

Gig Harbor City Council Meeting



**July 23, 2001
7:00 p.m.**

**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
July 23, 2001 - 7:00 p.m.**

CALL TO ORDER:

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 Meetings of July 9, 2001.
2. Correspondence/Proclamations:
 - a) Liquor Control Board - Discontinuance of Liquor License - Bartell Drug.
3. Liquor License Renewals: The Keeping Room; Emerald Star Restaurant; Harbor Rock Café; Hunan Garden Restaurant; Kinza Teriyaki; and Spiro's Pizza & Pasta.
4. Approval of Payment of Bills for July 23, 2001.
Checks #33389 through #33547 in the amount of \$427,220.62.

OLD BUSINESS:

1. Second Reading of Ordinance - Issuance and Sale of Water/Sewer Revenue Bond Anticipation Note.

NEW BUSINESS:

1. Update from Pierce County Dept. of Emergency Management - Neighborhood Preparedness.
2. Emergency Declaration - Harborview Drive Watermain Break Street Restoration.
3. First Reading of Ordinance - Amendment to GHMC Chapter 19.02 - Permit Applications.
4. First Reading of Ordinance - Amendment to GHMC Chapter 19.06 - Appeal Procedures.
5. Resolution - Adopting Findings and Facts to Uphold the Hearing Examiner's Decision - Henderson Bay Alternative School.

STAFF REPORTS:

1. David Rodenbach, Finance Director - Quarterly Report.

PUBLIC COMMENT:

COUNCIL COMMENTS / MAYOR'S REPORT:

ANNOUNCEMENT OF OTHER MEETINGS:

ADJOURN:

DRAFT

GIG HARBOR CITY COUNCIL MEETING OF JULY 9, 2001

PRESENT: Councilmembers Ekberg, Young, Pasin, Owel, Dick, Picinich and Ruffo and Mayor Wilbert.

CALL TO ORDER: 7:02 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 June 25, 2001.
2. Correspondence/Proclamations:
 - a) Letter from Walt Smith regarding FISH.
3. Judson Street/Stanich Avenue Storm Sewer Design Consultant Services Contract.
4. Approval of Payment of Bills for July 9, 2001.
Checks #33259 through #33388 in the amount of \$273,171.99
5. Approval of Payroll for the month of June:
Checks #808 through #874 in the amount of \$191,387.69.

MOTION: Move to approve the Consent Agenda as presented.
Ekberg/Ruffo - unanimously approved.

OLD BUSINESS: None scheduled.

NEW BUSINESS:

1. Appeal of Hearing Examiner's Decision - Henderson Bay Alternative School. Mayor Wilbert explained that the purpose of this hearing was for the City Council to make a final decision on the appeal of the Coalition to Save the Field on the Conditional Use Permit and Site Plan Approval for the Henderson Bay Alternative School application. She presented the rules for this closed record hearing. Mayor Wilbert asked if any Councilmembers wished to reveal any ex parte oral or written communications on this matter, or to disclose any potential appearance of fairness issues, or if any member of the audience had any appearance of fairness challenges to any of the Councilmembers or Mayor.

Councilmember Young disclosed that he had received e-mail correspondence from Jim Jung, asking if he was for or against ballfields being taken away, but it was not specific to this project. When he responded, he explained that he could not discuss this project, as it would be ex parte communication. He said that he had just today received another e-mail complaining about a letter from Jill Guernsey, which he gave to the Planning Department.

Councilmember Dick explained that two persons had communicated with him similarly to Councilmember Young, and before the Hearing Examiner's hearings. When he inquired about

which project was in question, and found out that an application had been filed, he informed them of his inability to discuss the issue.

Councilmember Picinich said that he had not had any communication with any parties or the school district, but that he thought he should recuse himself from participating in the proceedings because he is an employee of Peninsula School District. He left the Council Chambers at this time.

Councilmember Jim Pasin explained that he had also spoken to Jim Jung, but not in any detail about this project. He said he also has a working relationship with Teresa Malich, a teacher from Henderson Bay, and they have talked about the need for a location for the school, but a specific site was not discussed.

Councilmember Marilyn Owel said that she had received a copy of a letter from Shyla Starr, and also had conversations with Teresa Malich about the need for a site, but long before anything had been decided.

Councilmember Ekberg disclosed that his wife is an employee of the Peninsula School District. He did not feel it would affect his decision in the matter, but he would abide by any ruling that he not participate.

Mayor Wilbert then asked if any Councilmember would gain financially or suffer financial loss as a result of the outcome of this hearing. There was no response to this query. Mayor Wilbert explained that she had not had any ex parte communication on this issue, nor would she be affected financially by a decision on this appeal. She then asked if any Councilmember felt that they could not hear this appeal in a fair or objective manner. There was no response to this query and she continued to ask if any member of the public objected to her participation, or the participation of any Councilmember, in this hearing.

She then asked the representatives who were going to speak on the project to take an oath of honesty in any testimony that may be given. Jill Guernsey, representing Peninsula School District #401, and Ms. Henderson, representing the Coalition to Save the Field, both stood and answered affirmatively to the oath.

John Vodopich, Planning Director, gave an overview of the appeal of the Conditional Use Permit granted by the city's Hearing Examiner to relocate the Henderson Bay Alternative High School to the Gig Harbor High School/Discovery Elementary School site. He explained that this application had gone through site plan review, design review, and three public hearings before the Hearing Examiner. He said that Ron McConnell, the Hearing Examiner, had issued a decision and shortly thereafter, the Coalition to Save the Field submitted an appeal of his decision. He said that the appeal was now before Council for consideration.

Barbara Henderson - Smith, Alling, Lane Attorneys, 1102 Broadway Plaza, Tacoma. Ms. Henderson explained that she represented the Coalition to Save the Field, a non-profit community parent organization with the goal to protect the existing Discovery Elementary

Playfield. She gave a history of the site and the growth of the existing high school and elementary school facilities since 1980, adding that current use of the site is beyond the intended capacity. She stressed that this case is not about a crisis to relocate an alternative high school next to an elementary school, but a land use decision that will have far-reaching, future consequences due to the "shoe-horning" of the additional facilities on an already crowded site.

Ms. Henderson continued to discuss the reduction of the field size and how it could affect physical education curriculums, emergency evacuation, and safety of the children during recess. She then discussed why the proposal is contrary to the city's Comprehensive Plan by reducing the available open areas for community use. She cited the reasons why the proposal did not meet the review criteria of the city's code used to determine the granting of a Conditional Use Permit. She added that the proposal would replace an existing use, which is outright permitted, with a conditional use.

Ms. Henderson talked about the state's size requirements for school facilities and said that the Hearing Examiner erred when he included the track location in his calculations because this property is owned by Pierce County, not the school district. She discussed the difference in the type of play area being replaced with the new Ft. Discovery.

Ms. Henderson said that the site is too small to accommodate the proposed use, and discussed an option to move the project further to the north. She said that the Council has the discretion to make a determination due to the lack of standards and requested that the Conditional Use Permit be denied, or in the absence of an outright denial, that mitigations be imposed. She then listed the four conditions requested by the appellant to be imposed.

Councilmember Young asked for clarification of the statements made by Ms. Henderson that a conditional use would be replacing an existing, permitted use, and what was being calculated by the Hearing Examiner when he erred by including the track area. Ms. Henderson explained that when you have an existing, outright permitted use, it is important that a conditional use proposal meet all the criteria before approval. She continued to explain that the calculation in question was directed at what State standards would consider to be too small for ballfields. Councilmember Young asked if there was a precedent of a city using state statutes to determine a land use case. Ms. Henderson replied that she could not cite a case, but jurisdictions often look to other authorities as guidance.

Councilmember Dick said that the duty of the Hearing Examiner is to weigh all the information gathered from public hearings and staff. He asked Ms. Henderson if it were not true that Council's function is to determine whether or not the decision is baseless due to lack of substantial evidence. Ms. Henderson replied that the standards in a closed record hearing would be whether or not Council determines that substantial evidence supports the Examiner's decision. She added that it is the appellant's contention that the criteria for a conditional use permit has not been met, and that Council can review the evidence and agree. Councilmember Dick stressed that the Council's decision is limited to whether enough evidence was submitted for a decision to be made.

A short recess was called at 8:10 p.m. The meeting resumed at 8:18 p.m. with a presentation from the representative from Peninsula School District.

Jill Guernsey - Peninsula School District Boardmember. Ms. Guernsey introduced Betty Ringlee, President of the School Board; Jill Johnson, School Boardmember; Jim Coolican, Superintendent; and Marsha Harris, Deputy Superintendent. Ms. Guernsey agreed that this is a land use case, adding that it is the role of the Hearings Examiner to determine the facts. She said that the Hearing Examiner had been presented with extensive testimony and found that there was substantial evidence to support the school district's position. She gave an overview of the existing play areas, gymnasiums, and athletic fields, and described how the proposed project modified an existing field, and added additional play area. She addressed the conditional use permit criteria, stressing that the existing use is a school and will continue to be a school.

Ms. Guernsey said that the basis of this appeal was not the loss of community fields, but the placing of an alternative school next to an elementary school. She stressed that the Hearing Examiner had applied the law correctly, and that it is time to move forward with the project. She added that the students could be good neighbors.

Councilmember Young asked about ADA access to the ballfields. Ms. Guernsey said that the school district was currently working with the city on this issue.

Councilmember Dick asked for clarification on minimum requirements for school fields. Ms. Guernsey said that there are no minimum requirements and that the fields will be available for all students.

John Vodopich reminded Council that the city is required to approve a project that is consistent with the development regulations adopted under the state's Growth Management Act, and in the absence of applicable regulations, the Comprehensive Plan is used as a guide. He said that the Hearing Examiner had correctly determined that the application was reviewed under the correct criteria for approval. He added that none of the issues raised by the appellant citing the Comprehensive Plan are applicable, and that nothing in the record provides authority for the city to impose the conditions suggested by the appellants in regards to the size of the playfields. He added that the project meets the city's new parking standards. He concluded that he and the City Attorney recommend that Council uphold the Hearing Examiner's decision.

Councilmember Ruffo asked for clarification on the role that Council was to take in this appeal. Carol Morris explained that Council was not to reweigh the evidence, but to determine whether or not there was substantial evidence to support the Hearing Examiner's decision.

John Vodopich assured Councilmember Young that the project had been reviewed by the Public Works Department in regards to traffic concerns. Ms. Guernsey added that the school district is contributing \$30,000 in traffic impact fees for the project.

Councilmember Ruffo asked that the Peninsula School District work with the appellant toward a workable solution. Ms. Guernsey said that they would continue to do this.

Ms. Henderson reinforced that the appellant did not feel that there was sufficient evidence to show that the site was large enough; a position supported by one of the conditions imposed by the Hearing Examiner limiting the occupancy of the building to 150 students.

Mayor Wilbert asked if there were any further questions by Council. There were none, and she advised everyone that Council reserves the right to reopen this hearing at a later time if needed. She then closed the oral argument portion of the hearing.

Councilmember Ekberg said that the issue seems to be between the Coalition and the school district, not between the Coalition and the city. He made the following motion.

MOTION: Move that Council affirm the decision of the Hearing Examiner.
Ekberg/Ruffo -

Councilmember Ruffo agreed with Councilmember Ekberg. Councilmember Young voiced his frustration with the District's decision to place the Alternative School at this site which he attributed to poor planning, but agreed that the Hearing Examiner had not erred in his decision.

Councilmember Dick said that he shared the concerns that had been expressed, and agreed that playfields should be encouraged. He affirmed that there were no errors on the Hearing Examiner's findings, and then asked that all parties continue to work together for future expansion of fields.

RESTATED MOTION: Move that Council affirm the decision of the Hearing Examiner.
Ekberg/Ruffo - unanimously approved.

Councilmember Picinich returned to the Council Chambers at this time.

2. First Reading of Ordinance - Issuance and Sale of Water/Sewer Revenue Bond Anticipation Note. David Rodenbach explained that this bond anticipation note was for the construction of Pump Station 3A. He gave an overview of the terms of the 3-year bond and answered questions. This will return for a second reading at the next meeting when the final interest rate is set.

