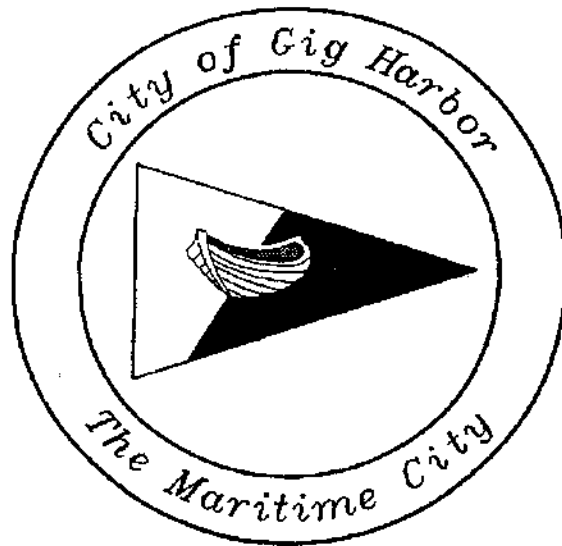


# **Gig Harbor City Council Meeting**



**October 12, 1998**

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



**AGENDA FOR GIG HARBOR CITY COUNCIL MEETING**  
**October 12, 1998 - 7:00 p.m.**

**CALL TO ORDER:**

**CONSENT AGENDA:**

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

1. Approval of the Minutes of the September 28, 1998 City Council meeting.
2. Correspondence / Proclamations – Informational.  
None submitted.
3. Approval of Payment of Bills for 10/12/98:  
Checks #21067 through #21164 in the amount of \$94,572.06.
4. Approval of Payroll for September.  
Checks # 16402 through #16551 in the amount of \$273,286.74.
5. Special Occasion Liquor License – Knights of Columbus.
6. Liquor License Application – Pinocchio Seafood & Chowder House.
7. Liquor License Renewals – Olympic Village BP.

**OLD BUSINESS:**

1. Second Reading of Ordinance – Amendment to Chapter 18.04 and Section 19.05.009  
Establishing Time Limits on the Preparation of Environmental Impact Statements.

**NEW BUSINESS:**

1. Sellers Street Improvement Project – Bid Award.
2. First Reading of Ordinance – Amending Title 19 of the GHMC – Administration of  
Development Regulation.
3. Contract for Pro-Tem Hearing Examiner Services.
4. Juror Services Contract.
5. First Amendment to Sanitary Sewer Easement – Gig Harbor Corporate Center.
6. Resolution – Adopting an Investment Policy.

**PUBLIC COMMENT/DISCUSSION:**

**COUNCIL COMMENTS:**

**STAFF REPORTS:**

1. GHPD – September Stats.
2. Dave Rodenbach, Finance Director – Gambling Tax and Amusement Device Fees.

**ADJOURN:**



**DRAFT**

**REGULAR GIG HARBOR CITY COUNCIL MEETING OF SEPTEMBER 28, 1998**

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

**CALL TO ORDER:** 7:01 p.m.

**CONSENT AGENDA:**

1. Approval of the Minutes of the September 14, 1998 City Council meeting.
2. Correspondence / Proclamations – Informational.
3. Approval of Payment of Bills for 9/28/98.  
Checks # 20989 through #21066 in the amount of \$92,080.27.
4. Liquor License Application – Harbor Humidor.

**MOTION:** Move to approve items one through four on the consent agenda.  
Owel/Picinich – unanimously approved.

**OLD BUSINESS:**

1. Second Reading of Ordinance – Proposed Revisions to Title 16, GHMC – Subdivisions. Ray Gilmore, Planning Director, introduced this second reading of an ordinance reinstating the section on certificates for city officials and recommended approval.

**MOTION:** Move to adopt Ordinance No. 802.  
Picinich/Ekberg – unanimously approved.

**NEW BUSINESS:**

1. First Reading of Ordinance – Amendment to Chapter 18.04 and Section 19.05.009 Establishing Time Limits on the Preparation of Environmental Impact Statements. Ray Gilmore explained that to comply with the regulatory reform act of 1995, an amendment was needed to the code establishing time limits for the preparation and issuance of environmental impact statements. He added that staff was recommending a one-year limit from the date of the receipt of a completed application to issue a final EIS, with an time extension if necessary.

Councilmember Dick asked about the one-year time limit. Carol Morris, Legal Counsel, explained that the purpose of the limitation was to keep the city on track to meet the deadline for when the EIS had to be processed. She explained that if additional time was required, and the applicant was not opposed to the extension, it could be granted.

This ordinance will return for a second reading at the next Council Meeting.

2. Municipal Facilities Needs Analysis – Contract Award. Mark Hoppen, City Administrator, explained that the Police Chief, a group of citizens, and Councilmembers, had been working over the course of the year on a plan for future use of the Henderson Bay Property. He said that their recommendation was to hire a consultant to help develop their ideas. He added that there are two proposals and recommended a contract award to Beckwith Consulting Group.

Councilmember Platt asked if there was sufficient resources in-house to complete the needs analysis. Mr. Hoppen explained that staff did not have the expertise nor the time to complete the work. Councilmember Ekberg said that because millions of dollars the citizen's money would be spent over a 20 - 30 year span in planning for the future, that professional expertise is needed.

**MOTION:** Move to approve the consultant services contract with Beckwith Consulting Group in the amount of \$10,000.  
Ekberg/Young – unanimously approved.

3. Kimball Place Professional Business Park Easement. Wes Hill, Public Works Director, explained that two professional office buildings on Kimball Drive were required to dedicate an easement for future construction and maintenance of a signal located opposite an entrance to the Park and Ride. He added that this easement satisfies this requirement and recommended approval.

**MOTION:** Move we accept the easement prepared by Staff and Legal Counsel.  
Dick/Picinich – unanimously approved.

#### COUNCIL COMMENTS:

Councilmember Dick said that he had received a letter from Mayor Wilbert and Dave Rodenbach, Finance Director, in response to his request for information on professional services. He added that his goal was to more clearly understand what was required during the budgeting process. He asked that this information be shared with other council members.

Councilmember Ekberg said that he had the opportunity to see the Municipal Court in action, albeit for a short time, as he was subpoenaed for jury duty.

**STAFF REPORT:**

1. Chief Mitch Barker, GHPD – Monthly Stats. Chief Barker explained that he had nothing to add to the August report and offered to answer any questions. Mayor Wilbert told him she had received complaints about the continued speeding on Peacock Hill.
2. Carol Morris, Legal Counsel. Ms. Morris introduced Jeff Teraday from Ogden Murphy & Wallace. She explained that he would be accompanying her to council meetings.

**PUBLIC COMMENT:**

Philip Penagos and Jim Iseman. Mr. Penagos explained that he and his father were representing the Hy-Iu-Hee-Hee Tavern at 4309 Burnham Drive, and were before Council to talk about two things: gambling taxes and amusement taxes. He passed out information to Councilmembers, which he used to clarify his presentation. Mr. Iseman gave background on how their establishment was charged for gambling taxes on pull-tabs. He added that other cities around the state had a much lower taxing rate than Gig Harbor's and asked for consideration. Mr. Penagos spoke about the amusement tax structure of \$200 per device, a per year charge, plus a \$10 per device per month charge, plus 2% of gross revenues. He explained that there are months that they don't even bring in \$30 on these machines, which make the city's tax an over-100% tax. He noted that most other jurisdictions are at 2% gross only, while others, have no tax at all. They thanked Councilmember for their time.

**ADJOURN:**

**MOTION:** Move to adjourn at 7:26 p.m.  
Platt/Picinich - unanimously approved.

Cassette recorder utilized:  
Tape 506 Side A 000 – 358.

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Mayor

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City Clerk





WASHINGTON STATE LIQUOR CONTROL BOARD-License Services  
1025 E Union - P O Box 43075  
Olympia WA 98504-3075

TO: MAYOR OF GIG HARBOR

September 29, 1998

SPECIAL OCCASION # 090826

KNIGHTS OF COLUMBUS  
3510 ROSEDALE ST  
GIG HARBOR, WA 98335

DATE: OCTOBER 25, 1998

TIME: 12PM TO 6:30PM

PLACE: ST. NICHOLAS PARISH HALL - 3510 ROSEDALE, GIG HARBOR

CONTACT: JOHN L OLDHAM - 253-851-3875

SPECIAL OCCASION LICENSES

- \*  License to sell beer on a specified date for consumption at specific place.
- \*  License to sell wine on a specific date for consumption at a specific place.
- \*  Beer/Wine in unopened bottle or package in limited quantity for off premises 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 objection to the issuance of the license. If additional time is required please advise.

1. Do you approve of applicant? YES\_\_ NO\_\_
2. Do you approve of location? YES\_\_ NO\_\_
3. If you disapprove and the Board contemplates issuing a license, do you want a hearing before final action is taken? YES\_\_ NO\_\_

<u>OPTIONAL CHECK LIST</u>	<u>EXPLANATION</u>	
LAW ENFORCEMENT	_____	YES__ NO__
HEALTH & SANITATION	_____	YES__ NO__
FIRE, BUILDING, ZONING	_____	YES__ NO__
OTHER:	_____	YES__ NO__

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

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



RETURN TO: WASHINGTON STATE LIQUOR CONTROL BOARD  
 License Division - 1025 E. Union, P.O. Box 43075  
 Olympia, WA 98504-3075  
 (360) 664-0012

RECEIVED

TO: CITY OF GIG HARBOR

OCT 6 - 1998

DATE: 10/01/98

RE: ASSUMPTION

From CUZZETTO, MICHAEL  
 CUZZETTO, ROBERTA  
 Dba GIG PUB AND GRILL

CITY OF GIG HARBOR

APPLICANTS:

PINOCCHIO, ANTHONY JAMES  
 06-23-51 573-82-7963  
 PINOCCHIO, SCOTTI LYNN  
 (Spouse) 01-02-62 526-71-3704

License: 358890 - 2E County: 27

Tradenam: PINOCCHIO SEAFOOD & CHOWDER HOUSE  
 Loc Addr: 3226 HARBORVIEW DR  
 GIG HARBOR WA 98332

Mail Addr: 4066 CENTER STREET  
 TACOMA WA 98409

Phone No.: 253-851-4711 ANTHONY JAMES PINOCCHIO

Privileges Applied For:  
 SPIRITS/BR/WN REST LOUNGE -

As required by RCW 66.24.010(8), you are notified that application has been made to the Washington State Liquor Control Board for a license to conduct business. If return of this notice is not received in this office within **20 DAYS** from the date above, it will be assumed that you have no objection to the issuance of the license. **If additional time is required you must submit a written request for an extension of up to 20 days.** An extension of more than 20 days will be approved only under extraordinary circumstances.

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

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR  
(BY ZIP CODE) FOR EXPIRATION DATE OF 19981231

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1 <del>GUZZETTO, MICHAEL</del> <del>GUZZETTO, ROBERTA</del>	<del>GIG PUB AND GRILL</del> <del>3226 HARBORVIEW DR</del> <del>GIG HARBOR WA 98332 0000</del>	<del>258890</del>	<del>SPIRITS/DR/WA REST LOUNGE</del>
2 OLYMPIC VILLAGE BP, INC.	OLYMPIC VILLAGE BP 5555 SOUNDVIEW DR NW GIG HARBOR WA 98335 0000	071544	GROCERY STORE

RECEIVED

OCT 6 - 1998

CITY OF GIG HARBOR





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

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

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: PLANNING-BUILDING DEPT., RAY GILMORE**  
**SUBJECT: SECOND READING OF ORDINANCE - AMENDMENT TO CHAPTER 18.04 AND SECTION 19.05.009 ESTABLISHING TIME LIMITS ON THE PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS**  
**DATE: OCTOBER 8, 1998**

#### **BACKGROUND/INTRODUCTION**

City's legal council has advised planning that the city's environmental policy code (chapter 18.04 GHMC) requires an amendment for compliance with the regulatory reform act of 1995.

#### **POLICY ISSUES**

The regulatory reform act of 1995 requires local governments to adopt time limits for the preparation and issuance of environmental impact statements. The proposed amendment, adding a new section §18.04.145 (GHMC) and amending § 19.05.009 GHMC would satisfy this requirement. Staff is proposing a maximum time for issuing a final EIS at one year from the date of the receipt of a complete application. Sufficient flexibility is retained to provide for a period greater than this, if warranted.

#### **FISCAL IMPACT**

There would not be a fiscal impact to the city from the adoption of this amendment.

#### **RECOMMENDATION**

This is second reading of the ordinance. Staff recommends adoption of the ordinance.

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

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATED TO THE STATE ENVIRONMENTAL POLICY ACT, CHAPTER 43.21C RCW, ESTABLISHING A MAXIMUM TIME LIMIT FOR THE ISSUANCE OF A FINAL ENVIRONMENTAL IMPACT STATEMENT FOR PROJECT PERMIT APPLICATIONS, PURSUANT TO RCW 36.70B.090, ADDING A NEW SECTION 18.04.145 TO THE GIG HARBOR MUNICIPAL CODE AND AMENDING SECTION 19.05.009 OF THE GIG HARBOR MUNICIPAL CODE.

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WHEREAS, changes in state laws have mandated amendments to the City's review, decision-making and appeal processes for project permit applications subject to the State Environmental Policy Act (chapter 43.21C RCW); and,

WHEREAS, RCW 36.70B.090 requires that the City issue a notice of final decision on a project permit application within 120 days after the City notifies the applicant that the application is complete, except in certain limited circumstances; and,

WHEREAS, one period excluded from the 120 day deadline is the time during which an environmental impact statement ("EIS") is being prepared, if the City has adopted an ordinance establishing time periods for completion of the EIS; now, therefore,

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

Section 1. A new section 18.04.145 of the Gig Harbor Municipal Code is hereby added to the Gig Harbor Municipal Code, to read as follows:

**18.04.145 Time For Preparation of EIS.** The time required to prepare an environmental impact statement (EIS) associated with a development application shall be agreed to by the Director and applicant in writing. Unless otherwise agreed to by the applicant, a final environmental impact statement shall be issued by the Director within one (1) year following the issuance of a determination of significance for the proposal, unless the applicant or the applicant's EIS consultant advises that a longer time period is necessary. In that case, the additional time shall be that recommended by the applicant or consultant, not to exceed an additional year.

Section 2. Section 19.05.009 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**19.05.009 Calculation of time periods for issuance of notice of final decision.**

A. In determining the number of days that have elapsed after the ~~local government~~ City has notified the applicant that the application is complete for purposes of calculating the time for issuance of the notice of final decision, the following periods shall be excluded:

1. Any period during which the applicant has been requested by the city to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the city notifies the applicant of the need for additional information until the earlier of the date the ~~local government~~ City determines whether the additional information satisfies the request for information or 14 days after the date the information has been provided to the city;

2. If the city determines that the information submitted by the applicant under GHMC 19.045.009 (A)(1) is insufficient, it shall notify the applicant of the deficiencies and the procedures under GHMC 19.045.009(A)(1) shall apply as if a new request for studies had been made;

3. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant of Chapter 43.21C RCW, or if the time periods set forth in GHMC §18.04.145 applies, or if the applicant and the City have agreed, in writing, to a different time period. ~~if the city by ordinance has established time periods for completion of environmental impact statements, or if the local government and the applicant in writing agree to a time period for completion of an environmental impact statement;~~

\* \* \*

B. The time limits established in this title do not apply if a project permit application:

1. Requires an amendment to the comprehensive plan or a development regulation;

2. Requires approval of the siting of an essential public facility as provided in RCW 36.70A.200; or

3. Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete under ~~RCW 36.70A.440~~ GHMC §19.02.003.

