

GIG HARBOR CITY COUNCIL MEETING



February 10, 1997

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

AGENDA FOR GIG HARBOR CITY COUNCIL MEETING
February 10, 1997 - 7:00 p.m.

SPECIAL PRESENTATION:

1. Presentation to Officer Mark Galligan - 20 years service.
2. WSDOT / Technical Team - Update on SR 16/Tacoma Narrows Bridge Project

PUBLIC COMMENT/DISCUSSION:

CALL TO ORDER:

APPROVAL OF MINUTES:

CORRESPONDENCE / PROCLAMATIONS:

1. Dept. of Defense - Civic Leader Orientation.
2. Pierce County Parks & Recreation - Open Space Planning.
3. P.C. Council - Public Works Committee Hearing.
4. Letter from Burt Talcott.
5. AWC - Matching Grant / 1997 Wellness Calendar.
6. Alan Thein Durning - Presentation and Booksigning.

OLD BUSINESS:

NEW BUSINESS:

1. Hearing Examiner Decision and Recommendation on Remand -- SPD 95-06, Robert Philpott; Appeal of the Hearing Examiner's Decision on SDP 95-06 - Appealed by Robert Philpott.
2. First Reading - Street Name Ordinance.
3. 1997 Department of Assigned Counsel Contract.
4. Introduction - Concurrency Ordinance.
5. Supplemental Insurance Purchase.
6. Maintenance Agreement - Minolta.
7. Liquor License Assumption - Uddenberg's Thriftway, Stockmarket Foods.
8. Liquor License Renewals - Spiro's Pizza, The Keeping Room.

MAYOR'S REPORT: None scheduled.

COUNCIL COMMENTS:

STAFF REPORTS:

Chief Mitch Barker - GHPD Stats.

ANNOUNCEMENTS OF OTHER MEETINGS:

APPROVAL OF BILLS:

APPROVAL OF PAYROLL:

EXECUTIVE SESSION: For the purpose of discussing litigation and potential litigation.

ADJOURN:

REGULAR GIG HARBOR CITY COUNCIL MEETING OF JANUARY 27, 1997

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

PUBLIC COMMENT/DISCUSSION: None.

CALL TO ORDER: 7:10 p.m.

APPOINTMENT OF MAYOR PRO TEM: Mayor Wilbert thanked Councilmember Picinich for acting as Mayor Pro Tem during 1996, and announced that Councilmember Ekberg had accepted the appointment for 1997.

APPROVAL OF MINUTES:

MOTION: Move approval of the minutes of the January 13th, 1997 meeting, with correction. Picinich/Platt - unanimously approved.

CORRESPONDENCE/PROCLAMATIONS: None scheduled.

OLD BUSINESS:

1. Second Reading of Ordinance - Gig Harbor North Annexation (ANX91-04). Ray Gilmore presented the second reading of this ordinance and explained that the suggested changes mentioned at the first reading had been incorporated, along with minor text changes to make it consistent with the current code and zoning maps and to correct typographical errors.

MOTION: Move to adopt Ordinance No. 746 with changes as noted. Markovich/Ekberg - unanimously approved.

2. Second Reading of Ordinance - Amendments to Title 17 of the GHMC - GH North Annexation Zoning. Mr. Gilmore introduced the ordinance adopting new sections for the zoning code related to the Gig Harbor North area. He said that amendments recommended by the Planning Commission had been added to include warehousing and storage in the mixed use district. He also said he had made several text changes and corrections suggested by legal counsel that did not change the intent, only the language.

MOTION: Move to adopt Ordinance No. 747. Markovich/Owel - unanimously approved.

Mayor Wilbert thanked everyone who participated in this process and invited Mr. Cunningham and Mr. Elderkin to speak.

Dave Cunningham - Pope Resources. Mr. Cunningham said thank you and added that they are looking forward to a partnership that would involve actual work on the ground, such as

the East/West road, the water supply and to bringing development plans to the city.

Bob Elderkin - Logan International. Mr. Elderkin explained that his son, Greg, had done most of the work on the project. He added that it had been a pleasure working with the city and Planning Department and that they are looking forward to a continued cooperation.

3. First Reading of Ordinance - Sewer Rate Increase Ordinance. Tom Enlow introduced the second reading of this ordinance that would provide for a five percent sewer rate increase. He added this increase would go into effect with billings issued after February 1st and would increase the revenues approximately \$40,000 per year.

MOTION: Move adoption of Ordinance No. 748.
Markovich/Picinich - unanimously approved.

6. First Reading of Ordinance - Adopting New Job Description and Salary Range - Public Works Clerk. Mark Hoppen introduced the second reading of this ordinance adopting a new job description for the Public Works Clerk and making an adjustment to the 1997 salary schedule.

MOTION: Move adoption of Ordinance No. 749.
Picinich/Ekberg - unanimously approved.

NEW BUSINESS:

1. Resolution - AWC Insurance Company Contract. Mark Hoppen explained that action on this item was two-fold. First, approval of the resolution approving the Mayor's signature on the Interlocal Agreement for a two-year relationship, and the second act is a motion for approval of the payment of the premium in the amount of \$60,562.

Carol Morris, legal counsel, apologized for not being able to review the agreement, as it had been drafted by AWC, and suggested approving the contract subject to review by legal counsel. She also recommended changing the word "Trust Agreement" to "Interlocal Agreement" in the resolution for clarification.

MOTION: Move adoption of Resolution No. 488 with the change in the last paragraph changing the word "Trust" to "Interlocal."
Markovich/Picinich - unanimously approved.

MOTION: Move to approve the premium payment in the amount of \$60,562.
Picinich/Markovich - unanimously approved.

2. Radio Maintenance Agreement - Police / Public Works. Chief Mitch Barker presented these renewals for an existing agreement with Pierce County Radio Shop for repair and service for the communications equipment for the Police and Public Works departments.

MOTION: Move to authorize the Mayor to sign both the Police and Public Works' maintenance agreements as submitted.
Platt/Ekberg - unanimously approved.

3. Distribution of State Marine Services Funding. Chief Barker presented this Boating Safety Agreement with Pierce County to allow the City to receive a portion of the fees received from licensing and vessel registration to be used toward approved boating safety programs. He added that he had expressed concerns that the formula used for dispersment of funds was inequitable, but was told the formula would remain as is.

MOTION: Move to authorize the Mayor to sign the Boating Safety Agreement as submitted.
Picinich/Platt - unanimously approved.

4. Police Radio Dispatching Agreement. Chief Barker presented this renewal of an on-going contract for dispatching and 9-1-1 services with the Law Enforcement Support Agency (LESA), and added that although there was a \$10,000 increase over last year, the cost was locked in for the year and would not change with the upcoming annexations. He said that this was an excellent price for a dispatching service and recommended approval.

MOTION: Move we authorize the Mayor to sign the dispatching agreement as submitted.
Owel/Picinich - unanimously approved.

5. Bid for Official Newspaper - Peninsula Gateway. Mark Hoppen explained that the municipal code requires the City to solicit bids yearly for the "official newspaper," and that as long as he can remember, only one bid has been received.

MOTION: Move to award the official newspaper service to the Peninsula Gateway.
Picinich/Markovich - unanimously approved.

MAYOR'S REPORT: Finholm View Climb Update. Mayor Wilbert gave a brief presentation and urged Councilmembers to purchase a brick.

COUNCIL COMMENTS: Councilmember Picinich said he had received several letters on the sign code and asked if a meeting had been scheduled to address these concerns. Ray Gilmore said that a public meeting was scheduled for March 6th.

STAFF REPORT:

1. Finance Department - Quarterly Report. Tom Enlow gave a review of the quarterly financial reports for the last quarter of 1996, and answered questions.

ANNOUNCEMENT OF OTHER MEETINGS:

Sign Code Meeting - March 6, 1997 - 6:30 p.m. at City Hall.

APPROVAL OF BILLS

MOTION: Move approval of checks #17173 through #17279 in the amount of \$91,064.05.
Owel/Ekberg - unanimously approved.

EXECUTIVE SESSION:

MOTION: Move to adjourn to Executive Session at 7:40 p.m. for approximately five minutes for the purpose of discussing litigation and potential litigation.
Platt/Ekberg - unanimously approved.

MOTION: Move to return to regular session at 7:45 p.m.
Picinich/Platt - unanimously approved.

ADJOURN:

MOTION: Move to adjourn at 7:46 p.m.
Platt/Picinich - unanimously approved.

Cassette recorder utilized.
Tape 450 Side B 069 - end.
Tape 451 Side A 000 - 068.

Mayor

City Administrator



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 62D AIRLIFT WING (AMC)



62 AW/PA
100 Main St., Suite 1050
McChord AFB WA 98438-1109

RECEIVED

30 Jan 97

FEB 3 1997

The Honorable Gretchen Wilbert
3105 Judson
Gig Harbor, WA 98335

CITY OF GIG HARBOR

Dear Mayor Wilbert,

We are pleased to invite you on a civic leader orientation flight Feb. 19 with Colonel Duncan J. McNabb, 62nd Airlift Wing commander. Our goal is to give you a more in-depth understanding of what we do in the Air Force everyday through firsthand experience of our mission here at McChord. Civic Leader Tours are part of a national Air Force civic leader orientation program to inform some of the influential members in our community — like yourself — about the role Team McChord plays in this nation's defense.

To do this, we plan on providing you with briefings on our mission, the new C-17 airlifter and the economic impact of McChord in the local area. This will be followed by the C-141 orientation flight (approx. one hour) and then a reception at our officer's club. If you do not wish to participate in the actual flight, we have arranged alternate tour stops at our air traffic control tower and aerial port facility. The afternoon's activities will take place from approximately 2-6 p.m.

Because we are limited in the number of passengers we can take, reservations will be taken on a space available basis. Please call Tech Sgt. Stefan Alford or Chris Teel at (206) 984-5637 at your earliest convenience to RSVP. We must have all reservations in by Feb. 12. Negative replies respectfully requested.

Once you RSVP, we will provide you more details about the visit. We hope you are able to join us for this operational view of McChord Air Force Base.

Sincerely

ADRIANE B. WOOD, Capt, USAF
Chief of Public Affairs



Pierce County

Parks & Recreation

JAN WOLCOTT
Director

9112 Lakewood Dr. S.W., Suite 121
Tacoma, Washington 98499-3998
(206) 593-4176 • FAX (206) 582-7461

FEB 4 1997

Mayor Gretchen Wilbert
City of Gig Harbor
~~P.O. Box 145~~ 3105 JUDSON
Gig Harbor WA 98335

January 29, 1997

Dear Mayor Wilbert:

I want to inform you about open space planning in Pierce County and request your help to ensure coordination between all jurisdictions.

In November of 1996, Pierce County created a citizen committee to advise the Executive, Council, and Planning Commission on the implementation of the open space policies of the Comprehensive Plan. The Open Space Implementation Committee (OSIC) is drawn from the Conservation Futures Citizens Advisory Board. The County Council augmented the OSIC with additional members from the building industry, tribes and environmental interests to assure a broad representation. The OSIC is now meeting weekly to accomplish its assigned tasks.

The Open Space Implementation Committee is to develop an open space policy for Pierce County. Said policy will include:

Establish a public involvement process which ensures that the open space needs and priorities of residents are identified.

Develop an open space public benefit rating system. (Which may mean the potential for tax relief)

Refine the Opens Space/Greenbelt Map in the Comprehensive Plan.

Complete an inventory of land parcels for open space purposes and evaluate publicly-owned properties for open space value.

You may also have plans to create parks and trails or to preserve natural areas for use as open space. I encourage you to contact your City, or Small Towns, or even your County Council district representative and share your ideas and information with them. Maybe we can save each other some time and dollars.

If we do a good job on these tasks the quality of life for citizens will be maintained and economic health of our County will be enhanced. The OSIC is very knowledgeable and we have excellent staff support. I'm excited about the possibilities and hope you will be pleased with the results.

A schedule of meeting dates, work shops, and a list of committee members are enclosed.

Sincerely,

Al Schmauder 
Chair, Open Space Implementation Committee.

Enclosures:





PIERCE COUNTY PARKS & RECREATION

9112 Lakewood Dr. SW, #121 • Tacoma, WA 98499-3998 • 206-593-4176 • FAX 206-582-7461

OPEN SPACE IMPLEMENTATION COMMITTEE

1997 MEETING SCHEDULE

DATE	TIME	LOCATION
Thursday, January 9	7:00 p.m.	Pierce County Annex, Meeting Room
Tuesday, January 14	7:00 p.m.	Pierce County Annex, Meeting Room
Thursday, January 23	7:00 p.m.	Pierce County Annex, Conference Rm D
Thursday, January 30	7:00 p.m.	Pierce County Annex, Conference Rm D
Thursday, April 3	7:00 p.m.	Pierce County Annex, Conference Rm D
Thursday, April 10	7:00 p.m.	Pierce County Annex, Conference Rm D
Thursday, April 24	7:00 p.m.	Pierce County Annex, Conference Rm D
Thursday, May 1	7:00 p.m.	Pierce County Annex, Conference Rm D
Thursday, May 8	7:00 p.m.	Pierce County Annex, Conference Rm D
Thursday, May 15	7:00 p.m.	Pierce County Annex, Conference Rm D
Thursday, May 22	7:00 p.m.	Pierce County Annex, Conference Rm D
Thursday, May 29	7:00 p.m.	Pierce County Annex, Conference Rm D

1997 PUBLIC WORKSHOPS

Thursday, February 27	7:00 p.m.	Buckley Senior Center 811 Main St.
Tuesday, March 4	7:00 p.m.	Peninsula High School Library 14015 62nd Ave. NW
Tuesday, March 18	7:00 p.m.	Bethel High School Library 22215 38th Ave. E.

OPEN SPACE IMPLEMENTATION COMMITTEE

Land Trusts

AL M JORDAN
12523 Ave Du Bois SW
Lakewood, WA 98498
Phone: 588-7191 (H)
581-0500

Tribes

RUSS LADLEY
6824 Pioneer Way
Puyallup, WA 98371
Phone: 845-9225
839-1943 (H)

Development Interests

KEVIN FOLEY
2323 Sunset Dr. W
University Place, WA 98466
Phone: 564-4491
564-1262 (H)

Environmental Groups

KIRK KIRKLAND
3114 N. Alder
Tacoma, WA 98407
Phone: 761-1693 (H,W)

CAB

City of Lakewood
GERALD F. AUGER
8705 Zircon Dr. Sw
Lakewood, WA 98498
Phone: 582-5011 (H)

District No. 2

ROBERT BALTZELL
2408 36th Ave SE
Puyallup, WA 98374
Phone: 848-9078 (H)

District No. 7

JAMES DEPEW
10304 86th Ave NW
Gig Harbor, WA 98332
Phone: 848-8478
851-3017 (H)

City of Tacoma

HELEN ENGLE
4011 Alameda Ave W
Tacoma, WA 98466
Phone: 564-3112 (H)

City of University Place

SHEILA R ENGLEHARDT
5022 66th Avenue Ct. West
University Place, WA 98467
Phone: (206)460-0714(H)
(360)754-3588

Small Cities/Towns

WOLF FLETTER
71 Bonney ST
Steilacoom, WA 98388
Phone: (360) 586-4897
582-2760 (H)

District No. 6

THELMA GILMUR
230 Farallone
Fircrest, WA 98466
Phone: 564-8210 (H)

District No. 5

WENDY ISENHART
3323 N 26 ST
Tacoma, WA 98407
Phone: 752-6100

Small Cities/Towns

TERRY LARSON
555 Contra Costa
Fircrest, WA 98466
Phone: 564-8177
565-3926 (H)

District No. 3

AL SCHMAUDER
15206-B Fern St. SW
Tacoma, WA 98498
Phone: 968-9024
581-2364 (H)

District No. 4

JACK SUTHERLAND
712 NORTH D ST
TACOMA WA 98403
Phone: 272-2629

City of Edgewood

LAURA L. VOGEL
11502 4th Street East
Edgewood, WA 98372
Phone: 952-4254 (H)

TAC

City of Tacoma
ROBERT ARLETH
747 Market St., RM 900
Tacoma, WA 98406
Phone 591-5385

Small Cities/Towns

MARY DODSWORTH
2301 Worthington
Steilacoom, Wa 98388
Phone: 581-1076

Metropolitan Parks District

STEVEN KNAUER
Metropolitan Parks District
4702 South 19th St.
Tacoma, WA 98405
Phone: 305-1051

Pierce County Budget & Finance

BETTY NIELSEN
Merit Bldg - 615 9th St, Ste 100
Tacoma, WA 98405-4673
Phone: 591-7583

OPEN SPACE IMPLEMENTATION COMMITTEE

Project Staff

Pierce County Parks

GRANT GRIFFIN
9112 Lakewood Dr SW
Lakewood WA 98499
Phone: 593-4049

Pierce County PALS

MARK TRUCKEY
PALS - 2401 S. 35th St., RM 228
Tacoma WA 98409-7490
Phone: 596-2751

Pierce County PALS

KATHERINE ROSE
PALS - 2401 S. 35th St., RM 228
Tacoma WA 98409-7490
Phone: 591-3181

Pierce County Public Works & Utilities

KAREN GOON
9116 Gravelly Lake Dr. SW
Lakewood WA 98499
Phone: 593-4050

Office Assistant

PAULA RIOS
9112 Lakewood Dr SW
Lakewood WA 98499
Phone: 593-4177



Pierce County

Office of the County Council

930 Tacoma Avenue South, Room 1046
Tacoma, Washington 98402-2176
(206) 591-3635
FAX (206) 591-7509
1-800-992-2456

JAN SHABRO
Councilmember, District No.1

RECEIVED

FEB 3 1997

CITY OF GIG HARBOR

Mayor Gretchen Wilbert
City of Gig Harbor
3105 Judson Street
Gig Harbor, WA 98335-1221

January 28, 1997

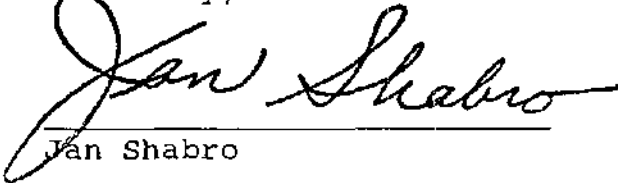
Dear Mayor Wilbert:

I wanted you to know that I have scheduled a Public Works Committee hearing on Thursday, February 6, 1997, to discuss Proposal No. 96-129, amending Chapter 19B.30 of the Pierce County Code, the Pierce County Transportation Plan; adopting the Pierce County Nonmotorized Transportation Plan; and adopting Findings of Fact.

The Public Works Committee will listen to all who would like to testify on the issue. You are encouraged to attend the hearing and present any oral or written comments you may have.

Please don't hesitate to contact me if you have any questions.

Sincerely,


Jan Shabro

JS/jjs





Pierce County

Office of the County Council

930 Tacoma Avenue South, Room 1046
Tacoma, Washington 98402-2176
(206) 591-3635
FAX (206) 591-7509
1-800-992-2456

JAN SHABRO
Councilmember, District No. 1

January 27, 1997

PUBLIC WORKS COMMITTEE PUBLIC MEETING NOTICE

PROPOSAL NO. 96-129, AN ORDINANCE OF THE PIERCE COUNTY COUNCIL AMENDING CHAPTER 19B.30 OF THE PIERCE COUNTY CODE, THE PIERCE COUNTY TRANSPORTATION PLAN; ADOPTING THE PIERCE COUNTY NONMOTORIZED TRANSPORTATION PLAN; AND ADOPTING FINDINGS OF FACT.

MEETING DATE: Thursday, February 6, 1997

TIME: 10:00 a.m.

PLACE: County Council Chambers, Room 1045
County-City Building
930 Tacoma Avenue South
Tacoma, Washington 98402-2176

CONTACT: Jenifer Schultz, County Council 596-6696

You are encouraged to attend this public hearing. You may present any oral or written comments you have regarding this matter. In addition, you may mail any written comments to the address above.



February 5, 1997

Dear editor:

My wife and I thank and commend the Westside voters and the citizens of Gig Harbor who approved the recent annexation.

