

GIG HARBOR CITY COUNCIL MEETING

MAY 11, 1992

7:00 p.m., City Hall Council Chambers



AGENDA FOR GIG HARBOR CITY COUNCIL MEETING
MAY 11, 1992

PUBLIC COMMENT/DISCUSSION:

CALL TO ORDER:

PUBLIC HEARINGS: None scheduled.

APPROVAL OF MINUTES:

CORRESPONDENCE: None scheduled.

OLD BUSINESS:

1. Ordinance revising the Uniform Building Code - 2nd reading.

NEW BUSINESS:

1. Award construction contract for Soundview Drive.
2. Ordinance adopting RCW 46.61.517 regarding refusal to submit to breath test - 1st reading.
3. ANX92-01: City Shop property - 1st reading.

DEPARTMENT MANAGERS' REPORTS:

1. Police.

COUNCIL COMMITTEE REPORTS: None scheduled.

MAYOR'S REPORT:

1. Update on growth management.

ANNOUNCEMENTS OF OTHER MEETINGS:

1. Next City Council meeting TUESDAY, May 26, 1992.
2. Mini-convention - Steilacoom Town Hall, Wednesday, May 13, 1992, 6:30 p.m.
3. Pierce County Citizens Advisory Group - meeting at Peninsula High School,

APPROVAL OF PAYROLL:

Warrants #6972 through #7071 in the amount of \$134,540.62.

APPROVAL OF BILLS:

Warrants # through # in the amount of \$

EXECUTIVE SESSION:

1. Personnel.
2. Claims.

ADJOURN:



REGULAR GIG HARBOR CITY COUNCIL MEETING OF APRIL 27, 1992

PRESENT: All present.

PUBLIC COMMENT/DISCUSSION: None scheduled.

CALL TO ORDER: 7:00 p.m.

APPROVAL OF MINUTES:

MOTION: To approve the minutes of the meeting of April 13, 1992.
Frisbie/Markovich - approved by a vote of 4-0 with English abstaining.

CORRESPONDENCE:

1. Notice of meeting of Pierce County Steering Committee regarding draft county-wide planning policies.

OLD BUSINESS:

1. Interlocal agreement creating Rainier Cable.
City Administrator Mark Hoppen presented the agreement to establish the Rainier Cable Commission and recommended voting against its creation.

MOTION: To have staff prepare the necessary ordinance/resolution/agreement to increase the franchise fee we currently collect from Viacom Cablevision from 3% to 5%.
Markovich/Frisbie - unanimously approved.

NEW BUSINESS:

1. Shore Acres Water Company agreement.
Mr. Hoppen presented the proposed agreement with Shore Acres.

Kaz Kimura, representing the Shore Acres Water Company, was available to answer council's questions.

MOTION: To authorize the City Administrator to enter into a four-year agreement using a 1.5 multiplier as all other outside the city customers.
Platt/Frisbie - unanimously approved.

2. Request to revise preliminary plat (PUD91-01) Rush Construction.

Planning Director Ray Gilmore explained that no action was required on this item as the council had already approved the preliminary plat and would have the opportunity to view it again when it was brought back for final plat approval.

Jim Cooper, representing Rush Construction, provided information on the new configuration of the plat.

3. Hearing Examiner report and recommendation on SPR92-91: Ribary Dental Clinic.

Mr. Gilmore provided information regarding the Hearing Examiner's recommendation on the site plan.

Dave Freeman, project architect, answered council's questions.

MOTION: To accept the recommendation of the Hearing Examiner and approve Resolution #352 with the addition of conditions:

- "7. Applicant to participate in a no-protest ULID for improvements to the Kimball Drive area.
8. Exterior lighting to be consistent with the city's zoning code.
9. The back side of the sidewalk to abut the property line as per the site plan approved 4/27/92.

English/Stevens-Taylor - approved by a vote of 4-0 with Markovich abstaining.

4. Request for vacation of a portion of Sellers Street.

Mr. Hoppen provided the information on the request and notified council that since all adjacent property owners had signed the petition for vacation, the city must set a hearing date.

MOTION: To approve Resolution #353 setting June 22, 1992 as the date for hearing the vacation request.

5. Planning Commission recommendation on the Urban Growth Area.

Mr. Gilmore presented the recommendation of the Planning Commission and explained the process through which they had reached this recommendation.

Larry Storset and Kae Paterson, members of the Planning Commission were present to provide additional information as requested by the council.

Jack Darragh, representing property owners in the proposed urban area, spoke in favor of the Planning Commission's recommendation.

MOTION: To accept the recommendation of the Planning Commission and approve Resolution #354.
Frisbie/English - approved by a vote of 4-1 with Markovich voting against.

6. Pierce Transit Board representative nomination.

MOTION: To nominate Richard Silva of Bonney Lake to serve as a representative to the Pierce Transit Board.
English/Platt - unanimously approved.

7. Peninsula Light request for assistance in executing an agreement with the FCC for a Travelers Information Radio Station.

Mr. Hoppen explained the request for the city to sponsor the radio station to provide information regarding traffic and road conditions, and planned and unplanned power outages.

Pat Maynard, representative of Peninsula Light, provided more information on the use of the radio station and answered council's questions.

Jim Boge expressed concerns over the funding of the station and questioned how current the broadcast information would be.

MOTION: To sponsor the application.
Markovich/Stevens-Taylor - unanimously approved.

8. Ordinance revising the Uniform Building Code - 1st reading.

Steve Bowman, Building Official, explained the ordinance.

9. Liquor license applications.

No action was taken on the applications.

DEPARTMENT MANAGERS' REPORTS:

1. Finance.
Finance Officer Tom Enlow provided council with information regarding the budgetary status of the city's utilities.

COUNCIL COMMITTEE REPORTS: None scheduled.

MAYOR'S REPORT:

1. Update on Pierce County Growth Management Comprehensive Plan.
Mayor Wilbert provided council with information relative to the county's progress with the comprehensive plan.

BILLS:

MOTION: To approve payment of warrants #8805 through #8844 in the amount of \$41,784.45.
Platt/English - unanimously approved.

EXECUTIVE SESSION:

MOTION: To go into executive session at 9:30 p.m. for the purpose of discussing land acquisition and claims.
Frisbie/English - unanimously approved.

MOTION: To return to regular session.
English/Platt - unanimously approved.

MOTION: To adjourn at 9:50 p.m.
English/Platt - unanimously approved.

Cassette recorder utilized.
Tape 275 Side A 283 - end
Side B 000 - end
Tape 276 Side A 000 - end
Side B 000 - 506.

Mayor

City Administrator/Clerk



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET • P.O. BOX 145
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR AND CITY COUNCIL
FROM: *SB* STEVE BOWMAN, BUILDING OFFICIAL/FIRE MARSHAL
RE: ADOPTION OF THE STATE BUILDING CODES
DATE: MAY 11, 1992

Attached for your consideration is an ordinance, for adoption by reference, of the Washington State Building Code Council revisions to the 1991 editions of the State Building Code. Included are revisions to the Uniform Building, Fire, Plumbing, Mechanical, Barrier Free, Energy Codes, and the Water Conservation Performance Standards.

The Gig Harbor Building Code Advisory Board recommended approval of the proposed ordinance during their meeting on March 26, 1992. The City Attorney has reviewed this draft of the adopting ordinance and revisions have been incorporated for your consideration in this second reading.

RECOMMENDATIONS:

The Mayor and City Council adopt the 1991 Uniform Building Code revisions as proposed by the Washington State Building Code Council and as recommended by the Gig Harbor Building Code Advisory Board after the second reading of the ordinance and inclusion of any required revisions.

FOR COUNCIL INFORMATION:

Complete copies of the Uniform Codes and their revisions are available for review in the Gig Harbor Community Development Department.

CITY OF GIG HARBOR

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, ADOPTING THE WASHINGTON STATE BUILDING CODE, including the 1991 editions to the Uniform Building Code, Uniform Fire Code, Uniform Plumbing Code, Uniform Mechanical Code and those amendments as adopted by the Washington State Building Code Council and as recommended by the Gig Harbor Building Code Council.

The City Council of the City of Gig Harbor, Washington **DO ORDAIN** as follows:

Section 1. The State Building Code, as follows, is adopted by reference:

A. Section # 15.06.015, of the City of Gig Harbor Municipal Code, is hereby adopted as follows:

Section # 15.06.015 The Uniform Building Code, 1991 Edition including Appendix Chapters 32 and 70, Uniform Building Code Standards, 1991 Edition, the Uniform Code for the Abatement of Dangerous Buildings, 1991 Edition, published by the International Conference of Building Officials and as amended by the Washington State building code council on November 8, 1991 and published as WAC 51-20 & 21 (amendments include the state barrier-free; ADA and HUD regs.) are adopted for use within the City of Gig Harbor;

B. Section # 15.12.015, of the City of Gig Harbor Municipal Code, is hereby adopted as follows:

Section # 15.12.015 The Uniform Fire Code, 1991 Edition including Appendix Chapters I-A, II-C, II-E, III-C, V-A, and VI-A, and the Uniform Fire Code Standards published by the International Conference of Building Officials and the Western Fire Chiefs Association as amended by the Washington State Building Code Council and published as WAC 51-24 & 25 are adopted for use within the City of Gig Harbor;

C. Section # 15.10.010, of the City of Gig Harbor Municipal Code, is hereby adopted as follows:

Section # 15.10.010 The Uniform Mechanical Code, 1991 Edition, including Chapter 22, Fuel Gas Piping, Appendix B, published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials as adopted by the Washington State Building Code Council and published as WAC 51-22 is adopted for use within the City of Gig Harbor;

D. Section # 15.08.015, of the City of Gig Harbor Municipal Code, is hereby adopted as follows:

Section # 15.08.015 The Uniform Plumbing Code, 1991 Edition including Appendix Chapters A, B, C, D, and H, and the Uniform Plumbing Code Standards published by the International Association of Plumbing and Mechanical Officials as amended by the Washington State Building Code Council and published as WAC 51-26 & 27 (amendments include the Washington State Water Conservation Performance Standards) are adopted for use within the City of Gig Harbor;

E. Section # 15.32.010, of the City of Gig Harbor Municipal Code, is hereby adopted as follows:

Section # 15.32.010 The Washington State Energy Code as amended by the Washington State Building Code Council and published as WAC 51-11 is adopted for use within the City of Gig Harbor; and,

F. Section # 15.32.005, of the City of Gig Harbor Municipal Code, is hereby adopted as follows:

Section # 15.06.005 The Washington State Ventilation and Indoor Air Quality Code as amended by the Washington State Building Code Council and published as WAC 51-13 is adopted for use within the City of Gig Harbor; and,

G. In case of conflict among the codes enumerated subsections A, B, C, D, E and F of this section, the first named code shall govern over those following.

Section 2. Section 15.06.060 of the City of Gig Harbor Municipal Code, Ord. # 490, passed by the Gig Harbor City Council in 1986, is hereby amended as follows:

15.06.060 Expiration. Subsection (d) of Section 303 of the Uniform Building Code, ~~1985~~ edition, is amended to read as follows:

Section 3. Section 15.12.060 of the City of Gig Harbor Municipal Code, Ord. # 493, passed by the Gig Harbor City Council on 9/8/86, is hereby amended as follows:

15.12.060 New Sections to the Uniform Fire Code, 1985 Edition are hereby added as follows: ...Subsection 10.207(e) of the Uniform Fire Code-10.204(a) Dimensions.

(e) Width. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches.

The minimum cleared vehicular roadway, driveway, or street, width shall be twelve (12) feet from shoulder to shoulder for one single family residence, fifteen (15) feet from shoulder to shoulder for one way traffic in other developments, and twenty-four (24) feet minimum driving surface for all two-way traffic.

EXCEPTION: Private roadways which serve less than 10 living units may be twenty (20) feet in width from shoulder to shoulder for two way traffic when the roadway serves only R-1 or R-3 occupancies as defined in the Uniform Building Code and the buildings and site improvements comply with the Special Hazards section of the currently adopted Uniform Fire Code [I.E.: See Section #10.501 (b), 1991 Uniform Fire Code]

Fire apparatus access roads shall have an unobstructed vertical clearance of not less than 13 feet 6 inches.

EXCEPTION: Upon approval by the chief, vertical clearance may be reduced, provided such reduction does not impair access by fire apparatus and approved signs are installed and maintained indicating the established vertical clearance.

Section 4. Section 15.12.060 of the City of Gig Harbor Municipal Code, Ord. # 493, passed by the Gig Harbor City Council on 9/8/86, is hereby amended as follows:

15.12.060 New Sections to the Uniform Fire Code, 1985 Edition are hereby added as follows: ...Subsection 10.207(g) of the Uniform Fire Code-10.204(c)

Section 5. Section 15.12.060 of the City of Gig Harbor Municipal Code, Ord. # 493, passed by the Gig Harbor City Council on 9/8/86, is hereby amended as follows:

15.12.060 New Sections to the Uniform Fire Code, 1985 Edition are hereby added as follows: ...Subsection 10.208(b) of the Uniform Fire Code-10.301(a) & (b)

Section 6. Section 15.12.060 of the City of Gig Harbor Municipal Code, Ord. # 493, passed by the Gig Harbor City Council on 9/8/86, is hereby amended as follows:

15.12.060 New Sections to the Uniform Fire Code, 1985 Edition are hereby added as follows: ...Subsection 10.301(c) of the Uniform Fire Code-10.401

Section 7. Section # 15.12.095, of the City of Gig Harbor Municipal Code, is hereby adopted as follows:

Section # 15.12.095 A new Sub-Section to Appendix II-C, 5. (a) of the Uniform Fire Code is hereby adopted as follows:

4. The minimum fire flow at each hose station shall be 500 gpm at 20 psi. (65 gpm at 100 psi. or 80 gpm at 80 psi.).

EXCEPTION: A fire flow analysis in conformance to the 1974 ISO Guide or an NFPA approved method of analysis maybe submitted to the Fire Marshal for approval.

Section 8. The following Sections and Chapters of the City of Gig Harbor Municipal Code, are hereby repealed except for those permits currently in process which had been applied for preceeding the effective date of this ordinance:

Chapter 15.05, Ord. # 597 & 602, passed by the Gig Harbor City Council November, 1991; (1988 Washington State Building Codes)

Section # 15.06.050, Ord. # 490, passed by the Gig Harbor City Council in 1986; (1985 Uniform Building Code Violations)

Section # 15.08.035, Ord. # 491, passed by the Gig Harbor City Council in 1986; (Plumbing Permit Fees)

Section # 15.12.100, Ord. # 493 passed by the Gig Harbor City Council in 1986; (NFPA Standards)

Chapter # 15.16, Ord. # 75, passed by the Gig Harbor City Council in 1964; (Fire Zone)

Section # 15.32.010, Ord. # 563, passed by the Gig Harbor City Council on August 28, 1989; (Energy Code)

Section 9. Severability Clause. If any section or provision of this Ordinance or the State Building Code or its application to any person or circumstance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 10. Whenever any conflict occurs between any section of this Ordinance and the Code referred to in this Ordinance, the Code shall prevail.

Section 11. This Ordinance shall take effect and be in full force on July 1, 1992.

PASSED by the Gig Harbor City Council and approved by its Mayor at a regular meeting of the council held on the 11 day of May, 1992.

Gretchen A. Wilbert, Mayor

ATTEST:

Mark Hoppen
City Administrator/Clerk

Filed with city clerk: 4/20/92
Passed by city council: 5/11/92
Date published:
Date effective: 7/1/92



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET • P.O. BOX 145

GIG HARBOR, WASHINGTON 98335

(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCILMEMBERS
FROM: BEN YAZICI, DIRECTOR OF PUBLIC WORKS *By*
RE: SOUNDVIEW DRIVE CONTRACT AWARD
DATE: MAY 8, 1992

The bid opening for the Soundview Drive Project was at 2:00 p.m. on May 6, 1992. Three bidders participated, enclosed are the bid tabulations results.

The bid package included a total of six schedules. Descriptions of the schedule is as follows:

Schedule 1	Soundview Drive Project
Schedule 2	Overlaying Pioneer Avenue between Grandview and Judson Street
Schedule 3	Overlaying Stinson from the city limits to Harborview Drive
Schedule 4	Paving the City Shop
Schedule 5	Paving a portion of Fuller Street
Schedule 6	Additional cost to the Soundview Drive Project if the existing concrete pavement is completely removed

The apparent low bidder is Tucci & Sons, with a total bid amount of \$1,113,520.97 for all the schedules, excluding Schedule 6.

The city budgeted a total of \$1,192,500 for the project to be completed in 1992. Schedule 2 (Pioneer Way) has not been budgeted for this year. Pavement conditions on Pioneer Way are much worse than Stinson Avenue. We will build sidewalks on the west side of Pioneer Way with enclosed storm drainage. I recommend we overlay Pioneer Way this year instead of Stinson Avenue. I also recommend we remove the existing concrete pavement on Soundview for an additional cost of \$90,000. This will enable us to provide a better transition to the driveways.

Recommendation

I recommend a Council motion to authorize staff to: 1) Transfer funds from the Stinson Avenue Overlay to Pioneer Way Overlay; 2) Authorize staff to spend up to \$16,000 for Construction Inspection Services; and 3) Authorize the Mayor

to sign a contract with Tucci & Sons, Inc. to rebuild Soundview Drive, with the removal of the existing pavement, to overlay Pioneer Way, to pave the City Shop parking area, and to overlay a portion of Fuller Street for a total contract amount of \$1,161,889.12.

SOUNDVIEW PROJECT
 BID OPENING 5/6/92 2:00 P.M.

CONTRACTOR	SOUNDVIEW DR. SCHED. 1	PIONEER OVRL SCHED. 2	STINSON OVRL SCHED. 3	CITY SHOP PV SCHED. 4	FULLER ST. PV SCHED. 5	PAVEMENT RMVL SCHED. 6	TOTAL (1 THRU 5 ONLY)	BOND	ADDN1	ADDN2	SIG.
WOODWORTH & COMPANY	1,185,579.35	52,225.00	69,920.00	17,750.00	3,420.00	60,708.25	1,328,894.35	X	X	X	X
TRI-STATE CONST.	1,093,096.60	54,405.00	73,136.00	25,475.00	3,270.00	161,780.25	1,249,382.60	X	X	X	X
TUCCI & SONS	1,004,585.27	45,175.00	61,710.00	19,200.00	2,850.00	90,078.85	1,133,520.27	X	X	X	X

SOUNDVIEW PROJECT

BID OPENING 5/6/92 2:00 P.M.

CONTRACTOR	SOUNDVIEW DR. SCHED. 1	PIONEER OVRL SCHED. 2	STINSON OVRL SCHED. 3	CITY SHOP PV SCHED. 4	FULLER ST. PV SCHED. 5	PAVEMENT RMVL SCHED. 6	TOTAL (1 THRU 5 ONLY)
WOODWORTH & COMPANY	1,185,579.35	52,225.00	69,920.00	17,750.00	3,420.00	60,708.25	1,328,894.35
TRI-STATE CONST.	1,093,096.60	54,405.00	25,475.00	25,475.00	3,270.00	161,780.25	1,201,721.60
TUCCI & SONS	1,004,585.27	45,175.00	19,200.00	19,200.00	2,850.00	90,078.85	1,091,010.27
BUDGETED AMOUNT	1,022,500.00	-0-	130,000.00	20,000.00	20,000.00	-0-	1,192,500.00



City of Gig Harbor. The "Maritime City."
DEPARTMENT OF PUBLIC WORKS

1992 OBJECTIVES

DEPT.	PROJECT NAME	PROJECT COST	MONTH												COMMENTS	
			JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC		
STREETS	COMPREHENSIVE PLAN	40,000														DEVELOP COMPREHENSIVE TRANSPORTATION IMPROVEMENT PLAN
	REPAINT STREET	5,000														REPAINT MARKINGS ON CITY STREETS
	SHOULDERS	2,000														REPAIR STREET SHOULDERS
	O & M PROGRAM															MAINTAIN CONTINUED STREET O & M PROGRAM
	OLYMPIC VILLAGE	15,000														IMPLEMENT VARIOUS SOLUTIONS FOR OLYMPIC VILLAGE AREA
	EAST-WEST ROAD	50,000														BEGIN WORK ON IMPLEMENTATION OF EAST-WEST ROAD AND PROVIDE PARTIAL FUNDING
	SOUNDVIEW DRIVE	902,500														COMPLETE DESIGN AND CONSTRUCTION OF SOUNDVIEW DRIVE
	HUNT STREET	120,000														COMPLETE DESIGN AND CONSTRUCTION OF HUNT STREET
	NORTH HARBORVIEW	85,000														COMPLETE DESIGN AND CONSTRUCTION OF NORTH HARBORVIEW PROJECT
	OVERLAY ALLEYS	20,000														OVERLAY PUBLIC ALLEYS
	PAVE SHOP	20,000														PAVE CITY SHOP AREA WITH ACP
	STINSON AVENUE	130,000														STINSON AVENUE CAPITAL IMPROVEMENTS
	ROSEDALE STREET	50,000														ROSEDALE STREET CAPITAL IMPROVEMENTS
	PIONEER SIDEWALK	90,000														CONSTRUCTION OF 2000' OF SIDEWALK ON NORTH SIDE OF PIONEER WAY
	GRANDVIEW SIDEWALK	12,000														CONSTRUCTION OF 500' OF SIDEWALK ON SOUTH SIDE OF GRANDVIEW
	BURNHAM SIDEWALK	30,000														CONSTRUCTION OF 1200' OF SIDEWALK ON NORTH SIDE OF BURNHAM
	WATERFRONT PROPERTY															RESERVE FUNDS FOR FUTURE ACQUISITION OF WATERFRONT PARK PROPERTY



RECEIVED

MAY 6 1992

MEMORANDUM

CITY OF GIG HARBOR

To: Gretchen Wilbert, Mayor
Mark Hoppin, City Administrator

From: Andrew N. Becker

Re: Enactment of Ordinance

Date: May 5, 1992

I recommend that the City adopt and incorporate in its code as state statute, RCW 46.61.517, which provides that evidence of a person's refusal to submit to a breath test is admissible into evidence at a subsequent criminal trial. A copy of the statute is attached.

Breath test evidence is important in any DWI prosecution; consequently, the defense bar spends a great deal of time and effort seeking to exclude that evidence. One legal attack that appears to be gaining speed in municipalities around the state concerns the statute that we need to adopt.

By virtue of the implied consent law, all drivers consent to giving breath tests when they are validly arrested for a DWI. However, drivers also have a right to withdraw that consent and refuse to provide breath samples. Drivers are provided written and verbal implied consent warnings, as mandated by statute in order for them to make an informed decision. For some time evidence of a refusal was not admissible in evidence against the driver at a subsequent DWI trial as a result of appellate decisions on the issue. In response, the legislature enacted a number of amendments that now permit evidence of a refusal to be admitted into evidence. This was clarified by the legislature by their enactment of RCW 46.61.517.

The City of Gig Harbor relies on the Model Traffic Code and periodically enacts other state statutes that are not part of the model code. We have not yet adopted RCW 46.61.517.

Without our adoption of RCW 46.61.517, defense attorneys may argue, as they have with some success recently in other municipal courts of late, that the implied consent warnings that we are presently providing are inaccurate. Our implied consent warning advise the driver that their "refusal to take the test may be used in a criminal trial". The defense bar argues that this advisement is inaccurate if the municipality has not adopted RCW 46.61.517 or a similar provision. The case law regarding implied consent warnings is well settled that an inaccurate implied consent warning operates to render the breath test inadmissible.

The issue will likely be decided in our appellate courts sometime in the future. The most prudent course for our City, however, is to avoid the issue entirely, as well as appellate costs, simply by adopting RCW 46.61.517 as soon as possible. Our City Code will thus conform to state statutes on this issue.

46.61.517. Refusal of alcohol test—Admissibility as evidence

The refusal of a person to submit to a test of the alcoholic content of the person's blood or breath under RCW 46.20.308 is admissible into evidence at a subsequent criminal trial.

Amended by Laws 1987, ch. 373, § 5.

Historical and Statutory Notes**1987 Legislation**

Laws 1987, ch. 373, § 5, substituted "the person's blood or breath" for "his blood".

Legislative finding, purpose—Severability—Laws 1987, ch. 373: See Historical Note following § 46.61.502.

Notes of Decisions**Admissibility 3****1. In general**

Legislature could condition right to refuse to submit to breath test by providing that refusal could be used as evidence in criminal proceeding. *State v. Long* (1989) 113 Wash.2d 266, 778 P.2d 1027, reconsideration denied.

Driver's refusal to take breath test was relevant and admissible in prosecution for driving under influence of intoxicants. *State v. Long* (1989) 113 Wash.2d 266, 778 P.2d 1027, reconsideration denied.

Trial court in criminal case may exclude evidence of refusal to submit to breath test if probative value of evidence is found to be substantially outweighed by danger of unfair prejudice, confusion of issues, or misleading of jury. *State v. Long* (1989) 113 Wash.2d 266, 778 P.2d 1027, reconsideration denied.

46.61.519. Alcoholic beverages—Drinking or open container in vehicle on highway—Exceptions

Text of section effective April 1, 1992

(1) It is a traffic infraction to drink any alcoholic beverage in a motor vehicle when the vehicle is upon a highway.

(2) It is a traffic infraction for a person to have in his possession while in a motor vehicle upon a highway, a bottle, can, or other receptacle containing an alcoholic beverage if the container has been opened or a seal broken or the contents partially removed.

(3) It is a traffic infraction for the registered owner of a motor vehicle, or the driver if the registered owner is not then present in the vehicle, to keep in a motor vehicle when the vehicle is upon a highway, a bottle, can, or other receptacle containing an alcoholic beverage which has been opened or a seal broken or the contents partially removed, unless the container is kept in the trunk of the vehicle or in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle does not have a trunk. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers.

(4) This section does not apply to a person who is operating a commercially chartered motor vehicle, home or camper or, by law, to any passenger in a motor vehicle, city, county, or state person possessing a classification under RCW 46.20.308 for the consumption of an alcoholic beverage upon a highway.

Amended by Laws 198

For text of section see in main volume

1989 Legislation

Laws 1989, ch. 178, (4), substituted the citation for the appropriate classification referring to a spe

46.61.520. Vehicle

(1) When the proximate result of the operation of a motor vehicle by any person, the operation of a motor vehicle

(a) While under the influence of alcohol as defined by RCW 46.

(b) In a reckless manner

(c) With disregard for the safety of others

(2) Vehicular homicide under RCW 9A.20 RCW.

Amended by Laws 199

1991 Legislation

Laws 1991, ch. 348 subsec. (1).

Effective date—Law
"This act is necessary"

See WESTLAW Electronic Guide following the P

Accomplice liability
Blood alcohol tests
Expert testimony 24

CITY OF GIG HARBOR

ORDINANCE NO.

AN ORDINANCE ADOPTING STATE STATUTE RCW 46.61.517, WHICH PROVIDES THAT EVIDENCE OF A PERSON'S REFUSAL TO SUBMIT TO A BREATH TEST IS ADMISSIBLE INTO EVIDENCE AT A SUBSEQUENT CRIMINAL TRIAL, AND SETTING AN EFFECTIVE DATE.

WHEREAS, RCW 46.61.517 states that the refusal of a person to submit to a test of the alcoholic content of the person's blood or breath under RCW 46.20.308 is admissible into evidence at a subsequent criminal trial, and;

WHEREAS, breath test evidence is an important part of any DWI prosecution, and;

WHEREAS, the City of Gig Harbor relies on the Model Traffic Code and periodically enacts other state statutes that are not part of the code, and;

WHEREAS, the City of Gig Harbor has not yet adopted RCW 46.61.517, and;

WHEREAS, the City of Gig Harbor finds it necessary to definitively guarantee the admissibility of such evidence;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON ORDAINS AS FOLLOWS:

Section 1. Section 10.04.010 is hereby amended as follows:

...

RCW 46.61.517, including all future amendments thereto.

Section 2. This ordinance shall be in full force and take effect five (5) days after publication, according to law.

PASSED by the City Council of the City of Gig Harbor and approved by its Mayor at a regular meeting of the Council held this _____ day of _____, 1992.

Gretchen A. Wilbert, Mayor

Ordinance No.

ATTEST:

Mark E. Hoppen
City Administrator/Clerk

Filed with city clerk: 5/8/92
Passed by city council:
Date published:
Date effective:




City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET • P.O. BOX 145

GIG HARBOR, WASHINGTON 98335

(206) 851-8136

TO: Mayor Wilbert and City Council
FROM:  Ray Gilmore
DATE: May 7, 1992
SUBJ.: Annexation of City Shop Property (ANX 92-01) --
Ordinance, 1st Reading

Attached for your consideration is an ordinance for the annexation of two acres of city-owned property located west of 46th Street NW. The site serves as the location of the Public Works shop and maintenance facility.

Several times in the past three years there have been burglary attempts at the shop, one of which was successful. At least once a month, the shop's perimeter alarm system is activated. Police response can only come from the agency with jurisdiction (Pierce County Sheriff) as dispatch will not notify city Police. Response by city police would be immediate and swift if city police had jurisdiction. To officially have jurisdiction (and notification by dispatch), the property would have to be annexed.

RCW 35A.14.300 provides that code cities, by majority vote of the legislative body, may annex property for municipal purposes regardless of whether or not it is contiguous. The ordinance presented for the first reading provides for the annexation of the property with a zoning code designation of R-1 (single family). An R-1 district provides for public facilities as a conditional use and would render the city shop as a conforming use under the zoning code.

Council's favorable consideration is appreciated.

CITY OF GIG HARBOR

ORDINANCE NO.

AN ORDINANCE ANNEXING TO AND INCORPORATING WITHIN THE CITY OF GIG HARBOR CERTAIN UNINCORPORATED REAL PROPERTY OWNED BY THE CITY OF GIG HARBOR LYING NORTH OF THE CITY LIMITS, WEST OF 46TH AVENUE NW.

WHEREAS, it has been determined that the best interest and general welfare of the City of Gig Harbor would be served by the annexation of certain real property owned by the City of Gig Harbor as described in "Exhibit A" to this ordinance, and;

WHEREAS, Chapter 35A.14.300 provides for the annexation, by a majority vote of the legislative body, of territory outside of the city limits for municipal purposes, regardless of whether or not the territory is contiguous, and;

WHEREAS, criminal trespass and burglary have occurred at the city shop property, subject of this annexation; and,

WHEREAS, the annexation of the property is in the best interests and welfare of the city in providing fast emergency response and 24-hour police protection to city owned property, and;

WHEREAS, the annexation proposal is consistent with the criteria for annexations in accordance with Chapter 36.93.180 as the property is accessed by a public street (46th Avenue NW) and city utilities currently serve this site, and;

WHEREAS, the proposed annexation is in compliance with the Urban Area Agreement as entered into between Pierce County and the City of Gig Harbor, and;

WHEREAS, the proposed zoning designation of R-1 (low density single family) is consistent with the City of Gig Harbor Comprehensive Plan which designates this planning area as urban low density residential.

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NOW, THEREFORE, the city council of the City of Gig Harbor
ORDAINS as follows:

Section 1. The real property described in this ordinance as
"Exhibit A" is hereby annexed into the City of Gig Harbor
and is accorded a zoning designation of R-1 (low density
single family residential).

Section 2. This ordinance shall be in full force and take
effect five (5) days after publication according to law,
after notification of approval by the Pierce County Boundary
Review Board.

PASSED by the City Council of the City of Gig Harbor,
Washington, and approved by its Mayor at a regular meeting
of the council on this 26th day of May, 1992.

Gretchen Wilbert, Mayor

ATTEST:

Mark E. Hoppen
City Clerk/Treasurer

Filed with the City Clerk: 5/6/92
Passed by the City Council: 5/26/92
Date Published:
Effective Date:

EXHIBIT A

LEGAL DESCRIPTION

ANX 92-01 (City of Gig Harbor Municipal Property)

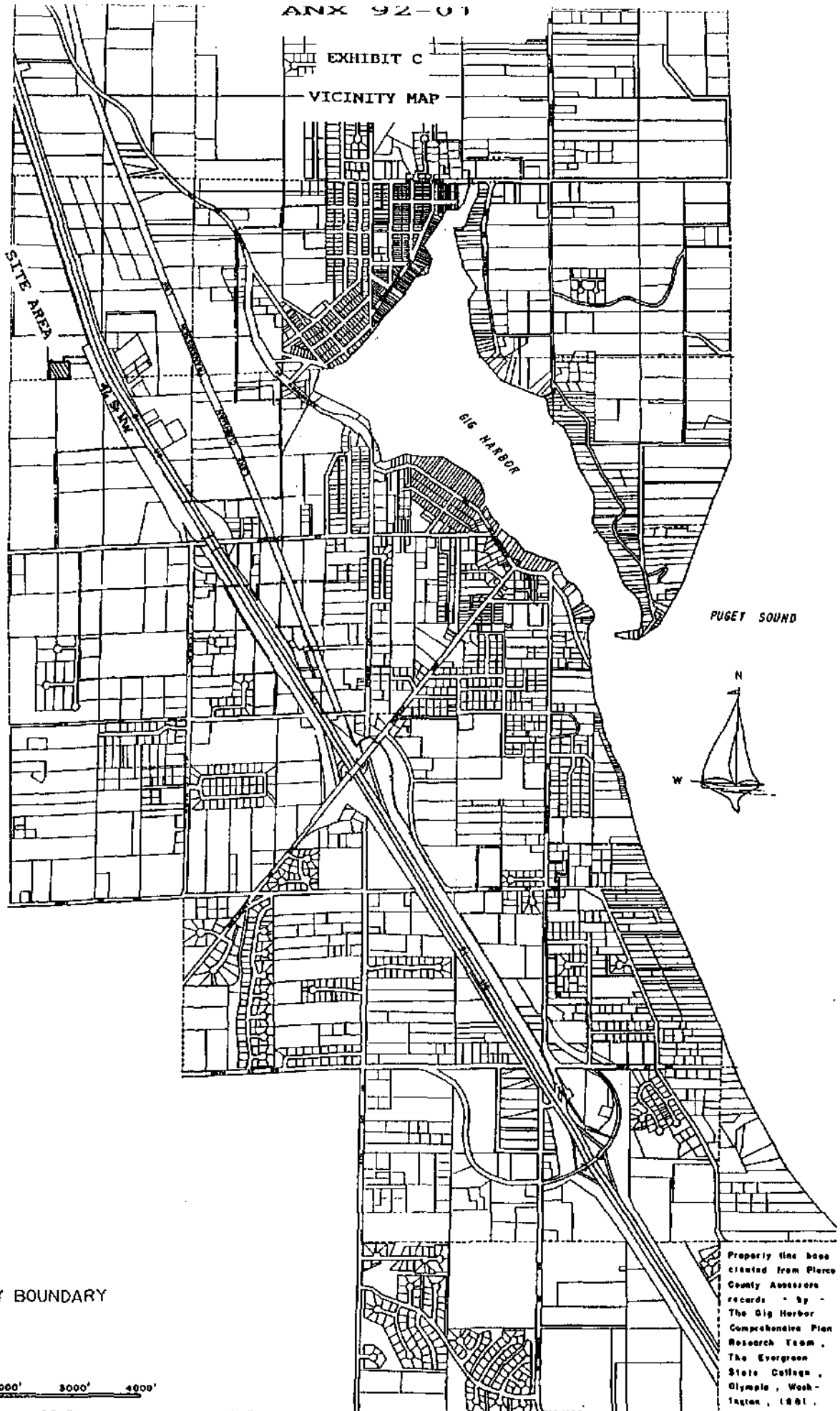
Beginning at the southwest quarter corner of the northwest quarter of Section 6, Township 21 north, Range 2 East Willamette, thence easterly along the south line of said northwest quarter to the true point of beginning:

Thence north a distance of 306.86 feet; thence east a distance of 272.00 feet; thence south a distance of 306.86 feet; thence west a distance of 272.00 feet to the true point of beginning.

Property is also described as Lot 4 of Pierce County Short Plat 84-05-31-0234.

EXHIBIT C

VICINITY MAP



— CITY BOUNDARY

000' 2000' 3000' 4000'

0.5 miles

1.0 mile

Property line base
 created from Pierce
 County Assessor
 records - by -
 The Gig Harbor
 Comprehensive Plan
 Research Team,
 The Evergreen
 State College,
 Olympia, Wash-
 ington, 1981.



DENNIS RICHARDS
Chief of Police

City of Gig Harbor Police Dept.
3105 JUDSON STREET • P.O. BOX 145
GIG HARBOR, WASHINGTON 98335
(206) 851-2236

MONTHLY POLICE ACTIVITY REPORT

APRIL

DATE: 05-01-92

	<u>APR</u> <u>1992</u>	<u>YTD</u> <u>1992</u>	<u>YTD</u> <u>1991</u>	<u>%CHG TO</u> <u>1991</u>
CALLS FOR SERVICE	<u>225</u>	<u>914</u>	<u>757</u>	<u>+ 20</u>
CRIMINAL TRAFFIC	<u>27</u>	<u>88</u>	<u>67</u>	<u>+ 31</u>
TRAFFIC INFRACTIONS	<u>72</u>	<u>369</u>	<u>377</u>	<u>- 2</u>
DWI ARRESTS	<u>6</u>	<u>15</u>	<u>15</u>	<u>0</u>
FELONY ARRESTS	<u>3</u>	<u>21</u>	<u>20</u>	<u>+ 5</u>
MISDEMEANOR ARRESTS	<u>9</u>	<u>53</u>	<u>50</u>	<u>+ 6</u>
WARRANT ARRESTS	<u>10</u>	<u>28</u>	<u>24</u>	<u>+ 16</u>

INCIDENT REPORTS FOR APRIL 1992

6853 - INTIMIDATION W/WEAPON	6901 - WARRANT
6854 - DRUG PARAPHERNALIA	6902 - NARCOTICS
6855 - HIT & RUN ACCIDENT	6903 - THEFT 3
6856 - DWI/DRUG PARAPHERNALIA	6904 - WARRANT
6857 - THEFT 3	6905 - THEFT 2
6858 - DOMESTIC VIOLENCE	6906 - CIVIL
6859 - BURGLARY	6907 - CIVIL
6860 - CUSTODIAL DISPUTE	6908 - IMPOUND
6861 - THEFT 3	6909 - WARRANT
6862 - ACCIDENT	6910 - BURGLARY
6863 - DWI/DWLS	6911 - FOUND PROPERTY
6864 - ACCIDENT	6912 - FOUND PROPERTY
6865 - MOTOR VEHICLE THEFT/RECOVERY	6913 - OBSTRUCTING
6866 - VEHICLE PROWL/THEFT 1	6914 - THEFT 3
6867 - VANDALISM	6915 - WEAPONS VIOLATION
6868 - THEFT 2	6916 - MIP
6869 - THEFT 3	6917 - WARRANT
6870 - BURGLARY	6918 - NVOL/VIO COURT ORD
6871 - THEFT 1	6919 - FOUND PROPERTY
6872 - FOUND PROPERTY	6920 - WARRANT
6873 - WARRANTS	6921 - VEHICLE PROWL 2
6874 - WARRANTS	6922 - MOTOR VEHICLE THEFT
6875 - VIOLATION OF RESTRAINING ORDER	6923 - SEXUAL ASSAULT
6876 - DWI	6924 - THEFT 3
6877 - VEH PROWL/THEFT/VANDALISM	6925 - DWI/FAIL TO SIGN
6878 - THEFT 3	6926 - ACCIDENT
6879 - THEFT 3	6927 - HIT & RUN ACCIDENT
6880 - HIT & RUN ACCIDENT	6928 - PROTECTIVE CUSTODY
6881 - MALICIOUS MISCHIEF 2	6929 - THEFT 3
6882 - BURGLARY 2	6930 - DWI
6883 - THEFT 2	6931 - WARRANT
6884 - ACCIDENT	6932 - WARRANT
6885 - MALICIOUS MISCHIEF/MAIL THEFT	6933 - WARRANT
6886 - FOUND PROPERTY	6934 - MOTOR VEHICLE THEFT
6887 - BURGLARY 2	6935 - FOUND PROPERTY
6888 - BURGLARY/THEFT	
6889 - HIT & RUN ACCIDENT	
6890 - CHECK FRAUD	
6891 - ACCIDENT/INJURY	
6892 - HIT & RUN ACCIDENT	
6893 - DWI	
6894 - DRUG PARAPHERNALIA/WARRANT	
6895 - SWITCHED PLATES	
6896 - ACCIDENT	
6897 - VEHICLE PROWL	
6898 - BURGLARY	
6899 - CHILD ABUSE	
6900 - NATURAL DEATH	