STAFF REPORTS: None scheduled.

PUBLIC COMMENTS: None.

COUNCIL COMMENTS / MAYOR'S REPORT:

Mayor Wilbert requested a motion to include an alternative to the park use at Borgen Park for an Interpretive Center to house an Environmental Research Library.

Councilmember Ekberg said that there had been a great deal of public input on the park. He added that Brennen and Associates, who are highly capable, had been hired to make

recommendations, and should be allowed to do so without direction from Council. Councilmember Ruffo said that a motion for an alternative would be usurping the responsibility of the sub-committee and that they should be allowed to do their work. Councilmembers agreed that it would be inappropriate to give direction at this point, and recommended that staff remain neutral.

Councilmember Dick voiced concerns on the public notice requirements for the public meetings on the park. John Vodopich explained what had occurred at the last meeting, and assured Councilmembers that any future meetings would be better noticed.

ANNOUNCEMENT OF OTHER MEETINGS:

City Council Retreat - Monday, July 16th, 12:00 p.m. at Murphy's Landing.

EXECUTIVE SESSION:

Carol Morris, Legal Counsel, explained that she had placed information in the Councilmember's box and that an Executive Session was not needed.

ADJOURN:

MOTION: Move to adjourn at 9:18 p.m.
Young/Ekberg - unanimously approved.

Cassette recorder utilized.
Tape 620 - Side A 345 - end.
Tape 621 - Both Sides.
Tape 622 - Side A 000 -363.

Gretchen A. Wilbert, Mayor

City Clerk



RECEIVED

JUN 22 2001

STATE OF WASHINGTON

WASHINGTON STATE LIQUOR CONTROL BOARD OF GIG HARBOR
3000 Pacific Ave SE • PO Box 43075 • Olympia WA 98504-3075 • (360) 664-1600

June 19, 2001

Mayor of Gig Harbor

This is to notify you that:

BARTELL DRUG COMPANY #39
5500 OLYMPIC DR
GIG HARBOR, WA 98335
LICENSE #077055 - 1J
UBI 1780039630010042

discontinued sales and service of liquor at the above location on October 31, 2000.

This is for your information and records.

cc: Tacoma Enforcement Office
File



LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR
(BY ZIP CODE) FOR EXPIRATION DATE OF 20010930

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1 THE CAPTAIN'S MATE, INC.	THE KEEPING ROOM, CANDLES & WINE ETC. 3306 HARBORVIEW DR GIG HARBOR WA 98332 2126	083190	BEER/WINE SPECIALTY SHOP
2 GIANG, PHUONG HUE	EMERALD STAR CHINESE RESTAURANT 6687 KIMBALL DR UNIT B GIG HARBOR WA 98335 0000	070891	SPIRITS/BR/WN REST SERVICE BAR
3 STILE, INC.	HARBOR ROCK CAFE' 6565 KIMBALL DR GIG HARBOR WA 98335 0000	081255	BEER/WINE REST - BEER/WINE
4 PANDA INC.	HUNAN GARDEN RESTAURANT 5500 OLYMPIC DR GIG HARBOR WA 98335 0000	076567	SPIRITS/BR/WN REST SERVICE BAR
5 JU, SUN WOO	KINZA TERIYAKI 6820 KIMBALL DR A-1 GIG HARBOR WA 98335 0000	077031	BEER/WINE REST - BEER/WINE
6 SPIRO'S BELLA NOTTE', INC.	SPIRO'S BELLA NOTTE' PIZZA & PASTA 3108 HARBORVIEW DR GIG HARBOR WA 98335 0000	363055	SPIRITS/BR/WN REST LOUNGE +

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JUL 5 2001

CITY OF GIG HARBOR



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR *DR*
DATE: JULY 18, 2001
**SUBJECT: SECOND READING - ORDINANCE PROVIDING FOR THE ISSUANCE
AND SALE OF WATER/SEWER REVENUE BOND ANTICIPATION
NOTE (BAN).**

BACKGROUND

The BAN will provide funds for construction of Pump Station 3A. We are planning to refinance the BAN in 3 years with a revenue bond that will also provide financing for the sewer outfall extension.

FISCAL CONSIDERATIONS

This is a \$1.5 million, 36-month note with a fixed interest rate of approximately 4.30%. Closing will be July 31, 2001. Banc of America will purchase the note and the proceeds will be receipted into the Sewer Capital Construction Fund.

The City is pledging the net revenue of the Water/Sewer system to provide debt service for the BAN, in addition to the currently outstanding 1994 Water/Sewer Revenue and Refunding Bonds (\$1,370,000 principal balance outstanding) and Public Works Trust Fund Loan (\$662,000 principal balance outstanding). The City is also pledging to refinance the BAN within 3 years.

RECOMMENDATION

Staff recommends adoption of the ordinance.

CITY OF GIG HARBOR, WASHINGTON

WATER AND SEWER REVENUE BOND ANTICIPATION NOTE, 2001 (JUNIOR LIEN)

ORDINANCE NO. 887

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, PROVIDING FOR CERTAIN IMPROVEMENTS TO THE CITY'S WATER AND SEWERAGE SYSTEM DECLARING THE ESTIMATED COST THEREOF; AUTHORIZING THE ISSUANCE OF WATER AND SEWER REVENUE BONDS TO PAY THE COSTS THEREOF; PROVIDING FOR THE ISSUANCE AND SALE OF A WATER AND SEWER REVENUE BOND ANTICIPATION NOTE OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,500,000, FOR THE PURPOSE OF PROVIDING INTERIM FINANCING PENDING THE ISSUANCE OF SAID BOND; PROVIDING THE DATE, FORM, TERMS AND MATURITY OF SAID NOTE AND FOR REPAYMENT OF SUCH NOTE; AND APPROVING THE SALE OF SUCH NOTE.

APPROVED ON JULY 23, 2001

PREPARED BY:

PRESTON GATES & ELLIS

ORDINANCE NO. 887

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, PROVIDING FOR CERTAIN IMPROVEMENTS TO THE CITY'S WATER AND SEWERAGE SYSTEM DECLARING THE ESTIMATED COST THEREOF; AUTHORIZING THE ISSUANCE OF WATER AND SEWER REVENUE BONDS TO PAY THE COSTS THEREOF; PROVIDING FOR THE ISSUANCE AND SALE OF A WATER AND SEWER REVENUE BOND ANTICIPATION NOTE OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,500,000, FOR THE PURPOSE OF PROVIDING INTERIM FINANCING PENDING THE ISSUANCE OF SAID BONDS; PROVIDING THE DATE, FORM, TERMS AND MATURITY OF SAID NOTE AND FOR REPAYMENT OF SUCH NOTE; AND APPROVING THE SALE OF SUCH NOTE.

WHEREAS, the City of Gig Harbor needs to make certain improvements to its combined water and sewerage system (the "System"); and

WHEREAS, the City is authorized by RCW ch. 39.50 to issue revenue bond anticipation notes in anticipation of the issuance of revenue bonds; and

WHEREAS, the City has received an offer from Bank of America, N.A. to purchase a revenue bond anticipation note on terms and conditions that are acceptable to this Council; and

WHEREAS, the City has issued its Water and Sewer Revenue and Refunding Bonds, 1994 dated July 1, 1994 issued pursuant to Ordinance No. 677 in the original principal amount of \$2,995,000 and currently outstanding in the principal amount of \$1,370,000, secured by a first parity lien on the revenues of the System.

WHEREAS, the City has outstanding \$661,762 under State Revolving Fund Loan Agreement No. SRF 94 dated May 18, 1994 (the "State Revolving Fund Loan") secured by lien on revenues of the System junior to the Outstanding Parity Bonds.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON DOES ORDAIN, as follows:

Section 1. Definitions. As used in this ordinance, unless a different meaning clearly appears from the context:

Assessments means any assessments levied in any utility local improvement district of the City created for the acquisition or construction of additions and improvements to and extensions of the System, if such assessments are pledged to be paid into the Bond Fund. The word "Assessments" shall also include any installments of assessments and any interest or penalties which may be due thereon.

Assessment Income means the principal of and interest on assessments levied in any utility local improvement district and pledged to be paid into the Bond Fund. In the case of assessments payable in installments, Assessment Income shall be allocated to the years in which it would be received if the unpaid principal balance of each assessment roll were paid in equal principal amounts over the remaining number of installments with interest on the declining balance at the times and at the rate provided in the ordinance confirming the assessment roll.

Bond Fund means the City of Gig Harbor Utility Bond Redemption Fund created in the office of the Treasurer of the City pursuant to Section 13 of Ordinance No. 468.

Bonds means the water and sewer parity revenue bonds of the City authorized to be issued in Section 3 of this ordinance as Future Parity Bonds for the purpose of providing permanent financing for the Improvements.

City means the City of Gig Harbor, Washington, a municipal corporation duly organized and existing under and by virtue of the laws of the State of Washington.

Code means the federal Internal Revenue Code of 1986, as the same shall be amended from time to time, and all regulations promulgated or applicable thereunder.

Costs of Maintenance and Operation mean all necessary operating expenses, current maintenance expenses, expenses of reasonable upkeep and repairs, and insurance and administrative expenses with respect to the System, but excludes depreciation, payments for debt service or into reserve accounts, costs of capital additions to or replacements of the System, municipal taxes or payments to the City in lieu of taxes.

Council means the City Council as the general legislative authority of the City as the same shall be duly and regularly constituted from time to time.

Debt Service Account means the account of that name created in the Bond Fund by Ordinance No. 468.

Future Parity Bonds means any water and sewer revenue bonds which the City may hereafter issue having a lien upon the Revenue of the System for the payment of the principal thereof and interest thereon equal to the lien upon the Revenue of the System of the Bond.

Improvements means those additions, betterments and improvements authorized in Section 2 hereof.

Maturity Date means July 1, 2004.

Net Revenue means the Revenue of the System less the Costs of Maintenance and Operation.

Note means the City of Gig Harbor, Washington Water and Sewer Revenue Bond Anticipation Note, 2001 (Junior Lien), issued pursuant to this ordinance.

Note Account means the special account authorized to be established in Section 7 of this ordinance from which payment of the Note shall be made.

Note Register means the books or records maintained by the Note Registrar containing the name and mailing address of the owner of the Note or nominee of the owner and the remaining principal amount of the Note held by the owner or nominee.

Note Registrar means the Treasurer of the City as registrar and paying agent for the Note.

Outstanding Parity Bonds means the City's Water and Sewer Revenue and Refunding Bonds, 1994 dated July 1, 1994 issued pursuant to Ordinance No. 677 in the original principal amount of \$2,995,000 and currently outstanding in the principal amount of \$1,370,000.

Outstanding Parity Bond Ordinance means Ordinance No. 677, passed by the Council on July 11, 1994.

Parity Bonds means the Outstanding Parity Bonds and any Future Parity Bonds.

Project Fund means the Sewer Capital Construction Fund maintained by the Treasurer.

Registered Owner means the person in whose name the Note is registered on the Note Register.

State Revolving Fund Loan means the obligation of the City outstanding in the principal amount of \$661,762 under State Revolving Fund Loan Agreement No. SRF 94 dated May 18, 1994.

Reserve Account means the account created in the Bond Fund by Section 15 of Ordinance No. 468 and shall include any subaccount created therein.

Revenue Fund means the "City of Gig Harbor Utility Revenue Fund" authorized to be created by Section 12 of Ordinance No. 468, into which fund all of the Revenue of the System is to be deposited, as collected. The Revenue Fund may be maintained as one or more separate funds of the City into which all of the Revenue of the System shall be deposited.

Revenue of the System means all earnings, revenue and moneys received by the City from or on account of the operation of the System, including the income from investments of money in the Revenue Fund and the Bond Fund or from any other investment thereof. "Revenue of the System" shall also include any federal or state reimbursements of operating expenses to the extent such expenses are included as "Costs of Maintenance and Operation."