We believe the annexation is a "natural" -- mutually beneficial.

Ever since our son was born in Seattle fifty three years ago, we admired the Gig Harbor peninsula from afar. Our educations, work, war and vacations took us to some of the most desirable places on Earth. We were delighted to return to Gig Harbor 9 years ago, not knowing a soul here except our family.

We loved the scenic serenity of the place. We liked the democratic village governance. We were happy to trade the minor inconveniences and extra costs of crossing the bridge for the beautiful local environment, close personal relationships and the socio-economic and education levels of the community. We cherish the friendships and support of our adjoining neighbors. We are impressed with the vibrant churches; the many groups that humbly pick up other persons' refuse along our roads; the numerous "neighborhood watch" organizations; the roster of active, productive service clubs; and other volunteers who provide a variety of selfless, sustained services for others.

The generally high level of service, friendliness and courtesy practiced by the local shops and the high quality of professional services offered by Gig Harbor practitioners are satisfying.

These superior qualities and civilities are largely nurtured by the fortuitous environment and the maritime village character of the area -- the envy and desire of many. Most families have moved or stayed here to enjoy these amenities -- not to exploit or despoil them.

We believe these attitudes and visions are shared by the citizens of Gig Harbor and by Westside residents and businesses. We need only to persevere in our mutual vision and our commitment to safeguard these values. We can do it!

Burt L. Talcott, Fax: 851-1096; 851-7955



The Peninsula Gateway, Fax: 851-3939



1076 Franklin St. SE
Olympia, WA 98501-1346
(360) 753-4137, FAX 753-4896

ASSOCIATION OF WASHINGTON CITIES

February 3, 1997

Ms. Molly Towslee
City of Gig Harbor
3105 Judson St.
Gig Harbor, WA 98335

Dear Molly:

I am pleased to inform you that the City of Gig Harbor's proposal for the 1997 Matching Grant for Targeted Health Risks has been approved for funding by the AWC Employee Benefit Trust. The amount of the grant is \$150.

To receive the matching funds, you may either submit invoices as they are received by the city or you may submit them on a periodic basis. AWC will pay 50% of invoice amounts, either to the vendor or the City.

The City of Gig Harbor's current matching grant limit is \$625 per year and \$2,500 total. Our records indicate that Gig Harbor has received \$75 in grant funds to date. This leaves an available balance of \$2,425. Your 1997 grant of \$150 will be deducted from the balance as invoices are paid.

You have done an excellent job of putting together a comprehensive program that meets the needs of Gig Harbor employees. Congratulations on a job well done! Keep up the good work.

Please give me a call if you have any questions.

Sincerely,

Julie McDowell
Health Promotion Specialist

jm

1997 WELLNESS CALENDAR

January -		Newsletter
February -	7	<i>"Credit, Use It - Lose It"</i> Money Management Lunch Presentation, Jim Geiger, Consumer Credit Counseling. First in a three part series.
	10-17	Public Works: OSHA Back Care Video Series
	28	<i>"Manage Your Money"</i> Money Management Lunch Presentation. Second in a three part presentation.
March -	14	<i>"Cost of Living"</i> Money Management Lunch Presentation. Third in a three part series.
	22	<i>Health Expo</i> - Tacoma Community College, Gig Harbor Branch Campus. Blood Pressure, Osteoporesis, Hearing, and other health screenings. Employees who attend will be entered into a drawing for a dinner certificate to a local restaurant.
April -		Newsletter
	18	<i>"Athletes In Industry - Flexibility Stretching Program"</i> Lunchtime video presentation.
May	?	AWC Games
June	6	<i>"Blood Pressure and Bagels"</i> 9am - Come eat a bagel and have Paramedic, Joe Gagnon, check your blood pressure.
July		Newsletter
	18	<i>"The Savvy Patient"</i> Wise Health Consumer Pot-luck
August	8	<i>"Take Care of Yourself"</i> Pot-luck presentation follow-up for new employees on last year's presentation and self-help books.
September	18	<i>"Blood Pressure and Bagels"</i> 9am - Come eat a bagel and have Paramedic, Joe Gagnon, check your blood pressure.
	26	<i>"Rules of Helping"</i> Lunch presentation on Working With Difficult People. First of three series - Jim Carroll, Tacoma Community College.
October		Newsletter
	10	<i>"Helping Map"</i> Lunch presentation on Working With Difficult People. Second of three series.
November	7	<i>"Communication Skills"</i> Lunch presentation on Working With Difficult People. Third of series.
December		Nothing scheduled.

Meet Urban Ecologist **Alan Thein Durning**

author of

*This Place on Earth:
Home and the Practice of Permanence*

Free book talk & signing

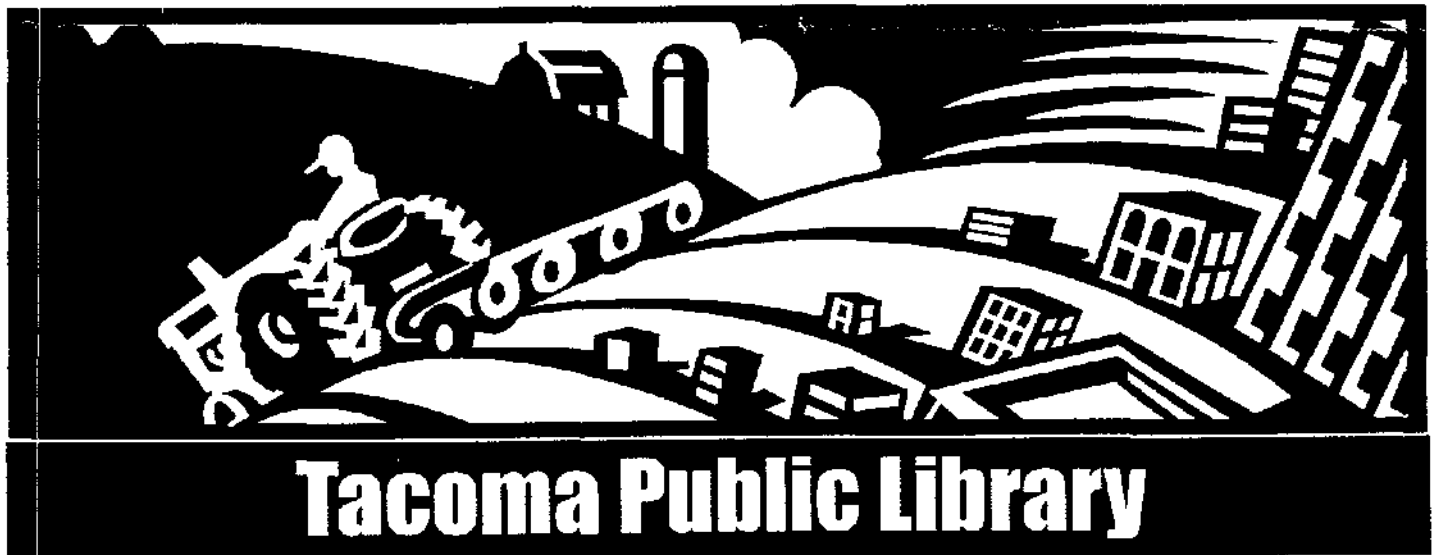
7:00 p.m., Wednesday, February 12, 1997

Olympic Room, Main Library

1102 Tacoma Avenue South, downtown Tacoma - (206) 591-5666

Alan Thein Durning believes that we're "living in an economy that thrives on the death of nature. Our way of life," he explains, "is the most successful at generating material wealth in history. It is also the most environmentally destructive." Durning's acclaimed new book, *This Place on Earth: Home and the Practice of Permanence*, examines how ordinary people can create an Earth-friendly way of life. *This Place on Earth* is a working blueprint for a way of life that can last and documents a quest for an environmentally sustainable way to exist as a society... what the author calls, "the practice of permanence." It is, he says, "the defining struggle of our age, and its outcome will affect the long-term survival of our culture and our species."

Urban ecologist **Alan Thein Durning** is executive director of *Northwest Environment Watch*, a private nonprofit research organization that seeks to foster a sustainable economy and way of life in the Pacific Northwest. Durning, formerly a Senior Researcher for the prestigious *Worldwatch Institute* in Washington D. C., is a commentator on National Public Radio's "Living On Earth," and a national lecturer and writer on sustainability. He is also the author of the award-winning book about consumer society *How Much is Enough?* His articles on environmental issues have appeared in the *New York Times*, *Washington Post*, *Los Angeles Times*, *Sierra*, *Utne Reader*, *Technology Review* and the *Christian Science Monitor*.





City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: PLANNING STAFF
DATE: FEBRUARY 10, 1997
SUBJECT: APPEAL OF EXAMINER'S DECISION ON SDP95-06/SPR95-10 -- ROBERT PHILPOTT - SUBSTANTIAL DEVELOPMENT PERMIT AND SHORELINE CONDITIONAL USE PERMIT FOR FUELING DOCK AND BUSINESS OFFICES; SITE PLAN REVIEW FOR OFFICES AND PARKING.

INTRODUCTION/BACKGROUND

On October 14, 1996, the City Council moved to remand back to the Hearing Examiner Mr. Robert Philpott's application for a proposed fuel dock at 3311 Harborview Drive. The issue to be considered by the Hearing Examiner is Section 5202.11.5.5 of the Uniform Fire Code which prohibits smoking or open flames within 50 feet of fueling operations. The Council expressed concern over the ability to enforce this regulation which would prohibit smoking or open flames on abutting lease lands. No other issues were to be addressed by the Examiner.

A hearing on the remand was held on November 13, 1996. The applicant submitted a statement by B.L. Hansen (attached) who was an expert witness in favor of the Philpott application regarding conformance to fire code standards. After considering the input of Mr. Hansen and other parties of record, the Examiner concluded that the subject section of the fire code should be implemented essentially as written with little deviation from the 50-foot distance requirement.

The Examiner's decision has been appealed to the City Council by the applicant. A copy of the Examiner's report, the applicant's appeal statement, as well as a written response from Mr. John Sloan regarding the appeal and Examiner's decision, is attached for the Council's consideration.

RECOMMENDATION

This is not a public hearing. The appellant is allowed up to 15 minutes of oral testimony. In addition, the Council may consider written input from other parties of record. Mr. John Sloan is the only party who has submitted written input.

A recommendation from Legal Counsel is attached.



P. L. L. C. ATTORNEYS AT LAW

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

MEMORANDUM

DATE: February 5, 1997

TO: Mayor Wilbert and the Gig Harbor City Council

FROM: ^{OMW} Carol Morris, City Attorney

RE: Application of Robert Philpot, SDP 95-06/SPR 95-10

On September 23, 1996, the City Council considered the recommendation and decision on the Philpot applications for a site plan, conditional use permit and shoreline substantial development permit. The City Council voted to conditionally approve the permit applications at that public meeting.

Subsequent to this vote, the City received letters from John Sloan and Jeffrey Robinson which alleged that even if the City approved the permits conditioned on Mr. Philpot's compliance with the fire code, compliance was an impossibility. These letters alleged a threat to public health and safety, in that the City's fire code prohibits a free/dispensing facility within fifty feet of a float or a pier on an adjoining property. Because Mr. Philpot does not own all of the property within fifty feet of the proposed fuel dispensing facility, an issue was presented as to Mr. Philpot's ability to demonstrate compliance.

During the City Council's October 14, 1996 public meeting, the City Council rescinded their vote on the Philpot applications, and remanded the matter back to the Hearing Examiner to consider the narrow issue whether the project could comply with the proposed permit condition requiring compliance with the City's fire code. Specifically, the Hearing Examiner was asked to determine whether the applicant could demonstrate compliance with Section 5202.22.5.5 of the Uniform Fire Code.

The Hearing Examiner's recommendation issued on December 31, 1996. Mr. Philpot has appealed the Hearing Examiner's decision to the City Council. In his appeal, Mr. Philpot alleges that he should be able to submit information to the City Fire Marshal to demonstrate his ability to meet the "Alternate materials and methods" and/or the "Practical difficulties" sections of the UFC (§§ 103.1.2, 103.1.3. (A copy of these sections are attached.)

Memorandum to Mayor Wilbert and the Gig Harbor City Council
February 5, 1997
Page 2

Mr. Philpot met with the City Fire Marshal, Steve Bowman, on February 4, 1997, and has submitted the necessary materials for Mr. Bowman to initiate his review of the issue under UFC §§ 103.1.2 and/or 103.1.3. This decision could be appealed to the Building Code Advisory Board (under chapter 15.02 GHMC).

Therefore, the City staff recommends that the Council move to continue their decision on the Hearing Examiner's recommendations and the Philpot appeal until the Fire Marshal's decision on the Philpot application has been rendered and all appeals exhausted. At that point, the decision will be referred to the Council for final action on all of the permit applications.

CAM153281.1M/P0008.150.040/B0008.

101.7-103.1.4

1994 UNIFORM FIRE CODE

101.7 Severability. If any provision of this code or the application thereof to any person or circumstance is held invalid, the remainder of the code and the application of such provision to other persons or circumstances shall not be affected thereby.

101.8 References to Appendix. When this code references the appendix, the provisions in the appendix shall not apply unless specifically adopted.

101.9 Amendments. When reference is made to a portion of this code or other applicable laws or ordinances, the reference applies to all amendments and additions now or hereafter made.

SECTION 102 — RETROACTIVE APPLICATION TO EXISTING CONDITIONS

102.1 Existing Conditions. The provisions of this code shall apply to conditions arising after the adoption thereof, conditions not legally in existence at the adoption of this code, and to conditions which, in the opinion of the chief, constitute a distinct hazard to life or property. See also Appendices I-A and I-B.

SECTION 103 — INSPECTION AND ENFORCEMENT

103.1 General.

103.1.1 Technical assistance. To determine the acceptability of technologies, processes, products, facilities, materials and uses attending the design, operation or use of a building or premises subject to the inspection of the department, the chief is authorized to require the owner or the person in possession or control of the building or premises to provide, without charge to the jurisdiction, a technical opinion and report. The opinion and report shall be prepared by a qualified engineer, specialist, laboratory or fire-safety specialty organization acceptable to the chief and the owner and shall analyze the fire-safety properties of the design, operation or use of the building or premises and the facilities and appurtenances situated thereon, to recommend necessary changes.

103.1.2 Alternate materials and methods. The chief, on notice to the building official, is authorized to approve alternate materials or methods, provided that the chief finds that the proposed design, use or operation satisfactorily complies with the intent of this code and that the material, method of work performed or operation is, for the purpose intended, at least equivalent to that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Approvals under the authority herein contained shall be subject to the approval of the building official whenever the alternate material or method involves matters regulated by the Building Code.

The chief is authorized to require tests as proof of compliance with the intent of this code. Such tests shall be made by an approved agency at the expense of the person requesting approval of the alternate material or method of construction.

103.1.3 Practical difficulties. The chief is authorized to modify any of the provisions of this code upon application in writing by the owner, a lessee or a duly authorized representative where there are practical difficulties in the way of carrying out the provisions of the code, provided that the spirit of the code shall be complied with, public safety secured and substantial justice done. The particulars of such modification and the decision of the chief shall be entered upon the records of the department and a signed copy shall be furnished to the applicant.

103.1.4 Appeals. To determine the suitability of alternate materials and types of construction and to provide for reasonable interpretations of the provisions of this code, there shall be and hereby is created a board of appeals consisting of five members who are qualified by experience and training to pass judgment upon pertinent matters. The chief shall be an ex officio member and shall act as secretary of the board. The board of appeals shall be appointed by the executive body and shall hold office at their pleasure. The board shall adopt reasonable rules and regulations for conducting its investigations and shall render decisions and findings in writing to the fire chief, with a duplicate copy to the appellant.

1994 UNIFORM FIRE CODE

103.1.5 Appendix. See Appendix A for enforcement.

103.2 Authority for Inspection

103.2.1 Authority of the Chief

103.2.1.1 General. The chief, in the direction of the fire department, is authorized to:

1. The prevention of fire
2. The suppression of fire
3. The storage, use and handling of hazardous materials
4. The installation and maintenance of fire-extinguishing equipment
5. The maintenance and repair of buildings, structures and other facilities
6. The maintenance of fire-fighting equipment
7. The maintenance of fire-fighting equipment
8. The investigation of fire causes and hazardous material

For authority related to the above, the chief is authorized to:

103.2.1.2 Fire prevention bureau shall have authority to:

When requested to do so, the chief is authorized to request police officers as necessary to assist in the performance of the duties of the fire prevention bureau.

103.2.2 Organization of the Fire Prevention Bureau

103.2.2.1 General. A fire prevention bureau shall be organized in accordance with the direction of the chief and shall perform the functions of this bureau as prescribed in the provisions of this code.

103.2.2.2 Fire marshals. Fire marshals shall exercise the powers and perform the duties of a fire prevention engineer.

103.3 Inspection.

103.3.1 General.

103.3.1.1 Authority to inspect. The chief is authorized to inspect buildings and premises for the purpose of ascertaining whether they cause fire or contribute to the spread of fire or violate any other law or standard.

103.3.1.2 Right of entry. The chief is authorized to enter any building or upon any premises if the chief is authorized to perform any duty.

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CITY OF GIG HARBOR

**CITY OF GIG HARBOR
HEARING EXAMINER
FINDINGS, CONCLUSIONS AND RECOMMENDATION**

APPLICANT: Robert Philpott
CASE NO.: SDP 95-06/SPR 95-10
LOCATION: 3311 Harborview Drive
SUBJECT: Proposed fueling deck remand to Hearing Examiner to consider the project's conformance with Section 5202.11.5.5 UFC pertaining to flame or spark producing devices within 50 feet of fuel dispensers.

REMAND PUBLIC HEARING:

After reviewing the official file which included the Community Development Staff Memorandums, the Hearing Examiner conducted a remand hearing on the application. The remand hearing on the Philpott application was opened at 5:31 p.m., November 13, 1996, in the City Hall, Gig Harbor, Washington, and closed for oral testimony at 6:30 p.m. The hearing was held open administratively to close of business on November 27, 1996 to allow Mr. Philpott to enter additional written information into the record; and to close of business on December 11, 1996 to allow adjacent property owners time to respond to the new information. It was noted at the hearing that the Hearing Examiner report would not be available until the end of the year due to a scheduled vacation by the Hearing Examiner. Participants at the public hearing and the exhibits offered and entered are listed in this report. A verbatim recording of the hearing is available in the Community Development Department.

HEARING TESTIMONY:

The following is a summary of the comments offered at the public hearing:

From the City:

Steve Osguthorpe, Associate Planner, reviewed the staff memorandum and noted that the City Council expressed concern over the ability to enforce section 5202.11.5.5 of the UFC which would prohibit smoking or open flames on abutting lease lands. He noted that the Building Official/Fire Marshall had submitted a memo in response to the Council concerns (See Attachment to Exhibit A).

From the Applicant:

Robert Philpott, Applicant, requested that the hearing be continued so his expert witness who was unable to attend the hearing, could provide information on how the proposal meets the intent of the Uniform Fire Code.

From the Community:

Jeffrey Robinson, Attorney for Adam and Maxine Ross, owners of property adjacent to the subject property, entered Exhibits C through H into the record and then proceeded to explain them. He also said:

- There would only be 20 feet between the Philpott float and the Ross boat, the Jackie R., when it is in port.
- When the Ross dock is extended in accordance with the permits which have been granted the Jackie R. would be 7 feet from the Philpott float.
- It is the obligation of the City to protect the health and welfare of the residents.
- The Fire Marshall's analysis in his memo (attachment to Exhibit A) is erroneous and leads to a confiscatory taking.
- There is no latitude in Section 5202.11.5.5 of the Code. The code says 50 feet and there is no discretion which allows anything less than 50 feet.

John Sloan, Attorney for Stan Sterns, owner of Bayview Marina adjacent to the subject property, said:

- There is only about 18 feet between the Bayview dock and the proposed Philpott float.
- There are permanent tenants at the Sterns dock and he is concerned that the Bayview marina will need to comply with the distance requirements in the UFC if the Philpott project is approved.
- He believes the 50 foot distance requirements must be measured from the end of the hose which itself could be 25 or 50 feet long.

