



**FINANCE & PERSONNEL COMMITTEE
MEETING AGENDA
CITY HALL – 1104 MAPLE STREET
APRIL 6, 2022 5:30 PM**

Members: Barbara Bitetto, Pat Cole, Patrick Reed (Chair), Earle Stuard (Alternate)

Staff Liaison: Administrative Services Director Jeff Steffens, Chief Operating Officer Kassandra Raymond

You are invited to a Zoom webinar.

When: April 6, 2022 05:30 PM Pacific Time (US and Canada)

Topic: Finance and Personnel Committee

Please click the link below to join the webinar:

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CALL TO ORDER

Roll Call: Barbara Bitetto, Pat Cole (Alternate), Patrick Reed, Earle Stuard

COMMITTEE BUSINESS

1. Ordinance No. 2817 - Updating Electronic Signatures
2. Appointment - Hearing Examiner
3. Authorization to Surplus

REPORTS

1. Monthly Sales Tax Report
2. Recruitment & Negotiation Update

ADJOURNMENT

SUBJECT: Ordinance No. 2817 - Updating Electronic Signatures

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. 2817 - Electronic Signatures

STAFF CONTACT: Andrea Marquez, City Attorney

SUMMARY BACKGROUND:

The legislature adopted the Uniform Electronic Transaction Act, ESSB 6028, repealing RCW 19.360. This law provides a framework for states to address the validity of electronic signatures for transactions related to business, commercial and governmental matters.

The Act continues to allow cities and other agencies to determine whether or not to accept electronic signatures in the course of daily business and be given the same legal effect.

The City began using e-signatures in 2019. This has proven to be a timely and efficient way to do business. The purpose of this ordinance is to update the references to state law (from RCW 19 to RCW 1.80) and to remove the references to DocuSign so that future flexibility is permitted.

COUNCIL COMMITTEE/STUDY SESSION: Finance & Personnel Committee

MEETING/STUDY SESSION DATE: 4/6/2022

COMMITTEE RECOMMENDATION: Do pass.

STAFF RECOMMENDATIONS/MOTION:

Approve Ordinance No. 2817 - updating Sumner Municipal Code 2.114, Electronic Signatures.

ORDINANCE NO. 2817

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER AMENDING SUMNER MUNICIPAL CODE CHAPTER 2.114, AUTHORIZING THE USE OF ELECTRONIC SIGNATURES IN THE CONDUCT OF GOVERNMENTAL BUSINESS AND OTHER TRANSACTIONS IN THE CITY OF SUMNER.

WHEREAS, RCW Chapter 19.360 formerly authorized state and local agencies to utilize electronic signatures in the conduct of governmental affairs and other transactions; and

WHEREAS, during the 2020 legislative session, the Washington State Legislature adopted the Uniform Electronic Transactions Act, ESSB 6028, effective June 11, 2020, codified as RCW 1.80, which repeals and replaces RCW Chapter 19.360 but continues to allow municipalities to determine whether, and to what extent an agency will send and accept electronic signatures in the conduct of business; and

WHEREAS, an “electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign a record and includes digital signature; and

WHEREAS, using electronic signature technologies has benefited the City of Sumner during the COVID-19 public health emergency and recent Governor’s Proclamations, by decreasing the City’s reliance on paper transactions and physical documents, thus allowing the continuation of the City’s business; and

WHEREAS, the City Council has realized how the use of electronic signatures have impacted and improved citizen’s access to and ability to participate in governmental affairs, and reliance on City business conducted electronically.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON, DO ORDAIN AS FOLLOWS:**

Section 1. Chapter 2.114 of the Sumner Municipal Code, “Electronic Signatures Authorized” is hereby amended as shown in Exhibit A.

Section 2. Effective Date. This ordinance shall take effect five days after its publication, or publication of a summary thereof, in the City’s official newspaper, or as otherwise provided by law.

Section 3. Severability – Construction. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, the provisions of this ordinance shall control.

Section 4. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 5. Ratification. By and through adoption of this ordinance, the City Council hereby ratifies and confirms any and all acts prior to and consistent with the authority granted herein.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington at a regular meeting thereof this _____ day of April, 2022.

Mayor Kathy Hayden

Approved as to form:

City Attorney

Attest:

City Clerk

EXHIBIT A

SMC 2.114 **Electronic Signatures Authorized**

2.114.010 **Authority.** RCW ~~19.360.010-0501.80~~, [the Uniform Electronic Transactions Act](#), authorizes the City to utilize electronic signatures and electronic documents in the course of governmental transactions.

2.114.020 **Public Interest.** The City Council of the City of Sumner finds it to be in the public interest to allow the use of electronic records and electronic signatures for City business to the fullest extent allowed by law.

2.114.030 **Signatures.**

- A. The Mayor, Mayor Pro Tempore and their authorized representatives, shall have authorization to use ~~the DocuSign-an~~ electronic signature platform ~~or any future replacement~~ or alternative of such platform to affix electronic signatures to electronic records, including but not limited to ordinances, resolutions, contracts, applications, publications, and all other electronic documents through which the City conducts business.
- B. The City Administrator, City Department Directors, and all authorized representatives or designees thereunder, shall have authorization to use the ~~DocuSign~~ electronic signature platform or any future replacement or alternative of such platform to affix electronic signatures to electronic records, including but not limited to ordinances, resolutions, contracts, applications, publications, and all other electronic documents through which the City conducts business.
- C. The City may accept the submission of, and signature upon, any document electronically so long as the City has reasonable assurance that the means and methods used in electronically signing or submitting the document ensure the integrity, authenticity and nonrepudiation of the signature or document received.

2.114.040 **Original signature required, when.** A City document that is required by law to be signed by an original, non-electronic, “wet” signature may not be digitally or electronically signed.

2.114.050 **Effect.** An electronic signature on a record (as those terms are defined in RCW ~~19.360.030 and 040-1.80.010~~) shall be given the same force and effect as the use of a signature affixed by hand. An electronically accepted, submitted, or signed document shall be deemed the equivalent of an original signed document if the individual or entity signing the document has complied with the provisions of this chapter.

SUBJECT: Appointment - Hearing Examiner

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Shelton RFQ Response Materials
 2. Hearing Examiner Consultant Services Contract
 3. Exhibit A Hearing Examiner Contract
-

STAFF CONTACT: Doug Beagle, Development Services Director

SUMMARY BACKGROUND:

The City's former hearing examiner, Steve Causseaux, retired in December 2021. Since that time, his pro tem hearing examiner, Steve Shelton, has served as the City's interim Hearing Examiner while the City prepared an RFQ for ad. On March 1st and March 8th the City advertised in the Tacoma News Tribune for Request for Qualifications for Professional Services for Hearing Examiner. In addition to publication, the RFQ was sent directly to numerous firms that are known to provide HE services to nearby jurisdictions. The City received 2 proposals (Stephen Shelton and Olbretchs & Associates) which were evaluated and scored by 3 City employees. Both respondents were extremely qualified, having provided HE services on land use and all other municipal matters for decades. Stephen Shelton was the unanimous selection of the scoring committee. Mr. Shelton's fee is \$150.00 per hour, and the remainder of his experience and qualifications are outlined in his submittal, attached to the packet. The term of the contract will be for 2 years.

COUNCIL COMMITTEE/STUDY SESSION: Finance & Personnel Committee

MEETING/STUDY SESSION DATE: 4/6/2022

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

Do Pass

Stephen R. Shelton
1030 Fairway Drive
Fircrest, WA 98466
shelt1@nventure.com
(253) 229-3789

March 22, 2022

Doug Beagle
Development Services Director
City Sumner, WA

VIA Email: dougb@sumnerwa.gov

RE: Proposal for Hearing Examiner Contract Services

Dear Mr. Beagle,

I appreciate the opportunity to be considered for the position of Hearing Examiner for the City of Sumner. I believe my background makes me uniquely qualified for the position and would enjoy the opportunity to discuss my credentials with you. Attached please find my resume, biography, references, fee proposal, my view of a municipal Hearing Examiner's role and duties and a copy of two recent decisions.

I am a licensed attorney with a juris doctorate degree from the Seattle University School of Law. I have a State business license with the registered trade name of 'Judge Stephen R. Shelton Ret.' As a criminal deputy prosecuting attorney representing Pierce County, I conducted numerous bench and jury trials in district court and superior court. As the civil land use deputy, I represented the County in environmental law and zoning matters and code enforcement. I regularly advised department managers, the County Council and the County Executive on legal issues related to the planning and building departments, including but not limited to, subdivisions, shorelines, the state environmental policy act and growth management. As the city attorney for the City of Auburn, I advised the Mayor and department directors in all areas of city government which at the time involved the development of the Super Mall and Emerald Downs. While I was the city attorney, I also served as a councilmember and mayor for the City of Fircrest and was involved with policy making regarding city and regional growth management, annexations, sewers, parks, and the police and fire departments.

I was fortunate to be appointed to four terms and elected to one term as the City of Puyallup Municipal Court Judge. While in the appointed part-time position, I also served as the judge for the City of Sumner and Town of Ruston and a pro tem judge and commissioner in Pierce County district and superior courts. During nearly nineteen years on the bench, I presided over thousands of hearings and hundreds of bench and jury trials. Also, prior to serving as a full-time judge, I served as a Pierce County Deputy Hearing Examiner. Finally, as you know, I have recently served as the Sumner Interim Hearing Examiner.

