

Gig Harbor City Council Meeting

**August 10, 2009
5:30 p.m.**



**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
Monday, August 10, 2009 – 5:30 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of Jul. 27, 2009.
2. Receive and File: a) Skansie Maritime Pier Feasibility Study; b) Operations & Public Projects Committee Meeting Minutes, June 16, 2009; c) Lodging Tax Advisory Board Minutes Apr 9, 2009; d) Quarterly Finance Report.
3. Resolution – Surplus Property.
4. 2009 Mandatory Furlough Policy.
5. 2009 Pavement Markings – WSDOT Interlocal Maintenance Agreement.
6. Liquor License Renewals: Cigar & Wine; Gig Harbor Yacht Club; and Galaxy Uptown.
7. Acceptance of Shoreline Management Act Grant from State of Washington Department of Ecology for Comprehensive Shoreline Master Program Update.
8. Shoreline Master Program Update Consultant Services Contract-First Amendment.
9. Boys and Girls Club Sewer and Stormwater Maintenance Agreement.
10. Approval of Payment of Bills for July 27, 2009: Checks #61429 through #61537 in the amount of \$556,565.60.
11. Approval of Payment of Bills for August 10, 2009: Checks #61538 through #61621 in the amount of \$1,056,635.77.
12. Approval of Payroll for the month of July: Checks #5483 through #5513 in the amount of \$522,650.13.

PRESENTATIONS:

1. National Maritime Heritage Area – Dr. Allyson Brooks, Dept. of Archeology and Historic Preservation.
2. Tourism Promotion Area – Pierce County Lodging Assoc. Aimee Tylor.

OLD BUSINESS:

1. Second Reading of Ordinance – Benson Street & Prentice Avenue / Street Vacation (Bacchus).
2. Second Reading of Ordinance – Land Use Permit Extension.
3. Second Reading of Ordinance – New Code for Illicit Discharge Detection and Elimination (IDDE).
4. Second Reading of Ordinance – Code Revisions and New Code Relating to Stormwater, Grading, and Civil Permits.
5. Second Reading of Ordinance – Development Agreement Processing Amendment.

NEW BUSINESS:

1. Public Hearing and First Reading of Ordinance – Flood Hazard Construction Standards.
2. Public Hearing and First Reading of Ordinance – Residential Building Height Calculations in the Historic District.
3. Public Hearing and First Reading of Ordinance – Parking Requirements Clarification and Housekeeping Amendment (ZONE 09-0004)
4. First Reading of Ordinance –Civic Center Hours of Operation.
5. First Reading of Ordinance – Inattention to Driving Penalty.
6. First Reading of Ordinance – Sexual Assault.

STAFF REPORT:

PUBLIC COMMENT:

MAYOR’S REPORT / COUNCIL COMMENTS:

ANNOUNCEMENT OF OTHER MEETINGS:

1. Operations Committee: Thu. Aug 20th at 3:00 p.m.
2. Boards & Commission Candidate Review: Mon. Aug. 24th CANCELLED
3. City Council Meeting: Mon. Aug. 24th CANCELLED
4. Reception for Senator Kilmer and Representative Seaquist: Eddon Brick House – Thu. Sep 17th 1-3 p.m.
5. Eddon Boatyard Ribbon Cutting – Sep. 30th 4-6 p.m.

EXECUTIVE SESSION: To discuss pending litigation per RCW 42.30.110(i) and a collective bargaining issue per RCW 42.30.140(4)(a).

ADJOURN:

MINUTES OF GIG HARBOR CITY COUNCIL MEETING – JULY 13, 2009

PRESENT: Councilmembers Ekberg, Young, Franich, Malich, Payne, Kadzik and Mayor Hunter. Councilmember Conan was absent. Attorney Zach Lell sat in for City Attorney Angela Belbeck.

CALL TO ORDER: 5:32 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of Jun. 22, 2009.
2. Receive and File: a) Council Worksession June 15, 2009; b) Finance Committee Minutes June 15, 2009; c) EMPG Report; d) GH Police Dept. Bi-annual Report.
3. Liquor Licenses: a) Change of Location: Gourmet Essentials; b) Corrected Application: Brix 25.
4. Re-appointment to the Design Review Board.
5. AWC RMSA Drug & Alcohol Testing Consortium Agreement.
6. Resolution – Small Works Roster Amending Bidding Limits.
7. Eddon Boat Restoration Contract Amendment – SHKS.
8. Eddon Boat – State Heritage Grant Amendment.
9. Well Siting Evaluation Matrix – Consultant Services Contract / Carollo Engineers.
10. Marine Outfall Project Bid Services Contract - Cosmopolitan Engineering.
11. Eddon Boat Sediment Remediation Long Term Monitoring Implementation / Consultant Services Contract.
12. Approval of Payroll for the month of June: Checks #5462 through #5482 in the amount of \$333,199.69.
13. Approval of Payment of Bills for July 13, 2009: Checks #61304 through #61428 in the amount of \$1,093,049.88.

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

EXECUTIVE SESSION: To discuss potential litigation per RCW 42.30.110(i) and a collective bargaining issue per RCW 42.30.140(4)(a).

MOTION: Move to adjourn to Executive Session at 5:33 p.m. for approximately ten minutes to discuss potential litigation per RCW 42.30.110(i) and a collective bargaining issue per RCW 42.30.140(4)(a).
Franich / Malich - unanimously approved.

MOTION: Move to return to regular session at 5:44 p.m.
Payne / Kadzik - unanimously approved.

OLD BUSINESS:

1. Public Hearing and First Reading of Ordinance – Development Agreement Processing Amendment. Senior Planner Jennifer Kester presented the background information for this revised ordinance relating to the processing of development agreements. She gave an overview of the proposed changes which involve three items: process, development standards and term of development agreements. She included staff's recommendations on each.

Mayor Hunter opened the public hearing at 5:54 p.m.

John Chadwell – Olympic Property Group, 19245 10th Ave NE, Poulsbo, WA. Mr. Chadwell voiced appreciation for staff's support of the maximum 20-year term on development agreements recognizing that not all development warrants a 20-year term; it should be up to Council. He commented that the public doesn't respond to general changes to zoning codes, but gets interested when it affects a nearby parcel; it seems that a development agreement specific to a project is the better approach. He said that staff objects to the use of a development agreement to modify standards suggesting that it could be used to circumvent the variance, rezone, and text amendment processes and reduce predictability. He respectfully disagreed, saying that the agreement must be approved by the Council through the public process. There has to be a rational basis for the decision; a greater public benefit to be gained by the modification such as parks, open space and trails. Mr. Chadwell explained that he has more comments, but in general he respectfully disagrees with the staff recommendation, saying that Council should be allowed the latitude to negotiate the modification of development standards in exchange for a greater public benefit. He said that in terms of process, it remains cumbersome to go all the way to the Hearing Examiner and then come to Council with a development agreement for a project that may not be approved. He offered to work with staff to find better language to solve these problems.

Councilmember Kadzik asked if Mr. Chadwell could forward the remainder of his comments to the Council and staff in writing.

There were no further comments and the public hearing closed at 6:00 p.m.

Councilmember Franich said he agreed with a lot of the staff report adding that 19.08.040(d) in the proposed review process should be removed. He then said that the more critical issue is 19.08.020(B) which would allow deviations from the zoning code which is potentially treacherous. He explained that every Council believes they are making the right decisions, but the zoning code keeps that in check. If that requirement is eliminated then subsequent decisions could be disastrous. He asked for clarification on the appeal process available to surrounding property owners.

Jennifer Kester said that beyond the Land Use Petition Act (LUPA) there is no appeal process.

Attorney Zach Less further explained that if the development agreement is tied with a site-specific project permit application, under state law adverse decision would be appealable to the local Superior Court for the Land Use Petition Act. Potentially a challenger could mount some type of a Growth Board appeal in the event it was area-wide issue and subject to the GMA. There are other potential writ opportunities to the Superior Court, but the city's existing administrative process for appealing the project permit component would be changed. He offered to look into other appeal processes that might be made available and discuss them with staff to determine if it would be appropriate to impose an additional layer of administrative appeal.

MOTION: Move to eliminate 19.08.020(B) from the ordinance.
Franich / Malich –

Councilmember Ekberg said he agrees with Councilmember Franich's concerns but the motion is premature until Council has the opportunity to review the comments from John Chadwell and can work with staff to develop the necessary protections; if necessary, this section can be removed at the second reading. Councilmember Kadzik agreed.

Councilmember Young said he isn't as concerned with deviations from the zoning code, but stressed that development should not be allowed to deviate from the Public Works Standards, particularly the environmental codes mandated by the state.

Mayor Hunter commented that sometimes changes get made without full public understanding of the project. He said that another issue is if Council makes changes to the code "on the fly" the unintended consequences could be serious.

RESTATED MOTION: Move to eliminate 19.08.020(B) from the ordinance.
Franich / Malich – Councilmembers Franich and Malich voted yes. Councilmembers Ekberg, Young, Payne and Kadzik voted no. The motion failed four to two.

Councilmember Malich said he didn't like the maximum 20-year term and asked if it could be done in five year increments so that the developer would have to come back for an extension. Ms. Kester said that it could be written for five, with five year extensions; adding that Council could choose any length of time.

Councilmember Payne said that the ordinance already allows that kind of flexibility and commented that the twenty-year maximum was included for an extraordinary circumstance. He agreed that Council could choose to go with five years with extensions.

Councilmember Young stressed that the shorter term doesn't provide any predictability for either the city or the developer. He added that the twenty-year term would only apply to massive projects and that five years is not that long for a large project. He voiced appreciation for the language that clarifies this intent. He also said that the

development agreement is tied to the land to provide assurances and to facilitate long-range planning for a large, master-plan project.

Ms. Kester explained that since she has worked for the city, Council has twice used development agreements to negotiate mitigation in exchange for benefit. Under current code, this type of mitigation can only last five years; if the economy doesn't allow the completion of a project, then the developer would get the benefit without having to provide the mitigation. She said that a twenty-year agreement would bind those conditions to ensure that they are met.

Councilmember Franich said he agrees with the concerns voiced by Councilmember Malich but understands the longer term allows more predictability. He added that the five year term with extensions gives another chance for a fresh look. He then expressed concern that a long-term project could be vested under older public works standards could make it more expensive for newer development to meet the new standards.

Ms. Kester responded that a development agreement only vests what is specifically called out in the agreement. If subsequently adopted standards differ from those included in the development agreement they would only apply if necessary to address imminent public danger. Every regulation the development would have to meet in the future doesn't have to be listed, only those regulations that would be vested at the time of the agreement.

City Administrator Rob Karlinsey suggested that Council could eliminate certain areas or zones from any part of this ordinance.

NEW BUSINESS:

1. Public Hearing and First Reading of Ordinance – Benson Street & Prentice Avenue / Street Vacation (Bacchus). Public Works Director David Stubchaer presented this ordinance to vacate a portion of Prentice and Benson Street under the non-user statute. He said that the rights-of-way were never part of the city's system, and the city would retain the recorded easements for the 8" sewer along Prentice and the abandoned 4" water line running along Benson Street.

Mayor Hunter opened the public hearing at 6:25 p.m.

Douglas Smith – 9405 Woodworth Ave. Mr. Smith asked what would happen to his sewer, which runs down the center of Prentice.

Mr. Stubchaer responded that the city will retain the easement to that line which gives the city the right to access and maintain the line. He stressed that the vacation will not affect the sewer.

There were no further public comments and the hearing closed at 6:31 p.m.

2. First Reading of Ordinance – Land Use Permit Extension. Senior Planner Jennifer Kester explained that this ordinance was drafted after discussion by Council to address projects with approved land use permits that aren't able to begin construction due to the current economic downturn. Applicants would have until November 30, 2009 to request a two-year extension and the projects would remain vested with their current permits until November 30, 2011. She noted that this extension would not apply to Building or Civil permits; that is a separate extension process. Under this proposed ordinance, the Planning Director would have the authority to extend the expiration date of the development-related approvals and permits identified in the ordinance.

Mayor Hunter opened the public hearing at 6:36 p.m. No one spoke and so the hearing closed. This will return for a second reading at the next meeting.

3. Resolution – Rejecting Non-Responsive Bid for BB16 Interchange Improvements. City Engineer Steven Misiurak explained that this resolution provides for the formal rejection of the apparent low bid on the BB16 Interchange Improvement Project that was determined incomplete. He noted that the bidder has issued a letter agreeing not to protest the rejection of their bid. He then answered questions about the bid.

MOTION: Move to adopt Resolution No. 798 rejecting a single bid from Peninsula Civil Contractors, Inc. for the SR-16/Burnham Drive Interchange Improvement Project.
Malich / Payne – unanimously approved.

4. SR16 / Burnham Drive Interchange Improvements – Construction Bid Award. Steven Misiurak presented this recommendation to award the contract for the construction of the SR16/Burnham Drive Interchange Improvements to Woodworth & Company. He added that Franciscan Health Systems is funding a portion of this project and has approved the recommendation in writing. He then addressed Council questions.

MOTION: Move to award a public works contract for construction of the SR 16/Burnham Drive Interchange Improvement Project to Woodworth & Company, Inc. in the amount of \$6,412,853.09 including Washington State Retail Sales Tax.
Payne / Young – unanimously approved.

STAFF REPORT:

2010 Budget Balancing Options and 2009 Proposed Furloughs. City Administrator Rob Karlinsey began by saying the city is predicting a 1.9 million dollar budget gap in 2010. He said that a list of options has been developed for ways to balance that budget utilizing both expenditures and revenues, then emphasized the need to move forward with a couple of these options. He explained that mandatory furloughs for the remainder of 2009 would allow the city to get a jumpstart on the 2010 shortfall. He also suggested

suspending transfers to the Civic Center Debt Reserve Fund in 2009 or 2010. He continued to explain that the staff report offers potential scenarios as examples, stressing that there are infinite number of combinations and variations which will need to be carefully evaluated. This evaluation will occur over the next four the eight weeks during which time he will be meeting with Councilmembers to determine priorities to put together a proposal. He went over the timeline for implementation and said that with good input from the Council, Guild, and Management we may have a proposed plan and 2010 Furlough Schedule in the second half of August that can be finalized at the end of September.

Councilmember Ekberg said that earlier, Council asked for more information on the funding of bond issuance for the Civic Center and others to evaluate payoff options.

Mr. Karlinsey and David Rodenbach, Finance Director explained that if the city paid off 4.5 million in 2011, the debt service would be reduced by \$250,000 - \$300,000. That assumes the combined 2009 and 2010 transfer of \$600,000 still occurs. Without the transfers, the city would have 4 million to pay.

Councilmember Franich said that Council made an important commitment to pay off the debt early. He said that due to the economic times, he can see we aren't going to be able to fulfill that commitment, but it is important to keep that goal in mind as money is freed up. He continued to say that he would need more information before choosing from the potential options. He asked where we are at meeting service requirements at the current staffing levels and whether we can still meet these requirements with fewer staff. He said he would be against layoffs if it can't be shown that basic services cannot be met.

Mr. Karlinsey responded by saying this is the goal over the next few weeks. He added that the 1.9 shortfall is a conservative assumption based upon declining sales tax and development service fees.

Councilmember Young stressed that Council is dedicated to figure out a way to make this work the best that they can, but there is no way to avoid layoffs. He continued to explained that last year they tried to not to make these hard choices because one, no one knew how long this economic downturn would last, and two because the employees do such a great job. Unfortunately things aren't getting better and recovery will be very slow; so Council will try their best to protect the employees, but 1.9 million is a hard number to figure out. Without new revenue this amount will have to be cut from capital projects as well as other places.

PUBLIC COMMENT:

Mark Hoppen – 8133 Shirley Avenue. Mr. Hoppen said it is hard to contemplate what Council has to decide. He explained that the number isn't 1.9 million but just shy of 1.95 million, and Council doesn't have a lot of choices of what they can do. There will be layoffs, altered work schedules, mining of every line in the city budget and no

contribution to the Civic Center Debt Reserve. He said that even with that you may not meet the goal because some of these things can't be replicated from year to year. He said that other jurisdictions already have implemented furloughs, commenting that the problem can't be solved with furloughs alone. If you furloughed every employee you would have to close for four months; not an option. If you furloughed 1/3 of the employees for one year, it still wouldn't work. If you lay off ¼ of the employees...it doesn't sound like a practical solution. But that's the dimension of the problem you face with a 1.94 "something" budget problem. He said that it's not a deficit in the sense that you are 1 million shy of not meeting your basic obligations in 2010, but Council is obligated by practice to have an ending fund balance that's 10% of the General Fund. Both numbers combined come to the 1.94 and so it's kind of a choice of a lesser ending fund balance which would have implications for the long-term health of the city. Council has a difficult problem and he knows they will do the right thing and what's best for the employees.

Steven Lynn, President of the Gig Harbor Historical Waterfront Association / Owner of Water to Wine – 9014 Peacock Hill Ave. Mr. Lynn said that he echoed Mark's comments, adding that their organization understands the difficulties and would like to be sure that city's decisions are based on a value-based system. He said that they would appreciate if the budget doesn't go back to a 2005 level but is based on how the funding is allocated. This is a more difficult component, he said, and offered to mitigate the outcome in any way that they can. He said that they are here to help support the community.

Daniel Lilley – 14229 Antithica Lane, Olalla. Mr. Lilley said that Operations goes hand-in-hand with the Police Department in emergencies, and if the city starts furloughing in the fall and winter months, they will be hurting when the storms move in. He asked Council to consider this.

Councilmember Malich asked what considerations are being made to increase revenues. Rob Karlinsey responded that that information is on page six of the staff report.

MAYOR'S REPORT / COUNCIL COMMENTS:

Councilmember Young reported that because of the economy, the recommendation coming from the AWC Legislative Committee is not to ask for any new revenue options but for more flexibility with the existing revenues. One suggestion he made is for more flexibility in the timeline to spend impact fees and how those dollars can be spent.

ANNOUNCEMENT OF OTHER MEETINGS:

1. GH North Traffic Options Committee: Thu. Jul 16th at 9:00 a.m.
2. Operations Committee: Thu. Jul 16th rescheduled to Aug 20th.
3. Boards & Candidate Review: Mon. Jul 27th CANCELLED
4. City Council Meeting: Mon. Jul 27th CANCELLED
5. Planning / Building Committee: Mon. Aug. 3rd CANCELLED

6. Intergovernmental Affairs Committee: Mon. Aug 10th CANCELLED

ADJOURN:

MOTION: Move to adjourn at 7:15 p.m.
Franich / Young – unanimously approved.

CD recorder utilized:
Tracks 1001 – 1039

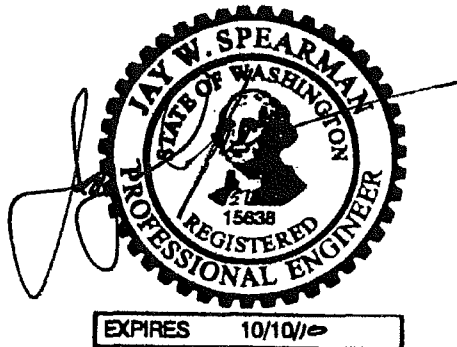
Charles L. Hunter, Mayor

Molly Towslee, City Clerk

**PERMIT FEASIBILITY & PROJECT PROBABLE COST
FOR
MARITIME IMPROVEMENTS
AT
SKANSIE / JERISICH PARKS**

prepared for

CITY OF GIG HARBOR, WASHINGTON



prepared by:

**Spearman Engineering, PS
PO Box 4069
Bremerton, WA 98312**

May 29, 2009

City of Gig Harbor
Skansie / Jerisich Parks Maritime Improvements

Permit Feasibility Study and Cost Estimate

5/29/09

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- Appendix II - Environmental Mitigation
- Appendix III - Itemized Probable Costs
- Appendix IV - Site Plan Exhibits:
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 2. Seasonal Float
 3. Jerisich Float Extension
 4. Combined Project

Skansie / Jerisich Parks Maritime Improvements
Permit Feasibility Study and Cost Estimate
Conducted for the City of Gig Harbor

I. PURPOSE

The purpose of this report is to present a permit feasibility study and probable construction cost estimate of constructing facilities for public access and moorage for both commercial fishing vessels and tour boats, and recreational boats at Skansie and Jerisich parks.

This report does not address economic feasibility or biological analysis, both of which are recommended priorities for further analysis leading to permit application. Cost estimates and permit requirements contained in this report are based on conceptual plans and are intended only to provide early guidance for decision-making.

II. BACKGROUND

Located on Gig Harbor in Puget Sound, the City of Gig Harbor, the “Maritime City,” evolved from a maritime heritage and retains a close affinity with commercial fishing and recreational boating. The city’s two downtown waterfront parks are important links to that heritage.

Due to community interest in exploring improvements at Skansie Brothers Park and Jerisich Park, the Gig Harbor City Council appointed an Ad Hoc Committee to oversee a Cost and Permit Feasibility Study regarding construction of 1) Public Dock at Skansie Brothers Park, 2) constructing a seasonal float at Jerisich Park, and 3) extending the Jerisich Park float.

The Ad Hoc Committee selected Spearman Engineering PS to conduct a Permit Feasibility Study to address environmental permit and design issues and to prepare a probable cost for the proposed improvements. The Committee helped refine project details and provided valuable information both in meetings and individually through the study process.

The committee members are: Paul Conan, Guy Hoppin, Greg Lovrovich, and John Moist. Peter Katich, Senior Planner for the city, served as city liaison.

III. SITE DESCRIPTION

Following is a description of existing facilities at Jerisich and Skansie parks (please see Existing Site Plan, Figure 1).

Jerisich Park

Jerisich Park is located in the vacated Skansie Street right-of-way just off Harborview Drive NW. The upland portion of the park is approximately 0.4 acres. Upland features include public restrooms and a sewer lift station, which were constructed about 20 years ago along with the deck. It also contains a stormwater discharge.

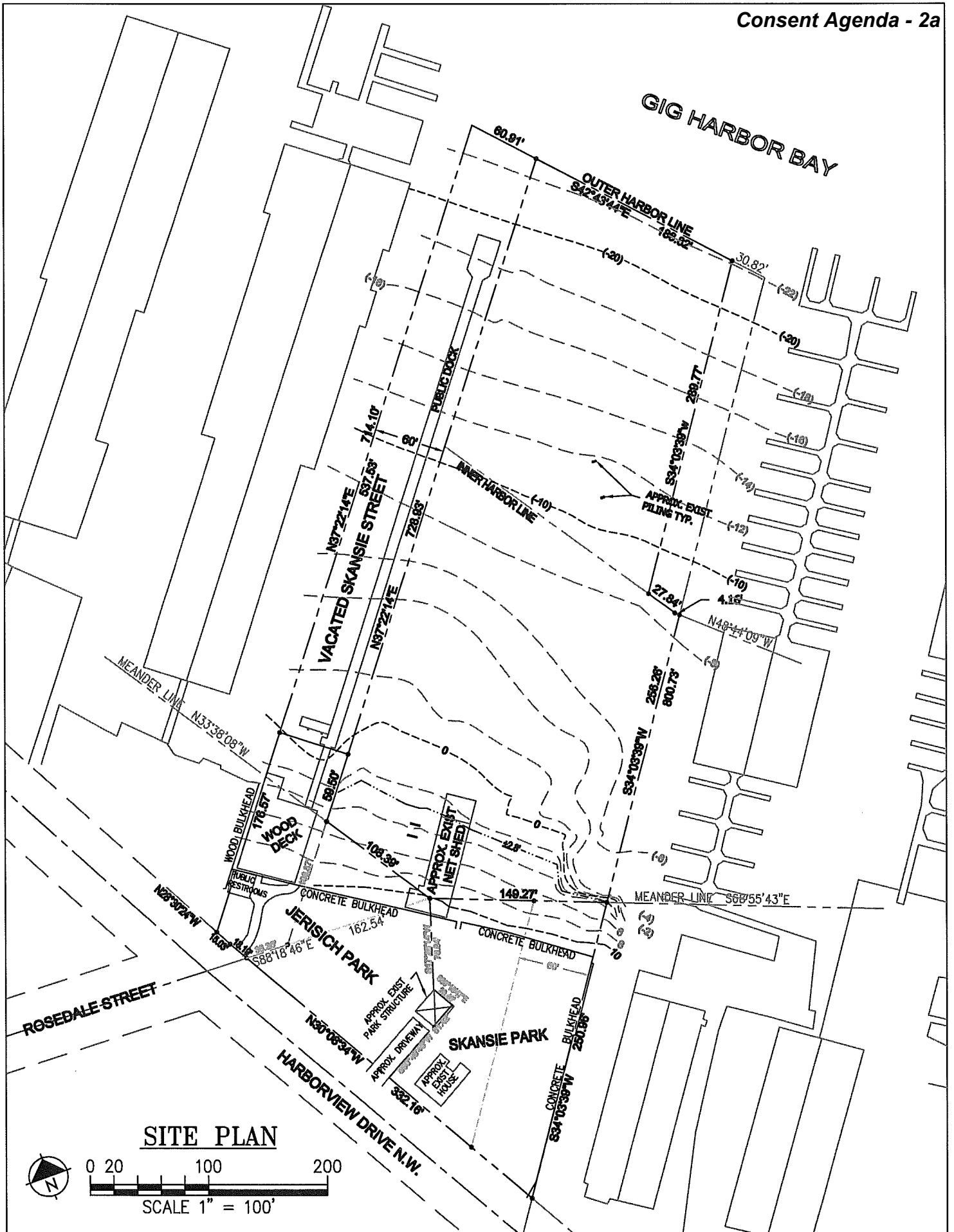


Figure 1 Site Plan of Existing Condition

Over-water structures (all open to the public) consist of a 2,300 square foot deck, ramp and float, which extend approximately 569 feet into the bay, measured from the bulkhead. The ramp and float were built about 10 years ago to replace older facilities. The floats are concrete with 18" steel piles and 8' wide concrete decks, except for the outboard end, where a recreational boat pumpout station is located, which is 16 feet wide, for a length of 32 feet. The principal use of the float is for transient recreational moorage.

Skansie Park

Skansie Brothers Park, acquired by the city about 2002, is directly adjacent to Jerisich Park. The approximately 0.5 acre park was the site of a residence adjacent to the Skansie Brothers Boatyard and retains two structures from that era; a handsome brick residence and a net shed. The park is nicely landscaped with a gentle grassy slope toward the shoreline. It contains a gazebo, probably for holding ceremonial events and observing harbor maritime activities in a dry location.

Net Shed

The net shed is located at about mid-length of the shoreline. It is an approximately 100' x 25' over-water structure that is currently used for storage and is considered to be of historical significance. It is supported by timber piling. The net shed is outside of the scope of this study.

Temporary Floats

For several years, the city has leased floats and installed them temporarily at Jerisich Park for the weekend during the Blessing of the Fleet festivities. In the past, two floats, each approximately 6' x 150', have been arranged in an "L" configuration and attached to the Jerisich Park float and existing piles. These piles are indicated on Figure 1.

Shoreline

Skansie and Jerisich parks have approximately 310 lineal feet of contiguous shoreline on the harbor. The entire shoreline is bulkheaded with an approximate 5 foot high concrete bulkhead. At Jerisich Park, a pile supported wooden deck covers much of the nearshore area extending approximately 70 feet waterward of the line of the bulkhead.

Intertidal substrate is mainly silt and cobbles. Except where dredged, the intertidal zone extends approximately 130 feet from the bulkhead. Little marine vegetation is visible. The area is known as being difficult for driving piling as it contains a layer of glacial till underlying the intertidal substrate.

IV. PROJECT DESCRIPTION

Three project elements have been identified by the city and Ad Hoc Committee. These might be constructed as one project in accordance with an overall plan, or as individually constructed projects. Please see Project Dimensions, Table I.

Element #1: Skansie Park Public Dock

A new fixed pier, ramp and float (PRF) would be constructed as an extension of Skansie Park. It would provide public access to the shore for marine transport passengers and viewing opportunities of maritime activities. In addition, the facility could provide moorage for commercial fishing boats, tour boats, and small water craft (such as kayaks). It could serve as a maritime gathering place.

Access to the PRF would be from Harborview Drive NW along the south property line of Skansie Park. Approximately four parking spaces would be provided on the shore side of the pier. The driveway would be appropriately landscaped to compliment and screen the park.

The main float would be approximately 50' x 150', secured by galvanized steel guide piles. It would have both pedestrian and vehicle ramps and have deck capacity adequate for pickup trucks loaded with fishing nets. The float would be located in water at least -10' elevation so as to minimize impacts to fish and the marine environment.

The float would be accessible to the public and be provided with picnic tables and benches. Lighting would be similar to that provided at the Jerisich Park float.

The float would have capacity to moor 2-3 Alaska Limit seiner type fish boats (approx. 60' x 20'). Also, it would be constructed and located so that it could be utilized by visiting tour boats. Freeboard would be approximately 2 feet.

In order to maintain the view corridor, the float would be located as far south as practical. According to city code, it could be placed 12 feet from the adjacent property line. However, the actual float location will be determined after reviewing DNR guidelines and access requirements relative to the neighboring marina.

In addition to the main float, a small craft/kayak float would be constructed and located along the inshore end of the main float. It would have low freeboard as its intended use would be for visitors to have easy access for pulling their craft out of the water and launching. The planned size of 26' x 12' would provide capacity for a medium size touring group of kayaks or other small craft. It could easily be expanded to 5' x 50'. Consideration may be given to the special needs of rowing sculls.

Element #2: Seasonal Floats

Currently leased special event floats would be replaced. Use would continue to be for transient moorage. Use would be extended from one weekend a year to potentially the entire summer season. To accomplish this requires re-applying for permits. Reference Appendix I.

Due to space limitations and possible view corridor issues, the seasonal float configuration would be reduced from the current length of approximately 300 feet to approximately 225 feet, and reconfigured to be compatible with the possible Skansie Park float. The seasonal floats would be moored with cables to helical anchors in bottom sediment. Public access would be via the existing Jerisich Park float.

Element #3: Jerisich Park Float Extension

A 70 foot extension of the Jerisich Park float would be designed to match the exiting concrete float and steel pile construction. The purpose of the extension would be to accommodate additional transient moorage.

The extension would implement the original plan to extend the float to the outer harbor line. The extension would include relocation of the sanitary pumpout station from it present location to the end of the extended float.

Table I
Approximate Project Dimensions
 (sf = approx. square foot areas)

Project Element	Size All over water	No. Piles	Size of Piles
Element #1 - Skansie Park Public Pier & Float:			
Pier (292.5' x 18')	5,265 sf	12	24"
Ramps (80' x 6' pedestrian); (80' x 11' vehicle)	1,360 sf		
Main Float (50' x 150')	7,500 sf	8	24"
Small Craft Float (26' x 12')	312 sf		
Total:	14,437 sf	20	
Element #2 - Seasonal Float:			
Float (225' x 8')	1,800 sf	0	12"
Element #3 - Jerisich Park Float Extension:			
Float (70' x 8')	560 sf	4	18"
Total All Project Elements:	16,797 sf	24	

V. ENVIRONMENTAL PERMITS

A key question regarding the proposed project is whether, in the current regulatory framework, the proposed elements could be designed to receive approval from the environmental permitting agencies listed in Table II below. It is our professional opinion that it is highly likely that the project outlined in this report could meet the necessary permitting requirements. Provided, however, the project must demonstrate that it would not result in unmitigated impacts to fish or the marine environment.

In our opinion this can be done by adhering to the following:

- Sensitive project design
- Careful attention to biological issues, especially related to species listed under the Endangered Species Act
- Providing adequate and relevant mitigation

Sensitive Project Design - This refers to a design that meets the city's functional requirements, while at the same time minimizing environmental impacts. This is best accomplished through a close working relationship among city (as the client), design engineer, and project marine biologist.

Attention to Biological Issues - This begins by evaluating site conditions and preparing the required Biological Assessment and Mitigation Plan concurrent with the conceptual project design. Following this approach, even in the earliest design phases, the design engineer is guided by site-specific conditions as well as general biological criteria.

Providing Adequate and Appropriate Mitigation for the unavoidable environmental impacts. This may provide an opportunity to repair historic environmental deterioration on the site with respect to the biological needs of Puget Sound marine life. It may also have the potential to enrich the parks' educational experience by adding an environmental education component. From this perspective, the required mitigation would be seen as less of a burden and more of a discovered opportunity.

Table II
Summary of
Permits and Application Requirements

Agency	Permit	Permit Application Requirements
Us Army Corps of Engineers	Section 10 Permit	<ul style="list-style-type: none"> • Preliminary project design • Biological Assessment <u>or</u> Biological Evaluation • Underwater Vegetation Survey • Mitigation Plan • Cumulative Impacts Analysis** • Alternatives Analysis**
Department of Ecology	Section 401 and CZM	
Department of Fish & Wildlife	HPA	
City of Gig Harbor	Shoreline Development Permit Building Permit	
Department of Natural Resources (DNR)*	Submerged Land Lease	<ul style="list-style-type: none"> • Preparation of lease exhibit

* DNR is technically not an environmental permit review agency, but close coordination with DNR is essential due to its conservation mission and relationship with state agencies.

** These studies are not always required

Appendix I provides details regarding specific requirements of the permitting agencies as well as a discussion of the level of effort to meet permit requirements.

VI. MITIGATION

Even though covered in more detail in Appendix II, a statement about mitigation is warranted here. This project (or any of its component elements) can not likely be constructed without providing environmental mitigation. And meeting mitigation requirements will be challenging. The permit success of each of the proposed elements rests on the ability to avoid or mitigate for identified environmental impacts. The challenge is to configure the project to minimize impacts and to accomplish meaningful mitigation for unavoidable impacts. And, most importantly, to accomplish this on the project site.

VII. PROBABLE PROJECT COSTS

The itemized project probable costs are presented for each of the three project elements, as if it were an individual project. In addition, a similar cost summary has been provided for a combination of the three elements in a single project application. Detailed summaries are provided in Appendix III.

The following probable costs are associated with each of the project elements:

Element #1	Skansie Park Pier & Float	\$ 4,438,805
Element #2	Seasonal Moorage	\$ 403,950
Element #3	Extend Jerisich Float	<u>\$ 284,557</u>
	Total:	\$ 5,127,312
Element #4	Combined Application For elements 1, 2 & 3 above	\$ 4,844,206

VIII. NEXT STEPS

The scope of this study is limited to permit feasibility and determination of probable cost to construct the three project elements. If the city decides to proceed with one or all of the elements, the following steps are recommended:

1. Begin with a Biological Evaluation of habitat values presently existing on the site. This would include the requisite eel grass survey and a voluntary evaluation of epibenthic community productivity on the intertidal substrate. These studies must be conducted during certain periods of the year. The epibenthic work is the most time restrictive.
2. Develop a refined design and mitigation plan reflecting biological impacts prior to preparing and submitting the permit applications.

3. Refine the preliminary design , based on step 2. This allows refinement of the following design considerations:
 - a. Design details such as project footprint and elevations, percentage of deck surfaces to be grated, types of construction materials, etc, so that
 - b. A biologist could draft the Biological Evaluation and
 - c. A Mitigation Plan could be prepared.
 - d. Three to six months should be allowed for completion. This information is necessary to prepare permit applications.
4. Contact tribes with traditional fishing activity in the vicinity. It is anticipated that multiple tribes could be involved. It is not certain that they will express interest in the proposal.
5. Consider the economic benefits in relation to the costs of the three project elements. This may be helpful when selecting the elements desired for permit application. We have introduced the possibility of a single permit application containing three elements. Permit issuance does not obligate the applicant to construct the entire project. Mitigation for the element constructed will remain mandatory.

Develop an operations and business plan for the new facilities.
6. Prepare and submit regulatory permit applications. This step would require close working relationship among engineer, biologist and client. And it could involve a considerable amount of coordination with the agencies. Estimated time to prepare applications would be about 2 months. Application review time would be at least 18 months minimum. Processing time is reduced when the application is more environmentally sound. Economic conditions and agency staffing will affect timing for application review.
7. Prepare construction drawings for structures, park landscaping, and mitigation activities. In addition to the design engineer, a fisheries biologist would prepare plans and specifications for the mitigation, and a landscape professional would design the landscaping.
8. Put the project(s) out for bid by construction contractors.

APPENDIX I

REGULATORY PERMIT PROCESS

Regulatory Permits & Application Requirements

The permits shown below would be required to construct any or all of the project elements.

**Summary of
Permits and Application Requirements**

Agency	Permit	Permit Application Requirements
Us Army Corps of Engineers	Section 10 Permit	<ul style="list-style-type: none"> • Preliminary project design • Biological Assessment <u>or</u> Biological Evaluation • Underwater Vegetation Survey • Mitigation Plan • Cumulative Impacts Analysis** • Alternatives Analysis**
Department of Ecology	Section 401 and CZM	
Department of Fish & Wildlife	HPA	
City of Gig Harbor	Shoreline Development Permit Building Permit	
Department of Natural Resources (DNR)*	Submerged Land Lease	<ul style="list-style-type: none"> • Preparation of lease exhibit

* DNR is technically not an environmental permit review agency, but close coordination with DNR is essential due to its conservation mission and relationship with state agencies.

** These studies are not always required

One to two years should be allowed from time of application to receive all permit decisions.

Discussions and a site visit were held with representatives of the Department of Fish & Wildlife and Department of Natural Resources to acquaint them with the project. No site visit was possible with representatives of the Army Corps of Engineers due to its staffing limitations resulting from budget constraints.

Agencies Requiring Permits:

A. US Army Corps of Engineers - Section 10 of the Rivers and Harbors Act Permit is required for work waterward of mean high water (MHW)

1. Usual time to conduct reviews is 1-2 years. Corps review normally drives the overall permitting time line. This is due to their dependence on review by commenting agencies, such as USFWS and NMFS.
2. Review includes public, tribal, and agency notification.
3. Endangered Species Act (ESA) review by US Fish & Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS). Oftentimes referred to as the "Services." The Services address concerns regarding salmonids, bull trout, and other listed species.
4. Preparation of a Biological Assessment (BA) is required of projects that are expected to negatively affect listed species. Less complicated projects, not expected to have adverse effects, require a Biological Evaluation (BE).
5. In addition to a BA or BE, application requirements include a JARPA, project drawings, mitigation plan, underwater vegetation survey, and possibly a cumulative impacts analysis and/or alternatives analysis.

B. Washington Department of Ecology - Section 404 of the Clean Waters Act (CWA), pollution control laws and Coastal Zone Management consistency (CZM).

1. Usual time to conduct reviews - Statutory requirement is one year from issuance of the Corps permit. It is our experience that a much shorter time would be normal.
2. Review process includes public notice. This can be done in concert with the Corps of Engineers.
3. Application requirements include a JARPA, project drawings, mitigation plan, and BA.

C. Washington Department of Fish & Wildlife - Hydraulics Approval (HPA)

1. Usual time to conduct review - WDFW review is very efficient and usually its review time is not a critical path factor. Normal review time would not exceed 1-2 months, provided the project coordinated with the regional biologist during the planning phase.
2. Concerns can cover all fish species.
3. Review includes impact on forage fish spawning areas and marine vegetation, such as eel grass.
4. Application requirements include JARPA, project drawings, underwater vegetation survey, mitigation plan, and BA.
5. HPA is not issued until compliance with State Environmental Protection Act (SEPA) by lead agency. Normally SEPA review conducted by local government jurisdiction where project is located.

D. Department of Natural Resources - Submerged Land Lease

1. DNR manages state land.. Within designated harbor areas, the land between the inner harbor line and outer harbor line is available for lease, with priority given to the property owner fronting the area to be leased.
2. Lease rates are determined by the value if the adjacent upland property in accordance with a strict formula. Usually no payments are required from non-profit government agencies if free public use is provided.
3. As the City of Gig Harbor currently has a lease with DNR, the lease exhibit will need to be re-done to reflect structures to be added within the lease area.

E. City of Gig Harbor - Substantial Shoreline Development Permit (SSDP), SEPA review and Building Permit

1. SSDP normally triggers SEPA provisions including preparation of an environmental checklist, determination of significance, public notifications, and appeal procedures to the State Shorelines Board.
2. Normal time to process SSDP and SEPA is 6-12 months.
3. Building Permit would be handled at a later project phase.

Permit Application Requirements

The principal studies for the above applications include preparation of an engineered preliminary project design, Biological Assessment (BA), a micro algae survey of underwater vegetation, and a Mitigation Plan. Also, an Alternatives Analysis and Cumulative Impacts Analysis might be required. These are discussed below.

A. Project Design

A preliminary engineered project design, developed in close coordination with a fisheries biologist is a first step. It is referred to as “preliminary” as its purpose is to define the scope of the project, footprint, elevations, etc. It is not a detailed construction plan.

B. Biological Assessment

A Biological Assessment (BA) or a Biological Evaluation (BE) prepared by a professional fisheries biologist, is the principle document used by agencies to evaluate the project’s impacts on protected fish species and the marine environment. A BA is usually a requirement of larger and more complicated projects. Preliminary indications are that this project (taken as a whole) would require a BA.

The BA would normally include such topics as:

- Detailed description of construction techniques and materials
- Description of project area
- Information related to listed species
- Description of environmental conditions
- Conservation measures to be undertaken by the project
- Analysis of project effects on listed species
- Cumulative Impacts Analysis
- Review of recent site-specific biological literature

For smaller projects, such as the Jerisich Park Dock Extension on its own, a Biological Evaluation (BE) would be required. The BE would have less scope than a BA and is usually adequate for projects not expected to adversely impact listed species.

C. Underwater Vegetation Survey

Micro algae, macro algae and marine vegetation, especially eel grass, are a valuable fisheries resource. A survey by a marine biologist/diver of the project site would be required to determine the location of any vegetation. Damage to eel grass must be avoided or mitigated. On-site sampling for epibenthic organisms (an important salmonid food source) could also be required.

D. Additional Studies

Experience with previous projects indicates that two additional studies may be required.

- Cumulative Impacts - Analysis of the cumulative impact of the proposed project in relation to existing projects within the project area.
- Alternatives Analysis - Demonstration that the least impacting project design was selected. Alternatives to the proposal must be identified and evaluated.

APPENDIX II

ENVIRONMENTAL MITIGATION

MITIGATION

General

Projects that diminish habitat value of the marine environment require mitigation measures to reduce impact on the environment. Regulatory permit agencies requiring mitigation include: US Army Corps of Engineers, Washington Department of Fish & Wildlife, Washington Department of Ecology, and local jurisdictions. Generally, project sites having bottom depths where light may penetrate (-10' to -20' MLLW) are of greatest concern. This area may be referred to as the "near shore" or "intertidal" area. Intertidal zones are areas that go dry at low tide. On-site mitigation is greatly preferred to off-site mitigation. Regulatory agencies may give only partial credit for mitigation not located on the project site.

Mitigation is believed to be critical to the permissibility of most projects. Meeting mitigation requirements will be a challenge.

1. The over-water component (over 16,000 sf) is considered large by the regulatory agencies and as such, will require commensurate quantity and quality of mitigation measures.
2. The type and quantity of mitigation can only be estimated after a preliminary project design and a Biological Assessment have been prepared.
3. There are no comprehensive review guidelines that all regulators agree upon.
4. The site has limited opportunities for on-site mitigation. For example, the need to maintain view of the bay limits shoreline tree planting. And mitigation would need to be compatible with the park setting.
5. Mitigation measures will be costly to implement. And they will require commitment to long-term maintenance agreed to by the property owner.

It should be understood that the magnitude of mitigation requirements is normally commensurate with the project's size and environmental impacts. So, a smaller, less impacting project typically requires less mitigation.

A good project design is the first step in mitigation. This is because it presents an opportunity to minimize project impacts. A close working relationship between the design engineer and marine biologist is necessary for a successful project. Following are key project guidelines to reduce project impacts:

1. Locate floating structures in deep water, at least -10' to -20' MLLW
2. Maximize grating in all possible structures.
3. Minimize number of piling. Long spans between piling are encouraged.
4. Minimize size of over-water structures to avoid shading.
5. Install float stops on any floats that ground out to avoid killing benthic organisms.
6. Construction must be timed to minimize fish impacts on seasonal fish migrations.
7. Minimize use of treated wood to avoid contaminating habitat.

Mitigation would be required for:

1. Over-water shading caused by over-water structures, Deck surfaces should have maximum amount of feasible functional (unobstructed) grating. Grating style should provide 60% light penetration. As floating structures usually cause more shading than pile supported structures, they may require more mitigation.
2. Piling. Driving new piling is considered loss of habitat that would need to be replaced. Normally this is done on a square foot basis. For example, an 18" pile constitutes a habitat loss of 1.7 square feet.
3. Any loss or disturbance of intertidal area substrate.

Identification and evaluation of potential impacts and how they are to be mitigated would be addressed in the Biological Assessment (BA) required by USACE.

Quantity:

1. Oftentimes, the amount of required mitigation can be calculated on a formula of a square foot of habitat loss requires a square foot of mitigation. The amount of mitigation for this project can only be estimated until a specific design is proposed. But indications are that substantial mitigation efforts will be required.
2. There is no specific policy relating to type and quantity of mitigation that has been agreed upon by all regulatory agencies.

APPENDIX III

**ITEMIZED PROBABLE COSTS
FOR INDIVIDUAL PROJECT ELEMENTS**

**APPENDIX III
PROBABLE PROJECT COSTS**

**SKANSIE/JERISICH PARKS
MARINE FACILITIES DEVELOPMENT**

Item		Probable Cost
1. MARITIME PIER		
Marine Construction:	Mobilization	45,000
	Remove & dispose of creosote-treated mooring piles, including buoy	3,000
	Pile-supported access pier	1,064,010
	Pedestrian brow (80' x4') with fixed ramp (ADA)	210,000
	Vehicle ramp (80' x11')	319,320
	Float (150' x 50')	1,313,400
	Float outfit-cleats, pile hoops etc *	26,750
	4 benches & 2 tables *	3,650
	Alternate: load-bearing grating (20' x 90') in float deck, net increase	00**
	Float mooring steel piles (8)	125,317
	Allowance for environmental mitigation	30,620
	Kayak Float (5' x 50')	20,280
	Electrical allowance for pier & float lighting	85,000
	Allowance for fire standpipe (dry system) to float	72,000
	Potable water	00
	Subtotal Marine Construction:	\$3,318,347

*Inflation adjusted

**Alternate cost shown for reference only - not included in totals

PROBABLE PROJECT COSTS

**SKANSIE/JERISICH PARKS
MARINE FACILITIES DEVELOPMENT**

Item	Probable Cost
1. MARITIME PIER (continued)	
Upland Construction:	
Mobilization/demobilization	10,000
Curb cut	6,083
Compacted fill for drive and parking *	12,175
Paving (green)	24,000
Stormwater collection & filter system	8,000
Allowance for seawall refit *	36,500
Lighting	10,700
Sidewalk along seawall *	13,900
Handrail along seawall *	32,200
Landscaping *	18,500
Demolition allowance*	12,250
Subtotal Upland Construction:	\$184,308
MARINE & UPLAND TOTAL:	\$3,502,655
8.4% WSST:	\$294,223
Probable Construction Total:	\$3,796,878
Services & Fees:	
Building permit & environmental permit fees	8,900
Environmental permits	40,000
Project site survey with bathymetry & topography	9,000
Revised DNR lease exhibit	5,000
Engineering/designs	141,500
Fabrication & construction inspection	14,000
Contract/Construction Administration	20,000
Subtotal Services & Fees:	\$238,400
Subtotal Construction & Services/Fees:	\$4,035,278
10% Contingency:	\$403,527
INDIVIDUAL PROJECT MARITIME PIER TOTAL:	\$4,438,805

* Inflation adjusted

PROBABLE PROJECT COSTS
SKANSIE/JERISICH PARKS
MARINE FACILITIES DEVELOPMENT

Item		Probable Cost
2. SEASONAL FLOAT		
Marine Construction:	Mobilization	30,000
	Remove and dispose of creosote-treated mooring piling and buoy	3,000
	Float units (230 LF)	111,800
	Anchor cable mooring system with soil anchors	90,8000
	Alternate: fixed mooring piles (6)	64,660**
	Allowance for environmental mitigations	6,000
	Float lighting code compliance	24,350
	Fire standpipe code compliance	20,700
	Allowance for seasonal installation, storage, removal	00
	Seasonal Float Subtotal:	\$286,650
	8.4% WSST:	\$24,078
	Probable Marine Construction Total:	\$310,728

** Alternate cost shown for reference only - not included in totals

**SKANSIE/JERISICH PARKS
MARINE FACILITIES DEVELOPMENT**

Item		Probable Cost
2. SEASONAL FLOAT (continued)		
Services & Fees:	Building permit and environmental permit fees	2,500
	Environmental permits	30,000
	Project site survey with bathymetry	1,000
	Revised DNR lease exhibit	5,000
	Engineering/designs	16,000
	Fabrication & construction inspection	1,000
	Contract/Construction Administration	1,000
	Subtotal Services & Fees:	\$56,500
	Subtotal Construction & Services/Fees:	\$367,228
	10% Contingency:	\$36,722
	INDIVIDUAL PROJECT SEASONAL FLOAT TOTAL:	\$403,950

PROBABLE PROJECT COSTS

**SKANSIE/JERISICH PARKS
MARINE FACILITIES DEVELOPMENT**

Item		Probable Cost
3. JERISICH FLOAT EXTENSION		
Marine Construction:	Mobilization	30,000
	Remove 2 piles & re-drive	14,500
	Concrete floats to match existing	33,600
	Disassemble and re-assembled floats	10,000
	Electrical for reassembled floats	18,250
	Mechanical for new floats and reassembly	14,600
	New mooring piles installed (4)	29,500
	Allowance for environmental mitigations	8,120
	Subtotal Marine Construction:	\$158,570
	8.4% WSST:	\$13,319
	Probable Construction Total:	\$171,889
Services & Fees:	Building permit and environmental permit fees	2,300
	Environmental permits	29,000
	Project site survey with bathymetry & topography	1,000
	Revised DNR lease exhibit	5,000
	Engineering/design	44,500
	Fabrication & construction inspection	2,000
	Contract/Construction Administration	3,000
	Subtotal Services & Fees:	\$86,800
	Subtotal Construction & Services/Fees:	\$258,689
	10% Contingency:	\$25,868
	JERISICH FLOAT TOTAL:	\$284,557

PROBABLE PROJECT COSTS

**SKANSIE/JERISICH PARKS
COMPREHENSIVE IMPROVEMENT PROJECT
Maritime Pier/Float, Seasonal Float, Extend Existing Float with Pumpout**

Item		Probable Cost
4.1 MARITIME PIER		
Marine Construction:	Mobilization	50,000
	Remove and dispose of creosote-treated mooring piling, including buoy	3,000
	Pile supported access pier	1,064,010
	Pedestrian brow (80' x4') with fixed ramp (ADA)	210,000
	Vehicle ramp (80' x11')	319,320
	Float (150' x 50')	1,313,400
	Float outfit cleats, pile hoops etc *	26,750
	4 benches & 2 tables *	3,650
	Alternate: load-bearing grating (20' x 90') in float deck, net increase	00**
	Float mooring steel piles (8)	125,317
	Kayak Float (5' x 50')	20,280
	Electrical allowance for pier & float lighting	85,000
	Allowance for fire standpipe (dry system) to float	72,000
	Potable water	00
	Subtotal Marine Construction:	\$3,292,727

*Inflation adjusted.

** Alternate cost shown for reference only - not included in totals.

PROBABLE PROJECT COSTS

**SKANSIE/JERISICH PARKS
 COMPREHENSIVE IMPROVEMENT PROJECT
 Maritime Pier/Float, Seasonal Float, Extend Existing Float with Pumpout**

Item		Probable Cost
4.1 MARITIME PIER (continued)		
Upland Construction:	Mobilization/demobilization	10,000
	Curb cut	6,083
	Compacted fill for drive and parking *	12,175
	Paving (green)	24,000
	Stormwater collection & filter system	8,000
	Allowance for seawall refit *	36,500
	Lighting	10,700
	Sidewalk and seawall *	13,900
	Handrail and seawall *	32,200
	Landscaping *	18,500
	Demolition *	12,250
	Subtotal Upland Construction:	\$184,308
	Subtotal 4.1 Construction:	\$3,477,035

*Inflation adjusted

PROBABLE PROJECT COSTS

**SKANSIE/JERISICH PARKS
COMPREHENSIVE IMPROVEMENT PROJECT
Maritime Pier/Float, Seasonal Float, Extend Existing Float with Pumpout**

Item		Probable Cost
4.2 SEASONAL FLOAT		
Marine Construction:	Mobilization	included
	Float units	111,800
	Anchor cable mooring system with soil anchors	90,800
	Alternate: Fixed mooring piles	64,660**
	Float lighting code compliance	24,350
	Fire standpipe code compliance	20,700
	Allowance for seasonal installation, storage, removal	00
	Subtotal Probable 4.2 Construction:	\$247,650

** Alternate cost shown for reference only - not included in totals.

PROBABLE PROJECT COSTS

**SKANSIE/JERISICH PARKS
COMPREHENSIVE IMPROVEMENT PROJECT
Maritime Pier/Float, Seasonal Float, Extend Existing Float with Pumpout**

Item		Probable Cost
4.3 JERISICH FLOAT EXTENSION		
Marine Construction:	Mobilization	included
	Remove 2 piles and redrive	14,500
	Concrete floats to match existing	33,600
	Disassemble and reassemble floats	10,000
	Electrical for new floats and reassembly	18,250
	Mechanical for new floats and reassembly	14,600
	New mooring piles installed (4)	29,500
	Subtotal 4.3 Construction:	\$120,450

PROBABLE PROJECT COSTS

**SKANSIE/JERISICH PARKS
 COMPREHENSIVE IMPROVEMENT PROJECT
 Maritime Pier/Float, Seasonal Float, Extend Existing Pumpout Float**

Item		Probable Cost
4. Probable Project Total		
Project Mitigation	Subtotal 4.1, 4.2, and 4.3 Construction	44,740
	Comprehensive Project Construction Subtotal:	\$3,889,875
Overall Project	8.4% WSST:	\$326,749
	Construction Total:	\$4,216,624
Professional Services & Permit Fees:	Allowance for permit fees	13,700
	Environmental permits	44,000
	Project site survey with bathymetry & topography	9,000
	Revised DNR lease exhibit	5,000
	Engineering/design	74,500
	Fabrication & construction inspection	17,000
	Contract/Construction Administration	24,000
	Subtotal Services & Fees:	\$187,200
	Comprehensive Project Subtotal:	\$4,403,824
	10% Contingency:	\$440,382
	COMPREHENSIVE PROJECT TOTAL:	\$4,844,206

*Inflation adjusted

APPENDIX IV

- Exhibit 1 - Maritime Pier & Float**
- Exhibit 2 - Seasonal Float**
- Exhibit 3 - Jerisich Float Extension**
- Exhibit 4 - Combined Project**

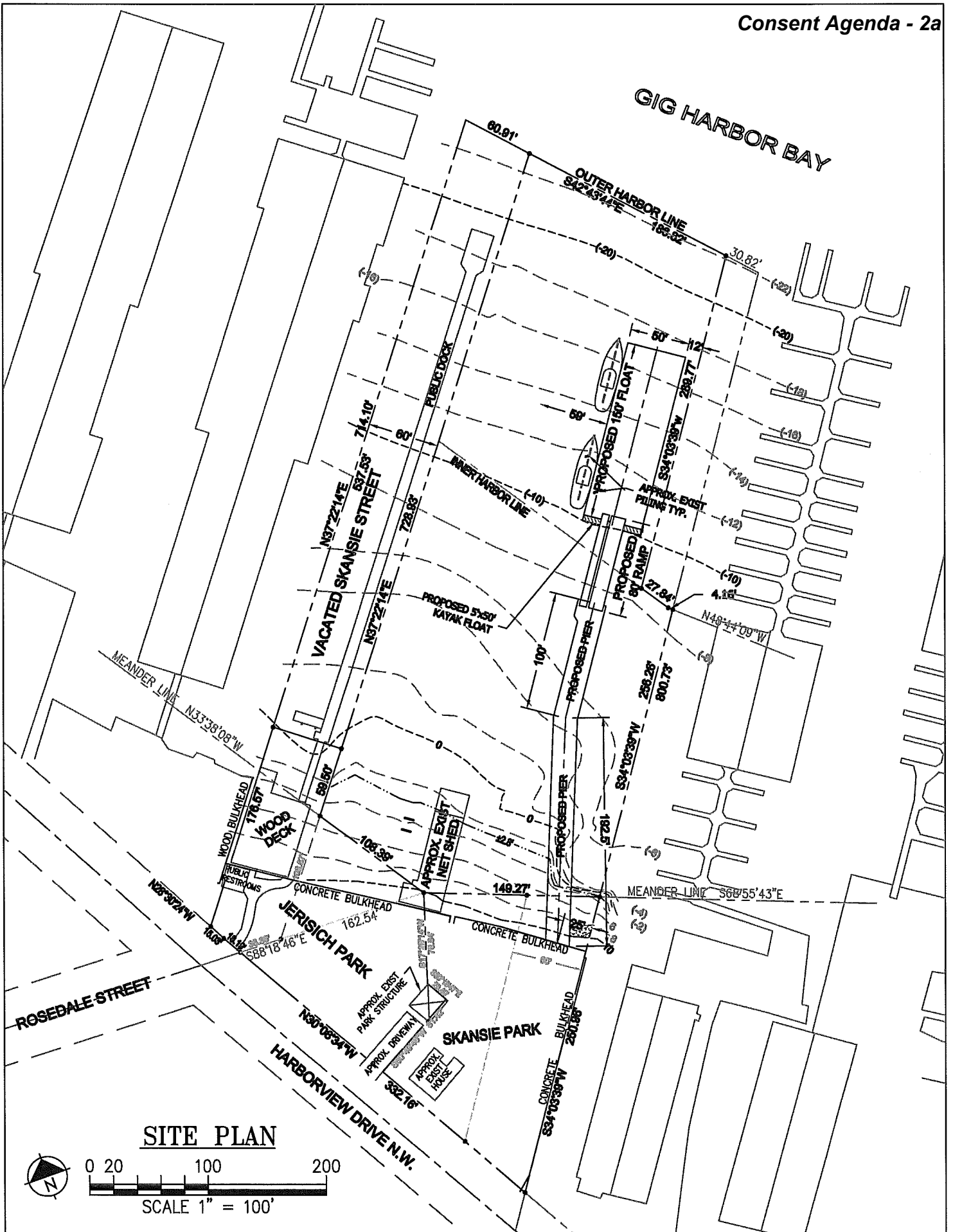


EXHIBIT 1

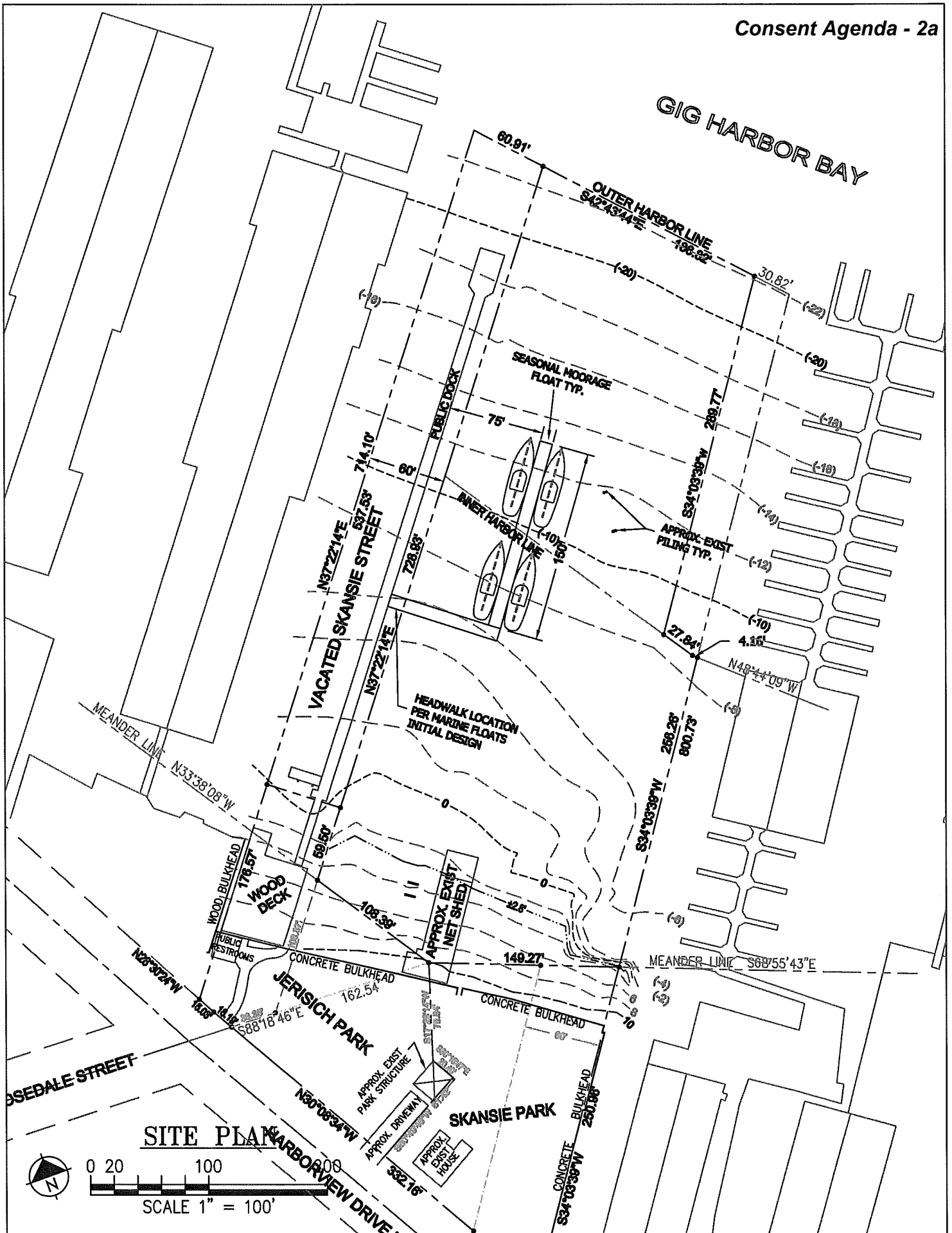


EXHIBIT 2

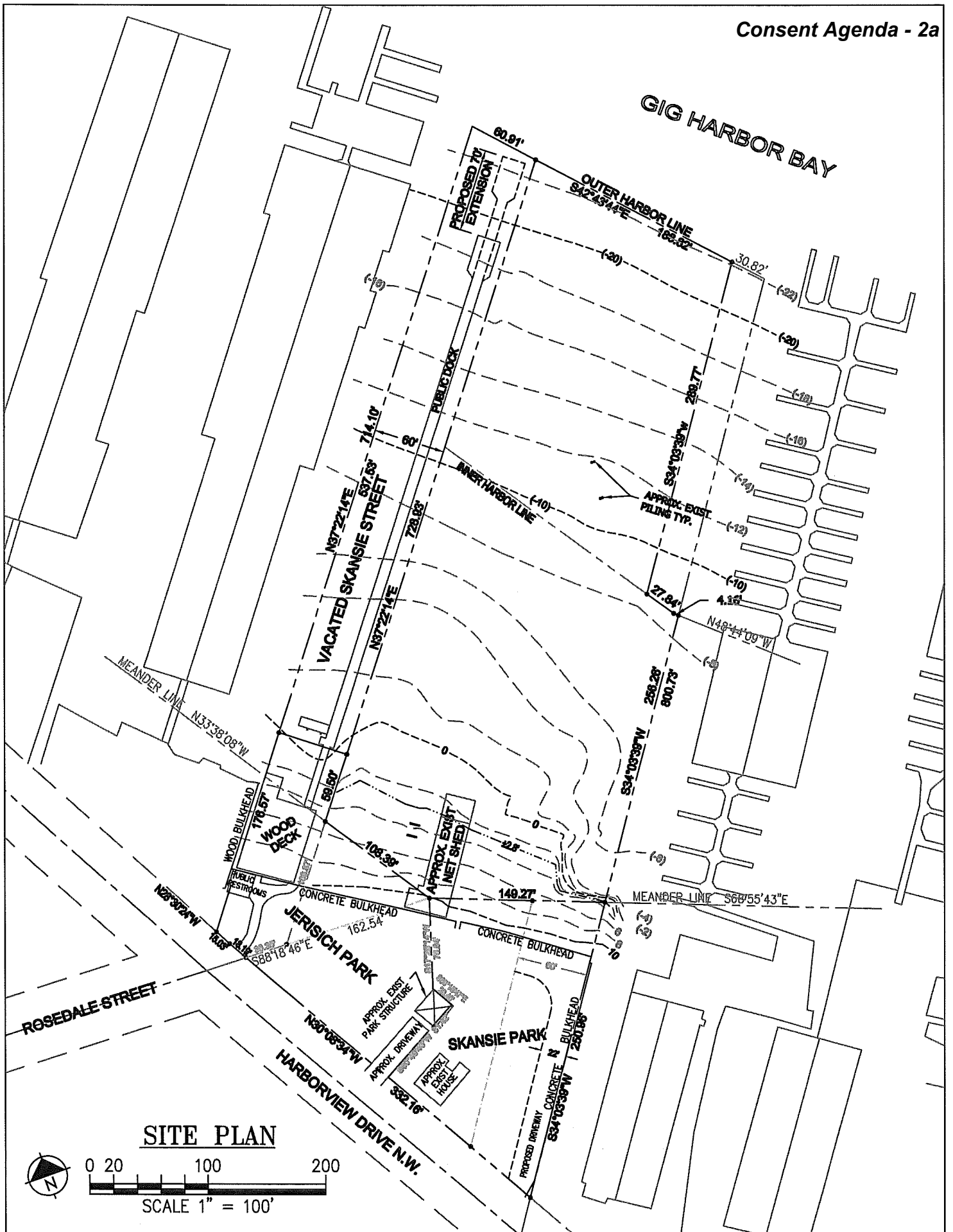


EXHIBIT 3

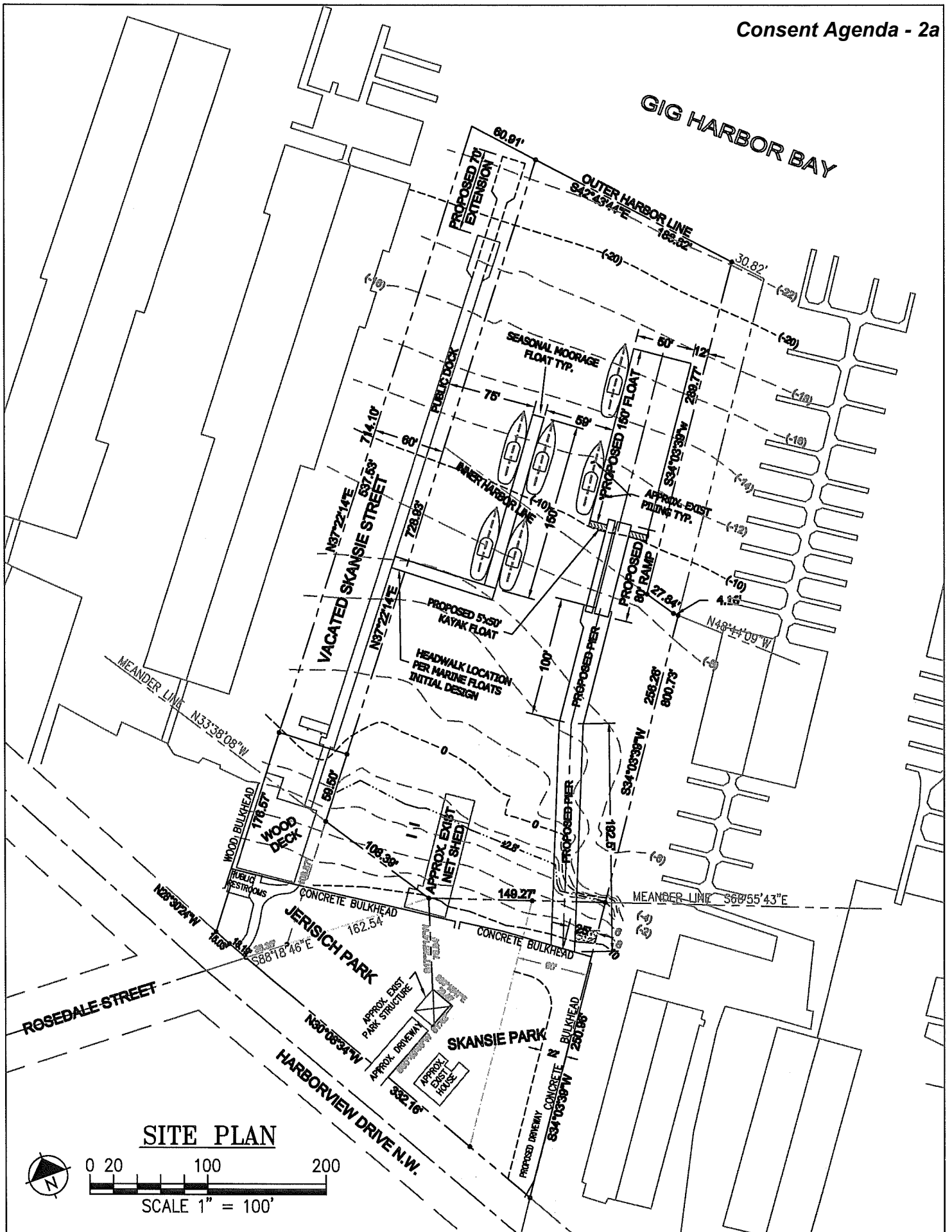
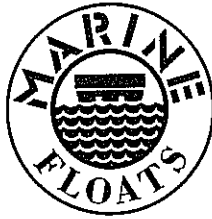


EXHIBIT 4



1208 East "D" Street
Tacoma, WA 98421
(253) 383-2740
Fax (253) 383-1102

Wood and Concrete
Consent Agenda - 2a
Floating Docks
Boathouses
Design & Permitting

July 17, 2009

John Moist
PO Box 914
Gig Harbor WA 98335

Dear John,

I apologize for this taking so long but here is a first go on a very preliminary budget basis.