Jack Pumphrey, lives on a boat moored at slip B-7 at the Bayview marina, expressed concerns about safety and said:

- He ties his boat up stern first and often barbeques on the stern of his boat.
- He uses a propane catalytic heater to heat the boat.
- Boats at the Philpott dock will only be 8 or 9 feet from the stern of his boat if they tie up on the north side of the Philpott dock.

Dave Tagert, owner of a dive shop, said:

- The code has to be followed, not just the spirit of the code.
- He retrieved Jack Pumphrey's barbecue from the water under where the Philpott float would be located.

- The required physical separation between fueling source and smoking or open flames is needed.

Response from the Applicant:

Robert Philpott responded that:

- DNR will not issue a lease until he get permits from the City.
- DNR controls the lease, not Sterns or Ross.
- Fueling would occur on the Ross side of his dock, not on the Sterns side.
- The proposed design is not the final design. That would be predicated on agreements and approvals from DNR.
- The intention of the 50 foot separation can be met safely.
- He has no intention of not allowing smoking, repairing or barbecuing on the Stern's or Ross' docks.

WRITTEN COMMENTS:

During the administrative continuance, written comments were submitted by:

- Robert Philpott (with an attachment from B.L. Hansen) - Exhibit I.
- John Sloan - Exhibit J
- Jeffrey Robinson - Exhibit K

BACKGROUND:

On October 14, 1996, the City Council moved to remand back to the Hearing Examiner Mr. Robert Philpott's application for a proposed fuel dock at 3311 Harborview Drive. The issue to be considered by the Hearing Examiner is Section 5202.11.5.5 of the Uniform Fire Code which prohibits smoking or open flames within 50 feet of fueling operations. The Council expressed concern over the ability to enforce this regulation which would prohibit smoking or open flames on abutting lease lands. No other issues are to be addressed by the Examiner.

FINDINGS, CONCLUSIONS AND DECISION:

Having considered the entire record in this matter, the Hearing Examiner now makes and enters the following:

A. FINDINGS:

1. UFC Section 5202.11.5.5 reads as follows:

Sources of ignition. Construction, maintenance, repair and reconditioning work involving the use of open flames, arcs or spark-producing devices shall not be performed at marine motor vehicle fuel-dispensing stations or within 50 feet of the dispensing facilities, including piers, wharves, or floats, except for emergency repair work approved in writing by the chief. Fueling shall not be conducted at the pier, wharf or float during the course of such emergency repairs.

2. There would be approximately 48 feet of distance between the south edge of the proposed fuel float and the north edge of the existing Ross dock. Fishing vessels including the Jackie R (17 feet wide) and The Bountiful (15 feet wide) regularly tie up at the Ross dock leaving approximately 31 to 33 feet of space between the boats and the edge of the proposed Philpott fuel float. DNR has approved an extension of an additional 80 feet to the existing Ross dock, however, no City permits have been approved.

There would be approximately 35 feet from the south edge of the proposed Philpott fuel float where boats would be fueled to the north edge of the Bayview Marina dock where boats are moored.

The distances noted above do not reflect any distances between the proposed fuel hose nozzle and the adjacent Bayview and Ross docks. Hoses and nozzles attached to fuel pumps on the proposed fuel flow will further reduce the above noted distances.

3. The applicant has submitted a fire protection evaluation (Attachment to Exhibit I). The evaluation discusses hazards of the proposed operation, alternate materials and methods of complying with the Uniform Fire Code and the authority of the Fire Chief to modify provision of the code where there are practical difficulties in carrying out provision of the code. The fire protection evaluation discussed distances between the fueling area and the Ross dock, but did not discuss distances between boats being fueled on the south side of the fuel float and fishing boats tied up on the north side of the Ross dock.
4. Attorneys for adjacent property owners have submitted written comments and materials relative to the issue of this hearing (Exhibits C through H, and J and K). Included in those materials were photographs showing equipment used for maintenance, repair and reconditioning work on boats at the Ross dock which would involve the use of arcs or spark-producing devices on a somewhat regular basis.

B. CONCLUSIONS:

1. The Uniform Fire Code, 1994 Edition, as amended by the State of Washington and further amended by the Gig Harbor City Council, has been legislatively adopted as Chapter 15.12 of the Gig Harbor Municipal Code.
2. The City Council remanded the subject case to the Hearing Examiner for review and consideration of UFC 5202.11.5.5 with respect to the realistic potential to enforce this regulation in this instance.

When reviewing a section of the code, it should be reviewed as part of the whole code and not as a stand alone section. In that regard, the Examiner believes Section 103.1 of the UFC which allows the Chief of the Fire Department some flexibility in administering the code should be reviewed in conjunction with Section 5202.11.5.5.

For instance:

- a) UFC Section 103.1.2 allows the Chief to approve alternate materials and methods of complying with the code, provided:
 - 1) The proposed method or materials comply with the code.
 - 2) The proposed method or material is equivalent in safety to the code requirements.
- b) UFC Section 103.1.3 allows the Chief to modify a provision of the code where there are practical difficulties in carrying out the provisions of the code, provided:
 - 1) The spirit of the code is complied with;
 - 2) Public safety is secured and substantial justice is done.
3. The fuel protection evaluation submitted by the applicant discussed a variety of mitigation measures to provide a reasonable degree of protection from the hazards of fire and explosion. However, no where in the report did it acknowledge the actual distance between the fuel and dispensing nozzle and a potential source of open flame whether it occurred on a barbecue on the stern of a boat on the Bayview Marina or arc welding on the side of fishing boat at the Ross dock.

The distances between the proposed Philpott fuel float and the adjacent docks discussed in Finding 2 above do not reflect the actual location of the fuel dispensing nozzle when fuel is being dispensed to a boat. Depending on the location of the fuel tank opening and the size of the boat, the actual distance between the fuel dispensing nozzle and a fishing boat moored at the existing Ross dock could easily be less than 25 feet. The distance which should be measured is from the end of the fuel dispensing device or the hose nozzle to the location where open flames, etc. may occur on adjacent docks or boats.

4. Codes such as the Uniform Building Code and the Uniform Fire Code are intended to be uniform in their implementation and are intended to be applied equally to all persons under all circumstances. The term "uniform" as applied to a law or code has a meaning antithetical to special or discriminatory laws.

Therefore, while it is acknowledged as noted in Conclusion 2 above, that there is some flexibility in the code, it is firmly believed that said flexibility is limited and it is also believed that a difference of half of the required distance specified in the code is excessive and should not be allowed. It is believed that there is some room for minor deviations to the code requirements, but not the degree of deviation requested in this case.

If it can be proven that a fuel dispensation operation only needs 25 feet of separation from open flames, etc., when certain mitigating measures are provided, then it should be addressed legislatively by the Building Code Advisory Board pursuant to GHMC 15.02.010.A.2 and 3 and finally, by the City Council. That way, the code would provide clear guidance which would apply equally in all situations. Again, it is believed the amount of difference requested in this case goes beyond the limited discretion authorized.

5. The principal purpose of UFC Section 5202.11.5.5 is to prevent the possible ignition of fuel vapors which are generated during the refueling process in the event of a small spill. The fire protection evaluation submitted by the applicant (Exhibit I) indicates that "compliance with the 50 foot requirement will not guarantee that a fire will be prevented." The report goes on to say that "a large release of fuel, from any marina accident, could result in a vapor cloud which would still be within the explosive range well beyond 50 feet from the accident site.

Therefore, reducing the actual distance between fueling operations and potential sources of open flame, etc., from the required 50 feet to approximately 25 feet clearly does not meet the intent or the spirit of the code.

C. RECOMMENDATION:

Based upon the foregoing findings of fact and conclusions, it is recommended that Section 5202.11.5.5 of the Uniform Fire Code be implemented essentially as written and little if any deviation from the distance requirement should be allowed.

Dated this 31st day of December, 1996.



Ron McConnell
Hearing Examiner

COUNCIL ACTION:

Any application requiring action by the City Council shall be taken by the adoption of a resolution or ordinance by the Council. When taking any such final action, the Council shall make and enter Findings of Fact from the record and conclusions therefrom which support its action. The City Council may adopt all or portions of the Examiner's Findings and Conclusions.

The action of the Council, approving, modifying, or reversing a decision of the Examiner, shall be the final decision by the City.

JUDICIAL APPEALS

The City's final decision on an application may be appealed by a party of record with standing to file a land use petition in Pierce County Superior Court. Such petition must be filed within 21 days after issuance of the decision, as provided in Chapter 36.70C RCW. (Ord. 711 1, 1996).

REMAND EXHIBITS:

The following exhibits were offered and entered into record:

- A. Memorandum from Planning Staff, dated 11/13/96, with attached memo from Building Official/Fire Marshall dated 10/29/96.
- B. Letter from Alexandra K. Smith, dated 11/12/96.
- C. Hearing memorandum from Jeffrey A. Robinson, dated 11/13/96, with four attachments.
- D. Site Plan
- E. Colored version of the Site Plan
- F. Video submitted by Jeffrey Robinson
- G. Photos submitted by Jeffrey Robinson
- H. UFC Section 5202.11.5.5
- I. Memorandum from Robert Philpott, dated 11/27/96 with attached study by B.L. Hansen
- J. Letter from John E. Sloan, dated 12/5/96
- K. Letter from Jeffrey A. Robinson, dated 12/11/96

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JAN 14 1997
CITY OF GIG HARBOR

January 14, 1997

VIA HAND DELIVERY

Gig Harbor City Council
c/o Steve Osguthorpe
Gig Harbor City Hall
3105 Judson Street
Gig Harbor, Washington 98335

Re: SDP95-06/SPR95-10 -- Appeal of Hearing Examiner's January 3, 1997
Recommendation After Remand

Honorable Mayor and Council Members:

On behalf of Robert Philpott, this letter formally appeals the Hearing Examiner's January 3, 1997 recommendation on the issue remanded back to him by the City Council on October 14, 1996. A fee of \$120.00 accompanies this request for appeal.

I. Executive Summary

The issue remanded to the Hearing Examiner was whether Mr. Philpott's project can comply with a specific requirement of the Uniform Fire Code ("UFC"), and was raised by neighboring marina and property owners. The Hearing Examiner ruled that Mr. Philpott's project must comply with the literal terms of UFC Section 5202.11.5.5, rather than use alternative means of compliance.

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The Hearing Examiner's conclusion is erroneous for two reasons. First, the UFC specifically contemplates that its literal terms cannot be followed in every circumstance, and it provides a way to comply using alternative methods. The Hearing Examiner's decision disregards the UFC expert's testimony that alternative methods can be used for the Project to comply with the requirements of UFC Section 5202.11.5.5. Second, the Gig Harbor Municipal Code (GHMC) requires that the Fire Chief or Fire Marshall decide whether the alternative methods proposed comply with the UFC. The Hearing Examiner erred when he made his decision without any input from the Fire Chief or Fire Marshall, as required by the GHMC.

II. Background

On September 26, 1996, the City Council, by voice vote, approved the Shorelines Permit, Conditional Use Permit, and Site Plan for the marine fuel dispensing station ("the Project") Mr. Philpott proposes to construct at 3311 Harborview Drive ("the Property"). The Council did not adopt a resolution that embodied that approval on September 26th. Instead, the Council was scheduled to adopt such a resolution at the October 14, 1996 City Council meeting.

Between September 26th and October 14th, some of the neighbors adjacent to the Property sent letters to the City Council asking the Council to reconsider its approval of the Project, citing Section 5202.11.5.5 of the Uniform Fire Code ("UFC"). These letters were submitted after the administrative record was closed. In response to the neighbors' concerns, on October 14, 1996, the City Council remanded one issue to the Hearing Examiner to determine: Does Section 5202.11.5.5, of the 1994 UFC prohibit the installation of a fuel dispensing facility on a float within 50 feet of a float or pier or an adjoining property?

Section 5202.11.5.5. of the 1994 UFC provides in pertinent part:

Sources of Ignition. Construction, maintenance, repair and reconditioning work involving the use of open flames, arcs or spark producing devices shall not be performed at marine motor vehicle fuel-dispensing stations or within 50 feet (15,240 mm) of the dispensing facilities, including piers, wharves, or floats, except for emergency repair work approved in writing by the chief. . . .

Smoking or open flames shall be prohibited within 50 feet (15,240 mm) of fueling operations. NO SMOKING signs shall be posted conspicuously about the premises. . . .

On November 13, 1996, the Hearing Examiner held a hearing on the remanded issue at which, and after which, testimony was submitted for the record. The Hearing Examiner, after reviewing all the testimony submitted, recommended that "Section 5202.11.5.5 be implemented essentially as written and little if any deviation from the distance requirement should be allowed." This appeal follows.

III. Discussion

Mr. Philpott respectfully disagrees with the Hearing Examiner's recommendation for two reasons. First, the UFC allows for use of alternative methods of compliance with the UFC when, as a practical matter, it is impossible to comply with its literal requirements. Second, the GHMC and the UFC dictate that the Fire Chief or Fire Marshall is to decide whether alternative methods comply with the UFC. It is our understanding that the Fire Marshall has not taken a position on this specific question. It was inappropriate for the Hearing Examiner, who is not vested with the responsibility to enforce the UFC, to decide whether alternative methods can be used for the Project to comply with UFC Section 5202.11.5.5 without first having an opinion on the issue from the Fire Chief or Fire Marshall.

A. Deviation From the Literal Requirements of the UFC.

The essential question here is whether the Project complies with Section 5202.11.5.5 of the 1994 UFC. The Project's site is such that the fueling area will be approximately 35 feet from vessels moored at the Stearn's dock and approximately 50 feet from the Ross's dock.¹ Therefore, the physical dimensions of the Property, as a practical matter, do not allow the Project to comply with the literal terms of Section 5202.11.5.5 of the 1994 UFC.

However, the UFC specifically contemplates this circumstance and provides two mechanisms for compliance with a specific code provision when practical difficulties prevent strict compliance:

Section 103.1.3 Practical Difficulties. The chief is authorized to modify any of the provisions of this code . . . where there are practical difficulties in the way of carrying out the provisions of the code, provided that the spirit of the code shall be complied with, public safety secured, and substantial justice done. . . .

Section 103.1.2 Alternative Materials and Methods. The chief . . . is authorized to approve alternate materials *or methods*, provided that the chief finds that the proposed design, use or operation satisfactorily complies with the intent of this code, and that the . . . operation is, for the purpose intended, at least equivalent to that prescribed in this code in . . . effectiveness, fire resistance, . . . and safety.

Mr. Philpott submitted written testimony to the Hearing Examiner from an expert on the Uniform Fire Code, B.L. Hansen. Mr. Hansen served for 12 years as Chief of Fire Prevention for the City of Seattle, was a marine fire protection consultant to the Washington Public Ports Association and the Stanford Research Institute, was appointed Project Director for the U.S. Maritime Academy/State of Washington Marine Fire Protection Program, and served for 11 years on the National Fire Protection

¹ Although the Ross' have expressed their desire to lengthen their dock, thereby bringing it closer to the location of Mr. Philpott's proposed dock, no building permits have been issued for that dock extension. Since the extension of the Ross's dock is still speculative, it should not be

Association's Marine Terminals Committee. Based on his extensive experience and expertise in this field, Mr. Hansen concluded that the Project complies with the UFC if the fire prevention measures outlined in his report are followed, for they will provide a level of public safety equivalent to that provided by the 50 foot requirement in Section 5202.11.5.5 of the UFC. See Hansen Memorandum at p. 3. (A copy of Mr. Hansen's memorandum and Sections 103.1.2 and 103.1.3 of the UFC are attached to this letter).

First, Mr. Hansen points out that the intent of the 50 foot requirement is to prevent the ignition of fuel vapors, or to minimize the risk of such ignition. Id. At p. 3. UFC Section 5202.11.5.5 accomplishes this by requiring a certain distance (50 feet) the vapors must travel before they are exposed to a potential source of ignition. Id. However, other accepted methods are often used to prevent, or minimize the risk of, the ignition of fuel vapors. These include:

- spill prevention and the control of flammable vapors,
- designing the fuel dock itself to act as a barrier to fuel vapors,
- constructing a four foot wall on the north side of the fuel dock as a barrier to fuel vapors that may be released onto the dock,
- elimination of ignition sources on Mr. Philpott's property,
- appropriate spill containment equipment and procedures, and
- complete emergency features and operations. Id. at pp. 4-7.

Taken together, it is Mr. Hansen's opinion that these alternative measures, and the others set forth in his report, are equivalent to the 50 foot requirement, as both the prevent, or minimize of the risk of, the ignition of fuel vapors. Id. at p. 3.

Mr. Philpott, as owner and operator of the Project, had proposed to use all of the fire prevention measures delineated in Mr. Hansen's report. One of the concerns raised by the neighbors was that the Project might restrict the neighbors' use of their properties. However, the UFC's 50 foot requirement can be met through alternative methods *without* affecting the neighbors' full enjoyment of their properties. Because

considered in conjunction with this remanded issue.

the Project can comply with the UFC without restricting the neighbors' use of their properties, no issue of unconstitutional "takings" arises.

B. The Fire Chief or Fire Marshall Must Decide Whether a UFC Provision Can Be Complied With Through Alternative Means.

Pursuant to Chapter 15.12 of the GHMC and RCW 35.21.180, Gig Harbor has adopted the 1994 version of the UFC. The UFC specifies that it is the *Fire Chief*, or someone designated by the Fire Chief, who has the authority to decide whether alternative methods can be used to comply with a provision of the UFC pursuant to UFC Sections 103.1.2. and 103.1.3, when a particular project cannot meet the literal requirements of the code. Here, the Hearing Examiner concluded, without relevant input from the Fire Chief or the Fire Marshall, that the Project had to comply with the literal requirements of the UFC.² Under the GHMC and the UFC, the Hearing Examiner does not have the authority to decide whether alternative methods provide an equivalent level of safety to the literal terms of UFC Section 5202.11.5.5. Since the Fire Chief and the Fire Marshall have expertise in fire safety and must enforce the UFC, it makes sense that they are vested with the authority to decide whether it is appropriate to use alternative methods of compliance here. The Fire Chief or Fire Marshall must express an opinion on whether the Project can comply with the UFC's 50 foot requirement through the alternative methods contemplated in UFC Section 103.1.3 *before* a final determination can be made on its UFC compliance.

Because it is ultimately the Fire Chief's, or Fire Marshall's decision as to whether the alternative means proposed by Mr. Philpott satisfy UFC Section 5202.11.5.5, we are sending a formal application for approval of those alternatives to the Fire Chief and Fire Marshall under separate cover. We will provide a copy of that formal application

² The only item submitted by the Fire Marshall in relation to the remanded issue was an October 29, 1996 memorandum in which the Fire Marshall noted that UFC Section 5202.11.5.5 is not intended to act as a limitation on where marine fuel dispensing stations are located. See Exhibit A to the Hearing Examiner's January 3, 1997 Recommendation on Remand, at p. 2. Nowhere in that memorandum does the Fire Marshall address UFC Sections 103.1.2 and 103.1.3. See id.

to the City Council at the time we send it to the Fire Chief and Fire Marshall. Our hope is that the Fire Chief or Fire Marshall will be able to provide a response to our application in time to help the City Council's resolution of this appeal. Without that response, we believe that a decision cannot be made on whether Mr. Philpott's project complies with UFC Section 5202.11.5.5.

IV. Conclusion

The purpose of the UFC is not to guarantee absolute safety, but rather to set forth regulations for "the safeguarding to a *reasonable* degree" the life and property of the community. Indeed, no protective measures can prevent every accident. Therefore, the UFC sets forth specific requirements that minimize the risk of fire, such as the 50 foot requirement in Section 5202.11.5.5. The UFC dictates in Sections 103.1.2 and 103.1.3 that the specific requirements in the UFC are not the exclusive means of minimizing the risk of fire to acceptable levels. Indeed, the measures set forth in the UFC expert's report are alternative, equivalent ways of reducing the risk of fire associated with the Project to the level the code requires. Further, the preventative measures allow the neighboring property owners the full use and enjoyment of their property.

