaring the specified equipment surplus and eligible for sale.

**RESOLUTION NO. 625**

**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:

	<b>EQUIPMENT</b>	<b>Fixed Asset Number/ID Number</b>	<b>SERIAL NUMBER</b>	<b>MODEL INFO.</b>
1	10 HP Briggs & Stratton Waterous Water Pump	00017		
2	1985 Chevrolet Blazer	00274	1G8CS18B8F0120151 / License #D34271	S10
3	Dyna Clean Parts Washer	0126	S/N: 831033028	
4	Motorola two-way radio	0084	S/N: 203CC00542	#T43RTN1190B
5	1992 John Deere Mower	00101 00173	NOL176X044422	LX176
6	Printer/Fax machine HP Office Jet	00857	SG83GF3067	300
7	Royal electric typewriter	00340		Satellite III
8	Air Compressor, AMB Tools & Equipment	01141		Champion HR10-12
9	Sears Compressor	00021		106-175151
10	Delta 100-gal. Truck Fuel Tank with Pump & Meter			484000
11	1993 Chevrolet ½-Ton 4x4	00104	4BMFS0923P2501113	License #12028D

EQUIPMENT		Fixed Asset Number/ID Number	SERIAL NUMBER	MODEL INFO.
12	1984 Chevrolet 1-1/4-Ton Truck	00132	7GCGD34JOEF34796 7	CD-30903 License #16728D
13	1992 John Deere Mower (with 2 tags found)	00101 & 00173	NU176X044422	LX 176
14	1985 Chevrolet S10 Blazer	00274	1G8CS18B8F0120151	P34271
15	Air Powered Greaser			
16	2' x 3' Work Bench			
17	Dyna Clean Parts Washer	0126	831033028	
18	Motorola Two-Way Radio	0084	203CC00542	T43RTN1190B
19	Motorola Two-Way Radio	0087	203CEL1612	T43RTN1190B
20	2000 Ford CVCVPOL		2FAFP71W2YX15350 2	License #29178D

PASSED ON THIS 28th day of June, 2004.

APPROVED:

\_\_\_\_\_  
MAYOR GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
MOLLY TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 6/2/04  
PASSED BY THE CITY COUNCIL: 6/28/04  
RESOLUTION NO. 625





COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: RESOLUTION FOR PUBLIC HEARING – REVISION TO FRONT**  
**STREET VACATION – STENBAK**  
**DATE: JUNE 28, 2004**

**INTRODUCTION/BACKGROUND**

The City received a petition on February 17, 2000 from Mr. Glen Stenbak, to vacate portions of Front Street abutting his property at 8817 Prentice Avenue including parcel numbers 4009700-0020, - 0250 and 0260 in accordance with GHMC 12.14.002C. The City Council approved the street vacation on March 12, 2001, Ordinance No. 877

Pierce County advised the city in a letter dated July 11, 2003, that the street vacation Ordinance No. 877 vacating a portion of Front Street in the Plat of Gig Harbor did not include the portion abutting 8817 Prentice Avenue, parcel no. 410200-002-1 that lies within a plat known as Gig Harbor extension. This will correct the error in the previous ordinance.

Prior research on this right-of-way determined that this portion of Front Street was platted in Pierce County in 1891 and was not opened or improved by 1905; therefore, it automatically was vacated by operation of law in 1896. The City's ability to open this portion of Front Street was barred by lapse of time and the City had no interest in the street. In order to ensure that this additional portion of Front Street is correctly placed on tax rolls and the ownership is formally recorded, the property owner has requested that the City vacate the street to include parcel no. 410200-002-1 under GHMC 12.14.

The right-of-way proposed for vacation along Front Street is surplus to the City's needs, and the City does not have any plans for improving the right-of-way proposed for vacation. The vacation request will not eliminate public access to any property.

As defined in 12.14 GHMC a resolution must be passed by the Council setting a time and date for a public hearing on the proposed street vacation.

**FISCAL CONSIDERATIONS**

The processing fee was paid in accordance with GHMC 12.14.004.

**RECOMMENDATIONS**

I recommend that the Council pass the resolution setting Monday, July 12, 2004 at 7:00 P.M. as the date for the public hearing on the proposed street vacation of Front Street.

**RESOLUTION NO. 626**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, TO INITIATE THE PROCEDURE FOR THE VACATION OF A PORTION OF FRONT STREET LYING NORTH OF AUSTIN STREET AND WEST OF BURNHAM DRIVE.**

---

WHEREAS, Mr. Glen Stenbak desires to initiate the procedure for the vacation of the portion of Front Street, originally created in the plat called Extension to the City of Gig harbor, recorded in 1891 in Book 6 of Plats at Page 74 in Pierce County, Washington.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Gig Harbor, Washington:

Section 1. A public hearing upon said street vacation shall be held in the council chambers of Gig Harbor City Hall on Monday, July 12, 2004, at 7:00 p.m., at which hearing all persons interested in said street vacation are invited to appear.

Section 2. The City Clerk is directed to post notices of the hearing in three public places and on the street to be vacated and to mail notices to all owners of any property abutting the portion of street to be vacated, pursuant to RCW 35.79.020.

PASSED this \_\_\_\_ day of June 2004.

\_\_\_\_\_  
Gretchen A. Wilbert, Mayor

ATTEST:

\_\_\_\_\_  
Molly Towslee, City Clerk

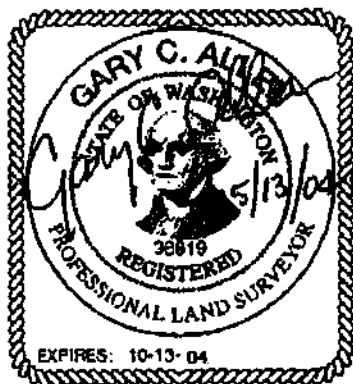
**LEGAL DESCRIPTION**

**PROPERTY THAT WILL ATTACH TO ADJOINER  
FOLLOWING VACATION OF PORTION OF FRONT STREET,  
GIG HARBOR, WASHINGTON**

THE NORTHERLY ONE HALF OF THAT PORTION OF FRONT STREET AS DEPICTED ON THE PLAT OF THE EXTENSION OF THE CITY OF GIG HARBOR ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 6 OF PLATS AT PAGE 24, RECORDS OF PIERCE COUNTY, WASHINGTON, LYING BETWEEN THE WESTERLY LINE OF SAID PLAT AND THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 14 OF SAID PLAT.

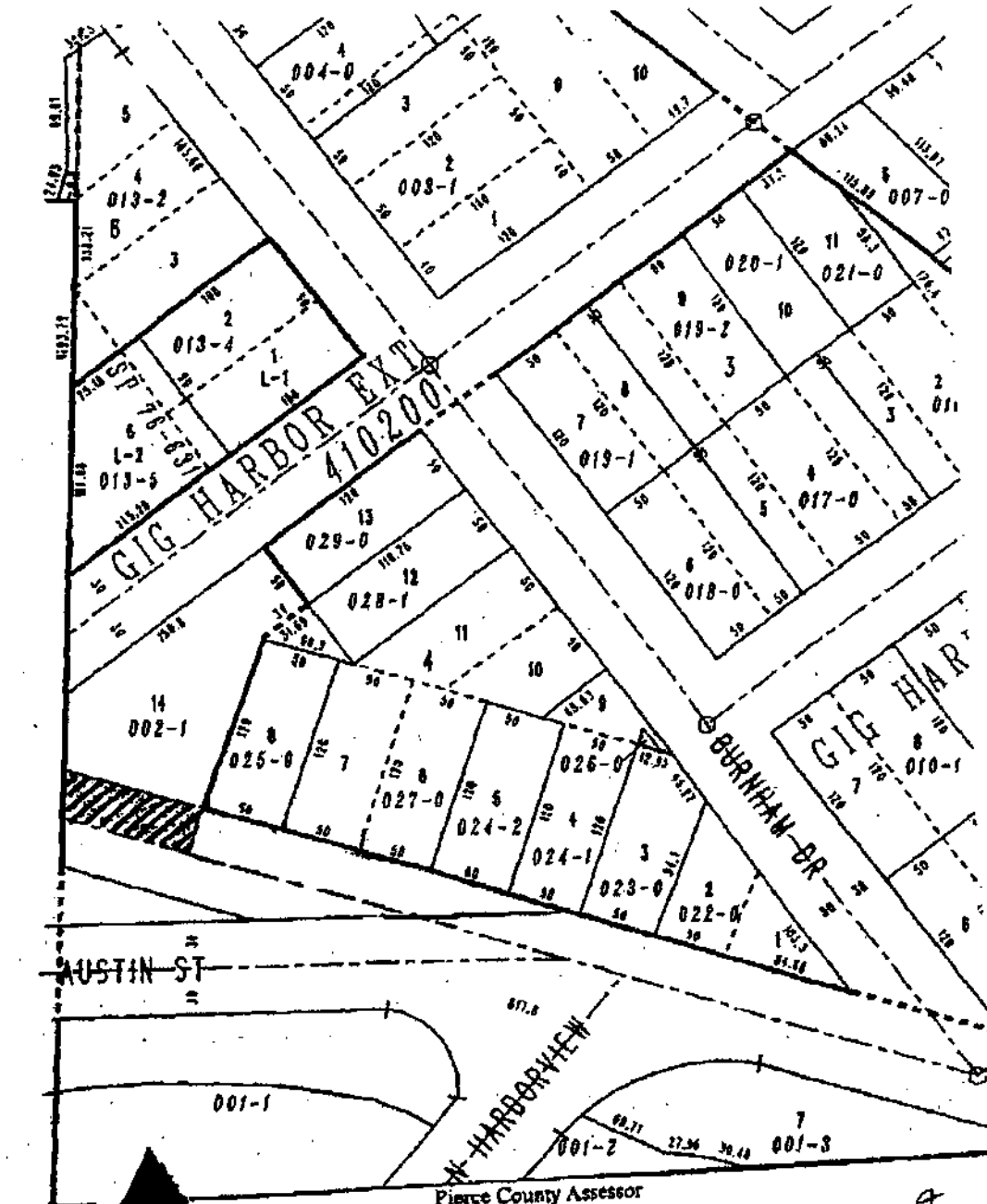
TOGETHER WITH AND SUBJECT TO COVENANTS, RESTRICTIONS AND EASEMENTS OF RECORD;

ALL SITUATED IN THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., PIERCE COUNTY, WASHINGTON.