- (2) 8'x150' floats per drawing
- (4) 12" diameter steel piling

All installed but removed seasonally \$180,000.00

Sales tax and permitting costs not included

Estimated permitting costs \$15,000.00
(not including any City fees or DNR surveys)

Options: Dry Fire System
 Potable Water
 Power

Other: Change piling to anchors add \$100,000.00
 80'x 5' aluminum ramp (ADA) \$65,000.00

Cordially,

Wendell Stroud
President



CITY OF GIG HARBOR
OPERATIONS & PUBLIC PROJECTS COMMITTEE
MINUTES

DATE of MEETING: June 18, 2009
TIME: 3:00 pm (meeting began at 3:10 pm)
LOCATION: PW Conference Room
SCRIBE: Maureen Whitaker
MEMBERS PRESENT: Councilmembers Ekberg & Franich, John Chadwell/OPG
STAFF PRESENT: David Stubchaer/PW Director, Jeff Langhelm/Sr. Engineer
EXCUSED: Councilmember Payne

1. SHORECREST SEWER SYSTEM FRANCHISE AGREEMENT

DISCUSSION POINTS

Senior Engineer Jeff Langhelm provided background on the Pierce County Franchise Agreement and the Shorecrest Sewer System. He explained that it is a satellite sewer system located outside of city limits on Ray Nash Avenue, operated and maintained by the City of Gig Harbor. The system consists of 20 connections that pump effluent from privately owned S.T.E.P. tanks into Pierce County right-of-way to a gravity collection pipe that flows to a lift station located at the corner of Ray Nash Avenue and Rosedale Street. The lift station pumps eastward up Rosedale Street until it leaves Pierce County right-of-way and enters property with a septic drain field. The gravity main, lift station, force main and drain field property are owned and operated by the City.

The City acquired this system and three others from Pierce County in 1988 through a take-over agreement. During the take-over of these systems, the County was to grant the City utility franchise agreements for all three systems, but for some unknown reason, the Shorecrest system was not included. Subsequently, a new franchise agreement is proposed to clean up this error, providing the City legal authority to operate and maintain this system in Pierce County right-of-way.

RECOMMENDATION / ACTION / FOLLOW-UP

The City's legal counsel, Public Works Director, and staff have reviewed this franchise agreement and request presenting and recommending the agreement to full Council for approval later this summer. The County has asked the City of Gig Harbor to enter into this agreement and will not allow entry into the Pierce County right of way for any further connections to this system until it has been signed. Once they have signed the agreement it will be forwarded to City Council for approval

2. DEEP WELL SCOPE REVISION FOR MATRIX EVALUATION

DISCUSSION POINTS

Jeff Langhelm spoke about the necessity of developing an evaluation matrix and recommendation for a preferred groundwater supply well that meets the City's reliability criteria for Well 6 and augments the City's water supply. He further stated that Well 6 is the City's primary and largest well. If the primary source goes out of service, there would not be enough redundancy. A replacement well needs to be determined. In summary, the City currently has Carollo Engineers under contract to assist with the permitting of primary water rights associated with a deep well, commonly referred to as Well 9, which is adjacent to the new Gig Harbor North Water Tank.

RECOMMENDATION / ACTION / FOLLOW-UP

Carollo's work is budgeted for 2009. Due to many factors, Engineering has requested a re-evaluation of the original scope of work to include a matrix for reviewing seven possible options for providing additional water supply to the City's water system.

3. FINAL REVIEW OF TWO ORDINANCES – ILLICIT DISCHARGE DETECTION AND ELIMINATION (IDDE) AND STORMWATER/GRADING/CIVIL CODE

DISCUSSION POINTS


Jeff Langhelm presented two ordinances and code revision comparison charts relating to stormwater, grading and civil codes revisions and IDDE code revisions. He explained that as part of the City's NPDES permit, we are required to have regulations that are more specific. The City is also required to have trained staff that can provide public education opportunities. There was a lengthy discussion about both ordinances.

RECOMMENDATION / ACTION / FOLLOW-UP

Both Ordinances will be presented for a first reading to full council on June 22.

Meeting adjourned at 6:05 p.m.

Respectfully submitted:



Maureen Whitaker

OUTLINE MINUTES

Lodging Tax Advisory Committee

(Name of Committee, Board, Task Force, Commission)

Date: April 9th Time: 8:30 am Location: VIC conference room
 Scribe: Karen Scott

Members Present: Sue Braaten, Kathy Franklin, Jannae Jolibois, Randy Fortier, Jennifer Kilmer, Laureen Lund, Carola Stark, Warren Zimmerman

Guests Present: Tammy Blount, Moira Kelly, Shawna Lunde

Staff Present: Karen Scott

Topic	Recommendation/Action	Follow-up (if needed)
Presentation given by Moira Kelly, TRCVB	Moira presented her sales initiatives and followed up on the 2 trade travel shows that our properties had participated in. Moira discussed her visit to the various gig harbor properties.	Karen will ask Sue B. for a list of attendees from Vancouver show for input into Gigabyte
Presentation given by Shawna Lunde, TRCVB	Shawna presented information on her spring sales extravaganza and invited all members. Shawna followed up on TRCVB's continued efforts for leads and booking for existing TRCVB members even those not participating in the spring sales extravaganza	none
FACEBOOK, GIGABYTE, WEBSITE, TWITTER other social networking opportunities	Updates given by Laureen Lund on the current status of website for City and tourism. Slideshow of current website was displayed as well as new gigabyte. Input was given on the design as well as potential additions to database.	None

Topic	Recommendation/Action	Follow-up (if needed)
VIC	Laureen updated on status at VIC, still large numbers of visitors, comparable to last year. Susan Newell leaving position, not filling position. Hours.	Laureen asks properties for possible volunteer opportunities possibly staff members.
BUDGET	Laureen updated on status of budget. She discussed different options for cost saving opportunities. Feedback was given on different ideas. Laureen reiterated that we have cut costs tremendously and we have eliminated any employee training, travel etc. Properties pointed out that their Februarys were actually pretty steady in comparison to previous years.	Laureen asked committee members to start to think about budget priorities, jot them down, email them over to her by mid-May. Laureen will have a draft budget for discussion by July 9th meeting and via email sooner.
Video promotion	Randy pointed out that he sees potential in collaboration on video promotion, State ferries, cable television, other outlets, where we can bundle our efforts of Mainstreet, Chamber, City to have a larger radius	Randy will email his priorities to Laureen
LTAC next meeting		July 9 th at 8:30 am
Meeting adjourned 9:45 am Respectfully submitted, Karen Scott		



TO: MAYOR HUNTER AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR
SUBJECT: QUARTERLY FINANCE REPORT
DATE: AUGUST 10, 2009

The 2009 second financial reports are attached.

Total resources, including all revenues and beginning fund balances, are at 56% (46% in 2008) of the annual budget. Revenues and expenditures, excluding beginning and ending fund balances, are 36% and 34% respectively of the annual budget. This compares with 32% and 28% for the same period in 2008.

General Fund revenues (excluding beginning fund balance) are at 49% (44% in 2008, 56% in 2007 and 55% in 2006) of budget. Sales taxes are slightly behind pace at 45% of budget and permit fee revenues are 35% of budget. Through June we have received \$2.4 million in sales taxes and \$301,000 in permit fees. For the same period last year sales taxes and permit fees were \$2.8 million and \$533,000 respectively. All other significant General Fund revenues are coming in as expected.

General Fund expenditures are at 47% (53% in 2008, 41% in 2007 and 45% in 2006) of budget. All General Fund departments are tracking on budget through the end of the second quarter.

Street Capital and Street Operating Fund revenues and expenditures have no significant deviations from budget.

Water, Sewer and Storm Sewer revenues are 59%, 51% and 62% of budget; while expenditures for these three funds are at 35%, 42% and 28% of budget. Second quarter 2008 amounts for water, sewer and storm were 39%, 49% and 53% for revenues and 36%, 35% and 28% for expenditures.

At this time cash balances are adequate in all funds. Most of the City's investments are in the State Treasurer's pool.

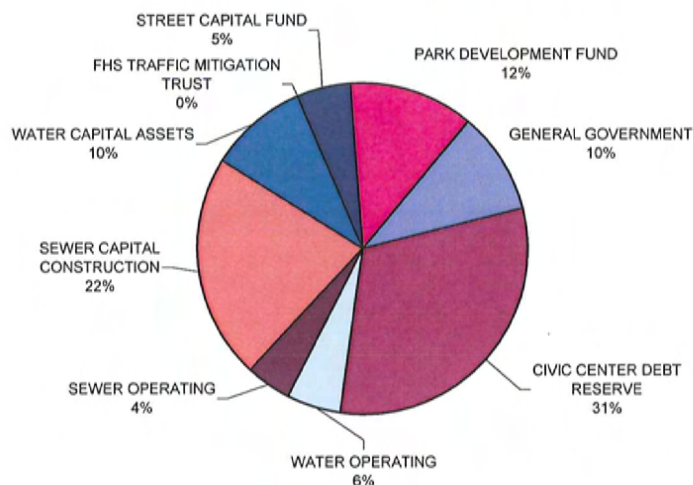
**CITY OF GIG HARBOR
CASH AND INVESTMENTS
YEAR TO DATE ACTIVITY
AS OF JUNE 30, 2009**

FUND NO.	DESCRIPTION	BEGINNING BALANCE	REVENUES	EXPENDITURES	OTHER CHANGES	ENDING BALANCE
001	GENERAL GOVERNMENT	\$ 1,550,824	\$ 4,134,520	\$ 4,235,504	\$ (524,984)	\$ 924,857
101	STREET FUND	355,420	846,328	677,496	(143,741)	380,510
102	STREET CAPITAL FUND	789,176	1,770,884	1,780,170	(278,575)	501,315
105	DRUG INVESTIGATION FUND	74,707	914	31,310	(348)	43,964
107	HOTEL-MOTEL FUND	190,308	86,869	120,589	(8,998)	147,588
108	PUBLIC ART CAPITAL PROJECTS	99,409	449	2,830	-	97,027
109	PARK DEVELOPMENT FUND	1,161,300	1,181,670	881,545	(327,434)	1,133,991
110	CIVIC CENTER DEBT RESERVE	2,882,102	13,107	-	-	2,895,209
208	LTGO BOND REDEMPTION	45,803	962,382	666,078	-	342,107
209	2000 NOTE REDEMPTION	5,350	24	-	-	5,374
210	LID NO. 99-1 GUARANTY	94,375	429	-	-	94,804
211	UTGO BOND REDEMPTION	133,933	178,837	59,674	-	253,097
301	PROPERTY ACQUISITION FUND	122,045	65,432	-	-	187,477
305	GENERAL GOVT CAPITAL IMPR	174,308	40,853	-	-	215,162
309	IMPACT FEE TRUST	8,492	749	-	(1,716)	7,525
401	WATER OPERATING	445,483	563,859	299,865	(194,178)	515,299
402	SEWER OPERATING	451,018	1,206,049	1,080,944	(164,222)	411,900
407	UTILITY RESERVE	188,133	856	-	-	188,989
408	UTILITY BOND REDEMPTION	736	480,631	273,520	-	207,846
410	SEWER CAPITAL CONSTRUCTION	1,985,372	2,702,385	2,197,172	(452,065)	2,038,520
411	STORM SEWER OPERATING FUND	196,792	419,942	217,043	(59,312)	340,379
420	WATER CAPITAL ASSETS	1,087,084	18,637	163,751	(40,566)	901,403
605	LIGHTHOUSE MAINTENANCE TRUST	2,088	9	-	-	2,098
607	EDDON BOATYARD TRUST	181,664	150,043	331,707	-	-
608	FHS TRAFFIC MITIGATION TRUST	838,922	37	830,000	-	8,959
631	MUNICIPAL COURT	7,457	78,621	78,621	(7,457)	-
		\$ 13,072,301	\$ 14,904,516	\$ 13,927,820	\$ (2,203,596)	\$ 11,845,399

**COMPOSITION OF CASH AND INVESTMENTS
AS OF MARCH 31, 2009**

	MATURITY	RATE	BALANCE
CASH ON HAND			\$ 1,300
CASH IN BANK			300,762
LOCAL GOVERNMENT INVESTMENT POOL		2.3892%	10,324,992
			<u>\$ 10,627,054</u>

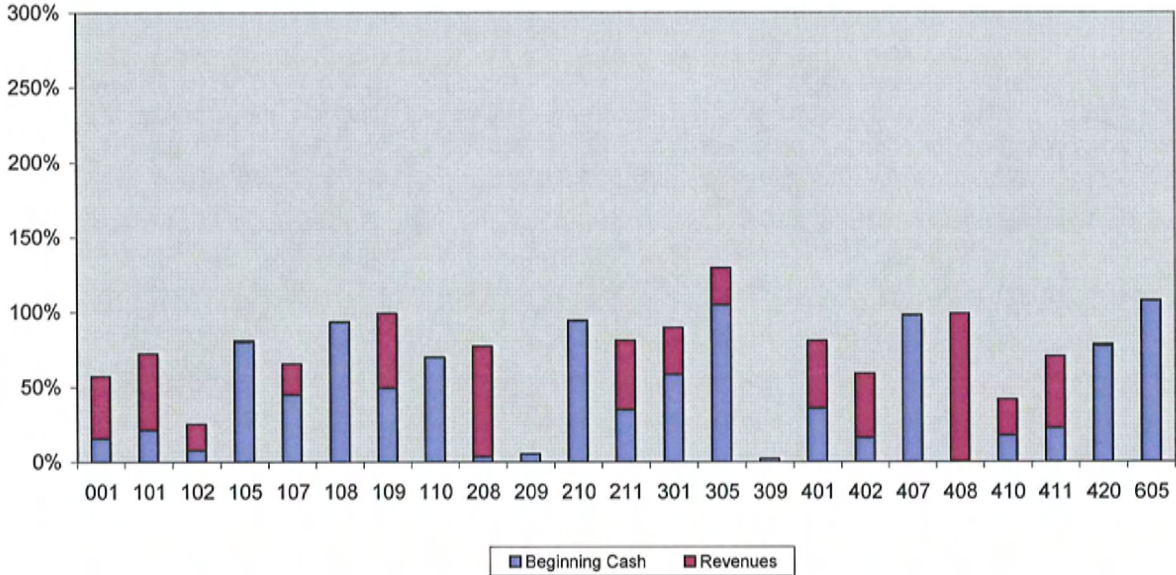
Ending Cash Balances by Fund



**CITY OF GIG HARBOR
YEAR-TO-DATE RESOURCE SUMMARY
AND COMPARISON TO BUDGET
AS OF JUNE 30, 2009**

FUND NO.	DESCRIPTION	ESTIMATED RESOURCES	ACTUAL Y-T-D RESOURCES	BALANCE OF ESTIMATE	PERCENTAGE (ACTUAL/EST.)
001	GENERAL GOVERNMENT	\$ 9,924,681	\$ 5,685,344	\$ 4,239,337	57%
101	STREET FUND	1,660,416	1,201,748	458,668	72%
102	STREET CAPITAL FUND	10,193,430	2,560,060	7,633,370	25%
105	DRUG INVESTIGATION FUND	93,295	75,621	17,674	81%
107	HOTEL-MOTEL FUND	423,715	277,176	146,539	65%
108	PUBLIC ART CAPITAL PROJECTS	106,697	99,858	6,839	94%
109	PARK DEVELOPMENT FUND	2,359,286	2,342,970	16,316	99%
110	CIVIC CENTER DEBT RESERVE	4,132,012	2,895,209	1,236,803	70%
208	LTGO BOND REDEMPTION	1,305,005	1,008,185	296,820	77%
209	2000 NOTE REDEMPTION	99,969	5,374	94,595	5%
210	LID NO. 99-1 GUARANTY	100,194	94,804	5,390	95%
211	UTGO BOND REDEMPTION	386,070	312,770	73,300	81%
301	PROPERTY ACQUISITION FUND	209,388	187,477	21,911	90%
305	GENERAL GOVT CAPITAL IMPR	166,224	215,162	(48,938)	129%
309	IMPACT FEE TRUST	454,553	9,241	445,312	2%
401	WATER OPERATING	1,248,843	1,009,342	239,501	81%
402	SEWER OPERATING	2,817,630	1,657,067	1,160,563	59%
407	UTILITY RESERVE	192,508	188,989	3,519	98%
408	UTILITY BOND REDEMPTION	486,577	481,366	5,211	99%
410	SEWER CAPITAL CONSTRUCTION	11,284,038	4,687,757	6,596,281	42%
411	STORM SEWER OPERATING FUND	876,692	616,734	259,958	70%
420	WATER CAPITAL ASSETS	1,409,149	1,105,721	303,428	78%
605	LIGHTHOUSE MAINTENANCE TRUST	1,946	2,098	(152)	108%
607	EDDON BOATYARD TRUST		331,707	(331,707)	
608	FHS TRAFFIC MITIGATION TRUST		838,959	(838,959)	
631	MUNICIPAL COURT		78,621	(78,621)	
		\$ 49,932,318	\$ 27,969,359	\$ 21,962,959	56%

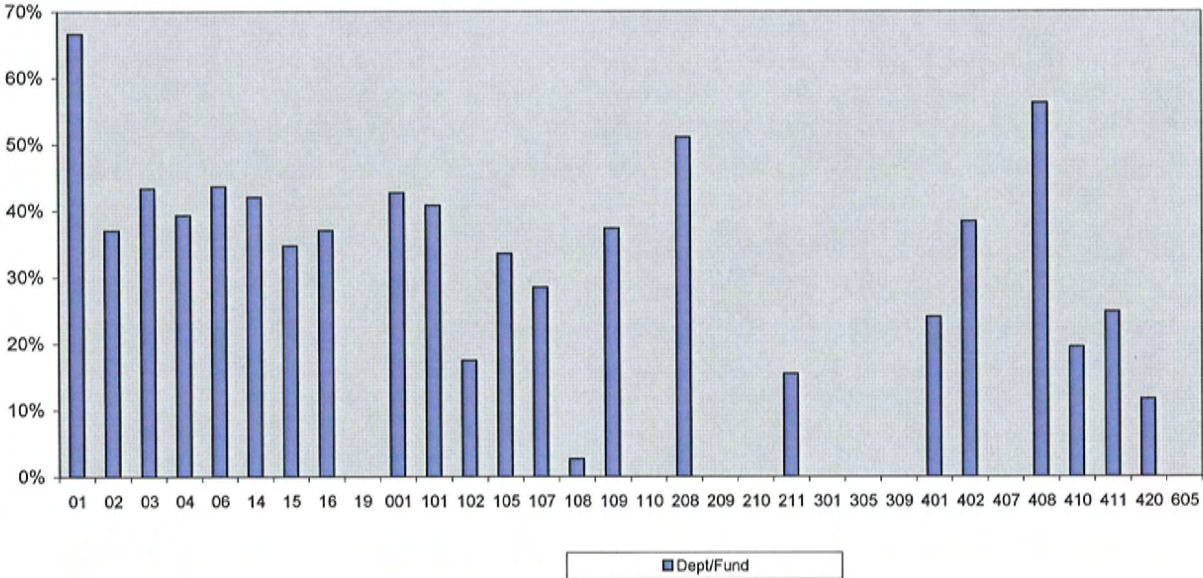
Resources as a Percentage of Annual Budget



CITY OF GIG HARBOR
 YEAR-TO-DATE EXPENDITURE SUMMARY
 AND COMPARISON TO BUDGET
 FOR PERIOD ENDING JUNE 30, 09

FUND NO.	DESCRIPTION	ESTIMATED EXPENDITURES	ACTUAL Y-T-D EXPENDITURES	BALANCE OF ESTIMATE	PERCENTAGE (ACTUAL/EST.)
001	GENERAL GOVERNMENT				
01	NON-DEPARTMENTAL	\$ 1,978,847	\$ 1,318,750	\$ 660,097	67%
02	LEGISLATIVE	30,350	11,234	19,116	37%
03	MUNICIPAL COURT	382,800	165,934	216,866	43%
04	ADMINISTRATIVE/FINANCIAL	1,298,890	510,696	788,194	39%
06	POLICE	2,725,842	1,190,225	1,535,617	44%
14	COMMUNITY DEVELOPMENT	1,591,992	670,002	921,990	42%
15	PARKS AND RECREATION	721,100	250,309	470,791	35%
16	BUILDING	319,750	118,353	201,397	37%
19	ENDING FUND BALANCE	875,110	-	875,110	
001	TOTAL GENERAL FUND	9,924,681	4,235,504	5,689,177	43%
101	STREET FUND	1,660,416	677,496	982,920	41%
102	STREET CAPITAL FUND	10,193,430	1,780,170	8,413,260	17%
105	DRUG INVESTIGATION FUND	93,295	31,310	61,985	34%
107	HOTEL-MOTEL FUND	423,715	120,589	303,126	28%
108	PUBLIC ART CAPITAL PROJECTS	106,697	2,830	103,867	3%
109	PARK DEVELOPMENT FUND	2,359,286	881,545	1,477,741	37%
110	CIVIC CENTER DEBT RESERVE	4,132,012	-	4,132,012	
208	LTGO BOND REDEMPTION	1,305,005	666,078	638,927	51%
209	2000 NOTE REDEMPTION	99,969	-	99,969	
210	LID NO. 99-1 GUARANTY	100,194	-	100,194	
211	UTGO BOND REDEMPTION	386,070	59,674	326,396	15%
301	PROPERTY ACQUISITION FUND	209,388	-	209,388	
305	GENERAL GOVT CAPITAL IMPR	166,224	-	166,224	
309	IMPACT FEE TRUST	454,553	-	454,553	
401	WATER OPERATING	1,248,843	299,865	948,978	24%
402	SEWER OPERATING	2,817,630	1,080,944	1,736,686	38%
407	UTILITY RESERVE	192,508	-	192,508	
408	UTILITY BOND REDEMPTION	486,577	273,520	213,057	56%
410	SEWER CAPITAL CONSTRUCTION	11,284,038	2,197,172	9,086,866	19%
411	STORM SEWER OPERATING FUND	876,692	217,043	659,649	25%
420	WATER CAPITAL ASSETS	1,409,149	163,751	1,245,398	12%
605	LIGHTHOUSE MAINTENANCE TRUST	1,946	-	1,946	
607	EDDON BOATYARD TRUST	-	331,707	(331,707)	
608	FHS TRAFFIC MITIGATION TRUST	-	830,000	(830,000)	
631	MUNICIPAL COURT	-	78,621	(78,621)	
		\$ 49,932,318	\$ 13,927,820	\$ 36,004,498	28%

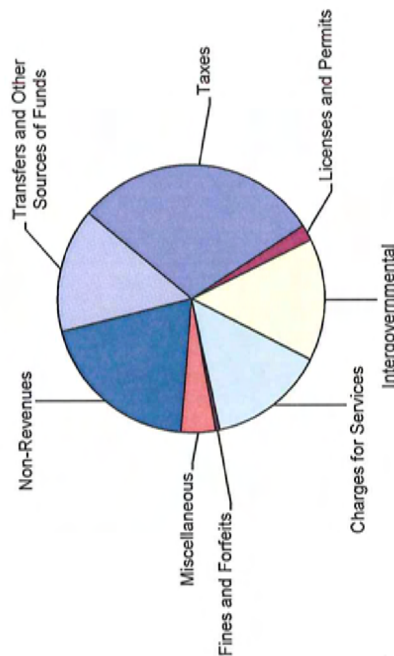
Expenditures as a Percentage of Annual Budget



CITY OF GIG HARBOR
 YEAR-TO-DATE REVENUE SUMMARY
 BY TYPE
 FOR PERIOD ENDING June 30, 2009

TYPE OF REVENUE	AMOUNT
Taxes	\$ 4,429,653
Licenses and Permits	284,586
Intergovernmental	2,207,400
Charges for Services	2,109,197
Fines and Forfeits	75,632
Miscellaneous	623,180
Non-Revenues	2,935,978
Transfers and Other Sources of Funds	2,238,890
Total Revenues	14,904,516
Beginning Cash Balance	13,064,843
Total Resources	\$ 27,969,359

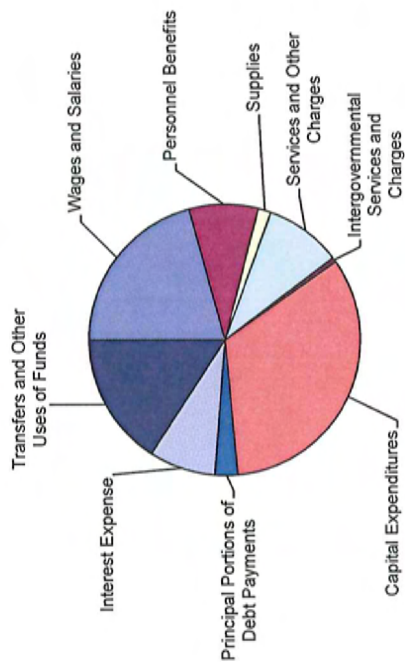
Revenues by Type - All Funds



CITY OF GIG HARBOR
 YEAR-TO-DATE EXPENDITURE SUMMARY
 BY TYPE
 FOR PERIOD ENDING June 30, 2009

TYPE OF EXPENDITURE	AMOUNT
Wages and Salaries	\$ 2,692,412
Personnel Benefits	1,148,322
Supplies	213,192
Services and Other Charges	1,276,038
Intergovernmental Services and Charges	80,378
Capital Expenditures	4,635,878
Principal Portions of Debt Payments	377,130
Interest Expense	1,102,142
Transfers and Other Uses of Funds	2,202,327
Total Expenditures	13,927,820
Ending Cash Balance	11,845,399
Total Uses	\$ 25,773,219

Expenditures by Type - All Funds



CITY OF GIG HARBOR
STATEMENT OF FINANCIAL POSITION
BY FUND TYPE
AS OF JUNE 30, 2009

	GENERAL GOVERNMENT	SPECIAL REVENUE	DEBT SERVICE	TOTAL GOVERNMENTAL	PROPRIETARY	TOTAL ALL FUND TYPES
ASSETS						
CASH	\$ 60,542	\$ 368,130	\$ 45,428	\$ 474,100	\$ 300,977	\$ 775,077
INVESTMENTS	864,315	5,252,695	649,954	6,766,964	4,303,358	11,070,322
RECEIVABLES	1,239,226	1,230,327	11,661	2,481,214	625,520	3,106,734
FIXED ASSETS	-	-	-	-	18,328,188	18,328,188
OTHER	-	-	-	-	-	-
TOTAL ASSETS	2,164,082	6,851,152	707,042	9,722,277	23,558,043	33,280,321
LIABILITIES						
CURRENT	(7,421)	136,822	-	129,401	359,481	488,882
LONG TERM	11,361	1,177,297	9,198	1,197,856	3,560,059	4,757,915
TOTAL LIABILITIES	3,940	1,314,119	9,198	1,327,257	3,919,540	5,246,798
FUND BALANCE:						
BEGINNING OF YEAR	2,261,126	(342,540)	281,924	2,200,510	18,478,442	20,678,952
Y-T-D REVENUES	4,134,520	4,235,966	1,141,672	9,512,158	5,392,358	14,904,516
Y-T-D EXPENDITURE	(4,235,504)	(4,734,268)	(725,752)	(9,695,524)	(4,232,297)	(13,927,820)
ENDING FUND BALANCE	2,160,142	(840,842)	697,844	2,017,145	19,638,503	21,655,648
TOTAL LIAB. & FUND BAL \$	2,164,082 \$	473,277 \$	707,042 \$	3,344,402 \$	23,558,043 \$	26,902,445 \$

CITY OF GIG HARBOR
 STATEMENT OF FINANCIAL POSITION
 AS OF JUNE 30, 2009

		SPECIAL REVENUE FUNDS							
		101	102	105	107	108	109	110	
GENERAL GOVERNMENT		STREET	ST CAP	DRUG INVESTIGATION	HOTEL - MOTEL	PUBLIC ART PROJECTS	PARK DVLP FUND	CIVIC CTR DEBT RSRV	
ASSETS									
CASH	\$ 60,542	\$ 24,858	\$ 32,750	\$ 3,807	\$ 9,642	\$ 6,339	\$ 74,081	\$ 189,137	
INVESTMENTS	864,315	355,653	468,565	40,157	137,947	90,689	1,059,910	2,706,072	
RECEIVABLES	1,239,226	49,345	-	-	30,705	-	110,179	1,040,098	
FIXED ASSETS	-	-	-	-	-	-	-	-	
OTHER	-	-	-	-	-	-	-	-	
TOTAL ASSETS	2,164,082	429,855	501,315	43,964	178,294	97,027	1,244,170	3,935,307	
LIABILITIES									
CURRENT	(7,421)	3,049	63,888	-	-	-	69,891	-	
LONG TERM	11,361	33,463	-	-	-	-	1,143,834	-	
TOTAL LIABILITIES	3,940	36,512	63,888	-	-	-	1,213,724	-	
FUND BALANCE:									
BEGINNING OF YEAR	2,261,126	224,511	446,713	74,360	212,014	99,409	(2,349,875)	3,922,200	
Y-T-D REVENUES	4,134,520	846,328	1,770,884	914	86,869	449	1,181,670	13,107	
Y-T-D EXPENDITURE	(4,235,504)	(677,496)	(1,780,170)	(31,310)	(120,589)	(2,830)	(881,545)	-	
ENDING FUND BALANCE	2,160,142	393,343	437,427	43,964	178,294	97,027	(2,049,750)	3,935,307	
TOTAL LIAB. & FUND BAL	2,164,082	429,855	501,315	43,964	178,294	97,027	(2,080,196)	3,935,307	

CITY OF GIG HARBOR
STATEMENT OF FINANCIAL POSITION
AS OF JUNE 30, 2009

	SPECIAL REVENUE FUNDS							TOTAL SPECIAL REVENUE
	301	305	309	605	607	608	631	
	PROPERTY ACQUISITION	GEN GOVT CAPITAL	IMP TRUST FUND	LIGHTHOUSE MAINT	EDDON BOATYARD	FHS TRFC MITIGATION	MUNICIPAL COURT	
ASSETS								
CASH	\$ 12,247	\$ 14,056	\$ 492	\$ 137	\$ -	\$ 586	\$ -	\$ 368,130
INVESTMENTS	175,229	201,106	7,033	1,961	-	8,373	-	5,252,695
RECEIVABLES	-	-	-	-	-	-	-	1,230,327
FIXED ASSETS	-	-	-	-	-	-	-	-
OTHER	-	-	-	-	-	-	-	-
TOTAL ASSETS	187,477	215,162	7,525	2,098	-	8,959	-	6,851,152
LIABILITIES								
CURRENT	-	-	(5)	-	-	-	-	136,822
LONG TERM	-	-	-	-	-	-	-	1,177,297
TOTAL LIABILITIES	-	-	(5)	-	-	-	-	1,314,119
FUND BALANCE:								
BEGINNING OF YEAR	122,045	174,308	6,781	2,088	181,664	(3,458,757)	-	(342,540)
Y-T-D REVENUES	65,432	40,853	749	9	150,043	37	78,621	4,235,966
Y-T-D EXPENDITURE	-	-	-	-	(331,707)	(830,000)	(78,621)	(4,734,268)
ENDING FUND BALANCE	187,477	215,162	7,530	2,098	-	(4,288,720)	-	(840,842)
TOTAL LIAB. & FUND BAL	\$ 187,477	\$ 215,162	\$ 7,525	\$ 2,098	\$ -	\$ (4,297,679)	\$ -	\$ (779,852)

CITY OF GIG HARBOR
STATEMENT OF FINANCIAL POSITION
AS OF JUNE 30, 2009

	208	209	210	211	TOTAL
	LTGO BOND	2000 NOTE	LID 99-1	UTGO BOND	TOTAL
	REDEMPTION *****	REDEMPTION*****	GUARANTY	REDEMPTION*****	DEBT
					SERVICE
ASSETS					
CASH	\$ 22,349	\$ 351	\$ 6,193	\$ 16,534	\$ 45,428
INVESTMENTS	319,758	5,023	88,611	236,563	649,954
RECEIVABLES	-	-	-	11,661	11,661
FIXED ASSETS	-	-	-	-	-
OTHER	-	-	-	-	-
TOTAL ASSETS	342,107	5,374	94,804	264,758	707,042
LIABILITIES					
CURRENT	-	-	-	-	-
LONG TERM	-	-	-	9,198	9,198
TOTAL LIABILITIES	-	-	-	9,198	9,198
FUND BALANCE:					
BEGINNING OF YEAR	45,803	5,350	94,375	136,396	281,924
Y-T-D REVENUES	962,382	24	429	178,837	1,141,672
Y-T-D EXPENDITURE	(666,078)	-	-	(59,674)	(725,752)
ENDING FUND BALANCE	342,107	5,374	94,804	255,560	697,844
TOTAL LIAB. & FUND BAL \$	342,107	5,374	94,804	264,758	707,042

CITY OF GIG HARBOR
STATEMENT OF FINANCIAL POSITION
AS OF JUNE 30, 2009

	PROPRIETARY							TOTAL PROPRIETARY
	401	402	407	408	410	411	420	
	WATER OPERATING	SEWER OPERATING	UTILITY RESERVE	UTILITY BOND REDEMPTION	SEWER CAP. CONST.	STORM SEWER OPERATING	WATER CAP. ASSETS	
ASSETS								
CASH	\$ 33,757	\$ 27,002	\$ 12,346	\$ 13,578	\$ 133,172	\$ 22,236	\$ 58,887	\$ 300,977
INVESTMENTS	481,542	384,898	176,642	194,268	1,905,348	318,143	842,517	4,303,358
RECEIVABLES	141,800	349,048	-	-	-	134,672	-	625,520
FIXED ASSETS	3,558,006	9,355,043	-	-	4,377,266	526,628	511,245	18,328,188
OTHER	-	-	-	-	-	-	-	-
TOTAL ASSETS	4,215,105	10,115,991	188,989	207,846	6,415,785	1,001,679	1,412,648	23,558,043
LIABILITIES								
CURRENT	(126,301)	-	-	477,152	4,933	2	3,695	359,481
LONG TERM	51,939	63,082	-	3,397,750	-	47,289	-	3,560,059
TOTAL LIABILITIES	(74,362)	63,082	-	3,874,902	4,933	47,291	3,695	3,919,540
FUND BALANCE:								
BEGINNING OF YEAR	4,025,474	9,927,805	188,133	(3,874,166)	5,905,640	751,489	1,554,068	18,478,442
Y-T-D REVENUES	563,859	1,206,049	856	480,631	2,702,385	419,942	18,637	5,392,358
Y-T-D EXPENDITURE	(299,865)	(1,080,944)	-	(273,520)	(2,197,172)	(217,043)	(163,751)	(4,232,297)
ENDING FUND BALANCE	4,289,467	10,052,910	188,989	(3,667,056)	6,410,853	954,387	1,408,953	19,638,503
TOTAL LIAB. & FUND BAL \$	4,215,105 \$	10,115,991 \$	188,989 \$	207,846 \$	6,415,785 \$	1,001,679 \$	1,412,648 \$	23,558,043

CITY OF GIG HARBOR



**2009 / 2ND QUARTER
PERFORMANCE AND WORKLOAD
MEASURES**

ADMINISTRATION

Administration

Performance Measures

	2008 Actual	2009 Goal
Percent of Citizens Agreeing with Survey Questions:		
Pleased with Overall Direction of the City	58%	N/A*
Receive Good Value for Taxes Paid	61%	N/A*
The City Listens to its Citizens	43%	N/A*
City has a Strong Sense of Community	84%	N/A*

* No survey to be conducted in 2009.

Workload Measures

	2006 Actual	2007 Actual	2008 Actual	2009 Estimate
Population	6,765	6,780	6,900	7,000
City-wide Assessed Property Valuation	1,167,739,135	1,448,681,937	1,699,571,402	1,955,970,466
Total Capital Project Budget	2,200,000	11,000,000	25,630,000	21,800,000

City Clerk Office

Performance Measures

	Public Records Requests (respond within 5 days)	Ordinance /Resolutions (within 4 working days)	Council Packets on time	Minutes done within 6 days
2008 Actual	99.9%	95%	80%	79%
2009 Estimate	100%	85%	85%	75%

Workload Measures

	Request for Public Records	Council Packets # of Pages	Ordinances & Resolutions	Minutes - # of pages	Claim for Damages/ Lawsuits
2008 2 nd Quarter	39	1,929	18	66	3
2009 2 nd Quarter	39	1,356	17	62	10
2008 Actual	117	4,817	52	171	32
2009 Estimate	200	5,000	100	200	45

POLICE

Performance Measures

	2008 2 nd Qtr	2009 2 nd Qtr	2008 Actual	2009 Estimate
% of citizens who feel safe in general according to survey	n/a	n/a	n/a	80%
UCR Violent crimes per 1000 population*	n/a	n/a	1.9	1.5
UCR Property crimes per 1000 population*	n/a	n/a	50.09	45
Average police emergency response time in minutes	6.84	7.3	6.67	6.8

Workload Measures

	2008 2 nd Qtr	2009 2 nd Qtr	2008 Actual	2009 Estimate
Number of dispatched calls for service	1,448	1,374	8,206	8,500
Number of office walk in requests for service	541	692	2,311	2,100
Number of cases assigned for follow-up	40	59	242	220
Number of police reports written	445	446	2,088	2,500

* UCR stats are published yearly

MUNICIPAL COURT

Performance Measures

	2008 2 nd Quarter	2009 2 nd Quarter	2008 Actual	2009 Estimate
Infraction Filings	286	401	1,374	1,608
Infraction Hearings	231	295	822	1,296
Criminal Filings	61	93	574	580
Criminal Hearings	503	471	3,457	3,552

Workload Measures

	2008 2 nd Quarter	2009 2 nd Quarter	2008 Actual	2009 Estimate
Collection Assignments	194(\$148,276)	145(\$95,497)	558(\$530,892)	684(\$477,028)
Collection Recovery	\$13,782	\$20,750	\$54,410	\$60,000
% PC Compliance	100%	100%	100%	100%
% Speedy Compliance	100%	100%	100%	100%

- The Court does not set gross revenue or case filing goals.
- Judge Dunn does not influence nor comment on revenue or case filings.

BUILDING AND FIRE SAFETY

Performance Measures

	2008 2 nd Quarter	2009 2 nd Quarter	2008 Actual	2009 Estimate
Triage new building permit applications within 1 week of receipt of complete application	Not submitted	Not submitted	90%	95%
Provide first review or plan approval letter within 28 days of receipt of complete application	Not submitted	Not submitted	80%	95%
Provide second review or approval letter within 14 days of receipt of re-submittals	Not submitted	Not submitted	90%	99%
Provide inspections within 24 hours of request	Not submitted	Not submitted	98%	99%
Attend scheduled pre-application conferences	Not submitted	Not submitted	100%	100%
Provide requested PL/ENG comments within 1 week of request	Not submitted	Not submitted	95%	99%

Workload Measures

	2008 2 nd Quarter	2009 2 nd Quarter	2008 Actual	2009 Estimate
Inspections per day per inspector/asst. BO/FM (max)	Not submitted	Not submitted	4	5
Major projects assigned per inspector/asst. BO/FM (max)	Not submitted	Not submitted	10	6
Minor projects assigned per inspector/asst. BO/FM (max)	Not submitted	Not submitted	35	10
Plan review letters completed per week	Not submitted	Not submitted	8	2
Special projects per staff member (max at one time)	Not submitted	Not submitted	2	1
Professional development activities (per month min)	Not submitted	Not submitted	.5	.25

PLANNING DEPARTMENT

Performance Measures

	2008 2 nd Qtr	2009 2 nd Qtr	2008 Actual	2009 Estimate
% of land use cases processed under 120 days	100%	100%	97%	98%
% of preliminary plats processed under 90 days	0%*	None Approved	50%	50%
% of short plats processed under 30 days	None Approved	None Approved	50%	100%

* Reflects one case processed in 92 days

Workload Measures

	2008 2 nd Qtr	2009 2 nd Qtr	2008 Actual	2009 Estimate
Number of land use cases	150	102	376	n/a
Amount of fees collected	\$51,181	\$93,323	\$198,764	\$150,000

PUBLIC WORKS

Parks

Performance Measures

	2008 Actual	2009 Estimate	2008 2 nd Qtr Actual	2009 2 nd Qtr Actual
Landscaping Maintained (sq ft/FTE)	420,000	702,000	Not submitted	Not submitted
Parks cleaned per day	100%	100%	Not submitted	Not submitted
Complaints addressed within 24 hrs	100%	100%	Not submitted	Not submitted

Workload Measures

	2008 Actual	2009 Estimate	2008 2 nd Qtr Actual	2009 2 nd Qtr Actual
Acres of park space & streetscapes	71.7	71.7	Not submitted	Not submitted
Community event sponsored hours	1,729	1,600	Not submitted	Not submitted
Acres of park land (per FTE)	12.56	12.56	Not submitted	Not submitted
Park related phone calls	77	80	Not submitted	Not submitted

Streets

Performance Measures

	2008 Actual	2009 Estimate	2008 2 nd Qtr Actual	2009 2 nd Qtr Actual
Streets swept (miles/FTE)	250	700	Not submitted	Not submitted
Streets maintain (lane miles/FTE)	5.6	5.6	Not submitted	Not submitted

Workload Measures

	2008 Actual	2009 Estimate	2008 2 nd Qtr Actual	2009 2 nd Qtr Actual
Streetlights	450	450	Not submitted	Not submitted
Lane miles maintained	76	80	Not submitted	Not submitted
Street signs repaired	223	466	Not submitted	Not submitted
Pavement markings (feet)	315,000	315,000	Not submitted	Not submitted
Sidewalks maintained (feet)	111,860	111,800	Not submitted	Not submitted
Street-related phone calls	89	90	Not submitted	Not submitted

Water

Performance Measures

	2008 Actual	2009 Estimate	2008 2nd Qtr Actual	2009 2nd Qtr Actual
Meters read per FTE	2,890	2,890	Not submitted	Not submitted
After hrs emer. responses w/in 45 min.	100%	90%	Not submitted	Not submitted

Workload Measures

	2008 Actual	2009 Estimate	2008 2nd Qtr Actual	2009 2nd Qtr Actual
Gallons of storage capacity	4,550,000	4,550,000	Not submitted	Not submitted
Number of gallons pumped per year	304mg	300mg	Not submitted	Not submitted
Number of water related calls	111	100	Not submitted	Not submitted

Stormwater

Performance Measures

	2008 Actual	2009 Estimate	2008 2nd Qtr Actual	2009 2nd Qtr Actual
Percent of storm ponds brushed	100%	100%	Not submitted	Not submitted
Progress toward NSDES Phase II comp.	75%	100%	Not submitted	Not submitted

Workload Measures

	2008 Actual	2009 Estimate	2008 2nd Qtr Actual	2009 2nd Qtr Actual
Catch basins cleaned	650	650	Not submitted	Not submitted
Catch basins installed	N/A	N/A	Not submitted	Not submitted
Catch basins maintained	1,500	1,530	Not submitted	Not submitted
Storm ponds maintained	12	12	Not submitted	Not submitted

Wastewater

Performance Measures

	2008 Actual	2009 Estimate	2008 2nd Qtr Actual	2009 2nd Qtr Actual
Dewatering w/ thickening process	3.00mg	3.25mg	Not submitted	Not submitted
Plant performance award	Yes	Yes	Not submitted	Not submitted

* Due to record high influent flow on January 7, 2009 of 2.128mg, we were unable to meet CBOD and TSS removal percentages for the day (as specified by our permit). This may or may not affect the 2009 Plant Performance award.

Workload Measures

	2008 Actual	2009 Estimate	2008 2nd Qtr Actual	2009 2nd Qtr Actual
Raw sewage treated	293mg	310mg	Not submitted	Not submitted
Wet Tons of bio-solids produced	1,057	1,184	Not submitted	Not submitted
Work orders for lift station/plant maintenance⁴	426/534	550/540	Not submitted	Not submitted
Lift station checks	884	884	Not submitted	Not submitted

Engineering

Performance Measures

	2008 Actual	2009 Estimate	2008 2nd Qtr Actual	2009 2nd Qtr Actual
Percent of project milestones met with the quarter (new measure for 2009)	N/A	85%	Not submitted	Not submitted
Ratio of PW variances approved w/in 6 weeks of application	100%	67%	Not submitted	Not submitted

Workload Measures

	2008 Actual	2009 Estimate	2008 2nd Qtr Actual	2009 2nd Qtr Actual
Number of capital projects construction surveyed by staff	4	4	Not submitted	Not submitted
Traffic modeling completed by staff	0	2	Not submitted	Not submitted

FINANCE

Finance

Performance Measures

	2008 2 nd Quarter	2009 2 nd Quarter	2008 Actual	2009 Estimate
Maintain city bond rating (Moody's A2)	A2	A2	A2	A2
Unqualified audit financial statement opinion	Yes	Yes	Yes	Yes

Workload Measures

	2008 2 nd Quarter	2009 2 nd Quarter	2008 Actual	2009 Estimate
Number of invoices processed	2,478	2,033	9,775	8,000
Number of transactions receipted	4,391	3,809	17,027	17,000
Number of utility bills processed	3,735	3,841	13,891	14,000
Number of payroll checks processed	657	600	2,894	2,888
Number of business licenses processed	170	164	581	625

Information Technology

Performance Measures

	2007 Actual	2008 Actual	2009 Estimate
Average Cost of IT per Citizen *	26	31	29
Average Cost of IT per Employee *	1667	1880	1667
Average Number of Employees per IT staff	54	60	59
Average Number of Workstations per IT staff	58	72	71
Ratio of Employees to printers	2.9	3.1	3.0
Network uptime	99%	99%	100%

Information Technology numbers reported based on fiscal year numbers. Quarterly numbers are not available.

* In Dollars.

Workload Measures

	2007 Actual	2008 Actual	2009 Estimate
Number of IT staff	2	2	2
Number of servers maintained	11	12	12
Number of workstations	118	145	144
Number of printers	35	77	75
Number of remote sites	3	3	3
Average monthly help desk calls	225	310	310

Information Technology numbers reported based on fiscal year numbers. Quarterly numbers are not available.

MARKETING

Performance Measures

	2008 2 nd Qtr Actual	2009 2 nd Qtr Actual	2008 Actual	2009 Estimate
Occupancy Percentages	Not submitted	Not submitted	Not submitted	60%
% Change in Visitor Info Requests	Not submitted	Not submitted	Not submitted	25%
Editorial Medial Value *	Not submitted	Not submitted	Not submitted	\$300,000

Workload Measures

	2008 2 nd Qtr Actual	2009 2 nd Qtr Actual	2008 Actual	2009 Estimate
Promotion and Advertising Budget	Not submitted	Not submitted	Not submitted	\$26,300
Number of Filled Requests	Not submitted	Not submitted	Not submitted	15,000
Travel writers/media hosted in Gig Harbor**	Not submitted	Not submitted	Not submitted	3



Subject: Resolution – Surplus Equipment

Proposed Council Action:

Adopt the attached resolution surplusung this city-owned equipment.

Dept. Origin: Finance

Prepared by: Kay Johnson

For Agenda of: August 10, 2009

Exhibits:

Initial & Date

Concurred by Mayor:

CCH 7/27/09

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

SP 7/09

Approved by Department Head:

[Signature]

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

INFORMATION / BACKGROUND

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

FISCAL CONSIDERATION

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

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

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

RESOLUTION NO. _____

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

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

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

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

To declare as surplus:

EQUIPMENT		Quantity	SERIAL / ASSET NUMBER	MODEL INFO.
1	Computer Monitors	5	M154J1897155 MX-04N736-47605-2A0-B6HR Tw-09e2249-46635-31L-0HNL TW-09E249-46635-32a-016I	GATEWAY EV700 Dell Model 19 inch Dell UltraSharp Dell Ultrasharp
2	Computer Printers	4	U61443k5j132041 U60066M3J71678 9 MX92A1T24G	HL-5240 Brother Laser Brother HL-1440 HP Deskjet 882c
3	Computer Towers	5	0013084902 U5k3q 5R3T441	Gateway Dell Dimension Dell GX270 Optiplex

5	Speakers	3	CN-7E840-69800-32L-6483 Pair of Small Computer Speakers Pair of Small Computer Speakers	None ALTEC Lansing ALTEC Lansing
6	Keyboards	6	Dell	
7	Dead UPS's	8	Belkin\Tripp-lite	expired
8	Dead phones	7	RCA'S	From Bogue Ctr.

PASSED ON THIS 10th day of August, 2009.

APPROVED:

MAYOR CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

MOLLY M. TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 07/13/09
PASSED BY THE CITY COUNCIL:
RESOLUTION NO.



Subject: 2009 Mandatory Furlough Policy

Proposed Council Action:

Adopt a resolution approving a 2009 Mandatory Furlough Policy

Dept. Origin: Administration

Prepared by: Rob Karlinsey

For Agenda of: August 10, 2009

Exhibits: Resolution & Policy

Initial & Date

Concurred by Mayor: CLK 7/27/09

Approved by City Administrator: RJK 7/22/09

Approved as to form by City Atty: by e-mail 7/27/09

Approved by Finance Director: _____

Approved by Department Head: RJK

Expenditure	Amount	Appropriation
Required \$0	Budgeted N/A	Required N/A

INFORMATION / BACKGROUND

The City' General Fund has experienced lower-than-anticipated revenues for the first five months of 2009. While significant expenditure cuts have been made, more are needed. A mandatory furlough of eight days between now and the end of the year will save the City additional money. Sworn police officers and Wastewater Treatment Plant employees are not included in the proposed furloughs for 2009.

The attached resolution establishes the policy for mandatory furloughs proposed for 2009. The proposed 2009 furlough dates are as follows:

Furlough Dates

- September 4
- October 12
- November 25
- December 24
- December 28
- December 29
- December 30
- December 31

It is further proposed that the Civic Center be closed for all of the above dates. Notification will go out to the public in advance.

While the attached policy addresses multiple issues that will result from the furloughs, of note in particular are two issues: Health Insurance Benefits and Leave Accruals. The attached policy states that neither health insurance nor leave accruals will be affected (i.e., not prorated) by furloughs, unless the employee is in unpaid status for more than 30 consecutive days.

In addition, the attached mandatory furlough policy allows employees who take voluntary furloughs before September 1 to receive credit against the mandatory furloughs. Furthermore, the policy states that employees notified of layoff are not subject to the furloughs.

The policy will go into effect on September 1, 2009 and will expire on December 31, 2009.

FISCAL CONSIDERATION

The finance department estimates that the City will save approximately \$116,000 by implementing these eight furlough days. This savings will go towards the \$1.9 million budget gap projected for 2010.

BOARD OR COMMITTEE RECOMMENDATION

The proposed eight-day schedule, including impacts, was shown and discussed at the July 13, 2009 City Council meeting.

RECOMMENDATION / MOTION

Move to: Adopt a resolution approving a 2009 Mandatory Furlough Policy

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF GIG HARBOR,
WASHINGTON, ACKNOWLEDGING AND APPROVING
CERTAIN POLICIES REGARDING MANDATORY
EMPLOYEE FURLONGHS FOR 2009 AS CLARIFICATION
OF THE CITY'S ANNUAL SALARY ORDINANCE.**

WHEREAS, due both to the economy and to the limited revenue sources available to local governments in the state of Washington, the City of Gig Harbor is experiencing budget shortfalls and limitations; and

WHEREAS, the Mayor and City Administrator have implemented layoffs in accordance with the 2009 adopted budget to help address that budget shortfall; and

WHEREAS, the City Council deems it appropriate to create, as an interpretation of the annual salary ordinance, a policy for mandatory furloughs or leaves of absence by City employees in order to potentially avoid some but perhaps not all layoffs; Now, therefore,

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

Section 1. The attached policies shown as Exhibit A to this resolution, promulgated by the Mayor and City Administrator, are hereby approved and acknowledged by the City Council as appropriate interpretations of and supplements to the annual salary ordinance. The Mayor and City Administrator are authorized to close the Civic Center on the furlough dates listed in Exhibit A to this resolution.

Section 2. The City Council acknowledges that these policies have been adopted in order to address unanticipated economic shortfalls and as such, these furloughs will constitute budget related furloughs within the meaning of 29 C.F.R.

§541.710 and are an integral part of the City's expenditure reduction efforts within the meaning of Chapter 430, Washington Session Laws of 2009. Due to the closure of city hall and administrative functions on the mandatory leave days listed in Exhibit A, these days will not be used in the calculation of any appeal or other time period based on business days and established by city ordinance. Appeal or other time periods based on calendar days are not effected.

RESOLVED this ____ day of _____, 2009.

CITY OF GIG HARBOR

MAYOR, CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY M. TOWSLEE

FILED WITH THE CITY CLERK: 07/22/09
PASSED BY THE CITY COUNCIL:
RESOLUTION NO.

EXHIBIT A

CITY OF GIG HARBOR

2009

**MANDATORY FURLOUGH
POLICY AND PROCEDURE**

Effective: September 1, 2009

End Date: December 31, 2009

The City reserves the right to revise, supplement, clarify or rescind any policy or portion of a policy when deemed appropriate by the Mayor or City Administrator.

1.0 OVERVIEW

- 1.1 **INTENT OF POLICY** - This policy is in addition to the City of Gig Harbor Personnel Policies and serves as a general guide to the City's employment practices and procedures. This policy is not intended to repeal or conflict with the City's Voluntary Furlough Policy. In the event that there is a conflict between the City's Voluntary Furlough Policy and this policy, this policy shall govern. This policy is not intended to be a contract, express or implied, or any type of promise or guarantee of specific treatment upon which you may rely, or as a guarantee of employment for any specific duration.

Employees who are exempt from collective bargaining representation or otherwise deemed executive, managerial, or confidential by the City are considered at-will employees and may be terminated from City employment at any time with or without cause and with or without notice. All other employees' employment status shall be governed by the personal employment contract, collective bargaining agreement, civil service rules, City Personnel Policies, or other written document applicable to the individual case.