Mr. Philpott has patiently waited throughout this 16 month permitting process, and has changed his proposal as requested by the City Planning Department and the City Council in response to other safety concerns. Mr. Philpott strongly believes that the fuel dock he proposes will be an asset to the community, which can, and will, be operated in the safest possible manner. This belief is supported by an expert on the UFC, a former City of Seattle Fire Marshall with over 20 years of expertise in marine safety.

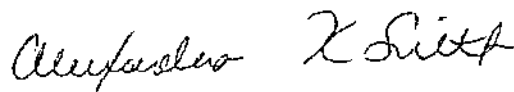
UFC Section 103.1.3 provides that the decision to allow a modification to the UFC requires that "the spirit of the code be complied with, public safety secured, *and substantial justice is done.*" Mr. Philpott has demonstrated that his proposed modification complies with the spirit of the code and secures public safety. It is now for the City Council to ensure that "substantial justice is done."

Gig Harbor City Council
January 14, 1997
Page 8

We therefore urge the Council *not* to adopt the Hearing Examiner's January 3, 1997 recommendation, and to approve Mr. Philpott's Shorelines Permit, Conditional Use Permit, and Site Plan conditioned on his compliance with the measures set forth in Mr. Hansen's report, and any other conditions that the Fire Chief or Fire Marshall think are reasonably attainable and appropriate.

Sincerely,

DAVIS WRIGHT TREMAINE LLP



Alexandra K. Smith

cc: Robert Philpott
Gary Kucinski
B.L. Hansen

B. L. Hansen & Associates, Inc.

Fire Consulting Services

12427 160th Avenue S.E.
Renton, Washington 98059
(206) 235-8230 FAX (206) 235-8230

November 20, 1996

Mr. Robert Philpott
6659 Kimball Drive
Building E
Gig Harbor, WA 98335

R E C E I V E D

JAN 14 1997

CITY OF GIG HARBOR

Dear Mr Philpott,

I have reviewed the proposed plans for the fueling facility in Gig Harbor. The attached report recommends several fire prevention and control measures as an alternate method of meeting the intent of the 50 foot separation requirement in UFC 5202-11.5.5. Per your request I have attached information relating to my marine training and experience.

If the facility is constructed as planned, it will come close to meeting the separation requirement without taking additional measures. (With 50 foot separation on south side, 35' on the north). In my view, if the measures outlined in the report are properly implemented, they will provide a measure of protection equivalent to that of the additional separation required by code.

The transfer of fuels will always pose some risk. The 50 foot separation requirement is somewhat subjective in the sense that compliance with that particular requirement, or with all the recommendations of this report, is no guarantee that a fire will not occur.

I wish to stress, that the prevention of spills and fires is the most important effort which can be made. A number of the recommended measures are aimed at this objective. As can be readily seen in the report, once a spill occurs, the available options are greatly diminished.

The construction and installation of materials and systems recommended in the report should be in accordance with local codes and nationally recognized standards. However, while systems and proper construction can assist, the proper response of staff is your key to success. They must be properly trained and motivated to carry out your policy and procedure . . . with a will.

I recommend that you review the proposed measures with the Chief of the Fire Department and/or Fire Marshal to seek their approval in accordance with the provisions of Uniform Fire Code Section 103.1.2 - Alternate Methods and Materials.

If I may be of further service, please call.

Best Regards,



B.L. Hansen

SUMMARY

This report is limited to an evaluation of issues relating to separation distances between the refueling facility and adjacent properties. The report is based on:

- A. Review of two preliminary site plans for the fueling facility.
- B. A visit to the site.
- C. A review of relevant sections of the 1994 Edition of the Uniform Fire Code. (UFC)
- D. A review of relevant portions of the 1989 Edition of NFPA 302 - Fire Protection Standard for Pleasure and Commercial Motor Craft.
- E. A review of the 1990 Edition of NFPA 303 - Fire Protection Standard for Marina's and Boat Yards.
- F. Professional knowledge and experience. (Background information is contained in the Appendix)

The report recommends several measures which, if implemented as a whole, may serve as an alternate method of meeting the intent of the UFC Section 5202-11.5.5. (50 foot separation) These recommendations include measures relating to:

- A. Spill prevention and the control of flammable vapors.
- B. Fire prevention.
- C. Spill containment.
- D. Emergency Features and Operations.
- E. Other measures.

In my view, if the recommendations are adopted and properly implemented, refueling of vessels at the proposed facility can be done with the reasonable degree of safety required by the UFC Sections 101.2 and 5202-11.5.5.

INTRODUCTION:

Article 52 of the 1994 Uniform Fire Code regulates motor vehicle fuel dispensing stations, including those which dispense fuel into boats. UFC Section 5202.11.5.5 states that open flames are prohibited within 50 feet of any marine fueling operation. This prohibition includes grinding, welding, cutting, heating, cooking and smoking. The purpose of the requirement is to prevent the possible ignition of fuel vapors which are generated during the refueling process or in the event of a small spill.

The site of the proposed project is such that the fueling area would be approximately 35 feet from vessels moored at the Bayview marina and approximately 50 feet from Ross's dock.¹

UNIFORM FIRE CODE:

The Uniform Fire Code establishes a number of regulations relating to the prevention of fires. The authors of the code have recognized that circumstances may arise in which compliance with a specific code requirement is not possible, but the process can be conducted safely using other safeguards. To allow for these circumstances, the code contains two provisions.

The first is UFC Section 103.1.2 - Alternate Materials & Methods. This section allows the Chief of the Fire Department to approve alternate materials and methods of complying with the code, provided:

- A. The proposed method or material comply with the intent of the code.
- B. The proposed method or material is equivalent in safety to the code requirement.

The second provision is contained in UFC Section 103.1.3 - Practical Difficulties. This section authorizes the Chief of the Fire Department to modify provision of the code where there are practical difficulties in carrying out the provisions of the code, provided:

- A. The spirit of the code is complied with.
- B. Public safety is secured and substantial justice is done.

As mentioned, UFC Article 52 regulates fuel dispensing stations in both marine and shore side facilities. In the case of shore side fuel dispensing, the UFC simply states that "smoking and open flames shall be prohibited in areas where fuel is dispensed. The engines of vehicles being fueled shall be stopped" (UFC 5201.7). There is no specific distance requirement mentioned. However, in the section dealing with marine refueling, the code prohibits open flames within 50 feet.

This report seeks to evaluate whether or not there are alternate materials or methods which can be implemented which will make up for the inability to comply fully with the 50 foot separation requirement and meet the intent of the code.

¹. This is based on the fueling dock being moved approximately 12 feet to the north from the location shown in the original plan.

HAZARDS OF THE OPERATION:

The proposed facility will dispense both diesel and gasoline fuels. As with all liquid fuels, it is the vapor form of the fuel which is of most concern. Diesel fuel vaporizes relatively slowly and is of little concern under normal circumstances. However, gasoline vaporizes readily at low temperatures and constitutes the most important hazard during refueling operations.

Gasoline vapors are substantially heavier than air and tend to move to the lowest available point. In the marine environment, this is usually the lowest point inside a boat (bilges), and/or the surface of the water. As fuel vapors move away from their source, they are mixed with air and diluted. If the vapors are diluted sufficiently, they are no longer flammable.

Fuel vapor will only be present if liquid fuel is exposed to the atmosphere. This may occur intentionally (during a refueling operation) or accidentally (in the case of a spill or piping failure). While failures may occur in the fuel transfer system, they are rare and a number of safeguards are taken to prevent the release of fuel even if such a failure occurs. The greatest risk of vapor release is during the refueling process itself.

During refueling operations, there are three sources of gasoline vapor which must be considered.

- A. Vapor displaced from the boat fuel tank as it is filled and vented overboard.
- B. Vapor which escapes from the fill pipe on the deck of the boat.
- C. Vapor which results from spilled fuel.

The Uniform Fire Code attempts to prevent ignition of fuel vapors by requiring a minimum distance the vapors must travel (50 feet) before they are exposed to a potential source of ignition. In other words, in this case, the UFC is relying on vapor dilution to prevent the occurrence of a fire.

In evaluating the proposed project, it is important to realize that compliance with the 50 foot requirement will not guarantee that a fire will be prevented (nor will compliance with all of the recommendations in this report). The amount of dilution which must take place within the 50 foot distance depends on a number of factors, including the amount of vapor to be diluted. A large release of fuel, from any marine accident, could result in a vapor cloud which would still be within the explosive range well beyond 50 feet from the accident site.

The reader should remember that the purpose of the fire code is not to guarantee perfect safety. Rather it is to prescribe regulations which will protect the community to a reasonable degree from the hazards of fire and explosion (UFC 101.2). Perfect compliance with fire code requirements does not guarantee a fire will not occur.

ALTERNATE MATERIALS AND METHODS:

This report recommends several measures which may be implemented as a group, to serve as an alternate method of meeting the intent of the 50 foot separation requirement in the fire code. These recommendations relate to:

- A. Spill prevention and the control of flammable vapors.

- B. Fire prevention.
- C. Spill containment.
- D. Emergency Features and Operations.
- E. Other measures.

Spill Prevention & Vapor Control Measures:

Control of Fuel Transfer Operations:

A. An attendant should be present in the immediate area of the fuel transfer operation at all times fuel is being transferred. The attendant should be responsible to enforce safety measures.

B. The attendant should confirm that the boat operator is qualified to perform the refueling operation. (Not impaired by alcohol, is familiar with the vessel, etc.)

C. No fuel should be transferred until the boat operator has confirmed:

- a. That he or she has determined how much fuel will be taken aboard.
- b. Engines are off
- c. Electricity, open flames and heat sources are off
- d. All smoking materials are extinguished.
- e. All openings into the boat are closed.
- f. All persons are off the boat except those involved in fueling.
- g. Materials are readily available to wipe up small deck spills.

D. The attendant should instruct the boat operator:

- a. Not to overfill the vessel's tanks. (To avoid spillage on deck.)
- b. Always attend the nozzle during refueling.
- c. Keep the nozzle in contact with the fill pipe at all times. (To avoid static discharge.)

E. After fueling, the attendant should instruct the vessel operator to:

- a. Inspect for fuel odors
- b. If odors are detected, ventilate the vessel until odors are removed.

Vapor Control

A. It is my understanding that the fueling dock may be moved a sufficient distance to the north to provide a 50' separation between the fuel dock and Ross's dock. If this occurs, refueling should be conducted only on the south side of the dock. The intent of this recommendation is to provide a separation distance of approximately 35 feet between the vessels moored at the Bayview marina and the fuel dock.

B. The fuel dock float should be designed to serve as a barrier to vapors which may be released onto the water during refueling operations.

C. A 4 foot wall could be constructed along the north side of the fuel dock to serve as a

barrier to any vapors which may be released onto the dock. The intent of the barrier wall is to increase the effective distance that vapors have to travel before reaching the adjacent property. The design details of this wall should be discussed with the Fire Marshal.

D. A cyclone fence, equipped with slats, should be installed atop the barrier wall to assist in preventing smoking materials from being thrown onto the fuel dock from adjacent property. It may be possible to design the slatted fence to increase turbulence on the down wind side, resulting in further dilution of any vapors which may be present.

Fire Prevention Measures:

Elimination of Ignition Sources:

A. One or more signs should be posted in the fuel transfer dock, readily visible from all points on the dock, which state:

- No Smoking
- Shut off engine
- Shut off all electrical equipment
- Close all openings into the vessel
- Extinguish all fires
- Remove all persons from the vessel except those involved in fueling.
- Inspect and operate blowers prior to starting engines.

The boat operator should confirm to the fuel dock attendant that these requirements are met prior to commencing fuel transfer operations.

B. Shore power outlets should not be installed on the transient moorage dock within 50 feet of the shoreside end of the fuel dock.

C. No repairs of any type should be permitted to occur at the fuel dock. No welding or cutting should be permitted along the transient moorage dock. If welding and cutting are necessary for repairs to the dock, fueling operations should be stopped while welding and cutting operations are occurring.

D. Only vessels which are being refueled should be moored at the fuel dock.

E. Smoking and cooking should be prohibited and "NO SMOKING/NO OPEN FLAMES" signs should be posted on both transient moorage and refueling dock. (NFPA 303 2-3.6 and 6-1.4[a])

F. All trash receptacles should be approved by the Fire Department and should be equipped with covers. They should be located in areas where the ignition of contents does not pose a threat to the surrounding area, and should be emptied regularly. (NFPA 303 2-3.5)

Spill Containment:

A. The facility should be provided with emergency shut off switches located at both the shoreside office and the fuel dock. These devices should be capable of shutting off the flow of fuel in the event of a piping failure. The devices should be equipped with signs

which will make their operation readily apparent to the public.

B. The dock should be equipped with pollution booms. A suitable means should be available to deploy the boom in the event of a spill.

C. The fuel dock should be equipped with a system for applying aqueous film forming foam onto the water in the event of a spill. This material will serve to suppress the formation of vapors from spilled fuel.

Emergency Features/Operations:

A. The facility should be provided with a means to summon the fire department in the event of an emergency. These devices should be:

a. Connected to a central station monitoring facility.

b. Located at both the shoreside office and the fuel dock itself.

c. The device located on the fuel dock should be equipped with a sign which will make its operation readily apparent to the public.

B. Portable extinguishers, approved by the Fire Department should be installed at 50' intervals. Extinguishers located on the fuel dock should meet the requirements of NFPA 10 for extra hazard extinguishers.

C. In addition to the portable extinguishers, the fuel dock should be equipped with a cart mounted dry chemical extinguisher of a capacity approved by the Fire Department.

D. As mentioned above, the fuel dock should be equipped with a means to apply aqueous film forming foam onto the water in the event of a spill or fire. The capacity of the system should be approved by the Fire Department.

E. A public address system should be installed to warn persons on the dock and adjacent property owners in the event of a spill which may pose a fire hazard.

F. All safety equipment shall be tested in accordance with recognized standards on a schedule approved by the Fire Department.

G. Emergency Operations Plans shall be developed for both major and minor spills. Such plans should include provisions for:

a. Actions to be taken by adjacent vessels in the event of a spill which poses a fire hazard.

b. Response to a minor spill including steps for elimination of ignition sources, control of vapors and absorption of spilled material.

c. Response to a major spill including steps for summoning aid, evacuation of the affected area, elimination of ignition sources, control of vapors and absorption of spilled material.

d. Response in the event of a fire.

Other Measures:

A. Operating staff should be trained on a periodic basis with regard to prevention and emergency response procedures and their purpose. (NFPA 303 2-5)

B. Inspections from the fire department should be encouraged to occur on a regular basis for the purpose of determining compliance with safety requirements and operational planning for an emergency. (NFPA 2-6)

C. If they are willing, it would enhance safety even more, if efforts could be made to work with the owner of the adjacent marina to moor the vessels with their bows toward the south. (Keeping the sterns away from the proposed fuel dock.)

APPENDIX

MARINE RELATED BACKGROUND - B.L.HANSEN

EXPERIENCE:

- 1977/Present Provided consulting services in marine fire prevention, marine fire fighting systems and procedures for government agencies and private industry in the United States and Canada.
- Provided consulting and analytical services in connection with structural and marine fires in the United States and Canada.
- Provided training in marine firefighting tactics and procedures to vessel operators, terminal operators and fire departments in the United States and Canada.
- Supervised or assisted in the extinguishment of fires aboard vessels both as a member of the Seattle Fire Department and as a private contractor.
- Testified as an expert witness regarding fire code requirements, fire behavior, and the origin and cause of fires in Federal and State Courts.
- 1980-1992 Chief of Fire Prevention (Fire Marshal) Seattle Fire Department. Responsible for development, administration and enforcement of the Seattle Fire Code, fire investigations, hazardous material inspection programs and public education. Served as technical advisor to incident commander during marine fires.
- 1992 Developed regulations governing welding and cutting operations during marine repair operations involving polyurethane foam.
- 1989 Conducted fire protection study of the Trent-Severen Waterway and Riedau Canal for Environment Canada.
- 1987 Prepared and conducted a 40 hour course of instruction in Marine Fire Fighting for the United States Coast Guard and Seattle Fire Department.
- 1983 Participated in a major test of the potential of fireworks to explode during transportation accidents. Conducted by the U.S. Department of Transportation.
- 1983 Developed concept design for Washington State Marine Fire Training Center.
- 1981 Developed and conducted a major test relating to the explosion potential of fireworks during transportation accidents.
- 1979 Developed concept design for Alaska State Marine Fire Training Center.
- 1977/78 Consultant to the Washington Public Ports Association on marine fire protection.
- 1978 Consultant to Stanford Research Institute on marine fire protection.
- 1974/77 Appointed Project Director for U.S. Maritime Administration/State of Washington Marine Fire Protection Program.
- Developed a 250 hour course of training in marine firefighting for the U.S. Maritime Administration. This element of the project trained 490 marine personnel, 1150 fire service

personnel in marine firefighting.

Developed policy and procedures, and administered contracts for providing underway marine firefighting assistance to vessels within 200 miles of the Washington Coast and on Washington Inland Waters.

1972 Developed and instructed a training program in marine firefighting for the Seattle Fire Department.

1970 Developed and instructed a training in marine firefighting for the National Oceanic and Atmospheric Administration.

TRAINING/EDUCATION:

1990 Fire Marshals Association of North America Fire Protection Institute - University of Southern California.

1989 United States Fire Academy - Fire Investigation Program.

1984 United States Fire Academy - Executive Development III program.

1980 National Fire Protection Association - Industrial Fire Protection Training.

1979 U.S. Department of Labor - Shipyard Competent Person Training Program.

1975 City of Seattle - Management Training Program

1975 U.S. Department of Commerce - Marine Fire Protection and Firefighting. (250 hours)

1974 United States Navy - Firefighting and Damage Control.

1973 U.S. Maritime Administration - Firefighting & Damage Control.

1965-1967 *Seattle Community College - Various courses in Fire Command and Administration.*

PROFESSIONAL ACTIVITIES:

Member National Fire Protection Association.

1991/92 Chairman of the National Fire Protection Association's Committee on Marine Firefighting Vessels. (Resigned upon retirement from Seattle Fire Department.)

1990 Member of the National Fire Protection Association sub-committee to develop recommended practices for land-based firefighters responding to marine fires.

1983/92 Member of the National Fire Protection Association's Marine Terminals Committee. (Resigned upon retirement from Seattle Fire Department.)

1980/92 Fire Marshal's Association of North America. (Resigned upon retirement.)

1980/92 Seattle Fire Code Advisory Board (Resigned upon retirement.)

1980/92 Seattle Building Code Advisory Board (Resigned upon retirement.)

PUBLICATIONS/PAPERS:

Use of CO2 during a Shipboard Fire - A discussion of the use of carbon dioxide to extinguish shipboard fires. (NFPA Fire Journal, November/December 1992)

CO2 the Basics - A training video on the use of marine carbon dioxide systems to extinguish ship fires - 1989.

Command Post Operations - Training video on the staffing and operation of command posts during ship fires - 1989.

United Pacific Building Smoke Control Tests - (Three volumes) A report to the United States Fire Administration on the control of smoke and the performance automatic sprinklers, smoke detectors and other fire protection systems in high rise buildings - 1985 (Three volumes)

Control of Smoke During Sprinkled and Unsprinkled Fires in High Rise Buildings - National Fire Sprinkler Association Annual Meeting - 1985.

Marine Fire Issues - A newsletter on marine fire fighting issues and technical information. 1982 - 1984.

Introduction to Marine Firefighting - A student workbook for various courses in marine fire fighting. - 1982

Issues in Marine Fire Protection - A paper summarizing experience gained during the U.S. Maritime Administration Marine Fire Protection Project. United States Merchant Marine Academy - 1981.

The Transportation of Hazardous Materials - A paper on problems in the transportation of hazardous materials. National Strategy Conference on the Transportation of Hazardous Materials, Williamsburg VA, 1981

The Transportation of Hazardous Materials - Testimony on problems in the transportation of hazardous materials. Executive Office of the President of the United States, Seattle WA - 1980

The Marine Fire Handbook - A handbook for firefighters involved in fighting ship fires. Washington Public Ports Association - 1978

For Fire Aboard - A handbook for terminal managers involved in marine firefighting operations. Washington Public Ports Association - 1978.