System means the existing sanitary sewerage collection and treatment system of the City, as it now exists and as it may later be added to, extended and improved, and the existing water supply and distribution system of the City, as it now exists and as it may later be added to, extended and improved for as long as any Parity Bonds remain outstanding.

Term Bonds means any Parity Bonds identified as such in the ordinance authorizing the issuance thereof, the payment of which is provided for by a requirement for mandatory deposits of money into a "sinking fund account" in the Bond Fund.

Treasurer means the Finance Director of the City.

Words importing the singular number include the plural number and vice versa.

Section 2. The Improvements. The Council of the City hereby specifies and adopts a plan for making the following improvements to the System (the "Improvements"): construction

of a new wastewater pump station and associated piping, and modifications to the wastewater treatment plant and the electrical and control systems.

In carrying out the Improvements, the City shall acquire and install all equipment and appurtenances necessary for its proper operation, and shall acquire by purchase, lease or condemnation all property, both real and personal, or any interest therein, and all rights-of-way, franchises, and easements necessary to carry out the Improvements, which is all as more particularly set forth in maps and plans prepared by Earth Tech.

It is hereby provided that said Improvements shall be subject to such changes as to details of size or location or any other details of said Improvements as may be authorized by the Council either prior to or during the actual course of construction.

Section 3. Authorization of Bonds. The estimated cost of the acquisition, construction and installation of the Improvements is hereby declared to be, as near as may be, the sum of \$1,500,000 which shall be provided by the issuance and sale of water and sewer revenue parity bonds of the City (the "Bonds").

Said Bonds shall bear interest at interest rates of not to exceed the maximum rate permitted at the time said Bonds are sold, shall be issued at such time as may be found necessary, and shall mature in various amounts and at such times up to a maximum period of not to exceed forty years from date of issue as may be fixed by the Council at the time of issuance. Both principal and interest on said Bonds shall be paid from the Revenue of the System. The exact date, form, terms and maturities of said Bonds shall be as hereafter fixed by ordinance of the City Council.

Section 4. Authorization of the Note. For the purpose of providing interim financing for the Improvements pending the completion of the Improvements and the issuance and delivery of the Bonds, the City Council hereby authorizes the issuance and sale of its water and sewer revenue bond anticipation note (the "Note"). The Note shall be designated as the "City of Gig Harbor, Washington, Water and Sewer Revenue Bond Anticipation Note, 2001 (Junior Lien)," shall be dated as of its date of delivery, shall be issued in fully registered form in the

denomination of \$1,500,000, shall bear interest on unpaid principal from its date at a per annum rate of 4.30%, payable at maturity, and shall mature on July 1, 2004 (the "Maturity Date"). Interest on the Note shall be calculated on the basis of a 360-day year with 30-day months.

The Note shall not be a general obligation of the City. The Note shall be an obligation only of the Note Account and shall be payable and secured as provided herein. The Note does not constitute an indebtedness of the City within the meaning of the constitutional provisions and limitations of the State of Washington.

The Treasurer shall act as transfer agent, paying agent and registrar for the Note (the "Note Registrar"). Both principal of and interest on the Note shall be payable in lawful money of the United States of America. Upon final payment of all principal and interest thereon, the Note shall be submitted to the Note Registrar for cancellation and surrender.

The Note Register shall be maintained by the Note Registrar, and shall contain the name and mailing address of the registered owner of the Note or nominee of such registered owner.

The Note may be transferred only on the Note Register maintained by the Note Registrar for that purpose upon the surrender thereof by the registered owner or nominee or his/her duly authorized agent and only if endorsed in the manner provided thereon and thereupon a new fully registered Note of like principal amount, maturity and interest rate shall be issued to the transferee in exchange therefor. Such exchange or transfer shall be without cost to the owner or transferee.

Section 5. Optional Redemption. The City has reserved the right to prepay the Note prior to its maturity in whole or in part at any time, upon at least 5 days' written notice to the Bank subject only to prepayment fees as stated in Exhibit A attached hereto.

Section 6. Priority of Payments from Revenue Fund There has heretofore been established in the office of the Treasurer a special fund of the City known as the "City of Gig Harbor Utility Revenue Fund" (the "Revenue Fund"), into which the Revenue of the System is deposited as collected. The Revenue Fund shall be held separate and apart from all other funds

and accounts of the City, and the Revenue of the System shall be used only for the following purposes and in the following order of priority:

First, to pay the Costs of Maintenance and Operation of the System;

Second, to make all payments required to be made into the Bond Fund to pay the interest on any Parity Bonds;

Third, to make all payments required to be made into the Bond Fund to pay the maturing principal of any Parity Bonds;

Fourth, to make all payments required to be made into the Reserve Account created to secure the payment of the Parity Bonds;

Fifth, to make all payments required to be made under the State Revolving Fund Loan;

Sixth, to make all payments required to be made into the Note Account with respect to the Note;

Seventh, to make all payments required to be made into any other revenue bond redemption fund or revenue warrant redemption fund and debt service account or reserve account created to pay and secure the payment of the principal of and interest on any revenue bonds or revenue warrants of the City having a lien upon the Revenue of the System junior and inferior to the lien thereon for the payment of the principal of and interest on the Parity Bonds, the State Revolving Fund Loan and the Note; and

Eighth, to retire by redemption or purchase any outstanding revenue bonds or revenue warrants of the City, to make necessary additions, betterments and improvements and repairs to or extensions and replacements of the System, or for any other lawful City purposes.

Section 7. Note Account--Security and Sources of Payment of Note. There is hereby authorized to be established and the Treasurer of the City is authorized and requested to establish a special account of the City (the "Note Account"), which separate account shall constitute a special fund to be drawn upon only for the payment of the principal of and interest on the Note. The Note Account may be a special account within the City's Bond Fund and may be established at any time on or prior to the Maturity Date. The City hereby covenants and agrees that on or

before the Maturity Date, it will deposit in the Note Account proceeds of a refunding note and/or the proceeds of sale of the Bonds in an amount sufficient to pay the principal of and interest on the Note as the same become due.

The City hereby irrevocably obligates and binds itself for as long as the Note remains outstanding to set aside and pay into the Note Fund out of the proceeds of sale of the Bonds, or from Revenue of the System or moneys in the Revenue Fund available therefor after payment of the amounts identified in paragraphs First through Fifth of Section 6 of this ordinance, prior to the date the same becomes due such amounts as are required to pay the interest on and principal of the Note as the same shall become due.

The City hereby covenants that it will issue the Bonds in an amount sufficient, with other moneys of the City, legally available and specifically set aside for such purpose, to pay the interest on the Note as it comes due and the principal of the Note on or prior to its scheduled maturity.

Said amounts so pledged to be paid into the Note Fund, are hereby declared to be a prior lien and charge upon the Revenue of the System superior to all other charges of any kind or nature whatsoever, subject only to the payments provided in paragraphs First through Fifth of Section 6 of this ordinance.

Section 8. Sufficiency of Revenue of the System. The corporate authorities of the City hereby declare that in fixing the amounts to be paid into the Note Account as aforesaid they have exercised due regard to the Costs of Maintenance and Operation of the System and the charges necessary to pay and secure the payment of the principal of and interest on the Outstanding Parity Bonds and any Future Parity Bonds and have not obligated the City to set aside and pay into said Note Account a greater amount of the Revenue of the System than in their judgment will be available over and above such Costs of Maintenance and Operation and the amounts necessary to pay the principal of and interest on Parity Bonds and the Note.

Section 9. Specific Covenants.

(a) *Maintenance of System.* The City shall at all time maintain, preserve and keep the properties of the System in good repair, working order and condition and will from time to time make all necessary and proper repairs, renewals, replacements, extensions and betterments thereto, so that at all times the business carried on in connection therewith will be properly and advantageously conducted and said properties of the System and the business in connection therewith administered in an efficient manner and at a reasonable cost.

(b) *Collection and Application of Assessments.* The City will promptly collect all Assessments levied in utility local improvement districts that have been heretofore created by the City and all Assessments levied in utility local improvement districts heretofore created and all utility local improvement districts that are hereafter created to secure the payment of the principal of and interest on Parity Bonds and will pay the same into the Bond Fund. The same may be used to meet required payments into any Account of the Bond Fund and may be used to pay the principal of and interest on any Parity Bonds without said Assessments being particularly allocated to the payment of any particular series of bonds payable out of such Fund. It is hereby further provided, however, that nothing in this ordinance or in this subsection shall be construed to prohibit the City from issuing revenue bonds having a lien on the Revenue of the System and the money in the Revenue Fund junior to the lien on such revenue and money for the payment of the principal of and interest on the Bonds and pledging as security for the payment of such junior lien bonds assessments levied in any utility local improvement district that may have been created to pay part or all of the cost of improvements to the System for which such junior revenue bonds were specifically issued.

(c) *Rates and Charges.* The City shall fix, maintain and collect rates and charges for the use of the services and facilities and all commodities sold, furnished or supplied by the System, which shall be fair and nondiscriminatory and shall adjust such rates and charges from time to time so that the Revenue of the System derived therefrom, together with Assessments collected, will at all times be sufficient (A) to pay the Costs of Maintenance and

Operation, (B) to pay the principal of and interest on all Parity Bonds, the State Revolving Fund Loan and the Note, as and when the same shall become due and payable, (C) to make adequate provision for the payment of the any Term Bonds, (D) to make when due all payments which the City is obligated to make into the Reserve Account and all other payments which the City is obligated to make pursuant to this ordinance, and (F) to pay all taxes, assessments or other governmental charges lawfully imposed on the System or the revenue therefrom or payments in lieu thereof and any and all other amounts which the City may now or hereafter become obligated to pay from the Revenue of the System by law or contract

(d) *No Encumbrances.* The City will not at any time create or permit to accrue or to exist any lien or other encumbrance or indebtedness upon the System or the Revenue of the System, or any part thereof, prior or superior to the lien thereon for the payment of Parity Bonds, and will pay and discharge, or cause to be paid and discharged, any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the Revenue of the System, or any part thereof, or upon any funds in the hands of the City, prior to or superior to the lien of Parity Bonds, or which might impair the security of Parity Bonds.

(e) *Insurance.* The City will keep the works, plants and facilities comprising the System insured, and will carry such other insurance, with responsible insurers, with policies payable to the City, against risks, accidents or casualties, at least to the extent that insurance is usually carried by private corporations operating like properties, or will implement a self-insurance program with reserves adequate, in the judgment of the Council, to protect City and the owners of the Note against loss. In the event of any loss or damage, the City will promptly repair or replace the damaged portion of the insured property and apply the proceeds of any insurance policy for that purpose; or in the event the City should determine not to repair or reconstruct such damaged portion of the properties of the System, the proceeds of such insurance shall be paid into the Reserve Account to the extent that such transfer shall be necessary to make up any deficiency in said Reserve Account and the balance, if any, shall at the option of the City, be used

either for repairs, renewals, replacements, or capital additions to the System, for the redemption of Parity Bonds and the Note, or for deposit into the Reserve Account.

(f) *Books and Accounts.* The City shall keep proper books of account which shall be kept in accordance with any applicable rules and regulations prescribed by the State of Washington. The City shall prepare, and any owner of Parity Bonds may obtain copies of, balance sheets and profit and loss statements showing in reasonable detail the financial condition of the System as of the close of each year, and the income and expenses of such year, including the amounts paid into the Revenue Fund, the Bond Fund, and into any and all special funds or accounts created pursuant to the provisions of this ordinance, and the amounts expended for maintenance, renewals, replacements, and capital additions to the System.

(g) *Future Parity Bonds.* The City reserves the right to issue Future Parity Bonds in accordance with the terms set forth in the Outstanding Parity Bond Ordinance.

Section 10. Tax Covenants. The City covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exemption from federal income taxation of the interest on the Note and will take or require to be taken such acts as may reasonably be within its ability and as may from time to time be required under applicable law to continue the exemption from federal income taxation of the interest on the Note. Without limiting the generality of the foregoing, the City covenants that it will not take any action or fail to take any action with respect to the investment of the proceeds of any Note or other funds that would result in constituting the Note "arbitrage bonds" within the meaning of such term as used in Section 148 of the Code.