- 1.2. **SCOPE OF POLICY** - In cases where this policy conflicts with any City ordinance, Civil Service rule and regulation, the provision of a collective bargaining agreement, state or federal law, the terms of the law or agreement prevail. In all other cases, this policy applies.
- 1.3 **ASSIGNMENT OF FURLOUGH DATES** - A significant budget shortfall has been forecasted for 2009-2010. In order to address the shortfall, program and position cuts have been implemented. In order to preserve remaining services and reduce the need for reductions in force, the City may require mandated leave by all furlough-eligible City employees on the following days during the 2009 calendar year:

Furlough Dates
September 4

October 12
November 25
December 24
December 28
December 29
December 30
December 31

The Mayor and City Administrator are authorized to close the Civic Center on the above dates. The majority of furlough-eligible employees will be taking the above dates as their designated furlough day. When needed, alternate dates may be used. In the rare occasion when a department must utilize a date other than those designated above, the date selected must be clearly communicated to payroll and approved in advance and in writing by the City Administrator. It is the responsibility of each furlough-eligible employee and their supervisor to administer this policy so that all furlough-eligible employees participate fully in the program. The City Administrator, at his discretion and subject to benefit eligibility rules, may not require regular part-time employees to take all or a portion of the above furloughs.

In addition, the City Administrator may approve voluntary furloughs upon application by individual employees. The City Administrator reserves the right to approve or deny voluntary furlough requests, based on the business needs of the City (see Voluntary Furlough Policy). Up to eight voluntary furlough days taken before September 1, 2009 may be credited against the 2009 mandatory furlough days. If the credit is taken, the employee will have to use accrued vacation or comp time on furlough day(s) or work extra hours (not to exceed 40 total compensable hours for a given work week) to make up for the credited furlough day(s).

- 1.4 DEFINITIONS - The following definitions are meant to clarify the language used in this policy in reference to furlough process and eligibility.

Delayed Furlough Day – A day off without pay taken in place of a designated furlough day.

Budget Shortfall Furlough – Also referred to as “mandated leave” or “furlough day” caused by a revenue shortfall requiring budget reductions and the placement of employees in a temporary status without duties and without pay. Furloughs will temporarily be administered as follows:

1. Notification of furlough is to be processed in writing at least 30 days in advance when possible; shorter notice may be provided in the event of an emergency or other unforeseen financial or scheduling complication which could impair the operations of the city.
2. During an emergency budget furlough day, furloughed employees remain City employees.

3. Outside employment for furloughed employees remains subject to the City's policies, procedures, collective bargaining agreements, civil service rules and regulations, and other established guidelines.
4. Furloughed employees may not volunteer to do what the City otherwise pays employees to do.

FLSA-Exempt Employee – An individual designated by the City Administrator as being employed in a bona fide executive, administrative, or professional capacity, as defined by the Fair Labor Standards Act (FLSA) or the Washington Minimum Wage Act (WMWA), and who is therefore exempt from the overtime pay and minimum wage requirements of the FLSA or the WMWA.

Furlough Day – Any day in which a furloughed employee is placed in a temporary status without duties and without pay due to a financial need to reduce expenditures caused by declining revenues.

Furlough-Eligible / Must Report Person – Any position that has been identified as furlough eligible, however, due to job necessity, the employee is required to work on a designated furlough day. In this situation, the employee must take a replacement furlough day at an agreed upon later date.

Furlough-Ineligible Positions – Positions with assigned duties which must, in the judgment of the City Administrator, be performed on one or more of the scheduled furlough day(s). These positions may change throughout the furlough process, and these positions may be required to take some unpaid furlough days (or hours) and not others. Employees working in a furlough ineligible position are not required to make up furlough days.

Furloughed Employee – Any employee who is placed in a temporary status without duties and without pay due to budget shortfalls requiring expenditure reductions.

Hourly – An employee who is entitled to be paid for all actual hours that he/she is required or permitted to work at either the straight time regular hourly rate for hours worked up to and including forty (40) in the workweek or overtime hourly rate at one and one-half times the hourly employee's regular rate of pay for each hour worked in excess of forty (40) in the workweek.

Voluntary Furlough -- A furlough day or days, initiated at the request of an employee in which the employee is in a temporary status without duties and without pay due to a financial need to reduce expenditures caused by declining revenues.

Workweek – A fixed and regularly recurring period of 168 hours during seven consecutive twenty-four hour periods.

2.0 CLASSIFICATION

2.1 Employment Contract Workers – Not applicable.

2.2 FLSA-Exempt Employees – All employees, including FLSA-exempt employees, who are identified as furlough-eligible, will be strictly prohibited from working on furlough days. During weeks in which a furlough occurs, FLSA-exempt employees will be converted to hourly status. FLSA-exempt employees will be required to track their hours consistent with the standard hourly tracking practices used in their home department. During the period when FLSA-exempt employees are converted to hourly, they must subscribe to standard working hours and all other rules (e.g., rest periods and meal periods) which are required in their home department. For example, partial day absences due to medical appointments must be requested in advance and deducted from the employee's sick leave accrual balance.

During weeks in which FLSA-exempt employees are converted to an hourly status, care must be taken to ensure that hourly rules are observed. FLSA-exempt employees converted to an hourly status in a week in which a furlough occurs are specifically directed not to work hours in excess of a standard schedule without the specific authorization of their supervisor or manager. FLSA-exempt employees must observe the agreed upon starting and ending times to each work day. Such work includes being physically present in the office, working at home, working online, working on the telephone, "working lunches", working on a blackberry or working on a cell phone. All work in service of the City for which an individual does not receive compensation through the approval process, including overtime, is prohibited. Attendance at off-hour meetings such as public hearings is compensable and must be recorded during furlough-affected weeks. During weeks in which FLSA-exempt employees are converted to hourly status, they may flex their work schedules, on an hour-for-hour basis within the work week, to make up for time worked during off-hours (evening meetings, for example).

FLSA-exempt employees who are otherwise furlough-eligible but who submit an "Intent to Retire" form will not be converted to an hourly status during weeks in which a furlough occurs.

2.3 Interns— Not applicable—the City will have no paid interns during the duration of this policy.

2.4 Regular Part Time / Hourly– Regular part-time employees working 20 hours or more per week are not subject to the furlough policy. Unless business needs dictate otherwise, regular part-time employees are discouraged from working days that city buildings are closed due to furloughs, and they may be required to adjust their work schedules accordingly. Regular part-time and hourly employees will not be used to substitute for regular full-time employees who are on furlough days.

2.5 Employees Scheduled for Layoff – Employees who have been officially notified that they will be laid off on or before January 4, 2010 are not subject to 2009 furloughs.

3.0 PAY AND BENEFITS

Unless otherwise provided for in an applicable collective bargaining agreement, the following applies:

- 3.1 Adjusted Service Date: An employee's adjusted service date (for leave accrual, seniority, and other purposes) shall not be changed due to unpaid furlough days.
- 3.2 Probationary Periods: Probationary periods are generally six (6) months in length. With the institution of furloughs, probationary periods will continue to be six months. Unless an employee is on more than fifteen (15) furlough days during the probationary period, furlough days will not be considered as a reason to extend a standard probationary period.
- 3.3 Meal/Rest Periods: There will be no change in meal and rest periods due to furlough days being observed in any work week.
- 3.4 Workweek: The definition of "workweek" will consist of seven consecutive 24 hour periods or 168 consecutive hours. The Mayor has determined that an equivalent of eight 8-hour furlough days (or 64 hour) per eligible employee will be observed during 2009, reducing the days worked during the weeks under which a furlough day occurs. The Department Heads will be responsible for administering workweeks affected by the furlough program.
- 3.5 Recordkeeping Requirements: Under the FLSA, the City is required to keep records on employee time. For FLSA overtime-eligible employees, this means that records must be kept for hours worked each day and the total hours worked each workweek. Recordkeeping requirements also apply to FLSA-exempt employees who are identified as furlough-eligible because they are converted to hourly employees in a week in which a furlough day occurs. During such weeks, FLSA-exempt employees will be required to conform to all of the policies normally observed by hourly employees. Attendance at off-hour meetings, such as public hearings, are compensable and must be recorded during furlough affected weeks.
- 3.6 Overtime / Compensatory Time: Those terms and conditions describing overtime and compensatory time contained in collective bargaining agreements, City policy, ordinance, or any other recognized guideline will continue to apply. When FLSA-exempt employees are converted to an hourly status during a week when a furlough occurs, hourly terms and conditions will apply to them. For example, an FLSA-exempt employee who, due to business conditions such as an emergency call out, works more than forty (40) hours in a week while in an hourly status will earn overtime payment or compensatory time.

Compensatory time accrual for FLSA-exempt staff converted to hourly during furlough affected weeks will only be approved in rare and unusual circumstances. Managers must consult with the City Administrator prior to making such approvals.

Mandatory unpaid leave (furloughs) will not count as hours worked toward the overtime threshold.

- 3.7 Medical, Dental, Vision Benefits: Medical, dental, vision, EAP and other insurance benefits (with the exception of life and disability insurance which is calculated based on salary) will be unaffected by the furlough, except when an employee is on unpaid status for 30 consecutive days or more.
- 3.8 401(a) and 457 Retirement Plan Contributions: The City's 401(a) defined contribution retirement plan is based on earnings. Furloughs will reduce earnings and therefore reduce the City's and the employee's contribution to the 401(a) plan. Employee participation in other plans such as the 457 deferred compensation plan which ~~are~~ may be contributed as a percentage of income will also be reduced accordingly.
- 3.9 Paycheck Averaging. For employees affected by the scheduled furloughs, the City will spread the reduction in pay caused by the eight furlough days across all pay periods starting from the August 23-September 5, 2009 pay period to the December 27-January 9, 2010 pay period. If an employee subject to furloughs and paycheck averaging leaves the employment of the City for any reason before the end of the paycheck averaging, said employee shall receive any back pay due to them with their last paycheck. Employees scheduled for layoff as per section 2.5 will not be subject to paycheck averaging. Merit increases and bonuses will be calculated on the full-time salary before the adjustment for furloughs is made. Base pay for the calculation of Union or FLSA overtime shall be based on the contract rate of pay or the FLSA unadjusted rate and not on the hourly rate established through the pay check averaging process.

4.0 ALTERNATIVE WORK ARRANGEMENTS

- 4.1 Alternate Workweeks: Individuals working a compressed workweek (e.g., 9/80 or 4/10 hour workweeks) will be required to observe unpaid furlough days. The amount of unpaid furlough hours for 2009 will be equivalent to eight (8) unpaid eight hour furlough days (or 64 hours). Individuals on compressed workweeks must work collaboratively with their managers and supervisors to establish a 2009 schedule of observed, unpaid furlough days consistent with their department furlough days. When a flex day falls on a furlough day, the preferred approach when identifying an alternate day to be observed as a furlough day is to schedule the furlough day within the same week. The less preferred approach is to schedule the alternate furlough day within the same pay period. These employees will need to either take vacation or work extra hours during the same work week to compensate. Compressed work week employees whose furlough day (eight hours) is shorter than they would otherwise be required to work for that day (nine hours for example) must make up for the extra hour(s) by either taking vacation time or working extra hour(s) in the same work week as the furlough day.
- 4.2 Timekeeping: Each department is responsible for establishing methods to ensure furlough days are observed by each furlough-eligible employee.
- 4.3 Telecommuting: Not applicable.

5.0 LEAVE ADMINISTRATION:

5.1 Vacation and Leave Accruals: The accrual of vacation, sick leave, holidays, floating holidays, and other leave (jury duty, bereavement, etc.) will not be affected by the 2009 scheduled furlough days, unless the employee is in unpaid status for 30 consecutive days or more.

5.2 Vacation. Employees may not use their paid vacation benefit on a day they would not normally be paid. Furlough days are not paid. Some City employees, who would otherwise be furlough-eligible, will be allowed to use vacation on emergency budget furlough days. They include employees who intend to retire on or before April 1, 2010, employees who are scheduled for layoff on or before January 4, 2010, and furlough-ineligible employees.

5.3 Vacation Carryover. Failure to use vacation leave beyond the maximum accrual amount results in forfeiture of the vacation leave unless specific "carryover" authorization has been provided by the City Administrator. This authorization will generally be granted in instances where, due to the direct result of the furlough, vacation use was either denied or, due to the furlough, no opportunity was available to schedule or reschedule before the end of the year. It is the responsibility of employees and managers to plan their vacations and workload during the year in order to avoid maximum vacation accrual issues. Departments have the obligation to ensure that the necessary adjustments to employee schedules are made prior to the end of year.

5.4 Family Medical Leave (FMLA). Employees will continue to have 12 weeks of protected Family Medical Leave as allowed under the Family Medical Leave Act (FMLA). Employees will not have a right to be paid on any day for which they would not normally be paid. In other words, employees on FMLA are not entitled to a paid day on a furlough day. Employees on FMLA leave will have the equivalent number of protected days for each furlough day added to the end of the 12 weeks of protected FMLA leave.

Eligibility. A furlough day is considered to be a regular day off and should not be counted when calculating leave eligibility. For example, when calculating whether the employee worked 1,250 hours in the previous 12 month period under FMLA, one would not count any furlough days as earned or hours worked.

5.5 Military Leave. The Washington State Legislature changed the number of paid military leave days from 15 to 21 in 2008. Managers and supervisors will continue to grant military leaves in accordance with the law. The annual leave periods are not to exceed 21 work days during each year. Such leaves are made with pay to employees eligible for leave benefits for the purpose of taking part in active duty or military training. Employees are not eligible to be paid for military leave on days when they would not normally be paid. Unless identified as "furlough-ineligible," employees on military leave are not paid on furlough days. Persons taking military leave will continue to receive 21 paid work days per year to take part in active duty or military training. The requirements

to submit a written request for military leave to the employee's supervisor and attach copies of military documents that order the active duty will continue to be required.

- 5.6 Active Military Duty. USERRA provides that employees on a furlough or a leave of absence are to be given the same rights of employees on other types of leave. In the case of a furlough, active military employees do not have any more rights than other employees to use paid leave accruals while on leave for military service. For employees receiving supplemental military pay, furloughs will impact their regular differential pay. Employees will not receive supplemental pay for furlough days.
- 5.7 Domestic Violence Leave. Effective April 1, 2008, under Washington State law, employees who are victims or who are family members of victims of domestic violence, sexual assault or stalking may take a reasonable period of leave to receive medical treatment, attend legal proceedings or address safety concerns. The employee may elect to use sick leave, other paid time off, compensatory time or unpaid leave time. Managers and supervisors must continue to approve paid or unpaid leave time for domestic violence leave; however, they may not approve the use of paid leave time for those days for which an employee would not normally be paid. Managers and supervisors may not approve the use of paid domestic violence leave for scheduled unpaid furlough days.
- 5.8 Bereavement Leave. Employees are not eligible to be paid for bereavement leave on days when they would not normally be paid. Managers or supervisors will continue to approve bereavement leave within the limitations established. Managers or supervisors may not approve the payment of bereavement days for scheduled unpaid furlough days.
- 5.9 Jury Duty. Employees are not eligible to be paid for jury duty on days when they would not normally be paid. Employees called to jury duty during a furlough day would not be eligible to receive their regular compensation on that day but may be eligible to keep their court provided jury duty pay for that day which would otherwise be returned to the City.
- 5.10 Washington Family Care Act (WFCA). The furloughs should have no impact to WFCA leaves of absence. The WFCA provides that an employee may use paid leave accruals when caring for a qualifying family member with a serious health condition. The WFCA does not overrule a collective bargaining agreement or employer policies regarding the use of paid leaves. As a result, employees are not entitled to paid leave under the WFCA on a furlough day.
- 5.11 Pregnancy, Childbirth or Pregnancy Related Conditions (PCPRC). Furlough days do not impact PCPRC leave. The City will continue to treat female employees on PCPRC in the same manner as other employees on leave for sickness or other temporary disabilities. PCPRC paid leave may not be taken on an unpaid furlough day.
- 5.12 Sick Leave Use. Employees may not use sick leave for furlough days. Employees may use paid leave benefits only on those days they are normally scheduled to work.

Employees are not eligible to be paid for sick leave on days when they would not normally be paid.

- 5.13 Compensatory Time. Compensatory time, like overtime, should not accrue as a direct or indirect result of furlough days. In other words, except in rare circumstances, furlough days should not cause employees to work extra hours on non-furlough days. Employees are not eligible to be paid for compensatory time on days when they would not normally be paid. Compensatory time will not be used in place of designated unpaid furlough days.

Employees who are required to work evening meetings should flex that time, hour for hour, within the same work week. For example, an employee who works two hours at a night meeting may come into work two hours late that same day or any other day within that same work week. Employees must work with their supervisor to determine when to flex their hours within the work week.

FLSA-exempt employees who are permitted to earn compensatory time during a furlough week in which they are designated as hourly must also use compensatory time during a furlough week in which they are designated as hourly. Managers and supervisors must consider very carefully (in advance) whether compensatory time will be approved in lieu of overtime payments. The recommended approach is that all hourly employees work within the adjusted hour workweek structure and not incur compensatory time or overtime during a designated furlough week. Any furlough-eligible employee incurring unapproved compensatory time or overtime during a designated furlough week will be subject to discipline. On call out emergencies, employees are required to call a supervisor for approval to call out additional employees. If the employee is unable to contact a supervisor in a timely manner, the employee has the discretion to call out additional employees to assist with emergencies. If an employee is called in to work without 24 hours advance notice, the employee is not required to take alternate furlough time.

- 5.14 Holiday Pay. The requirement to be in paid status the day before and the day after a holiday in order to be paid for the holiday will be waived in those circumstances where the unpaid day is a furlough day (this includes make up furlough days and alternate furlough days). If an individual is in an unpaid status on a day before or a day following a holiday not caused by a furlough day, the employee will not be paid for the holiday.

6.0 RESCISSION OF APPROVED LEAVES.

There are many circumstances under which employees may have requested and have already received approval for vacations falling on what have become furlough days.

In general terms, City employees are not eligible to be paid for any days when they would not normally be paid . One may not, for example request and have approved vacation day payments for weekends unless the weekend is a normally scheduled work day for the employee. Unpaid furlough days are not normally scheduled work days. Rescinding leaves, rescheduling leaves or other solutions consistent with City Policy, collective bargaining agreements, or other guideline will be required to address the issue.

Unless an employee has been specified as furlough-ineligible for a mandated leave day, he or she must take the furlough day as time without pay unless an alternative furlough day has been previously arranged with the appropriate supervisor and approved by the City Administrator. In some cases, leave days are pre-approved months in advance. That is especially true if an individual has requested and had approved a lengthy vacation. Managers and supervisors should examine all leaves which received approval prior to July 1, 2009. If a paid leave day that had been approved for 2009 is now scheduled to be an unpaid furlough day, the director, manager or supervisor will engage the matter and resolve the situation as outlined in this document. Unpaid furlough days may occur during a multi-day vacation or a multi-day sick leave occurrence.

Employees must be provided the furlough schedule. Employees must be informed that the day has been identified as an unpaid furlough day. When rescinding previously approved leaves, a supervisor, manager or director should consult with the City Administrator to make sure that all appropriate steps have been followed. When rescinding previously approved paid leaves, the employee should receive appropriate written notice.

7.0 RETIREMENT

In accordance with the provisions of the recently enacted SB 6157, any compensation foregone by a member of the State Retirement System applicable to municipal employees shall include any compensation foregone by a member during the 2009 to 2011 fiscal biennium as a result of reduced work hours, voluntary leave without pay or temporary furloughs. These rules shall be interpreted in accordance with the state of Washington's DRS rules which are anticipated to be issued on or about July 1, 2009.

8.0 COMMUNICATION.

8.1 New Hires. In the unlikely event that a new employee is hired in 2009, all job offer letters must include a notification of furlough days. Employees who are furlough-eligible will not be paid for designated furlough days. Employees hired on a schedule which calls for those dates to be a regularly scheduled work day must arrange an alternative furlough day with their supervisor. In addition, 2009 job postings should include the following: "This position may be subject to up to eight (8) days of unpaid furlough leave in 2009."

8.2 All City Communication. Furlough-eligible employees will be notified in broadcast e-mails or by other forms prior to the onset of mandatory furloughs.

9.0 ADDITIONAL.

9.1 Grievance Procedures/Timelines. Grievance procedures typically specify the number of days for each step of a grievance. The number of days is typically specified as "days," "calendar days," or "business days." The terms and conditions of all collective bargaining agreements will be observed unless specifically overridden by a Memorandum

of Understanding. Where a collective bargaining agreement specifies “calendar days,” furlough days will generally be considered calendar days. Where the collective bargaining agreement specifies “business days,” furlough days will be considered business days if the employee is furlough-ineligible and non-business days if the employee is furlough-eligible. Where the collective bargaining agreement specifies “days,” the parties will agree on the meaning of the term upon notification of the grievance.

There is no property right to scheduled or substituted furlough days. There is no requirement to hold Loudermill hearings on furloughs for employees who are identified as furlough-eligible.

9.2 Unemployment Compensation. Eligibility is determined by the Washington State Department of Employment Security.

9.3 Emergency Procedure. In those cases where an emergency call out occurs on a furlough day or during a furlough week, employees may be called back to work. Such employees are compensated in accordance with standard compensation procedures and in conformance with the applicable collective bargaining agreement. FLSA-exempt employees may be called back to work on a furlough day. FLSA-exempt employees are compensated on an hourly basis for all time worked within a furlough affected week. FLSA-exempt employees are required to track their time during a furlough affected week consistent with the practices in their department. Overtime pay is paid to such non-represented employees for all hours worked in excess of forty (40) hours within that week including weekend days within the same week. If such employees are represented, they are paid in accordance with their collective bargaining agreements for calculation of overtime.

In the case of an employee being called to work on an unpaid furlough day due to emergency situations, the employee is not required to make up the furlough day at a later date.

10.0 PUBLIC DISCLOSURE ACT.

The term “business day” is not defined under the Public Records Act. When considering whether one should count a furlough day as a business day, one should keep in mind that the act is to be liberally construed. Recognizing that some parts of the city will be open on furlough days, the recommended course of action is to regard all furlough days as business days for public disclosure request purposes.



Subject: 2009 Pavement Markings -- WSDOT Interlocal Maintenance Agreement.

Proposed Council Action: Authorize the execution of the Interlocal Maintenance Agreement for the 2009 Pavement Markings between Washington State Dept. of Transportation and the City of Gig Harbor in the amount of \$26,000.

Dept. Origin: Public Works/Engineering

Prepared by: Steve Misiurak, P.E. [Signature]

For Agenda of: August 10, 2009

Exhibits: Interlocal Maintenance Agreement with WSDOT Roadway Striping List

Initial & Date

Concurred by Mayor: [Signature] 8/3/09

Approved by City Administrator: [Signature]

Approved as to form by City Atty: [Signature] 7/28

Approved by Finance Director: [Signature] 8/3/09

Approved by Department Head: [Signature] 7/28/09

Table with 4 columns: Expenditure Required, Amount, Budgeted, Appropriation Required. Values: \$26,000.00, \$50,000.00, \$0.

INFORMATION / BACKGROUND

This Interlocal Maintenance Agreement between City of Gig Harbor and Washington State Department of Transportation (WSDOT) provides for the paint restriping of various City roadways to be painted this summer as identified in the attached list.

FISCAL CONSIDERATION

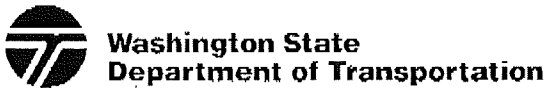
The adopted City 2009 Street Operating Fund, Objective No. 1, allocated \$50,000 for this necessary work. This contract with WSDOT is well below that allocation and provides City reimbursement of actual WSDOT incurred costs.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Authorize the award and execution of the Interlocal Maintenance Agreement for the 2009 Pavement Markings for certain City streets to the Washington State Dept. of Transportation in the amount not-to-exceed \$26,000.00.



<p>Maintenance Agreement</p> <p>Work by WSDOT for Other State, Federal, and Local Governmental Agencies (Total Cost of Agreement May Not Exceed \$5,000 Per Year)</p>	<p>Agency and Billing Address</p> <p>City of Gig Harbor 3510 Grandview Street Gig Harbor, Wa. 98335</p>	<p>Agreement Number</p>
	<p>Contact Name/Phone #</p> <p>Stephen Misiurak 253-853-7626</p>	
	<p>Federal Tax ID #</p>	
	<p>Estimated Costs</p> <p>\$26,000</p>	
<p>Description of Work</p> <p>Paint Striping and/or Pavement Markings</p>		

This Agreement is made and entered into by and between the Washington State Department of Transportation, hereinafter the "WSDOT," and the above named governmental agency, hereinafter the "AGENCY,"

WHEREAS, the AGENCY has requested and the WSDOT has agreed to perform certain work as described above,

NOW THEREFORE, pursuant to chapter 39.34 RCW, IT IS HEREBY AGREED AS FOLLOWS:

1. GENERAL

- 1.1 The WSDOT agrees to perform the above described work, using state labor, equipment and materials, as requested by the AGENCY.
- 1.2 The AGENCY agrees, in consideration of the faithful performance of the above described work to be done by the WSDOT, to reimburse the WSDOT for the actual direct and related indirect costs of the work. Administrative Charges at current rate are considered part of indirect costs.

- 2.2 The AGENCY agrees to pay the WSDOT for the work done within thirty (30) days from receipt of a WSDOT invoice, which shall include documentation supporting the work done.
- 2.3 If the AGENCY is a county or city, the AGENCY agrees that if it does not make payment as provided under the terms of this Agreement, the AGENCY authorizes the WSDOT to withhold and use as payment motor vehicle fund monies credited or to be credited to the AGENCY.

2. PAYMENT

- 2.1 The estimated cost of the work is stated above. The AGENCY agrees to set aside funds for payment to the WSDOT in this amount.

- 2.4 The AGENCY agrees further that if payment is not made to the WSDOT within thirty (30) days from receipt of WSDOT's invoice, the WSDOT may charge late fees and/or interest in accordance with Washington State Law.

3. INCREASE IN COST

3.1 The parties agree that the estimated cost of the work may be exceeded by up to 25%. In the event of such increased costs the parties agree to modify the estimated cost of work by written amendment, signed by both parties. WSDOT shall notify the AGENCY of increased costs as they become known.

4. RIGHT OF ENTRY

4.1 The AGENCY grants to the WSDOT a right of entry upon all land in which the AGENCY has interest for the purpose of accomplishing the work described above.

5. TERMINATION CLAUSE
(Check the Appropriate Box Below)

- 5.1 This Agreement will automatically terminate five (5) years after date of execution. This Agreement may be terminated by either party upon thirty (30) days advanced written notice to the other party. In the event of termination, payment will be made by the AGENCY for work completed by the WSDOT as of the effective date of termination.
- 5.2 This Agreement will terminate upon completion of the work described herein.

6. DISPUTES AND VENUE

6.1 In the event that a dispute arises under this Agreement, it shall be resolved as follows: The WSDOT's Secretary of Transportation or designee and the AGENCY's head or designee shall review the applicable facts, contract terms, statutes and rules affecting the dispute to resolve the matter. If the parties cannot reach a resolution, the parties agree that any legal action to enforce any right or obligation under this Agreement may only be brought in Thurston County Superior Court. The venue specified in this section shall not apply to any federal agency that is a party to this Agreement.

7. MODIFICATION

7.1 This Agreement may be amended by the mutual agreement of the parties. Such amendments or modification shall not be binding unless they are in writing and signed by persons authorized to bind each party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year of the last written below.

REQUESTING AGENCY	WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
By:	By:
Printed: Charles L. Hunter	Printed:
Title: Mayor, City of Gig Harbor	Title:
Date: August 10, 2009	Date:

This Agreement Was Approved As To Form By AAG Ann E. Salay on April 27, 2006

CITY OF GIG HARBOR
Street Inventory for 2009 Pavement Marking

STREET	FROM	TO	LENGTH (FT.)	SKIP CENTER STRIPE (FT.)	DOUBLE YELLOW CENTER STRIPE (FT.)	EDGE STRIPE (FT.)	DOTTED EXTENSION STRIPE (FT.)	GORE STRIPE (FT.)	DOTTED GORE STRIPE (FT.)	LANE STRIPE (FT.)	NO-PASS STRIPE	2-WAY LEFT TURN STRIPE (FT.)	BICYCLE LANE STRIPE (FT.)
ARTERIALS:													
Austin Street	North Harborview Drive	Harborview Drive	500		500								
Brianwood Lane	Pt. Fosdick Drive	38th Avenue	3,000		3,000	6,000							
Burnham Drive	North Harborview Drive	Harborview Drive	1,795	1,675	1,795	2,650							460
	Harborview Drive	SR-16/Cantenwood Blvd.	7,500		7,320	14,500							
Borgen Blvd.	Burnham Drive	Peacock Hill Avenue	5,770	710	3,800	3,542		200					3,300
Cantenwood Blvd.	Burnham Drive	City Limits	3,700		3,700	7,400							
Edwards Street	Stinson Avenue	Pioneer Way	1,400		1,400								
Grandview St	Soundview Drive	Pioneer Way			1,300	2,600		70					1,300
Harborview Drive	Soundview Drive	Pioneer Way	650		650								
	Pioneer Way	Stinson Avenue	2,750		2,750			50					
	Stinson Avenue	North Harborview Drive	1,900		1,900			400	100				2,450
	North Harborview Drive	Burnham Drive	2,000		2,000	3,600							3,550
	Soundview Drive	Street End	1,500	1,400									
Hollycroft	Soundview Drive	Reid Road	1,500	300	600	1,500					600		
Hunt Street	Soundview Drive	Kimball Drive	1,450		125	600		50				2,700	
	38th Street	Skansie Avenue	2,650		2,650	5,300							
Judson Street	Soundview Drive	Pioneer Way	900		900	1,680		30					
Kimball Drive	Hunt Street	Pioneer Way	2,525					50				5,050	
N. Harborview Drive	Harborview Drive	Peacock Hill Ave.	2,100		2,100								3,125
	Peacock Hill Ave.	Vernhardtsen	2,200		2,200								4,000
Olympic Drive	Soundview Drive	Pt. Fosdick Drive	3,300		3,550	6,500	200	300		3,900			
	Pt. Fosdick Drive	56th Street	2,700		200	3,830		275		1,000		4,650	

CITY OF GIG HARBOR
Street Inventory for 2009 Pavement Marking

STREET	FROM	TO	LENGTH (FT.)	SKIP CENTER STRIPE (FT.)	DOUBLE YELLOW CENTER STRIPE (FT.)	EDGE STRIPE (FT.)	DOTTED EXTENSION STRIPE (FT.)	GORE STRIPE (FT.)	DOTTED GORE STRIPE (FT.)	LANE STRIPE (FT.)	NO-PASS STRIPE (FT.)	2-WAY LEFT TURN STRIPE (FT.)	BICYCLE LANE STRIPE (FT.)
Peacock Hill Avenue	North Harborview Drive	Ringold Street	3,500			3,000							
	Ringold Street	City Limits (112th Street) thru RAB	3,600	2,700	900	9,580					1,650		
Pioneer Way	Harborview Drive	SR-16/Stinson Avenue	3,390		2,900	2,000		200		300		780	
Point Fosdick Drive	56th Street	Olympic Drive	1,770		1,700	3,540		100			360	300	
	Olympic Drive	Hrbr. Cntry. Ln. (44th St.)	2,170		140	1,425		350	400	850		1,200	
	Hrbr. Cntry. Ln. (44th St.)	36th St. (City Limits)	2,700		2,700	5,200							
Prentice Ave.	Burnham Drive	Fennimore Street	1,500	1,500									
Rosedale Street	Harborview Drive	Stinson Avenue	1,800		1,800	4,000							1,900
	Stinson Avenue	Skansie Avenue	2,700		2,700	4,000							
	Skansie Avenue	City Limits	2,500	910	1,400	2,600		460				300	
Skansie Avenue	Rosedale Street	Hunt Str. (Incl. Co. ptr.)	5,300	9,200	360	10,200					2,075		
	Rosedale Street	96th Street	1,000	1,000		2,000							
	*extend db yellow	100' south of North Creek											
Soundview Drive	Harborview Drive	Hunt Street	4,670	1,700	2,650			480				1,630	4,350
	Hunt Street	Olympic Drive	2,280		2,600			120				260	2,280
	Olympic Drive	End	770	325	275	800		250					
Stinson Avenue	Harborview Drive	Grandview Street	3,700		3,700	3,700		400					
	Grandview Street	Pioneer Way	500									500	
Vernhardsen Street	Peacock Hill Avenue	North Harborview Drive	885	885		1,725							
	North Harborview Drive	City Limits	1,800		1,800	2,720	50						
Wagner Way			1,950		1,950			80					
Wollochet Drive	Stinson Avenue	Hunt Street	2,725		2,950	5,300		400		400			
	Hunt Street	56th Street	2,630		2,630	5,260			60				
38th Avenue	56th Street	City Limits	5,300		5,300	10,600			150				
	Pt. Fosdick Drive	City Limits	540		540	1,000							
56th Street	Pt. Fosdick Drive	Olympic Drive	1,260		1,260	2,450		150					
	Olympic Drive	38th Avenue	990		380	1,980		200		1,980		1,200	
72nd Street		Skansie-end	1,630		1,630	3,200							
TOTAL (Ft.)			115,350	22,305	84,705	141,962	250	4,615	710	8,430	4,685	18,570	26,715
TOTAL (Miles)			21.8	4.2	16.0	26.9	0.0	0.9	0.1	1.6	0.9	3.5	5

C091080-2

WASHINGTON STATE LIQUOR CONTROL BOARD

DATE: 07/09/2009

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR
(BY ZIP CODE) FOR EXPIRATION DATE OF 20091031

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1. DNP ENTERPRISES, LLC	CIGAR & WINE 1225 CENTER DR STE 120 DUPONT WA 98237 0000	088899	BEER/WINE SPECIALTY SHOP
2. THE GIG HARBOR YACHT CLUB	GIG HARBOR YACHT CLUB 8209 STINSON AVE GIG HARBOR WA 98335 0000	077100	PRIVATE CLUB - SPIRITS/BEER/WINE
3. GALAXY THEATRES, LLC	GALAXY UPTOWN 4649 POINT FOSDICK DR NW GIG HARBOR WA 98335 1707	402683	BEER/WINE REST - BEER/WINE



**Subject: Department of Ecology Shoreline
Master Program Update Grant Agreement**

Proposed Council Action: Accept Grant

Dept. Origin: Planning

Prepared by: Peter Katich
Senior Planner

For Agenda of: August 10, 2009

Exhibits: SMA Grant Agreement No.
G1000028

	Initial & Date
Concurred by Mayor:	<u>CUH 8/4/09</u>
Approved by City Administrator:	_____
Approved as to form by City Atty:	<u>By e-mail</u>
Approved by Finance Director:	<u>DR 8/3/09</u>
Approved by Department Head:	<u>JK 8/3/09</u>

Expenditure		Amount		Appropriation	
Required	\$93,000	Budgeted	\$93,000	Required	0

INFORMATION / BACKGROUND

In June, the City received notice from the Washington State Department of Ecology that it had been selected for a grant of \$93,000 to complete its Shoreline Master Program update consistently with the requirements of WAC 173-26. As a result of the grant, the City will realize approximately \$39,000 in savings of funds previously allocated for the effort. In addition, the City will be able to expand the update effort to include:

- o Evaluating the capacity of the harbor to accommodate future marina development.
- o Identifying appropriate areas to accommodate additional public access and recreational facilities (such as a kayaking center).
- o Studying the maintenance needs and potential growth of commercial fishing operations.
- o Evaluating historic netsheds.

The City Council will also be considering the amendment of the existing contract with ESA Adolfsen to provide consulting services for the update process at its meeting of August 10, 2009.

FISCAL CONSIDERATION

As previously identified, the State grant provided by the Department of Ecology (\$93,000) will fund the entire Shoreline Master Program update effort. No additional City monies will be necessary.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Accept the grant from the State to provide funding for the comprehensive update to the City of Gig Harbor's Shoreline Master Program.

SMA Grant Agreement No. G1000028
between the
State of Washington Department of Ecology
and the
City of Gig Harbor

Project: Comprehensive Shoreline Master Program Update

THIS is a binding agreement entered into by and between the State of Washington, Department of Ecology, (PO Box 47600, Olympia, Washington, 98504-7600) hereinafter referred to as the "DEPARTMENT" or as "ECOLOGY" and the City of Gig Harbor, hereinafter referred to as the "RECIPIENT" to carry out activities described herein, and as authorized by the Washington State Legislature under Chapter 173-26 of the Washington Administrative Code (WAC) for shoreline implementation.

RECIPIENT Name: City of Gig Harbor
Department: Planning Department
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Gig Harbor, WA 98335

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Payee on Warrant: City of Gig Harbor
(address as above)

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The source of funds provided by the DEPARTMENT are from the 2009-2011 Washington State General Fund for Shoreline Implementation, §302; and the Local Toxics Control Account, §302, Subsection 7.

Maximum Grant Amount, Fiscal Years 1 and 2 (7/1/09-6/30/11): **\$ 93,000**

Total Grant Amount: \$93,000

State Maximum Cost Share Rate: 100% UP TO a maximum State Share of \$93,000

The effective date of this agreement is from July 1, 2009 to June 30, 2011.

Scope of Work

City of Gig Harbor

Project Description: The City of Gig Harbor will complete an update of the Shoreline Master Program (SMP) that is developed and adopted in a manner consistent with the procedural and substantive requirements of the Shoreline Management Act (SMA) and its implementing rules, including the Shoreline Master Program Guidelines (Guidelines). The SMP update process includes completion of inventory and analysis reports with corresponding maps and illustrations that characterize shoreline ecological conditions; development of shoreline policies, environment designations, and use regulations; as well as analysis of cumulative impacts and uses, preparation of a shoreline restoration plan and a formal local adoption process. The Recipient will incorporate public participation in all phases of the SMP update. The Recipient may use consultant support as appropriate.

NOTE: *This Standard Scope of Work is presented in three one-year increments that correspond to the steps needed to prepare a locally adopted comprehensive SMP update. The planning tasks in this scope of work correspond to the phases in Figure 1: Shoreline Master Program Planning Process.*

- **Year 1** includes the tasks addressed in SMP update Phases 1 & 2.
- **Year 2** addresses the tasks in Phase 3.
- **Year 3** completes the tasks contained in Phases 4 and 5.

Some of the tasks included in this scope of work will overlap in time and may be completed simultaneously with other tasks. Some tasks are iterative (e.g., analyzing cumulative impacts, developing regulations) and may involve various steps conducted at different times in the process before they are completed.

Work Program: The Recipient shall perform the following tasks:

Task A: Coordination

Coordinate throughout the SMP update process with Ecology and other applicable state agencies, neighboring jurisdictions, and Indian tribes as provided in the Guidelines and SMA procedural rules. In addition, consult with all other appropriate entities which may have useful scientific, technical, or cultural information, including federal agencies, watershed management planning units, salmon recovery lead entities, universities and other institutions, local individual outdoor recreationists and conservationists, and organizations with special expertise representing these interests.

Coordinate with adjacent jurisdictions that share areas within shoreline jurisdiction (for example, jurisdictions on the same lake or stream) for the purpose of efficiently using grant funds; sharing information and methods of analysis; drafting compatible SMP policies, regulations, environment designations; and coordinating public involvement.

Attend Ecology-sponsored coordination meetings, which occur on a regular basis, for the duration of the project. Provide Ecology opportunities for review of draft deliverables at appropriate intervals. When requested, the recipient shall include a written response to Ecology's comments on draft deliverables.

Ecology will provide ongoing technical assistance on data sources and approaches, and will evaluate consistency of deliverables with the Shoreline Management Act and applicable guidelines throughout the update process.

The City of Gig Harbor initiated the SMP update last year. Coordination with Ecology, other state resource agencies, Pierce County, and other stakeholders is ongoing.

Deliverables:

1. Documentation of contacts in quarterly progress reports (three hard copies and one digital copy).

Due Dates: January 20, April 20, July 20 and October 20, each year for three years.

2. Written responses to Ecology's comments on draft deliverables, when requested. (May be provided in email format.)

Due Dates: Following receipt of Ecology's comments.

YEAR 1 (July 2009 – June 2010)

Project Initiation

Task B: Secure qualified consultant services (if applicable)

Prepare a detailed scope of work for consultant services consistent with the grant scope of work, publish a Request for Proposals, form a review committee to evaluate respondents, and enter into a contract with the selected consultant.

- *The City secured a consultant with city funds in May 2008. The City plans to amend the consultant contract and scope of work consistent with this grant agreement.*

Deliverable:

1. Final executed consulting contract amendment (digital or hard copy).

Due Date: August 17, 2009

The Recipient shall prepare a complete, locally approved Draft SMP by completing Phases 1 through 5 described below and in the Shoreline Master Program Planning Process chart available at http://www.ecy.wa.gov/programs/sea/grants/smp/pdf/SMP_Planning_Process.pdf

PHASE 1: PRELIMINARY ASSESSMENT OF SHORELINE JURISDICTION and PUBLIC PARTICIPATION PLAN*

The City of Gig Harbor has initiated its comprehensive SMP update process and has substantially completed all tasks described in the sample scope of work under Phases 1 and 2. For brevity, we have left Phase 1 & 2 task titles shown below and eliminated most of the sample scope of work text. **Work completed to date includes:*

- *Identifying and mapping shoreline jurisdiction (Task 1.1)*
- *Completion of a public participation plan and initiating a public process that has included coordination with tribes and technical resource agencies (WDNR, WDFW, WDOE);*

- assembling and working with a Stakeholder Committee (ongoing); briefing the Planning Commission and City Council; and holding one open house event (Task 1.2 and 2.1.4); and*
- *Updating the 2003 shoreline inventory and characterization report (reviewed by Ecology and other technical reviewers; Tasks 1.3 and 2.1).*

Task 1.1: Identify preliminary shoreline jurisdiction

- **Completed**

Task 1.2: Prepare plan for public participation

- *Completed*

Task 1.3: Demonstrate how Phase 1 complies with the Guidelines

Fill in the SMP Submittal Checklist for the tasks that you have completed under Phase 1.

Deliverables:

1. An SMP Submittal Checklist completed as relevant to task (initial submittal under Task 2.4).

PHASE 2: SHORELINE INVENTORY, ANALYSIS & CHARACTERIZATION

Task 2.1: Complete shoreline inventory

- **Completed**

Task 2.2: Conduct shoreline analysis

- *Substantially completed*
2.2.1 Characterize ecosystem-wide processes

- *Completed*

2.2.2 Characterize shoreline functions

- *Completed*

2.2.3 Conduct Shoreline Use Analysis; analyze opportunities for public access

- Conduct shoreline use analysis:
 - Identify current patterns of land uses in shoreline areas.
 - Identify likely or projected uses in shoreline areas.
 - As applicable, analyze potential use conflicts and identify possible adverse impacts those could have on current ecological functions.
 - Estimate future demand for shoreline space consistent with WAC 173-26-201(3)(d)(ii) requirements.
 - Identify opportunities and demand for SMA preferred uses and potential use conflicts based on current use patterns and projected trends.
- Identify current public access sites and opportunities for future access sites.

- *Task 2.2.3 work is substantially completed. However, grant funds would be utilized to perform additional analysis related to key issues identified in the existing inventory and characterization report; and key policy issues related to potential use conflicts and projected shoreline uses identified through the Stakeholder Committee work. For example, additional analysis is warranted related to the capacity of the harbor to accommodate future marina development; public access and recreational facilities (such as a kayaking center); and the maintenance and potential growth of commercial fishing operations.*

Task 2.3 Prepare shoreline inventory and characterization report

- *Task 2.3 work is substantially completed. The report has been reviewed by Ecology technical staff, as well as other resource agencies (WDFW, WDNR). However, grant funds will be utilized to address issues described above (Task 2.2.3), including additional mapping to better characterize the baseline conditions with regard to key issues, such as existing public access (and the type of access – boat launch; public pier; public vs. private marinas; water-dependent commercial fishing operations; historic netsheds; etc.)*

Deliverables (digital copy with accompanying maps):

1. Final shoreline characterization and analysis report with map portfolio that addresses the above task requirements in 2.1, 2.2 and 2.3, above.

Due Date: September 30, 2009

(Note: Please provide Ecology with sufficient time, approximately 45 to 60 days, to review and comment on the draft characterization and analysis report.)

Task 2.4: Demonstrate how Phase 2 complies with the Guidelines

Fill in the SMP Submittal Checklist for the tasks that you have completed under Phase 2.

Deliverables:

1. An SMP Submittal Checklist completed as relevant to task (adding incrementally to earlier completed tasks).

Due Date: September 30, 2009

PHASE 3: COMPLETE DRAFT SMP and CUMULATIVE IMPACTS ANALYSIS

Task 3.1 Conduct community visioning process

Conduct a community visioning process that includes as many citizens as possible to determine goals for future use of the shoreline. This process should be conducted with respect to the findings of the shoreline inventory and characterization report. The visioning process will identify shoreline problems and opportunities. It will result in a strategy for

shoreline uses, public access, resource protection, and restoration that is consistent with SMA policy and SMP Guidelines objectives.

- **This work is ongoing through review and discussion of technical information and shoreline goals and policies with the Stakeholder Committee. Meeting summaries document the process, discussion, and decision making. At the completion of the Stakeholder Committee work, a memo will be drafted outlining the major policy direction provided by the Committee. This memo will represent the “strategy for shoreline uses, etc.” described below.**

Deliverable: (digital copy)

1. Memo addressing the strategy for shoreline uses, public access, resource protection and restoration resulting from the Stakeholder Committee work (Task 3.1).

Due date: September 30, 2009

Task 3.2: Develop general SMP goals, policies and regulations

Prepare general shoreline goals and policies that are applicable throughout the area within shoreline jurisdiction. Optional SMP components may include general SMP regulations that apply in all environment designations.

- *General goals and policies have been drafted by city and consultant staff; reviewed by city staff (parks, public works, historic preservation officer, etc.); and is currently being reviewed and discussed by the Stakeholder Committee. Work to revise general goals and policies will be necessary.*

Task 3.3: Develop environment designations

Develop environment designations that are appropriate to current waterfront conditions per the findings of the shoreline inventory and characterization. Shoreline environment designations may be comprised of those recommended in the guidelines; the existing local SMP; unique, locally developed environments; or any combination of these, so long as they are consistent with WAC 173-26-211 environment designation criteria.

Prepare draft maps illustrating the land and water area contained within mapped shoreline designation boundaries together with justification and rationale for the proposed designations. Boundaries of shoreline environment designations shall be clearly mapped. Optional shoreline jurisdiction areas, including entire floodplains and buffers for critical areas, should be mapped and designated if they are included within shoreline jurisdiction. A map clearly illustrating existing designations compared to proposed designations should be prepared. A narrative rationale describing reasons for maintaining or changing the designations shall be included.

- *Consultants have prepared an initial technical memorandum addressing potential updates to the City's shoreline environments. A key issue is how best to develop an environment designation for the downtown waterfront area, which includes a diverse mix of water-dependent uses (commercial fishing, marinas, piers), commercial retail and tourist oriented uses, parks and public access locations, historic and culturally important sites, and the historic Millville residential district. Other issues needing attention and work include the recent annexation of shoreline areas on Henderson Bay.*

Task 3.4: Develop environment-specific shoreline use & modification policies, regulations and standards

Prepare draft policies and regulations for environment designations, all uses discussed in the SMP Guidelines, and shoreline modifications. The draft policies and regulations for shoreline environment designations shall, at a minimum, identify:

- Shoreline use and modification activity goals and policies.
- Shoreline uses and modifications that are prohibited and allowed by Substantial Development Permit or Conditional Use Permit.
- Bulk dimensional standards (buffers, setback, density, etc).
- Shoreline modification activity standards.
- Any local policies or regulations adopted by reference, if relied upon to satisfy SMA or guidelines requirements.

Optional SMP components may include:

- Shoreline use and dimensional standards listed in matrices, by environment designation. (*Strongly encouraged.*)
- *Work will begin on this task once we have completed our review of general goals and policies and proposed environment designations with the Stakeholder Committee. At this point we anticipate developing environment specific regulations and standards in the third and fourth quarters of 2009. Specific issues that have already been identified through the Stakeholder Committee process and that will require significant effort include:*
 - *Treatment of Netsheds – these historic overwater structures reflect the cultural heritage of Gig Harbor as a fishing community. Potentially competing objectives and desires for treatment of netsheds no longer being used as commercial fishing facilities include historic preservation, adaptive reuse, economic incentive for maintaining the structures, and preservation of water-dependent uses. Additional technical study may be needed to assess each of the 17 netsheds (e.g., parcel specific analysis to determine upland site constraints and condition of the overwater structure to support various potential uses) before establishing clear policies and regulations.*
 - *Meaningful Public Access - the City has been successful at implementing public access enhancement through shoreline development permits in the past. However, Stakeholder Committee work thus far has indicated a desire for an integrated vision for public access throughout the shoreline, implemented through clear and consistent policies and regulations. It is possible that the City would like to develop a stand-alone public access plan per Ecology's guidelines, that would then be integrated with the SMP and Park, Recreation, and Open Space Plan.*
 - *Critical Areas Integration – the City's CAO was recently updated and supported under the GMA requirements to consider best available science. However, implementing protection for critical areas in shoreline jurisdiction will require significant effort to develop a review process, protection and mitigation standards, and administrative procedures for managing critical areas in the shoreline.*
 - *New Marina Development Limitations –marina development within Gig Harbor Bay has been one of the primary forms of shoreline development within the City. The City has experienced a steady increase in the number of marinas developed along its historic waterfront area. Open water area has steadily been converted to storage for pleasure craft raising concern that the historic fishing community character and*

aesthetic beauty of the community and bay will be compromised if such development trends remain unchecked. Concerns over impacts to commercial fishing operations from increased pleasure boat traffic in the relatively confined bay have also been raised. Additional technical study and analysis will be necessary to document the amount of area devoted to marina use, to identify that area which remains available for open space, view corridors and other water dependent uses, and to develop an approach that ensures balanced development occurs in the future along the shorelines of the City.

These are just a few of the major policy issues that have been identified to date. As the City progresses through its work with the Stakeholder Committee, there will undoubtedly be other issues that arise.

Task 3.5 Develop SMP administrative provisions

Prepare draft provisions for SMP administration, including necessary elements and timelines for permit administration, compliance, and enforcement. Statements about the role of Ecology in permit decisions should be included.

A definitions section should be prepared. Definitions should be particular to SMP administration, consistent with the SMP's implementing rules. Definitions should be clearly and concisely written.

Optional SMP components may include additional administrative provisions, if not inconsistent with SMA procedural rules and the guidelines. An SMP "user's guide" may be prepared.

- *The City has not yet begun updating administrative provisions. Key areas that will require work include updating definitions, and developing a review and approval process for critical areas located in shoreline jurisdiction. The City also anticipates examining treatment of non-conforming uses and development.*

Deliverables (three hard copies and one digital copy, with accompanying maps):

1. Complete Draft SMP, including:
 - Draft general goals and policies and optional general regulations. (Task 3.2)
 - Draft environment designations and draft environment maps. (Task 3.3)
 - Draft environment-specific shoreline use and modification policies, regulations, and standards. (Task 3.4)
 - Draft administrative provisions. (Task 3.5)
 - Maps showing environment designations within shoreline jurisdiction
2. An SMP Submittal Checklist completed as relevant to task (adding incrementally to earlier completed tasks).

Due Dates: November 1, 2009

(Note: Please provide Ecology with sufficient time, approximately 45 to 60 days, to review and comment on the draft documents.)

Task 3.6 Prepare preliminary cumulative impacts analysis

Evaluate and analyze draft SMP policies, regulations and environment designations to show how they achieve no net loss of shoreline ecological functions during the planning period. The analysis will include incremental and cumulative impacts of future uses and development allowed by the proposed SMP as an ongoing part of the update process. The analysis will identify how proposed SMP regulations and standards and restoration activities will avoid and offset expected impacts of future permitted and exempt shoreline development. Scenario-based impacts analysis is encouraged. The cumulative impacts analysis may need to be revised if the initial document shows that cumulative impacts would result from the draft SMP. (Note: The preliminary cumulative impacts analysis should be submitted at the same time as the Draft SMP.)

Deliverable (three hard copies and one digital copy, with accompanying maps):

1. A cumulative impacts analysis of the SMP demonstrating how no net loss of ecological functions will be achieved over time at in the jurisdiction.

Due Date: November 1, 2009

(Note: Please provide Ecology with sufficient time, approximately 45 to 60 days, to review and comment on the draft cumulative impacts analysis.)

Task 3.7: Demonstrate how Phase 3 complies with the Guidelines

Fill in the SMP Submittal Checklist for the tasks that you have completed under Phase 3.

Deliverables:

1. An SMP Submittal Checklist completed as relevant to task (adding incrementally to earlier completed tasks).

Due Date: November 1, 2009

YEAR 2 (July 2010-June 2011)

PHASE 4: RESTORATION PLANNING, REVISITING PHASE 3 PRODUCTS AS NECESSARY

Task 4.1 Prepare restoration plan

Based on the Inventory and Characterization report, develop a plan for restoration of impaired ecological functions in specific shoreline reaches. Restoration plans should include:

- Identification of degraded areas, impaired ecological functions, and sites with potential for ecological restoration.
- Goals and priorities for restoration of degraded areas and impaired ecological functions.
- Existing and ongoing restoration projects and programs.
- Additional projects needed to achieve restoration goals and implementation strategies, including identification of prospective funding.
- Times and benchmarks for achieving restoration goals.
- Mechanisms to ensure that restoration projects and programs will be implemented.

Consult with organizations conducting restoration work for assistance in developing restoration strategies. The restoration plan should identify overlaps in how and where restoration work is being conducted. An implementation strategy should include recommendations for coordination between groups doing restoration work. A list of specific prioritized restoration projects may be included as an appendix to the SMP.

- *We have prepared a preliminary draft Restoration Plan document, based largely on the findings of the inventory and characterization report. The preliminary draft has not been reviewed by the Stakeholder Committee or other parties yet. The plan will be revised once we have completed our overall policy review work with the Stakeholder Committee. Some of the ideas we expect to explore in greater depth include:*
 - *Identifying shoreline sites with potential contamination (from previous use and development)*
 - *How best to accomplish remediation activity at shoreline locations as part of redevelopment*
 - *How to establish an overall restoration framework and implementation plan that includes the opportunity for off-site mitigation actions that will advance restoration objectives, while maintaining clear and equitable requirements for nexus and proportionality for landowners.*

Deliverables (three hard copies and one digital copy, with accompanying maps):

1. A complete draft restoration plan.

Due Date: August 1, 2010

2. A complete final restoration plan.

Due Date: June 30, 2011

(Note: Please provide Ecology with sufficient time, approximately 30 to 45 days, to review and comment on the draft restoration plan.)

Task 4.2: Revisit draft SMP and cumulative impacts analysis; finalize SMP jurisdiction maps

Based on findings in the cumulative impacts analysis, re-evaluate and revise the draft SMP environment designations, policies, and regulations developed in Phase 3 as necessary to assure that they are adequate to achieve no net loss of ecological functions. Revise the cumulative impacts analysis as needed to reflect changes in the draft SMP.

Prepare final jurisdiction maps (digital) of Shorelines of the State identified in Task 1.1 that will be subject to the local SMP.

Deliverables (three hard copies and one digital copy, with accompanying maps):

1. Revised SMP document that address the findings of the cumulative impacts analysis and incorporates restoration plan goals and policies.
2. Revised cumulative impacts analysis.
3. Final SMP jurisdiction maps and boundary descriptions

Due Date: September 30, 2010

(Note: Please provide Ecology with sufficient time, approximately 45 to 60 days, to review and comment on the revised draft SMP and other documents.)

Task 4.3: Prepare a report that demonstrates how no net loss will be achieved

Prepare a technical memo that demonstrates how the recommended shoreline management measures in Task 2.3, together with the findings of the cumulative impacts analysis and the restoration plan, are reflected in the proposed SMP and achieve no net loss.

Deliverables (one digital copy)

1. A technical memo that demonstrates how no net loss will be achieved through SMP implementation.

Due Date: September 30, 2010

Task 4.4: Demonstrate how Phase 4 complies with the Guidelines

Fill in the SMP Submittal Checklist for the tasks that you have completed under Phase 4.

Deliverables:

1. An SMP Submittal Checklist completed as relevant to task (adding incrementally to earlier completed tasks).

Due Date: September 30, 2010

PHASE 5: LOCAL SMP ADOPTION PROCESS

Conduct a local review and adoption process for the proposed SMP as provided in the SMA, WAC 173-26, and the State Environmental Policy Act. The SMP shall contain shoreline policies, regulations, environment designations, definitions, required administrative provisions, and a clear description of final SMP jurisdiction boundaries together with copies of any provisions adopted by reference.

Task 5.1: Assemble complete draft SMP

Assemble a complete draft SMP and submit it to Ecology for informal review together with supporting documentation. This submittal is coincident with the Task 4.2, 4.3, and 4.4 deliverables. That is, this submittal represents the second full SMP submittal (and supporting documents) to Ecology for informal review. This submittal will be revised to address both 1) Ecology comments on the initial draft (submitted in Phase 3 / November 2009) and 2) Planning Commission review. This version will be the Planning Commission Recommended Draft and will also be the version sent to CTED and others under Task 5.3 below.

Due Date: September 30, 2010

Task 5.2: Complete SEPA review and documentation

Conduct and document SEPA review pursuant to chapter RWC 43.21C, the State Environmental Policy Act

Task 5.3: Provide GMA 60-day notice of intent to adopt

Upon conclusion of Tasks 5.1, and 5.2, local governments planning under the Growth Management Act must notify Ecology and the Department of Community, Trade and Economic Development of

its intent to adopt the SMP as least sixty days in advance of final local approval, pursuant to RCW 36.70A.106 and WAC 173-26-100 (5).

Task 5.4: Hold public hearing

Hold at least one public hearing prior to local adoption of the draft SMP, consistent with the requirements of WAC 173-26-100. The names and mailing addresses of all interested parties providing comment shall be compiled.

Task 5.5: Prepare a responsiveness summary

Prior to adoption of the draft SMP by the local elected body, prepare a summary responding to all comments received during the public hearing and the public comment period, discussing how the draft SMP addresses the issues identified in each comment.

Task 5.6: Adopt SMP and submit to Ecology

Complete the adoption process for the SMP update and submit the locally-adopted Draft SMP to Ecology.

Task 5.7: Demonstrate how Phase 5 complies with the Guidelines

Fill in the SMP Submittal Checklist for the tasks that you have completed under Phase 5.

Deliverables (two hard copies and one digital copy in Microsoft Word format, with accompanying maps):

1. A complete, locally adopted SMP including maps, with relevant supporting documentation. (Tasks 5.6 and 5.7)
2. SEPA products (checklist, MDNS or EIS; SEPA notice. (Task 5.2)
3. Evidence of compliance with GMA notice requirements. (Task 5.3)
4. Public hearing record. (Task 5.4)
5. Response to comments received. (Task 5.5)
6. A complete SMP Submittal Checklist.

Due Dates: June 30, 2011

SMA Grant Agreement No. G1000028
 between the Washington State Department of Ecology and the
 City of Gig Harbor

Anticipated Schedule / Work Plan

Gig Harbor 2009 - 2011 SMP Update Schedule			
Grant Task	Work Item / Deliverable	Anticipated Date	FY Funding
Phase 1		Completed	Year 1 Work Program July 2009 – June 2010
Phase 2		Substantially Completed	
2.3, 2.4	Final Shoreline Inventory and Characterization and Initial SMP Submittal Checklist	September 30, 2009	
Phase 3		Work is Ongoing	
	Continued Stakeholder Meetings (4)	July – August 2009	
3.1	Visioning / Stakeholder Committee Work and Summary/Strategy Memo	September 30, 2009	
3.2	Revise General Goals and Policies; Develop Regulations that Apply everywhere (e.g., critical areas)	July through October 2009	
3.3	Develop Environment Designations		
3.4	Environment Specific Goals, Policies, and Regulations		
3.5	SMP Administrative Provisions		
3.6	Preliminary Cumulative Impacts Analysis		
3.7	Update SMP Submittal Checklist		
	Informal Ecology Review of Stakeholder/Staff Draft SMP and supporting materials (45-60 days)	Submit November 1, 2009	
	City Receipt of Ecology Review Comments	January 2010	
	2 nd Open House Event	January 2010	
	Planning Commission meetings 1 & 2	February 2010	
	Planning Commission meetings 3 & 4	March 2010	
	Planning Commission meetings 5 & 6	April 2010	
	Planning Commission meetings 7 & 8	May 2010	
	Planning Commission meetings 9 & 10	June 2010	

SMA Grant Agreement No. G1000028
 between the Washington State Department of Ecology and the
 City of Gig Harbor

Gig Harbor 2009 - 2011 SMP Update Schedule			
Grant Task	Work Item / Deliverable	Anticipated Date	FY Funding
	Planning Commission PUBLIC HEARING - Recommended Draft SMP	July 2010	Year 2 Work Program July 2010 – June 2011
Phase 4			
4.1	Restoration Plan – Draft / Final	August 2010 / June 2011	
4.2	Reevaluate Phase 3 SMP elements and finalize SMP jurisdiction maps	September 2010	
4.3	Update SMP Submittal Checklist	September 2010	
Phase 5			
5.1	Assemble Revised Draft SMP for 2 nd Informal Review by Ecology (<i>this is Planning Commission Recommended Draft</i>)	Submit on September 30, 2010	
	City Receipt of Ecology Review Comments (45-60 days)	November 2010	
5.2	Local SEPA review and approval	November 2010	
5.3	GMA 60-day review to CTED and Ecology	December 2010 - January 2011	
	Planning Commission and City Council joint study session	January 2011	
	City Council meetings 1 & 2	February 2011	
	City Council meeting 3	March 2011	
5.4	City Council PUBLIC HEARING - first reading of ordinance	April 2011	
	City Council PUBLIC HEARING - second reading of ordinance	May 2011	
5.5	Prepare responsiveness summary	June 2011	
5.6 & 5.7	Submit locally adopted SMP and updated SMP Checklist to Ecology	Submit by June 30, 2011	
Phase 6	Ecology Formal Approval Process - Public Hearing - Incorporate Changes	July 2011 to December 2011	Year 3

Budget Summary and Conditions

Budget Conditions

Very Important Note: *Due to state law, all state funds that are disbursed to local governments under these grants are appropriated in the state budget on a biennial basis. Funds appropriated for each biennia of the grant must be spent on eligible activities within that two-year period. Local governments are not allowed to carry unexpended funds past that date.*

We are aware that state and local fiscal years are not on the same schedule; however, state law requires strict adherence to the state biennial funding cycles for state agreements. Grantees are strongly encouraged to actively manage their projects to ensure that spending occurs at budgeted levels.