Report of the Marine Fire Protection Project - (514 pages) Report to the United States Fire Administration - 1976.

101.7 Severability. If any provision of this code or the application thereof to any person or circumstance is held invalid, the remainder of the code and the application of such provision to other persons or circumstances shall not be affected thereby.

101.8 References to Appendix. When this code references the appendix, the provisions in the appendix shall not apply unless specifically adopted.

101.9 Amendments. When reference is made to a portion of this code or other applicable laws or ordinances, the reference applies to all amendments and additions now or hereafter made.

SECTION 102 — RETROACTIVE APPLICATION TO EXISTING CONDITIONS

102.1 Existing Conditions. The provisions of this code shall apply to conditions arising after the adoption thereof, conditions not legally in existence at the adoption of this code, and to conditions which, in the opinion of the chief, constitute a distinct hazard to life or property. See also Appendices I-A and I-B.

JAN 14 1997

SECTION 103 — INSPECTION AND ENFORCEMENT

103.1 General.

103.1.1 Technical assistance. To determine the acceptability of technologies, processes, products, facilities, materials and uses attending the design, operation or use of a building or premises subject to the inspection of the department, the chief is authorized to require the owner or the person in possession or control of the building or premises to provide, without charge to the jurisdiction, a technical opinion and report. The opinion and report shall be prepared by a qualified engineer, specialist, laboratory or fire-safety specialty organization acceptable to the chief and the owner and shall analyze the fire-safety properties of the design, operation or use of the building or premises and the facilities and appurtenances situated thereon, to recommend necessary changes.

103.1.2 Alternate materials and methods. The chief, on notice to the building official, is authorized to approve alternate materials or methods, provided that the chief finds that the proposed design, use or operation satisfactorily complies with the intent of this code and that the material, method of work performed or operation is, for the purpose intended, at least equivalent to that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Approvals under the authority herein contained shall be subject to the approval of the building official whenever the alternate material or method involves matters regulated by the Building Code.

The chief is authorized to require tests as proof of compliance with the intent of this code. Such tests shall be made by an approved agency at the expense of the person requesting approval of the alternate material or method of construction.

103.1.3 Practical difficulties. The chief is authorized to modify any of the provisions of this code upon application in writing by the owner, a lessee or a duly authorized representative where there are practical difficulties in the way of carrying out the provisions of the code, provided that the spirit of the code shall be complied with, public safety secured and substantial justice done. The particulars of such modification and the decision of the chief shall be entered upon the records of the department and a signed copy shall be furnished to the applicant.

103.1.4 Appeals. To determine the suitability of alternate materials and types of construction and to provide for reasonable interpretations of the provisions of this code, there shall be and hereby is created a board of appeals consisting of five members who are qualified by experience and training to pass judgment upon pertinent matters. The chief shall be an ex officio member and shall act as secretary of the board. The board of appeals shall be appointed by the executive body and shall hold office at their pleasure. The board shall adopt reasonable rules and regulations for conducting its investigations and shall render decisions and findings in writing to the fire chief, with a duplicate copy to the appellant.

Copy 2/2/97
for Robert P.

John E. Sloan
Attorney at Law
4630 47th Avenue Northwest
Gig Harbor, WA 98335
(206) 851-7997

RECEIVED
FEB 3 1997
CITY OF GIG HARBOR

February 3, 1997

The Mayor and Members of the Gig Harbor City Council
3105 Judson Street
Gig Harbor, Washington 98335

Dear Madame Mayor and Members of the Gig Harbor City Council,

I am writing to you again on behalf of Stan and Judy Stearns, the principals of Gig Harbor Marina, Inc., d/b/a Arabella's Landing, the owner of Bayview Marina, with regard to Robert Philpott's application to construct a fuel dock on property now owned by Peter Darrah immediately south of the Bayview Marina.

You remanded this to the Hearing Examiner to determine how the health and safety concerns surrounding the proposed fueling dock at 3311 Harborview Drive in Gig Harbor are additionally impacted by the requirements of Section 52.02.11.5.5 of the Uniform Fire Code pertaining to flame or spark producing devices within 50 feet of fuel dispensers.

The Examiner's report concludes with a recommendation that "...Section 52.02.11.5.5 of the Uniform Fire Code be implemented essentially as written and little if any deviation from the distance requirement should be allowed." We concur with that recommendation.

Mr. Philpott filed an appeal of this decision with you. Under Section 17.10.160 of the pre-March 1996 Gig Harbor Municipal Code other parties of record may submit written memoranda to you in support of their position. I also believe that Section 17.10.160 permits those on "our side" fifteen minutes of oral presentation at the Council meeting on November 10, 1997, when you consider his appeal.

I first want to offer one comment with respect to the Examiner's recommendation. As part of Finding A. 2., the Examiner makes one finding crucial to my client which is in error. The Examiner finds, in part, that "There would be approximately 35 feet from the south edge of the proposed Philpott fuel float where boats would be fueled to the north edge of the Bayview Marina dock where boats are moored." These measurements were taken from a report prepared for Mr. Philpott by B. L. Hansen & Associates, Inc. In a footnote the Hansen report states its conclusion is premised on moving the fueling dock 12 feet to the north from the location shown in the original plan.

I quote from my letter of December 5, 1996, to the Examiner:

"In preparing his report, what site did Mr. Hansen visit and what original or subsequent plans did he inspect? The separation of the north and south boundaries is 36.6 feet at the easterly boundary of the area Philpott anticipates leasing from DNR, where the fuel float is proposed on the most recent plan in the file. (October 1995) The greatest possible separation of the north and south boundaries, where the fuel float is proposed on the plan, is only slightly more than 45 feet. The fuel float is 10 feet wide. This leaves a distance of open water for boats to occupy while taking on fuel of a minimum of 19.6 feet to approximately 24.5 feet on the north side of the float, and from 7 feet to approximately 10.5 feet on the south side of the float."

The measurements I have cited are taken from Philpott's site plan. The Examiner's finding that there will be "fueling area" distances of 48 and 35 feet from the Ross and Bayview properties is wrong!

The Examiner correctly concludes, however, that these two distances do not reflect the distance from the end of the fuel hose nozzle. The Examiner believes, as I suggested in my letter to him of December 5, 1996, that the measurement should be made from the end of the fuel hose nozzle to the location where open flames may occur on the adjacent Bayview dock. By adopting this view, the Examiner found that, depending on the location of the fuel tank opening and the size of the boat taking on fuel, the distances could be considerably less.

The Council still should be aware that there is not 35 feet from the south edge of the proposed Philpott fuel float where boats would be fueled to the north edge of the Bayview Marina dock where boats are moored.

There are three other issues that are raised by the record before you that need to be brought to your attention.

The first is the site plan you approved. This site plan shows that part of Philpott's proposed site would be property presently under lease to Bayview and Adam Ross by the Department of Natural Resources. This lease area is obviously not available to Philpott. This requires further review by your staff.

The second is another requirement of the 1994 Uniform Fire Code. Building Official Bowman's memorandum to Mr. Osguthorpe on October 29, 1996, which is part of this file, sets forth and discusses Section 5201.4.1.2 of the 1994 Uniform Fire Code. Each of the conditions set forth in that Section must be met in order to install a fuel dispensing facility at a specific location. It is not possible to physically locate the

The Mayor and Members of the Gig Harbor City Council
February 3, 1997
Page 3

end of the dispensing device to meet Conditions 1 and 5 of Section 5201.4.1.2 of the 1994 Uniform Fire Code.

Finally, I ask you to please take another very close look at the position taken in Building Official Bowman's memorandum to Steve Osguthorpe on October 29, 1996, regarding Section 5202.11.5.5 of the Uniform Fire Code.

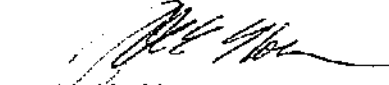
Mr. Bowman's expressed opinion is that there can be no smoking or open flames within 50 feet of the proposed marine fueling operations even on property that is not part of the fueling facility.

I infer from this that if this facility is approved, Mr. Bowman intends to enforce a prohibition against smoking or barbecuing on the Bayview Marina dock (the Bayview Marina dock is all well within the 50 foot limitation).

The City thus will be required to test its position that, by permitting a marine fueling facility to be located on property that does not have its own 50 foot buffer, it has not taken a portion of Bayview Marina's property by inverse condemnation. We respectfully suggest that the City will lose this test of its position.

You have the opportunity now to avoid needless, substantial expense by denying this ill-considered application. Take it.

Very truly yours,



John E. Sloan
Attorney at Law

cc: Stan Stearns
Robert Philpott
Jeffrey Robinson



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: *SB* STEVE BOWMAN, BUILDING OFFICIAL/FIRE MARSHAL,
PLANNING-BUILDING DEPARTMENT
SUBJ.: FIRST READING OF ORDINANCE-STREET NAME ORDINANCE
AMENDMENTS
DATE: FEBRUARY 3, 1997

INFORMATION/BACKGROUND

The Gig Harbor addressing ordinance as found in Chapter 12.12 of the GHMC has been interpreted to require that new streets [and existing streets as annexed] shall be named from a historical name list as approved by the City Council. Property owners have been required to change their addressing where existing street names are numbered (IE: 101st Street).

POLICY CONSIDERATIONS

It has been the policy that all street names within the City of Gig Harbor shall be named streets rather than numbered. Historically, the practice of changing street names and the subsequent changing of addresses has typically not been embraced by property owners. Gig Harbor Public Works Department, Planning-Building Department, Police Department and Fire District No. 5 have all indicated their preference to retain the existing addressing system within the areas being annexed to the City of Gig Harbor. The numbered street system is on a grid system which will allow easier identification for emergency response. The proposed amendments to the addressing ordinance will allow the existing street names to remain unchanged except for those streets which are continuations of existing named streets (IE: 96th Street will be changed to Vernhardson Street).

RECOMMENDATION

An ordinance for the amendment of the addressing and street name ordinance is presented to Council for its approval. This is the first reading of the ordinance. It is recommended that the ordinance be adopted as submitted with the necessary revisions as required by the Gig Harbor City Council and City Attorney. It is further recommended that the addressing street name map, submitted as Exhibit "A" shall be modified to include the alternate areas as recommended by Fire District No. 5.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, AMENDING CHAPTER 12.12 OF THE GIG HARBOR MUNICIPAL CODE, LIMITING THE RENAMING OF CITY STREETS WITH HISTORICAL NAMES TO THE HISTORICAL DISTRICT TO ASSIST EMERGENCY RESPONSE WITH EASIER ADDRESS IDENTIFICATION; AMENDING SECTIONS 12.12.020, 12.12.030, 12.12.040, 12.12.060, 12.12.070, 12.12.080, AND 12.12.090 OF THE GIG HARBOR MUNICIPAL CODE, AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Gig Harbor, Washington has adopted the Uniform Fire Code and Section 901.4 of the 1994 Uniform Fire Code enables the City of Gig Harbor to require the addressing of buildings and unimproved properties,

WHEREAS, the City Council of the City of Gig Harbor, Washington has in Chapter 12.12 of the Gig Harbor Municipal Code adopted an addressing and grid system to be used within the jurisdiction of Gig Harbor,

WHEREAS, the City Council of the City of Gig Harbor, Washington has designated a historical district for the naming streets and addressing buildings and unimproved properties,

WHEREAS, the City Council of the City of Gig Harbor, Washington has further determined that existing Pierce County addressing and street names shall be used for buildings and unimproved properties not within a designated historical district,

NOW, THEREFORE, the City Council of the City of Gig Harbor, Washington, **ORDAINS** as follows:

Section 1. Chapter 12.12 of the Gig Harbor Municipal Code shall be amended as follows:

Chapter 12.12 ADDRESSING AND GRID SYSTEM

Sections:

- 12.12.010 Official map.
- 12.12.020 Definitions.
- 12.12.030 Way-of-travel designation.
- 12.12.040 Numerical designation of buildings and real property.

- 12.12.050 Denoting ways-of-travel.
- 12.12.060 Powers and duties of department.
- 12.12.070 Display of designations.
- 12.12.080 Filing fee.
- 12.12.090 Violation - Penalty.

12.12.010 Official map.

A. The official map shall impose upon Gig Harbor a numerical grid as set forth within such official map.

B. The official map is adopted as part of this chapter and incorporated by reference as though fully set forth herein.

C. The official map thereof shall be maintained in the Gig Harbor department of planning. The official map or copy thereof shall be available for public inspection during regular business hours.

12.12.020 Definitions.

Unless the context clearly indicates otherwise, the following terms shall have the meanings which follow:

A. "Department" means the Gig Harbor department of planning and building.

B. "Private driveway" means a way-of-travel which is maintained by one or two dwellings (one duplex) for use as their exclusive access.

C. "Private road" means a way-of-travel which is maintained and has road sign designations posted for use as their exclusive access by more than two dwelling units (triplex or larger).

D. "Way-of-travel" means a roadway of whatever sort, including but not limited to, avenues, boulevards, courts, drives, lanes, places, roads, streets, and ways, which is capable of carrying traffic.

12.12.030 Way-of-travel designation.

The following way-of-travel designations shall apply to way-of-travel names and way-of-travel signs:

- A. Streets are major ways-of-travel which run easterly-westerly.
- B. Avenues are major ways-of-travel which run northerly-southerly.
- C. Drives are winding major ways-of-travel or other major ways-of-travel as designated by the Gig Harbor city council.
- D. The designation "road" as determined by the city council, shall be used only where the name has longstanding meaning or public sentiment.
- E. Places shall be permanently closed avenues which run northerly-southerly.
- F. Courts shall be permanently closed streets which run easterly-westerly, such as a cul-de-sac.
- G. Loops shall be small loop-type streets to carry the name of the street from which they originate.
- H. Lanes or other street names with the (Pvt) designation shall be private roads.
- I. Ways are rights-of-way running at oblique angles to the four points of the compass.
- J. The designations of ways-of-travel existing prior to the adoption of the ordinance codified in this chapter need not be changed to conform to the above requirements unless, in the opinion of the Gig Harbor city council, such change is necessary to promote the intent and spirit of the ordinance or to reduce or eliminate potential confusion.
- K. All proposed names for new or existing ways-of-travel and private roads must be reviewed and approved by the Gig Harbor city council however private driveways are exempted. The proposed name shall come from a list submitted by the Gig Harbor historical society or from other lists as approved by the Gig Harbor city council. All proposed names within the "historical name area" as designated by the official map shall come from a list submitted by the Gig Harbor Historical Society or from other lists as approved by the Gig Harbor City Council. All proposed names outside the "historical name area" as designated on the official map shall conform to the current Pierce County

addressing grid numbering system. Ways-of-travel which extend beyond the historical name district may be designated by the historical name if approved by the Gig Harbor City Council.

L. City ways-of-travel shall not have a number of "N.W." as a designator.

M. All named or numbered arterials shall be signed at intersections. The sign shall carry the street or avenue designation and shall be subtitled the hundred block designation. Private roads shall have the name ending "Lane" or the "Pvt" designation.

Example:

Skansie Avenue
4600

Example:

103rd Street (Pvt) |
3901

12.12.040 Numerical designation of buildings and real property.

A. Buildings and unimproved real property, when required to be designated by this chapter, shall be designated numerically. The first numerals of such designation shall consist of the grid block number as shown by the official map in which the building or unimproved real property is situated, e.g., 16, 80, 76. The last two numerals of such designation shall be no less than 01 nor greater than 99 on the north and east sides of the way-of-travel, and no less than 02 nor greater than 98 on the south and west sides of the way-of-travel. The last two numerals shall never be 00 as that designation indicates an entire block. Unless the building lies at the intersection of two ways-of-travel.

Ergo, the complete numerical designation for a building or unimproved real property may be, for example, 1605, 1428, 2882, 4013.

B. Except as provided in subsection C of this section, odd numerical designations shall be assigned to the north and east sides of ways-of-travel and even numerical designations shall be assigned to the south and west sides of ways-of-travel.

The geographic direction of a way-of-travel shall be determined by observing its overall length and noting its general or predominant direction.

When possible, even and odd numerical designations shall be assigned consecutively and opposite one another.

C. Buildings and unimproved real property situated on a circular way-of-travel may be numbered consecutively beginning at the point of origin and proceeding progressively around such circle or loop, provided that such a numbering system is necessary to promote the intent and spirit of this chapter or to reduce or eliminate potential confusion.

D. Each dwelling unit of duplexes, triplexes or fourplexes shall receive a numerical designation.

E. Buildings with multiple ~~habitable~~ dwelling units, such as apartment buildings and condominiums, shall receive one numerical designation. Individual units shall be designated by suffixed letters or numbers.

12.12.050 Denoting ways-of-travel.

All new or replaced signs denoting ways-of-travel shall display the name or numerical designation of the way-of-travel, and the district designation.

A. Signs on city roads shall be placed and maintained by the Gig Harbor public works department.

B. Signs on state roads shall be placed and maintained by the Washington State Department of Transportation.

C. Signs on private roads shall be placed and maintained by the Gig Harbor public works department. All costs incurred by the Gig Harbor public works department shall be borne by the first citizen or developer erecting a structure having a newly developed private road as its access; existing private roads shall have sign erection costs borne by the individual or individuals requesting a street name change. Easements must be recorded which enable access by the Gig Harbor public works department; such easements must be approved by the Gig Harbor public works director.

12.12.060 Powers and duties of department.

A. The department is authorized and empowered to assign and/or change numerical designations of buildings and unimproved real property.

B. The department may use Report No. 332 of the American Society of Planning Officials (published March, 1978) as a guide in the numerical designation of buildings and unimproved real property.

C. When necessary to promote the intent and spirit of this chapter or to reduce or eliminate potential confusion, the department is authorized and empowered to assign and/or require numerical designations of buildings and unimproved real property in a manner other than specified in GHMC 12.12.030, 12.12.040 or 12.12.050.

D. The department is authorized and empowered to promulgate reasonable rules and regulations to implement and ~~affect~~ effect this chapter and to ensure the proper operation of the addressing and grid system.

E. The department shall maintain maps and files which catalog names or numerical designations of ways-of-travel and numerical designations of buildings and unimproved real property.

12.12.070 Display of designations.

A. The owner, occupant, tenant, lessee or any other person or entity with a legal or equitable interest in ~~having an interest in~~ any building which is habitable for residential, commercial, business, storage, or other purposes shall conspicuously display the numerical designation assigned to such building by the department. The numerical designation shall be easily legible with numerals not less than three inches in height and the numerals shall be displayed upon a contrasting background. Numeral and background colors shall ~~to~~ be compatible with the building colors.

The numerical designation shall be displayed upon the building unless the building is not clearly visible from an adjacent way-of-travel. ~~in which case~~ For buildings not clearly visible from an adjacent way-of-travel, the numerical designation shall be displayed near the main entrance to the property upon which the building is situated. ~~Sign location and dimensions shall be to be as~~ Sign location and dimensions shall be approved by the department.

B. Buildings which are accessory to buildings which are required to be numerically designated need not, but may, be numerically designated. Unimproved real property need not, but may, be numerically designated.

12.12.080 Filing fee.

A. The department shall collect a \$50.00 filing fee from each applicant requesting a new name or name change to a way-of-travel or private road.

B. When the City changes the names of way-os-travel, no filing fee shall be required.

~~Exemptions shall be as follows: requests by the department to designate new names or change name designations for existing ways of travel and private roads:~~

12.12.090 Violation - Penalty.

Violation of any portion of this chapter is ~~an~~ a civil infraction and subject to a penalty of \$100.00per day as provided in GHMC 1.16.010D.

Section 2. This ordinance shall be in force and take effect five(5) days after its publication of a summary according to law.

PASSED by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the council held on this ____ day of February, 1997.

Gretchen A. Wilbert, Mayor

ATTEST:

Mark Hoppen
City Administrator/Clerk

Filed with city clerk: / /97
Passed by the city council: / /97
Date published: / /97
Date effective: / /97

**PIERCE COUNTY FIRE
PROTECTION DISTRICT NO. 5**

10222 Bujacich Road NW • Gig Harbor, WA 98332
Phone (206) 851-3111 • Fax (206) 851-9606

January 20, 1997

Mr. Steve Bowman, Fire Marshal
City of Gig Harbor
3105 Judson Street
Gig Harbor, WA 98335

Dear Mr. Bowman:

It is the opinion of Pierce County Fire District #5 that areas of the Gig Harbor Peninsula that are annexed to the City of Gig Harbor after January 1, 1997, shall maintain an addressing system that coincides with that of Pierce County (minus the NW suffix).

The exception would be that newly annexed areas lying south of Vernhardson Street (96th Street NW), east of State Route 16, and north of Olympic Drive would fall into the current city system of assigning historic names.

A named or numbered arterial that falls within the City of Gig Harbor boundaries by annexation would carry the named street or avenue designation and be subtitled with the hundred block designation.

Example

Skansi Ave. 4600

Example

Vernhardson St. 9600

The exception to the previous paragraph is that Wollochet Drive and Pioneer Way will remain as is and the common denominator will be State Route 16.

All new name designations should be reviewed by Pierce County Fire District #5 as it has worked well in the past to avoid duplication with county road names.

Any further questions, please feel free to contact me.

Sincerely,



Glen R. Stenbak
Assistant Chief, Support Services

GRS/kf



City of Gig Harbor. The "Maritime City."
3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MHA*
SUBJECT: 1997 DAC CONTRACT
DATE: FEBRUARY 5, 1997

INTRODUCTION/BACKGROUND

Pierce County's Department of Assigned Counsel, which historically provides the city with indigent defense services for the Municipal Court, requests the City of Gig Harbor to review and approve this year's 1997 contract for services. The contract is substantially similar to past contracts, but with some improvements in Section 1 and Section 3. Sections 9-14 have been added from previously approved contracts. The recently approved 1996 contract is attached for the purposes of comparison.

FISCAL CONSIDERATIONS

Contracts during the previous two years have held maintained the city's cost at \$15,770. This contract costs \$18,585 for 1987, almost an 18% increase. This is the first increase in the contract amount since 1993.

RECOMMENDATION

Staff recommends approval of the contract as presented, including any adjustments by Legal Counsel.

ASSIGNED COUNSEL AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of January, 1997, by and between the City of Gig Harbor, (hereinafter called the "City"), and Pierce County, (hereinafter called the "County").

WITNESSETH:

WHEREAS, the Revised Code of Washington, Rules for Courts of Limited Jurisdiction JCR 2.11 requires legal counsel to be furnished every indigent defendant charged in the Gig Harbor Municipal Court with an offense whereby upon conviction may be punished by imprisonment; and

WHEREAS, the Gig Harbor Municipal Court Judge and City Administrator determined that the Pierce County Department of Assigned Counsel (hereinafter "the Department") is capable and qualified to provide the necessary and required legal services; and

WHEREAS, said Judge and City Administrator have evaluated the performance of the above-named Department and found the requirements of the Rules for Courts of Limited Jurisdiction met by providing the necessary and qualified legal services to indigent defendants, thereby satisfying the requirements of the Judge of the Municipal Court; and

WHEREAS, the Pierce County Department of Assigned Counsel indicated their willingness to enter into a contractual agreement to furnish such services to the City for the period beginning January 1, 1997, and ending December 31, 1997.

NOW, THEREFORE,

1. The Department will provide legal counsel services to indigent defendants in the Gig Harbor Municipal Court for the 1997 calendar year. Such services will include, but are not limited to, legal services to all indigent defendants charged with misdemeanor crimes, including, where appropriate, interviewing defendants held in custody, representation at arraignments as requested by the Court, and at all subsequent proceedings in the Municipal Court. Indigency status will be determined by the City in coordination with the Court.

Assigned Counsel Agreement
Page 2

2. In return for the services rendered to the City and to those indigent defendants represented by the Department, the City agrees to pay the County a sum not to exceed \$18,585 annually, commencing January 1, 1997, and ending December 31, 1997. Payments shall be due and payable in the amount of \$4,646.25 the end of each quarter for those services rendered.
3. The parties to this agreement may review the agreement quarterly to determine whether the costs contemplated by the Department of Assigned Counsel have been materially altered such that the payments made by the City are not proportionate to the actual cost of the services provided. Every quarter, the Department shall provide the City with the appropriate records to facilitate such review. If at any such review by the Department or by the City it is determined that the actual expenses of the Department have been materially increased or decreased, then the payment provisions of this Agreement may be amended upon written agreement by the parties, or upon the option of either party, canceled with 90 days written notice.
4. The Department will comply with such reporting and project evaluation requirements as may be established by the City to enable it to appraise the effectiveness of the Department's services. Upon request by the City, the Department shall allow the City reasonable access to its records for the purpose of evaluating the Department's performance under this paragraph.
5. The Department will not subcontract any of its responsibilities or activities required hereunder without the prior written approval of the Judge(s) of the Municipal Court of Gig Harbor and the City.
6. The Department shall carry on its activities pursuant to this agreement at all times in full compliance with all applicable laws, rules and regulations of the United States Government, the State of Washington, the County of Pierce, and the City of Gig Harbor.
7. In all hiring or employment made possible by or resulting from this Agreement, (1) there will not be any discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin, (2) affirmative action will be taken to assure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, or marital status, and (3) the Department agrees to comply with Section 504 of the Rehabilitation Act of 1973, thereby assuring that no person shall, on the basis of handicap, be excluded from participation in, be denied the

Assigned Counsel Agreement

Page 3

benefits of, or other be subjected to discrimination under any program, service, or activity provided by this Department as part of this Agreement.

8. None of the funds, materials, property, or services provided directly or indirectly in this Agreement shall be used in the performance of this Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office. None of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to defeat or support legislation pending before any legislative body.
9. The County shall provide all the Department's malpractice coverage either through malpractice insurance or through self-insurance.
10. The Department agrees to indemnify, defend and hold the City harmless for any and all claims or liabilities of any nature for any negligent or intentional acts performed by the Department, its agents or employees pursuant to this Agreement.
11. Either party may terminate this Agreement by providing the other with written notice 30 days prior to the termination date.
12. The written provisions 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. The entire agreement between the parties is contained in this Agreement document.
13. 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.
14. Notice given pursuant to this Agreement shall be given in writing to the parties as follows:

Department: Department of Assigned Counsel
949 Market Street, Suite 334
Tacoma, WA 98402

City: City Administrator
City of Gig Harbor
PO Box 145
Gig Harbor, WA 98335

Assigned Counsel Agreement
Page 4

This agreement shall be in effect until the 31st day of December, 1997, provided that it be renewable or renegotiable on or before such termination date.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year above written.

CITY OF GIG HARBOR


PIERCE COUNTY

MAYOR GRETCHEN WILBERT



JOHN H. HILL, DIRECTOR, DAC

CITY ADMINISTRATOR



PIERCE COUNTY EXECUTIVE Director

ASSIGNED COUNSELAGREEMENT

THIS AGREEMENT, made and entered into this 13th day of November, 1996, by and between the City of Gig Harbor, (hereinafter called the "City"), and Pierce County, (hereinafter called the "County").

WITNESSETH:

WHEREAS, the Revised Code of Washington, Rules for Courts of Limited Jurisdiction JCR 2.11 requires legal counsel to be furnished every indigent defendant charged in the Gig Harbor Municipal Court with an offense whereby upon conviction may be punished by imprisonment, and

WHEREAS, the Gig Harbor Municipal Court Judge and City Administrator determined that the Pierce County Department of Assigned Counsel is capable and qualified to provide the necessary and required legal services, and

WHEREAS, said Judge and City Administrator have evaluated the performance of the above-named Department and found the requirements of the Rules for Courts of Limited Jurisdiction met by providing the necessary and qualified legal services to indigent defendants, thereby satisfying the requirements of the Judge of the Municipal Court, and

WHEREAS, the Pierce County Department of Assigned Counsel indicated their willingness to enter into a contractual agreement to furnish such services for the period beginning January 1, 1996, and ending December 31, 1996.

NOW, THEREFORE,

1. The department will provide legal counsel services to the Gig Harbor Municipal Court for the 1996 calendar year. Such services will include, but are not limited to, legal services to all indigent defendants charged with misdemeanor crimes, including, where appropriate, interviewing defendants held in custody, representation at arraignments as requested by the Court, and at all subsequent proceedings in the Municipal Court.
2. In return for the services rendered to the City and to those indigent defendants represented by the Department, the City agrees to pay the County a sum not to exceed \$15,750 annually, commencing January 1, 1996, and ending December 31, 1996. Payments shall be due and payable in the amount of \$3,937.509 the end of each quarter for those services rendered.

Assigned Counsel Agreement

Page 2

3. This agreement may be reviewed quarterly to determine whether the costs contemplated to the Department of Assigned Counsel have been materially altered. If at any such review it is determined that the projected expenses of Assigned Counsel have been materially increased/decreased, then the payment provisions of this contract shall be renegotiated or voided at the election of either party upon 90 days written notice.
4. The Department will comply with such reporting and project evaluation requirements as may be established by the City to enable it to appraise the effectiveness of the Department's services.
5. The Department will not subcontract any of its responsibilities or activities required hereunder without the prior written approval of the Judge(s) of the Municipal Court of Gig Harbor and the City Administrator.
6. The Department shall carry on its activities pursuant to this agreement at all times in full compliance with all applicable laws, rules and regulations of the United States Government, the State of Washington, the County of Pierce, and the City of Gig Harbor.
7. In all hiring or employment made possible by or resulting from this contract, (1) there will not be any discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin, (2) affirmative action will be taken to assure that applicants are employed and that employees are treated during employment, without regarding to their race, color, religion, sex, age, national origin, or marital status, and (3) the contractor agrees to comply with Section 504 of the Rehabilitation Act of 1973, thereby assuring that no person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or other be subjected to discrimination under any program, service, or activity provided by this Department as part of this contract.
8. None of the funds, materials, property, or services provided directly or indirectly in this contract shall be used in the performance of this contract for any partisan political activity, or to further the elation or defeat of any candidate for public office. None of the funds provided under this contract shall be used for publicity or propaganda purposes designed to defeat or support legislation pending before any legislative body.

This agreement shall be in effect until the 31st day of December, 1996, provided that it may be renewable or renegotiable on or

before such termination date. This agreement may be terminated by either party in writing.

Termination shall be by written notice and shall be effective thirty (30) days from the receipt of written notice by the other party, unless otherwise agreed to by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year above written.

CITY OF GIG HARBOR

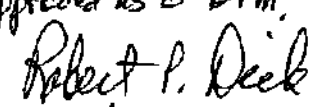
PIERCE COUNTY


MAYOR


DIRECTOR OF DAC


CITY ADMINISTRATOR


PIERCE COUNTY EXECUTIVE

Approved as to form:

Deputy Pres. Atty

MEMORANDUM

DATE: February 5, 1997

TO: Gig Harbor Mayor and City Council

FROM: Carol Morris, City Attorney

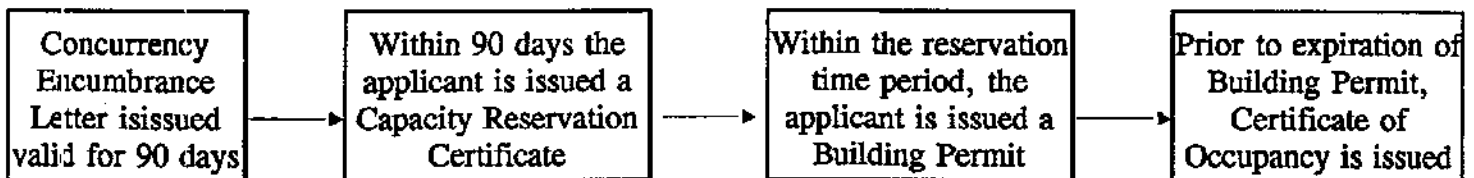
RE: Proposed Concurrency Ordinance

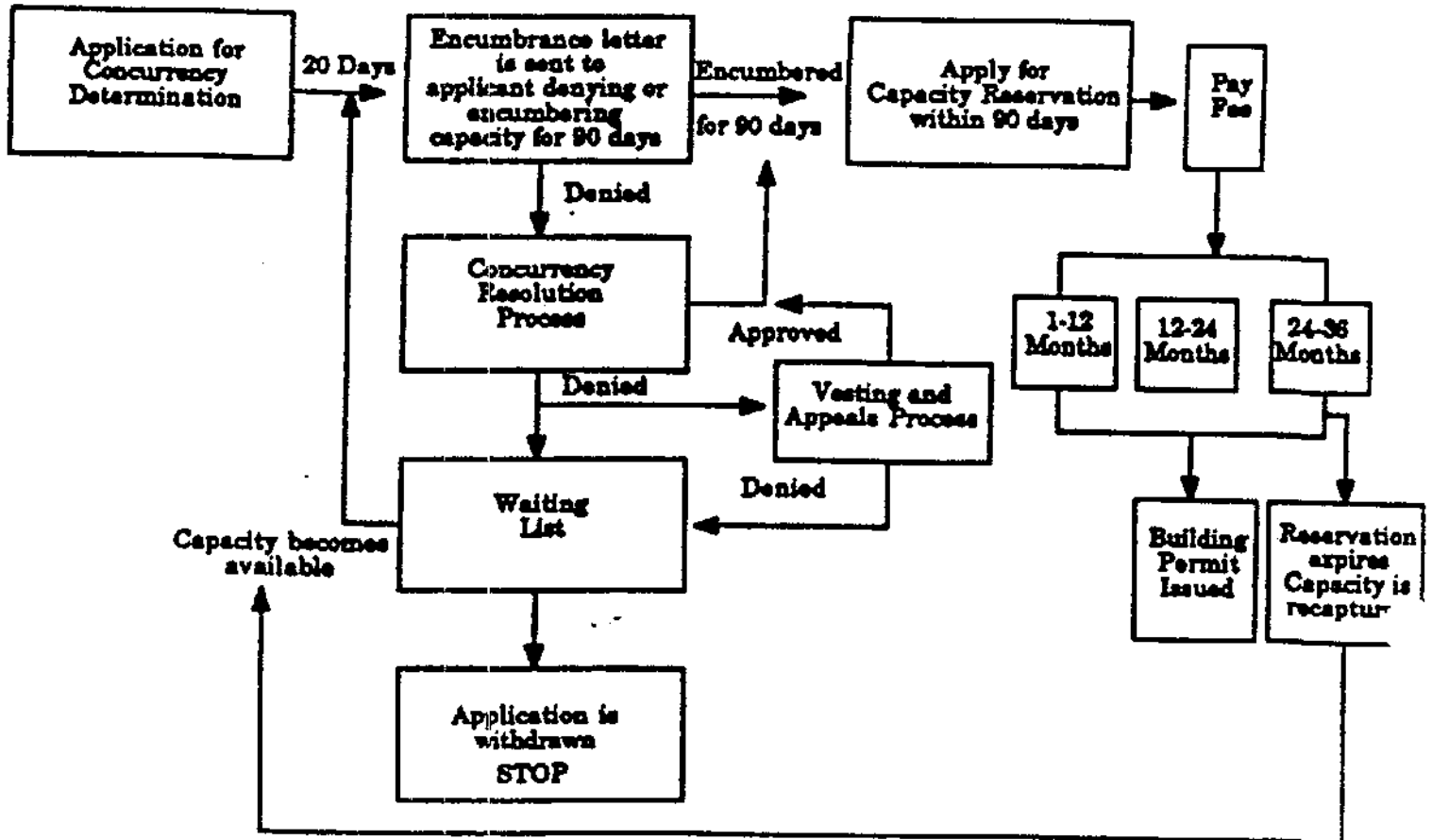
I. Statutory Basis for Concurrency Ordinance

The Growth Management Act requires the City to adopt a concurrency ordinance which "prohibit[s] development approval if the development causes the level of service on a transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development." RCW 36.70A.070(6). The procedures in the attached proposed ordinance will be used to determine whether transportation facilities have adequate capacity to accommodate a new development. In addition, the proposed ordinance identifies the response to be taken by the City when the City determines that capacity is not adequate to accommodate a new development.

II. Procedures - Capacity Evaluations

For your convenience, the following graph demonstrates the process to be followed by a developer submitting an application for a capacity evaluation under the proposed concurrency ordinance:





III. Development Regulation Adoption Procedure

Because concurrency regulations are "development regulations," they must be submitted to the planning commission for review and public hearing. In addition, the City is required to submit the draft concurrency ordinance to DCTED at least sixty days prior to final adoption. Therefore, the proposed ordinance is presented to the Council for its review prior to submission to DCTED.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO DEVELOPMENT AND TRANSPORTATION IMPACTS, IMPLEMENTING THE CONCURRENCY PROVISIONS OF THE TRANSPORTATION ELEMENT OF THE CITY'S COMPREHENSIVE PLAN, AS REQUIRED BY RCW 36.70A.070(6), DESCRIBING THE PROCEDURE FOR THE CITY PUBLIC WORKS DIRECTOR'S EVALUATION OF CONCURRENCY OF THE CITY'S ROAD FACILITIES WITH PROPOSED DEVELOPMENT IN LIGHT OF ADOPTED LEVELS OF SERVICE, DESCRIBING THE PROCEDURE FOR ISSUANCE OF CONCURRENCY ENCUMBRANCE LETTERS AND CAPACITY RESERVATION CERTIFICATES, ESTABLISHING A CAPACITY WAITING LIST, THE PROCESS FOR DENIALS, CONCURRENCY RESOLUTIONS AND APPEALS, ESTABLISHING CAPACITY ACCOUNTS, REQUIRING SEMI-ANNUAL REPORTING AND MONITORING OF ROAD CAPACITY, AS PART OF THE ANNUAL UPDATE OF THE CITY'S 6-YEAR TRANSPORTATION PLAN, AMENDMENTS TO THE TRANSPORTATION ELEMENT OF THE CITY'S COMPREHENSIVE PLAN, AND ADOPTING A NEW CHAPTER 19.10 TO THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, the Growth Management Act requires that the City adopt and enforce ordinances "which prohibit development approval if the development causes the level of service on a transportation facility to decline below the standards adopted in the Transportation Element of the City's Comprehensive Plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development" (RCW 36.70A.070(6)); and

WHEREAS, "concurrent with development," for the purposes of the above statute, means that improvements or strategies are in place at the time of development, or that

a financial commitment is in place to complete the improvements or strategies within six years (RCW 36.70A.070(6)); Now, Therefore,

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

Section 1. A new chapter 19.10 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

CHAPTER 19.10 CONCURRENCY MANAGEMENT

I. OVERVIEW AND EXEMPTIONS

19.10.001. Purpose. The purpose of this Chapter is to implement the concurrency provisions of the Transportation Element of the City's Comprehensive Plan, in accordance with RCW 36.70A.070(6)(e), consistent with WAC 365-195-510 and 365-195-835. No development permit or project permit shall be issued except in accordance with this Chapter, which shall be cited as the Concurrency Management Ordinance.

19.10.002. Authority. The Director of Public Works, or his/her designee, shall be responsible for implementing and enforcing the Concurrency Management Ordinance.

19.10.003. Exempt Development.

A. Development Permit issued prior to Effective Date of this Chapter. All construction or change in use initiated pursuant to a development permit issued prior to the effective date of this Chapter shall be exempt from the requirements of this Chapter, PROVIDED, however, that no development permit shall be extended except in conformance with this Chapter. If the City determines that a previously issued development permit has lapsed or expired, pursuant to the applicable development regulations, then no subsequent development permit shall be issued except in accordance with this Chapter.

B. De Minimis Development. After the effective date of this Chapter, development activities (as defined in the definition section of this Chapter) which do not place any new demand for road facilities shall be exempt from the requirements of this Chapter.

C. Exempt Permits. The following types of permits are exempt from the Capacity Encumbrance Letter process because they do not create additional long-term and/or impacts on road facilities :

Administrative interpretations	Plumbing permit
Sign permit	Electrical permit
Street vacation	Mechanical permit
Demolition permit	Excavation permit
Street Use Permit	Sewer connection permit
Interior alterations	Driveway or street
with no change of use	access permit
Excavation/clearing permits	
Grading permits	Hydrant use permit
Right of Way Permit	
Single family remodeling	
with no change of use	
Single family building permit	
not associated with any	
subdivision	

19.10.004. Change of Use. Any development activity, as defined in the definition section of this Chapter shall require a capacity evaluation in accordance with this Chapter.

A. Increased Impact on Road Facilities. If a development activity will have a greater impact on road facilities than the previous use as determined by the Director based on review of information submitted by the Developer, and such supplemental information as available, a Capacity Encumbrance Letter shall be required for the net increase only, provided that the Developer shall provide reasonably sufficient evidence that the previous use has been actively maintained on the site during the five (5) year period prior to the date of application for the capacity evaluation.

B. Decreased Impact on Road Facilities. If a change of use will have an equal or lesser impact on road facilities than the previous use as determined by the Director based on review of information submitted by the Developer, etc., a Capacity Encumbrance Letter will not be required. "Previous use" shall mean: (a) the use existing on the site when a capacity evaluation is sought; or (b) the most recent use on the site, within the five (5) year period prior to the date of application.

C. If no use existed on the site for the five (5) year period prior to the date of application, no capacity credit shall be issued pursuant to this paragraph.

D. Demolition or Termination of Use. In the case of a demolition or termination of an existing use or structure, the capacity evaluation for future redevelopment shall be based upon the net increase of the impact for the new or proposed land use as compared to the land use existing prior to demolition, provided that such credit is utilized through a Capacity Reservation Certificate, within five (5) years of the date of the issuance of the demolition permit.

19.10.005. All Capacity Determinations Exempt from Project Permit Processing. The determinations made by the Director pursuant to the authority in this Chapter shall be exempt

from project permit processing procedures, as described in GHMC Title 19. The City's processing of capacity determinations and resolving capacity disputes involves a different review procedure due to the necessity to perform continual monitoring of facility and service needs, and to develop annual updates to the transportation of the comprehensive plan.

II. LEVEL OF SERVICE STANDARDS

19.10.006. Introduction. The concept of concurrency is based on the maintenance of specified levels of service with respect to road facilities. Concurrency describes the situation in which road facilities are available when the impacts of development occur, or within six (6) years from the time of development. (See, WAC 365-195-210, definition of "available public facilities.") The City has designated levels of service for road facilities in its transportation comprehensive plan:

A. to conform to RCW 47.80.030 for transportation facilities subject to regional transportation plans;

B. to reflect realistic expectations consistent with the achievement of growth aims;

C. for road facilities according to WAC 365-195-325, and if sufficient public and/or private funding cannot be found, land use assumptions in the City's Comprehensive Plan will be reassessed to ensure that level of service standards will be met, or level of service standards will be adjusted; and

D. to prohibit development if concurrency for road facilities is not achieved (RCW 36.70A.070).

19.10.007. Level of Service Standards. Level of Service (LOS) is the established minimum capacity of road facilities that must be provided per unit of demand or other appropriate measure of need, as mandated by Chapter 36.70A RCW. LOS standards shall be used to determine if road services are adequate to support a development's impact. The City's established LOS for roads within the city limits shall be as shown in the Transportation Element of the City's Comprehensive Plan.

19.10.008. Effect of LOS Standards. The Director shall use the LOS standards set forth in the Transportation Element of the City's Comprehensive Plan to make concurrency evaluations as part of the review of any application for a Concurrency Encumbrance Letter issued pursuant to this Chapter.

III. CAPACITY EVALUATIONS

19.10.009. Application for Capacity Evaluation. An application for a Capacity Evaluation and the application for the underlying permit/approval, shall be accompanied by the requisite fee, as determined by City Council Resolution. An applicant for a Capacity Evaluation shall submit the following information to the Director, on a form provided by the Director:

- A. Date of submittal.
- B. Developer's name, address and telephone number.
- C. Legal description of property prepared by a licensed surveyor/engineer and assessor's parcel number.
- D. Proposed use(s) by land use category, square feet and number of units.
- E. Phasing information by proposed uses, square feet and number of units, if applicable.
- F. Existing use of property.
- G. Acreage of property.
- H. Proposed site design information, if applicable.
- I. Whether sewer and potable water capacity has been previously reserved.
- J. Traffic report prepared by a professional traffic engineer;
- K. Written consent of the property owner, if different from the developer;
- L. Whether the applicant will seek to reserve capacity or obtain a building permit during the encumbrance period and proposed length of reservation, if applicable;
- M. Proposed allocation of capacity by legal description, if applicable.

19.10.010. Capacity Evaluations Required Prior to Issuance of Encumbrance Letter.

A. When the Requirements of this Part Apply. A capacity evaluation shall be required prior to the City's consideration of any permit or approval for any development, unless specifically exempted by this Chapter. The Director shall utilize the standards and requirements set forth in this part to conduct a capacity evaluation, prior to issuance of a Capacity Encumbrance Letter. In addition to the standards set forth in this part, the Director may also utilize the standards set forth in state law or the Washington Administrative Code, or such other rules regarding concurrency which may be established from time to time by administrative rule. In cases where LOS standards do not apply, the Director shall have the authority to utilize other factors in preparing capacity evaluations to include, but not be limited to, independent LOS analysis.

B. Capacity Encumbrance Letters. A Capacity Encumbrance Letter will not be issued except after a capacity evaluation performed pursuant to this Part III, indicating that capacity is available in all applicable road facilities.

C. Rezoning Applications or Comprehensive Plan Amendments Requesting an Increase in Extent or Density of Development. A capacity evaluation shall be required as part of any application for a comprehensive plan amendment or zoning map amendment (rezone) which, if approved, would increase the intensity or density of permitted development. As part of that capacity evaluation, the Director shall determine whether capacity is available to serve both the extent and density of development which would result from the zoning/comprehensive plan amendment. The capacity evaluation shall be submitted as part of the staff report and shall be considered by the City in determining the appropriateness of the comprehensive plan or zoning amendment.

19.10.011. Capacity Evaluation for Road Facilities.

A. Evaluation Performed Prior to Issuance of Capacity Encumbrance Letter.

A capacity evaluation for road facilities shall be required prior to issuance of a Capacity Encumbrance Letter and shall be performed in accordance with the provisions of GHMC 17.03.010B. The road facility LOS standards shall be recognized, and capacity evaluations for road facilities shall be conducted, through application of the performance standards set forth in this Chapter.

B. Method of Evaluation.

1. In performing the concurrency evaluation for road facilities, and to prepare the Capacity Encumbrance Letter, the Director shall determine whether a proposed development can be accommodated within the existing or planned capacity of road facilities. This may involve one or more of the following:
 - a) a determination of anticipated total capacity at the time the impacts of development occur;
 - b) calculation of how much of that capacity will be used by existing developments and other planned developments at the time the impacts of development occur;
 - c) calculation of the available capacity for the proposed development;
 - d) calculation of the impact on the capacity of the proposed development, minus the effects of any mitigation provided by the applicant; and
 - e) comparison of available capacity with project impacts.
2. The Director shall determine if the capacity on the City's road facilities, less the capacity which is encumbered, reserved or vested development, can be provided while meeting the level of service performance standards set forth in this Chapter.
3. In order to determine concurrency for the purposes of issuance of a Capacity Encumbrance Letter, the Director shall make the determination described in Subsections (B)(a) through (e) above. The Director may deem the development concurrent with road facilities, with the condition that the necessary facilities shall be available when the impacts of the development occur or shall be guaranteed to be available through a financial commitment in an enforceable development agreement.
4. If the Director determines that the proposed development will cause the LOS of a road facility to decline below the standards adopted in the

Transportation Element of the City's Comprehensive Plan, and improvements or strategies to accommodate the impacts of development are not planned to be made concurrent with development, a Capacity Encumbrance Letter shall be denied, pursuant to GHMC Section 17.03.019. Applicants may then be placed on the Capacity Waiting List, pursuant to GHMC Section 17.03.020, or make applications under the Concurrency Resolution Process in Section VI. of this Chapter.

IV. CAPACITY ENCUMBRANCE LETTERS

19.10.012. Purpose of Capacity Encumbrance Letter. A Capacity Encumbrance Letter is a determination by the Director that: (1) the proposed development activity or development phase will be concurrent with the applicable road facilities at the time the Capacity Encumbrance Letter is issued; and (2) the Director has encumbered road facility capacity for a period of one hundred twenty (120) days, or until the City makes a final decision on the underlying permit or approval, whichever is later. In no event shall a developer encumber a greater amount of capacity than that necessary to serve the maximum amount of development permitted on the site under its current zoning classification.

19.10.013. Procedure for Capacity Encumbrance Evaluations. Within ninety (90) days after receipt of an application for a Capacity Evaluation, the Director shall process the application, in accordance with this Chapter, and issue a Capacity Encumbrance Letter or Denial Letter. Applications for Concurrency Evaluation must be accompanied by an application(s) for a development permit and be processed in conjunction with the underlying permit process.

19.10.014. Encumbrance Period. A Capacity Encumbrance Letter shall be valid for one hundred twenty (120) days or until the City issues a final decision on the underlying permit or Encumbrance Period approval, whichever is later. In order to continue to reserve capacity after expiration of the Encumbrance Period and until issuance of the Certificate of Occupancy for the development activity, the developer must obtain a Capacity Reservation Certificate (pursuant to Part V), or be issued a building permit during the Encumbrance Period. In order to ensure that capacity is available after expiration of the Encumbrance Period and until construction and/or issuance of a building permit, the Capacity Encumbrance Letter holder must apply for a Capacity Reservation Certificate within ten (10) calendar days after expiration of the Encumbrance Period.

19.10.015. Action by Director if Road Facilities are Concurrent. If the capacity evaluation determines that all road facilities are concurrent, or concurrent with conditions, the Director shall issue the Capacity Encumbrance Letter, which shall advise the applicant that capacity is available for reservation or for issuance of a building permit and include such stipulations or conditions as the Director determines necessary to ensure compliance with this ordinance. The date issued shall be deemed to be the date on the Capacity Encumbrance Letter. If the developer is not the property owner, a copy of the Capacity Encumbrance Letter shall also be sent to the property owner. At a minimum, the Capacity Encumbrance Letter shall identify the application submitted, and contain the following information: (1) the date the Capacity

Encumbrance Letter was issued; (2) capacity encumbered; and (3) the date upon which the Capacity Encumbrance Letter expires unless the encumbered capacity is reserved as described in Part V herein, or unless a building permit is issued prior to the Concurrency Encumbrance Letter's expiration.

19.10.016. Use of Encumbered Capacity. When a valid building permit is issued for a project utilizing encumbered capacity, that capacity shall become vested capacity and shall not be recaptured unless the building permit lapses or expires without the issuance of a Certificate of Occupancy.

19.10.017. Transfer of Encumbered Capacity. Encumbered capacity shall not be transferred to property not included in the legal description provided by the developer in the application for Capacity Encumbrance. However, if the developer submits a building permit application during the Encumbrance period, the developer may, as part of such application, designate the amount of capacity allocated to portions of the property, such as lots, blocks, parcels, or tracts included in the application.

19.10.018. Denial Letter. If the Director determines that one or more road facilities are not concurrent, the Director shall issue a denial letter, which shall advise the developer that capacity is not available. If the developer is not the property owner, the Denial Letter shall also be sent to the property owner. At a minimum, the Denial Letter shall identify the application and include the following information: (1) the level of the deficiency on the road facilities, if known; (2) status of any applicable waiting lists; and (3) the options available to the developer, including but not limited to, requesting to be placed on a waiting list for capacity and/or making application for the capacity evaluation through the Concurrency Appeals Resolution process described in this Chapter. The developer shall have fifteen calendar days from the issuance of a Denial Letter to enter the Capacity Waiting List for the concurrency resolution process.

19.10.019. Capacity Waiting List. Developers who receive a Denial Letter due to insufficient capacity may elect to be placed on the capacity waiting list. Developments on the waiting list shall be offered capacity as it becomes available on a "first-come, first-served" basis. If the available capacity is insufficient to accommodate the development activity as a whole, the Director shall offer available capacity to the developer. The developer may reserve the available capacity and remain in place on the waiting list, and continue waiting for additional capacity or reject the offer and the available capacity shall be offered to the next developer on the waiting list. Once an offer of capacity has been made, the developer must apply for a new Capacity Evaluation within fifteen (15) calendar days thereafter. Rejection of or failure to submit a new capacity evaluation application within fifteen (15) calendar days after an offer of capacity shall result in removal of the developer from the waiting list.

V. CAPACITY RESERVATION CERTIFICATE

19.10.020. Purpose. The purpose of the Capacity Reservation Certificate process is to allow property owners and developers the assurance that capacity is available when it is

needed for a particular project, and to provide a higher degree of certainty during the construction financing process.

19.10.021. Application for a Capacity Reservation Certificate. Within fifteen (15) calendar days after expiration of a Capacity Encumbrance Letter, an application for a Capacity Reservation Certificate shall be submitted to the City. The application shall include all of the information requested for a Concurrency Evaluation in Section 17.03.009, together with: (1) a copy of a valid Capacity Encumbrance Letter; (2) the reservation period requested; (3) allocation of capacity, by legal description and year, if applicable; and (4) a reservation fee, pursuant to GHMC Section 17.03.025.

19.10.022. Issuance of a Capacity Reservation Certificate. Within fifteen (15) working days after receipt of a complete application for a Capacity Reservation Certificate, the Director shall issue the Certificate. The Certificate shall describe the amount and length of time the capacity shall be reserved. Upon issuance of the Certificate, the Director shall consider the requested capacity to be encumbered capacity and reserved for the identified development.

19.10.023. Reservation Time Period. The Capacity Reservation Certificate shall allow the applicant to reserve road facility capacity for one, two or three years. A specific quantity of capacity must be requested for each individual year of the reservation time frame. Capacity shall be reserved based on the standards and criteria for Capacity Evaluations identified in this Chapter. If approved, the Capacity Reservation Certificate will allow the applicant to utilize the capacity only during the period of time specified on the Certificate.

19.10.024. Expiration and Extensions of Time.

A. Expiration. If a building permit has not issued during the time frame set forth in the Capacity Reservation Certificate, the Director shall allow the reserved capacity to be restored to the available capacity to be used by other developments.

B. Extensions. The developer may request an extension of not more than twelve (12) months up to thirty days before the expiration date of the Capacity Reservation Certificate. Any extension shall be contingent upon payment of an additional reservation fee as set forth in GHMC 17.03.025. The Director shall determine whether an extension is warranted, based on the following criteria:

1. Size of the development and the amount of capacity requested. A limit may be imposed on the amount of capacity that may be extended;
2. Phasing;
3. Location of the project;
4. Capacity available within the service area;

5. Reasons for requesting the reservation time period extension; and
6. Whether the developer exercised good faith in attempting to acquire a building permit/development approval.

Any unused capacity for a specific yearly time frame may be carried forward into the next yearly time frame within the time constraints of the CRC. No unused capacity may be carried forward beyond the duration of the certificate or any subsequent extension.

19.10.025. Capacity Reservation Fees.

A. Time for Payment. At the time of application for a Capacity Reservation Certificate, or any renewal thereof, the developer shall be required to pay the reservation fee as a condition of capacity reservation. A reservation fee equivalent to thirty-three percent (33%) of the transportation impact or mitigation fees for the development activity shall be required to reserve capacity for up to one (1) year; sixty-six percent (66%) shall be required to reserve capacity for two (2) years and one hundred percent (100%) shall be required to reserve capacity for up to three (3) years.

The developer shall pay any remaining impact or mitigation fees at the time of and as condition of, receiving a building permit. The developer shall be required to pay all impact fees pursuant to the impact fee schedule in effect at the time the building permit is issued.

B. Refund of Reservation Fee. Reservation fees shall be refundable, subject to a charge for the City's administrative costs and as set forth in this paragraph. The City shall refund ninety percent (90%) of the reservation fee if the capacity was reserved for 12 months or less. The City shall refund eighty percent (80%) of the reservation fee for a two year reservation period; and seventy percent (70%) for a three year reservation period.

19.10.026. Capacity Waiting List. Placement on the Capacity Waiting List will serve to confirm a valid application for a Capacity Reservation Certificate and ensure an equitable "first come, first served," processing of applications. Developers will be notified by mail that capacity is available for allocation for their specific development and advised as to any additional information or documentation required to facilitate review of their application. Developers will be required to provide such information or otherwise finalize a pending application within fifteen (15) calendar days from notification. Failure to accept the capacity by providing the needed information and payment of fees, will result in removal of the application from the Capacity Waiting list.

19.10.027. Transfer of Reservation Certificates. Capacity may be reassigned or allocated within the boundaries of the original reservation certificate by application to the Director. At no time may capacity or any certificate be sold or transferred to another party or entity to real property not described in the original application.

VI. CONCURRENCY RESOLUTION PROCESS

19.10.028. Intent. The concurrency resolution process is intended to identify options available to the City and applicant in mitigating impacts on road facilities and services, after the issuance of a Concurrency Encumbrance Denial Letter, or if capacity on road facilities is not available.

19.10.029. When Concurrency Resolution Procedures Apply. The Concurrency Resolution procedures described in this Part VI shall apply when:

A. A Denial Letter has been issued and the applicant has been placed on the Capacity Waiting List; or

B. One hundred percent (100%) of the City's road facility capacity is being used and/or is encumbered, reserved or vested; or

C. The Annual Capacity Availability Report described in this Chapter indicates that road facilities are not available to serve the proposed development.

19.10.030. Submittal of the Application. The applicant shall submit an application and fee, as established by Council Resolution, for a Concurrency Resolution to the Director.

19.10.031. The Review Process.

A. The Director shall review each application for a Concurrency Resolution Agreement, and request additional information from the applicant, as required to evaluate the impacts of the proposed development on the City's road facilities.

B. The Director shall determine whether the development, as proposed or with conditions, would degrade the LOS on the City's road facilities as adopted in the Comprehensive Plan, which determination shall include, but not be limited to:

1. Conditional approval through which the developer agrees to mitigate the impacts;
2. Denial of the development, subject to resubmission when adequate road facilities are available.

C. If such development can be approved or approved with conditions, the Director shall issue a Concurrency Resolution Offer ("Offer") to the developer, which at a minimum shall contain all information contained in a Capacity Encumbrance Letter, and any conditions deemed necessary in order to approve the development, including but not limited to those described in GHMC Section 17.03.031(D). The letter shall specify that the developer shall have thirty (30) calendar days to either accept the Offer or to continue waiting on the waiting list. If the developer accepts the Offer, the Director and developer shall agree, in writing, on a timeframe for preparation of a Concurrency Resolution Agreement. After the Concurrency Resolution Agreement is executed by the developer, the Director shall schedule the agreement for approval

at the next regularly scheduled City Council meeting and no such Agreement shall be effective until approved by the City Council.

D. In its review of Concurrency Resolution Agreement applications, the Director and City Council shall include consideration of the following factors:

1. The purpose and intent of all other requirements of this Chapter.
2. Whether the proposal is consistent with all applicable development regulations and policies of the City's Comprehensive Plan.
3. Whether necessary road facilities (both on-site and off-site) will be adequate to serve the proposed use.
4. Any other matter which is appropriate and relevant to the specific proposal, including whether the conditions proposed by the Director meet the purpose, intent and requirements of this Chapter.

E. Based on the application and the requirements of this Chapter, the City Council may approve, approve with conditions or deny the application and Agreement. Following execution of the Agreement by the City Council, the Agreement shall be recorded in the Pierce County Auditor's Office at the expense of the developer.