The City hereby covenants that it will not make any use of the proceeds from the sale of the Note or any other moneys or obligation of the City which may be deemed to be proceeds of such Note pursuant to Section 148(a) of the Code which, if such use has been reasonably expected on the date of delivery of the Note to the initial purchasers thereof, would have caused the Note to be "arbitrage bonds" within the meaning of said Section. The City will comply with the applicable requirements of Section 148(a) of the Code. The City covenants that it will not act

or fail to act in a manner which will cause the Note to be considered obligations not described in Section 103(a) of the Code.

The City will take no action and will make no use of the proceeds of the Note, or any other funds held under this ordinance which would cause any Bond to be treated as a "private activity bond" (as defined in Section 141(b) of the Code, as then in effect) subject to treatment under said Section 141(b) as an obligation not described in subsection (a) of said Section 141, unless the tax exemption thereof is not affected.

The City hereby designates the Note as a "qualified tax exempt obligation" for purchase by financial institutions pursuant to Section 265 of the Code. The City does not anticipate that it will issue more than \$10,000,000 in "qualified tax-exempt obligations" during the year 2001.

The City covenants that none of the proceeds of the Note will be used for any purpose other than as provided in this ordinance and that the City shall not suffer any amendment or supplement to this ordinance, or any departure from the due performance of the obligations of the City hereunder, that might materially and adversely affect the rights of the owners from time to time of the Note.

Section 11. Representations and Warranties. The City hereby makes the following representations, warranties and agreements.

(a) *Authority.* The City has full legal right, power and authority (i) to adopt this ordinance, (ii) to sell, issue and deliver the Note as provided herein and (iii) to carry out and consummate all other transactions contemplated by this ordinance.

(b) *Official Action.* By all necessary official action prior to or concurrently herewith, the City has duly authorized and approved the execution and delivery of, and the performance by the City of its obligations contained in the Note and this ordinance and the consummation by it of all other transactions contemplated by this ordinance in connection with the issuance of the Note, and such authorizations and approvals are in full force and effect and have not been amended, modified or supplemented in any material respect.

(c) *Ordinance a Valid Obligation.* This ordinance constitutes the legal, valid and binding obligation of the City.

(d) *Notification.* The City represents that it has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is an issuer whose arbitrage certifications may not be relied upon.

Section 12. Form of Note and Certificate of Authentication. The Note shall be in substantially the following form:

UNITED STATES OF AMERICA

\$1,500,000

No. 1

STATE OF WASHINGTON

CITY OF GIG HARBOR

WATER AND SEWER REVENUE BOND ANTICIPATION NOTE, 2001 (JUNIOR LIEN)

INTEREST RATE: 4.30% MATURITY DATE: JULY 1, 2004

REGISTERED OWNER: BANK OF AMERICA, N.A.

PRINCIPAL AMOUNT: ONE MILLION FIVE HUNDRED THOUSAND DOLLARS

The City of Gig Harbor, Washington, a municipal corporation of the State of Washington (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, but solely from the Note Account (hereinafter defined) on the Maturity Date the Principal Amount specified above and to pay interest thereon from the date hereof at the rate per annum of 4.30% computed on a 360-day year and twelve months of 30 days each, upon presentation and surrender of this note at the office of the Finance Director of the City ("Note Registrar"). Interest on this note shall be payable at maturity.

This note is issued pursuant to an ordinance of the City, adopted on July 23, 2001 (the "Note Ordinance"), for the purpose of financing various capital improvements to the City's combined system of water and sewerage in anticipation of the issuance of water and sewer revenue bonds, all in conformity with the Constitution and laws of the State of Washington.

The City has reserved the right to repay the principal amount of this note in whole or in part prior to its maturity on five days' written notice subject to prepayment fees as provided in the Note Ordinance.

This note is payable solely out of the Revenue of the System (as such term is defined in the Note Ordinance), and does not constitute a general obligation of the City. Both principal of and interest on this note are payable solely out of the special fund of the City known as the Note Account. The City does hereby pledge and bind itself to set aside and pay into the Note Account the amounts required by the Note Ordinance to be paid therein on ~~and~~ or prior to the maturity of the Note as the same shall become due from the proceeds of the Bonds (as authorized in the Note Ordinance) or from the sources and in the priority specified in the Note Ordinance.

This note is not a "private activity bond." The City has designated this note as a qualified tax exempt obligation for investment by financial institutions pursuant to Section 265(b) of the Internal Revenue Code of 1986, as amended.

The City hereby irrevocably covenants and agrees with the Registered Owner of this note that it will keep and perform all the covenants of this note and of the Note Ordinance (hereinafter defined) to be by it kept and performed. Reference is hereby made to the Note Ordinance for a complete statement of such covenants and for the definition of capitalized terms used herein.

This note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Note Ordinance until the Certificate of Authentication hereon shall have been manually signed by or on behalf of the Note Registrar.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington to exist, to have happened, been done and performed precedent to and in the issuance of this note have happened, been done and performed and that the issuance of this note and the Note of this issue does not violate any constitutional, statutory or other limitation upon the amount of indebtedness that the City may incur.

IN WITNESS WHEREOF, the City of Gig Harbor, Washington, has caused this note to be signed with the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of the City Clerk of the City, and the seal of the City to be impressed or a facsimile thereof to be imprinted or otherwise reproduced hereon, as of this 31st day of July, 2001.

CITY OF GIG HARBOR, WASHINGTON

By /s/ manual or facsimile
Mayor

ATTEST:

 /s/ manual or facsimile
City Clerk

* * * * *

REGISTRATION CERTIFICATE

This note is registered in the name of the Registered Owner on the books of the City, in the office of the Treasurer (the "Note Registrar"), as to both principal and interest, as noted in the registration blank below. All payments of principal of and interest on this note shall be made by the City with full acquittance by the Note Registrar's wire transfer, made payable to the last Registered Owner as shown hereon and on the registration books of the Note Registrar at his/her address noted hereon and on the registration books of the Note Registrar.

<u>Date of Registration</u>	<u>Name and Address of Registered Owner</u>	<u>Signature of Registrar</u>
<u>July 31, 2001</u>	<u>Bank of America, N.A. 800 Fifth Avenue, Floor 34 Seattle, WA 98104</u>	_____

Section 13. Execution and Delivery of Note. The Note shall be executed on behalf of the City by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk of the City. The official seal of the City shall be impressed or a facsimile thereof imprinted or otherwise reproduced on each Note. In case any officer whose signature shall appear on any Note shall cease to be an officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, and the Note may be authenticated and delivered the same as if such officer had remained in office until such delivery.

The Note shall not be valid for any purpose until authenticated by the Note Registrar.

Section 14. Sale of the Note. The City hereby accepts the offer of Bank of America, N.A., Seattle, Washington, delivered to the City Council on this date to purchase the Note in accordance with the terms contained in this ordinance and said offer. The City officials are hereby authorized and directed to do everything necessary to complete such sale and delivery of the Note to the purchaser thereof upon the payment of the purchase price thereof, all in accordance with this ordinance and the offer of Bank of America, N.A.

Section 15. Application of Note Proceeds. The net proceeds of the Note received by the City will be deposited in the Project Fund and used to pay the costs of constructing, acquiring and installing the Improvements, including the costs of issuance of the Note.

All money held in the Project Fund may be invested in any legal investment for City funds and all investments shall be scheduled to mature as costs of the Improvements are reasonably anticipated to be incurred. Upon the completion of the Improvements and the payment of all costs thereof, including the payment of all retainages for construction, the Project Fund may be closed, and the remaining Note proceeds and interest earnings thereon shall be transferred to the Note Account to be used to pay the principal of and interest on the Note or, if the Note have been redeemed, may be transferred to the Bond Fund to pay debt service on the Bond.

Section 16. Severability. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Note.

Section 17 Effect of Covenants, Etc. All covenants, obligations and agreements of the City contained in this ordinance shall be deemed to be covenants, obligations and agreements of the City to the full extent authorized by the Act and permitted by the Constitution of the State of Washington. No covenant, obligation or agreement contained herein shall be deemed to be a covenant, obligation or agreement of any present or future official, member, agent or employee of the City in his or her individual capacity, and neither the members of the Council nor any officer thereof executing the Note shall be liable personally on the Note or be subject to any personal liability or accountability by reason of the issuance thereof. No member, officer, agent or employee of the City shall incur any liability in acting or proceeding or in not acting or proceeding, in good faith in accordance with the terms of this ordinance.

Section 18 Ongoing Disclosure. The City is exempt from the ongoing disclosure requirements of Securities and Exchange Commission Rule 15c2-12 by reason of the exemption set forth in subsection (d)(i) of that rule with respect to the issuance of securities in authorized denominations of \$100,000 or more.

Section 19 Effective Date. This ordinance shall be effective five days after its passage and publication in the manner required by law.

PASSED by the Council of the City of Gig Harbor, Washington at a regular meeting held on the 23rd day of July, 2001.

CITY OF GIG HARBOR, WASHINGTON

Mayor

ATTEST:

City Clerk

First Reading: July 9, 2001

Date Adopted: July 23, 2001

Date of Publication: _____, 2001

Effective Date: _____, 2001

CERTIFICATE

I, the undersigned, City Clerk of the City of Gig Harbor, Washington (the "City") and keeper of the records of the City Council (the "Council"), DO HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance No. 887 of the Council (the "Ordinance"), duly passed at a regular meeting thereof held on the 23rd day of July, 2001.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of the Ordinance have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of July, 2001.

Molly Towslee, City Clerk

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July 31, 2001

City of Gig Harbor, Washington

Bank of America, N.A.
Seattle, Washington

Re: City of Gig Harbor, Washington, Water and Sewer Revenue Bond
Anticipation Note, 2001 (Junior Lien) - \$1,500,000

Ladies and Gentlemen:

We have acted as bond counsel to City of Gig Harbor, Washington (the "City") and have examined a certified transcript of all of the proceedings taken in the matter of the issuance by the City of its Water and Sewer Revenue Bond Anticipation Note, 2001 (Junior Lien) (the "Note") in the principal amount of \$1,500,000 authorized to be issued by Ordinance No. 887 of the City Council (the "Note Ordinance") for the purpose of providing interim financing of the cost of certain improvements to the water and sewerage system of the City (the "System").

The Note is issued in fully registered form, is dated as of the date of its original delivery to Bank of America, N.A., Seattle, Washington (the "Bank"), is numbered N-1, is in the denomination of \$1,500,000, and bears interest on unpaid principal from its date at 4.30% per annum calculated on the basis of a 360 day year with 30-day months and matures July 1, 2004.

The Note may be prepaid as provided in the Note Ordinance.

From such examination it is our opinion that the Note has been legally issued and constitutes a valid obligation of the City, payable and secured in the manner set forth therein and in the Note Ordinance, except to the extent that the enforcement of the rights and remedies of the owner of the Note may be limited by laws relating to bankruptcy, reorganization and other similar laws of general application affecting the rights of creditors, by the application of equitable principles and the exercise of judicial discretion.

The Note is payable solely out of the special fund of the City known as the Note Account. The City has irrevocably obligated and bound itself to pay into the Note Account from the proceeds of water and sewer revenue bonds payable from revenues of the System (as authorized in the Note Ordinance) or from sources and in the priority as specified in the Note Ordinance at times and in amounts necessary to pay and secure the payment of the principal of and interest on the Note at its maturity.

It is our further opinion that interest on the Note is excluded from gross income for purposes of federal income taxation pursuant to Section 103 of the Internal Revenue Code of

City of Gig Harbor, Washington
Bank of America, N.A.
July 31, 2001
Page 2

1986 (the "Code"). We are also of the opinion that the Note is not a private activity bond. Interest on the Note is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals or corporations, but is taken into account in the computation of adjusted current earnings for purposes of the corporate alternative minimum tax under Section 55 of the Code. The opinions stated in this paragraph are subject to the condition that the City comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Note in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The City has covenanted to comply with all such requirements. Failure to comply with certain of such requirements may cause interest on the Note to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Note. The City has designated the Note as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Code.