Prepared by **BASELINE Engineering, Inc.**  
**BASELINE Job No. 00-010**  
May 13, 2004  
Filename: 00010\_VAC\_revA.doc

Exhibit A  
Front Street Vacation



Pierce County Assessor  
 Treasurer GIS Map  
 Dated 1-31-01  
 NE-6-21N-2E  
 Scale = 1" = 100'

EXTENSION OF

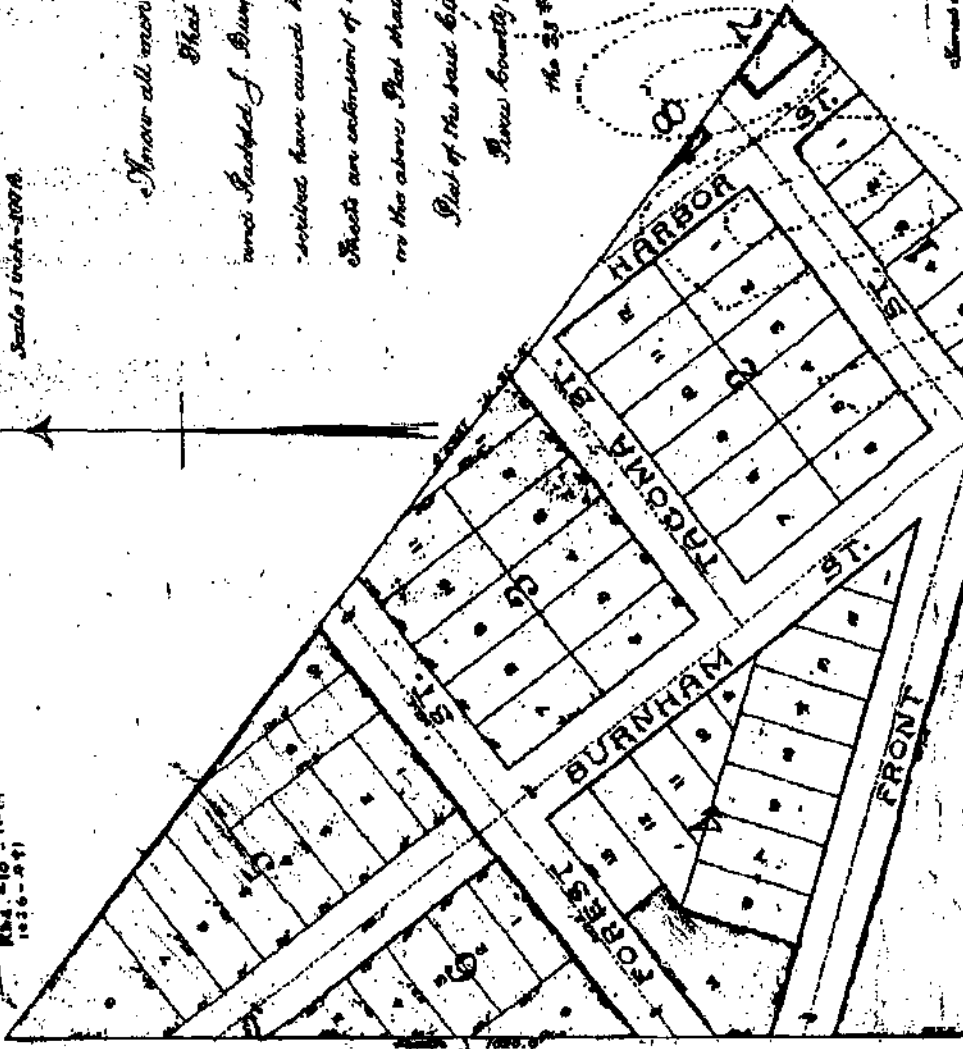
THE CITY OF

# GIG HARBOR

PIERCE COUNTY, WASHINGTON.

Scale 1 inch = 300 ft.

1400000 ST. W. 1/2  
1/4 SEC. 10 T. 14 N. R. 2 E.  
TOWN COUNCIL  
1026-49



Know all men by these presents:-

That in the undersigned Report of Mr. Burnham and Rachel J. Burnham his wife, owners of the parcel here described have caused to be laid out and plat to be filed in the office of the City of Gig Harbor, comprising the parcels shown above, Plat shaded in red, which is an extension of the original Plat of the said City. Recorded at and signed in the Records of Pierce County, Washington, Plat Book No. 2 Page 14, on the 23<sup>rd</sup> day of April, 1888.

And we hereby declare as highways for the use of the public, forever, all the streets shown upon the above Plat.

For witness our hand and seal this 20<sup>th</sup> day of July 1892

Attest: M. Burnham  
Rachel J. Burnham



Pierce County

Office of the Assessor-Treasurer

2401 South 35th Street, Room 142  
Tacoma, Washington 98409-7498  
(253) 798-6111 • FAX (253) 798-3142  
ATLAS (253) 798-3333  
www.co.pierce.wa.us/atr

KEN MADSEN  
Assessor-Treasurer

July 11, 2003

City of Gig Harbor  
Planning Department  
3105 Judson Street  
Gig Harbor, WA 98335

RE: Vacation Ordinance No. 877  
Boundary Line Revision 97-07-29-0270

To Whom It May Concern:

Please be advised that the street vacation Ordinance No. 877 vacating a portion of Front Street in the Plat of Gig Harbor does not include that portion abutting parcel 410200-002-1. Please note that the vacation refers to only vacated Front Street in the Plat of Gig Harbor. Parcel 002-1 lies within a different plat known as Gig Harbor Extension.

In addition, Boundary Line Revision 97-07-29-0270 has not been worked by this office due to an error on the document. The instrument needs to be corrected and re-recorded.

Yours truly,

Linda LaVelle  
Property Segregation Technician

Enclosures (3)

RECEIVED  
CITY OF GIG HARBOR  
JUL 15 2003  
COMMUNITY DEVELOPMENT

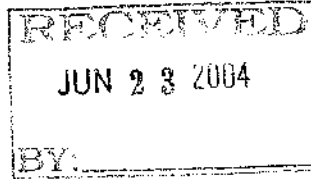




NOTICE OF LIQUOR LICENSE APPLICATION

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

TO: CITY OF GIG HARBOR
RE: NEW APPLICATION



DATE: 6/21/04

UBI: 602-404-876-001-0001

License: 074950 - 1J County: 27
Tradename: BRIX 25 RESTAURANT
Loc Addr: 7707 PIONEER WAY
GIG HARBOR WA 98335-1132

APPLICANTS:
HARBOR BRIX LLC
MOSHER, JILL MARYVERETE
1967-11-29
WAMBOLD, MARK H
1965-02-09

Mail Addr: 2717 6TH AVE
TACOMA WA 98406-7212

Phone No.: 253-225-3352 MARK WANBOLD

Privileges Applied For:
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.

YES NO checkboxes for each question

DATE

SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE



COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: PUBLIC HEARING – CONTINUATION OF MORATORIUM ON WATER**  
**HOOK-UPS - ORDINANCE NO. 960**  
**DATE: JUNE 28, 2004**

**INFORMATION/BACKGROUND**

The City Council adopted Ordinance No. 960 on May 24, 2004, which imposed an immediate moratorium on water hook-ups for a period of up to six months on the acceptance of certain development permit applications and utility extension agreements. Adoption of this ordinance was predicated on the City Council holding a public hearing on the proposed moratorium within sixty (60) days after adoption (RCW 35A.63.220, RCW 36.70A.390).

The city applied for two water rights with the Department of Ecology in 2000 (#'s G2-29896 & G2-29937). Recent communications with Department of Ecology staff have indicated that the processing of these applications could take an additional 6-8 years.

In order to facilitate the review of these applications, the City Council entered into a cost-reimbursement program with the Department of Ecology as provided for in RCW 90.03.265 on June 1, 2004. Under the terms of the agreement, the City will reimburse the Department of Ecology \$53,625 and in turn the Department will render a final decision on the applications by September 10, 2004. There is no assurance from the Department of Ecology that the applications will be granted, only that a decision will be rendered. Therefore, we cannot process applications during this time or make them "subject to" water availability, when water is granted.

**RECOMMENDATION**

I recommend that at the conclusion of the public hearing, the Council adopt findings of fact on the subject of this moratorium, justifying its continued existence for a period of six-months.



ORDINANCE NO. 960

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO WATER AVAILABILITY FOR NEW DEVELOPMENT, ADOPTING AN IMMEDIATE EMERGENCY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR DEVELOPMENT OR UTILITY EXTENSION AGREEMENTS REQUIRING A WATER CONNECTION, WATER SERVICE OR AN INCREASE IN WATER CONSUMPTION TO AN EXISTING USE, TO BE EFFECTIVE IMMEDIATELY, DEFINING THE APPLICATIONS AND AGREEMENTS SUBJECT TO THE MORATORIUM, SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM, ESTABLISHING SIX MONTHS AS THE EFFECTIVE PERIOD OF THE MORATORIUM UNTIL THE CITY COUNCIL PUBLIC HEARING ON THE CONTINUED MAINTENANCE OF THE MORATORIUM, AND DECLARING AN EMERGENCY NECESSITATING IMMEDIATE ADOPTION OF THIS ORDINANCE.**

---

WHEREAS, the City Council of the City of Gig Harbor may adopt an immediate moratorium for a period of up to six months on the acceptance of certain development permit applications and utility extension agreements, as long as the City Council holds a public hearing on the proposed moratorium within sixty (60) days after adoption (RCW 35A.63.220, RCW 36.70A.390); and

WHEREAS, the City desires to impose an immediate moratorium on the acceptance of development applications and utility extension agreements requiring water service from the City's water system because the capacity in the City's water system is extremely low; and

WHEREAS, the City has submitted applications for additional water rights to the Department of Ecology (DOE), but DOE has not yet acted on the applications, and the

City has no information from DOE to indicate when DOE will issue any new water rights to the City; and

WHEREAS, the City's water concurrency regulations allow applicants to submit applications for development even when water is not available in the City's water system, and if the applicant cannot provide water for the proposed project from a source other than the City's water system, the City may deny issuance of a water concurrency certificate and also deny the underlying development application; and

WHEREAS, the City's water concurrency regulations allow those with denied water concurrency certificates (as well as the denied underlying development application) to appeal the City's denial; and

WHEREAS, the City Council finds that the City will not have additional water for development unless and until DOE issues new water rights to the City, and because there is no indication when the new water rights will issue, processing development applications (requiring water from the City's water system) through the water concurrency review, denial and appeals process will be a time-intensive and unnecessary exercise for staff; and

WHEREAS, the City Council desires to impose an immediate moratorium on the acceptance of development applications or utility extension agreements requiring water from the City's water system; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,  
ORDAINS AS FOLLOWS:

Section 1. Definitions. For the purpose of this Ordinance, the following definitions apply:

A. **"Exempt Development Permits"** shall include any permit applications identified below:

1. Administrative interpretations;
2. Sign permit;
3. Demolition permit;
4. Street use permit;
5. Permits for interior alterations of a structure with no change in use;
6. Excavation/clearing permit;
7. Hydrant use permit;
8. Right of way permit;
9. Single family remodeling permit with no change of use;
10. Plumbing permit;
11. Electrical permit;
12. Mechanical permit;
13. Sewer connection permit;
14. Driveway or street access permit;
15. Grading permit;
16. Tenant improvement permit;
17. Fire code permit;
18. Boundary Line Adjustment;
19. Design Review approval.

Notwithstanding the inclusion of any permit in the list above, if any of the above permit applications will increase water consumption, such application shall not be exempt. In addition, an exempt permit shall include any other development application: (i) submitted to the City and complete on or before the effective date of this Ordinance; or (ii) that does not require water from the City's water system.

B. **"Non-Exempt Development Permits"** shall include any permits or permit applications for any "development activity," which is any construction or expansion of a

building, structure or use; any change in the use of a building or structure; or any changes in the use of the land that creates additional demand for water from the City's water system and requires a development permit from the City. A "development permit" is any land use permit required by the City for a project action, including but not limited to building permits, subdivisions, short plats, binding site plans, planned unit developments, planned residential developments, conditional uses, shoreline substantial developments, site plan reviews or site specific rezones, and certain types of applications for amendments to the City's comprehensive plan (see, GHMC Section 19.10.010).

"Non-exempt development permits" shall also include utility extension agreements for water service outside the City limits, as identified in GHMC 13.34.060, which have not been acted upon by the City Council on the effective date of this Ordinance, regardless of the date of submission or the completeness of the application/agreement materials.

Section 2. Purpose. The purpose of this moratorium is to allow the City adequate time to (A) hold a hearing on the recommendations of staff regarding the capacity in the City's water system and the possible solutions; and (B) obtain additional water right approvals from DOE.

Section 3. Moratorium Imposed. The City Council hereby imposes a moratorium on the acceptance of all non-exempt development permit applications for property inside and outside the City limits. All such non-exempt applications shall be rejected

and returned to the applicant. With regard to the City's acceptance of any exempt development application, such acceptance shall only allow processing to proceed, but shall not constitute an assurance that the application will be approved.

Section 4. Duration of Moratorium. The moratorium imposed by this Ordinance shall commence on the date of adoption of this Ordinance. As long as the City holds a public hearing on the moratorium and adopts findings and conclusions in support of the moratorium (as contemplated by Section 5 herein), the moratorium shall not terminate until six (6) months after the date of adoption, or at the time all of the tasks described herein have been accomplished, whichever is sooner. The Council shall make the decision to terminate the moratorium by ordinance, and termination shall not otherwise be presumed to have occurred.

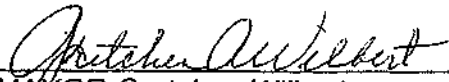
Section 5. Public Hearing on Moratorium. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the City Council shall hold a public hearing on this moratorium within sixty (60) days of adoption, or before July 23, 2004. The Council shall hold this hearing on June 28, 2004. Immediately after the public hearing, the City Council shall adopt findings of fact on the subject of this moratorium, and either justify its continued existence or cancel the moratorium.

Section 6. 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 7. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum (RCW 35A.12.130). Without an immediate moratorium on the City's acceptance of non-exempt development applications for property, such applications could become vested, even though there are inadequate public services (water) for the development. The City does not know when DOE will issue additional water rights to the City, and the regulations applicable to non-exempt development applications could change during the period of the moratorium. Therefore, the moratorium must be imposed as an emergency measure to protect the public health, safety and welfare, and to prevent the submission of a flood of development applications to the City in an attempt to vest rights for an indefinite period of time. This Ordinance does not affect any existing vested rights, nor will it prohibit all development in the City, because those property owners with exempt applications/permits, those with previously obtained approvals for development and those with development applications using alternative water sources may proceed with processing.

Section 8. Publication. This Ordinance shall be published by an approved summary consisting of the title.

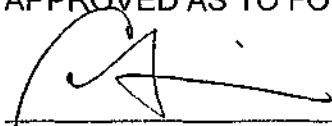
Section 9. Effective Date. This Ordinance shall take effect and be in full force and effect immediately upon passage, as set forth in Section 7, as long as it is approved

  
MAYOR Gretchen Wilbert

ATTEST/AUTHENTICATED:

  
Molly Towslee, City Clerk

APPROVED AS TO FORM:

  
Carol A. Morris, City Attorney

FILED WITH THE CITY CLERK: 5/24/04  
PASSED BY THE CITY COUNCIL: 5/24/04  
PUBLISHED: 6/2/04  
EFFECTIVE DATE: 5/24/04  
ORDINANCE NO.: 960



"THE MARITIME CITY"

COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: SECOND READING OF AN ORDINANCE RELATING TO ANNEXATION**  
**AND ZONING - NORTHWEST EMPLOYMENT CENTER ANNEXATION**  
**(ANX 03-04)**  
**DATE: JUNE 28, 2004**

**INFORMATION/BACKGROUND**

The City Council met with the initiators of a 'Notice of Intention to Commence Annexation Proceedings' on September 8, 2003 with regards to a proposed annexation of approximately two hundred and twenty-six (226) acres of property west of Highway 16, south of the Washington Correction Center for Women, and north of Rosedale Street. At that time, the Council voted to authorize circulation of the annexation petition subject to adoption of the pre-annexation Employment District (ED), Public Institutional (PI), and Single-Family Residential (R-1) zoning and a requirement that the property owners assume a proportionate share of the City's indebtedness.

The City received a petition for annexation on November 10, 2003. The petition was subsequently certified by the Pierce County Office of the Assessor-Treasurer as being legally sufficient on February 5, 2004.

At the conclusion of a public hearing on March 22, 2004, the Council passed Resolution No. 621 accepting the annexation petition and referred the annexation to the Pierce County Boundary Review Board for consideration. The Boundary Review Board subsequently deemed the annexation approved on May 25, 2004.

Adoption of an ordinance annexing the property and establishing zoning is in order. The City Attorney has reviewed and approved the attached ordinance for your consideration. The first reading was held on June 14, 2004.

**POLICY CONSIDERATIONS**

None.

**FISCAL IMPACT**

None.

**RECOMMENDATION**

I recommend that the Council approve the ordinance as presented.





Pierce County

Boundary Review Board

2401 South 35th Street  
Tacoma, Washington 98409-7460  
(253) 798-7156 • FAX (253) 798-3680

May 25, 2004

RECEIVED  
CITY OF GIG HARBOR  
MAY 28 2004  
COMMUNITY  
DEVELOPMENT

John Vodopich  
Director of Community Development  
3510 Grandview Street  
Gig Harbor WA 98335

Re: Proposed Northwest Gig Harbor Employment Center Annexation  
Boundary Review Board Case No. A-04-1

Dear Mr. Vodopich:

The forty-five (45) day period has elapsed since the Notice of Intention was officially filed with the Pierce County Boundary Review Board on April 5, 2004, and the Board's jurisdiction has not been invoked.

Accordingly, as provided by RCW 36.93.100, the subject proposal is deemed approved by the Boundary Review Board.

The City of Gig Harbor needs to submit a certified copy of its final ordinance, along with the attached legal description, formally extending its boundaries to accomplish completion of the proposal. The ordinance should come directly to the Boundary Review Board for distribution to all concerned County departments.

Sincerely,

Toni Fairbanks  
Chief Clerk

Attachment  
brb45end.doc



Printed on recycled paper

PAGE 12  
RECEIVED  
CITY OF GIG HARBOR  
MAY 28 2004  
COMMUNITY  
DEVELOPMENT

EXHIBIT  
I.1

ANNEXATION DESCRIPTION

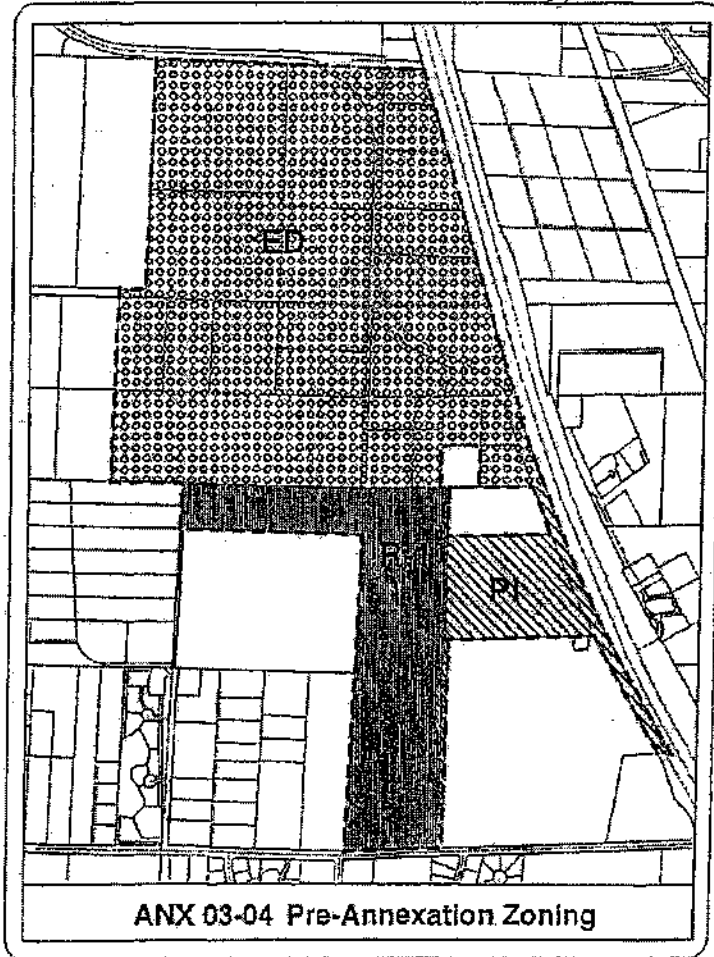
The proposed annexation is of approximately two hundred twenty six (226) acres. The area is currently zoned Moderate Density Single Family and Employment Center, per the Pierce County zoning code and will be brought into the City of Gig Harbor with Employment District (ED), Public Institutional (PI), and Single-Family Residential (R-1) zoning.

The reason for the annexation is to bring properties located within the Urban Growth Area (UGA), into the incorporated limits of Gig Harbor.

The method used to initiate the annexation was the petition method in accordance with RCW 35A.14

EXHIBIT I.5.B  
VICINITY MAP

RECEIVED  
CITY OF GIG HARBOR  
MAY 28 2004  
COMMUNITY  
DEVELOPMENT



**CITY OF GIG HARBOR  
ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO ANNEXATION AND ZONING, ANNEXING APPROXIMATELY TWO HUNDRED AND TWENTY-SIX (226) ACRES OF PROPERTY LOCATED WEST OF HIGHWAY 16, SOUTH OF THE WASHINGTON CORRECTION CENTER FOR WOMEN, AND NORTH OF ROSEDALE STREET LOCATED IN PIERCE COUNTY (ANX 03-04), ADOPTING ZONING REGULATIONS FOR THE ANNEXATION AREA, AND REQUIRING THE PROPERTY OWNERS TO ASSUME THEIR PROPORTIONATE SHARE OF INDEBTEDNESS.**

---

WHEREAS, on June 4, 2003, the City of Gig Harbor received a Notice of Intent to Annex approximately two hundred and twenty-six (226) acres of property located west of Highway 16, south of the Washington Correction Center for Women, and north of Rosedale Street located in Pierce County, more particularly described in Exhibit A, attached hereto and incorporated herein as if fully set forth in full; and

WHEREAS, the Notice of Intent was signed by the owners of not less than ten percent (10%) of the acreage of the property described in Exhibit A; and

WHEREAS, on September 8, 2003, the City Council met with the initiators of the petition voted to authorize circulation of the annexation petition subject to certain conditions including adoption of pre-annexation Employment District (ED), Public Institutional (PI), and Single-Family Residential (R-1); and that the property owners assume a proportionate share of the City's indebtedness; and

WHEREAS, on November 10, 2003, a petition for annexation of the property described in Exhibit A was received by the City; and

WHEREAS, on February 5, 2004, the petition for annexation was certified by the Pierce County Office of the Assessor-Treasurer, as being legally sufficient, and as containing the signatures of the owners of a majority of the acreage of the area proposed for annexation described in Exhibit A; and

WHEREAS, on March 22, 2004, the City Council, following a public hearing on the annexation petition, the voted to approve the proposed pre-annexation Employment District (ED), Public Institutional (PI), and Single-Family Residential (R-1) zoning for the area and the annexation, subject to Boundary Review Board approval (City of Gig Harbor Resolution No. 616); and

WHEREAS, on March 24, 2004, the Notice of Intention, together with supporting documentation, was submitted to the Chief Clerk of the Pierce County Boundary Review Board; and

WHEREAS, on April 8, 2004, the Chief Clerk of the Pierce County Boundary Review Board deemed the annexation proposal as complete, set the official filing date as April 5, 2004, initiated the forty-five (45) day review period, and noted that the period during which jurisdiction could be invoked would expire on May 20, 2004; and

WHEREAS, the property described in Exhibit A and proposed to be annexed is within the Urban Growth Area as established by Pierce County and included in the Comprehensive Plans of both the County and the City of Gig Harbor; and

WHEREAS, the City of Gig Harbor Comprehensive Plan, adopted in November 1994, established a land use map designation for this area as Employment Center, Public Institutional, and Urban Residential Low Density, along with pertinent goals

and objectives, to guide the development of the annexation area over the next twenty years; and

WHEREAS, the proposed pre-annexation Employment District (ED), Public Institutional (PI), and Single-Family Residential (R-1) zoning of the property described in Exhibit A is consistent with the City of Gig Harbor Comprehensive Land Use Plan designation as Employment Center, Public Institutional, and Urban Residential Low Density; and

WHEREAS, the Gig Harbor Council has provided its intent to annex approximately two hundred and twenty-six (226) acres of property located west of Highway 16, south of the Washington Correction Center for Women, and north of Rosedale Street Located in Pierce County, contingent upon the following conditions:

- A. Assumption by the property owners of their proportionate share of the City of Gig Harbor's indebtedness; and
- B. Imposition of Employment District (ED), Public Institutional (PI), and Single-Family Residential (R-1) zoning of the property; and

WHEREAS, on May 25, 2004, the Pierce County Boundary Review Board issued a written decision approving the annexation of the property as described in Exhibit A; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting's of June 14 and June 28, 2004; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,  
ORDAINS AS FOLLOWS:

Section 1. The Gig Harbor City Council hereby approves the annexation of approximately two hundred and twenty-six (226) acres of property located west of Highway

16, south of the Washington Correction Center for Women, and north of Rosedale Street  
Located in Pierce County, contingent upon the following conditions:

- A. Assumption by the property owners of their proportionate share of the City of Gig Harbor's indebtedness; and
- B. Imposition of Employment District (ED), Public Institutional (PI), and Single-Family Residential (R-1) zoning of the property as identified in Exhibit B.

Section 2. The Community Development Director is hereby instructed to effectuate the necessary changes to the Official Zoning Map of the City in accordance with the zoning established in Section 1.

Section 3. The Gig Harbor City Clerk hereby declares the property described in Exhibit A to be contiguous with the boundaries of the City of Gig Harbor.

Section 4. The City Clerk is hereby directed to record a certified copy of this ordinance with the office of the Pierce County Auditor.

Section 5. 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 28<sup>th</sup> day of June 2004.

APPROVED:

\_\_\_\_\_  
MAYOR, GRETCHEN WILBERT

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:  
ORDINANCE NO.



**Exhibit A**  
**NORTHWEST GIG HARBOR EMPLOYMENT**  
**CENTER ANNEXATION (ANX 03-04)**

"A"

July 29, 2003  
File #27705/0

**GIG HARBOR ANNEXATION**  
**LEGAL DESCRIPTION**

A PARCEL OF LAND LYING IN THE NORTHWEST QUARTER, AND THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 21 NORTH, RANGE 2 EAST, THE NORTHEAST QUARTER, AND THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 21 NORTH, RANGE 1 EAST, ALL OF THE WILLAMETTE MERIDIAN, PIERCE COUNTY, WASHINGTON AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE AFOREMENTIONED SECTION 6; THEN EASTERLY ALONG THE NORTH LINE THEREOF, 310.4 FEET MORE OR LESS, TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SR-16, AS SHOWN ON WASHINGTON STATE DEPARTMENT OF HIGHWAYS MAP ENTITLED SR-16 MP 8.34 TO MP 18.87, NARROWS BRIDGE TO OLYMPIC DRIVE, SAID POINT BEING 75 FEET LEFT OF STATION 1272 + 94.9 AS DEPICTED ON SAID HIGHWAY PLANS; THENCE SOUTHEASTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE 2,594.90 FEET TO STATION 1247 + 00 AND AN ANGLE POINT IN SAID RIGHT-OF-WAY LINE; THENCE SOUTHWESTERLY PERPENDICULAR TO THE AFOREMENTIONED WESTERLY RIGHT-OF-WAY LINE, 15.00 FEET TO AN ANGLE POINT IN SAID WESTERLY RIGHT-OF-WAY LINE; THENCE SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE, SAID LINE ALSO BEING THE EASTERLY RIGHT-OF-WAY LINE OF 46<sup>TH</sup> AVENUE N.W., AS SHOWN IN THE DOCUMENT RECORDED UNDER AUDITORS FILE NUMBER 8106080152, TO THE NORTH LINE OF THE SOUTH HALF, OF THE SOUTH HALF, OF THE SOUTH HALF OF THE AFOREMENTIONED SECTION 6; THENCE WESTERLY ALONG SAID NORTH LINE TO THE WESTERLY MARGIN OF THE AFOREMENTIONED 46<sup>TH</sup> AVENUE N.W.; THENCE NORTHWESTERLY ALONG SAID MARGIN TO THE SOUTHEAST CORNER OF LOT 3 OF PIERCE COUNTY SHORT PLAT RECORDED UNDER AUDITORS FILE NUMBER 8405310234; THENCE WESTERLY ALONG THE SOUTH LINE THEREOF, 369.82 FEET TO THE SOUTHWEST CORNER OF SAID LOT 3; THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT 3, A DISTANCE OF 306.86 FEET TO THE SOUTHEAST CORNER OF LOT 1 OF SAID SHORT PLAT; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 272.00 FEET, TO THE WESTERLY LINE OF SAID SHORT PLAT; THENCE SOUTHERLY ALONG SAID WESTERLY LINE, 306.86 FEET, TO THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE AFOREMENTIONED SECTION 6; THENCE EASTERLY ALONG SAID LINE TO INTERSECT WITH A LINE HEREIN AFTER REFERRED TO AS LINE "A", SAID LINE BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION; THENCE NORTH 85°36'40" EAST, 700.00 FEET; THENCE NORTH 02°34'33" WEST, 1,530.77 FEET; THENCE NORTH 00°12'32" WEST, TO THE AFOREMENTIONED INTERSECTION AND

THE TERMINUS OF THIS LINE DESCRIPTION.

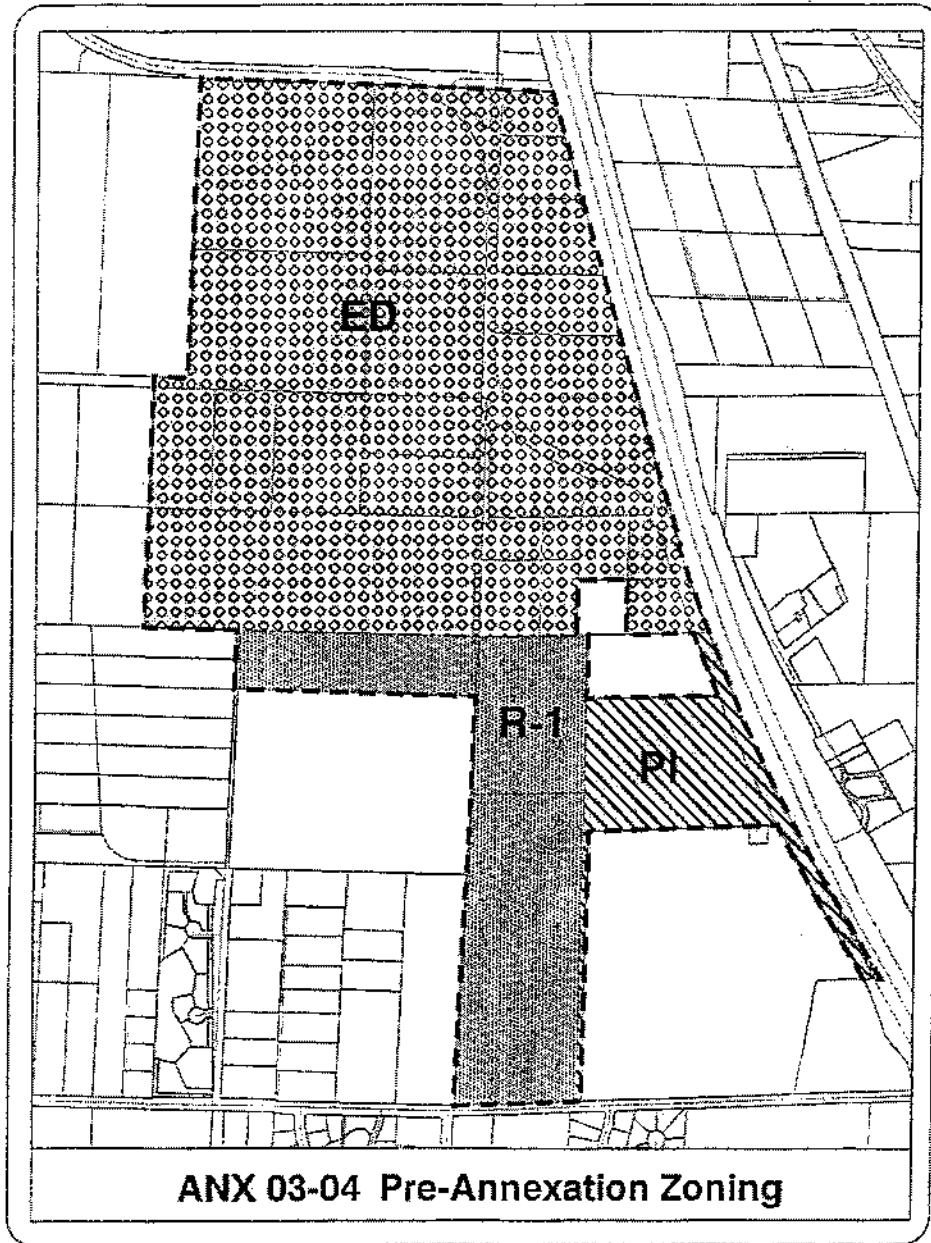
THENCE SOUTH 00°12'32" EAST ALONG SAID LINE "A", 350 FEET, MORE OR LESS, TO A LINE 350 FEET SOUTHERLY, AND PARALLEL WITH, SAID NORTH LINE OF THE SOUTHWEST QUARTER; THENCE EASTERLY ALONG SAID PARALLEL LINE TO THE WESTERLY RIGHT OF WAY LINE OF 46<sup>TH</sup> AVENUE N.W.; THENCE SOUTHERLY ALONG SAID RIGHT OF WAY LINE TO INTERSECT A LINE PARALLEL WITH AND 1530 FEET NORTH OF THE SOUTH LINE OF SAID SECTION 6; THENCE WESTERLY ALONG SAID PARALLEL LINE TO THE AFOREMENTIONED LINE "A"; THENCE SOUTH 02°34'33" EAST, ALONG SAID LINE "A" 1500.77 FEET, MORE OR LESS, TO THE NORTHERLY RIGHT OF WAY LINE OF ROSEDALE STREET N.W.; THENCE WESTERLY ALONG SAID NORTH RIGHT OF WAY LINE TO THE WEST LINE OF SAID SECTION 6; THENCE NORTHERLY ALONG THE LINE COMMON TO SAID SECTION 6 AND THE AFOREMENTIONED SECTION 1, TO THE NORTH LINE OF THE SOUTH 60 RODS OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 1; THENCE ALONG SAID NORTH LINE OF THE SOUTH 60 RODS, WESTERLY, 80 RODS; THENCE NORTH, PARALLEL WITH THE EAST LINE OF SAID SECTION 1, TO THE SOUTH LINE OF THE NORTHEAST QUARTER THEREOF; THENCE WESTERLY ALONG SAID SOUTH LINE TO THE EAST LINE OF THE WEST 825 FEET OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 1; THENCE NORTHERLY ALONG SAID EAST LINE AND SAID EAST LINE EXTENDED NORTHERLY, TO A LINE WHICH IS 60 FEET NORTH OF, AND PARALLEL WITH, THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE EASTERLY ALONG SAID LINE TO THE EAST LINE OF THE WEST 40 ACRES, OF GOVERNMENT LOT 2 OF THE AFOREMENTIONED SECTION 1; THENCE NORTHERLY ALONG SAID EAST LINE TO THE NORTH LINE OF AFOREMENTIONED NORTHEAST QUARTER; THENCE EASTERLY, ALONG SAID NORTH LINE, TO THE NORTHEAST CORNER, OF SAID NORTHEAST QUARTER, OF SAID SECTION 1, SAID POINT ALSO BEING THE NORTHWEST CORNER, OF THE NORTHWEST QUARTER, OF THE AFOREMENTIONED SECTION 6, AND THE POINT OF BEGINNING.

MFG/lmm

027705/doc-rpts/legal/stamped\_mfg072903



"B"



ANX 03-04 Pre-Annexation Zoning



"THE MARITIME CITY"

**ADMINISTRATION**

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: MARK HOPPEN, CITY ADMINISTRATOR** *MH*  
**SUBJECT: FIRST READING OF ORDINANCE - SCHOOL IMPACT FEES;  
INTERLOCAL AGREEMENT WITH PENINSULA SCHOOL DISTRICT**  
**DATE: JUNE 28, 2004**

**INFORMATION/BACKGROUND**

In 1999, in order to ensure that adequate transportation and parks facilities could be provided at established levels of service to serve new growth and development, the City Council adopted an ordinance to establish transportation and park impact fees. This ordinance is consistent with recently updated city comprehensive plans for transportation and parks, and creates the means to ensure that new development bears a proportionate share of the capital costs of off-site parks and transportation facilities. Also, this ordinance ensures that the city will pay its fair share of these capital costs and that the city will provide for the equitable collection of these fees.

The current impact fees ordinance, however, does not collect school impact fees and the attached revisions to the ordinance propose to facilitate collection of such fees. The fee schedule attached to the ordinance is based on the Peninsula School District's fee proposal that the district considers consistent with its capital facility plan and growth projection needs. The proposed fees are identical in fee schedule to fees currently collected in Pierce County (see Appendix 'A').

**POLICY CONSIDERATIONS**

School impact fees will provide mitigation for the effects of new residential growth and attendant school capacity needs. The Peninsula School District approved the attached interlocal agreement on April 29, 2004.

**FISCAL CONSIDERATIONS**

At \$1711 per single family dwelling unit and \$901 per multi-family dwelling unit, the proposed fee schedule meets 27.2% and 28.8% of the Peninsula School District's unfunded capital facility growth need, as expressed in Pierce County's adopted school impact fee schedule (see Appendix 'A'). The \$1711 and \$901 fee levels are equal to the currently adopted Pierce County fee levels.

**RECOMMENDATION**

I recommend that the City Council pass the attached ordinance and interlocal agreement subsequent to a public hearing on the ordinance at the July 12, 2004, City Council Meeting.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE CITY'S IMPACT FEE REGULATIONS TO ALLOW FOR THE IMPOSITION OF SCHOOL IMPACT FEES BY THE CITY ON DEVELOPMENT, THE COLLECTION, MANAGEMENT, USE AND APPEAL OF SUCH FEES, ALL OF WHICH WILL BECOME OPERATIVE AT THE TIME THE CITY COUNCIL ADOPTS A FEE SCHEDULE FOR SCHOOL IMPACT FEES, ADDING NEW DEFINITIONS FOR "SCHOOL FACILITIES," "SCHOOL DISTRICT," "SCHOOL DISTRICT SERVICE AREA," AND "SUPERINTENDENT," AMENDING THE IMPACT FEE CHAPTER TO ELIMINATE ANY VESTING OF IMPACT FEES, PURSUANT TO A RECENT COURT DECISION, MAKING OTHER MINOR CHANGES TO CORRECT TYPOGRAPHICAL ERRORS; AMENDING GIG HARBOR CODE SECTIONS 19.14.010; 19.12.010; 19.12.050, 19.12.070, 19.12.080, 19.12.090, 19.12.100, 19.12.110, 19.12.120, 19.12.130, 19.12.140, 19.12.150, 19.12.170.

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WHEREAS, the City has adopted impact fees for parks and transportation facilities in chapter 19.12 of the Gig Harbor Municipal Code; and

WHEREAS, the City has the authority to adopt impact fees to address the impact on school facilities caused by new development, pursuant to RCW 82.02.050 through 82.02.100; and

~~WHEREAS, the City's SEPA Responsible Official issued a determination that the adoption of this ordinance is exempt from SEPA under WAC 1997-11-800(20); and~~

~~WHEREAS, the City Planning Director forwarded a copy of this Ordinance to the Washington State Department of Trade and Community Development on \_\_\_\_\_, pursuant to RCW 36.70A.106; and~~

WHEREAS, the City's SEPA Responsible Official issued a determination of non-significance on May 24, 2004, with a June 9, 2004 comment deadline and June 23, 2004 appeal period; and

WHEREAS, no comments or appeals have been submitted; and

WHEREAS, the Gig Harbor Planning Commission held a public hearing and (recommended adoption/did not recommend adoption) of this Ordinance; and

WHEREAS, the City Council held a public hearing and considered this Ordinance during its regular City Council meeting of July 12, 2004. Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,  
ORDAINS AS FOLLOWS:

Section 1. Section 19.14.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**19.14.010 Definitions.** The following words and terms shall have the following meanings for the purpose of chapter 19.10 and 19.12, the concurrency and impact fee chapters, unless the context clearly appears otherwise. Terms otherwise not defined herein shall be given the meaning set forth in RCW 82.02.090, or given their usual and customary meaning:

\* \* \*

( ) "School facilities" means capital facilities owned or operated by the Peninsula School District.

( ) "School District" means the Peninsula School District.

( ) "School District service area" means the boundaries of the Peninsula School District.

( ) "Superintendent" means the School District Superintendent or his/her designee.

\* \* \*

Section 2. Section 19.12.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**19.12.010. Authority and purpose.**

A. This chapter is enacted pursuant to the City's police powers, the Growth Management Act as codified in chapter 36.70A RCW, the impact fee statutes as codified in RCW 82.02.050 through 82.02.100, chapter 58.17 RCW relating to platting and subdivisions, and the State Environmental Policy Act (SEPA), chapter 43.21C RCW.

B. The purpose of this chapter is to:

1. Develop a program consistent with the Gig Harbor parks, open space and recreation plan, six year road plan and the City's comprehensive plan (parks and transportation elements), and capital improvement plan, for joint public and private financing of park and transportation facility improvements necessitated in whole or in part by development in the City. With regard to school facilities, to develop a program for joint public and private financing of school facilities consistent with the capital improvement plan of the School District, as such public facilities are necessitated in whole or in part by development in the City;

2. Ensure adequate levels of service in public facilities within the city and School District;

3. Create a mechanism to charge and collect fees to ensure that all new development bears its proportionate share of the capital costs of off-site park, school and transportation facilities reasonably related to new development, in order to maintain adopted levels of park service, maintain adopted levels of service on the city's transportation facilities, and to ensure the availability of adequate school facilities at the time of new development;

4. Ensure that the city pays its fair share of the capital costs of parks and transportation facilities necessitated by public use of the parks and roadway system, and ensure that the School District pays its fair share of the capital costs of school facilities; and

5. Ensure fair collection and administration of such impact fees.

C. The provisions of this chapter shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety and welfare.

Section 3. Section 19.12.050 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**19.12.050 Imposition of Impact Fees.**

A. The City is hereby authorized to impose impact fees on new

development.

B. Impact fees may be required pursuant to the impact fee schedule adopted through the process described herein, or mitigation may be provided through: (1) the purchase, installation and/or improvement of park, school and transportation facilities pursuant to GHMC 19.12.080(C); or (2) the dedication of land pursuant to GHMC 19.12.080(C).

C. Impact fees:

1. Shall only be imposed for park, school and transportation facilities that are reasonably related to new development;

2. Shall not exceed a proportionate share of the costs of park, school and transportation facilities that are reasonably related to new development;

3. Shall be used for park, school and transportation facilities that will reasonably benefit the new development;

4. Shall not be used to correct existing deficiencies;

5. Shall not be imposed to mitigate the same off-site park, school and transportation facility impacts that are being mitigated pursuant to any other law;

6. Shall not be collected for improvements to state/county park and transportation facilities unless the state/county requests such improvements and an agreement to collect such fees has been executed between the state/county and the city;

7. Shall not be collected for improvements to park and transportation facilities in other municipalities unless the affected municipality requests that such impact fees be collected on behalf of the affected municipality, and an interlocal agreement has been executed between the city and the affected municipality for the collection of such fees.

8. Shall not be collected for any development approved prior to the date of adoption of the ordinance codified in this chapter unless changes or modifications in the development requiring city approval are subsequently proposed which result in greater direct impacts on park, school and transportation facilities than were considered when the development was first approved;

9. Shall be collected only once for each development, unless changes or modifications to the development are proposed which result in greater direct impacts on park, school and/or transportation facilities than were considered when the development was first permitted;

10. May be imposed for system improvement costs previously incurred by the city, to the extent that new growth and development will be served by previously constructed improvements, and provided, that such fee shall not be imposed to make up for any system improvement deficiencies; and

11. Shall only be imposed for park and school facilities on residential development.



Section 4. Section 19.12.070 of the Gig Harbor Municipal Code shall be amended to read as follows:

**19.12.070 Fee schedules and establishment of service area.**

A. Impact fee schedules setting forth the amount of the impact fees to be paid by developers are listed in Appendix B for roads and Appendix C for parks, and Appendix D for schools, attached to the ordinance codified in this chapter and incorporated herein by this reference.

B. For the purpose of this chapter, the entire city shall be considered one service area.

Section 5. Section 19.12.080 of the Gig Harbor Municipal Code shall be amended to read as follows:

**19.12.080 Calculation of Impact Fees.**

A. The Director shall calculate the impact fees set forth in Appendices B and C, more specifically described in the Gig Harbor six-year road plan and the parks, open space and recreation plan. The Superintendent shall calculate the school impact fees set forth in Appendix D. The City Council shall have the final decision on the calculation of the impact fees to be imposed under this Chapter as set forth in Appendices B and C. These calculations shall:

1. Determine the standard fee for similar types of development, which shall be reasonably related to each development's proportionate share of the cost of the projects described in Appendix A, and for parks shall be calculated as set forth in Appendix C, and for schools shall be as provided in the School District's capital facilities plan;

2. Reduce the proportionate share by applying the benefit factors described in this section.

B. In calculating proportionate share, the following factors will be considered:

1. Identify all park, school and transportation facilities that will be impacted by users from each development;

2. Identify when the capacity of a park, school or transportation facility has been fully utilized;

3. Update the data as often as practicable, but at least annually;

4. Estimate the cost of constructing the projects in Appendix A for roads as of the time they are placed on the list, and the cost of maintaining the City's level of park service as shown on Appendix C, and the costs relating to the construction of school facilities and then update the costs estimates at least annually, considering the:

- a. Availability of other means of funding park, school and transportation facilities;
- b. Cost of existing park, school and transportation facility improvements;
- c. Methods by which park, school and transportation facility improvements were financed;

5. Update the fee collected against a project which has already been completed, through an advancement of city or School District funds, at a rate determined annually, which is equivalent to the City or School District's return on investments.

C. The director or, in the case of school impact fees, the Superintendent, shall reduce the calculated proportionate share for a particular development by giving credit for the following benefit factors:

1. The purchase, installation and/or improvement of park, school and transportation facilities, if;

a. The facilities are located on land owned by the city, Pierce County, the School District or a special district; and

b. A designated public owner is responsible for permanent, continuing maintenance and operation of the facilities; and

c. The Director or Superintendent, determines that the facilities correspond to the type(s) of park, school and transportation facilities being impacted by the development as determined pursuant to this chapter; and

d. The Director determines, after consultation with the county, School District or special purpose district, as applicable, and an analysis of supply and demand data, the parks, open space and recreation plan, the six year road plan and any applicable Pierce County park and transportation plan, that the proposed park and transportation facility improvements better meet the city's need for park and transportation facilities than would payment of funds to mitigate the park and transportation impacts of the development.

2. The credit against the impact fee shall be equal to the fair market value of the purchase, installation and/or improvement.

3. Any applicable benefit factors, as described in RCW 82.02.060, that are demonstrated by the applicant not to have been included in the calculation of the impact fee.

4. A developer of a planned residential development or mobile home park may receive credit only for park, school and transportation facilities provided in addition to those normally required under SEPA for such developments pursuant to chapter 18.04 GHMC.

5. When the Director or Superintendent has agreed to a developer's proposal to satisfy some or all of the impact fee through the purchase, installation and/or improvement of park, school and/or transportation facilities, the developer shall prepare and submit a facility improvement plan to the Director and, if applicable, to the Superintendent

for approval prior to recordation of a plat or short plat for subdivisions, and prior to issuance of a building permit for all other developments.

6. In the determination of credit toward the impact fee, the Director or Superintendent shall also consider the extent to which the proposed dedication or conveyance meets the following criteria:

a. The land should result in an integral element of the Gig Harbor park/road system;

b. The land is suitable for future park, school and/or transportation facilities;

c. The land is of an appropriate size and of an acceptable configuration;

d. The land has public access via a public street or an easement of an equivalent width and accessibility;

e. The land is located in or near areas designated by the city or county on land use plans for park, trail or recreation purposes; or, in the case of schools, is appropriately located for school facilities;

f. The land provides linkage between Pierce County and/or other publicly owned recreation or transportation properties;

g. The land has been surveyed or adequately marked with survey monuments, or otherwise readily distinguishable from adjacent privately owned property;

h. The land has no known physical problems associated with it, such as the presence of hazardous waste, drainage, erosion or flooding problems which the Director or Superintendent determines would cause inordinate demands on public resources for maintenance and operation;

i. The land has no known safety hazards;

j. The developer is able to provide documentation, as nearly as practicable, of the land's compliance with the criteria of this subsection, and of clear title; and

k. The developer is able to provide and fund a long-term method, acceptable to the Director or Superintendent, for the management and maintenance of the land, if applicable.