F. When the City Council approves any Concurrency Resolution Agreement, they may require appropriate conditions and safeguards in conformity with the intent and provisions of this Chapter, including any of the following:

1. Limitations on the manner in which the use is conducted, including restriction of the density and intensity of the use;
2. Limitations on the height, size, location, extent or density of buildings or use(s);
3. Phasing construction of the development;
4. Designation of the size, number, location or nature of vehicle access points.
5. Increasing the amount of street dedication, roadway width, and/or requiring construction of road improvements within the street right of way;
6. Specifying other conditions to permit development in conformity with the intent and purpose of this Chapter and the adopted Comprehensive Plan.

G. Violation of such conditions and safeguards of the Agreement by the developer or owner, when made a part of the terms under which a Concurrency Encumbrance is approved, shall be deemed a violation of this Chapter, and subject to enforcement under the provisions of Chapter 17.07 GHMC.

19.10.032. Effect of Approval. The Council's approval and execution of the Concurrency Resolution Agreement shall give the developer authority to submit an application for a Capacity Encumbrance Letter. This application must be submitted within fifteen (15) calendar days of approval of the Concurrency Resolution Agreement, or the Agreement shall expire and the capacity shall be transferred to the available capacity bank.

19.10.033. Valid for Approved Site Only. A Concurrency Resolution Agreement shall be approved only on the basis of the proposed development for which the underlying permit/approval is sought, and other information submitted with the application, and shall be valid only for the location and area shown on the application.

VII. CONCURRENCY ADMINISTRATION

19.10.034. Purpose and Procedure. The purpose of this Part is to describe the process for administering the Concurrency Ordinance. Capacity accounts will be established, to allow capacity to be transferred to various categories in the application process. Capacity refers to the ability or availability of road facilities to accommodate users, expressed in an appropriate unit of measure, such as LOS for road facilities. Available capacity represents a specific amount of capacity that may be encumbered by, reserved by or committed to future users of road facilities.

19.10.035. Capacity Classifications. There are hereby established four capacity accounts, to be utilized by the Director in the implementation of this Chapter. These banks are:

- A. the Available Capacity account;
- B. the Encumbered Capacity account;
- D. the Reserved Capacity account; and
- E. the Vested Capacity account.

Capacity is withdrawn from the available capacity account and deposited into an encumbered capacity account when a Capacity Encumbrance Letter is issued; transferred to the reserve capacity account when a Capacity Reservation Certificate is issued; and transferred to the vested capacity account when a building permit is issued. Once the proposed development is constructed and occupancy permit is issued, the capacity is considered "used." Each capacity account of available, encumbered, reserved, and vested capacity will experience withdrawals on a regular basis. Only the Director or the Director's designee may transfer capacity between accounts.

19.10.036. Administration and Appeals. The Director shall be the responsible for administration of this Chapter. Appeals of the decisions of the Director or Council in the Concurrency Resolution process shall be made according to the procedures in Title 19 GHMC.

If the underlying permit is not subject to Title 19 processing for appeals, the applicant shall follow the appeal procedure in GHMC Chapter 17.07.

19.10.037. Annual Reporting and Monitoring. The Director is responsible for completion of an Annual Capacity Availability Report. This report shall evaluate permitted development activity for the previous twelve month period, and determine existing conditions with regard to available capacity for road facilities. The evaluation shall report on capacity used for the previous period and capacity available for the Six-Year Capital Facilities Element of the City's Comprehensive Plan and the Six-year Transportation Plan, for road facilities, based upon LOS standards. Forecasts shall be based on the most recently updated schedule of capital improvements, growth projections, public road facility inventories, and revenue projections and shall, at a minimum, include:

- A. A summary of development activity;
- B. The status of each Capacity Account;
- C. The Six-year Transportation Plan;
- D. Actual capacity of selected street segments and intersections, and current LOS; and
- E. Recommendations on amendments to CIP and annual budget, to LOS standards, or other amendments to the transportation element of or to the Comprehensive Plan.

The findings of the Annual Capacity Availability Report shall be considered in preparing the annual update to the Capital Improvement Element, any proposed amendments to the CIP and Six-year TIP, and shall be used in the review of development permits during the next period.

Based upon the analysis included in the Annual Capacity Availability Report, the Director shall recommend to the City Council each year, any necessary amendments to the CIP, TIP and Comprehensive Plan. The Director shall also report on the status of all capacity accounts when public hearings for Comprehensive Plan amendments are heard.

19.10.038. Road LOS Monitoring and Modeling.

A. The City shall monitor Level of Service standards through an annual update of the Six Year Transportation Plan which will add data reflecting development permits issued and trip allocation encumbrances. The City's travel demand model will be recalibrated annually based on traffic count information, obtained from at a minimum, the City's Public Works Department.

B. The City shall recalibrate the Travel Demand Model annually, in cooperation with other local and state agencies.

C. On January 1 of each year, a new trip allocation shall be assigned for each Traffic Analysis Zone, based on the results from the Travel Demand Model used by the City, to ensure

that the City is achieving the adopted LOS standards described in this Chapter and the transportation element of the Comprehensive Plan.

D. Amendments to the Trip Allocation Program that exceed the 100% annual trip allocation for any given year shall require an amendment to the Comprehensive Plan. Monitoring and modeling shall be required and must include anticipated capital improvements, growth projections, and all vested, reserved, encumbered and available capacity.

Section 2. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. 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 ADMINISTRATOR, MARK HOPPEN

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____

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

SUMMARY OF ORDINANCE NO. _____

of the City of Gig Harbor, Washington

On the ____ day of _____, 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, RELATING TO DEVELOPMENT AND TRANSPORTATION IMPACTS, IMPLEMENTING THE CONCURRENCY PROVISIONS OF THE TRANSPORTATION ELEMENT OF THE CITY'S COMPREHENSIVE PLAN, AS REQUIRED BY RCW 36.70A.070(6), DESCRIBING THE PROCEDURE FOR THE CITY PUBLIC WORKS DIRECTOR'S EVALUATION OF CONCURRENCY OF THE CITY'S ROAD FACILITIES WITH PROPOSED DEVELOPMENT IN LIGHT OF ADOPTED LEVELS OF SERVICE, DESCRIBING THE PROCEDURE FOR ISSUANCE OF CONCURRENCY ENCUMBRANCE LETTERS AND CAPACITY RESERVATION CERTIFICATES, ESTABLISHING A CAPACITY WAITING LIST, THE PROCESS FOR DENIALS, CONCURRENCY RESOLUTIONS AND APPEALS, ESTABLISHING CAPACITY ACCOUNTS, REQUIRING SEMI-ANNUAL REPORTING AND MONITORING OF ROAD CAPACITY, AS PART OF THE ANNUAL UPDATE OF THE CITY'S 6-YEAR TRANSPORTATION PLAN, AMENDMENTS TO THE TRANSPORTATION ELEMENT OF THE CITY'S COMPREHENSIVE PLAN, AND ADOPTING A NEW CHAPTER 19.10 TO THE GIG HARBOR MUNICIPAL CODE.

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

DATED this _____ day of _____, 199_.

CITY ADMINISTRATOR, MARK HOPPEN



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MH*
SUBJECT: SUPPLEMENTAL INSURANCE CONTRACT
DATE: FEBRUARY 5, 1997

INTRODUCTION/BACKGROUND

The transition from Reliance insurance to AWC/RMSA suggests purchase of additional coverage for the portion of claims-made coverage within the body of our former Reliance coverage. Our broker, Steve Feltus, has suggested Coregis Insurance Organization coverage to accomplish this objective.

FISCAL CONSIDERATIONS

This coverage has a limit of \$1,000,000 per claim and an annual aggregate of \$1,000,000. The deductible is \$2500. The annual premium is \$5,662.12 including fees and taxes. The retroactive date has no limitation. Once the city chooses to allow this claims-made coverage to expire, the city can purchase a 12 month extended reporting period for 50% of the policy premium for the previously covered policy period.

RECOMMENDATION

Staff recommends that the City Council approve the purchase of this coverage for the premium price of \$5,662.12.



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MH*
SUBJECT: COPIER MAINTENANCE AGREEMENT RENEWAL - CITY SHOP
DATE: FEBRUARY 3, 1997

INFORMATION/BACKGROUND

Attached is a renewal to the maintenance agreement for the Minolta copier located at the Public Works shop.

FISCAL IMPACTS

The attached contract is for 9,000 copies, which will be valid 2/26/97 through 2/25/98 for \$174.00 plus taxes.

RECOMMENDATION

Move to authorize the Mayor to sign the attached copier maintenance agreement in the amount of \$174.00 plus tax.

MINOLTA BUSINESS SYSTEMS
6300 SOUTHCENTER BLVD.
TUKWILA, WA 98188



S/O # _____

Customer P.O. # _____

TERR #

MAINTENANCE AGREEMENT

ACCOUNT # 7201421

Service Location: MBS-SEATTLE

BILL TO:
GIG HARBOR CITY OF
3105 JUDSON ST
GIG HARBOR WA 98335

SERVICED AT:
GIG HARBOR CITY OF
CITY SHOP
5118 89TH ST NW
GIG HARBOR WA 98332

COMMENCEMENT METER: 473687

M/A METER EXPIRATION: 482687

MODEL: 10798100 EP4233

SERIAL NUMBER: 312885

TERMS AND CONDITIONS

THE SUPPLY/SERVICE FEE OF \$174.00 PLUS APPLICABLE TAXES, SHIPPING AND HANDLING IS FOR THE BASE PERIOD OF 02/26/97 TO 02/25/98 FOR 9,000 COPIES.
NOTE * ONE COPY IS COUNTED FOR EACH 8.5 x 11 INCH IMAGE.

UNDER THE ITEMS OF THIS PROGRAM, CUSTOMERS PURCHASING THIS AGREEMENT WILL BE ENTITLED TO LABOR, TRANSPORTATION, ALL REPLACEMENT PARTS, BLACK STARTER, IMAGING UNITS AS REQUIRED, AND BLACK TONER BASED ON 6% TONER USAGE RATIO AND NUMBER OF COPIES PURCHASED, EXCLUDING PAPER AND STAPLES. CUSTOMER MAY RENEW AGREEMENT WHEN THE COPIES PURCHASED ARE USED WITHIN THE AGREEMENT PERIOD. CUSTOMER ALSO MAY NEED TO PURCHASE ~~ADDITIONAL TONER BASED ON APPLICATION.~~

When this Agreement is signed by the Customer and the Branch Service Manager, it shall constitute a Binding Agreement.

PLEASE READ REVERSE SIDE OF AGREEMENT FOR ADDITIONAL TERMS AND CONDITIONS.

Minolta Business Systems, Inc.

by _____ DATE _____
CUSTOMER SIGNATURE

by _____ DATE _____
MBS SERVICE REP

Title _____

by _____ DATE _____
MBS SERVICE MANAGER

This AGREEMENT MUST BE RETURNED ALONG WITH PAYMENT to the Minolta Service Location listed above. Please be sure to enter the COMMENCEMENT METER READING and add STATE and LOCAL TAXES to payment. AUTHORIZED SIGNATURE is required to process this Agreement.



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

JAN 27 1997

DATE: 1/23/97

CITY OF GIG HARBOR

RE: ASSUMPTION
 From KEITH UDDENBERG, INC.
 Dba KEITH UDDENBERG THRIFTWAY

APPLICANTS:

KKLD, INC

License: 362719 - 2E County: 27
 Tradename: UDDENBERG'S THRIFTWAY #277
 Loc Addr: 3110 JUDSON ST
 GIG HARBOR WA 98335

UDDENBERG, A KEITH 05-24-15 534-05-0311
 UDDENBERG, R KEITH 04-19-53 534-50-7905
 SCHACHT, LORI D 12-19-60 534-50-8233

Mail Addr: PO BOX 444
 GIG HARBOR WA 98335-0444

Phone No.: 206-858-2400 KEITH UDDENBERG

Classes Applied For:

- E Beer by bottle or package - off premises
- F Wine by bottle or package - off premises

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



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

TO: CITY OF GIG HARBOR

DATE: 1/31/97

RECEIVED

RE: ASSUMPTION
 From KEITH UDDENBERG, INC.
 Dba STOCK MARKET FOODS #332

FEB 3 1997

APPLICANTS:
 CITY OF GIG HARBOR
 QUALITY FOOD CENTERS, INC.

License: 076448 - 2E County: 27

EVANGER, MARC W 10-26-54 531-66-5242

Tradename: STOCK MARKET FOODS #332
 Loc Addr: 5500 OLYMPIC DR BLDG B
 GIG HARBOR WA 98335

KOURKOUHELIS, DAN 03-23-51 538-54-3514

Mail Addr: 5500 OLYMPIC DR BLDG B
 GIG HARBOR WA 98335-1489

SLOAN, STUART M 10-27-43 554-54-4007

Phone No.: 206-462-2179 MARC EVANGER

Classes Applied For:

- E Beer by bottle or package - off premises
- F Wine by bottle or package - off premises

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 _____

C090080-2

WASHINGTON STATE LIQUOR CONTROL BOARD

DATE: 2/03/97

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR
FOR EXPIRATION DATE OF 4/30/97

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	CLASSES
1 AARDAL, SUSAN BISHOP	SPIRO'S PIZZA & PASTA 3108 HARBORVIEW DR GIG HARBOR WA 98335 0000	363055	H
2 GAIR, LINDA H	THE KEEPING ROOM (CANDLES & WINE, ETC.) 3106 HARBORVIEW GIG HARBOR WA 98335 0000	357737	F

EXPIRES

FEB 5 1997

CITY OF GIG HARBOR

Attention:

Enclosed is a listing of liquor licensees presently operating establishments in your jurisdiction whose licenses expire on APRIL 30, 1997. Applications for renewal of these licenses for the upcoming year are at this time being forwarded to the current operators.

As provided in law, before the Washington State Liquor Control Board shall issue a license, notice regarding the application must be provided the chief executive officer of the incorporated city or town or the board of county commissioners if the location is outside the boundaries of an incorporated city or town.

Your comments and recommendations regarding the approval or disapproval for the enclosed listed licensees would be appreciated. If no response is received, it will be assumed that you have no objection to the reissuance of the license to the applicants and locations listed. In the event of disapproval of the applicant or the location or both, please identify by location and file number and submit a statement of all facts upon which such objections are based (please see RCW 66.24.010{8}). If you disapprove then the Board shall contemplate issuing said license, let us know if you desire a hearing before final action is taken.

In the event of an administrative hearing, you or your representative will be expected to present evidence in support of your objections to the renewal of the liquor license. The applicant would presumably want to present evidence in opposition to the objections and in support of the application. The final determination whether to grant or deny the license would be made by the Board after reviewing the record of the administrative hearing.

If applications for new licenses are received for persons other than those specified on the enclosed notices, or applications for transfer of licenses are received by the Board between now and APRIL 30, 1997, your office will be notified on an individual case basis.

Your continued assistance and cooperation in these licensing matters is greatly appreciated by the Liquor Control Board.

LESTER C. DALRYMPLE, Supervisor
License Division
Enclosures

MAYOR OF GIG HARBOR
3105 JUDSON ST
GIG HARBOR

WA 983350000

DATE: February 4, 1997
TO: City Council
FROM: Mitch Barker
SUBJECT: January Information from PD

Attached are the activity statistics for January 1997.

I had the opportunity to attend the D.A.R.E. graduations at four elementary schools last month. As usual, the program was well received and Off. Emmett has become a part of these schools. In addition, I distributed survey forms to each teacher and each student where D.A.R.E. classes were conducted during the first part of the year. These were completed anonymously and were not shown to Off. Emmett. This was done in an attempt to get answers which were as honest as possible. While not all the surveys were returned, a significant number were. I have attached a summary sheet to this memo which outlines the responses. The actual surveys are available for your review if you wish to see them.

Seven Reserve Officers provided 261 hours of service in January. This included 232 hours of patrol time, 1 hour of training and 27 hours of administrative time.

Explorers accounted for over 80.5 hours in January. This time was split between two meetings, and seven ride-alongs. Explorer Jason Learned was appointed as the post Captain to replace retired captain Carson Abell. Lieutenant Jake Collen has returned to the post and is walking unassisted with a cane.

The Marine Services Unit responded to a shore side assist for a boat fire in January. The unit totaled 14.5 hours for the month. Off. Busey is assisting with planning for the public dock expansion. We have reluctantly accepted the MSU funding from the state, via the county. The funds will be disbursed to us shortly.

The training for the reserve bike officers was again delayed due to one of the trainees being ill. We hope to have the training completed during February.



MITCH BARKER
Chief of Police

City of Gig Harbor Police Dept.
3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-2236

GIG HARBOR POLICE DEPARTMENT

MONTHLY ACTIVITY REPORT

January 1997

	<u>JAN</u> <u>1997</u>	<u>YTD</u> <u>1997</u>	<u>YTD</u> <u>1996</u>	<u>%chg to</u> <u>1996</u>
CALLS FOR SERVICE	<u>248</u>	<u>248</u>	<u>238</u>	<u>+ 4</u>
CRIMINAL TRAFFIC	<u>13</u>	<u>13</u>	<u>23</u>	<u>- 43</u>
TRAFFIC INFRACTIONS	<u>43</u>	<u>43</u>	<u>56</u>	<u>- 23</u>
DUI ARRESTS	<u>5</u>	<u>5</u>	<u>4</u>	<u>+ 25</u>
FELONY ARRESTS	<u>8</u>	<u>8</u>	<u>1</u>	<u>+ 700</u>
MISDEMEANOR ARRESTS	<u>7</u>	<u>7</u>	<u>18</u>	<u>- 61</u>
WARRANT ARRESTS	<u>5</u>	<u>5</u>	<u>8</u>	<u>- 37</u>
CASE REPORTS	<u>65</u>	<u>65</u>	<u>67</u>	<u>- 2</u>
REPORTABLE VEHICLE ACCIDENTS	<u>5</u>	<u>5</u>	<u>12</u>	<u>- 58</u>

First Semester 1996-1997 School Term
D.A.R.E. Class Survey Summary

Teacher Surveys

Number returned - 11

Questions -

1. Do you believe that the classroom time given for DARE is worthwhile. (All answered yes. One teacher answered yes but would like class time to be less than one hour.)

Sample comments - "DARE teaches effective strategies for countering drugs in the child's future. "The lessons are well designed and very content rich." "... an hour is longer than I deem necessary."

2. Are the lessons effective and do you think they have a positive influence on the students? (All answered yes.)

Sample comments - "The children seem to listen and internalize that which is taught." "Many times after the officer has done a lesson we extend the concept to other life situations."

3. Are the lessons well organized and well presented? (All answered yes.)

Sample comments - "Officer Emmett is extremely organized and knowledgeable of the content." "Officer Emmett is a natural teacher, he holds the student's attention and makes the lessons interesting."

4. What changes if any would you recommend for the program?

Sample comments - "More efficient use of time, less 'fooling around'." "I would like to see the program a full year and discuss civil rights, and tie into the court system." "What about 'reformed' users speaking in addition to 'good citizens' from middle school?"

5. How would you rate the program overall, from 1 to 10? (One answered 7, all other answered 9 or 10.)

6. If you had a choice to continue with DARE or to have the program dropped, which would it be? (All answered to continue the program.)

7. Any additional comments?

Sample comments - " I have had the opportunity to see the DARE lessons in my class for the past three years and know the children are benefitting greatly from the program and their relationships with Off. Emmett." I received many positive comments from parents ... One mom said that her high school freshman stills refers back to his 5th grade DARE education." "DARE is an invaluable program ..."

Student Surveys

Number returned - 164

Questions -

1. Do you feel that the DARE classes have provided you with information that may help you in the future? If so, what information? (All answered yes.)
2. Is there any part of the DARE program that you did not like or felt uncomfortable with? (All answered no.)
3. Were the lessons easy or difficult for you to understand? (All indicated the lessons were easy to understand.)
4. Would you recommend the DARE classes to future fifth graders? (All answered yes.)
5. Do you have any other comments?

Sample comments - "I think DARE is a very useful program. I hop DARE will be around long enough for my children to have it." ' ... I look forward to it every week." " >>> Officer Emmett is a great DARE instructor." It helped me get ready for my future ..." "If you have a 4th - 5th split class, take the 4th graders to do something else." "We learn about consequences ... I think it will help us a lot."