Except as stated herein, we express no opinion regarding any federal, state or local tax consequences arising with respect to ownership of the Note.

This opinion is given as of the date hereof and we assume no obligation to update, revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Very truly yours,

PRESTON GATES & ELLIS LLP

By
Cynthia M. Weed

CMW:wp

K:\1999\00007\CMW\Legal Opinion



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: DAVID R. SKINNER, P.E., PUBLIC WORKS DIRECTOR
SUBJECT: RESOLUTION – HARBORVIEW DRIVE - EMERGENCY
DECLARATION AND CONSTRUCTION AUTHORIZATION
DATE: JULY 18, 2001

INTRODUCTION/BACKGROUND

On Thursday, July 12, 2001 and Saturday July 14, 2001, the existing 8-inch asbestos concrete (AC) waterline within Harborview Drive fractured. The escaping water extensively damaged Harborview Drive and the adjacent sidewalk that has created a pedestrian hazard. The water line break also left multiple citizens along Harborview without water.

The existing AC waterline is over 60 years old and very brittle. Given the recent break, I believe there exists a high possibility additional breaks may occur causing additional damage and safety hazards. Staff contacted the City Attorney regarding compliance with competitive bidding requirements in this type of situation. The City Attorney informed us that once the Public Works Director determined the existence of an emergency situation, he could waive competitive bidding requirements and award all necessary contracts on behalf of the City to address it. RCW 39.04.280(2)(b). If a contract is awarded without competitive bidding due to an emergency, a written finding of the existence of the emergency must be made by the City Council and duly entered of record no later than two weeks following the award of the contract. Id. "Emergency" is defined as:

Unforeseen circumstances beyond the control of the municipality that either (a) present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury or loss of life if immediate action is not taken.

RCW 39.04.280(3).

On July 18, 2001 I contracted with Looker Inc., to perform the replacement of the damaged waterline and effect repairs to Harborview Drive and the adjacent sidewalk on a time and materials cost of approximately \$50,000. The final contract total will be calculated on the actual time and material cost of the work as identified. The contractor has begun effecting repairs to the waterline and will be completed within two weeks. I would like to request Council ratify the contract I have entered into on behalf of the City with Looker, Inc., for the emergency repair work necessary on Harborview Drive.

Due to the time involved in preparing plans and specifications and the minimum bidding time for acquiring a contractor to affect the repairs and replacement of the waterline, I am requesting that

MAYOR WILBERT AND CITY COUNCIL

July 18, 2001

Page 2

compliance with the purchasing requirements and bidding procedures of RCW 39.04.190, RCW 39.04.155, and City of Gig Harbor Resolution No. 411.

FISCAL CONSIDERATIONS

Funds for payment are available under the Street Capital Fund.

RECOMMENDATION

I recommend that the Council move and approve the attached resolution declaring that an emergency exists, and ratify the contract signed by Looker, Inc. to replace the waterline and repair Harborview Drive, without the need for compliance with the purchasing requirements and bidding procedures of RCW 39.04.190, RCW 39.04.155, and City of Gig Harbor Resolution No. 411.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DECLARING THE EXISTENCE OF AN EMERGENCY NECESSITATING THE WAIVER OF COMPETITIVE BIDDING REQUIREMENTS TO ADDRESS THE REPLACEMENT OF AN 8-INCH WATER LINE AND SUBSEQUENT ROADWAY RESTORATION ALONG HARBORVIEW DRIVE, AFTER A RECENT WATER LINE BREAK, ALSO WAIVING RCW 39.04.190, RCW 39.04.155, AND CITY OF GIG HARBOR RESOLUTION NO. 411, AS ALLOWED BY RCW 39.04.280.

WHEREAS, on July 12, 2001 and July 14, 2001, the existing 8-inch diameter waterline within Harborview Drive broke, causing water to heave the existing roadway including portions of the sidewalk; and

WHEREAS, Harborview Drive including portions of the sidewalk was substantially damaged from the large force of water escaping from the fractured line; and

WHEREAS, the existing water line within Harborview Drive has been temporarily repaired by City crews but due to the age of the line, the potential for further damage from additional line breaks is high; and

WHEREAS, the damage sustained in the water line breaks has caused a high possibility of further damage from additional breaks in the old existing line which required the City's immediate hiring of a construction contractor to replace the damaged section of existing water line with a new ductile iron line and make the necessary repairs to Harborview Drive including the damaged sidewalk sections, and

WHEREAS, because of this emergency, the City is unable to comply with the City's Resolution applicable to minimum bidding procedures; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Finding and Declaration of Emergency. The City Council hereby declares that an emergency exists requiring the immediate action by the City Public Works Director in order to preserve the public health, safety, property and welfare. The Council further declares that the delay necessitated by compliance with the procedures for procurement of equipment and construction of public works found in City Resolution No. 411, RCW 39.04.190 and RCW 39.04.155, will prevent

the City from coping with the emergency in time to minimize impact to the City's infrastructure. This declaration of emergency is based upon the following findings of fact:

- A. On July 12, 2001 and July 14, 2001, the existing 8-inch diameter waterline within Harborview Drive experienced a break. This break damaged Harborview Drive including portions of the sidewalk that has created a pedestrian hazard. The water line break also left multiple citizens along Harborview without water.
- B. The existing waterline is constructed of asbestos concrete pipe over 60 years old. This pipe has a high likelihood of fracturing again and causing further property damage and safety concerns along Harborview Drive.
- C. On July 18, 2001 the Public Works Director contracted with Looker Inc., to perform the replacement of the damaged waterline and effect repairs to Harborview Drive and the adjacent sidewalk on a time and materials cost of approximately \$50,000.00. The final contract total will be calculated on the actual time and material cost of the work as identified.
- D. The City Public Works Director requires Council ratification of the utilization of Looker, Inc. on a time and material cost to perform the repairs of the existing waterline and effect repairs to Harborview Drive and the adjacent sidewalk.

Section 2. Authorization to Contract. The City Council hereby ratifies and approves the Public Works Director contracting with Looker Inc, on a time and material cost of approximately \$50,000.00 for the replacement of the damaged waterline and repairs to Harborview Drive and the adjacent sidewalk in connection with the emergency described in Section 1.

Section 3. Posting and Recording. Pursuant to RCW 39.04.280, this Resolution has been passed within two weeks after the Public Works Director's action authorizing the contractor to begin work. The City shall post a description of work to be performed by the contractor for the work at Harborview Drive.

RESOLVED by the City Council this day of , 2001.

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: / /
RESOLUTION NO. ____



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
DIRECTOR, PLANNING & BUILDING SERVICES
SUBJECT: FIRST READING OF AN ORDINANCE AMENDING SECTION 19.02.002
OF THE GIG HARBOR MUNICIPAL CODE
DATE: JULY 23, 2001

INFORMATION/BACKGROUND

The City currently requires that an applicant provide a water availability certificate in order to make a project permit application complete and has adopted a procedure for the determination of water concurrency. The procedures for determining water concurrency require that an applicant obtain a Notice of Complete Application from the Planning Department in order for the concurrency application to be processed. In order to correct an inconsistency in the procedure, it is necessary to make amendments to Section 19.02.002 of the Gig Harbor Municipal Code so that the Planning Department may determine an application complete and the Public Works Department may process a concurrency determination request after the application has been determined complete.

POLICY ISSUES

This proposed amendment to the Code would correct an inconsistency within the procedures by which a project permit application is deemed to be complete.

FISCAL IMPACT

None

RECOMMENDATION

Staff is recommending the adoption of this Ordinance by Council following the second reading.

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF GIG HARBOR,
RELATING TO PROJECT PERMIT PROCESSING,
AMENDING THE ELEMENTS OF A COMPLETE
PROJECT PERMIT APPLICATION TO INCLUDE A COPY
OF THE REQUEST FOR A WATER CONCURRENCY
DETERMINATION TO THE CITY PUBLIC WORKS
DIRECTOR, AMENDING SECTION 19.02.002 OF THE GIG
HARBOR MUNICIPAL CODE.**

WHEREAS, the City currently requires that an applicant provide a water availability certificate in order to make a project permit application complete (GHMC Section 19.02.002); and

WHEREAS, the City has adopted a procedure for the determination of water concurrency, and an affirmative determination must be made before a project permit application may be approved by the City; and

WHEREAS, the City's procedures for determining water concurrency require that an applicant obtain a Notice of Complete Application from the Planning Department in order for the concurrency application to be processed; and

WHEREAS, the City desires to make the two procedures consistent, so that the Planning Department may determine an application complete and the Public Works Department may process a concurrency determination request after the application has been determined complete; Now, therefore,

THE GIG HARBOR CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Section 19.02.002 of the Gig Harbor Municipal Code is hereby amended to read as follows:

19.02.002 **Project permit application.**

Applications for project permits shall be submitted on forms provided by the Director. An application shall consist of all materials required by the applicable development regulations, and shall include the following general information:

- A. A completed project permit application form;
- B. A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the affected property;
- C. A property and/or legal description of the site for all applications, as required by the applicable development regulations;
- D. The applicable fee;
- E. Evidence of adequate water supply as required by RCW 19.27.097 or a copy of an application for a City of Gig Harbor Water Concurrency Determination, submitted to the City Public Works Director; and
- F. Evidence of sewer availability.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be 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, sentence, clause or phrase of this Ordinance.

Section 3. Effective Date. This ordinance shall be effective five (5) days after publication.

APPROVED:

Gretchen Wilbert, Mayor

ATTEST/AUTHENTICATED:

MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:

CAROL A. MORRIS, CITY ATTORNEY

FILED WITH THE CITY CLERK: 7/18/01
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.

**SUMMARY OF ORDINANCE NO.
of the City of Gig Harbor, Washington**

On _____, 2001, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. _____, the summary of text of which is as follows:

**AN ORDINANCE OF THE CITY OF GIG HARBOR,
RELATING TO PROJECT PERMIT PROCESSING,
AMENDING THE ELEMENTS OF A COMPLETE
PROJECT PERMIT APPLICATION TO INCLUDE A COPY
OF THE REQUEST FOR A WATER CONCURRENCY
DETERMINATION TO THE CITY PUBLIC WORKS
DIRECTOR, AMENDING SECTION 19.02.002 OF THE GIG
HARBOR MUNICIPAL CODE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GIG
HARBOR:

The full text of this ordinance will be mailed upon request.

APPROVED by the City Council at their regular meeting of _____, 2001.

BY: _____
Molly M. Towslee, City Clerk



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
DIRECTOR, PLANNING & BUILDING SERVICES
SUBJECT: FIRST READING OF AN ORDINANCE AMENDING SECTION 19.06.003
OF THE GIG HARBOR MUNICIPAL CODE
DATE: JULY 23, 2001

INFORMATION/BACKGROUND

The Gig Harbor Municipal Code currently provides an appeal of decisions of a Hearing Body or Decision maker to "parties of record". The Gig Harbor City Council is a "party of record" in every permit decision. In order to ensure that there is no confusion in the future regarding the City Council's right to appeal such decisions, it is necessary to amend the Code to specifically identify the Gig Harbor City Council as a "party of record".

POLICY ISSUES

None

FISCAL IMPACT

None

RECOMMENDATION

Staff is recommending the adoption of this Ordinance by Council following the second reading.

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF GIG HARBOR,
RELATING TO PROJECT PERMIT PROCESSING,
AMENDING THE PROCEDURE FOR APPEALS TO CLARIFY
THE STATUS OF THE CITY COUNCIL AS A PARTY WITH
STANDING TO APPEAL A DECISION OF THE HEARING
BODY OR DECISIONMAKER; AMENDING SECTION
19.06.003 OF THE GIG HARBOR MUNICIPAL CODE.**

WHEREAS, the Gig Harbor Municipal Code currently provides an appeal of decisions of a Hearing Body or Decisionmaker to “parties of record” (GHMC Section 19.06.003); and

WHEREAS, the Gig Harbor City Council is a “party of record” in every permit decision, but to ensure that there is no confusion in the future regarding the City Council’s right to appeal such decisions, the Council desires to amend the Code to specifically identify itself as a “party of record;” Now, therefore,

THE GIG HARBOR CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Section 19.06.003 of the Gig Harbor Municipal Code is hereby amended to read as follows:

19.06.003 Standing to initiate an administrative appeal.

A. Limited to parties of record. Only parties of record may file an administrative appeal.

B. Definition. The term “parties of record” for the purposes of this chapter, shall mean:

1. The applicant;
2. Any person who testified at the open record public hearing on the application;
and/or
3. Any person who submitted written comments concerning the application at the open record public hearing (excluding persons who have only signed petitions or mechanically produced form letters); and/or
4. The Gig Harbor City Council.