Section 3. 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 4. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

APPROVED:

\_\_\_\_\_  
MAYOR, GRETCHEN A. WILBERT

ATTEST/AUTHENTICATED:

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

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_

FILED WITH THE CITY CLERK: September 24, 1998  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO. \_\_\_\_\_



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

of the City of Gig Harbor, Washington

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On the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_, 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, RELATED TO THE STATE ENVIRONMENTAL POLICY ACT, CHAPTER 43.21C RCW, ESTABLISHING A MAXIMUM TIME LIMIT FOR THE ISSUANCE OF A FINAL ENVIRONMENTAL IMPACT STATEMENT FOR PROJECT PERMIT APPLICATIONS, PURSUANT TO RCW 36.70B.090, ADDING A NEW SECTION 18.04.145 TO THE GIG HARBOR MUNICIPAL CODE AND AMENDING SECTION 19.05.009 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 MEMBERS**  
**FROM: WES HILL, P.E., PUBLIC WORKS DIRECTOR**  
**SUBJECT: SELLERS STREET IMPROVEMENT PROJECT (CSP NO. 98-08) – BID**  
**AWARD *WH***  
**DATE: OCTOBER 7, 1998**

#### **INTRODUCTION/BACKGROUND**

A budgeted item for 1998 was repaving Sellers Street in conjunction with replacement of the undersized water main. Water main reconstruction has been completed. Upon closer evaluation of the existing street section it was determined that storm drainage improvements were needed. A thickened edge pavement section was selected as the least cost option to divert stormwater runoff from the street to new and existing catch basins and storm sewer pipe.

Six potential contractors capable of performing the work were contacted in accordance with the City's Small Works Roster Process (Resolution No. 411). Two contractors responded with the following price quotation proposals:

Woodworth & Company, Inc.	\$43,940.00
Tucci & Sons, Inc.	\$51,640.00

The lowest price quotation received was from Woodworth & Company, Inc., in the amount of forty-three thousand nine-hundred forty dollars and no cents (\$43,940). They have performed construction work for the City in previous years and their work has been excellent.

The price quotations received both exceed the Engineer's estimate of \$36,888. The primary differences are in the roadway excavation, asphalt pavement, and storm sewer pipe prices. Approximately \$6,500 in cost savings will be achieved by reducing the structural pavement section. The \$25,000 budgeted for repaving Sellers Street did not contemplate storm drainage improvements. Approximately \$10,600 of the additional cost in the low price quotation proposal is related to storm drainage improvements. The Engineer's estimate for this portion of the work was \$8,880.

Staff has evaluated the price quotations and has conferred with the estimator for Woodworth & Company. While better (and more competitive) bid prices could be obtained by requesting new price quotations in early 1999, the cost savings are outweighed by the need to fully restore the street section and improve the storm drainage system at this time. Accordingly, this memorandum requests Council authorization to award and execute the contract for the work. It is anticipated that the work will be completed within six weeks after contract award, weather permitting.

**MAYOR WILBERT AND CITY COUNCIL**

**October 7, 1998**

**Page 2**

**ISSUES/FISCAL IMPACT**

The 1998 budget provided \$25,000 for repaving Sellers Street and \$15,000 for replacing the water main. Approximately \$15,000 has been expended for the water main improvements, including labor. Modifications to the structural street section will reduce the constructed cost by approximately \$6,500, for a final estimated cost (street and storm drainage) of \$37,500. Funds are available to construct the street and storm drainage improvements.

**RECOMMENDATION**

I recommend Council move and approve award and execution of the contract for the Sellers Street Improvement Project (CSP No. 98-08) to Woodworth & Company, Inc., as the lowest responsible respondent, for their price quotation proposal amount of forty-three thousand nine-hundred forty dollars and no cents (\$43,940).



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

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

**TO:** MAYOR WILBERT AND CITY COUNCIL  
**FROM:** RAY GILMORE, PLANNING STAFF  
**SUBJ.:** FIRST READING - ORDINANCE AMENDING TITLE 19 OF THE GIG HARBOR MUNICIPAL CODE (ADMINISTRATION OF DEVELOPMENT REGULATIONS).  
**DATE:** OCTOBER 8, 1998

#### **Background/Summary**

In 1996, the City adopted Title 19 to the Gig Harbor Municipal Code. Title 19 serves as the implementation of the Regulatory Reform Act of 1995, which governs permit processing administration of land use development applications.

Since the adoption of Title 19, several amendments were made to the State Regulatory Reform Act. Additionally, staff has discovered several errors within the ordinance which need to be corrected.

Staff is also proposing the elimination of the requirement for the posting of property for public hearings. Staff feels that sufficient notice is given by mailing to parties of record within 300 feet and publishing in the Peninsula Gateway two weeks prior to the public hearing.

A summary of the proposed changes is attached.

#### **Policy Issues**

The amendments to Title 19 do not substantially change the content or effect of Title 19.

#### **Recommendation**

This is the first reading of the ordinance. Staff recommends that, following the second reading of the ordinance at the next regular meeting, Council adopt the amendments to Title 19.

### **Summary of Amendments to Title 19 of the Gig Harbor Municipal Code**

Title 19 of the Gig Harbor Municipal Code implements the requirements of State Law as passed in 1995 under ESHB 1724 (Regulatory Reform Act). Since the adoption of Title 19 in 1996, several changes have been made to the State law which require the City to update Title 19. Additionally, two changes are proposed by staff (E and F). The changes are as follows:

- A. Minor adjustments to reflect changes to the State Regulatory Reform Act of 1995.
- B. Establishing procedures for the conduct of closed record hearings (§19.06.005).
- C. Limiting notice of closed record appeals to the parties of record (§19.06.004.A.6).
- D. Correction of typographical errors throughout.
- E. Updating the matrices in Chapter 19.01 to include wireless communication facilities applications.
- F. Eliminating the minimum square foot threshold for required pre-application conferences and replacing it with a new threshold that applies to application types III and IV.
- G. Eliminating the property posting requirement for public hearings on Type III and IV project permit applications (§19.03.003 [C]).

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

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE, ZONING AND PROJECT PERMIT PROCESSING, AMENDING SECTIONS 19.01.002, 19.01.003, 19.01.004, 19.01.005, 19.01.006, 19.02.001, 19.02.002, 19.02.003, 19.02.004, 19.02.005, 19.03.001, 19.03.002, 19.04.001, 19.04.002, 19.04.003, 19.05.002, 19.05.004, 19.05.005, 19.05.006, 19.05.008, 19.05.009, 19.06.002, 19.06.003, 19.06.004 OF THE GIG HARBOR MUNICIPAL CODE, REPEALING SECTIONS 19.05.008, 19.05.009, 19.06.005 AND ADDING NEW SECTIONS 19.05.008, 19.05.009, 19.06.005 AND 19.06.007 TO INCORPORATE MODIFICATIONS REQUIRED BY STATE LAW, CORRECT TYPOGRAPHICAL ERRORS AND CLARIFY MEANINGS.

WHEREAS, revisions to state law require amendments and modifications to City Codes regulating permit processing; and

WHEREAS, revisions to certain sections of the land use permitting code are needed to correct typographical errors and omissions and to clarify meanings; now, therefore,

WHEREAS, pursuant to WAC 365-195-820(2), the City has not sent copies of this ordinance to DCTED and other State Agencies because these regulations are merely procedural and ministerial.

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

Section 1. Section 19.01.002 of the Gig Harbor Municipal Code (GHMC) is hereby amended to read as follows:

**19.01.002 Determination of proper procedure type.**

A. Determination by Director. The ~~director of the community development department~~ Planning Director or his/her designee (hereinafter the "~~director~~" "Director") shall determine the proper procedure for all development applications. ~~If there is a question~~

as to Questions concerning the appropriate type of procedure, the director shall resolve it be resolved in favor of the higher numbered procedure type number.

B. Optional Consolidated Permit Processing. An application that involves two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or may be processed individually under each of the application procedures identified by the code in GHMC Section 19.01.033. The applicant may determine whether the application ~~shall~~ will be processed collectively or individually. If ~~the application is applications are processed under the individual procedure option, individually, then~~ the highest numbered type procedure ~~must be processed prior to the subsequent lower numbered procedure shall be undertaken first, followed by the other procedures in sequence from the highest numbered to the lowest.~~

C. Decisionmaker(s). Applications processed in accordance with subsection B of this section which have the same highest numbered procedure number, but are assigned to different hearing bodies, shall be heard collectively by the highest decisionmaker ~~(s).~~ The city council is the highest, followed by the hearing examiner or planning commission, the City Council being the highest body, followed by the Hearing Examiner or Planning Commission, as applicable, and then the ~~director~~ Director. Joint public hearings with other agencies shall be processed according to GHMC 19.01.004. ~~(Ord. 711 § 1, 1996).~~

Section 2. GHMC Section 19.01.003 is hereby amended to read as follows:

**19.01.003 Project permit application procedures.**

A. Action Type.

PROCEDURE FOR PROJECT PERMIT APPLICATIONS (TYPE I - IV) LEGISLATIVE					
	TYPE I	TYPE II	TYPE III	TYPE IV	TYPE V
Recommendation made by:	N/A	N/A	N/A	N/A	Planning Commission
Final decision made by:	<u>Admin. Director</u>	<u>Director</u>	Hearing Examiner	City Council	City Council
Notice of application:	No	No	Yes	Yes	No
Open record public hearing <u>or open record appeal of a</u>	No	Only if appealed, open record hearing	Yes, before Hearing Examiner who	No	Yes, before Planning Commission



PROCEDURE FOR PROJECT PERMIT APPLICATIONS (TYPE I - IV) LEGISLATIVE					
	TYPE I	TYPE II	TYPE III	TYPE IV	TYPE V
<u>final decision:</u>		before Hearing Examiner	renders final decision		which makes recommendation to council
Closed record appeal/final decision:	No	No	Only if appealed, then before Council	Yes, before council to render final decision	Yes, or council could hold its own hearing
Judicial appeal:	Yes	Yes	Yes	Yes	Yes

B. Decisions.

TYPE I	TYPE II	TYPE III	TYPE IV	TYPE V
Permitted uses not requiring site plan review	Short plat	Preliminary plats; plat vacations and alterations	Final plats	Comp. plan amendments
Boundary line adjustments	Sign permits	Site <del>plan</del> <u>binding plan/major amendments to site plan plans</u>		Development regulations
Minor amendments to PUD/PRD	Design review	<u>CUP/general CUP, general</u> variances, including sign permit variances, and <u>site specific rezones</u>		Zoning text amendments; <u>area wide</u> zoning map amendments
Special use permits	Land clearing/grading	Shoreline <del>mgmt</del> <u>permits substantial development, shoreline variance</u>		Annexations
Temporary construction trailers	Revisions to shoreline management permits	PRD/PUD and major amendments to PRD and PUD		
<u>Shoreline exemptions, Shoreline revisions</u>	Administrative variances	Amendment to height restriction area map		
	Administrative interpretations	Mobile/ manufactured home park or subdivision		
	Home occupation permit			

TYPE I	TYPE II	TYPE III	TYPE IV	TYPE V
	Hardship variance, sign code			
	Modification to landscape plans			
	Minor amendment to PRD or PUD			
	<u>Wireless Communication Facilities not requiring a conditional use permit</u>			

Section 3. GHMC Section 19.01.004 is hereby amended to read as follows:

**19.01.004 Joint public hearings.**

A. ~~Administrator's~~ Director's Decision to Hold Joint Hearing. The ~~director~~ Director may combine any public hearing on a project ~~per-nit~~ permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as: (1) the hearing is held within the city limits; and (2) provided that the requirements of subsection C below are met.

B. Applicant's Request for a Joint Hearing. The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this title. In the alternative, the applicant may agree to a ~~particular~~ specific schedule if ~~that~~ additional time is needed ~~in order~~ to complete the ~~hearings~~ hearing(s).

C. Prerequisites to Joint Public Hearing. A joint public hearing may be held with another local, state, regional, federal or other agency and the city, as long as City, when:

1. The other agency is not expressly prohibited by statute from doing so;
2. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in ~~statute, ordinance, or rule~~ statutes, ordinances, or rules;
3. The agency has received the necessary information

about the proposed project from the applicant in enough time to hold its hearing at the same time as the ~~local government~~ City hearing; and or

4. The hearing is held within the geographic boundary of the ~~local government~~. (~~Ord. 711 § 1, 1996~~) City.

Section 4. GHMC Section 19.01.005(E) is hereby amended to read as follows:

**19.01.005 Legislative decisions.**

\* \* \*

E. Implementation. ~~The city council's~~ City Council decision shall be by ordinance or resolution and shall become effective by passage of an on the effective date of the ordinance or resolution. (~~Ord. 711 § 1, 1996~~).

Section 5. GHMC Section 19.01.006 is hereby amended to read as follows:

~~19.01.006 Legislative enactments not restricted.~~

Nothing in this chapter or the permit processing procedures shall limit the authority of the ~~city council~~ City Council to make changes to the ~~city's~~ City's comprehensive plan, or the City's development regulations as part of ~~an~~ the annual revision process ~~or the city's development regulations~~. (~~Ord. 711 § 1, 1996~~).

Section 6. GHMC Section 19.01.007 is hereby amended to read as follows:

**19.01.007 Exemptions from project permit application processing.**

A. Whenever a permit or approval in the Gig Harbor Municipal Code has been designated as a Type ~~I~~ I, II, III or IV permit, the procedures in this title shall be followed in project permit processing. The following permits or approvals are specifically excluded from the procedures set forth in this title:

1. Landmark designations;
2. Street vacations;
3. Street use permits;
4. Impact fee decisions;

B. Pursuant RCW 36.70B. 140(2), building permits, boundary line adjustments or other construction permits, or similar administrative approvals categorically exempt from environmental review under SEPA (Chapter 43.21C RCW and the city's City's SEPA/environmental policy ordinance, Chapter 18.04 GHMC), or permits/approvals for which environmental review has been completed in ~~connections~~ connection with other project permits, are excluded from the following procedures:

1. Determination of completeness (GHMC 19.02.003(A));
2. Notice of application (GHMC 19.02.004);
3. Except as provided in RCW 36.70B. 140, optional consolidated project permit review processing (GHMC 19.01.002(B));
4. Joint public hearings (GHMC 19.01.004);
5. Single report stating that all of the decisions and recommendations made as of the date of the report do ~~no~~ not require an open public record hearing (GHMC 19.04.002(C));
6. Notice of decision (GHMC 19.05.008);
7. Completion of project review within any applicable time periods (including the 120-day permit processing time) (GHMC 19.05.008, 19.05.009). ~~(Ord. 711 § 1, 1996).~~

Section 7. GHMC Section 19.02.001 is hereby amended to read as follows:

**19.02.001 Pre-application conference.**

A. ~~Applications~~ Prior to filing applications for project permit ~~Type I actions involving structures 5,000 or more square or over, Type III actions requiring a preliminary plat or site plan review and Type IV actions shall not be accepted by the director unless the applicant has requested.~~ the applicant must request a pre-application conference. No application will be accepted for review until after a pre-application conference has been held. The purpose of the pre-application conference is to acquaint the applicant with the requirements of the Gig Harbor Municipal Code.

