

# **GIG HARBOR CITY COUNCIL MEETING**



**May 28, 1996**

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



**AGENDA FOR GIG HARBOR CITY COUNCIL MEETING**  
**May 28, 1996 - 7:00 p.m.**

**PUBLIC COMMENT/DISCUSSION:**

**CALL TO ORDER:**

**MAYOR'S REPORT:** More Thinking on Parks.

**APPROVAL OF MINUTES:**

**CORRESPONDENCE / PROCLAMATIONS:**

1. Blessing of the Fleet - June 2nd.

**OLD BUSINESS:**

1. Resolution No. 470 - Approving SPR 95-05, Soundview Office.
2. Resolution No. 471 - Facts and Findings for Arabella's Landing.
3. Second Reading - Ordinance for Proposed Amendments to City Environmental Policy.
4. Acceptance of Water Franchise No. 3.
5. Financial Information - Richardson.

**NEW BUSINESS:**

1. Request for Time Extension on Shoreline Management Permit - SDP 92-04 - Darrah.

**COUNCIL COMMENTS:**

**STAFF REPORTS:**

**ANNOUNCEMENTS OF OTHER MEETINGS:**

**APPROVAL OF BILLS:**

**EXECUTIVE SESSION:** For the purpose of discussing claims.

**ADJOURN:**



MAYOR'S REPORT

May 28, 1996



**MORE THINKING ON PARKS**

The Public Works Crew has done a fantastic job in making improvements at our City Park and Gig Harbor Green during the past year. They need to be congratulated and given a hearty thank you for their effort.

If you haven't yet taken a walk through Gig Harbor Green, please do so. The paths are a joy and the restrooms are a much needed addition. Trees have been planted in both parks by interested citizens and there is a plan for those citizens to be honored during the week of the 50th Celebration. The event will take place at City Park on Saturday, July 20th at 3:00 p.m.

It has been suggested by some that as we look at acquiring more property for City Parks, that we should incorporate some indication of the location of the park in it's name. The 50 Year Celebration week would seem to be an appropriate time to re-dedicate our two revitalized city parks, City Park and Gig Harbor Green. I think it is also appropriate at this time to review the history of the parks' names as researched by Maureen Peters from minutes of early Council meetings.

Gig Harbor Green has stirred the most interest in renaming. The following names have been suggested:

- Grandview Green Park
- Grandview Park
- Grandview Forest Park
- Harbor Heights Park
- Harbor Green Park
- Shyleen Park

Maybe you can think of others. If there is a consensus among the Councilmembers, we can bring forth a resolution at a later date.

*Jerisich Park and Dock* and *City Park at Crescent Creek, or Crescent Creek City Park* have been suggestions for our other two parks.

I'm sending a copy of this report to Rosemary Ross, Keith Uddenburg, George Gilbert and Dean Mullen, along with an invitation to attend the Council meeting and share their history of naming parks.

SCALE 2 IN. = 1 MILE.  
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**HALE'S PASSAGE**

**WOLLOCHETT BAY**

**GIG HARBOR**

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HEAT ORCH TRACT  
 MARY F. ADOLPH  
 CARL SCHMEL  
 J.H. GONYEA  
 MARY WHITE

ANDREW JENSEN  
 ANNA SARGEN  
 PATRICK BOLAND  
 E. SCHOLZ

JERRY & LILLIAN JAS. TAYLOR  
 JESSE FOUTCH  
 R.B. MEYER  
 ROBERT T. GAYLE

HANS SCHEEL  
 GRANT & PARKER  
 CHAS. GREEN  
 SNYDER

F. WHITMORE  
 DELIA NELSON  
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GEO. A. ROGERS  
 ARFONDALE  
 G. BARNES  
 MATHER

JOHN LOCKER  
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machine from the City of Fircrest. Prior to this period all accounting had been done in large ledger books by hand. All bills, checks and vouchers were still typed individually at this time.

Sculptor Tom Torrens donated to the town a large sculpture to be installed in front of the new Town Hall. This piece represented a large fishing lure, reflecting the impact of the fishing industry on the town. The Brewers, who were weavers and lived within the town limits, donated a very colorful tapestry to be hung on the cement wall inside the town hall, this tapestry represented PEACE.

At the March 13, 1978 council meeting, Gary Tannahill, public works supervisor, announced to council that the DOE had tested the waters of the harbor and found an improvement of 97% to 99% since sewers had been installed.

Mayor Jake Bujacich resigned November 13, 1978 and Councilwoman Ruth Bogue was appointed to fill the unexpired term. A resolution was passed to honor Mayor Bujacich's 28 years of service with the town.

The cities first woman mayor, Ruth Bogue, moved to the Gig Harbor area in 1954. She became active in politics, first serving on the Planning Commission and then ten years as a councilwoman before succeeding Jack Bujacich as Mayor. Mayor Bogue believed in managing and controlling the growth of the town. She was instrumental in further development of the town parks and a maintenance building for public works. She was best known for the reorganization and restructuring of the city administration.

A Big Toy was donated to the City for the park on Vernhardson in December of 1978. The Kiwanis Club members paid for installation of the play area in the park.

By 1979 the Harbor Holidays celebration had become a burden for the town. More and more citizens were complaining of the noise and loud partying on the water. The committee wanted the Town to contribute more money than the state auditor would allow and the additional police protection needed was more than the Town could afford also. It was decided not to have a celebration this year; it turned out that 1978 was the last year for this celebration.

A park naming contest was held in May of 1979 for Grandview Park. Scott Egan, a boy scout, was present to give the proposed names to the council for their decision. The following names were given:

- The Picnic Place
- Gig Harbor Green
- Monzingo Park
- Harbor Heights Park

Councilwoman Ross moved that Gig Harbor Green be accepted as the name for the park. Motion carried.

Development of the Jerisich Park dock was in the beginning stages in July of 1979. It had been the wishes of the community and the Town to develop this dock as the long awaited Fisherman's Dock. Unfortunately grant money was only available for recreational use and no other purpose, again the fisherman would have to wait. Manson Construction began work on the dock July

Regular Meeting November 26, 1963

Due to the regular meeting date falling on a holiday- Thanksgiving- this meeting is being held on the previous Tuesday as provided by ordinance. The meeting was called to order at 8:00 P.M. by Mayor Gilbert. Present were Councilmen Bitar, Crum, Klenak, Attorney Mullin, Clerk Kath. Minutes of the previous meeting were read and approved as read. Following bills were approved for payment upon motion by Councilman Bitar seconded by Councilman Klenak. Carried.

CURRENT EXPENSE: The Stationers, Inc. 4.16, Pierce County Fire District No. 5 462.53  
WATER FUND: H.R.Thurston 40.00  
STREET FUND: Spadoni Bros. Inc. 3,879.88 & 55.00, Harstad Associates, Inc. 24.00

Upon the reading, by Mayor Gilbert, of a letter from Spadoni Bros. Inc. stating in effect that schedules A and B of contract entered into on September 12, 1963 will be completed as per contract with no additional cost to the town the council approved payment of 85% of said schedule A as recommended by Harstad Associates, Seattle engineers,

Regarding a survey concerning additional street lights urgently needed in residential areas, street intersections and main travel routes where traffic is heavy, Marshal Leever reported working with Councilman Austin and Oak Lodholm of the Peninsula Light Company in the selection of areas where such additional lights will be of maximum service to the town generally. Funds in the 1963 budget for new street lights are sufficient for the purchase of nine 22-volt vapor lights equipped with an electric eye at an operating cost of approximately 68 cents per light per month. The council approved the purchase and installation of said lights with the proviso that Councilman Austin - out of town on vacation - approves the sites selected.

Councilman Bitar moved that the city park - vicinity Harbor Heights School - be named in honor of the late President John F. Kennedy. The move died for want of a second. Members of the council present felt the decision should be made when all councilmen are present.

There being no further business the meeting was adjourned at 9:30 P.M.

George R. Gilbert  
Mayor

A.R. Kath  
Clerk

City Park name

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# Record of Minutes No. 1

## TOWN OF GIG HARBOR

ENTER, INC., TACOMA - 17755

FORM-17755

Regular Meeting February 27, 1958.

Present

The meeting was called to order at 8:00 P.M. by Mayor Parish. Present were Councilmen Austin, Klenak, Bujacich, Attorney Muller and Clerk Kath.

Minutes of the previous meeting were read and approved as read.

Bills

Upon motion by Councilman Bujacich seconded by Councilman Austin the following bills were approved for payment.  
CURRENT EXPENSE: Peninsula Light Co. 81.00, The Peninsula Gateway 2.50, The Stationers Inc. 3.10, Pioneer Business Forms 10.32, John N. LaFugey 19.35.  
WATER FUND: Pacific Water Works Supply Co. 249.46, Island Empire Tel. & Tel. Co. 25.15, Peninsula Light Co. 50.16, H.R. Thurston 35.00.

Back-stop for Little League Baseball Club

In speaking of the need for grounds and adequate facilities for a baseball park, Mayor Parish pointed out that funds to the extent of three hundred dollars were available for the purchase of a back-stop and suggested an area be made available in the Crescent Valley Park for use of the Little League Ball Club. The council was in full agreement whereupon a move by Councilman Bujacich seconded by Councilman Klenak was made to put the plan to action. Motion carried.

Town Garage

Councilman Austin will prepare specifications for a garage to be submitted to the council at the next meeting for study after which bids for the construction of same will be called for.

Repair Fisherman Dock

Bids for the repairing of the Fisherman's Dock will be made available for study at the next council meeting. Interested parties will be contacted by Councilman Austin as to amount of material to be used, work done and total cost of the project.

There being no further business the meeting was adjourned at 10.00 P.M.

Merill Parish  
Mayor

Cl. R. Kath  
Clerk

# Record of Minutes No. 1

## TOWN OF GIG HARBOR

that Burglary and Robbery Insurance to protect the Town's Accounts and property be ordered. The motion carried.

Discussions: Not motions,--Attorney Dean Mullen reported on his conversations concerning the Strowber-Carlson plans for being of aid to the smaller communities with co-ordinated fire alarm systems.

Bill Wambe presented a plat of land within the Town on which he is doing some logging and asked for further information on his obligations in the development of the tract. He is to bring a written proposal to the next meeting of the Council.

Shyleen Park--Marshall Marvik and John Bass were requested by the Mayor to proceed with the clearing of the land near the water tower.

There being no further business, the meeting was adjourned at 10:00 P. M.

The proposition of a building Code was temporarily laid on the table.

Edward New  
CLERK

Keith Uddenberg  
MAYOR

REGULAR MEETING AUGUST 12, 1954 8:10 P.M.

Present: Meeting called to order by Councilman Keith Uddenberg, Mayor Protem. Others present were Councilmen Tony Stanich, John Bass, Attorney Dean Mullen and Clerk Edward New.  
Minutes: of the previous meeting were read and approved.  
Motions: The following bills were ordered paid on motion by Councilman Stanich and a second by Councilman John Bass.

Current: Galbraith Motor Co. 7/2, \$76.43; Island Empire Tel. & Tel. 7/2, \$16.55; Island Empire Tel. & Tel 8/6, \$14.95; V. S. Kauppila, labor 6/26, \$33.60; Peninsula Light Co., 8/2, \$29.24; Edward New 8/5, Envelopes & stamps, \$20.00; Shell Oil Co. 7/26, \$17.23; Alfred H. Iverson, labor, 7/16, \$10.50; Building Code Publishing Co., 7/23, \$9.50; Peninsula Light Co. 8/2, \$1.50; The Stationers, Inc. 7/23, \$2.52; Harold H. Ryan, 8/12, Wooden Key to Dr. W. B. Truedle & park light globes, \$6.88;

Water: Peninsula Light Co. 7/1, \$63.22; H. D. Fowler Co., Inc., 7/23, \$257.14.

Street: None.

# Record of Minutes No. 1

## TOWN OF GIG HARBOR

REGULAR MEETING JUNE 24, 1954

8:00 P.M.

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Present: Meeting called to order by Mayor Ryan. Others present were Councilmen G. R. Gilbert, Keith Uddenberg, John Bass, and Tony Stanich, Attorney Dean Mullen and Clerk Edward New.

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Minutes: of the previous regular meeting read and approved.  
Treasurer's Report, of May 31, 1954, was read and approved upon motion by Councilman Gilbert and a second by Councilman Bass.

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Bills: Upon a motion by Councilman Stanich and a second by Councilman Bass,  
The following bills were ordered paid:

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Present: Johnson Motor Co. 5/14, \$14.42; Island Empire Telephone and Telegraph Co. 6/1, \$18.80; Reeves Overly Service, 5/31, \$140.35; Harold H. Ryan, 6/11, \$2.17; John Marvik, June salary, \$132.50; Brian S. Mills, June salary, \$110.00; H. R. Thurston, June salary, \$50.00; Peninsula Light Co., 6/1, \$1.50; Edward New, June salary, \$88.00; George R. Gilbert, 6/11, \$62.18; Gig Harbor Landscape Service, 5/11, \$7.72; Edward New, 6/24, \$23.11;

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Later: Florence E. Hurd, Salary, \$48.00; Janice Dahl, Salary, \$25.00; Peninsula Light Co., 6/1, \$1.50; Herbert S. Cook, 6/23, \$50.83; Brian S. Mills, meter reading, \$10.00; John N. Marvik, Salary, \$25.00; Pete's Machine Shop, 6/18, \$14.94; Badger Meter Mfg. Co., 4/27, \$143.38; Badger Meter Mfg. Co., 5/12, \$2.72; Badger Meter Mfg. Co., 5/10, \$16.50.

ed at 10

Street: Gig Harbor Hardware Co., 5/1, \$15.22; Peninsula Light Co., 6/3, \$29.44; Pierce County Road Dept., 6/7, \$114.21; R. C. Paulson, 6/12, \$30.00; Herbert J. Cook, 6/12, \$3.50; John N. Marvik, Salary, \$125.00; Brian S. Mills, Salary, \$110.00; C. E. Shaw, 6/14, \$16.32; Austin & Erickson, 6/7, \$1.24; The Garland Company, 5/6, \$41.31.

Miscellaneous:

- 1: Letters to Clubs of the Peninsula, Clerk New and Councilman Bass. To maintain present postal service to Gig Harbor and environs.
- 2: Councilman Keith Uddenberg and Attorney Dean Mullen to contact the <sup>Peninsula Telephone</sup> File Department. Report back next meeting.
- 3: Councilman Keith Uddenberg made a report on the committee meeting with Mr. Woodweathy and stated that no further work could be done until there was a report by the Engineer.

Grand view park

A Committee, consisting of Councilmen Bass, Stanich, and Gilbert was appointed by the Mayor to study the feasibility of clearing the Shyleen Park. Marshall Marvik was asked to act with the Committee.

- 5: The condition of the water used for drinking purposes at the City Theater was brought up by Marshall Marvik.

TOWN OF GIG HARBOR

H. D. Fowler Co., 6/7, \$22.57, Pacific Water Works, 6/6, \$1109.83, Pacific Water Works, 4/6, \$263.32. Carried unanimously. Easement received from the Peninsula Light Company for property near Bridge,

Water Permit received from Conservation and Development with form to be filled with information on well.

Motion by Antone Stanich, seconded by Fred Perkins that Contractor on relocation of Clay Hill be allowed water at the established rate. Carried unanimously.

Letter received from the Werner Engineering Company with proposed Plat of Coleman Holly Tracts, asking for approval. Letter to be sent to G. E. McMaster, Planning engineer and copy to Werner Engineering Company stating that town has no authority now as it is outside of town limits but if expected to come into the town would like to point out that it would be the policy of the town to require a sixty-foot street.

Motion by C. Allison, seconded by Keith Uddenberg that transfer of liquor license from Joe Johnson to Ted and Mike Bachman for Peninsula Cafe approved if in connection with restaurant but not as a tavern as the town is amply supplied with taverns. Carried unanimously. Notice received from the Liquor Board to be returned with this notation.

Motion by Fred Perkins, seconded by Keith Uddenberg that \$25.00 be paid to A. M. Ursich for George Vlahovich and Anna Rainer for easement on property near bridge. Carried unanimously.

By treasurer report received for the month of May.

Council disapproved of relinquishing Bus Stop near Petes Tavern in favor of Bus Stop by Gig Harbor Pharmacy.

Motion by Keith Uddenberg, seconded by C. Allison officially notifying Spadoni Bros. to proceed with contract on demolishing of bridge and laying of tile. Carried unanimously.

Adjourned at 9:50 P.M.

APPROVED:

*Harold H. Ryan*  
Mayor

*Marie Gustafson*  
Clerk

Friday July 1, 1949  
Regular Meeting, 8:20 P.M.

Present were: Mayor Ryan, Councilmen: Allison, Perkins, Stanich, Uddenberg, Judge Thurston, Treasurer Finholm, Attorney Mullin, Marshal Jones. Minutes of previous meeting approved as read.

Motion by Antone Stanich, seconded by Keith Uddenberg that the following bills be paid: Water Construction Fund: H. R. Thurston, 6/30, \$300.00, Harold V. Eaton, 7/1, \$17.52, Antone Karamatich, 6/30, \$70.59, Ralph L. Eaton, 7/1, \$8.80, Pittsburgh-Des Moines Steel Co., 6/6, \$3227.83, Tom F. Kelly, 6/8, \$11.85, American Automobile Co., 6/17, \$685.40, Westinghouse Electric Supply \$656.10, Atlas Foundry & Machine Co., 6/17, \$61.76, Western Utilities, 6/9, \$66.63; Standard Oil Co., 6/17, \$23.60, Western Utilities, \$178.88; Water Fund: Pioneer Inc., 6/14, \$45.90, Current Expense Fund: Pierce County Library, 1/10, \$852.86, Underwood Corporation, 6/16, \$1.34. Carried unanimously.

Mr. Howe, of Peninsula Public Schools and Arnold Myers representing the Fraternal Order of Eagles were present in regard to the School Board giving to the town property known as Crescent Valley Park. Question had arisen as to limitation of use of this property. The School Board voted to turn property over to the town but if not used as City Park would revert back to School Board. Mayor Ryan appointed Attorney Mullin to meet with School Board at their next meeting on August 2, to discuss this question. Arnold Myers advised the council the Fraternal Order of Eagles have offered to clean up the park. Mr. Howe explained the difficulty of School busses making stop on corner of Harbor View Avenue West and Rosedale Street and asked permission to eliminate the stop for the school Busses. Motion by Antone Stanich, seconded by C. Allison that School Authority be empowered to put flagman at corner of Rosedale Street and Harborview Avenue West and have right-of-way over all traffic and do not have to make stop as long as flagman is present. Carried unanimously. Mr. Howe also brought up the matter of danger to traffic on corner of Harborview avenue and Peacock Way, very difficult for Busses to make turn on corner. Mayor Ryan appointed C. Allison to...

# Record of Minutes No. 1

## TOWN OF GIG HARBOR

Friday, August 5, 1949

8:00 P.M.

Regular Meeting

Present were: Mayor Ryan, Councilmen: Allison, Stanich, Uddenberg, Treasurer Finholm, Judge Thurston, Attorney Mullin, Marshal Jones, Clerk Gustafson. George R. Gilbert was appointed councilman to fill unexpired term of Fred M. Perkins & was sworn in by the Mayor. Minutes of previous meeting approved as read.

Motion by Antone Stanich, seconded by Keith Uddenberg to pay the following bills: Water construction: Joseph C. Hobbs, 8/4, \$57.92, H. R. Thurston 7/31, \$300.00, Floyd D. Arnold, 7/26, \$12.67, Peninsula Light Co., 7/31, \$10.70, Pacific Water Works Supply Co., 7/28, \$162.34, Pacific Water Works Supply 7/18, \$19.22, Grant Fristad, 7/26, \$87.50, Standard Oil Co., 7/28, \$9.84, Pacific Water Works Supply Co., \$12.82, Canal Boiler Works 7/26, \$85.38, Standard Oil Company, 7/5 & 7/11, \$17.78, White River Lumber Co., 7/25, \$43.02, Gig Harbor Plumb & Heating Co., 8/2, \$216.88, Hugh Denny, 8/5, \$81.03, Harry Beardsley, 8/3, \$35.04; Current Expense Fund: Marie Gustafson, \$4, \$4.07, Street Fund: Floyd Arnold, 7/14, \$16.29, Lee Makovich, \$19.00, Spadoni Bros. 8/3, \$874.00 and \$238.59; Carried Unanimously.

Mrs. Wehran present, in regard to water draining underneath her building from the street. She requested that this condition be corrected by the town. Motion by C. Allison, seconded by Keith Uddenberg that drain be fixed near Mrs. Wehran property by extending culvert to property line, building a catch basin and filling in necessary dirt. Carried unanimously. Treasurer report for the month of July was read.

Julius Spadoni present and discussed with the council the repair of Harborview Avenue West. He is to prepare an estimate of cost to repair this street.

Judge Thurston and Attorney Mullin told the Council that the State Highway Department informed them that in making the fill replacing the Bridge at North End they would not be responsible for any damage to Main. Attorney Mullin advised them they would be held responsible only for damage done due to their negligence in the construction of the fill.

Attorney Mullin met with the School Board to discuss the donation to the town the property known as Crescent Valley Park, approximately 707 ft. by 300 ft. The clause in the Quit-Claim deed to state that the property to be used for Park and recreational purpose only and in the event it is not used for this purpose it shall revert to Grantor. Motion by C. Allison, seconded by Antone Stanich that deed prepared by Attorney Mullin be accepted from the School Board. Carried unanimously.

Dr. Darling present. Asked to purchase strip of land designated as a street and which is next to the Post Office as it would be too steep to use for a street. He was advised that the Law states that if any street is vacated the land would revert back to former property owners. Attorney Mullin to check further into the matter. Recessed at 10:30 P.M. until 7:00 P.M., Thursday, August 11th to work on the Preliminary Budget for the year 1950.

*Marie Gustafson*  
Clerk

APPROVED:

*Harold H. Ryan*  
Mayor

Thursday, August 11, 1949.  
7:30 P.M.

Recessed regular meeting of August 5, 1949.  
Present were: Mayor Ryan, Councilmen: Allison, Finholm, Gilbert, Uddenberg, Attorney Mullin, Marshal Jones, Clerk Gustafson.  
Worked on preliminary budget. Motion by Keith Uddenberg, seconded by George Gilbert to install service connection in the City Park as soon as legal transfer of property is made. Carried unanimously.  
Mayor Ryan appointed Councilman Gilbert to check into insurance on damage to water system due to unexpected causes. Clerk to write to Department of Labor & Industries for information on coverage for occasional workers, such as street labor, extra Police, Plumbers and other workmen on water system. It was decided to continue work on preliminary budget on Tuesday, August 16, at 8:00 P.M. Adjourned at 10:00 P.M.

APPROVED:

*Marie Gustafson*

Gig Harbor  
July 12, 1929

Meeting of the S. S. Improvement Club held in St. Johns Hall  
at 8:30 P.M.

Vice Pres Shyleen in chair.

H. A. Howes acting as secretary.

Those present Peter Skansie, L. C. Croever, F. H. Adams, R.  
J. Commers, Peter Tinkanelli, N. P. Shyleen, H. A. Howse,  
Christ Nelson.

Bill from C. E. Trombley of \$1.75 was presented and voted  
paid. \$6.50 dues was collected from members.

Moved by Peter Skansie and second by L. C. Croven that up to  
\$30.00 be allowed for laying water pipe and building toilets  
at parking ground.

← Moved by Skanie and sec by Nelson that the Park be named  
Grand View Park, Caried.

← Moved by commun sec by Nelson that the road to the park be  
named Park Avenue, Carried.

N. P. Shyleen was authorized to meet with the Fair  
Association with regard to leasing part of the Park for Fair  
grounds.

Moved by Commers sec by Skansie that the \$25.00 refunded  
from the Bridge fund be put in the general fund of the club  
and those who contributed be given credit on their dues,  
Caried.

Moved and sec that the next regular meeting be held in the  
Grand View Park and open to everybody. Motion caried.

No oter busines the meeting adjourned

H. A. Howse, Sec Pro Tem

**PLEASE NOTE:** These minutes were transcribed exactly as written from the minute book  
of the South Side Improvement Club. There are no changes in the spelling or content from  
those pages.

Gig Harbor  
March 7, 1928

Meeting of the S. S. Improvement Club held at this hall at 8  
PM

President Makovich presiding.

The minutes of previous meeting read & approved, Mr. Makovich called a mass meeting for the purpose of what Gig Harbor would accomplish by incorporating, and invited the officers of the Gig Harbor Chamber of Comm. to be present. Mr. Shyleen took the chair while Mr. Makovich challenged the officers of the C.C. to a debate, Mr. Rehn was asked to state to the members of the club why G.H. should incorporate. Mr. Rehn pointed out the reduction of insurance rates, lighting of the city, sewers, and fire protection, and was backed up by Nelson, Van Osterhout, Swanson, Thurston, Huese, Dortich, all spoke in favor of incorporating Gig Harbor.

Mr. Makovich took the opposite in favor of the taxpayers he stated that the people would be burdened with heavier taxes and G.H. incorporation could not thrive on the present tax revenue, discussion of incorporating finished.

The meeting presides with its business the club meet first Wednesday of each month. <Mr. Huese made a motion to have a road excavated into the park.>

Mr. Shyleen reports that the boy scouts would like to work in the park and make what improvements that are necessary for a boy scout cabin.

Received a check of 12 from Woodmen for rent. Mr. Ekton made a motion that the club should cooperate with the Chamber of Commer. Mr. Makovich second the motion. The Motion carried.

No other business the meeting adjourned.

E. J. Eckton, Sec.

**PLEASE NOTE:** These minutes were transcribed exactly as written from the minute book of the South Side Improvement Club. There are no changes in the spelling or content from those pages.





## REGULAR GIG HARBOR CITY COUNCIL MEETING OF MAY 13, 1996

**PRESENT:** Councilmembers Ekberg, Platt, Picinich, Markovich and Mayor Wilbert.  
Councilmember Owel was absent.

**PUBLIC COMMENT / DISCUSSION:** None.

### **PUBLIC HEARINGS:**

1. Preannexation Zoning for the UGA. Mayor Wilbert opened the public hearing on this item at 7:05 p.m. Mr. Ray Gilmore, Planning Director, introduced this first of two required public hearing for the proposed zoning map/preannexation zoning map for the Urban Growth Area, amendments to zoning code text and proposed Gig Harbor North zoning map. He said that these recommendations were being presented by the Planning Commission to Council for consideration. He gave a brief overview of the proposed zoning recommendations and added that the second required public hearing was scheduled for the June 24th meeting.

Matthew Sweeney. Mr. Sweeney introduced himself as the attorney representing the Garrisons and the Torrens. He said he had passed out a letter and materials for Council's review on the previous Friday. He said that Ms. Garrison and Mr. Torrens own property along Schmel Drive that have been designated as RB-1 in the proposed zoning map. He added that they are requesting that the property be delineated as half RB-2 and half ED where it borders the PI designated property, to reflect what the area is currently being utilized for.

Paul Cyr - 55th St. Ct. NW. Mr. Cyr said he was representing a number of clients. He read from the Planning Commission Resolution and the staff report of 5/8/96 regarding obtaining city services without annexation. He asked where the policy exists articulating obtaining these utilities. Mr. Hoppen explained that the City has an ordinance in effect describing the requirements, and added that the ordinance had been acknowledged in a settlement agreement between Pierce County and the City of Gig Harbor regarding the entire Urban Growth Area. Mr. Cyr said that a public process should occur to educate the residents who live in those areas, of the terms of the agreement. He added that he concurred with several of the recommendations, but requested that the area where the community college was located on Hunt Street be changed to a more commercial designation, along with the Stroh property north of Hunt Street which he said should be a B-2 designation. He finalized by saying it appeared that the Planning Commission was favoring residential designations zoning over business.

Tom Torrens - PO Box 1741. Mr. Torrens asked for clarification on his property. He said that when he contracted with the City for water, he understood the property to be zoned commercial by the county, but now it was being zoned RB-1. His concerns that when the bank appraised his property, the lower density designation would affect the value of the property. He added he would like to see the zoning changed to ED.

Jack Bujacich - 3607 Ross Avenue. Mr. Bujacich asked why the central area of the map had no designation. Mr. Gilmore explained that the area was being considered under the Gig Harbor North hearings, already held, and were pending suggested text amendments and would be brought back at a later date.

Joe Loya - PO Box 04. Mr. Loya said he was representing the Performance Circle, and thanked the Planning Commission for designating the area where the "Meadow" is located as RB-1, as they are still considering a performing arts center to be located at that site. He requested that a performing arts center be specifically added to the text for the RB-1 designation.

Walt Smith - PO Box 191. Mr. Smith passed out a letter to Council, asking for an amendment to the text for the ED designation on his property. He said that when he started his project, the Gig Harbor Comp Plan required a 60- 40 open space relationship to impervious coverage. He said the current figures would only leave approximately 26% of the property to develop, and added that he thought this was an oversight. He offered to work with Planning Staff and Council and to come back at the June meeting with a proper presentation.

John Holmaas - 7524 Goodman Drive. Mr. Holmaas asked for reconsideration of the zoning designation for the Northharbor Business Campus on Burnham Drive. He said that other zoning would be more appropriate than the RB-1 designation.

There was no further public testimony. Mayor Wilbert closed the public hearing on this item at 7:43 p.m.

2. Amendments to City Environmental Policy Ordinance (Chapter 18.04 GHMC). Mayor Wilbert opened the public hearing on this item at 7:43 p.m. Ray Gilmore introduced this amendment to the City's Environmental Policy Ordinance to update the City's codes in compliance with state requirement. He added that this was the first reading of the ordinance, and it would return at the Council meeting of May 28th for the second reading.

No one signed up to speak on this item. Mayor Wilbert closed the public hearing at 7:44 p.m.

**CALL TO ORDER:** 7:44 p.m.

**APPROVAL OF MINUTES:**

**MOTION:** Move approval of the minutes of the April 22, 1996 meeting as presented.  
Platt/Ekberg - unanimously approved. Councilmember Markovich abstained.

**CORRESPONDENCE / PROCLAMATIONS:**

1. Letter from Chief of Community Relations - Dept. of the Air Force. Mayor Wilbert gave a brief explanation of this letter thanking Dr. William Wilbert for traveling on the Civic Leader Tour to March Air Force Base.

2. Proclamation - National Nursing Home Week. No presentation made.
3. Proclamation - Buddy Poppy Week, Veterans of Foreign Wars. No presentation made.
4. Proclamation - Grandparents Raising Grandchildren Day. No presentation made.

#### **OLD BUSINESS:**

1. Letter from Jim Richardson. Carol Morris, legal counsel, said that the letter asking the City to reduce their judgement and release the lien on his property was self-explanatory, and she would answer any questions Council may have. Councilmember Markovich asked if the amount was miscalculated as the letter stated. Ms. Morris said that it was not. He then said that he would be willing to consider some accommodation if the financial records for the past several years could be obtained from Mr. Richardson to substantiate his claims. Councilmember Platt said that Mr. Richardson had placed himself at risk and if he is asking for a reduction, he should show proof of why it should be done. Staff was directed to request the financial documents from Mr. Richardson.

#### **NEW BUSINESS:**

1. First Reading of Ordinance - Preannexation Zoning for the UGA. Mr. Gilmore explained that this ordinance would return for adoption after the second public hearing, and a possible worksession to incorporate the amendments.

2. First Reading of Ordinance - Amendments to City Environmental Policy Ordinance. Mr. Gilmore said that the second reading of this ordinance would return at the May 28th meeting.

3. Hearing Examiner Recommendation/Resolution for Approval - Soundview Office Park, SPR 95-05. Mayor Wilbert asked if any Councilmembers wished to reveal any ex parte oral or written communications on this matter, or to disclose any potential appearance of fairness issues, or if any member of the audience had any appearance of fairness challenges to any of the Councilmembers or Mayor. There was no response to this query. She then asked the representative for the project, David Fisher, to take an oath of honesty in any testimony that he may give, to which he answered affirmatively.

Steve Osguthorpe gave a brief introduction for this request to construct a 37,860 square foot office building at 5801 Soundview Drive. He explained that because the applicant had submitted a building permit application prior to the adoption of current building size limits, the project was vested and complies with the codes in effect at the time the permit application was submitted, allowing for the construction of the larger building. He said that the Hearing Examiner and Staff recommend approval of the site plan with modification to condition number eight, as legal counsel had advised that there was no ability to enforce requirements that came about from concerns stated from the Department of Ecology.

**MOTION:** Move to approve resolution No. 470, in regards to the Soundview Office Park, SPR 95-05, with the modification to condition no. 8 by deleting the second sentence as suggested by legal counsel, and to bring back the resolution at the next council meeting.  
Picinich/Markovich - unanimously approved.

4. Appeal of Hearing Examiner's Decision - SDP 95-06/VAR 95-11, Robert Philpott, Multipurpose Marine Fueling Facility. Mayor Wilbert asked if any Councilmembers wished to reveal any ex parte oral or written communications on this matter, or to disclose any potential appearance of fairness issues, or if any member of the audience had any appearance of fairness challenges to any of the Councilmembers or Mayor. Councilmember Platt said that he was a member of the Gig Harbor Yacht Club, and that a letter had been submitted stating that the project had the support of all the Yacht Club members, even though he had not been contacted. The Mayor asked if anyone wished Councilmember Platt to abstain. There was no reply. She then asked the representatives for the project, Robert Philpot and Gary Kucinski, to take an oath of honesty in any testimony that they may give, to which they answered affirmatively.

Steve Osguthorpe explained that this item was both an appeal of the Hearing Examiner's recommendation and a recommendation for site plan approval presented to Council for action. He explained that Council had the options to accept, modify or reject any finding or conclusions, or remand the decisions of the examiner for further hearing. He briefly described the project to construct a fueling dock on the Pete Darrah's property, and gave an overview of the appeal and recommendations before Council for action.

Mr. Gilmore explained that no new testimony could be given due to the appeal, and added that the letter submitted by Dave Taggart this evening had been examined and determined that it was substantially supportive of the testimony he gave at the hearing, and contained no new information. He noted that if Mr. Philpot had concerns or consideration concerning the letter, he could bring it to Council's attention. He added that each side, appellant and applicant, was allowed a total of fifteen minutes to provide supportive information.

John Paglia - 12924 Purdy Drive NW. Mr. Paglia, attorney for the appellant, cited several issues of why this project did not comply with City codes, including setbacks, lack of provisions for unloading the fuel truck, and fire and traffic hazards. He added that the Uniform Fire Code states that a fuel dock must exclusively be used for fueling, and not moorage.

Councilman Ekberg asked staff for clarification of the regulations about exclusive use of fuel docks. Steve Osguthorpe explained that this was something the Fire Marshal would review, and it would have to conform to all Fire Code issues.

Gary Kucinski - Sitts & Hill Engineers. Mr. Kucinski spoke representing Mr. Philpot. He said that they feel that this is a needed project, and it is in compliance with the Comprehensive Plan and the City's land use regulations. He added that the appellant raised these objections at both the Hearing

Examiner's hearing and again at the reconsideration, and both times the Examiner had indicated in his recommendations that the project must be in compliance with all the City of Gig Harbor Ordinances.

Robert Philpot - 2115 95th St. Ct. NW. Mr. Philpot said that his intent is to provide a project that would enhance the City of Gig Harbor. He added that the intent is to run a professional, modern, and a first class fueling dock. He explained the project and what was being planned, and that the intent was to clean the entire facility up to make it an asset to the town.

Councilmember Platt asked what the estimated gallonage per month would be in order to ascertain intensity of use. Mr. Philpot answered that he based his figures on the Pleasurecraft Marina, which was closed. Councilmember Picinich asked about how often the fuel would be delivered. Mr. Philpot said that because it is a seasonal business it would vary from once a month in the winter to as much as twice in a seven to ten day period. He answered questions about the fuel truck and the method the fuel would be delivered. He discussed several options included flaggers, alternate delivery times, and utilizing the parking lot for a turn-around to prevent the truck from having to back into traffic.

Mr. Paglia added that there was a condition by the Hearing Examiner limitation of hour of sales had to be from 7:00 a.m. to 7:00 p.m. and that this was primarily a residential area and there were concerns about noise, and again stated the provision for exclusive use of a fuel dock.

Councilmember Ekberg said that valid concerns had been raised, and that he thought these had been addressed by the staff and Hearing Examiner and covered in the conditions. He made the following motion:

**MOTION:** Move we adopt Resolution No. 471 with the seven conditions as outlined for the site plan conditions of approval and the thirteen conditions outlined for the shoreline management permit conditions.  
Ekberg/Platt -

There was more discussion regarding the issue of the fuel truck delivery and traffic and safety concerns. Councilmember Markovich said he had serious concerns about ingress and egress and would like to see these issues remanded back to the Hearing Examiner for additional consideration. Councilmember Ekberg withdrew his original motion and the following motion was made:

**MOTION:** Move we remand the project back to the Hearing Examiner for determination whether the ingress and egress for the fuel truck is sufficient and also to clarify the issue of whether transient moorage is allowed on the same dock as a fueling facility.  
Markovich/Picinich - unanimously approved.

The Mayor announced a five minute recess at 9:13 p.m. The Council meeting reconvened at 9:20 p.m.

5. Appeal of Hearing Examiner Decision - SPR 95-12, Arabella's Landing, Office Building. Mayor Wilbert asked if any Councilmembers wished to reveal any ex parte oral or written communications on this matter, or to disclose any potential appearance of fairness issues, or if any member of the audience had any appearance of fairness challenges to any of the Councilmembers or Mayor. There was no response to this query. She then asked the representatives for the project, John Groen and Stan Stearns, to take an oath of honesty in any testimony that they may give, to which they answered affirmatively.

Steve Osguthorpe introduced this appeal of the Hearing Examiner's decision and added that this was the second application for this site in a short time. He explained that the proposal is to build a 12,050 office/retail building, and that the two main issues raised that resulted in the recommendation for denial were the question of vesting under codes in place at the time the site plan application was submitted, and the definition of a lot. He summarized these issues and announced that the appellant would have fifteen minutes to present any support.

John Groen - Attorney for Stan Stearns. Mr. Groen began by saying there were important legal issues that the Councilmembers need to be aware in order to carry out their duty as public servants. He said that in reference to the two issues, vesting and lot definition, his presentation would not be testimony, but would be legal interpretation of the city ordinances and their requirements. He said the applicant's position was that the project should be vested under the prior zoning designations, and cited *West Main Associates v. Bellevue* and *Erickson and Associates v. McLerran* as examples. He said that per 17.48.050 and 17.96.020 of the GHCM, a building permit could not be applied for until the site plan had been approved. He said he noticed that the last presentation began with recognizing by Steve Osguthorpe that the application is being processed under the ordinance when it was applied for, and all they were asking was the same treatment.

He continued to say the second issue was of lot definition, and that the project is clearly in compliance. He said that the application of the 3500 sq. ft. zoning is a clear spot zoning and a violation of constitutional law. He said this property had been targeted to prevent this project, and that Council needs to be aware of the consequences of that. He went on to say that their position on the view and access requirements are a clear violation of constitutional law and that the U.S. Supreme Court has made it abundantly clear through *Nolan v. California Coastal Commission* and *Dolan v. City of Tigard*, that the burden of proof is on the government agency showing an adverse impact on a legitimate public purpose, and you cannot impose any condition at all, or only impose it as proportional to the degree of the impact. He said that if government fails to meet that burden of proof it is a taking of property, and the government has to pay damages along with attorney fees. He said that this is such a clear constitutional violation in respect to the view and access amenities without any supporting rationalization that there is serious risk of personal liability. He added that he was not here to threaten anybody, just to make Council aware of unconstitutional actions, which is what they're alleging. He said that from his perspective as a lawyer, it is a hornet's nest for Gig

Harbor.

Councilmember Markovich pointed out that the ordinance says that the project is vested upon the completion of an permit application, and not upon its issuance. He asked why Mr. Stearns had not applied for a building permit at the time he applied for site plan approval. Mr. Groen answered that a building permit would not be accepted until the project had been through the site plan process. Councilmember Markovich said that was not the case, as had been demonstrated in the previous agenda item.

Carol Morris said that Mr. Groen was just plain wrong in his interpretation and there was no prohibition on application for a building permit at the same time as a site plan. She added that he also misinterpreted the cases he cited as examples. She said that state law allows for each city to come up with their own vesting doctrine and the City has one in place. Councilmember Picinich said he was concerned about the threatening remarks about how the property had been targeted, and asked Mr. Groen to go into further detail about what was meant by that comment. Mr. Groen said that there had been a zoning change made that targeted this property and the legislative process rather than an administrative process had been used to accomplish an administrative result, which is improper.

Carol Morris said that Mr. Oldfield represented Mr. Stearns at the time the Council considered the amendments to the zoning code, and that he had made comments at that time. She added that there is period after adoption of the ordinance that it can be appealed, and that no appeal had been made. She directed Mr. Groen to GHMC 15.06.05, the City's vesting ordinance, so he could understand the process.

Steve Osguthorpe said as with the other project, he would like the opportunity to amend language in the resolution to reflect Council's wishes, or Council could approve or deny the findings and conclusions this evening and the resolution would be brought back for final review at the next meeting.

**MOTION:** Move to approve Resolution 471, adopting the findings and conclusions of the Hearings Examiner in his report dated 5/19/96; SDP 95-12 denying the same with provision that the resolution be brought back again at the next meeting.  
Markovich/Platt -

Carol Morris asked that Councilmembers further elaborate on the motion for the findings and conclusions to be included in the resolution.

Councilmember Markovich said that there is a difference in legal opinions as to when things vest. He added that the ordinance provides for vesting upon application for a building permit, and as an application was not submitted in this case, there can be no vesting. On the other issue of intentional "spot zoning", he said that no one intended to prevent Mr. Stearns from enjoying the "fruits" of his

property ownership. He said that a process occurred to deal with the bulk and size of buildings and that those issues were of serious concerns to the citizens to preserve the character of the town. He said that this issue was dealt with by utilizing square footage limitations and that was done not only in the Waterfront Millville area, but also in other areas in the city, to prevent an out-of-character growth of large buildings in Gig Harbor. This was not done intentionally against Mr. Stearns or his project. If it had been a vested project, Council would be required to approve what was allowed under that code.

Councilmember Ekberg agreed with Councilmember Markovich, and added that as he was not an attorney, he had to rely on the City's legal counsel and staff on legal issues, and when the Hearing Examiner, Staff, and Legal Counsel all come to the same conclusion, it is satisfactory for his decision.

Councilmember Picinich said that the structure does not conform to the provisions of the municipal code in regards to the 3,500 square footage limitation.

The Mayor called for the question.

**RESTATED MOTION:** Move we approve Resolution 471 adopting the findings and conclusions of the Hearings Examiner in his report dated 5/19/96; SDP 95-12 denying the same with provision that the resolution be brought back again at the next meeting.  
Markovich/Platt - unanimously approved.

6. Award of Contract for Harborview/Stinson Repair. Wes Hill recommended that Council award the contract for pavement replacement at Harborview Drive and Stinson Avenue, damaged by a broken water line, to the low bidder, Tucci and Sons. He added that the work would be completed some time in June.

**MOTION:** Move to approve and award the execution of the contract for Pavement Replacement at Harborview Drive and Stinson Avenue to Tucci and Sons, Inc., in the amount of \$24,963.75.  
Picinich/Platt - unanimously approved.

7. Resolution - Sale of Surplus Equipment. Tom Enlow introduced this resolution to dispose of surplus equipment no longer of use to the City.

**MOTION:** Move we adopt Resolution No. 472 for the sale of surplus equipment.  
Picinich/Ekberg - unanimously approved.

8. Liquor License Renewal - WB Scott's Restaurant. No action taken.

**MAYOR'S REPORT: - Parking Issues.**



Mayor Wilbert talked about the parking concerns that have been coming to her over the past five years. She recommended a meeting on Monday, June 3rd, at City Hall to hear from the citizens and to give direction for the staff and City Council.

**COUNCIL COMMENTS:** None.

**STAFF REPORT:**

Chief Mitch Barker gave a report on the Explorers and how well they did at the Blue Mountain Challenge competition in Richland in April. He also invited Council and Staff to join in the Plane-pull at Ft. Lewis on June 1st, the proceeds to go to the Special Olympics. Councilmember Markovich said he attended a Kawanis meeting a couple of weeks ago where Officer Busey gave a presentation on the Explorers. He added that the City should be proud of the Explorers and the job that Officer Busey was doing with these young adults.

**ANNOUNCEMENT OF OTHER MEETINGS:**

1. Second Council Meeting for May - **Tuesday, May 28th** at 7:00 p.m. (*due to Memorial Day*)
2. Parking Issues - June 3rd, 7:00 p.m. at City Hall.

**APPROVAL OF BILLS:**

**MOTION:** Move approval of checks #15879 through #15965 in the amount of \$68,538.38.  
Platt/Ekberg - unanimously approved.

**APPROVAL OF PAYROLL:**

**MOTION:** Move approval of checks #12508 through #12625 in the amount of \$182,108.02.  
Platt/Ekberg - unanimously approved.

**EXECUTIVE SESSION:**

**MOTION:** Move to adjourn to Executive Session at 10:05 p.m. for approximately ten minutes to discuss claims.  
Platt/Ekberg - unanimously approved.

**MOTION:** Move to return to regular session at 10:15 p.m.  
Picinich/Platt - unanimously approved.

**MOTION:** Move to authorize Carol Morris to settle the John Braaten claim for \$1,500.  
Picinich/Ekberg - unanimously approved.

**ADJOURN:**

**MOTION:** Move to adjourn at 10:15 p.m.  
Platt/Ekberg - unanimously approved.

Cassette recorder utilized.  
Tape 424 Side A 227 - end.  
Tape 424 Side B 000 - end.  
Tape 425 - Both sides.  
Tape 426 - Both sides.  
Tape 427 - Side A 000 -031.

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Mayor

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City Administrator

**"BLESSING OF COMMERCIAL FISHING FLEET"  
(AND PLEASURE BOATS)**

**SPONSORED BY:**

**ST. NICHOLAS CATHOLIC CHURCH  
"KNIGHT OF COLUMBUS"  
COUNCIL #9238**

**"JERSICH PARK"  
COMMUNITY DOCK  
(ROSEDALE ST. & HARBORVIEW DR.)**

**SUNDAY, JUNE 2, 1996  
3:00 P.M.**

**PROCESSION STARTING AT ST. NICHOLAS CHURCH  
PARKING LOT; LEAD BY FATHER GARY WEISENBERGER,  
WITH FOURTH DEGREE HONOR GUARD; THE ICON "OUR  
LADY OF GUADALUPE" CARRIED BY BROTHER KNIGHTS  
AND DRUM AND BUGLE BAND; PROCEEDING TO JERSICH  
PARK COMMUNITY DOCK. FATHER GARY WILL BLESS THE  
COMMERCIAL FISHING AND PLEASURE BOATS AND LAY A  
PRAYER FLOWER WREATH FOR THE DECEASED FISHERMAN  
AND BOATER'S TAKEN BY THE SEA THIS LAST YEAR.**

***ALL OF GIG HARBOR  
COMMUNITY IS INVITED.***

**FOR MORE INFORMATION CALL:  
JOHN L. OLDHAM, GRAND KNIGHT  
858-8751**





*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: MAY 28, 1996**  
**SUBJECT: RESOLUTION NO. 470 APPROVING SPR 95-05**

**INTRODUCTION/BACKGROUND**

On May 13, 1996, the City Council approved the site plan for the Soundview Office Building at 5901 Soundview Drive. (David Fisher, SPR 95-05). A resolution reflecting the Council's action is attached for the Council's final approval.

**RECOMMENDATION**

The staff recommends approval of Resolution 470 as presented.

**CITY OF GIG HARBOR  
RESOLUTION NO. 470**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE FINDINGS, CONCLUSIONS AND DECISION OF THE CITY COUNCIL ON THE APPLICATION FOR SITE PLAN 95-05.

**WHEREAS**, GHMC Section 17.10 specifies procedures for the reviewing of site plans; and,

**WHEREAS**, the City Council is required bylaw to make findings, conclusions and a final decision on Site Plan application SPR 95-05; and,

**WHEREAS**, the City Council, during its regular meeting of May 13, 1996 reviewed the proposed site plan and the findings and recommendation of the Hearing Examiner as per GHMC Section 17.10.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Gig Harbor, Washington, as follows:

**Findings and Conclusions**

1. The applicant is David Fisher representing Rush Construction, Inc., and the subject property is located at 5901 Soundview Drive.
2. The applicanat requests site plan approval for a proposed office building of 37,860 square feet under Chapter 17.96 GHMC;
3. Current codes limit buildings to 5,000 square feet maximum per parcel.
4. The applicant submitted a complete building permit application on November 17, 1995 which was prior to adoption of current building size limitations and is therefore vested under codes in effect on November 17, 1995.
5. The Planning Department for the City of Gig Harbor has recommended conditional approval of the project, in a staff report dated February 21, 1996.
6. The City of Gig Harbor Hearing Examiner conducted a public hearing on the application on February 21, 1996.
7. The City of Gig Harbor Hearing Examiner has made specific findings and conclusions and has recommended conditional approval of said site plan in his report dated March 6, 1996.

8. A request for reconsideration dated March 15, 1996 from the Public Works Department to address health/safety issues related to the use of the right-of-way, was submitted to the Planning Department on March 18, 1996.

9. The Hearing Examiner considered the issues identified by the Public Works Department and made specific findings and conclusions in his reconsideration report dated April 10, 1996 and has revised his recommendation for approval to incorporate the conditions of approval as recommended by the Public Works Department.

10. The findings and conclusions of the Hearing Examiner in his report dated March 6, 1996 and April 10, 1996 are consistent with City codes and policies regulating site plan development at the time the building permit application was submitted.

### DECISION

The site plan (spr 95-05) is approved subject to the following conditions:

1. Prior to permit issuance, the applicant shall submit to the planning staff for review and approval a master sign plan which includes specifications on signage allocation among tenants, specific locations of signage, and which provides details on how each sign will be designed so as to provide unity to the project design as per GHMC Section 17.80.031(K).
2. Prior to installation of outdoor lighting, a lighting plan must be submitted to and approved by the Planning Staff consistent with GHMC Section 17.36.120.
3. Fire flow must be provided to within 150 feet of all portions of each building in accordance with the Section 10.401, and Table A-III-A-1, 1994 Uniform Fire Code. The building design must be modified to reflect the required auto-fire sprinkler system, One Hour Fire Resistive Construction and a 2 Hour Area Separation Wall with Protected Openings.
4. Fire hydrants must be provided to within 150 feet of all portions of each building in accordance with the Section 10.401, and Table A-III-B-1, 1994 Uniform Fire Code. The fire hydrant locations on the site plan do not reflect the requirement that a fire hydrant be located on the right side of the entrance to the site. The design must be revised to show the required fire hydrant on the right side of the entrance and within 150 feet of all portions of the building.
5. The building must be made accessible to the handicapped in accordance with the WA State Regulations for Making Buildings Accessible (Chapter 11, 1994 UBC as amended by the WA State Building Code Council). Van accessible parking stalls will be required

with an 18-foot stall width. An accessible walkway will be required from the public sidewalk to the entrance of the building.

6. A Knox Box must be installed to provide access to each building. Knox Box(s) must be ordered from Pierce Co. Fire District No. 5.
7. Additional pedestrian walks will be required to accommodate emergency egress from the building. The walkways may not be blocked by parking stalls.
8. Prior to permit issuance, an erosion and sediment control plan shall be submitted to and approved by the City's Public Works Department.
9. Prior to permit issuance, significant trees within the proposed buffer and perimeter landscape areas (both front and back) shall be retained. This will require preliminary identification of the building and parking pavement edge and installation of a protective barricade before major excavation begins. The barricade shall be retained and maintained in good condition during the entire construction phase, including major excavation and clearing, and shall not be removed until the parking area has been paved or until approved by the Planning Staff.
10. Prior to permit issuance, a final grading and utility plan shall be submitted to and approved by both the Planning Department and the Public Works Department. The plan shall specify how utilities will be extended through the driveways serving the site so as not to encroach into the perimeter landscaping areas, and shall verify that perimeter area landscaping can be retained as proposed and as required by code. To account for unforeseen topographic difficulties, the staff may administratively approve encroachments into the setback areas for required fill and retention, provided that encroachments do not exceed 20 percent of the proposed landscaped setback areas and do not involve loss of more than 20 percent of existing trees within the setback areas which are 6 inches in diameter or greater.
11. To assure minimal encroachment into the required perimeter landscaped area by driveways, two way driveways shall be limited to no more than 24 feet in width and one-way driveways shall be limited to no more than 15 feet in width.
12. The applicant shall construct half street improvements along the entire Soundview frontage of the subject property. Said half street improvements shall include a left turn lane, through lane, bike lane, transit pull-out, curb and gutter, sidewalks and transitions in accordance with the City's Public Works Standards and Pierce Transit requirements.
13. The proposed site plan shall be amended to eliminate dual driveway approach to Soundview Drive to ensure maximum available sight distance for entering traffic, and minimizing the grade change from the sidewalk to the parking area to facilitate ingress and egress.



14. The plan shall be modified to reduce or eliminate the excavation for the driveway approach to Soundview Drive to ensure maximum available sight distance for entering traffic, and minimizing the grade change from the sidewalk to the parking area to facilitate ingress and egress.
15. The applicant shall submit a storm drainage report prepared by a professional engineer for review and approval by the Department of Public Works.
16. Sewer and water services shall be installed in accordance with the City's Public Works standards.

**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 13th day of May, 1996.

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Gretchen A. Wilbert, Mayor

**ATTEST:**

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Mark E. Hoppen  
City Administrator/Clerk

Filed with City Clerk: 5/6/96  
Passed by City Council: 5/13/96





*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: May 28, 1996**  
**SUBJECT: Resolution Denying Arabella's Landing Expansion - SPR 95-12**

**INTRODUCTION/BACKGROUND**

Attached for the Council's consideration is a resolution reflecting the City Council's decision at the May 13, 1996 meeting to deny the site plan for the Arabella's Landing expansion proposal (SPR 95-12)

**RECOMMENDATION**

The staff believes that the resolution reflects the findings, conclusions and decision as stated by the Council and therefore recommends approval of the resolution as drafted.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE FINDINGS, CONCLUSIONS AND DECISION OF THE CITY COUNCIL ON THE APPLICATION FOR SITE PLAN REVIEW SPR 95-12 FOR GIG HARBOR MARINA INC. (ARABELLA'S LANDING).**

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WHEREAS, the City Council is required by law to make findings, conclusions and a final decision on Site Plan application SPR 95-12; and

WHEREAS, pursuant to Gig Harbor Municipal Code ("GHMC") Section 17.10.100(A)(2)(d), the Hearing Examiner makes a recommendation to the City Council on a site plan application, and the City Council makes the final decision; and

WHEREAS, pursuant to Gig Harbor Municipal Code 17.10.160, an applicant may appeal the Hearing Examiner's recommendation to the City Council;

WHEREAS, the City has received an appeal from the applicant (dated April 12, 1996), and the City Council shall also determine such appeal; now, therefore,

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

**FINDINGS OF FACT**

1. On November 13, 1996, applicant Gig Harbor Marina, Inc. submitted an application for site plan approval to the City in order to construct an office/retail building at 8215 Dorotich Street.
2. The applicant's property is located within the Waterfront Millville (WM) zoning designation.

3. On January 22, 1996, the Council adopted Ordinance No. 710, which amended the provisions in the Waterfront Millville zone, specifically GHMC Section 17.48.060. The pertinent amendment requires one waterfront and one water view opportunity per structure, in those situations where the applicant chooses the additional height option. In addition, GHMC Section 17.48.040 was revised in the same ordinance to limit the maximum gross floor area of structures to 3,500 square feet per lot.

4. The City is required to follow the procedures in Gig Harbor Municipal Code chapters 17.96 and 17.10 to review and approve site plan applications.

5. On February 9, 1996, the City determined that the site plan application was complete. No building permit was submitted for any of the structures depicted in the site plan.

6. **Staff Report.** The City staff prepared a report which described the project and the staff's recommendations on the project, dated March 20, 1996. In the staff report, the project described does not include one view opportunity for the structure, which is proposed to be approximately 24 feet in height. The proposed development includes a structure with 7,210 square feet of office/retail space, 520 square feet of restroom space, and 4,300 square feet of open public access. The Staff determined that: (1) the site plan application was not vested under the old codes because a fully complete building permit had not been submitted with the site plan application prior to amendment of the City's codes in March of 1996; and (2) this project did not comply with GHMC Section 17.48.040 (exceeds maximum gross floor area) and GHMC Section 17.48.060 (exceeds height limit and provides only one water view opportunity per structure) and recommended denial.

7. **Hearing Examiner.** On March 20, 1996, the Gig Harbor Hearing Examiner conducted a public hearing on the site plan application. The Examiner's findings and conclusions are dated April 5, 1995, and are specifically incorporated herein by this reference as if fully set forth.

8. **Appeal.** On April 12, 1996, the City received a timely appeal from the applicant. The basis for the appeal was stated as: "the hearing examiner interpreted applicable provisions of the Gig Harbor Municipal Code incorrectly, and failed to apply that code properly to material facts."

9. **City Council.** On May 13, 1996, the City Council considered the Hearing Examiner's recommendation on this site plan application, as well as the applicant's appeal, during the Council's regular public meeting.

10. **Exhibits.** The following exhibits were received by the Council at the May 13, 1996 meeting:

A. Gig Harbor Community Development Department Staff Report on SPR-95-12, dated March 20, 1996;

B. Draft City of Gig Harbor Resolution;

C. Hearing Examiner's Findings Conclusions and Recommendation on Case No. SPR 95-12, dated April 5, 1996;

D. Copies of site plan entitled "Arabella's Landing," received by the City November 13, 1995;

E. Notice of Appeal of the Hearing Examiner Decision from Stanley D. Stearns, dated April 12, 1996.

11. **Proceedings at City Council Meeting.** The Mayor identified the application to be considered by the Council, and asked whether the Councilmembers had any ex parte communications or appearance of fairness issues to disclose. There was no response. The Mayor then asked whether any member of the public wished to challenge any member of the Council on the grounds of appearance of fairness, and there was no response. The applicant/appellant was sworn to tell the truth in their testimony. The Mayor then informed the public that the Council's consideration of the application and appeal would be on the record before the hearing Examiner, and there would be no new testimony presented. The applicant/appellant, Stanley Stearns identified himself, and his attorney, John Groen, identified himself.

12. **Staff Presentation.** Planner Steve Osguthorpe briefly explained the proposal. He pointed out that unlike the applicant's previous applications to the City, this site plan did not include a yacht club, and therefore, there was no need for a variance from the parking requirements.

Mr. Osguthorpe noted that the Hearing Examiner recommended denial because the application did not conform to the City's codes, and because it was not vested under the previous code provisions, could not be reviewed for conformance with any other codes.

An additional issue was raised by the applicant who contends that four and one half lots are involved in the application. The hearing examiner found that if there are four and one half lots, and four structures, then the structures must meet the setback requirements on each lot. Finally, because the application was submitted prior to the City's adoption of new permit processing procedures in March, 1996, and review was initiated under the City's processing procedures in effect in February of 1996, these procedures were followed throughout the review and appeal process. 1 3 .

**Appellant's Testimony.** Mr. Groen presented testimony for the applicant. He identified two legal issues to be determined by the City Council: (1) vesting; and (2) lot definition.

Mr. Groen did not agree with the hearing examiner's decision that this project is not vested. He stated that a developer receives a vested right to have an application evaluated under the zoning designations in place when a building permit is submitted. According to Mr. Groen, vesting is also allowed in other situations.

He argued that the West Main case was applicable to this situation. Specifically, Mr. Groen claimed that Gig Harbor Municipal Code Section 17.48.050 does not allow an applicant to obtain a building permit, and the applicant cannot control the ability to vest at a certain time. He stated his belief that this particular section would not allow an applicant to become vested with a building permit application until the applicant goes through the site plan process. Therefore, he felt that the City's procedure is similar to West Main.

According to Mr. Groen, the Erickson case is different because the City of Seattle had a specific ordinance which provided how to become vested. An applicant could apply for a building permit as part of other applications. Further, the City of Seattle never precluded filing for a building permit application.

Mr. Groen noted that before the City Council's consideration of this application this evening, the City Council had considered another application, which were reviewed under the regulations in effect at the time the application was submitted. He asked the Council for the same treatment that everyone else is receiving.

With regard to the lots, he argued that the application is in compliance with the code requirements. He felt that the application of the square footage limitation was an illegal "spot zone"



and unconstitutional. Mr. Groen further argued that the view and access requirements are a clear violation of constitutional law, citing Nolan v. California Coastal Commission and Dolan v. Tigard. He felt that the City was imposing the view and access requirements on this application as a condition of development, and therefore similar to the facts in Nolan and Dolan.

14. **Councilmembers' Questions.** Councilmember Markovich asked Mr. Groen whether he thought that the building permit would vest upon completion of application, and not upon issuance. He further asked why Mr. Stearns did not apply for a building permit at the time he applied for a site plan. Mr. Groen responded that it would not be accepted.

Councilmember Markovich pointed out to Mr. Groen that the applications considered by the Council before this site plan application this evening were reviewed by the City under the codes in effect at the time that the applications were received because they submitted a building permit application at the same time. (These were the application of Fisher for Rush Construction, SPR 95-05, and the application Philpot SDP 95-06.) Mr. Groen stated that he was "not worried about what [the Council] is doing with some other project."

Councilmember Markovich asked the City Attorney for her interpretation of the City's code provisions. The City Attorney read GHMC Section 17.96.020 into the record. She explained that this section does not prohibit a person from applying for a building permit at the same time that the person submits an application for a site plan. According to the City Attorney, there is absolutely no prohibition on the submission of a building permit at the same time as a site plan in the City's code.

This is also the fatal defect in Mr. Groen's comparison with the City's procedures and the City of Bellevue's in West Main. State law allows the City to adopt its own vesting doctrine, and the City has done so in GHMC Section 15.06.050.

Councilmember Picinich asked Mr. Groen about his statement mentioning "targeted park property," and asked him to further explain. Mr. Groen stated that the record speaks for itself, the situation is one where the zoning is changed to prevent particular projects, i.e., this particular project. Mr. Groen argued that the City used the legislative process to accomplish an administrative result, and this is improper.

The City Attorney pointed out that Tom Oldfield represented Mr. Stearns and appeared before the Council at the time the City was considering the amendments to the code, and Mr. Oldfield made his comments at that time. She pointed out that the ordinance was appealable, but no appeal was made. Mr. Groen stated that the facial claim was an uphill battle, and so this appeal was made "as applied."

The City Attorney pointed out to the City Council that GHMC Section 15.06.050, which is the City's vesting ordinance, relates to building permits only. Steve Osguthorpe, planner, requested that the City Council make its decision subject to the staff's preparation of a new resolution, and that the City Council not adopt the draft resolution contained in the Council packet.

### **FINDINGS AND CONCLUSIONS**

15. **Site Plan Approval Criteria.** The Hearing Examiner's recommendation to the City Council on a site plan application must demonstrate:

- a. Compatibility with the City's comprehensive plan;
- b. Compatibility with the surrounding buildings' occupancy and use factors; and
- c. All relevant statutory codes, regulations, ordinances and compliance with same.

GHMC Section 17.96.030. The Examiner recommended denial of the site plan because it did not meet the requirements in (b) and (c) above. (Examiner's recommendation of April 5, 1996, p. 10-11.)

16. **Relevant Legal Authority Cited by the Parties.**

**GHMC Section 17.48.050 Site Plans.** Before a building permit will be issued in a WM zone, the site plan review process specified in Chapter 17.96 GHMC shall be followed. . . .

**GHMC Section 17.96.020 Applicability.** A. Site plan review and approval shall be required prior to issuance of a building permit when provided under this chapter. . . .

**GHMC Section 15.06.050.** . . .

106.3.1 Application. A. A valid and fully complete building permit application for a structure that is permitted under the zoning or other land use control ordinance in effect on the date of the application shall be considered under Title 15 of the Gig Harbor Municipal Code in effect at the time of application and the zoning or other land use control ordinances in effect on the date of application. . . .

**GHMC Section 17.48.070. Height.** A. Structures shall not exceed 16 feet in height. Additional height increase of up to eight feet maximum may be permitted for each structure if one additional waterview and one access opportunity are provided per structure per lot and the following criteria are met: . . .

Quote from West Main Assocs. v. Bellevue, 106 Wn.2d 47, 720 P.2d 782 (1986):

The Washington [vesting] doctrine protects developers who file a building permit application that (1) is sufficiently complete, (2) complies with existing zoning ordinances and building codes, and (3) is filed during the effective period of the zoning ordinances under which the developer seeks to develop.

106 Wn.2d at 51.

[T]he City of Bellevue added two sections to its building code by enacting ordinance No. 3359. The ordinance prohibited the filing of

a building permit application for any proposed project in Bellevue until all of the following procedures are complete: (1) administrative design review approval; (2) site plan review approval; (3) administrative conditional use approval; (4) modification of landscaping approval; (5) design review approval by the planning commission; (6) passage by the city council of any necessary ordinance approving a conditional use, shoreline conditional use, planned unit development or planned residential development; (7) approval by the board of adjustment of a variance or shoreline variance; and (8) issuance of a shorelines substantial development permit. The ordinance specifically provided that if any appeal were taken with respect to the first four of these approvals, no building permit application would be accepted until the appeal was finally resolved. The ordinance also provided that the filing of applications for any of these preliminary approvals would not vest rights; development rights would be vested only as of the time a building permit application was filed.

106 Wn.2d at 49.

The vesting rule of the Bellevue ordinance does not meet the due process standards of the Fourteenth Amendment. . . . The City denies a developer the ability to vest rights until after a series of permits is obtained. The ordinance thus is unduly oppressive upon individuals. . . . The City delays the vesting point until well after a developer first applies for City approval of a project, and reserves for itself the almost unfettered ability to change its ordinances in response to a developer's proposals. . . .

106 Wn.2d at 53.

Quotes from Erickson & Associates v. McLerran, 123 Wn.2d 864 (1994).

Under the City[s] ordinance, . . . a development project vests (1) when a developer submits a complete building permit application, or (2) when the City earlier issues a master use permit without a building permit application.

123 Wn.2d at 866.

Under [Seattle's ordinance] the vesting point for a MUP application is controllable by a developer, and, in all instances, vesting occurs no later than the building permit application stage. At any point in the MUP review process a developer can file a complete building permit

application. The developer's rights then vest and the City must process the proposed project under the then existing land use and construction ordinances.

123 Wn.2d at 870.

17. **Motion by City Council.** Councilmember Markovich moved for the passage of a resolution No. 471, which adopts the findings, conclusions and recommendations of the Hearing Examiner's of April 5, 1996, denying SPR 95-12, with the provision that a resolution incorporating the City Council's decision be brought back to the City Council for approval at the next City Council meeting. This motion was seconded by Councilmember Platt.

18. **Council Discussion.** Councilmember Markovich stated that there obviously is a serious difference of opinion as to the legal issue as to vesting. However, he noted that the City Attorney's interpretation of this issue was consistent with his own. Notably, no building permit application was submitted at the same time as the site plan application, and as a consequence, there could be no vesting.

The other issue is whether or not there is an "intentional spot zone" to prevent Mr. Stearns from enjoying the fruits of his own property ownership. Councilmember Markovich stated that he never intended that to occur, and he reminded the Council that they reviewed the problem of bulk and size of buildings, and that those particular issues were of serious concern to the Council in preserving the character of the Gig Harbor community. He further stated that the Council chose to deal with these issues through limiting square footage, and that this method was employed not only in the Waterfront Millville zone, but also in other areas and other zones in Gig Harbor. This method was even used to limit the size of buildings in the City's commercial area to those significantly smaller than what currently exists in the commercial areas. In Councilmember Markovich's opinion,

this was done in order to prevent a structure which was out of character, large in bulk and size, in Gig Harbor.

Furthermore, none of this was done intentionally against Mr. Stearns or his project, and Councilmember Markovich complimented him on the existing marina. The problem was simply that a building permit was not submitted, and Councilmember Markovich described the situation with regard to the applications previously considered by the Council, in which the Council was required to acknowledge the applicant's vested status.

Councilmember Ekberg agreed with Councilmember Markovich, and further stated that he would accept the recommendation of the City Attorney and staff on the legal issues. Councilmember Picinich noted that the application did not conform to the code requirements for the view access opportunities, and that the square footage of the proposed structure also did not conform to code.

### DECISION

The City Council renders the following decision on application SPR 95-12: Denied.

RESOLVED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 1996.

APPROVED:

\_\_\_\_\_  
MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
CITY ADMINISTRATOR, MARK HOPPEN

APPROVED AS TO FORM;  
OFFICE OF THE CITY ATTORNEY:

BY: \_\_\_\_\_

FILED WITH THE CITY CLERK: 5/23/96  
PASSED BY THE CITY COUNCIL:  
RESOLUTION NO. \_\_\_\_\_








*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:  Ray Gilmore, Director, Planning-Building Department**  
**DATE: May 8, 1996**  
**SUBJECT: Proposed Amendments to City Environmental Policy Ordinance**

### **INTRODUCTION**

In 1995 the state adopted the Regulatory Reform Act. Several changes were also made to the State Environmental Policy Act which integrate with the Regulatory Reform Act. The City adopted Title 19, which is a new administrative procedures for permit processing and which reflects the requirements of the Regulatory Reform Act. The proposed changes to the City's SEPA ordinance implement the required changes for consistency with state law.

### **POLICY ISSUES**

The proposed changes do not amend current policy but serve to update the City's codes in compliance with state requirements.

### **FISCAL IMPACT**

There will not be any fiscal impact from the adoption of the proposed ordinance

### **RECOMMENDATION**

This is the first reading of the ordinance. The second reading and adoption is proposed for the May 28th meeting.

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

AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO THE CITY'S ENVIRONMENTAL POLICY ORDINANCE AND ADMINISTRATIVE PROCEDURES UNDER THE STATE ENVIRONMENTAL POLICY ACT (SEPA); AMENDING SECTIONS 18.04.020; 18.04.070; 18.04.090; 18.04.115; 18.04.120; 18.04.140; 18.04.160; 18.04.230; 18.04.240; 18.04.250; 18.04.260; 18.04.270; 18.04.280 AND 18.04.290; AND REPEALING SECTION 18.04.220 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, Title 19 of the GHMC was adopted in January of 1996 in compliance with the regulatory reform act of 1995; and,

WHEREAS, Title 18 of the Gig Harbor Municipal Code requires updating for compliance with Title 19 GHMC, Chapter 43.21C and WAC 197-11; and,

WHEREAS, Title 18 requires updating as several comprehensive plan and City code revisions have been adopted since the last major update of Title 18.

THE CITY COUNCIL OF THE CITY OF GIG HARBOR DO ORDAIN AS FOLLOWS

Section 1. Section 18.04.020 is amended as follows:

The city adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

- 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-055 Timing of SEPA process.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations on actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.
- 197-11-225 Purpose, policy applicability and definitions
- 197-11-228 Overall Integration Procedures
- 197-11-230 Timing of an integrated GMA/SEPA process
- 197-11-232 Integration procedures for preliminary planning, environmental analysis and expanded scoping
- 197-11-235 Integrating documents

Section 2. Section 18.04.070 is amended as follows:

\* \* \*

1. The city will normally complete threshold determinations for proposals that can be based solely upon review of the environmental checklist for the proposal within 15 fourteen (14) days of the determination of a complete application, in accordance with Title 19 of the GHMC, date an applicant's adequate application and completed checklist are submitted.

2. When the responsible official requires further information from the applicant or consults with other agencies with jurisdiction:

a. The city will normally request such further information within twenty-eight 28 days of receiving an adequate application, and completed environmental checklist,

b. The city will normally wait no longer than 15 days for a consulted agency to respond;

c. The responsible official ~~will normally complete the~~ shall issue a threshold determination ~~within at least~~ 15 days of receiving the requested information from the applicant or the consulted agency prior to a public hearing on a proposal, if a public hearing is required. If a public hearing is not required, a threshold determination shall not issue until the public comment period on a notice of application has expired.

3. When the city must initiate further studies, including field investigations, to obtain the information to make the threshold determination, the city will normally complete the studies within 30 days of receiving an adequate complete application and a completed checklist.

~~4. The city will normally complete threshold determinations on actions where the applicant recommends in writing that an EIS be prepared, because of the probable significant adverse environmental impacts described in the application, within 15 days of receiving an adequate complete application and completed checklist.~~

~~4.5.~~ The responsible official will normally respond to a request for early notice within 10 days. The threshold determination will normally be made within 15 days of receipt of the changed or clarified proposal, environmental checklist and/or permit application.

Section 3. Section 18.04.090 is amended as follows:

Categorical exemptions - Determination.

A. When the city receives an application for a license, permit, or, in the case of governmental proposals, a department initiates a proposal, the responsible official shall determine whether the license and/or the proposal is exempt from environmental review under this chapter. The determination that a proposal is exempt shall be final and not subject to administrative review appeal. If a proposal is exempt, none of the procedural requirements of this chapter shall apply to the proposal.

B. In determining whether or not a proposal is exempt, the responsible official shall make certain the proposal is properly defined and shall identify the governmental license or permit required. If a proposal includes exempt and nonexempt actions, the responsible official shall determine the lead agency even if the license application that triggers the consideration is exempt.

\* \* \*

4. A planned action as defined in RCW 43.21C.031(2) does not require a threshold determination or the preparation of an environmental impact statement under this chapter, but is subject to environmental review and mitigation as provided in this chapter.

Section 4. Section 18.04.115 is amended as follows:

Completed environmental checklist defined.

A. An environmental checklist is deemed completed when the following information is provided:

1. All information as requested in the checklist is provided, including complete responses to all questions in the checklist.
2. All plans and illustrations as required per the applicable city code are submitted with the environmental checklist.
3. The required number of copies of the checklist and associated plans and illustrations are submitted, as per the applicable city code.
4. Checklist is properly signed and dated.
5. All applicable fees as established in the City's fee schedule are paid.

B. Incomplete or inaccurate responses to the questions within the checklist shall be grounds for reserving a threshold determination on a proposal, including the scheduling of any public hearings as may be required, until such time as the information is provided by the applicant. Any period during which an applicant has been requested by the city to correct plans, perform required studies or provide additional required information shall not be included in the 120 day project permit processing time.

Section 5. Section 18.04.120 is amended as follows:

\* \* \*

F. Any non-exempt permit or proposal may be conditioned or denied under SEPA, subject to the limitations in WAC 197-11-660 and GHMC 18.04.210.

G.F. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the licensing decision and may be enforced in the same manner as any term or condition of the permit or enforced in any matter specifically prescribed by the city. Failure to comply with the designated mitigation measures shall be grounds for suspension and/or revocation of any license issued.

H.G. If the city's tentative decision on a permit or approval does not include mitigation measures that were incorporated in mitigated DNS for the proposal, the city should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) relating to the withdrawal of a DNS.

L.H. The city's written response under subsection (C) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarification or changes to a proposal, as opposed to a written request for early notice, shall not bind the city to consider the clarifications or changes in its threshold determination.

\* \* \*

Section 6. Section 18.04.140 is amended as follows:

\* \* \*

B. The draft and final EIS and SEIS shall be prepared, at the city's option by the city staff, the applicant or by a consultant approved by the city. If the responsible official requires an EIS for a proposal and determines that someone other than the city will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the city's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution. The fee for the preparation of a draft and final EIS shall be as established under Chapter 3.30 of the GHMC.

\* \* \*

Section 7. Section 18.04.160 is amended as follows:

\* \* \*

B. Type of Notice. Under subsection (A) of this section, notice will be given as follows:

1. Posting the site of the proposed action ~~and at Gig Harbor City Hall,~~
2. SEPA register;
3. Publication in the official newspaper for the city of Gig Harbor.

C. Public Hearing. Whenever a public hearing is held notice shall be given. Such notice shall precede the hearing by at least ~~at least~~ 15 days.

D. Type of Notice. Under subsection (C) of this section, notice will be given as follows:

1. Posting on or near the property for site specific proposals or publication in the official newspaper of the city of Gig Harbor for site specific proposals;
2. Mailing to property owners within 300 feet for site specific proposals;
- ~~3. Publication in the official newspaper of the city of Gig Harbor;~~
- ~~4. Other methods as deemed necessary and appropriate by the responsible official, provided that a public hearing on a nonproject proposal must be preceded by written, published notice in accordance with WAC 197-11-502(6)(b) at least 10 days prior to the hearing.~~

\* \* \*

Section 8. Section 18.04.220 is amended as follows:

\* \* \*

B. The city adopts by reference the policies in the following city codes, ordinances, resolutions and plans, as now existing or hereinafter amended, as a possible basis for the exercise of substantive authority in the conditioning or denying of proposals.

1. Chapter 43.21C RCW - State Environmental Policy Act.
2. Title 5 - Business Licenses and Regulations.
3. Title 6 - Animals.
4. Title 8 - Health and Safety.
5. Title 10 - Vehicles and Traffic.

6. Title 12 - Streets and Sidewalks.
7. Title 13 - Water and Sewers.
8. Title 15 - Buildings and Construction.
9. Title 16 - Subdivision.
10. Title 17 - Zoning.
11. The City of Gig Harbor Comprehensive Plan, 1986
12. The City of Gig Harbor Shoreline Master Program.
13. Six-Year Street Program.
14. Comprehensive Water Plan (1986)
15. Comprehensive Sewer Plan
16. Traffic Impact Resolution , Council Resolution No. 311
17. Chapter 18.08 - Wetlands Management Ordinance
18. Chapter 18.12 - Critical Areas Ordinance
19. City of Gig Harbor Public Works Standards

Section 9. Section 18.04.230 is amended as follows:

18.04.230 Appeals.

A. ~~Any interested person may appeal the adequacy of a final threshold determination, final EIS and the conditioning or denial of a requested action made by a nonelected city official pursuant to the procedures set forth in this section. No other SEPA appeal shall be allowed.~~ Appeal on SEPA procedures shall be limited to review of a final threshold determination and final EIS. The appeal on a final threshold determination may occur prior to an agency's final decision on a proposed action.

B. All appeals filed pursuant to this section must be filed in writing with the planning director within 10 calendar days of the date of the decision appealed from.

C. On receipt of a timely written notice of appeal, the planning director shall transmit said appeal to the ~~appropriate hearing examiner or city council body,~~ and request that a date for considering the appeal be established. Appeals shall be considered as follows:

1. Procedural Determinations. Appeals of the final threshold determination and a final environmental impact statement shall be made to the city hearing examiner pursuant to the provisions of Chapter 17.10 GHMC. The date of the hearing on the appeal shall be the same as that date established for any underlying Type III permit application. For a determination of significance (DS), the date of the hearing shall be as established by the planning director but in no case shall be more than forty-five (45) days from the date of filing of the appeal. The hearing examiner's decision on these matters is final unless an appeal is filed with the superior court pursuant to subsection H of this section ~~section 19.06.006.~~

\* \* \*

H. The time limitations and procedures for judicial appeals of administrative decisions shall be as set forth in WAC 197-11-680(4) and Title 19 of the GHMC, which is adopted by reference in this section. Only an aggrieved party may file an appeal in accordance with the procedures established under Title 19 of the GHMC.

Section 10. Section 18.04.240 is amended as follows:

18.04.240 Notice/statute of limitations.

A. The city, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

~~B. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the city clerk, applicant or proponent pursuant to RCW 43.21C.080.~~

Section 11. Section 18.04.250 is amended as follows:

18.04.250 Definitions - Adoption by reference.

The city adopts the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, by reference, as supplemented in this chapter:

- 197-11-700 Definitions.
- 197-11-702 Act.
- 197-11-704 Action.
- 197-11-706 Addendum.
- 197-11-708 Adoption.
- 197-11-710 Affected tribe.
- 197-11-712 Affecting.
- 197-11-714 Agency.
- 197-11-716 Applicant.
- 197-11-718 Built environment.
- 197-11-720 Categorical exemption.
- 197-11-722 Consolidated appeal.
- 197-11-724 Consulted agency.
- 197-11-726 Cost-benefit analysis.
- 197-11-728 County/city.
- 197-11-730 Decision maker.
- 197-11-732 Department.
- 197-11-734 Determination of nonsignificance (DNS).
- 197-11-736 Determination of significance (DS).
- 197-11-738 EIS.
- 197-11-740 Environment.
- 197-11-742 Environmental checklist.
- 197-11-744 Environmental document.
- 197-11-746 Environmental review.
- ~~197-11-748 Environmentally sensitive areas~~
- 197-11-750 Expanded scoping.
- 197-11-752 Impacts.
- 197-11-754 Incorporation by reference.
- 197-11-756 Lands covered by water
- 197-11-758 Lead agency.

197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
197-11-776	Phased review.
197-11-778	Preparation.
197-11-780	Private project.
197-11-782	Probable.
197-11-784	Proposal.
197-11-786	Reasonable alternative.
197-11-788	Responsible official.
197-11-790	SEPA.
197-11-792	Scope.
197-11-793	Scoping.
197-11-794	Significant.
197-11-796	State agency.
197-11-797	Threshold determination.
197-11-799	Underlying governmental action.

**Section 12.** Section 18.04.260 is amended as follows:

**Compliance with SEPA - Adoption by reference.**

The city adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference, as supplemented in this chapter:

197-11-900	Purpose of this part.
197-11-902	Agency SEPA policies.
<u>197-11-908</u>	<u>Critical areas</u>
197-11-916	Application to ongoing actions.
197-11-920	Agencies with environmental expertise.
197-11-922	Lead agency rules.
197-11-924	Determination the lead agency.
197-11-926	Lead agency for governmental proposals.
197-11-928	Lead agency for public and private proposals.
197-11-930	Lead agency for private projects with one agency with jurisdiction.
197-11-932	Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
197-11-934	Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
197-11-936	Lead agency for private projects requiring licenses from more than one state agency.



- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.

Section 13. Section 18.04.270 is amended as follows:

~~Environmentally sensitive~~ Critical areas.

The following are adopted as ~~environmentally sensitive~~ critical areas, in accordance with WAC 197-11-908:

A. Wetlands identified and defined pursuant to the City of Gig Harbor Wetland Management Ordinance, Chapter 18.08 of the GHMC.

- ~~1. The Pierce County wetland atlas, 1990;~~
- ~~2. The United States Fish and Wildlife Wetland Inventory Maps for the Gig Harbor Peninsula, 1987;~~
- ~~3. The United States Department of Agriculture Soil Survey for Pierce County (1982);~~
- ~~4. The criteria for wetlands delineation as established pursuant to Chapter 18.08 GHMC.~~

Section 14. Section 18.04.280 is amended as follows:

Fees.

The city shall require the following fees as provided for under Chapter 3.30 of the GHMC for its activities in accordance with the provisions of this chapter.:

~~A. Threshold Determination. For every environmental checklist the city will review when it is lead agency, the city shall collect a fee of \$40.00 from the proponent of the proposal prior to undertaking the threshold determination. This fee shall not apply if the checklist is required only as a result of GHMC 18.04.040. The time periods provided by this chapter for making a threshold determination shall not begin to run until payment of fees. When the city assists the applicant or completes the environmental checklist at the applicant's request or under GHMC 18.04.110(E) an additional fee equal to the estimated actual cost of providing the assistance shall be collected.~~

~~B. Environmental Impact Statement.~~

~~1. When the city is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the city, the city may charge and collect a reasonable fee from any applicant to cover costs incurred, including overhead, by the city in preparing the EIS. The responsible official shall advise the applicant of the projected costs for the EIS prior to actual preparation.~~

~~2. The responsible official may determine that the city will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the city and may bill such costs and expenses directly to the~~

applicant. Such consultants shall be selected by the city:

~~3. The applicant shall pay the projected amount to the city prior to commencing work. The city will refund the excess, if any, at the completion of the EIS. If the city's costs exceed the projected costs, the applicant shall immediately pay the excess. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subparagraphs (1) or (2) of this subsection which remain after incurred costs, including overhead, are paid.~~

~~C. The city may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal.~~

~~D. The city may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by Chapter 42.17 RCW.~~

~~E. If review of the application involves scientific, technical or specialized knowledge beyond the capabilities of city staff, the city may hire experts to review the application and shall charge the applicant for such expense.~~

Section 15. Section 18.04.290 is amended as follows:

Forms - Adoption by reference.

The city adopts the following forms and sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

- 197-11-960 Environmental checklist.
- 197-11-965 Adoption notice.
- 197-11-970 Determination of nonsignificance (DNS).
- 197-11-980 Determination of significance and scoping notice (DS).
- 197-11-985 Notice of assumption of lead agency status.
- ~~197-11-990 Notice of action.~~

Section 16. Section 18.04.210 is hereby repealed.

Section 17. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 18. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

APPROVED:

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

ATTEST/AUTHENTICATED:

CITY 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:





*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: ACCEPTANCE OF WATER FRANCHISE #3**  
**DATE: MAY 15, 1996**

### **INFORMATION/BACKGROUND**

In order to place utility lines in Pierce County easements within our service areas, the City of Gig Harbor requires formal Pierce County authorization. This authorization is granted in the form of a 25 year "franchise agreement", a contract between the city and county which defines the city's rights and obligations in the utilization of county easements. The particular franchise agreement for approval, Supplemental [water] Franchise #3, defines the remainder of county area not within the city's previous *water* franchises that lies within the city's future water service areas.

The city already possesses sewer franchises from Pierce County that cover the entire UGA.

### **POLICY CONSIDERATION**

Previous water franchises were not adequate to include the entire defined service area for the city. With the additions of the Fire District #5 and Torrens water extensions along Bujacich Drive and Sehmel Road, it was necessary to add to the city's franchised area for water. It made little sense to piece these additions onto the city's service area, so one comprehensive addition was submitted that covers the entire future service area. In some places the franchise covers a little more area than the service area or the the UGA boundary. The city is prohibited from extending beyond both boundaries except in limited emergency situations. The discrepancy between the city's water boundaries and the attached franchise map is strictly due to mapping convenience (i.e. the most convenient parcel-related boundary description).

Public Hearings on this franchise have already been held by Pierce County. This franchise is presented to Council for contractual approval.

### **FISCAL CONSIDERATIONS**

The city will be billed by Pierce County for publication charges for the Notice of Public Hearing and recording fees pertaining to this franchise.

### **RECOMMENDATION**

The language in the franchise is oriented toward protecting the interests of Pierce County, but this language is standard franchise language for Pierce County, and is the only language we will be offered. Staff recommends signing the agreement as presented. The window for acceptance of this agreement is limited to 30 days from May 18, 1996.

1 FILE NO. 81

PROPOSAL NO. 96-28

2  
3 Sponsored By: Councilmember Ken Madsen

4 Requested By: County Executive/Public Works & Utilities Department

5  
6 ORDINANCE NO. 96-28

7 AN ORDINANCE OF THE PIERCE COUNTY COUNCIL GRANTING SUPPLEMENTAL  
8 FRANCHISE NO. 3 TO THE CITY OF GIG HARBOR, A MUNICIPAL  
9 CORPORATION, FOR LOCATION OF WATER PIPELINES ON CERTAIN  
10 COUNTY RIGHTS-OF-WAY; AND AUTHORIZING THE COUNTY  
11 EXECUTIVE TO EXECUTE SAID FRANCHISE AGREEMENT.

12 WHEREAS, the City of Gig Harbor, a municipal corporation, State  
13 of Washington, has applied for non-exclusive Supplemental Franchise  
14 No. 3 to construct, operate, and maintain a water pipeline system in,  
15 upon, across, under, along, and over certain County roads, highways,  
16 and other County properties in Pierce County, Washington, as  
17 hereinafter set forth; and

18 WHEREAS, said application came on regularly for hearing before  
19 the Pierce County Council on the date set forth below under the  
20 provisions of Chapter 36.55 State of Session Laws of 1937; and

21  
22 WHEREAS, it appears to the Council that notice of said hearing  
23 has been duly given as required by law and that it is in the public  
24 interest to grant Supplemental Franchise No. 3; NOW, THEREFORE,  
25  
26  
27  
28

2

3 BE IT ORDAINED by the Council of Pierce County;

4

5 Section 1. Supplemental Franchise No. 3, a copy of which is  
6 attached hereto and identified as Exhibit "A", and by reference  
7 incorporated herein, is hereby given and granted to the City of Gig  
8 Harbor, a municipal corporation, State of Washington, hereinafter  
9 referred to as the Grantee, to construct, operate, and maintain a  
10 water pipeline system in, across, under, upon, along, and over those  
11 certain County roads, highways, and County property in Pierce County,  
12 Washington, described in said Supplemental Franchise No. 3.

13

14 Section 2. Supplemental Franchise No. 3 is granted for 25 years  
15 from and after March 22, 1977, the date of the granting of the  
16 original Franchise to Grantee.

17

18 Section 3. This Supplemental Franchise No. 3 is granted on the  
19 express condition that Pierce County may unilaterally at any time  
20 upon ninety days written notice to the Grantee change, amend, modify,  
21 or amplify this Supplemental Franchise to conform to any state  
22 statute, order of the Washington Utilities and Transportation  
23 Commission, or County regulation, ordinance, or right-of-way  
24 regulation, as may hereafter be enacted, adopted, or promulgated, and  
25 this Franchise may be terminated at any time if the Grantee fails to  
26 comply with such change, amendment, modification, or amplification.

27

28

1 ORDINANCE NO. 96-28 (Con't)

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Section 4. The Executive of Pierce County is hereby authorized to execute said Supplemental Franchise No. 3 agreement.

PASSED this 7<sup>th</sup> day of May, 1996.

ATTEST:

PIERCE COUNTY COUNCIL  
Pierce County, Washington

Lee Rainwater  
Clerk of the Council

Scott W. Wason  
Council Chair

Approved as to Form Only:

PIERCE COUNTY EXECUTIVE

William Chen  
Deputy Prosecuting Attorney

Scott W. Wason  
Approved  Vetoed  this  
8 day of May 1996.

Date of Publication of Notice of Public Hearing: April 24 & May 1, 1996

Effective Date of Ordinance: May 18, 1996



1 Exhibit "A" to Ordinance No. 96-28

2	In the Matter of the Application of	)	
	the CITY OF GIG HARBOR, A MUNICIPAL	)	
3	CORPORATION, for a Supplemental Franchise	)	EXHIBIT "A"
	to construct, maintain, and operate	)	
4	water pipelines upon, in,	)	SUPPLEMENTAL
	over, along, under, and across	)	
5	certain public streets, roads, and	)	Franchise
	highways and any and all bridges	)	
6	thereon in Pierce County, Washington.	)	NUMBER 3

7

8 Application of the CITY OF GIG HARBOR, A MUNICIPAL  
9 CORPORATION, organized and existing under and by virtue of the  
10 Laws of the State of Washington, for Supplemental Franchise No. 3  
11 to that certain Franchise heretofore granted to the CITY OF GIG  
12 HARBOR, A MUNICIPAL CORPORATION, bearing File No. 81, having come  
13 on regularly for hearing before the Council of Pierce County,  
14 Washington, under the provisions of Chapter 36.55, State Session  
15 Laws of 1937, and it appearing to the Council that Notice of said  
16 hearing has been duly given as required by law, and that it is in  
17 the public interest to supplement said Franchise dated the 22nd  
18 day of March 1977, by granting authority to construct, operate,  
19 and maintain water pipelines for the purpose of maintaining and  
20 operating a water pipeline system upon, in, over, under, across,  
21 and along public roads and highways in Pierce County, Washington.

22 NOW, THEREFORE, IT IS ORDERED that the Franchise granted to  
23 the CITY OF GIG HARBOR, A MUNICIPAL CORPORATION, of the State of  
24 Washington and doing business in the State of Washington, on the  
25 22nd day of March 1977 bearing File No. 81, is hereby  
26 supplemented to add thereto certain additional County roads and  
27 highways, and other County property, and by such supplement give  
28 and grant unto the CITY OF GIG HARBOR, A MUNICIPAL CORPORATION,

EXHIBIT "A" to Ordinance No.96-28(Con't)

1 with respect to the additional roads and highways hereinafter  
2 described, identical Franchise rights, subject to the identical  
3 express terms and conditions as are contained in said Franchise  
4 bearing File No. 81, as amended by Ordinance 96-28, as follows:

5  
6 The Northeast Quarter and the North Half of the Southeast  
7 Quarter in Section 1, Township 21 North, Range 1 East of the  
8 Willamette Meridian;

9  
10 The Southwest Quarter of the Southwest Quarter of the  
11 Southeast Quarter and the East 660 feet of the South 660  
12 feet of Government Lot 4 in Section 24, Township 22 North,  
13 Range 1 East of the Willamette Meridian;

14  
15 The West Quarter of the Northeast Quarter and the Southeast  
16 Quarter of the Southwest Quarter of the Northeast Quarter  
17 and the Southwest Quarter of the Southeast Quarter of the  
18 Northeast Quarter and the East 660 feet of Government Lots 1  
19 and 2 and the East Quarter of the Southwest Quarter and all  
20 of the Southeast Quarter in Section 25, Township 22 North,  
21 Range 1 East of the Willamette Meridian;

22  
23 The South half of the Southwest Quarter and the West half of  
24 the Southeast Quarter in Section 30, Township 22 North,  
25 Range 2 East of the Willamette Meridian;

26  
27 The West half of the Northeast Quarter and all of the  
28 Northwest Quarter and all of the Southwest Quarter in

EXHIBIT "A" to Ordinance No.96-28(Con't)

1 Section 31, Township 22 North, Range 2 East of the  
2 Willamette Meridian;

3  
4 All of the Northeast Quarter and the East quarter of the  
5 Northwest Quarter and the East Quarter of the Southwest  
6 Quarter in Section 36, Township 22 North, Range 1 East of  
7 the Willamette Meridian;

8  
9 And Government Lots 1 and 2 in the Southwest Quarter in  
10 Section 16, Township 21 North, Range 2 East of the  
11 Willamette Meridian.

12  
13 All being in the Gig Harbor area.

14  
15 PROVIDED FURTHER, that this Supplemental Franchise is  
16 granted subject to the following terms and conditions:

17 Said Supplemental Franchise No. 3 is granted for the period  
18 of twenty-five years from and after March 22, 1977, the date  
19 of the filing of the original Franchise to Grantee.  
20 If, at any time, a new County road is created or established  
21 and constructed, or an existing County road is  
22 reconstructed, realigned, or its grade is changed, or if  
23 sewer or drainage facilities, or any other facilities within  
24 future or existing County road right-of-way are constructed,  
25 reconstructed, maintained, or relocated (all such work to be  
26 called "County projects" hereinafter) and if the  
27 installation of the facilities as allowed in the Franchise  
28 granted to Grantee by Pierce County on March 22, 1977, and  
all supplements and changes thereto, should interfere in any  
manner with any such County projects then the Grantee at no  
expense to Pierce County shall, upon notice, change the

1 location or adjust the elevation of its facilities so that  
2 such facilities shall not interfere with such County  
3 projects.

4 When relocation of Grantee's facilities is required by such  
5 County projects, the following procedures shall be followed:

- 6 1. Pierce County shall make available to Grantee a list of  
7 anticipated projects for each new budget period as soon  
8 as is reasonably practicable.
- 9 2. Pierce County shall provide to Grantee two sets of  
10 preliminary plans for individual projects as soon as  
11 such plans are developed to a state of reasonable  
12 certainty, and shall advise Grantee of the anticipated  
13 date of start of work on such projects.
- 14 3. Grantee shall, when requested by Pierce County in  
15 writing, locate their facilities in the field, show  
16 those locations on one set of the preliminary plans  
17 provided, and return that set to Pierce County Public  
18 Works within four weeks of receiving the written  
19 request.
- 20 4. Pierce County shall provide to Grantee final plans for  
21 such projects as soon as such plans are available and  
22 shall confirm or correct the anticipated date of start  
23 of work on such projects.
- 24 5. Pierce County shall assist Grantee in determining how  
25 its facilities shall be relocated. Such assistance by  
26 Pierce County shall include, at a minimum, copies of  
27 plans as required above and specifications for such  
28 County projects, and information known to Pierce County  
as to existing survey control available for location of  
such County projects. Such assistance shall not  
subject Pierce County to any liability for the costs of

1 relocating the subject facilities a second time if  
2 Grantee incorrectly relocated its facilities the first  
3 time.

- 4 6. When requested, Pierce County and Grantee shall meet to  
5 discuss how County projects and utility relocations can  
6 be accomplished with the least impact on the other.

7 Pierce County's decision shall be final in such  
8 matters, but shall not be unreasonable.

- 9 7. Relocation of Grantee's facilities shall be completed  
10 in a timely manner defined as follows:

11 Relocation of Grantee's facilities shall normally  
12 be accomplished in advance of County projects. In  
13 the event relocation of Grantee's facilities shall  
14 be done concurrently with such projects, Pierce  
15 County shall be so notified and agree to a written  
16 schedule for relocation. Compliance with such a  
17 written schedule shall be Grantee's duty. In no  
18 event shall relocation of Grantee's facilities  
interfere with the prosecution of County projects.

- 19 8. If Grantee should not relocate its facilities in a  
20 timely manner as required above, Pierce County may  
21 relocate, or cause to be relocated, such facilities of  
22 Grantee as it deems necessary, and in the manner it  
23 deems necessary, in its sole discretion. Grantee  
24 hereby indemnifies and holds Pierce County, its  
25 employees, officers, officials, and agents totally free  
26 and harmless from all and any liability which may arise  
27 from damages caused by the relocation by Pierce County  
28 of the facilities of Grantee, even if such damages and  
liability arise from the negligence of Pierce County,  
its employees, officers, officials, and agents.

EXHIBIT "A" to Ordinance No.96-28(Con't)

1 9. Grantee hereby indemnifies and holds harmless Pierce  
2 County, its officers, officials, and employees, from  
3 damages which may arise from Grantees's failure to  
4 relocate its facilities in accordance with the dates  
5 for completion of relocation of facilities set forth  
6 above, or any other act or omission by Grantee, its  
7 contractor(s), agents, officers, or employees related  
8 to the provisions of this Franchise.

9 10. It shall be conclusively presumed that Pierce County  
10 will have suffered damages as a result of exercising  
11 its rights as set forth in Item 8 above, and  
12 compensation for such damages will be difficult to  
13 ascertain, and therefore, Grantee shall compensate  
14 Pierce County for such damages in the amount of twice  
15 the amount of the cost of such relocation of Grantee's  
16 facilities by Pierce County.

17 11. The exercise of its rights, as set forth in Item 8  
18 above, by Pierce County in no way relieves Grantee of  
19 completing and/or finalizing the relocation of its  
20 facilities at no expense to Pierce County if the  
21 relocation work done by Pierce County is incomplete.

22 12. In the event a law suit is brought by Pierce County  
23 against Grantee to collect damages presumed under Item  
24 10 above, for the exercise by Pierce County of its  
25 rights under Item 8 above, Grantee hereby agrees the  
26 only issue will be the actual cost to Pierce County for  
27 relocating Grantee's facilities. The party prevailing  
28 in such an action shall be allowed its legal fees and  
costs.

Grantee shall provide a certificate of insurance showing  
evidence of commercial general liability and property damage  
coverage. The coverage shall include the operations of the

EXHIBIT "A" to Ordinance No.96-28(Con't)

1 Grantee, the Grantee's protective liability, products and  
2 completed operations, and broad form blanket contractual  
3 liability.

4 The minimum limits of coverage shall be as follows:

<u>COVERAGE</u>	<u>LIMITS OF LIABILITY</u>
Commercial General Liability Insurance	\$1,000,000 Each
Bodily Injury Liability	Occurrence
Property Damage Liability	\$250,000 Each
	Occurrence
	or
	COMBINED SINGLE
	LIMIT COVERAGE OF
	\$1,000,000

11 The general requirements of the policy shall contain:

13 Pierce County is named as an additional insured as  
4 respects in this lease and such insurance as is carried  
15 by the Grantee for the operation of its facility.

16 In the event of non-renewal, cancellation or material  
17 change in the coverage provided, thirty days' written  
18 notice will be furnished to the County prior to the  
19 date of non-renewal, cancellation, or change. Such  
20 notice shall be sent to the Pierce County Department of  
21 Public Works and Utilities, Attention: Director of  
22 Public Works, c/o Clerk of Pierce County Council, Room  
23 1046, County City Building, 930 Tacoma Avenue, Tacoma,  
24 Washington 98402.

25 Pierce County has no obligation to report occurrences  
26 to the insurance companies unless a claim is filed with  
27 the Pierce County Council; and Pierce County has no  
28 obligations to pay premiums.

27 The Grantee's insurance policies shall contain a "cross  
28 liability" endorsement substantially as follows:

EXHIBIT "A" to Ordinance No.96-28(Con't)

1 The inclusion of more than one Insured under this  
2 policy shall not affect the rights of any Insured as  
3 respects any claim, suit, or judgment made or brought  
4 by or for any other Insured or by or for any employee  
5 of any other Insured. This policy shall protect each  
6 Insured in the same manner as though a separate policy  
7 has been issued to each, except that nothing herein  
8 shall operate to increase the company's liability  
9 beyond the amount or amounts for which the company  
10 would have been liable had only one Insured been named.

9 The Grantee's insurance is primary over any insurance  
10 that may be carried by Pierce County. Grantee agrees  
11 to provide proof of insurance each year to Pierce  
12 County.

13 The Grantee agrees to defend, indemnify, and save  
14 harmless Pierce County, its appointed and elected  
15 officers and employees, from any and all loss or  
16 expense, including but not limited to judgements,  
17 settlements, attorney fees and cost by reason of any  
18 and all claims and demands upon Pierce County, its  
19 elected or appointed officials or employees, for  
20 damages because of personal or bodily injury, including  
21 death, at any time resulting therefrom, sustained by  
22 any person or persons and on account of damage to  
23 property including loss of use thereof, whether such  
24 injury to persons or damage to property is due to the  
25 negligence of the Grantee, its subcontractors, Pierce  
26 County, its appointed or elected officers, employees or  
27 their agents, except only such injury or damage as  
28 shall have been occasioned by the sole negligence of  
Pierce County, its appointed or elected officials, or  
employees.

27 If the claim, suit, or action for injuries, death, or  
28 damages as provided for in the preceding paragraphs of



EXHIBIT "A" to Ordinance No.96-28(Con't)

1 this franchise is caused by or results from the  
2 concurrent negligence of a) Pierce County or Pierce  
3 County's agents or employees and b) the indemnitor or  
4 the indemnitor's agents or employees, the indemnity  
5 provisions provided for in the preceding paragraphs of  
6 this contract shall be valid and enforceable only to  
7 the extent of Grantee's negligence.

8 Grantee specifically and expressly waives any immunity  
9 under Industrial Insurance Title 51, RCW, and  
10 acknowledges that this waiver was mutually agreed by  
11 the parties herein.

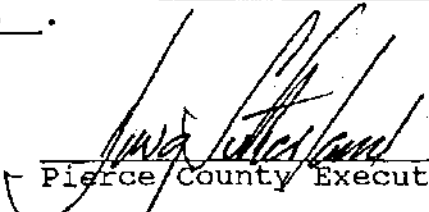
12 This Supplemental Franchise No. 3 is granted on the express  
13 condition that Pierce County may unilaterally at any time upon  
14 ninety days written notice to the Grantee change, amend, modify,  
15 or amplify this Supplemental Franchise to conform to any state  
16 statute, order of the Washington Utilities and Transportation  
17 Commission, or County regulation, ordinance or right-of-way  
18 regulation, as may hereafter be enacted, adopted, or promulgated,  
19 and this Franchise may be terminated at any time if the Grantee  
20 fails to comply with such change, amendment, modification, or  
21 amplification.

22 The full acceptance of this Franchise and all its terms and  
23 conditions within thirty days from the effective date of the  
24 attached ordinance, by CITY OF GIG HARBOR, A MUNICIPAL  
25 CORPORATION, of Pierce County, of the State of Washington,  
26 organized and existing under and by virtue of the Laws of the  
27 State of Washington, in writing, is to be filed with the Clerk of  
28 the Pierce County Council and shall be a condition precedent to  
its taking effect, and unless the Supplemental Franchise is  
accepted within such time, said Supplemental Franchise No. 3  
shall be null and void.

Pursuant to RCW 36.55.080, a copy of this Supplemental  
Franchise shall be recorded in the Office of the Pierce County  
Auditor.

EXHIBIT "A" to Ordinance No.96-28(Con't)

1 DATED at Tacoma, Washington, this 8th day of  
2 May, 19 96.

3  
4   
Pierce County Executive

5 We hereby accept and agree to comply with all the terms and  
6 conditions of this Supplemental Franchise.

7 \_\_\_\_\_  
8 Name

9 \_\_\_\_\_  
10 Title

11 \_\_\_\_\_  
12 Company or Corporate Name

13 \_\_\_\_\_  
14 Date

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*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:** FINANCIAL INFORMATION - JIM RICHARDSON  
**DATE:** MAY 22, 1996

**INFORMATION/BACKGROUND**

Attached is a copy of the financial information for your review, per your request at the last council meeting.

**POLICY CONSIDERATIONS**

The letter from Carl Sletto indicates Mr. Richardson cannot obtain his loan until he completes the construction for his house.

## 3505 Grandview Remodel

### Refinance - Loan Closing costs

<u>Bell Escrow</u>	<u>\$959.34</u>
<u>Royale Mortgage</u>	<u>\$1,313.00</u>
<u>Hallmark/Quest Mortgage</u>	<u>\$3,875.00</u>
<u>Dave Gordon</u>	<u>\$500.00</u>
<u>P.C. Assessor/Treasurer</u>	<u>\$6,096.74</u>
<u>Keybank</u>	<u>\$43,270.36</u>
<u>Monument Construction, Inc.</u>	<u>\$12,000.00</u>
<u>City of Gig Harbor</u>	<u>\$17,050.00</u>
<u>Total</u>	<u>\$85,037.44</u>
<u>Maximum Amount of Loan</u>	<u>\$87,750.00</u>
<u>Residual</u>	<u>\$2,712.56</u>

MON, MAY-28-96 1:09PM

QUEST MORTGAGE

206 858 3250

## Hallmark Mortgage

Bremerton Branch  
10052 NW Klahowya  
Bremerton, WA. 98312  
(360)692-5700

20 May 1996

Jim Richardson  
3505 Grandview Str.  
Gig Harbor, WA. 98335

Dear Mr. Richardson,

This letter is in response to your request for an increase in loan amount to cover debts on your refinance. We have reached the maximum on loan to value (LTV) for your situation. We are able to go to 65% LTV or \$87,750 loan amount.

With respect to your completing the remodel work on your home, the 442 appraisal must show all work complete prior to the funding of your loan. This is the lenders way of insuring that the home is in a salable condition prior to they investing in the property.

I hope this answers your questions about your refinance. You must sign the loan papers at Bell Escrow this week in order to take advantage of the current document draw from Royal MortgageBanc.

Sincerely,



Carl Sletto-Loan Officer  
Hallmark Mortgage

# Monument Construction Incorporated

MONUMCI 133P7  
P.O. BOX 2002  
4021 FIRDORNA DRIVE N.W.  
GIG HARBOR, WASHINGTON 98335

(206) 858-7006

# PROPOSAL

TO JAMES RICHARDSON 3505 GRANDVIEW GIG HARBOR, WASHINGTON 98335	PHONE 851-7062	DATE 5/15/96
	JOB NAME / LOCATION REMODEL, GRANDVIEW	
	JOB NUMBER	JOB PHONE

We hereby submit specifications and estimates for:

1. 376 sq.ft. torch down roofing
2. 376 sq.ft. drywal, texture and paint
3. finish 72 sq.ft. master bedroom
4. carpet master bed room, west bedrooms, living room, allowance \$15.00 per yd. 100 yds. \$1,500.00
5. finish master bath including vanity
6. drywakk 3 bedrooms and living room
7. install 72 sq. ft. bevel siding
8. construct 480 sq. ft. of deck owner to furnish foundation
9. furnish and install 9'x7' garage door and opener
10. install 8' sliding door
11. furnish and install entry door.

We Propose hereby to furnish material and labor — complete in accordance with the above specifications, for the sum of:

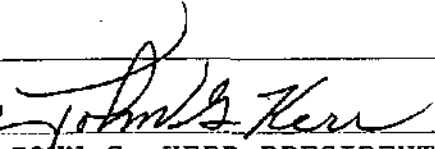
**TWELVE THOUSAND DOLLARS AND NO/100 PLUS W.S.S.T.** dollars (\$ **12,000.00**)

Payment to be made as follows:

**PAYMENT IN FULL UPON COMPLETION**

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation insurance.

Authorized Signature



**JOHN G. KERR PRESIDENT**

Note: This proposal may be withdrawn by us if not accepted within

**90**

**Acceptance of Proposal** — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Date of Acceptance: \_\_\_\_\_



P I E R C E C O U N T Y

P R O P E R T Y S U B J E C T T O F O R E C L O S U R E

05/09/96

435000-016-0  
RICHARDSON JAMES W & DEBRA L

3505 GRANDVIEW  
GIG HARBOR WA  
98335

PARCEL NUMBER 435000-016-0

TAXES, INTEREST AND COSTS DUE WITH INTEREST CALCULATED TO 05/31/96

DESCRIPTION	ROLL YEAR	DELINQUENT TAX	INTEREST	PENALTY	TOTAL
PROPERTY TAX	96	1,495.92	14.96	.00	1,510.88
PROPERTY TAX	95	1,204.22	156.55	132.46	1,493.23
PROPERTY TAX	94	1,095.52	273.88	120.51	1,489.91
PROPERTY TAX	93	1,082.92	400.68	119.12	1,602.72

FORECLOSURE COSTS TO 05/31/96 0.00

ADDITIONAL COSTS WILL BE ADDED AS INCURRED.

TOTAL AMOUNT DUE ----- \$ 6,096.71

REDEMPTIONS MUST BE MADE BY CASHIER'S CHECK OR CASH ONLY

PLEASE RETURN THIS LETTER WITH YOUR PAYMENT

L E G A L D E S C R I P T I O N

3505 GRANDVIEW ST  
HARBOR HEIGHTS  
L 15 SUBJ TO EASE





*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:** *RK* Ray Gilmore, Director, Planning-Building Department  
**DATE:** May 22, 1996  
**SUBJECT:** Request for Time Extension on Shoreline Management Permit - SDP92-04.

### **INTRODUCTION**

Mr. Kerry Bucklin, Attorney for Peter and Pamela Darrah, has requested a time extension of one year for the completion of a project approved under SDP92-04, issued in May of 1993. The permit has an expiration date of May 17, 1996. The request submitted by Mr. Bucklin was filed prior to that date.

### **POLICY ISSUES**

The City's Shoreline Master Program establishes a maximum of five years for the effective period of a shoreline management permit. State law permits local governments the option of approving a shoreline management permit with an effective period of less than five years. The permit issued was valid for a period of two years. Mr. Bucklin's letter of May 15 sites specific reasons for granting the time extension.

Prior to authorizing the time extension, the City must notify the Department of Ecology or any parties of record (Section 4.08 E 3) . The parties of record have been notified of this request.

### **RECOMMENDATION**

It is the sole discretion of the Council to grant the time extension request. If granted, the maximum time is one year (to May 17, 1997).

LAW OFFICES  
SHORT CRESSMAN & BURGESS P.L.L.C.

PAUL R. CRESSMAN, SR., P.S.  
JOHN O. BURGESS  
DOUGLAS R. HARTWICH  
BRIAN L. COMSTOCK  
ROBERT E. HEATON  
JOHN H. STRASBURGER  
JAMES A. OLIVER  
DAVID R. KOOPMANS  
KENNETH L. MYER  
ROBERT J. SHAW  
PAUL R. CRESSMAN, JR.  
ANDREW W. MARON  
CHRISTOPHER J. SOELLING  
PAUL J. DAYTON  
BRYAN P. COLUCCIO  
ROBERT E. HIBBS  
CHRISTOPHER B. OSBORN  
MICHAEL R. GARNER  
DAVID E. BRESKIN  
SCOTT A. SMITH  
THOMAS W. READ

3000 FIRST INTERSTATE CENTER  
999 THIRD AVENUE  
SEATTLE, WASHINGTON 98104-4088  
FAX: (206) 340-8856  
(206) 682-3333

May 15, 1996

RECEIVED  
MAY 16 1996  
CITY OF GIG HARBOR

STEPHEN P. CONNOR  
SUSAN THORBROGGER  
LISA WOLFARD  
KERRY S. BUCKLIN\*  
DAVID S. WOOD  
PAUL A. D'ALOISIO  
STEPHAN J. FRANCKS  
ANN T. WILSON  
WILLIAM A. BURGE  
KAREN A. GRUEN  
CLAUDIA L. CRAWFORD  
WALTER H. OLSEN, JR.  
ALISON WACHTERMAN  
JOHN D. SULLIVAN  
\* MEMBER OF PARENT BAR,  
LSPFO

KENNETH P. SHORT  
SCOTT M. MISSALL  
SAMUEL S. CHUNG  
OF COUNSEL

JOSEF DIAMOND  
COUNSEL TO THE FIRM

VIA HAND DELIVERY AND MAIL

Ray Gilmore  
City of Gig Harbor  
3105 Judson Street  
Gig Harbor, WA 98335

Re: Peter & Pamela Darrah

Dear Mr. Gilmore:

As you are aware, we represent Peter & Pamela Darrah. We have corresponded in the past concerning the actions necessary to prevent the Darrahs from being responsible for certain code violations alleged by the City of Gig Harbor. The Darrahs have every intention of completing items 1 through 4 stated in my February 1, 1996 letter to you by the May 17, 1996 deadline.

The Darrahs entered into a contract for the sale of the property in September, 1995. The purchaser, Robert L. Philpott, proposed a use for the property different from the use specified in the Darrahs' existing Shoreline Substantial Development Permit No. 92-04. Mr. Philpott contemplated constructing a float in a different location, installing fuel pumps, space for public transient moorage, and a pumpout station. The original closing date contemplated by the parties' Purchase Agreement was March 1, 1995.

Unfortunately, a number of factors have prevented closing of the sale to Mr. Philpott, including failure to record the public hearing held on December 20, 1995, when Mr. Philpott's application was first considered. We understand from Mr. Philpott that the City has still not made a decision on Mr. Philpott's application.

Ray Gilmore  
May 15, 1996  
Page 2

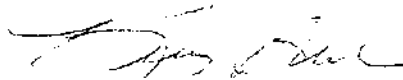
RECEIVED  
MAY 16 1996  
CITY OF GIG HARBOR

The Darrahs have not taken any action under the Shoreline Substantial Development Permit other than to cure the alleged code violations because the project contemplated by that permit is inconsistent with Mr. Philpott's proposed project. However, due to the delay in the closing date, the Darrahs now find themselves in the position of needing an extension of their permit to keep their options open in the event Mr. Philpott's project is ultimately not approved.

As a result, please treat this letter as a formal request on behalf of the Darrahs to extend the deadline for completion of construction under the Shoreline Substantial Development Permit No. 92-04 from May 17, 1996 for a period of one year. We understand that there is no specific form required for this extension request. If you require any further information, please let me know so that we can submit it on a timely basis.

Sincerely,

SHORT CRESSMAN & BURGESS P.L.L.C.



Kerry S. Bucklin

KSB/sw

cc: Peter & Pamela Darrah