Section 2. Severability. If any section, sentence, clause or phrase of this

Ordinance should be 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, sentence, clause or phrase of this Ordinance.

Section 3. Effective Date. This ordinance shall be effective five (5) days after publication.

APPROVED:

Gretchen Wilbert, Mayor

ATTEST/AUTHENTICATED:

MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:

CAROL A. MORRIS, CITY ATTORNEY

FILED WITH THE CITY CLERK: 7/18/01

PASSED BY THE CITY COUNCIL:

PUBLISHED:

EFFECTIVE DATE:

ORDINANCE NO.

**SUMMARY OF ORDINANCE NO.
of the City of Gig Harbor, Washington**

On _____, 2001, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. _____, the summary of text of which is as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO PROJECT PERMIT PROCESSING, AMENDING THE PROCEDURE FOR APPEALS TO CLARIFY THE STATUS OF THE CITY COUNCIL AS A PARTY WITH STANDING TO APPEAL A DECISION OF THE HEARING BODY OR DECISIONMAKER; AMENDING SECTION 19.06.003 OF THE GIG HARBOR MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GIG HARBOR:

The full text of this ordinance will be mailed upon request.

APPROVED by the City Council at their regular meeting of _____, 2001.

BY: _____
Molly M. Towslee, City Clerk



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
DIRECTOR, PLANNING & BUILDING SERVICES
SUBJECT: RESOLUTION UPHOLDING THE HEARING EXAMINERS DECISION
REGARDING THE HENDERSON BAY HIGH SCHOOL (CUP 01-02/SPR
01-01/DRB 01-02)
DATE: JULY 23, 2001

INFORMATION/BACKGROUND

The Gig Harbor City Council held a closed record appeal filed by the Coalition to Save the Fields regarding the Hearing Examiners decision on the Henderson Bay High School project (CUP 01-02/SPR 01-01/DRB 01-02) on July 9, 2001. At the conclusion of the appeal, the Council took action to uphold the Hearing Examiners decision. This resolution would establish findings of fact supporting the Council's action.

POLICY ISSUES

None

FISCAL IMPACT

None

RECOMMENDATION

Staff is recommending the adoption of this Resolution by Council.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, RENDERING THE FINAL DECISION OF THE CITY ON CASE NO. CUP 01-02, AFFIRMING THE JUNE 6, 2001 DECISION OF THE GIG HARBOR HEARING EXAMINER, APPLICATION FOR APPROVAL OF A CONDITIONAL USE PERMIT AND SITE PLAN; AND APPEAL OF APPROVAL OF ADMINISTRATIVE VARIANCE FOR HENDERSON BAY ALTERNATIVE SCHOOL IN GIG HARBOR, WASHINGTON.

WHEREAS, applicant Peninsula School District #401 submitted applications for a conditional use permit (CUP 01-01), site plan (SPR 01-01), design review (DRB 01-02) and for an administrative variance for development of property located off Skansie Ave. N.W., north of Rosedale Street N.W., in Gig Harbor, Washington; and

WHEREAS, the City Responsible SEPA Official issued a Mitigated Determination of Significance ("MDNS") for the development on April 2, 2001; and

WHEREAS, the MDNS and the administrative variance was appealed by the Coalition to Save the Field on April 18, 2001; and

WHEREAS, the City Hearing Examiner held open public hearings on the applications and the SEPA appeal on April 18, 2001, May 6, 2001, and May 24, 2001. The hearing was held open administratively until May 25, 2001; and

WHEREAS, the Hearing Examiner issued his decision approving the conditional use permit and site plan with conditions and denying the administrative variance on June 6, 2001; and

WHEREAS, the Hearing Examiner issued his decision denying the SEPA appeal on June 6 2001; and

WHEREAS, the Coalition to Save the Field appealed the Hearing Examiner's June 6, 2001 decision approving the conditional use permit and site plan with conditions and denying the administrative variance on June 20, 2001 and

WHEREAS, the City Council does not have jurisdiction to consider an appeal of the Hearing Examiner's decision on an appeal of an administrative variance (GHMC Section 17.66.050); and

WHEREAS, the City Council scheduled a closed record appeal hearing for July 9, 2001, to hear the Coalition's appeal of the Conditional Use Permit and Site Plan, pursuant to chapter 19.06 GHMC; and

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. **Closed Record Appeal Hearing.**

A. Notice. The closed record appeal hearing before the Gig Harbor City Council was convened on July 9, 2001. All required public notice of the closed record hearing was provided.

B. Appearance of Fairness.

All members of the Council and the Mayor were asked to disclose any ex parte contacts with opponents or proponents of the development, appearance of fairness or conflict of interest matters. The following disclosures were made:

1. Derek Young. Councilmember Young disclosed that several e-mails had been sent to him prior to the closed record hearing from Jim Jung, asking him whether he was in favor of ball parks. Councilmember Young responded by asking for more information because he did not know whether the question related to an application that had been submitted to the City. The second e-mail was sent to Councilmember Young asking why the attorney for the applicant could submit materials to the Council prior to the closed record hearing, but he could not.

2. Bob Dick. Councilmember Dick stated that he received comments from people regarding ball parks in the City. He asked whether an application had been filed, and when he learned that one was being processed by the City, Councilmember Dick did not have any further communications about this issue.

3. Jim Pasin. Councilmember Pasin communicated with several business owners regarding the need for the school to be moved.

4. Marilyn Owel. Councilmember Owel had conversations with people regarding the Henderson Bay Alternative School, but these were general in nature and took place before an application had been submitted to the City.

5. Steve Ekberg. Councilmember Eckberg disclosed that his wife is an employee of the applicant Peninsula School District, but he did not feel that this would influence his decision in any way.

6. John Picinich. Councilmember Picinich recused himself from all participation in this matter because he is an employee of the applicant School District.

The Mayor asked the public whether anyone had any objection to her participation or the participation of any Councilmember in the Coalition's appeal. After hearing all of the above, no one objected.

Section 2. Record for the Closed Record Hearing. The following documents were entered into the record for the Closed Record Appeal:

ALL EXHIBITS LISTED IN THE HEARING EXAMINER'S JUNE 6, 2001 DECISIONS ARE INCORPORATED HEREIN BY THIS REFERENCE.

Exhibit No.	Description
49	7/9/01 E-mail from J. Jung 7/9/01
50	7/9/01 Notebook received from J. Guernsey, attorney for applicant School District

Section 3. Witnesses. No witnesses testified at the closed record appeal hearing. The appellants, applicants and/or their representatives were allowed to present oral argument based on the issues described in their appeals and the evidence in the administrative record. New evidence and testimony was prohibited under GHMC Section 19.06.005.

Section 5. Standard of Review in Closed Record Hearings. The Council makes the following conclusion of law regarding the appropriate standard of review in this closed record appeal hearing: "Closed record appeals shall be on the record established at the hearing before the hearing examiner." GHMC Section 19.06.005(A). The Council has the authority to affirm, modify, reverse or under certain limited circumstances, to remand the application to the hearing examiner. GHMC Section 19.06.005(A)(3). With regard to factual issues, the City Council is required to review the evidence before the Hearing Examiner to determine whether his decision was supported by substantial evidence.

Section 5. Conditional Use Criteria. In order to approve the conditional use permit application, the Hearing Examiner was required to make findings of fact that the following conditions exist:

Each determination granting or denying a conditional use permit shall be supported by written findings of fact showing specifically wherein all of the following conditions are met:

following conditions are met:

A. That the use which the conditional use permit is applied for is specified by this title as being conditionally permitted within, and is consistent with the description and purpose of the zone district in which the property is located;

B. That the granting of such conditional use permit will not be detrimental to the public health, safety, comfort, convenience and general welfare, will not adversely affect the established character of the surrounding neighborhood, and will not be injurious to the property or improvements in such vicinity and/or zone in which the property is located;

C. That the proposed use is properly located in relation to the other land uses and to transportation and service facilities in the vicinity; and further, that the use can be adequately served by such public facilities and street capacities without placing an undue burden on such facilities and streets;

D. That the site is of sufficient size to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping and other such features as are required by this title or as needed in the opinion of the examiner.

RESOLVED by the City Council this day of July, 2001.

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: 7/19/01
PASSED BY THE CITY COUNCIL:
RESOLUTION NO. ____



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR DR
DATE: JULY 17, 2001
SUBJECT: QUARTERLY FINANCE REPORT

The quarterly financial reports for the second quarter of 2001 are attached.

Total resources, including all revenues and beginning fund balances, are at 56% of the annual budget. Revenues, excluding beginning fund balances, are at 74% of the annual budget. Expenditures, excluding beginning fund balances, are at 24%.

General Fund revenues (excluding beginning fund balance) are at 58% of budget. Tax receipts are slightly ahead of pace at 58%, with sales and property taxes being at 58 and 62% respectively. Licenses and permits are at 85% of budget.

General Fund expenditures are at 33% of budget. All General Fund departments have expended less than 50% of their 2001 appropriations.

Street revenues are at 59% and expenditures 23% of budget. The revenues include a final payment from Pierce County for the East-West Road that had been budgeted for 2000.

Water, Sewer and Storm Sewer revenues are 32, 43 and 46% of budget, while expenditures for these three funds are at 36, 29 and 19% of budget through June.

At this time cash balances are adequate in all funds. The major portion (90%) of the City's investments are in the State Treasurer's pool.

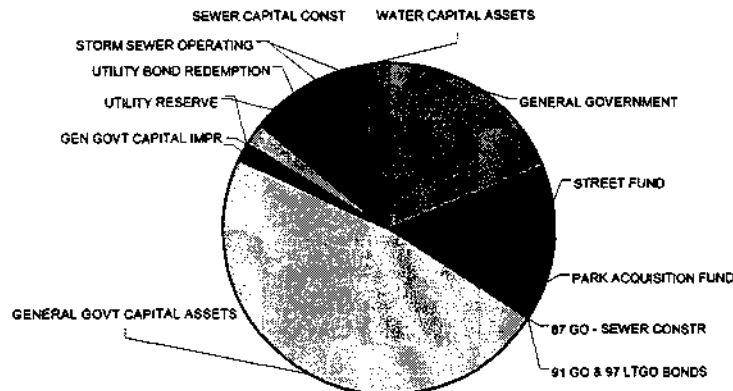
**CASH AND INVESTMENTS
YEAR TO DATE ACTIVITY
AS OF JUNE 30, 2001**

FUND NO.	DESCRIPTION	BEGINNING BALANCE	REVENUES	EXPENDITURES	OTHER CHANGES	ENDING BALANCE
001	GENERAL GOVERNMENT	\$ 2,029,756	\$ 2,700,754	\$ 1,649,812	\$ (56,546)	\$ 3,024,152
101	STREET FUND	1,191,863	1,156,291	663,165	(452,536)	1,232,453
105	DRUG INVESTIGATION FUND	12,701	632	52		13,281
107	HOTEL-MOTEL FUND	216,027	69,024	107,906		177,146
109	PARK ACQUISITION FUND	1,856,158	50,186	676,356	(820)	1,229,167
203	'87 GO BONDS - SEWER CONSTR	159,434	4,183	5,558	(70)	157,991
208	91 GO BONDS & 97 LTGO BONDS	37,061	1,097	32,249	(101)	5,807
301	GENERAL GOVT CAPITAL ASSETS	145,971	7,923,813	356,927	(46,505)	7,666,352
305	GENERAL GOVT CAPITAL IMPR	197,462	61,085			258,547
307	LID NO. 99-1 FUND					
401	WATER OPERATING FUND	142,507	250,443	332,106	22,462	83,307
402	SEWER OPERATING FUND	323,347	450,615	365,180	(32,512)	376,270
407	UTILITY RESERVE	593,674	17,483			611,157
408	UTILITY BOND REDEMPTION	308,730	16,206	83,438		241,497
410	SEWER CAPITAL CONST	356,620	381,314	196,453	2,231	543,712
411	STORM SEWER OPERATING FUND	145,477	204,953	127,509	31,332	254,253
420	WATER CAPITAL ASSETS	564,389	483,446	407,156	(2,563)	638,115
605	LIGHTHOUSE MAINTENANCE TRUST	1,721	39	60		1,700
631	MUNICIPAL COURT		32,011	26,831	(5,180)	
		<u>\$ 8,282,896</u>	<u>\$ 13,803,574</u>	<u>\$ 5,030,758</u>	<u>\$ (540,808)</u>	<u>\$ 16,514,905</u>