7. The amount of credit determined pursuant to this subsection shall be credited proportionately among all of the units in the development, and the impact fee for which each unit for which a permit or approval is applied shall be reduced accordingly.

8. Applicants may not request that an impact fee credit be provided for a proposed development based on taxes, user fees, assessments, improvements, payments or other benefit factors applicable to property that is not included within the proposed development.

9. Applicants shall receive credit against the impact fee equal to the amount of an LID assessment paid for transportation-related facilities identified by the Director as increasing transportation system capacity.

Section 6. Section 19.12.090 of the Gig Harbor Municipal Code shall be amended to read as follows:

**19.12.090 Variation from impact fee schedule.**

If a developer submits information demonstrating a significant difference between the age, social activity or interest characteristics of the population of a proposed subdivision or development and the data used to calculate the impact fee schedule, the Director or Superintendent may allow a special calculation of the impact fee requirements for the subdivision or development to be prepared by the developer's consultant, at the developer's cost; provided, however, that the Director or Superintendent shall have prior approval of the qualifications and methodology of the developer's consultant in making such calculation, and any time period mandated by statute or ordinance for the approving authority's decision on the subdivision or development shall not include the time spent in preparing the special calculation. Whether the Director or Superintendent accepts the data provided by the special calculation shall be at the discretion of the Director or Superintendent.

Section 7. Section 19.12.100 of the Gig Harbor Municipal Code shall be amended to read as follows:

**19.12.100 Payment of fees.**

A. All developers shall pay an impact fee in accordance with the provisions of this chapter which shall be calculated by the City at the time that the building permit is ready for issuance.

B. The impact fee shall be recalculated if the development is modified or conditioned in such a way as to alter park, school or transportation impacts for the development.

C. A developer may obtain a preliminary determination of the impact fee before submitting an application for the development permit by providing the Director or Superintendent with the information needed for processing. However, because impact fees are not subject to the vested rights doctrine, the fee actually paid by the developer will be the impact fee in effect at the time of building permit issuance, regardless of any preliminary determination.

Section 8. Section 19.12.110 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**19.12.110 Time of payment of impact fees.**

A. Payment of any required impact fees shall be made prior to the issuance of a building permit.

B. Impact fees may be paid under protest in order to obtain the necessary permits/approvals until an appeal of the fee amount is finally resolved.

C. When a subdivision or development is conditioned upon the dedication of land, or the purchase, installation or improvement of park and/or transportation facilities, a final plat or short plat shall not be recorded, and a building permit within such plat or development shall not be issued until:

1. The Director has determined in writing that the land to be dedicated is shown on the face of the final plat or short plat, or a deed conveying the land to the city, Pierce County, School District or special purpose district, as appropriate, has been recorded with the Pierce County Auditor; and

2. The Director has determined in writing, after consultation with the designated public owner responsible for permanent, continuing maintenance and operation of the facilities that the developer has satisfactorily undertaken or guaranteed to undertake in a manner acceptable to the Director or Superintendent, any required purchase, installation or improvement of school, park or transportation facilities.

Section 9. Section 19.12.120 of the Gig Harbor Municipal Code is hereby

amended to read as follows:

**19.12.120 Project List.**

A. The Director shall annually review the city's parks, open space and recreation plan, the six year parks improvement plan, the six year road plan and the projects listed in Appendices A and B and shall:

1. Identify each project in the comprehensive plan that is growth-related and the proportion of each such project that is growth-related;

2. Forecast the total money available from taxes and other public sources for park and transportation improvements for the next six years;

3. Update the population, building activity and demand and supply data for park and transportation facilities and the impact fee schedule for the next six-year period;

4. Calculate the amount of impact fees already paid;

5. Identify those comprehensive plan projects that have been or are being built but whose performance capacity has not been fully utilized;

B. The Director shall use this information to prepare an annual draft amendment to the fee schedule in Appendices A and C, which shall

comprise:

1. The projects in the comprehensive plan that are growth related and that should be funded with forecast public moneys and the impact fees already paid; and

2. The projects already built or funded pursuant to this chapter whose performance capacity has not been fully utilized.

C. The Council, at the same time that it adopts the annual budget and appropriates funds for capital improvement projects, shall, by separate ordinance, establish the annual project list by adopting, with or without modification, the Director's draft amendment.

D. Once a project is placed on Appendix A, or if the City amends its level of park service in Appendix C, a fee shall be imposed on every development until the project is removed from the list by one of the following means:

1. The council by ordinance removes the project from Appendix A and/or C, in which case the fees already collected will be refunded if necessary to ensure that impact fees remain reasonably related to the park and transportation impacts of development that have paid an impact fee; provided that a refund shall not be necessary if the council transfers the fees to the budget of another project that the council determines will mitigate essentially the same park and transportation impacts; or

2. The capacity created by the project has been fully utilized, in which case the director shall remove the project from the project list.

E. The School District shall annually review and update its capital facilities portion of the City's comprehensive plan and submit such updated plan to the City by April 1st of each year. The School District's updated capital facilities plan shall identify projects that are growth-related, include the amount of school impact fees paid, and may include a proposed school impact fee schedule adjustment.

Section 10. Section 19.12.130 of the Gig Harbor Municipal Code is hereby

amended to read as follows:

**19.12.130 Funding of projects.**

A. An impact fee trust and agency fund is hereby created for parks, schools and transportation fees. The School District shall be responsible for the creation of its own impact fee fund,<sup>1</sup> and shall be solely responsible for the deposit of fees in such fund, and the use/refund of such fees. The Director shall be the manager of the City's fund. The City shall place park, school and transportation impact fees in appropriate deposit accounts

within the impact fee fund.

B. The parks, school and transportation impact fees paid to the City shall be held and disbursed as follows:

1. The fees collected for each project shall be placed in a deposit account within the impact fee fund, with the exception of the school impact fees, which shall be transmitted to the School District;

2. When the council appropriates capital improvement project (CIP) funds for a park or transportation project on the project list, the park or transportation fees held in the impact fee fund shall be transferred to the CIP fund. The non-impact fee moneys appropriated for the project shall comprise both the public share of the project cost and an advancement of that portion of the private share that has not yet been collected in park or transportation impact fees;

3. The first money spent by the director on a project after a council appropriation shall be deemed to be the fees from the impact fee fund;

4. Fees collected after a project has been fully funded by means of one or more council appropriations shall constitute reimbursement to the city or School District of the funds advanced for the private share of the project. The public monies made available by such reimbursement shall be used to pay the public share of other projects.

5. All interest earned on impact fees paid shall be retained in the account and expended for the purpose or purposes for which the impact fees were imposed.

C. Projects shall be funded by a balance between impact fees and public funds, and shall not be funded solely by impact fees.

D. Impact fees shall be expended or encumbered for a permissible use for six years after receipt, unless there exists an extraordinary or compelling reason for fees to be held longer than six years. The Director may recommend to the Council that the City hold park or transportation fees beyond six years in cases where extraordinary or compelling reasons exist. Such reasons shall be identified in written findings by the Council.

E. The School District and the Director shall prepare an annual report on the impact fee accounts showing the source and amount of all monies collected, earned or received and projects that were financed in whole or in part by impact fees.

Section 11. Section 19.12.140 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**19.12.140 Use and disposition of dedicated land.**

All land dedicated or conveyed pursuant to this chapter shall be set

aside for development of park, school, and transportation facilities. The city and Pierce County, and any school district or special purpose district to which land is dedicated or conveyed pursuant to this chapter shall make every effort to use, develop and maintain land dedicated or conveyed for park, school, and transportation facilities. In the event that use of any such dedicated land is determined by the director, Superintendent, or Pierce County, to be infeasible for development of park, school, and transportation facilities, the dedicated land may be sold or traded for another parcel of land. The proceeds from such a sale shall be used to acquire land or develop park, school, and transportation facilities.<sup>2</sup>

Section 12. Section 19.12.150 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**19.12.150 Refunds.**

A. A developer may request and shall receive a refund from either the City (for parks and transportation impact fees) or the School District (for school impact fees) when the developer does not proceed with the development activity for which impact fees were paid, and the developer shows that no impact has resulted.

B. In the event that impact fees are refunded for any reason, they shall be refunded by the City with respect to park and transportation fees and the School District with respect to school impact fees, and such fees shall be returned with interest earned to the owners as they appear of record with the Pierce County Assessor at the time of the refund.

C. When the city seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the city shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail to the last known address of claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city or, if applicable, the School District, but must be expended on projects on the adopted plans of the City or School District. This notice requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.

Section 13. Section 19.12.170 of the Gig Harbor Municipal Code is hereby amended to read as follows:



#### **19.12.170 Appeals.**

A. Decision on Impact Fee. The director shall issue a written decision on the parks and/or transportation impact fee amount as described in this chapter. The Superintendent shall issue a written decision on the school impact fee amount as described in this chapter.

#### **B. Reconsideration by Superintendent.**

1. In order to request reconsideration of the Superintendent's decision, the developer shall make a written request to the Superintendent for a meeting to review the fee amount, together with a written request for reconsideration. The request for reconsideration shall state in detail the grounds for the request and shall be filed with the Superintendent within fifteen (15) days after the Superintendent's decision on the school impact fees.

2. The Superintendent shall consider any studies and data submitted by the developer seeking to adjust the amount of the fee. The Superintendent shall issue a written decision on reconsideration within 30 working days of the Superintendent's receipt of the request for reconsideration or the meeting with the developer, whichever is later.

#### **C. Reconsideration by Director.**

1. In order to request reconsideration of the Director's decision, the developer shall make a written request to the Director for a meeting to review the fee amount, together with a written request for reconsideration. The request for reconsideration shall state in detail the grounds for the request, and shall be filed with the Director within 15 days after issuance of the Director's decision on the impact fees.

2. The Director shall consider any studies and data submitted by the developer seeking to adjust the amount of the fee. The director shall issue a written decision on reconsideration within 10 working days of the director's receipt of the request for reconsideration or the meeting with the developer, whichever is later.

D. Appeal of Decision on Reconsideration to Hearing Examiner. A developer may appeal the amount of the impact fee established in the decision on reconsideration of the Director or Superintendent to the hearing examiner, who shall conduct a public hearing on the appeal. In the case of school impact fees, the School District shall provide for a hearing examiner to hear the appeal.

1. An appeal of the impact fee after reconsideration may be filed without appealing the underlying permit. This procedure is exempt from the project permit processing requirements in Chapters 19.01-19.06, pursuant to RCW 36.70B.140. If the developer files an appeal of the underlying permit and the impact fee, the City may consolidate the appeals.

2. The developer shall bear the burden of proving:
- a. That the Director or Superintendent committed

error in calculating the developer's proportionate share, as determined by an individual fee calculation, or, if relevant, as set forth in the impact fee schedule, or in granting credit for the benefit factors; or

b. That the Director or Superintendent based his determination upon incorrect data.

3. An appeal of the decision of the Director or Superintendent on reconsideration must be filed with the City planning department within 14 calendar days of issuance of that decision.

E. Appeals of Hearing Examiner's Decision. Appeals from the decision of the School District Hearing Examiner or the City Hearing Examiner shall be to superior court as provided in ch. 36.70C RCW.

Section 14. 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 15. 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 \_\_\_th day of \_\_\_\_\_, 2004.

CITY OF GIG HARBOR

\_\_\_\_\_  
GRETCHEN WILBERT, 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: 6/23/04  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO.