1. **Project Administration:** For the administration of this agreement the RECIPIENT must follow the current edition of the *Administrative Requirements for Ecology Grants and Loans* (Yellow Book). <http://www.ecy.wa.gov/biblio/91118.html>

2. **Invoicing:**
 - Grants are awarded on a reimbursable basis. The Recipient initially pays project costs as they incur. Invoicing to Ecology is usually by quarter but not more often than once per month. Upon presentation of an invoice to Ecology, Ecology's share of the project is reimbursed to the Recipient.

 - Expenditures will be monitored by the Ecology Fiscal Office for compliance with the budget (see below). Budget deviations are allowed between tasks (e.g., a grantee may spend less money on one task and more on another), but in no circumstances may the RECIPIENT exceed the total project cost. If the total of all budget deviations exceeds 10% of the entire project cost, the Ecology Project Officer may require a written budget redistribution. When submitting invoices to Ecology, **the RECIPIENT shall itemize all costs by task** and provide subtotals by task on Ecology's Form C2, Voucher Support Form. All payment requests must have forms A, B, C (and D if applicable), be accompanied by a commensurate progress report, and receive Ecology Project Officer approval before payment can be released.

NOTE: For payment requests, the RECIPIENT must use the Ecology forms provided. Otherwise, Ecology will return requests to the RECIPIENT for submittal on the correct forms.

 - The RECIPIENT must **maintain complete backup documents** including but not limited to all invoiced costs and time sheets - signed and dated by employee and supervisor. The RECIPIENT must keep these expenses in grant files according to budget task for a period of three years after project completion and make them available at any time for inspection by the DEPARTMENT.

 - Requests for reimbursement must be **submitted at least quarterly** but not more than once per month by the RECIPIENT on state invoice voucher forms.

 - The **indirect rate must not exceed 25 percent** of direct (staff) labor and benefit costs. This rate covers space utilities, miscellaneous copying,

telephone, motor pool, janitorial services, records storage, rental, county fiscal and legal services, etc. Items not included in this list must be reported with the first payment request and must remain consistent for the life of the grant.

- **Right to Audit:** The Recipient agrees that payment(s) made under this grant shall be subject to reduction for amount charged thereto which are found after audit examination not to constitute allowable costs under this grant. The Recipient shall refund by check payable to the DEPARTMENT the amount of such reduction of payments under completed or terminated grants.
3. **Estimates:** Near the end of each fiscal year, RECIPIENTS will receive an Estimate Form from Ecology’s Fiscal Office. An **estimate** is the dollar amount you anticipate requesting from Ecology for project costs incurred through June 30 and have not yet submitted for reimbursement. RECIPIENTS must fill out and submit the form to Ecology by the specified due date. Ecology must have these estimates to ensure sufficient funds are reserved to reimburse RECIPIENTS for expenditures incurred within that specific fiscal year ending June 30. **Failure to submit the Estimate Form by the due date could result in a considerable delay in payment from Ecology.** Timely receipt of estimates also helps Ecology more effectively manage the overall SMP grant fund.
 4. **Final payment** of grant projects is contingent on receipt of viable work products as listed in the grant document.
 5. **Funding Budget** (for RECIPIENT reporting and Ecology tracking purposes):

Maximum Grant Amount, Fiscal Years 1 and 2 (7/1/09-6/30/11): \$ 93,000

6. Expenditure Budget

Phase / Task	Year 1 09-10	Year 2 10-11	Year 3 11-12
A . Secure Consult Services			
B. Project Coordination	\$2,430	\$2,430	
1. Prelim Assessment / Public Participation Plan	\$0	\$0	
2. Shoreline Inventory, Analysis, and Characterization	\$10,136	\$ 0	
3. Shoreline Policy, Environment Designation; Policy and Regulation Development ; Cumulative Impacts Analysis	\$38,428	\$9,607	
4. Restoration Planning / Revisit Phase 3 products as necessary	\$0	\$15,611	
5. Local Adoption Process	\$0	\$14,358	Not funded
Subtotal	\$50,994	\$42,006	

Special Terms and Conditions

1. **Responsibilities of the Project Coordinator:** The Recipient's Project Coordinator shall be responsible for the procedural obligations under this agreement in addition to his/her duty to coordinate the planning effort hereunder. He/She shall cooperate with all parties concerned in every way possible to promote successful completion of the services described in the Scope of Work.
2. **Progress Reports.** The RECIPIENT shall prepare and submit quarterly progress reports to the DEPARTMENT throughout the life of the grant. Reports shall be submitted no later than 20 calendar days after the end of the reporting period as follows:

Progress Report	Reporting Period	Date Due
First Quarter	July 1 – September 30	October 20
Second Quarter	October 1 – December 31	January 20
Third Quarter	January 1 – March 31	April 20
Fourth Quarter	April 1 – June 30	July 20

For Report Contents and Ecology's form: Please visit our website at:

<http://www.ecy.wa.gov/programs/sea/grants/smp/forms.html>

County or City Name Grant No. G1000__
Project Title Task Title Task Number Date

3. **Identification of Project Materials** - All reports, maps, and other documents published as part of this grant agreement shall carry the name of the RECIPIENT, Ecology's grant number (in the upper right hand corner), title, the specific task number of the product and date centered on the front cover or title page (or in the case of maps, the block which contains the name of the Government unit or Department) and acknowledgment of the source of funding as follows:

4. **Format for Publications and Brochures:** Any (hard copy) publications or brochures required as a product of this agreement shall conform to minimum standards of size, 8-1/2" x 11" white, recycled paper equivalent in weight to 20 lb. bond, single spaced, printed both sides, no less than 1" margins. Photos, illustrations, and graphs must be of reproducible quality. Any publications or brochures intended for public distribution shall comply with graphic requirements as specified in Ecology's "Publications Handbook", publication number 91-41 and any additional specifications as may be outlined in the Scope of Work.
5. **Quality Assurance Project Plan (QAPP).** IF this project involves the collection of environmental measurement data, the RECIPIENT must prepare a QAPP to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating this data. The plan shall be conducted in accordance with the DEPARTMENT's Guidelines for the Preparation of Quality Assurance Project Plans for Environmental Studies, current edition, (Ecology Publication No. 04-03-030).

The plan must describe the monitoring and data quality objectives, procedures, and methodologies which will be used to ensure that all environmental data generated will meet these requirements. The size and complexity of the plan should be cost effective and in proportion to the magnitude of the sampling effort. The RECIPIENT may also reference Technical Guidance for Assessing the Quality of Aquatic Environments, February 1994 (Ecology Publication No. 91-78), in developing the plan. The QAPP shall be composed of a concise description of the environmental measurement aspects of this project. Ecology's Project Officer shall review and approve this plan prior to initiation of work.

The QAPP should describe the following elements:

- Assumptions that direct the collection and analysis of data;
- Resources used (such as flights for aerial photos);
- Resource documents that will be consulted;
- Field methods employed;
- Office methods employed;
- Training level of staff involved in data collection and analysis;
- Equipment / materials to be used
- Procedures to assure accurate calibration of field instruments.

Other supporting documentation, including example QAPPs, QAPP templates, and field SOPs may be found at Ecology's Quality Assurance website:
www.ecy.wa.gov/programs/eap/quality.html

- 6. Coordination with Ecology's Geographical Information System (GIS).** If this project involves developing GIS data, the RECIPIENT shall coordinate with Ecology's GIS office in an effort to promote compatibility and to encourage sharing of geospatial data. To facilitate data sharing, the DEPARTMENT utilizes the following standards:

Ecology's GIS Standards	
ESRI's ArcGIS	9.x
ESRI's ArcView	Current Version
Horizontal Datum	NAD 83 HARN
Vertical Datum	NGVD 88
Projection System	Lambert Conic Conformal
Coordinate System	WA State Plane Coordinates
Coordinate Zone	South
Coordinate Units	Feet
Accuracy Standard	+/-40 Feet (1:24,000) minimum accuracy to within of the true North American datum system
Vector Import Format	ArcExport, shapefiles, file or personal tabase
Raster Import Format	TIFF, BIL/BIP, RLC, GRID, ERDAS, SID

Whenever possible, the Recipient is encouraged to utilize the standards listed above when compiling data. To discuss the usage of other standards, please contact Jerry Franklin at 360 407-7470; Fax: 360 407-6902; E-Mail: jfra461@ecy.wa.gov or Dan Saul at 360-407-6419; E-Mail: dsau461@ecy.wa.gov for further data sharing and compatibility information.

The RECIPIENT shall submit copies to Ecology's Project Officer with complete documentation as it relates to all digital data, GIS coverages, shape files, related tables and map products.

7. **Washington State Minority and Women's Business Participation.** The RECIPIENT agrees to solicit and recruit, to the maximum extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement.

In the absence of more stringent goals established by the RECIPIENT's jurisdiction, the RECIPIENT agrees to utilize the DEPARTMENT'S goals for minority- and women-owned business participation in all bid packages, request for proposals, and purchase orders. These goals are expressed as a percentage of the total dollars available for the purchase or contract and are as follows:

Construction/Public Works	10% MBE	6%WBE
Architecture/Engineering	10% MBE	6%WBE
Purchased Goods	8% MBE	4%WBE
Purchased Services	10% MBE	4%WBE
Professional Services	10% MBE	4%WBE

No contract award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and the RECIPIENT and ALL prospective bidders or persons submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement:

- a. Include qualified minority and women's businesses on solicitation lists.
- b. Assure that qualified minority and women's businesses are solicited whenever they are potential sources of services or supplies.
- c. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- d. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- e. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. DEPARTMENT of Commerce, as appropriate

By signing this Agreement, the RECIPIENT certifies that the above steps were, or will be followed. Any contractor engaged by the RECIPIENT under this agreement shall be required to follow the above five affirmative steps in the award of any subcontract(s).

The RECIPIENT shall report to the DEPARTMENT at the time of submitting each invoice, on forms provided by the DEPARTMENT, payments made to qualified firms. The report will address:

- a. Name and state OMWBE certification number of any qualified firm receiving funds under the voucher, including any sub-and/or sub-subcontractors.
- b. The total dollar amount paid to qualified firms under this invoice.

GENERAL TERMS AND CONDITIONS
**Pertaining to Grant and Loan Agreements of
the Department of Ecology**

A. RECIPIENT PERFORMANCE

All activities for which grant/loan funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT's employees. The RECIPIENT shall not assign or subcontract performance to others unless specifically authorized in writing by the DEPARTMENT.

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and conditions of this agreement.

C. THIRD PARTY BENEFICIARY

The RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this agreement, the state of Washington is named as an express third-party beneficiary of such subcontracts with full rights as such.

D. CONTRACTING FOR SERVICES (BIDDING)

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

E. ASSIGNMENTS

No right or claim of the RECIPIENT arising under this agreement shall be transferred or assigned by the RECIPIENT.

F. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits.

Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.

2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. The RECIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to women or minority owned businesses.

3. Wages And Job Safety. The RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.

4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

G. KICKBACKS

The RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this project to give up any part of the compensation to which he/she is otherwise entitled or, receive any fee, commission or gift in return for award of a subcontract hereunder.

H. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object.

All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this agreement shall be maintained by the RECIPIENT.

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.

3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this agreement and for at least three years following grant/loan termination or dispute resolution hereunder.

4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECIPIENT expends \$300,000 or more in a year in Federal funds. The \$300,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECIPIENT must forward a copy of the audit along with the RECIPIENT'S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. PERFORMANCE REPORTING

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted.

Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within twenty (20) days following the end of the quarter being reported.

J. COMPENSATION

1. Method of compensation. Payment shall normally be made on a reimbursable basis as specified in the grant agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and certified as satisfactory by the Project Officer.

The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work. Instructions for submitting the payment requests are found in "Administrative Requirements for Ecology Grants and Loans", part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee.

Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this agreement.

2. Budget deviation. Deviations in budget amounts are not allowed without written amendment(s) to this agreement. Payment requests will be disallowed when the RECIPIENT's request for reimbursement exceeds the State maximum share amount for that element, as described in the Scope of Work.

3. Period of Compensation. Payments shall only be made for action of the RECIPIENT pursuant to the grant/loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.

4. Final Request(s) for Payment. The RECIPIENT must submit final requests for compensation within forty-five(45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.

5. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance and a financial bond. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.6. herein.

6. Unauthorized Expenditures. All payments to the RECIPIENT shall be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.

7. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.

8. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this agreement, the DEPARTMENT may refuse to pay any further funds thereunder and/or terminate this agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this agreement, at the option of the DEPARTMENT, shall become Department property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Despite the above, the RECIPIENT shall not be relieved of any liability to the DEPARTMENT for damages sustained by the DEPARTMENT and/or the State of Washington because of any breach of agreement by the RECIPIENT. The DEPARTMENT may withhold payments for the purpose of setoff until such time as the exact amount of damages due the DEPARTMENT from the RECIPIENT is determined.

2. Insufficient Funds. The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and

state allotment. When this agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be good cause to terminate this agreement as provided in paragraph K.1 above.

When this agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent upon appropriation of funds by the RECIPIENT's governing body; Provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section O herein.

3. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date mutually agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.

L. WAIVER

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this agreement is not a waiver of any subsequent breach and will not be construed as a modification of the terms of this agreement unless stated as such in writing by the authorized representative of the DEPARTMENT.

M. PROPERTY RIGHTS

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes.

Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.

2. Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.

3. Tangible Property Rights. The DEPARTMENT's current edition of "Administrative Requirements for Ecology Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.

4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.

5. Acquisition Projects. The following provisions shall apply if the project covered by this agreement includes funds for the acquisition of land or facilities:

a. Prior to disbursement of funds provided for in this agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.

b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's

opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this agreement.

6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this agreement bear to the total acquisition, purchase or construction costs of such property.

N. RECYCLED/RECYCLABLE PAPER

All documents and materials published under this agreement shall be produced on recycled paper containing the highest level of post consumer and recycled content that is available. At a minimum, paper with 10 percent post consumer content and 50 percent recycled content shall be used. Whenever possible, all materials shall be published on paper that is unbleached or has not been treated with chlorine gas and/or hypochlorite.

As appropriate, all materials shall be published on both sides of the paper and shall minimize the use of glossy or colored paper and other items which reduce the recyclability of the document.

O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform.

Interest shall accrue at the rate of twelve percent (12%) per annum from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL

The extent and character of all work and services to be performed under this agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Officer or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Officer or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

Q. DISPUTES

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal.

In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of

the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

R. CONFLICT OF INTEREST

No officer, member, agent, or employee of either party to this agreement who exercises any function or responsibility in the review, approval, or carrying out of this agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.

S. INDEMNIFICATION

1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

2. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

T. GOVERNING LAW

This agreement shall be governed by the laws of the State of Washington.

U. SEVERABILITY

If any provision of this agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this agreement which can be given effect without the invalid provision, and to this end the provisions of this agreement are declared to be severable.

V. PRECEDENCE

In the event of inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for Ecology Grants and Loans"; and (e) the General Terms and Conditions.



**Subject: Shoreline Master Program Update
Consultant Services Contract -
First Amendment**

**Proposed Council Action:
Approve contract amendment with ESA
Adolfson**

Dept. Origin: Planning

Prepared by: Tom Dolan

For Agenda of: August 10, 2009

Exhibits: Amended Contract

Initial & Date

Concurred by Mayor:

CLH 8/4/09

Approved by City Administrator:

Approved as to form by City Atty:

by e-mail

Approved by Finance Director:

DR 8/3/09

Approved by Department Head:

JL 8/3/09

Expenditure		Amount		Appropriation	
Required	\$93,000	Budgeted	\$93,000	Required	0

INFORMATION / BACKGROUND

In May of 2008 the City entered into a consultant contract with ESA Adolfson for consulting services associated with the State mandated update to the City's Shoreline Master Program. That contract was for a maximum of \$86,592. As of June 30, 2009, approximately \$47,000 of the total amount budgeted had been spent. Earlier in June, the City received notice from the Washington State Department of Ecology that the City had been selected for a grant of \$93,000 to complete the Master Program update. As a result of the grant, the City was able to save approximately \$39,000 of City funds. In addition, the City will be able to expand the update effort to include:

- o Evaluating the capacity of the harbor to accommodate future marina development.
- o Identifying appropriate areas to accommodate additional public access and recreational facilities (such as a kayaking center).
- o Studying the maintenance needs and potential growth of commercial fishing operations.
- o Evaluating historic netsheds.

During the past year, ESA Adolfson has made good progress towards completion of the Master Program update. As consultants they have been extremely responsive.

FISCAL CONSIDERATION

As previously identified, the State grant approved by the Department of Ecology (\$93,000) will fund the entire amount of this contract. No additional City monies will be necessary.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Approve the First Amendment to the contract with ESA Adolfson for consulting services associated with the State mandated update to the City of Gig Harbor's Shoreline Master Program.

**FIRST AMENDMENT
TO
CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
ESA ADOLFSON, INC.**

THIS FIRST AMENDMENT to that certain Consultant Services Contract dated May 13, 2008 (the "Agreement"), is entered into by and between the CITY OF GIG HARBOR, a Washington municipal corporation (hereinafter the "City"), and ESA ADOLFSON, INC., a corporation organized under the laws of the State of Washington, located and doing business at 5309 Shilshole Avenue NW, Seattle, Washington (hereinafter the "Consultant").

WHEREAS, the City engaged Consultant to perform services in connection with the City's Shoreline Master Program update; and

WHEREAS, the City received additional grant funding in connection with the Shoreline Master Program update from the Washington State Department of Ecology and desires that Consultant provide additional consultant services consistent with the scope of work required by the grant agreement; and

WHEREAS, the parties desire to execute an amendment to the Agreement in order to modify the scope of work to be performed by the Consultant to incorporate additional services, to increase the amount of compensation accordingly, and to increase the duration of the Agreement;

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

Section 1. Amendment to Scope of Work. Section I of the Agreement is amended to require the Consultant to perform all additional work described in **Exhibit A**, attached to this Amendment and incorporated herein. To the extent the amended scope of work attached hereto includes tasks substantially similar to the tasks set forth on the original scope of work, the requirements under the amended scope of work prevail.

Section 2. Amendment to Compensation. Section II(A) of the Agreement is amended to increase the amount of the compensation payable under the Agreement by Ninety-three Thousand Dollars (\$93,000) for maximum compensation to the Consultant for all work under the Agreement in an amount not to exceed One Hundred Forty Thousand, Six Hundred Fourteen and 75/100's Dollars (\$140,614.75), as set forth on **Exhibit B**, attached hereto and incorporated herein.

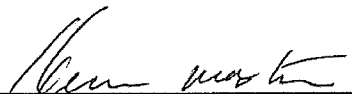
Section 3. Duration of Work. Section IV of the Agreement is amended to agree that all work will be performed in accordance with **Exhibit A** immediately upon execution of this Agreement and the parties agree that all work described in **Exhibit A** shall be completed by June 23, 2011.

EXCEPT AS EXPRESSLY MODIFIED BY THIS FIRST AMENDMENT, ALL TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 2009.

ESA Adolfson, Inc.

THE CITY OF GIG HARBOR

By:  _____
Its Principal

By: _____
Mayor Charles L. Hunter

ATTEST:

Molly Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck

Exhibit A

SCOPE OF SERVICES

Contract Amendment 1 ESA Adolfson, Inc.

Project Title: City of Gig Harbor Shoreline Master Program Update

Description: The City of Gig Harbor (City) is conducting a comprehensive update of its 1994 Shoreline Master Program (SMP) and associated development regulations. The updated SMP will be consistent with the State Shoreline Management Act (Chapter 90.58 RCW) and adopted guidelines by the Department of Ecology (Chapter 173-26 WAC). The City initiated this effort using city funds and secured ESA Adolfson with a contract dated May 13, 2008. The City has now entered into an SMA grant agreement with Department of Ecology to fund this effort. This scope of services is intended to accompany ESA Adolfson's contract amendment 1 and to align with the City's grant agreement with Ecology.

Scope of Services

While the hours within the tasks identified on Exhibit B (Schedule of Rates and Estimated Hours) may fluctuate, ESA Adolfson's level of effort will be limited to the hours and budget specified in the contract, unless otherwise amended by the City. In addition, the level of effort between tasks may fluctuate with prior approval by the City Project Manager, but shall not deviate from the overall budget allocation per Phase and per Fiscal Year, as established by the City's grant agreement. Schedule for deliverables under each task assumes the contract amendment will be approved no later than July 3, 2009. Deliverable dates shall adjust accordingly if approval occurs later.

Phase and Task numbers used below reference the grant agreement directly.

YEAR 1 (JULY 2009-JUNE 2010)

Phase 2. Shoreline Inventory, Analysis & Characterization

Task 2.3 Finalize Shoreline Inventory and Characterization Report

ESA Adolfson will conduct additional analysis in response to issues identified through the Stakeholder Committee work, including the following:

- Evaluate the capacity of the harbor to accommodate future marina development.
- Identify appropriate areas to accommodate additional public access and recreational facilities (such as a kayaking center).

- Study the maintenance needs and potential growth of commercial fishing operations.

ESA Adolfson will document the results of the analysis in the final inventory and characterization report.

ESA Adolfson will provide additional mapping to better characterize baseline conditions. Maps will be developed to indicate the following:

- Existing public access (including the type of access, such as boat launch, public pier, public marinas)
- Private marinas
- Water-dependent commercial fishing operations
- Historic netshed locations

Assumptions: City will be responsible for printing copies for wider public distribution.

Deliverables: Final Shoreline Inventory and Characterization Report and Map Folio, delivered in electronic (.pdf and word) format and three (3) copies in hard copy format. Electronic maps delivered in .pdf format. Any new GIS data created delivered in ESRI shapefile format.

Due Date: August 31, 2009 (1 month before Ecology Deadline)

Task 2.4 Demonstrate how Phase 2 complies with the Guidelines

ESA Adolfson will fill in the SMP Submittal Checklist for the tasks that have been completed under Phases 1 and 2 per the grant agreement.

Deliverables: SMP Submittal checklist in electronic (word) format.

Due Date: September 23, 2009 (1 week before Ecology Deadline)

Phase 3. Complete Draft SMP and Cumulative Impacts Analysis

Task 3.1 Conduct Community Visioning Process

ESA Adolfson will attend up to four (4) additional Stakeholder Committee meetings and will draft brief meeting summary memos (not complete meeting minutes) to document stakeholder input, decisions, and feedback.

After the final stakeholder committee meeting, ESA Adolfson will draft a memo outlining the major policy direction provided by the Committee. This memo will represent the strategy for shoreline uses, public access, resource protection and restoration.

Deliverables: Meeting summaries and policy direction memo.

Due dates: Within 1 week of each Stakeholder Committee meeting; September 15, 2009 (policy direction memo) (two weeks before Ecology Deadline)

Task 3.2 Develop General SMP Goals, Policies and Regulations

ESA Adolfson will revise the draft general goals and policies to reflect Stakeholder Committee Members' input.

Deliverables: General Goals and Policies Chapter of Draft SMP (electronic format)

Due date: October 9, 2009 (3 weeks before Ecology Deadline)

Task 3.3 Develop Environment Designations

ESA Adolfson previously prepared and delivered a technical memorandum and draft map of potential environment designations. Following discussion and coordination with City staff and the Stakeholder Committee, ESA Adolfson will finalize the environment designations and proposed designations map. An appropriate designation for the downtown waterfront area will be developed that accommodates the mix of uses. The draft designation for the recently annexed shoreline area on Henderson Bay will be revisited.

Deliverables: Environment Designations Chapter of Draft SMP and proposed designations map (electronic format).

Due date: October 9, 2009 (3 weeks before Ecology Deadline)

Task 3.4 Develop Environment-Specific Shoreline Use and Modification Policies, Regulations and Standards

ESA Adolfson will conduct additional analysis in response to issues identified through the Stakeholder Committee work, including the following:

- Treatment of Netsheds – The City may conduct additional analysis to assess the condition of each of the 17 netshed properties (e.g., parcel specific analysis to determine upland site constraints and condition of the overwater structure to support various potential uses). ESA Adolfson will work with City staff to interpret findings of this technical work. ESA Adolfson will then prepare specific policies and regulations related to netsheds and future use at these locations.
- Critical Areas Integration – ESA Adolfson will work with City staff to develop a review process, protection and mitigation standards, and administrative procedures for managing critical areas in the shoreline.

- o Public Access Standards – ESA Adolfson will work with City staff to develop standards and regulations for promoting public access in the shoreline.

After completion of the analysis described above, ESA Adolfson will prepare draft policies and regulations for environment designations, and will revise the draft shoreline use and modification policies per Stakeholder Committee input. Implementing regulations and development standards will then be developed to address all uses and modifications discussed in the SMP Guidelines.

Deliverables: Shoreline Use and Modification Policies Chapter of Draft SMP; Regulations and Development Standards Chapter of Draft SMP (all in electronic format).

Due date: October 9, 2009 (3 weeks before Ecology Deadline)

Task 3.5 Develop SMP Administrative Provisions

ESA Adolfson will prepare draft provisions for SMP administration, including necessary elements and timelines for permit administration, compliance, and enforcement. The SMP definitions section will also be revised. ESA Adolfson will develop a review and approval process for critical areas located in shoreline jurisdiction. Language addressing non-conforming uses and development will be included.

Deliverables: Administrative Procedures Chapter of Draft SMP (electronic format).

Due Date: October 9, 2009 (3 weeks before Ecology Deadline)

Task 3.6 Prepare Preliminary Cumulative Impacts Analysis

ESA Adolfson will evaluate and analyze draft SMP policies, regulations and environment designations to show how they achieve no net loss of shoreline ecological functions during the planning period. The analysis will include incremental and cumulative impacts of future uses and development allowed by the proposed SMP as an ongoing part of the update process. The analysis will identify how proposed SMP regulations and standards and restoration activities will avoid and offset expected impacts of future permitted and exempt shoreline development. The cumulative impacts analysis may be revised during Phase 4 if the initial document shows that cumulative impacts would result from the draft SMP.

Deliverables: Draft (city review) and Revised Draft (for Ecology submittal) Cumulative Impacts Analysis Memo in electronic (.pdf and word) format and 3 hard copies.

Due Date: October 16, 2009 (2 weeks before Ecology Deadline)

Task 3.7 Demonstrate how Phase 3 complies with the Guidelines

ESA Adolfson will fill in the SMP Submittal Checklist for the tasks that have been completed under Phase 3.

Deliverables: SMP Submittal checklist in electronic (word) format.

Due Date: October 26, 2009 (1 week before Ecology Deadline)

Task 3.8 Phase 3 Public Meeting Support

This task is not explicit in the grant agreement. ESA Adolfson will support City staff during Phase 3 work elements by attending:

- Up to 4 Stakeholder Committee meetings
- Up to 1 Open House Event
- Up to 4 Planning Commission meetings

Assumptions: City staff will advertise meetings and prepare copies of packet materials or other handouts. This scope assumes 7 hours per meeting per staff (including 2.5 hours of travel and 2.5 hours preparation). City staff will provide summaries of Planning Commission meetings. City staff will print and copy graphics, maps, and other materials for distribution at Planning Commission meetings. ESA Adolfson will assist City staff develop presentations and other materials for distribution, as defined in previous tasks. Adolfson will increase level of effort for this task upon written authorization by the City to adjust level of effort in other tasks, unless otherwise amended.

YEAR 2 (JULY 2010-JUNE 2011)

Phase 4: Restoration Planning, Revisiting Phase 3 Products as Necessary

Task 4.1 Revise Restoration Plan

ESA Adolfson will revise the draft Restoration Plan once the policy review work with the Stakeholder Committee is complete. The revised Restoration Plan will identify or address the following:

- Shoreline sites with potential contamination (from previous use and development)
- How best to accomplish remediation activity at shoreline locations as part of redevelopment
- How to establish an overall restoration framework and implementation plan that includes the opportunity for off-site mitigation actions that will advance restoration objectives, while maintaining clear and equitable requirements for nexus and proportionality for landowners.

Deliverables: Revised Draft and Final Restoration Plan.

Due Date: July 15, 2010 (complete draft restoration plan) (two weeks before Ecology Deadline)
June 15, 2011 (complete final restoration plan) (two weeks before Ecology Deadline).

Task 4.2 Revisit Draft SMP and Cumulative Impacts Analysis; Finalize SMP Jurisdiction Maps

Based on findings in the cumulative impacts analysis, ESA Adolfson will re-evaluate and revise the draft SMP environment designations, policies, and regulations developed in Phase 3 as necessary to assure that they are adequate to achieve no net loss of ecological functions. The cumulative impacts analysis will be revised as needed to reflect changes in the draft SMP.

ESA Adolfson will prepare final jurisdiction maps of Shorelines of the State identified in Task 1.1 of the Ecology Grant that will be subject to the local SMP.

Deliverable: Revised Draft SMP for submittal to Ecology under Task 5.1

Due Date: August 31, 2010 (one month before Ecology Deadline)

Task 4.3 Prepare a Report that Demonstrates how No Net Loss will be Achieved

Prepare a technical memo that demonstrates how the recommended shoreline management measures in Task 2.3, together with the findings of the cumulative impacts analysis and the restoration plan, are reflected in the proposed SMP and achieve no net loss.

Deliverable: Draft (city review) and Final (Ecology submittal) No Net Loss Memo.

Due Date: September 16, 2010 (two weeks before Ecology Deadline)

Task 4.4 Demonstrate how Phase 4 complies with the Guidelines

ESA Adolfson will fill in the SMP Submittal Checklist for the tasks that have been completed under Phase 4.

Deliverables: SMP Submittal checklist in electronic (word) format.

Due Date: September 23, 2010 (one week before Ecology Deadline)

Task 4.5 Phase 4 Public Meeting Support

This task is not explicit in the grant agreement. ESA Adolfson will support City staff during Phase 4 work elements by attending up to 1 Planning Commission meeting.

Assumptions: City staff will advertise meetings and prepare copies of packet materials or other handouts. This scope assumes 7 hours per meeting per staff (including 2.5 hours of travel and 2.5 hours preparation). City staff will provide summaries of Planning Commission meetings. City staff will print and copy graphics, maps, and other materials for distribution at Planning Commission meetings. ESA Adolfson will assist City staff develop presentations and other materials for distribution, as defined in previous tasks. Adolfson will increase level of effort for this task upon written authorization by the City to adjust level of effort in other tasks, unless otherwise amended.

Phase 5: Local SMP Adoption Process

Task 5.1 Assemble Complete Draft SMP

Assemble a complete draft SMP for submittal to Ecology for informal review with supporting documentation developed during Phase 4. This submittal will be revised to address both 1) Ecology comments on the initial draft (submitted in Phase 3 / November 2009) and 2) Planning Commission review.

Deliverables: Planning Commission Recommended Draft SMP (electronic format and 3 hard copies)

Due Date: September 23, 2010 (one week before Ecology Deadline)

Task 5.2 SEPA Review and Documentation

ESA Adolfson will lead development of a SEPA Non-Project Review Environmental Checklist to support the City's SEPA action and facilitate the local adoption process.

Deliverables: Draft and final SEPA Checklist (electronic format)

Due Date: May 31, 2011

Task 5.7 Demonstrate how Phase 5 Complies with the Guidelines

ESA Adolfson will fill in the SMP Submittal Checklist for the tasks that have been completed under Phase 5.

Deliverables: SMP Submittal checklist in electronic (word) format.

Due Date: June 23, 2011 (one week before Ecology Deadline)

Task 5.8 Phase 5 Public Meeting Support

This task is not explicit in the grant agreement. ESA Adolfson will support City staff during Phase 3 work elements by attending up to 3 City Council meetings.

Assumptions: City staff will advertise meetings and prepare copies of packet materials or other handouts. This scope assumes 7 hours per meeting per staff (including 2.5 hours of travel and 2.5 hours preparation). City staff will provide summaries of Planning Commission meetings. City staff will print and copy graphics, maps, and other materials for distribution at Planning Commission meetings. ESA Adolfson will assist City staff develop presentations and other materials for distribution, as defined in previous tasks. Adolfson will increase level of effort for this task upon written authorization by the City to adjust level of effort in other tasks, unless otherwise amended.

EXHIBIT B

Schedule of Rates and Estimated Hours

ESA Adolfson, Inc.

Schedule of Rates

Job Classification	Hourly Billing Range		
Principal Scientist/Planner/Engineer	\$ 167.50	to	\$ 279.00
Senior Project Manager	\$ 123.00	to	\$ 204.50
Project Manager	\$ 104.50	to	\$ 167.50
Senior Engineer	\$ 126.50	to	\$ 193.50
Project Engineer	\$ 100.50	to	\$ 149.00
Staff Engineer	\$ 78.50	to	\$ 123.00
Landscape Architect	\$ 119.00	to	\$ 156.50
Senior Scientist	\$ 100.50	to	\$ 141.50
Project Scientist	\$ 71.00	to	\$ 119.00
Staff Scientist	\$ 56.00	to	\$ 89.50
Senior Planner	\$ 104.50	to	\$ 152.50
Project Planner	\$ 78.50	to	\$ 123.00
Staff Planner	\$ 59.50	to	\$ 104.50
Technical Editor	\$ 82.00	to	\$ 115.50
Senior Graphics/GIS Specialist	\$ 74.50	to	\$ 160.00
Graphics/GIS Specialist	\$ 59.50	to	\$ 130.50
Sr. Project Administrator	\$ 78.50	to	\$ 119.00
Project Administrator	\$ 59.50	to	\$ 93.00
Office/Project Assistant	\$ 56.00	to	\$ 78.50

Cost Estimate

Phase / Task	Year 1	Year 2	Phase Totals
	09-10	10-11	
Project Management / Coordination	\$2,430	\$2,430	\$4,860
1. Prelim Assessment / Public Participation Plan	\$0	\$0	\$0
2. Shoreline Inventory, Analysis, and Characterization	\$10,136	\$0	\$10,136
3. Shoreline Policy, Environment Designation; Policy and Regulation Development	\$38,428	\$9,607	\$48,036
4. Cumulative Impacts Analysis / Restoration Planning / Revisit Phase 3 products as necessary	\$0	\$15,611	\$15,611
5. Local Adoption Process	\$0	\$14,358	\$14,358
Subtotal	\$50,994	\$42,006	\$93,000



Subject: Boys and Girls Club Sanitary Sewer and Stormwater Facilities Easement and Maintenance Agreements (EN-08-0047)

Dept. Origin: Public Works Department

Prepared by: Willy Hendrickson *WJH*
Engineering Technician

Proposed Council Action: Approval of the Sanitary Sewer and Stormwater Agreements as presented.

For Agenda of: August 10, 2009

Exhibits: One Sanitary Sewer and one Storm Water Maintenance Agreements

Initial & Date

Concurred by Mayor: CLH 8/5/09
Approved by City Administrator: _____
Approved as to form by City Atty: VIA EMAIL
Approved by Finance Director: NA
Approved by Department Head: AM

Expenditure		Amount		Appropriation	
Required	0	Budgeted	0	Required	0

INFORMATION / BACKGROUND

As a condition of project approval of the Boys and Girls Club project located at 8502 Skansie Avenue, Gig Harbor, Sanitary Sewer and Storm Water Facilities Maintenance Agreements are required. This will ensure that the sanitary sewer system and storm water system will be constructed, operated and maintained in accordance with all applicable rules and regulations. The sanitary sewer system and storm water system is located on private property and will be privately owned. The City will not be responsible for the operation and maintenance of these systems. These agreements allow the City a nonexclusive right-of-entry onto those portions of the property in order to access the sanitary sewer system for inspection and monitoring of the system.

FISCAL CONSIDERATION

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

RECOMMENDATION / MOTION

Move to: Approval of the Sanitary Sewer and Stormwater Agreements as presented.

AFTER RECORDING RETURN TO:

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

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

Document Title(s) (or transactions contained therein):

Sanitary Sewer Facilities Easement and Maintenance Agreement

Grantor(s) (Last name first, then first name and initials)

Boys and Girls Club of South Puget Sound; Pierce County

Grantee(s) (Last name first, then first name and initials)

City of Gig Harbor

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

Section 06, Township 21 N, Range 02 E

Assessor's Property Tax Parcel or Account number: 0221063045

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

**SANITARY SEWER FACILITIES EASEMENT
AND MAINTENANCE AGREEMENT**

This Sanitary Sewer Facilities Easement and Maintenance Agreement is made this _____ day of _____, 200__, by and among the City of Gig Harbor, a Washington municipal corporation (the "City"), Boys and Girls Club of South Puget Sound, a Washington non-profit organization, located and doing business at 1501 Pacific Avenue, Suite 301, Tacoma, WA 98402 (the "Owner") and Pierce County, a political subdivision of the State of Washington (the "County").

RECITALS

WHEREAS, the County is the owner of fee title in certain real property located in Gig Harbor, Washington, located at 8500 Block of Skansie Avenue (the "Property") and legally described in **Exhibit A**, which is attached hereto and incorporated herein by this reference; and

WHEREAS, by way of that certain Ground Lease dated _____, Owner leased the Property from the County for a term of 50 years commencing on _____, 2008, for the purpose of Owner constructing a Boys and Girls Club facility; and

WHEREAS, in connection with the Owner's proposed development of the Property, the City has required and the Owner has constructed a private sanitary sewer system on the Property; and

WHEREAS, such sanitary sewer system is described and shown on a construction drawing(s) prepared by the engineering firm of Barghausen Consulting Engineers, Inc., dated August 1, 2008 (hereinafter the "Plans"), for the Owner's Property, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference; and

WHEREAS, as a condition of project approval, and/or due to the nature of the development, the sanitary sewer system on the Property is private, and will not be the responsibility of nor owned, operated or maintained by the City; and

WHEREAS, the private sanitary sewer will eventually be connected to the City's sanitary sewer system and the City desires an easement to definitively establish the permissible location of the City's access on the Property described in **Exhibit A**, for the purposes described in this Agreement; and

WHEREAS, as a result of said private ownership and responsibility for operation and maintenance, including repair, rehabilitation, replacement, alterations and/or modifications, the parties have entered in to this Easement and Maintenance Agreement, in order to ensure that the sanitary sewer system will be constructed,

operated and maintained in accordance with the approved Plans and all applicable rules and regulations;

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

TERMS

Section 1. Affected Property. The real property subject to this Agreement is legally described in **Exhibit A**.

Section 2. Definitions. As used in this instrument:

A. The word "plat" refers to the N/A, and any other plat or plats, including short plats, covering all real property which may hereafter be made subject to the provisions of this instrument by a written instrument signed by the Owner, its successors and assigns, in accordance with this Agreement.

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

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

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

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

Section 5. Easement for Access. The County hereby grants and conveys to the City a perpetual, non-exclusive easement, under, over, along, through and in the Property, as such Easement is legally described in **Exhibit C**, attached hereto and incorporated herein by this reference. This Easement is granted to the City for the purpose of providing the City with ingress and egress in order to access the sanitary sewer system on the Property for inspection, and to reasonably monitor the system for performance, operational flows, defects, and/or conformance with applicable rules and regulations. In addition, the City may use this Easement to exercise its rights as described in Section 7 herein.

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

Section 7. Rights of the City of Gig Harbor.

A. Execution of this Agreement shall not affect the City of Gig Harbor's present or future interest or use of any public or private sanitary sewer system. If the City determines that maintenance is required for the sanitary sewer system, and/or there is/are illegal connection(s) to or discharges into the sanitary sewer system, the Public Works Director or his/her designee shall give notice to the Owner(s) of the specific maintenance and/or changes required, and the basis for said required maintenance and/or changes. The Director shall also set a reasonable time in which the Owner(s) shall perform such work. If the maintenance required by the Director is not completed within the time set by the Director, the City may perform the required maintenance. Written notice will be sent to the Owner(s), stating the City's intention to perform such maintenance, and such work will not commence until at least five (5) days after such notice is mailed, except in situations of emergency. If, at the sole discretion of the Director, there exists an imminent or present danger to the sanitary sewer system, the City's facilities or the public health and safety, such five (5) day period will be waived, and the necessary maintenance will begin immediately.

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

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

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

E. In addition to or in lieu of the remedies listed in this Section, if the Owners or Owner's Association, after the written notice described in Section 7A above, fails or refuses to perform the necessary maintenance, repair, replacement or modifications, the City may enjoin, abate or remedy such breach or continuation of such breach by appropriate proceedings, and may bring an action against the violator for penalties under the Gig Harbor Municipal Code.

Section 8. Indemnification of City. The Owner(s) agree to defend, indemnify and hold harmless the City of Gig Harbor, its officials, officers, employees and agents, for any and all claims, demands, actions, injuries, losses, damages, costs or liabilities of any kind or amount whatsoever, whether known or unknown, foreseen or unforeseen, fixed or contingent, liquidated or unliquidated, arising from an alleged defect in the design of the sanitary sewer system as installed by the Owner(s), or arising by reason of any omission or performance under this Agreement by the Owner(s), its successors and assigns, and/or Owners' Association, of any of the obligations hereunder.

Section 9. Rights Subject to Permits and Approvals. The rights granted herein are subject to permits and approvals granted by the City affecting the Property subject to this Easement and Maintenance Agreement.

Section 10. Terms Run with the Property. The terms of this Easement and Maintenance Agreement are intended to be and shall constitute a covenant running with the Property and shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns.

Section 11. Notice. All notices required or permitted hereunder shall be in writing and shall either be delivered in person or sent by certified U.S. Mail, return-receipt requested, and shall be deemed delivered on the sooner of actual receipt or three (3) days after deposit in the mail, postage prepaid, addressed to the City or the Owner at the addresses set forth below:

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

To the County:
Pierce County Parks & Recreation
Services Division
9112 Lakewood Dr., SW, Suite 114
Lakewood, WA 98499

To the Owner:
Rickard W. Guild
President/CEO
Boys and Girls Club of South Puget Sound
1501 Pacific Ave, Suite 301
Tacoma, WA 98402

Section 12. Severability. Any invalidity, in whole or in part, of any provision of this Easement and Maintenance Agreement shall not affect the validity of any other provision.

Section 13. Waiver. No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented.

Section 14. Governing Law, Disputes. Jurisdiction of any dispute over this Easement and Maintenance Agreement shall be solely with Pierce County Superior Court, Pierce County, Washington. This Easement and Maintenance Agreement shall be interpreted under the laws of the State of Washington. The prevailing party in any litigation arising out of this Easement and Maintenance Agreement shall be entitled to its reasonable attorneys' fees, costs, expenses and expert witness fees.

Section 15. Integration. This Easement and Maintenance Agreement constitutes the entire agreement between the parties on this subject matter, and

supersedes all prior discussions, negotiations, and all other agreements on the same subject matter, whether oral or written.

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

THE CITY OF GIG HARBOR

OWNER

By: _____
Mayor Charles L. Hunter

By: _____
Rickard W. Guild, President

ATTEST:

Molly Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck

PIERCE COUNTY

Approved as to Legal Form Only:

Deputy Prosecuting Attorney Date

Recommended:

Department Director Date

Budget & Finance Date

Final Action:

Pierce County Executive Date

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

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

DATED: _____

Printed: _____
NOTARY PUBLIC in and for Washington
Residing at: _____
My appointment expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

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

DATED: _____

Printed: _____
NOTARY PUBLIC in and for Washington
Residing at: _____
My appointment expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

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

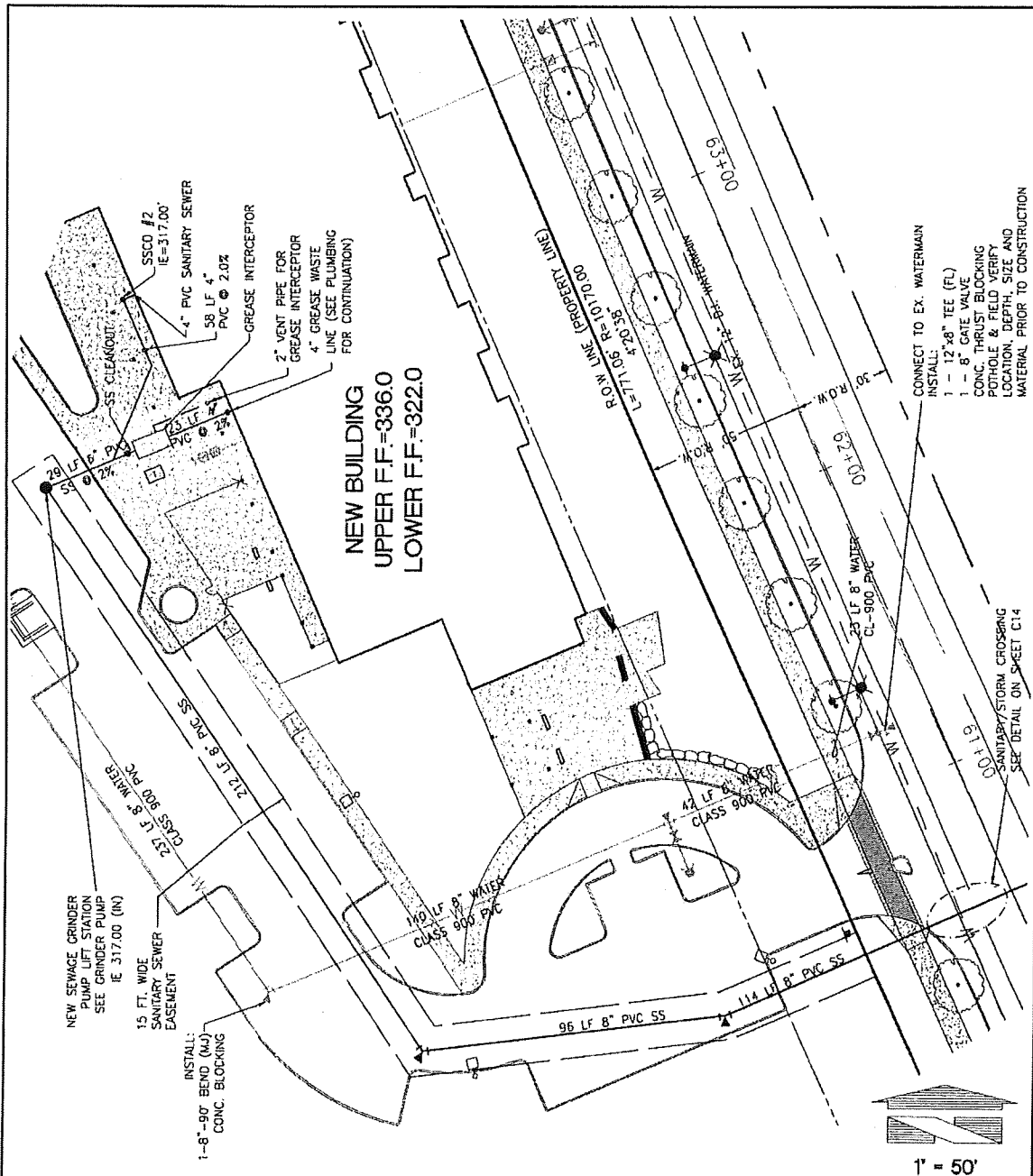
DATED: _____

Printed: _____
NOTARY PUBLIC in and for Washington
Residing at: _____
My appointment expires: _____

EXHIBIT A
PROPERTY LEGAL DESCRIPTION

Section 06 Township 21 Range 02 Quarter 34 : COM AT SW COR OF
SW TH N 85 DEG 36 MIN 40 SEC E ALG S LI SD SUBD 670 FT TH N 02
DEG 34 MIN 33 SEC W 1530.77 FT TO A PT 605 FT E OF W LI SD SW
BEING POB TH N 00 DEG 12 MIN 32 SEC W PAR/W W LI SD SW TO INTER
N LI SD SW TH E ALG N LI TO INTER SWLY LI OF PROP CYD TO ST OF
WA #2420710 TH SELY ALG SD SWLY LI & SWLY LI OF PROP CYD TO ST
OF WA #244865 TO INTER A LI PAR/W & 1530 FT N OF S LI SD SUBD TH
S 85 DEG 36 MIN 40 SEC W ALG SD PAR LI 1092.01 FT TO POB LESS N
350 FT CYD TO CY OF GIG HARBOR PER AFN 99-05-26-0706 OUT OF
3-033 SEG L0416 12/21/99 MA (DC 3-1-00 CK)

EXHIBIT B



File: P:\12000s\12505\exhibit\12505-esml-sanitary sewer 11 of 12.dwg Date/Time: 8/1/2008 1:39 PM Scale: 1" = 1' x REF x REF x REF x REF x REF


Job Number 12505	Designed PAT Drawn AKA	Scale: Horizontal 1" = 50' Vertical 1" = 50'	For: BOYS AND GIRLS CLUB
Sheet _____ of _____	Checked PAT Approved PAT Date 06/30/08	 BARGHAUSEN CONSULTING ENGINEERS, INC. 18215 72ND AVENUE SOUTH KENT, WA 98032 (425)251-6222 (425)251-8782 FAX CIVIL ENGINEERING, LAND PLANNING, SURVEYING, ENVIRONMENTAL SERVICES	Title: EXHIBIT B SANITARY SEWER EASEMENT

EXHIBIT C
EASEMENT LEGAL DESCRIPTION

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 21 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, PIERCE COUNTY, WASHINGTON, LYING WITHIN THE LIMITS OF A STRIP OF LAND 15 FEET IN WIDTH, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 6;

THENCE SOUTH 89°59'30" EAST ALONG THE SOUTH LINE OF SAID SUBDIVISION 670.00 FEET;

THENCE NORTH 01°49'17" EAST 1530 FEET, MORE OR LESS, TO INTERSECT THE NORTH LINE OF THE SOUTH 1530 FEET OF THE SOUTHWEST QUARTER OF SAID SECTION 6, AT A POINT 605 FEET EAST OF THE WEST LINE OF SAID SOUTHWEST QUARTER;

THENCE EAST, PARALLEL WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER, 1110 FEET, MORE OR LESS, TO INTERSECT THE SOUTHWESTERLY LINE OF SKANSIE AVENUE BEING THE NORTHEAST CORNER OF SURVEY RECORDED UNDER RECORDING NUMBER 1796, SAID POINT BEING ON A CURVE FROM WHICH THE RADIAL CENTER BEARS NORTH 64°48'52" EAST 10,170.00 FEET;

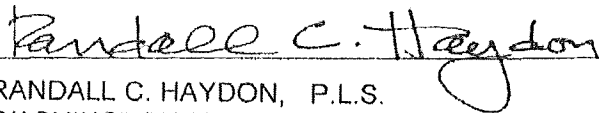
THENCE NORTHWESTERLY 83.88 FEET ALONG THE SOUTHWESTERLY LINE OF SAID SKANSIE AVENUE THROUGH A CENTRAL ANGLE OF 00°28'21" TO THE **POINT OF BEGINNING**;

THENCE SOUTH 66°06'19" WEST 48.19 FEET;

THENCE SOUTH 82°43'18" WEST 95.93 FEET;

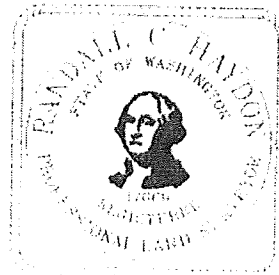
THENCE NORTH 34°10'18" WEST 219.54 FEET TO THE **TERMINUS** OF THIS CENTERLINE DESCRIPTION;

THE SIDELINES OF THE ABOVE 15 FOOT WIDE EASEMENT SHALL BE SHORTENED OR LENGTHENED AS NECESSARY TO INTERSECT IN THEMSELVES AND IN THE SOUTHWESTERLY LINE OF SKANSI AVENUE AS SHOWN ON EXHIBIT 'B' HEREIN.



RANDALL C. HAYDON, P.L.S.
WASHINGTON STATE REGISTRATION NO. 17669

SITTS & HILL ENGINEERS, INC.
2901 SOUTH 40TH STREET
TACOMA, WASHINGTON 98409
TELEPHONE: (253) 474-9449



08-01-2008
Project No. 14011
Revised Exhibit 'C' Description.doc

AFTER RECORDING RETURN TO:

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

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

Document Title(s) (or transactions contained therein):

Storm Water Facilities Maintenance Agreement and Restrictive Covenant

Grantor(s) (Last name first, then first name and initials)

Boys and Girls Club of South Puget Sound; Pierce County

Grantee(s) (Last name first, then first name and initials)

City of Gig Harbor

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

Section 06, Township 21 N, Range 02 E

Assessor's Property Tax Parcel or Account Number: 0221063045

Reference Number(s) of Documents assigned or released:

STORM WATER FACILITIES MAINTENANCE AGREEMENT AND RESTRICTIVE COVENANT

This Storm Water Facilities Maintenance Agreement and Restrictive Covenant is made this ____ day of _____, 200__, by and among the City of Gig Harbor, a Washington municipal corporation (the "City"), Boys and Girls Club of South Puget Sound, a Washington non-profit organization, located and doing business at 1501 Pacific Avenue, Suite 301, Tacoma, WA 98402 (the "Owner") and Pierce County, a political subdivision of the State of Washington (the "County").

RECITALS

WHEREAS, the County is the owner of fee title in certain real property located in Gig Harbor, Washington, located at the 8500 Block of Skansie Avenue (the "Property") and legally described in **Exhibit A**, which is attached hereto and incorporated herein by this reference; and

WHEREAS, by way of that certain Ground Lease dated _____, Owner leased the Property from the County for a term of 50 years commencing on _____, 2008, for the purpose of Owner constructing a Boys and Girls Club facility; and

WHEREAS, in connection with the Owner's proposed development of the Property, the City has required and the Owner has agreed to construct a storm water collection and detention system; and

WHEREAS, such drainage system is described and shown on a construction drawing prepared by the engineering firm of Barghausen Consulting Engineers, Inc., dated August 1, 2008 (hereinafter the "Drainage System Drawing"), for the Owner's Property, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference; and

WHEREAS, as a condition of project approval and/or as a condition of the City's utilization of the Owner's storm drainage system, the parties have entered into this Maintenance Agreement and Restrictive Covenant, in order to ensure that the drainage system will be constructed and maintained in accordance with the approved plans and the City's development standards;

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

TERMS

Section 1. Construction and Maintenance. Owner agrees to construct and maintain a drainage system on its Property, as shown on the Drainage System Drawing, **Exhibit B**. The drainage system shall be maintained and preserved by the Owner until such time as the City, its successors or assigns, agree that the system should be altered in some manner or eliminated.

Section 2. No Removal. No part of the drainage system shall be dismantled, revised, altered or removed, except as necessary for maintenance, repair or replacement.

Section 3. Access. The City shall have the right to ingress and egress over those portions of the Property described in **Exhibit A** in order to access the drainage system for inspection and to reasonably monitor the system for performance, operational flows or defects. Nothing herein creates an obligation of the City to inspect or monitor the drainage system.

Section 4. Repairs, Failure of Owner to Maintain. If the City determines that maintenance or repair work is required to be performed on the system, the City Engineer or his/her designee shall give notice to the Owner of the noted deficiency. The Engineer shall also set a reasonable time in which the Owner shall perform such work. If the repair or maintenance required by the Engineer is not completed within the time set by the Engineer, the City may perform the required maintenance and/or repair. Written notice will be sent to the Owner, stating the City's intention to perform such repair or maintenance, and such work will not commence until at least 15 days after such notice is mailed, except in situations of emergency. If, within the sole discretion of the Engineer, there exists an imminent or present danger to the system, the City's facilities or the public health and safety, such 15 day period will be waived and maintenance and/or repair work will begin immediately.

Section 5. Cost of Repairs and/or Maintenance. The Owner shall assume all responsibility for the cost of any maintenance and for repairs to the drainage system. Such responsibility shall include reimbursement to the City within 30 days after the City mails an invoice to the Owner for any work performed by the City. Overdue payments will require payment of interest by the Owner at the current legal rate as liquidated damages.

Section 6. Notice to City of Repairs and/or Maintenance. The Owner is hereby required to obtain written approval from the City Engineer prior to filling, piping, cutting or removing vegetation (except in routine landscape maintenance) in open vegetated drainage facilities (such as swales, channels, ditches, ponds, etc.), or performing any alterations or modifications to the drainage system.

Section 7. Rights Subject to Permits and Approvals. The rights granted herein are subject to permits and approvals granted by the City affecting the Property subject to this Maintenance Agreement and Covenant.

Section 8. Terms Run with the Property. The terms of this Maintenance Agreement and Covenant are intended to be and shall constitute a covenant running with the Property and shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns.

Section 9. Notice. All notices required or permitted hereunder shall be in writing and shall either be delivered in person or sent by certified U.S. Mail, return-receipt requested, and shall be deemed delivered on the sooner of actual receipt or three (3) days after deposit in the mail, postage prepaid, addressed to the City or the Owner at the addresses set forth below:

To the City:

City Engineer
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

To the County:

Pierce County Parks & Recreation
Services Division
9112 Lakewood Dr., SW, Suite 114
Lakewood, WA 98499

To the Owner:

Rickard W. Guild
President/CEO
Boys and Girls Club of South Puget Sound
1501 Pacific Ave, Suite 301
Tacoma, WA 98402

Section 10. Severability. Any invalidity, in whole or in part, of any provision of this Maintenance Agreement and Covenant shall not affect the validity of any other provision.

Section 11. Waiver. No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented.

Section 12. Governing Law, Disputes. Jurisdiction of any dispute over this Maintenance Agreement and Covenant shall be solely with Pierce County Superior Court, Pierce County, Washington. This Maintenance Agreement and Covenant shall be interpreted under the laws of the State of Washington. The prevailing party in any litigation arising out of this Maintenance Agreement and Covenant shall be entitled to its reasonable attorneys' fees, costs, expenses and expert witness fees.

Section 13. Integration. This Maintenance Agreement and Covenant constitutes the entire agreement between the parties on this subject matter, and

supersedes all prior discussions, negotiations, and all other agreements on the same subject matter, whether oral or written.

IN WITNESS WHEREOF, the parties have caused this Maintenance Agreement and Covenant to be executed this _____ day of _____, 200 ____.