B. The conference shall be held within ~~15~~ 28 days of the request.

C. ~~Within five~~ Five or more working days following the conference, the ~~director~~ Director shall provide the applicant with:

1. A form which lists the requirements for a completed application;
2. A general summary of the procedures to be used to process the application;
3. The references to the relevant code provisions or development standards which may apply to ~~the~~ approval of the application;
4. The ~~city's~~ City's design guidelines.

D. ~~It is impossible for the conference to be an exhaustive review of all potential issues. The~~ Neither the discussions at the conference ~~or~~ nor the information provided on the form sent by the city Director to the applicant under GHMC 19.02.001(C) shall ~~not bind or prohibit the city's~~ bind the Director in any manner or prevent the Director's future application or enforcement of all applicable law codes, ordinances and regulations.

E. Pre-application conferences for all other types of applications ~~is~~ are optional, and requests for conferences will be considered on a time-available basis by the ~~director.~~ (Ord. 71-1-§ 1, 1996) Director.

Section 8. GHMC Section 19.02.002 is hereby amended to read as follows:

**19.02.002 Development permit application.**

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

- A. A completed project permit application form;
- B. A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the affected property;
- C. A property and/or legal description of the site for all applications, as required by the applicable development regulations;

- D. The applicable fee;
- E. Evidence of adequate water supply as required by RCW 19.27.097; and
- F. Evidence of sewer availability. ~~(Ord. 711 § 1, 1996).~~

Section 9. GHMC Section 19.02.003 is hereby amended to read as follows:

**19.02.003 Submission and acceptance of application.**

A. Determination of Completeness. Within 28 days after receiving a project permit application, the ~~city~~ City shall mail or personally ~~provide a determination~~ deliver to the applicant a determination which states either: (1) that the application is complete; or (2) that the application is incomplete and what is necessary to make the application complete.

B. Identification of Other Agencies with Jurisdiction. To the extent known by the ~~city~~ City, other agencies with jurisdiction over the project ~~permit application~~ shall be identified in the ~~city's determination required by GHMC 19.02.003(A)~~ Determination of Completeness.

C. Additional Information. A project permit application is complete for purposes of this section when it meets the submission requirements in GHMC 19.02.002, ~~as well as~~ and the submission requirements ~~contained in~~ of the applicable development regulations. ~~This determination of completeness~~ The Determination of Completeness shall be made when the application is ~~sufficient for continued processing~~ sufficiently complete for review, even though additional information may be required or project modifications may be undertaken subsequently. The ~~city's determination of completeness~~ Director's Determination of Completeness shall not preclude the ~~city from requesting~~ Director's ability to request additional information or studies ~~either at the time of the notice of completeness or at some later time, if whenever~~ new information is required, or ~~where there are~~ substantial changes in are made to the proposed ~~action~~ project.

D. ~~Incomplete Application Procedure.~~ Applications.

~~1. If~~ 1. Whenever the applicant receives a determination from the ~~city~~ City that an application is not complete, the applicant shall have 90 days to submit the necessary information ~~to the city.~~ Within 14 days after an applicant has submitted the requested

additional information, the city shall make the determination as described in GHMC 19.02.003(A), Director shall make a Determination of Completeness and notify the applicant in the same manner. manner provided in subsection A of this paragraph 19.02.003.

2. If the applicant ~~either refuses in writing to submit additional information or does not submit the required additional information requested~~ within the 90-day period, the ~~director~~ Director shall make findings and issue a decision, according to the Type I procedure described in GHMC 19.01.003, that the application is has lapsed, based upon the for lack of information necessary to complete the review.

3. ~~In those situations where the director has made a determination~~ When the Director determines that an application has lapsed because the applicant has failed to submit the required information within the necessary time period, the applicant may request a refund of the application fee ~~unrelated to the city's determination of completeness.~~ remaining after the City's Determination of Completeness.

~~E. City's E.~~ Director's Failure to Provide Determination of Completeness. A project permit application shall be deemed complete under this section if the city Director does not provide a written determination to the applicant that the application is incomplete as provided in GHMC 19.02.003(A).

F. Date of Acceptance of Application. ~~When the project permit application is complete, the director~~ Project applications shall not be officially accepted until complete. When an application is found complete, the Director shall accept it and note the date of acceptance. (Ord. 711 § 1, 1996).

Section 10. GHMC Section 19.02.004 is hereby amended to read as follows:

**19.02.004 Notice of application.**

A. Generally. A ~~notice of application shall issue on~~ Notice of Application shall be provided to all City departments and agencies with jurisdiction of all Type III and IV project permit applications.

B. ~~SEPA Exempt Projects.~~ A ~~notice of application shall not be required for project permits that are categorically exempt under SEPA, unless a public comment period or an~~ Issuance of Notice of Application.

1. Within 14 days after the City has made a determination of completeness pursuant to GHMC Section 19.02.003, the Director shall issue a Notice of Application.

2. If any open record predecision hearing is required for the requested project permit(s), the Notice of Application shall be provided at least 15 days prior to the open record hearing.

C. Contents. The Notice of Application-

~~C. Contents. The notice of application shall include:~~

1. The date of submission of the initial application, the date of the notice of completion ~~for~~ and acceptance of the application, and the date of the notice ~~Notice of application~~ Application;

2. A description of the proposed project ~~action~~ and a list of the project permits ~~included~~ requested in the application and, if applicable, a list of any studies requested under RCW 36.70A.440;

3. ~~The identification~~ A description of other required permits not included in the application, to the extent known by the ~~city~~ City;

4. ~~The identification~~ A description of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

5. A statement ~~of the limits of the~~ setting forth: (a) the time for public ~~the~~ comment period, which shall be not less than 14 nor more than 30 days following the date of ~~notice of application,~~ and statements of the Notice of Application; (b) the right of any person to comment on the application, receive notice of and participate in any hearings, and request a copy of the decision ~~once made,~~ on the application; and (c) any appeal ~~rights~~ rights;

6. The date, time, place and type of hearing, if ~~applicable and~~ a hearing has been scheduled at when the date of ~~notice of the application~~ Notice of Application is issued;

7. A statement summary of the preliminary determination of consistency required by GHMC Section 19.04.001, if one has been made at the time of notice, and of those development



regulations that will be used for project mitigation and of consistency as provided in Chapter 19.04 GHMC;

8. Any other information determined appropriate by the city Director, such as the city's Director's threshold determination, if complete at the time of issuance of the notice of application.

~~D. Time Frame for Issuance of Notice of Application.~~

~~1. Within 14 days after the city has made a determination of completeness of a project permit application, the city shall issue a notice of application.~~

~~2. If any open record predecision hearing is required for the requested project permit(s), the notice of application shall be provided at least 15 days prior to the open record hearing.~~

E. Public Comment on the Notice of Application. All public comments received on the notice of application must be received in the ~~department of planning and building~~ Department of Planning by 5:00 p.m. on the last day of the comment period. Comments may be mailed, personally delivered or sent by facsimile; provided that mailed comments received after the comment period has expired will not be accepted. Comments should be as specific as possible.

~~(Ord. 711 § 1, 1996). E. SEPA Exempt Projects. A notice of application shall not be required for project permits that are categorically exempt under SEPA, unless a public comment period or an open record predecision hearing is required.~~

Section 11. GHMC Section 19.02.005 is hereby amended to read as follows:

**19.02.005 Referral and review of project permit applications.**

Within 10 days of accepting a complete application, the ~~director~~ Director shall ~~do the following:~~

A. Transmit a copy of the application, or appropriate parts of the application, to each affected government agency and city City department for review and comment, including those responsible for determining compliance with state and federal requirements. The affected agencies and city City departments shall have 15 days to comment on the application. The ~~referral~~ agency or city City department is presumed to have no comments if comments are not received within the ~~specified time~~ 15-day period. The ~~director~~ Director shall grant an extension of time only if the application involves unusual circumstances. ~~Any extension~~ Extensions shall ~~only~~ be for a maximum of three ~~additional days,~~ working days.

~~B. If a Type III procedure is required, provide B.~~ Provide for notice and hearing as set forth in Chapter 19.03 GHMC, ~~(Ord. 711 § 1, 1996)~~ for Type III procedures.

Section 12. GHMC Section 19.03.001 is hereby amended to read as follows:

~~19.03.001—Required public~~ Public notice of application.

A. In addition to the ~~notice~~ Notice of ~~application~~ Application for Type ~~III~~ III and Type IV project permits, the ~~city~~ Director shall also provide public notice of a Type III and Type IV project permit ~~application~~ applications by posting the property or by publication in the ~~city's~~ City's official newspaper.

1. Posting. Posting of the property for site specific proposals shall consist of one or more notice boards as follows:

a. A single notice board shall be placed by the applicant:

i. At the midpoint of the ~~site~~ street frontage fronting the site or as otherwise directed by the ~~city~~ Director for maximum visibility;

ii. Five feet inside the street property line, except when the board is structurally attached to an existing building; provided, that no notice board shall be placed more than five feet from the street ~~property~~ without approval of the ~~department~~ Director;

iii. So that the top of the notice board is between ~~seven~~ five to nine seven feet above grade; and

iv. Where it is completely visible to pedestrians.

b. Additional notice boards may be required when:

- i. The site does not abut a public road;
- ii. A large site abuts more than one public road; or
- iii. The ~~director~~ Director determines that additional notice boards are necessary to provide adequate public notice.

c. Notice boards shall be:

- i. Maintained in good condition by the applicant during the notice period;
- ii. In place at least 30 days prior to the date of any hearing, ~~or~~ and at least 15 days prior to the end of any required comment period;
- iii. Removed within 15 days after the end of the notice period.

d. Removal of the notice board prior to the end of the notice period ~~may~~ shall be cause for discontinuance of the department review until the notice board is replaced and remains in place for the specified time period.

e. An affidavit of posting shall be submitted to the ~~director~~ Director by the applicant at ~~least ten (10) days~~ prior to the hearing or final comment date. ~~If the affidavits are~~ an affidavit is not filed as required, any scheduled hearing or date by which the public may comment on the application ~~will~~ shall be postponed in order to allow until there is compliance with ~~this~~ the notice requirement.

f. Notice boards shall be constructed and installed in accordance with specifications promulgated by the ~~department of community development~~ Director.

2. ~~Published Notice. Published notice shall include~~ Notice shall be published in the City's official newspaper or in a newspaper of general circulation, and shall contain at least the project location, description, type of permit(s) required, comment period dates, and a location where the complete application may be

~~reviewed in the city's official newspaper of general circulation in the general area where the proposal is located.~~

3. Shoreline Master Program (SMP) Permits.

a. Methods of Providing SMP Notice. Notice of the application of a permit under the purview of the ~~city's shoreline master program (SMP) is given by at least one City's~~ Shoreline Master Program (SMP) shall be given by one or more of the following methods:

i. Mailing of the notice to ~~the latest recorded~~ real property owners as shown by the records of the county assessor within ~~at least~~ 300 feet of the boundary of the property upon which the ~~substantial development is proposed~~ proposed project is to be built;

ii. Posting of the notice in a conspicuous manner, as determined by the Director, on the property upon which the project is to be constructed; or

iii. Any other manner deemed appropriate by the city Director to accomplish the objectives of reasonable notice to adjacent landowners and the public.

b. Content of SMP Notice. The SMP notices shall include:

i. A statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application ~~as expeditiously as possible after issuance of the decision, may submit the comments or requests for decisions to the city, may submit comments, or requests for the decision, to the~~ Director within 30 days of the last date ~~the~~ that notice is ~~to be~~ published pursuant to this subsection. ~~The city shall forward, in a timely manner following issuance of the decision, a copy of the decision to each person who submits a request for the decision;~~

~~ii. Notice of the hearing shall include a~~ ii.  
Δ statement that any person may submit oral or written comments ~~on an application~~ at the hearing;

iii. ~~The public comment period shall be 20 days. The notice shall state~~ An explanation of the manner in which the public may obtain a copy of the city's City's decision on the application no later than two days ~~following its issuance.~~ (Ord.

~~711 § 1, 1996).~~ after its issuance.

c. Public Comment Period. The public comment period shall be 20 days.

d. The Director shall mail or otherwise deliver a copy of the decision to each person who submits comments or a written request for the decisions.

Section 13. GHMC Section 19.03.002 is hereby amended to read as follows:

**19.03.002 Optional public notice.**

A. ~~As optional methods of providing public notice of any project permits, the city~~ The Director, in his or her discretion, may:

1. Notify the public or private groups with known interest in a ~~certain~~ proposal or ~~in the~~ type of proposal being considered;

2. ~~Notifying~~ Notify the news media;

3. ~~Placing~~ Place notices in appropriate regional or neighborhood newspapers or trade journals;

4. ~~Publishing~~ Publish notice in agency newsletters or sending send notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and

5. ~~Mailing~~ Mail notice to neighboring property owners.

B. The ~~city's~~ Director's failure to provide ~~the~~ an optional notice, as described in this subsection, shall not be grounds for invalidation of any permit decision. ~~(Ord. 711 § 1, 1996).~~

Section 14. GHMC Section 19.03.003 is hereby amended to read as follows:

**19.03.003 Notice of public hearing.**

A. Content of Notice of Public Hearing for All Types of Applications. The notice ~~given~~ of a public hearing required ~~in~~ by this chapter shall contain:

1. The name and address of the applicant ~~or~~ and the applicant's representative;

~~2. Description of the affected property, which may be in the form of either~~ A description of the subject property reasonably sufficient to inform the public of its location, including but not limited to a vicinity location or written description, other than a map or postal address, and a subdivision lot and block designation but need not include a legal description;

3. The date, time and place of the hearing;

~~4. A description of the subject property reasonably sufficient to inform the public of its location, including but not limited to the use of a map or postal address and a subdivision lot and block designation;~~

5. The nature of the proposed use or development;

~~6~~ 5. A statement that all interested persons may appear and provide testimony;

~~7~~ 6. The sections of the code that are pertinent to the hearing procedure;

~~8. When~~ 7. A statement explaining when information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be admitted;

~~9~~ 8. The name of a ~~local government~~ City representative to contact and the telephone number where additional information may be obtained;

~~10. That~~ 9. A statement that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost ~~and will be provided at the city's cost;~~ and

~~11. That~~ 10. A statement explaining that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and copies will be provided at the ~~city's~~ City's cost.

B. Mailed Notice. Mailed notice of the public hearing shall be provided as follows:

1. Type I, Type II, and Type IV Actions. No public notice is required because no public hearing is held, except ~~on~~ for

an appeal of a Type II action.