Appendix 'A'

EXHIBIT "B" TO ORDINANCE NO. 2003-126s

4A.30.030 School Impact Fee Schedule.

DISTRICT	PER SINGLE FAMILY DWELLING UNIT		PER MULTI-FAMILY DWELLING UNIT	
	Fee Calculation	Maximum Fee Obligation Effective 01/01/03	Fee Calculation	Maximum Fee Obligation Effective 01/01/03
Auburn*	\$4,254	\$1,675	\$2,089	\$882
Bethel*	\$2,438	\$1,675	\$677	\$882
Carbonado*	\$1,843	\$1,675	\$548	\$882
Dieringer	\$2,984	\$1,675	\$1,492	\$882
Eatonville*	\$7,431	\$1,675	\$3,715	\$882
Fife*	\$3,224	\$1,675	\$1,189	\$882
Franklin Pierce	\$2,737	\$1,675	\$1,790	\$882
Orting	\$1,813	\$1,675	\$1,457	\$882
Peninsula	\$6,350	\$1,675	\$2,712	\$882
Puyallup*	\$4,611	\$1,675	\$2,243	\$882
Steilacoom	\$2,776	\$1,675	\$1,388	\$882
Sumner*	\$3,626	\$1,675	\$821	\$882
University Place	\$1,743	\$1,675	\$692	\$882
White River	\$1,617	\$1,675	\$808	\$882
Yelm*	\$4,504	\$1,675	\$1,914	\$882

\* Fee Calculations updated for 2003

Appendix 'B'  
Transportation

Impact Fee Rate Schedule

ITE Code	ITE Land Use Category	Trip Rate (1)	% New Trips (2)	Peak Hour Factor (3)	Net New Trips Per Unit of Measure	Impact Fee Per Unit @ \$ 108.22 Per Trip
110	Light Industrial	3.49	100%	1.33	4.64 1,000 sq. ft.	\$ 0.50 per square foot
140	Manufacturing	1.93	100%	1.84	3.55 1,000 sq. ft.	0.38 per square foot
151	Mini-warehouse	1.30	100%	0.95	1.24 1,000 sq. ft.	0.13 per square foot
210	Single Family House	4.78	100%	1.00	4.78 dwelling	517.30 per dwelling unit
220	Apartment	3.24	100%	0.92	2.98 dwelling	322.50 per dwelling unit
230	Condominium	2.93	100%	0.89	2.61 dwelling	282.46 per dwelling unit
240	Mobile Home	2.41	100%	1.14	2.75 dwelling	297.61 per dwelling unit
250	Retirement Community	1.16	100%	0.90	1.04 dwelling	112.55 per dwelling unit
310	Hotel	4.35	100%	0.83	3.61 room	390.68 per room
320	Motel	5.10	100%	0.56	2.86 room	309.52 per room
420	Marina	1.48	100%	0.61	0.90 berth	97.40 per berth
430	Golf Course	4.17	100%	0.44	1.83 acre	198.05 per acre
444	Movie Theater	11.96	100%	1.88	22.48 1,000 sq. ft.	2.43 per square foot
492	Racquet Club	8.57	100%	0.98	8.40 1,000 sq. ft.	0.91 per square foot
530	High School	5.45	100%	1.68	9.16 1,000 sq. ft.	0.99 per square foot
560	Church	4.66	100%	0.73	3.40 1,000 sq. ft.	0.37 per square foot
610	Hospital	8.39	100%	0.59	4.95 1,000 sq. ft.	0.54 per square foot
620	Nursing Home	1.30	100%	0.62	0.81 bed	87.66 per bed
710	Office 10,000 Sq. Ft.	12.30	100%	1.31	16.11 1,000 sq. ft.	1.74 per square foot
710	Office 50,000 Sq. Ft.	8.29	100%	1.28	10.61 1,000 sq. ft.	1.15 per square foot
710	Office 100,000 Sq. Ft.	7.02	100%	1.26	8.85 1,000 sq. ft.	0.96 per square foot
720	Medical Office	17.09	100%	1.13	19.31 1,000 sq. ft.	2.09 per square foot
820	Retail 10,000 Sq. Ft.	83.80	49%	0.85	34.90 1,000 sq. ft.	3.78 per square foot
820	Retail 50,000 Sq. Ft.	45.83	48%	0.87	19.14 1,000 sq. ft.	2.07 per square foot
820	Retail 100,000 Sq. Ft.	35.34	74%	0.88	23.01 1,000 sq. ft.	2.49 per square foot
820	Retail 200,000 Sq. Ft.	27.25	74%	0.88	17.75 1,000 sq. ft.	1.92 per square foot
832	Restauraunt: sit-down	102.68	52%	0.72	38.44 1,000 sq. ft.	4.16 per square foot
833	Fast Food, No Drive-up	393.11	52%	0.51	104.25 1,000 sq. ft.	11.28 per square foot
844	Service Station	150.18	27%	0.48	19.46 pump	2,106.00 per pump
850	Supermarket	88.80	49%	0.82	35.68 1,000 sq. ft.	3.86 per square foot
851	Convenience Market - 24 Hr.	369.00	31%	0.69	78.93 1,000 sq. ft.	8.54 per square foot
860	Wholesale Warehousing	3.37	100%	0.29	0.98 1,000 sq. ft.	0.11 per square foot
911	Bank/Savings: Walk-in	70.31	30%	1.17	24.68 1,000 sq. ft.	2.67 per square foot
912	Bank/Savings: Drive-in	132.61	30%	1.56	62.06 1,000 sq. ft.	\$ 6.72 per square foot

(1) ITE Rate divided by 2.

(2) Eliminates pass-by trips.

(3) Adjustment factor to convert average daily trips to peak hour equivalent.

Appendix 'C' Parks

RATE SCHEDULE

Based on the 50% assessment identified in "Note (3)" of Appendix 'C-2' (p. 143 City of Gig Harbor Parks, Recreation and Open Space Plan) of this ordinance, the Park Impact Fee is set at \$1500 per dwelling unit.

**Appendix 'D'**

**City of Gig Harbor  
School Impact Fee Schedule**

<b>Single Family Dwelling:</b>	<b>\$1,711.00</b>
<b>Multi-Family Dwelling:</b>	<b>\$ 901.00 x number of units</b>

**INTERLOCAL AGREEMENT  
BETWEEN  
THE CITY OF GIG HARBOR AND PENINSULA SCHOOL DISTRICT**

THIS AGREEMENT is entered into this 27<sup>th</sup> day of APRIL, 2004 by and between the City of Gig Harbor (the "City" hereinafter) and the Peninsula School District #401 (the "District" hereinafter).

WHEREAS, the Washington State Legislature passed the Growth Management Act, chapter 36.70A RCW, including RCW 82.02.050 through 82.02.100 (the "Authorizing Statutes" hereinafter), which authorize the imposition of impact fees on development activity as part of the financing for public facilities, which financing must provide for a balance between impact fees and other sources of public funds; and

WHEREAS, these Authorizing Statutes allow collection and expenditure of impact fees only for public facilities which are addressed by a capital facilities element of a comprehensive land use plan adopted under the Growth Management Act; and

WHEREAS, the District has prepared and adopted a capital facilities plan, and authorization to collect and expend fees is contingent upon the City's adoption of the District's Capital Facilities Plan (CFP) as part of the City's Comprehensive Plan (RCW 36.70A.070) and on the Plan's adherence with the authorizing statutes; and

WHEREAS, as a prerequisite to the City's adoption of an ordinance describing the features of the school impact fee program, allowing the District to receive and expend school impact fees in conformance with the Authorizing Statutes, the City and District desire to enter into an interlocal agreement; and

WHEREAS, this interlocal agreement will set forth the duties and responsibilities of the parties with regard to implementation of the school impact fee program, as well as indemnification responsibilities for any legal challenges to the program;

NOW, THEREFORE, in consideration of the mutual promises herein, the parties agree as follows:

**I. Responsibilities of the District.**

The District, by and through its officials, officers, employees, agents and representatives, agrees to the following, if the City adopts a school impact fee ordinance:



A. Adopt a capital facilities plan, which meets the requirements of the Authorizing Statutes;

B. Submit information to the City to support the adoption of a school impact fee ordinance in the City for the imposition of school impact fees, including the District's capital facilities plan, a proposed impact fee schedule, and any other information required by the City's ordinance.

C. Annually submit to the City a six-year capital facilities plan or an update of the previously adopted plan, together with an impact fee schedule, which meets the requirements of the Authorizing Statutes and the school impact fee ordinance, on or before July 1<sup>st</sup> of each year. This shall include a list of all capital facilities funded or constructed by the District with school impact fees collected in the previous year(s) from any other city or Pierce County.

D. Handle all requests for consideration or appeals of the school impact fees or dedication in lieu of fee payment from initiation to final decision. The District's decision on reconsideration and/or appeal shall be final. The District shall be responsible for defending the school impact fee and/or the District's responsibilities as set forth herein regardless of whether an appeal of the school impact fee is filed with an appeal of the underlying permit or not. The details of the District's responsibility to defend and indemnify the City as set forth in Section IV below.

E. Establish and maintain school impact fee accounts, as required by RCW 82.02.070, as it now exists or may hereafter be amended.

F. Preparation of a report to the City to allow the City to meet the requirements of RCW 82.02.070(1) and submit such report to the City on or before July 1<sup>st</sup> of each year, showing the source and amount of all monies collected, earned or received and system improvements that were financed in whole or in part by impact fees.

G. Properly expend impact fees, as required by RCW 82.02.050(4) and 82.02.070(2), as these statutes now exist or may hereafter be amended.

H. Encumber or expend impact fees as required by RCW 82.02.070(3) and where the District has extraordinary and compelling reasons for noncompliance with this statute, the District shall identify such reasons in written findings delivered to the City Council.

I. Notification of property owners of refunds under RCW 82.02.080 and the processing and payment of any refunds, together with any interest which may be due.

J. Review of all covenants and declaration of restrictions for form, as these documents are required by the school impact fee ordinance to maintain exceptions from payment of impact fees. In the event that such covenants and/or declarations of restrictions are violated, the District will have the responsibility for enforcement of same.

K. Maintain all accounts and records necessary to ensure compliance with this Agreement, the school impact fee ordinance, the Authorizing Statutes and all other applicable law.

## II. Responsibilities of the City.

The City, by and through its officials, officers, employees, agents and representatives, agrees to the following, in the event the City adopts a school impact fee ordinance:

A. Be responsible for the following aspects of the impact fee program:

1. Consideration of a school impact fee ordinance for adoption, which ordinance shall be reviewed and approved by the District;
2. Preparation of a school impact fee schedule to be adopted with the school impact fee ordinance, based on information submitted by the District, and prepared by the District in compliance with the Authorizing Statutes and all other applicable law.
3. Review of annually updated information from the District relating to the school impact fee schedule, and adoption of a new school impact fee schedule based on information submitted by the District and prepared by the District under the Authorizing Statutes and all other applicable law.
4. The determination, pursuant to the school impact fee ordinance, whether or not residential activity in the City is exempt from payment of school impact fees.
5. The receipt of fees from the applicant.
6. The transmittal of the applicant's fees to the District.
7. Timely notification and tender to the District of a judicial appeal of the school impact fees, as provided in Section IV herein.

B. Establish and maintain school impact fee accounts pursuant to RCW 82.02.070 (as the same now exists or may hereafter be amended), so that impact fees can be transferred to the District on a monthly basis.

C. Develop a report on the school impact fee account as required by RCW 82.02.0701(1), from a review of the District's report required by RCW 82.02.050(4) (as these statutes now exist or may hereafter be amended), detailing the fees received and the system improvements financed in whole or in part by the fees.

### **III. Audit.**

A. The District's records and documents with respect to all matters covered by this Agreement shall be subject to inspection, review or audit, by the City or other appropriate state agency.

B. The District agrees to cooperate with any monitoring or evaluation activities conducted by the City that pertain to the subject of this Agreement. The District agrees to allow the City or appropriate state agencies and/or any of their employees, agents or representatives, to have full access to and the right to examine, audit, make excerpts or transcripts, during normal business hours, all of the District's records with respect to all matters covered by this Agreement. The City shall provide seven (7) days' advance notice to the District of fiscal audits to be conducted.

### **IV. Indemnification and Hold Harmless.**

A. The District is a separate municipal corporation, with the authority to adopt its capital facilities plan and to spend the school impact fees collected from the City from property owners/developers in the City. The District acknowledges that because the District gathers, collects, creates and interprets the data used to develop its capital facilities plan, that the District, not the City, is in the best position to ensure that its capital facilities plan conforms to the Authorizing Statutes and all other applicable law. The District further acknowledges that because the District will make its own discretionary decisions about how to spend the school impact fees from the City, that the District, not the City, is in the best position to ensure that its related actions conform to the Authorizing Statutes and all other applicable law. With this in mind, the parties have agreed to indemnify the other as follows:

1. The District shall, at its own cost and expense, protect, defend, indemnify and hold harmless the City, its officers, employees and agents, from any and all costs, claims, judgments or awards of damages, including attorneys' fees and expert witness fees, arising out of or in any way resulting from the acts or omissions of the District, its officers, employees or agents, relating to the District's implementation of the school impact fee program, performance of the duties set forth in Section I of this Agreement, or compliance with the school impact fee ordinance, the Authorizing Statutes or applicable law, all as may be amended from time to time. This indemnification by the District of the City shall include, but is not be limited to:

2. The District's responsibility to refund any fees with interest, which are determined by a court of competent jurisdiction to have been improperly paid, regardless of whether the City erroneously imposed and collected the school impact fee amount;

3. The District's agreement not to impose any liability on the City for the City's failure to collect the proper fee amount or any fee from an applicant conducting a development activity, provided that the City shall make reasonable attempts to collect such fee.

B. The District shall, at its own cost and expense, protect, defend, indemnify and hold harmless the City, its officers, officials, employees and agents, from any and all costs, claims, judgments or awards of damages, including attorneys' fees and expert witness fees, resulting from any challenge to the constitutionality or legality of the school impact fee ordinance or the fee schedule or determination for any individual permit application. Once the District assumes defense of any appeal relating to the school impact fee ordinance, fee schedule or individual determination, the District shall not be responsible to reimburse the City for any of the City's attorneys' fees or litigation costs incurred thereafter.

C. The District further agrees that the District shall, at its own cost and expense, defend, indemnify and hold harmless the City, its officers, officials, employees, and agents from any and all costs, claims, judgments or awards of damages, including attorneys' fees or expert witness fees arising out of or in any way resulting from the District's failure to refund impact fees, or interest on such impact fees, including but not limited to a determination that impact fees from development activity that was not completed are not refundable because the funds were expended or encumbered by the District, whether or not the District's determination was made in good faith; provided, however, that once the District assumes defense of any such claim or action, the District shall not be responsible to reimburse the City for any of the City's attorneys' fees or litigation costs incurred thereafter.

D. The City shall, at its own cost and expense, protect, defend, indemnify and hold harmless the District, its officers, employees, or agents from any and all costs, claims, judgments, awards, attorneys' fees or expert witness fees arising out of or in any way resulting from the acts or omissions of the City, its officers, officials or employees relating to the performance of the City's responsibilities as set forth in Section II of this Agreement. The City's decision to adopt a school impact ordinance using the information provided by the District (initially or annually) shall not be the basis for City liability, and the parties agree that if the City relies upon the information provided by the District (initially or annually) in the adoption of a school impact fee ordinance or any subsequent fee schedule, the City shall not be required to defend any appeal or challenge to the District's information, data, use of school impact fees, calculation of fees or decisions on

reconsideration/appeal. Once the City assumes defense of any claim or action, the City shall not be responsible to reimburse the District for any of the District's attorneys' fees or litigation cost incurred hereunder.

E. The duties of the parties to each other under this Section IV shall not be diminished or extinguished by the prior termination of this Agreement, pursuant to Section V.

#### **V. Effective Date and Termination.**

A. The District's authorization to receive impact fees under this Agreement may be terminated without cause by the City, in whole or in part, at any time, but only upon the repeal or invalidation of the school impact fee ordinance (or any fee schedules adopted hereunder). All other obligations under this Agreement shall remain in effect until both of the following conditions have been satisfied:

1. The City or the District provides written notice that this Agreement is being terminated;
2. The District no longer retains unexpended or unencumbered impact fees and interest earned thereon.

The obligations under Section IV, Indemnification, shall be continuing and shall not be diminished or extinguished by the termination of this Agreement.

B. The District shall have the duty to ensure that upon termination of this Agreement, any remaining expended or unencumbered impact fees and interest earned thereon are either properly expended or refunded pursuant to chapter 82.02 RCW.

C. Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Agreement or by law that either party may have in the event that the obligations, terms and conditions set forth in this Agreement are breached by the other party.

#### **VI. Modification.**

No changes or modifications to this Agreement shall be valid or binding upon either party unless such changes or modifications are in writing and executed by both parties.

#### **VII. Integration.**

This Agreement, together with the school impact fee ordinance and any definitions adopted by the City to implement the ordinance, contains all of the terms and conditions agreed upon by the parties. No other understandings, oral

or otherwise, regarding the subject matter of this Agreement shall be deemed to bind either party.

### **VIII. Severability.**

In the event that any term or condition of this Agreement or the school impact fee ordinance, or application of either to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.

### **IX. Rights of Other Parties.**

It is understood and agreed that this Agreement is solely for the benefit of the parties hereto and conveys no right to any other party.

### **X. Disputes.**

Jurisdiction of any dispute arising under this Agreement shall be in Pierce County Superior Court, or the U.S. District Court, Western District of Washington, and the substantially prevailing party shall be entitled to recover its costs and reasonable attorneys' fees and expert witness fees.

### **XI. Governing Law and Filing.**

This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. The laws of the State of Washington shall govern the validity and performance of this Agreement. This Agreement shall become effective upon occurrence of the following:

- A. Approval of the Agreement by the official action of the governing bodies of each of the parties hereto;
- B. Execution of the Agreement by the duly authorized representative of each of the parties hereto;
- C. The filing of a copy of this Agreement with the following public officials:
  - 1. The City Clerk of the City of Gig Harbor;
  - 2. The Secretary of the Board of Directors of the Peninsula School District;
  - 3. The Pierce County Auditor.

### **XII. Administration.**

A. The City's representative for purposes of administering this Agreement is the City Administrator.

B. The District's representative for purposes of administering this Agreement is the Superintendent.

**XIII. Waiver.**

Waiver of any default in the performance of this Agreement shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the year and date set forth below:

**The City of Gig Harbor**

**Peninsula School District #401**

By \_\_\_\_\_  
Its Mayor

By Julia P. S. Quinn  
Its School Board Pres.

ATTEST:

\_\_\_\_\_  
Molly Towslee, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Carol A. Morris, City Attorney

\_\_\_\_\_



COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: CONTRACT AWARD - SKANSIE AVENUE PEDESTRIAN**  
**IMPROVEMENT PROJECT (CSP-0302)**  
**DATE: JUNE 28, 2004**

**INTRODUCTION/BACKGROUND**

An identified street operating objective in the 2004 budget provides for the construction of street improvements along the west side of Skansie Avenue between the limits of Rosedale Street and the Henderson Bay Alternative High School.

In accordance with the small works rooster process, the City recently contacted several general contractors and requested price quotations for the above-mentioned work. The only proposal received was from Fox Island Construction, Inc.

<u>Contractor</u>	<u>Total (including retail sales tax)</u>
Fox Island Construction	\$107,459.00

**ISSUES/FISCAL IMPACT**

The majority of funding for this project will be from a State Transportation Improvement Board Grant in the amount of \$68,000.00. The remaining funds in the amount of \$39,459.00 will be from City participation. While the awarded amount exceeds the allocated budget of \$98,000, by \$9,459.00, sufficient funds are available in the Street Operating Fund to cover the cost of this project. The additional cost increase can be attributable to the recent worldwide gasoline cost increases, which consequently have driven up the costs of petroleum based pipe products and asphalt components contained within this project.

**RECOMMENDATION**

I recommend that Council authorize the award and execution of the contract for the Skansie Avenue Pedestrian Improvement Project to Fox Island Construction, Inc. in the amount of one hundred seven thousand four hundred fifty-nine dollars and no cents. (\$107,459.00), including retail sales tax.



**CITY OF GIG HARBOR  
CONTRACT  
For  
SKANSIE AVENUE PEDESTRIAN STREET  
IMPROVEMENT PROJECT  
CSP - 0302**

THIS AGREEMENT, made and entered into, this \_\_\_\_ day of \_\_\_\_\_, 2004, by and between the City of Gig Harbor, a Non-Charter Code city in the State of Washington, hereinafter called the "City", and Fox Island Construction, Inc, hereinafter called the "Contractor."

**WITNESSETH:**

That in consideration of the terms and conditions contained herein and attached and made a part of this Contract, the parties hereto covenant and agree as follows:

1. The Contractor shall do all of the work and furnish all of the labor, materials, tools, and equipment necessary for the construction of curb, gutter, and sidewalk for the Skansie Avenue Pedestrian Improvement Project, all in accordance with the special provisions and standard specifications, and shall perform any changes in the work, all in full compliance with the contract documents entitled "Skansie Avenue Pedestrian Street Project, CSP-0302," which are by this reference incorporated herein and made a part hereof; and agrees to accept payment for the same in accordance with the said contract documents, including the schedule of prices in the "Proposal," the sum One hundred seven thousand four hundred fifty-nine dollars and no cents (\$107,459.00), subject to the provisions of the Contract Documents, the Special Provisions, and the Standard Specifications.
2. Work shall commence and contract time shall begin on the first working day following the tenth (10th) calendar day after the date the City executes the Contract, or the date specified in the Notice to Proceed issued by the City's Public Works Director, whichever is later. All physical contract work shall be completed within twenty-five (25)-working days.
3. The Contractor agrees to pay the City the sum of \$ 645.00 per day for each and every day all work remains uncompleted after expiration of the specified time, as liquidated damages.
4. The Contractor shall provide for and bear the expense of all labor, materials, tools and equipment of any sort whatsoever that may be required for the full performance of the work provided for in this Contract upon the part of the Contractor.
5. The term "Contract Documents" shall mean and refer to the following: "Invitation to Bidders," "Bid Proposal," "Addenda" if any, "Specifications," "Plans," "Contract," "Performance Bond," "Maintenance Bond," "Payment Bond," "Notice to Proceed," "Change Orders" if any, and any documents referenced or incorporated into the Contract Documents, including, but not limited to the Washington State Department of Transportation's "2004 Standard Specifications for Road, Bridge, and Municipal Construction," including the American Public Works Association (APWA) Supplement to Division 1.

CONTRACT: Skansie Avenue Pedestrian Street Improvement Project (CSP -0302)


6. The City agrees to pay the Contractor for materials furnished and work performed in the manner and at such times as set forth in the Contract Documents.
7. The Contractor for himself/herself, and for his/her heirs, executors, administrators, successors, assigns, agents, subcontractors, and employees, does hereby agree to the full performance of all of the covenants herein contained upon the part of the Contractor.
8. It is further provided that no liability shall attach to the City by reason of entering into this Contract, except as expressly provided herein.

IN WITNESS WHEREOF the parties hereto have caused this Contract to be executed the day and year first hereinabove written:

CITY of GIG HARBOR:

\_\_\_\_\_  
Gretchen A. Wilbert, Mayor  
City of Gig Harbor  
Date: \_\_\_\_\_

CONTRACTOR:

  
\_\_\_\_\_  
Print Name: Jeff J. Davis  
Print Title: President  
Date: 6/23/04

ATTEST:

\_\_\_\_\_  
City Clerk

Fox Island Construction Inc.  
PO Box 161  
Fox Island, WA 98333  
253-549-2308 253-278-2401 (cell)

APPROVED FOR FORM:

\_\_\_\_\_  
City Attorney