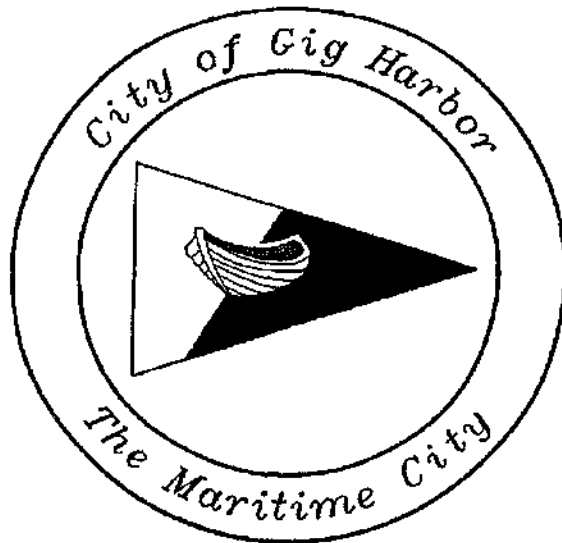


# **Gig Harbor City Council Meeting**



**August 24, 1998**

**7:00 P.M., CITY HALL COUNCIL CHAMBERS**



**AGENDA FOR GIG HARBOR CITY COUNCIL MEETING  
AUGUST 24, 1998 - 7:00 p.m.**

**CALL TO ORDER:**

**SPECIAL PRESENTATION:** Update on Plans for the new Tacoma Art Museum.

**CONSENT AGENDA:**

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

1. Approval of the Minutes of the August 10 1998 City Council meeting.
2. Correspondence / Proclamations – Informational.  
Washington Finance Officers Association – 1998 Budget Award.  
Employment Security Department - Hire A Veteran Month.  
Proclamation – Head Injury Awareness Month.
3. Approval of Payment of Bills for 8/10/98:  
Checks # 20676 through #20767 in the amount of \$81,039.70.
4. Approval of Payment of Bills for 8/24/98:  
Checks # 20768 through #20876 in the amount of \$68,638.61.

**OLD BUSINESS:**

1. Third Reading of Ordinance – Amend GHMC Criminal Code Section.

**NEW BUSINESS:**

1. Legal Services Agreement.
2. Street Pavement Marking – Contract Award.

**PUBLIC COMMENT/DISCUSSION:**

**COUNCIL COMMENTS:**

**STAFF REPORTS:**

**EXECUTIVE SESSION:** For the purpose of discussing property acquisition per RCW 42.30.110, (b) and litigation, and potential litigation, per RCW 42.30.110 (i).

**ADJOURN:**



**DRAFT**

**REGULAR GIG HARBOR CITY COUNCIL MEETING OF AUGUST 10, 1998**

**PRESENT:** Councilmembers Ekberg, Young, Platt, Owel, Dick, Picinich, Markovich and Mayor Wilbert.

**CALL TO ORDER:** 7:04 p.m.

**EXECUTIVE SESSION:** Mayor Wilbert announced the need for executive session for the purpose of discussing enforcement action per RCW 42.30.110, (i), and potential litigation per RCW 42.30.110, (i).

**MOTION:** Move we adjourn into executive session at 7:05 for approximately 30 minutes.  
Picinich/Ekberg – unanimously approved.

**MOTION:** Move to return to regular session at 7:30 p.m.  
Dick/Owel – unanimously approved.

**APPROVAL OF MINUTES:** Minutes of 7/27/98 and Special Meeting of 8/3/98.

**MOTION:** Move approval of the minutes of July 27, 1998 meeting as presented.  
Picinich/Owel – five voted in favor. Councilmembers Platt and Markovich abstained.

**MOTION:** Move approval of the minutes of August 3, 1998 meeting as presented.  
Picinich/Ekberg – five voted in favor. Councilmembers Owel and Markovich abstained.

**CORRESPONDENCE/PROCLAMATIONS:**

1. The Gig Harbor Waterfront Retail & Restaurant Association. No report given.
2. Reappointment of Bruce Gair to the Planning Commission. Mayor Wilbert announced that Mr. Gair had been reappointed.

**OLD BUSINESS:**

1. Second Reading of Ordinance – Consent Agenda. Mark Hoppen introduced this ordinance to adopt a consent agenda to handle routine items which are not controversial in nature and do not need further discussion.

**MOTION:** Move approval of Ordinance No. 799.  
Markovich/Picinich – unanimously approved.

2. Second Reading of Ordinance – Wilkinson Property. Carol Morris, Legal Counsel, explained that this was the second reading of a condemnation ordinance. She added that by passing this ordinance, the city would approve the filing of a lawsuit in Superior Court to condemn the property for the purpose of a park acquisition.

David Rodman – 14009 106<sup>th</sup> Ave Ct. NW. Mr. Rodman explained that he was the nephew of the owner of the property, Darrel Rodman. He said that although he felt it was wrong for the city to have the power to take a person's property, he was in favor of what the city wanted to do with the property. He added that he felt that the city would do a good job of taking care of the property.

Jack Bujacich – 3607 Ross Avenue. Mr. Bujacich voiced his opposition to having his tax dollars used for this purchase. He said that the city could not show the need for another park. He talked about his concerns about the walking trail being isolated and unsafe.

DeeDee Carlson – 8202 86<sup>th</sup> Ave NW. Ms. Carlson explained she was speaking for her mother, with whom she agreed. She said that they thought it was unconstitutional to take property from an owner. She added that her mother was a friend of Helen Wilkinson, and that she knew of Mrs. Wilkinson's wishes to have the property be left to her nephew.

Joanne Wood – 14578 Sydney Road, Port Orchard. Ms. Wood explained that she was a childhood friend of Darrel Rodman. She explained that when she read of the condemnation in the paper, she was furious. She added that she did not believe that government had the right to take a person's property for any reason. She added that in the area there are many parks already existing that are not being taken care of. She also said that she liked the idea that Darrel wanted to put in an auditorium on the property.

Roger Mosiman -- 9617 Harmony Lane. Mr. Mosiman said he was sick and tired of paying for parks for others to use. He added that the previous owner of the property did not want to sell and the new owner says no, so the city should let the property owner do what he wants with his land.

Bob Backstein. Mr. Backstein explained that he was an attorney representing Darrel Rodman. Mr. Backstein said that condemnation of this property does not fit the moral standards for public use. He added that Mr. Rodman want to keep the property and develop a portion, leaving the house, barn and a part of the holly field as is. He added that he hoped that the city would continue in good faith negotiations for the property, without condemnation efforts, in an attempt to keep the existing amenities and allowing the owner to have reasonable use. He said that if a condemnation action was filed, they would oppose it, then they would argue over the price.

There were no further public comments. Mayor Wilbert asked for Council's comments.

Councilmember Platt said that he was opposed to this condemnation effort from the beginning, and asked if there wasn't a more appropriate piece of property for a park.

Councilmember Markovich agreed with Councilmember Platt and said that he was against the condemnation action.

Councilmember Young expressed support for the effort and explained that the acquisition of the property was in line with the Growth Management Act's requirement for preservation of open space. He added that an urban community with open spaces is a more viable community.

Councilmember Ekberg agreed with Councilmember Young and added that although he didn't like the condemnation method, this property has been part of the city's Parks Plan for some time. He described the multiplicity of uses for this property, and said that once a piece of property of this type has been developed as something else, it can't be brought back for a park. He said that the property fits nicely into the city's overall plan, and the effort to preserve the land will be looked upon by the residents in the future as very far reaching.

Councilmember Owel said that she concurred with Councilman Ekberg and said that the property would be an asset to the city as a park. She said that it is a legitimate function of the city to see to those requirements of its citizens as they arise. She added that she didn't like the condemnation action, but acknowledged that condemnation is a legitimate action of government. She said that twenty years from now, if the park was not acquired, people would say that the government was neglectful in not pursuing that option to acquire open space properties.

Councilmember Dick was supportive of the action, adding that it was a good idea to preserve what open space is still available as the population of the city grows. He spoke of the uniqueness of the property and its historical nature. He continued by saying that the condemnation effort was only a method of making sure that a property owner gets fair market value for their property.

Councilmember Markovich disagreed about the uniqueness of the property, and said that he didn't know how the property had been included in the Parks Plan two years ago. He added that if the property was developed, the wetlands would have to be preserved, and would always remain there.

Councilmember Picinich said that there was value in the property, and that it was a beautiful piece of property that he would like to see preserved. He suggested that the city attempt to continue to negotiate with the property owner.

Councilmember Young pointed out that condemnation was the best way to benefit the property owner in regards to taxes. He suggested proceeding with the condemnation and to continue negotiations with Mr. Rodman.

**MOTION:** Move to approved Ordinance No. 800.  
Young/Owel - a roll call vote was taken with the following results:

Ekberg – yes; Young – yes; Platt – no; Owel – yes; Dick – yes; Picinich – yes; Markovich – no. The motion carried with a vote of five to two.