**COMPOSITION OF CASH AND INVESTMENTS
AS OF JUNE 30, 2001**

	MATURITY	RATE	BALANCE
CASH ON HAND			\$ 300
CASH IN BANK		1.290%	132,190
RESTRICTED CASH		1.290%	963,270
LOCAL GOVERNMENT INVESTMENT POOL		4.255%	14,919,145
FEDERAL HOME LOAN BANK	12/26/03	5.245%	300,000
FEDERAL HOME LOAN BANK	06/27/03	5.125%	200,000
			<u>\$ 16,514,905</u>

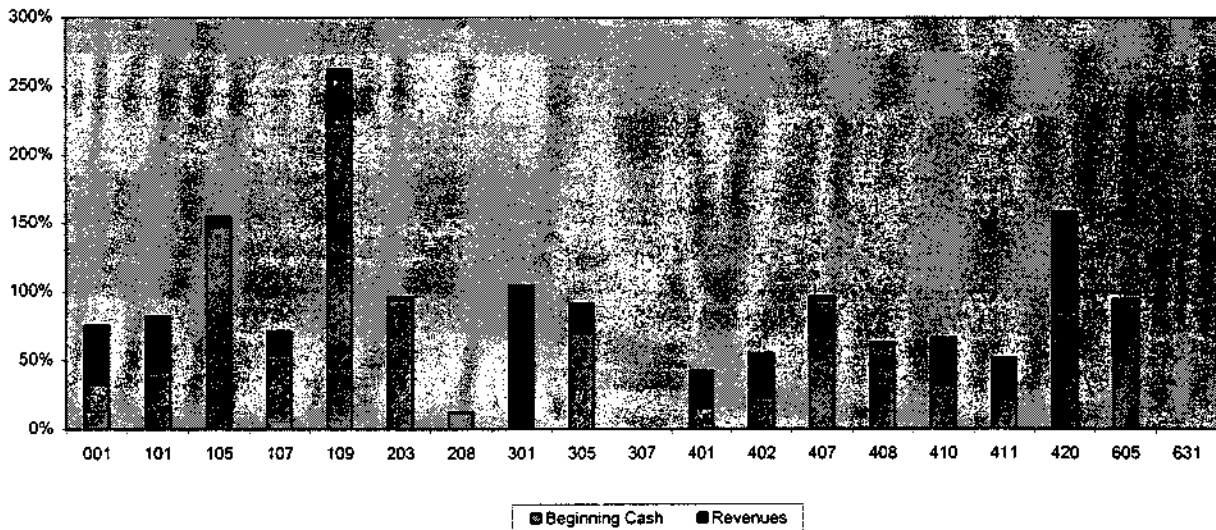
Ending Cash Balances By Fund



**CITY OF GIG HARBOR
YEAR-TO-DATE RESOURCE SUMMARY
AND COMPARISON TO BUDGET
AS OF JUNE 30, 2001**

FUND NO.	DESCRIPTION	ESTIMATED RESOURCES	ACTUAL Y-T-D RESOURCES	BALANCE OF ESTIMATE	PERCENTAGE (ACTUAL/EST.)
001	GENERAL GOVERNMENT	\$ 6,250,619	\$ 4,730,509	\$ 1,520,110	75.68%
101	STREET FUND	2,863,737	2,348,154	515,583	82.00%
105	DRUG INVESTIGATION FUND	8,603	13,333	(4,730)	154.98%
107	HOTEL-MOTEL FUND	399,629	285,051	114,578	71.33%
109	PARK ACQUISITION FUND	725,904	1,906,343	(1,180,439)	262.62%
203	'87 GO BONDS - SEWER CONSTR	169,529	163,618	5,911	96.51%
208	91 GO BONDS & 97 LTGO BONDS	318,364	38,158	280,206	11.99%
301	GENERAL GOVT CAPITAL ASSETS	7,733,914	8,069,784	(335,870)	104.34%
305	GENERAL GOVT CAPITAL IMPROVEMENT	284,120	258,547	25,573	91.00%
307	LID NO. 99-1 FUND				
401	WATER OPERATING	933,723	392,950	540,773	42.08%
402	SEWER OPERATING	1,410,179	773,962	636,217	54.88%
407	UTILITY RESERVE	634,635	611,157	23,478	96.30%
408	UTILITY BOND REDEMPTION FUND	516,341	324,935	191,406	62.93%
410	SEWER CAPITAL CONSTRUCTION	1,118,306	737,934	380,372	65.99%
411	STORM SEWER OPERATING	685,006	350,430	334,576	51.16%
420	WATER CAPITAL ASSETS	661,892	1,047,835	(385,943)	158.31%
605	LIGHTHOUSE MAINTENANCE TRUST	1,869	1,760	109	94.16%
631	MUNICIPAL COURT		32,011	(32,011)	
		\$ 24,716,370	\$ 22,086,471	\$ 2,629,899	89.36%

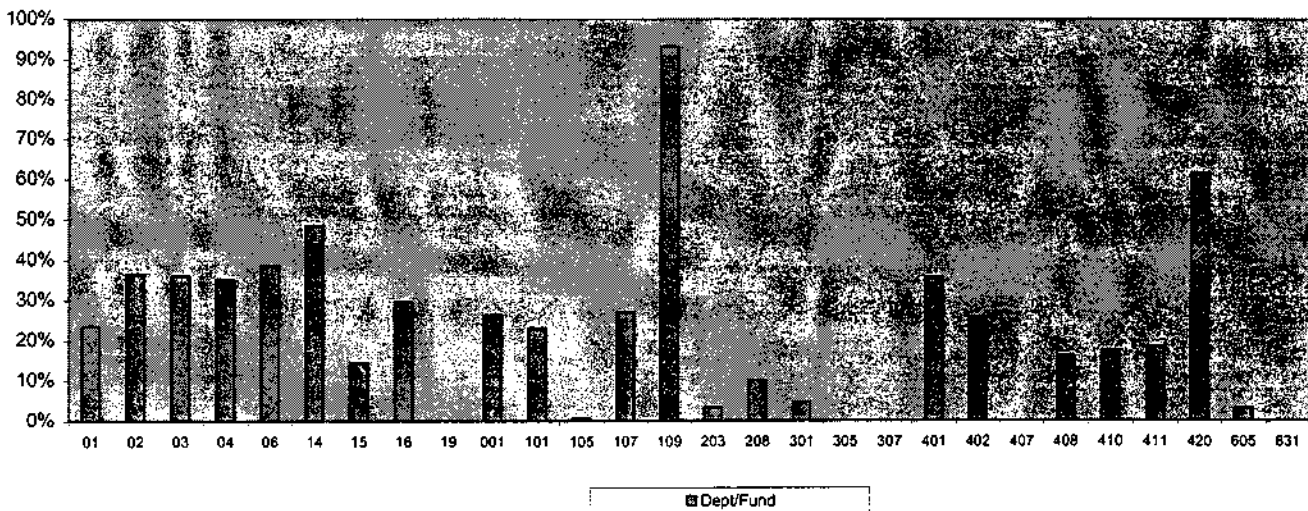
Resources as a Percentage of Annual Budget



**CITY OF GIG HARBOR
YEAR-TO-DATE EXPENDITURE SUMMARY
AND COMPARISON TO BUDGET
FOR PERIOD ENDING JUNE 30, 2001**

FUND NO.	DESCRIPTION	ESTIMATED EXPENDITURES	ACTUAL Y-T-D EXPENDITURES	BALANCE OF ESTIMATE	PERCENTAGE (ACTUAL/EST.)
001	GENERAL GOVERNMENT				
01	NON-DEPARTMENTAL	\$ 879,700.00	\$ 208,283.10	\$ 671,416.90	23.68%
02	LEGISLATIVE	30,100	11,005	19,095	36.56%
03	MUNICIPAL COURT	290,350	104,599	185,751	36.03%
04	ADMINISTRATIVE/FINANCIAL	738,400	260,184	478,216	35.24%
06	POLICE	1,551,400	598,097	953,303	38.55%
14	COMMUNITY DEVELOPMENT	696,900	337,943	358,957	48.49%
15	PARKS AND RECREATION	734,100	105,765	628,335	14.41%
16	BUILDING	80,800	23,934	56,866	29.62%
19	ENDING FUND BALANCE	1,248,869	-	1,248,869	
001	TOTAL GENERAL FUND	6,250,619	1,649,812	4,600,807	26.39%
101	STREET FUND	2,863,737	663,165	2,200,572	23.16%
105	DRUG INVESTIGATION FUND	8,603	52	8,551	0.60%
107	HOTEL-MOTEL FUND	399,629	107,906	291,723	27.00%
109	PARK ACQUISITION FUND	725,904	676,356	49,548	93.17%
203	'87 GO BONDS - SEWER CONSTR	169,529	5,558	163,972	3.28%
208	91 GO BONDS & 97 LTGO BONDS	318,364	32,249	286,115	10.13%
301	GENERAL GOVT CAPITAL ASSETS	7,733,914	356,927	7,376,987	4.62%
305	GENERAL GOVT CAPITAL IMPROVEMENT	284,120	-	284,120	
307	LID NO. 99-1 FUND	-	-	-	
401	WATER OPERATING	933,723	332,106	601,617	35.57%
402	SEWER OPERATING	1,410,179	365,180	1,044,999	25.90%
407	UTILITY RESERVE	634,635	-	634,635	
408	UTILITY BOND REDEMPTION FUND	516,341	83,438	432,903	16.16%
410	SEWER CAPITAL CONSTRUCTION	1,118,306	196,453	921,853	17.57%
411	STORM SEWER OPERATING	685,006	127,509	557,497	18.61%
420	WATER CAPITAL ASSETS	661,892	407,156	254,736	61.51%
605	LIGHTHOUSE MAINTENANCE TRUST	1,869	60	1,809	3.21%
631	MUNICIPAL COURT	-	26,831	(26,831)	
		\$ 24,716,370	\$ 5,030,758	\$ 19,685,612	20.35%

Expenditures as a Percentage of Annual Budget



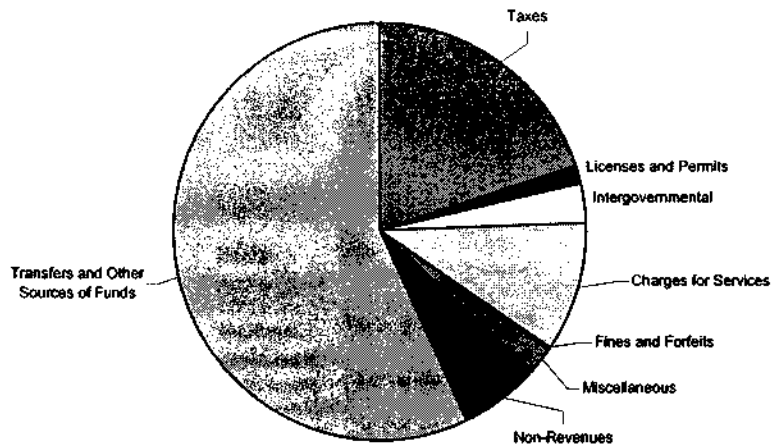
**CITY OF GIG HARBOR
YEAR-TO-DATE REVENUE SUMMARY
BY TYPE
FOR PERIOD ENDING JUNE 30, 2001**