THE CITY OF GIG HARBOR

OWNER

By: _____
Mayor Charles L. Hunter

By: _____
Rickard W. Guild, President

ATTEST:

Molly Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck

PIERCE COUNTY

Approved as to Legal Form Only:

Deputy Prosecuting Attorney Date

Recommended:

Department Director Date

Budget & Finance Date

Final Action:

Pierce County Executive Date

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

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

DATED: _____

Printed: _____
NOTARY PUBLIC in and for Washington
Residing at: _____
My appointment expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

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

DATED: _____

Printed: _____
NOTARY PUBLIC in and for Washington
Residing at: _____
My appointment expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

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

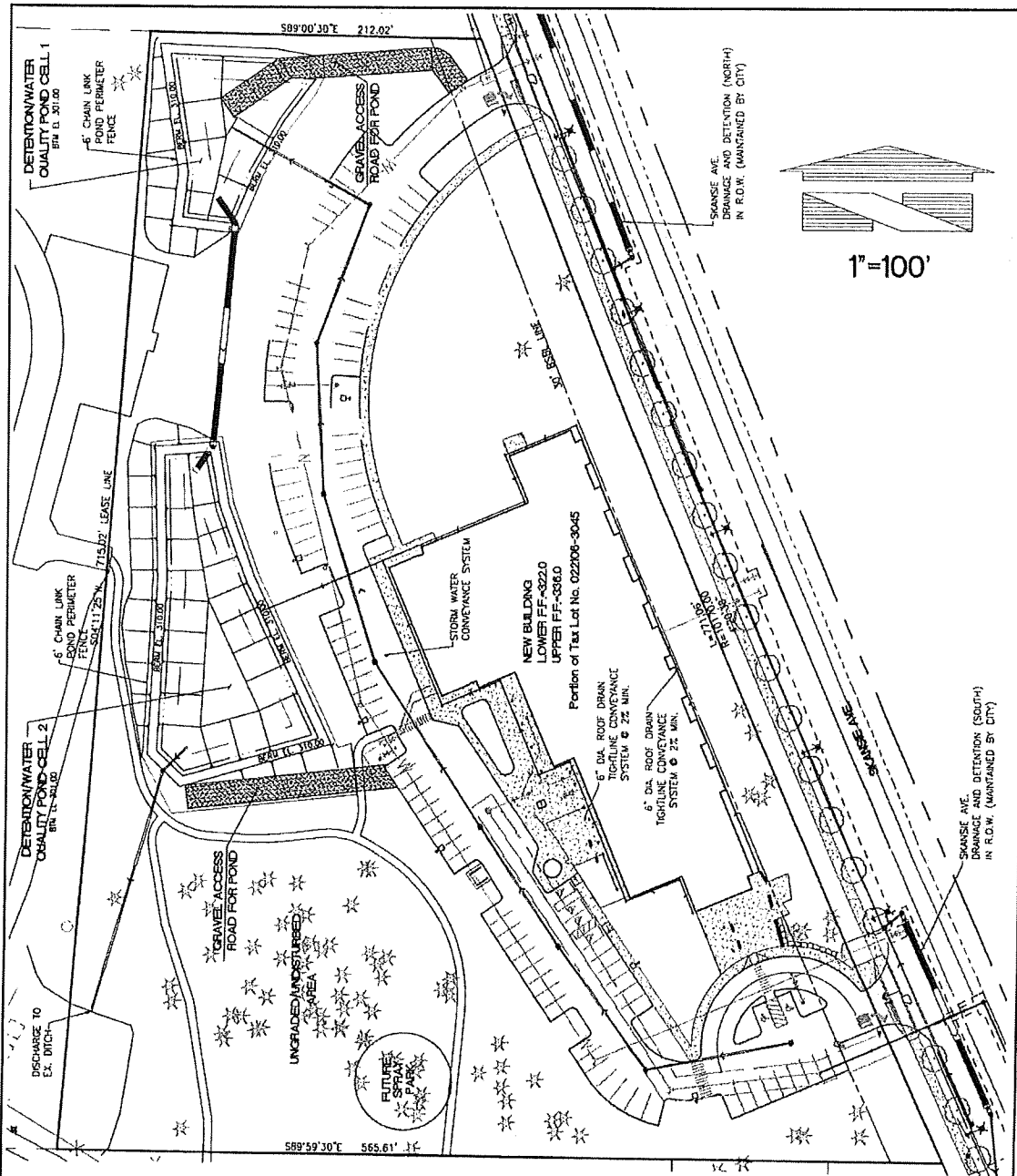
DATED: _____

Printed: _____
NOTARY PUBLIC in and for Washington
Residing at: _____
My appointment expires: _____

EXHIBIT A
PROPERTY LEGAL DESCRIPTION

Section 06 Township 21 Range 02 Quarter 34 : COM AT SW COR OF
SW TH N 85 DEG 36 MIN 40 SEC E ALG S LI SD SUBD 670 FT TH N 02
DEG 34 MIN 33 SEC W 1530.77 FT TO A PT 605 FT E OF W LI SD SW
BEING POB TH N 00 DEG 12 MIN 32 SEC W PAR/W W LI SD SW TO INTER
N LI SD SW TH E ALG N LI TO INTER SWLY LI OF PROP CYD TO ST OF
WA #2420710 TH SELY ALG SD SWLY LI & SWLY LI OF PROP CYD TO ST
OF WA #244865 TO INTER A LI PAR/W & 1530 FT N OF S LI SD SUBD TH
S 85 DEG 36 MIN 40 SEC W ALG SD PAR LI 1092.01 FT TO POB LESS N
350 FT CYD TO CY OF GIG HARBOR PER AFN 99-05-26-0706 OUT OF
3-033 SEG L0416 12/21/99 MA (DC 3-1-00 CK)

EXHIBIT B DRAINAGE SYSTEM DRAWING



File P:\120005\12505\exhib\12505-esml-drawings 8 of 8.dwg Date/Time 8/1/2008 1:39 PM Scale: 1" = 1' AAGDBIE xref : z12505s.dwg, z12505l.dwg, z12505p.dwg

Job Number <div style="font-size: 1.2em; font-weight: bold; text-align: center;">12505</div>	Designed <u>PAT</u> Drawn <u>AKA</u> Checked <u>PAT</u> Approved <u>PAT</u> Date <u>08/01/08</u>	Scale: Horizontal 1" = 100' Vertical 1" = 100' 18215 72ND AVENUE SOUTH KENT, WA 98032 (425)251-6222 (425)251-8782 FAX CIVIL ENGINEERING, LAND PLANNING, SURVEYING, ENVIRONMENTAL SERVICES	For: BOYS AND GIRLS CLUB OF SOUTH PUGET SOUND Title: <div style="text-align: center; font-weight: bold;">EXHIBIT B DRAINAGE SYSTEM DRAWING</div>
Sheet <div style="font-size: 1.2em; font-weight: bold; text-align: center;">8 of 8</div>			

Washington State

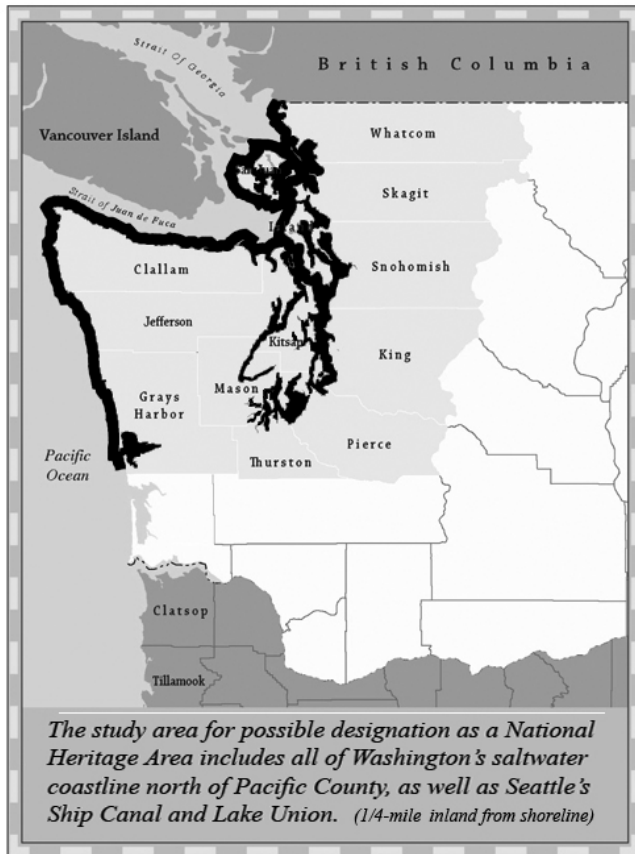
NATIONAL MARITIME HERITAGE AREA

Feasibility Study



WASHINGTON STATE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Washington State's Department of Archaeology and Historic Preservation (DAHP) is working to designate the entire Puget Sound as a **National Maritime Heritage Area (NMHA)**. In order to apply, a feasibility study is underway.



Ultimately, it means better communication and coordination of **Heritage Tourism** for Western Washington's saltwater coast. The story of our Maritime Heritage defines us as a region and is a story of national importance. There are no other National "**Maritime**" Heritage Areas – we would be the first in the country. It should be noted that the designation has no regulatory implications but federal funds and grants could help preserve and promote what remains of our logging, boatbuilding, fishing and transportation histories up and down the Puget Sound and along our coastal shores.

The feasibility study will include state, local, and tribal governments, heritage organizations, ports, tourism organizations, landowners, and the general public to evaluate whether a National Heritage Area designation makes sense to support Washington's maritime resources.

Dr. Allyson Brooks, State Historic Preservation Officer for the Washington State Department of Archaeology and Historic Preservation, is meeting with jurisdictions throughout Western Washington area to answer questions and provide a brief presentation on the project. Lita Dawn Stanton, Historic Preservation Coordinator for the City, has been a member of the state's NMHA steering committee since 2008.

Pierce County Tourism Promotion Area

What Tourism Means For Pierce County

- Over 11,000 jobs
- \$20.3 million in taxes
- \$979.5 million in spending
- 4.735 million annual visitors

What is a Tourism Promotion Area [TPA]?

A self-imposed assessment by the hotel community on overnight stays for the sole purpose of creating new and incremental sales & marketing programs.

Why is it needed?

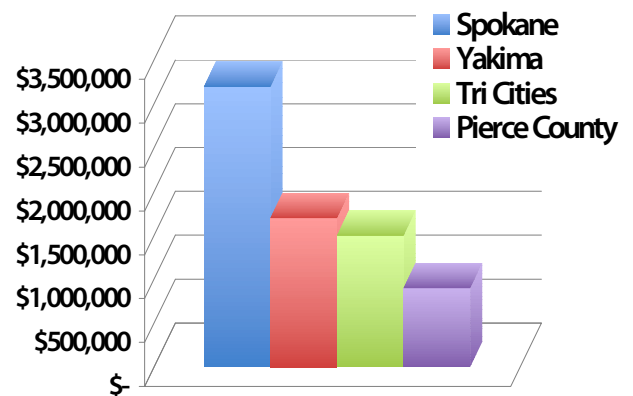
Pierce County isn't competitive with other destinations in Washington for visitors at current marketing investment levels. Business that could come here is instead going to Spokane, Tri-Cities and Yakima.

How did it start?

In 2003 the Washington State Legislature passed SB-6026 authorizing the establishment of a TPA. Our hotel community has spent almost three years researching and working to establish ours. We have the support of more than 67 percent of hotel rooms collecting the assessment, as well as local attractions and businesses.

Are there other TPAs in Washington?

Yes, in Tri-Cities, Clark County, Spokane Valley, Yakima and Wenatchee. TPA implementation is also underway in Snohomish and Kitsap Counties.



2008 TPA COLLECTIONS		
Tri Cities	\$1.50/room	\$853,439
Clark County	\$2.00/room	\$870,706
Spokane Valley	\$1.50/room	\$1,611,657
Yakima	\$.50-1.50/room	\$377,109
Wenatchee	-	\$182,110

How is TPA different from LTAC?

This new, self-sustaining funding stream will build on the lodging tax foundation. LTAC fund distribution is recommended by a mixed advisory committee of both tax generators and grant beneficiaries. TPA fund distribution is recommended by a TPA Commission comprised of hoteliers only.

RATES PER OCCUPIED ROOM-NIGHT	
Tacoma	\$1.50
Puyallup, Lakewood	\$1.00
Gig Harbor, DuPont, Fife, Sumner, Pierce Co	\$0.50

So this won't affect any other funding?

TPA revenue is completely additional and incremental. TPA costs local taxpayers nothing.

What is the potential revenue?

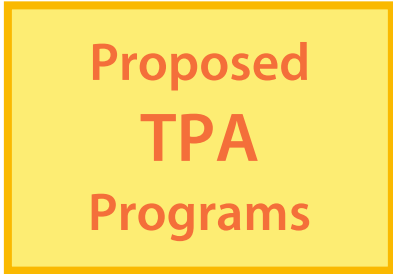
\$1.3 – \$1.4 million total per year, estimated

Who collects it and where would the money go?

TPA assessments are collected at properties with 40 rooms or more within the promotion area. Pierce County TPA funds will flow through the Pierce County Council to the designated marketing organizations based on an annual business plan recommended by the TPA Commission. The Tacoma Regional Convention + Visitor Bureau and the Tacoma-Pierce County Sports Commission are the organizations targeted to implement TPA programs.

“TPA has helped lure groups to our community that spend money not only in our hotel, but throughout our community.”

—Kathy Moore, President
Tri-Cities Lodging Association
and General Manager,
Courtyard by Marriott
Richland Columbia Point



Incremental Sales Initiatives: CVB

- Segmented market approach for meetings + events
- Increased tour + travel sales
- More trade shows

GOALS: Increase leads for meetings + events resulting in more booked business; Increase tour operator product offering of Pierce County resulting in more room nights and tourism activity

Incremental Convention Servicing Initiatives: CVB

- Additional resources dedicated to facilitating longer stays and increased delegate activity for confirmed meetings and events

GOALS: Increase in pre- and post-event room nights; regional delegate distribution and increased spending

Incremental Marketing Initiatives: CVB

- Advertising in targeted publications for Meetings + Events and FIT markets
- Additional cooperative marketing opportunities
- Robust “staycation” campaign in Washington market

GOALS: Broader awareness of Pierce County amongst target client groups; Increased leads for Meetings + Events; Increased room nights and tourism activity

“TPA in Spokane has been the solution to county-wide occupancy and rev-par.”

—Liz Beck, TPA Commission Chair and General Manager, Super 8 Motel Spokane

Incremental New Media Initiatives: CVB

- Revisions to traveltacoma.com to streamline navigation, bring site up to date and make more relevant
- Incorporate interactive segments including photo and video sharing and social components for site users
- Launch new sites for group business clients
- Increase social media presence [Facebook, Twitter, etc]

GOAL: Increase traffic via web resulting in increased room nights and tourism activity

Incremental Media Relations Initiatives: CVB

- Pitch unique and interesting stories about Pierce County to travel media
- Optimize opportunities of media attention to major events in the area [US Amateur, US Open as well as regional Washington events]
- Host media FAM tours to develop more coverage for the region

GOAL: Unpaid media coverage and attention to Pierce County as a tourism destination

Incremental Initiatives: Tacoma-Pierce County Sports Commission

- Increase sales + marketing and event servicing + management
- Enhance ability to produce competitive bids
- Provide travel budget to allow for meetings at event marketplaces with National Governing Bodies of Sports [NGBs]
- Host site visits by NGBs and event owners for qualified events
- Develop strategic partnerships with local venues, businesses and municipalities
- Addition of an event management director for awarded events
- **Currently no funds available for Bid/Rights Fees!** TPA Funds would allow the Sports Commission to be a contender in the sports event marketplace translating to instant ability to offset costs necessary for events that produce room nights

GOALS: Increase participants + spectators at events; Extended + return visits by event attendees; More money spent and retained locally per visitor; Positive impressions of community to visitors; and increased likelihood that the event will return in the future

PROPOSED TPA COMMISSION	
Municipalities	Hoteliers
Tacoma	3
Fife	2
Lakewood	1
Puyallup	1
Gig Harbor	1
DuPont	1
Sumner	1
Pierce County	1

“Without TPA, we wouldn’t have been able to bid on the US Figure Skating Championships or attract the Pacific Northwest National Volleyball Qualifier which is responsible for over 10,000 room nights annually.”

—Eric Sawyer, Executive Director
Spokane Regional Sports Commission



Subject: Second Reading of Ordinance
– Prentice Avenue & Benson Street / Street
Vacation Request (Bacchus)

Proposed Council Action: Recommend that
Council approve the Ordinance to vacate a
portion of Prentice Avenue and Benson Street
as presented at this second reading.

Dept. Origin: Public Works / Engineering

Prepared by: Willy Hendrickson *WH*
Engineering Technician

For Agenda of: August 10, 2009

Exhibits: Petition Request, Ordinance with
exhibits, Location map, Vicinity map, checklist

Initial & Date

Concurred by Mayor: *cut 7/21/09*

Approved by City Administrator: _____

Approved as to form by City Atty: *Approved by email*

Approved by Finance Director: *N/A*

Approved by Department Head: *DA 7/24/09*

Expenditure Required	0	Amount Budgeted	0	Appropriation Required	0
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INTRODUCTION/BACKGROUND

The city received a Letter of Request from Thornton Land Surveying representing Ladd and Oe Bacchus petitioning the city to vacate a portion of Prentice Avenue and Benson Street abutting 9314 and 9304 Peacock Hill Avenue in accordance with GHMC 12.14.002.

Specifically, the request is for the vacation of the West thirty-three (33) feet of Prentice Avenue and the North thirty-two (32) feet of Benson Street rights-of-way currently held by the city and abutting Lots 1,2 & 3, Block 3 of the Woodworth Addition to Gig Harbor, property addresses of 9314 and 9304 Peacock Hill Avenue (parcel numbers 9815000070 and 9815000080).

City staff from the Planning, Building and Public Works Departments have reviewed and approved this request with comments from Public Works. All utility easements have been granted and recorded for the 8-inch sewer line running along Prentice and the abandoned 4-inch water main running along Benson Street.

At the June 8th Council meeting, Council approved a resolution setting the public hearing date and the first reading and public hearing of this Ordinance was held on July 13th.

POLICY CONSIDERATIONS

These portions of rights-of-way were platted in Pierce County in 1890 and were not opened or improved by 1905, therefore both portions of right-of-way automatically were vacated by operation of law in 1896. The city's ability to open these portions of Prentice Avenue and Benson Street are barred by lapse of time, the city has no interest in the streets, except for the 8-inch sewer line running along Prentice, and the abandoned 4-inch water main running along

Benson Street to maintain the city's utilities located there. In order to ensure that this portion of Prentice Avenue and Benson Street is placed on tax rolls and the ownership is formally recorded, the property owner has requested that the city vacate the street under GHMC 12.14.

The rights-of-way proposed for vacation are surplus to the city's needs, and the city does not have any plans for improving the rights-of-way proposed for vacation.

FISCAL CONSIDERATIONS

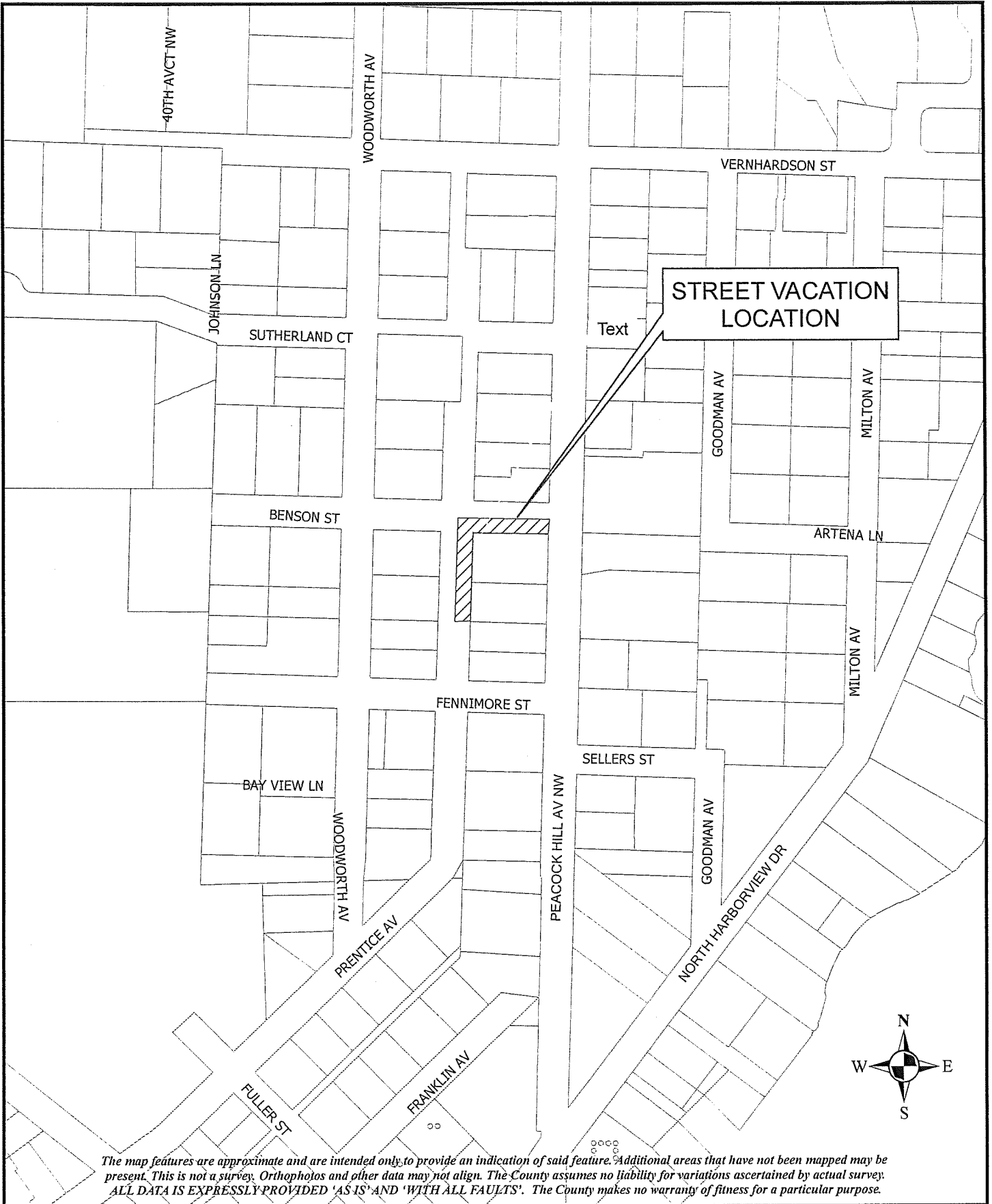
The processing fee has been paid in accordance with GHMC 12.14.004.

RECOMMENDATIONS

Staff recommends that Council approve the Ordinance to vacate a portion of Prentice Avenue and Benson Street as presented at this second reading.



The map features are approximate and are intended only to provide an indication of said features. Additional areas that have not been mapped may be present. This is not a survey. Orthophotos and other data may not align. The County assumes no liability for variations ascertained by a full survey. ALL DATA IS EXPRESSLY PROVIDED AS IS AND WITH ALL FAULTS. The County makes no warranty of fitness for a particular purpose.



STREET VACATION
LOCATION

Text

The map features are approximate and are intended only to provide an indication of said feature. Additional areas that have not been mapped may be present. This is not a survey. Orthophotos and other data may not align. The County assumes no liability for variations ascertained by actual survey. ALL DATA IS EXPRESSLY PROVIDED 'AS IS' AND 'WITH ALL FAULTS'. The County makes no warranty of fitness for a particular purpose.

**BACCHUS STREET VACATION - PRENTICE AVE. AND BENSON ST.
VICINITY MAP**

AFTER RECORDING RETURN TO:

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

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

Document Title(s) (or transactions contained therein):

Ordinance No. XXXX - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY GIG HARBOR, WASHINGTON, VACATING THE PORTION OF PRENTICE AVENUE AND BENSON STREET.

Grantor(s) (Last name first, then first name and initials)

Bacchus, Ladd C and Oe Sun

Grantee(s) (Last name first, then first name and initials)

City of Gig Harbor

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

That portion of the South half of Benson Street (formerly Norton Street) per the Plat of Woodworth's Addition to Gig Harbor, recorded in Volume 5 of Plats at Page 66, under Auditor's File No. 38968, Records of Pierce County, Washington, adjacent to and abutting Lot 1, Block 3 of said plat, extending to the centerline intersection of Benson Street and Prentice Avenue per said plat; and that portion of the East half of Prentice Avenue (formerly Chester Street) per said plat, lying between the Western Extension of the South line of Lot 3, Block 3 of said plat and the South margin of Benson Street per said plat, abutting properties 9314 and 9304 Peacock Hill Avenue.

Assessor's Property Tax Parcel or Account number: 981500-070-0 and 981500-080-0

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY GIG HARBOR, WASHINGTON, VACATING THE PORTION OF PRENTICE AVENUE AND BENSON STREET ABUTTING 9304 AND 9314 PEACOCK HILL AVENUE.

WHEREAS, Ladd C. and Oe Sun Bacchus petitioned the City to vacate a portion of Prentice Avenue and Benson Street (originally platted as Norton and Chester Streets), which abuts their property at 9304 and 9314 Peacock Hill Avenue, Gig Harbor, Washington, under the nonuser statute, RCW 36.87.090 and GHMC Section 12.14.018(C), and

WHEREAS, the portion of these streets subject to the vacation petition were platted in the Plat of the Woodworth's Addition, recorded in the records of Pierce County on August 22, 1890; and

WHEREAS, in 1890, these streets were in unincorporated Pierce County; and

WHEREAS, the portions of Prentice Avenue and Benson Street subject to the vacation petition were not included in any street that was opened or improved within five years after the original platting in 1890; and

WHEREAS, under RCW 36.87.090, any county road which remained unopened for public use for five years after platting was vacated by lapse of time; and

WHEREAS, the City's street vacation procedures for streets subject to the nonuser statute merely eliminates the cloud on the title created by the plat, because the street has already vacated by lapse of time and operation of law; and

WHEREAS, after receipt of the street vacation petition, the City Council passed Resolution No. 791 initiating the procedure for the vacation of the referenced streets and setting a hearing date; and

WHEREAS, after the required public notice had been given, the City Council conducted a public hearing on the matter on July 13, 2009, and at the conclusion of such hearing determined that the aforementioned right-of-way vacated by operation of law and lapse of time; Now, Therefore,

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

Section 1. The City Council finds that the unopened portion of the platted Prentice Avenue and Benson Street right-of-way described in the Bacchus street vacation petition has vacated by lapse of time and operation of law under RCW 36.87.090. The vacated portion of Prentice Avenue and Benson Street, lying between Woodworth Avenue and Peacock Hill Avenue, Lots 1, 2, and 3 of the Woodworth Addition, Parcel Nos. 981500-070-0 and 981500-080-0, abutting 9314 and 9304 Peacock Hill Avenue are legally described in Exhibit A attached hereto and incorporated by this reference, and further, are shown on the map attached hereto as Exhibit B.

Section 2. The City has the authority to adopt a vacation ordinance to formally remove the cloud on the title of the referenced right-of-way area. This street vacation

ordinance does not affect any existing rights, including any the public may have acquired in the right-of-way since the street was vacated by operation of law.

Section 3. The Owner granted the City two Utility Easements for an existing eight inch sewer main on Prentice Avenue and an abandoned four inch water main on Benson Street (AFN 200906170486 and 200906170487).

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

Section 5. This ordinance shall take effect five days after passage and publication as required by law.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this _____ day of _____, 2009.

CITY OF GIG HARBOR

By: _____
Charles L. Hunter, Mayor

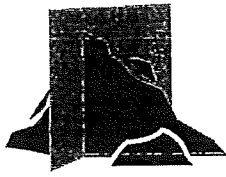
ATTEST/AUTHENTICATED:

By: _____
Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney:

By: _____
Angela Belbeck

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:



THORNTON
LAND SURVEYING, INC.

8803 State Highway 16
PO Box 249
Gig Harbor, WA 98335
T 253 858 8106
F 253 858 7466
thorntonls.com

Exhibit A

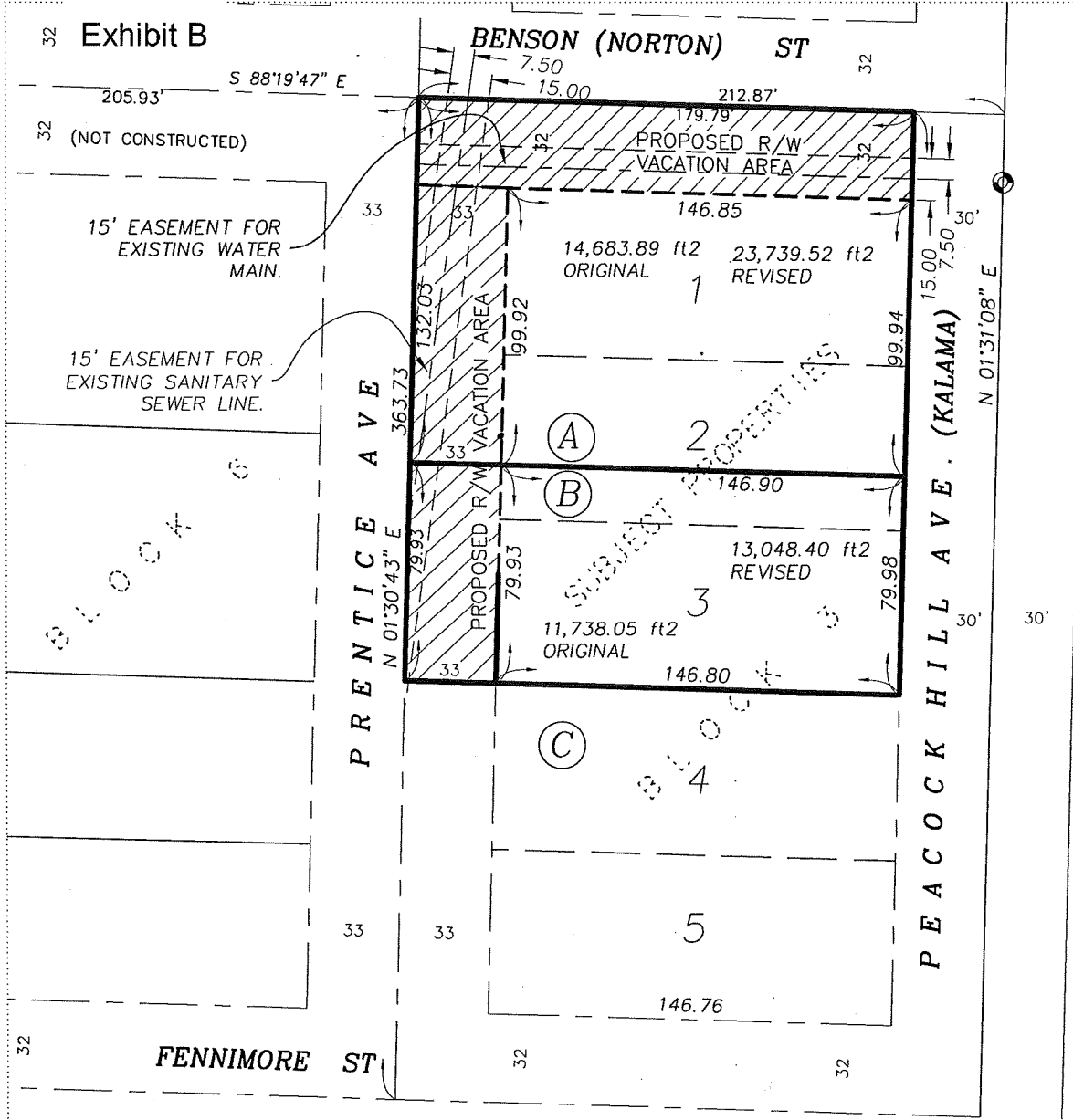
PROPOSED
LEGAL DESCRIPTION

RIGHT-OF-WAY THAT WILL ATTACH BY OPERATION OF LAW TO BACCHUS ADJOINER FOLLOWING VACATION OF A PORTION OF PRENTICE AVENUE, AND A PORTION OF NORTON STREET, GIG HARBOR, WASHINGTON, BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., IN PIERCE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE SOUTH HALF OF BENSON STREET (FORMERLY NORTON STREET) PER THE PLAT OF WOODWORTHS ADDITION TO GIG HARBOR, RECORDED IN VOLUME 5 OF PLATS AT PAGE 66, UNDER AUDITOR'S FILE NUMBER 38968, RECORDS OF PIERCE COUNTY, WASHINGTON, ADJACENT TO AND ABUTTING LOT 1, BLOCK 3 OF SAID PLAT, EXTENDING TO THE CENTERLINE INTERSECTION OF BENSON STREET AND PRENTICE AVENUE PER SAID PLAT;

AND THAT PORTION OF THE EAST HALF OF PRENTICE AVENUE (FORMERLY CHESTER STREET) PER SAID PLAT, LYING BETWEEN THE WESTERN EXTENSION OF THE SOUTH LINE OF LOT 3, BLOCK 3 OF SAID PLAT AND THE SOUTH MARGIN OF BENSON STREET PER SAID PLAT.



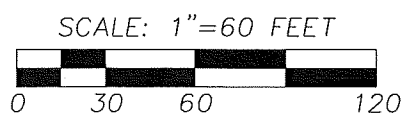


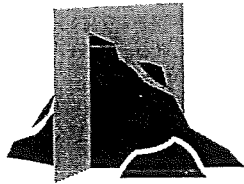
PARCEL/LOT INFORMATION:

LOT	TAX PARCEL NO.	ADDRESS	OWNER
A	9815000070	9314 PEACOCK HILL AVE	BACCHUS
B	9815000080	9304 PEACOCK HILL AVE	BACCHUS
C	9815000090	9226 PEACOCK HILL AVE	WILLIAMSON

AREA OF STREET VACATION

5,747.70 ft2	4,624.48 ft2
BENSON ST	PRENTICE AVE





T H O R N T O N
L A N D . S U R V E Y I N G . I N C .

8803 State Highway 16
PO Box 249
Gig Harbor, WA 98335
T 253 858 8106
F 253 858 7466
thomtonls.com

14 July 2008

Mr. Willie Hendrickson
Engineering Technician
3510 Grandview Street
Gig Harbor, WA 98335

RE: Vacation of portions of Prentice Avenue (Chester Street) & Benson (Norton) Street right-of-way

Dear Mr. Hendrickson,

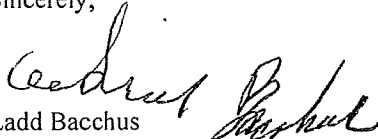
This letter serves as an official request to vacate a 32-foot wide strip of Benson Street right-of-way and a 33-foot wide strip of Prentice Avenue abutting my properties at 9314 & 9304 Peacock Hill Avenue NW in the City of Gig Harbor. This right-of-way along with my properties were created from the plat called "Woodworth's addition to gig harbor" in book 5 of plats at page 66 in Pierce County, Washington. These portions of Prentice Avenue & Benson Street abutting my property at parcel numbers 9815000070 & 9815000080 have never been used as street, nor has it been constructed.

Under the City of Gig Harbor's Municipal Code 12.14.018.C, which sites the "vacations of streets and alleys subject to 1889-90 Laws of Washington, Chapter 19, Section 32 (Non-user statue)", that portion of Prentice Avenue & Benson Street right-of-way's abutting my parcels has adversely, by operation of law, become mine legally since these right-of-way's were never opened nor used for their original purpose.

In light of this information, I wish to request those portions of the Prentice Avenue & Benson Street abutting my properties be vacated. See attached drawings depicting the original location of the subject portion of Prentice Avenue & Benson Street right-of-way's in relation to my parcels.

Thank you for your assistance.

Sincerely,


Ladd Bacchus



VACATION OF STREETS AND ALLEYS

GIG HARBOR MUNICIPAL CODE CHAPTER 12.14

Name: Ladd C Baccus Date: 7/15/08
Site address: 9304 Peacock Hill Ave Gig Harbor WA 98332
Phone Number: _____ Parcel Number: 9815000070 & 9815000080

OWNER REQUIREMENTS

- The petition or resolution shall be filed with the city clerk, and the petition shall be signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated. [GHMC § 12.14.002 (c)].
- Nonrefundable payment to the City of a pre-hearing fee of \$150.00, to defray the administrative cost incurred in processing such vacation petitions [GHMC § 12.14.004 (a)].
- Legal description prepared by a Licensed Surveyor of area to be vacated [GHMC § 12.14.002 (b)].
- Location map showing surrounding street network, existing utilities, and adjacent properties labeled with ownership, site addresses, and parcel numbers.
- Site map prepared by a Licensed Surveyor showing the existing property and street vacation areas with dimensions (using bearings and distances), calculated square footage, two-foot contours, existing easements, wetlands and trails or other relevant information.
- At the time the City Council recommends granting a vacation petition, the petitioner shall deposit a \$500.00 appraisal fee with the Public Works Director [GHMC § 12.14.004 (b)]. Appraisal fee not required if qualified under the Non-user Statute [GHMC § 12.14.018 (c)].
- Compensation to the City for vacation if applicable [GHMC § 12.14.018]. Compensation not required if qualified under the Non-user Statute [GHMC § 12.14.018 (c)].

CITY REVIEW

- Determine Non-user Statute application. YES WOODWORTH ADDITION 1890
- Verify all information provided in the petition, legal description, location map, and site map.
- Describe topography and vegetation (forested, cleared, etc.) using GIS aerial and digital camera photos of site.
- Verify existing utilities or call One Call Locate to determine what utilities are on the property.
- Determine proposed vacation's consistency with City of Gig Harbor Comprehensive Plan (i.e. transportation element).
- Determine current extent of public use of area proposed to be vacated as a Prescriptive Easement.
- Determine possible retention for future public uses: Roadway, water, sewer, storm drainage, parking facilities, parks, view areas, and access to waterfront. EASEMENTS REQUIRED

VACATION OF STREETS AND ALLEYS
GIG HARBOR MUNICIPAL CODE CHAPTER 12.14
PAGE 2

Old Business - 1

- Develop history of area proposed to be vacated including when area was purchased, dedicated, or otherwise acquired. *N/A*
- Determine compensation for vacation as described in GHMC § 12.14.018 if applicable. *N/A*
- Verify payment of pre-hearing \$150 fee and \$500 appraisal fee.
- Prepare aerial vicinity map.
- Prepare Council Resolution.
- Post notices of Public Hearing.
- Determine hearing date. *JUNE 8 2009*
- Legal Review *APPROVED BY ANGELA*

Subject: Second Reading of Ordinance – Land Use Permit Extension

Proposed Council Action: Adopt ordinance at this second reading.

Dept. Origin: Planning

Prepared by: Jennifer Kester, Senior Planner 

For Agenda of: August 10, 2009

Exhibits: Draft Ordinance

Initial & Date

Concurred by Mayor:

CLH 7/22

Approved by City Administrator:

RJK 7/22/09

Approved as to form by City Atty:

VIA EMAIL

Approved by Finance Director:

N/A

Approved by Department Head:

JK FOR TOM DALAW 7/22

Expenditure Required	Amount Budgeted	Appropriation Required
N/A	N/A	N/A

INFORMATION / BACKGROUND

At the June 8, 2009 City Council meeting there was a discussion of the potential of allowing extensions of existing land use permits. Due to the current economic downturn, a number of projects that have received land use approval cannot obtain financing to begin actual development. At the June 8 meeting, staff was requested to bring an ordinance to the Council that would provide for a window of time (3 – 6 months) in which the applicants of currently approved land use permits could apply for an extension. It was further requested that the permit extension be set as a date certain and that the extensions should not be just added onto the expiration date of the permits. In the attached ordinance, it is required that the applicant of a currently active land use permit has until November 30, 2009 to request a two year extension. The ordinance further indicates that extensions, if granted, would end on November 30, 2011. It should be noted that approved land use applications would remain vested in a manner consistent with their current permits under this proposal until November 30, 2011. The proposed extensions would not affect building and civil permits. Extensions of those permits would need to follow existing building codes and public works standards.

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Adopt ordinance at this second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO DEVELOPMENT PERMIT EXTENSIONS; AUTHORIZING THE PLANNING DIRECTOR TO GRANT A TEMPORARY EXTENSION OF THE EXPIRATION OF CERTAIN DEVELOPMENT RELATED APPROVALS AND PERMITS IN RESPONSE TO THE LOCAL, REGIONAL AND NATIONAL ECONOMIC RECESSION; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the severe downturn in the local, regional, and national housing and commercial markets, reduced demand for new housing, tightening credit market, and difficulty obtaining the financing for development projects have resulted in a situation where developers are unable to finalize development projects in a timely manner; and

WHEREAS, in order to prevent the expiration of development approvals during the economic downturn, extensions of the expiration dates of certain development related approvals are needed; and

WHEREAS, the expiration of a development approval can have significant financial impacts to a developer and also adversely affects the financial institutions and other investors which have provided financing in support of a development proposal; and

WHEREAS, construction related activity is a significant tax generator and provides much needed revenue to local governments to finance public safety and other needed public services; and

WHEREAS, the Gig Harbor Municipal code allows for the extension of the expiration date of development related approvals and permits, but such existing extensions will likely be insufficient to accommodate the length and scope of the economic recession; and

WHEREAS, maintaining the viability of development approvals will also help to ensure that the development industry is in a position to respond more quickly once favorable economic conditions return; and

WHEREAS, the Gig Harbor City Council finds that it is in the best interest of citizens of Gig Harbor and the local economy to temporarily grant extensions of the expiration dates for certain development related approvals and permits; and

WHEREAS, the City's SEPA Responsible Official determined that this Ordinance is categorically exempt from SEPA, pursuant to WAC 197-11-800(19); and

WHEREAS, pursuant to RCW 36.70A.106, the City forwarded a copy of this Ordinance to the Washington State Department of Trade and Community Development on July 14, 2009; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on July 13, 2009; and

WHEREAS, on _____, the City Council adopted this Ordinance at second reading during a regular City Council meeting; Now, therefore,

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

Section 1. Findings. The Gig Harbor City Council makes the following findings:

A. That the severe housing and commercial market downturn coupled with the tightening of credit markets has significantly impacted the construction industry and poses a threat to the local economy and the general public health, safety and welfare due to reductions in construction-related taxes and revenues and loss of construction related jobs; and

B. That these conditions require actions to be taken to allow for the extension of certain existing development related approvals that would likely expire due to the economic downturn; and

C. That such action will benefit the local economy by helping to protect the construction industry from the significant financial losses associated with expired development approvals and permits, including the loss of real estate entitlements, and will better enable the local construction industry to recover as the economy improves.

Section 2. Temporary Extensions.

A. Authority. Based on the above findings, the City Council hereby authorizes the Planning Director to extend the expiration date of the below-identified development related approvals and permits to November 30, 2011.

1. Preliminary plats approved under chapter 16.05 GHMC.
2. Binding site plans approved under chapter 16.11 GHMC.
3. Conditional use permits approved under chapter 17.64 GHMC.
4. Variances approved under chapter 17.66 GHMC.

5. Performance-based height exceptions approved under chapter 17.67 GHMC.
6. Nonconforming use and structure review approved under chapter 17.68 GHMC.
7. Planned residential developments approved under chapter 17.89 GHMC.
8. Planned unit developments approved under chapter 17.90 GHMC.
9. Site plans approved under chapter 17.96 GHMC.
10. Design review approved under chapter 17.98 GHMC.
11. Reasonable use exceptions approved under chapter 18.08 GHMC.
12. Shoreline substantial development, conditional use and variance permits approved under the City of Gig Harbor Shoreline Master Program.

B. Request for Extension of Development Related Approvals and Permits. A holder of the above-identified development related permits or approvals may submit a written request to the Gig Harbor Planning Director for an extension of the holder's approval or permit no later than five business days prior to expiration of the subject development related approval or permit. The time period during which a holder of a development related approval or permit may apply for a temporary extension shall sunset on November 30, 2009; provided, however, that any temporary extension granted pursuant to this Ordinance prior to the sunset date shall remain in effect for the duration of the extension.

C. Final Decision. Decisions of the Planning Director made pursuant to the provisions of this Ordinance shall be final and not subject to appeal to the Hearing Examiner.

Section 3. No Codification. The provisions of this Ordinance are temporary in nature and shall not be codified.

Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance. To the extent the provisions of this Ordinance are found to be inconsistent with other provisions of the Gig Harbor Municipal Code, this Ordinance is deemed to control.

Section 5. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ___ day of _____, 2009.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:



Subject: Second Reading of Ordinance –
Creating Code for Illicit Discharge Detection and
Elimination

Proposed Council Action: Adopt an
Ordinance of the City Council of the City of Gig
Harbor, Washington, relating to regulations for
illicit discharge detection and elimination by
revising Chapter 14.20 GHMC and adding a new
Chapter 14.30 to the City of Gig Harbor
Municipal Code.

Dept. Origin: Public Works/Engineering

Prepared by: Jeff Langhelm
Senior Engineer *AL*

For Agenda of: August 10, 2009

Exhibits: Proposed Ordinance

	Initial & Date
Concurred by Mayor:	<i>CLH 8/4/09</i>
Approved by City Administrator:	_____
Approved as to form by City Atty:	<i>By EMAIL</i>
Approved by Finance Director:	<i>DR 8/4/09</i>
Approved by Department Head:	<i>AL 8/3/09</i>

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

INFORMATION / BACKGROUND

The City of Gig Harbor’s NPDES Phase 2 Stormwater Permit became effective on February 16, 2007 and contains various requirements for stormwater management and operations that must be implemented over the 5-year permit term ending February 15, 2012. The Permit has many conditions, including maintenance and operations of City facilities, permitting of development, inspections and enforcement of regulations, and other activities conducted in the City’s storm drainage system.

The proposed actions provided in this ordinance include repealing the existing sections of the municipal code related to illicit discharges and connections (14.20.580 and 14.20.590) and the adopting a new Chapter 14.30 GHMC for broadening of the City’s enforceable mechanism for illicit discharge detection and elimination. This ordinance is intended to meet Condition S5.C.3 of the City’s Stormwater Permit with the goal of improving and maintaining water quality in compliance with the Clean Water Act. The required adoption date for Condition S5.C.3 is August 16, 2009.

The draft ordinance was presented for first reading at the June 22 council meeting. No revisions have been made to this ordinance since the first reading.

FISCAL CONSIDERATION

None with this action.

BOARD OR COMMITTEE RECOMMENDATION

The draft ordinance was presented twice to the Operations and Public Project Committee at their April 2009 and June 2009 meetings.

RECOMMENDATION / MOTION

Move to: Adopt an Ordinance of the City Council of the City of Gig Harbor, Washington, relating to regulations for illicit discharge detection and elimination by revising Chapter 14.20 GHMC and adding a new Chapter 14.30 to the City of Gig Harbor Municipal Code.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE CITY'S MUNICIPAL SEPARATE STORM SEWER SYSTEM; ADDING NEW CHAPTER 14.30 TO THE GIG HARBOR MUNICIPAL CODE ADOPTING REGULATIONS FOR ILLICIT DISCHARGE DETECTION AND ELIMINATION; AMENDING CHAPTER 14.20 OF THE GIG HARBOR MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Gig Harbor (the "City") is regulated under the Washington State Department of Ecology's Western Washington Phase II Municipal Stormwater Permit (the "Permit"); and

WHEREAS, the Permit became effective in February 2007 and contains various requirements for stormwater management and operations that must be implemented over the 5-year permit term ending February 15, 2012; and

WHEREAS, the Permit broadly applies to City activities that include maintenance and operations of City facilities, permitting of development, inspections and enforcement of regulations, and other activities conducted in the City's Municipal Separate Storm Sewer System; and

WHEREAS, the City will be adopting code policies and procedures as needed to comply with the Permit; and

WHEREAS, to meet the conditions of the Permit, a Stormwater Management Program ("SWMP") has been prepared that outlines all requirements of the Permit and a summary of the City's work program to meet those requirements over the 5-year permit term, and will be updated annually to incorporate progress on implementing the SWMP and changes to projected future work efforts; and

WHEREAS, the repealing of Sections 14.20.580 and 13.20.590 of the Gig Harbor Municipal Code and the proposal for the new Illicit Discharge Detection and Elimination chapter is intended to meet Condition S5.C.3 of the Permit with the goal of improving and maintaining water quality in compliance with the Clean Water Act; Now, therefore,

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

Section 1. Sections 14.20.580 and 14.20.590 of the Gig Harbor Municipal Code relating to illicit discharges are hereby deleted in their entirety.

Section 2. A new Chapter 14.30 is added to Title 14 of the Gig Harbor Municipal Code to read as follows:

Chapter 14.30

ILLICIT DISCHARGE DETECTION AND ELIMINATION

Sections:

- 14.30.010 Purpose**
- 14.30.020 Definitions**
- 14.30.030 Applicability**
- 14.30.040 Administration**
- 14.30.050 General Provisions**
- 14.30.060 General Requirements**
- 14.30.070 Inspections and Investigations**
- 14.30.080 Enforcement**

14.30.010 Purpose.

The purpose of this chapter is to regulate the city's municipal separate storm sewer system ("MS4 or stormwater drainage system") regarding the introduction of pollutants that would adversely impact surface and groundwater quality of the state of Washington. The intent of this chapter is to:

- A. Control the introduction of pollutants to the stormwater drainage system by any person and/or entity.
- B. Prohibit illicit connections and discharges to the stormwater drainage system and receiving waters.
- C. Establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

14.30.020 Definitions.

"Best Management Practices" or "BMPs" means physical, structural, and/or managerial practices that, when used singly or in combination, prevent and/or reduce pollution of water. BMPs are listed and described in the Stormwater Management Manual for Western Washington and the

Gig Harbor Stormwater Management and Site Development Manual, most recent version.

“Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and any subsequent amendments thereto.

“Hazardous Materials” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

“Illegal Discharge” means any direct or indirect non-stormwater discharge to the stormwater drainage system, except as permitted or exempted in GHMC 14.30.050.

“Illicit Connection” is defined as either of the following:

- A. Any drain, conveyance, or hydraulic connection whether surface or subsurface, which allows an illegal discharge to enter the stormwater drainage system including but not limited to any conveyances which allow sewage, process wastewater, or wash water to enter the stormwater drainage system and any connections to the stormwater drainage system from indoor drains and sinks, regardless of whether the connection had been previously allowed, permitted, or approved by the city or other authorized public agency.
- B. Any drain or conveyance connected from a residential, commercial or industrial land use to the stormwater drainage system which has not been documented in plans, maps, or equivalent records and approved by the city.

“Municipal Separate Storm Sewer System (MS4)” or “stormwater drainage system” means the system of conveyances including sidewalks, roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, manmade channels, or storm drains owned and operated by the city and design or used for collecting or conveying stormwater.

“National Pollutant Discharge Elimination System (NPDES) Phase II Permit” means the “Western Washington Phase II Municipal Stormwater Permit” issued by the Washington State Department of Ecology with an effective date of February 16, 2007 and subsequent reissues.

“Non-Stormwater discharge” means any discharge to the stormwater drainage system that is not composed entirely of stormwater.

“Pollutant” or “Pollution” shall be construed to mean such contamination or other alteration of the physical, chemical, or biological properties of any of the waters of the state including, change in temperature, taste, color, turbidity, or odor of the waters or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious, to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life; as defined in by Federal regulatory requirements and RCW 90.48.020, as now existing or hereafter amended.

“Stormwater” means surface water runoff resulting from rainfall, snowmelt, or other precipitation.

“Storm Drainage System” – see “Municipal Separate Storm Sewer System (MS4)”.

“Wastewater” or “Process wastewater” means any liquid or water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

“Watercourse” and “river or stream” means any portion of a channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state including areas in which fish may spawn, reside, or through which they may pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses which flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, stormwater run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse which has been altered by humans.

“Waters of the state” means all lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and water courses within the jurisdiction of the state of Washington as defined in RCW 90.48.

14.30.030 Applicability.

This chapter shall apply to all water entering the stormwater drainage system and waters of the state within the MS4.

14.30.040 Administration.

The public works director or designee shall administer this chapter and shall be referred to as the administrator. The administrator shall have the authority to develop and implement procedures to administer and enforce this chapter.

14.30.050 General Provisions.

A. Prohibition of Illegal Discharges.

1. No person shall discharge or cause to be discharged into the city's stormwater drainage system or waters of the state, any materials, including but not limited to, pollutants or waters containing any pollutants.
2. Prohibited discharges include, but are not limited to, the following:
 - a. Trash or debris;
 - b. Construction materials;
 - c. Petroleum products including, but not limited to, oil, gasoline, grease, fuel oil, heating oil;
 - d. Antifreeze and other automotive products;
 - e. Metals in excess of naturally occurring amounts, in either particulate or dissolved form;
 - f. Flammable or explosive materials;
 - g. Chemicals not normally found in uncontaminated water;
 - h. Acids, alkalis, or bases;
 - i. Painting products;
 - j. Degreasers and/or solvents;
 - k. Drain cleaners;
 - l. Commercial and household cleaning products;
 - m. Pesticides, herbicides, or fertilizers;
 - n. Steam cleaning wastes;
 - o. Pressure washing wastes;
 - p. Soaps, detergents, or ammonia;
 - q. Chlorinated water, including spa or swimming pool water;
 - r. Domestic or sanitary sewage;
 - s. Animal carcasses;
 - t. Food wastes;
 - u. Yard wastes;
 - v. Silt, sediment, or gravel;
 - w. Any hazardous material or waste;
 - x. Wastewater or process wastewater (including filtered or purified wastewaters).
3. The following discharges are allowed by this chapter if the discharges do not contain pollutants. The administrator may evaluate and

remove any of the exemptions if it is determined that they are causing an adverse impact.

- a. Diverted stream flows (i.e., channeled or piped streams);
 - b. Rising ground waters and springs;
 - c. Flows from riparian habitats and wetlands.
 - d. Uncontaminated ground water infiltration (as defined in 40 C.F.R. 35.2005(20));
 - e. Uncontaminated pumped ground water;
 - f. Foundation and footing drains;
 - g. Air conditioning condensation;
 - h. Irrigation water from agricultural sources that is commingled with urban stormwater;
 - i. Water from crawl space pumps;
 - j. Non-stormwater discharges covered by another NPDES permit;
 - k. Discharges from emergency fire fighting activities;
 - l. Discharges specified in writing by the administrator as being necessary to protect public health and safety.
4. The following types of discharges shall only be permitted if the stated conditions are met:
- a. Discharges from potable water sources, including water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water; planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted if necessary, and volumetrically and velocity controlled to prevent re-suspension of sediments in the storm drainage system;
 - b. Discharges from lawn watering and other irrigation runoff; these shall be minimized through water conservation efforts;
 - c. Dechlorinated spa or swimming pool discharges; the discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenized if necessary, volumetrically and velocity controlled to prevent re-suspension of sediments in the storm drainage system. The temperature of the discharge water shall not exceed 65 degrees Fahrenheit. Spa or swimming pool cleaning wastewater and filter backwash shall not be discharged to the storm drainage system.
 - d. Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents; the amount of street wash, dust control, and building wash water shall be minimized. At active construction sites, street sweeping must be performed prior to washing the street.
 - e. Dye testing with verbal notification to the city at least twenty-four (24) hours prior to the time of the test;
 - f. Discharges resulting from maintenance, repair, or operation of fire fighting equipment and facilities that are not directly associated with public fire fighting, including discharges from public fire

fighting training exercises, unless city-approved best management practices are implemented.

5. Discharge prohibitions shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Environmental Protection Agency or Washington State Department of Ecology, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the stormwater drainage system.

B. Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

C. Waste Disposal.

No person shall throw, deposit, leave, maintain, or keep in or upon any public or private property, the stormwater drainage system, or waters of the state, any refuse, rubbish, garbage, litter, or other discarded or abandon objects, articles, or accumulations that may cause or contribute to pollution. Wastes deposited in proper waste receptacles for the purposes of collection are exempt from this prohibition.

14.30.060 General Requirements.

A. Requirement to Eliminate Illegal Discharges.

The administrator may require by written notice that a property owner or person responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge, clean up the polluting matter and, if necessary, take measures to eliminate the source of the discharge to prevent the reoccurrence of discharges. The administrator may charge all associated costs thereof to the property owner or responsible party.

B. Requirement to Eliminate Illicit Connections.

The administrator may require by written notice that a property owner or person responsible for an illicit connection to the stormwater drainage system eliminate the connection by a specified date, regardless of whether or not the connection had been established or approved previously.

C. Requirement to Implement Best Management Practices.

The owner or operator of a commercial or industrial establishment and property owners shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the stormwater drainage system or waters of the state through the use of structural and non-structural BMPs (as defined in GHMC 14.30.020). The administrator may require any person responsible for a property or premise, which is, or may be, the source of an illicit discharge to implement, at their own expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the stormwater drainage system.

D. Watercourse Protection.

Any person owning property through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, and other items that would pollute or contaminate the flow of water through the watercourse.

E. Notification of Illegal Discharges.

1. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation has information of any known or suspected illegal discharges into the stormwater drainage system or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.
2. In the event of an illegal discharge of hazardous materials into the stormwater drainage system or waters of the state, said person shall immediately notify the appropriate public agency identified by the city. A list of appropriate agencies is available on the city's website or in person. The alternative notification agencies are the emergency dispatch services (911) and the city's Public Works Department.
3. In the event of an illegal discharge of non-hazardous materials into the stormwater drainage system or waters of the state, said person shall notify the city's Public Works Department by phone, by facsimile, or in person within forty-eight (48) hours after said discharge.
4. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be kept and maintained on a permanent basis from the effective date of this chapter.

14.30.070 Inspections and Investigations.

A. Facility and Property Inspections.

The administrator shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a property owner has security measures in force which require proper identification and clearance before entry into its premises, the property or facility owner/operator shall make the necessary arrangements to allow access to the administrator.

B. Facility and Property Access.

1. Facility operators shall allow the administrator ready access to all parts of the premises for the purposes of inspection, sampling, examination, and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and/or federal law.
2. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the property owner at the written or oral request of the administrator and shall not be replaced. The costs of clearing such access shall be borne by the property owner.

C. Monitoring and Sampling.

1. The administrator has the right to install or require the property owner to install monitoring equipment as is reasonably necessary in the opinion of the administrator to conduct appropriate monitoring and/or sampling of the facility's stormwater discharge. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the property owner at his/her own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
2. All data shall be collected in accordance with a sampling and analysis plan that is approved by the administrator.

14.30.080 Enforcement.

A. Failure to Comply.

It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any activity or action caused or permitted to exist in violation of this chapter is a violation subject to enforcement under Chapter 12.17 GHMC.

B. Emergency Access and Reparation.

In the event the violation constitutes an immediate danger to public health or safety, the administrator is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking further relief or applying other penalties as outlined in Chapter 12.17 GHMC.

C. Civil Infraction.

Except as provided in subsection D of this section, conduct made unlawful by this chapter shall constitute a civil infraction and is subject to enforcement and fines as provided in Chapter 12.17 GHMC.

D. Misdemeanor.

Any person who again violates this chapter within twelve (12) months after having been found by the Gig Harbor Municipal Court to be in violation of this chapter, commits a misdemeanor and any person who is convicted thereof shall be punished as provided in Chapter 1.16 GHMC and fined as provided in Chapter 12.17 GHMC.

E. Civil Penalty.

In addition to any civil infraction fine, criminal penalty, and/ or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this chapter shall be subject to a cumulative civil penalty in the amount of \$1,000 per day for each violation from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with Chapter 12.17 GHMC.

F. Additional Remedies.

1. In addition to any other remedy provided by this chapter or under the Gig Harbor Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this chapter to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this chapter shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.
2. The administrator may provide the option for compensation of all or part of any penalties incurred by any person(s) to be made in the form of community service approved by the administrator that will be of

benefit to the environment and the city. The person(s) and administrator will enter into a formal, written agreement providing for the community service. This agreement shall include in detail description of the service(s) to be rendered by the person(s) in penalty for noncompliance of this chapter. The description shall include a completion date with a mutually agreed compensation structure to offset the above mentioned penalties.

- 3. Any person who violates any provision of this chapter may also be in violation of the Federal Clean Water Act, NPDES Phase II Permit, and/or RCW 90.48 and may be subject to sanctions including civil and criminal penalties. Any enforcement action authorized under this chapter shall also include written notice to the violator of such potential liability.”

Section 3. Severability. If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Section 4. Effective Date. This ordinance shall take effect on and be in force as of August 14, 2009.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this __ day of _____, 2009.

CITY OF GIG HARBOR

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
ANGELA S. BELBECK

FILED WITH THE CITY CLERK: 06/17/09
PASSED BY THE CITY COUNCIL: 07/13/09
PUBLISHED: 07/22/09
EFFECTIVE DATE: 08/14/09
ORDINANCE NUMBER:



Subject: Second Reading of Ordinance –
Revising Stormwater Code, Creating Grading
Code, and Creating Code for Civil Construction

Proposed Council Action: Adopt an
Ordinance of the City Council of the City of Gig
Harbor, Washington, relating to regulations for
stormwater by repealing and replacing Chapter
14.20 of the City of Gig Harbor Municipal Code
(GHMC), regulations for grading by revising
Section 18.10.080 GHMC and adding Chapter
14.40 GHMC, and new regulations relating to
the creation of a new civil permit by repealing
and replacing Chapter 12.06 GHMC.

Dept. Origin: Public Works/Engineering

Prepared by: Jeff Langhelm *AL*
Senior Engineer

For Agenda of: August 10, 2009

Exhibits: Proposed Ordinance

Concurred by Mayor:	Initial & Date <i>CLH 8/4/09</i>
Approved by City Administrator:	_____
Approved as to form by City Atty:	<u>By EMAIL</u>
Approved by Finance Director:	<i>DR 8/4/09</i>
Approved by Department Head:	<i>R 8/4/09</i>

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

INFORMATION / BACKGROUND

The City of Gig Harbor’s NPDES Phase 2 Stormwater Permit became effective on February 16, 2007 and contains various requirements for stormwater management and operations that must be implemented over the 5-year permit term ending February 15, 2012. The Permit has many conditions, including maintenance and operations of City facilities, permitting of development, inspections and enforcement of regulations, and other activities conducted in the City’s municipal separate storm sewer system.

Many of the revisions and additions provided by this ordinance are intended to meet Condition S5.C.4 of the City’s Stormwater Permit with the goal of improving and maintaining water quality in compliance with the Clean Water Act. For example, the Permit includes requirements for adoption of a new stormwater technical manual such as Department of Ecology’s Stormwater Manual, or an equivalent Stormwater Manual from an NPDES Phase I jurisdiction such as Pierce County. The new stormwater technical manual proposed in this ordinance includes many of the requirements that have been previously provided by the existing Chapter 14.20 of the Gig Harbor Municipal Code (GHMC) and is based on the recently approved Pierce County Stormwater Management and Site Development Manual.

Department of Ecology has recently extended the required effective date of Condition S5.C.4 of the City's Stormwater Permit to February 16, 2010.

Additionally, Title 18 GHMC (Environment) currently employs Appendix J of the International Building Code (IBC) for grading regulations and places enforcement and authority of grading regulations with the Community Development Director, which no longer exists. However, staff believes Appendix J of the IBC is inadequate for the implementation of the City's Stormwater Permit. Also, the Public Works Department currently informally reviews and enforces grading permits on behalf of the Community Development Director with enforcement in accordance with Title 15 GHMC (Building and Construction). The new requirements for a grading permit are intended to assist with the implementation of the City's Stormwater Permit while enhancing the transparency of the City's permitting and enforcement of grading projects by establishing a grading code in Title 14 GHMC, which is enforced by the Public Works Director under Title 12 GHMC.

Finally, the revisions of this ordinance remove the limited requirement for a drainage permit and create instead a new requirement for a civil permit and/or a grading permit. The Public Works Department currently informally requires review of civil improvements through review and implementation of the Public Works Standards. However, without this code revision there is no clear application and permitting process for developments requiring civil improvements. This new requirement for a civil permit is intended to enhance the transparency of the City's permitting requirements for public works projects and replace the limited requirement for a drainage permit.

The draft ordinance was presented for first reading at the June 22 council meeting. Revisions made to this ordinance since the first reading include revising the effective date of this ordinance to January 1, 2010 and clarifying civil permit expiration deadlines in Section 12.06.070.

FISCAL CONSIDERATION

None with this action.

BOARD OR COMMITTEE RECOMMENDATION

The draft ordinance was presented twice to the Operations and Public Project Committee at their April 2009 and June 2009 meetings. Comments from the April meeting were incorporated in to the ordinance at the first reading.