3. Second Reading of Ordinance – Amending GHMC Criminal Code Section. Mitch Barker, Chief of Police, explained that at the last meeting, a request was made to supply a copy of the ordinance showing items that had been added and deleted. He said that due to time constraints, this had been given to Councilmembers, but without enough time for thorough consideration. He recommended that in order to allow Councilmembers to review the document, the ordinance should come back for a third reading.

**MOTION:** Move to bring this back for a third reading at the next meeting.  
Dick/Owel – unanimously approved.

**NEW BUSINESS:**

1. Agreement – Lions Club. Mark Hoppen, City Administrator, presented this agreement with the Lions Club to support the development of the Finholm View Climb and provide for indemnification and insurance per the requirements of the right-of-way use ordinance.

**MOTION:** Move to authorize the Mayor sign the agreement as presented.  
Markovich/Picinich – six voted in favor. Councilmember Owel abstained as she is a member of the Lions Club.

2. City Hall Painting – Contract Award. Wes Hill, Public Works Director, explained that all bids for painting City Hall had come in 26% higher than budgeted. It was determined that the Public Works crew could do the work on weekends and evenings and complete the project under budget. Wes rescinded his recommendation to award the contract to the lowest bidder and recommended pursuing having the work done internally. No motion was necessary.
3. Purchase Authorization – Handheld Meter Reading Devices. Wes Hill presented this recommendation to purchase handheld data collector and software for reading water meters. He described the devices and how they operate and answered Council's questions.

**MOTION:** Move to authorize the purchase of the Sensus handheld data collector and software from Western Utilities Supply Company in the amount of eleven-thousand five-hundred seventy-three dollars and four cents (\$11,573.04).  
Ekberg/Young – unanimously approved.



4. Liquor License Renewals – Baskets to Go; Bartell Drug; The Gig Harbor Yacht Club. No action taken.

**PUBLIC COMMENT:** None.

**COUNCIL COMMENTS:**

Councilmember Dick said that the County had approached the city regarding merging the District and Municipal Courts. He asked Mr. Hoppen to prepare a report showing the advantages and disadvantages to the consolidation. Carol Morris, Legal Counsel, reminded Councilmember Dick that as an employee of the County, his participation in this process may be viewed as improper. He acknowledged this concern.

Mayor Wilbert said that this may be an opportune time to reconsider the consolidation issue, and asked if Council would like to hold a worksession on the issue.

Councilmember Markovich agreed that it was a good idea to consider. Councilmember Young said that he would like a proposal to review, and added that a worksession wasn't necessary at this time.

Councilmember Dick then asked for a spread sheet outlining the contracts and agreements with consultants and in-house staff on similar work. He said that it would help him to understand the process before the next budgetary process.

**STAFF REPORT:**

Mitch Barker, Chief of Police – GHPD. Chief Barker presented the statistics for the month of July and other recent incidents and offered to answer questions.

**ANNOUNCEMENT OF OTHER MEETINGS:** None.

**APPROVAL OF PAYROLL:**

**MOTION:** Move approval of payroll checks #16075 through #16233 in the amount of \$265,157.26.  
Young/Ekberg - unanimously approved.

**ADJOURN:**

**MOTION:** Move to adjourn at 8:45 p.m.  
Platt/Picinich - unanimously approved.

Cassette recorder utilized:  
Tape 503 Side A 273 - end.  
Tape 503 Side B 000 -- end.  
Tape 504 Side A 000 - 404

---

Mayor

---

City Clerk



WASHINGTON FINANCE OFFICERS ASSOCIATION

10517 NE 38th Place • Kirkland, Washington 98033-7926 • (206) 827-4334

August 5, 1998

The Honorable Gretchen Wilbert, Mayor  
City of Gig Harbor  
3105 Judson Street  
Gig Harbor, WA 98335

RECEIVED  
AUG 14 1998  
CITY OF GIG HARBOR

Dear Mayor Wilbert:

This is to notify you that the City of Gig Harbor 1998 Budget has earned the Washington Finance Officers Association Distinguished Budget Award. This award is patterned after the Government Finance Officers' Program and is the highest form of recognition in fiscal planning and budgeting within the State of Washington. In order to earn this award, the budget documents are critiqued by at least two reviewers who return a favorable response. I have received favorable responses from the reviewers of your 1998 document. (A summary of the responses will be mailed under separate cover to the official requesting the results.)

The budget document is judged on meeting program criteria covering policies, operations, financial planning and communications. The receipt of this award is evidence of an interest in effective fiscal management programs benefiting the customers of the City of Gig Harbor. You and your staff are to be commended for such an interest.

A plaque and certificates for your 1998 budget document will be available for presentation at the WFOA conference in Bellevue. These may be picked up at the education table.

Sincerely,

*Bonita R. Fell*

Bonita R. Fell  
WFOA Budget Awards Chair  
% Lakehaven Utility District  
PO Box 4249  
Federal Way, WA 98063  
(253) 946-5420

cc: Dave Rodenbach



STATE OF WASHINGTON  
EMPLOYMENT SECURITY DEPARTMENT

August 4, 1998

RECEIVED

AUG 10 1998

CITY OF GIG HARBOR

*Mayor Gretchen Wilbert  
City of Gig Harbor  
3105 Judson St  
Gig Harbor, WA 98335*

*Dear Mayor Gretchen Wilbert:*

*I would like to take the opportunity to thank you, the City Council, and the local citizens who supported the Governor's Proclamations for the "Hire-A-Veteran Month" this year.*

*The "Hire-A-Veteran Month" event recognizes over 650,00 veterans in the State of Washington who helped make this country great and gave us the highest standard of living in the world. The program involves the community, Employment Security Offices, and Veteran Service Providers in organizing the program in order to place our veterans in a position for employment. This event brings the community leaders, employers, veterans, and other job seekers together.*

*Our goal for the "Hire-A-Veteran Month" was to place 1600 veterans in jobs. We also wanted to secure involvement from the community leaders, and to show support for our veterans.*

*It is now August and we are still getting results from the event. We are quite confident our placement goals will surpass our expectation. We have eighty-three proclamations from mayors and veteran organizations from across the state at this time and they are still coming in. A banner was also sent to Washington D.C. for a picture with our state representatives. It has been an ongoing tradition for five years to receive their support, for veteran events.*

*Again, I would like to thank you for participating in this year's "Hire-A-Veteran Month" program. We will continually solicit support from our local and state leaders in our endeavor to help our veterans to transition as smoothly as possible in the civilian workforce.*

*Sincerely,*

*Sal Cantu, Veteran Advisor  
Lakewood Job Service Center  
PO Box 99848  
Tacoma, WA 98499  
(253) 589-7345  
(253) 589-7345*





# Brain Injury Association of Washington

(a chartered affiliate of the Brain Injury Association, Inc.)

August 7, 1998

The Honorable Gretchen Wilbert  
3105 Judson  
Gig Harbor WA 98335

RECEIVED

AUG 13 1998

CITY OF GIG HARBOR

Dear Mayor Wilbert:

The Brain Injury Association of Washington (BIAWA) is respectfully requesting that you issue a proclamation declaring the month of October to be Brain Injury Awareness Month in the town of Gig Harbor. The people of Washington are daily placed in harm's way which then leads to altered lives and abilities because of brain injuries.

Brain injuries occur at the alarming rate of 200 per 100,000 population. Annually in Washington, you can expect thousands of your state's populous to be treated for the outcome of a brain injury. The fact is that 95% of those injured will not be able to access services to help them reconstruct their lives or compensate for their altered abilities. The State of Washington does not have a single dollar in its budget to care for this unique disability group. They end up living in family homes as dependent adults, admitted to mental institutions even though they are not mentally ill, living on the streets, or in several other state institutions.

We have highlighted the ills of traumatic brain injuries because they are truly the one disability that is almost totally preventable. We cannot afford to care for the 128,000 that currently live in our state, or the projected 14,655 new brain injuries for 1998. We must increase the public awareness of the paths of Harm's Way that lead to brain injuries. Over 60 percent of brain injuries rob our young people between fifteen and twenty-four years of age of their bright and promising futures. 50 per cent occur on our highways and city street in automobile accidents. Our children are injured in pedestrian accidents and on bicycles. A new epidemic cause, in our cities, are brain injuries as a result of assaults.

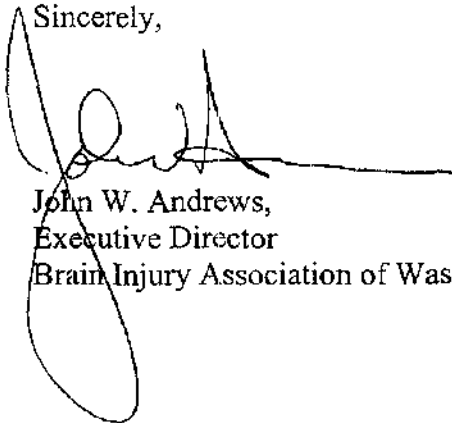
We seek your proclamation as a declaration that prevention is a highly priority in the town of Gig Harbor. It is a priority that our citizens and our children should continue to reach their potential as productive citizens and not have to learn to live with reduced and altered abilities when preventable. Washington State serves as the location of 23 of BIAWA'S support groups. Please join us in declaring October as Brain Injury Awareness Month in the town of Gig Harbor.