<u>TYPE OF REVENUE</u>	<u>AMOUNT</u>
Taxes	\$ 2,769,832
Licenses and Permits	198,168
Intergovernmental	389,781
Charges for Services	1,395,962
Fines and Forfeits	38,529
Miscellaneous	282,772
Non-Revenues	876,330
Transfers and Other Sources of Funds	7,852,200
Total Revenues	13,803,574
Beginning Cash Balance	8,282,896
Total Resources	\$ 22,086,471

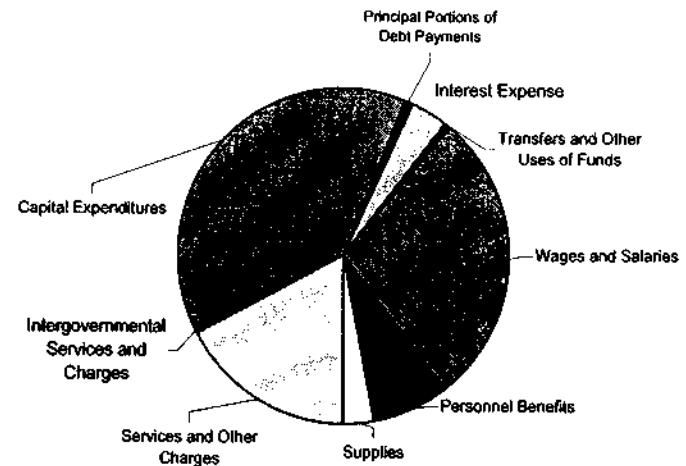
**CITY OF GIG HARBOR
YEAR-TO-DATE EXPENDITURE SUMMARY
BY TYPE
FOR PERIOD ENDING JUNE 30, 2001**

<u>TYPE OF EXPENDITURE</u>	<u>AMOUNT</u>
Wages and Salaries	\$ 1,422,871
Personnel Benefits	380,567
Supplies	149,523
Services and Other Charges	874,549
Intergovernmental Services and Charges	38,540
Capital Expenditures	1,918,834
Principal Portions of Debt Payments	31,596
Interest Expense	185,414
Transfers and Other Uses of Funds	28,862
Total Expenditures	5,030,758
Ending Cash Balance	16,514,905
Total Uses	\$ 21,545,662

Revenues by Type - All Funds



Expenditures by Type - All Funds



**CITY OF GIG HARBOR
STATEMENT OF FINANCIAL POSITION
AS OF JUNE 30, 2001**

	SPECIAL REVENUE FUNDS									TOTAL SPECIAL REVENUE
	001 GENERAL GOVERNMENT	101 STREET	105 DRUG INVESTIGATION	107 HOTEL - MOTEL	109 PARK ACQUISITION	301 GENERAL GOVT CAPITAL ASSETS	305 GENERAL GOVT CAPITAL IMP	307 LID NO. 99-1	605 LIGHTHOUSE MAINTENANCE	
CASH	\$ 83,817	\$ 896,713	\$ 117	\$ 1,556	\$ 11,674	\$ 67,330	\$ 2,271	\$ -	\$ 15	\$ 979,675
INVESTMENTS	2,940,336	335,740	13,164	175,590	1,217,494	7,599,021	256,276	-	1,685	9,598,969
RECEIVABLES	44,879	31,533	-	-	-	-	-	-	-	31,533
FIXED ASSETS	-	-	-	-	-	-	-	-	-	-
OTHER	-	-	-	-	-	-	-	-	-	-
TOTAL ASSETS	3,069,031	1,263,986	13,281	177,146	1,229,167	7,666,352	258,547	-	1,700	10,610,177
LIABILITIES										
CURRENT	27,501	136,705	-	-	-	-	-	-	-	136,705
LONG TERM	27,164	27,164	-	-	-	-	-	-	-	27,164
TOTAL LIABILITIES	54,665	163,869	-	-	-	-	-	-	-	163,869
FUND BALANCE:										
BEGINNING OF YEAR	1,963,424	606,991	12,701	216,027	1,855,338	99,466	197,462	-	1,721	2,989,705
Y-T-D REVENUES	2,700,754	1,156,291	632	69,024	50,186	7,923,813	61,085	-	39	9,261,069
Y-T-D EXPENDITURES	(1,649,812)	(663,165)	(52)	(107,906)	(676,356)	(356,927)	-	-	(60)	(1,804,466)
ENDING FUND BALANCE	3,014,366	1,100,117	13,281	177,146	1,229,167	7,666,352	258,547	-	1,700	10,446,308
TOTAL LIAB. & FUND BAL.	\$ 3,069,031	\$ 1,263,986	\$ 13,281	\$ 177,146	\$ 1,229,167	\$ 7,666,352	\$ 258,547	\$ -	\$ 1,700	\$ 10,610,177

**CITY OF GIG HARBOR
STATEMENT OF FINANCIAL POSITION
AS OF JUNE 30, 2001**

	DEBT SERVICE		
	203 87 GO BONDS SEWER CONST	208 91 GO BONDS SOUNDVIEW DR	TOTAL DEBT SERVICE
CASH	\$ 1,388	\$ 51	\$ 1,439
INVESTMENTS	156,603	5,756	162,359
RECEIVABLES	1,287	-	1,287
FIXED ASSETS	-	-	-
OTHER	-	-	-
TOTAL ASSETS	159,278	5,807	165,085
LIABILITIES			
CURRENT	-	-	-
LONG TERM	1,109	-	1,109
TOTAL LIABILITIES	1,109	-	1,109
FUND BALANCE:			
BEGINNING OF YEAR	159,543	36,959	196,502
Y-T-D REVENUES	4,183	1,097	5,280
Y-T-D EXPENDITURES	(5,558)	(32,249)	(37,806)
ENDING FUND BALANCE	158,169	5,807	163,976
TOTAL LIAB. & FUND BAL.	\$ 159,278	\$ 5,807	\$ 165,085

**CITY OF GIG HARBOR
STATEMENT OF FINANCIAL POSITION
AS OF JUNE 30, 2001**

	PROPRIETARY							TOTAL PROPRIETARY
	401 WATER OPERATING	402 SEWER OPERATING	407 UTILITY RESERVE	408 89 UTILITY BOND REDEMPTION	410 SEWER CAP. CONST.	411 STORM SEWER OPERATING	420 WATER CAP. ASSETS	
CASH	\$ 831	\$ 3,404	\$ 976	\$ 2,027	\$ 4,775	\$ 2,233	\$ 5,858	20,104
INVESTMENTS	82,476	372,866	610,181	228,745	538,936	252,020	632,257	2,717,481
RECEIVABLES	58,270	141,956	9,195	1,050,221	(2,019)	77,798	-	1,335,422
FIXED ASSETS	2,008,347	8,711,402	-	-	330,538	679,266	318,599	12,048,152
OTHER	-	-	-	8,015	-	-	-	8,015
TOTAL ASSETS	2,149,924	9,229,629	620,352	1,289,008	872,231	1,011,317	956,714	16,129,174
LIABILITIES								
CURRENT	366	661,763	-	397,420	-	2	9	1,059,560
LONG TERM	46,064	23,508	-	1,652,631	-	17,279	-	1,739,482
TOTAL LIABILITIES	46,430	685,271	-	2,050,051	-	17,281	9	2,799,042
FUND BALANCE:								
BEGINNING OF YEAR	2,185,156	8,458,923	602,869	(693,811)	687,370	916,592	880,415	13,037,514
Y-T-D REVENUES	250,443	450,615	17,483	16,206	381,314	204,953	483,446	1,804,460
Y-T-D EXPENDITURES	(332,106)	(365,180)	-	(83,438)	(196,453)	(127,509)	(407,156)	(1,511,843)
ENDING FUND BALANCE	2,103,494	8,544,358	620,352	(761,043)	872,231	994,036	956,704	13,330,131
TOTAL LIAB. & FUND BAL.	\$ 2,149,924	\$ 9,229,629	\$ 620,352	\$ 1,289,008	\$ 872,231	\$ 1,011,317	\$ 956,714	16,129,174

**CITY OF GIG HARBOR
STATEMENT OF FINANCIAL POSITION
AS OF JUNE 30, 2001**

	ACCOUNT GROUPS				TOTAL
	FIDUCIARY 631 MUNICIPAL COURT	820 GENERAL FIXED ASSET GROUP	900 GENERAL L-T DEBT GROUP	TOTAL ACCOUNT GROUPS	
CASH	\$ -	\$ -	\$ -	\$ -	1,085,034
INVESTMENTS	-	-	-	-	15,419,145
RECEIVABLES	-	-	-	-	1,413,121
FIXED ASSETS	-	3,698,092	-	3,698,092	15,746,244
OTHER	-	-	-	-	8,015
TOTAL ASSETS	-	3,698,092	-	3,698,092	33,671,559
LIABILITIES					
CURRENT	-	-	-	-	1,223,766
LONG TERM	-	-	-	-	1,794,919
TOTAL LIABILITIES	-	-	-	-	3,018,685
FUND BALANCE:					
BEGINNING OF YEAR	(5,180)	3,698,092	-	3,698,092	21,880,057
Y-T-D REVENUES	32,011	-	-	-	13,803,574
Y-T-D EXPENDITURES	(26,831)	-	-	-	(5,030,758)
ENDING FUND BALANCE	-	3,698,092	-	3,698,092	30,652,873
TOTAL LIAB. & FUND BAL.	\$ -	\$ 3,698,092	\$ -	\$ 3,698,092	\$ 33,671,559

**CITY OF GIG HARBOR
STATEMENT OF FINANCIAL POSITION
BY FUND TYPE
AS OF JUNE 30, 2001**

	GENERAL GOVERNMENT	SPECIAL REVENUE	DEBT SERVICE	TOTAL GOVERNMENTAL	PROPRIETARY	FIDUCIARY	ACCOUNT GROUPS	TOTAL ALL FUND TYPES
ASSETS								
CASH	\$ 83,817	\$ 979,675	\$ 1,439	\$ 1,064,930	\$ 20,104	\$ -	\$ -	\$ 1,085,034
INVESTMENTS	2,940,336	9,598,969	162,359	12,701,664	2,717,481	-	-	15,419,145
RECEIVABLES	44,879	31,533	1,287	77,699	1,335,422	-	-	1,413,121
FIXED ASSETS	-	-	-	-	12,048,152	-	3,698,092	15,746,244
OTHER	-	-	-	-	8,015	-	-	8,015
TOTAL ASSETS	3,069,031	10,610,177	165,085	13,844,293	16,129,174	-	3,698,092	33,671,559
LIABILITIES								
CURRENT	27,501	136,705	-	164,206	1,059,560	-	-	1,223,766
LONG TERM	27,164	27,164	1,109	55,437	1,739,482	-	-	1,794,919
TOTAL LIABILITIES	54,665	163,869	1,109	219,643	2,799,042	-	-	3,018,685
FUND BALANCE:								
BEGINNING OF YEAR	1,963,424	2,989,705	196,502	5,149,631	13,037,514	(5,180)	3,698,092	21,880,057
Y-T-D REVENUES	2,700,754	9,261,069	5,280	11,967,103	1,804,460	32,011	-	13,803,574
Y-T-D EXPENDITURES	(1,649,812)	(1,804,466)	(37,806)	(3,492,084)	(1,511,843)	(26,831)	-	(5,030,758)
ENDING FUND BALANCE	3,014,366	10,446,308	163,976	13,624,650	13,330,131	-	3,698,092	30,652,873
TOTAL LIAB. & FUND BAL.	\$ 3,069,031	\$ 10,610,177	\$ 165,085	\$ 13,844,293	\$ 16,129,174	\$ -	\$ 3,698,092	\$ 33,671,559