2. Type III Actions. ~~The notice~~ Notice of the public hearing shall be mailed to:

- a. The applicant;
- b. All owners of property within 300 feet of the subject property;
- c. Any person who submits written or oral comments on an application.
- d. For a plat alteration or a plat vacation pursuant to Chapter 16.07 GHMC, to all owners of property in the plat to be vacated or altered.

3. Type III Preliminary Plat Actions. In addition to the notice provided for Type III actions above, notice for preliminary plats and proposed subdivisions, additional notice shall be provided as follows shall also include the following:

a. Notice of the filing of a preliminary plat adjacent to or within one mile of the municipal boundaries of a any city or town, or which contemplates the use of the utilities of any city or town ~~utilities shall be given to the appropriate city or town authorities;~~

b. Notice of the filing of a preliminary plat of a proposed ~~subdivisions located in a city or town and~~ subdivision adjoining the municipal boundaries thereof of Pierce County shall be given to the appropriate county officials;

c. Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport shall be given to the secretary of transportation, ~~who must respond within 15 days of such notice;~~

d. Special notice of the hearing shall be given to adjacent landowners by any ~~other~~ method deemed reasonable ~~method the city deems necessary by the Director.~~ Adjacent landowners are ~~the~~ owners of real property, as shown by the records of the county assessor, located within 300 feet of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the

real property proposed to be subdivided, notice under RCW ~~58.17.909(1)(b)~~ 58.17.909(1)(b) shall be given to owners of real property located with 300 feet of from any portion of the boundaries of ~~such adjacently located~~ the adjacent parcels of real property owned by the owner of the real property ~~proposed to be~~ subdivided.

4. Type V Actions. For Type V legislative actions, the ~~city~~ City shall publish notice as described in GHMC ~~19.03.003(D)(2), and all other notice required by RCW 35A.12.160.~~ 19.03.003(A) in the City's official newspaper or in a newspaper of general circulation.

5. General Procedure for Mailed Notice of Public Hearing.

a. The records of the Pierce County assessor's office shall be used for determining the property owner of record. Addresses for a mailed notice required by this code shall be obtained from the applicable county's real property tax records. The ~~director~~ Director shall cause to be issued ~~issue~~ a sworn certificate of mailing to all persons entitled to notice under this chapter. The ~~director~~ Director may provide notice to ~~other~~ persons other than those required to receive notice under the code.

b. All mailed public notices shall be deemed to have been ~~provided or received on the date~~ next business day following the day that the notice is deposited in the mail ~~or personally delivered, whichever occurs first.~~

C. Procedure for Posted or Published Notice of Public Hearing.

~~1. Posted notice of the public hearing is required for all Type III and IV project permit applications. The posted notice shall be posted as required by GHMC 19.03.001 (A)(1).~~

~~1. 2.~~ Published notice is required for all Type III, IV and V procedures. The ~~published notice~~ Notice shall be published in the ~~city's~~ City's official newspaper.

D. Time and Cost of Notice of Public Hearing.

1. Notice shall be mailed, posted and first published not less than 10 nor more than 30 days prior to the hearing date. ~~Any posted notice~~ Posted notices shall be removed by the applicant within 15 days following the public hearing.



2. All costs associated with the public notice shall be borne by the applicant. ~~(Ord. 711 § 1, 1996).~~

Section 15. GHMC Section 19.04.001 is hereby amended to read as follows:

**19.04.001 Determination of consistency.**

A. Purpose. ~~When the city receives a project permit application, consistency between the proposed project and the~~ Consistency between a proposed project, applicable regulations and comprehensive plan ~~should~~ shall be determined through the process ~~in this chapter and the city's adopted SEPA ordinance, Chapter 18.04 GHMC,~~ described in this paragraph.

B. Consistency. During project permit application review, the city Director shall determine whether ~~the items listed in this subsection are defined in the development regulations applicable to the proposed project. In, or in the absence of applicable development regulations, the city shall determine whether the items listed in this subsection are defined in the city's adopted comprehensive plan. This determination of consistency shall include the City's comprehensive plan,~~ address the following:

1. The type of land use permitted at the site, including uses that may be allowed ~~under certain circumstances,~~ if the criteria for their approval have been satisfied; and

2. The level of development, such as units per acre, density of residential development in urban growth areas, or other measures of density; and

3. Availability and adequacy of infrastructure and public facilities identified in the comprehensive plan, ~~if;~~

4. Whether the plan or development regulations provide for funding of these facilities as required by Chapter 36.70A RCW; and

~~4. Character~~ 5. The character of the proposed development, ~~such as as authorized by~~ development standards.

~~(Ord. 711 § 1, 1996).~~ C. Project Review. Project review by the Director and appropriate City staff shall identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage

swales, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts. During project review, neither the Director nor any other City reviewing body may re-examine alternatives or hear appeals on matters found consistent with development regulations and/or the comprehensive plan, except for issues of Code interpretation.

Section 16. GHMC Section 19.04.002 is hereby amended to read as follows:

**19.04.002 Initial SEPA analysis.**

~~A. The city shall also~~ In addition to the land use consistency review, the Director shall review the project permit application ~~under the requirements of~~ for consistency with the State Environmental Policy Act ("SEPA"), Chapter 43.21C RCW, the SEPA Rules, Chapter 197-11 WAC, and the ~~city~~ City environmental policy ordinance, Chapter 18.04 GHMC, and shall:

1. Determine whether ~~the~~ applicable regulations require studies ~~that to~~ to adequately analyze all of the ~~project permit application's~~ proposed project's specific probable adverse environmental impacts;

2. Determine ~~if the~~ whether applicable regulations require mitigation measures ~~that to~~ to adequately address such identified environmental impacts; ~~and~~ 3. Determine whether ~~additional studies are required and/or whether the project permit application should be conditioned with additional mitigation measures;~~

~~4~~ 3. Provide prompt and coordinated review by other government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level.

B. In its review of a project permit application, the ~~city may~~ Director shall determine ~~that~~ whether the requirements for environmental analysis, protection and mitigation measures in the applicable development regulations, comprehensive plan and/or in other applicable local, state or federal laws provide adequate analysis of and mitigation for the specific adverse environmental impacts of the application proposal.

C. If the ~~city~~ Director bases or conditions its his or her approval of the project permit application on compliance with the requirements or mitigation measures described in subsection A of

this section, the ~~city~~ City shall not impose additional mitigation under SEPA during project review.

D. A comprehensive plan, development regulation or other applicable local, state or federal law provides adequate analysis of, and mitigation for, the specific adverse environmental impacts of ~~an application~~ a proposal when:

1. The impacts have been avoided or otherwise mitigated; or

2. The city has designated as ~~acceptable in the plan, regulation or law, that~~ certain levels of service, land use designations, development standards or other land use ~~planning required or~~ conditions allowed by Chapter 36.70A RCW are acceptable.

E. In ~~its decision~~ deciding whether a specific adverse environmental impact has been addressed by an existing ~~rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the city~~ City plan or development regulation, or by the regulations or laws of another government agency, the Director shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the ~~city~~ Director shall base or condition ~~its~~ any project approval on compliance with these other existing ~~rules or laws~~ regulations.

F. Nothing in this section limits the authority of the ~~city in its review or mitigation of a~~ Director in reviewing or mitigating the impacts of a proposed project to adopt or other-wise rely on environmental analyses and requirements under other laws, as provided by Chapter 43.21C RCW.

G. The ~~city~~ Director shall also review the application under Chapter 18.04 GHMC, the city environmental policy ordinance- ~~(Ord. 711 § 1, 1996); provided, that such review shall be coordinated with the underlying permit application review.~~

Section 17. GHMC Section 19.04.003(C), (D) and (E) are hereby amended to read as follows:

19.04.003 Categorically exempt and planned actions.

\*\*\*

C. Limitations on Planned Actions. The ~~city shall~~ Director may limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the city, and may limit a planned action to a time period identified in the environmental impact statement ~~or this title~~.

Section 18. GHMC Section 19.05.001 is hereby amended to read as follows:

**19.05.001 General.**

Public hearings on all Type II, III and V project permit applications shall be conducted in accordance with this chapter. ~~(Ord. 71-1 § 1, 1996)~~ Public hearings conducted by the City Hearing Examiner shall also be subject to the Hearing Examiner's rules.

Section 19. GHMC Section 19.05.002 is hereby amended to read as follows:

**19.05.002 Responsibility of ~~director~~ the Director for hearing.**

The ~~director~~ Director shall:

A. Schedule ~~an application~~ project applications for review and public hearing;

B. ~~Give~~ Provide the required notice;

C. Prepare the staff report on the application, which shall be a single report ~~stating~~ which sets forth all of the decisions made on the proposal as of the date of the report, including recommendations on project permits in the consolidated permit process that do not require an open record predecision hearing. The report shall ~~state~~ also describe any mitigation required or proposed under the City's development regulations or ~~the city's~~ SEPA authority ~~under SEPA~~. If the threshold determination, other than a determination of significance, has not been issued previously by the ~~city~~ City, the report shall include or append this determination. ~~In the case of a~~ With Type I or II project permit ~~application~~ applications, this report may be the permit;

D. Prepare the notice of decision, if required by the hearing body, ~~and/or~~ and mail a copy of the notice of decision to those required entitled by this code chapter to receive ~~such~~ the decision. ~~(Ord. 711 § 1, 1996).~~

Section 20. GHMC Section 19.05.004(C) is hereby amended to read as follows:

**19.05.004      Ex parte communications.**

\*\*\*

C.    If a member of C. ~~If~~ the hearing body receives an ex parte communication in violation of this section, he or she shall place on the record:

1.        All written communications received;
2.        All written responses to the communications;
3.        The substance of all oral communications received, and all responses made; and
4.        The identity of each person from whom the ~~examiner~~ member received any ex parte communication.

The hearing body shall advise all parties that these matters have been placed on the record. Upon request made after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a rebuttal statement on the record. ~~(Ord. 711 § 1, 1996).~~

Section 21. GHMC Section 19.05.005(A) and (B) are hereby amended to read as

follows:

**19.05.005      Disqualification.**

A.        A member of the hearing body who is disqualified ~~shall~~ may be counted for purposes of forming a quorum. Any member who is disqualified ~~may do so only by making~~ shall make full disclosure to the audience, ~~abstaining of the reason(s) for the disqualification, abstain~~ from voting on the proposal, vacating the seat on the hearing body and physically leaving leave the hearing.

B.        If ~~all~~ enough members of the hearing body are disqualified, ~~so that a quorum cannot be achieved then~~ so that a quorum cannot be achieved then all members present, after stating their reasons for disqualification, shall be requalified and deliberations shall proceed ~~to resolve the issues.~~

Section 22. GHMC Section 19.05.006 is hereby amended to read as follows:

**19.05.006      Burden and nature of proof.**

Except for Type V actions, the burden of proof is on the proponent. The project permit application must be supported by convincing proof that it conforms to the applicable elements of the city's development regulations, and comprehensive plan and. The proponent must also prove that any significant adverse environmental impacts have been adequately addressed. (Ord. 711 § 4, 1996) mitigated.

Section 23. GHMC Section 19.05.007 is hereby amended to read as follows:

**19.05.007 Order of proceedings.**

The order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.

A. Before receiving information testimony and other evidence on the issue, the following shall be determined:

1. Any objections on jurisdictional grounds shall be noted on the record and if there is objection, the hearing body ~~has the discretion to~~ may proceed or terminate the proceeding;

2. Any ~~abstentions or~~ member disqualifications shall be determined.

B. The presiding officer may take official notice of commonly known and accepted information ~~related to the issue~~, such as:

1. ~~A provision of any ordinance, resolution, rule~~ Ordinances, resolutions, rules, officially adopted development ~~standard or standards, and~~ state law;

2. ~~Other public~~ Public records and facts Judicially noticeable by law.

C. ~~Matters~~ Information officially noticed need not be ~~established by~~ proved by submission of formal evidence ~~and may to~~ be considered by the hearing body ~~in its determination~~. Parties requesting official notice of any information shall do so on the record. ~~However, the~~ The hearing body, ~~however,~~ may take notice of matters listed in subsection B of this section ~~if stated for the record. Any matter, at any time. Any information~~ given official notice may be rebutted.

D. The hearing body may view the ~~area in dispute~~ proposed

project site or planning area with or without notification to the parties, but shall place put into the record a statement setting forth the time, manner and circumstances of such view on the record the site visit.

E. Information shall be received from the staff and from proponents and opponents. The presiding officer may approve or deny a request from a person, in his or her discretion, permit persons attending the hearing to ask a question questions. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, approved questions will be asked of persons submitting testimony by the presiding officer will direct the question to the person submitting testimony.

F. When the presiding officer has closed the public hearing portion of the hearing, the hearing body shall may openly discuss the issue and may further question a the staff or any person submitting information or the staff if opportunity for rebuttal is provided. (Ord. 71 1 § 1, 1996). An opportunity to present rebuttal shall be provided if new information is presented in the questioning. When all evidence has been presented and all questioning and rebuttal completed, the presiding officer shall officially close the record and end the hearing.

Section 24. GHMC Section 19.05.008 is hereby repealed and a new Section

19.05.008 is adopted to read as follows:

**19.05.008 Decision.**

A. Following the hearing procedure described in GHMC 19.04.007, the hearing body shall approve, conditionally approve, or deny the application. If the hearing is an appeal, the hearing body shall affirm, reverse or, with the written consent of the applicant, which shall include a waiver of the statutory prohibition against two open record hearings, remand the decision that is on appeal for additional information.

B. The hearing body's written decision shall issue within 10 working days after close of record of the hearing, and within 90 days of the opening of the hearing, unless a longer period is agreed to by the parties, - days after the hearing on the project permit application. The notice of final decision shall issue within 120 days after the city notifies the applicant that the application is complete. The time frames set forth in this section and GHMC 19.04.009 shall apply to project permit applications filed on or after April 1, 1996.

~~C. The city shall provide a notice of decision that also includes a statement of any threshold determination made under SEPA (Chapter 43.21C RCW) and the procedures for administrative appeal, if any. For Type II, III and IV project permits, the notice of decision on the issued permit shall contain the requirements set forth in GHMC 19.04.002(C).~~

~~D. The notice of decision shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.~~

~~E. Notice of the decision shall be provided to the public as set forth in GHMC 19.03.003(B) (2)(a) and (B)(2)(c).~~

~~F. If the city is unable to issue its final decision on a project permit application within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of decision. (Ord. 711 § 1, 1996).~~

Section 25. A new section 19.05.009 is hereby added to the GHMC to read as follows:

**19.05.009 Calculation of time periods for issuance of notice of final decision. Notice of Final Decision.**

~~A. In determining the number of days that have elapsed after the local government has notified the applicant that the application is complete for purposes of calculating the time for issuance of the notice of final decision, A. The Director shall issue a Notice of Final Decision within 120 days of the issuance of the Determination of Completeness pursuant to GHMC Section 19.02.003; provided, that the time period for a determination on a preliminary plat shall be 90 days, for a final plat 30 days, and a short plat 30 days. The notice shall include the SEPA threshold determination for the proposal and a description of any available administrative appeals. For Type II, III and IV project permits, the Notice shall explain that affected property owners may request a change in property tax valuation notwithstanding any program of revaluation.~~

The Notice of Final Decision shall be mailed or otherwise delivered to the applicant, to any person who submitted comments on the application or requested a copy of the decision, and to the Pierce County Assessor.