The proclamations of the State of Washington and all other cities proclaiming October as Brain injury Awareness month will be presented at the Annual State meeting to be held in October. It is our sincerest hope that this year we can include the awareness proclamation of the town of Gig Harbor.

I have enclosed a copy of the 1997 proclamation of the State of Washington for your use in development of the 1998 Brain Injury Awareness Month Proclamation. If we can provide further information that will facilitate this request, please call us at your earliest convenience.

Thank you for your consideration and support of this worthy cause.

Sincerely,

A handwritten signature in black ink, appearing to read 'John W. Andrews', with a long horizontal flourish extending to the right and a large loop on the left side.

John W. Andrews,  
Executive Director  
Brain Injury Association of Washington

# PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

*WHEREAS*, more than one million Americans each year suffer a head injury; and

*WHEREAS*, approximately 14,655 Washington citizens suffer traumatic brain injury each year; and

*WHEREAS*, fifty percent of all head injuries are caused by automobile accidents and lifetime costs for one severely injured individual are estimated at \$4 million; and

*WHEREAS*, 5,313 of those injured are school-aged children and the majority of all victims are between the ages of 15 and 24; and

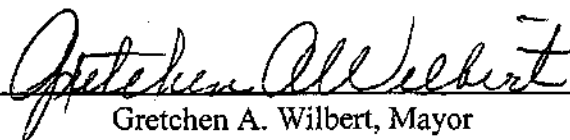
*WHEREAS*, the mission of the Brain Injury Association of Washington (BIAWA) is to provide an organization of individuals, families, professionals, providers and concerned people through whom those who have experienced head injuries, and their families, can improve their quality of life in our society and, further, to prevent head injuries in all ways possible;

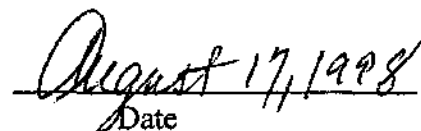
*NOW, THEREFORE*, I, Gretchen A. Wilbert, Mayor of the City of Gig Harbor, hereby declare the month of October as

## Head Injury Awareness Month

in Washington state, and I urge all citizens to join me in recognizing the importance of this observance by educating themselves, and taking the necessary precautions to ensure their own safety and that of their loved ones.

In Witness Whereof, I have hereunto set my hand and caused the Seal of the City of Gig Harbor to be affixed this 17<sup>th</sup> day of August, 1998.

  
Gretchen A. Wilbert, Mayor

  
Date





MEMORANDUM

DATE:            August 17, 1998

TO:              Gig Harbor Mayor and City Council

FROM:           *CM* Carol Morris, City Attorney

RE:              Ordinance Amending City's Criminal Code

**I.    Background.**

The attached ordinance updates the City's Criminal Code to adopt a number of existing state statutes by reference. In some instances, the headings of the state statutes the City had adopted by reference had changed over the years, and this ordinance reflects those heading changes. The following new sections have been added: GHMC § 9.20.040, adopting state statutes relating to the destruction, trade or sale of forfeited firearms; GHMC § 9.26.090, adopting state statutes relating to the failure to abide by a court order; GHMC § 9.28.050, adopting state statutes relating to the interference with health care facilities or providers and GHMC 9.30.050, adopting state statutes on the subject of obscenity.

The ordinance amending the City's Criminal Code has been included in two City Council agenda packets and has had two readings. After the first reading, it was amended to show the legislative history (striking out existing language and underlining new language). Various typographical changes were made to the attached version, including but not limited to the following: (a) the ordinance title has been changed to show all new sections as well as all amended sections; (b) references to the adoption of a subsequent amendment of statutes adopted by reference has been deleted; (c) the former section 40 of the ordinance has been deleted, because it adopted certain state statutes that had already been adopted by reference in GHMC § 8.24.016.

Under the City's ordinance passing procedure, a proposed ordinance "should be reintroduced if not adopted at or prior to the third regular meeting after the introductory meeting." GHMC § 1.08.020(A)(3). However, the City Council may decide to take action on the proposed ordinance at the August 24, 1998 meeting, under GHMC § 1.08.020(B), upon the affirmative vote of a majority plus one of the whole membership of the Council.

Memorandum to Gig Harbor Mayor and City Council  
August 17, 1998  
Page 2

**II. Recommended Action.**

Because the changes made to this ordinance have been for the purpose of correcting typos and/or format, the staff recommends that the Council adopt it during the August 24, 1998 meeting under the ordinance passing procedure in GHMC § 1.08.020(B).

CAM207175.1M/F0008.160.002/B0008.

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

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE CITY'S CRIMINAL CODE, ADDING NEW CRIMES, DELETING REPEALED AND/OR OUTDATED CRIMES, SETTING FORTH PENALTIES, ADOPTING VARIOUS PROVISIONS OF THE REVISED CODE OF WASHINGTON BY REFERENCE, ADDING NEW SECTIONS 9.20.040, 9.26.090, 9.28.050, 9.30.050, AND 9.34.060; AMENDING SECTIONS 9.01.020, 9.01.040, 9.01.050, 9.01.060, 9.01.090, 9.04.010, 9.06.010, 9.06.020, 9.08.010, 9.10.010, 9.10.030, 9.14.010, 9.14.030, 9.14.040, 9.14.060, 9.20.010, 9.20.020, 9.22.010, 9.22.020, 9.26.010, 9.26.040, 9.26.070, 9.26.080, 9.26.010, 9.28.020, 9.30.020, 9.30.040, 9.32.020, 9.34.020, 9.34.015, 9.34.030, 9.36.010 AND 9.36.020; REPEALING SECTIONS 9.04.020, 9.04.030, 9.20.040, 9.30.050, 9.30.060, 9.30.070, 9.30.080, 9.30.090, 9.32.010, 9.34.010 AND 9.36.040 OF THE GIG HARBOR MUNICIPAL CODE.

---

WHEREAS, RCW 35A.11.020 authorizes the legislative body of code cities to adopt and enforce criminal codes related to misdemeanor and gross misdemeanor offenses, and

WHEREAS, the City has adopted a criminal code as authorized by statute, and

WHEREAS, various provisions of the City's criminal code have not been updated in several years, and

WHEREAS, new crimes have been added to the Revised Code of Washington by the State Legislature since the latest amendment of the City's criminal code, and

WHEREAS, the City desires to adopt some of these new crimes and amend and clarify existing portions of the City's criminal code, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO  
ORDAIN AS FOLLOWS:

Section 1.     Repealer.   The following sections of the Gig Harbor Municipal Code are hereby repealed: 9.04.020, 9.04.030, 9.20.040, 9.30.050, 9.30.060, 9.30.070, 9.30.080, 9.30.090, 9.32.010, 9.34.010 and 9.36.040.

Section 2.     Section 9.01.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.01.020   General provisions.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW  
9.01.055     Citizen immunity if aiding officer.  
9.01.110     Omission, when not punishable.  
9.01.130     Sending letter, when complete.  
9A.04.020    Purposes — Principles of construction.  
9A.04.030    State criminal jurisdiction.  
9A.04.040    Classes of crime.  
9A.04.050    People capable of committing crimes — Capability of children.  
9A.04.060    Common law to supplement statutes.  
9A.04.070    Who amenable to criminal statutes.  
9A.04.080    Limitation of actions.  
9A.04.090    Application of general provisions of the code.  
9A.04.100    Proof beyond a reasonable doubt.  
9A.04.110    Definitions.

Section 3.     Section 9.01.040 of the Gig Harbor Municipal Code, is hereby amended to read as follows:

**9.01.040     Defenses.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW  
9A.12.010    Insanity.  
9A.16.010    ~~Definition~~ Definitions.  
9A.16.020    Use of force — When lawful.

- 9A.16.060 Duress.
- 9A.16.070 Entrapment.
- 9A.16.080 Action for being detained on mercantile establishment of premises for investigation — "Reasonable grounds" as defense.
- 9A.16.090 Intoxication.
- 9A.16.100 Use of force on children - Policy - Actions presumed reasonable.

Section 4. Section 9.01.050 of the Gig Harbor Municipal Code, is hereby amended to read as follows:

**9.01.050 Contempt.**

The following state statutes ~~including all future amendments,~~ are hereby adopted by reference:

RCW

- ~~7.20.010 Contempt of court defined.~~
- ~~7.20.020 Punishment — General.~~
- ~~7.20.030 Contempt in presence of court Summary punishment.~~
- ~~7.20.040 Procedure in other cases.~~
- ~~7.20.050 Production of defendant if in custody.~~
- ~~7.20.060 How prosecuted.~~
- ~~7.20.070 Return of warrant — Examination of defendant.~~
- ~~7.20.090 Judgment and sentence.~~
- ~~7.20.100 Indemnity to injured party.~~
- 7.21.010 Definitions.
- 7.21.020 Sanctions - Who may impose.
- 7.21.030 Remedial sanctions - Payment for losses.
- 7.21.040 Punitive sanctions - Fines.
- 7.21.050 Sanctions - Summary imposition - Procedure.
- 7.21.060 Administrative actions on proceedings - Petition to court for imposition of sanctions.
- 7.21.070 Appellate review.