RECOMMENDATION / MOTION

Move to: Adopt an Ordinance of the City Council of the City of Gig Harbor, Washington, relating to regulations for stormwater by repealing and replacing Chapter 14.20 of the City of Gig Harbor Municipal Code (GHMC), regulations for grading by revising Section 18.10.080 GHMC and adding Chapter 14.40 GHMC, and new regulations relating to the creation of a new civil permit by repealing and replacing Chapter 12.06 GHMC.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO STORMWATER AND GRADING REGULATIONS; REPEALING AND REPLACING CHAPTER 14.20 OF THE GIG HARBOR MUNICIPAL CODE TO ADOPT NEW REGULATIONS RELATING TO STORMWATER; AMENDING SECTION 18.10.080 OF THE GIG HARBOR MUNICIPAL CODE; ADDING NEW CHAPTER 14.40 TO THE GIG HARBOR MUNICIPAL CODE TO ADOPT REGULATIONS RELATING TO GRADING; REPEALING AND REPLACING CHAPTER 12.06 OF THE GIG HARBOR MUNICIPAL CODE TO ESTABLISH A CIVIL PERMIT PROCESS; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Gig Harbor (the "City") is regulated under the Washington State Department of Ecology's Western Washington Phase II Municipal Stormwater Permit (the "Permit"); and

WHEREAS, the Permit became effective on February 16, 2007 and contains various requirements for stormwater management and operations that must be implemented over the 5-year permit term ending February 15, 2012; and

WHEREAS, the Permit broadly applies to City activities that include maintenance and operations of City facilities, permitting of development, inspections and enforcement of regulations, and other activities conducted in the City's Municipal Separate Storm Sewer System; and

WHEREAS, the City will be adopting code policies and procedures as needed to comply with the Permit; and

WHEREAS, to meet the conditions of the Permit, a Stormwater Management Program ("SWMP") has been prepared that outlines all requirements of the Permit and a summary of the City's work program to meet those requirements over the 5-year permit term, and will be updated annually to incorporate progress on implementing the SWMP and changes to projected future work efforts; and

WHEREAS, the revisions and additions of this ordinance are intended to meet Condition S5.C.4 of the Permit with the goal of improving and maintaining water quality

in compliance with the Clean Water Act, which includes adoption of a new stormwater technical manual such as Department of Ecology's Stormwater Manual, or an equivalent Stormwater Manual from an NPDES Phase I jurisdiction; and

WHEREAS, the new stormwater technical manual includes many of the requirements that have been previously provided by the existing Chapter 14.20 GHMC and is based on the recently approved Pierce County Stormwater Management and Site Development Manual; and

WHEREAS, the revisions of this ordinance remove the requirement for a drainage permit and create instead the new requirement for a civil permit and/or a grading permit; and

WHEREAS, the Public Works Department currently informally requires review of civil improvements through review and implementation of the Public Works Standards; and

WHEREAS, the new requirements for a civil permit are intended to enhance the transparency of the City's permitting requirements for public works projects and replace the requirements for a drainage permit; and

WHEREAS, Title 15 GHMC, Building and Construction, currently places the authority of grading with the Community Development Director, which no longer exists; and

WHEREAS, the Public Works Department currently informally reviews and enforces grading permits on behalf of the Community Development Director with enforcement in accordance with Title 15 GHMC; and

WHEREAS, the new requirements for a grading permit are intended to enhance the transparency of the City's permitting and enforcement of grading projects by establishing a grading code in Title 14 GHMC, which is enforced by the Public Works Director under Title 12 GHMC; Now, therefore

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

Section 1. Chapter 14.20 of the City of Gig Harbor Municipal Code is repealed.

Section 2. A new Chapter 14.20 of the City of Gig Harbor Municipal Code is hereby added to read as follows:

Chapter 14.20
STORMWATER MANGEMENT

14.20.010 Declaration of Title

This Code shall be known as the “Stormwater Management Code”.

14.20.020 Purpose

The purpose of this Code is to:

1. Guide development or redevelopment activities within the City of Gig Harbor with regards to stormwater drainage. The provisions of this Code establish the minimum standards and construction procedures that must be met before issuance of a permit for development or redevelopment of property;
2. Minimize or eliminate the impacts of increased runoff, erosion, and sedimentation caused by land disturbance, development, and redevelopment;
3. Promote site planning and construction practices that seek to maintain the natural hydrologic conditions;
4. Require that stormwater facilities be operated, maintained, and repaired in conformance with this Code. The provisions of this Code establish the minimum level of compliance that must be met for maintaining stormwater facilities within the City;
5. Provide for inspection and maintenance of stormwater facilities in the City to ensure an effective and functional stormwater drainage system;
6. Not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code; and
7. Meet the requirements of the City’s National Pollution Discharge Elimination System Permit for Municipal Separate Storm Sewer Systems.

14.20.030 Definitions

“Basin” shall mean an area from which surface runoff is concentrated, usually to a single point such as the mouth of a stream

“Best management practice” or “BMP” shall mean the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial

practices, that when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington.

“Development” shall mean any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, placement of manufactured home/mobile home, mining, dredging, clearing, filling, grading, paving, excavation, drilling operations, or the subdivision of property. See also the definitions for redevelopment and land disturbing activities.

“Erosion” shall mean the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Also, detachment and movement of soil or rock fragments by water, wind, ice, or gravity

“Land disturbing activity” shall mean any activity that results in a movement of earth or a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land-disturbing activity. Vegetation maintenance practices are not considered land-disturbing activity.

“Municipal Separate Storm Sewer System (MS4)” or “stormwater drainage system” means the system of conveyances including sidewalks, roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, manmade channels, or storm drains owned and operated by the city and design or used for collecting or conveying stormwater.

“Redevelopment” shall mean, where a site that is already substantially developed (i.e., has 35 percent or more of existing impervious surface coverage), the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities.

“Stormwater” shall mean that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other features of a stormwater drainage system into a defined surface water body, or a constructed infiltration facility.

“Stormwater facility” shall mean a constructed component of a stormwater drainage system, designed or constructed to perform a particular function, or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and biofiltration swales.

14.20.040 Adoption of Technical Manual

The *Gig Harbor Stormwater Management and Site Development Manual*, most recent version, hereafter called the "Manual", is hereby adopted as the City's manual for controlling runoff from new development, redevelopment and construction sites.

14.20.050 Authority

The Public Works Director (Director), or an assignee, shall have the authority to administer and enforce this Code. The Director shall also have the authority to develop and implement procedures to administer and enforce this Code. The Director may approve, conditionally approve, or deny an application for activities regulated by this Code. The Director is authorized to develop a regular inspection program for all stormwater facilities in the City.

14.20.060 Applicability

The provisions of this Code shall apply to all site development activities, both public and private, within the City of Gig Harbor.

Any land development which is required by operation of any City of Gig Harbor Code, state law, or federal law to construct, install, or modify any natural or manmade drainage features within, abutting, or serving the development shall do so in accordance with this Code. However, where the provisions of this Code directly conflict with any other Gig Harbor Code, state or federal law, comprehensive drainage plan, or special study, the more stringent provisions shall apply to the extent permissible by law.

Approval of any land development activity by the City of Gig Harbor does not constitute approval of other applicable permits that may be required by other agencies. The fact that any activity is exempt from the permit requirements of this Code shall not constitute an exemption from any other City code, ordinance, or state or federal law.

14.20.070 Exemptions

The following are exempt from the requirements of this Code:

1. Site development or redevelopment activities approved under an existing unexpired development permit prior to the effective date of this code. These activities shall instead meet the requirements of the code in place at the time of development permit approval; and
2. Site development or redevelopment permit applications that has been deemed a complete application prior to the effective date of this code. These applications shall instead meet the requirements of the code in place at the time the application was deemed complete; and

3. Commercial agriculture and forest practices regulated under Title 222 WAC, except for Class IV General Forest Practices that are conversions from timber land to other uses; and
4. Development that is undertaken by the Washington State Department of Transportation in state highway rights-of-way and is regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program.
5. Road construction and/or maintenance activities, including the creation of wetland mitigations sites and storm ponds, undertaken by the Gig Harbor Public Works Department shall be exempt from the administrative requirements of this Code, but shall comply fully with the technical requirements contained herein.
6. An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid Building Permit. This shall not exempt the placement of any fill material removed from such an excavation, and shall not exempt any excavation beyond the limits of the basement or footing excavations nor exempt excavations having an unsupported height greater than 4 feet after the completion of such a structure.
7. Agricultural crop management outside of critical drainage areas limited to the preparation of soil by turning, discing, or other means endorsed by the local Conservation District.
8. Excavation for cemetery graves.
9. The disposal of solid waste, wood waste, problem waste and demolition waste authorized pursuant to chapter 70.95 RCW, and regulations presently enacted or as may be amended or as specifically approved by the Pierce County Health District.
10. The on-site stormwater management for mining, quarrying, excavating, processing, and/or stockpiling of rock, sand, gravel, aggregate, or clay where established and provided by law, and a permit for said activity has been issued by the State of Washington or the Federal Government, provided such operations do not exceed the minimum requirements of this Code at the discharge location to the MS4.
11. Exploratory excavations under the direction of a qualified professional engineer.
12. Grading activities already approved by separate permit granted by any governing authority, provided that the activities meet the minimum requirements of this Code.
13. Emergency sandbagging, diking, ditching, filling, pumping, eductor truck work, or similar work during or after periods of extreme weather conditions when done to protect life or property.

14. Discharges of regulated effluent from any commercial or municipal facility holding a valid state or federal wastewater discharge permit.
15. Discharges from acts of nature not compounded by human negligence.
16. Discharges from properly operating on-site domestic sewage systems.
17. Discharges from properly applied agricultural chemicals or materials.

14.20.080 Variances

The Director of Public Works may grant a variance from the provisions of this Code, provided that all criteria are met as adopted in Section 12.16.010 of the Gig Harbor Municipal Code.

14.20.090 Discharge of Stormwater Directly to Puget Sound

Development or redevelopment sites that abut Puget Sound or tidally influenced areas of rivers and streams discharging into Puget Sound do not need to meet the flow control requirements of the Manual provided sufficient BMPs are provided to mitigate increased release rates and potential for erosion. All other requirements of the Manual shall be met.

14.20.100 Drainage Associated With Civil Construction and Grading Activities

- A. All civil construction activities shall conform to the requirements of Chapters 12.02 and/or 12.06 GHMC.
- B. All grading activities shall conform to the requirements of Chapter 14.40 GHMC.
- C. All site development and redevelopment activities shall meet the requirements of the Manual.
- D. Stormwater flows shall be accepted onto, and shall be discharged from, a project site at the natural or otherwise legally existing locations.

14.20.110 Changes in Site Topography

- A. The maximum surface gradient on any artificially created slope without a retaining structure shall be two (2) feet of horizontal run to one (1) foot of vertical fall (2:1). This gradient may be increased to that gradient which can be demonstrated through engineering calculations to be stable, if, in the opinion of the Director, it has been demonstrated by the Applicant through engineering

calculations performed by a qualified professional engineer that surface erosion can be controlled to that erosion rate equal to a properly stabilized 2:1 slope under the same conditions.

- B. Any rockery or other retaining structure greater than four feet in height must be permitted under a separate Building Permit issued by the City.
- C. The Applicant shall at all times protect adjacent private properties and public rights-of-way or easements from damage occurring during development. The Applicant shall restore private property and public improvements damaged by his/her operations.
- D. The Applicant shall be responsible for obtaining and coordinating all required State or Federal permits associated with the disturbance of wetlands or other regulated activities.

14.20.120 Maintenance of Erosion and Sedimentation Control

It shall be the responsibility of the Contractor performing the land disturbing activities to maintain all temporary erosion and sediment control and drainage facilities in good operating condition at all times, as described in the Manual. It shall be the responsibility of the property owner to maintain all permanent erosion and sediment control and drainage facilities in good operating condition at all times, as described in the Manual.

14.20.130 Agreements, Easements, Tracts, and Covenants

- 1. Each development installing stormwater facilities or drainage systems beyond the City's right of way shall submit a completed stormwater facilities maintenance agreement on a City form prior to approval of construction.
- 2. Drainage easements shall be provided for all stormwater conveyance systems that are not located in public rights-of-way or tracts. Said drainage easements shall be granted to the parties responsible for providing on-going maintenance of the systems and shall be of sufficient width to accommodate maintenance equipment and excavations relative to the depth and size of the systems.
- 3. Drainage easements through structures are not permitted.
- 4. Stormwater facilities that are to be maintained by the City, together with maintenance access roads to said facilities, shall be located in public right-of-way, separate tracts dedicated to the City, or drainage easements located in designated open space. The exception is for stormwater conveyance pipes that may be located within easements on private property, provided that all catch basins can be accessed without entering private property.
- 5. All runoff from impervious surfaces, roof drains, and yard drains shall be directed so as not to adversely affect adjacent properties. Wording to this effect shall

appear on the face of all binding site plans, short plats, boundary line adjustments, and final plats/PRDs, and shall be contained in any covenants required for a development.

14.20.140 Basin Planning

An adopted and implemented basin plan tailored to a specific basin may be used to develop requirements for source control, stormwater treatment, streambank erosion control, wetlands, and water quality sensitive areas. Adopted and implemented watershed-based basin plans may be used to modify any or all of the minimum requirements addressed in the Manual, provided that the level of protection for surface or ground water achieved by the basin plan will equal or exceed that which would otherwise be achieved by implementation of the provisions of this Code in the absence of a basin plan. Basin plans shall evaluate and include, as necessary, retrofitting of BMPs for existing development and/or redevelopment in order to achieve watershed-wide pollutant reduction goals. Standards developed from basin plans shall not modify any of the above requirements until the basin plan is formally adopted and fully implemented by the City.

14.20.150 Maintenance of Stormwater Facilities by Owners

For privately maintained stormwater facilities and BMPs, the maintenance requirements specified in this Code, including the Manual, shall be enforced against the owner(s) of the subject property served by the stormwater facility.

14.20.160 City Acceptance of New Stormwater Facilities

The City may accept for maintenance those new residential stormwater facilities constructed under an approved permit that meet the following conditions:

1. Improvements in residential plats/PRDs have been completed on at least 80% of the lots, unless waived by the Director; and
2. All drainage facilities have been inspected and accepted by the Director and said drainage facilities have been in satisfactory operation for at least two (2) years; and
3. All drainage facilities reconstructed during the maintenance period have been accepted by the Director; and
4. The stormwater facility, as designed and constructed, conforms to the provisions of this Code; and
5. All easements and tracts required under this Code, entitling the City to properly operate and maintain the subject drainage facility, have been conveyed to the City and have been recorded with the Pierce County Auditor; and

6. For non-standard drainage facilities, an operation and maintenance manual, including a maintenance schedule, has been submitted to and accepted by the City; and
7. A complete and accurate set of reproducible mylar record drawings and a digital file in a drafting format acceptable by the Director have been provided to the City of the stormwater facilities.

14.20.170 City Acceptance of Existing Stormwater Facilities

The City may accept for maintenance those stormwater facilities for residential developments existing prior to the effective date of this Code that meet the following conditions:

1. Improvements in residential plats/PRDs have been completed on at least 80% of the lots; and
2. An inspection by the Director has determined that the stormwater facilities are functioning as designed; and
3. The stormwater facilities have had at least two (2) years of satisfactory operation and maintenance, unless otherwise waived by the Director; and
4. The person or persons holding title to the properties served by the stormwater facilities submit a petition containing the signatures of the title holders of more than 50% of the lots served by the stormwater facilities requesting that the City maintain the stormwater facilities; and
5. All easements required under this Code, entitling the City to properly operate and maintain the subject stormwater facilities, have been conveyed to the City and have been recorded with the Pierce County Auditor; and
6. The person or persons holding title to the properties served by the stormwater facilities show proof of the correction of any defects in the drainage facilities, as required by the Director; and
7. A complete and accurate set of reproducible mylar record drawings and a digital file in a drafting format acceptable by the Director have been provided to the City of the stormwater facilities; and
8. The stormwater facilities meet current design standards as defined in the Manual or a variance has been approved.

14.20.180 City Inspections of Privately Maintained Stormwater Facilities

The Director is authorized to develop an inspection program for privately owned and maintained stormwater facilities in the City. The party (or parties) responsible for maintenance and operation shall be identified. The purpose of this inspection program shall be to determine if said storm water facilities, conveyance structures, and water quality facilities are in good working order and are properly maintained, and to ensure

that stormwater management BMPs are in place and that non-point source pollution control is being implemented. Critical stormwater facilities, as so deemed by the Director, may require a more frequent inspection schedule.

14.20.190 Test Procedures

In the event that water quality testing is utilized in determining whether a violation of this Section has occurred, said water quality test procedures shall be followed as described in the most recent edition of the "Code of Federal Regulations, Part 136".

14.20.200 Violations of This Code

The placement, construction or installation of any structure, or the connection to a public storm drainage facility, or the discharge to a public drainage facility or any activity which violates the provisions of this Code shall be and the same is hereby declared to be unlawful and a public nuisance. The City may take enforcement action as set forth in Chapter 12.17 GHMC to ensure that any such activity, Code violation or property condition declared to be a public nuisance ceases and is abated through the use of civil or criminal penalties and Stop Work Orders, as well as any other remedies which are set forth in this Code, the Gig Harbor Municipal Code, or any applicable ordinance or statute, including, but not limited to revocation of any permits. The choice of enforcement action taken and the severity of any penalty shall be determined as set forth in Chapter 12.17 GHMC.

Section 3. Section 18.10.080 GHMC is revised to read:

The ~~community development~~ Public Works Director shall require that any excavation, grading, fill or construction be performed only after issuance of a permit pursuant to GHMC Title 14 ~~15~~.

Section 4. A new Chapter 14.40 is added to Title 14 of the Gig Harbor Municipal Code to read as follows:

**Chapter 14.40
GRADING**

14.40.010 Purpose.

- A. The purpose of this chapter is to promote, protect and preserve the public interest by regulating land alteration, particularly the grading of land in the city.
- B. This chapter is necessary in order to provide minimum development regulations and construction procedures which will preserve, replace or enhance natural

processes and characteristics to the maximum extent practicable, consistent with the zoning and subsequent development of the land within the city; to minimize water quality degradation and the sedimentation of creeks, streams, ponds, lakes, wetlands and other water bodies; to minimize the impact of increased runoff erosion and sedimentation on non-consenting persons caused by improper land development and maintenance practices; to maintain and protect groundwater resources; to minimize adverse effects of alteration in ground and surface water quantities, locations, and flow patterns; to promote safety upon city roads and right-of-way; to decrease potential landslide, flood, and erosion damage to public and private property; and to promote site planning and building practices which are consistent with the city's natural topographical, vegetational and hydrological features.

- C. This chapter is intended to promote the health, safety and welfare of the public and nothing in this chapter is intended to or shall be deemed to create a duty on the part of the city to protect or promote the interests of any particular person or class of persons. The existence of these regulations or any failure, refusal or omission of the city to enforce any provision in this chapter shall not prevent, supplant or affect the right of any person affected by the grading operations of another to invoke such private remedies as may be available against such other person.

14.40.020 Definitions.

For the purposes of this chapter, the definitions listed under this section shall be construed as specified in this section:

“Abbreviated Plan” means the project threshold for Abbreviated Plans described in the Gig Harbor Stormwater Management and Site Development Manual.

“Approved” means approved by the designated permit authority for grading permits.

“As-graded” means the surface condition after the completion of grading.

“Bench” means a relatively level step excavated into earth material on which fill is to be placed.

“Borrow” means earth material acquired from an off-site location for use in grading on a site.

“Brush” means vegetation one foot to four feet in height.

“Building” means any structure used or intended for supporting or sheltering any use or occupancy.

“Civil engineer” means a professional engineer licensed to practice in the state of Washington in civil engineering.

“Civil engineering” means the application of knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works for the beneficial uses of mankind.

“Clearing” means the act of destroying or removing vegetation by mechanical or chemical means. See Chapter 17.94 GHMC.

“Grading permit” means the written permission of the permit authority to the permittee to proceed with the act of grading and land development within the provisions of this chapter.

“Compaction” means the densification of a fill by mechanical means.

“Critical Area” means those lands which are subject to natural hazards, contain important or significant natural resources or which have a high capability of supporting important natural resources. See Chapter 18.08 GHMC.

“Cut” – See “Excavation”.

“Development standards” means the Public Works Standards and/or the Gig Harbor Stormwater Management and Site Development Manual as approved by the city council.

“Earth material” means any rock, natural soil or any combination thereof.

“Engineering geologist” means a professional engineering geologist licensed to practice in the state of Washington experienced and knowledgeable in engineering geology.

“Engineering geology” means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

“Erosion” means the wearing away of the ground surface as a result of action by wind, water and/or ice.

“Excavation” means the removal of earth material by artificial means, also referred to as a cut.

“Existing grade” means the land elevation prior to grading.

“Fill” means deposition of earth material by artificial means.

“Filling” means any act by which earth, sand, gravel, rock or other solid material is deposited, placed, pushed, pulled or transported to a place other than the place from which it is excavated and the materials so placed.

“Finished grade” means the grade of the site after alterations are completed.

“Grade” means the vertical location of the ground surface.

“Grading” means any act which changes the elevation of the ground surface, including either excavation activities or fill activities.

“Ground cover” means root vegetation normally less than one foot in height.

“Grubbing” means the act of root vegetation removal from beneath the surface of the earth.

“Hydrologist” means a professional hydrologist licensed to practice in the state of Washington who has experience or specialized training in hydrology.

“Impervious” means without significant capacity to transmit water.

“Intermittent” means interrupted at intervals, periodic, recurrent, flowing in the same direction (streams), or depressions which fill on a frequent basis (ponds).

“Key” means a compacted fill placed in a trench excavated in earth material beneath the toe of a slope.

“Overstory” means vegetation above ten feet in height.

“Permit authority” means the Public Works Director. The director may designate subordinate(s) to make approvals, sign permits, and carry out other responsibilities in application to this code.

“Permittee” means the person(s) or entity to whom a grading permit is issued.

“Professional finding” means a written professional opinion with the professional’s seal from the state of Washington stating the facts observed or found and comparison of the characteristics of the work with the known minimal required criteria, followed by an opinion of the suitability of such work to perform the intended function.

“Registered professional” means a person currently licensed by the state of Washington to practice in engineering, architecture, landscape architecture, geotechnical engineering, geology, hydrology and/or surveying.

“Regulatory agencies” means appropriate departments of a governmental body.

“Rough grade” means the stage of construction at which the ground elevations are near the finished elevations planned.

“Sediment” means waterborne particles, graded or undefined, occurring by erosive action.

“Sedimentation” means the process of deposition of soil and organic particles displaced, transported, and deposited by water or wind.

“Sensitive lands” means lands possessing slopes in excess of twenty-five percent on unstable soil, natural drainage, geological or vegetative characteristics which pose potentially hazardous impacts for occupants of the land or its neighbors. See also “Critical Area”.

“Significant vegetation” as defined in GHMC 17.99.590.

“Siltation” means deposition of fine textured sediment in streams and surfaced waters.

“Site” means that defined portion of any lot(s) or parcel(s) of land or contiguous combination thereof, where grading is performed or permitted.

“Slope” means an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

“Soil” means naturally occurring superficial deposits overlying bedrock.

“Soils engineering” means the application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and/or testing of the construction thereof.

“Stage” means a defined increment of work.

“Storm return interval” is an expression of the probability with which a storm of a given intensity and duration can be expected to occur; term used by a hydrologist to predict runoff quantities.

“Stream” means the surface water route generally consisting of a channel with bed, banks, or sides, in which surface waters flow in draining from higher or lower land, both perennial and intervening; the channel and intervening artificial components, excluding flows which do not persist more than twenty-four hours after cessation of rainfall at some time of the year.

“Structure” means that which is built or constructed including, but not limited to, tanks, towers, fences, silos, and chimneys. See also “Building”.

“Surface waters” means water bodies exposing a free water surface, with or without movement, such as streams, lakes, bogs, and ponds.

“Terrace” means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

“Tree” means a woody perennial plant with one or more main stem(s) or trunk(s) which develop many branches.

“Understory” means vegetation four feet to ten feet in height.

“Vegetation” means all organic plant life growing on the surface of the earth.

14.40.030 Permit authority.

The permit authority is the designated agent for the issuance of grading permits. The permit authority shall have the authority to develop administrative procedures to carry out the purposes and intent of this grading code. Such administrative procedures should be developed in consultation with technical advisors as circumstances require and shall be made available to the public for comment at least seventeen days before adoption.

14.40.040 Permit required.

- A. Application. No person shall make changes or cause changes to be made in the surface of any land by grading, excavating, filling, stockpiling or the removal or

disturbance of the natural topsoil thereon without first having obtained a valid grading permit, except as provided in subsection B of this section.

- B. Exemptions. A grading permit shall not be required for the following:
- 1) Agricultural crop management;
 - 2) Excavation and filling of cemetery graves;
 - 3) Routine maintenance of existing landscaping;
 - 4) Emergency situations involving immediate danger to life or property or substantial fire hazards;
 - 5) Excavations for wells, dewatering wells, or trenches for utilities;
 - 6) Exploratory excavations performed under the direct supervision of a design professional registered in the State of Washington.
 - 7) In any one year an excavation less than 50 cubic yards which:
 - a. Is less than one foot in depth; and
 - b. Does not obstruct a stream or surface water; and
 - c. Does not create a cut slope greater than five feet in height and steeper than two horizontal to one vertical; and
 - d. Is adequately protected against erosion.
 - 8) In any one year a fill less than 50 cubic yards which:
 - a. Is less than one foot in depth; and
 - b. Does not obstruct a stream or surface water; and
 - c. Is not intended to support structures; and
 - d. Does not create a fill slope greater than three feet in height and steeper than five horizontal to one vertical; and
 - e. Is adequately protected against erosion.
 - 10) Grading within five feet of a proposed footing that is required for placement of a building that is associated with a valid building permit.

14.40.050 Requirements.

It is the intent of this section to promote practices consistent with the city's natural topographic, vegetational, and hydrologic features, and to control substantial land alterations of a speculative nature. In considering whether to issue a permit, and in considering whether and what type of conditions should be imposed, the permit authority shall apply the following standards and criteria:

- A. General. The permit authority may approve or approve with modifications an application submitted under this subsection only if:
- 1) The proposal is in accord with the comprehensive plan, comprehensive drainage plan, zoning code, critical areas ordinance, drainage management

- code, National Flood Insurance Program, and other city codes and adopted standards,
- 2) The approval of the proposal will not pose a threat to or be detrimental to the public health, safety and welfare, and
 - 3) The applicant has demonstrated that approval of the proposal is necessary for the reasonable development or maintenance of the property.
- B. Hazards. Whenever the permit authority determines that any existing excavation or embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of the property, upon receipt of notice in writing from the permit authority, shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this code.
- C. Gig Harbor Stormwater Management and Site Development Manual. All grading projects shall be subject to meeting the requirements of the Gig Harbor Stormwater Management and Site Development Manual, most recent version, hereafter called the "Manual".

14.40.060 Permit—Application.

To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall also include the following applicable information:

- A. Plan submittals in accordance with the Gig Harbor Stormwater Management and Site Development Manual, most recent version.
- B. Applicants for grading on slopes of critical areas or on slopes fifteen percent or greater but not exceeding thirty-five percent may be required by the permit authority to submit a grading report described in Section 14.40.060(C).
- C. Applicants for grading on slopes in excess of thirty-five percent shall submit a grading report prepared by a professional engineer licensed by the state of Washington. The required grading report shall contain the following information, including recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent property:
 - 1) Soils Report. This report shall include data regarding the nature, distribution and strength of existing soils and the characteristics of the underlying geology, conclusions and recommendations for grading procedures, design criteria for corrective measures and opinions and recommendations covering the carrying capabilities of the site; and

2) Hydrology Report. This report shall include an adequate description of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development and options and recommendations covering the carrying capabilities of the sites to be developed.

D. Any additional information that may be required by the city shall be provided by independent consultants hired by the city at applicant's expense.

14.40.070 Permit—Fees.

Before accepting a permit application, the permit authority shall collect a permit fee. Such fee shall be determined according to the standard fee schedule approved by the city council by resolution.

14.40.080 Permit—Expiration.

For any permit authorized under this chapter the permit authority shall impose a time limit within which the proposed site work must be completed. The time limit for expiration of the permit shall be 180 days unless otherwise noted on the approved grading plans and conditioned on the approved grading permit. The Director is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing with justifiable cause demonstrated.

14.40.090 Financial Guarantees.

- A. All projects, except those projects meeting the requirements of Section 14.40.040(B) or those projects requiring only an Abbreviated Plan, shall establish a financial guarantee in accordance with the Manual in the form of cash escrow account, irrevocable letter of credit, or other form of credit which may be acceptable to the city at its sole discretion.
- B. The financial guarantee shall be sufficient to reimburse the city if it should become necessary for the city to enter the property for the purpose of correcting and/or eliminating hazardous conditions relating to soil stability and/or erosion, or to restore vegetation, and/or for other purposes authorized in this chapter. In addition, the financial guarantee may be required to protect the city from potential damage claims and/or other damage to city streets, utilities or property in the same manner and extent as may be required prior to issuance of a building permit pursuant to other sections of this code.
- C. In no case shall the financial guarantee be less than 125% of the estimated value of the grading activities provided by the applicant's civil engineer and approved by the permit authority.

- D. Should the city, during the course of construction, find it necessary to expend the financial guarantee to correct any work not in accordance with the approved plans and specifications, a stopwork order shall be issued to the permittee on any additional work until the financial guarantee is reestablished by the permittee.

14.40.100 Cuts.

- A. General.
 - 1) Unless otherwise recommended in the approved soils engineering and/or engineering geology report, cuts shall conform to the provisions of this section.
 - 2) In the absence of an approved soils engineering report, these provisions may be waived by the permit authority for minor cuts not intended to support structures.
- B. Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than two horizontal to one vertical unless the owner furnishes a soils engineering or an engineering geology report, or both, stating that the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or private property. The report shall be reviewed and approved by the city engineer prior to earth work.
- C. Terracing. Terracing shall be provided as required. See Section 14.40.130.

14.40.110 Fills.

- A. General.
 - 1) Unless otherwise recommended in the approved soils engineering report, fills shall conform to the provisions of this section.
 - 2) In the absence of an approved soils engineering report, these provisions may be waived by the permit authority for minor fills not intended to support structures.
- B. Fill Location. Fill slopes shall not be constructed on natural slopes steeper than two to one.
- C. Preparation of Ground. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials, scarifying to provide a bond with the new fill and, where slopes are steeper than five to one and the height is greater than five feet, by benching into sound bedrock or other competent material as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than five to one shall be at least

ten feet wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. When fill is to be placed over a cut, the bench under the toe of fill shall be at least ten feet wide but the cut shall be made before placing the fill and acceptance by the soils engineer or engineering geologist or both as a suitable foundation for fill.

D. Fill Material.

- 1) Organic material shall not be permitted in fills. Except as permitted by the building official, no rock or similar irreducible material with a maximum dimension greater than twelve inches shall be buried or placed in fills.
- 2) Exceptions. The permit authority may permit placement of larger rock when the soils engineer properly devises a method of placement, continuously inspects its placement and approves the fill stability. The following conditions shall also apply:
 - a. Prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan.
 - b. Rock sizes greater than twelve inches in maximum dimension shall be ten feet or more below grade, measured vertically.
 - c. Rocks shall be placed so as to assure filling of all voids.

E. Compaction. All fills shall be compacted to a minimum of ninety percent of maximum density as determined by the *International Building Code (IBC)* as adopted by the City. In-place density shall be determined in accordance with the IBC.

F. Slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than two horizontal to one vertical.

G. Terracing. Terracing shall be provided and the area above fill slopes and the surfaces to terraces shall be graded and paved as required. See Section 14.40.130.

14.40.120 Setbacks.

A. General. Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.

B. Top of Cut Slope. The top of cut slopes shall be made not nearer to a site boundary line than one fifth of the vertical height of cut with a minimum of two feet and a maximum of ten feet. The setback may need to be increased for any required interceptor drains.

C. Toe of Fill Slope. The toe of fill slope shall be made not nearer to the site boundary line than one-half the height of the slope with a minimum of two feet

and a maximum of twenty feet. Where a fill slope is to be located near the site boundary and the adjacent off-site property is developed, special precautions shall be incorporated in the work as the permit authority deems necessary to protect the adjoining property from damage as a result of such grading. These precautions may include but are not limited to:

- 1) Additional setbacks;
 - 2) Provision for retaining or slough walls;
 - 3) Mechanical or chemical treatment of the fill slope surface to minimize erosion;
 - 4) Provisions for the control of surface waters.
- D. Modification of Slope Location. The permit authority may approve alternate setbacks using the variance process adopted by Section 12.16.010 GHMC. The permit authority may require an investigation and recommendation by a qualified engineer or engineering geologist to demonstrate that the intent of this section has been satisfied.

14.40.130 Terracing.

- A. General. Unless otherwise indicated on the approved grading plans, terracing and related drainage shall conform to the provisions of this section for cut or fill slopes steeper than three horizontal to one vertical.
- B. Terrace.
- 1) Terraces at least six feet in width shall be established at not more than thirty-foot vertical intervals on all cut or fill slopes to control surface drainage and debris except that where only one terrace is required, it shall be at mid-height. For cut or fill slopes greater than sixty feet and up to one hundred twenty feet in vertical height, one terrace at approximately mid-height shall be twelve feet in width. Terrace widths and spacing for cut and fill slopes greater than one hundred twenty feet in height shall be designed by the civil engineer and approved by the permit authority. Suitable access shall be provided to permit property cleaning and maintenance.
 - 2) Swales or ditches on terraces shall have a minimum gradient of five percent and must be paved with reinforced concrete not less than three inches in thickness or an approved equal paving. They shall have a minimum depth at the deepest point of one foot and a minimum paved width of five feet.
 - 3) A single runoff swale or ditch shall not collect runoff from a tributary area exceeding thirteen thousand five hundred square feet (projected) without discharging into a down drain.
- C. Subsurface Drainage. Cut and fill slopes shall be provided with subsurface drainage as necessary for stability.

D. Disposal of drainage.

- 1) All drainage facilities shall be designed to carry water to the nearest practicable drainage way approved by the permit authority. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive down drains or other devices.
- 2) Building pads shall have a drainage gradient of two percent toward approved drainage facilities. The permit authority may approve alternate gradients using the variance process adopted by Section 12.16.010 GHMC.
- 3) Exception. The gradient from the building pad may be one percent if all of the following conditions exist throughout the permit area:
 - a. No proposed fills are greater than ten feet in maximum depth.
 - b. No proposed finish cut or fill slope faces have a vertical height in excess of ten feet.
 - c. No existing slope faces, which have a slope face steeper than ten horizontally to one vertically, have a vertical height in excess of ten feet.

E. Interceptor Drains. Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes towards the cut and has a drainage path greater than forty feet measured horizontally. Interceptor drains shall be paved with a minimum of three inches of concrete or gunite and reinforced. They shall have a minimum depth of twelve inches and a minimum paved width of thirty inches measured horizontally across the drain. The slope of drain shall be approved by the building official.

14.40.140 Erosion control.

Temporary and permanent erosion control measures shall be provided in accordance with the Gig Harbor Stormwater Management and Site Development Manual.

14.40.150 Grading inspection.

- A. General. All projects which include grading shall be subject to inspection by the permit authority. The permit authority shall be granted unlimited right of entry to the work site by submittal of the grading application for the purposes of review, making inspections to determine that the requirements of the plans and permits are being complied with, and for the purposes of taking corrective measures of an emergency nature. The cost of such corrective measures shall be borne by the permittee. The permit authority may require inspection and testing by an approved testing agency at any stage of the application or project.
- B. Contractor requirements. Every contractor or other person performing or directing the performance of any work requiring a permit under this chapter shall have in his/her possession prior to commencement of and during all phases of

the work an original or copy of a valid permit therefore, and shall further have a duty to be familiar with the terms and conditions of the permit and approved plans.

C. Engineered Grading Requirements.

- 1) For grading projects requiring plan submittals by a professional engineer licensed to practice in the State of Washington, it shall be the responsibility of the professional engineer who prepares the plan submittal to incorporate all recommendations from the soils engineer and engineering geology reports into the grading plan. The professional engineer shall be responsible for the inspection and approval of the grading within the professional engineer's area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as to the establishment of line, grade and drainage of the development area. The professional engineer shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor and the permit authority. The professional engineer also shall be responsible for the preparation of revised plans and the submission of as-graded record drawings upon completion of the work. The grading contractor shall submit in a form prescribed by the permit authority a statement of compliance to the record drawing.
- 2) Soils engineering and engineering geology reports shall be required as specified. Before and during grading all necessary reports, compaction data and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the permit authority by the soils engineer and the engineering geologist.
- 3) The soils engineer's area of responsibility shall include, but not be limited to, the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes and the design of buttress fills, where required, incorporating data supplied by the engineering geologist.
- 4) The engineering geologist's area of responsibility shall include, but need not be limited to, professional inspection and approval of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters and the need for subdrains or their groundwater drainage devices. He shall report his findings to the soils engineer and the civil engineer for engineering analysis.
- 5) The permit authority shall inspect the project at the various stages of the work requiring approval to determine that adequate control is being exercised by the professional consultants.

D. Regular Grading Requirements.

- 1) The permit authority may require inspection and testing by an approved testing agency at permittee's expense.

- 2) The testing agency's responsibility shall include, but need not be limited to, approval concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills.
- E. Notification of Noncompliance. If, in the course of fulfilling his responsibility under this chapter, the civil engineer, the soils engineer, the engineering geologist or the testing agency finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the permit authority. Recommendations for corrective measures, if necessary, shall be submitted to the permit authority.
 - F. Transfer of Responsibility for Approval. If the registered professional or the testing agency of record is changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of his or her technical competence for approval upon completion of the work.
 - G. It shall be the permittee's responsibility to notify the permit authority or his designee at least forty-eight (48) hours prior to the time required for inspection. If the permit authority fails to inspect the project within eight working hours after the scheduled inspection time, the permittee may proceed with the project but shall not be relieved from compliance with the requirements of the plans, specifications, and permit as approved. All inspections and testing required shall be determined prior to issuance of the permit, except those that may be required when conditions exist that were not covered in the documents submitted when requesting a permit. The permit authority may require additional inspection or testing if conditions are found to be different than those presented in the plans or supporting documents; however, if and when conditions change, it shall be the responsibility of the applicant or the professional consultants who submitted the plans or documents to provide the permit authority with recommended changes to procedures, for its review and approval.
 - H. Suspension of Permits. Whenever the permit authority determines that the act or intended act of grading (excavation or fill) has become or will constitute a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way, drainage channel, stream or surface water, including siltation and sedimentation therein, the permit authority shall immediately suspend the clearing and grading permit. The permittee or other person or agent in control of the property, upon receipt of notice in writing from the permit authority shall, within the period specified therein, terminate such clearing, grading, excavation, embankment or fill, or eliminate the same from the development plans.

14.40.160 Work completion.

- A. Final Reports. Upon completion of the rough grading work and at the final completion of the work the permit authority may require the following reports and drawings and supplements thereof:
- 1) As-graded record drawings in accordance with Section 14.40.150(C)(1) GHMC prepared by the civil engineer including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities. The civil engineer shall state that to the best of his/her knowledge the work was done in accordance with the final approved grading plan.
 - 2) A soils-grading report prepared by the soils engineer, including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading and their effect on the recommendations made in the soil engineering investigation report. The soils engineer shall render a finding as to the adequacy of the site for the intended use.
 - 3) A geologic grading report prepared by the engineering geologist, including a final description of the geology of the site and any information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. The engineering geologist shall render a finding as to the adequacy of the site for the intended use as affected by geologic factors.
- B. Notification of Completion. The permittee or the permittee's agent shall notify the permit authority when the grading operation is ready for final inspection. Final approval shall not be given until all work and all erosion-control measures have been completed in accordance with the final approved grading plan and the required reports have been submitted.
- C. Maintenance Guarantee. All projects, except those projects meeting the requirements of Section 14.40.040(B) or those projects requiring only an Abbreviated Plan, shall submit a financial maintenance guarantee for a period of two years from the date of the notification of completion. The guarantee shall be in a form acceptable to the city attorney and shall be signed by the owner(s) of the property. The value of the financial maintenance guarantee shall be 15 percent of the project civil engineer's opinion of probable cost as approved by the permit authority.

14.40.170 Enforcement.

- A. In the event the City finds deficiencies under the approved plans or other permit conditions or any violation of this chapter, the property owner shall make such corrections as are necessary within fifteen days of the date of written notice by registered mail, return receipt requested, to the owner of record and the occupant of the property.

- B. In the event the person or persons violating this chapter shall fail to make corrections within fifteen days of the date of written notice by the city, the city may:
 - 1) Prosecute violations of this chapter in accordance with Section 12.17 GHMC.
 - 2) By council resolution, declare any conditions which constitute or will constitute a violation of any of the provisions of this chapter, or rules or regulations adopted under this chapter, a public nuisance for which the city may seek legal or equitable relief to enjoin any acts or practices or abate any such conditions.
 - 3) Revoke the right to occupancy of the subject property and/or enter on the property as may be required to correct deficiencies as required by the approved grading plan. All costs for corrective measures and enforcement actions shall be borne by the property owner.

- C. Notwithstanding any other provision of this chapter, whenever the permit authority finds that a violation of this chapter or rules or regulations adopted under this chapter has created or is creating an unsanitary, dangerous, or other condition which, in his judgment, constitutes an immediate hazard, he may suspend or revoke any permit for which the approval of grading plan is required on the project or development where the violation exists and suspend or terminate operations under the permit immediately.

- D. Any person discharging material which will block, damage or contaminate the drainage system of the city shall be liable for all costs incurred by the city or others in cleaning up or correcting the action and may be charged with a misdemeanor punishable by fines.

- E. Penalty or enforcement provisions provided in this chapter shall not be exclusive, and the city may pursue any remedy or relief deemed appropriate in response to a violation of this chapter or the rules and regulations adopted under this chapter. The city council may institute a suit for a mandatory injunction directing a person to remove a structure or make the same comply with its terms. If the city council is successful in its suit, the respondent shall bear the costs of the action.

- F. The failure or refusal of the city to enforce any provision of this chapter, and as amended, shall not constitute a waiver or bar to prevent enforcement thereof against any person for any other violation by any other person.

Section 5. Chapter 12.06 of the City of Gig Harbor Municipal Code is repealed.

Section 6. A new Chapter 12.06 of the City of Gig Harbor Municipal Code is provided as follows:

Chapter 12.06 Civil Construction Permitting and Maintenance

12.06.010 Purpose

The purpose of this Code is to:

1. Establish a permit process for submittal, review, and issuance of a permit for construction of civil improvements not already required by Chapter 12.02 GHMC and Chapter 14.40 GHMC;
2. Provide for inspection and maintenance of civil construction activities to ensure an effective and functional water system, wastewater system, transportation system, and stormwater drainage system; and
3. Establish provisions for the recording of civil construction activities.

12.06.020 Definitions

For the purposes of this chapter, the definitions listed under this section shall be construed as specified in this section:

“Civil Construction Activity” means man-made action to install or create civil improvements.

“Civil Engineer” means a professional engineer licensed to practice in the state of Washington in civil engineering.

“Civil Improvement” means a man-made object or entity that benefits human-kind or mitigates the impact of human-kind, including, but not limited to, motorized and non-motorized ways of travel, street lighting, stormwater facilities, underground utilities, and overhead utilities, both public and private.

“Development” means any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, utilities, placement of manufactured home/mobile home, mining, dredging, clearing, filling, grading, paving, excavation, drilling operations, or the subdivision of property.

12.06.030 Authority

The Public Works Director (Director), or an assignee, shall have the authority to administer and enforce this Code. The Director shall also have the authority to develop and implement procedures to administer and enforce this Code. The Director may

approve, conditionally approve, or deny an application for activities regulated by this Code.

12.06.040 Applicability

The provisions of this Code shall apply to all civil construction activities not regulated by Chapter 12.02 GHMC or Chapter 14.40 GHMC, both public and private, within the City and:

- 1) Performed within the City's right-of-way; or
- 2) On private property that may impact access to the City's right of way; or
- 3) On private property whose stormwater runoff may impact an adjacent property or water body; or
- 4) Modifies or connects a non-single family residential utility on private property that connects to a city-owned utility; or
- 5) On private property that creates a public street; or
- 6) On private property that creates or modifies a private street.

12.06.050 Exemptions; Emergencies

A. The following are exempt from the requirements of this Code:

1. Development that is undertaken by the Washington State Department of Transportation in state highway rights-of-way.
2. Road construction and/or maintenance activities undertaken by the Gig Harbor Public Works Department shall be exempt from the administrative requirements of this Code, but shall comply fully with the technical requirements contained herein.
3. A structure authorized by a valid Building Permit. This shall not exempt the placement of any civil improvements beyond the limits of the basement or footing excavations of structures.

B. Owners who perform emergency civil construction activities during or after periods of extreme weather conditions when done to protect life or property shall apply for a Civil Permit no later than one month after the period of extreme weather conditions has passed.

12.06.060 Variances

The Director may grant a variance from the provisions of this Code, provided that all criteria are met as adopted in Section 12.16.010 of the Gig Harbor Municipal Code.

12.06.070 Permit Requirements

The Director shall establish requirements for the submittal of Civil Permits, subject to the following criteria:

- A. Each applicant shall first file a written permit application on a form furnished by the City for that purpose.
- B. All site development activities shall comply with the standards, specifications and requirements contained in Titles 12, 13, and 14 of the Gig Harbor Municipal Code.
- C. Before accepting a permit application, the permit authority shall collect a permit fee. Such fee shall be determined according to the standard fee schedule approved by the city council by resolution.
- D. The Director shall establish a checklist demonstrating the information that shall be provided by the applicant for review of a Civil Permit.
- E. Time limitation on permit application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing and expired, unless such application has been pursued in good faith or a permit has been issued; except that the Director is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing with justifiable cause demonstrated.
- F. Time limitation on approved civil permit: A civil permit that has been approved more than 180 days before construction begins (i.e., a preconstruction meeting scheduled and inspection fees paid) shall be subject to an additional review prior to commencement of construction based on the hourly rate as established for third submittal.
- G. Time limitation on approved civil permit under construction: A civil permit that has been approved and construction related to the permit has begun (i.e., a preconstruction meeting has been held and inspection fees paid) shall expire 180 days after construction has begun unless such construction has been pursued in good faith; except that the Director is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing with justifiable cause demonstrated.
- H. Record drawings. The applicant shall provide to the City both a final record drawing and a final record survey of the proposed development, each in both mylar format and digital format. These drawings shall be have the seal of a civil engineer and be provided after the City accepts the construction improvements

shown on the civil plans but prior to any certificate of occupancy for any buildings or structures located on the site plan. The digital format of the drawings shall be in AutoCAD compatible file and include all improvements in the right of way and all stormwater, water, and sewer utilities. The horizontal datum shall be NAD 1983 HARN State Plane South FIPS 4602 feet, or as otherwise approved by the Director. The vertical datum shall be NGVD 29, or as otherwise approved by the Director.

12.06.080 When a Professional Civil Engineer is Required

Unless otherwise exempted by the Gig Harbor Municipal Code, Civil Permit applications shall require the submittal of documents prepared by a Civil Engineer.

12.06.090 Permit Modifications

Proposed modifications to an approved Civil Permit must be submitted to the Director and be reviewed for compliance with this Code. Substantial proposed modifications, as determined by the Director, shall require additional review fees and shall require re-issuance of the required permit. Minor proposed modifications may be accepted by the Director without requiring the re-issuance of the accepted permit or the payment of additional review fees.

12.06.100 Financial Guarantees

The owner shall submit financial guarantees as a guarantee of performing the work provided by an approved Civil Permit and as a guarantee of maintenance of the completed work. Financial guarantees may include bonds, cash set-asides, irrevocable lines of credit, or other types of guarantees accepted by the Director and approved by the city attorney. At no time shall the financial guarantee for a Civil Permit duplicate financial guarantees for the same scope of work. The financial guarantees for a Civil Permit shall be provided as follows:

- A. Performance Guarantee. Prior to the issuance of a Civil Permit the owner of the project shall submit a financial performance guarantee for all work related to the improvements proposed by the Civil Permit. The guarantee shall be in a form acceptable to the city attorney. The value of the financial performance guarantee shall be 125 percent of the project civil engineer's opinion of probable cost as approved by the Director.
- B. Maintenance Guarantee. Prior to release of a performance guarantee(s) the owner of the project shall submit a financial maintenance guarantee for a period of two years from the date of the release of the performance guarantee for all work related to the completed improvements. The guarantee shall be in a form

acceptable to the city attorney. The value of the financial maintenance guarantee shall be 15 percent of the project civil engineer's opinion of probable cost as approved by the Director.

Section 7. Severability. If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Section 8. Effective Date. This ordinance shall take effect on and be in force as of January 1, 2010.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this 10th day of August, 2009.

CITY OF GIG HARBOR

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
ANGELA S. BELBECK

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL: 08/10/2009
PUBLISHED: 08/19/2009
EFFECTIVE DATE: 01/01/2010
ORDINANCE NUMBER:

Subject: Second Reading of Ordinance –
Development Agreement Processing
Amendment

Proposed Council Action: Adopt at this
second reading

Dept. Origin: Planning

Prepared by: Jennifer Kester
Senior Planner

For Agenda of: August 10, 2009

Exhibits: Draft Ordinance, Map of PCD land use
designations; Letter from John Chadwell dated July
15, 2009; 7/8/09 Memo to Council; Minutes from
6/8/09 and 7/13/09 Council Meeting and 6/15/09
Work-Study session

Initial & Date

Concurred by Mayor:

CLH 8/4/09

Approved by City Administrator:

Approved as to form by City Atty:

okay by e-mail

Approved by Finance Director:

N/A

Approved by Department Head:

JK for TD 8/4

Expenditure		Amount		Appropriation	
Required	0	Budgeted	0	Required	0

INFORMATION / BACKGROUND

The Council reviewed draft ordinances related to the processing of development agreements at their June 8, 2009 and July 13, 2009 Council meetings. A work-study session was also conducted on June 15, 2009 regarding this issue. Public and Council comments on the process have been related to whether development standards should be modified through a development agreement, the appropriate recommending body and review process and extending the term of the development agreements. Most recently, a letter from John Chadwell, Olympic Property Group was received on July 16, 2009.

Upon review of all of the comments, staff has prepared a draft ordinance which we hope will:

1. Guarantee that a development agreement cannot circumvent development regulations in sensitive areas of the city;
2. Provide a more appropriate, efficient process that staff can administer; and
3. Provide for flexibility in the areas of the City for which flexibility is desired and supported by the Comprehensive Plan

Staff is recommending that if the Council desires flexibility in the development regulations through a development agreement, that such flexibility be limited to the Planned Community Development land use designations. Goal 2.8.1a of the Comprehensive Plan states that in the Planned Community Development (PCD) area the City should “promote site development flexibility for properties which have long-term development plans, which are suitable for a

variety of intensity and density of development and which commit to incorporating innovative design concepts.” A map is enclosed showing PCD area. However, staff believes that allowing such flexibility will increase staff review time and an increase in land use fees is warranted to help compensate for that time.

The current proposed changes to the development agreement chapter are outlined here with staff recommendations. The enclosed ordinance shows the changes between the ordinance presented on July 13th and the current ordinance in grey highlight.

PROPOSED CHANGES: (discussed in order of ordinance sections)

- 1. Development Standards.** The current process does not allow deviations from development standards through a development agreement. The new GHMC 19.08.020(B) provides for deviation from development standards through a development agreement in the following ways:
 - a) A development agreement must be consistent with the comprehensive plan. New GHMC 19.08.020(A)
 - b) All development agreements may allow the extension of approval durations and allow phasing plans different from those otherwise imposed in the municipal code. New GHMC 19.08.020(B).
 - c) In the Planned Community Development (PCD) land use designations, other development standards can be deviated from through a development agreement provided certain criteria are met. New GHMC 19.08.020 (B)(1).
 - d) If a property owners in the PCD designations wants to deviate from the allowed uses, densities, gross floor area or height restrictions, the majority plus one of the whole Council (5 members) must approve of such deviations. In addition, such request requires two public hearings. New GHMC 19.08.020(B)(2)
 - e) A development agreement cannot allow deviations from the building and fire safety codes and a development agreement cannot vest a development to a set of building or fire codes. New GHMC 19.08.020(B)(3)
 - f) A development agreement cannot allow deviations from the environmental codes (Title 18). New GHMC 19.08.020(B)(4)
 - g) Once a development agreement is approved which contains deviations in development standards, no additional rezones, variances, text amendments or other processes are required to implement the regulations contained in the agreement. New GHMC 19.08.020(B)(5)
 - h) Subsequently adopted standards which differ from those in the development agreement would apply only if necessary to address imminent public health and safety hazards or if the agreement specifies a time period or phase after which standards can be modified. New GHMC 19.08.020(B)(6)

Staff Recommendation: The staff recommends adoption of all the provisions. Given the goal of the Comprehensive Plan to provide flexibility to developments in the Planned Community Development (PCD) area, staff feels that the PCD area is the appropriate location for such deviations if desired by Council. Allowing deviations beyond phasing and project approval durations in more sensitive areas of the City such as the View Basin is less desirable.

2. **Process.** The enclosed ordinance proposes differentiating the processing requirements for development agreements relating to legislative actions, those accompanying a project permit application and those not related to any underlying action. Currently all development agreements must be reviewed by the Planning Commission before final action by the City Council. The following section would be repealed:

19.08.040 Approval procedure for development agreements.

A development agreement is a Type 5 project permit application and shall be processed in accordance with the procedures established in this title. The planning commission's decision on a development agreement is a recommendation to the Gig Harbor city council. A development agreement shall be approved by resolution or ordinance of the Gig Harbor city council after a public hearing.

The following review process would be required:

- a) Legislative development agreements, such as those associated with a comprehensive plan amendment, would be reviewed by the Planning Commission with final action by the City Council. New GHMC 19.08.040(A)
- b) A development agreement related to a project permit application would be reviewed by the Hearing Examiner or city staff (depending on the final decisionmaker for the underlying permit). The Hearing examiner or staff recommendation would be reviewed by the City Council for final action. The underlying decision on the application would be held in abeyance until the Council made its decision. New GHMC 19.08.040(B)(1 and 2)
- c) A development agreement related to a project permit application that has already been approved would be reviewed by the City staff. The staff recommendation would be reviewed by the City Council for final action. New GHMC 19.08.040(B)(3)
- d) For properties a PCD land use designation, the City Council must first initiate processing of the development agreement. If the Council decides to have the agreement reviewed, either the Planning Commission or Planning and Building Committee of the Council (PBC) will review it and provide the Council a recommendation. The Planning Commission will review the agreement if it relates to a legislative action. The PBC will review the agreement if related to a project permit application or not associated with any underlying action. New GHMC 19.08.040(C)
- e) Public Notice. All public meetings and public hearings related to a development agreement would be required to be noticed as if they were public hearings before the Hearing Examiner. New GHMC 19.08.040(D)

Staff Recommendation: The staff recommends adoption of all the provisions. Given the goal of the Comprehensive Plan to provide flexibility to developments in the Planned Community Development (PCD) area, staff feels a streamlined process for those areas is consistent with the Comprehensive Plan. Allowing this process in more sensitive areas of the City such as the View Basin is less desirable.

3. **Term.** The current provisions only allow a development agreement to be approved for a maximum of 5 years. The proposed language would allow development agreements to last up to 20 years. The new GHMC 19.08.050(C) provides for a 20 year term in the following ways:

- a) Nothing in the language obliges the Council to approve an agreement which lasts 20 years.
- b) The Council determines the appropriate length of the agreement by considering the type, size, location and proposed phasing of the project subject to the development agreement. The Council may also approve shorter terms with extensions. New GHMC 19.08.050(C)(2)
- c) If extensions are allowed, the application must ask for them prior to the expiration of the agreement. In addition, only the Council could authorize extensions. However if 50% of the project is constructed, the Planning Director is authorized to extend the agreement 5 years. New GHMC 19.08.050(C)(3)

Staff Recommendation: The staff recommends the provisions in the ordinance related to terms and extensions be adopted. The language provides the Council and the public with assurance that any negotiated terms will remain conditions of the land for a significant amount of time. It also allows large projects to develop over time and deal with fluctuations in the economy. It will guarantee that any mitigation required by the development agreement can be fulfilled if there is an economic downturn.

ENVIRONMENTAL ANALYSIS

The City's SEPA Responsible Official determined that this Ordinance is categorically exempt from SEPA, pursuant to WAC 197-11-800(19)

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

Versions of this ordinance were reviewed by the Planning and Building Committee on June 1st and July 6th, 2009. The revisions requested at those meetings were incorporated in the July 13th version of the ordinance. The enclosed ordinance has since been revised to incorporate comments provided at the July 13th Council meeting.

RECOMMENDATION / MOTION

Move to: adopt at this second reading

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO DEVELOPMENT AGREEMENTS, AMENDING SECTION 19.08.020 TO ALLOW THE DEVIATION OF DEVELOPMENT STANDARDS THROUGH A DEVELOPMENT AGREEMENT; REPEALING AND REENACTING SECTION 19.08.040 OF THE GIG HARBOR MUNICIPAL CODE TO ESTABLISH PROCESSING REQUIREMENTS FOR DEVELOPMENT AGREEMENTS RELATING TO LEGISLATIVE ACTION AND THOSE DEVELOPMENT AGREEMENTS ACCOMPANYING A PROJECT PERMIT APPLICATION; AMENDING SECTION 19.08.050 OF THE GIG HARBOR MUNICIPAL CODE TO CLARIFY THAT DEVELOPMENT AGREEMENTS ARE NOT SUBJECT TO FINAL DECISION DEADLINES, EXTEND THE TERM OF DEVELOPMENT AGREEMENTS TO TWENTY YEARS, REQUIRING PUBLIC NOTICING OF ALL HEARINGS RELATED TO DEVELOPMENT AGREEMENTS AND TO MAKE OTHER CLEAN-UP AMENDMENTS TO THE PROCEDURES FOR DEVELOPMENT AGREEMENTS; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, cities may enter into development agreements with developers for the purposes set forth in RCW 36.70B.170; and

WHEREAS, the City of Gig Harbor has an established procedure for the review and approval of development agreements in chapter 19.08 GHMC; and

Legislative

WHEREAS, the City of Gig Harbor desires to change the procedures for review and approval of development agreements for efficient operation of government; and

WHEREAS, the City of Gig Harbor desires to allow the extension of the duration of permit approvals and phasing through a development agreement to acknowledge that due to the size, location or type of some projects the standard two to five year approval duration may not be feasible for complete build-out; and

WHEREAS, Goal 2.8.1a of the Comprehensive Plan states that in the Planned Community Development (PCD) area the City should “promote site development flexibility for properties which have long-term development plans, which are suitable for a variety of intensity and density of development and which commit to incorporating innovative design concepts;” and

WHEREAS the City of Gig Harbor desires to allow for the deviation of development standards in the PCD land use designations to implement the goal of development flexibility in these land use designations; and

WHEREAS the City of Gig Harbor desires to provide a more streamlined process for the review of development agreements in the Planned Community Development land use designations in order to facilitate development flexibility; and

WHEREAS the City of Gig Harbor desires to extend the term of development agreements; and

WHEREAS, RCW 36.70B.200 requires that the City Council pass an ordinance or resolution if the development agreement is approved; and

WHEREAS, a development agreement associated with a project permit application is not subject to the final decision deadlines in RCW 36.70B.080 and the City's corresponding codes; and

WHEREAS, the City's SEPA Responsible Official determined that this Ordinance is categorically exempt from SEPA, pursuant to WAC 197-11-800(19); and

WHEREAS, pursuant to RCW 36.70A.106, the City forwarded a copy of this Ordinance to the Washington State Department of Trade and Community Development on May 14, 2009; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on June 8, 2009; and

WHEREAS, the Gig Harbor City Council held a work-study session on the Ordinance on June 15, 2009 and directed staff to develop revised language for consideration; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at a second first reading and public hearing on June 22, 2009; and

WHEREAS, on _____, the City Council held a second reading during a regular City Council meeting; Now, therefore,

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

Section 1. Section 19.08.010 of the Gig Harbor Municipal Code shall be amended to read as follows.

19.08.010 Authority and general provisions.

A. The city may consider, and enter into, a development agreement with a person having ownership or control of real property within the city limits. The city may consider a development agreement for real property outside of the city limit but within the urban growth area (UGA) as part of a proposed annexation or a service agreement.

~~B. A development agreement shall be consistent with the applicable policies and goals of the city of Gig Harbor comprehensive plan and applicable development regulations.~~

Section 2. Section 19.08.020 of the Gig Harbor Municipal Code shall be amended to read as follows.

19.08.020 General provisions of development agreements.

A. Comprehensive Plan. A development agreement shall be consistent with the applicable policies and goals of the city of Gig Harbor comprehensive plan.

B. Development Standards. A development agreement shall be consistent with applicable development regulations; provided, a development agreement may extend the durations of approval of project permits and allow phasing plans different from those otherwise imposed under the Gig Harbor Municipal Code.

1. A development agreement related to property in a Planned Community Development land use designation may allow further deviations from development standards imposed under the Gig Harbor Municipal Code for the following reasons:

- a. To provide flexibility to achieve public benefits; or
- b. In order to respond to changing community needs; or
- c. To encourage modifications which provide the functional equivalent or adequately achieve the purposes of otherwise applicable city standards.

2. A development agreement cannot authorize deviations from the uses, minimum and maximum densities, maximum gross floor area, maximum structure height allowed in the underlying zoning district unless approved by a majority plus one of the whole Council after a minimum of two public hearings on the agreement.

3. A development agreement cannot authorize deviations from requirements of Title 15, Buildings and Construction. Building permit applications shall be subject to the building codes in effect when a complete building permit application is submitted.

4. A development agreement cannot authorize deviations from requirements of Title 18, Environment.

5. Any approved development standards that differ from those in the code shall not require any further rezone, variance from city standards or other city approval apart from development agreement approval. The

development standards as approved through a development agreement shall apply to and govern the development and implementation of each covered property in lieu of any conflicting or different standards or requirements elsewhere in the Gig Harbor Municipal Code.