B. In calculating the 120 day period for issuance of the Notice of Final Decision, the following periods shall be excluded:

1. Any period during which the applicant has been requested by the city Director to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the city Director notifies the applicant of the need for additional information until the earlier of the date the local government Director determines whether that the additional information provided satisfies the request for information, or 14 days after the date the additional information has been is provided to the city;

2. If the city Director determines that the information submitted by the applicant under GHMC 19.04.009(A)(1) is insufficient, it shall notify the applicant of the deficiencies and the procedures under GHMC 19.04.009(A)(1) shall apply as if a new request for studies had been made; is insufficient, the applicant shall be informed of the particular insufficiencies and the procedures set forth in subsection A(1) above for calculating the exclusion period shall apply;

3. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant of Chapter 43.21C RCW, if the city by ordinance has established time periods for completion of environmental impact statements, or if the local government and the applicant in writing agree to a time period for completion of an environmental impact statement; (EIS) is being prepared pursuant to Chapter 43.21C RCW and GHMC Title 18. The time period for preparation of an EIS shall be governed by GHMC Section 18.04.140(B).

~~4. Any period for 4. Any period for consideration and issuance of a decision for administrative appeals of project permits, which shall be not more than 90 days for open record appeals and 60 days for closed record appeals, unless a longer period is agreed to by the Director and the applicant, permits, if an open record appeal hearing or a closed record appeal, or both, are allowed. The time period for consideration and decision on appeals shall not exceed:~~

~~a. Ninety days for an open record appeal hearing; and~~

~~b. Sixty days for a closed record appeal.~~

~~The parties may agree to extend these time periods;~~

5. Any extension of time mutually agreed upon to by the applicant Director and the local government; and applicant.

B. The time limits established in this title do not apply if a project permit application:

1. Requires an amendment to the comprehensive plan or a development regulation;

2. Requires siting approval of the siting of an essential public facility as provided in RCW 36.70A.200; or

3. Is substantially revised by the applicant, in which case the time period shall start from the date at which that a Determination of Completeness for the revised application is issued by the Director pursuant to GHMC Section 19.02.003, the revised project application is determined to be complete under RCW 36.70A.440. ~~(Ord. 711 § 1, 1996).~~

Section 26. GHMC Section 19.05.009 is hereby repealed.

Section 27. GHMC Section 19.06.001 is hereby amended to read as follows:

**19.06.001 Appeals of decisions.**

~~Project~~ The right of appeal for all project permit applications shall be appealable as provided in the framework and Type V land use decisions shall be as described in the matrix set forth in GHMC 19.01.003. ~~(Ord. 711 § 1, 1996).~~

Section 28. GHMC Section 19.06.002 is hereby amended to read as follows:

**19.06.002 Consolidated appeals.**

~~A.~~ All appeals of project permit application decisions, other than an appeal of determination appeals of determinations of significance ("DS") and exempt permits and approvals under GHMC Section 19.01.007, shall be considered together in a consolidated appeal using the appeal procedure for the highest type permit application.

~~B.~~ Appeals of environmental determinations under SEPA, Chapter 18.04 GHMC, shall proceed as provided in that chapter. ~~(Ord. 711 § 1, 1996).~~

Section 29. GHMC Section 19.06.003 is hereby amended to read as follows:

**19.06.003 Standing to initiate an administrative appeal.**

A.—~~Listed~~ Limited to Parties of Record. Only parties of record may ~~initiate an file a closed record~~ administrative appeal ~~of a Type II or III decision on a project permit application.~~

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

1. The applicant;
2. Any person who testified at the open record public hearing on the application; and/or
3. Any person who submitted written comments concerning the application at the open record public hearing (excluding persons who have only signed petitions or mechanically produced form letters). ~~(Ord. 711 § 1, 1996).~~

Section 30. GHMC Section 19.06.004 is hereby amended to read as follows:

**19.06.004 Closed record decisions and appeals.**

A.—~~Type II or III project permit~~ Permit decisions or recommendations. Appeals of ~~the a~~ hearing body's decision or recommendation ~~on a Type II or III and~~ project permit application shall be governed by the following:

1.—~~Standing. Only parties of record have standing to appeal the hearing body's decision.~~

~~2. Time to File. An appeal of the hearing body's decision must be filed within 14 calendar~~ 10 working days following of the issuance of the hearing body's written decision. Appeals ~~may~~ shall be delivered to the ~~planning department~~ Director by mail, by personal delivery or by fax before 5:00 p.m. on the last business day of the appeal period. Appeals received by mail after 5:00 p.m. on the last day of the appeal period will not be accepted, no matter when such appeals were mailed or postmarked.

~~2 3.~~ 3. Computation of Time. For the purposes of computing the time for filing an appeal, the day the hearing body's decision is rendered issued shall not be included. The counted. If the last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the

~~city's ordinances as a legal holiday, then it also is excluded and the filing must be completed on holiday designated by RCW 1.16.050 or by a city ordinance, then the appeal must be filed on the next business day (RCW 35A.21.080).~~

4 3. Content of Appeal. Appeals shall be in writing, be accompanied by ~~an~~ the required appeal fee, and contain the following information:

a. Appellant's name, address and phone number;

b. ~~Appellant's~~ A statement describing ~~his or her~~ appellant's standing to appeal;

c. Identification of the application which is the subject of the appeal;

d. Appellant's statement of grounds for appeal and the facts upon which the appeal is based with specific references to the facts in the record;

~~The relief sought, including the specific nature and extent;~~ e. The specific relief sought;

f. A statement that the appellant has read the appeal and believes the contents to be true, following by the appellant's signature.

5 4. Effect. The timely filing of an appeal shall stay the ~~effective date of the hearing body's decision until such time as the appeal is adjudicated by the council~~ concluded or withdrawn.

6 5. Notice of Appeal. The ~~director~~ Director shall provide ~~public mailed~~ mailed notice of the appeal ~~as provided in GHMC 19.03.003(B)(2). (Ord. 711 § 1, 1996).~~ to all parties of record as defined in GHMC 19.04.003.

Section 31. GHMC Section 19.06.005 is hereby repealed and a new Section 19.06.005 is hereby adopted which shall read as follows:

**19.06.005 Procedure for closed record decision/appeal.**

A. Closed record appeals shall be on the record established at the hearing before the hearing body whose decision is appealed, which shall include: The written decision of the hearing body, a

transcript or tape recording of the proceedings, and copies of any exhibits admitted into the record. No new testimony or other evidence will be accepted except: (1) New information that was unknown to the parties at the time of the hearing which could not reasonably have been discovered by the parties and is necessary for a just resolution of the appeal; and (2) relevant information that, in the opinion of the Council, was improperly excluded by the hearing body. Appellants who believe that information was improperly excluded must specifically request, in writing prior to the closed record appeal, that the information be made part of the record. The request shall describe the information excluded, its relevance to the issues appealed, the reason(s) that the information was excluded by the hearing body, and why the hearing body erred in excluding the information. No reference to excluded information shall be made in any presentation to the Council on the merits, written or oral, until the Council has determined that the information should be admitted.

B. Parties to the appeal may present written and/or oral arguments to the Council. Argument shall describe the particular errors committed by the hearing body, with specific references to the appeal record.

C. The hearing shall commence with a presentation by the Director, or the Director's designee, of the general background and the issues in dispute. After the Director's presentation, the appellant(s), then the other parties of record, shall make their arguments. Councilmembers may question any party concerning disputed issues, but shall not request information not in the record.

D. The Council may affirm, reverse or, upon written agreement by the applicant to waive the statutory prohibition against more than one open record and one closed record hearing, and, if needed, to waive the requirement for a decision in 120 days, remand the decision to the hearing body for additional information.

Section 32. GHMC is hereby amended to add a new section ~~19.06.005~~ **19.06.007**

to read as follows:

**19.06.005 19.06.007 Resubmission of application**

Any permit application or other request for approval submitted pursuant to this Chapter that is denied shall not be resubmitted or accepted by the Director for reconsideration for a period of twelve months from the date of the last action by the City on the

application or request unless, in the opinion of the Director, there has been a significant change in the application or a significant change in conditions related to the impacts of the proposed project.

Section 33. 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 34. This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

APPROVED:

\_\_\_\_\_  
MAYOR, GRETCHEN A. WILBERT

ATTEST/AUTHENTICATED:

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

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_

FILED WITH THE CITY CLERK:                      October 12, 1998  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO. \_\_\_\_\_

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

of the City of Gig Harbor, Washington

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On the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_, 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, AMENDING VARIOUS SECTIONS OF CHAPTER 19.01 RELATING TO LAND USE, ZONING AND PROJECT PERMIT PROCESSING, AMENDING SECTIONS 19.01.002, 19.01.003, 19.01.004, 19.01.005, 19.01.006, 19.02.001, 19.02.002, 19.02.003, 19.02.004, 19.02.005, 19.03.001, 19.03.002, 19.04.001, 19.04.002, 19.04.003, 19.05.002, 19.05.004, 19.05.005, 19.05.006, 19.05.008, 19.05.009, 19.06.002, 19.06.003, 19.06.004 OF THE GIG HARBOR MUNICIPAL CODE TO, REPEALING SECTIONS 19.05.008, 19.05.009, 19.06.005 AND ADDING NEW SECTIONS 19.05.008, 19.05.009, 19.06.005 AND 19.06.007 TO INCORPORATE MODIFICATIONS REQUIRED BY STATE LAW, CORRECT TYPOGRAPHICAL ERRORS AND CLARIFY MEANINGS.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_.

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CITY CLERK, MOLLY TOWSLEE








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

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

**TO:**  **MAYOR WILBERT AND CITY COUNCIL**  
**FROM:** **PLANNING-BUILDING DEPT., RAY GILMORE**  
**SUBJECT:** **CONTRACT FOR PRO-TEM HEARING EXAMINER SERVICES -  
JUDITH BENDOR**  
**DATE:** **OCTOBER 8, 1998**

#### **BACKGROUND/INTRODUCTION**

The City is provided Hearing Examiner services by the firm of McConnell-Burke, Inc, of Kirkland, WA. This firm has represented a number of clients over the past two decades, one of which has an appeal pending before the Hearing Examiner. Because of a potential conflict of interest, McConnell-Burke has advised that City that it should not participate in the appeal hearing. Judith Bendor, an attorney who resides in Seattle, has extensive experience in conducting public hearings on zoning and land use issues (see resume, attached). She has served on the State Shoreline Hearings Board/Pollution Control Hearings Board and has provided hearing examiner services to Bellevue, Redmond, Renton and King County. She is qualified to assume the duties of a pro-tem hearing examiner for this one appeal.

#### **POLICY ISSUES**

A contract is required to retain Judith Bendor as a pro-tem hearing examiner for the "Gig Harbor North Retail" appeal. The contract would remain in effect until all hearing examiner proceedings related thereto are concluded

#### **FISCAL IMPACT**

There will be no additional fiscal impact to the City. Ms. Bendor will be compensated at the same rate as McConnell-Burke, including secretarial services. There are sufficient funds available in the Planning-Building Budget.

#### **RECOMMENDATION**

Staff recommends that the Council approve the contract for the terms specified.

Judith A. Bendor  
5408 Kensington Pl. No.  
Seattle, WA 98103  
(206) 527-0496/fax -1262

**RESUME**

**Present to 1986:**

**Hearing Examiner:** Bellevue, Redmond, Renton and King County  
pro tem (present to 1992); and

**Washington Shorelines/Pollution Control Hearings Boards Member**  
(1992-1986):

Conduct open record public hearings, conferences and  
settlements, motions practice regarding

administrative appeals (design review, variances,  
declarations of non-significance and EISs);

permit applications (conditional use, preliminary plat,  
planned residential developments, shoreline); and

finest and orders to abate.

Review record and issue written findings of fact,  
conclusions of law and decisions or recommendations.  
Emphasis in land use and environmental.

**Judge and Magistrate (Pro Tem):** King County District and  
Seattle Municipal Courts;

**Attorney:** Fremont Legal Clinic providing legal advice on  
housing, contracts, etc. Port Gamble S'Klallam Tribe (1993-  
1994), legal adviser in land use/environmental, conferring with  
cities, counties, and state government.

**Management:** Chair and CEO of the Environmental Hearings Office  
(1989-1991), developed policies and procedures, managed office,  
supervised budget preparation, prepared reports. Served on  
governor's Small Agency Cabinet and testified before  
Legislature. Executive Committee and Trustee for State Bar  
Environmental/Land Use Section of (1988-1991), co-chair of  
Annual Meeting (1993).

**State Water Resources Forum:** provided guidance to  
private/public sectors on water rights under Chelan Agreement.

**1986 and prior:**

**Land Use/Environmental Planner:** United State Environmental  
Protection Agency, (1977-1971), coordinated development of  
transportation plans, water basin/non-point source plans, air

quality emissions inventories, sewage treatment proposals. Worked directly with cities, counties and state. EIS author/editor.

**Business Practices Attorney:** US Federal Trade Commission, (1980-1986), dealt with unfair and deceptive business practices. Investigation, negotiation, litigation. Served concurrently as Special Assistant U.S. Attorney in grand jury proceeding and in sentencing.

**Volunteer:** Work with refugees teaching English and assisting in acculturation; education and book drive chair religious organization, board and officer non-profit organizations.

**Legal Intern/Law Clerk:** California Court of Appeals; California Department of Industrial Relations; Alameda County Legal Services.

List of articles provided upon request.

Admissions and Education

**Admitted to Practice Law:**

State of Washington  
US District Court for the Western District of  
Washington.  
US Bankruptcy Court for the Western District of Washington  
State of California

**Educational Degrees:**

Hastings College of Law, J.D.  
University of California, A.B. Cum Laude, Phi Beta Kappa.

References:

Bellevue City Attorney Richard Andrews  
(425) 452-6829

Bellevue City Clerk Myrna Basich  
(425) 452-2733

Redmond City Attorney James Haney  
Ogden Murphy and Wallace  
(206) 447-7000

**CONTRACT FOR TEMPORARY HEARING  
EXAMINER SERVICES FOR  
THE CITY OF GIG HARBOR**

THIS AGREEMENT is entered into on this date by and between the City of Gig Harbor (hereinafter the "City"), a Washington municipal corporation, and Judith A. Bendor, whose address is 5408 Kensington Place North, Seattle, WA 98103 (hereinafter the "Hearing Examiner Pro Tem").

**RECITALS**

WHEREAS, the City's Hearing Examiner has a conflict and cannot perform services for the City on the Design Review Decision "Gig Harbor North Retail," DRB 98-01 (hereinafter the Application); and

WHEREAS, the Mayor has appointed and the City Council wishes to contract with the Hearing Examiner Pro Tem under the terms and conditions set forth herein for the Application; and

In consideration of the mutual benefits to be derived by the parties herein, the parties agree as follows:

**TERMS**

1. Duties. The Hearing Examiner Pro Tem shall perform all of the duties set forth in Chapter 17.10 GHMC and all other actions reasonably necessary to fulfill the obligations of the position, as established by state statute or City ordinance relating to the Application. The provisions of RCW 35.63.130 are incorporated by this reference as if fully set forth herein.

2. Compensation.

A. The Hearing Examiner shall provide services to the City at an hourly rate of Ninety Seven Dollars and Eighty Five Cents (\$97.85) for performance of the duties described herein.

B. The City shall reimburse the Examiner Pro Tem for the Examiner Pro Tem's travel between Gig Harbor and the Examiner Pro Tem's office at the rate of Thirty-One and One-Half Cents (\$.315) per mile. In addition, the City shall reimburse the Examiner Pro Tem for secretarial services at a rate of Thirty Nine Dollars and Twenty Five Cents (\$39.25) per hour. The City shall also reimburse the Examiner Pro Tem for the Examiner Pro Tem's actual costs involved in photocopying, mailing, faxing and telephone expenses incurred in the performance of the Examiner Pro Tem's duties.

3. Term. This Agreement shall be effective upon execution, and continue until completion of all of the Hearing Examiner Pro Tem Pro Tem's responsibilities with respect to the Application.

4. Billing and Payment. The Hearing Examiner Pro Tem shall submit a final invoice to the City within thirty (30) days after the the decision is rendered the Application. The City shall make payments to the Examiner Pro Tem, which payment shall be considered by the City Council at the regular meeting following receipt of the Examiner Pro Tem's invoice.

5. Ownership of Work Product. Any and all documents, drawings, reports, and other work product produced by the Examiner Pro Tem under this Agreement shall become the property of the City upon payment of the Examiner Pro Tem's fees and charges therefore. The City shall have the complete right to use and re-use such work product in any manner deemed appropriate by the City, provided, that use on any project other than that for which the work product is prepared shall be at the City's risk unless such use is agreed to by the Examiner Pro Tem.

6. Records. The Examiner Pro Tem shall keep all records related to this Agreement for a period of three years following completion of the work for which the Examiner Pro Tem is retained. The Examiner Pro Tem shall return the City's original records to the City. The Examiner Pro Tem shall permit any authorized representative of the City, and any person authorized by the City for audit purposes, to inspect such records at all reasonable times during regular business hours of the Examiner Pro Tem. Upon request, the Examiner Pro Tem will provide the City with reproducible copies of any such records. The copies will be provided without cost if required to substantiate any billing of the Examiner Pro Tem, but the Examiner Pro Tem may charge the City for copies requested for any other purpose.

7. Independent Contractor. The Examiner Pro Tem is an independent contractor for the performance of services under this Agreement. The City shall not be liable for, nor obligated to pay to the Examiner Pro Tem, or any employee of the Examiner Pro Tem, sick leave, vacation pay, overtime or any other benefit applicable to employees of the City, nor to pay or deduct any social security, income tax, or other tax from the payments made to the Examiner Pro Tem which may arise as an incident of the Examiner Pro Tem performing services for the City. The City shall not be obligated to pay industrial insurance for the services rendered by the Examiner Pro Tem.

8. Taxes. The Examiner Pro Tem will be solely responsible for the payment of any and all applicable taxes related to the services provided under this Agreement and if such taxes are required to be passed through to the City by law, the same shall be duly itemized on any billings submitted to the City by the Examiner Pro Tem.

9. Indemnity. The Examiner Pro Tem agrees to indemnify, defend and hold the City harmless from any and all claims for damage or any liability of any nature due to any acts or omissions of the Examiner Pro Tem that are outside of the scope of the Examiner Pro Tem's official duties, as described in this Agreement and all applicable statutes, laws or ordinances. The Hearing Examiner Pro Tem's indemnification by the City is covered by Chapter 2.19 of the Gig Harbor Municipal Code.

10. Nonexclusive Contract. This shall be a nonexclusive contract. The City reserves the right to appoint additional Hearing Examiner Pro Tems and to contract for additional services in the future. Nothing herein shall be interpreted to prohibit such future appointments nor to guarantee

renewal of this Agreement, its level of payment, nor the level of cases forwarded to the Examiner Pro Tem in future years. The City reserves the right to renegotiate any and all provisions of this Agreement for future contract terms.

11. Integration. The written provisions and terms of this Agreement shall supersede all prior verbal statements of any officer or representative of the City, or any prior agreements between the parties, and such statement or prior agreements shall not be effective or be construed as entering into, forming a part of, or altering this Agreement in any way.

12. Termination. This Agreement may be terminated by the City or the Examiner Pro Tem for any reason upon thirty (30) days written notice. Any such notice shall be given by the terminating party to the other party at the address specified below. In the event of termination, the City shall pay for all services satisfactorily performed by the Examiner Pro Tem to the effective date of termination, as described in the Examiner Pro Tem's final report submitted to the City. No payment shall be made for any work completed after the termination date. In the event that services of the Examiner Pro Tem are terminated by the City for fault on part of the Examiner Pro Tem, the amount to be paid shall be determined by the City with consideration given to the actual cost incurred by the Examiner Pro Tem in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the City at the time of termination, the cost to the City of employing another individual to complete the work required, and the time which may be required to do so. Upon termination, the City may take possession of all records and documents in the Examiner Pro Tem's possession pertaining to or arising out of the Examiner Pro Tem's duties under this Agreement.

13. Resolution of Disputes. Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor, and the Mayor shall determine the term or provision's true intent or meaning. If any dispute arises between the City and the Examiner Pro Tem which cannot be resolved by the Mayor's determination in a reasonable period of time, or if the Examiner Pro Tem does not agree with the Mayor's decision on the disputed matter, jurisdiction of any resulting litigation shall be with the Pierce County Superior Court, in Pierce County, Washington. The prevailing party shall be reimbursed by the other party for its costs, expenses and reasonable attorneys' and expert witness fees incurred in any litigation arising out of the enforcement of this Agreement.

14. Waiver. The failure of either party to insist upon strict performance of any of the provisions of this Agreement shall not be construed to be a waiver or relinquishment of said Agreement provision, and the same shall remain in full force and effect.

15. Severability. In the event that any provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid, the remaining provisions shall remain in full force and effect.

16. Notice. Notice given pursuant to this Agreement shall be given in writing to the parties as follows:

**City of Gig Harbor:**

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

**Hearing Examiner Pro Tem:**

Judith A. Bendor  
5408 Kensington Place North  
Seattle, WA 98103

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

**CITY OF GIG HARBOR**

**HEARING EXAMINER PRO TEM**

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

By: \_\_\_\_\_  
Judith A. Bendor

APPROVED FOR FORM:

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







*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**  
**SUBJECT: JUROR SERVICES CONTRACT**  
**DATE: OCTOBER 6, 1998**

**INFORMATION/BACKGROUND**

The Superior Court contracts with the city to provide pre-qualified jurors at a fixed cost per juror summoned for pre-qualification. For 1998, the city is expected to pre-qualify 750 jurors. This volume should be sufficient for 1999. The enclosed contract is for the upcoming year, and will be reflected in the 1999 city budget.

**RECOMMENDATION**

Staff recommends approval of the attached juror services contract for 1999.

## AGREEMENT

THIS AGREEMENT MADE AND ENTERED INTO by and between the City of Gig Harbor (City), the Municipal Court of Gig Harbor (Municipal Court), Pierce County (County), and the Superior Court of Washington in Pierce County (Superior Court).

### W I T N E S E T H:

WHEREAS City and Municipal Court desire to utilize the services of County and Superior Court in providing a list of pre-qualified jurors for Municipal Court use;

WHEREAS County and Superior Court agree to provide the desired services on the terms and conditions hereinafter set forth:

### IT IS MUTUALLY AGREED AS FOLLOWS:

(1) County and Superior Court will provide to Municipal Court a sufficient number of prequalified jurors as determined by Municipal Court on an annual basis. For the 1998-1999 year, the requested number of qualified jurors is 750.

(2) That Superior Court will provide the necessary jurors drawn in the same manner, procedure, and methods as done by and for Superior Court with the exception that all jurors will be drawn based upon zip codes in the locale of the Municipal Court. Superior Court will mail to each juror drawn a pre-qualification questionnaire and upon return of the questionnaire to Superior Court, Superior Court will determine whether each juror meets the criteria for qualification as a juror in Washington State.

(3) That City will pay County a fee in the sum of \$125.00 per year plus an additional \$1.50 for each summons/questionnaire mailed on behalf of Municipal Court by Superior Court. **THE TOTAL COST OF EACH SUMMON PLUS FEE WILL BE BILLED WHEN YOUR COURT REACHES THE DESIRED NUMBER OF PREQUALIFIED JURORS.** This is reimbursement for computer maintenance, data processing supplies and forms, postage and labor expenses incurred by Superior Court on behalf of Municipal Court.

(4) The total number of pre-qualification questionnaires mailed will be determined by Superior Court based upon the number of pre-qualification questionnaires historically required to yield the number of pre-qualified jurors requested by Municipal Court as contained in paragraph (1).

(5) Superior Court shall furnish City and Municipal Court an itemized statement listing the number of jurors mailed questionnaires, the number of questionnaires returned as "undeliverable," and the number of non-qualified questionnaires returned to Superior Court.

(6) This agreement shall remain in effect from September 1, 1998 until August 31, 1999. Thereafter, the parties may renew this Agreement for one year terms beginning September 1 and ending August 31 until the Agreement is terminated. The City shall give notice of intent to renew at least sixty (60) days prior to the termination date.

(7) Either party may terminate this Agreement by giving written notice of not less than ninety (90) days to the other party.

(8) That upon non-renewal or termination of the Agreement by either party, Superior Court will furnish to Municipal Court on September 1 of each year a list prospective jurors drawn in the same manner, procedure, and methods as done by and for Superior Court with the exception that all jurors for Municipal Court will be drawn based upon zip codes in the locale of the Municipal Court.

IN WITNESS WHEREOF, the parties have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

**MUNICIPALITY**

**PIERCE COUNTY**

\_\_\_\_\_  
Court Administrator                      Date

\_\_\_\_\_  
Department Director                      Date

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

\_\_\_\_\_  
Prosecuting Attorney                      Date

\_\_\_\_\_  
Mayor    Date

\_\_\_\_\_  
Budget and Finance                      Date





*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** *MHA*  
**SUBJECT: FIRST AMENDMENT TO SANITARY SEWER EASEMENT –**  
**GIG HARBOR CORPORATE CENTER**  
**DATE: OCTOBER 8, 1998**

**INFORMATION/BACKGROUND**

The Hogan office building property on Point Fosdick Drive, legally EJH Investments L.L.C., desires to alter the easement agreement for the city's sanitary sewer line that runs just inside the southern and eastern boundary lines of the Hogan property. The second sentence on page 1 of the original easement agreement will be deleted and will be amended and supplemented by the amendment in order to reassure the lender on the project. Legal Counsel has reviewed and approved the amendment.

**POLICY CONSIDERATIONS**

City policy and implementation of this policy is not affected by this amendment.

**FISCAL CONSIDERATIONS**

None.

**RECOMMENDATION**

Staff recommends that the City Council approve the First Amendment to Sanitary Sewer Easement as presented.

**After Recording Return To:**

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

### **FIRST AMENDMENT TO SANITARY SEWER EASEMENT**

This First Amendment to Sanitary Sewer Easement is made and entered into by and between **EJH Investments L.L.C.**, a Washington limited liability company ("Grantor"), as successor in interest to CRH Investments, and the **City of Gig Harbor** ("Grantee") for the purpose of amending the Sanitary Sewer Easement between CRH Investments and Grantee dated July 15, 1991, and recorded August 16, 1991, under Pierce County Recording no. 9108160281 (the "Easement"). The Easement burdens a portion of the real property (the "Property"), owned by Grantor, which is located in Gig Harbor, Pierce County, Washington and described as follows:

Lot 1 of Pierce County Short Plat recorded under Pierce County Auditor's Fee No. 8112020249.

EXCEPT the South 60 feet of the East 50 feet thereof.

Tax Parcel No.: 02-21-20-5-010

The Easement is hereby amended and supplemented in the following respects:

1. The second sentence on page 1 of the Easement is deleted in its entirety and the following two (2) sentences are substituted therefor:

The easement shall be used by Grantee for the purpose of installation, operation, repair and maintenance of an underground sanitary sewer line together with all necessary connections and appurtenances. The parties acknowledge that as of October 12, 1998, a sanitary sewer line has been installed by Grantee within the boundaries of the easement.

2. A new Section 6 is hereby added to the Easement, to read as follows:

6. Grantor's Use of Easement. Grantor shall not construct any permanent structures over the easement or use the easement in any manner inconsistent with the rights granted to the Grantee herein. However, Grantor may install asphalt driveways, sidewalks, asphalt parking areas, and landscaping on the surface of the easement.

The Easement, as amended by this First Amendment to Sanitary Sewer Easement, is hereby ratified and affirmed in all respects.

EXECUTED this \_\_\_\_\_ day of October, 1998.

GRANTOR

GRANTEE

**EJH Investments L.L.C.**, a Washington  
limited liability company

**City of Gig Harbor, Washington**

By \_\_\_\_\_  
Evelyn M. Lynn  
Manager

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

ATTEST:

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

STATE OF WASHINGTON )  
 )  
County of PIERCE ) ss.

On this \_\_\_\_ day of October, 1998, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **Evelyn M. Lynn** to me known to be the President of **EJH Investments L.L.C.**, a Washington limited liability company, the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute said instrument on behalf of said limited liability company.

Witness my hand and official seal hereto affixed the day and year first above written.

For recording in the state of Washington, the Notarial Seal must be fully legible and cannot intrude into document margins. Please affix seal in the space provided.

\_\_\_\_\_  
[Print Name] \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

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STATE OF WASHINGTON )  
 )  
County of PIERCE ) ss.

On this \_\_\_\_ day of October, 1998, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **Gretchen A. Wilbert** to me known to be the Mayor of the **City of Gig Harbor**, the municipal corporation that executed the within and foregoing instrument, and she acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute said instrument on behalf said municipal corporation.

Witness my hand and official seal hereto affixed the day and year first above written.

For recording in the state of Washington,  
the Notarial Seal must be fully legible and  
cannot intrude into document margins.  
Please affix seal in the space provided.

\_\_\_\_\_  
[Print Name] \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

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RECORDED  
BRIAN SONITAG  
AUDITOR PIERCE CO. WASH.  
*WMB*

SANITARY SEWER EASEMENT

CRH INVESTMENTS ("Grantor"), a general partnership formed under the laws of the State of Washington, whose general partners are Charles R. Hogan and Carl R. Hogan, in consideration of the performance by The City of Gig Harbor ("Grantee"), of the covenants hereinafter set forth, hereby grants to the Grantee, its successors and assigns, a perpetual, non-exclusive easement over, under and across the following two described portions of the real property (the "Property") located in Pierce County, Washington and described as Lot 1 of Pierce County Short Plat No. 8112020249:

1. The east 20 feet of the Property except for the south 60.00 feet; and
2. The south 20 feet of the Property except for the east 50.00 feet.

The easement shall be used solely for the purpose of installation, operation, repair and maintenance of an underground sanitary sewer line together with all necessary connections and appurtenances.

Grantee hereby promises to faithfully and fully observe and perform the following covenants:

1. COSTS OF MAINTENANCE. Grantee shall bear and promptly pay all costs and expenses of maintenance, repair, and replacement of the sanitary sewer line.

2. COMPLIANCE WITH LAWS AND RULES. Grantee shall at all times exercise its rights herein in accordance with the requirements, as may be amended from time to time, of all applicable statutes, orders, rules and regulations of any public authority having jurisdiction.

3. AS-BUILT DRAWINGS. Upon Grantor's request, Grantee shall promptly provide Grantor with as-built drawings showing the location and depth of the sanitary sewer line and all connections and appurtenances.

4. WORK STANDARDS. All work to be performed by Grantee on the Property shall be completed in a careful and workmanlike manner, free of claims or liens. Upon completion of any work by Grantee on the Property, Grantee shall remove all debris and restore the surface of the Property to as nearly as possible the condition in which it was at the commencement of such work.

EXCISE TAX EXEMPTION DATE Aug 16 1991  
Pierce County

By *RC* Auth. 189

91

So 1 000

5. TERMINATION FOR CESSATION OF USE. In the event Grantee ceases to use the sanitary sewer line on the Property for a period of two successive years, this Easement and all of Grantee's rights hereunder shall terminate.

6. RELEASE AND INDEMNITY. Grantee does hereby release, indemnify and promise to defend and hold harmless Grantor from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorneys' fees incurred by Grantor in defense thereof arising out of acts or omissions of Grantee and Grantee's servants, agents, employees and contractors in the exercise of the rights granted herein.

EXECUTED this 15<sup>th</sup> day of July, 1991.

GRANTOR:  
CRH INVESTMENTS, a partnership  
formed under the laws of the  
State of Washington

GRANTEE:  
CITY OF GIG HARBOR

By: [Signature]  
Charles R. Hogan, Partner

By: [Signature]

By: [Signature]  
Carl R. Hogan, Partner

By: [Signature]

STATE OF WASHINGTON )  
                                  ) ss.  
County of Pierce        )

On this day personally appeared before me Carl R. Hogan and Charles R. Hogan, to me known to be the partners of CRH Investments, the partnership described in and that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of said partnership.

GIVEN under my hand and official seal this 11<sup>th</sup> day of JULY, 1991.



William S. Howak  
NOTARY PUBLIC in and for the State  
of Washington, residing at SUMNER  
My Commission Expires: 9-20-91

STATE OF WASHINGTON )  
 ) ss.  
County of Pierce )

On this day personally appeared before me Gayle Ann A. Whitt and Michael R. Gibson to me known to be the Mayer and City Administrator, of the City of Gig Harbor, the City that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said City, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of said City.

GIVEN under my hand and official seal this 15<sup>th</sup> day of July, 1991.



Karin Akhavaner  
NOTARY PUBLIC in and for the State  
of Washington, residing at Gig Harbor  
My Commission Expires: 12/95

Return to: City of Gig Harbor  
P.O. Box 145  
Gig Harbor, WA 98335

PT. FOSDICK DRIVE

N01°39'33"E (BASIS OF B

39' PAVEMENT WIDTH

4313.55'

BUSINESS SIGN

POSSIBLE ENCROACHMENT  
SEE DETAIL A

15' WATER EASEMENT  
PER RECORDING NO. 9704240677

15' WATER EASEMENT  
PER RECORDING NO. 9704240677

SANITARY SEWER EASEMENT  
BUILDING SETBACK LINE

3 STORY  
WOOD FRAME  
6,411 SF @ 2ND FLOOR  
4411 PT FOSDICK DR.  
GIG HARBOR, WA. 98335

3 STORY  
WOOD FRAME  
9,075 SF @ 2ND FLOOR  
4423 PT FOSDICK DR.  
GIG HARBOR, WA. 98335

PLANTER  
BOXES

022120-5-004

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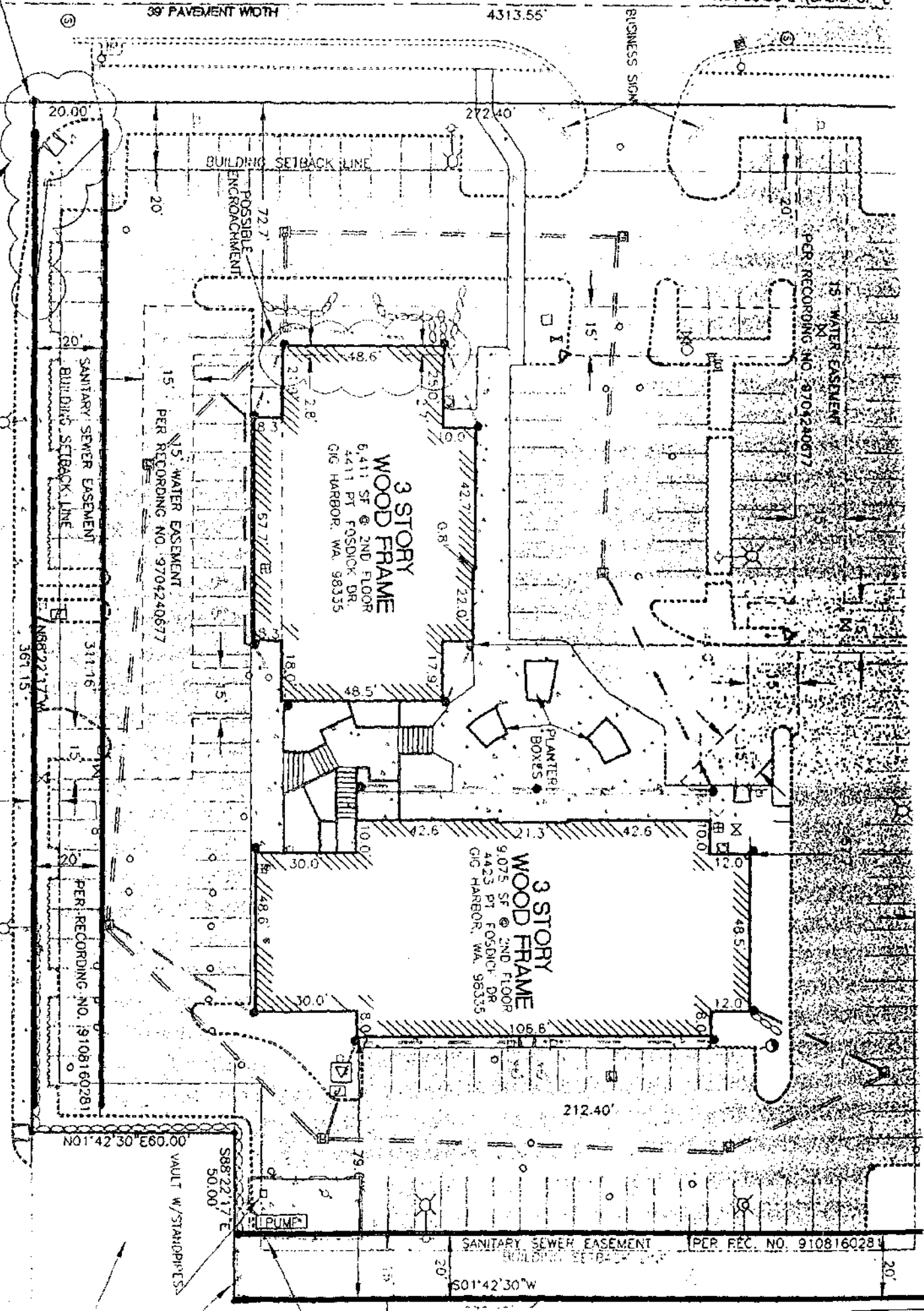
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VAULT W/ STAIRS

PUMP

SANITARY SEWER EASEMENT

PER REC NO. 9108160281

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

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

**TO: MAYOR WILBERT CITY COUNCIL**  
**FROM: DAVID RODENBACH** DR  
**DATE: OCTOBER 7, 1998**  
**SUBJECT: RESOLUTION ADOPTING AN INVESTMENT POLICY**

#### **BACKGROUND**

The City at times has funds on hand that are not required for immediate use. A formal policy governing investment of City funds is attached. This policy is designed to ensure the prudent management of City funds and an investment return that is competitive with those of comparable funds.

The policy identifies the City's primary objective as safety of principal followed by liquidity and yield. The policy also identifies investment instruments that are allowable for City funds.

The policy was submitted to the Washington Municipal Treasurer's Association for review and certification. Our proposed policy was reviewed and certified by a peer review committee consisting of three independent reviewers.

#### **FINANCIAL CONSIDERATIONS**

At December 31, 1997, the City had \$6,300,000 in cash and investments on hand and received over \$300,000 in interest income.

#### **RECOMMENDATION**

Staff recommends approval of the attached resolution.



Washington Municipal Treasurer's Association

---

September 29, 1998

RECEIVED

SEP 30 1998

CITY OF GIG HARBOR

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

Dear Mr. Hoppen:

It is my pleasure to inform you that the City of Gig Harbor investment policy has been certified by the Washington Municipal Treasurer's Association (WMTA) Investment Policy Certification Committee. This certification attests that your investment policy conforms to the standards established by WMTA. Your investment policy was considered and certified by a peer review committee and received approval by consensus of three independent reviewers. Enclosed you will find the reviewers notes with insight and suggestions for your policy.

You will be recognized at the 1999 Annual WMTA Conference at the noon business lunch Thursday, April 8, 1999. The conference is being held at Campbell's Resort, Lake Chelan.

The *WMTA Investment Policy Certification Program* is intended to provide guidance in the formulation of a structure to govern the investment of public funds. It must be implemented in conjunction with a careful reading of and strict adherence to applicable statutes, judicial decisions and legal opinions. It is not a guarantee against loss due to economic and market conditions or human behavior.

*Congratulations on a job well done.* Please call me at (360) 902-9010 if you have any questions.

Sincerely,

Cristin E. Wilson, Chairman  
WMTA Investment Policy Certification Committee

Enclosures



**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ADOPTING AN INVESTMENT POLICY TO GOVERN THE INVESTMENT OF PUBLIC FUNDS IN A MANNER WHICH WILL PROVIDE MAXIMUM SECURITY FOR PUBLIC FUNDS WITH THE HIGHEST INVESTMENT RETURN WHILE MEETING THE DAILY CASH FLOW DEMANDS OF THE CITY.**

---

WHEREAS, the City Council of the City of Gig Harbor seeks at all times to maintain the highest fiscal integrity with respect to its administration of public funds; and

WHEREAS, RCW 35A.40.050 allows the investment of inactive City funds; and

WHEREAS, the budget of the City also includes a certain percentage of idle funds which are intended to be invested in order to balance the City's cash requirements for ongoing operations with the opportunity for the highest, prudent investment potentials to insure a reasonable return on idle funds with the highest investment return with maximum security; now, therefore,

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

Section 1. The City Council hereby adopts the Investment Policy attached hereto as Exhibit A and incorporated herewith by this reference as the investment Policy for the City of Gig Harbor.

Section 2. Any act consistent with the authority of this resolution and taken prior to the effective date of this resolution is hereby ratified and affirmed.

Section 3. If any section, sentence, clause or phrase of this resolution 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 resolution.

Section 4. This resolution shall be effective immediately upon passage by the Gig Harbor City Council.

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

APPROVED:

\_\_\_\_\_  
GRETCHEN A. WILBERT, MAYOR

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
MOLLY M. TOWSLEE, CITY CLERK

APPROVED AS TO FORM  
OFFICE OF THE CITY ATTORNEY:

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

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
RESOLUTION NO.

# **CITY OF GIG HARBOR INVESTMENT POLICY**

## **TABLE OF CONTENTS**

1. Policy
2. Scope
3. Prudence
4. Objective
5. Delegation of Authority
6. Ethics and Conflicts of Interest
7. Authorized Financial Dealers and Institutions
8. Authorized and Suitable Investments
9. Safekeeping and Custody
10. Diversification
11. Maximum Maturities
12. Internal Control
13. Performance Standards
14. Reporting
15. Investment Policy Adoption

Glossary

## CITY OF GIG HARBOR INVESTMENT POLICY

### 1. Policy:

It is the policy of the City of Gig Harbor to invest public funds in a manner which will provide maximum security with the highest investment return while meeting the daily cash flow demands of the City and conforming to all state and local statutes governing the investment of public funds.

### 2. Scope:

This investment policy applies to all financial assets of the City. These funds are accounted for in the City's annual financial report and include the following funds:

- General Fund
- Special Revenue Funds
- Debt Service Funds
- Capital Project Funds
- Enterprise Funds
- Trust and Agency Funds
- Any New Funds Created By Council Unless Specifically Exempted

### 3. Prudence:

Investments shall be made with judgement and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the "**prudent person**" standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

The Finance Director acting in accordance with procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

#### 4. Objective:

The primary objectives, in priority order, of the City of Gig Harbor's investment activities shall be:

**Safety:** Safety of the principal is the foremost objective of the investment program. Investments of the City of Gig Harbor shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, **diversification** is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

**Liquidity:** The City of Gig Harbor's investment portfolio will remain sufficiently liquid to enable the City of Gig Harbor to meet all operating requirements which might be reasonably anticipated.

**Yield:** The City of Gig Harbor's investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the City of Gig Harbor's investment risk constraints and the cash flow characteristics of the portfolio.

**Legality:** The City of Gig Harbor's investments shall be in compliance with all statutes regulating the investment of public monies.

#### 5. Delegation of Authority:

The Finance Director is authorized, by Ordinance 757, to invest all funds of the City of Gig Harbor. The Finance Director shall establish written procedures for the operation of the investment program consistent with this investment policy. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Finance Director. The Finance Director shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

#### 6. Ethics and Conflicts of Interest:

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the Mayor any material financial interests in financial institutions that conduct business within this jurisdiction, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the City of Gig Harbor's portfolio. Employees and officers shall subordinate their personal investment transactions to those of the City, particularly with regard to the timing of purchases and sales.

**7. Authorized Financial Dealers and Institutions:**

The Finance Director will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security broker/dealers selected by credit worthiness, who maintain an office in the State of Washington. These may include "primary" dealers or regional dealers that qualify under Securities & Exchange Commission Rule 15C3-1 (uniform net capital rule). No public deposit shall be made except in qualified public depositories as provided in Chapter 39.58 RCW.

All financial institutions and broker/dealers who desire to do business with the City must supply the following:

1. Annual audited financial statements;
2. Quarterly or semi annual financial statements;
3. Proof of National Association of Securities Dealers certification, and proof of Securities Investors Protection Corporation (SIPC) coverage;
4. Certification of having read this investment policy;

The Finance Director will conduct an annual review of the financial condition of firms.

A current audited financial statement is required to be on file for each financial institution and broker/dealer with whom the City invests.

**8. Authorized Investments:**

The City is empowered by RCW 35A.40.050, 36.29.020 and 39.58.080 to invest in the following types of securities.

- Investment deposits, including certificates of deposit, with qualified public depositories as defined in RCW 39.58.
- Certificates, notes, bonds or other obligations of the United States. RCW 43.84.080, 36.29.020. (Treasury bills, bonds).
- Obligations of United States agencies or of any corporation wholly owned by the government of the United States. RCW 43.84.080, 36.29.20. (Government National Mortgage Association bonds and Small Business Administration bonds).
- Federal Home Loan Bank notes and bonds. RRCW 43.84.080, 36.29.020.
- Federal Land Bank bonds. RCW 43,84,080, 36.29.020.
- Federal National Mortgage Association notes, debentures and guaranteed certificates of participation. RCW 43.84.080, 36.29.020.
- Notes or bonds secured by mortgage that the Federal Housing Administrator has insured or made a commitment to insure in obligations of national mortgage associations. RCW 39.60.010.
- Debentures issued by the Federal Housing Administrator. RCW 39.60.010.
- Bonds of the Home Owner's Loan Corporation. RCW 39.60.010.

- Obligations of any other government-sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system. RCW 43.84.080, 36.29.020. (Federal Farm Credit Banks consolidated system-wide bonds and discount notes, Federal Home Loan Mortgage Corporation bonds and discount notes, Student Loan Marketing Association bonds and discount notes, Export-Import Bank bonds, and Maritime Administration bonds).
- State of Washington Local Government Investment Pool, as authorized in City of Gig Harbor Resolution No. 197.

In the event that any state, federal or city regulation should further restrict instruments or institutions authorized by this policy, such restrictions shall be deemed to be immediately incorporated in this policy.

#### **9. Safekeeping and Custody:**

All security transactions, including collateral for repurchase agreements, entered into by the City shall be conducted on a **delivery-versus-payment (DVP)** basis. Securities purchased by the City will be held by a third party custodian.

#### **10. Diversification:**

The City will diversify its investments by security type and institution. With the exception of U. S. Treasury securities and authorized pools, no more than 30% of the entity's total investment portfolio will be invested in a single security type or with a single financial institution.

#### **11. Maximum Maturities:**

To the extent possible, the City will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than two years from the date of purchase. However, the City may collateralize its repurchase agreements using longer-dated investments.

Reserve funds may be invested in securities exceeding two years if the maturity of such investments is made to coincide as nearly as practicable with the expected use of the funds.

**12. Internal Control:**

The Finance Director shall establish a system of internal controls designed to prevent loss of public funds due to fraud, error, misrepresentation or imprudent actions. The system of internal controls is reviewed by the State Auditor during their annual audit of the City's annual financial report. This review will provide additional internal control by assuring adherence to the City's investment policy and procedures.

**13. Performance Standards:**

The City of Gig Harbor investment portfolio will be designed to obtain a market average rate of return equal to or greater than that obtained by the State of Washington Local Government Investment Pool.

**14. Reporting:**

The Finance Director shall include an investment report with the quarterly financial report, summarizing the types of investments, yields and maturities. This report shall be presented to the City Council at the second council meeting following the end of each budget quarter.

**15. Investment Policy Adoption:**

The City's investment policy shall be adopted by resolution of the Council. The policy shall be reviewed by the Finance Director on an annual basis and any modifications made thereto must be approved by the City Council.

**ADOPTED \_\_\_\_\_ BY RESOLUTION \_\_\_\_\_**



## GLOSSARY

**AGENCIES:** Federal agency securities.

**ASKED:** The price at which securities are offered.

**BANKERS' ACCEPTANCE (BA):** A draft or bill of exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

**BID:** The price offered for securities.

**BROKER:** A broker brings buyers and sellers together for a commission paid by the initiator of the transaction or by both sides; he does not position. In the money market, brokers are active in markets in which banks buy and sell money and in interdealer markets.

**CERTIFICATE OF DEPOSIT (CD):** A time deposit with a specific maturity evidenced by a certificate. Large denomination CD's are typically negotiable.

**COLLATERAL:** Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

**COUPON:** (a) The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. (b) A certificate attached to a bond evidencing interest due on a payment date.

**DEALER:** A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

**DELIVERY VERSUS PAYMENT:** There are two methods of delivery of securities: delivery versus payment and delivery versus receipt (also called free). Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

**DEBENTURE:** A bond secured only by the general credit of the issuer.

**DISCOUNT:** The difference between the cost price of a security and its value at maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

**DISCOUNT SECURITIES:** Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g., U. S. Treasury bills.

**DIVERSIFICATION:** Dividing investment funds among a variety of securities offering independent returns.

**FEDERAL CREDIT AGENCIES:** Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, e.g., S&L's, small business firms, students, farmers, farm cooperatives, and exporters.

**FEDERAL FUNDS RATE:** The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open market operations.

**FEDERAL OPEN MARKET COMMITTEE (FOMC):** Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

**FEDERAL RESERVE SYSTEM:** The central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, D. C., 12 Regional Banks and about 5,700 commercial banks that are members of the system.

**FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)** A federal agency that insures bank deposits, currently up to \$100,000 per deposit.

**FEDERAL HOME LOAN BANKS (FHLB):** The institutions that lend to savings and loan associations. The Federal Home Loan Banks play a role analogous to that played by the Federal Reserve Banks vis-a-vis member commercial banks.

**FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA):** FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing & Urban Development, H.U.D. It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

**GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae):** Securities guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations and other institutions. Security holder is protected by full faith and credit of the U. S. Government. Ginnie Mae securities are backed by FHA, VA or FMHM mortgages. The term passthroughs is often used to describe Ginnie Maes.

**LIQUIDITY:** A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

**LOCAL GOVERNMENT INVESTMENT POOL (LGIP):** The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

**MARKET VALUE:** The price at which a security is trading and could presumably be purchased or sold.

**MASTER REPURCHASE AGREEMENT:** A written contract covering all future transactions between the parties to repurchase-reverse repurchase agreements that establishes each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

**MATURITY:** The date upon which the principal or stated value of an investment becomes due and payable.

**MONEY MARKET:** The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

**OPEN MARKET OPERATIONS:** Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

**PORTFOLIO:** Collection of securities held by an investor.

**PRUDENT PERSON RULE:** An investment standard. In some states the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the state-the so-called legal list. In other states the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

**PRIMARY DEALER:** A group of government securities dealers that submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange commission (SEC) registered securities broker-dealers, banks, and a few unregulated firms.

**RATE OF RETURN:** The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

**QUALIFIED PUBLIC DEPOSITORIES:** A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Commission to hold public deposits.

**REPURCHASE AGREEMENT (RP OR REPO):** A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security “buyer” in effect lends the “seller” money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money, that is, increasing bank reserves.

**SAFEKEEPING:** A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank’s vault for protection.

**SECONDARY MARKET:** A market made for the purchase and sale of outstanding issues following the initial distribution.

**SEC RULE 15C3-1:** See uniform net capital rule.

**SECURITIES AND EXCHANGE COMMISSION (SEC):** Agency created by Congress to protect investors in securities transactions by administering securities legislation.

**TREASURY BILLS:** A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

**TREASURY BOND:** Long-term U.S. Treasury securities having initial maturities of more than ten years.

**TREASURY NOTES:** Intermediate term coupon bearing U.S. Treasury securities having initial maturities of from one to ten years.

**UNIFORM NET CAPITAL RULE:** Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called *net capital rule* and *net capital ratio*. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted to cash.

**WASHINGTON PUBLIC DEPOSIT PROTECTION COMMISSION** - Consists of the State Treasurer, as chairman, the Governor, and the Lieutenant Governor.

The Commission is empowered to request a qualified public depository to furnish information on its public deposits and the exact status of its net worth. The Commission is further empowered to take any action deemed advisable for the protection of public funds and to establish procedures for collection or settlement of claims arising from loss.

In the event of the default of a qualified public depository, the Commission establishes the amount of public fund loss. After the application of federal insurance coverage and the failed depository's pledged collateral against public deposits, each participating depository is assessed for its proportionate share based on the ratio that its total public deposits bear to the statewide total.

**YIELD:** The rate of annual income return on an investment, expressed as a percentage. (a) **INCOME YIELD** is obtained by dividing the current dollar income by the current market price for the security. (b) **NET YIELD TO MATURITY** is the current yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.





*City of Gig Harbor Police Dept.*  
3105 JUDSON STREET  
GIG HARBOR, WASHINGTON 98335  
(253) 851-2236

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: MITCH BARKER, CHIEF OF POLICE** *mlb*  
**SUBJECT: SEPTEMBER INFORMATION FROM PD**  
**DATE: OCTOBER 6, 1998**

The September 1998 activity statistics are attached for your review.

The Reserves contributed 183.5 working hours in September. This included 113 hours of patrol time, 31 hours administrative duties, 30 hours of training, and 18.5 hours of special assignments. Our Reserves assisted with hosting six officers from the U.K., instructing first aid and bloodborne pathogens classes, security at the Peninsula School District auction, a DUI emphasis, and weekly jail transports.

The Marine Services Unit worked 26.5 hours in September. This included 26.5 hours of patrol time, 4 hours of maintenance, and 1 hour of administrative duties. The officers took 13 dispatched calls, performed 8 inspections, and provided 6 boater assists. MSU also continued to assist the treatment plant personnel with water measurements.

The Explorers volunteered 119 hours in September. This included 30 hours of regular meetings, 18 hours of ride-alongs, 5 hours of traffic control at the Peninsula School District auction, and 56 hours of First aid/CPR training. Two new Explorers joined the post in September.



City of Gig Harbor Police Dept.  
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## GIG HARBOR POLICE DEPARTMENT

### MONTHLY ACTIVITY REPORT

#### September 1998

	<u>SEPT</u> <u>1998</u>	<u>YTD</u> <u>1998</u>	<u>YTD</u> <u>1997</u>	<u>%chg to</u> <u>1997</u>
CALLS FOR SERVICE	<u>444</u>	<u>3796</u>	<u>2994</u>	+ <u>26</u>
CRIMINAL TRAFFIC	<u>18</u>	<u>194</u>	<u>129</u>	+ <u>50</u>
TRAFFIC INFRACTIONS	<u>115</u>	<u>833</u>	<u>512</u>	+ <u>62</u>
DUI ARRESTS	<u>7</u>	<u>86</u>	<u>44</u>	+ <u>95</u>
FELONY ARRESTS	<u>8</u>	<u>63</u>	<u>51</u>	+ <u>23</u>
MISDEMEANOR ARRESTS	<u>31</u>	<u>153</u>	<u>110</u>	+ <u>39</u>
WARRANT ARRESTS	<u>3</u>	<u>81</u>	<u>40</u>	+ <u>97</u>
CASE REPORTS	<u>134</u>	<u>1062</u>	<u>817</u>	+ <u>30</u>
REPORTABLE VEHICLE ACCIDENTS	<u>20</u>	<u>128</u>	<u>109</u>	+ <u>17</u>





City of Gig Harbor. The "Maritime City"

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

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: DAVID RODENBACH**  
**DATE: October 7, 1998**  
**SUBJECT: GAMBLING TAX AND AND AMUSEMENT DEVICE FEES**

### BACKGROUND

The gambling activities that are legal within the City are classified as "*commercial stimulants*", according to RCW 9.46.0217. The state code classifies activities that are operated in connection with an established business for the purpose of increasing the volume of sales of food or drink for consumption on those business premises as commercial stimulants.

The City currently taxes these activities at five percent of gross receipts from the operation of punch boards and pull-tabs. State law provides the option of taxing a maximum of either five percent of gross receipts or ten percent of net gambling receipts.

The tax imposed by the City does not appear to be excessive when you consider the fact that all these gambling activities are commercial stimulants, as opposed to primary business activities. Our review of 1997 tax returns revealed an average profit of 13% indicating that the City tax is not interfering with the intended purpose of these activities.

A comparison of the City's amusement device fees is attached for your consideration.

### FINANCIAL CONSIDERATIONS

Gambling tax revenues in 1997 were \$70,600 and are expected to be \$80,000 in 1998. Based upon this level of gambling tax revenues we estimate gross gambling receipts of \$1,600,000 for 1998.

1997 gambling activity within the city is summarized below.

		% of Gross
Businesses reporting	8	
Gross gambling receipts	\$1,537,838	
Prizes Paid	1,041,115	68%
Net gambling receipts	496,723	32%
Total expenses	301,540	20%
Net gambling income	\$ 195,183	13%

Gross receipts for individual businesses ranged from \$18,000 to nearly \$500,000 in 1997; with the average being \$192,000. Revenues generated by amusement device fees were \$9,150 in 1997 and are expected to be about the same in 1998.

### RECOMMENDATION

Staff recommends no changes to the City's gambling tax and makes no recommendation concerning amusement device fees.

## AMUSEMENT DEVICE LICENSE SURVEY

City	Annual Fee	Notes
Enumclaw	\$ 12.00	<ul style="list-style-type: none"> <li>• Fee for first device. The fee for each additional device shall be double the fee of the preceding device.</li> </ul>
Fife	\$ 0.00	<ul style="list-style-type: none"> <li>• 0-4 machines – no fee</li> </ul>
	\$ 50.00	<ul style="list-style-type: none"> <li>• 5 or more machines \$50.00 each, per year</li> <li>• Licensed liquor establishments exempt</li> </ul>
Gig Harbor	\$200.00	<ul style="list-style-type: none"> <li>• Per machine – distributor fee</li> </ul>
	\$ 10.00	<ul style="list-style-type: none"> <li>• Per machine – location license</li> <li>• 2% of gross revenues, business owner</li> </ul>
Mukilteo	\$ 30.00	<ul style="list-style-type: none"> <li>• 0 – 5 machines</li> </ul>
	\$250.00	<ul style="list-style-type: none"> <li>• 6 or more, one fee covers all machines</li> </ul>
Poulsbo	no fee	<ul style="list-style-type: none"> <li>• Amusement center would pay business license only.</li> </ul>
Sequim	\$ 25.00	<ul style="list-style-type: none"> <li>• Penalty for violation is \$300</li> </ul>
Sumner	\$ 50.00	<ul style="list-style-type: none"> <li>• Annual per machine</li> </ul>
	\$ 25.00	<ul style="list-style-type: none"> <li>• Games located in churches or schools</li> <li>• Penalty for violation is \$300</li> </ul>
Tukwila	\$ 50.00	<ul style="list-style-type: none"> <li>• Annual per machine</li> </ul>
	\$500.00	<ul style="list-style-type: none"> <li>• Per Center, Per year</li> </ul>
Tacoma	\$ 10.00	<ul style="list-style-type: none"> <li>• Amusement Location License, per year, place of business (notes number of machines allowed for play)</li> </ul>
	\$100.00	<ul style="list-style-type: none"> <li>• 1-50 machines - Distributor License</li> </ul>
	\$200.00	<ul style="list-style-type: none"> <li>• 51 to 100 machines – Distributor License</li> </ul>
	\$300.00	<ul style="list-style-type: none"> <li>• 100 to 200 machines - Distributor License</li> </ul>
	\$ 50.00	<ul style="list-style-type: none"> <li>• Each over 200 machines, per year</li> </ul>
	\$ 10.00	<ul style="list-style-type: none"> <li>• Amusement Device License, per quarter, owner of machine</li> </ul>
Vancouver	\$ 50.00	<ul style="list-style-type: none"> <li>• Machine License, per year</li> </ul>
	\$ 25.00	<ul style="list-style-type: none"> <li>• Machine license, after July 1</li> </ul>
	\$300.00	<ul style="list-style-type: none"> <li>• Distributor fee, city wide, per year</li> </ul>