Section 5. Section 9.01.060 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.01.060 Penalty.**

A. Any person convicted of a gross misdemeanor shall be punished by a fine not to exceed \$5,000 or by imprisonment in jail for a term not to exceed one year, or by both such fine and imprisonment.

B. Unless otherwise provided, any person convicted of violating the provisions of this title shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$1,000 or by imprisonment in jail for a term not to exceed 90 days, or by both such fine and imprisonment.

C. In addition to the penalty provisions set forth in this section, a person who is convicted of a misdemeanor violation of any provision of Chapter 69.50 RCW adopted by reference shall be punished by imprisonment for not less than 24 consecutive hours, and by a fine of not less than \$250.00. On a second or subsequent conviction, the fine shall not be less than \$500.00. These fines shall be in addition to any other fine or penalty imposed. Unless the court finds that the imposition of the minimum imprisonment will pose a substantial risk to the defendant's physical or mental well being or that local jail facilities are in an overcrowded condition, the minimum term of imprisonment shall not be suspended or deferred. If the court finds such risk or overcrowding exists, it shall sentence the defendant to a minimum of 40 hours of community service. If a minimum term of imprisonment is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. Unless the court finds the person to be indigent, the minimum fine shall not be suspended or deferred. in accordance with RCW 69.50.425.

Section 6. Section 9.01.090 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.01.090 Amendments and additions.**

This chapter title is adopted in accordance with the provisions of RCW 35A.12.140, and all amendments and additions to the Revised Code of Washington sections hereinafter enumerated, when adopted by reference as required by RCW 35A.12.140, ~~printed and filed with the city clerk,~~ shall be considered and accepted as amendments and additions to this chapter title.

Section 7. Section 9.04.010 of the Gig Harbor Municipal Code is hereby

amended to read as follows:

**9.04.010 Alcoholic beverage control Enforcement.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference and wherever the word "title" or words "this title" are used therein the same shall be construed to mean and refer to RCW Title 66 and "this act" shall mean and refer to the Washington State Liquor Act:

RCW

- 66.04.010 Definitions.
- 66.04.011 "Public place" not to include certain parks and picnic areas.
- 66.20.200 Unlawful acts relating to card of identification and certification card - Penalties.
- 66.20.210 Licensee's immunity to prosecution or suit — Certification card as evidence of good faith.
- 66.20.300 Alcohol servers — Definitions.
- 66.20.310 Alcohol servers — Permits — Requirements — Suspension, revocation — Violations — Exemptions.
- 66.20.340 Alcohol server — Violation of rules — Penalties.
- 66.28.080 Permit for music and dancing upon licensed premises.
- 66.28.090 Licensed premises open to inspection — Failure to allow when.
- ~~66.44.010 Local officers to enforce law Authority of board — Liquor enforcement officers.~~
- 66.44.040 Sufficiency of description of offenses in complaints, ~~informations~~ information, process, etc.
- 66.44.050 Description of offense in words of statutes — Proof required.
- 66.44.060 Proof of unlawful sale establishes prima facie intent.
- 66.44.070 Certified analysis is prima facie evidence of alcoholic content.
- 66.44.080 Service of process on corporation.
- 66.44.090 Acting without license.
- 66.44.100 Opening or consuming liquor in public place — Penalty
- 66.44.120 Unlawful use of seal.
- 66.44.130 Sale of liquor by drink or bottle.

- 66.44.140 Unlawful sale, transportation of spirituous liquor without a stamp or seal — Unlawful operation, possession of still or mash.
- 66.44.150 Buying liquor illegally.
- 66.44.160 Illegal possession, transportation of alcoholic beverages.
- 66.44.170 Illegal possession of liquor with intent to sell -Prima facie evidence, what is.
- 66.44.175 Violations of law.
- 66.44.180 General penalties — Jurisdiction for violation.
- 66.44.200 Sales to persons apparently under the influence of liquor.
- 66.44.210 Obtaining liquor for ineligible person.
- 66.44.240 Drinking in public conveyance Penalty against carrier.
- 66.44.250 Same — Penalty against individual.
- 66.44.265 Candidates giving or purchasing liquor on election day prohibited.
- 66.44.270 Furnishing liquor to minors — Possession, use — Exhibition of effects — Exceptions.
- 66.44.280 Minor applying for permit.
- 66.44.290 Minor purchasing liquor.
- 66.44.291 Penalty for minor purchasing or attempting to purchase liquor.
- 66.44.300 ~~Treating minor, etc.~~ Treats, gifts, purchases of liquor for or from minor, or holding out minor as at least twenty-one, in public place where liquor is sold.
- 66.44.310 Minors frequenting ~~tavern~~ off-limits area - Misrepresentation of age — Classification of licenses.
- 66.44.316 ~~Musicians~~ 18 Certain persons eighteen years and older permitted to enter and remain upon licensed premises during employment.
- 66.44.320 Sales of liquor to minors a violation.
- 66.44.325 Unlawful transfer to a minor of an identification card.
- 66.44.328 ~~Unlawful to transfer to a minor of a forged, altered, etc.,~~ Preparation or acquisition in supply to persons under age twenty-one of facsimile of official identification card - Penalty.
- 66.44.340 Employees 18 years and over allowed to sell and carry beer and wine for Class E and/or F employees.



66.44.350 Employees eighteen years and over allowed to serve and carry liquor, clean up, etc., for class A, C, D and/or H licensed employers.

66.44.370 Resisting or opposing officers in enforcement of title.

Section 8. Section 9.06.010 of the Gig Harbor Municipal Code is hereby

amended to read as follows:

**9.06.010 Animals — Conduct prohibited.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW

~~9.08.010 — Allowing vicious animal at large.~~

9.08.020 Diseased animals.

9.08.030 False certificate of registration of animals — False representation as to breed.

9.08.065 Definitions.

9.08.070 Dogs — Taking, concealing, injuring, killing, etc. — Penalty.

~~Chapter 226, Section 1, Laws of 1990 — Use of Domestic Dogs and Cats and Bait.~~

Section 9. Section 9.06.020 of the Gig Harbor Municipal Code is hereby

amended to read as follows:

**9.06.020 Prevention of cruelty to animals.**

9.06.020 Cruelty to animals.

A. A person is guilty of cruelty to animals if he:

1. Subjects any animal to cruel mistreatment;

2. Subjects any animal in his custody to cruel neglect; or

3. Kills or injures any animal belonging to another without legal privilege or consent of the owner.

B. This section shall not be construed to prohibit accepted veterinary practices by veterinarians.

C. Cruelty to animals is a misdemeanor.

The following state statutes are adopted by reference:

RCW

<u>16.52.011</u>	<u>Definitions — Principles of liability.</u>
<u>16.52.080</u>	<u>Transporting or confining in unsafe manner — Penalty.</u>
<u>16.52.085</u>	<u>Removal of neglected animal — Examination — Notice — Euthanasia.</u>
<u>16.52.090</u>	<u>Docking horses — Misdemeanor.</u>
<u>16.52.095</u>	<u>Cutting ears — Misdemeanor.</u>
<u>16.52.100</u>	<u>Confinement without food and water — Intervention by others.</u>
<u>16.52.110</u>	<u>Old or diseased animals at large.</u>
<u>16.52.117</u>	<u>Animal fighting — Owners, trainers, spectators — Exceptions.</u>
<u>16.52.180</u>	<u>Limitation on application of chapter.</u>
<u>16.52.185</u>	<u>Exclusions from chapter.</u>
<u>16.52.190</u>	<u>Poisoning animals.</u>
<u>16.52.193</u>	<u>Poisoning animals — Strychnine sales — Records — Report on suspected purchases.</u>
<u>16.52.195</u>	<u>Poisoning animals — Penalty.</u>
<u>16.52.200</u>	<u>Sentences — Forfeiture of animals — Liability for costs — Civil penalty — Education, counseling.</u>
<u>16.52.207</u>	<u>Animal cruelty in the second degree.</u>
<u>16.52.210</u>	<u>Destruction of animal by law enforcement officer — Immunity from liability.</u>
<u>16.52.300</u>	<u>Dogs or cats used as bait — Seizure — Limitation.</u>

Section 10. Section 9.08.010 of the Gig Harbor Municipal Code is hereby

amended to read as follows:

**9.08.010 Anticipatory offenses prohibited.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW

9A.28.020

(1), (2);

~~(3)~~(e) Criminal attempt.

9A.28.030 Criminal solicitation.

9A.28.040

(1), (2);

~~(3)~~(e) Criminal conspiracy.