I am currently serving as a Deputy Hearing Examiner for Pierce County and the Hearing Examiner for the Cities of Ruston and University Place. Generally, the examiner cases are a variety of land use matters which include all of the land development applications listed in the RFQ and appeals of administrative decisions. I have found that my years on the bench have prepared me well for conducting the examiner hearings and the multitude of legal issues in the land use area to be very challenging. In each jurisdiction, and, frankly, in the City of Sumner, in particular, I have been impressed with staff members' expertise, knowledge, professionalism and personable demeanors.

In closing, I am grateful to have served the City Sumner as judge and interim examiner and for the opportunity to now be considered for appointment to the position of the Hearing Examiner.

Sincerely,



Stephen R. Shelton

Stephen R. Shelton
DBA Judge Stephen R. Shelton Ret.
shelt1@nventure.com
(253) 229-3789

Current Areas of Practice

Deputy Hearing Examiner	Pierce County
Hearing Examiner	City of Ruston, City of University Place and Tacoma Pierce County Health Department
Of Counsel	Stuart E. Shelton Injury Law Lacey WA
Wedding Officiant	State of Washington

Education

University of Washington	Bachelor of Arts – English
University of Washington	Secondary Teaching Certificate
Seattle University School of Law	Juris Doctorate

Legal Experience

Judge	City of Puyallup Municipal Court	1994-2012
Judge	City of Sumner Municipal Court	2002-2008
Judge	Town of Ruston Municipal Court	1996-2002
Pro Tem Commissioner	Pierce County District/Superior Courts	1994-2005
Deputy Hearing Examiner	Pierce County	1996-1999
City Attorney	City of Auburn	1990-1993
Deputy Prosecuting Attorney	Pierce County	1983-1990

Community Experience

Ambassador Committee	Greater Tacoma Community Foundation
Teacher	Science and Math Institute Tacoma School District
Mayor/Councilmember	City of Fircrest, WA

Professional History

Washington State District and Municipal Court Judges' Association	1999 -2009
President and other elected positions	
Diversity Committee - Chair	
Board Liaison to WSBA Board of Governors	
Judicial Assistance Committee - Peer Counselor	
Washington State Board of Judicial Administration	Member
Washington State Pro Tem Judge Training Program	Faculty/Moderator
Washington State Judicial College	Faculty

Judge Stephen R. Shelton Ret.

Stephen R. Shelton's distinguished legal career in Washington spans nearly 40 years

Judge Shelton served as the judge of the Puyallup Municipal Court for nearly nineteen years, first as an appointed part-time judge and then as the first full-time elected judge for the City of Puyallup. He also served as the judge for the City of Sumner and the Town of Ruston and as a pro tem commissioner for Pierce County District and Superior Courts. Judge Shelton is currently serving as a deputy hearing examiner for Pierce and Thurston Counties.

Prior to his appointment as a judge, Judge Shelton served as the city attorney for the City of Auburn, a deputy prosecutor for Pierce County as a criminal trial attorney in district court and in the felony Special Assault Unit, as the chief deputy of the misdemeanor division and as the county's environmental and land use attorney.

In addition to his legal experience, Judge Shelton was the mayor and council member for the City of Fircrest and a middle and high school teacher for the Tacoma School District.

During his judicial career, Judge Shelton was elected President of the Washington State District and Municipal Court Judge's Association as only the third municipal court judge to serve as President during the previous 30 years. Prior to becoming President, Judge Shelton served on the DMCJA Board as a board member, Secretary-Treasurer, Vice-President and President-Elect. As President, he served on the State Board of Judicial Administration. Judge Shelton also served on the faculty for the Washington State Judicial College.

Judge Shelton has always been supportive of greater diversity in the judiciary. In his position of Past-President, he served as chair of the diversity committee which partnered with the Washington State Bar Association to establish the first state-wide pro tem judge training program on which he served as the moderator and faculty member. The goal of the program is to develop a state judiciary that reflects the diversity of the community it serves.

Judge Shelton actively addressed the tragedy of domestic violence. He was a founding member of the East Pierce County Alliance Against Domestic Violence established to provide assistance to victims of domestic violence. He was also a founding judge of the first Domestic Violence Victim Impact Panel in the State of Washington to assist in ending the cycle of violence by providing an awareness program for perpetrators of domestic violence.

After Judge Shelton retired in October, 2012, he has continued his community service by serving as a pro tem judge, a special master and expert witness in Superior Court cases, a wedding officiant, a deputy hearing examiner and an Ambassador for the Greater Tacoma Community Foundation.

Judge Shelton is currently serving as "Of Counsel" in his brother's law firm, Stuart E. Shelton Injury Law in Lacey, WA, and as a Deputy Hearing Examiner for Pierce and Thurston Counties and various cities and towns. He is married to Karen Goon who is the County Administrator for Kitsap County and has four children, two granddaughters and two grandsons.

View of Municipal Hearing Examiner's Roles and Duties

The roles and duties for the City of Sumner Hearing Examiner are articulated in Sumner Municipal Code 2.58 entitled "Hearing Examiner" and are similar, if not identical, to the authorizing and governing language in other cities and counties. In summary, the Hearing Examiner conducts quasi-judicial and administrative hearings, prepares written decisions on land use applications and administrative appeals and prepares reports for the City Council, the Planning Commission and other City agencies regarding matters heard and decided. In completing these responsibilities, the Examiner works with City staff to calendar hearings and to arrange site visits, if appropriate. The Examiner may also be tasked with making recommendations regarding relevant City regulations and policies.

My general approach to fulfilling the above-referenced roles and duties is founded on the same understandings and commitments that I made every weekday morning for nineteen years as I entered the courtroom knowing that for the next eight to nine hours I would preside over forty to ninety cases and make hundreds of decisions that would impact the lives of individuals, their families and the community:

- I am fortunate and humbled by being able to be a public servant;
- I will treat everyone with dignity and respect;
- While maintaining sympathy and empathy, I will base my decisions on the law;
- I will remain calm and thoughtful regardless of the situation.

My specific approach to hearings is to conduct relatively formal proceedings without being rigid nor unapproachable. Although the hearings are quasi-judicial in nature, the hearings should not be so relaxed that the gravity of the issues are diminished. The hearing room should be an environment where individuals are comfortable but where they are expected to comport themselves responsibly. Although I understand some hearings and/or issues are contentious and individuals should have latitude to advocate for themselves, I will not condone nor excuse comments and behaviors that demean individuals nor the hearing process.

I consider a "good result" of a hearing to be one where everyone has not only had an opportunity to participate and present their positions and information, but, also, a hearing where they know that I have heard them and that I will consider their requests and comments.

Finally, in regard to any decisions I make, the "good result" for which I strive is that my decisions and reasonings would be upheld by a court of law if heard on an appeal.

Hearing Examiner Fee Proposal

Stephen R. Shelton

In regard to my fee proposal, please be advised that I work in my home office where I conduct virtual hearings and research and draft decisions. I do not utilize subcontractors such as clerical or research staff. Currently, I appreciate the benefits of virtual hearings, but would certainly attend in-person hearings if the City deems them appropriate.

I am proposing a \$150.00 per hour fee to be billed in quarter-hour increments for all the basic requirements of serving as the Hearing Examiner: preparing cases, presiding over hearings, conducting site visits, researching and writing decisions. I will not bill for clerical or research assistance nor for any miscellaneous activities such as calendaring hearings, verbal or email communications with staff or electronically transmitting decisions.

References for Stephen R. Shelton

shelt1@nventure.com

253-229-3789

Stephen K. Causseaux, Jr.

scausseaux@mchlloffices.com

253-272-2206

Mr. Causseaux has been the hearing examiner for Pierce County and Jefferson County and numerous cities and towns and the pro tem hearing examiner for Thurston County for decades. He has been the one constant through all the years during all the changes in the land use area throughout the south sound. I am very fortunate that he asked me twice to be one of his deputy examiners and to have been a mentor for me over the past years.

Joseph Scorcio, AICP

jscorcio@gmail.com

253-405-9674

Mr. Scorcio was the Pierce County planning department manager when I was a deputy prosecutor advising county departments and elected officials in land use matters. After being a deputy in the criminal division for several years, he was my mentor in all areas of planning. He is the former City Manager and former Community and Economic Development Director for the City of SeaTac.

Bob Roegner b.roegner@comcast.net

253-528-0913

Mr. Roegner was the Mayor of the City of Auburn for 12 years after serving on their council. He appointed me to the position of city attorney and quickly became my mentor in all areas of municipal government. I have found him to be the most knowledgeable and ethical person in public service that I have ever known.

OFFICE OF THE HEARING EXAMINER

PIERCE COUNTY

REPORT AND DECISION

CASE NO.: **WETLAND VARIANCE**
 Application Number: 969769

PROPERTY OWNERS: Gordon and Glenda Golob
 6813-82nd Avenue N.W.
 Gig Harbor, WA 98335

APPLICANT: Billy Sarno
 11400 Olympus Way, Apt H -204
 Gig Harbor, WA 98332

COUNTY CONTACT: Scott R. Sissons, Environmental Biologist III

SUMMARY OF REQUEST:

Reduce the required 150-foot buffer for a Category III Wetland below the minimum allowed under Title 18E.30.060 on each of these parcels to accommodate a single-family residence (SFR) and have reasonable use of these parcels of record like other parcels in the vicinity. The sites are in the Gig Harbor area of unincorporated Pierce County, located at 6808 & 6812-82nd Avenue N.W., Within the SW ¼ of Section 11, T 21N, R 1E, W.M., in Council District # 7.