6. Subsequently adopted standards which differ from those of a development agreement adopted by the city shall apply to the covered property only where necessary to address imminent public health and safety hazards or where the development agreement specifies a time period or phase after which certain identified standards can be modified.

A C. As applicable, the development agreement shall specify the following:

1. Project components which define and detail the permitted uses, residential densities, nonresidential densities and intensities or building sizes;
2. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;
3. Mitigation measures, development conditions and other requirements of Chapter 43.21C RCW;
4. Design standards such as architectural treatment, maximum heights, setbacks, landscaping, drainage and water quality requirements and other development features;
5. Provisions for affordable housing, if applicable;
6. Parks and common open space preservation;
7. Phasing;
8. A build-out or vesting period for applicable standards; and
9. Any other appropriate development requirement or procedure which is based upon a city policy, rule, regulation or standard.

B D. As provided in RCW 36.70B.170, the development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

Section 3. Section 19.08.040 of the Gig Harbor Municipal Code is hereby repealed.

Section 4. A new Section 19.08.040 is hereby added to the Gig Harbor Municipal Code to read as follows:

19.08.040 Processing procedure for development agreements.

A. A development agreement associated with a legislative action such as a comprehensive plan amendment or area-wide rezone shall be processed in accordance with the procedures established in this Title, except as provided for in subsection C. The Planning Commission shall make its recommendation on any development agreement relating to legislative action to the City Council. A public hearing shall be held on the

Mayor, in a resolution or ordinance, to execute the development agreement on behalf of the City.

B. A development agreement associated with a project permit application shall be processed in accordance with the procedures established in this Title, except as provided for in subsection C.

1. If the final decision on the underlying project permit application is made by the Hearing Examiner, then the Hearing Examiner shall consider both the project permit application and the proposed development agreement together during the public hearing. The Hearing Examiner shall make a recommendation to the Council on the development agreement and his/her decision on the underlying project permit application shall be held in abeyance until the City Council considers the proposed development agreement in a public hearing. If the City Council approves the development agreement, the Council shall, by resolution or ordinance, authorize the Mayor to execute the development agreement on behalf of the City. At this point, the Hearing Examiner may then issue his/her final decision on the underlying project permit application. Nothing in this section obligates the Hearing Examiner to forward a recommendation to the City Council for further consideration if the Hearing Examiner denies the underlying project permit application.

2. If the final decision on the underlying project permit application is made by the City administrative staff, then the City staff shall consider both the project permit application and the proposed development agreement together. The City staff shall make a recommendation to the Council on the development agreement, and the City staff's decision on the underlying project permit application shall be held in abeyance until the City Council considers the proposed development agreement in a public hearing. If the City Council approves the development agreement, the Council shall, by resolution or ordinance, authorize the Mayor to execute the development agreement on behalf of the City. At this point, the City staff may then issue its final decision on the underlying project permit application. Nothing in this section obligates City staff to forward a recommendation to the City Council for further consideration if City staff denies the underlying project permit application.

3. If a final decision on an underlying project permit application has been previously made by the Hearing Examiner or City administrative staff and the application was approved, the City staff shall make a recommendation to the Council on the development agreement. A public hearing shall be held on the development agreement and if approved, the Council shall authorize the Mayor, in a resolution or ordinance, to execute the development agreement on behalf of the City.

C. A development agreement associated with property in a Planned Community Development land use designation shall be processed in accordance with the procedures established in this Title. The Council shall consider the proposed development agreement at a regular council meeting and decide if the agreement should be processed further. If a

majority of the whole Council approves further review of the development agreement, the agreement shall be reviewed as follows:

1. If the development agreement is associated with a legislative action, the Planning Commission shall make a recommendation to the Council on the development agreement. The Council shall hold a public hearing on the development agreement and if approved, the Council shall authorize the Mayor, in a resolution or ordinance, to execute the development agreement on behalf of the City.

2. If the development agreement is associated with a project permit application or not associated with any underlying action, the Planning and Building Committee of the Council shall make a recommendation to the Council on the development agreement. The Council shall hold a public hearing on the development agreement and if approved, the Council shall authorize the Mayor, in a resolution or ordinance, to execute the development agreement on behalf of the City.

D. Public Notice. All public meetings and public hearings on a development agreement shall be noticed as follows:

1. Not less than ten days prior to the public hearing date, a notice of the public hearing shall be sent to property owners within 300 feet of the property subject to the development agreement and to others who have submitted comments and/or requested notice.

2. Notice of the public hearing shall be posted on the property subject to the development agreement not less than ten days prior to the hearing date. Notice shall be posted in the manner required by GHMC 19.03.001(A)(1).

3. Notice of the public meeting shall be published in the city's official newspaper not less than ten days prior to the meeting date.

4. The notice of the public hearing shall contain all items listed in GHMC 19.03.003(A).

5. All costs associated with the public notice shall be borne by the applicant.

Section 5. Section 19.08.050 of the Gig Harbor Municipal Code shall be amended to read as follows:

19.08.050. No Deadline for Final Decision, Form of Agreement, Council Approval, Term, Recordation.

~~A. Form. All development agreements shall be in a form provided by the City Attorney's Office. The City attorney shall approve all development agreements for form prior to consideration by the planning commission.~~

A. Development agreements are not "project permit applications" as defined in RCW 36.70B.020. Therefore, there is no deadline for processing a development agreement. If an applicant requests that the City execute a development agreement as part of its approval of a project permit application, the applicant must agree to sign a written waiver of the

deadline for issuance of a final decision of the project permit application, so that the development agreement may be processed.

B. No development agreement shall be presented to the decision-making body unless in a form approved by the City Attorney. Every development agreement shall be signed by the property owner and all other parties with a substantial beneficial interest in the property that is the subject of the development agreement, prior to any public hearing held for the purpose of authorizing execution of the development agreement.

B.C. Term.

1. Development Agreements may be approved for a maximum period of ~~five~~ twenty years.

2. In determining the appropriate term for a development agreement, the Council should consider the type, size and location of development and phasing if proposed. The Council may consider shorter terms with extensions.

3. Extensions. If extensions are authorized in a development agreement, an applicant must request the extension at least 60 days prior to expiration. For development agreements associated with project permit applications, the Planning Director may grant an extension for up to five years if the applicant can satisfactorily show that, for a residential project, at least 50% of the residential units are constructed, or for non-residential and mixed use projects, at least 50% of the gross floor area is constructed. All other requests for extensions shall be reviewed by the City Council, unless another process is expressly provided for in the development agreement.

G.D. Recordation. A development agreement shall be recorded against the property, in the real property records of the Pierce County Assessor's Office. During the term of the development agreement, the agreement is binding on the parties and their successors, including the property owners in any area that is annexed to the City.

Section 6. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or unconstitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 7. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ____ day of _____, 2009.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

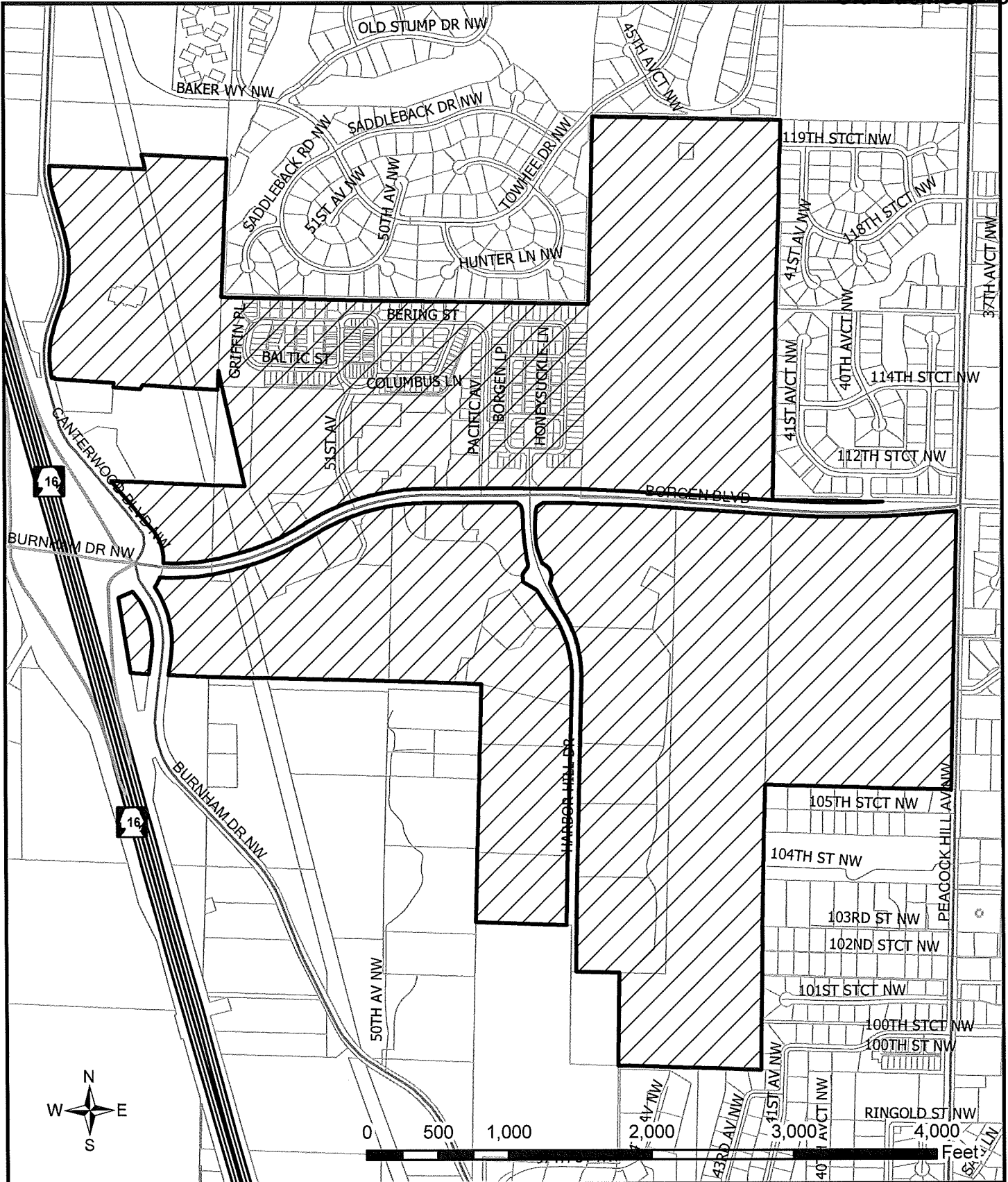
ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:



Planned Community Development (PCD) Land Use Designations



4423 Point Fosdick **Old Business** 25

Gig Harbor, Washington 98335

P 253-851-7009

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July 15, 2009

RECEIVED

JUL 16 2009

CITY OF GIG HARBOR

Mayor Chuck Hunter &
Council Members
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Re: Development Agreement Processing Amendment

Dear Mayor & Council Members:

I appreciate the opportunity to provide comments on the proposed Development Agreement Processing Amendment following the Public Hearing on July 13, 2009. I have also had the opportunity to discuss this in more detail with Jennifer Kester, and I believe we are much closer together in our positions than I thought before. There are three key features of the proposed amendment that we would like to comment on:

1. Term of Development Agreement

We appreciate staff's support for a maximum 20-year term on development agreements. This is an important improvement in the ordinance. While it is likely that very few agreements would warrant this long of a term, we believe that the Council should have the ability to enter into agreements of up to 20 years. We only have to look at today's market conditions to remind ourselves that a project with an expected completion of 10 years, may end up taking 15 to 20 years depending on the economy and the market place that none of us control. Similarly when the City is the beneficiary of terms within an agreement, it is to your advantage to be able to enter into an agreement that does not expire in 5 years.

2. Modification of Development Standards

The most significant item for Olympic Property Group is the ability to extend our preliminary plat approval using a development agreement beyond the 5 year maximum that is currently allowed. After discussion with staff, we understand that the staff's recommended version of the proposal would allow the use of a development agreement for this purpose. We have also proposed a donation of land for development into a City Park within Harbor Hill as part of a negotiated mitigation package including offsets to park impact fees and Storm Drain connection fees. It is not clear to us whether some of these proposed items for negotiation would be considered a modification of development standards or not. Without knowing exactly how those details may or may not be finalized,

A subsidiary of Olympic Property Group, a Pope Resources company.

Excellence in Northwest Master Planned Communities:
Port Gamble; Port Ludlow; Broadmoor, Seattle; West Hills, Bremerton;
Arborwood, Kingston; Harbor Hill, Gig Harbor.



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it would still seem to be in the City's interests to at least have the ability to modify some standards via a development agreement if the public would benefit from it for the following reasons.

- A. The Gig Harbor City Council should have the authority to modify development standards in a development agreement, as in other Washington jurisdictions such as the counties of King, Snohomish, Jefferson, and Walla Walla and in the Cities of Mercer Island, Issaquah, Yakima, Sea-Tac, and elsewhere.
- B. The City already authorizes the modification of codified development standards by a variety of processes, including variances, subject to reasonable limitations. However, variances only relieve undue hardship -- they do not bring any public benefits in exchange for modification of development standards.
- C. We think that properly used a development agreement process allowing modification to development regulations can be a valuable tool for both the developer and the City. For some projects, a development agreement would mean that no variance is required for the modification of a certain development standard, but there still must be a rational basis for the decision, a greater public benefit that would be gained by the modification (and other concessions) than would be gained by the strict application of the development standard, and a public process. In fact, with any development agreement there is a much better process than with a variance decision. With a development agreement, there is a decision by the City Council after a public hearing rather than a decision by a single unelected decision-maker, sometimes after a hearing and sometimes not. That is not circumvention. That is a better process.
- D. Land development is not always predictable, and decisions that are made based on adopted codes can be controversial and result in appeals even when they do not involve variances. That will not change if the city allows development agreements to modify development standards. However, the flexibility that is gained by having a development agreement must benefit not only the developer but also the public. The City Council should be able to agree to modifications that are beneficial to the developer and not damaging to the public interest, in exchange for creating better land development projects and bringing public benefits that are not otherwise required by city codes. That is the best use of a development agreement.

One example of how it may be used is to surgically alter a standard for a specific project that is limited to use for the agreed upon project only, instead of having to change a rule that could be applied on other parcels with the same zone. It is difficult to identify a specific example of how it would be applied at Harbor Hill at this time, but perhaps a potential home-builder wanted to build a different kind of home than the codes typically contemplate (cottage style as an example), if there were a deviation from specific

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standards that relief was needed from, but allowances for other public benefits could be provided, then Council should be able to review such a proposal and approve it if they felt it was warranted.

We understand that there is legitimate concern that allowing modifications to development standards could lead to unacceptable and/or unforeseen results especially within the view basin of Gig Harbor. We believe that the likelihood of a a poor result is greatly reduced within a master-planned project such as Harbor Hill and we would support limiting these modifications only to master-planned projects and/or to projects outside of the view basin.

3. Process

The staff recommended process makes sense for some development agreements, but there may be agreements for which the process does not make sense. A more flexible process would allow for better results for applicants and the City.

- A. The proposed process for the review and approval of development agreements remains impractical and imposes unnecessary administrative burdens and development delays and expenses. It is reasonable that a developer compensate the City for expenses incurred in the review of a proposed development agreement, but not if the City's process is unreasonable. Depending on the exact nature of the development agreement, the process should allow an applicant to obtain a development agreement before investing in project permit applications, which are enormously expensive.
- B. Neither hearing examiners nor planning commissions are well qualified to make recommendations on development agreements -- hearing examiners are skilled at applying decision criteria to land use applications and imposing conditions and mitigation measures, and planning commissions are skilled at gathering information and making area-wide land use planning recommendations. A development agreement combines site-specific land development issues with broader land use policy issues with contract negotiation and legislative action and does not fit neatly within the expertise of either hearing examiners or planning commissions. The planning director, with help from his or her staff, probably is best suited to providing recommendations on development agreements.
- C. Other jurisdictions have more flexible processes. For example, in some jurisdictions (such as the City of Issaquah) the planning department staff has some control over which body should make a recommendation on a proposed development agreement.

We would like to see flexibility built into the process such that staff could forward a development agreement to Council with a recommendation at whatever point in the

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process makes the most sense based on the specific items that are contained within the development agreement.

Conclusion:

This version of the ordinance is improved over the June version but should contain greater flexibility for modification of development standards and on process before it is ready for your consideration. I would be happy to meet with Council Members or staff to further this discussion. Thank you again for the opportunity to comment on this draft ordinance.

Sincerely,



John Chadwell
Senior Project Manager
Harbor Hill LLC
A Pope Resources Company

cc: Rob Karlinsey, City of Gig Harbor
Tom Dolan, City of Gig Harbor
Jon Rose, OPG Properties LLC
Marco de Sa e Silva, Davis Wright Tremaine LLP



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR AND CITY COUNCIL
FROM: JENNIFER KESTER, SENIOR PLANNER
SUBJECT: STAFF ANALYSIS OF DEVELOPMENT AGREEMENT PROCESSING ORDINANCE
DATE: July 8, 2009

The Council bill for the development agreement processing ordinance contains a number of recommendations from staff on the revised provisions for development agreement processing. This memo is intended to discuss the reasons for our recommendations.

Process:

Development agreements associated with underlying permits. The staff recommends the adoption of the new processing provisions related to development agreements tied to underlying permit/actions. (New GHMC 19.08.040 A and B). The current process requires all proposed agreement to go before the Planning Commission. This is cumbersome for applicants of development agreements related to project permits. The Planning Commission does not review the underlying permit, either the Hearing Examiner or staff does; and, in order to review the accompanying development agreement, the Commission must become familiar with all the intricacies of a project permit in a short amount of time. Also the public hearings related to a project could be delayed until the Commission finds time in its work program to review the agreement. The proposed process puts the recommending authority with the decisionmaker of the underlying permit. The staff would also like to see the public noticing requirements be adopted. (New GHMC 19.08.040 C) These provide more transparency in the process

Development agreements not associated with an underlying permit

Some property owners have expressed interest in submitting a development agreement prior to the submittal of a project permit application. The new GHMC 19.08.040(C) would allow this. Staff is recommending against adopting this provision. While this process may allow some larger issues to be ironed out before a property owner spends money on submittal document development, staff believes this provision can be used to circumvent the project review process and reduce the predictability of development as expected by the public. It could also require significant staff and Council review without the benefit of SEPA and concurrency evaluations and DRB recommendations. A project may not be viable for reasons unknown prior to project permit application submittal or unintended consequences could occur due to the lack of specific information. If all the specific information is provided during development agreement

review, staff and Council will be essentially conducting project review outside of the process. If the Council chooses to pass the provision adopting this, staff will be proposing fee increases to help ameliorate the cost of staff time on such increased review.

Development Standards:

Modification of development standards through a development agreement

Some property owners have expressed interest in submitting a development agreement which would allow the deviation of development standards through a development agreement. New GHMC 19.08.020(B) would allow this. Staff is recommending against adopting this provision. It is within the Council's powers as a legislative body to allow such deviation; however, staff believes this provision can be used to circumvent the variance, rezone and text amendment processes and reduce the predictability of development as expected by the public.

This City has taken great efforts to develop a detailed and comprehensive development code after many years of study, trial and error, and citizen comment. It is the staff's observation that while the code is not perfect, it is a reflection of the community's desires and vision. Amending the code outside of the standard text amendment processes seems inappropriate given past practices and procedures.

In general, the public doesn't fully understand the affect of a project until it is built. During project permit application review, plans and details help to illustrate a project and staff does their best to explain the affects to the interested members of the public. However, the general public rarely fully understands what affect development regulation text will yield on the land. In order to fully evaluate a request to deviate from development standards, the staff and Council will need details and plans to review. This increases the review time and chance of unintended consequences. Similar to staff analysis above on development agreements not associated with an application, if all the specific plans and details are provided during development agreement review, staff and Council will be essentially conducting quasi-judicial project review outside of the process. If the Council chooses to pass the provision adopting this, staff will be proposing fee increases to help ameliorate the cost of staff time on such increased review.

However, staff is recommending that development agreements can extend the duration of project permit approval and allow phasing. This provision would allow large projects to develop over time and deal with economic constraints. To this end, staff is recommending an alternative GHMC 19.08.020B:

"B. Development Standards. A development agreement shall be consistent with applicable development regulations; provided, a development agreement may extend the durations of approval of project permits and allow phasing plans different from those otherwise imposed under the Gig Harbor Municipal Code."

Term:

The staff recommends the adoption of the twenty year maximum term and term extension provisions contained in the ordinance. (New GHMC 19.08.050 C). The provision provides the Council and the public with assurance that any negotiated terms will remain conditions of the land for a significant amount of time. It also allows large projects to develop over time and deal with economic constraints. Given the concerns that some Council members expressed regarding automatically extending vesting for 20 years, staff has proposed guidance language that the Council should consider when decided the term of a development agreement. The provisions also include extension language which can be utilized to maintain vesting and predictability if the project takes longer than expected.

MINUTES OF GIG HARBOR CITY COUNCIL MEETING - JUNE 8, 2009

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

CALL TO ORDER: 5:30 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of May 24, 2009.
2. Receive and File: Boards and Candidate Review Committee Minutes May 26, 2009.
3. Correspondence / Proclamations: "We The People" Gig Harbor High School State Champions.
4. Appointment to the Design Review Board.
5. Appointment to the Planning Commission.
6. Liquor License Application: Gateway to India.
7. Eddon Boat Environmental Restrictive Covenant Agreement with Department of Ecology.
8. Federal Lobbyist Contract Extension.
9. Resolution for Public Hearing & Approval of Easements – Bacchus Street Vacation.
10. Resolution - Section 125 Employee Flexible Spending Account Plan Document.
11. BB16 Mitigation Improvements Project – Consultant Services Contract for Construction Survey and Professional Technical Support Services.
12. Approval of Payment of Bills for June 8, 2009: Checks #61091 through #61190 in the amount of \$1,428,333.45.
13. Approval of Payment of Payroll for the month of May: Checks #5439 through #5461 and direct deposit transactions in the total amount of \$338,261.62.

Mayor Hunter announced the appointment of Warren Balfany to the Design Review Board and the re-appointment of Jill Guernsey to the Planning Commission.

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

PRESENTATIONS:

1. We The People – Ken Brown, Gig Harbor High School. Mayor Hunter presented the proclamation to Ken Brown, Student Advisory for the We The People Program at Gig Harbor High School. Mr. Brown described this program in which his U.S. Government Class competed at the National Competition. He introduced students: Claire Betterbed, Rachel Seibert, Spencer Graffe, Eli Greenfield, Danny Cobey, and Erik Lund. Coaches: Scott Smith, Larry Little, Larry Seaquist, and Tom Springer. Kathy Hand, State Coordinator for We the People was also present.

2. Pierce Stream Team – Jami Gordon. Senior Engineer Jeff Langhelm mentioned the city's well attended *Natural Yard care* and *Creation of a Rain garden* workshops this spring. He explained that the Pierce Stream Team program helps the city meet its NPDES Stormwater Permit public outreach and educational requirements. He introduced Jami Gordon who shared a short informational presentation on the Pierce Stream Team Program and all it offers to the community. She explained that their program is funded through grants and a \$5 a year property assessment from jurisdictions that participate in the Pierce Conservation District, which is authorized by the Pierce County Council. Gig Harbor is one of the few jurisdictions that are not part of the District but Unincorporated Pierce County is. Jurisdictions that are not part of the district have the opportunity to work with Pierce Stream Team through a simple contract. She continued to describe some of the work they have done on this side of the bridge and handed out some materials about the program.

Councilmember Young commented that the city has received a couple of substantial grants from the Conservation District even though we don't participate.

OLD BUSINESS:

1. Second Reading of Ordinance – Sehmel Drive Area-Wide Rezone. Tom Dolan presented the background for this ordinance to address inconsistencies between the land use designation and zoning for this recently annexed area.

Councilmember Malich asked why the four westerly properties were included in this rezone. Mr. Dolan explained it is because they had an ED designation in the comp plan and the Planning Commission looked at existing uses when they made the recommendation.

Councilmember Franich commented that he would have preferred that the last three parcels would have remained residential.

MOTION: Move to adopt Ordinance No. 1164 as presented.
Young / Kadzik – unanimously approved.

1. Second Reading of Ordinance – Special Events Permits. Molly Towslee presented this draft ordinance to update the requirement for special events.

MOTION: Move to adopt Ordinance No. 1165 as presented.
Kadzik / Franich – unanimously approved.

NEW BUSINESS:

1. Public Hearing and First Reading of Ordinance – Development Agreement Processing Amendment. Senior Planner Jennifer Kester presented information on this amendment which would differentiate the processing requirements for development agreements. She explained that currently all development agreements must be reviewed by the Planning Commission before final action by the City Council. This amendment would replace that requirement with one in which legislative agreements

would still go before the Planning Commission and development agreements related to project permit applications would be reviewed by the Hearing Examiner or city staff depending on the final decision maker for the underlying permit. The application would be held in abeyance until a recommendation from the Hearing Examiner or staff is forwarded to the City Council for final action. In addition, staff is proposing to extend the maximum term of development agreements from five to ten years.

Councilmember Young asked for further clarification on the types of development agreements that would go before the Hearing Examiner. Ms. Kester explained that one example is phasing a project; a development agreement would be used in conjunction with the binding site plan to define the project; staff is proposing that these be heard by the Hearing Examiner to allow public testimony on how timing of such a project might affect the community.

Councilmember Franich asked if Ms. Kester could cite a specific example of a project. She said that last year's 3700 Grandview Comprehensive Plan Amendment had an accompanying development agreement reviewed by the Planning Commission that imposed stricter setbacks and height limit size. She further explained that the Haven of Rest's comp plan amendment to change from Residential Low to Residential Medium has a development agreement that says they will limit any rezones to R-2. Costco had a development agreement that set aside ten acres for a Village Center. She said that currently the McCormick Creek project has a development agreement related to when the different lots can be platted in conjunction with road completion. Under the current code, this would go to the Planning Commission for recommendation to Council, but because they don't review project specific permits, staff would have to educate them on the specifics of the permit. If this amendment is adopted this would come directly to Council with a staff recommendation because the Hearing Examiner has already approved the plat.

Mayor Hunter opened the public hearing at 6:08 p.m.

John Chadwell, Olympic Property Group – 19245 10th Ave NE, Poulsbo, WA 98370. Mr. Chadwell commented that a development agreement can cover a wide range of issues from simple to complex and holds benefits and protections for both parties. He said that with more work this amendment could be a great change; he then used examples of how the current draft may not work. He described two scenarios: 1) a project-specific development agreement is submitted to set up ground rules but not tied to an application; and 2) an application that fits both categories. He asked which way would these be reviewed? He then explained that some issues should be allowed to come to Council before investing in large application packages, taking staff time, and moving through the Hearing Examiner process before Council ever sees it. If Council doesn't like the project, then they are back to square one depending upon the nature of the agreement. He said that from his perspective following the process for the project specific agreement is needlessly costly and cumbersome for these reasons. He suggested that the proposed ordinance include authority to modify development standards using the Grandview project as an example. He said that Council was

hesitant to grant a comp plan amendment for fear that if the development agreement expired in five years with no completed project it would take another comprehensive plan amendment to “ratchet back” the land use designation. He suggested that if Council could use a development agreement to authorize a project to go beyond current standards while leaving the comp plan designation the same, if the agreement expires before the project is constructed, the property reverts to the original comp plan designation without any further action or risk. Without that tool, Council is denying itself the ability to negotiate standards to provide greater public benefit than what could be achieved under the strict application of the land use code. This allows more control over land use changes; nine other jurisdictions use this tool to allowing exceeding the standards in a development agreement. He then said that the ordinance should include a more flexible process that allows for development agreements that don't fit the two categories presented; routings through the Planning Commission process when appropriate but there are other times that this doesn't make sense and should come right to Council. He suggested that some development agreements could be allowed an opportunity for the proponents to negotiate with a Council Committee to work out certain details before it comes before the full Council for review. Finally, he suggested that the term for development agreements be expanded to up to twenty years for large projects such as Microsoft or Intel who negotiate long agreements before spending any money because they have a lot at stake; again providing protection for both parties. Mr. Chadwell recommended that this ordinance go back for further work and offered to meet with staff to discuss his suggestions.

Councilmember Payne asked for the reasoning for limiting the extension to ten years. Ms. Kester responded that a lot has changed in this city over the past fifteen years and they thought ten year would allow you to catch some of the larger changes. She explained that this number was used to solicit Council direction for what would be comfortable.

Councilmember Young asked about using different expiration dates for different terms in a development agreement. Legal Counsel Angela Belbeck responded “Absolutely.” He then asked if a development agreement could be inconsistent with the Comprehensive Plan. She said that the agreement should be consistent with the Comp Plan.

Eva Jacobsen – PO Box 2314, Gig Harbor. Ms. Jacobsen thanked Council for considering these amendments, adding that as a land us planner, she thinks these have been needed for a long time. She asked staff to consider how the development agreement interlaces with the underlying permit. She asked how it would work if have a five-year development agreement on a two-year site plan.

There were no further comments and the public hearing closed at 6:20 p.m. Jennifer Kester asked for direction.

Council asked that this be added to the workstudy session scheduled for Monday, June 15th. Rob Karlinsey said that he was also proposing a discussion on the Mixed Use Development at the same meeting.

2. ~~Public Hearing and First Reading of Ordinance — Mixed Use District Overlay (MUD) Amendments and Area Wide Rezone (ZONE 07-0006)~~ CONTINUED To June 22nd.

STAFF REPORT:

1. New Websites Presentation: Lita Dawn Stanton and Lauren Lund. Lita Dawn Stanton, Special Projects and Historical Preservation Coordinator, began the presentation on the city's new website giving an overview of site, its features and ease of navigation.

Lauren Lund, Marketing Director, continued with the Marketing website. She highlighted several features meant to draw visitors to come and stay in Gig Harbor.

Council members offered congratulations on the new sites, praising the thoughtfulness and hard work that went into the design.

2. Permit Extensions. Planning Director Tom Dolan presented the background on permit extensions for applicants willing to pay utility hook up and impact fees and whether they would be required to adhere to code changes. He noted that land use permits in Gig Harbor have relatively short expiration periods and the extension would address the current economic downturn. He explained that a request for feedback on this proposal has solicited a number of comments. Mostly, the response has been that extensions should be allowed without requiring the payment of fees or compliance with new development regulations, similar to the blanket two-year "stimulus initiative" adopted by Pierce County. He said that staff is looking for further direction from Council, and addressed questions on the city's current permit timelines and how Pierce County's extension is applied to permits.

Mayor Hunter voiced concern that if extensions aren't allowed and permits expire, the applicant will have to start over, which will be expensive and will slow the recovery period.

Councilmember Ekberg agreed and asked how many permits are close to the expiration time. Mr. Dolan said that there hasn't been an analysis done. He then addressed Councilmember Malich's question by explaining that the timeline on land-use decisions begins when the Hearing Examiner makes a decision, and providing no appeal is filed. The applicant has two years from then to apply for a building permit.

Councilmember Franich asked if a sunset clause had been considered. Mr. Dolan responded that the County's stimulus ordinance is a one-time allowance that had to be submitted by June 30, 2009.

Councilmember Payne asked about the negative impacts. Mr. Dolan said that non-compliance with any change in development regulations, using changes in the stormwater manual as an example. He added that the state would understand if the permits were vested under the old requirements. He then said that the ordinance could

be written so that if changes occurred in certain regulations, the project would have to comply which could potentially result in major modifications.

Councilmember Young commented that major pitfall is the fairness issue; there are a number of developments stopped by the city's actions, and now there is discussion of creating a "special class" of developer by granting extensions to projects that may not have to comply with new regulations. He said that equal opportunity is something that has to be considered. He continued to explain that some of the new changes such as stormwater requirements are outcome based; the city has stricter standards and if others aren't required to meet these standards, it will be more difficult for the city to do so.

Councilmember Payne asked about the possibility of obtaining the record of when this was adopted by Pierce County in order to see what issues were discussed and how they addressed concerns. Mr. Dolan said that the copy of the county's ordinance is included in the packet, and the "whereas clauses" may hold some of this information.

Councilmember Franich commented that fairness is a good point and we need to decide what new regulations would need to be met rather than allowing blanket exceptions.

Councilmember Kadzik brought up the collection of fees. Councilmember Young said that he agrees these are extraordinary times and we want to encourage development, but there is risk in development and the city shouldn't "give up the farm."

Mayor Hunter said he agreed with the comments about the economy, adding that the city should approach solutions in a thoughtful, fair manner. He said that we want to encourage projects rather than allowing them to die. He then invited the public to speak.

Howard and Theresa Miller – 3590 SE Burley Olalla Road. Mr. Miller explained that they own a .4 acre parcel across from Gig Harbor Auto Body that is zoned light industrial; the last piece in the city zoned this way. He explained that this property squeaked through every area of compliance to achieve approval for a two-story building on the site; they have had three different architects in an attempt to obtain a permit and their site plan approval runs out in November.

Ms. Miller thanked the Mayor, Council and staff. She described their situation and how they have struggled with financing; adding that at this point the only way that they can see a way through is to sell the property so someone else can build before the site plan expires and take a loss on the money already spent. She said if they are unable to sell and their permit expires, it may become a question of letting the property go back to the bank. She added that Mayor Hunter understands the situation and staff has been very supportive.

John Chadwell – Olympic Property Group. Mr. Chadwell addressed the issue of vesting to old codes by saying the process for approval is like a house of cards and if you change or pull a couple of the cards things change very quickly. He said he appreciates

the idea of an extension as a stimulus package for certain cases, but cautioned that if the project has to meet new regulations, it's like going back to square one.

Councilmember Malich asked if an extension could be handled by resolution rather than by ordinance as a timesaving method. City Attorney Angela Belbeck explained that because it deals with timelines set forth in city code, the changes need to be made by ordinance.

Councilmember Payne said we should move forward and explore the idea of mirroring Pierce County's ordinance for a two-year extension.

Councilmember Ekberg agreed if it's an economic stimulus idea. He recommended consideration of some sort of a fee for an extension, a six-month time frame to apply, and a two-year term from the date of application as opposed to adding two years to the existing expiration date. He also said we need to look at the pros and cons and fairness of adherence to ordinance changes if the focus of the extension is economic stimulus.

Councilmember Payne asked for an inventory of "at-risk" permits.

Councilmember Young suggested an equitable solution for the timing is to choose a "date-certain" that up until that date no permits will expire rather than adding two-years to a permit. He explained that if this is indeed about the economic crisis this will allow them to get through it but not add more time to the vesting rules; this eliminates the need to track individual permit expirations. He said if the banks don't free up money in a year, then this can be addressed again.

Councilmember Kadzik said that if this is indeed a stimulus package then he would like the projects to remain vested unless it becomes a life-safety issue. He also said that it would be counter-productive if a large fee is required; as one letter stated, if they had the money they would begin the project.

Councilmember Young asked staff to identify any upcoming major code issues that may need consideration.

PUBLIC COMMENT: None.

MAYOR'S REPORT / COUNCIL COMMENTS:

Mayor Hunter commented on the successful Maritime Gig Festival. He recognized the Chamber of Commerce and the Gig Harbor Historical Waterfront Association for this well executed, fun weekend event.

Mayor Hunter reported that he took a tour of the Hope Center Boys & Girls Club last week adding that they would like to arrange a tour for the entire Council. He stressed that this is a very impressive project and will be a nice addition to the community.

Councilmember Malich asked if city staff had reviewed the permit for the new building on Sehmel Drive constructed under county permits and asked about the parking. Tom Dolan said that Building Official Dick Bower has been in contact with the county regarding final inspections. Councilmember Young said that the building shares parking with Keller Williams.

Mayor Hunter asked Councilmembers congratulate Marco Malich and the Public Works Crew for the work done before, during and after the Maritime Gig.

Councilmember Payne voiced concern with the crowds encroaching upon the parade route for safety reasons, and said he would bring this up with Chief Davis and the Chamber of Commerce. He then asked Tom Dolan about the Bonneville Project. Mr. Dolan responded that this project, a retail commercial office complex, goes before the Design Review Board this week; Peter Katich is the project planner.

Rob Karlinsey presented a proposal to cancel the July 27th and the August 24th City Council meetings for lack of issues and to save money.

Councilmember Malich asked about construction bonding . Mr. Karlinsey said that staff would be bringing that topic back in September; at this time it appears that the city will have to issue revenue bonds unless some other grant option comes available as the State Legislature "nixed" the Public Works Trust Fund Loan Program. He said that we applied for Federal Stimulus money but unless other projects fall off the list we won't make the cut. He further explained that staff will be working with our Bond Counsel this summer to put a package together for council review.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Finance / Safety Committee: Mon. Jun 15th at 4:00 p.m.
2. City Council Budget Update / Budget Forecast Worksession: Mon. Jun 15th at 5:30 p.m.
3. Operations Committee: Thu. Jun 18th at 3:00 p.m.
4. Boards and Commissions Candidate Review Committee: Mon. Jun 22nd at 4:30 p.m.

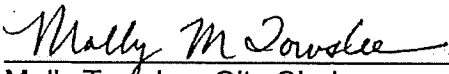
ADJOURN:

MOTION: Move to adjourn at 7:25 p.m.
Franich / Malich – unanimously approved.

CD recorder utilized:
Tracks 1001 – 1024



Charles L. Hunter, Mayor



Molly Towslee, City Clerk

OUTLINE MINUTES
City Council Worksessions

Date: June 15, 2009 Time: 5:30 PM Location: Comm Rm A&B Scribe: Molly Towslee

Members Present:

Mayor: Chuck Hunter
City Council: Steve Ekberg, Derek Young, Jim Franich, Paul Conan, Ken Malich, and Paul Kadzik.

Staff Present: Rob Karlinsey, Kay Johnson, David Rodenbach, David Stubchaer, Mike Davis, Tom Dolan, Jennifer Kester, Paul Nelson, and Molly Towslee. Also present: Judge Dunn and City Attorney Angela Belbeck.

Call to Order at 5:30 p.m.

-
- 1) 2009 Budget / 2010 Forecast. City Administrator Rob Karlinsey explained that the forecast is based upon current services, policies, and staffing levels and projects the cost and accompanying revenues out five years. The following are some of the underlying assumptions that go into this forecast:
 - No change in 2009 approved staffing levels
 - No change in current programs, policies, and service levels
 - 2009 Year-End Revenue Projections adjusted based on year-to-date actual
 - 2009 Year-End Expenditure Projections reduced as a result of last April's additional administrative budget cuts
 - In 2010 and beyond, low to moderate growth in most operating revenues
 - No capital or major equipment replacements – this includes no funding for road rehabilitation such as overlays, chip seals, etc.
 - One \$500,000 General Fund Transfer to the Civic Center Debt Reserve Fund in 2010 and none thereafter
 - Boys & Girls Club Contribution of \$150,000 in 2010 and \$100,000 in 2011

Using a PowerPoint Presentation, he began with the 2009 Year-End Projection before going through an overview of the five-year forecast of Revenues and Expenditures for all funds. He said that to date, the total expenditures are down from 2008 but will come back in 2010 due to the increase in fund transfers and filling vacant positions in the Police Department. He explained that this forecast shows a significant negative fund balance in 2014 and he would like to start working on solutions with Council next month; Staff will do research to put together a menu of options to present on July 13th and at that time Council can give direction for staff to put together a budget based upon that policy direction.

Councilmember Franich asked for a report of how much was spent on consultant fees in 2008 and what is projected for 2009. Councilmember Malich asked for a report of salaries / benefits to be separated out of the General Fund balance. Councilmember Young commented that it's clear that there is more fixing to do, but it will affect the level of service. He said we need to come up with other solutions.

2) Development Agreement Processing Amendment. Senior Planner Jennifer Kester presented an overview of the comments received at the last meeting, and staff's response. She asked for direction from Council on how they wished to proceed.

Length of development agreements

Issue: Staff has proposed 10 years; Mr. Chadwell requested ²⁰ ~~2~~ years, particularly for ^{plots} ~~that~~. Staff believes this is a policy decision of the Council.

The following issues were discussed:

- Permit management and tracking
- The inability for large projects to complete in a short time period
- Equal protection concerns (Angela Belbeck responded that if you have a rational basis it's okay to do)
- Adherence to future code adjustments
- Length of extensions (concern with committing future councils to a decision)
- Renewal clause – allow five or ten years with the option for another five year extension capability
- How a development agreement protects both the developer and the city
- The importance of developing criteria on a case by case basis
- Who has the authority to extend the permit another five years
- Change in uses over the years

Planning Director Tom Dolan said that staff would work with the City Attorney to draft language that reflects the concerns raised during discussion.

Modification of development standards through a development agreement

Issue: The current GHMC 19.08.010 states that "a development agreement shall be consistent with the applicable policies and goals of the Gig Harbor comprehensive plan and applicable development regulations." Mr. Chadwell suggests the City should give itself the authority to modify development regulations through a development agreement.

The city attorney advises that development agreements should be consistent with the Comprehensive Plan. Whether development regulations are modified through a development agreement is a policy decision of the Council. Staff notes that staff review time will increase if development regulations are allowed to be modified through a development agreement and review fees may need to increase.

The following issues were discussed:

- Density and uses will be the hardest to regulate
- Benefit of compatibility between gap in zoning designations
- Zoning code offers predictability...this leads to subjectivity
- The need for more zoning designations rather than going this route
- Not enough citizen input – inability to go against land use attorneys
- Future changes in zoning codes and the ability to control future developments through agreements
- Development Agreements can give more protection that zoning code
- The difficulty in down-zoning which take away development rights
- Public noticing concerns
- Development Agreements could require illustration of finished product for public review

Staff to work with the City Attorney to draft an ordinance to include a provision that a development agreement can only be granted if the project is consistent with the Comprehensive Plan.

Development agreements not associated with an underlying permit

Issue: The new process outlined in GHMC 19.08.040 implies that all development agreements are associated with either a legislative action or project permit application; Mr. Chadwell would like the opportunity to present a development agreement prior to submitting an underlying action/permit. Staff believes that this is a policy decision of the Council. Staff notes that review fees may need to increase to accommodate this type of review.

The following issues were discussed:

- Review will require more staff time
- Does this give more authority to the Design Review Board
- Can the agreement come prior to a permit application
- Hearing Examiner may feel their hands are tied
- Good for the developer but city could get into trouble
- Charging for staff time

Staff will draft proposed language for the next meeting for Council review. A list of pros / cons will be included.

Development agreements for action City Council has already entered into

Staff is proposing a change to the new process which would expressly call-out a process for development agreements that come after a final decision on a project permit, such as a development agreement for phasing a final plat after the final plat has been approved. A new 19.08.040(B)(3) is being proposed that would allow the Planning Director to forward a

recommendation to Council for final decision. Ms. Kester explained that there are several approved preliminary plats that may benefit from this mechanism due to the current economy.

Development agreements associated with both legislative and project permit applications
Issue: The new process outlined in GHMC 19.08.040 implies that all development agreements are associated with either a legislative action or project permit application and not both; Mr. Chadwell would like the opportunity to present a development agreement which relates to both legislative and project permit applications.

The City Attorney recommends against such process as the appeal processes for legislative and project permit applications are different. Staff recommends against such process as the timelines for review of legislative and project permit applications are different. The City is statutorily required to process most project permit applications in 90 to 120 days. The City can take as much time as desired in processing legislative actions.

After a brief discussion, the Council agreed with staff on the recommendation to say no to this proposal.

3) Mixed Use District Overlay (MUD) Amendments and Area-Wide Rezone (ZONE 07-0006). Jenn Kester presented information on the recommendation from the Planning Commission to remove the Mixed Use Overlay District and adopt appropriate zoning for the affected areas. She described which properties would be rezoned to the new Mixed Use Zone, and which would remain at their current underlying RB-2 or B-2 zones. She further explained that staff has reviewed the properties on the West side of Burnham and south of 97th and is recommending that they not be rezoned to the Mixed Use District due to environmental constraints. She said that after the public hearing on June 22nd, Council needs to consider the proposed boundaries and standards for the MX Zone. Ms. Kester described some of the changes to uses, setbacks and performance standards for height and density and the rationale behind the recommendations.

The following was discussed:

- Height concerns
- Require mixed use if that is the desired outcome and avoid pockets
- Mixed Use doesn't fit the character of Gig Harbor
- Employment Opportunities in this area to support mixed
- Is this the best area for Mixed Use if MUD didn't work
- Down zoning properties
- Is this a good place for exclusionary criteria for affordable housing
- Unpredictability of the MUD Zone
- Lay out street grid ahead of time

Tom Dolan commented that Council asked the Planning Commission to review this area because the MUD Overlay wasn't working; they were reluctant to just remove the overlay which would take away some property rights. The Mixed Use Zone is the compromise. Ms. Kester stressed that it is up to Council to decide whether to retain the MUD Overlay or adopt the recommendations.

ADJOURN: The meeting adjourned at 8:40 p.m.

MINUTES OF GIG HARBOR CITY COUNCIL MEETING – JULY 13, 2009

PRESENT: Councilmembers Ekberg, Young, Franich, Malich, Payne, Kadzik and Mayor Hunter. Councilmember Conan was absent. Attorney Zach Lell sat in for City Attorney Angela Belbeck.

CALL TO ORDER: 5:32 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of Jun. 22, 2009.
2. Receive and File: a) Council Worksession June 15, 2009; b) Finance Committee Minutes June 15, 2009; c) EMPG Report; d) GH Police Dept. Bi-annual Report.
3. Liquor Licenses: a) Change of Location: Gourmet Essentials; b) Corrected Application: Brix 25.
4. Re-appointment to the Design Review Board.
5. AWC RMSA Drug & Alcohol Testing Consortium Agreement.
6. Resolution – Small Works Roster Amending Bidding Limits.
7. Eddon Boat Restoration Contract Amendment – SHKS.
8. Eddon Boat – State Heritage Grant Amendment.
9. Well Siting Evaluation Matrix – Consultant Services Contract / Carollo Engineers.
10. Marine Outfall Project Bid Services Contract - Cosmopolitan Engineering.
11. Eddon Boat Sediment Remediation Long Term Monitoring Implementation / Consultant Services Contract.
12. Approval of Payroll for the month of June: Checks #5462 through #5482 in the amount of \$333,199.69.
13. Approval of Payment of Bills for July 13, 2009: Checks #61304 through #61428 in the amount of \$1,093,049.88.

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

EXECUTIVE SESSION: To discuss potential litigation per RCW 42.30.110(i) and a collective bargaining issue per RCW 42.30.140(4)(a).

MOTION: Move to adjourn to Executive Session at 5:33 p.m. for approximately ten minutes to discuss potential litigation per RCW 42.30.110(i) and a collective bargaining issue per RCW 42.30.140(4)(a).
Franich / Malich - unanimously approved.

MOTION: Move to return to regular session at 5:44 p.m.
Payne / Kadzik - unanimously approved.

OLD BUSINESS:

1. Public Hearing and First Reading of Ordinance – Development Agreement Processing Amendment. Senior Planner Jennifer Kester presented the background information for this revised ordinance relating to the processing of development agreements. She gave an overview of the proposed changes which involve three items: process, development standards and term of development agreements. She included staff's recommendations on each.

Mayor Hunter opened the public hearing at 5:54 p.m.

John Chadwell – Olympic Property Group, 19245 10th Ave NE, Poulsbo, WA. Mr. Chadwell voiced appreciation for staff's support of the maximum 20-year term on development agreements recognizing that not all development warrants a 20-year term; it should be up to Council. He commented that the public doesn't respond to general changes to zoning codes, but gets interested when it affects a nearby parcel; it seems that a development agreement specific to a project is the better approach. He said that staff objects to the use of a development agreement to modify standards suggesting that it could be used to circumvent the variance, rezone, and text amendment processes and reduce predictability. He respectfully disagreed, saying that the agreement must be approved by the Council through the public process. There has to be a rational basis for the decision; a greater public benefit to be gained by the modification such as parks, open space and trails. Mr. Chadwell explained that he has more comments, but in general he respectfully disagrees with the staff recommendation, saying that Council should be allowed the latitude to negotiate the modification of development standards in exchange for a greater public benefit. He said that in terms of process, it remains cumbersome to go all the way to the Hearing Examiner and then come to Council with a development agreement for a project that may not be approved. He offered to work with staff to find better language to solve these problems.

Councilmember Kadzik asked if Mr. Chadwell could forward the remainder of his comments to the Council and staff in writing.

There were no further comments and the public hearing closed at 6:00 p.m.

Councilmember Franich said he agreed with a lot of the staff report adding that 19.08.040(d) in the proposed review process should be removed. He then said that the more critical issue is 19.08.020(B) which would allow deviations from the zoning code which is potentially treacherous. He explained that every Council believes they are making the right decisions, but the zoning code keeps that in check. If that requirement is eliminated then subsequent decisions could be disastrous. He asked for clarification on the appeal process available to surrounding property owners.

Jennifer Kester said that beyond the Land Use Petition Act (LUPA) there is no appeal process.

Attorney Zach Less further explained that if the development agreement is tied with a site-specific project permit application, under state law adverse decision would be appealable to the local Superior Court for the Land Use Petition Act. Potentially a challenger could mount some type of a Growth Board appeal in the event it was area-wide issue and subject to the GMA. There are other potential writ opportunities to the Superior Court, but the city's existing administrative process for appealing the project permit component would be changed. He offered to look into other appeal processes that might be made available and discuss them with staff to determine if it would be appropriate to impose an additional layer of administrative appeal.

MOTION: Move to eliminate 19.08.020(B) from the ordinance.
Franich / Malich –

Councilmember Ekberg said he agrees with Councilmember Franich's concerns but the motion is premature until Council has the opportunity to review the comments from John Chadwell and can work with staff to develop the necessary protections; if necessary, this section can be removed at the second reading. Councilmember Kadzik agreed.

Councilmember Young said he isn't as concerned with deviations from the zoning code, but stressed that development should not be allowed to deviate from the Public Works Standards, particularly the environmental codes mandated by the state.

Mayor Hunter commented that sometimes changes get made without full public understanding of the project. He said that another issue is if Council makes changes to the code "on the fly" the unintended consequences could be serious.

RESTATED MOTION: Move to eliminate 19.08.020(B) from the ordinance.
Franich / Malich – Councilmembers Franich and Malich voted yes. Councilmembers Ekberg, Young, Payne and Kadzik voted no. The motion failed four to two.

Councilmember Malich said he didn't like the maximum 20-year term and asked if it could be done in five year increments so that the developer would have to come back for an extension. Ms. Kester said that it could be written for five, with five year extensions; adding that Council could choose any length of time.

Councilmember Payne said that the ordinance already allows that kind of flexibility and commented that the twenty-year maximum was included for an extraordinary circumstance. He agreed that Council could choose to go with five years with extensions.

Councilmember Young stressed that the shorter term doesn't provide any predictability for either the city or the developer. He added that the twenty-year term would only apply to massive projects and that five years is not that long for a large project. He voiced appreciation for the language that clarifies this intent. He also said that the

development agreement is tied to the land to provide assurances and to facilitate long-range planning for a large, master-plan project.

Ms. Kester explained that since she has worked for the city, Council has twice used development agreements to negotiate mitigation in exchange for benefit. Under current code, this type of mitigation can only last five years; if the economy doesn't allow the completion of a project, then the developer would get the benefit without having to provide the mitigation. She said that a twenty-year agreement would bind those conditions to ensure that they are met.

Councilmember Franich said he agrees with the concerns voiced by Councilmember Malich but understands the longer term allows more predictability. He added that the five year term with extensions gives another chance for a fresh look. He then expressed concern that a long-term project could be vested under older public works standards could make it more expensive for newer development to meet the new standards.

Ms. Kester responded that a development agreement only vests what is specifically called out in the agreement. If subsequently adopted standards differ from those included in the development agreement they would only apply if necessary to address imminent public danger. Every regulation the development would have to meet in the future doesn't have to be listed, only those regulations that would be vested at the time of the agreement.

City Administrator Rob Karlinsey suggested that Council could eliminate certain areas or zones from any part of this ordinance.

NEW BUSINESS:

1. Public Hearing and First Reading of Ordinance – Benson Street & Prentice Avenue / Street Vacation (Bacchus). Public Works Director David Stubchaer presented this ordinance to vacate a portion of Prentice and Benson Street under the non-user statute. He said that the rights-of-way were never part of the city's system, and the city would retain the recorded easements for the 8" sewer along Prentice and the abandoned 4" water line running along Benson Street.

Mayor Hunter opened the public hearing at 6:25 p.m.

Douglas Smith – 9405 Woodworth Ave. Mr. Smith asked what would happen to his sewer, which runs down the center of Prentice.

Mr. Stubchaer responded that the city will retain the easement to that line which gives the city the right to access and maintain the line. He stressed that the vacation will not affect the sewer.

There were no further public comments and the hearing closed at 6:31 p.m.



Subject: Public Hearing and First Reading of Ordinance-Flood Hazard Construction Standards

Proposed Council Action: Hold a public hearing, review proposed amendments and develop findings for the second reading of ordinance

Dept. Origin: Planning Department

Prepared by: Peter Katich
Senior Planner

For Agenda of: August 10, 2009

Exhibits: Draft Ordinance

Initial & Date

Concurred by Mayor:

CLH 7/27/09

Approved by City Administrator:

Approved as to form by City Atty: per e-mail date 7/5/09

Approved by Finance Director:

N/A

Approved by Department Head:

JK 7/27/09

Expenditure Required	0	Amount Budgeted	0	Appropriation Required	0
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INFORMATION / BACKGROUND

The proposed amendments would amend the definition of substantial improvement set forth in Gig Harbor Municipal Code (GHMC) 18.10.040.CC to exclude the alteration of a structure listed on the city's Register of Historic Places as a category of structure that is subject to the requirements of GHMC Chapter 18.10 (Flood Hazard Construction Standards). Currently, the definition excludes the alteration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places from the requirements of GHMC Chapter 18.10. Further, the amendments would clarify that structures excluded from the definition of substantial improvement are not subject to the Flood Hazard Permit requirements of GHMC 18.10.060.

ENVIRONMENTAL ANALYSIS

The SEPA Responsible Official issued a Determination of Non-Significance (DNS) for the proposed amendments on July 1, 2009 per WAC 197-11-340(2). The appeal period for the DNS expired on July 22, 2009. No appeals were filed.

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

At its July 6, 2009 meeting, the City Council's Planning and Building Committee recommended that the proposed amendments by pass Planning Commission Review and receive direct review by the full City Council.

RECOMMENDATION / MOTION

Hold a public hearing, review amendments and develop findings for the second reading of ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO FLOOD HAZARD CONSTRUCTION STANDARDS; AMENDING SUBSECTION 18.10.040(CC) AND SECTION 18.10.060 OF THE GIG HARBOR MUNICIPAL CODE TO EXCLUDE ALTERATION OF A STRUCTURE LISTED ON THE CITY'S REGISTER OF HISTORIC PLACES FROM THE REQUIREMENTS OF CHAPTER 18.10 OF THE GIG HARBOR MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the National Flood Insurance Program provides for the exclusion of historic structures from the definition of substantial improvement; and

WHEREAS, the City's existing Flood Hazard Construction Standards set forth in Gig Harbor Municipal Code (GHMC) Chapter 18.10 exclude structures listed on the National Register of Historic Places or a State Inventory of Historic Places from the definition of substantial improvement; and

WHEREAS, the Gig Harbor City Council desires to exclude structures listed on the City's Register of Historic Places from the definition of substantial improvement; and

WHEREAS, Section 18.10.060 (Administration) of GHMC Chapter 18.10 is currently unclear regarding the need for a Flood Hazard Permit for development proposals that are excluded from the definition of substantial improvement; and

WHEREAS, the Gig Harbor City Council desires to clarify that development proposals excluded from the definition of substantial improvement do not require a Flood Hazard Permit; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on August 10, 2009; and

WHEREAS, on _____, the City Council adopted this Ordinance at second reading during a regular City Council meeting; Now, therefore,

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

Section 1. Subsection 18.10.040(CC) of the Gig Harbor Municipal Code is hereby amended to read as follows:

18.10.040 Definitions.

Unless specifically defined below, terms or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

....

CC. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term can exclude:

1. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places, or a State Inventory of Historic Places, or the city's Register of Historic Places.

....

Section 2. Section 18.10.060, Administration, of the Gig Harbor Municipal Code is hereby amended to read as follows:

18.10.060 Administration.

A. Establishment of Development Permit – Flood Hazard Permit Required. A flood hazard permit shall be obtained before construction or development begins within any area of special flood hazard established in GHMC 18.10.050. The permit shall be for all structures including manufactured homes, as set forth in GHMC 18.10.040, Definitions, and for all development including fill and other activities, also as set forth in GHMC 18.10.040. However, structures that are excluded from the definition of substantial improvement shall not be subject to the Flood Hazard Permit requirement. The permit shall be exempt from the following project permit processing requirements of GHMC Title 19: GHMC 19.02.003, Submission and acceptance of application; GHMC 19.02.004, Notice of application; GHMC 19.01.003(B), Optional Consolidated Permit Processing; RCW 36.70B.060(5) (single staff

report with all decisions made as of the date of the report as to all project permits); RCW 36.70B.060(6) (requirement that there be no more than one open record hearing and one closed record appeal); GHMC 19.05.009, Notice of final decision; and GHMC 19.05.009(A) (completion of application review within any applicable deadline).

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ___ day of _____, 2009.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck


FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:



Subject: Public Hearing and First Reading of Ordinance - Residential Building Height Calculations in the Historic District. (ZONE 09-0006)

Proposed Council Action: Review ordinance and approve at second reading.

Dept. Origin: Planning

Prepared by: Jennifer Kester 
Senior Planner

For Agenda of: August 10, 2009

Exhibits: Draft Ordinance

Initial & Date

Concurred by Mayor: CHH 7/29

Approved by City Administrator: _____

Approved as to form by City Atty: email 7/29

Approved by Finance Director: N/A

Approved by Department Head: JK for JD 7/29

Expenditure		Amount		Appropriation	
Required	0	Budgeted	0	Required	0

INFORMATION / BACKGROUND

Attached for the Council’s consideration is an amendment to the downhill building height calculation for residential buildings in the Historic District. Currently, the downhill residential building height in the Historic District cannot exceed 27 feet above natural grade. The downhill building height for nonresidential buildings and for all building in the height restriction area cannot exceed 27 feet above natural and finished grade.

The proposed amendment would amend the downhill building height calculation for residential buildings in the Historic District so that it cannot exceed 27 feet above natural and finished grade, consistent with other building height calculations in the Historic District and height restriction area. This will ensure that the scale of buildings in the view basin remain same no matter the use.

POLICY CONSIDERATIONS

Zoning text amendments are addressed in Chapter 17.100 of the Gig Harbor Municipal Code. There are no criteria for approval of a zoning text amendment, but the Council should generally consider whether the proposed amendment furthers the public health, safety and welfare, and whether the proposed amendment is consistent with the Gig Harbor Municipal Code, the Comprehensive Plan and the Growth Management Act (chapter 36.70A RCW). Zoning text amendments are considered a Type V legislative action (GHMC 19.01.003).

ENVIRONMENTAL ANALYSIS

The SEPA Responsible Official issued a Determination of Non-Significance (DNS) for the proposed amendments on July 13, 2009 as per WAC 197-11-340(2).

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

The Planning and Building Committee reviewed this ordinance on January 7, 2008 and felt that the amendment should receive direct consideration by the Council. On January 17, 2008, the Planning Commission agreed that this amendment could receive direct consideration by the Council.

RECOMMENDATION / MOTION

Move to: Staff recommends Council review the ordinance and approve at second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING SUBSECTION 17.99.510(A) OF THE GIG HARBOR MUNICIPAL CODE TO REVISE THE BUILDING HEIGHT CALCULATION FOR RESIDENTIAL BUILDINGS IN THE CITY'S HISTORIC DISTRICT TO BE CONSISTENT WITH THE BUILDING HEIGHT CALCULATION FOR NONRESIDENTIAL BUILDINGS IN THE HISTORIC DISTRICT AND ALL BUILDINGS IN THE HEIGHT RESTRICTION AREA; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the downhill height for residential buildings in the City's Historic District is measured from natural grade; and

WHEREAS, the downhill height for nonresidential buildings in the City's Historic District is measured from natural grade and finished grade; and

WHEREAS, the downhill height for all buildings in the City's height restriction area which are not in the Historic District is measured from natural grade and finished grade; and

WHEREAS, the Historic District is located within the height restriction area established under chapter 17.62 of the Gig Harbor Municipal Code; and

WHEREAS, the City desires to amend the building height calculation for residential buildings in the Historic District to be consistent with the other building height calculations in the height restriction area to ensure that the scale of buildings remain same no matter the use; and

WHEREAS, on January 18, 2008, a copy of this Ordinance was sent to the Washington Department of Community, Trade and Economic Development, pursuant to RCW 36.70A.106; and

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on July 13, 2009; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on _____, 2009; and

WHEREAS, on _____, the City Council held a second reading during a regular City Council meeting; Now, therefore,

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

Section 1. Section 17.99.510 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.99.510 Building massing and height – Historic district.

* * *

A. Incorporate characteristic roof lines and massing into residential structures.

Historic structures in Gig Harbor are characterized by similar roof lines and massing. All residential structures within the historic district must meet the following criteria:

1. MINIMUM ROOF PITCH

Roof pitches shall be minimum 6/12 and maximum 12/12 on all portions of the roof except for (a) shed dormers, (b) porches, (c) the lower pitched roof portion on a saltbox-style structure, and (d) steeples, bell towers, and similar accentuated structures.

2. MAXIMUM HEIGHT

Each residential lot is allowed a building height of up to 18 feet from any point within the buildable area and within 50 feet of the building's footprint; provided, that no portion of the structure exceeds 27 feet above natural and finished grade. Additionally, one BASIC STRUCTURE measuring 25 feet wide by 40 feet deep by 27 feet high may be incorporated into the building design based upon the following criteria:

- a. The height of the basic structure shall be measured from the lowest elevation point at the setback lines. Height shall be measured from natural grade.
- b. The ridge of the basic structure shall be perpendicular to the shoreline or "point" to a significant view.
- c. No structures other than chimneys shall extend beyond the area defined by the gable or hip, i.e., no structure shall extend above the common rafter extending from the top wall plate to the ridge unless it is within the underlying 18-foot height envelope.
- d. The minimum roof pitch is 8/12. Equal pitches are used on the remaining portion of the house.
- e. A full-width front porch shall be included on the front side of the basic structure unit and windows on the entire structure shall be true-divided light windows if a grid pattern is desired.
- f. All other setback and height requirements are complied with.