Section 11. Section 9.10.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.10.010 Conduct prohibited.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW

- 9.91.060 Leaving children unattended in parked automobile.
- 13.32A.080 Unlawful harboring of a minor — Penalty — Defense — Prosecution of adult for involving children in commission of offense.
- 13.32A.082 Providing shelter to minor — Requirement to notify parent, law enforcement, or department.
- 13.32A.084 Providing shelter to minor — Immunity from liability.
- 26.28.060 Child labor — Penalty.
- 26.28.080 Selling or giving tobacco to a minor — Belief of representative capacity no defense — Penalty.
- 26.28.085 Applying tattoo to a minor — Penalty.
- 70.155.010 Definitions.
- 70.155.080 Purchasing or obtaining tobacco by persons under the age of eighteen - Civil infraction.

Section 1,  
Chapter 133,  
Laws of 1998

Section 12. A new Section 9.10.030, entitled Sexual exploitation of children and minor access to erotic materials, is hereby added to the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.10.030 Sexual exploitation of children and minor access to erotic materials.**

- 9.68A.011 Definitions.
- 9.68A.080 Processors of depictions of minor engaged in sexually explicit conduct -- Report required.
- 9.68A.090 Communicating with a minor for immoral purposes.
- 9.68A.110 Certain defenses barred, permitted.
- 9.68A.120 Seizure and forfeiture of property.
- 9.68A.140 Definitions.

9.68A.150 Allowing minor on premises of live erotic performance.

9.68A.160 Penalty.

Section 13. Section 9.14.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.14.010 State statutes adopted by reference.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW

69.41.010 Definitions.

69.41.020 Prohibited acts — Information not privileged communication.

69.41.030 Sale, delivery, or possession of legend drug without prescription or order prohibited - Exceptions.

69.41.050 Labeling requirements.

69.41.060 Search and seizure.

69.41.062 Search and seizure at rental premises — Notification of landlord.

69.41.065 Violation — Juvenile driving privileges.

69.41.070 Penalties.

69.50.101 Definitions.

69.50.102 Drug paraphernalia — Definitions.

69.50.204

(c)(14) Schedule I — Marijuana.

~~(d)(13)~~

69.50.309 Containers.

69.50.401(e) Prohibited Acts: A — Penalties.

69.50.408 Second or subsequent offenses.

69.50.412 Prohibited Acts: E - Penalties.

69.50.420 Violations — Juvenile driving privileges.

69.50.425 Misdemeanor violations — Minimum imprisonment.

69.50.505 Seizure and forfeiture Forfeiture.

69.50.506 Burden of proof. Proof; liabilities.

~~69.50.509 Search and seizure of controlled substances.~~

Section 14. Section 9.14.030 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.14.030 Inhaling toxic fumes.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW

- 9.47A.010 Definition.
- 9.47A.020 Unlawful inhalation — Exception.
- 9.47A.030 Possession of certain substances prohibited, when.
- 9.47A.040 Sale of certain substance prohibited, when.
- 9.47A.050 Penalty.

Section 15. Section 9.14.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.14.040 Poisons.**

The following state statutes, ~~including all future amendments~~ are hereby adopted by reference:

RCW

- 69.38.010 ~~Poison~~ "Poison" defined.
- 69.38.020 Exceptions from chapter.
- 69.38.030 Poison register - Identification of purchaser.
- 69.38.040 Poison register — Penalty for ~~violations~~ failure to maintain register.
- 69.38.050 False representations - Penalty.
- ~~69.38.060 License required.~~
- 69.38.060 Manufacturers and sellers of poisons - License required - Penalty.

Section 16. Section 9.14.060 of the Gig Harbor Municipal Code is hereby amended to read as follows:.

**9.14.060 Steroids.**

The following ~~statutes of the state, including all future amendments,~~ state statutes are adopted by reference ~~as if set forth in full herein:~~

- RCW  
 69.41.300 Definitions.  
 69.41.320 Practitioners --- Restricted use Medical records.

Section 17. Section 9.20.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.20.010 Firearms and dangerous weapons — Prohibitions.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

- RCW  
 9.41.010 Terms defined.  
9.41.042 Children - Permissible firearm possession.  
9.41.047 Restoration of possession rights.  
~~9.41.050 Carrying pistol.~~  
~~9.41.060 Exception.~~  
~~9.41.080 Delivery to minors and others forbidden.~~  
9.41.050 Carrying firearms.  
9.41.060 Exceptions to restrictions on carrying firearms.  
9.41.070 Concealed pistol license — Application — Fee — Renewal.  
9.41.075 Concealed pistol license - Revocation.  
9.41.090 Dealer deliveries regulated - Hold on delivery.  
9.41.094 Waiver of confidentiality.  
~~9.41.098 Forfeiture of firearms — Disposition — Confiscation, — order by courts — Return to owner — Confiscation by law enforcement officer.~~  
~~9.41.100 Dealers to be licensed.~~  
~~9.41.120 Certain transfers forbidden.~~  
~~9.41.130 False information forbidden.~~  
~~9.41.140 Alteration of identifying marks prohibited.~~  
~~9.41.150 Exceptions~~  
~~9.41.170 Alien's license to carry firearms Exception.~~  
9.41.110 Dealer's licenses, by whom granted, conditions, fees - Employees, finger printing and background checks - Wholesale sales excepted - Permits prohibited.  
9.41.120 Firearms as loan security.  
9.41.122 Out-of-state purchasing.  
9.41.124 Purchasing by non-residents.  
9.41.185 Coyote getters.  
9.41.220 Unlawful firearms and parts contraband.

- 9.41.230 Aiming or discharging firearms , dangerous weapons. -
- ~~9.41.240 Use of firearms by minor.~~
- 9.41.240 Possession of pistol by person from eighteen to twenty one.
- 9.41.250 Dangerous weapons — Evidence Penalty.
- 9.41.260 Dangerous exhibitions.
- 9.41.270 Weapons apparently capable of producing bodily harm, ~~carrying, exhibiting, displaying or drawing unlawful~~ — Unlawful carrying or handling — Penalty — Exceptions.
- 9.41.280 ~~Students carrying~~ Possessing dangerous weapons on school — ~~property.~~ facilities — Penalty — Exceptions.
- 9.41.300 Weapons prohibited in certain places - Local laws and ordinances - Exceptions - Penalty.
- 9.41.800 Surrender of weapons or licenses — Prohibition on future possession or licensing.
- 9.41.810 Penalty.
- 70.74.010 Definition of explosives.

Section 18. Section 9.20.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.20.020 Unlawful use of air guns — Penalty.**

A. It is unlawful for any person to point or shoot an air gun, bow and arrow, or crossbow at any person or property of another, or to aim or discharge such weapon in the direction of the person or residence of another, while within such range as to cause or inflict injury to the person or damage the property of another.

B. As used in this section, "air gun" means and includes the following: air gun, air pistol, air rifle, BB gun and toy or other guns of any kind or nature when so designed, contrived, modified and used to propel, by compressed air or spring-loaded plunger, any pellet, dart, hard-tipped arrow, bean, pea, BB, rock or other hard substance a distance of more than 25 feet with sufficient force to break windows or inflict injury upon persons or animals.

C. Any person convicted of a violation of the provisions of this section is guilty of a misdemeanor and, in addition to any other punishment imposed by the court, the court

shall direct that the weapon so used in violation of the provisions hereof be confiscated.

Section 19. A new Section 9.20.040, entitled Destruction, Trade or Sale of Forfeited Firearms, is hereby added to the Gig Harbor Municipal Code to read as follows:

**9.20.040 Destruction, trade or sale of forfeited firearms.**

A. Firearms that are (1) judicially forfeited and no longer needed for evidence or (2) forfeited due to a failure to make a claim under RCW 63.32.010 or 63.40.010 may be disposed of by the city.

B. The city may destroy, retain, trade, auction or arrange for an auction of forfeited firearms, pursuant to Section 9.01.010, adopting by reference RCW Section 9.41.098.

C. The city may retain the proceeds of any trade or auction of forfeited firearms.

Section 20. Section 9.22.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.22.010 Frauds and swindles.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW

9.04.010 False advertising.

9.04.090 Advertising fuel prices by service stations.

9.16.080 Sales of petroleum products improperly labeled or by wrong grade.

9.16.090 Sales of petroleum products improperly labeled by wrong grade - Penalty for violations.

9.18.080 Offender a competent witness.

9.18.120 Suppression of competitive bidding.

9.18.130 Collusion to prevent competitive bidding.

9.18.140 Penalty.

9.18.150 Agreements out of state.

9.44.080 Misconduct in signing a petition.

9.45.060 Encumbered, leased or rented personal property - Construction.



- 9.45.062 Failure to deliver leased personal property —  
Requisites for presentation — Construction.
- 9.45.070 Mock auctions.
- 9.45.080 Fraudulent removal of property.
- 9.45.090 Knowingly receiving fraudulent conveyance.
- 9.45.100 Fraud in assignment for benefit of creditors.
- 9.26A.090 Telephone company credit cards - Prohibited acts.
- 9.26A.100 Definitions.
- 9.26A.110 Fraud in obtaining telecommunications service -  
Penalty.
- 9.26A.120 ~~9.45.180~~ Fraud in operating coin-box telephone or  
other receptacle.
- 9.26A.130 ~~9.45.190~~ Penalty for manufacture or sale of slugs to  
be used for coin.
- ~~9.45.240 Fraud in obtaining telephone or telegraph service.~~
- ~~9.45.250 Fraud in obtaining cable television services.~~
- 9A.60.010 Definitions.
- 9A.60.040 Criminal impersonation.
- 9A.60.050 False certification.

Section 21. Section 9.22.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.22.020 False representations.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

- RCW
- 9.38.010 False representation concerning credit.
- 9.38.015 False statement by deposit account applicant.
- 9.38.020 False representation concerning title.

Section 22. Section 9.26.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.26.010 Assault and other crimes involving physical harm.**

The following statutes, ~~including all future amendments,~~ are adopted by reference:

RCW

- 9A.36.041 Assault in the fourth degree.
- 9A.36.050 Reckless endangerment.
- 9A.36.070 Coercion.
- ~~9.61.230 Telephone calls to harass, intimidate, torment or embarrass.~~
- ~~9.61.240 Same Permitting telephone to be used.~~
- ~~9.61.250 Same Offenses, where deemed committed.~~

Section 23. Section 9.26.040 of the Gig Harbor Municipal Code is hereby

amended to read as follows:

**9.26.040 Harassment.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW

- 9A.46.020 Definition — Penalties.
- 9A.46.030 Place where committed.
- 9A.46.040 Court-ordered requirements upon person charged with crime — Violation.
- 9A.46.050 Arraignment — No-contact order.
- 9A.46.060 Crimes included in harassment.
- 9A.46.070 Enforcement of orders restricting contact.
- 9A.46.080 Order restricting contact — Violation.
- 9A.46.090 Nonliability of peace officer.
- 9A.46.100 "Convicted," time when.
- 9A.46.110 Stalking.
- 9.61.230 Telephone harassment.
- 9.61.240 Telephone harassment — Permitting telephone to be used.
- 9.61.250 Telephone Harassment — Offenses, where deemed committed.

Section 24. Section 9.26.070 of the Gig Harbor Municipal Code is hereby

amended to read as follows:

**9.26.070 ~~Violation of civil anti-harassment orders.~~ Civil anti-harassment and protection orders.**

~~It is a gross misdemeanor to wilfully disobey a temporary or permanent antiharassment order issued pursuant to Chapter 10.14 RCW.~~

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW

- 10.14.010 Legislative findings, intent.
- 10.14.020 Definitions.
- 10.14.030 Course of conduct — Determination of purpose.
- 10.14.040 Protection order — Petition.
- 10.14.050 Administrative reports — Forms, information.
- 10.14.060 Proceeding inform a pauperis.
- 10.14.070 Hearing — Service.
- 10.14.080 Anti-harassment protection orders — Ex parte orders — Renewals.
- 10.14.085 Hearing re set after ex parte order.
- 10.14.090 Representation or appearance.
- 10.14.100 Service of order.
- 10.14.105 Order following service by publication.
- 10.14.110 Notice to law enforcement agencies — Enforceability.
- 10.14.115 Enforcement of order — Knowledge prerequisite to penalties — Reasonable efforts to serve copy of order.
- 10.14.120 Disobedience of order — Penalty.
- 10.14.125 Service by publication — Cost.
- 10.14.130 Exclusion of certain actions.
- 10.14.140 Other remedies.
- 10.14.150 Jurisdiction.
- 10.14.160 Where action may be brought.
- 10.14.170 Criminal penalty.
- 10.14.180 Modification of order.
- 10.14.190 Constitutional rights.
- 10.14.200 Availability of orders in proceedings under chapter 26.09, 26.10, or 26.26 RCW.
- 10.14.900 Severability.

Section 25. A new Section 9.26.080, entitled Criminal Mistreatment, is hereby added to the Gig Harbor Municipal Code to read as follows:

9.26.080 Criminal mistreatment.

The following state statutes are adopted by reference:

RCW

9A.42.010 Definitions.

9A.42.080 Abandonment of a dependent person in the third degree.

9A.42.090 Abandonment of a dependent person — Defense.

Section 26. A new Section 9.26.090, entitled Failure to Abide by Court Order,

is hereby added to the Gig Harbor Municipal Code to read as follows:

**9.26.090 Failure to abide by court order.**

It shall be a gross misdemeanor for any person subject to a court order, the violation of which is not covered by a specific provision of this title, to knowingly and wilfully violate the terms of that order.

Section 27. Section 9.28.010 of the Gig Harbor Municipal Code is hereby

amended to read as follows:

**9.28.010 Theft, unauthorized issuance of bank checks and possession of stolen property.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW

9.54.130 Restoration of stolen property — Duty of officers.

9A.56.010 Definitions.

9A.56.020 Theft — Definition, defense.

9A.56.050 Theft in third degree.

9A.56.060 Unlawful issuance of checks or drafts.

~~(1)(2)(3)(5)~~ 9A.56.096 Theft of rental, leased, or lease - Purchased property.

9A.56.140 Possessing stolen property Definition, ~~credit cards~~ access devices, presumption.

9A.56.170 Possessing stolen property in the third degree.

~~9.54.130 — Restoration of stolen property — Duty of officers.~~

9A.56.220 Theft of cable television services.

9A.56.230 Unlawful sale of cable television services.

9A.56.240 Forfeiture and disposal of device used to commit violation.

- 9A.56.260 Connection of channel converter.
- 9A.56.270 Shopping cart theft.

Section 28. Section 9.28.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.28.020 Malicious mischief and obscuring identity of machines.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

- RCW
- 9A.48.090 Malicious mischief in the third degree.
- 9A.48.100
- (H) ~~Malicious mischief and physical damage-~~ "Physical Damage" defined.
- 9A.48.110 Defacing a state monument.
- 9A.56.180 Obscuring identity of a machine.

Section 29. A new Section 9.28.050, entitled Interference with Health Care Facilities or Providers, is hereby added to the Gig Harbor Municipal Code to read as follows:

**9.28.050 Interference with health care facilities or providers.**

The following state statutes are adopted by reference:

- RCW
- 9A.50.010 Definitions.
- 9A.50.020 Interference with health care facility.
- 9A.50.030 Penalty.
- 9A.50.060 Informational picketing.

Section 30. Section 9.30.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.30.020 Sex crimes - Prostitution - Unlawful public exposure.**

A. The following state statutes are adopted by reference:

RCW

9A.44.010 Definitions.

9A.44.020 Testimony - Evidence - Written motion -  
Admissibility.

9A.44.030 Defenses to prosecution under this chapter.

9A.44.096 Sexual misconduct with a minor in the second  
degree.

Section 1, Chapter

221, 1998 Laws Voyeurism

9A.88.010 Indecent exposure.

9A.88.030 Prostitution.

9A.88.050 Prostitution — Sex of parties immaterial — No  
defense.

9A.88.060 Promoting prostitution - Definitions.

9A.88.090 Permitting prostitution.

9A.88.110 Patronizing a prostitute.

9A.88.120 Additional fee assessments.

B. A person commits the crime of indecent exposure if he or she intentionally makes any open and obscene exposure of his or her It is unlawful for any person to intentionally commit any act constituting unlawful public exposure of his person or the person of another. Unlawful public knowing that such conduct is likely to cause reasonable affront or alarm. Indecent exposure is a misdemeanor, unless such person exposes himself/herself to a person under the age of 14 years, in which case the offense is a gross misdemeanor.

Section 31. Section 9.30.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.30.040 Unlawful public exposure — Exemptions.**

The prohibition set forth in GHMC 9.30.020(B) shall not apply to any:

- A. "Expressive dance," as defined in GHMC 9.30.010;
- B. Play, opera, musical or other dramatic work;
- C. Class, seminar or lecture, conducted for a scientific or educational purpose; or

D. Nudity within a locker room or other similar facility used for changing clothing in connection with athletic or exercise activities.

Section 32. A new Section 9.30.050, entitled Obscenity, is hereby added to the

Gig Harbor Municipal Code to read as follows:

**9.30.050 Obscenity.**

The following state statutes are adopted by reference:

RCW

9.68.015 Obscene literatures, shows, etc., — Exemptions.

9.68.030 Indecent articles, etc.

9.68.050 "Erotic material" — Definitions.

9.68.070 Prosecution for violation of RCW 9.68.060 —  
Defense.

9.68.080 Unlawful acts.

9.68.100 Exceptions to provisions of RCW 9.68.050 through  
9.68.120.

9.68.110 Motion picture operator or projectionist exempt,  
when.

9.68.120 Provisions of RCW 9.68.050 through 9.68.120  
exclusive.

9.68.130 "Sexually explicit material" — Defined — Unlawful  
display.

Section 33. Section 9.32.020 of the Gig Harbor Municipal Code is hereby

amended and renumbered to read as follows:

**9.32.010 Obstructing justice, criminal assistance,  
introducing contraband and related offenses.**

The following state statutes are adopted by reference:

RCW

9.69.100 Duty of witness of offense against child or any  
violent offense - Penalty.

9A.72.010 Definitions.

9A.72.040 False swearing.

9A.72.050 Perjury and false swearing - Inconsistent statements  
- Degree of crime.

9A.72.060 False swearing — Retraction.

- 9A.72.070 False swearing — Irregularities no defense.
- 9A.72.080 Statement of what one does not know to be true.
- 9A.72.140 Jury tampering.
- 9A.72.150 Tampering with physical evidence.
- 9A.76.010 Definitions.
- 9A.76.020 Obstructing a law enforcement officer.
- 9A.76.030 Refusing to summon aid for a peace officer.
- 9A.76.040 Resisting arrest.
- 9A.76.050 Rendering criminal assistance - Definition of terms.
- 9A.76.060 Relative defined.
- 9A.76.070 Rendering criminal assistance in the first degree.
- 9A.76.080 Rendering criminal assistance in the second degree.
- 9A.76.090 Rendering criminal assistance in the third degree.
- 9A.76.100 Compounding.
- 9A.76.160 Introducing contraband in the third degree.
- 9A.76.170 Bail jumping.
- 9A.76.175 Making a false or misleading statement to a public servant.
- 9A.84.040 False reporting.

Section 34. Section 9.34.020 of the Gig Harbor Municipal Code is hereby amended and renumbered to read as follows:

**9.34.010 Riot, failure to disperse and—obstruction, disorderly conduct.**

The following state statutes are adopted by reference:

- RCW
- 9.27.015 Interference, obstruction of any court, building or residence — Violations.
- 9A.84.010 Riot.
- 9A.84.020 Failure to disperse.
- 9A.84.030 Disorderly Conduct.

Section 35. Section 9.34.015 of the Gig Harbor Municipal Code is hereby amended and renumbered to read as follows:

**9.34.015020 Disturbance of the peace ~~defined~~,  
- Penalty.**

A. A person is guilty of disturbing the public peace if he or she intentionally engages in any conduct which tends to or does disturb the public peace.



B. The following are determined to disturb the public peace:

A 1. The frequent, repetitive or continuous sounding of any horn or siren, except as a warning of danger or as specifically permitted or required by law;

B 2. The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding, or testing of any motor vehicle, motorcycle, off-highway vehicle, watercraft, or internal combustion engine within a residential district, so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property, unless otherwise authorized by law;

C 3. Yelling, shouting, whistling, or other raucous noises, on or near the public streets between the hours of 11:00 p.m. and 7:00 a.m.;

D 4. The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment, or condominium, which unreasonably interfere with the peace, comfort, and repose of owners or possessors of real property, such as sounds from audio equipment, musical instruments, band sessions, or social gatherings;

E 5. Sound from motor vehicle sound systems, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than 50 feet from the vehicle itself,

F 6. Sound from audio equipment, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than 30 feet from the source, unless it occurs within a multifamily unit such as a duplex, apartment or condominium, in which case it shall be a disturbance if it is clearly audible to a neighbor, and disturbs his/her peace as described in subsection D 4 above;

G 7. The repetitive noise created by animals under the control of individuals within the city, such as barking, or yelping dogs, or other such noises from animals, that unreasonably disturbs or interferes with the peace, comfort and repose of owners or possessors of real property; and

H 8. The foregoing provisions shall not apply to regularly scheduled events such as public address systems for baseball games, authorized street dances or other authorized community sponsored events. Safety devices, fire alarms, and emergency vehicles are exempt from these provisions.

C. Disturbing the public peace is a misdemeanor.

Section 36. Section 9.34.030 of the Gig Harbor Municipal Code is hereby

amended to read as follows:

**9.34.030 Privacy — Violating right of.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW

- 9.73.010 Divulging telegram.
- 9.73.020 Opening sealed letter.
- 9.73.030 Intercepting, recording or divulging private communication — Consent required — Exceptions.
- 9.73.040 Intercepting private communication - Court order permitting interception - Grounds for issuance - Duration - Renewal.
- 9.73.050 Admissibility of intercepted communication and evidence.
- 9.73.070 ~~Same—~~Persons and activities excepted.
- 9.73.090 Police and fire personnel exempted from 9.73.030 — 9.73.080 — Standards.
- 9.73.095 Intercepting, recording, or divulging inmate conversations — Conditions — Notice.
- 9.73.100 Recordings available to defense counsel.
- 9.73.110 Intercepting, recording or disclosing private communications — Not unlawful for building owner — Conditions.
- 9.73.120 Reports — Required, when, contents.
- 9.73.130 Recording private communications — Authorization.
- 9.73.140 Recording private conversations — Authorization — Inventory.
- 9.73.200 Intercepting, transmitting or recording conversations concerning controlled substances — Findings.
- 9.73.210 Intercepting, transmitting or recording conversations concerning controlled substances — Authorization — Monthly report — Admissibility — Destruction of information.
- 9.73.220 Judicial authorities — Availability of Judge required.
- 9.73.230 Intercepting, transmitting or recording conversations concerning controlled substances — Conditions — Written reports required — Judicial review — Notice — Admissibility — Penalties.

9.73.240 Intercepting, transmitting, or recording conversations concerning controlled substances — Concurrent power of attorney general to investigate and prosecute.

Section 37. A new Section 9.34.060, entitled Abuse of Office, is hereby added to the Gig Harbor Municipal Code to read as follows:

9.34.060 Abuse of office.

The following state statutes are hereby adopted by reference:

RCW  
9A.80.010 Official misconduct.

Section 38. Section 9.36.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.36.010 Conduct prohibited.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW  
9.02.050 Concealing birth.  
9.03.010 Abandoning, discarding, refrigeration equipment.  
9.03.020 Permitting unused equipment to remain on premises.  
9.03.030 Violation of RCW 9.03.010 or  
9.03.040 Keeping or storing equipment for sale.  
9.91.010 Denial of civil rights — Terms defined.  
9.91.020 Operating railroad, steamboat, vehicle, etc., while intoxicated.  
9.91.025 Unlawful bus conduct.  
9.91.110 Meal buyers — Records of purchases Penalty.  
~~9.03.010 Abandoning, discarding, refrigeration equipment.~~  
9.91.130 Disposal of trash in charity donation receptacle.  
~~9.03.020 Permitting unused equipment to remain on premises.~~  
9.91.140 Food stamps.  
~~9.03.030 Violation of RCW 9.03.010 or 9.03.020.~~  
9.91.150 Tree spiking.  
~~9.03.040 Keeping or storing equipment for sale.~~

Section 39. Section 9.36.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**9.36.020 Littering and pollution.**

The following state statutes, ~~including all future amendments,~~ are adopted by reference:

RCW

70.93.060 Littering, prohibited - Penalties.

70.54.010 Polluting water supply.

Section 40. Codes adopted by Reference. Pursuant to RCW 35A.12.140, one copy of the statutes adopted by reference herein have been and are now on file with the City Clerk and are available for examination by the public.

Section 41. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 42. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

---

MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

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

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_  
CAROL A. MORRIS

FILED WITH THE CITY CLERK: \_\_\_\_\_  
PASSED BY THE CITY COUNCIL: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
EFFECTIVE DATE: \_\_\_\_\_  
ORDINANCE NO. \_\_\_\_\_

**SUMMARY OF ORDINANCE NO. \_\_\_\_\_**

of the City of Gig Harbor, Washington

---

On the \_\_\_\_ day of \_\_\_\_\_, 1998, the City Council of the City of Gig Harbor passed Ordinance No. \_\_\_\_\_. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE CITY'S CRIMINAL CODE, ADDING NEW CRIMES, DELETING REPEALED AND/OR OUTDATED CRIMES, SETTING FORTH PENALTIES, ADOPTING VARIOUS PROVISIONS OF THE REVISED CODE OF WASHINGTON BY REFERENCE, ADDING NEW SECTIONS 9.20.040, 9.26.090, 9.28.050, 9.30.050, AND 9.34.060; AMENDING SECTIONS 9.01.020, 9.01.040, 9.01.050, 9.01.060, 9.01.090, 9.04.010, 9.06.010, 9.06.020, 9.08.010, 9.10.010, 9.10.030, 9.14.010, 9.14.030, 9.14.040, 9.14.060, 9.20.010, 9.20.020, 9.22.010, 9.22.020, 9.26.010, 9.26.040, 9.26.070, 9.26.080, 9.26.010, 9.28.020, 9.30.020, 9.30.040, 9.32.020, 9.34.020, 9.34.015, 9.34.030, 9.36.010 AND 9.36.020; REPEALING SECTIONS 9.04.020, 9.04.030, 9.20.040, 9.30.050, 9.30.060, 9.30.070, 9.30.080, 9.30.090, 9.32.010, 9.34.010 AND 9.36.040 OF THE GIG HARBOR MUNICIPAL CODE.

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 1998.

---

CITY CLERK, MOLLY TOWSLEE



*City of Gig Harbor. The "Maritime City."*

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

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: MARK HOPPEN, CITY ADMINISTRATOR** *MHB*  
**SUBJECT: LEGAL SERVICES AGREEMENT**  
**DATE: AUGUST 14, 1998**

#### **INFORMATION/BACKGROUND**

City Attorney Carol Morris, who is resigning from partnership in Ogden Murphy Wallace effective August 31, 1998, has suggested the attached contract proposal that will continue her services with the city. The contract is like previous Ogden Murphy Wallace agreements. The city will continue to utilize the services of Ogden Murphy Wallace as necessary at an hourly rate.

#### **FISCAL CONSIDERATIONS**

The proposed contract offers the same rates as currently paid to Ogden Murphy Wallace.

#### **RECOMMENDATION**

Staff recommends that Council approve the attached contract.

RECEIVED

AUG 13 1998

**LEGAL SERVICES AGREEMENT**

CITY OF GIG HARBOR

THIS AGREEMENT is entered into by and between the City of Gig Harbor, hereinafter referred to as the "City," and Carol A. Morris, hereinafter referred to as the "City Attorney."

1. General Recitals.

A. The Council desires to establish a retainer system for legal services and for matters of a routine nature in order to encourage Councilmembers, the Mayor and department heads to utilize the services of the City Attorney as an effective means of assisting with risk management.

B. The parties hereto desire to define the services to be provided and the costs associated therewith.

2. Term. The term of this Agreement shall be from \_\_\_\_\_, 1998, until terminated by either party pursuant to the terms hereof. Either party may terminate this Agreement by providing thirty (30) days written notice to the other party.

3. Duties.

A. The City Attorney shall be principally responsible for performing all legal work for the City, except as set forth in Paragraph 3(B). The following list of duties are illustrative of the services to be performed by the City Attorney, but is not necessarily inclusive of all duties:

(1) City Attorney to provide services on City Hall premises to be scheduled by appointment as required or on pre-arranged days. Other basic services will be provided at the Law Office of Carol A. Morris in Seattle.

(2) Draft City ordinances, contracts, resolutions, interlocal agreements, correspondence and other legal documents as requested by the City;

(3) Represent the City in lawsuits and other contested proceedings commenced by the City;

(4) Represent the City in lawsuits and other contested proceedings in which the City is named as a defendant;

(5) Approve all legal documents as to proper form and content;



(6) Advise the Mayor, Councilmembers, staff members, committee members, commission members and board members with regard to legal matters relating to their respective duties being performed for the City;

(7) Consult with and advise the Mayor, Councilmembers, department heads and staff if requested by a department head or the Mayor, by telephone, in person and/or by written memo, on routine City business;

(8) Be available on an as-needed basis to discuss legal matters with citizens which affect the City and respond to citizen inquiries in person, in writing or by telephone involving City business;

(9) Attend all Council meetings and work sessions, unless excused therefrom by the Mayor or Mayor pro-tem;

(10) Attend board meetings, commission meetings, committee meetings or any other type of meeting on an as-needed basis, including meetings with other governmental agencies as necessary on matters involving the City; and

(11) Such other duties as are necessary and appropriate in order to provide the City with legal representation.

B. The City Attorney's duties do not include the following:

(1) Providing public defense services for indigent defendants;

(2) Representing the City in any legal matter where the City Attorney is prohibited from doing so as a result of a conflict of interest under the Rules for Professional Conduct or other applicable law or regulation;

(3) Representing or advising City employees where the interest of the City employee may conflict with that of the City;

(4) Providing legal services where the City has insurance coverage that provides for legal services to the City and the City has tendered the defense to the insurance carrier. Provided, however, the City Attorney shall monitor the lawsuit on behalf of the City, and may be retained by the City's insurance provider to provide such legal services;

(5) Providing legal services where the interest of two branches of the City have conflicting legal interests. In such case, the City Attorney shall represent the interests of the City and shall not represent either branch of government; and

(6) Providing criminal prosecution services.

4. Compensation.

A. Retainer. The City shall pay the law firm a monthly retainer amount of \$1,323.50 for thirteen (13) hours of legal services commencing January 1, 1998. The rates charged by Carol A. Morris for the legal services provided in this agreement which exceed the retainer amount (not projects in Sections 4(B) and 4(C) below) are:

	Rate
Partners	\$122.00/hr.
Associates	\$ 99.90/hr.
Law Clerks	\$ 75.20/hr.
Paralegals	\$ 59.75/hr.

These rates are effective until December, 1998, and are subject to renegotiation yearly, for cost of living increases.

B. Development Proposals. On all projects for which the City will seek compensation from a proponent for the City's costs, the City Attorney and the law firm shall charge their regular hourly rates. The types of projects that are included in this category would be work associated with L.I.D.'s, ULIDs, annexations not initiated by the City, rezones, latecomers agreements, development agreements, projects subject to the City's environmental ordinances, and all other projects for which the City is entitled to receive reimbursement from another source.

C. Special Projects. It is anticipated that there may be services needed from the City Attorney and the law firm that are not of a routine nature and thus would not be included in the monthly retainer. The projects included in this category include the following:

- (1) Any contested proceedings whether the City is the initiating party or the defending party, such as mediations, arbitrations, appeals, court proceedings and administrative hearings;
- (2) Union negotiations;
- (3) Personnel matters other than of a routing nature. This would include any disciplinary proceedings;
- (4) Land acquisition; and

(5) Such other matters as are of a non-routine nature as specifically approved by the City Council.

D. Reimbursable Costs. Carol A. Morris shall be reimbursed for costs and advances for such items as legal messenger service, copying costs (for large copy projects the attorney shall determine if the Mayor or Administrator would prefer to use City personnel and equipment so as to minimize copy costs), long distance, access and use charges for computer legal research services, long distance telephone charges, facsimile costs, deposition fees, court filing fees and similar expense items. The City will be billed for travel time for meetings held off the City Hall premises, for travel to City Hall for the appointments scheduled on in Section 4(A)(2) of this Agreement, and to regular City Council meetings.

E. Equipment and Other Resources. Carol A. Morris shall provide the City Attorney's mobile telephone, unlimited access to CD-ROM and access to all other on-line computer legal research services.

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 1998.

CITY OF GIG HARBOR

CITY ATTORNEY

By: \_\_\_\_\_  
Mayor

By:   
Carol A. Morris

ATTEST:

By: \_\_\_\_\_  
City Clerk



P.L.L.C. ATTORNEYS AT LAW

2100 Westlake Center Tower • 1601 Fifth Avenue • Seattle, WA 98101-1686 • (206) 447-7000 • Fax (206) 447-0215

*Wayne D. Tanaka*

August 4, 1998

Mark Hoppen  
City Administrator  
City of Gig Harbor  
3105 Judson Street  
Gig Harbor, WA 98335

Re: Carol Morris


Dear Mr. Hoppen:

As you have heard, Carol Morris is leaving the firm to establish a practice on her own. Carol's last day at Ogden Murphy Wallace will be August 31, 1998. After that date, any work that Carol does for you would be covered under her own malpractice carrier. I understand that the City will contract with Carol to do a portion of your legal work and utilize Ogden Murphy Wallace for the remaining portion. We appreciate this opportunity to continue our relationship with the City and look forward to fulfilling your needs.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

OGDEN MURPHY WALLACE, P.L.L.C.



Wayne D. Tanaka

WDT/srf  
cc: Carol Morris

WDT206028.1L/F99925.1111

ESTABLISHED 1902

A Member of the International Lawyers Network with independent member law firms worldwide.



*City of Gig Harbor. The "Maritime City."*

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

**TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS**  
**FROM: WES HILL, P.E., PUBLIC WORKS DIRECTOR**  
**SUBJECT: STREET PAVEMENT MARKING - CONTRACT AWARD**  
**DATE: AUGUST 20, 1998**

### **INTRODUCTION/BACKGROUND**

The 1998 budget provides for two separate application of pavement marking to the City's arterial streets. The first contract application of pavement markings was completed in May.

Potential contractors capable of performing pavement marking for the second application were contacted in accordance with the City's Small Works Roster Process (Resolution No. 411). Two contractors responded with the following price quotation proposals:

Apply-A-Line, Inc.	\$16,137.25
Stripe Rite, Inc.	\$16,919.98

Based on the price quotation proposals received, the apparent lowest price quotation received was from Apply-A-Line, Inc. in the amount of sixteen-thousand one-hundred thirty-seven dollars and twenty-five cents (\$16,137.25). They have performed pavement marking for the City in previous years and their work has been satisfactory.

This memorandum requests Council authorization to award and execute the contract for the work. It is anticipated that the work will be completed within four weeks after contract award, weather permitting.

### **FISCAL CONSIDERATIONS**

The amount budgeted for this work is \$32,000. In April, a contract was awarded in the amount of \$17,296. to Apply-A-Line. The first application was completed in May for the approximate amount of \$15,004. The engineer's estimate for this pavement marking application is \$16,120. Funds are available for this work.

### **RECOMMENDATION**

Staff recommends the Council move and approve award and execution of the contract for Pavement Marking on City Streets, Project No. 98-07 to Apply-A-Line, Inc., as the lowest responsible respondent, for their price quotation proposal amount of sixteen-thousand one-hundred thirty-seven dollars and twenty-five cents (\$16,137.25).