SUMMARY OF DECISION: Variance Requests Approved

DATE OF DECISION: December 1, 2021

PUBLIC HEARING:

After reviewing the Planning and Public Works Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing convened on November 17, 2021 at 9:02 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT 1 - Planning and Public Works Staff Report
- EXHIBIT 2 - Application
- EXHIBIT 3 - Agency and Public Comments
- EXHIBIT 4 - Notice and Routing Documents
- EXHIBIT 5 - Site Information
- EXHIBIT 6 - Site Plan
- EXHIBIT 7 - Power Point Presentation
- EXHIBIT 8 - Letter from Janice Pittman dated November 14, 2021

The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.

SCOTT SISSONS, County Environmental Biologist, appeared, presented the Staff Report by a Power Point and testified that Glenda and Gordon Golob, Owners, are requesting the reduction of a 150-foot buffer for a Category III wetland covering each parcel to accommodate a single-family residence on each parcel and have a reasonable use of these parcels of record like other parcels in the vicinity. The two parcels are in a 1964 recorded plat known as Louise Park which is a high intensity development of more than one residence per acre. The parcels are on Sylvia Lake which is not under shoreline jurisdiction but does require a 35-foot buffer as a Type N3 Water. The Category III wetland along the lakeshore normally requires a 50-foot buffer with a 15-foot building setback but is increased 100-feet due to high land use intensity resulting in a 150-foot wetland buffer and the 15-foot building setback. To accommodate the proposed residences, the request exceeds the minimum of 112.5-feet that could be administratively granted; one request is for a parcel to have a 60-foot buffer and the other to be 1 15-foot buffer. The proposed system is pre-existing off-site on three parcels owned by the Owner. A public water system will serve the two parcels. No actual wetland fill is proposed. Mitigation sequencing will be required. The photos in the PowerPoint were described as was the chronological sequencing of the site plans being before and after review by the Gig Harbor Peninsula Advisory Commission (PAC). Mr. Sissons also provided Staff comments regarding the criteria required to be reviewed and approved by the Hearing Examiner in order to grant the Owners' requests. On inquiry by the Examiner, Mr. Sissons stated that there are currently fifteen (15) vacant lots on the Lake of which three or four (3-4) were owned by Pierce County Public Works with no plans for development.

GORDON GOLOB, Owner, testified that unlike the proposal herein, the other vacant lots on the Lake do not have an option for off-site sewage systems. He stated that he and Glenda developed the property in 2008 with the plan to downsize from their current home on the parcels across the street to the subject site.

BILLY SARNO, Applicant, testified as a real estate broker and home builder he has been working with the Applicants since and will partner with them to construct the proposed residences.

ERIC RUSSELL, Russell and Associates, appeared on behalf of the Owner and testified as

to the "Wetland Analysis Report and Habitat Assessment Study" prepared by his company. He agreed with the Owner that unlike the other vacant lots on the Lake, the subject site has access to an upslope, off-site sewage system across the street. He summarized the Report and stated the drainage and erosion plans as well as the mitigation plans would comply with the Pierce County Development Engineers Department requirements. In addition, the mitigation plan to plant vegetation would enhance the wetland buffer by increasing the absorption of the moisture into the soil.

PAT BERGER appeared and testified in opposition to the proposal by summarizing her written response previously submitted to the County (Ex. 5C). She stated that she has lived on the Lake for over 50 years and has seen a lot of changes including extreme contamination that has resulted in increased algae growth with two toxic blooms this year and one last year. The algae makes the Lake very unattractive and affects the boating and fishing. In 2003 she participated in the drafting of the "Sylvia Lake Integrated Aquatic Vegetation Management Plan" which designated certain conservation areas in the Lake with the main one being near the proposed construction site. She is concerned that the proposed development will affect the character of the neighborhood and the health of the Lake; the conservation areas are in the southeast end of the Lake which cannot be treated with chemicals as it contains the outlet to the Puget Sound. In the subject area, the cattails provide a protected habitat for waterfowl and fish and the wetland area in general. The Owners currently have a gazebo without a foundation on one of the lots because the lots have very soft soil which may not support foundations

GORDON GOLOB reappeared and stated that the conservation area noted by Ms. Berger are not a legal document but the Owners have lived in the area and known Ms. Berger for over forty-five (45) years and will be good stewards of the Lake and the wetland areas.

SCOTT SISSONS reappeared and stated that any issues with the construction of the residences including foundations will be addressed pursuant to the Pierce County Code provisions as the County processes the Owners' applications for building and site permits.

No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at 9:55 a.m.

NOTE: A complete record of this hearing is available in the office of the Pierce County Planning and Public Works.

FINDINGS, CONCLUSIONS, AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.

2. Pursuant to the State Environmental Policy Act (SEPA) and the Pierce County Environmental Regulations (Pierce County Code, Title 18D – Environmental Regulations), this variance application does not require SEPA review.
3. Public and Legal Notice:
 - September 14, 2021: Notice of Application/Public Hearing Notice sent to property owners within a radius of 300 feet, but not less than two parcels deep, around the exterior boundaries of the subject property.
 - September 15, 2021: Public Notice sign was posted on the site, confirmed with a Declaration of Posting.
 - November 3, 2021: Legal notice was published in the official County newspaper (Tacoma News Tribune), advertising the public hearing by the Pierce County Hearing Examiner.
4. The Owners have a possessory ownership interest in six (6) parcels located in the Gig Harbor area of unincorporated Pierce County in the Rural Sensitive Resource zone classification, the Gig Harbor Peninsula Community Plan area and within the SW ¼ of Section 11, T 21N, R 1E, W.M. in Council District #7 within the plat known as Louise Park AFN2044077 recorded in 1964.
5. The Owners purchased four parcels on the east side of 82nd Avenue NW and in 1966 built a single family residence located at 6813 82nd Avenue NW (Parcel 2370000580) and did not develop the three (3) parcels adjacent to their residence (Parcels 2370000590, 2370000600 and 2370000610) except for the installation of the sewage system to service their single-family residence.
6. In 2001, the Owners purchased the two subject parcels from Pierce County which are bordered on the east by a public road, 82nd Avenue NW, and on the east by Sylvia Lake. At the time of purchase from the County, the principle use of the parcels was noted as “residential.” (Pierce County Assessor Records) The two parcels are located at 6808 82nd Avenue NW and 6812 82nd Avenue NW, Gig Harbor, WA 98332. Parcel 5370000230 is approximately 11,400-square feet in size and parcel 5370000240 is about 11,896-square feet in size.
7. The Owners propose to construct a single-family residence on each of the subject parcels and utilize the off-site septic system currently serving their residence to pump the septic across 82nd Ave NW onto their parcels 527000590, 527000600 and 527000610.
8. The subject parcels are rectangular east to west in shape, have a relatively flat topography and a gradual downward slope to Sylvia Lake along the western portion of the parcels. The two subject parcels are largely cleared and are dominated by grasses and other low growing plants. The parcels adjacent to the subject properties

are undeveloped; to the south is a vacant wooded lot owned by the Sylvia Lake County Club and to the north is a cleared vacant lot with a maintained lawn owned by a private party.

9. Sylvia Lake is not under the State or County shoreline jurisdiction but as a Type N3 Water would require a 35-foot lake/pond buffer. However, a Category III wet land is located along the lakeshore of Sylvia Lake that requires a standard 50-foot buffer; however, given the high land use intensity and moderate habitat value, the buffer is increased by 100-feet resulting in a required 150-foot buffer with a 15-foot building setback.
10. The Owners have refrained from requesting an administrative buffer reduction allowed by code to 112.5-feet with a 15-foot building setback as such an administrative reduction would be insufficient to accommodate a single-family residence on each parcel to be comparable to other homes in the development and have reasonable use. Therefore, the Owners made an original proposal to the County to reduce the buffers in a site plan dated April 23, 2021, an amended proposal site plan dated July 14, 2021 and an amended site plan with enhanced buffers on October 4, 2021, which was presented to the Gig Harbor Peninsula Advisory Commission (PAC).
11. On October 27, 2021, at its regularly scheduled meeting, the PAC considered the Owners' proposal with a quorum present seven (7) out of eight (8) members present. The PAC considered presentations from Mr. Sissons, Mr. Golob and citizen neighbor Janice Pittman, who opposed the variances, and written comments from several resident/neighbors Edward R. Fahy, Priscilla D. Taylor, Amy C. Wilkerson, Janice Pittman and Pat Berger who also opposed the variances. The PAC discussed the proposals noting the lots have been in existence a long time (1964) and agreed they did not have any issue with the proposed buffer reduction for the southern lot parcel 570000240. However, the PAC concluded that the buffer on the northern lot parcel 5370000240 should be increased to prevent future expansion of the building site toward Sylvia Lake and required the maximum mitigation of Pierce County Code 18E.20.060D.3.a. On a motion and second, the PAC voted to recommend approval of the proposed variance to the southern lot and that the northern lot development of the property end eighty-five (85) feet from the 82nd Ave NW with the remainder of the lot to be in the wetland buffer except for the pervious path to the dock.
12. On November 1, 2021, the Owner presented an amended site plan with enhanced buffers to comply with the recommendation of the PAC which would reduce the wetland buffer on the northern parcel 5370000230 to approximately 60-feet with a 15-foot building setback and the buffer for southern parcel 5320000240 to approximately a minimum of 15-feet with a 15-foot building setback.