3. INTERSECTING GABLES OR DORMER REQUIREMENT

To avoid expansive roof planes, fascia boards may not exceed 35 feet in length without an intersecting gable, dormer or similar architectural element incorporated into the roof plane above the fascia board on pitched roofs. This requirement does not apply to BASIC STRUCTURES defined under subsection (A)(2) of this section.

* * *

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ___ day of _____, 2009.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:



Subject: Public Hearing and First Reading of Ordinance - Parking Requirements Clarification and Housekeeping Amendment (ZONE 09-0004)

Proposed Council Action: Review ordinance and approve at second reading.

Dept. Origin: Planning

Prepared by: Jennifer Kester
Senior Planner

For Agenda of: August 10, 2009

Exhibits: Draft Ordinance; Planning Commission Recommendation; Applicable Excerpts from Planning Commission Minutes

Initial & Date

Concurred by Mayor:

CH 7/29/09

Approved by City Administrator:

Approved as to form by City Atty:

email 7/29/09

Approved by Finance Director:

N/A

Approved by Department Head:

JK Fox JD 7/29

Expenditure		Amount		Appropriation	
Required	0	Budgeted	0	Required	0

INFORMATION / BACKGROUND

Attached for the Council's consideration are proposed amendments to the Chapter 17.72 GHMC, Off-Street Parking and Loading Requirements to reflect recent zoning code amendments. The amendments are intended to reduce staff interpretations and ensure that the previous amendments are fully implemented. The proposed ordinance also resolves a conflict between the zoning code and new stormwater manual.

The proposed ordinance would make the following amendments to the city's parking requirements:

1. Utilize "gross floor area" rather than "floor area" or "floor space" in calculating parking and loading requirements to implement the new gross floor area definition; and
2. Amend the off-street parking requirements for industrial uses to be consistent with the County's parking requirements for the same use, and
3. Reduce the parking requirement for ministorage to parking stalls for the office and loading/unloading in front of units; and
4. Add off-street parking requirements for business services, ancillary services and cemeteries, and
5. Allow porous paving to be used for required parking.

The Planning Commission held work study sessions on this amendment on April 16th and May 7th, 2009. A public hearing was held on May 21st, 2009. After the hearing, the Planning

Commission recommended approval of the text amendment. The Chair signed the recommendation on June 18, 2009. A copy of the recommendation is attached.

POLICY CONSIDERATIONS

Zoning text amendments are addressed in Chapter 17.100 of the Gig Harbor Municipal Code. There are no criteria for approval of a zoning text amendment, but the Council should generally consider whether the proposed amendment furthers the public health, safety and welfare, and whether the proposed amendment is consistent with the Gig Harbor Municipal Code, the Comprehensive Plan and the Growth Management Act (chapter 36.70A RCW). Zoning text amendments are considered a Type V legislative action (GHMC 19.01.003).

Staff/Planning Commission Analysis:

The following is a synopsis of the issues discussed and reviewed by the Planning Commission:

Gross Floor Area:

In the update to the definition of gross floor area (passed by Council on 2/9/09), the definition was amended to explain how gross floor area is defined for calculating parking requirements. However, sections 17.72.030 and 17.72.050 of the off-street parking and loading chapter states that, for many uses, parking is based on “floor area” or “floor space” not “gross floor area.” There is no definition for “floor area” or “floor space” in the zoning code. The recommendation is to utilize “gross floor area” rather than “floor area” or “floor space” in order to implement the recent gross floor area definition change and reduce staff interpretations.

ED and PCD-BP intent and allowed uses:

This amendment was adopted by the City Council on May 26, 2009. The amendment added two new use categories, “business services” and “ancillary services” without adding parking requirements for those uses. In addition, the Planning Commission did not review the parking requirement for industrial uses and ministorage as part of the ED/PCD-BP amendment. Previously the commission had identified those parking requirements as being excessive.

The Commission is recommending that the parking requirements for business services and ancillary services be consistent with the City’s parking requirements for professional/personal services and retail. This will make change of uses (tenant changes) within commercial developments simpler.

For industrial uses the Commission is also proposing that the City adopt the same standards as Pierce County since much of our developed industrially zoned land was once a part of Pierce County (PC requirement: one space per 1,000 square feet of gross floor area). For ministorage, the Commission is recommending that only two stalls be required for the office use and that parking should be allowed in front of the storage units for loading and unloading purposes.

Cemeteries:

In November 2008, the Council adopted an amendment to the land use matrix to add cemeteries as a conditional use in the R-2 zone. However, the amendment adding cemeteries to the land use matrix did not include adding cemeteries to the parking matrix.

The Planning Commission is proposing that off-street parking only be required for office and chapel-type spaces. Visitors to graves and mausoleums typically park on the side of the road within the site. Staff and visitors for funeral services appear to be the only users that would require formalized parking lots.

Stormwater Manual Update:

Shortly the City will be updating its Stormwater Manual. The new standards include low impact development guidelines which allow for porous paving systems for stormwater infiltration and storage. Currently, the parking code does not allow required parking to be surfaced with porous (pervious) systems such as grasscrete. The Planning Commission is proposing an amendment which would allow porous paving for required parking.

ENVIRONMENTAL ANALYSIS

The SEPA Responsible Official issued a Determination of Non-Significance (DNS) for the proposed amendments on June 29, 2009 as per WAC 197-11-340(2).

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

The Planning Commission is recommending approval of the proposed text amendments.

RECOMMENDATION / MOTION

Move to: Staff recommends Council review the ordinance and approve at second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING SECTIONS 17.72.030 AND 17.72.050 OF THE GIG HARBOR MUNICIPAL CODE TO CALCULATE PARKING BASED ON GROSS FLOOR AREA RATHER THAN FLOOR AREA OR FLOOR SPACE; ADD OFF-STREET PARKING REQUIREMENTS FOR BUSINESS SERVICES, ANCILLARY SERVICES AND CEMETERY USES; AND AMEND THE OFF-STREET PARKING REQUIREMENTS FOR INDUSTRIAL AND MINISTORAGE USES; AMENDING GHMC SECTION 17.72.020 TO ALLOW PARKING TO BE SURFACED WITH POROUS PAVING; AND ADDING GHMC SECTION 17.04.675 TO DEFINE POROUS PAVING; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, recently the City adopted a number of zoning code amendments which affected uses and parking requirements; and

WHEREAS, housekeeping and clarification amendments to the off-street parking requirements are needed to fully implement those ordinances and reduce staff interpretations; and

WHEREAS, on November 24, 2008, the City Council passed ORD 1148, which added cemeteries to the land use matrix and conditionally allowed cemeteries in the R-2 zone; however, off-street parking standards were not developed for cemeteries; and

WHEREAS, the City desires to require off-street parking for cemeteries in order to reduce the need to park on public streets and the traffic congestion and hazards caused thereby; and

WHEREAS, on February 9, 2009, the City Council passed ORD 1152, amending the definition of gross floor area to describe what gross floor area means for calculating off-street parking requirements; and

WHEREAS, the off-street parking and loading requirements contained in Chapter 17.72, Off-Street Parking and Loading Requirements, reference floor area or floor space not gross floor area; however, there is no definition of floor area or floor space in the zoning code; and

WHEREAS, the City desires to utilize "gross floor area" rather than "floor area" or "floor space" in calculating parking and loading requirements to implement the new gross floor area definition; and

WHEREAS, on May 26, 2009, the City Council passed ORD 1160, which added business services and ancillary services to the land use matrix; however, off-street parking standards were not developed for business services and ancillary services; and

WHEREAS, the City desires to require off-street parking for business services and ancillary services based on gross floor area in order to reduce the need to park on public streets and the traffic congestion and hazards caused thereby; and

WHEREAS, ORD 1160 also amended definitions and use allowances related to industrial and ministorage uses; and

WHEREAS, the City had previously identified that the parking standards for industrial and ministorage uses were excessive; and

WHEREAS, the City desires to reduce the off-street parking requirements for industrial uses to be consistent with Pierce County's requirements for industrial uses as most of the City's industrial areas were developed under County standards prior to annexation; and

WHEREAS, the City desires to reduce the off-street parking requirements for ministorage to parking stalls for only the office use and loading/unloading in front of units; and

WHEREAS, due to state mandates, the City will be replacing its stormwater manual this summer and the new manual includes low impact development guidelines which allow for stormwater infiltration and storage through porous paving systems; and

WHEREAS, the current off-street parking requirements do not allow parking to be surfaced with porous paving systems such as grasscrete; and

WHEREAS, the City desires to allow porous paving for required parking and to define porous paving consistent with the updated stormwater manual; and

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on June 29, 2009; and

WHEREAS, on May 28, 2009, a copy of this Ordinance was sent to the Washington Department of Community, Trade and Economic Development, pursuant to RCW 36.70A.106; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on May 21, 2009 and made a recommendation of approval to the City Council; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on _____, 2009; and

WHEREAS, on _____, the City Council held a second reading during a regular City Council meeting; Now, therefore,

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

Section 1. Section 17.72.020 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.72.020 Off-street parking design standards.

* * *

E. All off-street parking spaces and access areas shall be surfaced with portland cement concrete, ~~or asphaltic concrete paving,~~ or porous paving to the standards established by the city.

* * *

Section 2. A new Section 17.04.675 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

17.04.675 Porous paving.

"Porous paving" means paving surfaces which accommodate pedestrian, bicycle and auto traffic while allowing infiltration and storage of stormwater. Porous paving includes porous asphalt pavement; porous concrete; grid or lattice rigid plastic or paving blocks where the holes are filled with soil, sand, or gravel; and cast-in-place paver systems.

Section 3. Section 17.72.030 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.72.030 Number of off-street parking spaces.

The following is the number of off-street parking spaces required for each of the uses identified below:

Use	Required Parking
Dwelling, single-family	Two off-street parking spaces per dwelling unit.
Dwelling, duplex	Two off-street parking spaces per dwelling unit.

Use	Required Parking
Dwelling, triplex	One off-street parking space for each studio unit, 1.5 off-street parking spaces for each one bedroom unit, and two off-street parking spaces for units with two or more bedrooms.
Dwelling, fourplex	One off-street parking space for each studio unit, 1.5 off-street parking spaces for each one bedroom unit, and two off-street parking spaces for units with two or more bedrooms.
Dwelling, multiple-family	One off-street parking space for each studio unit, 1.5 off-street parking spaces for each one bedroom unit, and two off-street parking spaces for units with two or more bedrooms.
Accessory apartment	One off-street parking space per accessory apartment in addition to parking required for primary dwelling unit.
Family day care provider	Two off-street parking spaces.
Home occupation	One off-street parking space in addition to parking required for any other use; two parking spaces shall be required if the occupation requires customers or clients to visit the premises at any time.
Adult family home	Two off-street parking spaces.
Independent living facility	One off-street parking space for every four beds based on maximum capacity as determined by the International Building Code. ¹
Assisted living facility	One off-street parking space for every four beds based on maximum capacity as determined by the International Building Code. ¹
Skilled nursing facility	One off-street parking space for every four beds based on maximum capacity as determined by the International Building Code. ¹
Hospital	One off-street parking space for every two beds based on maximum capacity as determined by the International Building Code.
School, primary	One off-street parking space for every five seats in the main auditorium or assembly room.
School, secondary	One off-street parking space for every four seats in the main auditorium or assembly room, or three off-street parking spaces for every classroom plus one additional off-street parking space for each staff member or employee, whichever is greater.
School, higher educational	One off street parking space for every possible four seats in the classrooms based on maximum capacity as determined by the International Building Code.
School, vocational/trade	One off street parking space for every possible four seats in the classrooms based on maximum capacity as determined by the International Building Code.
Government administrative office	One off-street parking space for every 300 square feet of <u>gross</u> floor area.
Public/private services	For libraries: One off-street parking space for every 1,000 square feet of <u>gross</u> floor area; For police stations and fire stations: one off-street parking space for every 300 square feet of <u>gross</u> floor area; For maintenance and storage facilities: one off-street parking space for every 500 <u>1000</u> square feet of <u>gross</u> floor area.
Religious worship, house of	One off-street parking space for every four fixed seats in the facility's largest assembly area. For a fixed seat configuration consisting of pews or benches, the seating capacity shall be computed upon not less than 18 linear inches of pew or bench length per seat. For a flexible configuration consisting of moveable chairs, each seven square feet of the <u>gross</u> floor area to be occupied by such chairs shall be considered as a seat.

Use	Required Parking
Museum	One off-street parking space for every 1,000 square feet of <u>gross</u> floor area.
Community recreation hall	One off-street parking space for every possible four seats in the auditorium(s) and assembly room(s) based on maximum capacity as determined by the International Building Code.
Clubs	One off-street parking space for each four persons of the building's maximum seating capacity as determined by the International Building Code.
Parks	Director shall determine the standards to be applied for parking using as a guide the uses listed in this section that most closely resemble the uses proposed.
Essential public facilities	Parking required as per underlying use.
Utilities	Director shall determine the standards to be applied for parking using as a guide the uses listed in this section that most closely resemble the use proposed.
<u>Cemetery</u>	<u>Off-street parking spaces are required for only office, chapel and indoor assembly areas. For office space: one off-street parking space for every 300 square feet of gross floor area. For chapel and indoor assembly areas; one off-street parking space for every four fixed seats. For a fixed seat configuration consisting of pews or benches, the seating capacity shall be computed upon 18 linear inches of pew or bench length per seat. For a flexible configuration consisting of moveable chairs, each seven square feet of the gross floor area to be occupied by such chairs shall be considered as a seat.</u>
Lodging, level 1	One and one-quarter off-street parking space for each room to rent in addition to two off-street parking spaces for the single-family residence.
Lodging, level 2	One and one-quarter off-street parking space for each room to rent.
Lodging, level 3	One and one-quarter off-street parking space for each room to rent.
Personal services	One off-street parking space for every 300 square feet of <u>gross</u> floor area.
<u>Business services</u>	<u>One off-street parking space for every 300 square feet of gross floor area.</u>
Professional services	One off-street parking space for every 300 square feet of <u>gross</u> floor area except for medical and dental offices. For medical and dental offices, one off-street parking space for every 250 square feet of <u>gross</u> floor area.
<u>Ancillary services</u>	<u>One off-street parking space for every 300 square feet of gross floor area.</u>
Product services, level 1	One off-street parking space for every 300 square feet of <u>gross</u> floor area.
Product services, level 2	One off-street parking space for every 400 square feet of <u>gross</u> floor area, except for auto repair. For auto repair, four off-street parking spaces for each service bay.
Sales, level 1	One off-street parking space for every 300 square feet of <u>gross</u> floor area.
Sales, level 2	One off-street parking space for every 400 square feet of <u>gross</u> floor area.
Sales, level 3	One off-street parking space for every 400 square feet of <u>gross</u> floor area.
Ancillary sales	One off-street parking space for every 300 square feet of <u>gross</u> floor area.
Commercial child care	One off-street parking space for every 5 possible seats in the main auditorium or assembly rooms.
Commercial recreation, indoor	One off-street parking space for every possible four seats in the auditoriums and assembly rooms based on maximum capacity as determined by the International Building Code; for bowling alleys, five off-street parking spaces for each alley.
Commercial recreation, outdoor	Director shall determine the standards to be applied for parking using as a guide the uses listed in this section that most closely resemble the uses

Use	Required Parking
	proposed.
Commercial entertainment	One off-street parking space for every possible four seats in the auditorium(s) and assembly room(s) based on maximum capacity as determined by the International Building Code.
Automotive fuel-dispensing facility	One off-street parking space for every two fuel pumps, if service bays are not provided. If service bays are provided, four off-street parking spaces for each service bay.
Vehicle wash	Two off-street parking spaces per service bay plus one space for every two employees. In addition, a stacking lane or lanes capable of accommodating a minimum of 10 percent of the projected maximum hourly throughput of vehicles for the vehicle wash shall be provided near the entrance to the wash bay(s). One car length within the stacking lane shall be equal to the length of a standard parking space.
Commercial parking lot	None required
Animal clinic	One off-street parking space for every 250 square feet of <u>gross</u> floor area.
Kennel	One off-street parking space for every 300 square feet of <u>gross</u> floor area.
Adult entertainment facility	Parking required as per underlying use.
Restaurant 1	One off-street parking space for every three seats based on maximum capacity as determined by the International Building Code.
Restaurant 2	One off-street parking space for every three seats based on maximum capacity as determined by the International Building Code.
Restaurant 3	One off-street parking space for every three seats based on maximum capacity as determined by the International Building Code.
Tavern	One off-street parking space for every three seats based on maximum capacity as determined by the International Building Code.
Drive-through facility	One off-street space for every two employees assigned to the drive-through service area. In addition, a stacking lane or lanes capable of accommodating a minimum of 10 percent of the projected maximum hourly throughput of vehicles for the drive-through facility shall be provided near the drive-through service area. One car length within the stacking lane shall be equal to the length of a standard parking space.
Marina	For moorages/slips less than 45 feet, one off-street parking space for every two berths; for moorages/slips 45 feet or longer, one space for every berth. All moorage facilities shall provide a minimum of two parking spaces. If a commercial or residential development is to be combined with a watercraft usage requiring parking, the usage which generates the larger number of spaces shall satisfy the requirements of the other usage. ²
Marine sales and service	One off-street parking space for every 300 square feet of <u>gross</u> floor area except for boat sales and repair. For boat sales and repair, one off-street parking space for every 400 square feet of <u>gross</u> floor area.
Marine boat sales, level 1	One off-street parking space for every 300 square feet of <u>gross</u> floor area.
Marine boat sales, level 2	One off-street parking space for every 400 square feet of <u>gross</u> floor area.
Ministorage	One off-street parking space for every 500 square feet of floor area. <u>Two off-street parking spaces located near the office. Parking for loading and unloading purposes is allowed in front of individual storage units unless</u>

Use	Required Parking
	<u>prohibited by the Fire Marshal.</u>
Industrial, level 1	One off-street parking space for every 500 <u>1,000</u> square feet of <u>gross</u> floor area.
Industrial, level 2	One off-street parking space for every 500 <u>1,000</u> square feet of <u>gross</u> floor area, except for moving companies and distribution facilities. For moving companies and distribution facilities, one off-street parking space for each vehicle in use, at any time, in the conduct of business.
Marine industrial	One off-street parking space for every 500 <u>1,000</u> square feet of <u>gross</u> floor area.
Wireless communication facility	None Required
Accessory uses and structures	Parking required as per underlying use.
For any other use not specifically mentioned or provided for, the director shall determine the standards to be applied for parking using as a guide the uses listed above that most closely resemble the uses proposed.	

¹ If the facility or home is used exclusively for the housing of the elderly, disabled or handicapped, the decisionmaker may allow a portion of the area required for off-street parking to be reserved as a landscaped area if the decisionmaker finds that the required off-street parking is not immediately required and is in the best interest of the neighborhood.

² See GHMC 17.48.070 for additional requirements for parking and loading facilities in the WM district.

Section 4. Section 17.72.050 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.72.050 Off-street loading berth requirements.

Off-street loading berths for passengers and freight shall be provided as given below and shall be on the same lot as the activity served unless the nature of the activities allows several owners to share a common location:

- A. Public Uses. One berth required for each 25,000 square feet of building gross floor space area;
- B. Commercial Uses. One berth required for each 10,000 square feet of wholesale commercial building gross floor space area;
- C. Professional Services Use. One berth required for each 25,000 square feet of building gross floor area;
- D. Industrial Uses. One berth required for each 10,000 square feet of building gross floor space;
- E. Residential Activities. One berth required for any residential facility occupying more than 50,000 square feet of gross floor area.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 6. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ___ day of _____, 2009.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:



COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE OF RECOMMENDATION

CITY OF GIG HARBOR PLANNING COMMISSION ZONE 09-0004

TO: Mayor Hunter and Members of the Council
FROM: Harris Atkins, Chair, Planning Commission
RE: ZONE 09-0004 – Parking Requirements Clarification and Housekeeping Amendment

It was brought to the Planning Commission's attention that the City's off-street parking requirements needed to be amended to reflect recent zoning code amendments in order to reduce staff interpretations and ensure that the previous amendments are fully implemented.

The Planning Commission held work study sessions on this amendment on April 16th and May 7th, 2009. A public hearing was held on May 21st, 2009. After the hearing, the Planning Commission recommended several clarification and housekeeping amendments to the off-street parking requirements. The specific amendments follow this recommendation. Below are the Planning Commission's description and reason for the amendments. They are organized by related code amendment.

Gross Floor Area:

In the update to the definition of gross floor area (passed by Council on 2/9/09), the definition was amended to explain how gross floor area is defined for calculating parking requirements. However, section 17.72.030 of the off-street parking and loading chapter states that, for many uses, parking is based on "floor area" not "gross floor area." There is no definition for floor area in the zoning code. The Planning Commission has recommended inserting "gross" before "floor area" where found in the parking requirements in order to implement the recent gross floor area definition change.

ED and PCD-BP intent and allowed uses:

This amendment was adopted by the City Council on May 26, 2009. The amendment added two new use categories, "business services" and "ancillary services" without adding parking requirements for those uses. In addition, the Planning Commission did not review the parking requirement for industrial uses and ministorage as part of the ED/PCD-BP amendment. Previously the commission had identified those parking requirements as being excessive.

The Commission is recommending that the parking requirements for business services and ancillary services be consistent with the City's parking requirements for professional/personal services and retail. This will make change of uses (tenant changes) within commercial developments simpler.

The Commission is also proposing that for industrial uses, the City adopt the same standards as Pierce County since much of our developed industrially zoned land was once a part of Pierce County. For ministorage, the Commission is recommending that only two stalls be required for the office use and that parking should be allowed in front of the storage units for loading and unloading purposes.

Cemeteries:

In November 2008, the Council adopted an amendment to the land use matrix to add cemeteries as a conditional use in the R-2 zone. However, the amendment adding cemeteries to the land use matrix did not include adding cemeteries to the parking matrix. The Planning Commission is proposing that off-street parking only be required for office and chapel-type spaces. Visitors to graves and mausoleums typically park on the side of the road within the site. Staff and visitors for funeral services appear to be the only users that would require formalized parking lots.

Stormwater Manual Update:

Due to state mandates, the City will be replacing its stormwater manual this summer. The new standards will include low impact development guidelines which allows for porous paving systems for stormwater infiltration and storage. Currently, the parking code does not allow required parking to be surfaced with porous (pervious) systems such as grasscrete. The Planning Commission is proposing an amendment which would allow porous paving for required parking.

Harris Atkins, Chair
Planning Commission

Harris Atkins

Date 6/18/2009

RECOMMENDED AMENDMENTS:

Section 1. Section 17.72.020 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.72.020 Off-street parking design standards.

* * *

E. All off-street parking spaces and access areas shall be surfaced with portland cement concrete, or asphaltic concrete paving, or porous paving to the standards established by the city.

* * *

Section 2. A new Section 17.04.675 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

17.04.675 Porous paving.

"Porous paving" means paving surfaces which accommodates pedestrian, bicycle and auto traffic while allowing infiltration and storage of stormwater. Porous paving includes porous asphalt pavement; porous concrete; grid or lattice rigid plastic or paving blocks where the holes are filled with soil, sand, or gravel; and cast-in-place paver systems.

Section 3. Section 17.72.030 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.72.030 Number of off-street parking spaces.

The following is the number of off-street parking spaces required for each of the uses identified below:

Use	Required Parking
Dwelling, single-family	Two off-street parking spaces per dwelling unit.
Dwelling, duplex	Two off-street parking spaces per dwelling unit.
Dwelling, triplex	One off-street parking space for each studio unit, 1.5 off-street parking spaces for each one bedroom unit, and two off-street parking spaces for units with two or more bedrooms.
Dwelling, fourplex	One off-street parking space for each studio unit, 1.5 off-street parking spaces for each one bedroom unit, and two off-street parking spaces for units with two or more bedrooms.
Dwelling, multiple-family	One off-street parking space for each studio unit, 1.5 off-street parking spaces for each one bedroom unit, and two off-street parking spaces for units with two or more bedrooms.
Accessory apartment	One off-street parking space per accessory apartment in addition to parking required for primary dwelling unit.
Family day care provider	Two off-street parking spaces.

Use	Required Parking
Home occupation	One off-street parking space in addition to parking required for any other use; two parking spaces shall be required if the occupation requires customers or clients to visit the premises at any time.
Adult family home	Two off-street parking spaces.
Independent living facility	One off-street parking space for every four beds based on maximum capacity as determined by the International Building Code. ¹
Assisted living facility	One off-street parking space for every four beds based on maximum capacity as determined by the International Building Code. ¹
Skilled nursing facility	One off-street parking space for every four beds based on maximum capacity as determined by the International Building Code. ¹
Hospital	One off-street parking space for every two beds based on maximum capacity as determined by the International Building Code.
School, primary	One off-street parking space for every five seats in the main auditorium or assembly room.
School, secondary	One off-street parking space for every four seats in the main auditorium or assembly room, or three off-street parking spaces for every classroom plus one additional off-street parking space for each staff member or employee, whichever is greater.
School, higher educational	One off street parking space for every possible four seats in the classrooms based on maximum capacity as determined by the International Building Code.
School, vocational/trade	One off street parking space for every possible four seats in the classrooms based on maximum capacity as determined by the International Building Code.
Government administrative office	One off-street parking space for every 300 square feet of <u>gross</u> floor area.
Public/private services	For libraries: One off-street parking space for every 1,000 square feet of <u>gross</u> floor area; For police stations and fire stations: one off-street parking space for every 300 square feet of <u>gross</u> floor area; For maintenance and storage facilities: one off-street parking space for every 500 <u>1000</u> square feet of <u>gross</u> floor area.
Religious worship, house of	One off-street parking space for every four fixed seats in the facility's largest assembly area. For a fixed seat configuration consisting of pews or benches, the seating capacity shall be computed upon not less than 18 linear inches of pew or bench length per seat. For a flexible configuration consisting of moveable chairs, each seven square feet of the <u>gross</u> floor area to be occupied by such chairs shall be considered as a seat.
Museum	One off-street parking space for every 1,000 square feet of <u>gross</u> floor area.
Community recreation hall	One off-street parking space for every possible four seats in the auditorium(s) and assembly room(s) based on maximum capacity as determined by the International Building Code.
Clubs	One off-street parking space for each four persons of the building's maximum seating capacity as determined by the International Building Code.
Parks	Director shall determine the standards to be applied for parking using as a guide the uses listed in this section that most closely resemble the uses proposed.
Essential public facilities	Parking required as per underlying use.
Utilities	Director shall determine the standards to be applied for parking using as a guide the uses listed in this section that most closely resemble the use proposed.

Use	Required Parking
<u>Cemetery</u>	<u>Off-street parking spaces are only required for office, chapel and indoor assembly areas. For office space: one off-street parking space for every 300 square feet of gross floor area. For chapel and indoor assembly areas: One off-street parking space for every four fixed seats. For a fixed seat configuration consisting of pews or benches, the seating capacity shall be computed upon 18 linear inches of pew or bench length per seat. For a flexible configuration consisting of moveable chairs, each seven square feet of the gross floor area to be occupied by such chairs shall be considered as a seat.</u>
Lodging, level 1	One and one-quarter off-street parking space for each room to rent in addition to two off-street parking spaces for the single-family residence.
Lodging, level 2	One and one-quarter off-street parking space for each room to rent.
Lodging, level 3	One and one-quarter off-street parking space for each room to rent.
Personal services	One off-street parking space for every 300 square feet of <u>gross floor area</u> .
<u>Business services</u>	<u>One off-street parking space for every 300 square feet of gross floor area.</u>
Professional services	One off-street parking space for every 300 square feet of <u>gross floor area</u> except for medical and dental offices. For medical and dental offices, one off-street parking space for every 250 square feet of <u>gross floor area</u> .
<u>Ancillary services</u>	<u>One off-street parking space for every 300 square feet of gross floor area.</u>
Product services, level 1	One off-street parking space for every 300 square feet of <u>gross floor area</u> .
Product services, level 2	One off-street parking space for every 400 square feet of <u>gross floor area</u> , except for auto repair. For auto repair, four off-street parking spaces for each service bay.
Sales, level 1	One off-street parking space for every 300 square feet of <u>gross floor area</u> .
Sales, level 2	One off-street parking space for every 400 square feet of <u>gross floor area</u> .
Sales, level 3	One off-street parking space for every 400 square feet of <u>gross floor area</u> .
Ancillary sales	One off-street parking space for every 300 square feet of <u>gross floor area</u> .
Commercial child care	One off-street parking space for every 5 possible seats in the main auditorium or assembly rooms.
Commercial recreation, indoor	One off-street parking space for every possible four seats in the auditoriums and assembly rooms based on maximum capacity as determined by the International Building Code; for bowling alleys, five off-street parking spaces for each alley.
Commercial recreation, outdoor	Director shall determine the standards to be applied for parking using as a guide the uses listed in this section that most closely resemble the uses proposed.
Commercial entertainment	One off-street parking space for every possible four seats in the auditorium(s) and assembly room(s) based on maximum capacity as determined by the International Building Code.
Automotive fuel-dispensing facility	One off-street parking space for every two fuel pumps, if service bays are not provided. If service bays are provided, four off-street parking spaces for each service bay.
Vehicle wash	Two off-street parking spaces per service bay plus one space for every two employees. In addition, a stacking lane or lanes capable of accommodating a minimum of 10 percent of the projected maximum hourly throughput of vehicles for the vehicle wash shall be provided near the entrance to the wash bay(s). One car length within the stacking lane shall be equal to the length of a standard parking space.
Commercial parking lot	None required
Animal clinic	One off-street parking space for every 250 square feet of <u>gross floor area</u> .

Use	Required Parking
Kennel	One off-street parking space for every 300 square feet of <u>gross</u> floor area.
Adult entertainment facility	Parking required as per underlying use.
Restaurant 1	One off-street parking space for every three seats based on maximum capacity as determined by the International Building Code.
Restaurant 2	One off-street parking space for every three seats based on maximum capacity as determined by the International Building Code.
Restaurant 3	One off-street parking space for every three seats based on maximum capacity as determined by the International Building Code.
Tavern	One off-street parking space for every three seats based on maximum capacity as determined by the International Building Code.
Drive-through facility	One off-street space for every two employees assigned to the drive-through service area. In addition, a stacking lane or lanes capable of accommodating a minimum of 10 percent of the projected maximum hourly throughput of vehicles for the drive-through facility shall be provided near the drive-through service area. One car length within the stacking lane shall be equal to the length of a standard parking space.
Marina	For moorages/slips less than 45 feet, one off-street parking space for every two berths; for moorages/slips 45 feet or longer, one space for every berth. All moorage facilities shall provide a minimum of two parking spaces. If a commercial or residential development is to be combined with a watercraft usage requiring parking, the usage which generates the larger number of spaces shall satisfy the requirements of the other usage. ²
Marine sales and service	One off-street parking space for every 300 square feet of <u>gross</u> floor area except for boat sales and repair. For boat sales and repair, one off-street parking space for every 400 square feet of <u>gross</u> floor area.
Marine boat sales, level 1	One off-street parking space for every 300 square feet of <u>gross</u> floor area.
Marine boat sales, level 2	One off-street parking space for every 400 square feet of <u>gross</u> floor area.
Ministorage	One off-street parking space for every 500 square feet of floor area. Two off-street parking spaces located near the office. Parking for loading and unloading purposes is allowed in front of individual storage units unless prohibited by the Fire Marshal.
Industrial, level 1	One off-street parking space for every 500 <u>1,000</u> square feet of <u>gross</u> floor area.
Industrial, level 2	One off-street parking space for every 500 <u>1,000</u> square feet of <u>gross</u> floor area, except for moving companies and distribution facilities. For moving companies and distribution facilities, one off-street parking space for each vehicle in use, at any time, in the conduct of business.
Marine industrial	One off-street parking space for every 500 <u>1,000</u> square feet of <u>gross</u> floor area.
Wireless communication facility	None Required
Accessory uses and structures	Parking required as per underlying use.
For any other use not specifically mentioned or provided for, the director shall determine the standards to be applied for parking using as a guide the uses listed above that most closely resemble the uses proposed.	

² If the facility or home is used exclusively for the housing of the elderly, disabled or handicapped, the decisionmaker may allow a portion of the area required for off-street parking to be reserved as a

landscaped area if the decisionmaker finds that the required off-street parking is not immediately required and is in the best interest of the neighborhood.

² See GHMC 17.48.070 for additional requirements for parking and loading facilities in the WM district.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session / Public Hearing
April 16th, 2009
Gig Harbor Civic Center**

PRESENT: Commissioners: Harris Atkins, Dick Allen, Joyce Ninen, Michael Fisher and Jim Pasin. Absent: Jill Guernsey and Jeane Derebey.

STAFF PRESENT: Tom Dolan, Jennifer Kester and Cindy Andrews

CALL TO ORDER: Chair Harris Atkins called the meeting to order at 5:02 pm.

APPROVAL OF MINUTES:

MOTION: Move to approve the minutes of March 5th, 2009 with changes.
Ninen / Pasin – Motion passed.

MOTION: Move to approve the minutes of March 16th, 2009 with corrections.
Ninen / Fisher – Motion passed.

MOTION: Move to approve the minutes of March 19th, 2009 with corrections.
Ninen / Pasin – Motion passed.

MOTION: Move to approve the minutes of April 2nd, 2009 with corrections.
Ninen / Fisher – Motion passed.

WORK STUDY SESSION:

Off-Street Parking Requirements Clarification:

Senior Planner Jennifer Kester discussed the amendments and clarifications proposed to the off-street parking requirements resulting from recent zoning code amendments and potential future amendments. Ms. Kester summarized the proposed changes addressing them by topic.

Gross Floor Area: Ms. Kester discussed the recent update to the definition of “gross floor area,” explaining that the parking code referenced floor area only. The amendment would simply be a correction adding “gross” before “floor area” for consistency. Commissioner Jim Pasin discussed his concern with applying the gross floor area definition to parking standards. Chair Harris Atkins asked how staff had interpreted the definition. Ms. Kester stated that parking is currently based on gross floor area, by interpretation, and that this amendment would not result in any change to parking calculations. It would only remove the interpretation portion of staff work. Commissioner Michael Fisher asked how retail and non-retail areas would be

defined. Ms. Kester explained that parking standards would be based on the total space of the store. Planning Director Tom Dolan added that the amendment would be very specific and eliminate potential confusion. Vice Chair Joyce Ninen asked if “floor area” could be equal to “gross floor area.” Mr. Dolan explained that a footnote could be added to the parking requirements which stated, “see gross floor area”.

Ms. Kester described the proposed amendment related to the ED and PCD-BP changes. The commission members discussed the ED and PCD-BP zones; Pierce County parking standards; and requirements for ministorage and cemetery parking. Mr. Pasin discusses his concern with attaching parking requirements to gross floor area standards. Commission members discuss the addition of “gross” in front of “floor area.” Ms. Ninen and Mr. Atkins agreed. Mr. Fisher and Mr. Pasin stated they would like to revisit basing parking requirements on “gross floor area” at a later date. Commissioner Dick Allen had no concerns with inserting “gross” in front of “floor area” however he would like to revisit the overall parking requirement issue as well. Mr. Dolan explained that if no action were taken on the staff’s proposal that the planning staff would continue to interpret the code as it had been previously interpreted, explaining that new cases would be reviewed on an individual basis. Commission members continued the discussion on parking requirements. Mr. Pasin asked when the gross floor area issue could be revisited by the Commission members. Mr. Dolan stated that the Planning Commission agenda had been booked out and it may be awhile before the issue could be looked at. Mr. Pasin agreed to insert “gross” in front of “floor area;” however, he suggested that the overall parking requirements should be reviewed as soon as possible. Mr. Atkins agreed.

Stormwater Manual Update: Ms. Kester summarized the proposed updates to the Stormwater Manual suggesting adding the definition in the zoning code to be consistent with the new manual. Mr. Fisher discussed porous paving and its long term use. Ms. Kester stated that it worked well long term if properly maintained. Mr. Pasin asked for clarification on the terms concrete vs. porous asphalt. Mr. Atkins clarified. Commission members discussed porous asphalt. Mr. Pasin asked if a recommendation would be required this evening. Ms. Kester replied no, explaining that staff would like a final decision by May.

PUBLIC HEARING:

Call to Order: 6:00 pm

City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335

Zone 09-0003 – Sehmel Drive Area Wide Rezone

Mr. Atkins summarized the proposed area-wide rezone providing a description of the area, the uses and the total amount of acres involved.

Ms. Kester summarized the proposal, discussing the previous zoning designation and the proposed zoning designation. Ms Kester discussed the current uses of the properties noting

that of the 18 acres, 13.5 currently held a mini-storage and industrial facilities and the remaining 4.5 were used for single family residences. Ms. Kester discussed the nonconforming use rights of the single family residences. Mr. Atkins asked what the difference had been in Pierce County zoning and City of Gig Harbor zoning. Ms. Kester offered the explanation. Mr. Allen asked for clarification of legal nonconforming use regulations and possible expansion of the existing structures. Ms. Kester explained.

Dino Formiller, 2641 64th St, Gig Harbor, WA- Mr. Formiller discussed an e-mail from the previous Community Development Director John Vodopich addressing the change in zoning designation from EC to ED, stating that Mr. Vodopich did not anticipate any problems with a change in designation only that a public hearing would be necessary. Mr. Formiller expressed his concern that the property had been designated single family residential at the time of annexation and was unsure why it was not designated ED at the time of annexation. Mr. Atkins asked if the proposed rezone would be to Mr. Formiller's benefit. Mr. Formiller agreed.

Carl Schuler, Gig Harbor North Self Storage LLC, P.O Box 3683, Silverdale, WA 98383: Mr. Schuler is a partner in the mini-storage complex subject to the rezone; he discussed his surprised that the property had been zoned as R-1. Mr. Schuler discussed the site, the greenbelt surrounding the property and his hope that the rezone to ED will move forward, explaining his concern that an R-1 designation would be inappropriate.

Paul Garrison, P.O. Box 1021, Wauna WA 98359: Mr. Garrison discussed the nonconforming use section of the GHMC and was concerned that it indicated that nonconforming uses should go away. Ms. Kester explained nonconforming use and structures standards. Mr. Garrison urged the Planning Commission to move forward with the rezone.

Public Hearing closed at 6:16 pm

Ms. Ninen stated she would be in favor of the rezone to ED based on the public's comments supporting the rezone. Mr. Pasin expressed his concern for the single family residences currently in the zone, asking how the City's zone transition standards for future development would be applied. Ms. Kester discussed the application of the zone transition standards. Mr. Fisher pointed out that the area had existed for a long period of time with a mix of single family and industrial uses and felt that the rezone would be appropriate. Mr. Allen also agreed that the rezone would be appropriate.

MOTION: Move to recommend the area-wide rezone for the Sehmel Drive Area (Zone 09-0003) to ED Zone. Ninen / Fisher – motion passed.

Ms. Kester reviewed the remaining process for the rezone.

WORK STUDY SESSION:

Ms. Kester provided Mr. Atkins with the notice of recommendation for the previously proposed ED and PCD-BP amendments for his signature, Mr. Atkins signed the recommendation.

Off-Street Parking Requirements Clarification:

Mr. Atkins returned to the Off-Street Parking Requirements Clarification discussion. Mr. Atkins suggested taking each item one at a time beginning with Gross Floor Area. Mr. Atkins discussed the insertion of the word “gross” before “floor area” into the GHMC, indicating that there had been an agreement in the previous discussion and asking for a motion.

MOTION: To recommend approval of the change to the ordinance inserting “gross” in front of “floor area” where it appears in the parking matrix. Ninen / Fisher – Motion passed

ED and PCD-BP intent and allowed uses: Mr. Atkins asked Ms. Kester to review the new items added as a result of the new uses proposed in the ED and PCD-BP amendments. Commission members discussed business services and ancillary services, parking standards and shared parking. Ms. Kester recommended that the requirement remain at 1 stall per 300 square feet of gross floor area and that the Planning Commission revisit the overall parking requirement issue at a later date. Mr. Atkins agreed.

Cemeteries: No further discussion

Ancillary Services: Ms. Kester discussed the proposed parking requirement of 1 stall per 300 square feet of gross floor area, stating that perhaps no parking is required do to very little pass-by use. Mr. Dolan stated that ancillary services are primarily for employees, suggesting that each case could be looked at individually and the decision on parking made by the Director. Mr. Atkins added that a lot would depend on the location and the operation. Mr. Pasin disagreed, stating that he felt the decision should not be left up to the director. Mr. Dolan suggested looking at what other jurisdictions propose. Mr. Atkins and Ms. Ninen agreed. Ms. Kester agreed to return and present the Commissioners with a breakdown from other jurisdictions. Commission members agreed.

Stormwater Manual Update: Mr. Dolan discussed porous paving. Mr. Atkins addressed the public concerns that grass pavers had not been pedestrian friendly, asking if staff had any discussion on the subject. Ms. Kester indicated that some citizens had expressed concern that grass in grasscrete pavers did not grow well. Commission members discussed porous paving and grass pavers. Mr. Atkins asked for a motion.

MOTION: Move to recommend the proposed amendment to the Off-Street Parking Requirements Design Standards to include the porous paving. Ninen / Fisher – Motion passed.

Ms. Ninen explained that the amendment also include the new definition for porous paving in section 17.04.675.

Ms. Kester stated that the Commission members could revisit the parking standards at the next meeting and that she would also provide an update on the Planning and Building Committee recommendations on parking widths.

Discussion Items:

Ms. Kester updated commission members on recent passing of the Gross Floor Area Amendment and Shared Parking Amendment by the City Council. She discussed the 2009 Comprehensive Plan docket scheduled for public hearing before the City Council on May 11th, 2009. Ms. Kester discussed the Height Restriction Area Amendment explaining that Council members had requested a work study session on the item. Ms. Kester discussed the Marina Parking Amendments that would be before Council members in June or July of this year.

Mr. Pasin asked if the Neighborhood Design Area program had been scheduled to go before the City Council. Ms. Kester stated that it had been placed on the Council's work program agenda.

MOTION: Move to adjourn at 7:25 pm. Ninen / Fisher – Motion passed.

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
May 7, 2009
Gig Harbor Civic Center**

PRESENT: Commissioners: Harris Atkins, Jim Pasin, Jeane Derebey, Michael Fisher and Dick Allen. Commissioners Absent: Joyce Ninen and Jill Guernsey. Staff Present: Jennifer Kester and Tom Dolan. Guests Present: Carl Carlson, Ann Fiermier

CALL TO ORDER: Chair Harris Atkins called the meeting to order at 5:02 p.m.

APPROVAL OF MINUTES:

Minutes for the April 16, 2009 meeting will be ready for distribution by the next meeting.

City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 –
ZONE 07-0006 – Mixed Use District Overlay (MUD) Amendments and Area-Wide Rezone

Ms. Kester presented the draft Notice of Recommendation and vision statement she prepared for the Planning Commission's review. The commission discussed the vision statement and made several changes to the draft language. The commission decided to look at the intent statement of the new MX zone at the May 21st meeting to ensure that the intent statement matches their vision. The commission members were asked to bring their proposed changes to the May 21st meeting.

City of Gig Harbor, 3510 Grandview Street, Gig Harbor WA 98335 –
ZONE 09-0004 – Off-Street Parking Requirements

The commission continued their review of the amendments and clarifications proposed to the off-street parking requirements resulting from recent zoning code amendments and potential future amendments. They discussed business and ancillary service parking requirements and decided the parking requirement should be consistent with the professional office and personal services parking requirements in order to make change of use tenant improvements simpler. The commission decided to leave the staff proposed requirements for cemeteries as is and directed staff to discuss the requirements with Haven of Rest.

The commission voted to recommend at public hearing the following parking standards:

Business Services: 1 stall per 300 sq.ft. of gross floor area
Ancillary Services: 1 stall per 300 sq.ft. of gross floor area
Industrial uses: 1 stall per 1000 sq.ft. of gross floor area

Ministorage: 2 stalls at the office and parking allowed in front of the units for loading and unloading.

Cemeteries: 1 stall per 300 sq.ft. of gross floor area of office space; 1 stall per every 4 seats in the indoor assembly areas.

The commission also directed staff to prepare a memo to the Planning and Building Committee of the Council requesting that the committee place an item on the commission's work program to conduct a comprehensive review of parking requirements.

Future Actions:

- Staff to prepare a memo to the Planning and Building Committee regarding a comprehensive review of the parking standards for the Chair's signature.

ADJOURNMENT

**City of Gig Harbor Planning Commission
Minutes of Work-Study Session
May 21, 2009
Gig Harbor Civic Center**

PRESENT: Commissioners: Chair Harris Atkins, Dick Allen, Joyce Ninen, Michael Fisher, Jim Pasin Jill Guernsey and Jeane Derebey.

STAFF PRESENT: Tom Dolan, Jennifer Kester and Cindy Andrews

CALL TO ORDER: 5:05 pm

APPROVAL OF MINUTES:

MOTION: Move to approve the minutes of April 16th, 2009 as corrected.
Pasin / Fisher – Motion passed.

Chairman Harris Atkins opened the meeting by discussing the request by developer Randy Boss to address Commission members. Mr. Boss had proposed a text amendment related to the Olympic Town Center development. Mr. Boss discussed the proposed development the associated text amendment and the workload of the Commission members and city staff. Mr. Boss explained that he would like to hold a meeting with Commission members and the public for input on the proposed project and the forward the comments on to the City Council members. Chairman Atkins polled the commission members regarding an additional public meeting. The commission agreed that if the Council directed them to hold special meeting to review Mr. Boss' request they would schedule special meetings.

WORK-STUDY SESSION:

1. MX / MUD Recommendation:

Mr. Atkins discussed the MX /MUD Recommendation. Senior Planner Jennifer Kester suggested that the members review the staff report and the 4 intent statements that had been submitted earlier in the day by Harris Atkins, Michael Fisher, Jim Pasin and Joyce Ninen. Commission members reviewed and discussed the staff report and the intent statements.

Chairman Atkins called for a break at 5:55 pm before the opening of the public hearing.

PUBLIC HEARING:

1. **City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335** –
Off Street Parking Requirements (Zone 09-0004)

CALL TO ORDER: 6:05 pm

Chairman Atkins called the public hearing to order, summarizing the proposed amendments to the off-street parking requirements. Senior Planner Jennifer Kester outlined recent zoning code amendments and future planned amendments that needed to be reflected in the Off-Street Parking Requirements, specifically updating the definition of gross floor area, adding business services and ancillary services to the parking matrix, adding cemeteries to the parking matrix and allowing porous paving to implement the low impact development guidelines of the new stormwater manual.

Mr. Atkins opened the hearing for public comment.

Paul Garrison, 8306 131st Street NW, Gig Harbor – Mr. Garrison discussed parking stall size explaining that parking stall sizes in the city tended to vary suggesting that a standard size should be included in the amendment.

Ms. Kester explained the current parking width and length requirements.

Ms. Kester discussed an e-mail that she had received from Scott Wagner a property owner near the Purdy area. Ms. Kester pointed out that Mr. Wagner, in his e-mail, agreed with the amendments and they appeared to him to be fair. Ms. Kester noted that all of the property owners in the affected area had been mailed notices regarding the public hearing and only two comments had been received.

Ms. Ninen asked Mr. Garrison for the location of his property. Mr. Garrison responded with the property location. Ms. Ninen asked Mr. Garrison if he would be in favor of the amendment. Mr. Garrison responded yes.

Chairman Atkins closed the public hearing at 6:12 pm

Mr. Atkins would like to add the additional language “within the site” to the Cemeteries section of the staff report on the amendment to read “on the side of the road within the site”

Mr. Atkins asked if commission members would be ready to make a motion. Mr. Pasin suggested taking a minute to review items 3 and 4, Cemeteries and the Stormwater Manual

MOTION: Move to approve the Off-Street Parking Requirements as described in the staff report. Ninen / Guernsey – Motion passed 7-1 Mr. Pasin abstained.

WORK-STUDY SESSION:

2. MX / MUD Recommendation:

Mr. Atkins asked commission members for suggestions on how to approach the intent statements. Ms. Ninen began by stating that she preferred Mr. Atkins outline method suggesting that some of the sentences could be consolidated from the other proposals and added to Mr. Atkins proposal. Ms. Guernsey agreed suggesting adding to the language of statement B-3 of Mr. Atkins proposal to read: in an attractive and desirable setting, encourage links among uses, encourage people to walk from one use to another and enjoy and socialize in an attractive outdoor setting. Ms. Ninen liked Mr. Pasin's 2nd paragraph suggesting that it be added to Mr. Atkins proposal as A-3. Mr. Atkins agreed adding that he would also like to see paragraph #3 of Mr. Pasin's statement added as A-4 of his outline. Ms. Kester reviewed items A and B, the purpose and standards statements.

Mr. Atkins suggested adding the second sentence of paragraph #2 and the landscape portions of paragraph #3 from Mr. Pasin's statement to his outline. Mr. Atkins and Ms. Guernsey suggested adding portions of paragraph #4 from Mr. Pasin's intent statement to A-4 of Mr. Atkins outline. Ms. Kester and Commission members reviewed and made additional changes to item A of the purpose statement of Mr. Atkins outline. Ms. Ninen suggested additions to A-2 "reduce vehicle trips by providing interconnectivity". Ms. Derebey suggested removing the language 'reduce the trips for daily shopping' and inserting "provide opportunity to work close to home or live above one's business." Ms. Kester reviewed item A, the purpose statement. Ms. Kester suggested removing "to ensure different uses are adequate" and moving it to B-4 of the standards statements. Ms. Kester and Commission members reviewed the changes. Ms. Derebey suggested in item B-3 adding "encourage people to walk from one use to another". Ms. Kester reviewed the changes to B-3. Commission members discussed changes to B-1 adding the statement, "encourages mixed use buildings and development through incentives. Ms. Kester reviewed B-2 suggesting it was too similar to the newly created B-4 asking if commission members would like to keep B-4. Commission members agreed and made additional changes to B-4. Ms. Kester read B-2 revisions and moved on to B-3. Ms. Kester and Commission members made changes to B-3, discussing desirable settings and links among uses. Commission members continued to make changes to B-2, B-3 and B-4.

Ms. Kester discussed Item B-1 explaining that she felt that additional work would be needed on the performance standards. Commission members continued to work on the standards for item B-1. Ms. Guernsey suggested in A-1 removing the "an" in provide an area to read "provide area that may offer". Ms. Ninen suggested it could read simply "provide areas". Ms. Ninen asked in A-1 do we want a balance or variety. Mr. Atkins suggested balance as opposed to variety while



Subject: Ordinance – Revising Business Hours for the Civic Center

Proposed Council Action:

Motion to adopt this ordinance establishing business hours for the Civic Center to be set by resolution at the second reading.

Dept. Origin: Administration

Prepared by: Molly Towslee, City Clerk *mt*

For Agenda of: August 10, 2009

Exhibits: Ordinance

Initial & Date

Concurred by Mayor: *CLH 4/7/09*

Approved by City Administrator: _____

Approved as to form by City Atty: *approve by e-mail*

Approved by Finance Director: *CR 8/09*

Approved by Department Head: _____

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

INFORMATION / BACKGROUND

Chapter 2.08 of the Gig Harbor Municipal Code sets the hours of operation for the Gig Harbor Civic Center. In order to address economic conditions, the building may be closed to the public during mandatory furlough days.

It would be more efficient to have the ability to set the hours of operation by Resolution than by ordinance.

FISCAL CONSIDERATION

The closure of the Civic Center during mandatory furlough days will result in savings in electricity, natural gas, and janitorial services. There is no fiscal impact of being able to set the business hours by resolution rather than by ordinance.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Adopt this ordinance establishing business hours for the Civic Center to be set by resolution at the second reading.

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF GIG HARBOR,
WASHINGTON, ESTABLISHING THAT REVISIONS TO
BUSINESS HOURS FOR THE GIG HARBOR CIVIC CENTER
BE SET BY RESOLUTION.**

WHEREAS, Chapter 2.08 of the City of Gig Harbor Municipal Code, City Hall, sets the hours of operation for the Gig Harbor Civic Center; and

WHEREAS, in order to address economic conditions the Civic Center may be closed certain days; and

WHEREAS, it is desirous to set the hours of operation by resolution rather than by ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Gig Harbor, Washington as follows:

Section 1. Section 2.08.010 of the City of Gig Harbor Municipal Code is hereby amended to read as follows:

2.08.010 City business hours. The Civic Center hours of operation will be set by resolution.

Section 2. Effective Date. This ordinance shall take effect and be in full force and effect five (5) days after its passage, approval and publication as required by law.

PASSED by the Council of the City of Gig Harbor, this 14th day of September.

APPROVED:

MAYOR CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 07/23/09
PASSED BY THE CITY COUNCIL: 09/14/09
DATE PUBLISHED: 09/16/09
DATE EFFECTIVE: 09/21/09



Subject: First Reading-Update existing
Inattention to Driving Ordinance,
GHMC 10.04.011

Proposed Council Action: Adopt fine
change to existing ordinance revising fine
change at second reading.

Dept. Origin: Court
Prepared by: Paul Nelson
For Agenda of: August 10, 2009

Exhibits:

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

Table with 4 columns: Expenditure Required, Fiscal Consideration, Amount Budgeted, Appropriation Required. Values are \$0.

INFORMATION / BACKGROUND

The current fine for inattention to driving is \$100. Increasing the fine to \$250 will bring it more in-line with other comparable driving offenses.

Inattention to Driving isn't far removed from Negligent Driving in the Second Degree, 46.61.525, \$250.

Neg. Driving 2nd: "...operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property." Negligent means- the failure to exercise ordinary care, and is the doing of some act that a reasonable careful person would not do under the same or similar circumstances.

10.04.011 Inattention to driving.

It is unlawful for any person to operate a vehicle in an inattentive manner over the streets of the city. For the purpose of this section, "inattentive" means the operation of a vehicle upon the streets of the city in such a manner so as to fail to maintain a careful lookout for persons or property in the direction of travel. Any person operating a vehicle in an inattentive manner is guilty of an infraction, which is punishable in an amount of \$250, notwithstanding the penalty schedule outlined in GHMC 1.16.010D.3. (Ord. 460, 1985; Ord. 416, 1982)

Proposed fine: \$250 (only change is a proposed fine increase from \$100 - \$250)

On average the police department cites this charge less than 30 times a year.

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

Finance & Safety Committee Meeting considered on June, 15. The committee recommendation was to adopt the fine increase to \$250.

RECOMMENDATION / MOTION

Move to: Adopt ordinance revising fine for inattention to driving at Second Reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO TRAFFIC INFRACTIONS; AMENDING SECTION 10.04.011 OF THE GIG HARBOR MUNICIPAL CODE TO INCREASE THE PENALTY FOR INATTENTION TO DRIVING; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Gig Harbor currently imposes a penalty of \$100 for the infraction of inattention to driving under GHMC 10.04.011; and

WHEREAS, the City desires to increase the penalty to \$250 for the infraction of inattention to driving under GHMC 10.04.011; and

WHEREAS, RCW 46.63.110(1) provides that no penalty shall exceed \$250 for a traffic infraction unless specifically authorized by statute; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on _____, 2009; and

WHEREAS, on _____, the City Council adopted this Ordinance at second reading during a regular City Council meeting; Now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment. Section 10.04.011 of the Gig Harbor Municipal Code is hereby amended to read as follows:

10.04.011 Inattention to driving.

It is unlawful for any person to operate a vehicle in an inattentive manner over the streets of the city. For the purpose of this section, "inattentive" means the operation of a vehicle upon the streets of the city in such a manner so as to fail to maintain a careful lookout for persons or property in the direction of travel. Any person operating a vehicle in an inattentive manner is guilty of an infraction, and which is punishable in accord with GHMC 1.16.010D.3. in the amount of \$250, notwithstanding the penalty schedule outlined in GHMC 1.16.010.D.3.

Section 2. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the

application of the provision to other persons or circumstances by a court of competent jurisdiction shall not be affected.

Section 3. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ____ day of _____, 2009.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck, City Attorney

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:



**Subject: First Reading-Adopt
Sexual Motivation Statute**

Dept. Origin: Police/Court

Prepared by: Paul Nelson

Proposed Council Action:

**For Agenda of: August 10, 2009
Exhibits:**

**Adopt ordinance adopting RCW 9.94A.835
the Sexual Motivation Statute, at second
reading.**

Initial & Date

Concurred by Mayor:

CLH 8/05/09

Approved by City Administrator:

Approved as to form by City Atty:

✓ EMAIL

Approved by Finance Director:

Approved by Department Head:

PNW

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

INFORMATION / BACKGROUND

Example of purpose: Recently the GHPD had a case which resulted in an arrest of an individual for indecent liberties – a felony. The victim in this case was held down and fondled at her work place. The case was referred back from Pierce County Superior Court to Gig Harbor Municipal Court. As our court is a court of limited jurisdiction it can only hear, try, and sentence misdemeanor/gross misdemeanor charges.

The charge that should have been brought was Assault 4th degree with sexual motivation. As the city has not adopted the sexual motivation statute, RCW 9.94A.835, nor the definition of sexual motivation, RCW 9.94A.030 (47), the only charge available was Assault 4th degree.”

The proposed ordinance adopts RCW 9.94A.835.

Sexual Motivation, RCW 9.94A.835

*(1) The prosecuting attorney shall file a special allegation of sexual motivation in every criminal case, felony, gross misdemeanor, or misdemeanor, other than sex offenses as defined in *RCW [9.94A.030\(38\)](#) (a) or (c) when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify a finding of sexual motivation by a reasonable and objective fact finder.*

*(2) In a criminal case wherein there has been a special allegation the state shall prove beyond a reasonable doubt that the accused committed the crime with a sexual motivation. The court shall make a finding of fact of whether or not a sexual motivation was present at the time of the commission of the crime, or if a jury trial is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether or not the defendant committed the crime with a sexual motivation. This finding shall not be applied to sex offenses as defined in *RCW [9.94A.030\(38\)](#) (a) or (c).*

(3) The prosecuting attorney shall not withdraw the special allegation of sexual motivation without approval of the court through an order of dismissal of the special allegation. The court shall not dismiss this special allegation unless it finds that such an order is necessary to correct an error in the initial charging decision or unless there are evidentiary problems which make proving the special allegation doubtful.

RCW 9.94A.030 (47)

"Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

FISCAL CONSIDERATION: N/A

BOARD OR COMMITTEE RECOMMENDATION: N/A

RECOMMENDATION / MOTION

Move to: Consider ordinance adopting RCW 9.94A.835 and approve at second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO CRIMES RELATING TO PUBLIC MORALS; ADDING A NEW SECTION 9.30.100 TO THE GIG HARBOR MUNICIPAL CODE TO ADOPT BY REFERENCE RCW 9.94A.835; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Gig Harbor desires to adopt by reference RCW 9.94A.835, which provides that the prosecuting attorney shall file a special allegation of sexual motivation in every criminal misdemeanor or gross misdemeanor case other than sex offenses as defined in RCW 9.94A.030; and

WHEREAS, the special allegation of sexual motivation must be proved beyond a reasonable doubt; and

WHEREAS, the prosecuting attorney shall not withdraw the special allegation of sexual motivation without approval of the court or an order of dismissal; and

WHEREAS, proof of sexual motivation beyond a reasonable doubt may be considered as an aggravating circumstance under RCW 9.94A.537 to impose a sentence above the standard sentencing range; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on _____, 2009; and

WHEREAS, on _____, the City Council adopted this Ordinance at second reading during a regular City Council meeting; Now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment. Section 9.30.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

As used in this chapter, the following words and terms have the meaning set forth in this section:

A. "Expressive dance" means any dance which, when considered in the context of the entire performance, constitutes an expression of theme, story, or ideas, but excluding any dance such as, but not limited to, common barroom type topless dancing which, when considered in the context of the entire performance, is presented primarily as a

means of displaying nudity as a sales device or for other commercial exploitation without substantial expression of theme, story or ideas, and the conduct appeals to the prurient interest, depicts sexual conduct in a patently offensive way and lacks serious literary, artistic, political or scientific value.

B. "Exposed" means the state of being revealed, exhibited or otherwise rendered to public view.

C. "Person" means and includes natural persons of either sex, firms, corporations and all associations of natural persons, whether acting by themselves or by an agent, servant or employee.

D. "Public exposure" means the act of revealing, exhibiting or otherwise rendering open to public view.

E. "Public place" means any place in which the general public has a right to be present, and any area open to public view, whether or not conditioned upon payment of a fee, and includes, but is not limited to, buildings open to the general public, whether or not access is restricted according to age, including those in which food and drink is served, or entertainment provided.

F. "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party.

G. "Sexual intercourse":

1. Has its ordinary meaning and occurs upon any penetration, however slight; and
2. Also means any penetration of the vagina or anus, however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; and
3. Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

H. "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

I. "Unlawful public exposure" means:

1. A public exposure of any portion of the human anus or genitals;
2. A public exposure of any portion of the female breast lower than the upper edge of the areola; or

3. A public exposure consisting of touching, caressing or fondling of the male or female genitals or female breasts, whether clothed or unclothed; or

4. A public exposure consisting of masturbation, or of urination or defecation in a place other than a restroom.

Section 2. New Section. Section 9.30.100 of the Gig Harbor Municipal Code is hereby added to read as follows:

9.30.100 Sexual Motivation - Special Allegation

The following state statute is adopted by reference:

RCW 9.94A.835 Special Allegation - Sexual Motivation - Procedures.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances by a court of competent jurisdiction shall not be affected.

Section 4. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ____ day of _____, 2009.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck, City Attorney

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO: