

Gig Harbor City Council Meeting

May 12, 2014

5:30 p.m.



**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
Monday, May 12, 2014 – 5:30 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of City Council Minutes Apr. 28, 2014.
2. Liquor License Action: Special Occasion – Coastal Heritage Alliance/Skansie Bros Netshed.
3. Resolution No. 963 – Surplus Property / Chalet Furniture.
4. Right-of-Way Dedication - Bellesara Development / Rush Residential, Inc.
5. Approval of Payment of Bills May 12, 2014: Checks #75358 through #75472 in the amount of \$620,798.12.
6. Approval of Payroll for the month of April: Checks #7257 through #7268 and direct deposits in the amount of \$358,092.54.

OLD BUSINESS: None scheduled.

NEW BUSINESS:

1. Pierce County Flood Control District Interlocal Agreement.
2. Public Hearing and Adoption of Ordinance No.1293 - DNR Annexation of the Bay.

STAFF REPORT:

Dennis Richards, City Administrator.

PUBLIC COMMENT:

MAYOR'S REPORT / COUNCIL COMMENTS:

ANNOUNCEMENT OF OTHER MEETINGS:

1. Public Works Committee: Thu. May 15th at 3:00 p.m.
2. Gig Harbor 2030 Open House – Thu. May 15th 5:00 p.m. – 7:00 p.m.
3. Joint City Council / Parks Commission Worksession Mon. May 19th at 5:30 p.m.
4. Civic Center Closed for Memorial Day: Mon. May 26
5. Council / Staff Pre-Budget Retreat: Tue. May 27th at 3:00 p.m.
6. City Council Meeting on Tuesday, May 27th at 5:30 p.m.

EXECUTIVE SESSION: For the purpose of discussing property acquisition per RCW 42.30.110(1)(b).

ADJOURN:

MINUTES OF GIG HARBOR CITY COUNCIL MEETING – April 28, 2014

PRESENT: Councilmembers Malich, Arbenz, Perrow, Lovrovich, Payne, and Mayor Pro Tem Ekberg. Mayor Guernsey and Councilmember Kadzik were absent.

CALL TO ORDER: 5:30 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of City Council Minutes Apr. 14, 2014.
2. Liquor License Action: a) Lele's – Change in Corporation; b) Application in lieu of current privilege: Shell Food Mart/Gig Harbor Mini Mart.
3. Receive and File: a) Pierce Transit Proposed Bylaws Amendment; b) Operations Committee Minutes Apr. 16, 2014; c) Quarterly Finance Report; d) Minutes of Salary Commission – Apr. 22, 2014.
4. Re-appointment to Gig Harbor Arts Commission.
5. Second Reading of Ordinance 1291 – Amending GHMC Ch. 2.51 Changing the Name of the Public Works and Public Projects Committee to Public Works Committee.
6. Second Reading of Ordinance No. 1292 – Amending Section 9.26.040 GHMC to Incorporate Provisions of State Law Regarding Cyberstalking.
7. Web Design Updates – Sitecrafting.
8. WWTP On-Call Engineering Services – Consultant Services Contract.
9. DNR Aquatic Lands Right of Entry Agreement – Jerisich/Skansie Park Temporary Floats.
10. Resolution No. 958 – Surplus Equipment I.T.
11. Postage Meter Lease Agreement.
12. 2014 Pavement Maintenance & Repair Consultant Services Contract.
13. Approval of Payment of Bills Apr. 28 2014: Checks #75268 through #75357 in the amount of \$445,909.49.

MOTION: Move to adopt the Consent Agenda as presented.
Payne / Arbenz - unanimously approved.

PRESENTATIONS:

1. COPS Volunteer Recognition. Lt. Kelly Busey stated that COPS stands for "Citizens Offering Police Support" as he introduced seven of the eight members of the volunteer program. He recognized each member by giving a brief explanation of the help they provide and the hours they have volunteered over the years:

Ken McCray – 722 hours; Tony Giammarinaro - 455 hours; Ed Meyer – 345 hours; Larry Geringer – 531 hours; Dennis Scahumann – 257.5 hours; Diane Bertram – 325 hours; and Phil Regnart – 1,752 hours. Mort Altman, who couldn't be present, has logged 326 hours.

Mayor Pro Tem Ekberg thanked the COPS volunteers for their service to the City of Gig Harbor.

2. Gig Harbor Kayak and Canoe Racing Team. Alan Anderson thanked the city for its support, and said that he understands that we must weigh the impact such a program has on our parks and our harbor. He made the following points: 1) the team is a positive resource for the youth in this community; 2) the program is having a growing impact on para-athletes who are coming here to train; 3) the teams bring international attention and visitors to this town; and 4) it is a great story line in the maritime history of Gig Harbor. Mr. Anderson provided an overview of the recent activities and awards won by the various teams then he finalized by thanking the city for saving the programs by allowing a temporary home at the Skansie Park, adding that they are working with stakeholders for a community based home. He said that he is 12 years into the project and plans to see this through and asked for the city's continued support.

3. Forterra Presentation. Jordan Rash, Conservation Director, explained that this organization works with and in communities across the region to steward park and recreation areas, conserve lands (farms, forests, shoreline, parks, high-quality habitats), and develop policies to create more sustainable communities. He gave an overview of conservation activities over the years which he characterized as having an impact not only on the environment, but also on the economy and the communities in which they work.

OLD BUSINESS:

1. Second Public Hearing and Resolution No. 963 - Harbor Hill Development Agreement Amendment No. 2. Planning Director Jennifer Kester presented the background for this resolution authorizing a second amendment to the Harbor Hill Development Agreement that will 1) all the expansion of the M-2 parcel in support of the Heron's Key project; 2) update the infrastructure construction sequencing; and 3) allow model homes to begin construction prior to the completion of the infrastructure improvements.

Mayor Pro Tem Ekberg opened the public hearing at 6:10 p.m. No one came forward to speak and the hearing closed.

MOTION: Move to approve and authorize Resolution No. 963 as presented.
Payne / Lovrovich – five voted in favor. Councilmember Perrow abstained due to a conflict.

NEW BUSINESS:

1. Resolution No. 959 – Apply for RCO Grant for Maritime Pier Fuel Dock. Mayor Pro Tem Ekberg announced that although this is not a public hearing, staff will present the background for this resolution, Council will ask questions, and then he will open it up to the public to speak before deliberation.

Public Works Director Jeff Langhelm presented this Resolution to apply for a boating

infrastructure grant through the Washington State Recreation and Conservation Office. This project would significantly expand the float area, the linear footage of moorage space, and add a fuel facility located at the Maritime Pier. He explained that the schematic of the existing pier and the proposed new configuration was prepared by a volunteer committee of community members. This design would provide overnight moorage for about 15-20 boats; the details for the facility and application materials are still being worked on, and just today staff received the anticipated cost breakdown of 1.6 million dollars for the project. He continued to say that the previous grant writers have removed themselves from the application process; therefore, if the resolution is adopted tonight, Engineering Staff will need to complete the application. If not adopted tonight, we could apply for the grant in the next cycle in 2016.

Councilmember Malich asked for clarification on the different types of grants. Mr. Langhelm explained that RCO has many available grant applications and the boating infrastructure (BIG) is just one of many.

Councilmember Arbenz asked the amount of the grant. Mr. Langhelm responded that 1.4 million is the maximum, but we would require matching funds of 25%; the city would have to provide \$400,000 towards the project.

Councilmember Perrow asked if the existing city float that would be relocated would be subject to the RCO constraints. Lita Dawn Stanton responded that it would remain under the city purview.

Councilmember Payne asked for clarification on what portion of the existing float is being relocated, the timing of when we could be under construction if awarded the grant, and the level of competition for this grant. Lita Dawn Stanton responded that the grant cycle is in 2015 and it would take another 18-24 months to obtain permits. She also explained that in her research, fuel facilities have not been funded in Washington State; the Port of Olympia was unsuccessful in 2012, but will try again. This is a highly competitive grant on the national level, she said.

Councilmember Payne then asked if it is feasible, in lieu of the letter from the grant writer, for staff to do an acceptable job of completing the grant by this Thursday. Mr. Langhelm responded that the Engineering Staff has never made this type of application, but they would give it their best try if Council adopts the resolution. Councilmember Payne then asked how we ended up against the deadline without the grant being written. Mr. Langhelm said that his staff has been involved in one or two meetings with the volunteer committee in the past few months, but they have no design control and have been waiting on information from the committee. The group pushed hard, but pulling all the pieces of the puzzle together in such a short time frame has been difficult. He commented that the next agenda item before Council is another RCO grant for the Ancich property that staff has been working on for well over a year.

Councilmember Lovrovich said if we approve the resolution, Council is signing off on a provision that states we have provided appropriate opportunity for public comment prior

to the application being submitted. She asked how that could be accomplished before Thursday. Mr. Langhelm responded that this is the only time this project has been presented to the public. Councilmember Lovrovich stated that because we are changing the intent of a public property she would like assurance that the public process takes place prior to moving forward.

Councilmember Arbenz asked if the application can be withdrawn if public comment persuades us that this isn't something we should pursue. Mr. Langhelm said there is no application fee; if we elect to not move forward in this cycle, we would stop and wait for the next cycle with no loss incurred. We have some information that we can continue to build upon and go through more of the public process and design process. He said he didn't know what would happen if we applied and then wanted to withdraw. Councilmember Arbenz voiced concern that if we haven't heard public comment, then we don't know if this is the process the citizens want to go through. This is the first we are hearing about this, over the last few days.

Mr. Langhelm said that Item 9 of the resolution states that we provided appropriate opportunity for public comment on this application, which refers to what is being submitted on Thursday.

Mayor Pro Tem Ekberg asked if we move forward, if we would have to remove Item 9 because we haven't done that. Ms. Stanton explained that as a requirement of the grant application, we can format to the city's control, but we cannot change the language in the resolution.

Councilmember Perrow asked when staff began to work on the BIG grant application, and when the funding source was identified. Mr. Langhelm said he wasn't involved in the committee meetings, but he believes that it was the end of February or beginning of March.

Councilmember Lovrovich commented that RCO grants cannot be used for commercial endeavors. She asked if the fuel facility is designed to accommodate larger boats, whether the commercial fishermen can fuel there, and whether a commercial boat could come and tie up in the off season. Ms. Stanton said she received feedback from RCO and it is possible for commercial vessels to fuel on the site. Mr. Langhelm added that correspondence received from the RCO office states that commercial usage can occur at the facility, but it cannot be advertised as a commercial facility.

Councilmember Malich asked if we apply for the grant, if we are obligated to stay with this design. Ms. Stanton explained that the evaluation is on the features of the site; therefore if you promise RCO you will construct a fuel facility and a certain number of slips, you are evaluated on that criteria. An important part of the grant is the number of slips you promise you can build. We haven't gone through any permit process or any engineering review regarding constructability and so those are unanswered questions.

Councilmember Payne asked the minimum number of slips that would "get us in the

door.” Ms. Stanton said she can’t answer that, but she knows the minimum size has to be 26 feet. Grants that have been successful in the past run 20-35 on average, and then go up from there, she added.

Councilmember Lovrovich asked if we submit this application with the fuel delivery system of in-ground tanks, whether we have to stay with that design. She commented that alternative options for fueling have not been addressed, and described the process in Anacortes in which you pull up to the dock and call and the fuel truck comes down to deliver the fuel, and the city receives \$.06 per gallon delivered. Ms. Stanton said she is unsure if you are approved for a certain budget and features whether or not that can be negotiated.

Councilmember Arbenz asked legal counsel if we can be truthful when we state we have provided appropriate public comment if we adopt this resolution tonight after accepting public comment. City Attorney Angela Summerfield responded that it is more of a factual rather than a legal question. She said she has not seen the public opportunity that is probably envisioned here and that it is her understanding that we cannot submit the resolution without Item 9.

Mayor Pro Tem Ekberg asked if anyone from the audience would like to comment.

Dave Morris – 2809 Harborview Drive. Mr. Morris said he has been studying this dock in its current configuration for a couple of years. He was identified as a stakeholder when it was formulated and has since been a volunteer, and has helped others to come up with superior, multiple uses for this facility in addition to preserving the access for commercial fishing boats to load and off-load. He said that back in December he was asked by Mayor Guernsey to consider being Chair of this Maritime Pier Extension Committee and he agreed to do so without knowing what he was getting into. We started meeting in January through April of this year as a volunteer committee, and really studying different issues, configurations, tidal currents, and fuel delivery systems, he said. Besides himself, members of the committee include Peter Stanley, Gary Glein, Jill Guernsey, Kelly Busey, GHPD, Gregg Lovrovich, commercial fisherman, Carol Filmer, Port of Tacoma, Bill Kelly, marine fuel expert, J. Johnson, financial planner, and towards the later part of the meetings, city staff Peter Katich, Lita Dawn, and Emily Appleton. A lot of discussions, compromises, configurations, and tradeoffs were discussed. Gregg (Lovrovich) attended most meetings either in person or by phone and talked with other commercial fishermen who want to ensure that the ability to navigate was preserved for loading and off-loading. Mr. Morris continued to say that he knows that the boating designation resolution was passed by council in 2012 that states “It’s in the best interest of Gig Harbor to express its support for efforts to increase recognition of Gig Harbor as a boating destination” and also “Recognize and encourage Gig Harbor as a boating destination.” The Vision Statement in 2012 includes language regarding a vibrant place for residents and boaters to enjoy a walkable waterfront that supports local retail shops and services; a place that provides services to recreation and commercial boating. Mr. Morris said that this has been a great effort, and those serving on the committee feel that this does represent a balance between recreational needs,

commercial fishing preservation of their access. He encouraged the council to consider a positive vote.

Jeni Woock – Citizens for the Preservation of Gig Harbor – 3412 Lewis Street. Ms. Woock said that while they very much appreciate all the hard work that Lita Dawn has done, but while they very much want to see a fuel dock and they understand that the RCO has cleared it for commercial boats as well as recreational boats, and that's a good thing, there has been no opportunity for public comment. No one from the public knew this was going to be discussed tonight, and that's her concern, she said. The need and desire for a fuel dock is out there and it's too bad it was last minute.

Peter Stanley, Tides Tavern – 2925 Harborview Drive. Mr. Stanley said that he has been a boater all his life and shared his memories of cruising from one gas dock to another. He said that with all the joys of being on the water, a big part of that is going to a harbor and having the ability to refuel, get some beer, motor oil, groceries, go shopping, and have access to the city. These are all a huge part of what the Gig Harbor community boaters want, the community itself needs, and also the people that come in to Gig Harbor for. Coming in for a day trip; they've got a place to tie up for a day, can access the shops, get gas, and go to restaurants. This is a really needed facility; we've been without a fuel dock for a long time, he said, and while it may not be a major problem for the large yachts that take a thousand gallons of diesel, it's a huge problem for the rest of us that want to put in 40 gallons of gas. This is so critical to have. He continued to address the comment about driving a truck down onto the dock; we did not consider that, he said; it was far from our wildest dreams. A guy wanting 10 gallons of gas isn't going to call a truck, so that's why it wasn't thought of. There's been a lot of work and a lot people involved. To answer the question about public comment; there's a lot of time coming up in the next 18 months or 2 years during the permit process that will demand public comment and outreach, he said, so maybe that can be considered as part of this. Please approve this, he concluded.

Councilmember Malich asked if the drawing accurately shows state lease lines and the Tides Dock. Mr. Stanley said yes, and added that Marine Floats did all of the Tides Docks and if you have a specific question on tides or current flow, you can ask. Councilmember Malich asked if he intends to extend his facility out further. Mr. Stanley said he would never rule it out.

There were no further public comments.

Councilmember Lovrovich commented that looking at the drawing, the north side of the floats are virtually unusable for commercial vessels. Currently, there is a dolphin in the way that is scheduled to be removed, and the other side can be used but is it difficult at best due to the tides. She said that if Mr. Stanley expands, it will be even more difficult, and asked if this had been addressed. Mr. Stanley deferred to Gary Glein.

Gary Glein – 3519 Harborview Drive. Mr. Glein said yes, as far as the currents they consulted and talked to several people and made many changes to try and

accommodate the various people from the commercial fishing fleet to the Russell personnel. He explained that he has been involved since June, 2010 and knows the City Council approved a resolution in December 2010 to do a comprehensive development of this site. We were only able to do a part of that this first time. This was interesting process with many compromises on how far the dock comes out to allow for the commercial fishing boats and listening to the input received. They talked to people from the Russell Company, Sunshine Development, and the Morris Docks and really included a lot of those things. He said he is proud of how much people were involved and how much compromise there was. It was really a balanced approach to meet an economic need consistent with what the Council has adopted as a boating destination and having an economic impact downtown.

Councilmember Payne asked if any of these committee meetings were advertised publically. Lita Dawn Stanton responded that none that staff was involved.

Councilmember Arbenz said that this is an admirable proposal and we should proceed, but we cannot do anything unethical or misleading. He said he would be in favor of a motion to adopt Resolution 959 without Item 9, and to direct staff to file the application without that language and set for public comment in two weeks. Then, take another vote in favor and amend our grant proposal at that time in hopes that the minor change won't disqualify us. If the public isn't in favor, he said we could withdraw that grant application. He asked legal counsel for an opinion.

City Attorney Angela Summerfield said that Lita Dawn has information that responds to the question. Lita Dawn Stanton explained that the document that has to be uploaded is a hard-wired with checkmarks. The application doesn't move forward without five critical documents uploaded and the resolution is one of those. She said that the document itself states that you cannot change the language in the resolution because the RCO expects that it is fully vetted in the public process so that there aren't changes later and it's a complete application.

City Administrator Denny Richards said that his fear if we send this forward is that they are used to receiving quality applications from the City of Gig Harbor; we have been really successful with these, and if we send one that is incomplete, they may look differently at applications we send from now on.

Mayor Pro Tem Ekberg said he can appreciate that, and he thanked the committee for all their hard work. He said this grant application states we provided for adequate public comment on this application. This is the first night he has seen this drawing and the first time he is hearing a dollar amount. We have to come up with matching funds that may not be in the budget, and it hasn't gone to the Parks Commission or the Public Works Committee for review. There are a lot of questions that Council is asking here, which comes from the fact that the project hasn't been vetted either by Council or the public. He said it would be very difficult to consider moving this forward at this point.

Councilmember Perrow said that today he has been inundated with messages of

concern due to the lack of public input. Not being able to check that box is really a deal killer, he said. The letter from the consultant asked to do the grant that says it's too late really said a lot, and so he can't buy into this.

Councilmember Payne asked what the level of work that has to be done in order to complete the grant before Thursday. Lita Dawn Stanton said she couldn't speak to the engineering or the cost sides of the application, but there are environmental questions that are required to be answered regarding: a fuel management plan; the slips and how they are going to be charged; and how long you can moor at the site. The committee has worked very hard but she doesn't know if they have the answers to provide to staff to be able to fill in the blanks.

Councilmember Payne commented that he doesn't know how we got here. He then complimented the volunteer committee on their extraordinary effort. He said he is supportive of the concept but has questions on the design that he wishes he'd had an opportunity to ask. He said the first time he saw the design was late last week. He agreed with comments from Councilmember Perrow about the letter from the grant writer because he knows the writer personally through his wife's efforts to offer this person to come in at the last minute to help the Mayor with this grant. He said he is fairly convinced by that individual that this would be a challenge for us to effectively submit. We desperately need this, he continued to say, and we do not need a two-year delay, but he agreed about lack of sufficient public comment. We have great pillars of the community who have put forward smart ideas and created this concept and he said he is going to trust them that it would work, but he doesn't feel we have gone through the proper process for a project of this magnitude. If it is hardwired to check the box and say we've had public comment, as much as he wants to move this forward, he can't. He stressed that he is "ticked."

Councilmember Malich added that he has advocated for a fuel dock and transient moorage and very much wanted this to happen; something that was comfortable for the commercial fishermen as well as the boaters. He agreed with Councilmember Payne that we didn't announce a public comment period. He said we need to take our time and spend the coming year pursuing this idea.

Councilmember Payne agreed that we need the concept to move forward. The BIG Grant is just one, and we need to press forward and look for funding wherever we can. His not approving this is not saying no to the fuel dock, transient moorage, or the committee. He said it is something we need to pursue and he hopes that we can press on with staff involvement and with public comment to finalize a concept and pursue funding.

Councilmember Arbenz echoed those comments and said that that public comment is crucial to government transparency. You can't vote on without public input and unfortunately it's a deal breaker for him, even as much as he thinks this is a great idea. He said he applauds all the effort and he feels terrible.

Mayor Pro Tem asked if there was going to be a motion. None was offered and no action was taken.

Councilmember Payne said if there is agreement among Council, he would like to direct staff to work with the committee and Mayor to continue this process and move it forward with public comment. Mayor Pro Tem Ekberg concurred and said all factions of staff should be involved including financial, design, and engineering.

2. Resolutions No. 959, 960, and 961 – Applications for RCO Grants for Ancich Waterfront Park. Public Works Director Jeff Langhelm presented these three resolutions for a boating infrastructure grant through the Washington State Recreation Conservation Office. He explained that the resolutions authorize the city to apply for funds to design and develop the park as vetted through the Ancich Waterfront Visioning Process last year. This included public meetings facilitated by the Parks Commission, a number of open houses, review by the Operations and Public Projects Committee, and a final presentation to the whole City Council in December. The conceptual designs for the first phase include all the items discussed in the visioning process: a new water access, grassy open space, viewing areas, kayak and canoe storage, public restrooms, water fountain, benches, picnic tables, spaces for public art, shoreline boardwalk, and a street overlook. The total anticipated project cost is 1.4 million dollars and approval of the resolutions would allow the city to proceed with the application process with the same, May 1st deadline. The three resolutions are necessary as there are three parcels involved for the upland development.

Councilmember Lovrovich asked for clarification on whether these grants would be directed towards building the structure for the kayaks on the upland piece. Mr. Langhelm responded by saying yes. Lita Dawn Stanton clarified that there is a portion of the structure that is not included in the RCO grant because it will not fund a facility for a private group, however, there is planned canoe and kayak storage for the general public, and so that portion has been segmented out. This is three separate grants: land and water grant, an ALEA grant, and a water access through WWRP. The intent is to apply for all three and hope that we receive two.

Councilmember Payne asked how much of the kayak storage is for the public and if the kayak club was consulted. Ms. Stanton responded that the total of the structure is approximately 3,500 square feet and so $\frac{3}{4}$ of that is identified as public. We are working with Emily Appleton on the exact square footages and correlating cost, she said. Mr. Langhelm assured Council that the kayak club worked closely with the designer on all the project sites.

Councilmember Payne said that he wanted to clarify for the public that the matching funds for these grants is the money spent for the purchase the land. Mr. Langhelm said it was his understanding that the land purchase would not be eligible for matching grant money. Ms. Stanton clarified that it is still being confirmed with RCO because of timelines and whether it will qualify. Councilmember Payne asked what the city's match would be. Ms. Stanton said that the way the grant is being submitted is "match against

match,” and so Emily is working on the numbers. It will be anywhere from \$200 – 400,000 depending upon the final design. This would be included in the 2015 Budget.

Councilmember Malich asked for clarification on the three addresses. Ms. Stanton explained that there are three parcels and a 10 foot easement on the Jerkovich side for access to their floats. There is a separate Heritage Grant being applied for to preserve the netshed and the dock. This particular grant is for all upland projects, and no over water work.

Councilmember Perrow asked when we would know about the matching fund issue, adding that he looks forward to hearing about that. Ms. Stanton said it would be within the next week, as we are in dialogue with RCO now.

Mayor Pro Tem Ekberg opened up for public comments. No one came forward.

MOTION: Move to adopt Resolutions No. 959, 960, and 961 to apply for Recreation and Conservation Park Development Funds.
Payne / Malich – unanimously approved.

STAFF REPORT:

1. City Administrator Denny Richards said he wanted to mention that at the last Chamber Legislative meeting, Maya Bellen, Director of the Department of Ecology, was bragging that she uses Gig Harbor when talking to other cities on several issues. She mentioned the successful Shoreline Master Plan, the response by our patrol boat in 2010 when they were able to prevent oil from getting out into the water, and our future growth and how we have aggressively pursued water rights, and our wastewater treatment facility. It was nice to hear that someone outside the community recognizes the hard work done here by staff, he said.

2. Planning Director Jennifer Kester reported that the Planning Commission has begun review of the existing comprehensive plan to get ready for the state required review and update in 2015. As part of that, there is a kick-off for public comment and participation process during the May 15th open house. This effort has been titled “Gig Harbor 2030” and we are asking the public to come out and learn about growth management and what it means for the City of Gig Harbor, and to become educated on the process and how they can become active participants as it moves forward. She invited Council to attend the open house from 5-7 p.m. on Thursday, May 15th.

PUBLIC COMMENT: None.

MAYOR’S REPORT / COUNCIL COMMENTS:

Councilmember Lovrovich reported on the Parks Appreciation Day last Saturday. She said that lots of volunteers came out to participate and thanked Councilmember Perrow for getting trees from Weyerhaeuser, and staff for everything they did to get the gravel

and sawdust where it needed to be. She also thanked each Parks Commissioner for taking on a park.

Councilmember Perrow thanked Councilmember Lovrovich for continuing to be the lead on this project even after being seated on the Council. He said that she set a good example for next year.

Councilmember Lovrovich continued to say that most all the tasks got done with the exception of Grandview Forest Park. She said that at Crescent Creek, there were 37 volunteers and the sand volleyball team got a lot of people to work there and the BMX Park. Parks Commissioners Christine Hewitson and Doug Pfeffer did a good job of getting the word out, and there were lots of people at KLM Veteran's Park and Wilkinson Farm Park as well. Jeff Langhelm said there will be an update from the Parks Commission later.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Law Day Awards Ceremony – Wed. Apr. 30th 6-7 p.m.
2. Planning / Building Committee: Mon. May 5th at 5:30 p.m.
3. Intergovernmental Affairs Committee: Mon. May 12th at 4:00 p.m.
4. Public Works Committee: Thu. May 15th at 3:00 p.m.
5. Gig Harbor 2030 Open House – Thu. May 15th 5:00 p.m. – 7:00 p.m.
6. Joint City Council / Parks Commission Worksession Mon. May 19th at 5:30 p.m.
7. Civic Center Closed for Memorial Day: Mon. May 26
8. Council / Staff Pre-Budget Retreat: Tue. May 27th at 3:00 p.m.
9. City Council Meeting on Tuesday, May 27th at 5:30 p.m.
10. Please see city website for other meetings

EXECUTIVE SESSION: The Mayor Pro Tem announced an Executive Session to begin at 7:12 p.m. for approximately 15 minutes to discuss property acquisition per RCW 42.30.110(1)(b).

MOTION: Move to return to regular session at 7:27 p.m.
Payne / Malich – unanimously approved.

ADJOURN:

MOTION: Move to adjourn the meeting at 7:27 p.m.
Perrow / Payne – unanimously approved.

CD recorder utilized: Tracks 1002 – 1024

Steven Ekberg, Mayor Pro tem

Molly Towslee, City Clerk

WASHINGTON STATE LIQUOR CONTROL BOARD - License Services
3000 Pacific Ave SE - P O Box 43075
Olympia WA 98504-3075

TO: MAYOR OF GIG HARBOR

April 23, 2014

SPECIAL OCCASION #: 093402

COASTAL HERITAGE ALLIANCE
PO BOX 914
GIG HARBOR WA 98335

DATE: JUNE 6, 2014

TIME: 4:30 PM TO 9:30 PM

PLACE: SKANSIE BROS NET SHED - 3207 HARBORVIEW DR, GIG HARBOR

CONTACT: JOHN MOIST 253-255-5050

SPECIAL OCCASION LICENSES

- * Licenses to sell beer on a specified date for consumption at a specific place.
- * License to sell wine on a specific date for consumption at a specific place.
- * Beer/Wine/Spirits in unopened bottle or package in limited quantity for **off** premise consumption.
- * Spirituous liquor by the individual glass for consumption at a specific place.

If return of this notice is not received in this office within 20 days from the above date, we will assume you have no objections to the issuance of the license. If additional time is required please advise.

- | | | |
|--|------------------------------|-----------------------------|
| 1. Do you approve of applicant? | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 2. Do you approve of location? | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 3. If you disapprove and the Board contemplates issuing a license, do you want a hearing before final action is taken? | YES <input type="checkbox"/> | NO <input type="checkbox"/> |

<u>OPTIONAL CHECK LIST</u>	<u>EXPLANATION</u>	YES <input type="checkbox"/>	NO <input type="checkbox"/>
LAW ENFORCEMENT	_____	YES <input type="checkbox"/>	NO <input type="checkbox"/>
HEALTH & SANITATION	_____	YES <input type="checkbox"/>	NO <input type="checkbox"/>
FIRE, BUILDING, ZONING	_____	YES <input type="checkbox"/>	NO <input type="checkbox"/>
OTHER:	_____	YES <input type="checkbox"/>	NO <input type="checkbox"/>

If you have indicated disapproval of the applicant, location or both, please submit a statement of all facts upon which such objections are based.

DATE SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMIONERS OR DESIGNEE



**Business of the City Council
City of Gig Harbor, WA**

Subject: Resolution – Surplus Equipment

Proposed Council Action:

Adopt Resolution No. 963 declaring the specified equipment surplus and eligible for sale.

Dept. Origin: Public Works-Operations

Prepared by: Emily Appleton, P.E. *EA 5.7.14*
Senior Engineer

For Agenda of: May 12, 2014

Exhibits: Resolution No. 963

Initial & Date

Concurred by Mayor: _____

Approved by City Administrator: _____

Approved as to form by City Atty: *OK per email*

Approved by Finance Director: _____

Approved by Department Head: *ADA 5/7/14*

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

INFORMATION / BACKGROUND

Staff requests authorization to surplus the following equipment previously used to furnish the Donkey Creek construction field office:

- 5 Office Desks
- 2 Book Shelves
- 1 Printer Cabinet
- 3 Tables
- 1 File Cabinet

This equipment is not of use for any City purpose and will not be needed for the foreseeable future.

FISCAL CONSIDERATION

Proceeds from the auctioning of these items will go to the General Fund.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Adopt Resolution No. 963 declaring the specified equipment surplus and eligible for sale.

RESOLUTION NO. 963

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

WHEREAS, the Gig Harbor City Council has determined that city-owned equipment is surplus to the City's equipment needs and is no longer needed for use by the City; and

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

To declare as surplus the equipment that is no longer needed, originally purchased and used to operate the Donkey Creek project office:

EQUIPMENT	Quantity	SERIAL / ASSET NUMBER	MODEL INFO.
Office Desk	5	N/A	N/A
Book Shelves	2	N/A	N/A
Printer Cabinet	1	N/A	N/A
Tables	3	N/A	N/A
File Cabinet	1	N/A	N/A

PASSED ON THIS 12th day of May, 2014.

APPROVED:

MAYOR PRO TEM, STEVEN EKBERG

ATTEST/AUTHENTICATED:

MOLLY M. TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 05/05/14
PASSED BY THE CITY COUNCIL: 05/12/14
RESOLUTION NO. 963



**Business of the City Council
City of Gig Harbor, WA**

Subject: Dedication of Right-of-Way agreement Bellesara Plat - Rush Residential Inc.

Dept. Origin: Public Works
Prepared by: Jeff Langhelm, P.E.
Public Works Director

Proposed Council Action:
Accept Dedication of Right-of-Way agreement and authorize the Mayor to sign documents necessary for conveyance.

For Agenda of May 12, 2014
Exhibits: Dedication of Right-of-Way Location Map

	Initial & Date
Concurred by Mayor:	_____
Approved by City Administrator:	_____
Approved as to form by City Atty:	Via email
Approved by Finance Director:	N/A
Approved by Department Head:	<i>[Signature]</i> 5/6/14

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

INFORMATION/BACKGROUND

As required for the Bellasara residential plat, Rush Residential Inc. is providing the City with a Dedication of Right-of-Way along the Hunt Street and Skansie Avenue (aka 46th Avenue NW) frontages for parcel number 0221073086. The additional right-of-way will provide for the necessary frontage improvements associated with the Plat. The required Right-of-Way dedication is five feet on the southerly edge of parcel abutting Hunt Steet and five feet on the easterly edge of the parcel abutting Skansie Avenue.

BOARD OR COMMITTEE RECOMMENDATION

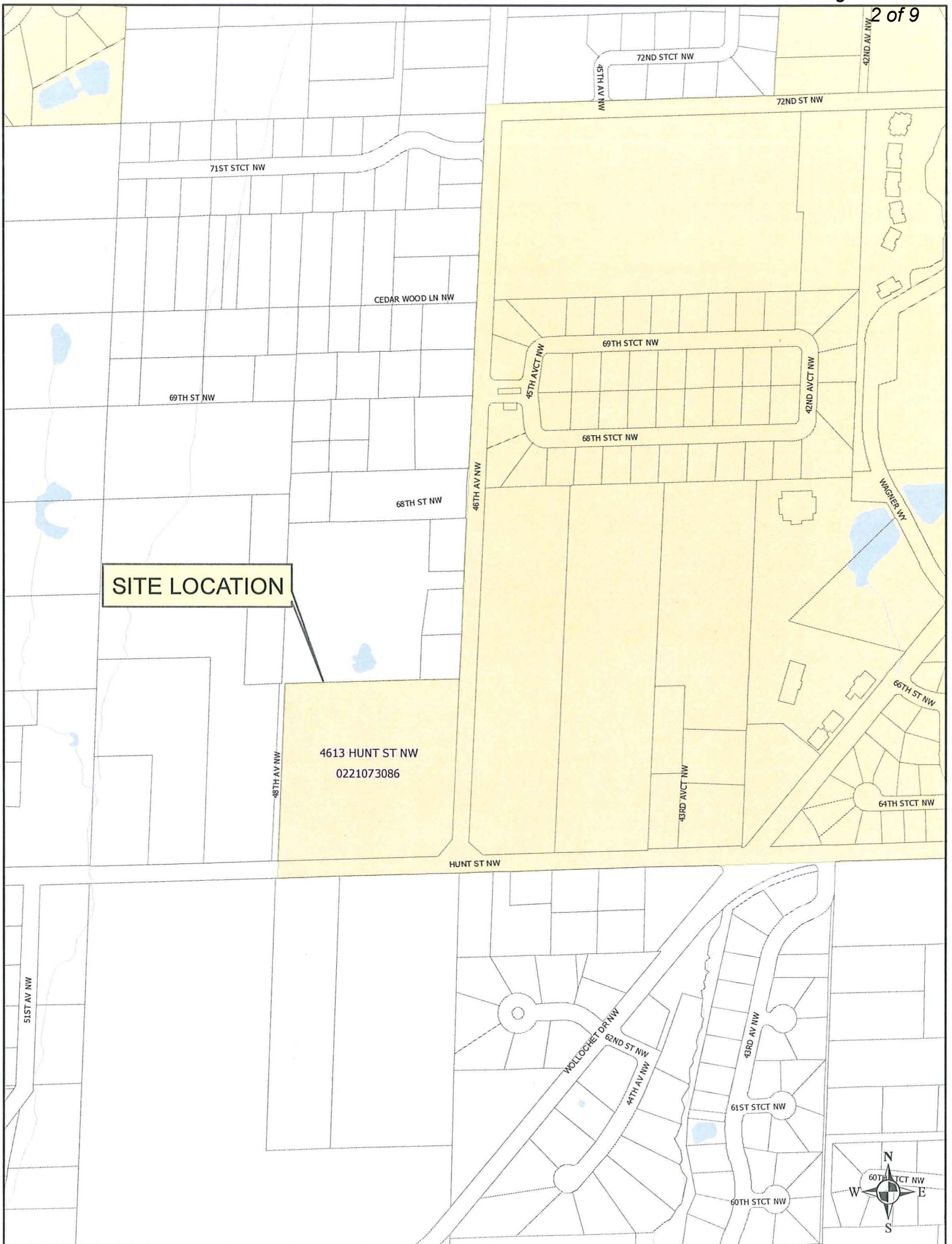
None

FISCAL CONSIDERATION

None

RECOMMENDATION/MOTION

Accept Dedication of Right-of-Way agreement and authorize the Mayor to sign documents necessary for conveyance.



AFTER RECORDING RETURN TO:

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

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

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

Dedication of Right-of-Way

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

Rush Residential, Inc.

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 07 Township 21 Range 02 Quarter 34

Assessor's Property Tax Parcel or Account Number: 0221073086

Reference Number(s) of Documents assigned or released: _____

**DEDICATION OF
RIGHT-OF-WAY**

THIS DEDICATION OF RIGHT-OF-WAY, executed this date by Rush Residential, Inc, a Washington Corporation, whose mailing address is 6622 Wollochet Dr. NW, Gig Harbor, WA 98335-8325, as the "Grantor" herein:

WITNESSETH:

WHEREAS, Grantor owns a fee simple interest in the following real property, commonly known as The Bellesara Plat, Gig Harbor, Washington, 98332 and legally described in **Exhibit A** attached hereto and incorporated herein (the "Property"); and

WHEREAS, Grantor desires to grant to the City of Gig Harbor (the "City") an easement consisting of the East five (5) feet and the South five (5) feet of parcel number 0221073086 to be utilized for right-of-way and utility purposes;

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged,

GRANTOR HEREBY GRANTS AND CONVEYS to the City, a perpetual, nonexclusive right-of-way easement, to erect, construct, install, lay and thereafter use, operate, inspect, repair, maintain, improve, replace and remove right-of-way and right-of-way related improvements and utilities under, over, in, along, across and upon that portion of the Property described in **Exhibit B** attached hereto and incorporated herein (the "Right-of-Way Easement"). The location of the Right-of-Way Easement is shown on the Right-of-Way Easement Location Map attached hereto as **Exhibit C** and incorporated herein.

[Remainder of page intentionally left blank.]

This Dedication of Right-of-Way shall be recorded in the records of the Pierce County Auditor and shall constitute a covenant running with the land for the benefit of the City, its successors and assigns.

IN WITNESS WHEREOF, the Grantor has caused this Dedication of Right-of-Way to be executed this _____ day of _____, 2014.

GRANTOR:

By: Scott A Walker
Its: Vice President
Print Name: Scott A Walker

ACCEPTED:

CITY OF GIG HARBOR

By: _____
Its: Mayor

ATTEST:

City Clerk

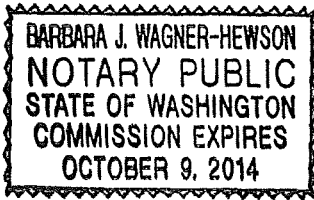
APPROVED AS TO FORM:

City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Scott A. Walker 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 Vice President of Rosh Residential, Inc, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: April 27, 2014



[Signature]
Printed: Barbara J Wagner-Hewson
Notary Public in and for Washington,
Residing at Gig Harbor WA
My appointment expires: October 9, 2014

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that JILL GUERNSEY 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 THE CITY 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: _____

**EXHIBIT A
PROPERTY LEGAL DESCRIPTION**

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., IN PIERCE COUNTY WASHINGTON;

EXCEPT THE WEST 8 FEET FEET THEREOF;

AND EXCEPT ROADS;

AND EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON BY DEED RECORDED UNDER RECORDING NUMBER 2364B58, IN PIERCE COUNTY, WASHINGTON.

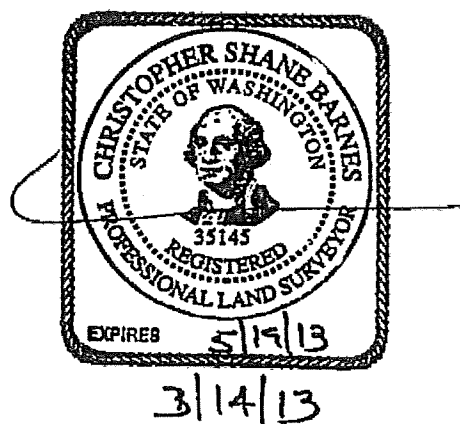


EXHIBIT B
RIGHT-OF-WAY EASEMENT LEGAL DESCRIPTION

THE EAST 5.00 FEET AND THE SOUTH 5.00 FEET OF THE FOLLOWING DESCRIBED PARCEL:

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., IN PIERCE COUNTY WASHINGTON;

EXCEPT THE WEST 8 FEET FEET THEREOF;

AND EXCEPT ROADS;

AND EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON BY DEED RECORDED UNDER RECORDING NUMBER 2364858, IN PIERCE COUNTY, WASHINGTON.

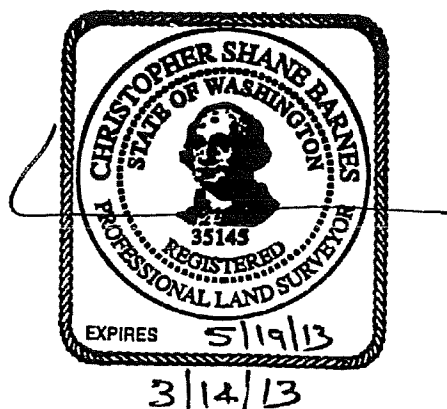
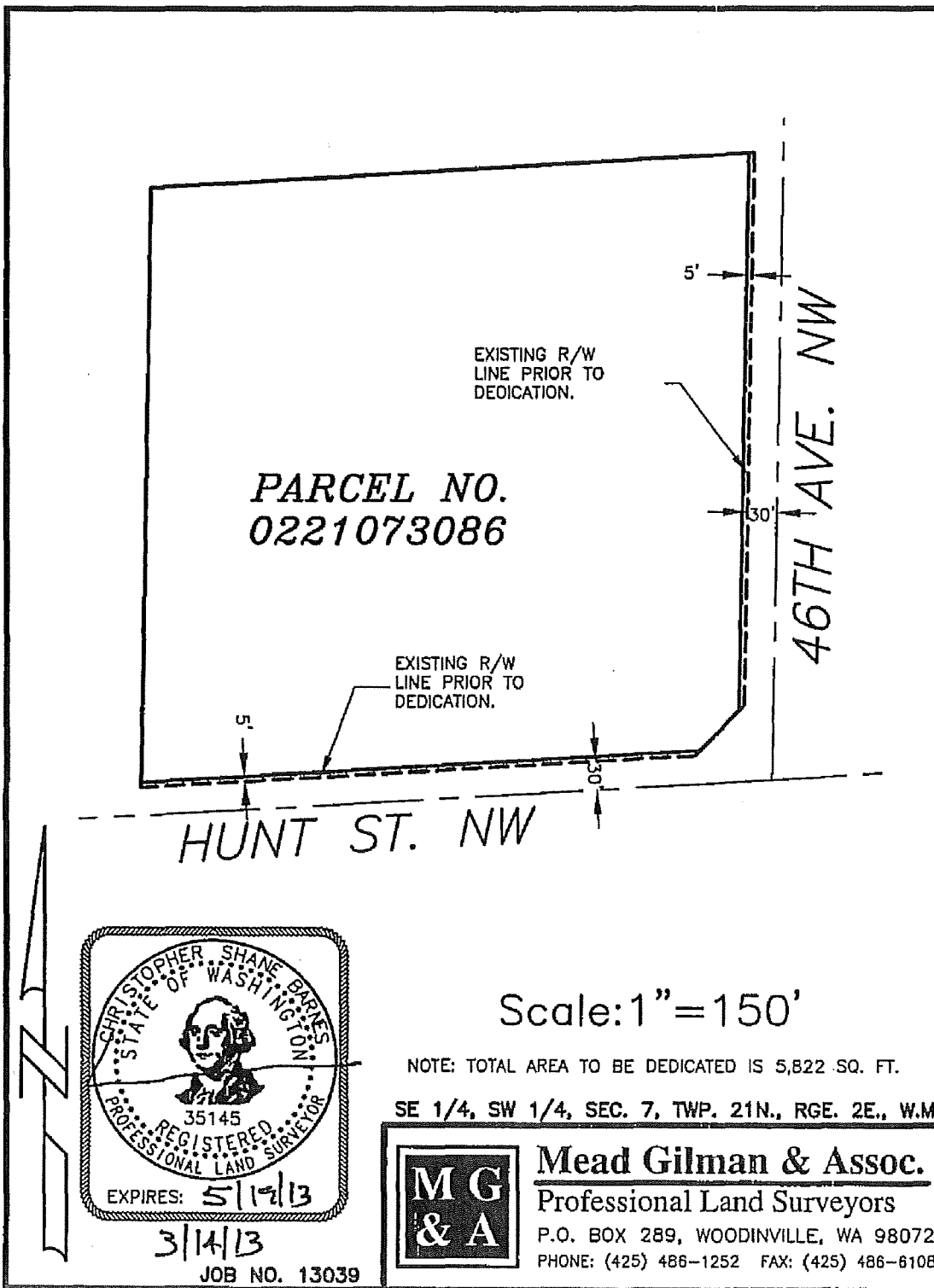


EXHIBIT C
RIGHT-OF-WAY EASEMENT LOCATION MAP





**Business of the City Council
City of Gig Harbor, WA**

Subject: Pierce County Flood Control Zone District Interlocal Agreement

Proposed Council Action: Authorize the Mayor to execute an Interlocal Agreement with Pierce County Flood Control Zone District to receive funding for Opportunity Fund Projects.

Dept. Origin: Public Works

Prepared by: Jeff Langhelm, PE *HL*

For Agenda of: May 12, 2014

Exhibits: Interlocal Agreement, Appendix A

Initial & Date

Concurred by Mayor: _____

Approved by City Administrator: _____

Approved as to form by City Atty: *VIA EMAIL 5/5/14*

Approved by Finance Director: *[Signature] 5/5/14*

Approved by Public Works Director: *ADD 5/5/14*

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

INFORMATION / BACKGROUND

Pierce County Council passed Ordinance 2011-95s on April 3, 2012, authorizing the formation of a Flood Control Zone District (District). The District is a special purpose district governed by a board of supervisors and an executive committee with the intent of to address some of the County's flood management needs as part of its Flood Hazard Plan.

The District's Resolution No. 2013-2 authorized the Board of Supervisors set aside 10 percent of the District's property tax revenues as an Opportunity Fund. The Fund is now available for use by cities, towns, and the County as approved by the District. These funds are made available on a proportional basis, based on assessed values and annexations. In accordance with the attached Appendix A, for 2013 the City of Gig Harbor is eligible for \$16,483 (or 2.39% of the 2013 allocation of approximately \$689,670).

In order to participate in this program, the City must enter into an interlocal agreement (ILA) with the District. Once the ILA is established, the City can annually submit a Notice of Intent to Request Funds, which describes the projects(s) that will be funded with the City's Opportunity Fund allocation.

The Opportunity Fund can be used for the following purposes and uses:

- Flood control or storm water control improvements.
- Maintenance and operation of flood control and stormwater control improvements.
- Studies and plans for flood control or stormwater control improvements.
- Watershed management projects, studies, plans and activities that are for water supply, water quality and water resource and habitat protection and management.
- Major equipment used for stormwater control or water quality protection.
- Developing green infrastructure such as rain gardens and stream flow controls.
- Maintenance and operations projects.
- Acquisition of vector equipment.
- Serve as a match for grants compatible with the criteria for eligible projects.

The District will announce the availability of the Opportunity Fund each April for the subsequent fiscal year. The City may choose to expend the annual allocation or choose to bank the allocation for use in future years. Until such time the City identifies a use for the City's share of the Opportunity Fund the City is electing to bank the money.

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

Pierce County's Surface Water Management team presented their Flood Hazard Plan in conjunction with the proposed Flood Control Zone District to the Operations and Public Projects Committee on July 21, 2011. The recommendation was to present the proposed District to City Council, which occurred on November 28, 2011.

RECOMMENDATION / MOTION

Authorize the Mayor to execute an Interlocal Agreement with Pierce County Flood Control Zone District to receive funding for Opportunity Fund Projects.

PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT

APPENDIX A

Preliminary 2013 Allocations for the Pierce County Flood Control Zone District Opportunity Fund

Municipality	2013 Allocation Percentage	2013 Opportunity Fund Allocation
Auburn	1.03%	\$7,104
Bonney Lake	2.44%	\$16,828
Buckley	0.46%	\$3,172
Carbonado	0.04%	\$276
Dupont	1.70%	\$11,724
Eatonville	0.23%	\$1,586
Edgewood	1.37%	\$9,448
Fife	2.57%	\$17,725
Fircrest	0.80%	\$5,517
Gig Harbor	2.39%	\$16,483
Lakewood	6.40%	\$44,139
Milton	0.74%	\$5,104
Orting	0.55%	\$3,793
Pacific	0.23%	\$1,586
Puyallup	5.82%	\$40,139
Roy	0.06%	\$414
Ruston	0.15%	\$1,035
Steilacoom	0.86%	\$5,931
South Prairie	0.04%	\$276
Sumner	2.39%	\$16,483
Tacoma	23.17%	\$159,797
University Place	3.84%	\$26,483

PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT

Municipality	2013 Allocation Percentage	2013 Opportunity Fund Allocation
Wilkeson	0.04%	\$276
Unincorporated Pierce County	42.69%	\$294,420
Total	100.00%	\$689,670

Note 1: *2013 Allocation Percentage* is the ratio of each jurisdiction's total assessed valuation divided by Pierce County total assessed valuation, expressed as a percentage. The percentage shown is rounded to a two decimal places.

Note 2: *2013 Opportunity Fund Allocation* is calculated by multiplying the *2013 Allocation Percentage* by the total of Flood Control Zone District property tax revenues for 2013.

Note 3: These numbers are illustrative of each jurisdiction's Opportunity Fund allocation. The actual allocation will vary based on the District's annual assessment which could change in future years.

**INTERLOCAL AGREEMENT BETWEEN
THE PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT AND
CITY OF GIG HARBOR FOR OPPORTUNITY FUND PROJECTS**

THIS AGREEMENT is made and entered into by and between the City of Gig Harbor, a municipal corporation of the State of Washington ("Municipality") and the PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT, a quasi-municipal corporation of the State of Washington ("District") ("Parties" or when singular "Party"), and shall be effective upon execution by the Municipality and the District.

RECITALS

A. In Ordinance 2011-95s, passed on April 3, 2012, the Pierce County Council formed the District, as authorized by Chapter 86.15 RCW.

B. In Resolution No. 2013-2 ("Resolution"), the District Board of Supervisors:

1. Allocated and set aside ten percent (10%) of the District's annual regular property tax revenues as an "Opportunity Fund" for use by Pierce County (on behalf of unincorporated Pierce County), cities and towns on Opportunity Fund projects;

2. Established methods for allocation of Opportunity Fund revenues and declared the purposes and uses of the Opportunity Fund;

3. Provided for accrual and roll over of a Municipality's Opportunity Fund allocation;

4. Authorized the District Administrator to develop rules and procedures for administering and carrying out the Opportunity Fund, which includes review of proposed Opportunity Fund projects by the District Administrator or designee, and review and approval of such projects by the Board; and

5. Approved this form of Agreement between the Parties.

C. Pursuant to Chapter 39.34 RCW and RCW 86.15.080(11), the Parties desire to enter into this Agreement to provide for Opportunity Fund projects as authorized by the Board.

AGREEMENT

In furtherance of the foregoing and in consideration of the following terms and conditions, the Parties agree as follows:

1. Definitions. In this Agreement, the following terms shall have the following meanings.

1.1 "Board" means the Board of Supervisors of the District.

1.2 "District Administrator" means the Director of the Pierce County Public Works and Utilities Department, or designee.

1.3 "Municipality" means cities and towns in Pierce County and Pierce County.

1.4 "Opportunity Fund" means the portion of the District's annual regular property tax revenues that has been allocated and set aside by the District for use by the Municipalities on Projects, as authorized by Resolution No. 2013-2, including amendments thereto.

1.5 "Project" means a specific improvement, study, plan or activity that meets the purposes and uses of Resolution No. 2013-2, including amendments thereto, and that has been approved by the Board.

1.6 "Project Rules" means the rules and regulations established by the District Administrator for the Opportunity Fund program, including amendments thereto.

2. Term of Agreement—Termination of Agreement--Survival of Agreement. This Agreement shall be effective upon execution by both Parties, and shall remain in effect until terminated by one or both of the Parties. Either Party may terminate this Agreement by providing written notice of termination to the other Party no less than sixty (60) days prior to the effective date of termination. This Agreement also may be terminated upon mutual agreement of the Parties expressed in writing. Sections 12 and 13 of this Agreement shall survive any termination of this Agreement.

3. Rules and Regulations; District Administrator. The Municipality acknowledges receipt of and agrees to satisfy and follow the Project Rules.

4. Project Eligibility. The Municipality may apply for and seek approval of proposed Projects. The proposed Projects may be a future Project or a pending Project, as defined by the Project Rules.

5. Project Applications. The Municipality must submit an application for each proposed Project to the District Administrator, on a form approved by the District Administrator. The application must be accompanied by plans, drawings,

descriptions, studies, reports, schedules, costs, budgets and/or other data and information required by the Project Rules or requested by the District Administrator.

6. Multi-Year Projects. A Project may be implemented over multiple years and may be financed by the Municipality's allocation of the Opportunity Fund in the year of Project approval and by the Municipality's anticipated allocation of the Opportunity Fund in future years. However, District approval of a Project shall not be construed as nor constitute a District obligation or commitment to authorize a property tax levy or set aside a portion of a property tax levy for the Opportunity Fund in calendar years beyond the year in which a Project is approved.

7. Use and Vesting of Opportunity Fund Allocation. The Municipality shall use Opportunity Fund allocations only for expenses related to the Projects. The unexpended portion of the Municipality's allocation of Opportunity Fund revenues in a calendar year shall be rolled over and reserved for use by the Municipality on Projects in subsequent calendar years. The District shall have no obligation to set aside or allocate Opportunity Funds in calendar years after the calendar year in which the Project is approved. The Municipality understands and acknowledges that the Board has the right and discretion to modify or terminate the Opportunity Fund and its program, and will consider this possibility in providing for and implementing any Project.

8. Project Approval—Implementation of Projects. After approval of a Project, the District Administrator shall prepare a written description of the Project, which shall be deemed to be an amendment to this Agreement. The District Administrator shall provide a copy of the Project description to the Municipality. The Municipality shall implement the Project only as authorized by the Board and described in the amendment. In implementing the Project, the Municipality shall comply with all applicable laws, rules and regulations, and shall be responsible for obtaining all approvals and permits for the Project.

9. Distribution of Opportunity Fund Allocations. After an actual expenditure is incurred for a Project, the Municipality shall request distribution of Opportunity Fund allocations in a manner and pursuant to a process required by the Project Rules. However, after Board approval of a Project, the Municipality may request advance distribution of all or a part of the Opportunity Fund allocation for the Project, prior to expenditure of funds on the Project, in accordance with terms and conditions in the Project Rules.

10. Reports—Audits—Records Retention--Inspections. The Municipality shall prepare and file written reports describing the progress on and the status of the Project, as required by the Project Rules. The Municipality shall prepare and file such other written reports, including but not limited to a final report after Project completion, as required by the Project Rules. The Municipality shall retain all records and documents relating to a Project for a minimum of seven (7) years

after substantial completion of the Project, unless required by law to be retained for a longer period, in which case the longer period shall apply. Upon reasonable notice, the Municipality shall make available to the District Administrator for inspection, review and audit all records and documents relating to the Project and the expenditure of the Opportunity Fund allocations, as required by Project Rules.

11. Project Ownership and Maintenance. If the Project involves the acquisition, extension, enlargement, or construction of an improvement, the Municipality shall take ownership of, and shall be obligated to operate, maintain, repair and replace such improvement. The District shall have no obligation or responsibility for the operation, maintenance, repair and replacement of such improvement.

12. Audit Exception Repayments. The Municipality agrees that it is financially responsible for and will repay to the District all indicated amounts following an audit exception, which occurs due to the negligent or intentional acts by the Municipality, its officers, officials, employees, agents, contractors or volunteers.

13. Hold Harmless and Indemnification.

13.1 To the maximum extent permitted by law, each Party shall defend, indemnify and hold harmless the other Party, and all of its officers, officials, employees, agents, contractors and volunteers, from any and all claims, injuries, damages, losses or suits, including attorney fees, arising out of or resulting from any negligent acts, errors, omissions of the indemnifying Party and its officers, officials, employees, agents, contractors and volunteers in performing obligations under this Agreement or in implementing a Project. However, if any such injuries and damages to persons or property are caused by or result from the concurrent negligence of the District or its officers, officials, employees, agents, contractors and volunteers, and the Municipality or its officers, officials, employees, agents, contractors and volunteers, each Party's obligation hereunder applies only to the extent of the negligence of such Party or its officers, officials, employees, agents, contractors or volunteers.

13.2 The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under industrial insurance, Title 51 RCW, as respects the other Party only, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. This waiver has been mutually negotiated by the Parties.

14. Amendment. This Agreement may be modified by written instrument approved by the Municipality's governing body and the District Board of Supervisors and signed by the authorized representatives of the Parties.

15. Waiver. No waiver by either Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach whether of the same or different provision of this Agreement. No waiver shall be effective unless made in writing.

16. No Third Party Rights. Nothing in this Agreement shall be construed to create any rights in or duties to any third party, nor any liability to or standard of care with reference to any third party.

17. Entirety. This Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated are excluded. This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties relating to the projects and constitutes the entire agreement between the Parties.

18. Counterparts. This Agreement may be signed in counterparts and, if so signed, shall be deemed one integrated document.

IN WITNESS WHEREOF, authorized representatives of the parties hereto have signed their names in the spaces below:

CITY OF GIG HARBOR

PIERCE COUNTY FLOOD
CONTROL ZONE DISTRICT

Name: Jill Guernsey
Title: Mayor

Brian Ziegler
District Administrator

Date: _____

Date: _____

Attested to:

Attested to:

Name: Molly Towslee
Title: City Clerk

Cathy Sala
Clerk of Board of Supervisors



**Business of the City Council
City of Gig Harbor, WA**

Subject: Public Hearing –“DNR – Gig Harbor Bay Annexation” (PL-ANX-13-0001)

Proposed Council Action:
Adopt Ordinance No.1293 formally approving the Department of Natural Resources (DNR) Bay Annexation.

Dept. Origin: Planning Department

Prepared by: Lindsey Sehmel, AICP (LS)
Senior Planner

For Agenda of: **May 12, 2014**

Exhibits: Ordinance

Initial & Date

Concurred by Mayor:

Approved by City Administrator: RS 5/1/14
Approved as to form by City Atty: via email 4/29
Approved by Finance Director: CR 5/1/14
Approved by Department Head: JK 5/1/14

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

INFORMATION / BACKGROUND

On March 24, 2014 the City Council approved resolution number 956 declaring its intent to approve the Gig Harbor Bay (DNR) Annexation. Subsequent to the Council’s action, staff prepared a Notice of Intention which was transmitted to the Pierce County Boundary Review Board. The Chief Clerk of the Boundary Review Board determined that the Notice of Intention was complete as of March 25, 2014. The 45 day appeal period for the Notice of Intention expired on May 9, 2014 and annexation was deemed approved by the Boundary Review Board. State law provides that after the Boundary Review Board approves an annexation, the City must finalize the annexation by adopting an ordinance that formally accepts the annexed area into the City.

STAFF ANALYSIS

Per GHMC 1.08.020 (C), the City Council may take final action on this ordinance at first reading.

BOARD OR COMMITTEE RECOMMENDATION

None

RECOMMENDATION / MOTION

Move to: Adopt Ordinance No. 1293 approving the Department of Natural Resources (DNR) Bay Annexation.

ORDINANCE NO. 1293

AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO ANNEXATION AND ZONING, ANNEXING APPROXIMATELY 190 ACRES OF THE GIG HARBOR BAY, WITHIN THE CITY'S URBAN GROWTH AREA, LOCATED IN PIERCE COUNTY, (PL-ANX-13-0001), NOT ADOPTING ZONING REGULATIONS, AND EXCUSING THE PROPERTY OWNERS TO ASSUME THEIR PROPORTIONATE SHARE OF INDEBTEDNESS.

WHEREAS, the City of Gig Harbor received a Notice of Intent to Annex approximately 190 acres of water body within the Gig Harbor Bay, within the City's Urban Growth Area (UGA), located in Pierce County; and

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

WHEREAS, on December 9, 2013, the City Council met with the initiators of the petition and voted to authorize circulation of the annexation petition not subject to certain conditions including adoption of pre-annexation zoning as depicted on the Official Zoning Map of the City and not requiring that the property owners assume all of the existing indebtedness of the area being annexed; and

WHEREAS, on January 10, 2014, the petition for annexation of the property described in Exhibit A and graphically depicted on Exhibit B was received by the City; and

WHEREAS, on March 4, 2014, the Pierce County office of the Assessor-Treasurer certified the signatures on the petition for annexation of the property described in Exhibit A and graphically depicted on Exhibit B; and

WHEREAS, the property described in Exhibit A and graphically depicted on Exhibit B proposed to be annexed is within the Urban Growth Area as

established by Pierce County and included in the Comprehensive Plans of both the County and the City of Gig Harbor; and

WHEREAS, the City of Gig Harbor Comprehensive Plan, last amended in November, 2012, does not establish a land use map designation for this area due to the nature of the annexation; and

WHEREAS, proposed pre-annexation zoning is not being applied to the property described in Exhibit A and graphically depicted on Exhibit B as consistent with the City of Gig Harbor Comprehensive Land Use Plan designations; and

WHEREAS, on March 24, 2014, the City Council, following a public hearing on the annexation petition, voted to declare its intent to authorize and approve the annexation for the area described in Exhibit A and graphically depicted on Exhibit B, subject to Boundary Review Board approval (Resolution No. 956); and

WHEREAS, on March 25, 2014, the Notice of Intention, together with supporting documentation, was submitted to the Chief Clerk of the Pierce County Boundary Review Board; and

WHEREAS, on April 2, 2014, the Chief Clerk of the Pierce County Boundary Review Board deemed the annexation proposal as complete, set the official filing date as March 25, 2014, initiated the forty-five (45) day review period, and noted that the period during which jurisdiction could be invoked would expire on May 9, 2014; and

WHEREAS, the City Council held a public hearing and considered this Ordinance during its regular City Council meeting of May 12, 2014; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,

ORDAINS AS FOLLOWS:

Section 1. The Gig Harbor City Council hereby declares its intent to authorize and approve the annexation of approximately 190 acres of water body known as the Gig Harbor Bay, adjacent to the existing City limits, located in Pierce County, as described and graphically depicted on Exhibit A and Exhibit B, attached hereto, as part of the City of Gig Harbor, contingent upon compliance with the following conditions:

- A. Pursuant to the terms of the annexation petition, the approximately 190 acres of property depicted on Exhibits A and Exhibit B, shall not be assessed and taxed at the same rate and on the same basis as property within the City, including assessments for taxes and payment of any bonds issued or debts contracted prior to or existing as of the date of annexation; and
- B. All property within the area described and graphically depicted on Exhibit A and Exhibit B shall not be zoned in accordance with the Gig Harbor Municipal Code, Title 17.

Section 2. The Gig Harbor City Council hereby declares the property described and graphically depicted on Exhibit A and Exhibit B, which is the subject of the annexation petition, to be contiguous with the boundaries of the City of Gig Harbor.

Section 3. The City Clerk is hereby directed to record a certified copy of this ordinance with the Office of the Pierce County Auditor.

Section 4. This ordinance shall take effect and be in full force and effect five 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 12th day of May, 2014.

APPROVED:

MAYOR PRO TEM STEVEN EKBERG

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

BY: _____

FILED WITH THE CITY CLERK: 04/29/14
PASSED BY THE CITY COUNCIL: 05/12/14
PUBLISHED: 05/14/14
EFFECTIVE DATE: 05/19/14
ORDINANCE NO. 1293



Dennis D. Reynolds Law Office

200 Winslow Way W. Suite 380 Bainbridge Island, WA 98110

Land Use • Fisheries Law • Environmental Law • Business Law • Indian Law • Real Estate
206.780.6777 206.780.6865 fax www.ddrlaw.com

May 12, 2014

Hand Delivered

Gig Harbor City Council
3510 Grandview Street
Gig Harbor, WA 98335

Re: Annexation (Ordinance No. 1293)

Dear Council Members:

This firm represents Stan and Judith Stearns. Mr. and Mrs. Stearns reside at 3024 – 89th Street NW in Gig Harbor.

When Pierce County approved the Urban Growth Area (“UGA”) expansion, the City of Gig Harbor stated:

The city anticipates annexing a portion of the bay in order to gain law enforcement authority over all vessel traffic in the bay. The City has no intention of annexing the bay that would result in docks and other in-water features being included.

The current public notice for tonight’s public hearing states that . . . “existing and future use, zoning, and land use designation of the uplands would not be affected by the annexation.” It appears that Section 1(A) of the proposed Ordinance implements this goal.

However, additional language needs to be added by Gig Harbor that prohibits the City from having any authority with regard to future over-water or in-water uses to include docks, floats, or mooring buoys; or any other type of use that is allowed by Pierce County's shoreline regulations.

Thank you for your kind attention to these comments.

Very truly yours,

DENNIS D. REYNOLDS LAW OFFICE

Dennis D. Reynolds

DDR/cr