13. The citizens/residents of Sylvia Lake and neighbors of the Owners who oppose the proposed variances provided well-articulated and meaningful concerns and comments about the ongoing degradation of the Lake. The Lake was created in 1963 with the damming of a salmon stream and, originally, the Lake was deeper and the water cleaner, especially at the farthest area from the dam where the Owners propose construction. Since then, the health of the lake water has diminished as forests were cleared leaving bare earth allowing silt to flow into the Lake resulting in the area of the proposed construction to become shallower.
14. The citizens' concern is that small incremental changes by variance decisions made on a case-by-case basis do not consider the cumulative long term effects on the health of the Lake. They state that the individual variances run counter to the purpose of the wetland buffer which is especially important during the ongoing climate change with high-intensity precipitation resulting in declining species and habitats. They question how the subject development will impact the wetland's ability to absorb water and to prevent silt and pollutants such as cleaning agents or phosphorous and nutrients from entering the Lake causing extreme algae growth.
15. The Sylvia Lake County Club which owns the parcel adjacent to the southern subject property is a non-profit homeowners association/corporation tasked with managing the Lake. A member of the Club, Pat Berger, testified that not only is there a concern about the health of the Lake, but there is a question as to whether the subject parcels are suitable for construction of the single family residences. She opined that the Category III wet land is just too soft to support the home foundations as the parcels are actually swamp-like much of the year. Photos of the subject property on October 31 and November 12, 2021, were submitted by Janice Pittman to illustrate that during heavy rains the subject parcels do not absorb the rain and that reducing the wetland buffer would exacerbate the rain run-off to the Lake thereby threatening the health of the Lake.
16. Pursuant to PCC 18E.20.060D(30(a) Variances, Decision Criteria for Wetland Buffers and Fish and Wildlife Habitat Buffers, the Hearing Examiner has the authority to grant a variance from the buffer requirements of PCC 18E.30.060 when, in the opinion of the Examiner, all of the following criteria have been met:
 - (1) There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location, or surroundings that do not apply generally to surrounding properties or that make it impossible to redesign the project to preclude the need for a variance;

The parcels are lots of record pursuant to the Louise Park subdivision in 1964. The Owners purchased four parcels and built a home on one of them and their septic system on the three adjacent parcels in 1966. The Owners purchased the two subject parcels on the shore of Sylvia Lake in 2001 from Pierce County with the plan

to build the two homes. At the time of purchase, the two lots were noted as "residential." The two subject lots are very small and are completely encumbered by the 150-foot wetland buffer. The administrative reduction to 112.5-feet is insufficient for the construction of a reasonably sized single-family residence on each parcel. Without the variances requested, the Owners are unable to have reasonable use of these lots commensurate with the other parcels in this 1964 plat that have homes on the lakeshore. In addition, the septic system will not be on the subject lots as the Owners will pump the septic from the lakeshore residences across 82nd Avenue NW to their existing off-site septic system.

- (2) The applicant has avoided impacts and provided mitigation to the maximum practical extent;

The Owners cannot avoid impacts to the wetland buffer. The lots border Sylvia Lake to the west. In proposing construction on the eastern portion of each site, the Owners will also request an administrative front yard setback reduction from 25-feet to 20-feet to minimize impact to the wetland buffer. The Owners submitted several revisions to their proposed variance request to minimize the impacts including a final version that was recommended for approval by the Gig Harbor Peninsula Advisory Commission. As stated above, both onsite sewage system drainfields will be located offsite, outside of the wetland and wetland buffer areas. The proposed mitigation plan of plantings will enhance the onsite wetland areas and the required signage and fencing will protect the areas and there will be no actual wetland filling is proposed.

- (3) The buffer reduction proposed through the variance is limited to that necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property, but which because of special circumstances is denied to the property in question; and

The proposed buffer reduction on each lot of record parcel is limited to the area necessary to construct a single-family residence that is consistent in size with the homes in the surrounding area on built lots of record in the Louise Park plat. The requested area of use of each lot is smaller than most of the parcels that are similarly situated in the area.

- (4) Granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvement.

Although the County is recommending approval of the requested variances, the County also recognizes that buffer reductions on individual parcels may not be materially detrimental to the public welfare or injurious to property but that the cumulative effects of such buffer reductions may result in significant negative long term impacts. The citizen comments herein have articulated their specific concerns that the proposal will introduce silt and contaminants and further degrade Sylvia Lake. They note that the location of the proposal is in a conservation area of the Lake which is now much shallower due to the silt run-off and that the inclusion of

vegetation removal, the applicant shall complete the requirements necessary to obtain wetland approval, and shall record the Final Wetland Area Approval with the Pierce County Auditor's Office.

2. For water quality, the application of fertilizers, herbicides and/or pesticides shall not be allowed within the wetland or wetland buffer.
3. Critical Areas (wetland, and buffers) shall be shown on all site plans submitted to Planning and Public Works.
4. The applicant shall submit a finalized wetland buffer mitigation plan \$1,100 (LXRN) for review and approval by Pierce County.
5. A financial guarantee to be determined by their wetland specialist in the final wetland buffer mitigation plan shall be provided. Once the As-built including plant receipts of photographs prepared by your wetland specialist has been submitted and approved by the Pierce County Environmental Biologist, and upon the submittal of a financial guarantee to guarantee that the required maintenance and monitoring takes place, the installation financial guarantee will be released back to you. Once the final monitoring report is approved by the County, the monitoring guarantee will be released to you. Please be advised that your responsibility for this requirement does not end with the sale of the property. Therefore, you need to obtain a replacement financial guarantee from the new owner or do the required work to avoid forfeiture of your financial guarantee. Only Pierce County Bond or Assignment of Funds forms shall be used.
6. An as-built report including plant receipts and photographs shall be submitted to Pierce County following completion and implementation of the mitigation/enhancement measures.
7. Photographs and a short letter on the condition of the installed plants by October 31, for three years following installation shall be submitted.
8. Performance Standards and Monitoring shall also include the following: "Monitoring can stop when mortality is no greater than 20% and the plants are healthy and viable".
9. Split-rail fencing or Pierce County approved substitute fencing, and signage will be required around the buffer area to delineate the critical area from the developed area of each parcel. This will be specified in the final wetland area approval.
10. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such

additional homes on the lake will increase run-off of nutrients and exacerbate the algae blooms.

In reviewing the County recommendation for approval and the citizens' opposition, the Examiner will not minimize the citizens' concerns nor attempt to balance the two positions. Given the testimony, the Examiner finds that without the variances, the Owners' "reasonable use" of the subject small properties would be limited to maintaining grass area vacant lots with a gazebo and a dock and generally treating their two lots of record as a private park or a neighborhood green belt. On the other hand, the Examiner finds that the "reasonable use" of the two lots could be to enable the Owners to find a viable way to minimize the impact on the wetland and the Lake and enable them to construct small single-family residences that are similar to homes on the surrounding properties.

Herein, the subject lots were created in 1964 and the Owners constructed their home and septic system on three lots in 1966 which were both prior to first critical area ordinance adopted in Pierce County. In addition, the Owners have continued to live in the home, purchased the subject lots in 2001 and have testified that they will be good stewards of the subject property. They have proposed construction that will minimize the intrusion into the wetland buffer, will not occur within the wetland including no actual wetland filling and will not apply fertilizers, herbicides and/or pesticides within the wetland or wetland buffer. The septic systems to pump septic off-site across the road outside the wetland buffer will be reviewed and approved by the Tacoma Pierce County Health Department. The Pierce County Development Engineering Department will require and review the drainage system to comply with current county codes regarding water quality and quantity. In this regard, no other vacant properties appear to have the capacity to have off-site septic systems which distinguishes the subject proposal from any potential future proposals. And, finally, the mitigation plan will enhance the remaining buffer by removal of invasive vegetation and planting of native vegetation to absorb moisture.

CONCLUSIONS:

1. The Hearing Examiner has the jurisdiction to consider and decide the issues presented by this request.
2. The Owners/Applicants have shown that their request for a wetland variance satisfies the criteria set forth in Pierce County Code 18E.20.060 and therefore should be granted subject to the following conditions
 1. Prior to the issuance of any permits on these parcels (i.e., Site Development or Building permits), or the initiation of any grading, clearing, filling, or

plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.

11. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the Owner/Applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

DECISION: The request to reduce the required 150-foot buffer for a Category III Wetland below the minimum allowed under Title 18E.30.060 on each of these parcels to accommodate a single-family residence (SFR) and have reasonable use of these parcels of record like other parcels in the vicinity is hereby approved.

ORDERED this 1st day of December, 2021.



STEPHEN R. SHELTON
Deputy Hearing Examiner

TRANSMITTED this 1st day of December, 2021, to the following;

PROPERTY OWNERS:

Gordon and Glenda Golob
6813-82nd Avenue N.W.
Gig Harbor, WA 98335

APPLICANT:

Billy Sarno
11400 Olympus Way, Apt H -204
Gig Harbor, WA 98332

OTHERS:

Gig Harbor Peninsula Advisory Commission (PAC)

11X

OFFICE OF THE HEARING EXAMINER

PIERCE COUNTY

REPORT AND DECISION

CASE NO.: **CONDITIONAL USE PERMIT:
CHIROPRACTIC AND VETERINARY WEST
Application Number: 958965**

OWNER/APPLICANT: Shannon West, DVM
24908-154th Avenue East
Graham, WA 98338

COUNTY CONTACT: Adonais Clark, Senior Planner

SUMMARY OF REQUEST:

Add two non-resident employees to an approved Cottage Industry Level I Home Occupation (AUP5-98), which currently permits two non-resident employees in association with chiropractic and veterinary treatment of dogs and cats, on a 1.1 acre parcel, in the Rural Sensitive Resource (RSR) zone classification and the Graham Community Plan area. The site is located at 24908-154th Avenue East, Graham, within the SW 1/4 of Section 19, T18N, R5E, W.M., in Council District #3

SUMMARY OF DECISION: Approved with Conditions.

DATE OF DECISION: October 19, 2021

PUBLIC HEARING:

After reviewing the Planning and Public Works Staff Report and examining available information on file with the application and admitted herein (Exhibits 1-10), the Examiner conducted a public hearing on the request as follows:

The hearing convened on September 15, 2021, at 9:00 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

EXHIBIT 1 - Planning and Public Works Staff Report
EXHIBIT 2 - Application

- EXHIBIT 3 - Agency Comments
- EXHIBIT 4 - Public Comments/Parties of Record
- EXHIBIT 5 - Notice and Routing Documents
- EXHIBIT 6 - Land Use Advisory Commission (LUAC)
- EXHIBIT 7 - Reports and Decisions
- EXHIBIT 8 - Site Information
- EXHIBIT 9 - Site Plans
- EXHIBIT 10 - Power Point Presentation

The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.

ADONAI CLARK, Senior Planner, appeared, and using a Power Point presentation (Ex. 10) testified that Shannon West, DVM, Owner/Applicant, is requesting a Conditional Use Permit (CUP) to add two non-resident employees to an approved Cottage Industry Level 1 Home Occupation which currently permits two non-resident employees in association with chiropractic and veterinary treatment of dogs and cats on a 1.1- acre parcel in the Rural Sensitive Resource zone classification (RSR) and the Graham Community Plan area. An Administrative Use Permit was approved in 1998 to allow expansion of a mobile veterinarian service to include surgical procedures of small animals and up to two non-resident employees. The Applicant submitted the CUP application on April 1 2021. He then presented aerial and ground photos and a proposed site plan noting the rural nature of the neighborhood, that the heavily treed subject parcel will be in compliance with the landscaping requirements and the current structures will be maintained without exterior or interior construction renovations. He reviewed Pierce County Code 18A.37.110, Home Occupation Cottage Industry Level II, standards that would be required for the approval of the application. A quorum of the Graham Advisory Commission (GAC) reviewed the proposal on July 13, 2021, wherein the Applicant stated that the two additional non-resident employees are needed to spread out the workload and that she is not proposing to enlarge her practice. No members of the public were present. The GAC unanimously approved the proposal. He stated that County staff has reviewed the application, found it in compliance with all applicable policies, codes and regulations and recommended approval of the proposal subject to conditions.

SHANNON WEST, DVM, owner/applicant, appeared and testified that she appreciated Mr. Clark's assistance, that three individuals supporting the proposal had attended the GAC virtual meeting but did not speak and that the increase in two employees will enable her to spread the surgical work out a bit and avoid asking employees to come in on their days off.

No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at 9:14 a.m.

NOTE: A complete record of this hearing is available in the office of the Pierce County Planning and Public Works.

FINDINGS, CONCLUSIONS, AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony and taken this matter under advisement.
2. State Environmental Policy Act (SEPA): The proposal is categorically exempt from SEPA in accordance with WAC 197-11-800(6)(b).
3. Public and Legal Notice:
 - May 12, 2021: Notice of Application (NOA) and Public Meeting Notice was sent to property owners within a radius of 300 feet, but not less than two parcels deep, around the exterior boundaries of the subject property.
 - May 19, 2021: Public Notice sign was posted on the site, confirmed with a Declaration of Posting.
 - June 29, 2021: Legal Notice was published in the official County newspaper (Tacoma News Tribune), advertising the public meeting to be held by the Graham Advisory Commission (GAC).
 - August 31, 2021: Public Notice of the Examiner's hearing was sent to property owners within a radius of 300 feet, but not less than two parcels deep, around the exterior boundaries of the subject property.
 - September 1, 2021: Legal Notice was published in the official County newspaper (Tacoma News Tribune), advertising the public hearing to be held by the Pierce County Hearing Examiner.
4. The Applicant currently has a Cottage Industry Level I Home Occupation (AUP5-98) which was administratively approved pursuant to Pierce County Code (PCC) 18A.37.110(A)(3) in 1998 allowing an expansion to an existing mobile veterinarian service to include surgical procedures for small animals. The Level I enabled the Applicant to have two non-resident employees. (Ex. 7A) The location of the existing Level 1 and proposed Level II is at 24908 154th Avenue East, Graham, WA, within the SW ¼ of Section 19, T18N, R5E, W.M., and within the Graham Advisory Commission and Council District #3.
5. Pursuant to PCC 18.37.110(A)(4), the Applicant filed a Master Application on March 12, 2021, requesting a Conditional Use Permit to hire two additional non-resident employees that will enable her to avoid requesting her two current employees to work on their days off when surgeries are necessary. The Applicant stated the residence is approximately 2/3 residential and 1/3 veterinary practice, treating small animals and noted the veterinary practice is confined to the house and includes house calls, office calls, chiropractic treatment of dogs and cats and on-site surgery. (Ex. 2A)

6. The existing site is a 1.1-acre parcel that is generally flat with shrubs and grass and is densely wooded with deciduous trees (alder, maple, aspen) and evergreen trees (fir, cedar, pine). The site is accessed from the east via 154th Avenue East and is occupied by a single-family residence and detached garage. The 570-square foot current Level 1 Home Occupation small animal x-ray and surgery facility is located within the Applicant's 1,682-square foot living space in her single-family residence, or 33-percent of the dwelling space. In requesting the CUP to add the two employees, the Applicant is not planning nor proposing any expansion nor renovation of the dwelling.
7. The site is served as follows: Water – Valley Water; Sewer – Septic Disposal System; and Power – Puget Sound Energy.
8. The Graham Community Plan, Appendix F of the Pierce County Comprehensive Plan designates the area in which the subject site is located as Rural Sensitive Resource (RSR). The Rural Sensitive Resource (RSR) zoning classification implements the GCP designation. The surrounding zoning classifications and land use are as follows: To the north and south, RSR/single-family residential; to the east, RSR/154th Avenue East and single-family residence beyond; and to the west, RSR/single-family residence.
9. The County Comprehensive Plan, Chapter 2, Land Use Element, Urban, Rural, and Resource, provides the following relevant goals of Home Occupations and Cottage Industries in Pierce County: (pg. 2-80)

LU-106	Allow home occupations, daycare facilities, and cottage industries.
LU-106.1	Recognize the importance of the home-based business sector.
LU-106.2	Encourage environmentally friendly home occupations and industries as a means of low impact employment.
LU-106.3	Promote local professional services so business owners don't need to travel out of the area to purchase services.
LU-106.5	Ensure compatibility with the underlying land use designation.
LU-106.6	Ensure activities are maintained and carried out in accordance with the conditions of approval.

The Applicant's existing home occupation is consistent with the County Comprehensive Plan as it is part of the County home-based business sector, is environmentally friendly and is compatible with underlying land use designation of Rural 10. The proposed addition of two non-resident employees is also consistent with the above referenced Land Use goals.

10. The Graham Community Plan, Chapter 5, Economic Element, Home Occupations and Cottage Industries, provides:

Home occupations and cottage industries are deeply imbedded in the fabric of this rural business community. (pg.F-164)

In addition, Chapter 5, Economic Development Policies provides just one policy:

Provide opportunities for businesses to successfully locate at locations and a scale appropriate to the rural character envisioned for the area. (pg.F-165)

The location and scale of the Applicant's home occupation with the addition of two non-resident employees continues to be appropriate and is consistent with to the rural character of the area.

11. The Graham Advisory Commission reviewed the proposal at its regularly scheduled meeting on July 3, 2021. A quorum of members was present. Mr. Clark and the Applicant gave presentations and answered questions from the Commission members. Three members of the public were present at the virtual hearing but did not speak. On a motion and second, the GAC unanimously approved the proposal as presented. (Ex. 6A and B)
12. As stated above, the Applicant submitted a complete Master Application requesting a Conditional Use Permit to Pierce County on April 1, 2021. Therefore, the CUP is subject to the development regulations in effect on that date.
13. Pursuant to PCC 18A.37.110(A)(1), the Applicant's home occupation must comply with a general list of standards. As stated above, the Applicant currently has a Cottage Industry Level I Home Occupation (AUP5-98) which was administratively approved pursuant to Pierce County Code (PCC) 18A.37.110(A)(3) in 1998 allowing an expansion of an existing mobile veterinarian service to include surgical procedures for small animals. There is no evidence that the Applicant's business or structures are not in full compliance with these conditions.
14. Pursuant to PCC 18A.37.110(A)(4), the Applicant's request for a Cottage Industry Level II may be allowed in a rural zone only on the issuance of a Conditional Use Permit and compliance with the following standards:
 - a. The cottage industry shall be limited to 1,500 square feet or a size equivalent to 50 percent of total floor area of the living space within the residence, whichever is less. Properties which are 5 acres or greater may exceed this requirement at the Examiner's discretion;

The Pierce County Assessor-Treasurer's Office records indicate the total living space of the Applicant's single-family residence is approximately 1,682-square feet. The Applicant indicates that her home business occupies 570-square feet, or 33% of the total floor area of the living space within the residence.

- b. Four non-resident employees are allowed;

The Applicant currently employs two non-resident individuals under the Level 1 standards and is requesting the Level II Cottage Industry to bring her total non-resident employees to 4.

- c. Three 18,000 pounds gross vehicle weight vehicles and one vehicle in excess of 18,000 pounds gross vehicle weight are allowed;

The Applicant's home business does not utilize any vehicles.

- d. Activities and outside storage of materials and equipment are allowed provided the site is sufficiently screened;

No business activities nor storage of materials and equipment occur outside the residence.

- e. Activities involving outdoor events, such as wedding facilities, shall be limited to six outdoor events per year, with no more than one event per month; properties which are greater than 10 acres in size may exceed this standard at the Hearing Examiner's discretion;

No outdoor event activities are proposed.

- f. Outside material and vehicle storage shall be screened from neighboring residential dwellings with a Level 3 landscape buffer and F1 fencing. See PCC 18J.15.040 for landscape and fence buffer standards;

The existing business and proposed addition of two non-resident employees does not involve outside material or vehicle storage.

- g. A Level 3 landscape buffer shall be provided between cottage industry activities and neighboring residential dwellings. See PCC 18J.15.040 for landscape buffer standards.

The Applicant's cottage industry is surrounded on three sides (south, west and north) by residential dwellings. As stated above and evident in the photos of the property, (Ex. 1), the Applicant's property is heavily vegetated with deciduous and evergreen trees and shrubs such that no additional landscaping is required.

15. Pursuant to PCC 18A.75.030(B)(1), Conditional Use Permit, Decision Criteria, Required Findings, the Examiner may approve a request for a Conditional Use Permit only if all of the following findings can be made regarding the proposal and are supported by the record:

a. That the granting of the proposed Conditional Use Permit will not:

- (1) be detrimental to the public health, safety, and general welfare;

The existing Level II home occupation administratively approved in 1998 provides for all performed activities of veterinary chiropractic and surgery to occur completely within the residence. The Applicant is not proposing an expansion of the business not the physical residence. The numbers of animals and people coming to and leaving from the residence will not appreciably change.

- (2) adversely affect the established character and planned character of the surrounding vicinity;

The proposed business activities of the CUP will remain essentially the same as the activities under the administrative approval and will continue to be subject to the General Standards noted above in PCC 8A.37.110(A).

- (3) be injurious to the uses, planned uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.

As stated above, all the activities of the home business will continue to be within the residence which is well hidden on the parcel due to heavy vegetation of dense deciduous and evergreen trees and shrubs.

- b. That the granting of the proposed Conditional Use Permit is consistent and compatible with the intent of the goals, objectives and policies of the County's Comprehensive Plan, appropriate Community Plan (provided that, in the event of conflict with the Comprehensive Plan, the Comprehensive Plan prevails), and any implementing regulation.

As stated above, the granting of the proposed CUP is consistent with the intent, goals, objectives and policies of the County Comprehensive Plan and the Graham Community Plan and any implementing regulations.

- c. That all conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.

The three conditions of approval that are imposed herein lessen any impacts of the approved Cottage Level II activity can be properly monitored and enforced.

- d. That the proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety, and welfare of the community from such hazard.

The only change in the current activity of the Applicant's home business will be the addition of two non-resident employees which will remove the requirement for current employees to work on their days off when surgeries are required and will therefore not introduce any hazardous conditions and may very well reduce any such hazards that may exist.

- e. That the conditional use will be supported by, and not adversely affect, adequate public facilities and services, or that conditions can be imposed to lessen any adverse impacts on such facilities and services.

The addition of the two more non-resident employees to the existing business will have no impact on public facilities and services.

- f. That the Level of Service standards for public facilities and services are met in accordance with concurrency management requirements.

As stated above and for the same reasons, the addition of two non-resident employees to the existing business for a total of four employees will not require an increased level of government services.

CONCLUSIONS:

1. The Hearing Examiner has the jurisdiction to consider and decide the issues presented by this request.
2. The Applicant has established that the request for the Conditional Use Permit to authorize a Cottage Industry Level II should be granted subject to the following conditions:
 1. Customers and clients are allowed between the hours of 6 a.m. and 9 p.m.
 2. Off-street parking shall include one space per non-resident employee, for a total of 4 spaces, and one space for clients.
 3. Oxygen is limited on site to two (254-cf) cylinders. This includes empties.

DECISION: Approved with Conditions

ORDERED this 19th day of October, 2021.

STEPHEN R. SHELTON
Deputy Hearing Examiner

PROFESSIONAL/CONSULTANT SERVICES CONTRACT

between the CITY OF SUMNER and

STEPHEN R. SHELTON FOR HEARING EXAMINER SERVICES

THIS CONTRACT is made between the CITY OF SUMNER, a Washington municipal corporation (hereinafter the "City"), and STEPHEN R. SHELTON, DBA JUDGE STEPHEN R. SHELTON RET., located and doing business at 1030 Fairway Drive, Fircrest WA 98466 (hereinafter the "Consultant")(collectively, the "Parties").

I. DESCRIPTION OF WORK.

Consultant shall perform the following services for the City in accordance with the attached scope of work/engagement letter:

In exchange for compensation paid by the City under this contract, Consultant agrees to provide the services specified in Exhibit A, scope of services, attached and incorporated into this contract. The services are described as authorized under Sumner Municipal Code Chapter 2.58.

The Consultant further represents that the services furnished under this Contract will be performed in accordance with generally accepted professional practices within the Puget Sound region in effect at the time those services are performed.

II. TIME OF COMPLETION. The Parties agree that work will begin on the tasks described in Section I above immediately upon the effective date of this Contract and shall continue for a period of two (2) years. The term of this contract can be renewed and extended by mutual written agreement of the parties for subsequent terms of one (1) year(s).

III. COMPENSATION.

- A. The City shall pay the Consultant a rate of One hundred Fifty Dollars & 00/100 (\$150.00) per hour for the services described in this Contract and Exhibit A.
- B. The Consultant shall submit monthly invoices, unless otherwise agreed in writing by the City. The City shall, upon receipt of Consultant's monthly invoice, process payment in accordance with the City's standard payment schedules, but in no event more than forty-five (45) days after receipt of monthly invoice, unless it has provided a written dispute of the invoice (in whole or part) to the Consultant in a timely manner.
- C. Consultant must maintain time and expense records and provide them to the City upon request.
- D. The Parties have agreed that the above amount is sufficient to compensate Consultant for the contemplated services; however, the Parties may agree to additional compensation and/or an amended scope of services in an addendum to this Contract. If Consultant anticipates requiring additional compensation to complete the Services, whether as originally agreed or as agreed in an addendum, Consultant must include the request for the additional amount at the time the addendum is agreed to. Requests for additional compensation that have not been agreed to in writing or that are submitted more than 60 calendar days from the date the Consultant knew or should have known that additional compensation might become

an issue, will be rejected by the City. All adjustments to compensation, scope, or term must be by mutual written agreement. Agreed extensions of time do not in and of themselves constitute a basis for any claim against the City for additional compensation. If Consultant fails to request additional compensation at the time the extension of time is agreed to, any additional compensation is waived.

IV. INDEPENDENT CONTRACTOR. The Parties intend that an Independent Contractor-Employer Relationship will be created by this Contract and that the Consultant has the ability to control and direct the performance and details of its work, the City being interested only in the results obtained under this Contract. Consultant expressly agrees to the status of an independent contractor and agrees the services provided hereunder are consistent with and meet the six-part independent contractor test set forth in RCW 51.08.195. Consultant also expressly understands that during the term of this contract, the City may engage other independent contractors to perform the same or similar work that Consultant performs hereunder.

V. TERMINATION.

- A. Termination for Convenience. This Contract may be terminated by either Party at any time. Termination for convenience is effective upon 60 calendar days' written notice to the other Party.
- B. Termination for Cause. If Consultant refuses or fails to complete the tasks described in Attachment A, or to complete such work in a manner satisfactory to the City, the City may notify Consultant in writing of its intent to terminate the Contract by a specified date if the deficiency is not cured. If Consultant fails to cure the deficiency to the satisfaction of the City by the specified date, the City will send Consultant a termination letter which will be effective upon deposit in the United States mail addressed as set forth in the NOTICE section below.
- C. Rights Upon Termination. In the event of termination (whether for convenience or for cause), the City is only responsible for paying for services satisfactorily performed by Consultant up to the effective date of termination, as described in the final invoice to the City. The City Administrator in consultation with the City Attorney makes the final determination about which services have been satisfactorily performed.
- D. If this Contract is terminated (whether for convenience or for cause), Consultant is responsible for transitioning all pending matters to their successor in an appropriate and timely manner, by providing all finished and unfinished findings, recommendations, reports or other documents prepared pursuant to this Contract to the successor designated by the City, or to the City in the absence of an identified successor. Consultant's notes and research are work product owned by Consultant and not required to be transferred, provided that any preliminary drafts prepared based on same are delivered to successor.
- E. The rights and remedies of the City provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

VI. DISCRIMINATION. In the hiring of employees for the performance of work under this Contract or any subcontract, the Consultant, its subcontractors, or any person acting on behalf of the Consultant or subcontractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. INDEMNIFICATION. Consultant shall defend, indemnify and hold the City, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages,

losses or suits, including attorney fees, arising out of or in connection with the Consultant's intentionally damaging, reckless or negligent performance of this Contract, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

The provisions of this section shall survive the expiration or termination of this Contract.

VIII. INSURANCE. The Consultant shall procure and maintain for the duration of this Contract, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, and/or its agents, representatives, or employees.

No Limitation. The Consultant's maintenance of insurance as required by this Contract shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. Minimum Scope of Insurance. The Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
3. Professional Liability insurance appropriate to the Consultant's profession in the legal services industry.

Minimum Amounts of Insurance: The Consultant shall maintain the following insurance limits during the entire duration of this Contract:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

B. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, and Professional Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained

by the City shall be excess of the Consultant's insurance and shall not contribute with it.

2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

C. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

D. Verification of Coverage The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work hereunder.

IX. EXCHANGE OF INFORMATION. The City will provide its best efforts to provide reasonable accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Contract.

X. OWNERSHIP AND USE OF RECORDS AND DOCUMENTS. Original documents, drawings, designs, reports, or any other records developed or created under this Contract shall belong to and become the property of the City; provided, however, the Consultant has the right, subject to confidentiality, to use the Consultant's work product for internal instructional and other purposes (including as an anonymized template for subsequent work product for the City or other clients). All records submitted by the City to the Consultant will be safeguarded by the Consultant. The Consultant shall make such data, documents, and files available to the City upon the City's request. The City's use or reuse of any of the documents, data and files created by the Consultant for this project by anyone other than the Consultant on any other project shall be without liability or legal exposure to the Consultant.

XI. CITY'S RIGHT OF INSPECTION. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Contract, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure satisfactory completion.

XII. PUBLIC RECORDS ACT. The City is required to comply with the Public Records Act, codified in Chapter 42.56 RCW. From time to time, the City will receive requests for public records regarding City business. When a public records request is made regarding work performed or documents created under this Contract, Consultant shall conduct a thorough search of any and all potentially responsive public records created or maintained in the course of completing this Contract, shall provide those documents to the City in a timely manner following the request for search, and shall retain all records in accordance with the retainage schedule as published by the Washington Secretary of State. Following completion of the work pursuant to this contract, Consultant shall provide to the City any and all documents prepared, created or maintained in the course of completing this contract.

XIII. WORK PERFORMED AT THE CONSULTANT'S RISK. The Consultant shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

XIV. MISCELLANEOUS PROVISIONS.

A. Non-Waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Contract, or to exercise any option conferred by this Contract in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

B. Resolution of Disputes and Governing Law.

1. Alternative Dispute Resolution. If a dispute arises from or relates to this Contract or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under JAMS Alternative Dispute Resolution service rules or policies before resorting to arbitration. The mediator may be selected by agreement of the parties or through JAMS. Following mediation, or upon written agreement of the parties to waive mediation, any unresolved controversy or claim arising from or relating to this Contract or breach thereof shall be settled through arbitration which shall be conducted under JAMS rules or policies. The arbitrator may be selected by agreement of the parties or through JAMS. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence. Notwithstanding, the foregoing, any claims alleging professional negligence are not subject to arbitration and shall be commenced exclusively in the Pierce County Superior Court or the United States District Court, Western District of Washington as appropriate.

2. Applicable Law and Jurisdiction. This Contract shall be governed by the laws of the State of Washington. Although the agreed to and designated primary dispute resolution method as set forth above, in the event any claim, dispute or action arising from or relating to this Contract cannot be submitted to arbitration, then it shall be commenced exclusively in the Pierce County Superior Court or the United States District Court, Western District of Washington as appropriate. In any claim or lawsuit for damages arising from the parties' performance of this Agreement, each party shall pay all its legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the City's right to indemnification under Section VII of this Contract.

C. Written Notice. All communications regarding this Contract shall be sent to the parties at the addresses listed on the signature page of this Contract, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business days after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Contract or such other address as may be hereafter specified in writing.

D. Assignment. Any assignment of this Contract by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Contract shall continue in full force and effect and no further assignment shall be made without additional written consent. Consultant is solely responsible for the performance of the services specified herein and on the attached Exhibit A. Consultant does not have authority to contract for or incur obligations on behalf of the City.

E. Modification. No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

F. Entire Contract. The written provisions and terms of this Contract, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Contract. All of the above documents are hereby made a part of this Contract. However, should any language in any of the Exhibits to this Contract conflict with any language contained in this Contract, the terms of this Contract shall prevail.

G. Compliance with Laws. The Consultant agrees to comply with all applicable federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to the Consultant's business, equipment, and personnel engaged in operations covered by this Contract or accruing out of the performance of those operations.

H. Counterparts. This Contract may be executed in any number of counterparts, each of which shall constitute an original, and all of which will together constitute this one Contract.

I. Ratification. The parties agree to ratify and confirm any acts consistent with the authority and prior to the final approval of this contract.

J. Consultant's Employees – Employment Eligibility Requirements (E-Verify).
The Consultant and any subcontractors shall comply with E-Verify as set forth in Sumner Municipal Code Chapter 3.30. E-Verify is an Internet-based system operated by United States Citizenship and Immigration Services in partnership with the Social Security Administration. E-Verify is free to employers and is available in all 50 states. E-Verify provides an automated link to federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security numbers. The Consultant shall enroll in, participate in and document use of E-Verify as a condition of the award of this contract. The Consultant shall continue participation in E-Verify throughout the course of the Consultant's contractual relationship with the City. If the Consultant uses or employs any subcontractor in the performance of work under this contract, or any subsequent renewals, modifications or extension of this contract, the subcontractor shall register in and participate in E-Verify and certify such participation to the Consultant. Upon execution of this Contract, the Consultant shall provide proof of compliance with this section by filling out and signing the attached Certification of Compliance with Sumner's Municipal Code 3.30 "E-Verify" attached hereto as Exhibit B.

K. Debarment. The Consultant must certify that it, and its subcontractors, have not been and are not currently on the Federal or the Washington State Debarment List and if the Consultant or its subcontractors become listed on the Federal or State Debarment List, the City will be notified immediately.

L. Force Majeure. Consultant is not responsible for the delay or default caused by fire, flood, riots, acts of God or war if the event is beyond Consultant's reasonable control and Consultant gives notice to the City immediately upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.

IN WITNESS, the parties below execute this Contract, which shall become effective on the last date entered below.

CONSULTANT:	CITY OF SUMNER:
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By: _____ <i>(signature)</i> Print Name: _____ Title: _____ <i>(Title)</i> DATE: _____	By: _____ <i>(signature)</i> Print Name: <u>Kathy Hayden</u> Its <u>Mayor</u> <i>(Title)</i> DATE: _____ By: _____ <i>(signature)</i> Print Name: <u>Jason Wilson</u> Its <u>City Administrator</u> <i>(Title)</i> DATE: _____ Approved as to Form: Attest: _____ Approved as to form: _____ _____ City Clerk City Attorney DATE: _____ DATE: _____
NOTICES TO BE SENT TO: Stephen R. Shelton 1030 Fairway Drive Fircrest, WA 98466 (253) 229-3789	NOTICES TO BE SENT TO: CITY OF SUMNER: Jason Wilson, City Administrator City of Sumner 1104 Maple Street Sumner, WA 98390 (253) 299-5501

EXHIBIT A
SCOPE OF WORK/BUDGET

Stephen R. Shelton
1030 Fairway Drive
Fircrest, WA 98466
shelt1@nventure.com
(253) 229-3789

March 22, 2022

Doug Beagle
Development Services Director
City Sumner, WA

VIA Email: dougb@sumnerwa.gov

RE: Proposal for Hearing Examiner Contract Services

Dear Mr. Beagle,

I appreciate the opportunity to be considered for the position of Hearing Examiner for the City of Sumner. I believe my background makes me uniquely qualified for the position and would enjoy the opportunity to discuss my credentials with you. Attached please find my resume, biography, references, fee proposal, my view of a municipal Hearing Examiner's role and duties and a copy of two recent decisions.

I am a licensed attorney with a juris doctorate degree from the Seattle University School of Law. I have a State business license with the registered trade name of 'Judge Stephen R. Shelton Ret.' As a criminal deputy prosecuting attorney representing Pierce County, I conducted numerous bench and jury trials in district court and superior court. As the civil land use deputy, I represented the County in environmental law and zoning matters and code enforcement. I regularly advised department managers, the County Council and the County Executive on legal issues related to the planning and building departments, including but not limited to, subdivisions, shorelines, the state environmental policy act and growth management. As the city attorney for the City of Auburn, I advised the Mayor and department directors in all areas of city government which at the time involved the development of the Super Mall and Emerald Downs. While I was the city attorney, I also served as a councilmember and mayor for the City of Fircrest and was involved with policy making regarding city and regional growth management, annexations, sewers, parks, and the police and fire departments.

I was fortunate to be appointed to four terms and elected to one term as the City of Puyallup Municipal Court Judge. While in the appointed part-time position, I also served as the judge for the City of Sumner and Town of Ruston and a pro tem judge and commissioner in Pierce County district and superior courts. During nearly nineteen years on the bench, I presided over thousands of hearings and hundreds of bench and jury trials. Also, prior to serving as a full-time judge, I served as a Pierce County Deputy Hearing Examiner. Finally, as you know, I have recently served as the Sumner Interim Hearing Examiner.

I am currently serving as a Deputy Hearing Examiner for Pierce County and the Hearing Examiner for the Cities of Ruston and University Place. Generally, the examiner cases are a variety of land use matters which include all of the land development applications listed in the RFQ and appeals of administrative decisions. I have found that my years on the bench have prepared me well for conducting the examiner hearings and the multitude of legal issues in the land use area to be very challenging. In each jurisdiction, and, frankly, in the City of Sumner, in particular, I have been impressed with staff members' expertise, knowledge, professionalism and personable demeanors.

In closing, I am grateful to have served the City Sumner as judge and interim examiner and for the opportunity to now be considered for appointment to the position of the Hearing Examiner.

Sincerely,



Stephen R. Shelton

Stephen R. Shelton
DBA Judge Stephen R. Shelton Ret.
shelt1@nventure.com
(253) 229-3789

Current Areas of Practice

Deputy Hearing Examiner	Pierce County
Hearing Examiner	City of Ruston, City of University Place and Tacoma Pierce County Health Department
Of Counsel	Stuart E. Shelton Injury Law Lacey WA
Wedding Officiant	State of Washington

Education

University of Washington	Bachelor of Arts – English
University of Washington	Secondary Teaching Certificate
Seattle University School of Law	Juris Doctorate

Legal Experience

Judge	City of Puyallup Municipal Court	1994-2012
Judge	City of Sumner Municipal Court	2002-2008
Judge	Town of Ruston Municipal Court	1996-2002
Pro Tem Commissioner	Pierce County District/Superior Courts	1994-2005
Deputy Hearing Examiner	Pierce County	1996-1999
City Attorney	City of Auburn	1990-1993
Deputy Prosecuting Attorney	Pierce County	1983-1990

Community Experience

Ambassador Committee	Greater Tacoma Community Foundation
Teacher	Science and Math Institute Tacoma School District
Mayor/Councilmember	City of Fircrest, WA

Professional History

Washington State District and Municipal Court Judges' Association	1999 -2009
President and other elected positions	
Diversity Committee - Chair	
Board Liaison to WSBA Board of Governors	
Judicial Assistance Committee - Peer Counselor	
Washington State Board of Judicial Administration	Member
Washington State Pro Tem Judge Training Program	Faculty/Moderator
Washington State Judicial College	Faculty

Judge Stephen R. Shelton Ret.

Stephen R. Shelton's distinguished legal career in Washington spans nearly 40 years

Judge Shelton served as the judge of the Puyallup Municipal Court for nearly nineteen years, first as an appointed part-time judge and then as the first full-time elected judge for the City of Puyallup. He also served as the judge for the City of Sumner and the Town of Ruston and as a pro tem commissioner for Pierce County District and Superior Courts. Judge Shelton is currently serving as a deputy hearing examiner for Pierce and Thurston Counties.

Prior to his appointment as a judge, Judge Shelton served as the city attorney for the City of Auburn, a deputy prosecutor for Pierce County as a criminal trial attorney in district court and in the felony Special Assault Unit, as the chief deputy of the misdemeanor division and as the county's environmental and land use attorney.

In addition to his legal experience, Judge Shelton was the mayor and council member for the City of Fircrest and a middle and high school teacher for the Tacoma School District.

During his judicial career, Judge Shelton was elected President of the Washington State District and Municipal Court Judge's Association as only the third municipal court judge to serve as President during the previous 30 years. Prior to becoming President, Judge Shelton served on the DMCJA Board as a board member, Secretary-Treasurer, Vice-President and President-Elect. As President, he served on the State Board of Judicial Administration. Judge Shelton also served on the faculty for the Washington State Judicial College.

Judge Shelton has always been supportive of greater diversity in the judiciary. In his position of Past-President, he served as chair of the diversity committee which partnered with the Washington State Bar Association to establish the first state-wide pro tem judge training program on which he served as the moderator and faculty member. The goal of the program is to develop a state judiciary that reflects the diversity of the community it serves.

Judge Shelton actively addressed the tragedy of domestic violence. He was a founding member of the East Pierce County Alliance Against Domestic Violence established to provide assistance to victims of domestic violence. He was also a founding judge of the first Domestic Violence Victim Impact Panel in the State of Washington to assist in ending the cycle of violence by providing an awareness program for perpetrators of domestic violence.

After Judge Shelton retired in October, 2012, he has continued his community service by serving as a pro tem judge, a special master and expert witness in Superior Court cases, a wedding officiant, a deputy hearing examiner and an Ambassador for the Greater Tacoma Community Foundation.

Judge Shelton is currently serving as "Of Counsel" in his brother's law firm, Stuart E. Shelton Injury Law in Lacey, WA, and as a Deputy Hearing Examiner for Pierce and Thurston Counties and various cities and towns. He is married to Karen Goon who is the County Administrator for Kitsap County and has four children, two granddaughters and two grandsons.

View of Municipal Hearing Examiner's Roles and Duties

The roles and duties for the City of Sumner Hearing Examiner are articulated in Sumner Municipal Code 2.58 entitled "Hearing Examiner" and are similar, if not identical, to the authorizing and governing language in other cities and counties. In summary, the Hearing Examiner conducts quasi-judicial and administrative hearings, prepares written decisions on land use applications and administrative appeals and prepares reports for the City Council, the Planning Commission and other City agencies regarding matters heard and decided. In completing these responsibilities, the Examiner works with City staff to calendar hearings and to arrange site visits, if appropriate. The Examiner may also be tasked with making recommendations regarding relevant City regulations and policies.

My general approach to fulfilling the above-referenced roles and duties is founded on the same understandings and commitments that I made every weekday morning for nineteen years as I entered the courtroom knowing that for the next eight to nine hours I would preside over forty to ninety cases and make hundreds of decisions that would impact the lives of individuals, their families and the community:

- I am fortunate and humbled by being able to be a public servant;
- I will treat everyone with dignity and respect;
- While maintaining sympathy and empathy, I will base my decisions on the law;
- I will remain calm and thoughtful regardless of the situation.

My specific approach to hearings is to conduct relatively formal proceedings without being rigid nor unapproachable. Although the hearings are quasi-judicial in nature, the hearings should not be so relaxed that the gravity of the issues are diminished. The hearing room should be an environment where individuals are comfortable but where they are expected to comport themselves responsibly. Although I understand some hearings and/or issues are contentious and individuals should have latitude to advocate for themselves, I will not condone nor excuse comments and behaviors that demean individuals nor the hearing process.

I consider a "good result" of a hearing to be one where everyone has not only had an opportunity to participate and present their positions and information, but, also, a hearing where they know that I have heard them and that I will consider their requests and comments.

Finally, in regard to any decisions I make, the "good result" for which I strive is that my decisions and reasonings would be upheld by a court of law if heard on an appeal.

Hearing Examiner Fee Proposal

Stephen R. Shelton

In regard to my fee proposal, please be advised that I work in my home office where I conduct virtual hearings and research and draft decisions. I do not utilize subcontractors such as clerical or research staff. Currently, I appreciate the benefits of virtual hearings, but would certainly attend in-person hearings if the City deems them appropriate.

I am proposing a \$150.00 per hour fee to be billed in quarter-hour increments for all the basic requirements of serving as the Hearing Examiner: preparing cases, presiding over hearings, conducting site visits, researching and writing decisions. I will not bill for clerical or research assistance nor for any miscellaneous activities such as calendaring hearings, verbal or email communications with staff or electronically transmitting decisions.



SUBJECT: Authorization to Surplus

CATEGORY: Motion

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. April Surplus

STAFF CONTACT: Jeff Steffens, Administrative Services Director

SUMMARY BACKGROUND:

The Wastewater Treatment Plant has requested to surplus a Genie aerial lift that was recently replaced. The estimated surplus value of \$20,000 falls within the Finance and Personnel Committee's approval authority.

COUNCIL COMMITTEE/STUDY SESSION: MEETING/STUDY SESSION DATE: 4/6/2022 COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:



MEMORANDUM

DATE: April 6, 2022
TO: Finance and Personnel Committee
FROM: Jeff Steffens, Administrative Services Director

RE: Surplus Authorization

The Wastewater Treatment Plant has requested to surplus an aerial lift. This equipment is beyond its useful life and was replaced as part of the 2022 Budget. The new equipment has arrived and been put in service.

Genie Aerial Lift
Model
Estimated Value – \$20,000







SUBJECT: Monthly Sales Tax Report

CATEGORY: Information Only

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

STAFF CONTACT: Jeff Steffens, Administrative Services Director

SUMMARY BACKGROUND:

Staff will provide a monthly report on sales tax activities and receipts. Information is limited to those with appropriate Department of Revenue information on file.

COUNCIL COMMITTEE/STUDY SESSION: Finance & Personnel Committee

MEETING/STUDY SESSION DATE: 4/6/2022

COMMITTEE RECOMMENDATION: Informational only; no action required.

STAFF RECOMMENDATIONS/MOTION:

Informational only; no action required.



SUBJECT: Recruitment & Negotiation Update

CATEGORY: Information Only

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

STAFF CONTACT: Jeff Steffens, Administrative Services Director

SUMMARY BACKGROUND:

Staff will provide a verbal update on recruitment and negotiation activities.

COUNCIL COMMITTEE/STUDY SESSION: Finance & Personnel Committee

MEETING/STUDY SESSION DATE: 4/6/2022

COMMITTEE RECOMMENDATION: Informational only; no action required.

STAFF RECOMMENDATIONS/MOTION:

Informational only; no action required.